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FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING

VOLUME II

EGAN CONVENTION CENTER
ANCHORAGE, ALASKA

JANUARY 12, 2005
8:30 o'clock a.m.

- MEMBERS PRESENT:
Mitch Demientieff, Chair
Judy Gottlieb, National Park Service
Paul Tony, Bureau of Indian Affairs
Denny Bschor, U.S. Forest Service
George Oviatt, Bureau of Land Management
Gary Edwards, U.S. Fish and Wildlife Service
Keith Goltz, Solicitor

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1 P R O C E E D I N G S

2
3 (Anchorage, Alaska - 1/12/2005)

4
5 (On record)

6
7 CHAIRMAN DEMIENTIEFF: I'll call the
8 meeting to order. At this time I would like to call up
9 Mike Smith who I understand has some various issues that
10 he wants to be addressed.

11
12 MR. SMITH: Thank you, Mr. Chairman. I'm
13 sorry, this morning I wasn't quite ready for you, but
14 I'll certainly give it my best here. I hardly know where
15 to start, of course.

16
17 First off, my name is Mike Smith and I
18 work for Tanana Chiefs Conference.

19
20 I'd like to just make a brief comment real
21 briefly on the discussion you had yesterday concerning
22 whitefish, and just some observations we have currently
23 made in regards to the importance of non-salmon species.
24 Recently we conducted a traditional ecological knowledge
25 and harvest survey of non-salmon species in the Koyukuk
26 region, and something rather startling showed up, and
27 when we compared it to a base line study done in 1982.
28 So basically over that period of 20 years, and I'll just
29 pull it out for an example, and we haven't fully analyzed
30 it and put it together yet in a report, but Hughes kind
31 of sticks out in my mind.

32
33 Hughes, of course, is a village of about
34 65, 70 people, and in 1982, they harvested approximately
35 10,000 salmon. At the same time they harvested
36 approximately 30 pounds of non-salmon species in that
37 area. Our recent harvest surveys, that has shifted
38 considerably. In the last year they harvested somewhere
39 -- I believe 2002 is where our information ends. They
40 harvested somewhere around 1100 salmon and the harvest of
41 non-salmon species rose to almost 4 -- a little over 400
42 pounds. So the importance of those non-salmon species is
43 becoming evident as the salmon populations are declining.

44
45 In regards to the proposals, we'd like to
46 speak in favor of the Association of Village Council
47 Presidents' proposal on the windows and the
48 implementation schedules. We think it's a fairly
49 straight forward, simplistic proposal in that it -- well,
50 it makes relatively sense (sic). If the -- you know, the

1 windows could -- you know, it's my understanding that the
2 proposal would implement the windows at the beginning of
3 the year, and then the Federal managers in a positive or
4 negative determination as to a conservation concern, once
5 they collect some information and run strength
6 information make a determination as to whether or not a
7 conservation concern exists. If so, then leave the
8 windows in place. If not, lift the windows. We think
9 that's a pretty straight forward proposal. It gives the
10 subsistence users a very clear idea as to what their
11 fishing opportunities are going to be at the beginning of
12 the year so they can plan in a more efficient manner. It
13 also allows them to practice what is a diminishing
14 subsistence practice of their customary and traditional
15 subsistence harvest of salmon.

16
17 In regards to Proposal -- and I'm not real
18 good at the numbers, I'm more of an issue person. 35
19 mesh depth proposal that was proposed I believe by the
20 Eastern Interior Regional -- or Eastern RAC. While I
21 have the information, I haven't had a chance to seriously
22 look at it and analyze the information provided by the
23 Council. But if it is true that a large king salmon is
24 now considered a 10 pound fish, then something seriously
25 is wrong and needs to be looked at. And whether or not
26 the 35-inch mesh depth is the appropriate vehicle, we're
27 not sure yet, but we would like to see a standardization
28 of net sizes and gear types up and down the river if
29 possible. What that's going to look like in the end,
30 we're not real sure, but in order to provide some, you
31 know, good catch information and so on and so forth, we
32 just think that standardization of nets along the Yukon
33 would be appropriate.

34
35 In regards to the extension of the drift
36 gill netting into the Galena area, we're supportive of
37 that proposal. And the reason we're supportive of that
38 proposal is if in fact we're going to institute windows
39 upon the subsistence users and the restrictions on
40 subsistence users, we think any real opportunity to
41 provide them an opportunity to collect those fish needs
42 to be taken.

43
44 Secondly, some of the arguments made
45 against the proposal I think are probably questionable.
46 One, the concern as to the increased numbers of fish, if
47 we look at the harvest numbers, if in fact that harvest
48 increased by say 20 percent, we're talking, you know,
49 maybe 500 to 1,000 extra fish taken that year by, I might
50 add, qualified subsistence users.

1 As to the stock composition, that would be
2 great if we knew what the stock composition was out in
3 Galena at any given time. The assumption that the front
4 run of the fish and stuff are Canadian-bound is
5 questionable now. The recent genetic information
6 released by the State Department of Fish and Game seems
7 to indicate that the run is at best 50/50 Canadian-bound
8 fish and American born fish.

9
10 So, I mean, it's -- so we would be in
11 support of that proposal. I think the proponents of that
12 proposal went out of their way to alleviate some of the
13 concerns by limiting the size of the fish, or by limiting
14 the size of the nets. They have agreed to, you know,
15 they went to the 35-inch mesh deep in order to alleviate
16 the concern of catching all the big fish that might be
17 running out in the middle, and so on and so forth.

18
19 Once again, I think we need to remember
20 what we're trying to protect here, and that's the
21 legitimate customary and traditional use of subsistence
22 users in a customary and traditional fashion. So whether
23 or not the drift net is a customary and traditional
24 fashion I'm not here to debate right now, because
25 certainly if it's okay for 500 miles prior to this, it
26 should be okay for the few extra people that might be
27 included with this proposal.

28
29 And, I'm sorry, Mr. Chairman, but I think
30 that's about it in regards to the more -- the specific
31 proposals that we had concerns with, and with that, I'll
32 leave it at that.

33
34 CHAIRMAN DEMIENTIEFF: Thank you, Mike,
35 and I apologize here. We didn't have a chance to talk,
36 but I just went by your -- I mean, you had various -- you
37 spoke to some proposals, which, of course, I don't know
38 what your schedule is, I know you had to leave early
39 yesterday, but you are more than welcome to have ample
40 opportunity if there's additional points you want to
41 bring up on specific proposals, and if your time schedule
42 allows you to. But thank you very much for your
43 testimony.

44
45 MR. SMITH: Yeah, Mr. Chairman, I have a
46 rather interesting meeting to go to right now. I've got
47 to go deal with the State Board of Game on a Tier II
48 proposal, so I get to jump ships here.

49
50 Thank you, very much.

1 MS. GOTTLIEB: Mr. Chair.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MS. GOTTLIEB: Could I just ask Mike one
6 easy question I think so we all know. We know you
7 represented Tanana Chiefs. Can you geographically tell
8 us how much up and down river Tanana Chiefs is involved
9 in?

10

11 MR. SMITH: The region itself runs from
12 Holy Cross all the way to the Canadian border.

13

14 CHAIRMAN DEMIENTIEFF: Okay. Thank you.
15 And then I just want to inform the Board that we're
16 working on Unit 2 deer, finalizing their report. The
17 gentleman, what, Mr. Hernandez, who has to leave tomorrow
18 on the morning flight to Juneau, so they're working on
19 finalizing that, and if at all possible, at the end of
20 the day we'll go ahead and just go into our update on
21 that. He's the one that's primarily in charge, so I just
22 want to let you know that that schedule change may
23 happen.

24

25 And just before we get too serious here, a
26 little bit more updates. My wife and I went over to the
27 hospital last night to visit some friends, and I bumped
28 into Johnny Thompson who I didn't know, and he's a long-
29 time RAC member from YK, was in the hospital since June.
30 And I just happened to visit him, and escorted him around
31 the hospital a little bit, and while my wife and I were
32 visiting other people. So I didn't even hear that. But
33 the good news is, is he's getting out of the hospital
34 today after being in there since June. He's moving over
35 to I think Quyana House, which is just housing right next
36 door to the hospital, or adjacent to it. And so I just
37 wanted to kind of update you with that.

38

39 And the other good news, our old friend
40 Bill Thomas from Southeast I understand, I got some
41 reports yesterday, is back up and operating and got his
42 sense of humor back. So that's really good news for us,
43 too. Even though he doesn't serve on the RAC, he's
44 certainly an old friend. Anyway, I just wanted to give
45 you that little bit of gossip.

46

47 Okay. With that, we'll move on to
48 Proposal No. 21.

49

50 MR. CASIPIT: Thank you, Mr. Chair. The

1 Staff analysis for FP05-21 starts on Page 232 of your
2 book.

3
4 Proposal FP05-21 was submitted by the
5 Southeast Regional Subsistence Advisory Council which
6 would allow Federally-qualified subsistence users to
7 harvest fish under sport fishing regulations after taking
8 the annual subsistence harvest limit for that species
9 under Federal subsistence fisheries regulations.

10
11 The current statewide Federal subsistence
12 harvest regulations specify that once an annual limit is
13 taken, no additional fish of that species may be
14 harvested under any other regulations. This proposal
15 would benefit subsistence users because of the increased
16 fishing opportunity. This proposal would also align
17 Federal and State regulations, because there's not a
18 similar State prohibition in subsistence personal use or
19 sport fishing regulations.

20
21 This proposal is similar to a proposal
22 that the Board deliberated in 2003. That proposal was
23 FP04-21. This proposal allowed the accumulation of
24 Federal subsistence and State sport fishing limits for
25 salmon in the Copper River drainage upstream of Haley
26 Creek.

27
28 The effects of this proposal is that
29 current Federal subsistence fishing regulations prevent
30 any additional harvest opportunities by Federally-
31 qualified subsistence fishers or members of their
32 households by any means once an annual subsistence
33 harvest limit is taken. This is not the case with State
34 personal use subsistence or sports fishing regulations.
35 The current regulation is an unnecessary restriction to
36 subsistence users, and because of the low additional
37 harvest would not result in any conservation concerns.
38 Adopting this proposal will provide an increased
39 opportunity for subsistence users.

40
41 I'll be happy to answer any questions.

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

45
46 DR. SCHROEDER: Mr. Chairman, we have
47 received no written public comments for this proposal.

48
49 CHAIRMAN DEMIENTIEFF: Thank you. We have
50 no additional requests for public testimony at this time.

1 Regional Council recommendation.

2

3 MR. LITTLEFIELD: Thank you, Mr. Chair.
4 The Regional Council recommendation is on Page 233, and
5 this motion was supported by the Council on a vote of
6 nine to one. And the Council could find no conservation
7 concerns with this proposal. It is -- substantial
8 information has been provided to us, enough to make our
9 decision. The proposal is positively affecting
10 subsistence users and has no effect on other users.

