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9 FISH AND WILDLIFE SERVICE FEDERAL SUBSISTENCE BOARD  
10 EGAN CONVENTION CENTER  
11 ANCHORAGE, ALASKA

12

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14

VOLUME I

15

16

December 11, 2001

17

8:30 o'clock a.m.

18

PUBLIC MEETING

19

20 MEMBERS PRESENT:

21

22 Mitch Demientieff, Chairman

23 Gary Edwards, U.S. Fish and Wildlife Service

24 Niles Cesar, Bureau of Indian Affairs

25 Taylor Brelsford, Bureau of Land Management

26 Judy Gottlieb, National Park Service

27 Jim Caplan, U.S. Forest Service

28

29 Solicitor: Keith Goltz

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1 PROCEEDINGS

2

3 (On record)

4

5 CHAIRMAN DEMIENTIEFF: We'll call the  
6 Federal Subsistence Board meeting to order. I'd like to  
7 welcome everybody here. And let me just note a couple  
8 things that are going to happen. First, those of you  
9 that want to testify you need to fill out one of the blue  
10 testimony forms and it's right outside this door here and  
11 it's staffed all the time. Make sure you put your  
12 request to testify there. Also as we go through the  
13 agenda, we do have some request for some people who were  
14 still en route and we'll try to accommodate those  
15 requests as best we can and I will be advising you as we  
16 get to those particular regions. We have two different  
17 requests of people who are on their way right now that  
18 have filed proposals so we will do our best to  
19 accommodate those people. And so if there are changes  
20 we'll note them at the time in the region when we get  
21 there.

22

23 Now, at this point what we're going to  
24 want to do is go around the table and introduce the  
25 people at the table, and Terry if you could just  
26 introduce yourself and your affiliation, we'd sure  
27 appreciate it. Just start and we'll go right around the  
28 table.

29

30 MR. HAYNES: Terry Haines, Department of  
31 Fish and Game, Subsistence Division.

32

33 MR. VINCENT-LANG: Doug Vincent-Lang,  
34 Alaska Department of Fish and Game, Sportfish Division,  
35 and we'll have Dan Berkstrom here with our Commercial  
36 Fisheries Division.

37

38 MR. GREGORY: (In Native) My name is  
39 Mary Gregory. I am the vice chair of the YK-Regional  
40 RAC.

41

42 MR. WILDE: Harry Wilde, Chair of Yukon-  
43 Kuskokwim Delta.

44

45 MR. ABRAHAM: Pete Abraham, RAC from  
46 Bristol Bay.

47

48 MR. LOHSE: Ralph Lohse, Chair of  
49 Southcentral.

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1 MR. THOMAS: Bill Thomas, Chair,  
2 Southeast.

3  
4 MR. BRELSFORD: Good morning. I'm Taylor  
5 Brelsford and I will be serving on behalf of Fran Cherry,  
6 the BLM Board member for the duration of this meeting.

7  
8 MR. SIMMONS: I'm Rod Simmons, Fish and  
9 Wildlife Service, Interagency Staff Committee.

10  
11 MR. EDWARDS: Good morning. I'm Gary  
12 Edwards, Deputy Regional Director, Fish and Wildlife  
13 Service, representing the Service on the Board.

14  
15 MR. GOLTZ: Keith Goltz, Office of the  
16 Solicitor.

17  
18 MR. JENNINGS: Good morning. Tim  
19 Jennings. I'm the Acting Deputy for the Office of  
20 Subsistence Management.

21  
22 MR. BOYD: Tom Boyd, Assistant Regional  
23 Director, Office of Subsistence Management.

24  
25 CHAIRMAN DEMIENTIEFF: I didn't even  
26 introduce myself when I called the meeting to order but  
27 I'm Mitch Demientieff. I'm from Nenana, Alaska and the  
28 Chairman of the Federal Subsistence Board.

29  
30 MR. JACK: Carl Jack, Native Liaison,  
31 OSM.

32  
33 MR. THOMPSON: Ken Thompson, Forest  
34 Service Staff Committee.

35  
36 MR. CAPLAN: I'm Jim Caplan, Federal  
37 Subsistence Board member and Deputy Regional Forester for  
38 the Forest Service.

39  
40 MR. GERHARD: Good morning. I'm Bob  
41 Gerhard with the National Park Service, Staff Committee  
42 member.

43  
44 MS. GOTTLIEB: Judy Gottlieb, Associate  
45 Regional Director, National Park Service, Federal Board  
46 member.

47  
48 MR. CESAR: I'm Niles Cesar, Regional  
49 Director of Bureau of Indian Affairs.

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1 MS. HILDEBRAND: Ida Hildebrand, BIA  
2 Staff Committee member.

3  
4 MS. CROSS: Grace Cross, Chair of Seward  
5 Penn.

6  
7 MR. SAM: Ron Sam, Chair, Western  
8 Interior. Thank you.

9  
10 MS. TRUMBLE: Della Trumble, Chair of  
11 Kodiak/Aleutians.

12  
13 MR. BROWER: Harry Brower, Chairman of  
14 the North Slope Regional Advisory Council.

15  
16 MS. WILKINSON: Ann Wilkinson. I'm the  
17 coordinator for the Southcentral and Seward Peninsula  
18 regions.

19  
20 MR. BUCKLIS: Larry Bucklis, Office of  
21 Subsistence Management, fishery biologist for  
22 Southcentral and Bristol Bay regions.

23  
24 MS. PETRIVELLI: Pat Petrivelli, Office  
25 of Subsistence Management and anthropologist for the  
26 Southcentral and Kodiak/Aleutians region.

27  
28 CHAIRMAN DEMIENTIEFF: Okay, thank you  
29 very much. Those of you that haven't been here before  
30 this will be the public testimony table when it gets time  
31 to testify on these proposals. Are there any corrections  
32 or additions to the agenda? Terry.

33  
34 MR. HAINES: Mr. Chairman, if I could  
35 just take a moment. I wanted to introduce Marianne See,  
36 who's recently been hired as the new assistant director  
37 for the Division of Subsistence and she'll be heading up  
38 the State's liaison team with the Federal Subsistence  
39 Program. And Marianne, do you want to just stand up.  
40 She's here to observe and she's off the hot seat this  
41 week so we look forward to having Marianne on board and  
42 she'll be getting to know all of you better over the next  
43 few months.

44  
45 CHAIRMAN DEMIENTIEFF: Thank you.

46  
47 MR. THOMAS: Mr. Chairman.

48  
49 CHAIRMAN DEMIENTIEFF: Yes.

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1 MR. THOMAS: Mr. Chairman, I'm Bill  
2 Thomas from Southeast. Most of you know by now that our  
3 coordinator Fred Clark is moving to a different  
4 assignment. And for those of you who thought we were  
5 going to lose our continuity, you're wrong, because I'm  
6 really happy to introduce Bob Schroeder, if you'd stand  
7 Bob, he's our new coordinator. We're glad to have him  
8 aboard. Thank you.  
9

10 CHAIRMAN DEMIENTIEFF: Thank you very  
11 much. We have no request for non-agenda items for public  
12 testimony at this time so we'll move on to the 2002/2003  
13 Subpart C and D fisheries regulation proposals. The  
14 first item we have up is the adoption of the consent  
15 agenda items. The following proposals have been included  
16 on the consent agenda. These are proposals for which  
17 there is unanimous agreement among Federal Staff  
18 Committee, Federal Subsistence Regional Advisory Councils  
19 and the Alaska Department of Fish and Game concerning  
20 recommendations for Board action. Anyone disputing the  
21 recommended action on these proposals may request the  
22 Board to remove the proposal from the consent agenda and  
23 place it on the regular agenda. The Board retains final  
24 authority for the removal of proposals from the consent  
25 agenda. The Board will take final action on the consent  
26 agenda on the last day of the Board meeting. Which means  
27 that people will have ample opportunity to make that  
28 request if they so desire. The proposals that are on the  
29 consent agenda are listed on the last page, Page 4 of the  
30 agenda, and we have copies of that also on that table out  
31 here if you need to get a hold of that.

32  
33 Okay, with that we'll move into the Southcentral  
34 Regional proposals. They have Proposals 11 through 22.  
35 Now, we have a request to bypass Proposals 11a through  
36 14a and 11b and 14b. And so we will schedule those,  
37 we'll try to accommodate them after lunch depending on  
38 how quickly we move along here. The proposal makers, I  
39 indicated at the beginning of the meeting are traveling  
40 en route to the meeting right now. So given that we will  
41 now look at Proposal No. 15.

42  
43 MS. PETRIVELLI: Proposal 15 was  
44 submitted by the Subsistence Resource Commission for the  
45 Wrangell-St. Elias National Park and Preserve. And this  
46 proposal requests a positive C&T determination for the  
47 use of freshwater fish in the Copper River Drainage above  
48 Haley Creek for the resident zone communities of the  
49 Wrangell-St. Elias National Park and Preserve and also  
50 Cantwell, a resident zone community in the Denali

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1 National Park and Preserve. The current determination --  
2 there is no current determination so all rural residents  
3 are eligible.

4

5           In the communities involved, the  
6 traditions of subsistence use are based in the Ahtna  
7 traditions, the upper Tanana and then the mining  
8 homesteading communities that have been settled in the  
9 past century or so. The level of use of freshwater fish  
10 resources is affected by the nearness to the Copper River  
11 in the level of use of salmon. It ranges from eight  
12 percent to 58 percent of the per capita use resources.  
13 It's significance in some of those communities are  
14 supplemental but others quite significant where there's  
15 less salmon resources available. The pattern of use of  
16 freshwater fish is general in two patterns and that's in  
17 the local lakes, creeks and rivers near to the community  
18 or the other pattern is in conjunction with other  
19 activities in relation such as hunting and berry picking.

20

21

22           That's the analysis.

23

24           CHAIRMAN DEMIENTIEFF: Thank you. Larry,  
25 you have comment? You don't, just Pat, okay. Summary of  
26 written public comments.

27

28           MS. WILKINSON: Mr. Chairman, we did not  
29 receive any written comments for this proposal.

30

31           CHAIRMAN DEMIENTIEFF: Department  
32 comments.

33

34           MR. HAYNES: Thank you, Mr. Chairman.  
35 The Department recommends deleting Cantwell from the list  
36 of communities proposed to have customary and traditional  
37 uses of freshwater fish in the Copper River drainage  
38 upstream from Haley Creek. Evidence is very limited in  
39 the Staff analysis demonstrating that Cantwell residents  
40 have a history of subsistence salmon fishing in this  
41 area. The Department also supports the minority Staff  
42 Committee recommendation that Paxson and Lake Louise, two  
43 communities located in the Copper River basin be  
44 evaluated for inclusion in the proposed customary and  
45 traditional use determination. There may also be other  
46 Copper River basin residents living outside of the  
47 established communities who also should be included in  
48 the C&T use determination. The Department's community  
49 profile data base and Division of Subsistence technical  
50 papers includes some information on subsistence use

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1 patterns of Paxson, Lake Louise and other residents of  
2 the Copper River basin that were not included in this  
3 proposal analysis. We request that these sources of  
4 information be consulted.

5  
6 CHAIRMAN DEMIENTIEFF: We have one  
7 request for public testimony at this time, Gloria  
8 Stickwan.

9  
10 MS. STICKWAN: My name's Gloria Stickwan  
11 and I work for Copper River Native Association. We  
12 support the Staff recommendation. We want Cantwell  
13 Village to be a part of the communities because they are  
14 part of the Ahtna people. They are people, they have,  
15 through family members come down and use fish in the  
16 Copper River. They do have customary and traditional use  
17 of fish on the Copper River. They do fish down on the  
18 Copper River, they use our fishwheels.

19  
20 Thank you.

21  
22 CHAIRMAN DEMIENTIEFF: Thank you.  
23 Regional Council recommendation.

24  
25 MR. LOHSE: Mr. Chair, the Regional  
26 Council supports Proposal 15 as written. We recognize  
27 that in some ways it's not written the same way as  
28 they've been written in the past. But the resident zone  
29 communities included, we figured it kind of covered the  
30 people that were between them also so we support it as  
31 written.

32  
33 CHAIRMAN DEMIENTIEFF: Thank you. At  
34 this time we'll advance it for Board deliberation. As is  
35 customary, we also allow other Regional Council -- oh,  
36 Staff Committee recommendation, I'm sorry. We'll get  
37 this worked out. Staff Committee recommendation.

38  
39 MR. GERHARD: Mr. Chair, the Staff  
40 Committee did not reach a consensus on a recommendation.  
41 The majority of the members would adopt the  
42 recommendation of the Southcentral Alaska Subsistence  
43 Regional Advisory Council which supported the proposal  
44 for the reasons stated in the justification below.

45  
46 The Eastern Interior Subsistence Regional  
47 Advisory Council deferred to the home region of  
48 Southcentral.

49  
50 A minority viewpoint favors modification

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1 to include Paxson and Lake Louise to similarly situated  
2 communities. The justification as just stated is to adopt  
3 the proposal.

4

5 The proposed regulation would read, for  
6 the Copper River drainage upstream from Haley Creek,  
7 freshwater fish, including but not limited to Arctic  
8 grayling, burbot, whitefish of various species, Dolly  
9 Varden and sucker, the residents of the communities of  
10 Chisana, Cantwell, Chistochina, Chitina, Copper Center,  
11 Gakona, Gakona Junction, Glenallen, Gulkana, Kenny Lake,  
12 Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Slana,  
13 Tazlina, Tok, Tonsina, Tetlin, Dot Lake, Northway,  
14 Tanacross, Healy Lake, along the Tok cutoff from Tok to  
15 Mentasta Pass and along the Nabesna Road.

16

17 Further justification for the majority  
18 view point is the data from the ADF&G Subsistence  
19 Division household surveys and NPS community studies show  
20 that freshwater fish is a significant resource for these  
21 communities. While the level of use is uneven between  
22 communities, the use of freshwater fish is present as a  
23 subsistence resource. The data supports the  
24 recommendation from the Wrangell-St. Elias National Park  
25 Subsistence Resource Commission to recognize the  
26 customary and traditional use of freshwater fish in the  
27 Copper River drainage by the proposed communities. The  
28 omission of Paxson and Lake Louise will not work a  
29 hardship to these two communities. Residents of those  
30 communities are encouraged to testify at this or future  
31 Board meetings.

32

33 The justification for the minority  
34 viewpoint is it is not unreasonable to include the  
35 communities of Paxson and Lake Louise, two similarly  
36 situated communities, which, if the majority viewpoint  
37 were adopted would be excluded from the customary and  
38 traditional use determination for freshwater fish for the  
39 Copper River drainage upstream from Haley Creek. Due to  
40 their proximity to the drainage it is reasonable to  
41 deduce that freshwater fish is also a significant  
42 resource for these two communities.

43

44 Mr. Chair, that concludes the Staff  
45 Committee recommendation.

46

47 CHAIRMAN DEMIENTIEFF: Okay, thank you  
48 Bob. At this time we'll go ahead and advance this for  
49 Board deliberation and other Regional Council comments.  
50 Is there any discussion on it. Bill.



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1 MR. THOMAS: Thank you, Mr. Chairman. I  
2 think the recommendation by the Regional Advisory Council  
3 is more consistent with the provisions of Title VIII.  
4 While these other considerations are as important, I  
5 don't think we need to have a cumbersome obstruction in  
6 this decision. So the Advisory Council are the  
7 grassroots information center on these proposals and in  
8 this process. So I would speak in favor of supporting  
9 the Regional Advisory Council's recommendation.

10

11 Thank you.

12

13 CHAIRMAN DEMIENTIEFF: Thank you.

14

15 MS. GOTTLIEB: Mr. Chair.

16

17 CHAIRMAN DEMIENTIEFF: Yes.

18

19 MS. GOTTLIEB: Thank you. I'm sorry if I  
20 missed an opportunity to ask Gloria from CRNA but I  
21 wondered how CRNA felt about Lake Louise and Paxson, I  
22 know you did mention Cantwell which was helpful. I'm  
23 sorry, Gloria, I'm not sure if you heard my question but  
24 I wondered how CRNA feels about Lake Louise and Paxson  
25 being included in this C&T.

26

27 MS. STICKWAN: That's fine. At our last  
28 meeting we decided to just include all communities.

29

30 MS. GOTTLIEB: I'm sorry, could you say  
31 that again, please?

32

33 MS. STICKWAN: At the last meeting they  
34 said it was okay to include all communities.

35

36 MS. GOTTLIEB: Well, Mr. Chairman, I  
37 think this is a good proposal and it more accurately  
38 defines the usage of non-salmon species in the area.  
39 Right now it's open to all rural residents so I think  
40 doing a C&T is important. I guess I have a little bit of  
41 hesitation on including a couple communities that we  
42 don't have thorough information about and that would be  
43 Paxson and Lake Louise.

44

45 So I'd like to make a motion that we  
46 adopt the Staff Committee majority recommendation which I  
47 believe the Southcentral Council does support and that  
48 would establish positive C&T use finding for freshwater  
49 species in the Copper River drainage upstream from Haley  
50 Creek for Wrangell-St. Elias National Park and Preserve

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1 resident zone communities except for Yakutat.

2

3 CHAIRMAN DEMIENTIEFF: We have a motion  
4 on the floor, is there a second?

5

6 MR. EDWARDS: Second.

7

8 CHAIRMAN DEMIENTIEFF: And that's the  
9 original proposal, without amendment?

10

11 MS. GOTTLIEB: It's the Staff Committee  
12 majority recommendation, Page 54 in our book. So it does  
13 include Cantwell.

14

15 CHAIRMAN DEMIENTIEFF: Good. Okay. Any  
16 other discussion. Ralph, you had something?

17

18 MR. LOHSE: Mr. Chair. As in the past,  
19 our Council has tried to be more inclusive instead of  
20 exclusive and sometimes what happens is we look at  
21 proposals as they're put before us and we handle them as  
22 they're put before us. In this case Paxson and Lake  
23 Louise were not part of the proposal and we never  
24 considered them. But that doesn't mean that we'd have  
25 found any objection to them, because like Gloria said,  
26 they are a community that's on the Copper River drainage  
27 and they are communities that use freshwater fish. It's  
28 just that in this case that we did not consider them.

29

30 Thank you.

31

32 CHAIRMAN DEMIENTIEFF: Any other  
33 discussion. Yes, Dave. Gary, I'm sorry.

34

35 MR. EDWARDS: That's all right. Mr.  
36 Chairman, you know, I'm prepared to vote in favor of the  
37 motion, however, I guess I would sort of like to echo  
38 what Ralph said. You know, in that, as we look at this  
39 process in the future where we had a tendency, apparently  
40 in this case, to simply look at what was proposed as  
41 opposed to maybe taking a more comprehensive approach  
42 because my assumption is that if, in fact, those two  
43 communities had been identified then the motion would  
44 have included them and now what it's going to require for  
45 them to come back individually or collectively and  
46 request this whereas we could have probably handled it  
47 all at one time if we would have taken a more  
48 comprehensive look.

49

50 CHAIRMAN DEMIENTIEFF: Ralph.

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1 MR. LOHSE: Mr. Chair, it's probably  
2 pretty evident that those two communities wouldn't have  
3 been left out because both of them are on major  
4 freshwater systems in the Copper River basin and  
5 participate in major freshwater fisheries, both up at  
6 Paxson and the lake systems up there in the Gulkana River  
7 and on Lake Louise. So the intention to leave them out  
8 was -- leaving them out was not intentional, it was an  
9 oversight.

10

11 CHAIRMAN DEMIENTIEFF: Any other  
12 discussion.

13

14 MR. BRELSFORD: Mr. Chairman.

15

16 CHAIRMAN DEMIENTIEFF: Yes, Taylor.

17

18 MR. BRELSFORD: I intend to vote in favor  
19 of the motion. I'd like to offer two points of  
20 justification. On the question of Cantwell, I think it  
21 is quite persuasive, the fact that there are close  
22 cultural affiliations and kinship relationships between  
23 the village of Cantwell and the communities in the Copper  
24 River basin proper. In addition, Cantwell has been  
25 recognized as a resident zone community for the park.  
26 And finally the use patterns extend to other species,  
27 that is to say, Cantwell harvests other species in the  
28 Copper River basin. So I believe the pattern of resource  
29 use in the Copper basin itself is conclusive for the  
30 community of Cantwell.

31

32 On the question of Paxson and Lake  
33 Louise, I note that this is an instance where we are  
34 taking a no determination, that is to say the Board has  
35 never considered subsistence uses of freshwater species  
36 in the Copper basin and establishing a baseline  
37 recognizing those uses, it's not the final action of the  
38 Board concerning subsistence uses for this species in the  
39 region and I think we look forward to adjusting this  
40 determination in the next year to come.

41

42 Thank you.

43

44 CHAIRMAN DEMIENTIEFF: Yes, I also note  
45 for the record that particularly the Native people of  
46 Cantwell in the early days in the land claims fight more  
47 for travel convenience reasons Cantwell was included  
48 within the Tanana Chiefs region. And then as people  
49 began to get around a little bit better they went back to  
50 their natural affiliation and made the request and the

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1 request was honored that they be included with their own  
2 people. So I do know, you know, that that would -- and  
3 that was the same reason that that request was made at  
4 that time so there is -- they are closely affiliated with  
5 the Copper River.

6

7 With regard to Lake Louise and Paxson, as  
8 you're driving through that area you can't distinguish  
9 from the other communities. They definitely are very  
10 similarly situated. And I know I've been through there  
11 many times. So I intend to support the motion as well.

12

13 Wait, I'm a little bit confused here, the  
14 majority opinion excludes Paxson and Lake Louise; is that  
15 correct?

16

17 MR. BOYD: Yes, that's correct.

18

19 CHAIRMAN DEMIENTIEFF: Okay. Well,  
20 Ralph, maybe that's something the Council wants to take a  
21 look at and come back.

22

23 MR. LOHSE: Mr. Chair.

24

25 CHAIRMAN DEMIENTIEFF: Yes.

26

27 MR. LOHSE: At this time probably the  
28 best thing that would happen would be if Paxson and Lake  
29 Louise would put in a proposal to be included in the  
30 future. To get the Council together at this point in  
31 time to consider it while this meeting is going on is  
32 almost impossible. Like I said, I don't see where any  
33 members of the Council would have any objections to them  
34 being included. I can't speak for the Council in that  
35 case but we all know that both of those places do use  
36 freshwater fish and are situated on freshwater systems in  
37 the Copper basin and probably use as much or more than a  
38 lot of the other communities in the Copper River basin.  
39 There exclusion was strictly an oversight it wasn't part  
40 of the proposal and the solution is for them to submit a  
41 proposal in the future to be included and I'm sure there  
42 would be no objection to it.

43

44 Thank you.

45

46 MR. EDWARDS: Mr. Chairman.

47

48 CHAIRMAN DEMIENTIEFF: Yes.

49

50 MR. EDWARDS: I certainly do not have any

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1 problem with what Ralph's suggesting. I guess I would  
2 suggest if we're going to do that as opposed to putting  
3 the burden on those two communities, certainly, I think  
4 OSM could take, could they not, Tom, take the lead and  
5 actually make that proposal?

6

7 MR. BOYD: Yes.

8

9 CHAIRMAN DEMIENTIEFF: Any further  
10 discussion. Hearing none, all those in favor of the  
11 motion signify by saying aye.

12

13 IN UNISON: Aye.

14

15 CHAIRMAN DEMIENTIEFF: Those opposed,  
16 same sign.

17

18 (No opposing votes)

19

20 CHAIRMAN DEMIENTIEFF: Motion carries.  
21 With that we'll move to Proposal 16. Analysis.

22

23 MS. PETRIVELLI: Proposal 16 was  
24 submitted by the Subsistence Resource Commission for the  
25 Wrangell-St. Elias National Park and it requests a  
26 positive customary and traditional use determination for  
27 salmon in the Chitina subdistrict of the Upper Copper  
28 River district for the communities of Chisana, Dot Lake,  
29 Gakona Junction, Glenallen, Healy Lake, Kenny Lake, Lower  
30 Tonsina, McCarthy, Nabesna, Northway, Slana, Tanacross,  
31 Tetlin, Tok, Tonsina and those individuals that live  
32 along the Tok cutoff from Tok to Mentasta Pass and along  
33 the Nabesna Road. The Chitina subdistrict is a 10 mile  
34 stretch and it was the -- last year at the Board meeting,  
35 the Board made determinations for eight communities and  
36 this is a revision to that customary and traditional  
37 determination.

38

39 The level of use of salmon in the Chitina  
40 subdistrict is determined by the nearness to the Copper  
41 River and it ranges from one percent to 70 percent of the  
42 annual use of per capita resources in the region. So  
43 salmon is a part of the subsistence resources but is the  
44 volume of its -- or the significance just depends upon  
45 how close it is to the Copper River. Participation in  
46 the Chitina subdistrict is affected by the high level of  
47 use by non-basin residents and then the restriction to  
48 dipnets. Since 1984 the Chitina subdistrict has been a  
49 dipnet only. Gear has had a dipnet only gear net  
50 restrictions with a few exceptions. The most recent

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1 change in the Chitina subdistrict was that it was  
2 declared a subsistence -- it was changed from subsistence  
3 to personal use by the State of Alaska. But it was found  
4 in the analysis that all the communities requested have  
5 used salmon in one way or another and participated in the  
6 dipnet fisheries on and off since the records were kept  
7 so they have participated in the Chitina subdistrict.

8

9 CHAIRMAN DEMIENTIEFF: Thank you.

10 Summary of written public comments.

11

12 MS. WILKINSON: Mr. Chairman, we received  
13 one comment from Nat Good in Delta Junction. He wrote  
14 that Delta has not been considered for customary and  
15 traditional use of the Chitina subdistrict. The  
16 Richardson Highway once the Valdez trail has connected  
17 Delta with this area for almost 100 years. He repeatedly  
18 stressed salmon connections for this area with the Copper  
19 River rather than the Yukon-Tanana drainage, he suggests  
20 amending the proposal to include Delta Junction and to  
21 make the proposal as complete as possible regarding those  
22 who have traditional and subsistence recognition of this  
23 area.

24

25 And that's all, sir.

26

27 CHAIRMAN DEMIENTIEFF: Thank you.

28 Department comments.

29

30 MR. HAYNES: Thank you, Mr. Chairman.

31 The evidence supporting inclusion of the Upper Tanana  
32 communities in this customary and traditional use  
33 determination for salmon in the Chitina subdistrict is  
34 very limited. The Department agrees that the Upper  
35 Tanana communities do have a history of harvesting salmon  
36 for subsistence purposes in the Copper River basin but  
37 we're not persuaded by the evidence presented that this  
38 customary use extends as far south as the Chitina  
39 subdistrict. A more accurate customary and traditional  
40 use finding for the Upper Tanana communities could more  
41 appropriately be modeled after findings made for some  
42 wildlife species in the Copper River basin whereby the  
43 eligibility of Upper Tanana communities extends only to  
44 the northern part of the basin.

45

46 CHAIRMAN DEMIENTIEFF: Thank you. At

47 this time I'll open the floor to public testimony, Gloria

48 Stickwan.

49

50 MS. STICKWAN: We support C&T for salmon

00015

1 in the Chitina subdistrict of the Upper Copper River  
2 district for residents of the 15 additional villages and  
3 individuals that live along the Tok cutoff from Tok to  
4 Mentasta Pass and along the Nabesna Road.

5  
6 CHAIRMAN DEMIENTIEFF: Thank you.  
7 Regional Council comment.

8  
9 MR. LOHSE: The Regional Council  
10 supported this proposal as written. We felt that there  
11 was fairly strong evidence that the kinship ties tied the  
12 Upper Tanana in enough to put them into the Chitina  
13 district and the local people or the local Copper River  
14 basin was no problem. We looked at this as a possibility  
15 for in the future when if there was a shortage of salmon  
16 it would make a priority for the local residents for the  
17 salmon there.

18  
19 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
20 Committee.

21  
22 MR. GERHARD: Yes, Mr. Chairman, the  
23 Staff Committee recommendation for Proposal 16 is to  
24 adopt the proposal as recommended by the Southcentral  
25 Alaska Subsistence Regional Advisory Council. The  
26 Eastern Interior Subsistence Regional Advisory Council  
27 deferred to the home region, Southcentral.

28  
29 The proposed regulation would read, for  
30 Prince William Sound, for the Chitina subdistrict of the  
31 Upper Copper River district for salmon, residents of the  
32 communities of Chisana, Chitina, Cantwell, Chistochina,  
33 Copper Center, Dot Lake, Gakona, Gakona Junction,  
34 Glenallen, Gulkana, Healy Lake, Kenny Lake, Lower  
35 Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway,  
36 Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina and those  
37 individuals that live along the Tok cutoff from Tok to  
38 Mentasta Pass and along the Nabesna Road.

39  
40 The justification for this recommendation  
41 is that the communities proposed for edition to the  
42 customary and traditional use determination are already  
43 recognized resident zone communities for the Wrangell-St.  
44 Elias National Park. Data from the ADF&G Subsistence  
45 Division household surveys and community studies show  
46 that salmon is a significant resource for these  
47 communities. While permit data fail to document a  
48 similar level of significance, they do document  
49 consistent participation in the State permitted fishery.  
50 The data supports the recommendation from the Wrangell-

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1 St. Elias National Park Subsistence Resource Commission  
2 to recognize the customary and traditional use of salmon  
3 in the Chitina subdistrict by the proposed communities.

4

5 Mr. Chair, that ends the Staff Committee  
6 recommendation.

7

8 CHAIRMAN DEMIENTIEFF: Thank you. At  
9 this time we'll advance this to Board deliberation and  
10 other Regional Council participation.

11

12 MS. GOTTLIEB: Mr. Chairman.

13

14 CHAIRMAN DEMIENTIEFF: Yes.

15

16 MS. GOTTLIEB: I do want to thank the  
17 Subsistence Resource Commission for bringing this forward  
18 and I think it's a really good proposal and want to note  
19 that there was not objection from the eight Ahtna  
20 villages that already have C&T for this area. So I'd  
21 like to make a motion for Proposal 16, that we adopt the  
22 Staff Committee recommendation which is supported by the  
23 Regional Advisory Council to expand the positive C&T use  
24 finding for salmon to include all the Wrangell-St. Elias  
25 National Park and Preserve resident zone communities with  
26 the exception of Yakutat in the Chitina subdistrict.

27

28 CHAIRMAN DEMIENTIEFF: Thank you. Other  
29 discussion.

30

31 MR. LOHSE: Mr. Chair. Can I ask Judy a  
32 question, does that proposal as you put it, does that --  
33 when we included these communities like Chitina and  
34 McCarthy and Kenny Lake, we just took for granted that  
35 the people that were on the road systems between these  
36 communities were part of the communities or were included  
37 in it. And when you say the resident zone communities,  
38 does that include the individuals that are outside of the  
39 communities but between the communities also?

40

41 MS. GOTTLIEB: Excuse me just a second,  
42 Ralph.

43

44 (Pause)

45

46 MS. GOTTLIEB: Yes, it does. Sorry it  
47 took so long.

48

49 MR. LOHSE: Thank you.

50



00017

1 MR. EDWARDS: I'll second that motion,  
2 Mr. Chairman.

3  
4 CHAIRMAN DEMIENTIEFF: Okay. We've got a  
5 motion made and seconded. Is there any other discussion.

6  
7  
8 MS. GOTTLIEB: Mr. Chairman, not to  
9 confuse the issue but we had a request to look at Delta  
10 Junction and so I might suggest that after we vote on  
11 this, again, OSM or others might look into eligibility  
12 for Delta Junction for next year.

13  
14 CHAIRMAN DEMIENTIEFF: Who would that be,  
15 would that be Eastern Interior Regional Council?

16  
17 MR. BOYD: Yes.

18  
19 CHAIRMAN DEMIENTIEFF: Maybe we'll bring  
20 that there too, as well, so we can have a look at Delta  
21 Junction. Okay, further discussion. Yes, Taylor.

22  
23 MR. BRELSFORD: Mr. Chairman, thank you.  
24 I'm prepared to vote in favor of the motion. I think the  
25 State has raised a concern regarding use patterns and, in  
26 particular, posed the question of whether the Upper  
27 Tanana villages use patterns extend far enough south to  
28 be included in the Chitina subdistrict. I believe the  
29 evidence is persuasive on this point and that consistency  
30 in the resident zone communities urges us to adopt the  
31 motion put before us so I will vote in favor.

32  
33 Thank you.

34  
35 CHAIRMAN DEMIENTIEFF: Thank you. Any  
36 other discussion. Hearing none, all those in favor of  
37 the motion signify by saying aye.

38  
39 IN UNISON: Aye.

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

43  
44 (No opposing votes)

45  
46 CHAIRMAN DEMIENTIEFF: Motion carries.  
47 We'll move on to Proposal 17a.

48  
49 MS. PETRIVELLI: Mr. Chairman, Proposal  
50 17 was submitted by the Wrangell-St. Elias National Park

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1 Subsistence Resource Commission. And the original  
2 proposal mainly dealt with the idea of opening up a  
3 season in the Chitina subdistrict. And in the provisions  
4 they requested, they requested that all the residents  
5 eligible to fish in the Chitina subdistrict also be  
6 eligible to fish in the Glenallen subdistrict. And what  
7 that meant was there were two communities that have C&T  
8 determinations with the determination made last year when  
9 Cantwell was given a positive C&T and then with the  
10 adoption of Proposal 16, Chisana ended up with a positive  
11 customary and traditional use determination in Chitina  
12 but they did not have a positive customary and  
13 traditional determination for Glenallen subdistrict so  
14 then they would not be eligible to also fish in  
15 Glenallen.

16

17           The Glenallen subdistrict customary and  
18 traditional use determinations were adopted based upon  
19 the first one with the broad one of all the residents of  
20 the Prince William Sound management area and then last  
21 year the Board added Upper Tanana communities. And so we  
22 broke the proposal into an A and B portion. In A dealing  
23 with the issues of Chisana and Cantwell and then B  
24 dealing with the seasons, harvests and bag limits that  
25 Larry will cover later.

26

27           Customary and traditional use  
28 determinations for -- or looking at Chisana and Cantwell,  
29 is much the same -- has the same factors as we looked at  
30 in the last proposal. And of course, the nearness to the  
31 Copper River affects the level of use and Cantwell is  
32 very far away and Chisana's close, is only 75 miles away  
33 from the Copper River but it's access is restricted by a  
34 lack of direct road access so in a sense it's remote from  
35 the Copper River. But despite this remoteness they have  
36 had a level of use of salmon in their subsistence  
37 resources. Six percent of the household resources -- or  
38 subsistence resources used on a per capita basis by  
39 Cantwell is salmon and three percent in Chisana is  
40 salmon. And of course, in this documented use of the  
41 Copper River salmon is through -- either through  
42 traveling -- well, Cantwell has evidence of traveling to  
43 the Copper River area to obtain salmon and use fishwheels  
44 through kinship ties and others. And then Chisana's  
45 level of use, the documentation I found was sharing, that  
46 one researcher found that every household in Chisana had  
47 salmon from the Copper River that had been either gifted  
48 or traded so they have shown a customary and traditional  
49 use of salmon in the Glenallen subdistrict of the Copper  
50 River area.

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1 CHAIRMAN DEMIENTIEFF: Thank you.  
2 Summary of written public comments.

3  
4 MS. WILKINSON: Mr. Chairman, we received  
5 four comments for Proposal 17. Cordova District  
6 Fishermen United wrote that conservation concerns could  
7 be exacerbated, not only due to enforcement issues  
8 relating to establishing the identity of Federally-  
9 qualified users but also by increased exposure to harvest  
10 by the earlier opening date of May 15th. Adding an  
11 additional gear type exacerbates potential gear conflicts  
12 and enforcement issues.

13  
14 The State established two distinctly  
15 different subdistricts to manage up river harvest.  
16 Unless Federally-qualified subsistence users in the  
17 Glenallen subdistrict are not currently having their  
18 subsistence needs met, manageability and successful  
19 enforcement are still compelling goals and should be  
20 considered prior to any such regulation change.

21  
22 The Copper River/Prince William Sound  
23 Advisory Committee believes that restructuring both the  
24 gear type and users would unnecessary compound already  
25 existing enforcement problems in this area.  
26 Reclassifying all up river users as local would also and  
27 necessarily add an enforcement burden as the season  
28 opening would be two weeks earlier than the current  
29 season.

30  
31 Mr. Stan Blume of Chitina Dipnetters  
32 Association wrote that in the 1970s the State told all  
33 the Natives who fished below the bridge that they had to  
34 move upstream to subsistence fish and has cheated them  
35 out of their traditional area. He made the following  
36 recommendations. Allow a Federal subsistence fishery in  
37 the Chitina subdistrict, limit the commercial fishery to  
38 outside the Barrier Islands during May, increase the  
39 allocation of subsistence fish 325,000 sockeye and 10,000  
40 chinook, require Federal subsistence users to have a  
41 State subsistence permit and allow fishing in either the  
42 Glenallen or Chitina subdistrict.