11

12 When you look at this, the existing
13 regulation, the State said you cannot accumu -- once
14 you've reached your Federal limit, you could not take
15 fish from a sport fish. It would have been illegal to
16 take sport fish or any other State subsistence permit.
17 But if you look at the number of fish that are taken
18 legally under a Federal harvest limit, and those are
19 shown on, excuse me here, Page 236, so those are the fish
20 that we can legally take in Southeast Alaska as a
21 subsistence user. So we're not talking about thousands
22 of fish that a person could accumulate here. So if we --
23 if you were to take those fish, and you'd have to travel
24 all over to the Stikine and Tom's Creek and we know that
25 subsistence users are not going to travel hundreds of
26 miles to go get these fish. So if you were to get that
27 limit, you would be prohibited from catching fish
28 anywhere else.

29

30 We saw no reason why you could not catch
31 those fish and still participate in the State fisheries
32 as any other resident could. So that's why we changed it
33 a little bit from the original proposal and added that
34 you could accumulate this -- the limit shown on Page 236
35 with the State limits as they exist, Mr. Chair.

36

37 CHAIRMAN DEMIENTIEFF: Thank you. Staff
38 Committee.

39

40 MR. KESSLER: Mr. Chairman, I'm Steve
41 Kessler with the Forest Service. The Interagency Staff
42 Committee recommendation is on Page 234. The Staff
43 Committee recommends that you support the proposal with
44 modification to remove the second reference to the word
45 annual, consistent with the recommendation of the
46 Southeast Regional Advisory Council, but not to
47 accumulate with the State's subsistence harvest limits,
48 which is contrary to the recommendation of the Council.
49 The modified proposal would read as on Page 234.

50

1 As far as justification, this proposal
2 would allow accumulation of Federal subsistence and State
3 sport fishery annual harvest limits parallel to the
4 opportunity under State regulations. The Council
5 recommends that in addition to allowing the combination
6 of Federal subsistence and State sport harvest limits,
7 accumulation of State harvest limits should also -- of
8 State subsistence harvest limits should also be
9 considered by the Board. While we do not agree with the
10 Council's modification, we do support the intent of the
11 original proposal.

12
13 If users are unable to obtain the fish
14 that they need, and there is no conservation concerns,
15 the manager already has the latitude to provide for
16 additional harvest on a case-by-case basis. That
17 flexibility enables managers to more effectively address
18 the specific needs.

19
20 Of a particular concern is if there is a
21 conservation concern overall or in a specific location,
22 coordinating subsistence harvest limits among Federal and
23 State managers would be considerably more difficult if
24 the subsistence harvest limits were stacked.
25 Accumulating State and Federal subsistence fish harvest
26 limits would set a precedent statewide, and could result
27 in substantial conservation and management coordination
28 concerns. Mr. Chairman.

29
30 CHAIRMAN DEMIENTIEFF: Thank you,
31 Department.

32
33 MS. SEE: Mr. Chairman, the Department
34 supports the intent of the original proposal. The
35 Southeast Regional Advisory Council further modified this
36 proposal to allow for duplicate Federal and State
37 subsistence harvest limits to be accumulated. The
38 harvest limits currently in place are intended to be
39 liberal, thus providing efficiency and flexibility to
40 individual harvesters. If this regulation were adopted
41 as modified by the Council, the State would likely have
42 to reconsider harvest limits in State-managed subsistence
43 fisheries for both sockeye and coho salmon in order to
44 ensure that harvest occurring at numerous small systems
45 are sustainable.

46
47 We would like to note here that the State
48 and the Federal subsistence regulatory programs were each
49 developed to provide for subsistence users essentially
50 independently of each other. It was noted in the Staff

1 Committee's analysis or recommendation that the Federal
2 system can easily adjust for users' uses, as can the
3 State system do as well. And so we have a corresponding
4 ability in the State system to do this. So this is
5 really an unnecessary modification, but it's a very
6 problematic modification as well, and we feel that the
7 Staff Committee recommendation notes that point clearly.

8
9 Thus, we support the intent of the
10 original proposal when we support the Interagency Staff
11 Committee recommendation regarding this proposal. Thus,
12 we do not support the proposal as modified by the
13 Council.

14
15 Thank you.

16
17 CHAIRMAN DEMIENTIEFF: Thank you. Board
18 discussion.

19
20 MR. EDWARDS: Mr. Chairman, I have a
21 question for Mr. Littlefield. Under current Federal
22 regulations are not subsistence needs being met, and, if
23 so, are there examples of those needs not being met? And
24 wouldn't it simply be more prudent to adjust the Federal
25 limits then if they are problematic, and like I said, do
26 we have examples of needs not being met?

27
28 MR. LITTLEFIELD: I don't know if I can
29 give you examples, but I would have to say the answer is
30 probably, yes, some people's needs are not being met,
31 because I hear that. Otherwise we wouldn't be here
32 deliberating some of these proposals. I can't give you a
33 concrete example, but if a person needs -- say they need
34 100 fish. Well, we don't have -- 100 sockeye. Well, we
35 don't have that in our system. Or 100 coho. So if they
36 were to gather 40 cohos legally under the Federal system,
37 they would be prohibited from getting the other need. In
38 other words, we're try -- we're needs based here. If
39 they can't meet their needs, we have to provide that
40 opportunity for them. What we're doing is preventing
41 them from having the opportunity to gather those other 60
42 fish under the State regulations.

43
44 So if you look at the Interagency Staff
45 Committee recommendation, it's kind of backwards. What
46 they want you to do is go on a case-by-case basis. What
47 I think is better is to have a regulation that's
48 regionwide and the manager still has the flexibility to
49 go the other way. In other words, he can enforce these,
50 saying, well, this stream is -- we don't want you to go

1 in the stream and take too many fish. That's what we've
2 done on other proposals.

3
4 So I can't give you any concrete examples
5 of need, but I certainly know that some people need a lot
6 more fish than what are in the existing limits, and some
7 don't take near as many. Matter of fact, if we could
8 have Mr. Suminski -- is he here? I think he could give
9 us some information on exactly how many fish are being
10 taken under these permits. Like coho, it's very
11 minuscule. And if those people take that, you ought to
12 be able to let them catch some more fish on the other. I
13 don't know if you want to hear that, but he does have the
14 data on how many fish are legally taken. And we're
15 talking not about the State system, we're talking about
16 the Federal system.

17
18 So the amount of fish that you can legally
19 take is shown on Page 236. So I guess if you looked at
20 that and said is that too many fish for some person to
21 have? Could they meet their needs? I suggest that those
22 needs for many families are not being met. That's not
23 enough, and it's unfair to prohibit them from getting
24 more under the State system.

25
26 MR. EDWARDS: I guess my question would be
27 then why wouldn't we just simply adjust those limits on
28 Page 236? That seems to me to be the proper thing to do.
29 And if we have data that would certainly show that needs
30 aren't being met, then maybe that's what we need to be
31 looking at.

32
33 MR. LITTLEFIELD: Thank you, Mr. Chair.
34 We are addressing that. In other words, we did that on
35 the steelhead proposal, No. 28, where before you could
36 only take a 36-inch. We did meet their needs by moving
37 to one fish a day. We haven't met the needs yet, but
38 we're going in a positive direction to going to one fish
39 and the two annual limits. We're going to talk about
40 Proposal 30, which has to do with the trout, and we're
41 going to hopefully liberalize those limits. But we
42 recognize that those limits don't meet everyone's needs.

43
44
45 And I think that the small amount of fish
46 we're talking about, there is no conservation concern
47 here with any of these that anybody's brought up, Staff
48 or State, even though they've mentioned it, that this has
49 dire consequences for everybody else. But we have to
50 remember, you can only take what's legally taken under

1 Federal regulations. So if you add those to the
2 subsistence, we're not talking huge numbers here.

3

4 CHAIRMAN DEMIENTIEFF: Further discussion.

5

6 MR. MECUM: Mr. Chair.

7

8 CHAIRMAN DEMIENTIEFF: Oh, Doug.

9

10 MR. MECUM: Thank you, Mr. Chairman. I
11 had a question just to make sure I understand. Under the
12 -- I guess this is for Staff. Under the Federal system,
13 Federal managers have the authority to allow additional
14 fish to be taken under Federal subsistence permits, is
15 that correct?

16

17 MR. CASIPIT: That would be under our in-
18 season manager's authority, and I don't remember the
19 authority that's granted in the letters from the Board,
20 but they can set permit conditions, specify gear, open
21 and close seasons, close and re-open Federal subsistence
22 fisheries, close and re-open areas to non-subsistence
23 users. There's a series of things that they have
24 authority to do. I don't have the letter in front of me.
25 Perhaps, Tom, maybe.....

26

27 CHAIRMAN DEMIENTIEFF: Tom, go ahead.

28

29 MR. BOYD: Well, Mr. Chairman, I don't
30 have the answer either without researching it, and I'd
31 need to look at the letter of delegation again just to
32 see exactly how it's worded, but I think as a general
33 rule, we have delegated the in-season managers some
34 authority to allow additional opportunity. But if the
35 Board has set some sideboards, then -- I mean, as a
36 general rule, then they may not be able to exceeds those
37 sideboards. In this situation, I'm just not sure without
38 looking into it. And I'm looking back at our regulation
39 specialist to see if he has anything to add to what I've
40 said. He says I'm correct, so.....

41

42 CHAIRMAN DEMIENTIEFF: Go ahead. Follow-
43 up.

44

45 MR. MECUM: Yes. Thank you, Mr. Chairman.
46 Well, the reason I asked was just to understand that.
47 Under the State system, you -- the managers do have that
48 authority to provide for additional fish to be taken
49 under the authority of subsistence permits, and we do
50 that routinely.

1 Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Yeah, we've made
4 quite a bit of progress in terms of delegating to our in-
5 season managers, but that's a really technical question,
6 and we don't have our in-season manager here to answer
7 that. And -- but we'll certainly get a response to you
8 as soon as we can.

9

10 MS. GOTTLIEB: Mr. Chair.

11

12 CHAIRMAN DEMIENTIEFF: John. I'm sorry,
13 John was first.

14

15 MS. GOTTLIEB: Okay. Sorry.

16

17 MR. LITTLEFIELD: Thank you, Mr. Chair. I
18 would like to get that question clarified, too, because
19 it's been my understanding that under --this is not a
20 very easy system to adjust, the Federal system. It --
21 the authority granted to the land manager has to be in
22 regulation, and so it's been my understanding that the
23 land manager could close those under an emergency action.
24 It's a special action request. It's not simply just
25 saying, sure, go get 40 fish. But it's been my
26 understanding that the land manager could not say, well,
27 the limit is 40 cohos, go take 100. I think the limit is
28 -- the limit's 40. My understanding of how this work is
29 the limit is 40, I don't want you to take any more than
30 20. That's the special action. As far as I know, it was
31 never increased. I don't know of any example, maybe
32 somebody else could help me on that, but I don't know of
33 examples where it's gone up above the existing Federal
34 limit. Always down or closure.

35

36 CHAIRMAN DEMIENTIEFF: Yeah, we're -- I
37 was just doublechecking. I was listening to you, John,
38 but, yeah, definitely it is a sideboard issue that we
39 have tailored some of the delegations, although it's a
40 blanket authority, we have tailored the delegating to
41 specific fisheries. So without having the manager here,
42 it's very difficult for us to be able to respond to that
43 kind of a question right at the moment. But we
44 definitely will find it, and we will make sure that the
45 State and regional council have that explained very
46 definitely. Judy.

47

48 MS. GOTTLIEB: Mr. Chair. Our upriver,
49 Copper River in-season manager, Eric Veach is here, and I
50 had been planning to ask him how this regulation worked

1 on the Copper last year. So if it would be all right for
2 Eric to come up and answer that question, we'd appreciate
3 it.

4
5 CHAIRMAN DEMIENTIEFF: Yes.

6
7 MR. VEACH: Mr. Chair. Ms. Gottlieb.
8 Eric Veach with Wrangell-St. Elias National Park and
9 Preserve.

10
11 As far as we know, the regulation worked
12 fine. I think one of the things I might just mention,
13 when we put this regulation forward, when the Subsistence
14 Resource Commission put it forward, some of the concern
15 was is that most users didn't even understand that they
16 couldn't accumulate the two limits, and so I think in a
17 lot of -- I think by and large it was pretty seamless
18 because most of the users weren't even really aware that
19 it was a problem at first. But as far as we know, there
20 wasn't any problem.

21
22 MR. EDWARDS: Mr. Chairman.

23
24 CHAIRMAN DEMIENTIEFF: Thank you. Gary.

25
26 MR. EDWARDS: I'm not sure who can best
27 answer this, either the Staff or the State, but for these
28 -- other than for steelhead, now many additional fish can
29 you take in these systems under a sport fishing license?
30 In other words, if the limit, for example, in Salmon Bay
31 Lake is 30 sockeye under subsistence, if you also wanted
32 to sport fish, how many additional sockeye could you take
33 throughout the season?

34
35 MR. CASIPIT: The general limit for
36 Southeast for sockeye is six per day sport fishing.....

37
38 MR. EDWARDS: And that.....

39
40 MR. CASIPIT:12 in possession.

41
42 MR. EDWARDS:season runs how many
43 days?

44
45 MR. CASIPIT: It's a year-round season.

46 There is no season.

47
48 MR. EDWARDS: So if you added those
49 numbers together for -- with what's being originally
50 proposed on Salmon Bay Lake, you could take 30 under

1 subsistence, and then another 30 or 100 under sport fish,
2 right?

3

4 MR. CASIPIT: Six per day, 12 in
5 possession, right.

6

7 MR. EDWARDS: All right. Or 200.

8

9 MR. TONY: Mr. Chair, I have a question.

10

11 CHAIRMAN DEMIENTIEFF: Go ahead.

12

13 MR. BSCHOR: I believe for Ms. See or
14 possibly Mr. Kessler. As far as stacking the numbers
15 under the State and the Federal system, is there -- it's
16 inferred that there is a potential conservation concern
17 there. Could you give me more information on that, or
18 expand on that as to what the positives and negatives
19 might be of this?

20

21 MR. KESSLER: Yes. Mr. Bschor, I don't --
22 in my view of this, I don't think that there is
23 necessarily a conservation concern. I mean, that's going
24 to be on a case-by-case basis depending on the situation
25 with a specific species, a specific run. If there were a
26 conservation concern under both the State and the Federal
27 systems, the -- that fishery could be closed or modified.

28

29

30 I think that the main point here in the
31 problems that the Interagency Staff Committee saw with
32 this proposal is the management coordination concern, is
33 that as we have more and more of the -- this regulation
34 would apply to all these different runs. So, for
35 instance, if we have a situation where coho salmon start
36 being an over conservation concern in Southeast Alaska,
37 the numbers start going down, and then we have a
38 coordination concern with the -- that the Federal system
39 will have to start reducing, the State system will have
40 to start reducing, which one do you reduce by how much,
41 and so that the users still can get hopefully as close to
42 what they need as they can, but we don't know if it would
43 be fishing under Federal regulations or under State
44 regulations, and it all has to be coordinated. And I
45 guess that's from the Staff Committee's perspective.
46 That's the difficult issue with this proposal.

47

48 CHAIRMAN DEMIENTIEFF: Marianne.

49

50 MS. SEE: Yeah, through the chair. The

1 distinction here, it's important to come back to this,
2 that the Department does support the original proposal,
3 that sport fish and Federal subsistence limits can in
4 fact be combined. That is not the concern here. The
5 larger concern is a programmatic concern about stacking
6 the Federal subsistence limits on top of State
7 subsistence limits. It's a programmatic concern. In any
8 one given place, as Steve Kessler noted, there may not be
9 an actual conservation concern about that particular run
10 in that particular location, but that could really depend
11 on the place and the species. And also, you know, by
12 extension, whether this would be something that would be
13 looked upon for wildlife where there could be some real
14 problems. So we just think this is a point at which we
15 would ask the Board to really give careful consideration
16 to this. As you heard from the numerical example about
17 sport fish and Federal subsistence limits, there could be
18 numerically an opportunity to catch a lot of fish, which
19 is fine the Department feels under those two sets of
20 regulations, but we don't want to see a hasty decision
21 made by any means on this issue with respect to the two
22 subsistence programs, regulatory programs where in fact
23 there's a provision for an efficient and substantial
24 harvest in each program for the benefit of the
25 subsistence users to meet the traditional customary
26 subsistence uses. That's what each program is set up to
27 do. And again, if there's a problem with the limits in
28 either program, that is up to the managers in those
29 programs to look at that and make adjustments as possible
30 to provide for the uses that are customary and
31 traditional in that area. So there are mechanisms in
32 each program separately to do that, but there is not an
33 intent that I'm aware of ever to consider literally
34 stacking those limits between the Federal and the State
35 systems.

36

37 Thank you.

38

39 CHAIRMAN DEMIENTIEFF: John, you had a
40 comment.

41

42 MR. LITTLEFIELD: Thank you, Mr. Chair.
43 When I was in the men's room this morning, the water was
44 falling on my head, but the sky wasn't. And I hear a lot
45 of that in these discussions, that the sky is falling.
46 We're going to have, you know, -- they're going to
47 decimate the resource. We said there wasn't a
48 conservation concern, and we told you we had substantial
49 evidence to base that on. And I'd like to ask Mr.
50 Suminski, if you would indulge me, Mr. Chair, to come

1 forward, as well as the other staff and let you know how
2 many sockeye were taken on Prince of Wales Island where
3 there's an authorized subsistence fishery, how many cohos
4 were taken in Southeast Alaska, and then I want you to
5 ask yourself, if the addition of those cohos and those
6 sockeye and those trout, and I don't know if he has
7 numbers on that, is going to bust the bank. I suggest
8 that when you hear the numbers, this is a non-issue,
9 folks. If you would let Staff give you a short
10 presentation on how many fish were taken under legal
11 regulations. In other words, we're talking about Federal
12 legal regulations here. And so those are the fish we're
13 talking about. If he could give us some enlightenment
14 there, I think it might open your eyes. We're only
15 talking about a few fish here. Mr. Chair.

16
17 CHAIRMAN DEMIENTIEFF: Thank you. And I
18 needed to respond actually to the State's comments. We
19 don't miss -- or we don't mix apples and oranges. We
20 have entirely two different projects, as the State does,
21 in dealing with fish and game resources. You have your
22 own board for each. And we track, even though it's the
23 same board, we track our process differently. That's why
24 we meet here now for fish, and we'll do the game later,
25 so they're -- what we do here with regard to regulatory
26 action does not go over into the game side. So I
27 appreciate your concern, but we do things pretty much the
28 same way the State has. I remember the old days when
29 they used to meet for a month, you know, when they did
30 fish and game once, and that got a little confusing in
31 the State system, but we actually track ours very much
32 like the State system. So you can rest assured that
33 while we're making fish regulation, we are not making
34 game regulation.

35
36 Okay. Go ahead, Cal.

37
38 MR. CASIPIT: To answer Chairman
39 Littlefield's question, I'm skipping a little bit ahead,
40 but under the proposal for FP05-27, on Page 276, table 1
41 shows the salmon catches from Federal permits for 2002
42 and 2003. And just to summarize, for cohos in 2002, 396
43 fish were reported on Federal permits, 169 sockeye. IN
44 2003, 21 sockeye and 206 cohos were reported on Federal
45 permits.

46
47 CHAIRMAN DEMIENTIEFF: Thank you.

48
49 MS. GOTTLIEB: Mr. Chair.

50

1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MS. GOTTLIEB: Thank you. I'm afraid I
4 have a process problem here. I think originally
5 suggested, there is a need. The need's being identified
6 by the RAC, and I appreciate and support that there is a
7 need. I think the initial solution of adding the sport
8 fish limit would be a good answer to this need. But I
9 would hope that we would be pretty cautious about
10 separating out actions from the Board of Fisheries,
11 as Gary is saying, if there is a need, as has been
12 identified for more fish, one answer we could provide
13 would be to use this additional sport fish limit and make
14 that additive, or I think this Board isn't doing our job
15 if we, rather than addressing increasing our Federal
16 subsistence limit, say okay, go ahead and add the State
17 limit. I think -- and my preference would be, if we need
18 to raise the limit, let's do that, but not mix the two.
19 We're in a dual management system, and I'd prefer not to
20 mix those actions.

21

22 Thank you.

23

24 MR. EDWARDS: Mr. Chairman, as maybe a
25 follow-up to the observation that Mr. Littlefield made,
26 and what's shown here in this table, I think there's no
27 question that there's a minimal amount of fish being
28 taken which would seem to me would indicate that needs
29 are actually being met, or these numbers would be
30 significantly higher, which they could be under the
31 existing regulations for these fish; is that correct?
32 That's partly correct.

33

34 The other thing you have to consider as
35 well is that people prefer to fish in marine waters,
36 State jurisdiction. It's just -- and instead of walking
37 up the creek, it's a lot easier to pull your boat into
38 the estuary and set your gill net. And, you know, I
39 think that's what's occurring here.

40

41 I think in that table where you see the
42 drop between cohos in 2002 and 2003 is because in 2002
43 the only coho opportunity was the Federal opportunity,
44 and then in 2003 the State Board of Fish allowed for
45 cohos to be caught in State jurisdiction in Southeast,
46 and, you know, I think people switched over to the State
47 system in that case, because they were allowed to fish in
48 marine waters.