43  
44 The Outdoor Council expressed opposition  
45 for the following reasons. The proposed liberalization  
46 of harvest would subject salmon stocks to potential harm.  
47 Earlier openings and continuous seasons conflict with  
48 conservation measures established by the Board of  
49 Fisheries. Different State and Federal regulations would  
50 create public confusion. Subsistence users are generally

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1 satisfied with their harvest under State regulations and  
2 the proposal extends ANILCA mandated discrimination.  
3 They wrote that their greatest concern is that the State  
4 fishery may eventually be closed because it interferes  
5 with customary and traditional subsistence use by rural  
6 residents.

7

8 And that is all, Mr. Chairman.

9

10 CHAIRMAN DEMIENTIEFF: Thank you.  
11 Department comments.

12

13 MR. HAYNES: Thank you, Mr. Chairman.  
14 The Department supports the inclusion of Chisana in the  
15 customary and traditional use determination for salmon in  
16 the Glenallen subdistrict. However, we still are not  
17 persuaded that the evidence presented in the Staff  
18 analysis supports the inclusion of Cantwell in its  
19 finding. And I guess the main point is that we're not  
20 persuaded that it's a community pattern of use. We  
21 recognize that there are some people in Cantwell who have  
22 these ties with the Copper basin and we just are not  
23 certain that that represents an overall community pattern  
24 of use.

25

26 CHAIRMAN DEMIENTIEFF: Thank you. We  
27 have two requests for public testimony at this time.  
28 Gloria Stickwan.

29

30 MS. STICKWAN: CRNA supports Proposal 17a  
31 and Proposal 17b for residents of Chisana, Cantwell,  
32 Chistochina, Chitina, Copper Center, Gakona, Gakona  
33 Junction, Glenallen, Gulkana, Kenny Lake, Lower Tonsina,  
34 McCarthy, Mentasta Lake, Nabesna, Slana, Tazlina, Tok,  
35 Tonsina, Tetlin, Dot Lake, Northway, Tanacross, Healy,  
36 along the Tok cutoff from Tok to Mentasta Pass and along  
37 the Nabesna Road. To have a separate permit for both  
38 subdistricts in the Upper Copper River to use rod reel,  
39 fishwheel and dipnets and to have a seasonal harvest  
40 limits to be consistent with Glenallen subdistrict.

41

42 CHAIRMAN DEMIENTIEFF: Thank you. We're  
43 not going to not take a break, we're going to stand at  
44 ease for just a moment. We've got kind of a conflicting  
45 request for testimony, two requests from the same person  
46 so Tom's going to check it out. Again, it's not a break  
47 so don't go nowhere.

48

49 (Pause)

50

00021

1 MR. CESAR: I would like to be excused  
2 for awhile. I'm going to have Charlie Bunch, our field  
3 rep from Anchorage take my place. I'm going to go over  
4 and see if I can get us on the Internet today.

5  
6 CHAIRMAN DEMIENTIEFF: Okay, good.

7  
8 (Pause)

9  
10 CHAIRMAN DEMIENTIEFF: Okay, again, I  
11 just wanted to clarify with the person wishing to  
12 testify. We checked with him and he does not want to  
13 testify on this particular issue and he's going to  
14 identify the specific proposals that he wishes to testify  
15 on. So with that, we'll go to Regional Council  
16 recommendation.

17  
18 MR. LOHSE: Mr. Chair, Southcentral  
19 Regional Council felt that evidence supported the  
20 inclusion of Chisana and Cantwell. We felt that it  
21 addressed subsistence concerns for the two communities  
22 due to the kinship ties and the location that they had.  
23 And we supported it as written.

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

27  
28 MR. GERHARD: Yes, Mr. Chair, the Staff  
29 Committee recommendation for Proposal 17a is to adopt the  
30 proposal as recommended by the Southcentral Alaska  
31 Subsistence Regional Advisory Council. The Eastern  
32 Interior Subsistence Regional Advisory Council deferred  
33 to the home region which is Southcentral.

34  
35 The proposed regulation would read, for  
36 Prince William Sound area, for the Glenallen subdistrict  
37 of the Upper Copper River district for salmon -- I'm not  
38 going to read the list of communities again, but note the  
39 purpose of this proposal was to add Chisana and Cantwell.  
40 And the regulatory language would read for the same  
41 communities as previously read for Proposals 15 and 16.  
42 As you can see the Council and also the Wrangell-St.  
43 Elias Subsistence Resource Commission, which submitted  
44 this proposal, were striving for some consistency in the  
45 C&T determinations in the region.

46  
47 The justification is brief. The data  
48 from ADF&G Subsistence Division household surveys and  
49 community studies show that salmon is a subsistence  
50 resource used by these two communities. Permit data

00022

1 provide documentation of participation in the State  
2 permitted fishery for Copper River salmon.

3

4 Mr. Chair, that concludes the Staff  
5 Committee recommendation.

6

7 CHAIRMAN DEMIENTIEFF: Okay, thank you.  
8 At this time I'll open it up for Board deliberations  
9 and/or other Regional Council representatives.

10

11 MR. EDWARDS: Mr. Chairman.

12

13 CHAIRMAN DEMIENTIEFF: Yes.

14

15 MR. EDWARDS: I would like maybe the  
16 Subsistence Staff to, and maybe even the Council to  
17 address, you know, the issue that the State raised with  
18 regards to Cantwell based upon, you know, the available  
19 information. Is it sufficient enough to, you know,  
20 justify what's being proposed.

21

22 CHAIRMAN DEMIENTIEFF: Do you have  
23 information, Pat?

24

25 MS. PETRIVELLI: ADF&G studies, it shows  
26 that they do use salmon, of course, the level of use is  
27 only six percent but it is a subsistence use of that  
28 community. And then there is descriptions in the studies  
29 that they did travel long distances to get salmon because  
30 there's not salmon in that area and there has been  
31 notable kinship ties through past C&T determinations.  
32 It's been recognized the connection between Cantwell and  
33 the other region -- or between Cantwell and the Copper  
34 River basin region through kinship ties. And Cantwell is  
35 included in the wildlife C&T determinations and also  
36 they've been included in the Chitina subdistrict, we just  
37 included them in the freshwater fish determinations and  
38 the recognition -- that the Council has recognized  
39 Cantwell participation in the Copper River basin.

40

41 CHAIRMAN DEMIENTIEFF: Thank you. Any  
42 other discussion, Ralph.

43

44 MR. LOHSE: Mr. Chair, one of the things  
45 on our make up of our Councils is we have a broad a  
46 representation as we can get. And we make use of the  
47 information, the personal history information and the  
48 person information that different individuals know on the  
49 Council, that, a lot of times has much weight as written  
50 information and information from the Staff. In this case

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1 we have one member of our Council who is from Cantwell  
2 and the personal information that he has shared has been  
3 instrumental in leading our Council to include Cantwell,  
4 along with the information that comes from the Staff and  
5 the information that we've gotten from the ADF&G. And  
6 that's kind of how the Council works. And like I've said  
7 before, as a Council, we have always tried to operate on  
8 the basis of inclusion, not exclusion. And if the  
9 evidence points towards including somebody, it has to be  
10 pretty strong evidence to exclude somebody. And in this  
11 case that's how we feel about Cantwell.

12

13 CHAIRMAN DEMIENTIEFF: Thank you.

14

15 MS. GOTTLIEB: Mr. Chair.

16

17 CHAIRMAN DEMIENTIEFF: Yes.

18

19 MS. GOTTLIEB: I'd like to make a motion  
20 for Proposal 17a, that we adopt the Staff Committee  
21 recommendation which is supported by the Regional  
22 Advisory Council and the SRC to make a positive customary  
23 and traditional use finding for salmon for the  
24 communities of Cantwell and Chisana in the Glenallen  
25 subdistrict. I believe the surveys do show that salmon  
26 is a subsistence resource for these two communities,  
27 either through harvest or through barter.

28

29 Thank you.

30

31 CHAIRMAN DEMIENTIEFF: Thank you. We  
32 have a motion.

33

34 MR. BUNCH: I'll second the motion.

35

36 CHAIRMAN DEMIENTIEFF: Okay, thank you.  
37 Further discussion on the motion, Taylor.

38

39 MR. BRELSFORD: Thank you, Mr. Chairman.  
40 I'm prepared to vote in favor of the motion. I would  
41 like to address the question of the threshold of a use  
42 pattern that constitutes a community pattern. And I  
43 believe there are uses that would be so low as to fall  
44 below the proper threshold, those might be idiosyncratic  
45 use patterns, but I believe in this case for the  
46 community of Cantwell, what we are actually faced with is  
47 a pattern of fairly significant cultural affiliation and  
48 breadth of harvest patterns bringing people from Cantwell  
49 into the Copper River basin. So I believe that this  
50 easily meets an appropriate threshold as representing a

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1 meaningful portion of the community and therefore, we'll  
2 support the motion.

3

4 Thank you.

5

6 MS. GREGORY: Mr. Chairman.

7

8 CHAIRMAN DEMIENTIEFF: Yes.

9

10 MS. GREGORY: I don't think we should  
11 exclude people who are using it already. Like if you  
12 have people using a resource, you shouldn't exclude them  
13 from it because me being a subsistence food user, if I  
14 don't eat, then I don't -- I'm not myself. I mean not  
15 complete. So that's my concern. Just because it's a  
16 small amount of percentage of people who use it you don't  
17 tell them not to.

18

19 CHAIRMAN DEMIENTIEFF: Thank you. Does  
20 the information available include the utilization of the  
21 resource during potlatches, those kind of things?

22

23 MS. PETRIVELLI: The percentage that I  
24 cited was from one study in 1984 and -- well, so that  
25 percentage is just looking at one year's use. But the  
26 testimony of kinship ties and intermarriage has been  
27 consistent throughout the whole program that Cantwell  
28 has. And the potlatch issue usually comes up in -- but  
29 it has been testified to many times about participation  
30 in potlatch activities and there's a lot of evidence in  
31 the record about potlatch participation with Cantwell  
32 residents.

33

34 CHAIRMAN DEMIENTIEFF: Thank you. Any  
35 further discussion on the motion. Hearing none, all  
36 those in favor of the motion, please signify by saying  
37 aye.

38

39 IN UNISON: Aye.

40

41 CHAIRMAN DEMIENTIEFF: Those opposed,  
42 same sign.

43

44 (No opposing votes)

45

46 CHAIRMAN DEMIENTIEFF: Motion carries.

47 17b.

48

49 MR. BUCKLIS: Mr. Chairman, Larry  
50 Bucklis, Office of Subsistence Management. The analysis



00025

1 for 17b can be found in Page 115 in your Board book.  
2 This proposal requests that a Federal Subsistence fishing  
3 season for salmon in the Chitina subdistrict be  
4 established that is identical to the Federal season in  
5 the Glenallen subdistrict. Secondly, that the method of  
6 harvest would be dipnets, fishwheels and rod and reel.  
7 More than one gear type could be specified on the permit.  
8 Third, that separate permits would be issued for the  
9 Chitina subdistrict and the Glenallen subdistrict.  
10 However, those whom are Federally-qualified users for  
11 both subdistricts would be able to obtain a permit for  
12 each subdistrict in the same year. Finally, the combined  
13 seasonal harvest limit for permits issued for the Upper  
14 Copper River district would be the permit limit presently  
15 established for the Glenallen subdistrict.

16  
17           Given the scope of changes being proposed  
18 here and in Proposal No. 22, which we will take up later,  
19 registration of fishwheels with Alaska Department of Fish  
20 and Game might not continue for Federal users. Fishwheel  
21 gear registration is addressed in the analysis for  
22 Proposal No. 22.

23  
24           Mr. Chairman, Proposal 17b is a fairly  
25 complex proposal with many feature and so my review is  
26 going to take a little bit longer than might be typical.

27  
28           I will point out a few features on the  
29 map but as I turn away the microphone will -- my voice  
30 will fade away. So I'm going to point out the Chitina  
31 subdistrict, which is approximately 10 miles in length.  
32 The Glenallen subdistrict which is about 100 miles in  
33 length and then the Batzulnetas fishery, which is located  
34 near the confluence of Tanada Creek and the Copper River.

35  
36  
37           The subsistence salmon fisheries in the  
38 Upper Copper River are primarily targeted at sockeye  
39 salmon although smaller numbers of chinook and coho  
40 salmon are also taken. Current State regulations provide  
41 for a subsistence salmon fishery in the Glenallen  
42 subdistrict using fishwheels or dipnets. And in the  
43 Chitina subdistrict using dipnets only. Under State  
44 regulations Alaska residents may take salmon for  
45 subsistence purposes in only one of these two  
46 subdistricts in any one year.

47  
48           Regulatory actions have had an affect on  
49 the record of fishwheel use. Although historical  
50 fishwheel use was primarily clustered in locations at and

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1 above the Chitina bridge in what is now the Glenallen  
2 subdistrict, fishwheels have also been used, to a lesser  
3 extent, in what is now the Chitina subdistrict. The  
4 combined effect of the regulatory changes being proposed  
5 here would be to expand subsistence opportunity and  
6 provide more flexibility to Federally-qualified users in  
7 terms of choosing the subdistrict and the gear with which  
8 to fish, both of which could be changed within the same  
9 year. Total subsistence take by Federally-qualified  
10 users would not be expected to increase substantially  
11 since the Federally-qualified users for the Chitina  
12 subdistrict would essentially be only a subset of those  
13 already qualified to fish in the Glenallen subdistrict.  
14 However, it is uncertain to what extent effort may shift  
15 from the Glenallen subdistrict down river to the Chitina  
16 subdistrict, but it is unlikely to be substantial since  
17 local users in the Glenallen subdistrict primarily use  
18 fishwheels and already have established sites.

19  
20         As proposed there would be some lack of  
21 clarity in the regulations regarding the operation of  
22 multiple units of gear at any one time. Enforcement of  
23 harvest limits could be compromised if households are  
24 issued permits for both subdistricts as there is no  
25 requirement to have both permits in your possession.  
26 Modification of the proposal is warranted to address  
27 these deficiencies.

28  
29         Also, current regulatory language lacks  
30 clarity that the annual harvest limit -- that the annual  
31 limit is a harvest limit rather than a possession limit.  
32 So these are features that would be recommended to be  
33 addressed.

34  
35         The Chitina subdistrict is already a  
36 heavily utilized State, subsistence dipnet fishery.  
37 Access to effective sites for fishwheel operation may be  
38 especially limited. The potential exists for conflict  
39 among and between gear operators. Under the proposed  
40 regulations for the Chitina subdistrict, the season  
41 opening date would be two weeks earlier for the Federal  
42 season than for the State season, harvest limits would  
43 differ and Federal regulations would allow the use of  
44 fishwheel and rod and reel for subsistence take in  
45 addition to the dipnets. Federal regulations would allow  
46 retention of up to five chinook salmon taken by dipnet in  
47 the Chitina subdistrict as we currently allow both  
48 Federal and State regulations in the Glenallen  
49 subdistrict. However, State regulations allow retention  
50 of only one chinook by dipnet in the Chitina subdistrict.

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1 The State only allows subsistence fishing in the Chitina  
2 subdistrict during periods set by field emergency orders.  
3 Within the framework of a Board of Fisheries sanctioned  
4 Fisheries Management Plan.

5  
6 At least in the first year and beyond, if  
7 necessary, it would be advisable for the Federal  
8 Subsistence fishery in the subdistrict to be opened on a  
9 periodic basis by the in-season manager consistent with  
10 the State fishing schedule. The closed periods,  
11 especially early in the run allow passage of fish for  
12 spawning escapements and upriver uses. This approach  
13 also provides for conservation of Chitina River drainage  
14 salmon which are not susceptible to harvest upriver in  
15 the Glenallen subdistrict or the Batzulnetas fishery.  
16 The coordinated fishing schedule would contribute to  
17 management efforts to spread harvest throughout the run  
18 for conservation and upriver use considerations and it  
19 would ease potential enforcement problems. While  
20 applying this precautionary approach, an evaluation could  
21 be made of Federal user effort and harvest in the Chitina  
22 subdistrict in order to better adapt management in later  
23 years.

24  
25 Two additional modifications could be  
26 made that would provide more consistency with the State  
27 regulations thereby reducing the potential for conflict  
28 and enhancing enforcement capability. Although these  
29 modifications would reduce Federal subsistence  
30 opportunity. Those modifications would be to not allow  
31 the use of fishwheels in the Chitina subdistrict or limit  
32 the take by dipnet in the Chitina subdistrict to the  
33 harvest limits of the State subsistence fishery, which is  
34 a lower harvest limit, but then allow Federal users to  
35 take the remainder of their total upriver in the  
36 Glenallen subdistrict.

37  
38 Again, those are two modifications you  
39 could consider to reduce differences between proposed  
40 Federal regulations and current State regulations.

41  
42 A couple of final points, the  
43 superintendent of Wrangell-St. Elias National Park and  
44 Preserve is the Federal delegated in-season manager for  
45 the Upper Copper River subsistence salmon fisheries. The  
46 scope of changes included in this proposal will likely  
47 require the Park Service to administer the issuance of  
48 Federal subsistence fishing permits for the Upper Copper  
49 River district. Presently, the State is continuing to  
50 issue permits to both Federal and State users.

00028

1           The proposal does not address the issue  
2 of access to Ahtna Corporation lands. Under the current  
3 State system, a permit fee is collected and a portion is  
4 paid to the Ahtna Corporation for access to their lands.  
5 The new proposed Federal permit would not have any fee  
6 and would not address the issue of access to Ahtna lands.  
7 Individuals or communities would be responsible for  
8 making their own arrangements with the Ahtna Corporation  
9 for access.

10

11           Mr. Chairman, that concludes my review.

12

13           CHAIRMAN DEMIENTIEFF: Thank you.

14 Summary of written public comments.

15

16           MS. WILKINSON: Mr. Chairman, the  
17 comments that we received on Proposal 17 were directed  
18 toward the entire proposal, not as written A and B parts.  
19 So the comments that I read earlier apply here as well.  
20 If you would like to review any part of that I'd be glad  
21 to do so.

22

23           CHAIRMAN DEMIENTIEFF: Thank you very  
24 much. We'll go ahead and move on. State comments.

25

26           MR. VINCENT-LANG: Mr. Chairman, the  
27 Department has several concerns regarding the Staff  
28 Committee recommendation for this proposal. First, the  
29 earlier opening date for the Chitina subdistrict and  
30 larger harvest limits for king salmon raise concerns for  
31 early run king and sockeye salmon stocks in the Copper  
32 River basin, including Batzulnetas stocks. We believe  
33 these early run stocks would be susceptible to increased  
34 harvest during the early part of the season.  
35 Additionally, king salmon will be much more vulnerable to  
36 fishwheels in the Chitina subdistrict because of the  
37 single deep channel morphology of the Copper River in  
38 this area. This could lead to larger harvest and  
39 conservation issues for these early run stocks.

40

41           Second, because of the allowance of  
42 differential gear, we believe there is a serious  
43 potential for conflict between Federally-qualified and  
44 State-qualified subsistence users in this area. We do  
45 not believe sufficient consideration has been given to  
46 options that could reduce such conflict, such as gear  
47 separation zones.

48

49           Third, we are concerned about the issue  
50 of access to Ahtna Corporation lands in this area.

00029

1 Currently, the State collects as part of its permit a  
2 land access fee that is transferred to the Ahtna  
3 Corporation. Under the proposed Federal permit no such  
4 fee would be collected. The proposed system collects  
5 fees from State, but not Federally-qualified users. The  
6 Department does not believe that sufficient consideration  
7 was given to the issue of land access in this area.

8

9 Finally, while the Staff Committee  
10 recommends that the State management plan and associated  
11 fishing schedule for this fishery be followed, we are  
12 concerned that differing fishing schedules could occur  
13 because the intent of this is not adopted in regulation.

14

15 And let me close by stating that we have  
16 a couple of members from our Staff here that manage this  
17 fishery available to you if you have any questions  
18 regarding to it. I have Mack Menard, Charlie Swanton,  
19 Tom Talbe, the area managers. And each of you were  
20 handed out a synopsis of our management plan and  
21 management actions for the Copper River district  
22 subsistence fisheries that are managed by the State.

23

24 Thank you.

25

26 CHAIRMAN DEMIENTIEFF: Questions or  
27 comments to State. If not, we'll open up to public  
28 testimony, Gloria Stickwan.

29

30 MS. STICKWAN: CRNA supports Proposals  
31 17a and B, but we think that for Chitina they ought to  
32 make an arrangement for fees for land for Chitina --  
33 Native Corporations, some kind of agreement should be in  
34 place. And that the Glenallen subdistrict be consistent  
35 with the -- all three districts be consistent and that we  
36 have different -- separate permits for both the  
37 subdistricts in the Copper River.

38

39 CHAIRMAN DEMIENTIEFF: Gloria, I think to  
40 the best of my knowledge and the Solicitor can correct me  
41 if I'm wrong, but we only have jurisdiction over Federal  
42 lands. We have no jurisdiction over State or Native  
43 lands at all, it's just over Federal lands. Is that  
44 correct, Keith?

45

46 MR. GOLTZ: That's correct.

47

48 CHAIRMAN DEMIENTIEFF: So there's no way  
49 we can put a fee application on our -- within our  
50 jurisdiction because we don't have jurisdiction over

00030

1 Native lands or State lands. So that's why we can't  
2 accommodate the fee request because we don't have -- we  
3 just simply do not have jurisdiction.

4

5 MS. STICKWAN: But I think some kind of  
6 agreement could be in place where there's -- that you  
7 acknowledge that they are the land owners or something.  
8 Somehow the State has worked this out so that they do  
9 have an agreement in place between Chitina and the State  
10 of Alaska. And I'm sure something like that can be  
11 worked out somehow between agency and Chitina Native  
12 Corporation.

13

14 CHAIRMAN DEMIENTIEFF: Keith, do you know  
15 if that's something that's possible that we could do?

16

17 MR. GOLTZ: Not that I'm aware of. The  
18 State has jurisdiction over State and private lands and  
19 we're confined in our program to define Federal lands.  
20 I'd be happy to talk about it with anybody who can  
21 suggest a different idea. But we are limited in our  
22 jurisdiction.

23

24 MR. LOHSE: Mr. Chair.

25

26 CHAIRMAN DEMIENTIEFF: Yes, go ahead --  
27 Gloria, that's the best we know right now but I'd  
28 encourage you to follow up with Keith or have whoever  
29 follow up with Keith to the different land owners out  
30 there and we'll see if there's anything that is possible  
31 with regard to that. But it's certainly not something  
32 possible right now. That would take some time to put  
33 something like that together, if it was legal.

34

35 MS. STICKWAN: I would like Ahtna to be  
36 involved in this, too, since they're the land managers  
37 for -- and the corporation as well.

38

39 CHAIRMAN DEMIENTIEFF: Do you have a  
40 question specifically to Gloria?

41

42 MR. LOHSE: I have a question for Gloria  
43 and Keith, both, if I may ask it.

44

45 CHAIRMAN DEMIENTIEFF: Go ahead.

46

47 MR. LOHSE: This would just be a question  
48 as far as the permit that's issued, the Federal permit  
49 that's issued, would it be reasonable or proper to  
50 include a notice on that permit that the lands being

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1 crossed are private lands and it's up to the individual  
2 involved that holds the permit to make a private contact  
3 with Ahtna and pay the fee and that if they haven't then  
4 the permit, that's their responsibility?

5  
6 MR. GOLTZ: I think the answer to your  
7 question is yes. In fact, I think we've done that in  
8 other cases.

9  
10 MS. GOTTLIEB: Mr. Chairman.

11  
12 (Pause)

13  
14 MS. GOTTLIEB: Mr. Chair.

15  
16 CHAIRMAN DEMIENTIEFF: I'm sorry.

17  
18 MS. GOTTLIEB: One more comment for  
19 Gloria and for Ralph, that the National Park Service, if  
20 we are the ones to issue the permit would certainly want  
21 to work with CRNA and Ahtna to work out prescribed  
22 wording for a permit.

23  
24 CHAIRMAN DEMIENTIEFF: Okay, thank you.  
25 Thank you, Gloria. Regional Council recommendation.

26  
27 MR. LOHSE: The Regional Council  
28 supported this proposal with modification. We recognize  
29 that there were some problems that could evolve from this  
30 so we would like to stipulate that only one unit of gear  
31 may be operated at a time and that if a household is  
32 issued permits for both subdistricts, you must have both  
33 permits in possession when fishing or transporting  
34 subsistence caught fish. In other words, if you're  
35 fishing in the Chitina subdistrict but you have a permit  
36 for the Glenallen subdistrict, you need to have your  
37 Glenallen permit along. We also feel that this would  
38 provide subsistence opportunity but we recognize that it  
39 does have the potential for impacts on Chitina River fish  
40 and on other fishers. And so we would think that this  
41 would need to be tracked and provisions made to mediate  
42 or limit this as much as possible so that we wouldn't  
43 have adverse impacts.

44  
45 Thank you.

46  
47 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
48 Committee.

49  
50 MR. GERHARD: Yes, Mr. Chairman, Staff

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1 Committee recommendation for Proposal 17 is also a little  
2 bit lengthy so bear with me but I think it's important to  
3 remember that the reason this proposal is here is  
4 because.....

5  
6 CHAIRMAN DEMIENTIEFF: Bob, could I get  
7 you to hold on here a minute, I overlooked one person  
8 requesting public testimony.

9  
10 MR. GERHARD: Of course.

11  
12 CHAIRMAN DEMIENTIEFF: She might want to  
13 -- Sue Aspelund.

14  
15 MS. ASPELUND: Thank you for this  
16 opportunity. My name is Sue Aspelund, I'm executive  
17 director of Cordova District Fishermen United and we  
18 represent the commercial fishing fleets of the Copper  
19 River and Prince William Sound. I'd like to clarify that  
20 the comments that Ann read into the record earlier  
21 referenced 17b at the time written. Comment was  
22 solicited in June, the proposal was not yet split into  
23 17a and B so those comments were relative to this portion  
24 of the discussion.

25  
26 We're extremely concerned about divergent  
27 State and Federal regulations especially in the Chitina  
28 subdistrict where there can be as many as 10,000 non-  
29 Federally-qualified users accessing the resource. We're  
30 anecdotally aware of past and present violations of  
31 existing State bag limits by non-Federally-qualified  
32 users and we're very concerned over enforcement of  
33 divergent State and Federal regs. In your deliberations  
34 today, we sincerely hope that you will question Federal  
35 managers as to their plans and their ability to monitor  
36 the fishery and the regulations for protection of the  
37 resource.

38  
39 Further ADF&G has described to you a  
40 fairly complex abundance spaced management plan for the  
41 Copper River that has evolved over time in order to  
42 sustain the Copper River resource and the people  
43 dependent upon its fisheries resources. We're very  
44 concerned at the lack of a written Federal management  
45 plan that acknowledges the intense pressure on this  
46 resource. Further, we urge you to require a written in-  
47 season management plan for Federal fisheries in the  
48 Chitina subdistrict as well as a review of enforcement  
49 capabilities prior to passage of 17b in order to protect  
50 both the resource and the residents that live along the



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1 Copper River that are dependent upon it.

2

3 Thank you.

4

5 CHAIRMAN DEMIENTIEFF: Thank you. Any  
6 questions. Thank you. Staff Committee now, sorry, about  
7 that Bob but I just overlooked it.

8

9 MR. GERHARD: Yes, Mr. Chair, as I was  
10 saying this is a fairly complex proposal but it starts  
11 from a simple premise and that's the existing regulation  
12 that we have now that says you may not take salmon in the  
13 Chitina subdistrict. That regulation was adopted from  
14 the State subsistence regulation when we adopted our  
15 regulations in 1999. Of course, that was before the  
16 State dipnet fishery was a subsistence fishery. So the  
17 whole premise is to correct that statement.

18

19 The Staff Committee recommendation is to  
20 adopt with the modifications as recommended by the  
21 Southcentral Alaska Subsistence Regional Advisory  
22 Council. And again, the Eastern Interior Subsistence  
23 Regional Advisory Council deferred to the home region.

24

25 The modifications stipulate that only one  
26 unit of gear may be operated at any one time and that if  
27 a household is issued permits for both subdistricts, he  
28 must have both permits in possession when fishing or  
29 transporting subsistence caught fish in either  
30 subdistrict. Also to identify the permit as being a  
31 Federal subsistence salmon fishing permit and clarify  
32 that the annual limit is a harvest limit rather than a  
33 possession limit.

34

35 And the modified proposed regulations  
36 would read, for Section 27(i)(11)II, you may take salmon  
37 in the Upper Copper River district only as follows: In  
38 the Glenallen and Chitina subdistricts from May 15th to  
39 September 30th. IX, in the Glenallen and the Chitina  
40 subdistricts, you may take salmon only by fishwheels, rod  
41 and reel or dipnets. Subsection XIV, only one Federal  
42 subsistence fishing permit per subdistrict will be issued  
43 to each household per year. If a household has been  
44 issued permits for both subdistricts in the same year,  
45 both permits must be in your possession and readily  
46 available for inspection while fishing or transporting  
47 subsistence taken fish in either subdistrict. Subsection  
48 XV, the following apply to Upper Copper River district  
49 Federal subsistence salmon fishing permits. Multiple  
50 types of gear may be specified on a permit although only

00034

1 one unit of gear may be operated at any one time.

2

3           The total annual harvest limit for  
4 Federal subsistence salmon fishing permits in combination  
5 for the Glenallen subdistrict and the Chitina subdistrict  
6 is as follows: For a household with one person 30 salmon  
7 of which no more than five may be chinook salmon if taken  
8 by dipnet. For a household with two persons, 60 salmon  
9 of which no more than five may be chinook salmon if taken  
10 by dipnet plus 10 salmon for each additional person in a  
11 household over two persons except that the households  
12 limit for chinook salmon taken by dipnet does not  
13 increase. Upon request, permits for additional salmon  
14 will be issued for no more than a total of 200 salmon for  
15 a permit issued to a household with one person of which  
16 no more than five may be chinook salmon if taken by  
17 dipnet or no more than a total of 500 salmon for a permit  
18 issued to a household with two or more persons of which  
19 no more than five may be chinook salmon if taken by  
20 dipnet.

21

22           The justification for this recommendation  
23 is that the proposal would establish a Federal  
24 subsistence fishing season and methods and means for  
25 salmon in the Chitina subdistrict identical to the  
26 Federal season and methods and means currently in place  
27 for the Glenallen subdistrict. The combined seasonal  
28 harvest limit for permits issued for the Upper Copper  
29 River district which includes the Glenallen and Chitina  
30 subdistricts would be the limit presently established for  
31 the Glenallen subdistrict alone. Total subsistence take  
32 by Federally-qualified users would not be expected to  
33 increase substantially since the Federally-qualified  
34 users for the Chitina subdistrict fishery would  
35 essentially be only a subset of those already qualified  
36 for the ongoing and geographically larger Glenallen  
37 subdistrict fishery. While it is uncertain to what  
38 extent effort may shift from the Glenallen subdistrict to  
39 the Chitina subdistrict, it is unlikely to be substantial  
40 since local users in the Glenallen subdistrict primarily  
41 use fishwheels and already have established sites.

42

43           Although the current State subsistence  
44 salmon fishery in the Chitina subdistrict allows only the  
45 use of dipnets, information regarding historical use of  
46 fishwheels provides sufficient justification for  
47 inclusion of fishwheels as allowable gear in the Federal  
48 subsistence fishery and rod and reel is allowed  
49 statewide.

50

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1           The modifications to the proposal provide  
2 clarity prohibiting the operation of multiple units of  
3 gear at any one time and aid in the enforcement of  
4 harvest limits by requiring possession of both permits  
5 when fishing or transporting subsistence caught fish in  
6 either subdistrict for those households issued permits  
7 for both subdistricts in the same year. It is advised  
8 that at least for the first year and beyond, if  
9 necessary, the Federal subsistence fishery in the Chitina  
10 subdistrict be scheduled consistent with the State  
11 fishery schedule.

12  
13           Mr. Chair, that concludes the Staff  
14 Committee recommendation.

15  
16           CHAIRMAN DEMIENTIEFF: Thank you. Board  
17 deliberation.

18  
19           MS. GOTTLIEB: Mr. Chairman.

20  
21           CHAIRMAN DEMIENTIEFF: Yes.

22  
23           MS. GOTTLIEB: This particular proposal  
24 enables Federal subsistence users to more easily meet  
25 their subsistence needs for sockeye salmon. Now, while  
26 we manage for subsistence opportunity we, of course, need  
27 to keep in mind resource management and recognized  
28 principles of fish, fisheries conservation as paramount.  
29 I think these are some major changes we're talking about  
30 and the effect of these changes won't really be known  
31 until after and if we implement these. But we expect  
32 minimal increase in use. Resource conservation does  
33 remain our highest management priority. We have to be  
34 careful not to move too quickly and evaluate the effects  
35 of each of these actions.

36  
37           I'm going to move to adopt Proposal 17b  
38 as the Staff Committee recommended. I think it would be  
39 really important as we've discussed here, not only to  
40 continue our discussions with the State, with the  
41 Regional Advisory Councils, perhaps even to have public  
42 meetings before the 2002 season begins. I'd also suggest  
43 that the management of the Chitina subdistrict continue  
44 to be abundance based as determined by salmon that pass  
45 through the Miles Lake sonar. And that the determination  
46 of the opening date and in-season openings and closings  
47 be determined very carefully in consultation between  
48 Federal subsistence users and State managers and although  
49 this is dual management, we still continue to insure that  
50 Federal subsistence priority can occur in this subdistrict.

00036

1 Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Thank you.

4

5 MR. EDWARDS: Mr. Chairman, I'd like to  
6 ask the State based upon the suggested modification to  
7 the proposal and I guess the understanding that it would  
8 be open by special action and I guess I'm assuming that,  
9 at least, in the interim consistent kind of with the  
10 State management plan, you know, does that ease some of  
11 your concerns? And secondly, could you elaborate a  
12 little more on the access issue, I'm not sure I fully  
13 understand that.

14

15 CHAIRMAN DEMIENTIEFF: Excuse me, if we  
16 can hold off here in a second, we need a second.

17

18 MR. EDWARDS: I'll second the motion.

19

20 CHAIRMAN DEMIENTIEFF: Okay, go ahead.

21

22 MR. VINCENT-LANG: The first question  
23 addresses our final point which is consistency with the  
24 State management plan. Clearly we are concerned that we  
25 would have differing fishing schedules out there as a  
26 result of adoption of this proposal. The Board's intent  
27 to clarify that, at least, initially and hopefully longer  
28 than that in our estimation, having a fishing schedule  
29 that is identical to the State management plan would be  
30 preferable and that would be ease some of our concerns  
31 with that one.

32

33 Regarding the second issue, the land  
34 access issue, that is kind of an issue that's been  
35 ongoing now for several years. We're looking carefully  
36 at our land access issues in the Chitina subdistrict  
37 right now. We have some new information to us and we'll  
38 probably be renegotiating with the Ahtna Corporation.  
39 But clearly we are concerned that there would be a system  
40 out there in place where State users would have to pay an  
41 access fee and Federal users would not have to pay an  
42 access fee and we don't think that'd be fair to the users  
43 out there. But we're looking at it right now and we'll  
44 be talking on and I think that's an issue that will be  
45 ongoing as we go through time on that one.

46

47 MR. EDWARDS: Okay, Mr. Chairman.

48

49 CHAIRMAN DEMIENTIEFF: Gary.

50

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1 MR. EDWARDS: With that response I guess  
2 I would like to ask Judy then if the motion does include  
3 the understanding that the fishery would be open by  
4 special action and strive to be consistent with the State  
5 management plan?

6  
7 MS. GOTTLIEB: I'm not sure I can answer  
8 the special action part but the understanding or perhaps  
9 the direction of this Board for the first year of this  
10 regulation is that we act in concert and coordination  
11 with the State and keep those openings as consistent as  
12 possible.

13  
14 MR. EDWARDS: But again, I'm still trying  
15 to clarify on the special action. It's my understanding  
16 if the State opens, based upon emergency, then to be  
17 consistent would we not have to do it by special action?

18  
19 MS. GOTTLIEB: Yes, that's correct.

20  
21 CHAIRMAN DEMIENTIEFF: Further  
22 discussion. Keith.

23  
24 MR. GOLTZ: Yeah, I'd just like to  
25 clarify a little about Doug's last statement. I don't  
26 think there's anything in this regulation and I hope  
27 there's nothing in anything that I said that would lead  
28 people to conclude that subsistence access includes a  
29 right to trespass. We have a question of private lands  
30 here, I'm not sure that our present motion resolves it.  
31 I like very much Ralph's suggestion that there be some  
32 notification that there is an access problem in this  
33 area. These are private lands held by Ahtna Corporation.  
34 I don't know that this Board has any direct jurisdiction  
35 over them. I can't find a way to get from this Board to  
36 those lands but perhaps we could work through the land  
37 manager in that area, the Park Service, and work  
38 something out. But we're not intending here to create a  
39 hole that would create further conflict over land use,  
40 private land use.