49

50 CHAIRMAN DEMIENTIEFF: Yes. John and then

1 Ralph.

2

3 MR. LITTLEFIELD: Thank you, Mr. Chair.
4 Maybe if I could tell you a little bit about how we fish
5 coho down there. For years and years we fished only
6 under the State sport fish regulations for cohos for my
7 smokehouse. Those are subsistence fish. And what we
8 would do is my son and I or others, my son or friends,
9 they would go out to the rivers and because it's a lot of
10 fun, they would sport fish, six cohos each, and legally
11 bring them back to the smokehouse.

12

13 Well, we were proactive, and I think it
14 was Proposal FP2002-37 or something like that, where this
15 Board approved the coho for Southeast wide, which
16 everybody then said the sky was going to fall. We had,
17 you know, the Southeast seiners coming up claiming that
18 we were going to decimate the fisheries, and we even had
19 radio reports that we were decimating the fish. Well, it
20 hasn't happened.

21

22 What this allows us to do is when we go up
23 the river, if we have a Federal subsistence permit, and
24 if we get lucky enough to catch 10 cohos each, we can
25 take home 10 under the Federal permit. But if you mark
26 those 10, because you have to do that to keep yourself
27 from getting picked up by the law, if you mark those 10,
28 and the next day come back and mark another 10, and you
29 fill your Federal limit, you can no longer go back in
30 there and catch any sport fish under the existing
31 regulations.

32

33 Because of your action at the Federal
34 Board, the State of Alaska, and I'm really thankful they
35 did, I testified at the board, enacted the liberal
36 regulations that they have in marine waters. And part of
37 that was because -- I think a lot of it was because of
38 your action. And I do applaud them for that, because
39 that spreads out the fishery. It's not that you want to
40 necessarily prefer in the marine fishery, but if you can
41 take fish farther away from the terminus area, then the
42 chances are that you may have -- of your need is 20
43 cohos, if you're far enough away from the terminus, you
44 could be taking one fish from each stream, instead of
45 under the federal program taking those 20 fish out of one
46 particular stream.

47

48 So again we come back to our needs. Some
49 people's needs are not being met, and those people
50 shouldn't be penalized for that, and we're talking very

1 small numbers. So I guess I'll leave it at that, Mr.
2 Chair.

3

4 CHAIRMAN DEMIENTIEFF: Before I get to
5 you, Ralph, basically it's opportunity. You may not be
6 targeting the fish as you're going to the streams, is
7 that what's going on? But while you're there, you're
8 also harvesting fish? I mean, I don't know how that
9 works. That's a big point for me.

10

11 MR. LITTLEFIELD: I guess I don't
12 understand, Mr. Chair. I guess the opportunity would be
13 if you were lucky enough to catch 20 fish in one day,
14 which is more likely what we can put in our smokehouse.
15 We can put more than that, then you would have those on
16 your Federal permit and bring them home. But if you were
17 to do that twice in a season, you would be prohibited
18 from taking fish in any other fishery for the remainder
19 of the year. And that shouldn't be done. And if you
20 were lucky enough to get your 40 coho or your 30 sockeye,
21 why can't you just participate in the State program
22 anyway? I mean, we're talking very, very small numbers
23 here. So we didn't think it was a problem.

24

25 And it's certainly no conservation
26 concern, no matter what his statements are from the
27 Interagency Staff Committee or the State. I dispute the
28 conservation concern problems here. They're nonexistent
29 in my opinion.

30

31 CHAIRMAN DEMIENTIEFF: Thank you. Ralph.

32

33 MR. LOHSE: Well, Mr. Chair, I guess I'm
34 going to confess to my ignorance. I wasn't under the
35 impression that if you participated in a Federal
36 subsistence program that you were then disallowed from
37 participating in State sport fishing. And if I'm correct
38 on that, or if I've been wrong on that in the past, I'd
39 like to be corrected, because I was under the impression
40 that the fact that you participated in the Federal
41 subsistence program, you didn't give up your rights as a
42 State citizen, and that you still could participate in
43 any sport fishery that there was. In that case, this
44 proposal that's sitting in front of us doesn't do
45 anything, because I -- unless I'm totally wrong, I didn't
46 realize that you gave up your right to go sport fishing
47 just because you took part in the subsistence fishery.

48

49 So your proposal says that you can
50 accumulate a Federal subsistence limit with your daily

1 harvest limit under the sport fishery. When couldn't you
2 do that?

3

4 MR. LITTLEFIELD: You can't do it now.

5

6 CHAIRMAN DEMIENTIEFF: Go ahead, Ralph, we
7 are going to get a response to you, but we're working on
8 that right now. In the meantime, Paul.

9

10 MR. TONY: Yeah, has anybody ever
11 addressed the legal issue about whether the Federal
12 Subsistence Board has a right to prohibit people from
13 participating in State government activities?

14

15 CHAIRMAN DEMIENTIEFF: We're not going to
16 take a break, but we're going to stand down just for a
17 few seconds while we come up -- because it's a very
18 important point that you raise, and we want to make sure
19 we have the right answer. And we think we have the
20 capabilities right here, so don't get up and leave.

21

22 (Off record)

23

24 (On record)

25

26 CHAIRMAN DEMIENTIEFF: Okay. Everybody
27 has got together and has answers for us, but one of the
28 things that's clear to us, and it's come up and kind of
29 stopped us a couple of times this morning is with regard
30 to specific delegations, or specific questions regarding
31 delegations to land managers. And I just want to assure
32 everybody on the record that we will -- we have regular
33 Board work sessions. We'll address a way so that we can
34 have the answers available to us. We apologize for it
35 right now, but we're doing the best we can, but we will
36 make sure that we have that information available to us,
37 and we'll do that in a work session, at our very next
38 work session.

39

40 So with that, I don't know who wants to --
41 Tom is going to. Okay.

42

43 MR. BOYD: Mr. Chair. I believe one of
44 the questions had to do with do our current regulations
45 prohibit the accumulation of Federal subsistence harvest
46 for fish in concert with State subsistence and sport
47 harvest. And I'm going to read from the subpart (D)
48 fishery regulations. I think it's paragraph 27. You may
49 take fish for subsistence uses at any time by any method,
50 unless you are restricted by the subsistence fishing

1 regulations found in this section. That means the area
2 specific regulations that sets harvest limits, methods
3 and means, et cetera.

4
5 It goes on to say, the harvest limit
6 specified in this section for a subsistence season for a
7 species and the State harvest limit set for a State
8 season for the same species are not cumulative, except as
9 modified by regulations in 27(i), which means the area
10 specific regulations again. I'm interpreting this to
11 mean that our current regulations prohibit the
12 accumulations of Federal and State harvest limits.

13
14 I think another question was asked, do we
15 have the authority to restrict individuals from sport
16 harvest under State regulations, and I can only tell you
17 what our regulations say, and I've just read those. Mr.
18 Chair.

19
20 CHAIRMAN DEMIENTIEFF: Thank you. John.

21
22 MR. LITTLEFIELD: Thank you, Mr. Chair.
23 That particular section, for those of you who have books,
24 is on Page 232, and it's the -- it has that regulation
25 that Mr. Boyd just read.

26
27 What I would suggest that could accomplish
28 the purposes here, we've asked to say that these don't
29 have anything to do with Southeast. I would say that one
30 of the options available to the Federal Subsistence Board
31 would be to look at that section that's shown on Page 232
32 and strike everything after the first section, the first
33 period, and that was you may take fish for subsistence
34 uses at any time by any method unless you are restricted
35 by the subsistence fishing regulations found in this
36 section, and which there are many, many further on. From
37 the harvest limits, from that on to the remainder of the
38 paragraph, if you were just to strike that, it would
39 remove the linkage to the State system completely. It
40 would address the Regional Council's concern by saying
41 they're not tied together, and we're talking only a few
42 fish. It becomes a non-issue. And I suggest that as a
43 possible means of accomplishing what the Regional
44 Advisory Council has asked you to do. Mr. Chair.

45
46 CHAIRMAN DEMIENTIEFF: Thank you. Further
47 discussion.

48
49 MS. GOTTLIEB: Mr. Chair.

50

1 CHAIRMAN DEMIENTIEFF: Yes.
2
3 MS. GOTTLIEB: To ask a question for
4 clarification, we're talking about in Federal waters
5 under this regulation.
6
7 MR. BSCHOR: Yeah. Ms. Gottlieb. Mr.
8 Chair. That's correct. These regulations apply to only
9 Federal waters, and in the case of southeast, that would
10 be the inland freshwater systems that are currently
11 within the forest.
12
13 CHAIRMAN DEMIENTIEFF: Paul.
14
15 MR. TONY: Mr. Chair. Yes, so does that
16 mean that you can accumulate if you -- as long as you go
17 outside of the Federal waters after you've taken your
18 limit in Federal waters?
19
20 MR. BOYD: Our regulations currently
21 prohibit that, Mr. Chair.
22
23 CHAIRMAN DEMIENTIEFF: Yeah, and that --
24 and the proposed regulation takes that limiting factor
25 away. Ralph.
26
27 MR. LOHSE: Mr. Chair. I was looking at
28 what Tom was reading to us, and I was just wondering if
29 the last two sentences in there were also part of the
30 regulations, or if that was just written as an
31 explanation, where it says, this means that if you have
32 taken the harvest limit for a particular species under a
33 subsistence season specified in this section, you may not
34 after that take any additional fish of that species, any
35 additional fish of that species under any other harvest
36 limit specified by a State season. Is that part of the
37 regulations, or was that must an explanation that was
38 written at the end of it?
39
40 MR. BOYD: You know, I'm struggling to
41 make the distinction. I mean, it's both in my mind.
42 It's an explanation, but it's also part of the
43 regulation.
44
45 MR. LOHSE: And, Mr. Chair?
46
47 CHAIRMAN DEMIENTIEFF: Yes.
48
49 MR. LOHSE: And then from this last little
50 discussion that you had with Paul, you're saying that

1 that then extends to State waters? It's if the Federal
2 limit is taken on Federal waters, then the person
3 participating in the Federal fishery can't take part in a
4 State fishery on State waters?

5
6 CHAIRMAN DEMIENTIEFF: Keith.

7
8 MR. GOLTZ: Yes.

9
10 MR. LOHSE: Mr. Chair.

11
12 CHAIRMAN DEMIENTIEFF: Yes.

13
14 MR. LOHSE: Then I want to really thank
15 our area fisheries management for helping our area at
16 least craft regulations to keep people on the Copper
17 River from inadvertently doing an illegal act in sport
18 fishing and subsistence fishing for king salmon. And I
19 think it's time that this gets changed in this state.
20 Otherwise the Federal Government is being very more
21 restrictive for subsistence uses than is definitely
22 necessary.