41  
42 CHAIRMAN DEMIENTIEFF: Discussion, Ralph.

43  
44 MR. LOHSE: Yes, I'd just like to add a  
45 couple of comments. One of the things was that our  
46 Council recognized that this could create some problems  
47 and we, as a Council, said that we would track these  
48 fisheries to see what the impact was on the resource and  
49 on the fishers involved. I would like to personally  
50 recommend that the Federal Board or Federal managers

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1 become very, very familiar with the Copper River  
2 management plan. This plan has been worked out by the  
3 various users and Fish and Game in the Copper basin.  
4 It's one of the reasons that the Copper River has  
5 sustained a fishery that has provided fish for the  
6 subsistence users, for the State personal use fishermen  
7 or today subsistence users and for the Copper River basin  
8 community of Cordova, which is based on commercial  
9 fishing. And I think it's very, very important that we  
10 don't throw the baby out with the bathwater, that we  
11 recognize that this has provided that kind of consistency  
12 and see how we can work within that kind of consistency.

13

14 Thank you.

15

16 CHAIRMAN DEMIENTIEFF: Thank you. Other  
17 discussion.

18

19 MR. EDWARDS: Mr. Chairman, again, I  
20 guess I just want to make sure that the motion actually  
21 embraces what, you know, Ralph said and what we seem to  
22 all acknowledge. And if somebody can assure me that it  
23 does that then I'm certainly willing to support it.

24

25 MS. GOTTLIEB: Yes, Gary, I believe the  
26 motion does embrace that, that we will work in  
27 coordination and consultation with the State of Alaska on  
28 the openings and closings.

29

30 CHAIRMAN DEMIENTIEFF: Taylor, you had a  
31 comment. Bill.

32

33 MR. THOMAS: Thank you, Mr. Chairman.  
34 Who did you recognize?

35

36 CHAIRMAN DEMIENTIEFF: I did already.

37

38 MR. BRELSFORD: Go ahead.

39

40 MR. THOMAS: Okay, thank you, Mr.  
41 Chairman. I'm really appreciating the dialogue that's  
42 happening around this particular proposal. It's  
43 demonstrating to me the awareness, the commitment and the  
44 concerns of everybody that's effected. With regard to  
45 the concerns, I think the concerns are very valid,  
46 however, they're bringing out some historic reflections  
47 to me and that is historically when it comes to  
48 subsistence access to resources, it doesn't come without  
49 significant negative speculation. And a lot of that is  
50 occurring now and it has a reason for that, there is a

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1 mention of conflicts and conservation. Historically,  
2 there's nothing to support those concerns, historically.  
3 In the language of the recommendation by the Southcentral  
4 Regional Advisory Council, they've listed some real  
5 supporting rationale for their position. Also I want to  
6 point out that subsistence, if you look at the records of  
7 harvest we had earlier, you could see the differences in  
8 the level of harvest by different user groups. And so  
9 that's a solid demonstration of the focus and the harvest  
10 ethics between the subsistence users and other user  
11 groups.

12  
13 And having said all that, I speak to  
14 support the Staff Committee recommendation. Thank you,  
15 Mr. Chairman.

16  
17 CHAIRMAN DEMIENTIEFF: Charlie.

18  
19 MR. BUNCH: Thank you, Mr. Chair. I just  
20 wanted to bring out the point that in addition to a lot  
21 of Ahtna land in these two subdistricts, there's a lot of  
22 private land that are Native allotments and we would  
23 certainly like to minimize the trespass on those lands,  
24 too, because that's quite a problem during the dipnetting  
25 season.

26  
27 CHAIRMAN DEMIENTIEFF: Thank you.  
28 Further discussion. Hearing none, all those in favor of  
29 the motion please signify by saying aye.

30  
31 IN UNISON: Aye.

32  
33 CHAIRMAN DEMIENTIEFF: Those opposed,  
34 same sign.

35  
36 (No opposing votes)

37  
38 CHAIRMAN DEMIENTIEFF: Motion carries.  
39 We're going to take a little break right now and when we  
40 come back I'll note that since the next two proposals  
41 actually deal with the same issue on different species,  
42 we're going to take up 21 first and then go back and do  
43 18 when we come back.

44  
45 (Off record)

46  
47 (On record)

48  
49 CHAIRMAN DEMIENTIEFF: We're going to  
50 call the meeting back to order. Again, as I mentioned,

00040

1 we're going to take Proposal 21 first in the Southcentral  
2 Region and then we'll go back to 18. Analysis, please.

3

4 MR. BUCKLIS: Mr. Chairman, Larry

5 Bucklis, Office of Subsistence Management. The Staff  
6 analysis for Proposal No. 21 is found on Page 152 in your  
7 Board book, 152. This proposal for the Upper Copper  
8 River district was submitted by the Copper River Native  
9 Association. The proposal requests the removal of both  
10 lobes of the caudal or tail fin from subsistence caught  
11 salmon no longer be required. The current requirement is  
12 seen as a burden unnecessary and not something that was  
13 customary and traditionally done.

14

15 The initial proposal as submitted would  
16 have retained the requirement for salmon taken by fishers  
17 from urban areas. Since non-rural users are not  
18 qualified to fish under Federal subsistence fishing  
19 regulations, the urban user aspect of the proposal can't  
20 be incorporated into the Federal regulations. That would  
21 be a matter for State regulatory consideration.

22

23 For reference there is a diagram shown on  
24 the screen of a salmon with the fins indicated and I'll  
25 point out for reference the caudal or tail fin, and  
26 recall that that is a current marking requirement, the  
27 proposal is for no marking requirement. And I'll just  
28 reference now, we'll cover it a little later in the  
29 analysis, alternative for removal of the anal or ventral  
30 fin.

31

32 The existing requirement to remove both  
33 lobes of the caudal fin was incorporated from existing  
34 State regulations. Marking of subsistence caught salmon  
35 is required in Federal regulations for other area areas  
36 as well, such as in Yakutat, Southeast Alaska, coho  
37 salmon in the Togiak district of Bristol Bay and chinook  
38 salmon in the Lower Yukon River. Being required to  
39 immediately remove both lobes of the caudal fin from  
40 subsistence caught salmon may be perceived negatively by  
41 subsistence fishers, however, it does protect and promote  
42 current subsistence harvest and uses by assisting in the  
43 enforcement of regulations regarding sale of subsistence  
44 caught fish and the separation of subsistence harvest  
45 limits from sportfish bag limits. Discontinuation of the  
46 requirement in Federal regulations would compromise  
47 enforcement of State regulations, which is already an  
48 area of concern for the proponent.

49

50 Road system access to the Upper Copper



00041

1 River district allows ready transport of fish to markets  
2 which this regulation would continue to protect against.

3

4 Removal of the anal or ventral fin may be  
5 a more workable marking requirement than removal of both  
6 lobes of the caudal fin based upon info we received at  
7 the Southcentral Council meeting in fall 2001. It is  
8 recommended that the marking requirement for subsistence  
9 caught salmon be changed to removal of the anal fin,  
10 instead of the current requirement to remove both lobes  
11 of the caudal fin. In addition to being more acceptable  
12 to users, this would also distinguish salmon taken by  
13 Federally-qualified users from those taken by State  
14 qualified users. I'd just make a comment here as well,  
15 the Staff Committee for Proposal 18, which we will be  
16 taking up a little later recommends that subsistence  
17 caught rainbow or steelhead trout that are legally  
18 retained from fishwheels also be marked by removal of the  
19 anal fin so as to be consistent with the recommendation  
20 here. Consistency in the regulations as to how fish are  
21 to be marked would mean less potential for confusion  
22 among users.

23

24 Mr. Chairman, that concludes the review.

25

26 CHAIRMAN DEMIENTIEFF: Thank you.

27 Summary of written public comments.

28

29 MS. WILKINSON: Mr. Chairman, we received  
30 three written comments on this proposal. Cordova  
31 District Fishermen United wrote, that this proposal would  
32 make enforcement difficult if not impossible. While they  
33 appreciate that cutting the caudal fins may not be  
34 customary and traditional, the increased use of salmon in  
35 the Upper Copper River requires some mechanism to provide  
36 for enforcement. They disagree with the proponents that  
37 different markings for State and Federal subsistence  
38 users will aid in enforcement.

39

40 Mr. Don Quarberg of Delta Junction  
41 opposes this proposal. He wrote that if clipping caudal  
42 fins overharvest by dipnetters it's only logical to  
43 assume that it will have the same effect for fishwheel  
44 operators.

45

46 The Copper River/Prince William Sound  
47 Advisory Committee wrote that this is a needless  
48 divergence from existing enforcement and enumeration  
49 practices in the fishery. While they acknowledge local  
50 practices, the overwhelming increase and various user

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1 groups on the Copper River dictates the need for as much  
2 enforcement as possible.

3

4 And that is all the written comment.

5

6 CHAIRMAN DEMIENTIEFF: Thank you.

7 Department comments.

8

9 (CHECK) MR.?: Thank you, Mr. Chairman. The  
10 Department supports the Staff Committee recommendation to  
11 adopt this proposal as modified. We request the Federal  
12 Subsistence Board standardize the mark in when changing  
13 the marking requirements in an area such as in Proposals  
14 18 and 21. Failure to do so will result in confusion and  
15 enforcement difficulties. So again, the Department  
16 supports the anal or ventral fin marking requirement.

17

18 CHAIRMAN DEMIENTIEFF: Thank you. We  
19 have two requests for public testimony, Gloria Stickwan.

20

21 MS. STICKWAN: CRNA supports the proposal  
22 that we cut off the ventral fin after immediately  
23 removing it from the fishwheel site. That would be our  
24 position, thank you.

25

26 CHAIRMAN DEMIENTIEFF: Thank you. Linda  
27 Goodlataw.

28

29 MS. GOODLATAW: My name is Linda  
30 Goodlataw and I am from the village of Tazlina. I serve  
31 on the Migratory Bird Committee for the Native Village of  
32 Tazlina. I am here to give public testimony on Proposal  
33 21.

34

35 The regulation currently states that the  
36 qualified subsistence users must immediately remove both  
37 lobes of the caudal fin from the subsistence caught  
38 salmon in the Upper Copper River district. I am opposed  
39 to this regulation. This is cumbersome and burdensome to  
40 the qualified subsistence users in the Ahtna region. We  
41 have never customarily and traditionally cut both lobes  
42 of the caudal fins. The qualified subsistence users do  
43 not need to have this regulation placed upon them. It is  
44 not likely that the qualified subsistence users would  
45 take their fish to sell to the fish processing plants.  
46 They may take fish to relatives in the Anchorage or  
47 Fairbanks areas, however, they probably would share the  
48 fish and not sell it to relatives.

49

50 This regulation was written for and is

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1 geared to the urban people who primarily use dipnets and  
2 come from Anchorage and Fairbanks to fish in the Chitina  
3 subdistrict. We consider it regulatory, for them to  
4 comply with this regulation under the State regulations.  
5 They take fish from the Copper River area to urban areas  
6 where the fish is fresh and frozen. They need to have a  
7 State regulation that just applies to them. A new  
8 regulation should be passed by the Federal Subsistence  
9 Board which states that the ventral fin is to be cut off  
10 after immediately removing the fish from the fishwheel or  
11 fishing site for the Federally-qualified subsistence  
12 users.

13

14 Thank you for listening to me.

15

16 CHAIRMAN DEMIENTIEFF: Thank you. That  
17 completes our public testimony at this time. Regional  
18 Council recommendation.

19

20 MR. LOHSE: Mr. Chair, the Regional  
21 Council supports this proposal with the modification that  
22 the person would have the option to take one lobe of  
23 caudal fin or the ventral fin immediately removed from  
24 the salmon in the Upper Copper River district. I'll give  
25 you some of our thinking behind it.

26

27 As a Council we have always tried to work  
28 with the people in a way that is more culturally  
29 acceptable to them as we did with the moose. We  
30 recognized that records need to be kept or that there  
31 needs to be some distinguishing mark for enforcement  
32 purposes. Those of you that have taken care of salmon  
33 know the difference between how easy it is with a knife  
34 to cut off the ventral fin or to cut off the caudal fin.  
35 Most subsistence users in the Upper Copper River do not  
36 pack scissors with them so it's not that easy to cut the  
37 caudal fin lobes off, you have to chop them off, but the  
38 ventral fin comes off very easy with a knife. We think  
39 that this will satisfy both the customary and traditional  
40 practices and the need for marking for enforcement.

41

42 Thank you.

43

44 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
45 Committee.

46

47 MR. GERHARD: Yes, Mr. Chairman, the  
48 Staff Committee recommends that this proposal be adopted  
49 with modification to replace the requirement to remove  
50 both lobes of the caudal or tail fin with a requirement

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1 to remove the anal or ventral fin. The Staff Committee  
2 recommendation agrees in part with the recommendation of  
3 the Southcentral Council which recommends the caudal or  
4 the ventral fin. Again, the Eastern Interior Council  
5 deferred to the home region Southcentral.

6  
7           The modified proposed regulation would  
8 read, you may not possess salmon taken under the  
9 authority of an Upper Copper River district subsistence  
10 fishing permit unless the anal or ventral fin has been  
11 immediately removed from the salmon. The justification  
12 for this recommendation is that the requirement to remove  
13 both lobes of the caudal fin in the Upper Copper River  
14 district was incorporated from existing State regulations  
15 into the initial Federal regulations that took effect on  
16 October 1st, 1999. Similarly, marking of subsistence  
17 caught salmon by removal of a specified fin immediately  
18 upon capture is required in the Federal regulations for  
19 other areas, such as Yakutat, Southeast Alaska, coho  
20 salmon in the Togiak district of Bristol Bay and chinook  
21 salmon in the Lower Yukon River. Removal of the anal or  
22 ventral fin may be a more workable marking requirement in  
23 the Upper Copper River district than removal of both  
24 lobes of the caudal fin based upon input of the  
25 Southcentral Council meeting last fall. It is  
26 recommended that the marking requirement for subsistence  
27 caught salmon be changed to removal of the anal fin  
28 instead of the current requirement to remove both lobes  
29 of the caudal fin

30  
31           In addition to being more acceptable to  
32 users, this would allow -- this would also distinguish  
33 salmon taken by Federally-qualified users from those  
34 taken by State-qualified users. And allowing Federally-  
35 qualified users to mark subsistence caught salmon by  
36 choosing to either remove one lobe of the caudal fin or  
37 the anal fin is not recommended.

38  
39           First, two different marking options may  
40 lead to confusion and secondly, since removal of both  
41 lobes of the caudal fin is well established, users may  
42 not stop at the removal of one lobe of the caudal fin  
43 under such a new regulation.

44  
45           Mr. Chair, that ends the Staff Committee  
46 recommendation.

47  
48           CHAIRMAN DEMIENTIEFF: Thank you. We're  
49 ready to go to Board deliberation. Is there any  
50 discussion.

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1 MR. EDWARDS: Mr. Chairman.

2

3 CHAIRMAN DEMIENTIEFF: Gary.

4

5 MR. EDWARDS: I just wanted to ask the  
6 State, is there some advantages to actually having a  
7 different marking for Federally taken subsistence taken  
8 fish as opposed to the non-subsistence taking?

9

10 (CHECK) MR.?: We feel that this could be  
11 advantageous in the future, depending on, you know, other  
12 regulation changes and so that it's probably not a bad  
13 thing to have a separate marking requirement. And the  
14 other thing that Staff brought up is that actually doing  
15 the ventral fin is helpful in sampling fish because we  
16 measure the length of the fish to the end of the tail  
17 there and so cutting there actually is kind of -- you  
18 know, affects our sampling, so the ventral fin is not a  
19 bad thing.

20

21 MS. GREGORY: Mr. Chairman.

22

23 CHAIRMAN DEMIENTIEFF: Yes.

24

25 MS. GREGORY: For your information, the  
26 tail part of the -- the tail fin and all the fins on the  
27 fish are good sources of iron and if you -- the bones in  
28 the fish heads are good sources of calcium and that's how  
29 we keep ourselves healthy. Because a lot of Native  
30 people don't drink milk and they're allergic to the  
31 lactose in milk, anyway.

32

33 MS. GOTTLIEB: Mr. Chairman.

34

35 CHAIRMAN DEMIENTIEFF: Yes.

36

37 MS. GOTTLIEB: This proposal has been of  
38 considerable discussion both at the Subsistence Resource  
39 Commission and then at the Regional Advisory Council  
40 meeting as well. I would move that we adopt Proposal 21  
41 as it's been modified by the Staff Committee. The  
42 Council presented the Staff Committee and the Board with  
43 two choices to mark the subsistence caught fish, but I  
44 believe we should be following the Staff Committee  
45 recommendation that's to mark subsistence salmon by  
46 removal of the ventral or the anal fin.

47

48 I think as has been stated, the fin  
49 removal would be really an important tool for separating  
50 subsistence fish from commercially caught fish and also

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1 for information and recordkeeping.

2

3 MR. BUNCH: Second.

4

5 CHAIRMAN DEMIENTIEFF: It's been moved  
6 and seconded. Discussion.

7

8 MR. EDWARDS: Mr. Chairman, I am prepared  
9 to vote in favor of the motion. I guess I would suggest  
10 that in our regulation booklet we include an illustration  
11 of what we have in mind. I notice that's absent for the  
12 lobes and quite frankly I wasn't sure exactly what  
13 constituted a lobe and what didn't, so I think we should  
14 do that and put that in the book.

15

16 CHAIRMAN DEMIENTIEFF: Ralph.

17

18 MR. LOHSE: Mr. Chair, in that light I'd  
19 like to make another suggestion because the anal or  
20 ventral fin sometimes seems to even cause confusion in  
21 our language, I would suggest that the Ahtna word for  
22 that fin would also be included in the regulation  
23 booklet.

24

25 MR. CAPLAN: Mr. Chairman.

26

27 CHAIRMAN DEMIENTIEFF: Yes.

28

29 MR. CAPLAN: Thank you, Sir. Just a  
30 comment, first of all I intend to support this motion.  
31 In addition, I just wanted to thank everyone of the  
32 people who got involved with the issue and have worked so  
33 hard to resolve it. This is the kind of inclusive  
34 problemsolving that I think really produces effective  
35 proposals for the Board's consideration so thanks to  
36 everyone who did that.

37

38 That's all I have, sir.

39

40 CHAIRMAN DEMIENTIEFF: Bill.

41

42 MR. THOMAS: Thank you, Mr. Chairman. If  
43 you know I was blind and heard this discussion I would  
44 think that we're trying to capture a man-eating monster  
45 out there, you know, and trying to figure out a way to  
46 identify one that's coming after you. Markings like this  
47 are very recent. Subsistence or personal use fish, the  
48 only cuttings we've ever done on them was cutting the  
49 head off and taking the guts out, that's plenty for  
50 marking fish. The proposal, without modification in my

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1 estimation is the best solution to whatever dilemma  
2 people are experiencing. The reasons for markings that  
3 have been expressed so far have never -- I mean without  
4 this provision in the regulation would in no way hinder a  
5 management of the subsistence caught fish that we're  
6 talking about. Every fin on a fish is left intact for a  
7 reason, depending on how you're going to prepare it. It  
8 keeps the flesh from tearing. It gives you a way to hang  
9 it. It gives you better opportunity for drying.

10

11 And so I mean I see this as a real insult  
12 to people that are only catching fish to eat. And if  
13 there's problems with other users, I say have the other  
14 users mark -- let's have the commercial people mark their  
15 fish so that we can tell that they're not subsistence.  
16 So I think without modification the proposal that's  
17 submitted is your best way to go however I'll yield to  
18 whichever the Board chooses.

19

20 Thank you, Mr. Chairman.

21

22 CHAIRMAN DEMIENTIEFF: Ralph.

23

24 MR. LOHSE: Mr. Chair, in due deference  
25 to Bill on this one here, Mr. Thomas, one of the things  
26 that was mentioned and the reason that, as a Council, we  
27 went with the ventral fin is some of the testimony that  
28 was given us was that the Ahtna people do immediately  
29 remove the ventral fin from the fish before they process  
30 the fish and so that was considered an acceptable way to  
31 go and that was the reason that, as a Council, we moved  
32 in that direction.

33

34 Thank you.

35

36 CHAIRMAN DEMIENTIEFF: Further  
37 discussion.

38

39 MR. THOMAS: I resent that remark, Mr.  
40 Chairman.

41

42 CHAIRMAN DEMIENTIEFF: Like it or not he  
43 made it. I tend to support the proposal as modified for  
44 all the wrong reasons. I remember when Fish and Game  
45 slammed that stuff down our throats up on the Tanana  
46 River. I thought and still think it's a stupid thing to  
47 do. But unfortunately I can't think of any better way,  
48 since then, to keep subsistence fish out of the  
49 commercial market. So I'll vote for it for all the wrong  
50 reasons.

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1 Any other discussion. Hearing none, all  
2 those in favor of the motion please signify by saying  
3 aye.

4  
5 IN UNISON: Aye.

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

9  
10 (No opposing votes)

11  
12 CHAIRMAN DEMIENTIEFF: Motion carries.  
13 Proposal 18.

14  
15 MR. BUCKLIS: Mr. Chairman, Larry  
16 Bucklis, Office of Subsistence Management. The Staff  
17 Committee for Proposal No. 18 is found on Page 130 in the  
18 Board book, 130. This proposal for the Upper Copper  
19 River district was submitted by the Subsistence Resource  
20 Commission for Wrangell-St. Elias National Park and  
21 Preserve. It requests that regulations be corrected  
22 regarding retention of rainbow, steelhead trout caught in  
23 fishwheels and dipnets and that those legally retained  
24 from a fishwheel have the dorsal fin removed immediately.

25  
26 Here we have a diagram of -- an  
27 illustration of a trout and again I will point out a  
28 couple of fins for reference. This analysis will discuss  
29 the dorsal fin and the alternative of the anal or ventral  
30 fin.

31  
32 Current regulations prohibit retention of  
33 rainbow, steelhead trout taken incidentally by a  
34 fishwheel. However, these fish are typically dead or  
35 incapable of survival after release. The regulation is  
36 not being enforced. Regulations allow retention of  
37 rainbow, steelhead trout taken incidentally in  
38 subsistence net fisheries targeting other fish species.  
39 The rationale for this is that fish captured in gillnet  
40 fisheries are either dead or incapable of surviving after  
41 release. But a dipnet fishery is also a net fishery.  
42 Fish captured by dipnet should be able to survive after  
43 release. State regulation for the subsistence dipnet  
44 fishery in the Chitina subdistrict requires immediate  
45 release of rainbow, steelhead trout without further harm.  
46 This is not required for the Glenallen subdistrict  
47 although the proponent notes that many dipnetters  
48 voluntarily release trout unharmed to the water.  
49 Steelhead trout are the anadromous form of rainbow trout.  
50 Rainbow and steelhead trout inhabiting the Upper Copper



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1 River drainage are considered among the northern most  
2 wild stocks of this species in North America. The  
3 rainbow, steelhead trout populations of the area are  
4 thought to be relatively small and unproductive. Harvest  
5 of wild rainbow trout in sportfisheries of the Copper  
6 River drainage during the 1990s averaged 994 fish  
7 annually, while harvest of steelhead trout averaged 18  
8 fish annually. Unpublished subsistence permit data  
9 indicate that incidental fishwheel harvest of steelhead  
10 may range from 14 to 114 fish per year. The proposed  
11 regulatory changes would recognize current practice by  
12 allowing retention of trout taken incidentally by  
13 fishwheel. As proposed removal of the dorsal fin would  
14 be required immediately so as to remove potential trophy  
15 value of these rainbow and steelhead trout. However,  
16 current regulations regarding marking of subsistence  
17 caught salmon require removal of both lobes of the caudal  
18 or tail fin and as you've acted on Proposal 21, this  
19 proposal for salmon would now require, instead, removal  
20 of the anal or ventral fin.

21

22 Consistency in the regulations as to how  
23 fish are to be marked would mean less potential for  
24 confusion amongst users. For this reason it is  
25 recommended that the marking requirement for rainbow and  
26 steelhead trout be modified to removal of the anal or  
27 ventral fin. In the interest of conservation it would be  
28 required that rainbow and steelhead trout caught by  
29 dipnet in the Upper Copper River district by Federal  
30 users be released unharmed immediately.

31

32 Mr. Chairman, that concludes the review.

33

34 CHAIRMAN DEMIENTIEFF: Thank you.

35 Summary of written public comments.

36

37 MS. WILKINSON: Mr. Chairman, we received  
38 one written comment from Cordova District Fishermen  
39 United. And they took no formal action on this proposal  
40 at their meeting but they do suggest that if conservation  
41 becomes a concern during periods of fishwheel use that  
42 the Board require the use of live boxes during that time.

43

44 CHAIRMAN DEMIENTIEFF: Thank you.

45 Department comments.

46

47 MR. ?: Yes, Mr. Chairman, the Department  
48 supports the Staff Committee and Southcentral Regional  
49 Council recommendation to adopt this proposal. We  
50 recommend the Board standardize the mark when changing

00050

1 the marking requirements such as in Proposal 21 and that  
2 will make it less confusing to the public so the  
3 Department supports the anal, ventral fin marking  
4 requirement for this species, too.

5  
6 CHAIRMAN DEMIENTIEFF: Public testimony,  
7 Gloria Stickwan.

8  
9 MS. STICKWAN: We support the ventral fin  
10 being removed and that rainbow trout be taken from  
11 fishwheels only and dipnetters have to return fish.  
12 Thank you.

13  
14 CHAIRMAN DEMIENTIEFF: Thank you. Linda  
15 Goodlataw, Linda, did you want to testify? Linda, going  
16 once, Linda going twice -- you don't want to testify --  
17 Linda doesn't want to testify. Regional Council.

18  
19 MR. LOHSE: Mr. Chair, the Regional  
20 Council supported this proposal without modification.  
21 Some of the things we considered and I apologize if my  
22 pronunciation isn't right, but one of the things we  
23 considered when we considered the retention of steelhead  
24 in a fishwheel was the cultural idea among the Ahtna's  
25 that it's agee or it's tabu to waste something and your  
26 older subsistence users will not throw back a dead  
27 rainbow because that would be a larger crime to them than  
28 to retain it and risk the wrath of the ADF&G. But the  
29 Council did recognize the need to have clear enforcement  
30 tools. And we never gave any thought to the  
31 inconsistency between the dorsal fin and the ventral fin,  
32 we looked at it as it would destroy the trophy value of  
33 the rainbow, however the ventral fin would do the same  
34 thing. The Council did ask that enforcement use wisdom  
35 and discretion when applying this regulation to some of  
36 the older subsistence users who take part in the early  
37 part of the season when they may catch a rainbow.

38  
39 One of the things that was brought up was  
40 that the marking really requires that this fish be marked  
41 before it's taken out of the fishwheel and taken to  
42 shore. And most of the people don't do that. Most of  
43 the older users especially, take their fish to shore to  
44 clean them on shore and they'll do the marking there.  
45 Technically speaking as they take them off the fishwheel  
46 and take them to shore they're not in compliance with  
47 this regulation. They asked that there be wisdom  
48 and discretion in application. In other words, use the  
49 intent of this proposal and not the letter of the law  
50 when dealing with these kind of people.

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1 Thank you.

2

3 MR. NICHOLIA: We never discussed this  
4 but we talked about this in the Eastern Interior and it  
5 looks to me it would better off being a sports user or a  
6 personal use fishery on all these resources instead of a  
7 subsistence that way you wouldn't be too overregulated.

8

9 CHAIRMAN DEMIENTIEFF: Staff Committee  
10 recommendation.

11

12 MR. GERHARD: Yes, Mr. Chairman, the  
13 Staff Committee recommendation for Proposal 18 is to  
14 adopt the proposal consistent with the recommendation of  
15 the Southcentral Council. The Eastern Interior Council  
16 deferred to the home region. I won't read the proposed  
17 regulatory language, you can find it at Page 131 of your  
18 booklet but it suffices to say that the regulatory  
19 language would state that the dorsal fin would have to be  
20 removed from those fish that are retained. It would also  
21 correct the -- or make it so that those fish taken by  
22 dipnet would have to be released by those taken by  
23 fishwheel could be retained instead of the other way  
24 around, which the current regulation is. And Larry  
25 covered much of the justification for this recommendation  
26 and I won't repeat that. But just note again that the  
27 current practice by subsistence fishers is to retain  
28 rainbow, steelhead that are captured incidentally by  
29 fishwheel since these are dead or incapable of survival  
30 after release.

31

32 The proposed regulation would make legal  
33 the current practice. Removal of the dorsal fin would be  
34 required immediately so as to remove the potential trophy  
35 value of the rainbow, steelhead trout. And in the  
36 interest of conservation it would be required that  
37 rainbow, steelhead caught by dipnet be released unharmed  
38 immediately since these fish should be in good condition  
39 and able to survive. The current practice by many  
40 dipnetters already is to voluntarily release rainbow,  
41 steelhead trout even though it's not required by current  
42 regulation.

43

44 The proposed regulation is for the Upper  
45 Copper River district. As such, it would apply to  
46 incidental capture by fishwheel and dipnet in the  
47 existing Federal subsistence salmon fishery in the  
48 Glenallen subdistrict as well as the fishery in the  
49 Chitina subdistrict which the Board just adopted in  
50 Proposal 17b.

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1 Mr. Chair, that concludes the Staff  
2 Committee recommendation.

3  
4 CHAIRMAN DEMIENTIEFF: At this time we'll  
5 go on to Board discussion.

6  
7 MS. GOTTLIEB: Mr. Chairman.

8  
9 CHAIRMAN DEMIENTIEFF: Yes.

10  
11 MS. GOTTLIEB: I would move that Proposal  
12 18 be adopted consistent with the recommendations of the  
13 Southcentral Advisory Council and the Staff Committee.  
14 This proposal would conserve rainbow, steelhead trout  
15 taken by dipnet in the Upper Copper River district.  
16 These fish would have to be released. Rainbow, steelhead  
17 trout taken in fishwheels in the Copper River could be  
18 retained since most of them are dead. However, I would  
19 request that the Board discuss this marking requirement  
20 as we just did on Proposal 21 as well. This one asks for  
21 the dorsal fin, I suggest that we, again, require the  
22 ventral or anal fin be removed. This would then be  
23 consistent and it would, again, separate Federally taken  
24 fish and it would also mean that markings for rainbow and  
25 trout and steelhead would be marked identically to the  
26 salmon. This makes it consistent, easier to remember  
27 and, I think, again, differentiate amongst those taken  
28 provides us with needed information.

29  
30 And then on Ralph's comment on, I think  
31 there can be or should be some discretion to what  
32 immediately means, in that, if a person's taking a fish  
33 out of a fishwheel, immediately removing the fin, I would  
34 think could provide a little bit of time for getting it  
35 to shore and doing that.

36  
37 CHAIRMAN DEMIENTIEFF: Is there a second?

38  
39 MR. BUNCH: Second.

40  
41 CHAIRMAN DEMIENTIEFF: Discussion.

42  
43 MR. EDWARDS: Mr. Chairman.

44  
45 CHAIRMAN DEMIENTIEFF: Gary.

46  
47 MR. EDWARDS: I just want to make sure,  
48 what I understood, Judy, is that you said you supported  
49 the proposal but, in fact, were supporting all the  
50 language except which fin?

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1 MS. GOTTLIEB: That's correct. I believe  
2 we should require removal of the ventral fin in this  
3 proposal as well and not the dorsal fin.

4

5 MR. EDWARDS: Okay.

6

7 CHAIRMAN DEMIENTIEFF: Ralph.

8

9 MR. LOHSE: Mr. Chair, while I can't  
10 speak for the Council, I can speak for what their  
11 intentions were and that was that they recognized a need  
12 for marking for protection was in order. And I'm sure  
13 that they would go along with CRNA's recommendation that  
14 it be consistent and be the ventral fin. I doubt if they  
15 would have any objections to it at all. Personally I  
16 would have no objections to it.

17

18 Thank you.

19

20 CHAIRMAN DEMIENTIEFF: Were you proposing  
21 an amendment then?

22

23 MR. LOHSE: Mr. Chair.

24

25 CHAIRMAN DEMIENTIEFF: Yes.

26

27 MR. LOHSE: I think that I was going  
28 along consistent with the motion that Judy put on the  
29 table which was to support it as the Southcentral  
30 Regional Council had supported it with the modification  
31 to make it the ventral fin instead of the dorsal fin.

32

33 MS. GOTTLIEB: That's correct, Mr. Chair.

34

35 CHAIRMAN DEMIENTIEFF: Okay.

36

37 MR. LOHSE: Thank you.

38

39 CHAIRMAN DEMIENTIEFF: Further  
40 discussion.

41

42 MR. CAPLAN: Mr. Chairman.

43

44 CHAIRMAN DEMIENTIEFF: Yes.

45

46 MR. CAPLAN: Thank you, sir. I'm a  
47 little concerned about the language that refers to  
48 immediately, even though in making the motion Judy's  
49 indicated that that would be that immediately include the  
50 idea that people could remove the fish to the nearby

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1 shore and remove the ventral fin there. My sense of it  
2 is that we probably ought to, that's probably ought to be  
3 what we say and therefore perhaps consider a change in  
4 that language that would say immediately or, you know,  
5 soon after once the fish reaches land. And I don't know  
6 if Judy would entertain a friendly amendment to add that  
7 language?

8

9 MS. GOTTLIEB: I think that would be  
10 perfectly fine to be more specific about our intention  
11 there and hopefully Mr. Knauer can take care of that for  
12 us.

13

14 MR. CAPLAN: Okay. Then I would propose  
15 an amendment to the motion that would change the language  
16 to include stating immediately or soon after on a nearby  
17 shore.

18

19 CHAIRMAN DEMIENTIEFF: There's a motion,  
20 is there a second?

21

22 MS. GOTTLIEB: I'll second that.

23

24 CHAIRMAN DEMIENTIEFF: Okay. Go ahead,  
25 Gary.

26

27 MR. EDWARDS: Mr. Chairman, one option,  
28 it's my understanding that, and the State can correct me  
29 if I'm wrong, but the intent of the enforcement is  
30 usually when the fish are transported away from the site  
31 from where they're taken. So if we could have language,  
32 before being transported, might be a little more clearer  
33 than soon thereafter or what was suggested.

34

35 MR. VINCENT-LANG: We define immediately  
36 when it becomes into your possession and we find that to  
37 be the most easy recommendation for enforcement of that  
38 regulation. Because what happens if someone -- if you  
39 say closest proximity to land, what happens if someone  
40 gets in a boat and travels 40 miles downstream, is that  
41 closest proximity to the land? Many of these fishwheels  
42 don't have live boxes so they're being dropped on land.  
43 We just define it as when it becomes in your possession  
44 and, you know, we understand the concern and I guess the  
45 wrath of the Department will not come flying down on you,  
46 we'll certainly work with you to assure that the intent  
47 here is when you get it into your possession. If you  
48 need to get on land we'll work with you.

49

50 CHAIRMAN DEMIENTIEFF: Ralph.

00055

1 MR. LOHSE: Our comments weren't to  
2 suggest a modification to the regulations. Like we said,  
3 we would expect that wisdom and discretion would be  
4 applied in applying this regulation recognizing the fact  
5 that, you know, somebody's that's 30 that's standing on a  
6 fishwheel, it's not so hard for them to cut the ventral  
7 off. If it's somebody that's 65 or 70 or 75, they might  
8 like to get on a more stable platform like shore before  
9 they do it. And I really -- I have confidence in  
10 enforcement that they would apply this discretion,  
11 however, there have been incidences up in the Copper  
12 River basin where this discretion has not been applied  
13 and it has caused some hard feelings and it has caused  
14 some concern among some of the residents. And I would  
15 hope that this kind of thing would not happen in the  
16 future.

17

18 CHAIRMAN DEMIENTIEFF: Keith.

19

20 MR. GOLTZ: Law enforcement always should  
21 be tempered with common sense and if law enforcement  
22 fails in that regard, it's the job of the prosecutor to  
23 insert that common sense and if both of those fail, my  
24 experience is that the juries will insert common sense.  
25 If we try to sharpen our pencil too fine we're going to  
26 write ourselves into some terrible holes and I would  
27 caution against trying to write every possible  
28 circumstance into a broad and general regulation. Always  
29 a general regulation has to be applied specifically and  
30 inevitably there's some equity involved in the  
31 application of that rule.

32

33 CHAIRMAN DEMIENTIEFF: Doug.

34

35 MR. VINCENT-LANG: Yeah, Mr. Chairman,  
36 our intent is clearly to not -- or prevent the transport  
37 of these fish into the commercial market so we will not  
38 go out and just try to cite somebody that's having  
39 difficulty marking those fish in a fishwheel. We'll work  
40 with our enforcement staff to make sure that that does  
41 not happen, that they have a stable platform to mark on.

42

43 MR. CAPLAN: Mr. Chairman.

44

45 CHAIRMAN DEMIENTIEFF: Yes.

46

47 MR. CAPLAN: Thank you, sir. In light of  
48 the comments from Counsel and others, ADF&G, and other  
49 folks interested in this, I would propose to withdraw my  
50 amendment on the grounds that the current language is

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1 probably sufficient given the understanding now on the  
2 record.

3

4 CHAIRMAN DEMIENTIEFF: Consent of the  
5 second?

6

7 MS. GOTTLIEB: Yes, that's fine, thank  
8 you.

9

10 CHAIRMAN DEMIENTIEFF: Okay, the  
11 amendment's withdrawn. We now have the main motion in  
12 front of us. Any further discussion on that. Hearing  
13 none, all those in favor of the motion please signify by  
14 saying aye.

15

16 IN UNISON: Aye.

17

18 CHAIRMAN DEMIENTIEFF: Those opposed,  
19 same sign.

20

21 (No opposing votes)

22

23 CHAIRMAN DEMIENTIEFF: Motion carries.  
24 Proposal 22.

25

26 MR. BUCKLIS: Mr. Chairman, Proposal 22,  
27 the Staff Committee is on Page 163. This proposal for  
28 the Upper Copper River district was submitted by the  
29 Copper River Native Association. The proposal requests  
30 that fishwheel owners and permit holders no longer be  
31 required to display their names and addresses on  
32 fishwheels. Only the fishwheel registration number would  
33 need to be displayed.

34

35 The proponent states that signs with  
36 names and addresses on fishwheels was not a customary and  
37 traditional practice and that this is an unnecessary  
38 regulation. Fishwheel registration information includes  
39 a list of subsistence fishing permit holders authorized  
40 to use fishwheels. The proponent feels that this  
41 provides management agencies with sufficient information  
42 and that people on the river knows who owns the  
43 fishwheels. Given the scope of changes being proposed  
44 here and back in Proposal 17b, the Chitina subsistence  
45 fishery, registration of fishwheels with Alaska  
46 Department of Fish and Game might not continue for  
47 Federal users. That part of the Federal regulations is  
48 included in this Staff analysis.

49

50 The requirement in Federal regulation to



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1 post names and addresses on fishwheels in the Copper  
2 River was incorporated from State regulations.  
3 Regulations also have general statewide provisions  
4 requiring names and addresses to be posted on unattended  
5 fishing gear. Fishwheels used in other areas of the  
6 state such as in the Yukon and Kuskokwim Rivers are  
7 required to have names and addresses displayed.  
8 Enforcement officers may obtain a current listing of  
9 fishwheel owners and associated permit holders from  
10 agency staff before going out on patrol of the fishery.  
11 While signs displaying names and addresses do aid  
12 enforcement, there are local concerns as expressed in the  
13 Southcentral Council meeting in the fall, with lack of  
14 privacy. Fishwheel owner and permit holder names and  
15 addresses should be readily available to enforcement  
16 personnel cross-referenced to fishwheel gear and permit  
17 registration numbers.

18  
19 If a fishwheel is operated by both  
20 Federally-qualified and State-qualified permit holders, a  
21 sign requirement would aid enforcement if the fishery was  
22 ever restricted to only Federally-qualified users so long  
23 as a permit number can be used as a positive identifier  
24 then a sign with permit number only would meet this need  
25 for identification. The way in which State regulations  
26 were incorporated into Federal regulation introduced some  
27 lack of clarity regarding sign requirements for fishwheel  
28 owners and permit holders. Also the stipulation that the  
29 fishwheel owner is responsible for the fishwheel when it  
30 is in the water was left out of the Federal regulations.

31  
32 Given the scope of changes proposed here  
33 and in Proposal 17b, ADF&G might not be willing or able  
34 to continue registering fishwheels for Federal users in  
35 which case the Federal program would need to register  
36 fishwheel gear independently. The merits of a unified  
37 gear registration system would need to be considered in  
38 balance with the changes requested to these Federal  
39 regulations.

40  
41 Mr. Chairman, that concludes my review.

42  
43 CHAIRMAN DEMIENTIEFF: Thank you.  
44 Written public comments.

45  
46 MS. WILKINSON: For Proposal 22 we  
47 received the following two comments. Cordova District  
48 Fishermen United stated that adoption of this proposal  
49 will confine enforcement. Removing names and addresses  
50 of fishwheel owners and operators will not provide

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1 necessary information as to whether or not the owner or  
2 operator is entitled to the fishwheel use. Registration  
3 numbers access that information only during ADF&G weekday  
4 working hours also requiring operator names and addresses  
5 provides the owner with some protection from liability  
6 should the current operator be using the wheel illegally.

7

8           The Copper River/Prince William Sound  
9 Advisory Committee wrote that this is an unnecessary  
10 confining of existing enforcement procedures. Having  
11 actual names on wheels gives immediate notice of user  
12 presence, aids in-season enforcement without referral to  
13 lists or computers and protects users from illegal use of  
14 the wheel by others.

15

16           That concludes the summary.

17

18           CHAIRMAN DEMIENTIEFF: Thank you.

19 Department comments.

20

21           MR. VINCENT-LANG: Thank you, Mr. Chair.

22 The Department does not support the Staff Committee  
23 recommendation to adopt this proposal. Instead, we  
24 suggest that action be deferred pending further  
25 discussions between the State, Federal agencies and the  
26 public. This proposal does not affect subsistence  
27 fishing opportunity. We believe there are too many  
28 implementation issues associated with this proposal at  
29 this time. For example, who would be responsible for  
30 registering the fishwheels of Federally-qualified users  
31 if this proposal were to be adopted? Currently, the  
32 State does this but we would no longer be able to  
33 register fishwheels with differential marking  
34 requirements. Will the Federal program assume  
35 responsibility for fishwheel registration, if so, how  
36 would the program be coordinated with the State program  
37 to ensure reasonable enforcement? Finally, differential  
38 identification of fishwheel marking between systems --  
39 marking systems between State and Federal programs likely  
40 will result in further user confusion and enforcement  
41 difficulties.

42

43           We believe a better approach would be to  
44 work with the State and users to develop standardized  
45 marking and registration requirements for fishwheels in  
46 the Copper River subsistence fisheries. This would  
47 hopefully address enforcement and public confusion issues  
48 as well as issues associated with confidentiality.

49

50           Thank you, Mr. Chair.

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1 CHAIRMAN DEMIENTIEFF: Thank you. Let me  
2 see, we have two requests for public testimony, Gloria  
3 Stickwan.

4  
5 MS. STICKWAN: We support the  
6 registration number for all Federally-qualified  
7 subsistence users and that the fishwheel owner is  
8 responsible for the fishwheel if he's letting somebody  
9 else using his fishwheel. The number has to be on there.

10  
11 CHAIRMAN DEMIENTIEFF: Thank you. Linda  
12 Goodlataw. Linda's not here. Regional Council comment.

13  
14 MR. LOHSE: Mr. Chair, the Regional  
15 Council supported this recommendation with a  
16 modification. We didn't deal with the whole part that  
17 the Staff has talked about, the difference between  
18 Federal permits and State permits. What we were dealing  
19 with was the issue that was before us, was to delete the  
20 requirement for fishwheel users to display name and  
21 address and that we went with only the permit numbers.  
22 Our modification was to modify that the current  
23 operator's permit number must be posted with the owner's  
24 registration number. In other words, basically what  
25 we're saying is numbers only. The Council believed that  
26 this is a privacy issue.

27  
28 I'd like to challenge anybody to come up  
29 with any other private piece of property, whether it's a  
30 car, whether it's a commercial vessel, whether it's a  
31 commercial buoy, whether it's a hunting license or  
32 anything like that that's publicly displayed, where you  
33 post the address of the person who owns it. Especially  
34 in this day and age when people have differences of  
35 opinion, some very strongly, to post the person's address  
36 which gives the person who is objecting to them access to  
37 where they live doesn't seem to make much sense to me or  
38 to the rest of the Council. Currently we require numbers  
39 on cars, boats and everything else as a form of  
40 registration. We live in an age of cell phones and  
41 computers and access to information. I don't think we  
42 need -- or the Council didn't feel like we needed to post  
43 the whole name and address of the people who owned them.

44  
45 With that in mind, our modification is  
46 that the permit number of the current person using the  
47 fishwheel has to be posted on it and the owner's  
48 registration number has to be posted on it, both of which  
49 can be checked.

50

00060

1 Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
4 Committee.

5

6 MR. GERHARD: Yes, Mr. Chair, the Staff  
7 Committee recommendation for Proposal 22 is to adopt the  
8 recommendation as just stated by the Southcentral  
9 Council. The Eastern Interior Council deferred again to  
10 the Southcentral Council.

11

12 Adopt with modification to require a sign  
13 displaying the permit number of the permit operator if  
14 other than the fishwheel owner who is identifiable from  
15 the fishwheel registration number. Also this would  
16 clarify the existing regulations and make explicit the  
17 responsibility of the fishwheel owner. I won't read  
18 through the entire proposed regulatory language, you can  
19 find that on Page 164 of your Board book. The  
20 justification for this recommendation is that the  
21 fishwheel owner and permit holder names and addresses  
22 should be readily available to enforcement personnel  
23 cross-referenced to fishwheel gear registration and  
24 permit numbers. If a fishwheel is operated by both  
25 Federally-qualified and State-qualified permit holders, a  
26 sign requirement would aid in enforcement if the fishery  
27 was restricted to only Federally-qualified users. So  
28 long as a permit number can be used as a positive  
29 identifier, this need for identification can be met with  
30 permit numbers on signs.

31

32 Current Federal regulation regarding  
33 identification and operation of fishwheels in the Copper  
34 River was adopted from State regulation. The way in  
35 which the regulatory language was compiled from multiple  
36 elements and State regulations into one paragraph in  
37 Federal regulation introduced a lack of clarity. In  
38 addition, current Federal regulation does not state that  
39 the fishwheel owner is responsible for the fishwheel when  
40 the fishwheel is in the water.

41

42 Mr. Chair, that concludes the Staff  
43 Committee recommendation.

44

45 CHAIRMAN DEMIENTIEFF: Board  
46 deliberation. Discussion.

47

48 MS. GOTTLIEB: Mr. Chairman.

49

50 CHAIRMAN DEMIENTIEFF: Yes.

00061

1 MR. BRELSFORD: Mr. Chairman.

2

3 CHAIRMAN DEMIENTIEFF: Oh, I'm sorry.

4

5 MR. BRELSFORD: I wondered if I could  
6 pose a question to Gloria Stickwan from CRNA to help us  
7 clarify the circumstances that led to this proposal?  
8 Good morning, Gloria. Everybody agrees on the need to  
9 identify the gear by some form, numbers or numbers, names  
10 and addresses and in some other parts of the state  
11 numbers, names and addresses are used on fishwheels  
12 without seeming to raise a lot of trouble. So I was  
13 interested in understanding, maybe by an example, the  
14 kind of problems that may have come up in the Copper  
15 River basin over the fact that a name and an address is  
16 included on the fishwheel. Could you maybe help us  
17 understand a little more specifically what the privacy  
18 concerns might be?

19

20 MS. STICKWAN: One is nobody wanted their  
21 names and addresses, that was a concern on the fishwheel.  
22 They were concerned about that being made to -- anybody  
23 could come down and see what their name and address is.  
24 The other thing is it was brought up by an elder that a  
25 proposal should be submitted because it was hard for the  
26 elders to write their names and addresses on their own on  
27 a 12 by 12 inch board. They have difficulty writing. A  
28 number would be easier -- they objected to the number  
29 but, you know, finally agreed that, you know, it'd be  
30 okay just to have a number and not your names and  
31 address. This was brought up by an elder and everybody  
32 agreed that it was hard for them, difficult for them.

33

34 MR. BRELSFORD: I guess I found myself  
35 wondering since the Copper basin is road-connected where  
36 the Yukon and Kuskokwim, I was curious about whether  
37 there are actually some incidents where people drive down  
38 to fishwheel sites, find a number and address and go back  
39 to the fishwheel permittee and ask for a chance to use  
40 his wheel or for anything of that sort. Are you aware of  
41 that as an issue here?

42

43 MS. STICKWAN: I'm not aware of the  
44 users. I just know about the Ahtna people. The Ahtna  
45 people always give permission to the other people to use  
46 their wheels. That probably occurs in Chitina or, you  
47 know, among the non-Natives. I can't speak for them  
48 because I don't know of that.

49

50 MR. BRELSFORD: Thank you, Mr. Chair.

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1 MR. NICHOLIA: Mr. Chair.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MR. NICHOLIA: I live on the Yukon River  
6 on Tanana and a lot of people are, even though the Alaska  
7 State Department requires it, a lot of people are taking  
8 their names and addresses off because they receive too  
9 much adverse responses, too much evasion to their own  
10 private property, too much -- they don't like to deal  
11 with people that they don't want to deal with. They'll  
12 just deal with the fish and the departments and the law  
13 and they don't have to have people coming up to them and  
14 say this or that or you should do this and you should do  
15 that. And it's just another thing of being overregulated  
16 and being an evasion of their privacy.

17

18 CHAIRMAN DEMIENTIEFF: Other discussion.

19

20 MR.?: Mr. Chairman, I had a question for  
21 the folks from ADF&G and that was, when it comes to the  
22 operation of traplines on land, are names and addresses  
23 required on traps for that purpose?

24

25 MR. VINCENT-LANG: I'm not sure. I'll  
26 have to start looking at some regulations because we're  
27 all fisheries biologists up here.

28

29 MR.?: Thank you. I do see the law  
30 enforcement folks from the Forest Service back there  
31 shaking their heads no and that's understandable. When  
32 we were a kid and we did that we were required to do it  
33 and I just wondered if we had that practice here in  
34 Alaska. Thank you.

35

36 CHAIRMAN DEMIENTIEFF: Judy, you had a  
37 comment.

38

39 MS. GOTTLIEB: Did you have an answer on  
40 that?

41

42 MR. VINCENT-LANG: We're not sure. We do  
43 require them on many of the fishing like buoys and ice-  
44 fishing, sets and a variety of other things but I'll look  
45 in the regulation book and I'll try to get an answer to  
46 you.

47

48 MS. GOTTLIEB: Thank you. Mr. Chairman,  
49 this morning we've looked at quite a few proposals  
50 relating to the Copper River and we've adopted seven, I

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1 believe, that are going to really affect the fishing  
2 patterns, the C&T use of the area, a lot of changes.  
3 Administrative changes having to do with issuing permits.  
4 The management of this fishery has just become much more  
5 complex and is changing pretty rapidly here. So I would  
6 like to make sure that we're not moving forward too  
7 quickly on an idea which I think has merit but really  
8 maybe a bit premature at this time. It kind of  
9 complicates our systems and we need to be clear and  
10 consistent in our message here. And as Gerald brings  
11 out, since we know that fishwheels are used and marked in  
12 other parts of the state, before we make a decision that  
13 would have statewide precedence, I think we could use a  
14 little bit more time to investigate how this system might  
15 be able to work. If the proposal were adopted it would  
16 certainly create again a dual fishwheel registration  
17 system. I don't sense an urgency to adopt this proposal  
18 because this is not going to decrease the number of  
19 subsistence harvested fish or the number of subsistence  
20 users.

21

22 I'd like us to give time to our managers,  
23 the State and Federal managers and subsistence users to  
24 all come to the table and determine not only the effects  
25 of the actions we've taken today on the Copper River  
26 fishery, but look at further merits and possible problems  
27 associated with identifying fishwheels by number rather  
28 than name and address.

29

30 So I would move to defer action on  
31 Proposal 22 until this Board's next regulatory meeting in  
32 December 2002 and hope that through our variety of  
33 agreements with the State of Alaska we can work with you  
34 on determining whether this would be a viable method, how  
35 could we implement it.

36

37 Thank you.

38

39 CHAIRMAN DEMIENTIEFF: There is a motion  
40 to defer, is there a second?

41

42 MR. EDWARDS: Second.

43

44 CHAIRMAN DEMIENTIEFF: Discussion on the  
45 motion to defer.

46

47 MR. EDWARDS: Mr. Chairman, you know, I  
48 certainly appreciate the issue of privacy in this day and  
49 age of increased junk mail and ready access on the  
50 Internet. I think everybody, everywhere is becoming more

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1 and more concerned about their privacy. But as Judy  
2 pointed out, I do think this is an opportunity where we  
3 should move forward slowly and deliberately given that  
4 while we're only talking about one area it does have much  
5 broader applications. It seems to me it has applications  
6 statewide and as the State pointed out, in addition to  
7 fishwheel, I believe all unattended fishing gear  
8 currently now requires a name or at least a first initial  
9 last name and address on there so Ralph, it is broader  
10 than just fishwheels. So it does have applications to  
11 all of these and I understand that the State is willing  
12 to sit down and kind of explore what our options are  
13 there because I think they also appreciate the whole  
14 issue of privacy. And it seems to me if there's a  
15 commitment to do that this is the more proven way to move  
16 forward and not that we won't, I think, come back and  
17 resolve this but we got to do it in a deliberate method.

18

19 CHAIRMAN DEMIENTIEFF: Terry.

20

21 MR. HAYNES: Thank you, Mr. Chairman.  
22 Regarding some of the trapping requirements. There isn't  
23 a statewide requirement but in some areas you are  
24 required to mark your snares with name and address, but  
25 there are variations across the state. So this  
26 information, I think, would be useful to look at if  
27 there's further attention given to marking -- how  
28 fishwheels should be marked and we can provide this  
29 additional information on how traps and snares are  
30 marked.

31

32 CHAIRMAN DEMIENTIEFF: Ralph.

33

34 MR. LOHSE: Mr. Chair, in answer to what  
35 he said, I recognize that unattended fishing gear under  
36 sportfishing regulations like burbot lines and that  
37 require a name and an address on them but there's no  
38 permit number that goes with them. I would imagine that  
39 probably on the Copper River flats where I fish there are  
40 more commercial fishing vessels than there are fishwheels  
41 in the entire state of Alaska. And our fishing vessels  
42 are all marked with a number, a plainly visible number  
43 that can be seen from the air or from anything else and  
44 that's true on just one small fishery and it's a very  
45 small fishery in the state, and that's sufficient for  
46 enforcement purposes.

47

48 I put the name of my boat on my buoy and  
49 I put my ADF&G number on my buoy. I don't put my name  
50 and my address on the buoy on the net that I have in the



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1 water. Again, like bill has pointed out, sometimes we  
2 seem to put more regulations on subsistence than we do on  
3 some of the other fisheries in the state and that is why  
4 from the standpoint of privacy that I supported the  
5 Council in this issue that has been brought before as a  
6 Council by the Ahtna people in the Copper basin time and  
7 time again. This is one of the things that they have  
8 objected. And this is one of the things that I can't  
9 find an objection to in this day and age when we do so  
10 much by numbers and cell phone and computer, that the  
11 amount of fishwheels involved seems to me insignificant  
12 in comparison with the other things that we regulate with  
13 just a permit number.

14

15 Thank you.

16

17 MS. GOTTLIEB: Mr. Chairman.

18

19 CHAIRMAN DEMIENTIEFF: Under discussion,  
20 yes.

21

22 MS. GOTTLIEB: I certainly respect what  
23 Ralph's saying and the information that I heard at  
24 several of the meetings that I attended where Copper  
25 River Native Association and other Ahtna people testified  
26 about their privacy worries. And I think this proposal  
27 has merit, because of its statewide precedent setting  
28 potential, I think if we can direct Staff to work very  
29 closely with Fish and Game immediately, try to work out  
30 the system, I'd like to see us move ahead in that way.

31

32 CHAIRMAN DEMIENTIEFF: I intend to  
33 support the proposal. To me, if you have a working  
34 example as the work is going on, it's going to be a year  
35 before we can get it anyway and that will give us a  
36 season to see if it is going to cause that kind of  
37 conflict. It might actually wake the Department and the  
38 rest of the state up that we have jurisdiction over if it  
39 proves to be something that works. I think the issues  
40 have a lot of merit. You know, a years study to see if  
41 it is going to cause huge problems. It gives us some  
42 hard information as discussions begin with thee State. I  
43 think it's not going to cause that much trouble. I think  
44 it's going to improve the situation for all the reasons  
45 that Ralph is talking about.

46

47 Further discussion.

48

49 MR. BRELSFORD: Mr. Chairman, I recognize  
50 the significance of the issue as it arose among the

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1 Copper River elders and as it's been brought to the  
2 attention of the Board by the Copper River Native  
3 Association. I think the principle of providing  
4 identification for gear is balanced with the equal  
5 principle of protecting the appropriate privacy of  
6 subsistence users. Where I am troubled by moving forward  
7 at the present time is on the question of kind of the  
8 practical effects and the cumulative effects of a number  
9 of significant changes in the management regime on the  
10 Copper River. I am heartened by the Department's  
11 undertaking that they are prepared to work directly with  
12 the subsistence users and with the Federal managers to  
13 identify a common solution to strengthen privacy  
14 protections in the Copper River basin. I think we need  
15 -- I believe the maker of the motion and the second, that  
16 they're really relying on this process to move forward so  
17 that the deferral is not a rejection in disguise. It is,  
18 in fact, an effort to move forward in the best and most  
19 constructive way possible. So for those reasons I will  
20 support the motion to defer.

21

22 Thank you very much.

23

24 CHAIRMAN DEMIENTIEFF: Further  
25 discussion. Hearing none, are we ready to vote? All  
26 those in favor say aye.

27

28 IN UNISON: Aye.

29

30 CHAIRMAN DEMIENTIEFF: I'm opposed. I  
31 forgot the motion was deferral. I think we've about had  
32 enough for one morning. We are going to take some  
33 testimony on customary trade from a gentleman who thought  
34 it was going to be today and he flew in to give testimony  
35 so I want to get him and make sure he can get back out  
36 even though it's out of sequence. Bob Merchant.

37

38 MR. MERCHANT: Thank you for allowing me  
39 to give my testimony out of order, Mr. Chairman. My name  
40 is Bob Merchant, I'm president of the United Cook Inlet  
41 Drift Association. Dear members of the State of Alaska  
42 Federal Subsistence Board. United Cook Inlet Drift  
43 Association represents approximately 580 commercial  
44 fishermen. We are permitted and licensed by the state of  
45 Alaska to sell salmon caught in the marine waters of Cook  
46 Inlet. We ask the Federal Subsistence Board to delay  
47 acting upon the recommendation submitted by the committee  
48 on customary trade until such time that the concerns we  
49 bring before you today are considered and the questions  
50 we have are addressed and answered.

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1           The recommendation to allow the sale of  
2 subsistence caught salmon in the amount of \$1,000 plus  
3 \$1,000 for each household member is inconsistent with  
4 Alaska State law. Alaska law requires that anyone  
5 selling salmon caught in Alaska waters must have a  
6 limited entry permit.

7  
8           It is our belief that laws, rules and  
9 regulations enacted within the borders of the Republic of  
10 the United States and all of its 50 independent states  
11 and territories must be in agreement and consistent with  
12 each and all, whether these laws originate from the state  
13 government or the Federal Congress. Should you enact the  
14 committee's recommendation, you will effectively be  
15 creating a second set of rules regulating the sale of  
16 salmon within the contiguous boundaries of the sovereign  
17 state of Alaska. Thus one part of our state population  
18 will follow State law while another part will follow  
19 Federal law and predictably a third part will follow both  
20 moving back and forth between the two laws as they see  
21 fit. This situation defines the reason Federal and State  
22 laws must agree with each other. It will prove  
23 impossible to maintain order and ensure that two sets of  
24 laws are obeyed consistently when the people so governed  
25 are allowed to take their pick.

26  
27           We further believe that Alaska limited  
28 entry law was enacted for the best of reasons, most  
29 importantly the protection and conservation of Alaska  
30 salmon resources. Our sale of salmon is strictly  
31 regulated and those regulations are strictly enforced to  
32 ensure the protection of the resource. Should you accept  
33 the committee's recommendations, will you be able to  
34 guarantee that the sale of subsistence caught salmon will  
35 be strictly regulated and enforced?

36  
37           We also ask the Board to consider an  
38 obvious question we have which begs an answer or further  
39 clarification or definition. At what point or in what  
40 amount does subsistence fishing, which results in an  
41 economic return become commercial fishing which has the  
42 same goal and economic return? Perhaps the answer to  
43 this question would be best addressed with the help of a  
44 historian or maybe an anthropologist or better, both, we  
45 do not believe that the committee spent enough time or  
46 gave adequate consideration to dealing with this  
47 important question.

48  
49           Finally, it has been said in the news  
50 reports that this recommendation is effectively intended

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1 to make a tradition, which evidently some believe to be  
2 illegal legal. We believe the Federal Subsistence Board  
3 should not allow itself to be forced to decide whether a  
4 tradition is legal or illegal. Traditions, long  
5 practiced in the United States are respected, permitted  
6 and recognized as part of our cultural heritage. We  
7 contend that traditions should stay traditions.

8

9 We, who commercial drift fish in Cook  
10 Inlet have no objection to the continued practice of  
11 Alaska's traditions or to the cultural subsistence  
12 practiced by indigenous Alaskans. We wish to make this  
13 point very clear to the Board. We only ask the Board to  
14 give the matter of selling subsistence caught salmon more  
15 time and more consideration.

16

17 Thank you.

18

19 CHAIRMAN DEMIENTIEFF: Thank you. With  
20 that, we'll adjourn until 1:00 o'clock -- or recess until  
21 1:00 o'clock and come back and do the Kenai portion of  
22 the Southcentral area.

23

24 (Off record)

25

26 (On record)

27

28 CHAIRMAN DEMIENTIEFF: Okay, we'll call  
29 the meeting back to order. We're still in Southcentral.  
30 Proposals 11a through 14a.

31

32 MR. BOYD: Mr. Chair, if I may, prior to  
33 the Southcentral Regional Advisory Council taking up  
34 these proposals I provided a bit of an overview of the  
35 proposals and in an attempt to sort of, at least, present  
36 the larger picture of where we would be recommending  
37 going with these proposals, the proposals you have today  
38 specifically those FP02-11 through 14 will address  
39 subsistence regulations for the Cook Inlet area and  
40 specifically for the Kenai Peninsula. Three of these  
41 will address the Kenai Peninsula. The proposals request  
42 customary and traditional use determinations for the  
43 residents for the rural communities of this area and  
44 other proposals will request season and harvest limits  
45 and methods for certain fish species, principally salmon  
46 and trout.

47

48 The Staff recommendations that you'll  
49 hear and that are before you are fairly conservative  
50 approaches, for example, the Staff recommendations for

00069

1 the seasons, harvest limits and methods would establish  
2 subsistence seasons that are the same as sportfishing  
3 seasons and methods.

4

5           Essentially what the Staff is proposing  
6 is a go slow approach to fully develop acceptable fishing  
7 regulations for the Kenai Peninsula and the Cook Inlet  
8 area. This approach would establish conservative  
9 regulations as a starting place and then following  
10 additional data gathering, collaboration with affected  
11 interests on the Kenai Peninsula, additional regulations  
12 could follow.

13

14           The reasons for this approach, I think,  
15 are threefold. First, the controversial nature of  
16 establishing subsistence fishing regulations in this  
17 area. We've just finished a couple of years where we've  
18 dealt with the rural issue and that was quite a  
19 controversial issue. Second, the fact that these  
20 fisheries are already heavily used, I think that, in  
21 itself requires us to be deliberative and thoughtful as  
22 we go about this process and third, the lack of  
23 information on subsistence needs and practices because  
24 subsistence uses have been prohibited by regulations on  
25 the Kenai Peninsula since 1952, almost 50 years, I want  
26 to clearly state though that the goal here is to get to  
27 new harvest -- subsistence harvest regulations for key  
28 species and these would include salmon, Dolly Varden,  
29 trout and char and these regulations would be for  
30 subsistence in the Cook Inlet area.

31

32           Our Staff recommendations would start us  
33 down this path, essentially establishing conservative  
34 harvest regulations as well as customary and traditional  
35 use determinations. So the considerations for the Board,  
36 I think, are to look at the recommendations of the Staff  
37 and possibly adopt them but another consideration is that  
38 the Board might wish to defer on these proposals. But  
39 even if these proposals or these recommendations are  
40 deferred, particularly with regard to the customary and  
41 traditional use determinations, the Federal Subsistence  
42 -- it really wouldn't change much because the Federal  
43 subsistence regulations state that all rural residents,  
44 statewide rural residents are eligible.

45

46           To get to these more specific and  
47 appropriate harvest regulations after this first step, we  
48 are proposing to you a longer term process and that would  
49 include community and household surveys, community  
50 meetings and roundtable discussions with the affected

00070

1 interests on the Kenai Peninsula. We haven't fully  
2 fleshed out how we are going to get there. But those are  
3 the basic components. Following the gathering of  
4 information through surveys, then more appropriate  
5 harvest regulations could be developed and presented to  
6 you for final regulations. How long would this take? We  
7 think it could take as long as from two to four years.  
8 Obviously it would take some time to do these kinds of  
9 surveys but it's possible that some regulations could be  
10 developed in the interim as this process moves forward  
11 and information is gathered.

12

13           Again, we felt it important to present  
14 this overview of a longer term process as you deal with  
15 these proposals one by one. Again, there are four of  
16 them and now I'll turn it over to Larry and Pat.

17

18           CHAIRMAN DEMIENTIEFF: Go ahead.

19

20           MS. PETRIVELLI: Mr. Chairman, my name is  
21 Pat Petrivelli and I'll be doing the analysis of  
22 Proposals 11a through 14a. These proposals deal with C&T  
23 requests, various C&T requests -- or customary and  
24 traditional use determination requests in the Cook Inlet  
25 area. Of these four proposals, two were submitted in the  
26 last regulatory cycle. Proposal 11 was submitted by the  
27 Ninilchik Traditional Council, Fred Barr and Steven  
28 Vanick and they dealt with the Kenai Peninsula and the  
29 communities surrounding Cook Inlet. Proposal 12 was  
30 submitted by Henry Kroll and it dealt with Tuxedni Bay on  
31 the west side of Cook Inlet. In this regulatory cycle  
32 Proposal 13 was submitted by Steven Vanek and it dealt  
33 with Kenai Peninsula communities and Proposal 14 was  
34 submitted by Al Chong and it requested changes for the  
35 Kenai River. The scope of the changes requested in these  
36 four proposals deals with the use of a few species up to  
37 all fish and all shell fish. Due to the time constraints  
38 and other considerations, the analysis of shellfish was  
39 deferred until the next fisheries regulatory cycle.

40

41           My portion, the A portion deals with the  
42 customary and traditional use determinations and I looked  
43 at salmon and the other species. The current C&T  
44 determinations for the Cook Inlet area reads it's a  
45 positive customary and traditional use determination for  
46 residents of the Cook Inlet area for all fish except  
47 salmon, Dolly Varden, trout, char and grayling. So those  
48 are the species that are in the analysis of the C&T  
49 determinations. When I looked at the use of these  
50 species, I looked at two areas, one is the Kenai

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1 Peninsula and the other is the west side of Cook Inlet so  
2 the analysis looked at the use of those requested species  
3 salmon, Dolly Varden, trout, char, grayling and burbot  
4 and then it looked at it in those two areas. The Kenai  
5 Peninsula and the west side because those two areas have  
6 distinct use patterns and they involve all the  
7 communities requested.

8

9           In the analysis that involved 19  
10 community areas, 19 communities or various areas and  
11 those communities are listed in the analysis. Some are  
12 actual communities that are listed on Page 23 of the  
13 analysis section. Some are actual communities but others  
14 are areas that are called CDP, census designated places,  
15 where there are just identified areas for the purposes of  
16 counting people, like the Happy Valley CDP or a portion  
17 of Fritz Creek or the Northfork Road. But of those  
18 communities and areas, the use of their resources are  
19 based in four traditions, the Dena'ina traditional  
20 practices, Alutiiq traditional practices, homesteaders  
21 that have been on the Peninsula since the turn of the  
22 century and then the Russian old-believer communities  
23 that have been settled at this lower end of the  
24 Peninsula. In the chart on Page 23, has the time depth  
25 of the population of those communities.

26

27           The source of the data was from the State  
28 of Alaska community data base for the demographics in the  
29 community descriptions. And then for the use of fish and  
30 wildlife, data was obtained from Subsistence Division  
31 technical reports and household surveys conducted in 11  
32 of those communities or areas and all of those surveys  
33 have been conducted since 1990 with the exception of  
34 Tyonek, their survey was conducted in 1983.

35

36           The key points from the analysis of the  
37 eight factors show that for the use of the requested  
38 species, archeological evidence shows the use of these  
39 fish well over the past thousand years. The current use  
40 of these resources in Federal waters has been greatly  
41 impacted by regulatory restrictions. Freshwater  
42 subsistence fishing in the Cook Inlet area has been  
43 prohibited since 1952. Another regulatory restriction is  
44 that the State of Alaska has declared the road-connected  
45 areas of the Kenai Peninsula a non-subsistence area. But  
46 some personal use fisheries have been conducted in  
47 limited areas at the mouth, such as the ones at the mouth  
48 of the Kasilof River and the mouth of the Kenai River.  
49 Generally, whatever subsistence fishing that had occurred  
50 in the Cook Inlet area since 1952 occurred in marine

00072

1 waters. There are recognized subsistence fisheries by  
2 the State and those are in Tyonek, Port Graham and  
3 Koytolik and Seldovia Bay.

4

5           Despite these regulatory barriers salmon  
6 is the number 1 resource in each community in the  
7 subsistence surveys and households, except for in  
8 Ninilchik, and household surveys show that salmon  
9 represents from 26 to 72 percent of the subsistence foods  
10 used per capita. For the other requested species, the  
11 use of these resource represents from one to eight  
12 percent of the per capita use. A use that reflects the  
13 availability -- or the location of the species and the  
14 availability near the community.

15

16           Where permitted, the harvest of salmon  
17 occurs similar to the traditional methods and means used  
18 in the areas recognized by the State. In other areas,  
19 where there's regulatory restrictions, subsistence  
20 harvest occurs by rod and reel, dipnet and then retention  
21 from commercial catch. The two general use patterns for  
22 freshwater fish are the use of lakes, creeks, rivers  
23 close to the home community and the use of more remote  
24 resources in conjunction with other subsistence  
25 activities such as hunting or berry picking. This  
26 pattern also applies to some salmon species such as a  
27 combination of silver salmon fishing, with moose hunting  
28 or clamming on the west side of Cook Inlet by the  
29 communities of Seldovia and Ninilchik.

30

31           That concludes my analysis.

32

33           CHAIRMAN DEMIENTIEFF: Summary of written  
34 public comments.

35

36           MS. WILKINSON: Thank you, Mr. Chairman.  
37 The United Fishermen of Alaska state that the Federal  
38 Subsistence Board lacks jurisdiction. Since these are  
39 for shellfish, since these occur seaward of the mean high  
40 tide line in which an area is not in Federal  
41 jurisdiction. They don't concur with the proposal for  
42 unlimited fish and shellfish harvest and recommend that  
43 seasonal harvest limits be established which reflect  
44 legitimate need.

45

46           The Cooper Landing Fish and Game Advisory  
47 Committee state that they reserve comment until the  
48 customary and traditional use determinations for the  
49 Kenai Peninsula are made for each species and community  
50 and until subsistence harvest levels are established.



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1 Mr. John Nelson of Soldotna said that  
2 Proposal 14, a portion of this, falls significantly short  
3 of fulfilling the Federal subsistence priority. Fishing  
4 and hunting should clearly maintain a subsistence  
5 priority and rural or local preference. This proposal  
6 weakens the Federal mandate to establish a subsistence  
7 priority by subsuming that priority into State  
8 management.

9

10 Mr. Richard Wooten of Beaverton, Oregon  
11 objects to the addition of the Kenai River being listed  
12 for C&T fishing. People in Alaska do not understand that  
13 they are part of the United States and the decisions you  
14 make have an impact on his resource as a citizen of this  
15 country.

16

17 That's the end of the summary for A  
18 portion.

19

20 CHAIRMAN DEMIENTIEFF: Department  
21 comments.

22

23 MR. HAYNES: Thank you, Mr. Chairman.  
24 The Department supports the minority Staff Committee  
25 recommendation to defer action on these customary and  
26 traditional use determination proposals for the reason  
27 that's stated in the minority justification and  
28 consistent with much of what Mr. Boyd presented to you  
29 earlier.

30

31 Adoption of Proposals of 11a through 14a  
32 would not enhance the opportunity of Cook Inlet residents  
33 to harvest freshwater fish next season. But it would  
34 complicate the conduct of a research project that has  
35 been designed by the Department at the request of the  
36 Office of Subsistence Management to collect more  
37 information on the Cook Inlet area fisheries. The  
38 Department proposes to begin work on Phase I of this  
39 study next summer and to collect information that can be  
40 applied to making informed customary and traditional use  
41 determinations for fish in Cook Inlet area communities.