23
24 Thank you.

25
26 CHAIRMAN DEMIENTIEFF: Further discussion.

27
28 MR. LITTLEFIELD: Mr. Chair, just a point.
29 We didn't take four hours on this one in Southeast.

30
31 CHAIRMAN DEMIENTIEFF: Yeah. The way --
32 at the rate we're going, I'm worried about whether or not
33 we have enough room reservation here.

34
35 Okay. Further discussion.

36
37 MR. BSCHOR: May I make a suggestion,
38 perhaps short of taking on language that really no one
39 else -- we're just discussing among ourselves here, and
40 changing the actual regulations, if we could deal with
41 the proposal that's before us, and maybe look at -- I
42 think where I'm coming from is that I never -- I wasn't
43 under the assumption that if you subsistence fished, you
44 couldn't go ahead and get sports fish. So if we could at
45 least fix that today, would that be worth pursuing?

46
47 CHAIRMAN DEMIENTIEFF: And that is the RAC
48 recommendation. There's one thing that's, you know, a
49 big part of what their recommendation is. Quite frankly,
50 given the fact that we are being more restrictive, and I

1 think that's pretty clear to us, that's not something
2 that we really want to do. Therefore, I really am
3 intending to support the RAC recommendation as it stands.

4
5 And in terms of the future, if there are issues
6 that come up in specific fisheries that we need to work
7 on, I think that we're all committed that we would be
8 able to fine tune the regulations in conjunction with our
9 resource people, the State's people, and the RACs to fine
10 tune these regulations, but it's clear to me that we do
11 not have a conservation concern. It's clear to me that
12 we are not providing the opportunity, so at least I
13 intend to support. Of course, I don't get the privilege
14 of being able to make motions, but I intend to support
15 the RAC recommendation just based on that, and if we need
16 to revisit the issue, then so be it. You know, I'm
17 certainly prepared to do it.

18
19 MR. BSCHOR: Mr. Chair. I'm still
20 concerned about the stacking of the State subsistence and
21 Federal subsistence, but I'm prepared to make a motion to
22 adopt the proposal as modified, but then I think maybe we
23 should at least have a vote on an amendment that would
24 strike the language on the State subsistence stacking.
25 And I'm prepared to do that, if you wish to go that way.

26
27 CHAIRMAN DEMIENTIEFF: Like I said, I
28 don't get to make the motions. I'm just going to -- I'm
29 trying to make a -- or help us make a regulation, so you
30 are free to go about your business here and move whatever
31 you want.

32
33 MR. BSCHOR: Okay. Therefore I move to
34 adopt the proposal as modified by Southeast Regional
35 Advisory Council.

36
37 CHAIRMAN DEMIENTIEFF: There is a motion.

38
39 MR. OVIATT: Second.

40
41 CHAIRMAN DEMIENTIEFF: Okay. Discussion
42 on the motion.

43
44 MR. EDWARDS: Mr. Chairman, for some of
45 the same reasons that were already presented, I plan to
46 vote no on the motion. I could be persuaded to vote yes
47 on an amendment of that motion that would allow the sport
48 fishing limits to be added to the current Federal limits.

49
50 MR. BSCHOR: I'd like to make a motion to

1 amend to strike the part allowing accumulation of State
2 subsistence harvest with other harvest.

3

4 CHAIRMAN DEMIENTIEFF: There is a motion.
5 Is there a second on the amendment.

6

7 MS. GOTTLIEB: I'll second.

8

9 CHAIRMAN DEMIENTIEFF: Discussion on the
10 amendment.

11

12 MR. TONY: Mr. Chairman, I'd just like to
13 ask for the record what the .805(c) reasons for rejecting
14 the RAC's recommendation are in this one aspect.

15

16 MS. GOTTLIEB: Mr. Chair.

17

18 CHAIRMAN DEMIENTIEFF: Yes.

19

20 MS. GOTTLIEB: I would think that
21 recognized principles of fish and wildlife management
22 don't usually allow for combining harvests, and so I
23 think this is an opportunity for the managers to work as
24 always with the RAC to discuss this aspect of it some
25 more, and again as I stated previously, if we're somehow
26 not providing enough fish or enough opportunity through
27 our Federal program, my strong preference would be for us
28 to do our job most properly would be to receive proposals
29 on that particular issue. I think the RAC has brought up
30 a really valid issue, and it bears a lot more discussion
31 on the permits and what else could be done either through
32 process or through numbers of fish.

33

34 Thank you.

35

36 MR. EDWARDS: Mr. Chairman.

37

38 CHAIRMAN DEMIENTIEFF: Yes, Gary.

39

40 MR. EDWARDS: I also believe that there
41 could be conservation issues in some cases if we do allow
42 stacking of limits on small terminal streams. It could
43 have a conservation impact on a stream by stream basis.

44

45 MR. TONY: Mr. Chairman, I would think
46 that that would be mitigated by the manager having the
47 ability to protect the stocks. And I do think that
48 there's a precedent in fish and game management for
49 different jurisdictions allowing users to take the limit.
50 For instance, I could fish here in Alaska and then I

1 could travel to Montana and catch their limit. I could
2 then go to California and catch their limit. I could
3 then go to Canada to one of the provinces and catch their
4 limit. I mean, it's allowed to go from jurisdiction to
5 jurisdiction and catch whatever the limit might be.

6
7 CHAIRMAN DEMIENTIEFF: Yeah, I think
8 that's really the big part of the delegation, and I do
9 know that that is in there. That is delegated for
10 conservation concerns. And I agree with your point, but
11 I just want to make it clearly obviously that that is in
12 there, and we do know that that is in there. That's in
13 all of the delegations that we have across the State.
14 Conservation is principle to the reason. So if there was
15 an issue, a conservation issue, then the field managers
16 would have that authority.

17
18 John.

19
20 MR. LITTLEFIELD: Thank you, Mr. Chair. I
21 let this skip by when we were discussing Proposal 17, and
22 I don't like to read from Title VIII all the time, but --
23 because you guys should know it. But I'm going to read
24 it once more for this one, because the question was
25 asked, you know, of 805. What are your duties under
26 that, and I'll read them for you again.

27
28 It says, the Secretary, and, you know, the
29 Board sitting there is acting as the Secretary, may chose
30 not to follow any recommendations which it determines is
31 not supported by substantial evidence, number 1, violates
32 recognized principles of fish and wildlife conservation,
33 not management, conservation, or would be detrimental to
34 the satisfaction of subsistence needs.

35
36 In Southeast we are very careful to
37 address these three questions, and another one, the
38 effect on other users. We always discuss those. We
39 expect you to either support this regulation as we
40 presented it to you, or vote it down. Those are the
41 things that we expect out of you. Sometimes that doesn't
42 happen, and we get an .805(c) letter every year back to
43 the Council, and in that .805(c) letter you have to say
44 which one of these three gave you the authority to
45 overrule our recommendations, because that's how the
46 system works.

47
48 A proponent submits a proposal to us at
49 the Regional Advisory Council. The law says that we're
50 going to review that and send it to you. You have only

1 three options for refuting that. And if you don't have
2 those options, you cannot just refute it.

3
4 What I suggested to you earlier was if you
5 modify 27 to include only the first section, that would
6 accomplish the purpose that the Regional Advisory Council
7 asked you. In other words, you may -- what we asked you
8 to do is to approve the language that said you may
9 accumulate annual Federal subsistence harvest limits
10 authorized for Southeast Alaska, and we're only talking
11 about Southeast, with harvest limits authorized under
12 State of Alaska sport fishing and subsistence
13 regulations.

14
15 The maker of the motion made an amendment,
16 which I don't think is legal, amending his own motion, to
17 strike the subsistence regulations, and only have it
18 apply to sport fishing or something like that.

19
20 All of this can be accomplished by
21 striking those last two sentences in 27(a)(2). You would
22 meet what the Regional Advisory Council asked you to do,
23 and you will address the need for the rest of the State
24 of Alaska.

25
26 Absent that, I want you to state for the
27 record why those three recommendations, why you're not
28 going to vote to support our proposal. And I would also
29 recommend, Mr. Chair, that you consider for the record
30 reconsidering -- and you only have today to do that,
31 reconsidering 17, putting it back on the floor, and
32 making those recommendations to us. Because as I recall
33 yesterday, that discussion did not take place. It was
34 simply a vote saying you don't want to do 17, and I don't
35 want to go back in four hours of testimony again on the
36 religious deals, but there is a process here, and the
37 process says how you are to act, and how we are to act at
38 the Regional Council, and we expect that the law be
39 followed, so we're asking you to do that. Make those
40 recommendations, tell us why you're refuting it, or
41 support the proposal as submitted by the Regional
42 Council, or modify 27 to do the -- accomplish the same
43 purpose. Mr. Chair.

44
45 CHAIRMAN DEMIENTIEFF: Yeah, I think we'll
46 deal with 17 at the conclusion. We'll give you the
47 opportunity to address that after we complete the
48 Southeast proposals. But we need to deal with this one,
49 so if the maker or the second wishes to address the three
50 criteria, I would appreciate that. Keith.

1 MR. GOLTZ: I don't disagree with anything
2 that John just said, but I want to point out that those
3 criteria assume that your regulation is otherwise legal,
4 and one of the basis for determining whether a proposal
5 is legal or not is whether or not you have a rational
6 basis, and you have an adequate record.

7
8 If you start to accumulate limits, I think
9 you're required to investigate what you're accumulating
10 with. In other words, you have to examine the rational
11 basis of the State limit, and which would broaden the
12 consideration of fisheries proposals, and embed this
13 Board rather more deeply in the State system than it's
14 ever gone before.

15
16 The reason we have distinguished in our
17 regulations the State and Federal system is in fact
18 systemic. We want to make sure that we have an
19 independent Federal system, so that our focus is on the
20 subsistence user and on that user's needs and not
21 distracted by what the State has done in any particular
22 context.

23
24 The conservation concerns are folded into
25 that when you see that you've already set a full limit
26 for the Federal subsistence users. You have not had to
27 consider the State. If the State has, for an example,
28 already set a 30-fish limit for a subsistence user and
29 the full need we determine is 40, then the Federal limit
30 probably should be 10 and not 40.

31
32 So you're -- I suppose the bottom line
33 here is that I think you're walking into waters that
34 could become very stormy, and if you want to do that, I
35 would suggest that you defer and request for a full legal
36 opinion so that we can tease some of these issues out. I
37 think this is more than just a proposal dealing with
38 Southeast and a few fish. I think it's a proposal that
39 has implications for the entire Federal program.

40
41 CHAIRMAN DEMIENTIEFF: Paul.