42

43 CHAIRMAN DEMIENTIEFF: We have two  
44 requests for public testimony, Steve Vanek.

45

46 MR. VANEK: Thank you, Mr. Chairman. I'm  
47 actually here sort of wearing two hats that's why you  
48 have two requests there. And if you will allow me to do  
49 my personal testimony and then follow it with the  
50 testimony from the Kenai Peninsula Resource Management

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1 Coalition then I would only sit here one time instead of  
2 going back and coming back if you will allow me to do  
3 that.

4

5 CHAIRMAN DEMIENTIEFF: Go ahead.

6

7 MR. VANEK: My name is Steve Vanek. I'm  
8 here today wearing two hats as I've said. I'll speak for  
9 myself first and then I'll speak for the Kenai Peninsula  
10 Resource Management Coalition and the second part, when I  
11 do speak will be directly towards what Mr. Boyd has  
12 requested here because that group is already working on  
13 subsistence as a community.

14

15 Speaking for myself, I submitted my  
16 proposals and some of those proposals are mine that  
17 you'll be looking at today. I submitted my proposals out  
18 of frustration with the State of Alaska and with the  
19 Federal government. I can only imagine what Native  
20 people's frustrations have been for so many, many years.  
21 Your regulations for the Kenai Peninsula say that all  
22 fish except salmon, Dolly Varden, Arctic char, trout,  
23 grayling and burbot could be used for subsistence.  
24 That's sort of left only flounders and Irish Lords in  
25 Ninilchik. So I submitted my proposals to correct that  
26 situation. The other reason I submitted my proposals is  
27 the following.

28

29 As a commercial fisherman I make my  
30 living by fishing. To me this is subsistence. I feed,  
31 clothe and shelter my family by fishing. That is my way  
32 of life and has been that way for 30-some years. The  
33 Constitution of Alaska was amended to allow for limited  
34 entry. This created a special class of people with  
35 special rights, namely, the limited entry permit holders.  
36 I am one of those special people. Now, the State of  
37 Alaska is violating that constitutional right to  
38 regulation by allocating the fish to non-residents and  
39 not allowing me to fish. I can no longer feed, clothe or  
40 shelter my family by fishing. However, I live in a  
41 Federal subsistence area and I am looking to you to  
42 protect my way of life. But you haven't allowed salmon  
43 or halibut to be a subsistence fish. I don't understand  
44 that.

45

46 Also I don't understand why in spite of  
47 the Katie John decision you do not allow subsistence  
48 where it has always been done, namely along the beaches  
49 of Cook Inlet and in the Federal waters of Cook Inlet.  
50 You have proposals here to have subsistence using a hook

00075

1 and line with a bag limit the same as sportfishermen,  
2 yet, the State of Alaska allows non-subsistence people to  
3 use a dipnet in the Kenai River and catch 25 fish a day,  
4 plus 10 for each member of the family. This makes it  
5 really hard to understand what you people are doing. I  
6 don't know what the law is but I believe we all will be  
7 required to follow the law and if subsistence with  
8 bartering, meaning selling is the law then that is what  
9 will eventually happen no matter what you do here today  
10 or what anybody else wants done. I believe the law will  
11 prevail.

12

13 I want to maintain my way of life. I  
14 want my son to maintain his way of life which is what he  
15 grew up doing. He supports his family by fishing also.  
16 Whether I do it through Federal subsistence and selling  
17 my fish to maintain my life or through a lawsuit against  
18 the State of Alaska for denying me the use of my limited  
19 entry permit, I will fight for my way of life. I hope  
20 you people will look to see what the law is and then  
21 follow it. You are required to follow the law when you  
22 make your decisions.

23

24 And that's the end of my testimony.

25

26 CHAIRMAN DEMIENTIEFF: Okay, you want to  
27 go ahead.

28

29 MR. VANEK: Now, I'll speak for the Kenai  
30 Peninsula Management Coalition which is a group of people  
31 and we've become incorporated under the non-profit laws  
32 of the State of Alaska so we're a non-profit corporation  
33 made up of commercial fishermen, sportfishermen, Native  
34 peoples on the Kenai Peninsula, the Kenaitzes and  
35 Salamanof Natives who are part of this, business people  
36 are part of this and sportfishermen are part of this.  
37 They're all members of this resource management  
38 coalition. And this was put together probably two years  
39 ago already and the idea was to work together as a  
40 community to deal with managing the resources on the  
41 Kenai Peninsula.

42

43 I'll read you the mission statement but  
44 before I do that I would hope that this organization will  
45 be fully involved with what Mr. Boyd was talking about  
46 earlier in terms of meeting on the Peninsula with the  
47 local people.

48

49 The Kenai Peninsula Resource Management  
50 Coalition, this is the mission statement, supports only

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1 historical traditional cultural and spiritual use of fish  
2 and wildlife resources here on the Kenai Peninsula.  
3 Management for all users shall be in the order of this  
4 priority, subsistence commercial fishing and  
5 recreational. The primary mission for this organization  
6 is to ensure that the needs of those residents of the  
7 Kenai Peninsula who have historically, traditionally,  
8 culturally and spiritually depended on the resources of  
9 the Kenai Peninsula are met. To fulfill this mission it  
10 is imperative that we protect the habitat, the land and  
11 the resources that live, spawn, breed and die on the  
12 Kenai Peninsula. This is not limited to all species,  
13 salmon, halibut, shellfish and wild game but includes all  
14 floral and fauna. Our primary goal is to support and  
15 promote only maximum sustained yield management that  
16 shall be accomplished by supporting and promoting only  
17 sound biological management which utilizes the best  
18 scientific data available. One of our goals is to create  
19 and maintain harmony among all people who live and make  
20 their home on the Kenai Peninsula.

21

22           The people and organizations that support  
23 this mission statement are ready and more than willing to  
24 work with the State of Alaska or the United States  
25 Federal government in order to accomplish the goals of  
26 the Kenai Peninsula Resource Management Coalition.

27

28           That's the mission statement. I'd like  
29 to just read the conclusion because we feel that this  
30 could certainly be a model for the rest of the state and  
31 would certainly, perhaps, help solve the whole  
32 subsistence issue in the state.

33

34           In the conclusion, all users are granted  
35 more than a reasonable opportunity to harvest the State  
36 of Alaska's wild resources on the Kenai Peninsula,  
37 because that was one of the objectives of the Coalition  
38 when they set out, was to give everybody an opportunity,  
39 whether they're subsistence, sport, commercial or  
40 whatever, an opportunity to harvest. This satisfies the  
41 common use clause of the Alaska Constitution as well as  
42 ANILCA and the Constitution of the United States. This  
43 plan shall satisfy management of the fisheries resources  
44 on Federal lands and waters as well as State controlled  
45 lands and waters. The users involved with development of  
46 this land are trying to solve all resource allocations  
47 for both State and Federal lands and waters. If all  
48 local areas will follow this lead we shall save both  
49 governments money and do away with troublesome boards and  
50 political influences regarding the management of the wild

00077

1 resources.

2

3           And in order to give everybody a shot at  
4 the resources, the coalition has come up with seasons and  
5 bag limits and in my Proposal No. 14a I listed the  
6 seasons. The subsistence season would go from April 15th  
7 to June -- or April 1st to June 15th, then the fish would  
8 be managed primarily for commercial fishing between June  
9 20th and August 15th. After August 15th it would revert  
10 back to managing for subsistence use. And the sport use  
11 would be all year long so that situation is covered and  
12 that gives everybody an opportunity and it allows for a  
13 commercial fishery and also for a subsistence fishery  
14 with seasons, guaranteed.

15

16           And I didn't realize until I came here  
17 today and was looking through your analysis that  
18 subsistence fisheries in the freshwater have been denied  
19 for 50 years on the Kenai Peninsula and I hope it's not  
20 50 years that I have to wait to be able to maintain my  
21 way of life as making my living from fishing.

22

23           Anyways, that's -- I will -- supposedly  
24 you've been contacted or the Federal Subsistence Board  
25 has been sent this mission statement and we've been in  
26 contact with Senator Murkowski and some of the other  
27 government officials on this but we would hope that this  
28 would be a model that might be workable throughout the  
29 state where you have local people deciding what the  
30 seasons should be and what the subsistence and  
31 recreational fishing should be with the caveat that  
32 there's an opportunity available for everybody and that  
33 would be the requirement. And then let the local people  
34 decide how they want to give that opportunity to  
35 everybody. That's the basic concept behind the  
36 coalition.

37

38           Thank you for your time. If there's any  
39 questions I'd be happy to answer them.

40

41           CHAIRMAN DEMIENTIEFF: Questions. Bill.

42

43           MR. THOMAS: I really appreciate your  
44 remarks and your mission statement is really well  
45 written. It's very responsible and it gives good  
46 direction and it does provide opportunity. I thank you  
47 for that. The only thing I wanted to mention to you with  
48 regards to local people involved in the decisionmaking  
49 process, that's why we're here now. Because the Regional  
50 Advisory Councils are made up of local people from

00078

1 various communities in different regions. We have 10  
2 regions in the state. And so I just wanted to point that  
3 out in case that wasn't understood by members of your  
4 coalition. But I'm really encouraged by the comments  
5 you've made here today. Thank you very much.

6

7 Thank you, Mr. Chairman.

8

9 MR. CAPLAN: Mr. Chairman.

10

11 CHAIRMAN DEMIENTIEFF: Yes, Jim.

12

13 MR. CAPLAN: Thank you, sir. I wonder if  
14 you could be more specific in telling me who all the  
15 members of the coalition were. I heard you say it, you  
16 passed over it a little bit quickly, could you tell me  
17 who all is a member of the coalition? Thank you.

18

19 MR. VANEK: Well, I don't have a list of  
20 the people but the organization, some of the  
21 organizations I can list. There are representatives from  
22 the Kenaitzes Native Association and from the Salamanof  
23 Native Association. There were representatives from  
24 United Fishermen -- or United Cook Inlet Drift  
25 Association. From Cook Inlet Fishermens Fund. From the  
26 Cook Inlet Aquaculture Association. And then there were  
27 business people there, too, but I don't know particularly  
28 what their businesses were necessarily. And then there  
29 were private individuals who were allowed to be members  
30 also representing either sportsfish interests or personal  
31 use interests and we attempted to get guides involved but  
32 they refused to be part of this at the time. But we're  
33 still working on that.

34

35 MR. CAPLAN: Thank you.

36

37 CHAIRMAN DEMIENTIEFF: Yeah, I want to  
38 also compliment you on your work. I know you guys have a  
39 long ways to go but that kind of consensus building is  
40 going to be real useful, I think, could be useful in a  
41 lot of areas and particularly in the Kenai. I've  
42 certainly been down there for six years or seven years,  
43 been thrown to the wolves more than once. I'm glad to  
44 see this kind of stuff happening because early on what I  
45 seen was decisiveness and this kind of consensus building  
46 is needed, I think, in a lot of areas.

47

48 If you would, if you'd check with the  
49 girls out here, we'd like to make sure we have a copy of  
50 your testimony. I think they have copying capacity here

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1 but thank you very much, if there's no other questions.

2 Thank you. Fred Bahr.

3

4 MR. BAHR: Hi, my name is Fred Bahr. I'm

5 an Alaskan Eskimo, subsistence whaler, subsistence

6 hunter. I'm also a paralegal in Federal Indian law.

7 I've lived 20 years in -- I've lived all my life in

8 Alaska minus a year of school, college.

9

10 First I'd like to thank you, Mr.

11 Chairman, Mitch Demientieff, I appreciate you guys being

12 here, Tom Boyd, Tim Jennings, Keith Goltz, I see the

13 State's here, I'm glad to see them here. I'd really like

14 to beat up on them but I'm not going to. But basically

15 what I'm here to do is talk about some of the -- well,

16 it's taken my three years from the time that I put my

17 proposal in to get here so it's three years of not being

18 able to feed my family, support them and clothe them and

19 now since that the Katie John issue has been adjudicated,

20 I have a couple of questions. One, in the Katie John

21 lawsuit, was subsistence sportsfishing where -- or if

22 you're in the Yukon Delta or in Selawik or if you're in

23 the North Slope or if you're Southeast, is subsistence by

24 the Natives considered two fish a day with a hook and

25 line?

26

27 CHAIRMAN DEMIENTIEFF: I think maybe if

28 you want to, Fred, you could talk with them a little bit

29 later. If you have testimony.....

30

31 MR. BAHR: Yeah, I do have testimony

32 because I'm trying to get that straightened out because

33 subsistence is a way of life. It is not going fishing on

34 the weekend. And that's one of the basic differences I

35 have in my testimony to you, to the Natives on the Board

36 that live subsistence and I see quite a few here that do

37 where we're not having to fight a billion dollar

38 infrastructure built off this salmon in Cook Inlet, while

39 the Natives, you know, were totally banned from fishing

40 other than sportfishing. So it's a major battle here in

41 Cook Inlet.

42

43 The other issue that I have with this

44 Board that maybe a lot of you from around the state,

45 especially you Natives don't understand, is that we have

46 a depleted fishery in Cook Inlet. The Governor made a

47 declaration for the commercial fishery, that it was an

48 economic disaster. Actually, the commercial fishermen on

49 the whole and it's their way of life, too, they've been

50 at it for 40 years, I have a lot of friends that are

00080

1 commercial fishermen, that actually didn't even make  
2 expenses this year. And yet what I have found in  
3 Ninilchik and I have been there, I see these \$180,000  
4 motorhomes come in and they're canning salmon and they're  
5 going dipping and they're going fishing and they're  
6 canning it and taking it outside and selling it at flea  
7 markets. And I see a ton of them. I also see and  
8 there's been a lot of complaints on the dipnet fishery  
9 although that's the closest thing we, as Native, come to  
10 getting the fish that we need, is where there's no  
11 oversight by Fish and Game.

12

13           But on the other issue here, the one that  
14 really bites me is that in 1986 the court did come down  
15 with subsistence as a way of life in an aboriginal  
16 individual right. What that means is that I can't give  
17 it away unless you ask me and I give it away. What  
18 happened, for example, in Kenaitzes, they were under the  
19 auspices that the Katie John court case was a class  
20 action suit and so those folks in Kenaitzes that was  
21 running Kenaitzes went and tried to make agreements with  
22 the consensus building, that I'm all for, but to not have  
23 subsistence as a way of life and to feed and clothe your  
24 family but is to have two fish a day and that's what they  
25 -- when they come down with the definition of  
26 subsistence, it's back to sportfishery as a weekend or a,  
27 you know, a one night thing. And that's not what we, as  
28 Natives, and the reason why you're here is because we're  
29 here.

30

31           If there weren't any Alaska Natives in  
32 Alaska you wouldn't have a subsistence issue, would you?  
33

34           If we didn't have, for example, let's  
35 look at halibut, what happened to the halibut? You know  
36 that even the limited entry was disengaged, 70 percent of  
37 the Native fishermen in the whole state. We didn't play  
38 with paper, we didn't use paper, we didn't fill them out  
39 correctly, we were banned or we were in school and  
40 therefore we didn't fish for three years before 1972, we  
41 weren't allowed to get a permit, but the State gave the  
42 Russians who had just got here 40 permits.

43

44           And so I'm looking at it and it's been a  
45 real -- you folks from the rural Alaska, here in Cook  
46 Inlet, it was not advantageous to be Native and want to  
47 go fishing for over -- since we became a statehood and  
48 they fought us so well for so long and now with this  
49 infrastructure in place, what are we going to do when  
50 there -- when we know, you know, I know, everybody knows



00081

1 there's not enough fish? And yet you won't declare  
2 depleted so that we can rebuild the stocks and work  
3 together to where there would be enough fish for the  
4 Kuskokwim, for example or for Cook Inlet.

5  
6           You know a friend of mine told me and it  
7 really blew me away that this State of Alaska, Department  
8 of Fish and Game depleted a major fishery in 40 years  
9 without building one dam. Think of it. It took Columbia  
10 River 250 years to wipe out their fishery but we did it  
11 through special interest management, and that's what I  
12 hear from all the folks down there, and I'm still facing  
13 it and I hope I don't face it here because now we have  
14 earned the right -- or supposed to be recognized as  
15 aboriginal Natives of Alaska that we have a right to live  
16 off the land and subsist. And it is -- and I really want  
17 to make that clear, that is not a sportfishery.

18  
19           I look at how we can work together and I  
20 wish that you guys would come down to Ninilchik and meet  
21 the fishermen and the local residents that want to fish  
22 and I disagree with this one here that says salmon,  
23 number 1 resource in each community except Ninilchik, we  
24 got a cannery down there, a salmon cannery. And when you  
25 look at the history of Ninilchik, they caught massive  
26 amounts of fish with their fish traps and stuff, so I  
27 disagree with that. But when you look at -- when we look  
28 at what needs to be done, we, as Natives, and when you  
29 look at Cook Inlet and you look at Kenaitzes, there's  
30 4,000 Natives in Cook Inlet and when you look at the  
31 demographics or the geographics of it, we are the highest  
32 unemployed, the highest on welfare, the highest drop out,  
33 the highest drug and alcohol abuse, the highest in jail  
34 and when you take away the resource and ability to feed  
35 and clothe your family, if we took it from you how would  
36 you react to that? Well, you'd go to drinking and drugs  
37 or you end up working at \$8 an hour jobs. So the effect  
38 of this has been really hard on the Natives of Cook  
39 Inlet.

40  
41           Now, the other issue that comes up to me  
42 when I talk to you is that not only were we not allowed  
43 to fish we were thrown in jail for trying to fish. So we  
44 don't have boats now.

45  
46           CHAIRMAN DEMIENTIEFF: Fred, if you would  
47 please summarize we're going to have to move on here.

48  
49           MR. BAHR: What I would like you to do is  
50 come down to Ninilchik, meet with our folks down there

00082

1 and the tribe and I would like you to put the subsistence  
2 fishery where it belongs after 50 years of abuse and put  
3 it where it belongs first. Not wait until it is depleted  
4 although I would recommend you classify this fishery  
5 depleted. If we don't get what the court said was ours,  
6 then we have to go back to court because if you guys  
7 don't give the Natives what's their due and work with us  
8 and we work for a consensus then we have to go back to  
9 backroad justice and you know what that turns out to be.  
10 And with that, I hope you've taken my comments seriously.

11

12 I hope you'll come down to Ninilchik and  
13 I hope you'll help our Native people pull ourselves off  
14 of welfare, out of jail and back to where we feel  
15 responsible, proud and we can feed our families and  
16 clothe them and send them to school so we can be real  
17 Americans, the slaughter is over. Thank you.

18

19 CHAIRMAN DEMIENTIEFF: Thank you, Fred.  
20 It's only been a few years since we were down there on  
21 the C&T issue and I personally remember carrying a  
22 hearing right in the Ninilchik Tribal Hall. It's only  
23 been a few years but I think there's a point that Bill  
24 Thomas talked about earlier and that is that to keep in  
25 mind that we have a Regional Council that works in that  
26 area and I strongly suggest that you tie in with that  
27 Regional Council that was -- the point he was trying to  
28 make earlier, so keep in mind there are avenues that are  
29 there and it does work. And all the progress that has  
30 been made on the Kenai has been made mostly because of  
31 the hard work of the Regional Council and so that's what  
32 I strongly encourage you to do.

33

34 That concludes our public testimony at  
35 this time. Regional Council recommendation.

36

37 MR. LOHSE: Mr. Chair, the Regional  
38 Council supported, we're looking at 11a right here,  
39 supported this proposal with the following modification  
40 and it's the request for C&T for all fish and shellfish  
41 in various Cook Inlet area waters. We supported it with  
42 the modification to delete grayling and burbot from the  
43 list of species. I'll go into the reason why later. And  
44 we supported it to refer to all rural residents of the  
45 Cook Inlet district rather than the west side Cook Inlet  
46 and Kenai Peninsula residents.

47

48 Our Council recognizes the historical C&T  
49 use of fish by rural residents of this area, however, we  
50 wanted to modify it to delete grayling and burbot from

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1 the list of species because of the fact that grayling and  
2 burbot were not indigenous to most of Cook Inlet area and  
3 a lot of the people in Cook Inlet area haven't had the  
4 opportunity to use them and so we couldn't apply them to  
5 the whole Kenai Peninsula/Cook Inlet area. And the  
6 reason that we included -- we called it Cook Inlet rural  
7 -- residents of the Cook Inlet district rather than take  
8 the west side of Cook Inlet and the Kenai is that we  
9 prefer to be inclusive and include as much instead of  
10 exclude as much as we can. And rather than try to break  
11 apart people who move back and forth for years have had  
12 access to powerboats and everything else and have gone  
13 pretty much where they wanted to with the road system, we  
14 recognize them as a unit the same as we recognized the  
15 whole Kenai Peninsula as being rural to start off with as  
16 a Council.

17

18 So we prefer not to divide users by  
19 regulation if we don't have to but we did drop the burbot  
20 and the grayling.

21

22 Thank you.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
25 Committee.

26

27 MR. O'HARA: Mr. Chair.

28

29 CHAIRMAN DEMIENTIEFF: Oh, sorry.

30

31 MR. O'HARA: Yeah, you probably noticed  
32 in your books -- this is Dan O'Hara, Chair of Bristol  
33 Bay, on Page 52, that the Bristol Bay Advisory Council  
34 voted 6-0 and one abstention to oppose this section of  
35 this proposal that gives C&T finding to Mr. Henry Kroll,  
36 positive customary and traditional use in Tuxedni Bay.  
37 And the reason we opposed this was because the Regional  
38 Council stated that there was insufficient data presented  
39 in the Staff analysis that would justify providing  
40 customary and traditional use determination for the  
41 residents of Tuxedni Bay on the west side. So the  
42 council is also requesting that additional data for the  
43 eight factors be collected and presented in analysis and  
44 the Board needs to take this into consideration when you  
45 deal with this part of the proposal. And we want to make  
46 it very clear that we're only meaning on the left side,  
47 okay.

48

49 Thank you.

50

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1 CHAIRMAN DEMIENTIEFF: Thank you, Dan.  
2 Staff recommendation.

3

4 MR. GERHARD: Thank you, Mr. Chair. I  
5 seem to have another fairly lengthy Staff Committee  
6 recommendation so if you'll bear with me but I think it's  
7 important to go through this in a bit of detail because  
8 the Staff Committee did not reach consensus on this  
9 recommendation.

10

11 The majority of the members would modify  
12 the proposal to exclude burbot as recommended by the  
13 Southcentral Council. However, the majority Staff  
14 Committee would reject that portion of the Southcentral  
15 Council's recommendation which supported a positive C&T  
16 determination for all residents of the Cook Inlet area,  
17 instead to modify the proposal recognizing two districts  
18 with modifications of the C&T determinations as stated in  
19 the justification below.

20

21 A minority viewpoint favors deferring the  
22 C&T determination for fish in the Cook Inlet area until  
23 additional information on Kenai Peninsula rural community  
24 use area and customary and traditional use is obtained.  
25 This viewpoint is consistent with the recommendation of  
26 the Bristol Bay Council which feels that there is  
27 insufficient data collected and written in the analysis  
28 that could justify a positive C&T determination for  
29 residents of Tuxedni Bay for the west side Cook Inlet  
30 district.

31

32 This recommendation is found on Page 3 of  
33 Tab A in your booklet and I won't read the proposed  
34 regulatory language completely but I will point out that  
35 the recommendation of the majority would have C&T finding  
36 for the west side Cook Inlet district for fish other than  
37 grayling and burbot for residents of the west side Cook  
38 Inlet district and Ninilchik and Seldovia.

39

40 And for the Kenai Peninsula district,  
41 again, for fish other than grayling and burbot, the C&T  
42 finding would be for residents of the Kenai Peninsula  
43 district except for Halibut Cove, Jakolof Bay, Nanwalek  
44 and Port Graham and for both there would be no  
45 subsistence priority for grayling and burbot.

46

47 The justification for the majority  
48 viewpoint, the data for the ADF&G household surveys have  
49 shown a consistent level of use for salmon, Dolly Varden  
50 and Rainbow trout and char by rural residents of the

00085

1 named communities and areas. The Staff Committee  
2 majority recognizes that the Regional Council did not  
3 recommend separate determinations for the Kenai Peninsula  
4 and western Cook Inlet districts. The two separate use  
5 areas represented as districts were recommended based on  
6 the data available showing where the use of these species  
7 occurred. Although data shows household use of these  
8 species in Port Graham and Nanwalek, there is no  
9 documentation or direct testimony about their use of  
10 Federal waters in either district. Documentation of the  
11 use of these species or the locations of their use is not  
12 available for the residents of Halibut Cove and Jakolof  
13 Bay.

14

15 Now, moving to the minority viewpoint,  
16 justification is that Staff and Southcentral Council  
17 recommendation to recognize that most of rural Kenai  
18 Peninsula communities have customary and traditional use  
19 of all freshwater fish species except for grayling and  
20 burbot. Burbot throughout the Kenai Peninsula area is  
21 overly broad. The information available for the analysis  
22 is not specific enough to establish that each of the  
23 freshwater fish species has been customarily and  
24 traditionally used in all portions of the Peninsula by  
25 each of the included communities. More likely there are  
26 use patterns that are more localized by drainages in  
27 proximity to the communities and which may differ between  
28 communities as to the species customarily and  
29 traditionally used. The pending community survey effort  
30 to obtain more specific information on the locations,  
31 species, methods and timing of freshwater fishing by  
32 rural residents of the Kenai Peninsula for the purpose of  
33 establishing appropriate regulations for seasons, harvest  
34 limits and methods will also provide information useful  
35 for determinations of customary and traditional uses.  
36 The C&T determinations by the Board for this area should  
37 be deferred until this additional information is  
38 available.

39

40 Deferral of the C&T determinations at  
41 this time will not adversely affect rural subsistence  
42 users on the Kenai Peninsula. Under existing  
43 regulations, these rural residents will be able to  
44 subsistence fish under whatever subpart D regulations  
45 seasons, harvest limits and methods that the Board  
46 adopts. The opportunities for Kenai Peninsula rural  
47 residents to fish under Federal subsistence regulations  
48 will be identical for the included communities whether  
49 the Board makes a C&T determination or defers.

50

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1 Mr. Chair, that concludes the Staff  
2 Committee recommendation.

3  
4 CHAIRMAN DEMIENTIEFF: Discussion.

5  
6 MR. EDWARDS: Mr. Chairman.

7  
8 CHAIRMAN DEMIENTIEFF: Gary.

9  
10 MR. EDWARDS: I have a question both for  
11 Staff and for the State and if you both could maybe  
12 further elaborate on the availability of data on  
13 subsistence use patterns of specific rural communities  
14 for salmon and trout on Federal lands on the Peninsula.  
15 Pat, in your presentation you covered it in some detail  
16 with a lot of data supporting the use of various fish  
17 species by those various communities but I didn't hear a  
18 whole lot about the amount of use by communities that  
19 occurred on either the Kenai National Wildlife Refuge or  
20 the National Forest on the Peninsula.

21  
22 MS. PETRIVELLI: The data that was used  
23 to document the use of the resources was from the ADF&G  
24 household surveys. And then as far as locations goes,  
25 the most recent survey available -- well, a recent survey  
26 was recently completed in 1998 of the lower Peninsula  
27 communities and they did -- they surveyed people about  
28 where they fished and what that use covered was the year  
29 1998 and it showed a limited use of Federal lands or  
30 Federal waters on the Kenai Peninsula. And that limited  
31 use is because subsistence fishing wasn't permitted. It  
32 has not been permitted. So the main areas where they  
33 fished were the personal use fisheries at the mouths of  
34 the rivers and then the second main area -- obtaining  
35 fish was rod and reel and the tables in the Fish and Game  
36 studies showed that there was very limited use of Federal  
37 lands for that. So they probably did fish closer to  
38 their home.

39  
40 MR. EDWARDS: What about any historical  
41 data prior to 1950?

42  
43 MS. PETRIVELLI: I don't think there's  
44 any data available that shows location of use. I think  
45 the data shows that people fished for salmon and fished  
46 for other fish. There is archeological evidence and then  
47 there's -- with interviews, with oral histories of the  
48 Kenaitzes and the Ninilchik people. There were fish  
49 camps along the Kenai Peninsula in the freshwater  
50 locations and people used those areas upland but then the

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1 regulatory restrictions after that is just the oral  
2 histories and the traditions of pre-1952.

3

4 MR. EDWARDS: Terry, I also wanted to  
5 direct that question to the State.

6

7 MR. HAYNES: Mr. Chairman, another piece  
8 of data that we did not have time to investigate for the  
9 same study that Pat refers to in 1998, there was another  
10 set of maps developed that showed areas used for the past  
11 10 years by the five communities that were studied and we  
12 -- this question was raised to us only yesterday and we  
13 just didn't have time to look at that information. There  
14 is also another report that includes some information for  
15 Hope and Cooper landing in a draft technical report that  
16 includes maps that have been provided to the Office of  
17 Subsistence Management and I didn't have access to that  
18 yesterday to review that information. So we agreed that  
19 the available information doesn't show extensive use of  
20 waters under Federal jurisdiction by these communities.

21

22 We also would point out that when we look  
23 back to what the Kenai Peninsula looked like in the  
24 1950s, it was a very different place. Some of the rural  
25 communities currently present weren't there in the 1950s.  
26 Some of the communities have changed dramatically because  
27 the Kenai Peninsula was developing as an industrial area  
28 and so it was becoming a very different type of place.  
29 We don't know exactly what effects the closure of some of  
30 the uses in the 1950s really had on the fisheries. We  
31 believe there is a need to try and better understand what  
32 kind of transitions have taken place in those fisheries.  
33 And the idea of getting more information to compliment  
34 what we already have, I think, would help us answer some  
35 questions that are on the table right now.

36

37 MS. GOTTLIEB: Mr. Chair.

38

39 CHAIRMAN DEMIENTIEFF: Yes.

40

41 MS. GOTTLIEB: Question also for Terry.  
42 I guess I'm not clear on how -- I thought you said  
43 earlier, if we adopt the C&T determination it complicates  
44 the information gathering. I wonder if you could explain  
45 that a little bit more, please.

46

47 MR. HAYNES: In my observation over the  
48 years in how C&T determinations are made. If the Board  
49 makes determinations today and we proceed with a study to  
50 evaluate what constitute customary and traditional uses

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1 and that information comes up with some different  
2 conclusions it can be difficult to change the existing  
3 determinations and I guess the point is, does the Board  
4 feel comfortable with the information available to make  
5 changes to the C&T determinations today and if so, does  
6 it make sense for us to go ahead and do another study  
7 that's been recommended as being something that is going  
8 to be useful for this purpose. So we're concerned about  
9 proceeding with a new study if the Board makes changes to  
10 C&T determinations today because there is a reluctance  
11 unless you have -- go through a long process of changing  
12 those determinations once they've been made.

13

14 CHAIRMAN DEMIENTIEFF: Gary.

15

16 MR. EDWARDS: I have a question for  
17 Ralph. And Ralph, to some extent I think you may have  
18 already answered this but as the Council discussed and  
19 debated this issue, I mean did you feel that you had  
20 adequate information available to look kind of at each  
21 community involved and try to judge it based upon its use  
22 pattern and I guess as you've sort of indicated and maybe  
23 in lack of that data you sort of fell back on your view  
24 of trying to be inclusive as opposed to exclusive.

25

26 MR. LOHSE: Mr. Chair, one thing like  
27 I've pointed out before, our Council is made up of rural  
28 residents from different areas in the Southcentral. We  
29 have a tendency to rely on people who live in the area  
30 that were under discussion. A question that I have that  
31 kind of points out why we look at this more as a unit is  
32 how many years has the Kenai Peninsula had commercial  
33 fishing vessels and powerboats? How many years has it  
34 been a commercial fishery down there? How many years has  
35 it had roads? The people in the Kenai Peninsula haven't  
36 been static for a long time. And as one of our  
37 Councilmembers pointed out, that while he lives on the  
38 Kenai Peninsula, as a commercial fisherman when he had  
39 his own powerboat he took subsistence fish on the west  
40 side of Cook Inlet when he was over there commercial  
41 fishing. If anybody comes from an area that has  
42 commercial fishing where the communities live by  
43 commercial fishing, you know that the majority of their  
44 subsistence salmon take for lack -- or even halibut,  
45 comes right out of the commercial fishery. People take  
46 it out of the same fish that they catch for sale and they  
47 take a portion of it for their own subsistence use.

48

49 And the Kenai Peninsula has had a  
50 commercial fishery going on it for a long time and people



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1 from all the different communities have taken part in  
2 that commercial fishery. And people from all those  
3 different communities have taken salmon all over Cook  
4 Inlet and those salmon that ended up back in their own  
5 homes. And that was the reason that we, as a Council  
6 looked at it as an inclusive thing instead of an  
7 exclusive thing, then we take a look at the freshwater,  
8 we take a look at the road system, the Kenai has been one  
9 of the areas that's had a road system for longer than any  
10 place in the state. The Kenai is one of the longest  
11 settled areas of the state and so mobility has always  
12 been a part of the communities on the Kenai. Does that  
13 answer some of your questions.

14

15 MR. EDWARDS: I appreciate that. I guess  
16 part of the question, though, then to expand on it, you  
17 know, as it applies, let's say, to Federal waters up on  
18 the Refuge or on the forest. You know, I guess my  
19 assumption would be that those commercial fishermen had  
20 that mobility that you suggested but would that extend,  
21 you know, further up the Peninsula?

22

23 MR. LOHSE: It probably wouldn't extend  
24 up into the forests where you're talking about. There's  
25 where you're going to have to look at the impact of the  
26 road system and the mobility of the community since the  
27 road system has been in. We talk about customary and  
28 traditional and we've discussed it as a Council. And  
29 customary and traditional doesn't necessarily have to be  
30 thousands of years old. It's nice if it is. But  
31 customary and traditional sometimes means a much shorter  
32 time period, at least we've used that term to apply to a  
33 much shorter time period. And I guess, like I said, the  
34 feeling of our Council has been and from the members who  
35 have lived down there, the feeling of the Council has  
36 been that subsistence is an opportunistic activity. If  
37 you're someplace doing something else you have a tendency  
38 to take what's available where you are. If you're  
39 commercial fishing on the west side of Cook Inlet and you  
40 have the opportunity to take a king salmon home, you do.  
41 If you're up moose hunting up in Skilak and you have an  
42 opportunity to take some rainbow trout home, you do. And  
43 that's part and parcel being subsistence.

44

45 Thank you.

46

47 MS. HILDEBRAND: Mr. Chairman.

48

49 CHAIRMAN DEMIENTIEFF: Yes.

50

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1 MS. HILDEBRAND: Mr. Chairman, Ida  
2 Hildebrand, BIA Staff Committee member. I am concerned  
3 that there's such a great emphasis stating that we need  
4 more data to prove that these people even use these  
5 resources. These Kenai people were the first people in  
6 this area since there were people in this area. There  
7 was no great amount of study done when they took away  
8 their rights in 1952 and to give them back their rights  
9 in 2002, it, in my opinion, goes beyond the pale.

10

11 MS. GOTTLIEB: Mr. Chair.

12

13 CHAIRMAN DEMIENTIEFF: Yes.

14

15 MS. GOTTLIEB: I guess what's confusing  
16 to me is we approach C&T in two different ways. Earlier  
17 today we had discussions starting with the small group of  
18 communities that had C&T and due to information that was  
19 brought forward by the Councils and others we added some  
20 communities. My understanding with this current  
21 regulation, fishing for these resources C&T right now is  
22 for all rural residents. And so I believe the request  
23 is, in a sense, a restriction to the residents who have  
24 more of a history of C&T in the region. Just add that  
25 for discussion.

26

27 MS. GREGORY: Mr. Chairman, can you  
28 explain C&T for those of us who don't know?

29

30 CHAIRMAN DEMIENTIEFF: Wait a minute.  
31 What I want to talk about is -- and I think we have a  
32 record of doing that, in particular, on the Kenai and  
33 particularly when we were going through the areas to make  
34 C&T findings six and a half years ago or whenever it was.  
35 So your point is a very valid point in this case, Judy.  
36 And most all the Board at that time participated in those  
37 discussions and it's a very valid discussion. How far  
38 did they go for what species? So it's just a very valid  
39 point and I just wanted to point that out. Now, with  
40 regard to your question, I think we'll have some  
41 discussion on that later in this meeting. Any other  
42 discussion.

43

44 MR. CAPLAN: Mr. Chairman, just a  
45 question and this is for Staff Committee, were you aware  
46 of -- since we have already given rural users a priority  
47 for the Kenai, are you aware of rural users from --  
48 subsistence from other parts of the state significantly  
49 interfering with or offsetting the take by people already  
50 living on the Kenai?

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1 MR. GERHARD: I'm not sure if that's a  
2 question to Staff Committee or Staff but I'll give it a  
3 shot from the Staff Committee, I don't know of any cases.  
4

5 MR. CAPLAN: How about ADF&G, have you  
6 heard of any of those instances where subsistence users  
7 from the Kenai are struggling to get the resources they  
8 need as a result of others from other parts of the state  
9 coming down?

10  
11 MR. HAYNES: Mr. Chairman, we haven't  
12 heard of any instances like that.