42
43 MR. TONY: Thank you, Mr. Chairman. I'd
44 like the Board members and everybody else to think about
45 a hypothetical, and that is a subsistence user in Federal
46 waters, in Federal jurisdiction, reaching their limit,
47 and then returning home and the next day going out into
48 State waters at a point equidistance from Federal land
49 managers for a variety of different jurisdictions, and
50 fishing under the State law in violation of our Federal

1 regulation. Now, who is going to enforce this Federal
2 regulation? Which land manager is going to sent their
3 enforcement officer out into State jurisdiction to cite
4 this person for a violation of the Federal regulation.

5
6 CHAIRMAN DEMIENTIEFF: Any more discussion
7 on the amendment.

8
9 (No comments)

10

11

12 CHAIRMAN DEMIENTIEFF: Are we prepared to
13 vote then on the amendment.

14

15 (Board nods affirmatively)

16

17 CHAIRMAN DEMIENTIEFF: Okay. All those in
18 favor of the amendment please signify by saying aye.

19

20 IN UNISON: Aye.

21

22 CHAIRMAN DEMIENTIEFF: All those opposed.

23

24 MR. BSCHOR: No.

25

26 CHAIRMAN DEMIENTIEFF: No. The amendment
27 carries.

28

29 We now have the main motion before us as
30 amended. Any further discussion on the main motion as
31 amended.

32

33 MS. GOTTLIEB: Mr. Chair.

34

35 CHAIRMAN DEMIENTIEFF: Yes.

36

37 MS. GOTTLIEB: Certainly the Council and
38 Keith have brought up an issue that bears a lot further
39 discussion and communication, and so I'd certainly
40 encourage that those discussions continue, and as you
41 said, maybe we can get a briefing on it as well, and
42 maybe bring it back to us and to the public. The Council
43 has identified a problem, and hopefully the motion before
44 us will go a ways towards solving that problem, but
45 again, if there's other things this Board needs to do
46 with respect to amount of fish, we want to do our job
47 there, too.

48

49 Thank you.

50

1 CHAIRMAN DEMIENTIEFF: Any other
2 discussion on the motion as amended. John.

3
4 MR. LITTLEFIELD: Just for the record I
5 will, you know, object to the maker of the motion making
6 amendments. I don't -- you know, you guys need to be
7 careful, because we've been sued by everybody in the
8 country it seems like, and you need to be careful in the
9 matter of process here.

10
11 I don't think we're stepping into waters
12 that we haven't been in before. And if you look on page
13 236, you'll see that we haven't. The language on 236 for
14 the Copper River, again this is in 27, it talks about
15 subsistence -- taking subsistence unless restricted
16 further herein. Well, here's one, 27(11)(4), that lets
17 you accumulate. It says in the second sentence, you may
18 accumulate the harvest limits of salmon authorized with
19 the harvest limits for salmon authorized under the State
20 of Alaska sport fishing regulation. So you can do that,
21 and if you need to restrict them further, you can
22 restrict them further in -- in other words, you can --
23 we're only talking about Southeast Alaska here, remember,
24 so again hopefully you would justify why you're taking
25 this action, Mr. Chair, and maybe you might revisit that
26 amendment and just do it proper for the record. Mr.
27 Chair.

28
29 CHAIRMAN DEMIENTIEFF: Thank you. And
30 then I really -- I don't feel that the -- that we have
31 done diligence again to address the three criteria, so I
32 want to hear those criteria addressed by the maker of the
33 motion or a Board member, because we need to get this on
34 the record.

35
36 MR. EDWARDS: Mr. Chairman, I think if you
37 would check the record, I did address that issue from my
38 perspective from a conservation impact that that stacking
39 of limits on small terminal streams could have a
40 conservation impact, and which I previously said.

41
42 CHAIRMAN DEMIENTIEFF: Anybody else. He's
43 first I think, Denny.

44
45 MR. GOLTZ: I want to assure John that my
46 prior comments were not directed toward combining
47 subsistence and sport. My concern, and it is a major
48 concern, has to do with stacking the two subsistence
49 systems together.

50

1 CHAIRMAN DEMIENTIEFF: Go ahead.

2

3 MR. BSCHOR: Yeah, I just wanted to also
4 for the record support what Mr. Edwards has just said,
5 and agree with what he said as far as the conservation
6 situation.

7

8 CHAIRMAN DEMIENTIEFF: Thank you. Any
9 other discussion on the main motion as amended.

10

11 (No comments)

12

13

14 CHAIRMAN DEMIENTIEFF: Hearing none, all
15 those in favor of the main motion as amended please
16 signify by saying aye.

17

18 IN UNISON: Aye.

19

20 CHAIRMAN DEMIENTIEFF: Oh, not me. Take
21 that back. All those opposed say aye.

22

23 CHAIRMAN DEMIENTIEFF: Aye.

24

25 MR. EDWARDS: Aye.

26

27 CHAIRMAN DEMIENTIEFF: Okay. With that,
28 we'll move on to 23.

29

30 MR. CASIPIT: Thank you, Mr. Chair. The
31 Staff analysis for FP05-23 begins on Page 243 of your
32 book. Proposal FP05-23 was submitted by the Southeast
33 Regional Advisory Council, and it requests closure of the
34 subsistence fishing for chinook salmon and sets an
35 incidental harvest limit for chinook salmon in the
36 Southeastern Alaska area. Current Federal regulations do
37 not restrict the harvest of chinook salmon in waters
38 under Federal jurisdiction in the Southeastern Alaska
39 area.

40

41 The intent of this proposal is to
42 establish a general regulation for the Southeastern
43 region that closed the directed chinook salmon fishing
44 unless otherwise specified. The proposal recognizes that
45 chinook may be harvested while targeting other species
46 and sets an incidental harvest limit.

47

48 For biological background, I've provided
49 -- we've provided a table, Table 1. Table 1 displays the
50 escapement, and index survey data for key chinook salmon

1 indicator stocks in the Southeastern Alaska area. While
2 chinook salmon production in the Southeastern Alaska area
3 originates mostly from mainland rivers and streams, the
4 island stock of chinook salmon in the King Salmon River,
5 Admiralty Island, is a rarity in the Southeastern Alaska
6 area, and escapement is relatively -- escapements are
7 relatively small as reported by the chinook technical
8 committee of the Pacific Salmon Commission.

9
10 Chinook salmon stocks in the Southeastern
11 Alaska area have rebuilt over recent years and are
12 generally considered healthy. So -- and you can see in
13 2002 the escapement estimates for various indicator
14 streams throughout Southeast.

15
16 For harvest history, we've provided an
17 excerpt from a reference from Mike Turek, Alaska
18 Department of Fish and Game, Subsistence Division,
19 basically saying that most of the current king salmon
20 harvest in Southeast comes from marine waters.

21
22 Effects of this proposal is that closing
23 subsistence fishing to the harvest of chinook salmon in
24 waters under Federal jurisdiction, that's fresh water, in
25 the Southeastern Alaska area would not change where users
26 currently obtain chinook salmon, which is primarily from
27 marine waters.

28
29 Closing the Federal subsistence fishery
30 would align Federal and State regulations and provide
31 users with clear direction for the harvest of chinook
32 salmon in fresh water. The proposal recognizes that
33 chinook salmon may be harvested by subsistence users
34 while targeting other species, and establishes an
35 incidental harvest limit. This incidental harvest limit
36 would allow some incidental harvest while limiting the
37 effect on chinook salmon stocks. The incidental limit of
38 two chinook salmon would align with most State personal
39 use limits, but would potentially be more restrictive and
40 not consistent with State subsistence fishery incidental
41 limits.

42
43 With that, I'll answer any questions.

44
45 CHAIRMAN DEMIENTIEFF: Thank you. Written
46 public comments.

47
48 DR. SCHROEDER: Mr. Chairman, we have no
49 written public comments for this proposal.

50

1 CHAIRMAN DEMIENTIEFF: Okay. Thank you.
2 We have no additional requests for public testimony at
3 this time.

4
5 Regional Council recommendation.

6
7 MR. LITTLEFIELD: Thank you, Mr. Chair.
8 I'm glad we're off the controversial issues.

9
10 Anyway, this one was a five-to-five
11 decision, and it failed on a tied vote, and the Regional
12 Council could not come to a consensus on a couple of
13 issues. Number 1 was the number, whether two was the
14 correct number or three was proposed, four was proposed
15 as I recall. There was no consensus, and the additional
16 problem was the hatchery kings which in our particular
17 area in Southeast, in Sitka they have the hatchery in
18 Silver Bay and you can be targeting salmon and easily
19 catch three or four king salmon there in a high year, in
20 one set.

21
22 We didn't see that this was a problem with
23 hatchery fish, so we wanted to try to address that. That
24 didn't work as the amendment. We also -- well, anyway,
25 I'll just say that we couldn't come to consensus on this.
26 We had intended to bring this back up in the meeting. We
27 simply ran out of time. So I don't know what to tell you
28 here, Mr. Chairman. Our recommendation is to oppose,
29 because it failed on a tie vote, so that shows you how
30 strongly in favor we were.

31
32 CHAIRMAN DEMIENTIEFF: Thank you. Staff
33 Committee.

34
35 MR. KESSLER: Mr. Chair. I'm Steve
36 Kessler with the Forest Service. The Staff Committee
37 recommends that you defer this proposal to next year's
38 consideration. This would allow the Council to consider
39 this proposal again, and we believe that Staff has
40 thought about and developed a regulatory solution that
41 could address everyone's concern. So therefore again the
42 recommendation is to defer this to the next cycle and
43 allow further deliberation by the Council in public
44 meeting.

45
46 In the meantime, there are no significant
47 conservation concerns resulting from the existing
48 regulations.

49
50 CHAIRMAN DEMIENTIEFF: Thank you.

1 Department comments.

2

3 DAN BERGSTROM: Yes, Mr. Chairman. I'm
4 reading from the Department's comments on proposals in
5 your supplemental materials.

6

7 This proposal would close targeted
8 subsistence fishing for chinook salmon in waters
9 applicable to Federal regulations and set an incidental
10 harvest limit in the region. The proposal is a
11 reasonable response to the conservation issue posed by
12 current regulations. In the Southeast region, the size
13 of particular chinook salmon stocks that are in waters
14 applicable to Federal regulations is very small. For
15 example, the King Salmon River stock has an escapement
16 goal of only 120 to 250 fish. Actual escapements have
17 been as low as 117 fish as seen in 2003.

18

19 Even the larger stocks with the exception
20 of the Taku and Stikine are still relatively small with
21 escapement goals between 500 and 2,000 fish. Such small
22 stocks are susceptible to overharvest, especially in
23 river where spawning fish are congregated and susceptible
24 to harvest.

25

26 This proposal would align Federal
27 regulations with State regulations. It also provides
28 incidental harvest limits that align with most State
29 fishery and personal use fishery limits. And the
30 Department supports the proposal.