13  
14 MR. CAPLAN: How about any of the folks  
15 who testified earlier, any question as to whether or not  
16 -- I realize that people are concerned that there is a  
17 scarcity of resource but this is a question about  
18 competition for resource.

19  
20 MS. HILDEBRAND: Mr. Caplan, if I may.

21  
22 MR. CAPLAN: Thank you.

23  
24 MS. HILDEBRAND: It isn't a matter of  
25 rural subsistence users from other parts of the state  
26 impacting subsistence users on the Kenai Peninsula, it's  
27 State subsistence users who are impacting the rural  
28 subsistence users on the Kenai Peninsula.

29  
30 CHAIRMAN DEMIENTIEFF: Bill, did you have  
31 something?

32  
33 MR. THOMAS: Yeah, Mr. Chairman. I was  
34 trying to think of an appropriate place to express a  
35 concern. I spotted a new red flag today and that has to  
36 do with the minority opinion and majority opinion. Now,  
37 I don't know what process is used at Staff Committee  
38 level but if they're using adopted parliamentary  
39 procedures, the prevailing vote is greater than 50  
40 percent of those present, that is what is to be  
41 considered. Those that were in part of that group that  
42 didn't prevail, then turns their support to the majority.  
43 By bringing it to this level advertising the majority and  
44 minority could have some real negative results at this  
45 level and with the public. And so I was wondering what  
46 brought this to illustrate the minority and majority  
47 opinions as Staff Committee level?

48  
49 CHAIRMAN DEMIENTIEFF: It's merely the  
50 way the Staff Committee operates. The Staff Committee is

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1 not a policymaking body. The Staff Committee's work is  
2 to go out and gather information. You, at the Regional  
3 Council levels and we at the Board level, in our system,  
4 are the policymakers, and that's where your up or down  
5 vote would come in. But then their job is to bring the  
6 information to the policymakers, okay, and that's exactly  
7 what they did was their job.

8

9 MR. THOMAS: Okay.

10

11 CHAIRMAN DEMIENTIEFF: Other discussion.

12 Dan.

13

14 MR. O'HARA: When Mr. Bahr, I believe was  
15 his name, was giving his testimony, he said some things I  
16 think that probably -- I thought it was kind of funny  
17 when he said that he's glad to see all these Natives on  
18 the Federal Board and that probably is not quite true, is  
19 it, there's only one Native on the Federal Board. Anyway  
20 -- well, that's a big improvement, yeah, oh, two, where  
21 is he? I'm sorry, I apologize. I humbly apologize.

22

23 But anyway, he took a pretty good shot at  
24 State of Alaska. And sometimes we have to sit here and  
25 just take the punishment along with all these things but  
26 I think in probably fairness, the Kvichak has completely  
27 been failing for years and no one even knows why. The  
28 State of Alaska, the Feds, or the local people or  
29 anything. Last year there wasn't a net in the water in  
30 the Kvichak from Toyko, Japan all the way to Graveyard  
31 Point where the marker is at, Mr. Chairman, and the it  
32 just never did come back. So sometimes we just don't  
33 know. In fairness, I think, to all parties, these things  
34 happen sometimes.

35

36 Thank you.

37

38 MS. GREGORY: Mr. Chairman.

39

40 CHAIRMAN DEMIENTIEFF: Yes.

41

42 MS. GREGORY: I may be out of line but we  
43 have a solicitor here that can keep us in line, but I  
44 wanted to say before Mr. Bahr brought it up that I wanted  
45 to remind the Staff Committee the reason why you're  
46 working is because of my benefit as a Native person to  
47 protect my way of life and don't you forget that.

48

49 MS. CROSS: Mr. Chair.

50

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1 CHAIRMAN DEMIENTIEFF: Yes, Grace.

2

3 MS. CROSS: Somebody was questioning how  
4 come certain areas where they have all rural residents  
5 with C&T and they were wondering do we ever go backwards.  
6 In my region we have C&T for all residents of 22, which  
7 is very overly inclusive in many respects because each of  
8 the communities that we have and we have very few  
9 communities in 22, each one of us has our own hunting  
10 areas, we have our own fishing areas, it's just that when  
11 the State of Alaska came and started making C&T for us  
12 without consulting with us they made it overly exclusive  
13 and now we're trying to go back to where our hunting  
14 grounds are and return them to their rightful owners and  
15 we're having a difficult time. Say, for example, the  
16 communities that are very close like Elim and Golovin,  
17 both of them have different hunting areas mainly because  
18 there is mountains in between them. Even communities as  
19 close as Teller and Brevig Mission, they both have their  
20 hunting -- both of them have their hunting and fishing,  
21 traditional hunting and fishing areas and it has a lot to  
22 do with what your barriers are.

23

24 So if there are groups of people that are  
25 trying to get their hunting rights back you got to kind  
26 of remember, we were not involved in the decisioning  
27 process when C&T determinations were made. We are now  
28 trying to get what is back to us, we're not trying to  
29 turn away people we're just trying to get our own  
30 traditional hunting rights be recognized.

31

32 Thank you.

33

34 CHAIRMAN DEMIENTIEFF: Yeah, it's a good  
35 point. I mean if a region were to bring an area to us  
36 that would refine, based on local knowledge, if a  
37 Regional Council did that, certainly there's nothing to  
38 prevent the Board, you know, from refining that down.  
39 Now, let me ask another question, between Northwest and  
40 Western, they still haven't resolved black bear C&T, have  
41 we; not that I recall?

42

43 MR. SAM: I thought we did, Mr. Chairman,  
44 but it's been quite a while since we really discussed it.

45

46 CHAIRMAN DEMIENTIEFF: The Councils were  
47 trying to work on it and just about that time is when  
48 Koyukuk River moose heated up and I just don't know that  
49 we have. But that was part of the problem that we had  
50 there. That certainly there was use across the Regional

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1 Council boundary use but such a huge area in some areas.  
2 But as I recall, that was part of the thing that hung it  
3 up was the fact that I think it involved Eastern, Western  
4 and Northwest and I just don't think we completed the  
5 work, I may be wrong. But I think that's what held it up  
6 because it's such a huge area.

7

8 So we've gone on and been doing other  
9 things since then and I just don't think that we've  
10 resolved that yet. Bert, do you know anything about  
11 that?

12

13 MR. GRIEST: No, it's been awhile back.

14

15 MR. COLLINS: Mr. Chairman.

16

17 CHAIRMAN DEMIENTIEFF: Yes.

18

19 MR. COLLINS: I know we were discussing  
20 some of that on the Lower Kuskokwim at one point and when  
21 the Western Interior was looking at that we purposely  
22 chose -- recommended against finding a C&T because black  
23 bear you can hunt year-round with a very liberal bag  
24 limit and so there wasn't any need to do it. It seems to  
25 be that some of those earlier determinations were made  
26 because the resource was more plentiful and doesn't need  
27 to be restricted and when it does you need to go back and  
28 revisit it, why should you close off a subsistence  
29 opportunity if there's no need. I mean people are pretty  
30 generous with allowing their neighbors to come in and  
31 share resources except when they become strained, you  
32 know, in shortage. So that's kind of a principle, I  
33 think, will have to be followed in some of these things  
34 on the C&T, you can be more generous if there's an  
35 abundance but when there's a shortage you have to look at  
36 it more closely.

37

38 Just a general comment.

39

40 CHAIRMAN DEMIENTIEFF: I recall you  
41 worked on that as well, Ray. I don't think we've ever  
42 resolved that totally. Because it's such a broad area  
43 and because we didn't have real good use. We know there  
44 is use at certain border areas but it's been limited to  
45 certain border areas, we just haven't been able to  
46 complete that work and I think it's been five or six  
47 years.

48

49 MR. CESAR: Mr. Chairman.

50

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1 CHAIRMAN DEMIENTIEFF: Niles.

2

3 MR. CESAR: Could we have a five minute  
4 break before we go so far afield we can't get back?

5

6 CHAIRMAN DEMIENTIEFF: Yes.

7

8 (Off record)

9

10 (On record)

11

12 CHAIRMAN DEMIENTIEFF: Let's get on with  
13 our work here. We'll call the meeting back to order. I  
14 really apologize but at least talk to my Board about  
15 where we're going in terms of this discussion. And the  
16 fact of the matter is that we have two regions with  
17 different recommendations, we have the Southcentral  
18 Regional Council who is definitely impacted and we have  
19 Bristol Bay who definitely has an impact. So there are  
20 issues that need to be resolved and the fact is that  
21 there's work that needs to be done. And I know I crossed  
22 over into the game side but we have more of a history and  
23 we've done that in the past. We've waited longer than  
24 three years that this proposal's been on the table and  
25 it's still not done. It's been on the table ever since I  
26 think I've been on the Board. So it's not that uncommon,  
27 it's just something that has to be done because there are  
28 more than one regional interest in here. And for that  
29 reason, I'm tending to support the motion and get on with  
30 the work that needs to be done. Oh, we didn't get a  
31 motion. Well, as soon as somebody makes a motion.....

32

33 MR. EDWARDS: Mr. Chairman, not really  
34 knowing which.....

35

36 CHAIRMAN DEMIENTIEFF: Depending on what  
37 he says.

38

39 MR. EDWARDS: .....way you may or may not  
40 vote, I'm still going to make my motion. I certainly  
41 think that the Kenai presents a lot of unique  
42 characteristics and issues as it applies to trying to  
43 address the issue of C&T. As pointed out it has a very  
44 broad distribution of rural communities through a large  
45 area which also has a large population of non-rural  
46 communities. As was pointed out, it has been an area  
47 with a high rate and an easy access for the residents  
48 there for many, many years and it also is further  
49 complicated by the fact that for over 50 years or at  
50 least 50 years there's been a lot of restrictions which

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1 may or may not have dictated how people would or would  
2 have not used the waters available. And while I agree  
3 with Ralph, I'm sure that from time to time because of  
4 the easy mobility people did travel distances and  
5 incidentally when they were hunting moose threw a rod and  
6 reel in or a net or whatever and took advantage of the  
7 fisheries. I think the question remains, does that  
8 constitute the level of the community use that would  
9 warrant, you know, kind of a broad approach to issuing  
10 C&T, and certainly as a Board we want to try to ensure  
11 that individuals that do have a tie to the resources in a  
12 particular location have the opportunity to do that and  
13 we should try to move forward as expeditiously as  
14 possible.

15

16 But saying that then, Mr. Chairman, I  
17 would move that for Proposal 11a through 14a, that we  
18 would move to defer and remind back to the councils until  
19 a community survey has been proposed and suggested are  
20 completed and a more complete examination of historical  
21 use of Federal waters such as the fresh waters on both  
22 the National Wildlife Refuge and the National Forest can  
23 be made.

24

25 MR. CAPLAN: Mr. Chairman, I'd second  
26 that motion.

27

28 CHAIRMAN DEMIENTIEFF: Okay. Again, I'll  
29 just note now that we have a motion that we do have two  
30 different Regional Council recommendations, they're both  
31 impacted. And for that reason until those differences --  
32 solutions can be resolved between the two regions, I  
33 intend to support the motion to defer. That's the main  
34 reason. Yes.

35

36 MR. NICHOLIA: I'd like to suggest to you  
37 and the Board, that those two Regional Councils sit down  
38 together and hash out this deal.

39

40 CHAIRMAN DEMIENTIEFF: Yeah, that's  
41 usually what we do.

42

43 MS. GOTTLIEB: Mr. Chairman.

44

45 CHAIRMAN DEMIENTIEFF: Yes.

46

47 MS. GOTTLIEB: I'd just note for the  
48 record we are also talking about Lake Clark National Park  
49 to be included in the discussions.

50



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1 CHAIRMAN DEMIENTIEFF: Right. Right.  
2 Any other discussion.

3

4 MR. BRELSFORD: Mr. Chairman, thank you.  
5 I'm prepared to support the motion to defer. I believe  
6 that Tom Boyd referred to the big picture here that we  
7 need to proceed cautiously and systematically towards  
8 providing the subsistence opportunities on the Kenai  
9 Peninsula. I believe the BLM has learned in the last  
10 several years that an incomplete analytic basis and a  
11 dramatic change in Board actions has far-reaching  
12 consequences and it is much better to avoid a temporary  
13 solution and instead to work forthrightly for a solution  
14 that will endure. So I think that community surveys that  
15 would allow us to address use areas and harvest levels  
16 concurrently in the next year would be a far better  
17 solution.

18

19 Thank you.

20

21 CHAIRMAN DEMIENTIEFF: Yes. Are we ready  
22 to vote -- all those in favor of the motion signify by  
23 saying aye.

24

25 IN UNISON: Aye.

26

27 CHAIRMAN DEMIENTIEFF: Those opposed,  
28 same sign.

29

30 (No opposing votes)

31

32 CHAIRMAN DEMIENTIEFF: Motion carries.  
33 11b through 14b.

34

35 MR. BUCKLIS: Mr. Chairman, Larry  
36 Bucklis, Office of Subsistence Management. The Staff  
37 analysis for 11b through 14b can be found on Page 45 of  
38 your Board book. These four proposals address related  
39 aspects of harvest regulations for the Cook Inlet area.  
40 Pat highlighted what is requested in each of these  
41 proposals and presented the C&T portion of the analysis.  
42 Consistent with the C&T analysis, shellfish is being  
43 deferred until the next regulatory cycle. I'm presenting  
44 the harvest regulation portion of the analysis. Proposal  
45 11b is the broadest of these four proposals. The  
46 analysis addresses 11b and the related aspects of the  
47 other three proposals.

48

49 The proposed regulatory changes in  
50 context with the C&T analysis would allow the take of

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1 salmon, Dolly Varden, trout and char for subsistence  
2 purposes at any time by qualified Federal users without  
3 specific harvest limits or methods and means  
4 restrictions.

5  
6           Looking at a map of the Cook Inlet area  
7 I'll point out in a moment the primary Federal public  
8 lands involved where these regulations would be applied.  
9 It would include the Kenai National Wildlife Refuge,  
10 portions of the Chugach National Forest, a portion of  
11 Lake Clark National Park and Preserve, a portion of  
12 Denali National Park and Preserve and a very small piece  
13 of the Alaska Maritime National Wildlife Refuge,  
14 specifically Tuxedni Bay. So I'll point those areas out  
15 now.

16  
17           Current State regulations allow the take  
18 of salmon for subsistence purposes in limited marine  
19 water locations in Cook Inlet and Dolly Varden in the  
20 freshwater systems of the Port Graham subdistrict.  
21 Subsistence fishing has not been allowed for decades in  
22 the freshwater areas now also under Federal subsistence  
23 fisheries management jurisdiction. Current Federal  
24 regulations do not allow the take of salmon, Dolly  
25 Varden, trout, grayling, char and burbot for subsistence  
26 purposes in the Cook Inlet area.

27  
28           The C&T analysis recommended a positive  
29 finding for salmon, Dolly Varden, trout and char but a no  
30 subsistence determination for grayling and burbot. Most  
31 of these fish stocks are heavily utilized in existing  
32 fisheries. The regulatory changes as proposed in  
33 Proposal 11b do not provide sufficient harvest controls  
34 for stock conservation. The existing fisheries provide  
35 opportunity to take fish for home use. However, the  
36 commercial, sport and personal use fisheries do not have  
37 the priority use designation of the subsistence fishery.

38  
39  
40           An interim step is warranted to allow  
41 limited subsistence opportunity while needed information  
42 gathering and further analysis continues. Such an  
43 interim step would be to allow the take of salmon, Dolly  
44 Varden, trout and char under the authority of a Federal  
45 subsistence fishing permit. But with seasons, harvest  
46 and possession limits and methods and means, the same as  
47 for the taking of fish under the State of Alaska  
48 sportfishing regulations. This approach would open  
49 subsistence opportunity but likely will not result in  
50 additional overall take since users have been able to

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1 obtain these levels of harvest through the existing  
2 fisheries. A State of Alaska sportfishing license would  
3 not be required to take fish under these Federal  
4 subsistence regulations. Subsistence permits would be  
5 required to monitor harvest and participation and for  
6 purposes of enforcement.

7

8 Tom Boyd, earlier described the next  
9 steps approach in information gathering that is needed in  
10 support of further regulatory development. And I would  
11 comment that Proposal 11b through 14b, which we now have  
12 in hand provide a range and scope of potential regulatory  
13 change regarding subsistence fishing season dates and  
14 harvest limits and methods and means within which such  
15 regulations could be developed.

16

17 Thank you, Mr. Chairman.

18

19 CHAIRMAN DEMIENTIEFF: Thank you.

20 Written public comments.

21

22 MS. WILKINSON: Mr. Chairman, there were  
23 three. Ms. Nancy Hilstrand wrote that Proposal 11 does  
24 not consider biological integrity, sustainability or  
25 reproductive strategy of the fish. State and Federal  
26 management have made major mistakes by not taking into  
27 consideration the biological priorities of each species.  
28 The subsistence take of wild fish cannot be sustained  
29 without thoughtful consideration of individual species,  
30 their habits and interrelationships throughout the life  
31 cycle.

32

33 The United Fishermen of Alaska do not  
34 concur with the proposal for unlimited fish and shellfish  
35 harvest and recommend that seasonal harvest limits be  
36 established to reflect legitimate needs.

37

38 The Cooper Landing Fish and Game Advisory  
39 Committee wrote that the present regulations provide  
40 ample opportunity for harvest. For fisheries  
41 conservation reasons, the Cooper Landing Advisory  
42 Committee opposes any rural subsistence harvest in their  
43 area at this time.

44

45 Thank you.

46

47 CHAIRMAN DEMIENTIEFF: Thank you.

48 Department comments.

49

50 MR. HAYNES: Mr. Chairman, before Doug

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1 reads our comments into the record, I do have a question,  
2 given the Board deferred action on Proposals 11a through  
3 14a, given that the current customary and traditional  
4 determinations for the Cook Inlet area exclude salmon,  
5 Dolly Varden, trout, char, grayling and burbot, I'm  
6 trying to sort out which species, if any of the species  
7 that are listed as being eligible for harvest in  
8 Proposals 11b through 14b, if all of those species  
9 currently have a customary and traditional use  
10 determination so we're trying to sort out if, given the  
11 action was deferred on the customary and traditional use  
12 portion of the proposal, if there needs to be some  
13 modification made to the season and bag limit portion  
14 before us now.

15

16           The current customary and traditional  
17 determination for the Cook Inlet area, all fish, other  
18 than salmon, Dolly Varden, trout, char, grayling and  
19 burbot, residents of the Cook Inlet area, so it sounds as  
20 though, at least, some of the species listed in this  
21 proposal, there is no Federal customary and traditional  
22 use determination so the question is could there be a  
23 season and bag limit established for those species. I  
24 don't know if I'm making my point clear but there's  
25 something.....

26

27           CHAIRMAN DEMIENTIEFF: Tom, go ahead.

28

29           MR. BOYD: I'm looking over my shoulder  
30 at Bill Knauer, our regulations specialist for a cue  
31 here, but in the absence of a determination we have what  
32 we call no determinations and the Federal regulations  
33 then allow for all rural residents to participate when  
34 there are no determinations. So that's sort of a long  
35 way of saying yes, you can establish seasons and harvest  
36 limits for all rural residents.

37

38           CHAIRMAN DEMIENTIEFF: If we had a  
39 proposal to do so?

40

41           MR. BOYD: Yes.

42

43           CHAIRMAN DEMIENTIEFF: Which we don't  
44 have on the table.

45

46           MR. BOYD: Yes, we do, that's what's on  
47 the table, Mr. Chair.

48

49           MR. VINCENT-LANG: I'll read the  
50 Department comments. The Department is neutral with

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1 respect to using sportfishing regulations as a temporary  
2 baseline for Cook Inlet Federal subsistence fisheries.  
3 We believe that long-term regulations for this and other  
4 areas should include a determination in the amounts  
5 necessary for subsistence uses of each stock for  
6 subsistence users in this area. We support the Staff  
7 Committee recommendation that a Federal subsistence  
8 permit be required for these fisheries if you adopt this  
9 proposal. The harvest and effort information that would  
10 be collected is necessary for conservation and  
11 responsible management of these fully utilized fisheries.  
12

13           We do have several implementation  
14 questions regarding the Staff Committee recommendation.  
15 The Board of Fisheries is currently or will be reviewing  
16 the sportfishing regulations for the Cook Inlet basin  
17 this winter and may make changes to the current  
18 regulation. Is it in the intent of the Federal  
19 Subsistence Board, if it adopts these proposals, to use  
20 last years or next years regulations as the baseline for  
21 the Federal subsistence regulations. Also the maps  
22 depicted in Staff analysis that depict waters under  
23 Federal jurisdiction do not clearly indicate which waters  
24 of the Kenai River are under Federal jurisdiction.  
25

26           CHAIRMAN DEMIENTIEFF: The Board hasn't  
27 met yet to do that?

28  
29           MR. VINCENT-LANG: No, they'll be meeting  
30 in February.

31  
32           CHAIRMAN DEMIENTIEFF: We'll take that up  
33 again under discussion here. We have no request for  
34 public testimony at this time. Regional Council  
35 recommendation, Ralph.

36  
37           MR. LOHSE: Mr. Chair.

38  
39           CHAIRMAN DEMIENTIEFF: Yes.

40  
41           MR. LOHSE: Our Regional Council  
42 supported this proposal with modification to accept the  
43 Staff recommendation that seasons, harvests, methods and  
44 means be consistent with the State's sportfishing season.  
45 The Council is not satisfied with putting subsistence  
46 fisheries under the sportfish regulations, however, they  
47 see this as the first step of setting subsistence  
48 regulations appropriate to customary and traditional use.  
49 And the Council appreciates this initial step and thinks  
50 it will provide a subsistence priority if further

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1 restrictions become necessary.

2

3 I do have a question myself in line with  
4 the same question that was being asked by the State and  
5 that's, I was under the impression that with No. 11a, we  
6 were doing two things that we were deciding who had a C&T  
7 and what fish qualified for -- what we were talking about  
8 for a C&T. In other words, what fish were part of the  
9 subsistence catch. Because I was under the impression  
10 that salmon, Dolly Varden, trout and char were not  
11 classed as a subsistence fish under current Federal  
12 regulations. And I may be wrong on that but that was  
13 what my understanding was and if they're not classed as a  
14 subsistence fish under current Federal regulations then  
15 to set a season for them didn't make sense to me either.  
16 But maybe I have a misunderstanding there.

17

18 Thank you.

19

20 CHAIRMAN DEMIENTIEFF: Ralph, you can  
21 bring that question back in a minute. I think Staff  
22 Committee recommendation have been advised to address  
23 some of those issues so let's go ahead and go to that  
24 right now.

25

26 MR. LOHSE: Thank you.

27

28 MR. GERHARD: Yes, thank you, Mr. Chair.  
29 The Staff Committee recommendation is to adopt the  
30 recommendation of the Southcentral Council which  
31 supported the proposal with the following modifications  
32 which would allow the take of salmon, Dolly Varden, trout  
33 and char under authority of a subsistence fishing permit.  
34 Seasons harvest and possession limits and methods and  
35 means would be the same as for the taking of fish under  
36 State of Alaska sportfishing regulations.

37

38 The proposed regulatory language is found  
39 on Page 6 of your Board book and it follows, in a way,  
40 Proposal 11a, in that, it only -- well, it doesn't add  
41 grayling and burbot as subsistence species. The proposed  
42 regulatory language would say that you may not take those  
43 two species for subsistence purposes so it does follow  
44 that. And the regulatory language dealing with State  
45 regulations doesn't enumerate those regulations but  
46 simply says that the Federal regulations would be the  
47 same as for the taking of fish under State of Alaska  
48 sportfishing regulations. So I hate to speak for the  
49 whole Staff Committee but I believe that would mean that  
50 if the State regulations would change, the Federal

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1 regulation would also change to be consistent.

2

3           The modification of the proposal is  
4 warranted as an interim step to allow subsistence  
5 opportunity while needed information gathering and  
6 further analysis continues on aspects of these proposals  
7 that have not yet been sufficiently addressed. As Larry  
8 mentioned in his presentation, the modification opens  
9 subsistence opportunity but likely will not result in  
10 additional overall take, but subsistence permits would  
11 provide for monitoring and participation and enumeration  
12 of harvest and for purposes of enforcement.

13

14           Mr. Chair, this completes the Staff  
15 Committee recommendation for this proposal. It also  
16 completes my assignment as presenter of the Staff  
17 Committee recommendations, which I gladly pass on to my  
18 next colleague as we move to the next region. Thank you.

19

20           CHAIRMAN DEMIENTIEFF: In the past we've  
21 just dealt with the State regulation that's on the book  
22 and that's certainly what I'd do. I mean we've struggled  
23 for years with some issues trying to line State and  
24 Federal regulations, nothing new. So if we adopt this  
25 recommendation then we would be operating with regulation  
26 -- the State regulation as it exists today.

27

28           Any other discussion. Larry.

29

30           MR. BUCKLIS: Mr. Chairman, I would just  
31 like to comment that the State regulations for the Cook  
32 Inlet area include a lot of different regulations, it's a  
33 very complex fishery management regime, that's why  
34 they're not all listed item by item but they're included  
35 by reference. And so my understanding is that if those  
36 regulations changed, then by reference those are the new  
37 regulations we would be managing under. It's whatever is  
38 currently in place in State regulations at the time the  
39 fishing event is occurring. That is the regulation  
40 regime the fisher would operate under.

41

42           I don't think it was meant to be by  
43 reference to this date and time.

44

45           CHAIRMAN DEMIENTIEFF: For the taking of  
46 fish under the State of Alaska sportfishing regulations  
47 is as they exist at this time, we are not going to defer  
48 the authority -- at least I'm not going to let -- I'll do  
49 everything to fight us deferring authority to the State  
50 to make our regulations, although they would pretty well

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1 love to do that, but that's not -- we have a job to do,  
2 if we adopt the recommendation. Yes.

3

4 MR. GERHARD: Yeah, Mr. Chairman, if I  
5 might and I hope Mr. Knauer can back me up on this but we  
6 currently have in our regulations a statement that State  
7 regulations do apply unless they're inconsistent with the  
8 regulations that we have enumerated. Therefore, as the  
9 State regulations changed, that brings those regulations  
10 into our book. And that this statement was intended to  
11 be the same thing, that in this first year we would adopt  
12 whatever State regulations there happen to be so that if  
13 State regulations changed, this section would not have to  
14 change but those regulations would be implemented.

15

16 Thank you.

17

18 CHAIRMAN DEMIENTIEFF: Keith.

19

20 MR. GOLTZ: In certain circumstances, we  
21 can have concurrent regulations. But in the areas in  
22 which we manage the subsistence regulations we have a  
23 responsibility to do the managing and if all we do is key  
24 off whatever the State does then we've handed that  
25 management over to the State and I would say that we are  
26 permitted to do that under Federal law.

27

28 CHAIRMAN DEMIENTIEFF: That's funny,  
29 we've had that discussion before, actually, you've  
30 brought that recommendation to the Board on other issues.  
31 Terry.

32

33 MR. HAYNES: Thank you, Mr. Chairman. I  
34 think there have been some instances in the wildlife side  
35 where the interest in the Board and particular Regional  
36 Councils was to line up the State and Federal regulations  
37 as closely as possible and if there was a change during  
38 the interim period to the State regulations then there  
39 was a possibility of the Federal Board addressing the  
40 special action request before the season actually started  
41 to bring those regulations into sync if that was the  
42 desire of the Federal Board. That might work in this  
43 case, too.

44

45 CHAIRMAN DEMIENTIEFF: We've done that in  
46 the past. Any other discussion. Ralph.

47

48 MR. LOHSE: After listening to the  
49 proposal as read I see that the species of fish were  
50 mentioned both in Proposal 11a and 11b, so that takes



00105

1 care of the question as to which fish this applies to and  
2 so I thank you for that. Again, like I said before, as a  
3 Council we don't really like the idea of the fact that  
4 we're adopting State regulations but we do see this as  
5 setting up a priority. And if, in the future, there  
6 would be a shortage of fish, what we've done is we've  
7 taken initial steps to state that subsistence have the  
8 priority, even if it was under the same regulation.  
9

10 MS. GOTTLIEB: Mr. Chairman.

11  
12 CHAIRMAN DEMIENTIEFF: Yes.  
13

14 MS. GOTTLIEB: I just wanted to ask,  
15 Ralph, on behalf of the Council, I assume you did discuss  
16 the permit requirement, hopefully that was acceptable to  
17 the Councilmembers?  
18

19 MR. LOHSE: To the best of my  
20 recollection that was acceptable because the idea was  
21 that there would not have to be a State license, there  
22 would be a Federal permit.  
23

24 CHAIRMAN DEMIENTIEFF: Anybody else.  
25

26 MR. EDWARDS: Mr. Chairman, are you ready  
27 for a motion?  
28

29 CHAIRMAN DEMIENTIEFF: Yes.  
30

31 MR. EDWARDS: Mr. Chairman, I move to  
32 adopt Proposals 11 b through 14 b to establish seasons,  
33 harvest limits and methods and means as recommended both  
34 by the Southcentral Regional Advisory Council and the  
35 Interagency Staff Committee.  
36

37 CHAIRMAN DEMIENTIEFF: There's a motion,  
38 is there a second?  
39

40 MS. GOTTLIEB: I'll second it.  
41

42 CHAIRMAN DEMIENTIEFF: Additional  
43 discussion. Yes.  
44

45 MR. NICHOLIA: You know that these people  
46 have been impacted for so long by the Russians and now by  
47 the Americans and stuff, how are they going to establish  
48 C&T, you know? They've been impacted by commercial  
49 fisheries, the Russians, everything, how are they going  
50 to establish it?

00106

1 CHAIRMAN DEMIENTIEFF: We just discussed  
2 we got a lot of work to do, we'll get it done. Terry.

3

4 MR. HAYNES: Mr. Chairman, I just want to  
5 make sure I understand. One of the problems we're having  
6 with the wording of the current customary and traditional  
7 use determination in the regulation book and somebody  
8 will probably be able to clear this up fairly quickly,  
9 the current finding reads all fish other than salmon,  
10 Dolly Varden, trout, char, grayling and burbot, residents  
11 of the Cook Inlet area, for all other fish the  
12 implication is that it would sound as though other --  
13 there was no C&T -- no positive C&T determination for  
14 other fish. I think the intent is that no -- there  
15 should be another line here that just reads that no  
16 determination has been made for other species but I think  
17 that's -- I notice that is the case for a number of other  
18 -- in a number of other areas where you could read this  
19 and assume that there's a negative determination for  
20 other fish when, in fact, the Board hasn't made a  
21 determination. So it says, Mr. Boyd stated earlier that  
22 all rural residents are eligible for the species that  
23 aren't listed here. Did I say it correct?

24

25 CHAIRMAN DEMIENTIEFF: That's correct.

26

27 MR. HAYNES: I think the phraseology here  
28 is just a little bit confusing.

29

30 CHAIRMAN DEMIENTIEFF: Okay, where are we  
31 at here, any more discussion. Any other discussion on  
32 the motion?

33

34 MR. LOHSE: Mr. Chair.

35

36 CHAIRMAN DEMIENTIEFF: Yes.

37

38 MR. LOHSE: What is the motion that's on  
39 the table?

40

41 CHAIRMAN DEMIENTIEFF: To adopt the  
42 recommendation of -- the Regional Council recommendation  
43 and Interagency Staff.

44

45 MR. EDWARDS: And I'm assuming based upon  
46 what you said that would include the permit requirement.

47

48 MR. LOHSE: And that would include  
49 salmon, Dolly Varden, trout and char?

50

00107

1 MR. EDWARDS: Yes.

2

3 MR. LOHSE: Thank you.

4

5 CHAIRMAN DEMIENTIEFF: Any other  
6 discussion. Hearing none, all those in favor of the  
7 motion please signify by saying aye.

8

9 IN UNISON: Aye.

10

11 CHAIRMAN DEMIENTIEFF: Those opposed,  
12 same sign.

13

14 (No opposing votes)

15

16 CHAIRMAN DEMIENTIEFF: Motion carries.  
17 Let's see, we're moving on to Eastern Interior and we  
18 have one proposal, Proposal No. 7. We have one item that  
19 we need to discuss and that'd be FP02-07.

20

21 MR. KRON: Mr. Chairman, members of the  
22 Board, Tom Kron from OSM. First of all, I would like to  
23 thank Gerald Nicholia, the Fairbanks FRO, ADF&G Staff,  
24 Fred Anderson of the National Park Service, Ingrid  
25 McSweeney from BLM and Staff from the Yukon Flats National  
26 Wildlife Refuge for their help with this analysis.

27

28 FP02-07 submitted by YRDFA requests that  
29 Federal subsistence regulations for Beaver Creek be  
30 aligned with State regulations and that increased  
31 opportunity be provided for subsistence users. Beaver  
32 Creek is within the White Mountains National Recreation  
33 Area and the Yukon Flats National Wildlife Refuge.  
34 Subsistence fishing in Beaver Creek was closed in the  
35 1970s in order to protect fish stocks from the potential  
36 influx of subsistence fishermen when access was improved  
37 with the Dalton Highway. Non-subsistence fisheries  
38 continued on Beaver Creek. The Board of Fisheries made  
39 the following changes last January based on a proposal  
40 from CATG and the Yukon Flats Advisory Committee. First  
41 of all they removed Beaver Creek from the waters closed  
42 to subsistence fishing and second they specified that  
43 gillnet mesh size may not exceed three inches in the  
44 Lower Beaver Creek to protect spawning salmon.

45

46 Placer mining has been occurring in the  
47 headwaters of Beaver Creek over the past 100 years.  
48 BLM's work on rechannelization, revegetation and  
49 restoration of the stream bank habitat along Nome Creek  
50 and in Upper Beaver Creek drainage is helping to restore

00108

1 the biological productivity of this area and its fish  
2 populations. I'd ask you to note some of the pictures on  
3 the screen. These headwater areas are important spawning  
4 areas for freshwater fish species. A conservative  
5 fishery management approach in Upper Beaver Creek is  
6 appropriate to help facilitate this restoration effort.

7  
8 Rural residents subsistence fished in  
9 Beaver Creek prior to the subsistence closure in the  
10 1970s and would like to be able to subsistence fish there  
11 again. Users most likely to benefit from the increased  
12 subsistence opportunity provided by this proposal reside  
13 in the communities of Birch Creek and Beaver. The actual  
14 subsistence harvest in Beaver Creek is likely to be small  
15 based on one, the remoteness of much of the water shed;  
16 two, the effects of decades and closure on subsistence  
17 use patterns and; three, the relatively low current human  
18 population in this area. Subsistence fishing in Upper  
19 Beaver Creek is expected to be very limited.

20  
21 This proposal seeks to provide for a  
22 subsistence opportunity for freshwater species while  
23 providing for conservation and rebuilding of salmon  
24 resources. A year-round gillnet mesh size restriction  
25 was put in place by the Alaska Board of Fisheries to  
26 protect spawning salmon. The same purpose can be  
27 accomplished by simply applying this restriction to the  
28 time period when adult chinook and chum salmon are  
29 actually present in Beaver Creek. This approach is  
30 consistent with salmon conservation principles and  
31 provides increased opportunity to subsistence users while  
32 protecting salmon stocks.

33  
34 This concludes my analysis. Thank you,  
35 Mr. Chairman.

36  
37 CHAIRMAN DEMIENTIEFF: Written public  
38 comments.

39  
40 MR. MIKE: Mr. Chair, there were no  
41 written public comments. Thank you, Mr. Chair.

42  
43 CHAIRMAN DEMIENTIEFF: Department  
44 recommendation.

45  
46 MR. BERGSTROM: Yes, Mr. Chairman, the  
47 Department does not support the Staff Committee  
48 recommendation to insert dates for when gillnets of three  
49 inch mesh size may be used on a portion of Beaver Creek.  
50 Proposal 7, 8 and 9 were submitted by YRDFA after the

00109

1 January 2001 Alaska Board of Fisheries meeting in order  
2 to align State and Federal regulations as much as  
3 possible. The insertion of dates conflicts with the new  
4 State regulations which allows only three inch or smaller  
5 mesh size year-round in Beaver Creek. The Alaska Board  
6 of Fisheries has not received any agenda change request  
7 or petitions from the public to change the new  
8 regulation, nor has the Department received any comments  
9 from the public about changing this regulation.

10

11 The Department suggests that the three  
12 inch or smaller mesh size gillnets be required year-  
13 round, the same as recommended by the Staff Committee for  
14 Proposal 8. This will provide consistency between the  
15 State and Federal regulations and between two nearby  
16 creeks, the other creek being Birch Creek. The  
17 Department supports the remainder of the Staff Committee  
18 recommendation as it applies to the Federal regulations  
19 in the State and non-subsistence area.

20

21 That concludes my comments.

22

23 CHAIRMAN DEMIENTIEFF: Thank you. We did  
24 have one request on the blue card for somebody to testify  
25 on Proposal 7 and 8, but appears to have turned up  
26 missing overnight. Is there anyone here that's wishing  
27 to testify for Proposal 7 and 8?