31

32 CHAIRMAN DEMIENTIEFF: Thank you. Board
33 discussion.

34

35 MR. EDWARDS: Just a question for Staff,
36 Mr. Chair. What is -- the current regulations then if we
37 were to defer on that, the current regulations allow
38 what?

39

40 MR. CASIPIT: Since our regulations are
41 silent on the harvest of chinook salmon, there is no
42 harvest limit.

43

44 MR. EDWARDS: And I guess the question to
45 the State, these waters are closed to sport fishing for
46 chinook?

47

48 MR. BOYLE: Through the Chair, yes.

49

50 CHAIRMAN DEMIENTIEFF: John.

1 MR. LITTLEFIELD: Mr. Chair. I'd
2 recommend that you adopt the Regional Advisory Council's
3 actions. You have three entities here. One is saying
4 opposed, that's the Regional Advisory Council, second is
5 the Interagency Staff Committee which is to defer.

6
7 And I'd remind you that this was brought
8 forward by the Southeast Alaska Regional Advisory
9 Council. This was one of our proposals that we put
10 forward ourselves, and we could bring it back up if we
11 want, but deferring it accomplishes nothing. If you
12 oppose it, we could bring it back up again, and I think
13 there was plenty of interest in that. We don't want to
14 decimate any fisheries, and so I think if the Council had
15 a little bit more time to discuss this, they would come
16 up with the correct answer.

17
18 The State's action in supporting it is to
19 make it align with their regulations. Nowhere is it our
20 requirement that we align with the State. And I don't
21 like to see that as a defense. They should stand on
22 their own merits.

23
24 And I think we can flesh this out, so if
25 you were to accept the recommendation of the Council, we
26 can handle this next year. It's not a problem at this
27 time.

28
29 CHAIRMAN DEMIENTIEFF: I agree with you,
30 John, with taking care of the matter that way. Give us
31 time to bring back -- you know, and I'm appreciating the
32 commitment to do the work, and I'm hearing you that you
33 -- the Council did not have enough time, simply ran out
34 of time I think was the way you phrased originally to be
35 able to finish the work on this particular proposal. And
36 given the fact that there's not a conservation concern or
37 anything else, I see no reason just to remove this
38 proposal and that's kind of how -- where I'm leaning
39 right now, just because of that reasoning, and if there's
40 no conservation concern, get us more time, and get this
41 one off the table as opposed to the Staff Committee
42 recommendation to defer.

43
44 Other discussion.

45
46 MR. EDWARDS: Mr. Edwards, I guess one
47 quick question for Staff. Given the limited number of
48 fish, and the numbers appear to be very small, and the
49 fact that there isn't any restrictions, why hasn't that
50 created a conservation concern, or is it just lack of

1 participation in this fishery by subsistence users.

2

3 MR. CASIPIT: A little of both I think.
4 Folks aren't aware that our -- I think most users aren't
5 aware of how our regulations are permissive rather than
6 restrictive. I think that's part of it as well. And
7 like I said, I think in the analysis, most people just
8 prefer to get their chinooks out of marine waters,
9 outside our jurisdiction.

10

11 CHAIRMAN DEMIENTIEFF: The -- you know,
12 and the other thing is, is that we have to utilize the
13 tools, and I keep coming back to the delegation of
14 authority to managers. If there became a huge interest,
15 our managers are delegated the authority to close that
16 fishery for conservation concerns, and we have to trust
17 our system. We set it up, and it's worked in other
18 areas, and we have to trust that the system will work
19 while we're taking the additional time to work out a
20 solution to this issue. So that's kind of where I'm at
21 with regard to that. And I'd hate to keep bringing that
22 back up, but we have to trust our system that we have
23 built.

24

25 Discussion or motion. Doug, yes.

26

27 MR. MECUM: Thank you. I just had a
28 question for the Interagency Staff Committee. What is
29 the rationale for the deferment? It seems to me that
30 this is really kind of a housekeeping issue in large part
31 with one specific conservation issue relative to this one
32 small stock. What is the rationale for the idea of
33 deferring?

34

35 MR. KESSLER: Mr. Chair. Mr. Mecum. The
36 rationale was that this -- that by deferring it, it would
37 give the Council additional time for discussion. There
38 has been some discussion among the -- among Staff about
39 some possible solutions to this. If the Board were to
40 oppose this and the Regional Advisory Council brought it
41 up as a new proposal for next year, that would accomplish
42 the same thing.

43

44 MR. BSCHOR: With that said, I'm prepared
45 to move on this. I'd like to move to -- in line with the
46 Southeast Regional Advisory Council to reject the
47 proposal.

48

49 CHAIRMAN DEMIENTIEFF: There's a motion.
50 Is there a second.

1 MR. LITTLEFIELD: Mr. Chair.
2
3 CHAIRMAN DEMIENTIEFF: Oh, wait, we need a
4 second. We've got this on the.....
5
6 MR. LITTLEFIELD: Hopefully -- I would
7 move to adopt, you can't make a backwards motion. So I
8 would move to adopt and then vote it down, if you could,
9 please.
10
11 MR. BSCHOR: I'll withdraw the first
12 motion, and move to adopt.
13
14 CHAIRMAN DEMIENTIEFF: Is there a second.
15
16 MR. OVIATT: I'll second.
17
18 MS. GOTTLIEB: Are we adopting their
19 opposition or adopting.....
20
21 CHAIRMAN DEMIENTIEFF: We're adopting
22 their recommendation which is to reject.
23
24 MS. GOTTLIEB: Got it. Mr. Chair.
25
26 CHAIRMAN DEMIENTIEFF: We have a motion to
27 adopt the Regional Council recommendation is basically.
28 And by voting in favor of the motion to adopt, we accept
29 the Regional Council recommendation is where we're at.
30 Yeah, and the proposal goes down.
31
32 UNIDENTIFIED VOICE: Right.
33
34 CHAIRMAN DEMIENTIEFF: But it's one of
35 those things. It just.....
36
37 UNIDENTIFIED VOICE: (Indiscernible, away
38 from microphone)
39
40 CHAIRMAN DEMIENTIEFF: Well, yeah, but,
41 you know, we've chosen this vehicle to use the Regional
42 Council recommendation as the vehicle, so that is their
43 recommendation. They opposed. We vote in favor of the
44 motion, and then we reject the proposal, and we will see
45 when they come back with it. That's where we're at.
46 Okay. Any further discussion.
47
48 (No comments)
49
50 CHAIRMAN DEMIENTIEFF: All those in favor

1 of the motion, please signify by saying aye.

2

3 IN UNISON: Aye.

4

5 CHAIRMAN DEMIENTIEFF: Those opposed, same
6 sign.

7

8 (No opposing votes)

9

10 CHAIRMAN DEMIENTIEFF: The motion carries.
11 The proposal is rejected.

12

13 Okay. 25.

14

15 MR. CASIPIT: Thank you, Mr. Chair. Your
16 Staff analysis for FP05-25 begins on Page 261 of your
17 book.

18

19 I'm probably going to be spending a little
20 bit more time on this staff analysis than previous ones,
21 so bear with me, please.

22

23 Thank you.

24

25 Proposal FP05-25 was submitted by the
26 Alaska Department of Fish and Game. It requests that we
27 -- that the Federal program allow non-Federally-qualified
28 sport and subsistence fishers to harvest sockeye in
29 Pillar Bay, the fresh waters of Pillar Bay. That is
30 Kutlaku Lake and Stream. The Federal Subsistence Board
31 restricted the harvest of sockeye salmon at Kutlaku Lake,
32 Gut Bay Lake and Falls Lake to Federally-qualified
33 subsistence users effective for the 2001 fishing season.

34

35

36 Alaska Department of Fish and Game
37 subsequently submitted a request for reconsideration
38 which was not adopted by the Board.

39

40 In addition, the Board funded a sockeye
41 assessment project at Kutlaku Lake in 2002 and 2003.
42 These studies produced a partial sockeye salmon
43 escapement estimate for 2002 and a total escapement
44 estimate for 2003.

45

46 2002 sockeye escapement estimate greater
47 -- which was greater than 1400 fish for Kutlaku Lake was
48 incomplete, because it did not account for an unknown
49 number of sockeye salmon spawning in the stream after the
50 survey, and spawners that were in the lake.

1 The 2003 escapement estimate accounted for
2 these spawning groups, and is much higher than any of the
3 recent aerial or foot escapement surveys displayed in
4 Table 1.

5
6 Because there has only been one completed
7 escapement survey, there remains some uncertainty with
8 the data and the escapement goal -- an escapement goal
9 has not been established. Because of budget shortfalls
10 and change in priorities, there are not plans for
11 continued assessments of this type at Kutlaku Lake in the
12 future.

13
14 The 2003 escapement estimate does suggest
15 that there is not a concern with sustainability.

16
17 Commercial harvest of sockeye salmon in
18 the lower portions of the Chatham Strait have
19 significantly increased, but harvest of mixed stock of
20 sockeyes -- and appear to allow adequate escapement.
21 Table 2 displays those commercial catches in Lower
22 Chatham Straits.

23
24 The subsistence fishery has decreased
25 significantly since 2000 and recently annual harvests are
26 about one-third of the long-term average. That's
27 displayed in Table 3.

28
29 Due to limitation of the statewide harvest
30 survey, it is unlikely that the estimate of sockeyes
31 taken in the sport fishery will be known in future years,
32 whether the retention of sockeye by non-Federally
33 qualified users is allowed or not.

34
35 For regulatory history, again I wanted to
36 talk a little bit about the original closures that were
37 put in place in '01. Proposal FP01-31, submitted by the
38 organized Village of Kake and the City of Kake, requested
39 that the Board close the Federal public waters draining
40 into Falls Lake, Gut Bay Lake, and Colored Bay drainages,
41 that is Kutlaku Lake, to the harvest of sockeye salmon by
42 non-Federally qualified users, and eliminate possession
43 limits at those locations. The Board did take action.
44 They did not agree with the elimination of possession
45 limits, but they did agree to the closure to Federally-
46 non-qualified subsistence users.

47
48 The Alaska Department of Fish and Game
49 submitted the request for reconsideration for Kutlaku
50 Lake. The Staff analysis indicated while there was

1 conservation concerns at Falls Lake and Gut Bay Lake
2 there was not a clear evidence of a conservation concern
3 at Kutlaku Lake. The Board did not rescind the closure
4 of any of these three systems to non-Federally-qualified
5 users because of a couple reasons, one, the uncertainty
6 of the escapement data and, two, the potential for
7 interference with subsistence fishing activities by other
8 users.