28

29 MS. KLINE: Mr. Chairman, my name is Jill  
30 Kline and I work with the Yukon River Drainage Fisheries  
31 Association and I had submitted a blue card to testify  
32 but then I had withdrawn it.

33

34 CHAIRMAN DEMIENTIEFF: Okay.

35

36 MS. KLINE: Thank you.

37

38 CHAIRMAN DEMIENTIEFF: Thank you. There  
39 are no requests for public testimony at this time. We'll  
40 move to the Regional Council recommendation.

41

42 MR. WILDE: Mr. Chairman, Yukon-Kuskokwim  
43 Delta Regional Council recommendation support with  
44 modification.

45

46 CHAIRMAN DEMIENTIEFF: Thank you.

47

48 MR. NICHOLIA: Mr. Chairman, in our tri-  
49 meeting this last fall, three Regional Councils, Yukon-  
50 Kuskokwim, Western and Eastern Interior supported with

00110

1 modification. The reasons for supporting the proposal  
2 with modification because it would provide increased  
3 subsistence opportunity and protect adult chinook and  
4 chum salmon and supports restoration efforts up by Beaver  
5 Creek.

6

7 CHAIRMAN DEMIENTIEFF: Thank you. Ronny,  
8 do you have comment.

9

10 MR. SAM: Yes, we supported with  
11 modification. And again, it's just one of those glitches  
12 that we tend to overlook on the smaller streams. And the  
13 reason we supported it was to provide subsistence  
14 opportunities.

15

16 Thank you.

17

18 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
19 Committee.

20

21 MR. SIMMONS: Thank you, Mr. Chair. Rod  
22 Simmons with Fish and Wildlife Service, Staff Committee.  
23 I'll be taking over for providing Interagency Staff  
24 Committee recommendations for the next several proposals.  
25 The Interagency Staff Committee was in parallel with the  
26 recommendation of the Yukon-Kuskokwim Delta, Western  
27 Interior and Eastern Interior Regional Advisory Councils  
28 to modify or adopt the original proposal.

29

30 Those modifications would be, one, to  
31 remove Beaver Creek from the section of the regulations  
32 dealing with areas closed to subsistence and place the  
33 wording in the portion of the regulations dealing with  
34 subsistence gear restrictions. Also it would provide a  
35 rod and reel only subsistence fishery in Beaver Creek  
36 upstream from the confluence of Moose Creek. Apply the  
37 three inch maximum stretch mesh gillnet restrictions  
38 downstream from the confluence of Moose Creek from June  
39 15th to September 15th. Also provide a daily harvest and  
40 possession limit of five Arctic grayling from the mouth  
41 of Nome Creek down to the confluence of O'Brien Creek and  
42 10 Arctic grayling from there down to the confluence of  
43 Moose Creek and finally maintain the subsistence closure  
44 for Home Creek.

45

46 For the record, the regulatory language  
47 changes are found in the middle of Page 2 under Tab C of  
48 the subsistence Board book. Justification from the Staff  
49 Committee is that it is appropriate to remove Beaver  
50 Creek from the section of the Federal regulations

00111

1 addressing closed waters closed to subsistence. The  
2 gillnet mesh size restrictions are to conserve adult  
3 chinook and chum salmon during the time period when they  
4 are present in Beaver Creek. Other types of legal  
5 subsistence fishing gear would be allowed below the  
6 confluence of Moose Creek from June 15th to September  
7 15th. All other times of the year there would not be any  
8 additional subsistence fishing gear restrictions below  
9 the confluence of Moose Creek. The closure of the Nome  
10 Creek drainage and the restriction to rod and reel  
11 subsistence gear from the mouth of Nome Creek down to the  
12 confluence of Moose Creek would support fish restoration  
13 efforts in Upper Beaver Creek.

14

15           The proposed wording attempts to address  
16 the biological concerns within the context of the  
17 subsistence priority and is consistent with salmon  
18 conservation principles. The approach is consistent with  
19 the Yukon River Drainage Fishermen's Association original  
20 request that increased opportunity be provided to  
21 subsistence users to harvest non-salmon species while  
22 protecting chinook salmon stocks.

23

24           That concludes Staff Committee comments.

25

26           CHAIRMAN DEMIENTIEFF: Thank you. Board  
27 discussion.

28

29           MR. BRELSFORD: Mr. Chairman.

30

31           CHAIRMAN DEMIENTIEFF: Yes.

32

33           MR. BRELSFORD: Thank you. I'd like to  
34 ask a question of Staff, Tom, could you address the  
35 concern that's been raised by the Department concerning  
36 consistency or a lack of consistency in the actions  
37 before us in Beaver and Birch Creek, that is Proposals  
38 No. 7 and 8?

39

40           MR. KRON: Mr. Chairman, Taylor.  
41 Basically, we were relying very heavily on the input from  
42 the Regional Councils at their tri-meeting this past  
43 fall. In the case of Beaver Creek and Birch Creek, as  
44 Mr. Bergstrom pointed out, the State Board had applied  
45 the three inch mesh restriction year-round. At the same  
46 time upon checking the records on that decision and the  
47 subsequent follow-ups, the justification was to protect  
48 spawning salmon. Well, in talking with Ingrid McSweeny  
49 from BLM who's done a lot of work up there with salmon --  
50 well, and I think people know in general that the salmon

00112

1 spawning period is relatively limited, it's about a three  
2 month period during the summer and one of our Staff there  
3 at OSM asked the question, in fact, Donald Mike asked the  
4 question, why are we restricting subsistence users to  
5 protect salmon 12 months a year if we only have salmon in  
6 the stream three months a year. So again, that generated  
7 the discussion, generated the approach that was taken on  
8 Beaver Creek and that you have before you now and was  
9 ultimately supported by the Regional Councils.

10

11 By contrast, at Birch Creek, when this  
12 approach was discussed there, the Regional Councils, a  
13 number of the Council members, specifically asked that in  
14 that particular case, that the regulations be aligned.  
15 That was a priority that they presented to us and  
16 consistent with that discussion, you know, that is what's  
17 before you, it was on the consent agenda that you  
18 discussed earlier today.

19

20 Thank you, Mr. Chairman.

21

22 MR. BRELSFORD: Mr. Chairman, a follow-up  
23 question, please?

24

25 CHAIRMAN DEMIENTIEFF: Yes.

26

27 MR. BRELSFORD: Will there be an  
28 opportunity in the near future to provide a more  
29 consistent management regime on these two rivers seeking  
30 some more suitable alignment between State and Federal  
31 regulations?

32

33 MR. KRON: Mr. Chairman, Mr. Brelsford, I  
34 would -- you know, again, it will depend on the proposals  
35 that come in over the next couple of years. On Proposal  
36 10, for example, it was deferred with the intent that the  
37 Staff at OSM work with the Department and the various  
38 other agencies to work to address issues along that area.  
39 And another situation where waters have been closed with  
40 the construction of the Dalton Highway, and I guess I  
41 would hope that through that process we can begin to  
42 address some of these other similar situations that  
43 occurred about the same time, you know, with a focus on  
44 providing a subsistence priority in areas which, again,  
45 have been closed for decades but, again, we have other  
46 uses occurring.

47

48 Thank you.

49

50 CHAIRMAN DEMIENTIEFF: Further



00113

1 discussion.

2

3 MR. BRELSFORD: Mr. Chairman, if we're  
4 ready for a motion.

5

6 CHAIRMAN DEMIENTIEFF: Yeah, I think we  
7 are, it appears to be.

8

9 MR. BRELSFORD: I would like to move to  
10 adopt the proposal with the modifications recommended by  
11 the Yukon-Kuskokwim, Western Interior and Eastern  
12 Interior Regional Councils as well as the Interagency  
13 Staff Committee. And this motion would be on the basis  
14 of the justification outlined in the Staff Committee  
15 recommendation.

16

17 Thank you.

18

19 CHAIRMAN DEMIENTIEFF: There's a motion,  
20 is there a second?

21

22 MR. EDWARDS: Second.

23

24 CHAIRMAN DEMIENTIEFF: Discussion.  
25 Hearing none, all those in favor of the motion please  
26 signify by saying aye.

27

28 IN UNISON: Aye.

29

30 CHAIRMAN DEMIENTIEFF: Those opposed,  
31 same sign.

32

33 (No opposing votes)

34

35 CHAIRMAN DEMIENTIEFF: Motion carries.  
36 Okay, Seward Penn. That concludes our work there.

37

38 MS. McCLENAHAN: Thank you, Mr. Chairman.  
39 I'm Pat McClenahan, Staff anthropologist for the Seward  
40 Peninsula Region. I'd like to present Staff analysis  
41 FP02-044 and I refer you to Tab D.

42

43 Proposal FP02-044 submitted by Leonard  
44 Kobuk on behalf of St. Michael and Stebbins requests an  
45 exclusive positive customary and traditional use  
46 determination for the communities of St. Michael and  
47 Stebbin for salmon and for all freshwater fish species in  
48 the drainages and water bodies in Federal jurisdiction  
49 between Canal Point and Point Romanof known as the  
50 Pikmiktalik River Group.

00114

1 Presently, the residents of the Norton  
2 Sound/Port Clarence area and residents of the Yukon River  
3 drainage have a positive customary and traditional use  
4 finding for all fish species for the Pikmiktalik River  
5 Group area. The proposed regulation is Norton Sound/Port  
6 Clarence area, Norton Sound/Port Clarence area excluding  
7 waters draining into Norton Sound between Point Romanof  
8 and Canal Point, all fish; residents of the Norton  
9 Sound/Port Clarence area, waters draining into Norton  
10 Sound between Point Romanof and Canal Point, all fish;  
11 residents of Stebbins and St. Michael only.

12  
13 The current Federal customary and  
14 traditional use finding was adopted unmodified by the  
15 Federal subsistence program from the existing State  
16 finding without review at the time the Federal program  
17 began. 94 communities in the combined Norton Sound and  
18 Port Clarence and Yukon northern area presently have a  
19 positive customary and traditional use finding for salmon  
20 and freshwater fish for the Pikmiktalik River Group.

21  
22 Aligning the Federal and State fisheries  
23 boundaries did not automatically exclude any of the  
24 subsistence users in the 94 communities, including those  
25 in the Yukon northern area. There is no current  
26 escapement information for salmon for the Pikmiktalik  
27 River Area. However, a 1992 escapement project took  
28 place on the Pikmiktalik and Kogak Rivers in response to  
29 local interest in having a commercial salmon fishery  
30 there. The results of the tests on the two streams  
31 clearly indicated that the fishery does not have  
32 sufficient salmon stocks to support a commercial harvest.  
33 The streams are very small and are susceptible to  
34 overharvest. A one year \$20,000 feasibility study, FIS  
35 02-020 for a weir site on the Pikmiktalik River has been  
36 forwarded by the technical review committee and the  
37 Councils for the 2002/2003 study year. This analysis  
38 reviews published subsistence use information for 24  
39 communities within an approximately 150 mile radius of  
40 the Pikmiktalik River Group area.

41  
42 Initial analysis shows that, while all of  
43 the communities listed in this analysis have longterm  
44 consistent reliance to greater or lesser degrees upon  
45 salmon and other freshwater fish, the residents of three  
46 communities of St. Michael, Stebbins and Kotlik are  
47 documented as consistently using the salmon and non-  
48 salmon fish species of the Pikmiktalik River Group.  
49 Historically and during modern times. Residents of St.  
50 Michael and Stebbins are documented as having established

00115

1 permanent fish camps where they take and dry salmon and  
2 other fish for storage in the Pikmiktalik River Group  
3 area. Residents of St. Michael, Stebbins and Kotlik also  
4 fish to meet their immediate needs while they're in the  
5 area berry picking, hunting and carrying out other  
6 subsistence activities.

7

8 In a recent set of interviews of Kotlik  
9 residents Staff found that two Kotlik residents out of  
10 eight residents interviewed fish for salmon in the  
11 Pikmiktalik River area. Published sources have no  
12 information about use of the Pikmiktalik River Group area  
13 by the residents of other communities listed in this  
14 analysis.

15

16 Mr. Chairman, this concludes my comments.

17

18 CHAIRMAN DEMIENTIEFF: Thank you very  
19 much. Written public comments.

20

21 MS. WILKINSON: Mr. Chairman, we have  
22 seven written comments. The Native Village of St.  
23 Michael wrote that the people of St. Michael used the  
24 rivers listed in Proposal 44 for subsistence and have  
25 done so from time immemorial. Their concern is to  
26 protect these rivers from overharvest. They support the  
27 proposal.

28

29 The St. Michael Native Corporation wrote  
30 to say that they support the proposal.

31

32 The Elders of St. Michael wrote that they  
33 have always fished at Pikmiktalik and rivers in that area  
34 for salmon and herring in summer and in winter months.  
35 They stated, "Our traditions are taught to us, handed  
36 down one generation to the next, everything we know we  
37 respectfully learned from our parents and grandparents.  
38 We would like to see the continuation of use of our  
39 traditional hunting and fishing grounds by our families  
40 of this generation and those yet to come. We realize the  
41 importance of subsistence and the protection and proper  
42 management of these resources, therefore, our support and  
43 obligation to take part in this important topic."

44

45 The Stebbins Native Corporation wrote  
46 that local residents are concerned that the subsistence  
47 resources within their local rivers that are now  
48 available to both villages cannot support other users  
49 from other villages and sportfishing. Past studies of  
50 the fish resources in the local rivers indicate that the

00116

1 size of the returns are sufficient to support subsistence  
2 needs of the two communities. They support Proposal 44.

3

4           At a duly convened meeting the Stebbins  
5 Community Association IRA Council voted unanimously to  
6 support Proposal 44. Harry Wilde of Kotlik wrote that  
7 when he was 12 years old he moved to St. Michael with his  
8 sister and brothers and lived for six years with his  
9 grandma and grandpa, they lived at winter camp in the  
10 Little Canal River area. It is traditionally a  
11 subsistence fishing and hunting area used by residents of  
12 Stebbins and St. Michael. He supports an exclusive  
13 customary and traditional use determination as set out in  
14 Proposal 44. I note that Mr. Wilde wrote us an  
15 individual and not in any official capacity.

16

17           The Kotlik Yupik Corporation wrote in  
18 opposition to Proposal 44. They said, "The Pikmiktalik  
19 River Group has been a harvest area for fish and game  
20 since time immemorial for the people residing in the  
21 Yukon/Norton Sound area. Many of us that live along the  
22 Yukon River have relatives or descendants of other groups  
23 up and down the coast and river. With consistent south  
24 winds, many Yukon bound salmon go to Norton Sound and  
25 then follow the coastline back to the Yukon. They may  
26 enter other rivers as they continue to feed. Fish are  
27 not constrained by imaginary boundary lines. To limit  
28 harvest to only two communities will, indeed, provide  
29 hardship to some. And with today's regulatory crackdown  
30 will make some people criminals in the U.S. judicial  
31 system."

32

33           That's the end of the summaries. Thank  
34 you, Mr. Chairman.

35

36           CHAIRMAN DEMIENTIEFF: Department  
37 comments.

38

39           MR. HAYNES: Thank you, Mr. Chairman.  
40 The Department supports the majority Staff Committee  
41 recommendation to modify the original proposal and find  
42 that the communities of Kotlik, St. Michael and Stebbins  
43 have a customary and traditional use of fish in the  
44 waters draining into Norton Sound between Point Romanof  
45 and Canal Point, an area referred to as the Pikmiktalik  
46 River Group. The evidence does not support retaining a  
47 positive finding for all communities currently included  
48 in the customary and traditional use determinations for  
49 salmon and other fish in this area. However, if  
50 increasing fishing effort in this area is subjecting fish

00117

1 stocks to overfishing, as has been suggested in this  
2 proposal, then additional regulatory action such as  
3 implementation of Section .804 of ANILCA may be required  
4 to protect the stocks so important to local communities.

5  
6 CHAIRMAN DEMIENTIEFF: Thank you. We  
7 have no request for public testimony at this time. Let's  
8 see, Regional Council recommendation.

9  
10 MS. CROSS: Mr. Chairman Seward Peninsula  
11 Regional Advisory Council supports this proposal.  
12 Initially we thought it was going to be a no-brainer but  
13 it's turning out to be a Formula 44, a little  
14 complicated.

15  
16 The other three RACs were well aware of  
17 this and so were all the communities that were named in  
18 the book and every -- I believe every IRA Council and  
19 other different types of government were notified and  
20 there was only one response and that was from the Village  
21 of Kotlik. The three, Western Interior, Eastern Interior  
22 and Yukon-Kuskokwim Councils discussed it at their  
23 meetings and all of them did not oppose the proposal.

24  
25 Stebbins and St. Michael have  
26 traditionally been using these small rivers, they're  
27 very, very small streams for I don't know how long but  
28 they're saying time and immemorial and it wasn't until  
29 the Yukon-Kuskokwim River started crashing did people  
30 start seeing increase of use in those two rivers and they  
31 became concerned because they were afraid that the two  
32 rivers -- all the small rivers are going to eventually  
33 crash so it's more of a stock concern. All the camps  
34 that are on those rivers belong to Stebbins and St.  
35 Michael residents. There were two families, as mentioned  
36 in the Interagency Staff recommendation that fish the  
37 Pikmiktalik River Groups, one of the families -- in fact,  
38 both of the families are from Stebbins that were married  
39 into Kotlik families. One family has, since this  
40 proposal has started this fall, has moved back to  
41 Stebbins. They had never given up their tribal  
42 enrollment with Stebbins, they moved there simply because  
43 there was a shortage of housing I've been told and they  
44 have since moved back to Stebbins so they're no longer an  
45 area of concern. The other family is a nephew of the  
46 proposer, the person that submitted the proposal. He  
47 lives there because he's married but his father had died  
48 and has willed his fish camp to the son that now lives in  
49 Kotlik and he'll be utilizing that and there's no  
50 objection from the community in doing that because he is

00118

1 still a resident of Stebbins -- resident of St. Michael.

2

3 I talked to various people in Stebbins,  
4 we had meetings over there with both Stebbins and St.  
5 Michael people and there just doesn't seem to be long  
6 range subsistence use of those rivers by other  
7 communities. There is incidental use. When other people  
8 from the Yukon River come up to those rivers and they're  
9 hunting for caribou or other sea mammals or land mammals,  
10 then they'll fish for immediate use but there was no long  
11 term subsistence fishing there until Yukon River started  
12 crashing. So as the Yukon River salmon started depleting  
13 more and more and the closure of those rivers become more  
14 common, those small streams would be open so people would  
15 come up by boats and set up tents and start using those  
16 small streams to fill in their subsistence fish that they  
17 could no longer get through the Yukon River, so therefore  
18 the people of Stebbins and St. Michael started getting  
19 concerned about it. And this started about maybe four,  
20 almost five years ago and this is when they started  
21 bringing in the concern. So this proposal we've been  
22 trying to work out within our own region has been ongoing  
23 for a number of years. It's finally got to the point  
24 where it's now before you.

25

26 Like Leonard Kobuk said, our main purpose  
27 is to protect the fish. Those rivers, those streams are  
28 very small and they only have so much fish. Now, the  
29 people in St. Michael and Stebbins do not object to other  
30 communities that their neighbors in fishing the ocean,  
31 they're just concerned about those small streams, a fish  
32 going into the small streams to spawn because of the  
33 larger number of people using them. They don't mind  
34 people setting out nets out in the ocean. They don't  
35 mind if people come to those river areas to hunt for  
36 caribou and do what they did before, take fish that they  
37 need to eat while they're out there hunting for other  
38 game. I don't think that they feel very good about  
39 having to do this but like Leonard Kobuk said, this is to  
40 protect the fish stocks and they're concerned about it.

41

42 Thank you.

43

44 CHAIRMAN DEMIENTIEFF: Thank you. Before  
45 we go into the Staff Committee recommendation, once the  
46 dam broke this afternoon, we're moving through real  
47 quickly. Unfortunately we don't have everybody here that  
48 we need. Obviously the customary and traditional task  
49 force, we're going to postpone because people are  
50 expecting that to be tomorrow. The Southeast biologists

00119

1 are in the air now and they were planning on flying in  
2 tomorrow but they'll be here in the morning. So we're  
3 just going to do whatever we can today and we may get out  
4 early, depending if we don't get hung up again. Okay,  
5 Staff Committee recommendation. I'm sorry, do we have  
6 other Regional Council recommendations.

7

8 MR. WILDE: Mr. Chairman.

9

10 CHAIRMAN DEMIENTIEFF: Yes.

11

12 MR. WILDE: Yukon-Kuskokwim Regional  
13 Council support Stebbins and St. Michael only. However,  
14 just me, myself, I would like to see it include Kotlik.  
15 I grew up in that area and also I was a reindeer herder  
16 in that area. These people, they're working together  
17 with each other and some of the people that move into  
18 Kotlik, they are from St. Michael and Stebbins. In fact,  
19 me and Joseph Mike, we grew up in that area and we had  
20 one grandma and grandpa teaching us how to live by those  
21 sloughs. Me, myself, personally, that I would support  
22 the committee recommendation, however, Council, Yukon-  
23 Delta Council they're only supporting this -- I would  
24 like to bring this back to the Yukon-Kuskokwim Regional  
25 Council and put it on their fall agenda and revisit it.  
26 Because after we have been training from our elders and  
27 our parents or the people that grew us up how to survive,  
28 it bothers me to left them out even though they had the  
29 right to include on this agenda -- on this proposal.

30

31 Thank you, Mr. Chairman.

32

33 CHAIRMAN DEMIENTIEFF: Thank you.

34 Western Interior.

35

36 MR. SAM: Thank you, Mr. Chairman. I  
37 would like to go on record, get this on record that  
38 traditionally we defer motions to adopt proposals to the  
39 home regions. At this time we just happened to be  
40 meeting together and you'll notice that we supported this  
41 proposal in deference to the home regions. I would just  
42 like to have that on record. And if they do want to  
43 withdraw it and revisit it again we would defer to the  
44 home region and follow what their wish is and preference  
45 is.

46

47 Thank you, Mr. Chair.

48

49 CHAIRMAN DEMIENTIEFF: Eastern.

50

00120

1 MR. NICHOLIA: In respect to Harry  
2 Wilde's request we'll defer it the same as Ron.

3

4 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
5 Committee.

6

7 MR. KRON: Thank you, Mr. Chair. The  
8 Staff Committee did not reach consensus on a  
9 recommendation. The majority would recommend adoption  
10 with modification to add the community of Kotlik. The  
11 minority viewpoint would support the recommendation of  
12 Seward Peninsula, Yukon-Kuskokwim Delta, Eastern Interior  
13 and Western Interior Regional Advisory Councils.

14

15 The majority viewpoint was to adopt the  
16 proposal with modification to add the community of  
17 Kotlik. This would provide a positive customary and  
18 traditional use finding exclusive to St. Michael,  
19 Stebbins and Kotlik for the waters draining into Norton  
20 Sound between Point Romanof and Canal Point. The  
21 justification is that Stebbins and St. Michael are  
22 neighboring communities, villages. The residents of both  
23 villages and of Kotlik are heavily reliant upon  
24 subsistence resources for their livelihoods. Stebbins  
25 and St. Michael are situated immediately at the north end  
26 of the Pikmiktalik River Group and Kotlik is situated  
27 near the southern end. The communities of St. Michael,  
28 Stebbins and Kotlik share the same salmon and freshwater  
29 fishing areas in the Pikmiktalik River Group just north  
30 of the Yukon River and are part of the same sharing and  
31 communications network. Residents of St. Michael and  
32 Kotlik provided information that they use the Pikmiktalik  
33 River Group for subsistence fishing and that their  
34 parents and grandparents did as well. For other  
35 communities considered in the analysis, currently there  
36 is insufficient data to determine if they have  
37 traditionally used the Pikmiktalik River Group area to  
38 take subsistence salmon or non-salmon fish.

39

40 For the record, the proposed changes to  
41 the regulations of the majority Staff Committee  
42 recommendation are found on Page 2 and 3 under Tab D.

43

44 For the minority viewpoint, would be to  
45 adopt the recommendations of the Councils, the Seward  
46 Peninsula, Yukon-Kuskokwim Delta, Eastern Interior and  
47 Western Interior Councils, to support the proposal as  
48 written. The Councils recognize that these streams are  
49 small and susceptible to overharvest and they cannot  
50 support widespread use. The villages of Stebbins and St.



00121

1 Michael rely on these streams as a primary food source.  
2 They are the only streams available to them without the  
3 necessity of going over open water. The Councils  
4 considered Proposal 44 to be a conservation effort.

5  
6 That concludes Staff Committee comments.

7  
8 CHAIRMAN DEMIENTIEFF: Thank you. I  
9 think we're now ready for Board deliberation.

10  
11 MR. EDWARDS: Mr. Chairman, I would like  
12 to ask the Subsistence Office Staff about data available  
13 on the use by Kotlik of these waters that are in  
14 question?

15  
16 MS. McCLENAHAN: Yes, Mr. Chairman, we  
17 have additional information -- well, it was mentioned in  
18 the analysis. From 1981, Ron Thuma, staff with the  
19 Office of Subsistence Management did some surveys in that  
20 area and he made subsistence use are maps. They show  
21 very clearly that the Pikmiktalik area was used at that  
22 time by Kotlik for hunting caribou and moose and for  
23 berry picking and taking wood. It doesn't show that they  
24 had fish camps there, though, that they had salmon camps.  
25 In addition to that we have the recent survey that was  
26 done on another -- for another analysis of eight people,  
27 it was an informal survey. Two of those people indicated  
28 that they did fish salmon in that area, that was done  
29 this year. And that's about the extent of the  
30 information that I have for Kotlik.

31  
32 CHAIRMAN DEMIENTIEFF: Other discussion.

33  
34 MS. CROSS: Mr. Chair.

35  
36 CHAIRMAN DEMIENTIEFF: Yes.

37  
38 MS. CROSS: When we had those meetings in  
39 Stebbins between the communities of St. Michael and  
40 Stebbins and then there was a resident from Unalakleet  
41 that was there, too, there was extensive talk about, you  
42 know, people being intermarried to different communities.  
43 Apparently they do a lot of -- those individuals do come  
44 back and fish at their home communities because they're  
45 more familiar with the rivers and there's no objection to  
46 that. Like I said, the only reason why both communities  
47 are extremely concerned about it is because of  
48 conservation. They're very, very small streams. And  
49 it's just that Kotlik, the community -- the people of  
50 Kotlik have traditionally used to go to Yukon River to

00122

1 fish and more and more people are coming over to fish in  
2 the Pikmiktalik River, it's just another salmon shortage,  
3 I think. But like I said, the two people she's talking  
4 about one family has moved back to Stebbins and will live  
5 in Stebbins and the other family that lives in Kotlik  
6 that has a camp there, that young man is from Stebbins,  
7 he just happens to be married to a young lady from  
8 Kotlik.

9

10 Thank you.

11

12 MS. GOTTLIEB: Mr. Chairman.

13

14 CHAIRMAN DEMIENTIEFF: Yes.

15

16 MS. GOTTLIEB: I did an informal survey  
17 of the two people I know who have roots in Kotlik, one  
18 present and one former Park Service staff person and they  
19 both said that they do remember going there when they  
20 were younger and one person said that currently his  
21 brothers go over to that area to fish. And I don't know  
22 if they do fish camp or if they just go for short periods  
23 of time or if that's a distinction. I think it's  
24 important in this proposal that we do look at, obviously  
25 limiting the number of communities who currently have  
26 C&T, that's the important part.

27

28 I also wanted to mention as Grace said,  
29 she and people from OSM, Park Service and others went for  
30 a meeting or maybe more than one meeting at the start of  
31 the fishing season because of the village's worries about  
32 conservation and I appreciate them spending the time to  
33 do that to try to get the issues sorted out.

34

35 CHAIRMAN DEMIENTIEFF: Further  
36 discussion.

37

38 MR. EDWARDS: Mr. Chairman, I guess as I  
39 read this I'm somewhat, I guess troubled by it. You  
40 know, certainly I appreciate the conservation concerns  
41 and the fact that they have been raised. I guess I'm  
42 concerned about using C&T maybe as a way to do this. And  
43 I guess I'm also concerned sort of saying, you know, some  
44 people from a village could continue to use it but others  
45 could not. I don't know if there's any easy way through  
46 this. But I guess my view is if we truly have a  
47 conservation issue then maybe we should look at other  
48 means to try to address that as opposed to using C&T as a  
49 way to exclude people from using it.

50

00123

1 MS. CROSS: Mr. Chair. Remember when I  
2 was talking earlier about over exclusiveness, this is one  
3 of those situations. Now, we're trying to rectify  
4 something that we didn't have any choice in accepting  
5 before. This is another issue where over exclusiveness  
6 has now gotten us to this point.

7

8 Thank you.

9

10 CHAIRMAN DEMIENTIEFF: The other thing  
11 you may do too is just think about deferring it and  
12 working on those specific streams. How many streams are  
13 there?

14

15 MS. CROSS: Could I call on Charlie Lean  
16 to come up and speak to you a little bit? Please, he's  
17 real familiar with them.

18

19 CHAIRMAN DEMIENTIEFF: Sure.

20

21 MS. CROSS: Thank you.

22

23 MR. LEAN: Hello, Mr. Chair, my name's  
24 Charlie Lean. There are a number of streams, the  
25 Pikmiktalik River is the primary stream that's being  
26 discussed and right next door is the Naokak River or  
27 Kogak on the maps and those are the two salmon producing  
28 streams that are south of the old boundary at Canal Point  
29 and north of the current boundary at Point Romanof.

30

31 CHAIRMAN DEMIENTIEFF: What's the  
32 pleasure of the Board here?

33

34 MR. EDWARDS: Well, Mr. Chairman, I guess  
35 it's supposedly up to me on this issue to make a  
36 proposal. I guess I would have to tell you I'm  
37 uncomfortable with making a proposal either way and I  
38 don't know what that means. But I just don't think this  
39 is the right way to try to solve this issue, personally,  
40 so if somebody else wants to make a proposal they can  
41 fill free to do so.

42

43 CHAIRMAN DEMIENTIEFF: The.....

44

45 MS. CROSS: Mr. Chair.

46

47 CHAIRMAN DEMIENTIEFF: Yes.

48

49 MS. CROSS: Unfortunately, maybe it's  
50 going to be one of those situations that those poor

00124

1 little rivers are going to be exactly like Nome River and  
2 the other rivers that are surrounding Nome where there is  
3 no more fish. This is the reason why we're bringing this  
4 up, is to -- there is overuse right now that is going to  
5 deplete the fish in those rivers and it's been ongoing  
6 for the past four years. The communities have already  
7 tried to resolve this. We had meetings, we had  
8 discussions, we had letters written, we tried to resolve  
9 this issue by ourselves and it has not resolved. It's  
10 just the number of communities that can utilize it right  
11 now are so huge it cannot handle it. In a time of fish  
12 shortage, those communities will be coming to those  
13 rivers and are coming to these rivers to utilize the very  
14 small fish stock there is there. There's just too many  
15 users.

16

17 Thank you.

18

19 CHAIRMAN DEMIENTIEFF: Yes.

20

21 MR. NICHOLIA: May I make this suggestion  
22 to the Board, is that, you adopt it without adding Kotlik  
23 and then the Yukon-Delta later, the next cycle could --  
24 just for the conservation concern for the fish is that  
25 they could introduce that in the next cycle.

26

27 MR. CAPLAN: Mr. Chairman.

28

29 CHAIRMAN DEMIENTIEFF: Yes.

30

31 MR. CAPLAN: I agree with Gary that we  
32 don't seem to have a good handle at this point on how  
33 best to protect the stocks. Normally we would do that --  
34 perhaps C&T is part of the picture, but normally we would  
35 try and do that with bag limits or some other limits and  
36 we also have the .804 process to follow in terms of  
37 allocating the resource to the folks most dependent upon  
38 it. And I'm not sure, perhaps through you, sir, I could  
39 address a question to Grace as to whether those things  
40 were considered or not.

41

42 MS. CROSS: .804 was considered also.  
43 You remember that Pat, when we discussed it and we  
44 thought that perhaps this would be a better way to go  
45 about it. And I think part of the problem that we all  
46 had was the village of Kotlik. Because it's the closest  
47 community to those small rivers and there's a lot of  
48 intermarriage between those three villages. So that was  
49 part of our problem in trying to go for .804, so we  
50 decided to kind of leave it up to the Federal Board.

00125

1 MR. BRELSFORD: Mr. Chairman.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MR. BRELSFORD: If I may, I'd like to  
6 offer the observation that all three Councils have made a  
7 very persuasive case about the conservation urgency at  
8 stake in this proposal. However, I think on the part of  
9 the Board, we're obliged to consider a different standard  
10 in looking at C&T proposals. And on that point, Grace  
11 has made the argument that a vastly over inclusive C&T  
12 determination was made for this region, 94 communities,  
13 when you do the math. And certainly, there is no  
14 evidence to support 94 communities having a historic use  
15 pattern in this region. What's on the table is a  
16 proposal to go from 94 down to two communities or 94 down  
17 to three. I think the difference for us in looking at  
18 two communities or three communities as having this  
19 historic pattern, we're actually very close to agreement  
20 on modifying the customary and traditional use  
21 determination.

22

23 I guess from where I stand, the  
24 representations from the community of Kotlik, including  
25 the comments that were submitted in the public comment  
26 portion suggest that there's a meaningful interest at  
27 stake for residents of the community of Kotlik. I would  
28 be a little troubled to look away from that at this point  
29 for the wrong reasons. I believe that that information  
30 about a community use pattern is important and the right  
31 reason for us to proceed to address conservation  
32 concerns, not in C&T but through an .804 or other  
33 regulatory relief. So I guess my appreciation of the  
34 issue before us is that we can right size the C&T  
35 determination down to the neighboring communities safely,  
36 that there's reasonable evidence for us to proceed in  
37 that fashion. I think we owe all of these Councils  
38 continuing vigilance on the conservation problem. We  
39 have in-season managers in the region, Charlie actually  
40 has some familiarity with the streams in this area. I  
41 think we ought to keep the conservation and regulatory  
42 issues separate from the C&T part and I believe we can  
43 actually achieve one step forward on the C&T at the  
44 present and commit ourselves to closer monitoring of  
45 these streams for the conservation purpose this upcoming  
46 season.

47

48 Thank you.

49

50 CHAIRMAN DEMIENTIEFF: Yes.

00126

1 MR. THOMAS: Well, thank you, Mr.  
2 Chairman. I agree with a lot of what Taylor said. And  
3 with regards to conservation considerations, again --  
4 again, this looks like another terrorist attack. Because  
5 you got to consider the amount of harvest we're looking  
6 at. You know, it sounds like somebody's going to go down  
7 to the river and eat up all the fish when they get to the  
8 banks and maybe that's the case, I don't know. I have to  
9 apologize for being naive because I'm far removed from  
10 this part of the state, geographically. But like Taylor  
11 said, with regards to conservation and the C&Ts, we  
12 shouldn't be penalizing those that don't warrant it.  
13 With regards to .804, .804 is pretty clear on who is  
14 affected by the acts of .804 and it's going to happen in  
15 Alaska. You're going to have family in these places and  
16 that's just the nature of the beast. If you're going to  
17 take those into consideration, then you're turning your  
18 back on conservation responsibilities.

19  
20 Thank you, Mr. Chairman.

21  
22 CHAIRMAN DEMIENTIEFF: Thank you.

23  
24 MS. CROSS: Mr. Chair.

25  
26 CHAIRMAN DEMIENTIEFF: Yeah.

27  
28 MS. CROSS: I guess this is going to be  
29 my final comment. On Page 8, there are communities that  
30 are within 150 mile radius of the Pikmiktalik River  
31 Groups. There are six that are approximately 150 miles  
32 away, there's 13 that are approximately 100 miles and  
33 there's only three that are within the 50 mile radius,  
34 and that's St. Michael, Stebbins and Kotlik. The other  
35 communities that are 100 miles away, it is clear that  
36 they do not utilize those rivers. Like the residents of  
37 Unalakleet utilize Unalakleet. The residents of Nome we  
38 utilize the rivers that are close to us. I guess the  
39 fear that we have is that, at least, St. Michael and  
40 Stebbins has, as the rivers in Nome area started getting  
41 depleting -- depleting with fish, they'll start going  
42 over to the small rivers also or -- and they were also  
43 afraid that more users from other rivers of concern are  
44 also coming in and they are coming in.

45  
46 Thank you.

47  
48 MS. GOTTLIEB: Mr. Chairman.

49  
50 CHAIRMAN DEMIENTIEFF: Yes.

00127

1 MS. GOTTLIEB: I would like to make a  
2 motion that supports the original request for an  
3 exclusive C&T determination for Stebbins and St. Michael,  
4 although it is my inclination to include Kotlik I don't  
5 want to at this point across the formal recommendations  
6 of the four Councils, but I do think it would be really  
7 important if we very closely look at information and try  
8 to seek out more information from Kotlik so that at our  
9 next Board meeting we could make a more informed decision  
10 on that.

11  
12 Thank you.

13  
14 MR. CESAR: I'll second.

15  
16 CHAIRMAN DEMIENTIEFF: Moved and  
17 seconded. Read it again, I'm still -- there were a lot  
18 of things that came out in there that -- what was the  
19 actual motion?

20  
21 MS. GOTTLIEB: The motion is to include  
22 Stebbins and St. Michael on the C&T. I would also like  
23 Kotlik to be further evaluated and studied so we could  
24 make a decision on that at the next Board meeting or  
25 sooner.

26  
27 CHAIRMAN DEMIENTIEFF: Discussion.

28  
29 MR. EDWARDS: Mr. Chairman, I still  
30 remain uncomfortable with both options but often times  
31 when you have to vote on sometimes, you take the one that  
32 you have the least trouble with and I guess I would have  
33 to say that I'm less troubled by including all three than  
34 I am by excluding one and so for that reason I'm planning  
35 to vote nay on the motion.

36  
37 CHAIRMAN DEMIENTIEFF: Any other  
38 discussion.

39  
40 MR. CAPLAN: Mr. Chairman.

41  
42 CHAIRMAN DEMIENTIEFF: Yes.

43  
44 MR. CAPLAN: I intend to support this  
45 motion, somewhat reluctantly. And I would also tend to  
46 want to see down the road, additional discussions of  
47 conservation measures and I would want to make sure that  
48 the Board receives information regularly as appropriate  
49 about what conservation measures are going to be  
50 employed. Because that's been raised as a significant

00128

1 issue here and I don't think we can let go of that.

2

3 Thank you, sir.

4

5 CHAIRMAN DEMIENTIEFF: Any other  
6 discussion.

7

8 MR. CESAR: Mr. Chairman.

9

10 CHAIRMAN DEMIENTIEFF: Yes.

11

12 MR. CESAR: I think I had the same  
13 reluctance that everybody is having. But I do think that  
14 we've established St. Michael and Stebbins and with some  
15 work we could have an inclusion of Kotlik and for that  
16 reason I intend to vote for the motion.

17

18 CHAIRMAN DEMIENTIEFF: Okay. We've got a  
19 divided Board, let's go ahead and do roll call if we're  
20 ready. Niles.

21

22 MR. CESAR: Yes.

23

24 CHAIRMAN DEMIENTIEFF: Judy.

25

26 MS. GOTTLIEB: Yes.

27

28 CHAIRMAN DEMIENTIEFF: Cap.

29

30 MR. CAPLAN: Yes.

31

32 CHAIRMAN DEMIENTIEFF: Jim. Okay, who  
33 else we got there, Taylor.

34

35 MR. BRELSFORD: No.

36

37 CHAIRMAN DEMIENTIEFF: And Gary.

38

39 MR. EDWARDS: No.

40

41 CHAIRMAN DEMIENTIEFF: Okay, we got a no.

42

43 MR. BOYD: It's up to you.

44

45 CHAIRMAN DEMIENTIEFF: I think we'll take  
46 a break until tomorrow. Well, let me just say that in  
47 casting my vote, we have time until the next fishing  
48 season and this is going to be one that we're going to  
49 have to put on the front burner here in time to get a  
50 regulation on the books for the next season, and in



00129

1 casting my vote I'm going to insist that that's what we  
2 do, and, therefore, I vote no. Now, that does not define  
3 my full view on this but it's obvious we have three  
4 conflicting Regional Councils, you know, with another one  
5 and we know we have a problem and it's just something  
6 that we have to address. So by saying -- by voting no,  
7 it doesn't mean that I'm -- that that's what my final  
8 view will be but we just need -- it's something we need  
9 to work on and we need to work on it fairly soon.

10

11 MR. EDWARDS: Mr. Chairman, would there  
12 be any value in submitting another motion? I have nods  
13 so, I, at this point, I am prepared to make a motion that  
14 we support the majority of the Staff Committee's  
15 recommendation which would include all three of the  
16 communities in question under the C&T determination.

17

18 CHAIRMAN DEMIENTIEFF: Correct. The  
19 motion failed because the first motion was three to  
20 three.

21

22 MR. EDWARDS: No, I made a second motion.

23

24 CHAIRMAN DEMIENTIEFF: Yeah, okay, run  
25 that by me again here.

26

27 MR. EDWARDS: Mr. Chairman, I make a  
28 motion to support the majority Staff Committee  
29 recommendation which, it's my understanding, that would  
30 include Kotlik along with the other two communities.

31

32 CHAIRMAN DEMIENTIEFF: There is a motion.

33

34 MR. BRELSFORD: I second that motion.

35

36 CHAIRMAN DEMIENTIEFF: Okay. Now, the  
37 understanding is is that we're willing to revisit this  
38 before next fishing season because we do not want to  
39 deprive people of it if they can get together and work  
40 out a solution. If that's the case I would be willing to  
41 support that motion. But still it's the same  
42 understanding, we have work to do out here.

43

44 MR. EDWARDS: Mr. Chairman, I also  
45 understand that we're also, in addition, seriously look  
46 at the conservation issues and see what solutions there  
47 are out there to address. Because I think we all  
48 recognize that those are real issues that need to be  
49 addressed.

50

00130

1 CHAIRMAN DEMIENTIEFF: Discussion.

2

3 MR. CESAR: Mr. Chairman, i'm utterly  
4 confused, my normal state here, so I would like to have  
5 the Regional Councils input on this, the home Regional  
6 Council. I'm sorry, Grace, the motion is to include  
7 three villages, Kotlik, Stebbins and St. Michael.

8

9 MS. CROSS: I think that in my books that  
10 would be a positive move. I think that it would narrow  
11 down the battle, per se and address the local area  
12 concerns. There was no other response from any of the  
13 other communities that were written to regarding this.  
14 And the only response that came out of Kotlik, no other  
15 community in the Yukon, no other community in Norton  
16 Sound responded to it. In fact the Unalakleet IRA  
17 president was at the meeting and he supported the motion --  
18 he supported what Stebbins and St. Michael were doing.

19

20 MR. CESAR: Thank you.

21

22 MS. CROSS: So the only community that  
23 responded to it is the community that's also within the  
24 50 mile limit to those rivers and that's Kotlik.

25

26 MR. CESAR: Thank you, Mr. Chairman. If  
27 I may, I knew that Judy had me confused, it really wasn't  
28 me. But now that I've had that cleared up I intend to  
29 support the motion.

30

31 CHAIRMAN DEMIENTIEFF: Again, the  
32 commitment doesn't change. We are going to take a look  
33 at what is requested on this end to look at the  
34 conservation issues and then take a further look with the  
35 rest of the Regional Councils. So that's not going to  
36 limit -- and we're going to do it in time to get a  
37 regulation on the books before next summer so nobody will  
38 be disenfranchised, Harry, but we're going to take  
39 another look at it again.

40

41 Okay. Further discussion.

42

43 MR. CESAR: Question.

44

45 CHAIRMAN DEMIENTIEFF: Been called for.  
46 All those in favor, signify by saying aye.

47

48 IN UNISON: Aye.

49

50 CHAIRMAN DEMIENTIEFF: Those opposed,

00131

1 same sign.

2

3 (No opposing votes)

4

5 CHAIRMAN DEMIENTIEFF: Motion carries.

6 Well, let's see now. Northwest. We've got Northwest

7 Arctic as our next region.

8

9 (Pause)

10

11 CHAIRMAN DEMIENTIEFF: Are you ready?

12

13 MS. H. ARMSTRONG: Thank you, Mr. Chair,

14 we're ready. The next proposal is Proposal 4 with the

15 Northwest Arctic. Proposal 3 was withdrawn. That's in

16 Tab E in your book. My name is Helen Armstrong, I'm a

17 cultural anthropologist with the Fish and Wildlife

18 Service, Office of Subsistence Management.

19

20 This issue was brought forward last year

21 so most of you are probably familiar with it and I know

22 it's been discussed at length with lots and lots of

23 people over the past two years. Proposal 4 was submitted

24 by the Northwest Arctic Regional Advisory Council and it

25 requests that when taking whitefish or pike in the

26 Kotzebue area the season be extended from June 30th to

27 July 15th within the Kobuk River drainage and to October

28 31st in the Selawik River drainage. Additionally, the

29 proposal requests an increase in the maximum length of

30 gillnets from 60 to 100-feet. What had been proposed

31 last year was asking for the ability to put nets

32 completely across the streams and sloughs in that area

33 and this was a customary and traditional use practice

34 that had been done, you know, for many, many centuries,

35 probably, and it was approved by the Board.

36

37 The proposal only affects the Kobuk and

38 the Selawik River drainages and the Federal lands are

39 those portions of the Kobuk River within the Kobuk Valley

40 National Park and the entire Selawik River, which is

41 within the Selawik National Wildlife Refuge. The

42 communities that are affected by this proposal as far as

43 we know, there has been some mapping that was done for

44 non-salmon subsistence uses, those communities that are

45 in those areas that I just mentioned that have mapped

46 non-salmon uses are Ambler, Selawik, Noorvik and Kiana.

47 The communities of Shungnak, Kobuk and Buckland did not

48 have mapped non-salmon use areas in Federal waters and we

49 didn't have any mapping for Kotzebue. So those are the

50 areas that were affected.

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1           The proposal that came before you last  
2 year, Proposal 39, only had a limit of 60 feet and  
3 originally when we discussed it with the Council it was  
4 felt that that was probably enough. The primary practice  
5 is probably 10 to 30 feet but we had some discussions at  
6 the Council meeting and decided to up it to 60 feet  
7 because there were some people who had nets that were  
8 longer. However, at the Council meeting that was  
9 discussing this just prior to -- I actually -- no, the  
10 Council meeting where they were discussing it prior to  
11 the Board meeting last year, they had some discussion  
12 that there were some people who had nets as long as 100  
13 feet, so they -- but they decided rather than at that  
14 sort of late date, adding the 100 feet in they would wait  
15 and make a new proposal this year.

16  
17           In addition, there was a meeting of the  
18 Kobuk Lower Advisory Committee meeting in November of  
19 2000, just before the Board meeting, and people at that  
20 meeting also discussed the season date changes and the  
21 length of feet and they felt that in Noorvik there were  
22 eight families who used nets up to -- that were much  
23 longer and they're actually in sloughs that are like 200  
24 feet wide, so in Noorvik they felt they needed the longer  
25 nets. In Selawik, we knew there were a few families  
26 where people needed the longer nets, up to 100 feet, in  
27 the other communities people felt that 60 feet was plenty  
28 long enough. So there weren't a lot of people who needed  
29 the longer nets, just in those two communities of Noorvik  
30 and Selawik.

31  
32           And in terms of the harvest dates, people  
33 at that Lower Advisory Committee meeting did feel that  
34 the dates needed to change, that the season dates that  
35 we'd come up with originally weren't quite adequate and  
36 that because sometimes the weather, the summer months  
37 might be a little bit warmer, sometimes they're colder,  
38 that they needed to have a larger window of time and so  
39 they were in support of extending it until July 15th on  
40 the Kobuk River and then on the Selawik River extending  
41 it from -- all the way to October 30th because sometimes  
42 freeze-up came later.

43  
44           The effect of this proposal, since there  
45 are not a lot of families probably wouldn't be a huge  
46 impact but it would affect those families who are using  
47 the longer nets and they did need the longer seasons. We  
48 didn't feel like there would be any impact on salmon and  
49 sheefish because they're not in those small slow moving  
50 sloughs and creeks and streams and so there wouldn't be

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1 an impact on that. That was something that the  
2 biologists talked a lot about, was concerns about the  
3 impacts on salmon and sheefish by putting the nets  
4 completely across the stream. There was a real concern  
5 from fisheries biologists, this is something that's just  
6 not done, you just don't put nets completely across  
7 streams, so we talked about it at length and we --  
8 because there's not much information on whitefish to  
9 begin with, it's our recommendation that if this proposal  
10 passes there should be additional research done to  
11 eliminate some of those concerns that fisheries  
12 biologists have. We need to have information on  
13 migratory behavior, harvest locations, number of fishers,  
14 size and length of gillnets, seasons and influence of  
15 this practice on other species. We're hoping that  
16 perhaps in the next couple of years there could be some  
17 data collected. At this point in time we don't have any  
18 indication that there's a conservation concern for  
19 whitefish or pike but we also don't have the data. But  
20 just in terms of people who are out there fishing, there  
21 hasn't been any evidence of that.

22

23 This is a customary and traditional  
24 practice, it's been done a long time. And we tried  
25 really hard to try to accommodate that practice and until  
26 we get some further research, which, you know, we felt it  
27 would be -- it probably would be okay to go forward with  
28 this analysis.

29

30 I wanted to say that last week, because  
31 of our shutdown of the Internet, Bert Griest had been  
32 trying to email me because he did collect some additional  
33 information which I only got yesterday and so because it  
34 was so late when he gives his Regional Council  
35 recommendation he's going to provide some additional  
36 information to support some of this. And it's just  
37 unfortunate we didn't get it any earlier but I'm really  
38 grateful that he actually did do a little bit of  
39 cultural/anthropological field work and collected some  
40 data for us.

41

42 Thank you, Mr. Chair. That concludes my  
43 presentation.

44

45 CHAIRMAN DEMIENTIEFF: Thank you.  
46 Summary of written public comments.

47

48 MS. B. ARMSTRONG: There are no written  
49 public comments, Mr. Chairman. Thank you.

50

00134

1 CHAIRMAN DEMIENTIEFF: Thank you.

2 Department comments.

3

4 MR. VINCENT-LANG: Thank you, Mr.

5 Chairman. I guess the Department is some of those  
6 biologists that have some biological concern with this.  
7 The Department does not support the Staff Committee  
8 recommendation for this proposal. Whitefish in this area  
9 migrate from wintering areas in Hotham Inlet in the Kobuk  
10 River to summer feeding areas often located in seasonally  
11 productive sloughs and lake complexes connected to the  
12 rivers by small channels and streams. In the fall  
13 whitefish migrate from summer feeding areas to the main  
14 river where sexually mature fish move to spawning areas.  
15 In mid summer, large numbers of whitefish are not  
16 available at channel openings because they are already in  
17 summer feeding areas. Mid summer, July and August, also  
18 is the time other fish, such as chum salmon are migrating  
19 upriver to spawn. These are the primary reasons why  
20 whitefish effort is concentrated during the spring and  
21 fall.

22

23 No justification is given for increasing  
24 the time the sloughs or creeks in the Selawik area can be  
25 completely blocked by nets to extend throughout the  
26 summer. In fact, several references in the Staff  
27 analysis suggest that this method of fishing occurs  
28 primarily during the spring and fall. Extending the  
29 season throughout the summer and increasing the length of  
30 gillnets opens the area to the potential overharvest of  
31 non-targeted species. The regulation passed last year  
32 increased the risk to local stocks of whitefish and poke  
33 and this regulation takes it one step further. Although  
34 there is some concern for non-targeted species in all  
35 fisheries, our main concern with this proposal is it's  
36 potential for short and long term impacts on local stocks  
37 of whitefish on which local residents have depended upon  
38 for generations.

39

40 Subsistence fishermen in the Kuskokwim  
41 River area have reported concerns about the stock status  
42 of local populations of whitefish which suggest that  
43 localized impacts may, in fact, occur.

44

45 Allowing whitefish nets to block more  
46 than one-half the width of a stream risks localized  
47 depletion of whitefish stocks and violates the principles  
48 of sound fisheries management. Increasing the length of  
49 the gillnets, allowed, compounds the biological risk.  
50 There is a real risk of serious long term depletion of

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1 local whitefish populations that could adversely affect  
2 subsistence users now and into the future. Since  
3 locations near villages are most heavily fished, these  
4 areas would most likely be the most seriously impacted.  
5 There are also the areas that are most dependent upon by  
6 those who cannot easily travel long distances to satisfy  
7 their subsistence needs.

8

9           While adoption of this proposal might  
10 benefit some users in the short term, it violates  
11 principles of sound fisheries management and may place  
12 local stocks of whitefish at risk and may be detrimental  
13 to the satisfaction of subsistence needs in the long  
14 term.

15

16           Finally, it does not appear that there  
17 was any monitoring of the 2001 fishery to determine what  
18 the impacts of these new regulations may be. It is  
19 incumbent upon Federal agencies to monitor the harvest  
20 and health of the fish stocks where this fishing activity  
21 is allowed to determine if there are any adverse impacts.

22

23           Thank you, Mr. Chair.

24

25           CHAIRMAN DEMIENTIEFF: Thank you.  
26 Regional Council comments.

27

28           MR. GRIEST: Mr. Chairman, the Regional  
29 Council supported the motion with.....

30

31           CHAIRMAN DEMIENTIEFF: Bert, could you  
32 hang on one second.

33

34           MR. GRIEST: Pardon?

35

36           CHAIRMAN DEMIENTIEFF: Could you hang on  
37 one second. I forgot to note for the record that there  
38 were no additional requests for public testimony. I'm  
39 sorry, go ahead.

40

41           MR. GRIEST: The Regional Council  
42 supported it with modification. First of all, while  
43 Selawik's got -- within the Selawik National Wildlife  
44 Refuge which includes part of the Kobuk Delta, the Fish  
45 and Wildlife Service did an aerial survey count of the  
46 lakes and they counted 97,000 lakes and more than half of  
47 them are in Selawik. And then you could go from lake to  
48 lake to lake for a couple weeks and still not go to the  
49 same place, you know, over again. And all our families  
50 usually have dog team and we really use the fish. We

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1 have -- my own family has four fish camps, depending on  
2 what species you're going after.

3

4           We've been fishing this way ever since I  
5 know. And when I was coming down, I surveyed 14 families  
6 and most of these people are large family fishing, they  
7 all have -- most of them have camps, fish camp, permanent  
8 summer fish camps. The oldest one I surveyed, she just  
9 stopped fishing last summer, she was born in 1925. Most  
10 of them were born in the 1930s, they're 50, 60 -- 60-year  
11 old people who go fishing in fish camps, they bring in  
12 their, you know, grandkids and showing them how to do the  
13 work and are working. And it's continuing. But there  
14 seems to me, less super amount of fishing that we used to  
15 do, like for our dog teams because we only got a couple  
16 of dog teams left in Selawik now. So when we go check  
17 our nets, usually you'll get two, three, four tubs, you  
18 know, just over night and we're always checking, they're  
19 pretty healthy.

20

21           Raymond Stoney made the motion to support  
22 this and I seconded the motion with the understanding  
23 that we can aggregate two nets equal to something like  
24 200 feet. And so we did continue conversations or  
25 deliberations on the motion and it passed. However,  
26 after I thought about it I called for a clarification and  
27 when I did the survey with the major families that are so  
28 actively fishing, they average out to about four nets per  
29 family, they have 100 foot nets. And for Selawik, a 100  
30 foot net is pretty standard, it's a standard, just right,  
31 that's what most of the families have anyway, 100 foot  
32 nets.

33

34           And so when I read the motion, it was  
35 kind of like confusing so what I'd like to do is ask for  
36 that the language be made clearer and the language would  
37 read, you may use a gillnet at any one site that does not  
38 exceed 100 feet in length with mesh size of two and a  
39 half to four and a half inches. You must check your nets  
40 at least once in every 24 hours.

41

42           CHAIRMAN DEMIENTIEFF: Thank you. Staff  
43 Committee.

44

45           MR. SIMMONS: Thank you, Mr. Chair. The  
46 Interagency Staff Committee recommended adopting the  
47 recommendation of the Northwest Arctic Regional Advisory  
48 Council which modified the proposal to add the  
49 restriction of one net and prohibit the aggregation of  
50 nets. For the record, the recommended changes to the



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1 regulation appear on Page 2 under Tab E of the Board  
2 book.

3

4 Justification of the Staff Committee

5 recommendation is that the proposal should be supported  
6 with the modification of a limitation of one net, thus  
7 prohibiting stacking nets and potentially causing  
8 conservation concerns.

9

10 The proposed changes to the season would  
11 accommodate variations in the times when the ice goes out  
12 in the region or when freeze-up occurs. It is not  
13 anticipated that longer seasons would cause any  
14 biological impacts to whitefish or pike.

15

16 Approximately 10 to 12 families from  
17 Noorvik and Selawik use longer nets up to 100 feet, thus  
18 increasing the net size from 60 feet to 100 feet would  
19 accommodate their uses.

20

21 The proposed regulation would accommodate  
22 the traditional practices of local subsistence users.  
23 There is no information to indicate a conservation  
24 concern from this proposal, however, research is  
25 recommended on whitefish migratory behavior, harvest  
26 locations, number of fishers and influence of this  
27 practice on other species.

28

29 Thank you, Mr. Chair. That concludes  
30 Staff Committee comments.

31

32 CHAIRMAN DEMIENTIEFF: Board discussion.

33

34 MR. EDWARDS: Mr. Chairman.

35

36 CHAIRMAN DEMIENTIEFF: Yes.

37

38 MR. EDWARDS: I guess I'm trying to  
39 ascertain truly what the issue here is. Is the issue  
40 blocking streams or really is the issue the length of the  
41 nets? I guess I ask that from the standpoint is that  
42 next time will there be a request for 120 feet? You  
43 know, my experience is is that you can't fish a net any  
44 longer than its total length whereas you can fish it  
45 shorter. So if you have a slough that's 70 feet across,  
46 you can't fish a 60 foot net but you could fish a 100  
47 foot net and cross it. So I'm trying to understand  
48 actually what are we trying to do? Are we trying to  
49 allow and permit the blocking of streams and sloughs or  
50 are we truly trying to get to some kind of an agreed upon

00138

1 length of net? And then Bert, maybe the other question  
2 that you could answer for me, what, you know,  
3 traditionally when a net is fished where it does block,  
4 let's say a stream or a slough, usually for what kind of  
5 length or period of time does that occur?

6

7 MR. GRIEST: Most of the fishing that was  
8 done is mostly in spring and falltime. But you know  
9 what's so interesting is recently the weathers have  
10 really cooled down and the main reason we don't fish in  
11 the summer is it just gets too warm and the fish spoil.  
12 It's not because that they're not around. And so that's  
13 the reason why we don't fish in the summertime. But  
14 we've been having some very cool summers and most of the  
15 fishing has been done pretty much off and on all summer  
16 long. The Smith camp, the Mitchell camp, those are there  
17 the whole summer.

18

19 MR. EDWARDS: Bert, thank you for that.  
20 I guess what I want -- Helen, you want to add something?

21

22 MS. H. ARMSTRONG: I wanted to answer  
23 your question. The proposal is for extending the length  
24 of the net from 60 to 100 feet. Last year the Board  
25 approved blocking the stream totally so that's not an  
26 issue. I mean it is an issue, I know, for a lot of  
27 people but that's not what the proposal is, and so the  
28 proposal is for extending the length of the net and  
29 extending the season.

30

31 MR. EDWARDS: I guess by extension that  
32 would imply that you could block a stream 40 feet further  
33 than you could the year before? But anyway, nevermind  
34 that comment. Bert, my question I guess I was trying to  
35 get at, what is -- traditionally, how long would a net be  
36 left in a stream where it would totally block the stream  
37 as part of a normal sort of a fishing season? I mean  
38 would you expect that to occur for 30 days in a row or  
39 would it occur for five days or is there any kind of a  
40 set time frame?

41

42 MR. GRIEST: When we had our dog team, we  
43 used to do it for at least six weeks. Nowadays we can go  
44 out and get what we need in about two to three weeks,  
45 depending on when you have your net out and we check the  
46 net out every -- every 24 hours. If we need to go some  
47 other place, we're going to go hunting or whatever, we'll  
48 pull it out temporarily and put it back in when we're  
49 back.

50

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1 CHAIRMAN DEMIENTIEFF: Bill.

2

3 MR. THOMAS: Yeah, I thought we were  
4 beyond this type of a discussion. The answer that Bert  
5 gave you right now is an answer you can get from any  
6 subsistence fisherman any place. You're going out to  
7 fish for what you're going to consume. You know, we're  
8 not talking mid-water trawling, we're talking fish to  
9 eat. And so what if you block the stream, if there's a  
10 limit to what you can catch, what difference does it make  
11 how you catch them, you know. Let's be practical. I  
12 mean nobody's going to -- nobody wants to jeopardize  
13 himself to sound like a criminal every time something  
14 occurs in our discussion. But when you go out to provide  
15 for yourself to eat, you don't worry about anything else  
16 but getting that food to eat. Regulations --  
17 subsistence, I've always maintained is one fisheries that  
18 regulates itself. And I'm really distressed at some of  
19 the suggestions and the characterizations that occur in  
20 responses and different analysis. So you know, if they  
21 want to block a stream for a day or two, I don't know how  
22 much fish that's going to involve, but you're going after  
23 a certain amount of fish and what difference does it make  
24 if he can catch it in 15 minutes or in two weeks.

25

26 Thank you, Mr. Chairman.

27

28 MS. GOTTLIEB: Mr. Chair.

29

30 CHAIRMAN DEMIENTIEFF: Yes.

31

32 MS. GOTTLIEB: Thank you. As you recall,  
33 last year I was very worried about this proposal so I  
34 appreciate hearing that there have not been any  
35 conservation concerns identified with last years fishing  
36 season. Last year we were told nets greater than 60 feet  
37 were not common and I see Bert's done some research for  
38 us and it's really good information to know that the 100  
39 foot is a common use and I do understand this is a  
40 customary and traditional practice. But we were also  
41 told last year that Fish and Game as well as the Refuge  
42 were going to collect some data and, as has been pointed  
43 out, this hasn't occurred so I would request that maybe  
44 we insist more strongly that this be done for next year  
45 so we have adequate information.

46

47 Thank you.

48

49 CHAIRMAN DEMIENTIEFF: Thank you.

50

00140

1 MS. GREGORY: Mr. Chairman.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MS. GREGORY: Can I say something? Right  
6 here.

7

8 CHAIRMAN DEMIENTIEFF: Go ahead.

9

10 MS. GREGORY: I want to enlighten Mr.  
11 Vincent-Long that because he mentioned the decline of the  
12 whitefish in the Kuskokwim area was -- maybe he was  
13 indicating that it was due to overharvest. It's not due  
14 to overharvest it's because the beaver got abundant in  
15 our area and started damming those creeks and even lakes  
16 in our -- almost every lake had a beaver dam in it so I  
17 stand to correct your information.

18

19 CHAIRMAN DEMIENTIEFF: Thank you. Go  
20 ahead.

21

22 MS. H. ARMSTRONG: It's hard when we  
23 both have the same last name. Terry Haynes can correct  
24 me if I'm wrong but in response to what Judy was saying,  
25 I just wanted to add that ADF&G is doing a harvest  
26 survey, I believe of whitefish, Susan Georgette's doing  
27 that. Is that right, Terry, starting this spring. It  
28 just takes a little while for the funding and getting it  
29 organized but they are proceeding in doing some research.  
30 And I think the Refuge also is planning on doing some  
31 research but it hasn't happened yet.

32

33 CHAIRMAN DEMIENTIEFF: Any other  
34 discussion. Is there a motion.

35

36 MR. EDWARDS: Mr. Chairman, I would move  
37 to adopt Proposal 4 as recommended by the Northwest  
38 Arctic Council and the Staff Committee, which would  
39 extend the seasons where waters may be obstructed within  
40 the Selawik drainage. It would extend the gillnets from  
41 60 to 100 feet and we'll specify that nets cannot be  
42 stacked. And in my mind an interpretation of that would  
43 mean that nets could not be tied end to end so if you had  
44 four or five hundred food nets you could fish all four of  
45 them, you just couldn't tie them all together and fish  
46 600 feet.

47

48 And I would also, I guess, agree with  
49 Judy that we do need to probably ensure that we do not  
50 have a conservation issue. I guess just reviewing what

00141

1 the harvest is may not give us that kind of information  
2 so I do think it's a commitment that ought to be made  
3 that we would further look at that.

4

5 CHAIRMAN DEMIENTIEFF: We have a motion,  
6 do we have a second?

7

8 MS. GOTTLIEB: Mr. Chairman, may I ask a  
9 question on the motion for clarification and for Bert  
10 also?

11

12 CHAIRMAN DEMIENTIEFF: Sure.

13

14 MS. GOTTLIEB: Did the Regional Advisory  
15 Council say only one net per site?

16

17 MR. GRIEST: Yeah, we agreed that per  
18 site. It's a per site -- one set net.

19

20 MS. GOTTLIEB: So if that's part of what  
21 Gary said I would second that.

22

23 MR. EDWARDS: Yeah, I guess I'm not quite  
24 understanding. My assumption is if you put a net across  
25 a stream you're not going to put another one immediately  
26 upstream of that but you could fish -- if you had several  
27 nets and you wanted to fish in another area, I mean it  
28 wouldn't be restrictive. My understanding was to prevent  
29 the attaching of one net to the next.

30

31 MR. GRIEST: Right. No more than 100  
32 foot per site.

33

34 CHAIRMAN DEMIENTIEFF: Further  
35 discussion. All those in favor, please signify by saying  
36 aye.

37

38 IN UNISON: Aye.

39

40 CHAIRMAN DEMIENTIEFF: Those opposed,  
41 same sign.

42

43 (No opposing votes)

44

45 CHAIRMAN DEMIENTIEFF: Motion carries.

46 We've got one more quick item that we can take care of  
47 today. WSA-01-13 and Dan's going to do that. Forest  
48 Service has assured me that it's only going to take five  
49 minutes. It's in your blue packet, this one here. Go  
50 ahead.

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1 MR. LaPLANTE: Mr. Chairman, my name is  
2 Dan LaPlante, I'm with the Office of Subsistence  
3 Management and I'll be presenting the Staff analysis for  
4 a special action 13, this is for a temporary closure of a  
5 goat harvest in a portion of Unit 5A, it's an area near  
6 Yakutat. The analysis is, as you said, Mr. Chairman, not  
7 in your Board book, it's in the blue folder.

8  
9 This action, if approved by the Board  
10 would extend the 60 day emergency closure that the Board  
11 approved back on October 16th. This issue is a  
12 conservation issue, it's about a goat population in the  
13 area between West Nunatak Glacier and the Hubbard  
14 Glacier. The harvest in this area has averaged about 2.2  
15 goats in the early '90s, late 1980s and then in 1998 the  
16 harvest jumped up to 10 goats and then in 1999 it jumped  
17 up to 16 goats and then in the year 2000 after the  
18 harvest got to a harvest number of eight, this Board took  
19 action to close the season for the remainder of the year.  
20 So there's been a significant increase in the harvest in  
21 the past three years.

22  
23 There was no systematic population  
24 surveys in the area prior to the year 2000, but since the  
25 harvest increased quite a bit, the Department of Fish and  
26 Game and the Forest Service in the area conducted a  
27 survey in July of 2000 and in that survey they counted 82  
28 goats. The survey resulted in a population estimate of  
29 160 goats approximately and they were using a  
30 sightability index of about 50 percent, therefore, the  
31 harvest of goats in the year 2000, the harvest of eight  
32 was about five percent of the population, assuming the  
33 sightability index was correct. The allowable harvest  
34 quota is standard of about five percent of the population  
35 so that was within some management guidelines.

36  
37 Another survey was conducted in August of  
38 this year in which the biologists observed 53 goats and  
39 this was under ideal conditions therefore the assumption  
40 is that the population is quite a bit lower than the 160  
41 goats that was assumed the year before so the population  
42 trend is down quite a bit. Because of this lower  
43 population, the State closed the season this year on  
44 October 12th and this Board followed the State action  
45 with a closure beginning on October 16th. And again,  
46 that closure is good for 60 days which expires on  
47 December 15th, the end of this week.

48  
49 On November 8th a public meeting was held  
50 by the Forest Service in Yakutat and approximately eight

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1 members of the public attended, the consensus at that  
2 public meeting was to extend the closure through the  
3 remainder of the current established season. And the  
4 current established season runs through January 31st of  
5 next year. There was one concern expressed at the public  
6 meeting and that was that this closure not exclude  
7 ceremonial harvest opportunities. Then on November 30th  
8 of this year, the local biologists conducted another  
9 survey and they found 48 goats so that kind of confirmed  
10 that the population is trending downward and this was  
11 under good observation conditions as well.

12

13           So Mr. Chairman, the effects of this  
14 closure, or extending this closure would be to provide  
15 protection to a declining goat population. Also prior to  
16 the closure in October only one permit had been issued so  
17 the hunters were able to make other arrangements to hunt  
18 in other areas. The remainder of Unit 5A is still open.  
19 Again, this closure only includes a small part of 5A  
20 between the Hubbard Glacier and the West Nunatak Glacier  
21 so there remains additional opportunity for subsistence  
22 users for goats in the area.

23

24           This proposal does not address the  
25 ceremonial harvest provisions that are found in the  
26 special provision section of the regulations. Mr.  
27 Chairman, I also might add that the Forest Service has  
28 recently submitted a proposal to establish a quota system  
29 for goats in this area during the current wildlife cycle  
30 that we've recently received the proposals for. So in  
31 the spring when you're addressing wildlife issues, you'll  
32 be receiving a more in-depth analysis of this issue by  
33 the local Forest Service biologists.

34

35           So Mr. Chairman, that concludes my  
36 presentation.

37

38           CHAIRMAN DEMIENTIEFF: Thank you.  
39 Department, do you have commentary?

40

41           MR. HAYNES: Thank you, Mr. Chairman.  
42 The Department supports this special action request.  
43 It's important in this case to keep the State and Federal  
44 seasons in regulations in synch.

45

46           CHAIRMAN DEMIENTIEFF: Regional Council.

47

48           MR. THOMAS: The Regional Council  
49 supports.

50

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1 CHAIRMAN DEMIENTIEFF: Okay. With that  
2 we'll advance to Board deliberations. Oh, Staff  
3 Committee, I'm sorry.

4  
5 MR. JENNINGS: Yes, Mr. Chair, Tim  
6 Jennings, I'll be giving the Staff Committee  
7 recommendation. And that is, to adopt the special action  
8 request as recommended by the Southeast Alaska Regional  
9 Advisory Council and that would be to extend the closure  
10 for that area in Unit 5A draining into Russell and  
11 Nunatak Fjords between Hubbard and West Nunatak Glaciers.  
12 And the justification is, as Dan has mentioned in his  
13 Staff analysis that a resource conservation concern has  
14 been raised. Both Federal and State biologists have  
15 determined that the population in the proposed closure  
16 area is insufficient to support any further harvest at  
17 this time.

18  
19 And as Dan noted, rural residents can  
20 still harvest goats in the remainder of Unit 5A which  
21 have higher population densities. Opportunity will  
22 remain for hunters in Yakutat to harvest goats within  
23 other parts of 5A until the close of the Federal season  
24 on January 31.

25  
26 Mr. Chair.

27  
28 CHAIRMAN DEMIENTIEFF: Thank you. Board  
29 discussion.

30  
31 MR. CAPLAN: Mr. Chairman.

32  
33 CHAIRMAN DEMIENTIEFF: Yes.

34  
35 MR. CAPLAN: I would make a motion at  
36 this point, sir, to support the Staff Committee  
37 recommendation with respect to area 5A goats, to extend  
38 the closure through January 31st, 2002. This motion is  
39 based on the need for conservation measures necessary to  
40 protect the goat populations.

41  
42 Thank you, Mr. Chairman.

43  
44 CHAIRMAN DEMIENTIEFF: Is there a second  
45 to that motion?

46  
47 MR. CESAR: I'll second it, Mr. Chairman.

48  
49 CHAIRMAN DEMIENTIEFF: You better jump up  
50 Niles.



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1 MR. CESAR: And call for the question.

2

3 CHAIRMAN DEMIENTIEFF: Bill was looking  
4 at you real hard. Question's been called for, all those  
5 in favor signify by saying aye.

6

7 IN UNISON: Aye.

8

9 CHAIRMAN DEMIENTIEFF: Those opposed,  
10 same sign.

11

12 (No opposing votes)

13

14 CHAIRMAN DEMIENTIEFF: Motion carries.  
15 Now, I don't know what's going to happen tomorrow we'll  
16 just have to play it by ear but we will start at 8:30. We  
17 were cruising along real good, you never know when you're  
18 going to get hung up. 8:30.

19

20 (PROCEEDINGS TO BE CONTINUED)

21

22 \* \* \* \* \*

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1 CERTIFICATE

2

3 UNITED STATES OF AMERICA )

4 )ss.

5 STATE OF ALASKA )

6

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

10

11 THAT the foregoing pages numbered 2 through 145  
12 contain a full, true and correct Transcript of the  
13 FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken  
14 electronically by Nathan Hile on the 11th day of December  
15 2001, beginning at the hour of 8:30 o'clock a.m. at the  
16 Egan Convention Center in Anchorage, Alaska;

17

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

22

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

25

26 DATED at Anchorage, Alaska, this 19th day of  
27 December 2001.

28

29

30

31

32 \_\_\_\_\_  
33 Joseph P. Kolasinski  
34 Notary Public in and for Alaska  
My Commission Expires: 4/17/00