9
10 In 2002, Alaska Department of Fish and
11 Game responded to the conservation concerns at the
12 Kutlaku Lake by closing a large section of the bay near
13 the mouth of the stream leading to Kutlaku Lake to
14 subsistence fishing. And I'll call your attention to
15 Figure 1. And if we could go back to that -- on the
16 screens we've flashed an ortho-photo digital quad of the
17 area and I wanted to explain what that means. The red
18 area enclosed by the two green lines are the area that
19 Alaska Department of Fish and Game in 2002 closed to
20 subsistence fishing. The yellow line in the middle is
21 the line of Federal jurisdiction, that is, areas below
22 that line is Federal jurisdiction, areas above that line
23 towards marine waters is State jurisdiction. So to
24 explain this even a little more, what this means is that
25 Federally-qualified subsistence users can harvest in that
26 red area but they have to be Federally-qualified users.
27 No subsistence users, either State or Federal are allowed
28 to fish in that area above that yellow line.

29
30 So that kind of explains that. I'll be
31 happy to answer any questions if there's any confusion
32 there.

33
34 I also wanted to call your attention to
35 Table 4. These are recreational visitor user days on the
36 Tongass National Forest recently. This is our reports of
37 basically guided or outfitter guided activities in the
38 Kutlaku Lake, Bay of Pillars watershed. You'll notice
39 that there has been no sockeyes reported being harvested
40 by outfitter guides or their clients in recent years
41 although there has been some fishing reported there.

42
43 The effects of adopting this proposal
44 would be to allow the retention of sockeye by non-
45 Federally-qualified users in the Kutlaku Lake watershed.
46 This change would allow all sportfishers, and all State
47 subsistence fishers to retain sockeye harvested in the
48 areas under Federal jurisdiction in the Kutlaku Lake
49 watershed. Due to limitations of the statewide harvest
50 survey for sportfish it is unlikely that the estimate of

1 sockeye taken from Kutlaku Lake in the sportfishery will
2 be known in future years, whether the retention of
3 sockeye by non-Federally-qualified users is allowed or
4 not.

5
6 With that, I'll be happy to answer any
7 questions.

8
9 CHAIRMAN DEMIENTIEFF: Thank you, very
10 much. Written public comments.

11
12 DR. SCHROEDER: Mr. Chairman, we have no
13 written public comments for this proposal.

14
15 CHAIRMAN DEMIENTIEFF: Okay, thank you.
16 We have no request for additional public testimony at
17 this time. Regional Council recommendation.

18
19 MR. LITTLEFIELD: Thank you, Mr. Chair.
20 The Regional Advisory Council recommendation is on Page
21 262 of your Board book, and we opposed this action by a
22 vote of 8/1. We did conclude that there was a
23 conservation concern with this system and the existing
24 system, and there are restrictions on it now and we felt
25 they should be continued.

26
27 The existing data, which, if you look back
28 at it, basically we're trying to take this action based
29 on one year of data is not sufficient in our view to base
30 a decision on. In other words, there is no fishery
31 that's based on one year's data that we know of, usually
32 it takes at least three and sometimes more than that.

33
34 Adopting the proposal would also have an
35 adverse effect on subsistence users and no effect on the
36 subsistence sport users, non-subsistence. And when you
37 look at these fishing -- Mr. Casipit talked about Table
38 4, if you look at that, you'll see that there is some
39 fishing going on but there are no fish taken, and this is
40 what we're telling you, that sportfishermen are not
41 required to tell you how many fish they have but we are
42 literally regulated to death in the subsistence fishery
43 reporting every single fish we catch. So we don't know
44 what those numbers are. There are real no numbers there.

45
46 So we want to error on the conservative,
47 in the side of conservation and say let's get some better
48 numbers and in another year or two and look at this
49 system. We heard a lot of testimony from OVK, the
50 Organized Village of Kake, and they are the closest

1 people that use this area in a traditional area and
2 they're 45 or 50 miles, I don't know how many miles it is
3 away from that but when you look at the limits that are
4 allowed for their 15 in possession to make a 45 or 50
5 mile run, they're really low which indicates that maybe
6 there is -- you know, this is system isn't 50 or 100 like
7 we might -- like in Sitka we can get up to 100 sockeyes
8 depending on the run strength at Redoubt, so it's not
9 indicative of a system that's in full recovery.

10

11 We would like you to oppose this proposal
12 and err on the side of conservation.

13

14 Mr. Chair.

15

16 CHAIRMAN DEMIENTIEFF: Thank you, very
17 much. Staff Committee.

18

19 MR. KESSLER: Mr. Chairman. Steve Kessler
20 again with the Forest Service. The Interagency Staff
21 Committee recommendation is on Page 262 and 263.

22

23 The Staff Committee did not reach
24 consensus on this proposal and we have two options for
25 you to consider. The first option is the same as the
26 recommendation as the Southeast Regional Advisory
27 Council, it would maintain the closure of Pillar Bay,
28 Kutlaku Lake and Creek.

29

30 For this option, it was based on four
31 considerations. First, during public testimony at the
32 Southeast Regional Advisory Council representatives of
33 the community of Kake stated that they're unable to meet
34 their subsistence needs for sockeye salmon because of
35 insufficient fish and competition with other harvesters.
36 Second, the reported subsistence harvest levels by Kake
37 community members may be constrained by the current
38 levels of fish and would likely be higher if more sockeye
39 were available and if the harvest cap were increased.
40 Third, the population abundance information suggestion
41 there may be sufficient fish for other harvesters
42 represents only one and are depending on an
43 interpretation of two years of data. Adequate sockeye
44 salmon escapement over a full five year life cycle is
45 desirable to demonstrate that there are no conservation
46 concerns with this stock. And finally, fourth, lineology
47 data from Kutlaku Lake suggests that this system is very
48 productive and is likely able to support larger
49 populations of sockeye.

50

1 The second option among the Staff
2 Committee was to support the proposal and that would be
3 contrary to the recommendation of the Southeast Regional
4 Advisory Council.

5
6 The regulation then would read as proposed
7 on Page 261 of your Board book. Justification for this
8 option is based on three items. First, that recent
9 spawning escapement information on Kutlaku Lake sockeye
10 indicates abundance level capable of sustaining
11 subsistence harvest as well as allowing for non-
12 subsistence uses. Second, that available information
13 indicates that nearly all the harvest and user conflict
14 occurs in marine waters which are outside of Federal
15 management jurisdiction. And, third, past actions by the
16 Federal Subsistence Board to resolve user group conflicts
17 such as overcrowding has been to encourage the
18 appropriate Federal and State agencies to work together
19 in resolving such conflicts not through the non-
20 subsistence harvest closures.

21
22 That concludes my testimony, Mr. Chair.

23
24 CHAIRMAN DEMIENTIEFF: Thank you.
25 Department comments.

26
27 MR. BOYLE: Thank you, Mr. Chair. Cal
28 covered pretty much the regulatory history, how this
29 regulation got to be in place and also noted that the
30 Office of Subsistence Management funded that study, they
31 didn't ask for a five year study, by the way. And so
32 that field work's done, we have some data, the final
33 project report is being worked up, and I think might be
34 over at FIS at this time.

35
36 So the most recent best available
37 escapement estimates we have from the Kutlaku project
38 really contribute to help answer some of these questions.
39 The numbers we had in the materials, and by the way our
40 comments begin on Page 15 of Department comments. The
41 most recent information that's in the final draft report
42 for the project is 8,000 to 9,000 fish, sockeye with a
43 midpoint estimate of 8,500 sockeye, that's with a 95
44 percent interval. There's additional information that's
45 in the summary packet on the supplemental materials for
46 Proposal FP05-25.

47
48 Some of the key points in there, in Table
49 1, as Cal noted, there's so little participation there on
50 the sportfishery that it can't be gleaned out for that

1 specific spot in a statewide harvest survey. However, on
2 Table 1 there, we have for the entire area for Kake,
3 Petersburg, Wrangell and the Stikine areas for 1977 to
4 2000, you can see the freshwater sportfish harvest,
5 there's no year there where it exceeds a thousand for an
6 entire area.

7
8 Table 2 shows the sockeye harvest from the
9 guided saltwater sportfishing. That information clearly
10 shows that people don't go there to target sockeye it's
11 coho and chinook salmon.

12
13 And Appendix A in this material, and it
14 would probably be easier to refer to Cal's Table 2 on P
15 age 266, it shows the sockeye harvest in Chatham Strait.

16
17 To put that in some context, those
18 numbers, we have the Commercial Fisheries Division, for
19 those same statistical areas, the 10 year average for
20 pink and chum salmon which is the targeted fisheries,
21 these sockeye numbers here are the incidental take, so
22 for the period 1995 to 2004, the average pink salmon
23 harvest is 3.2 million fish and the chum salmon 131,000
24 fish. And then you can see the sockeye harvest on Page
25 266, it gives some perspective, they aren't targeting
26 sockeye in these fisheries, it's predominately a pink
27 salmon fishery. And in the sockeye there's certainly
28 mixed stock fish that are moving up Chatham Strait into
29 other areas.

30
31 So when we look at this viewed with the
32 past harvest and escapement information, you know, data
33 from the project strongly supports that the degree of
34 harvest from the Federal subsistence fishery in Kutlaku
35 along with other uses is proportionately low relative to
36 the escapement and well within the range of sustainable
37 use.

38
39 So based on this most recent information
40 that the Board had requested, the Department concludes
41 that there are not conservation concerns with the Kutlaku
42 sockeye stocks there. The State approaches these
43 situations conservatively, you know, we provide for
44 subsistence and other uses when there's a harvestable
45 surplus available, the State will continue to monitor the
46 harvest information by all users as well as continue to
47 coordinate with the Federal land managers.

48
49 The State and Federal Staff working with
50 the public can resolve potential user conflicts whether

1 they're in State marine waters or on Federal lands. And
2 the Department notes that support from OSM funds have
3 been key in getting this information on the Kutlaku
4 escapements so we have some current information.
5

6 Another source of information that we'll
7 get annually is now with the State sportfishing guiding
8 law, there'll be freshwater log books also being kept.
9

10 And as Cal noted in his Staff analysis,
11 when our request for reconsideration for this proposal
12 came up in 2001, the Staff Committee majority opinion
13 there was to rescind the restrictions at Kutlaku Lake,
14 and that was before we had any of this information. So
15 now we have some information on the system and
16 essentially what we have a permanent closure to non-
17 Federally-qualified users that's in the regulation. We
18 note that the Board adopted Proposal 28 which liberalized
19 the region-wide steelhead harvest and it's noted in Staff
20 analysis for that proposal and also in the Interagency
21 Staff Committee comments, it says, Federal in-season
22 managers would have the ability to adjust regulations and
23 close specific streams as needed for conservation and to
24 ensure the Federal subsistence priority. And we feel now
25 it would be consistent to do that and remove this current
26 regulatory closure and return this system to in-season
27 management.
28

29 Thank you.

30
31 CHAIRMAN DEMIENTIEFF: Thank you. Board
32 discussion.
33

34 MR. EDWARDS: Mr. Chairman, I guess I'd
35 like to ask Staff, in your Staff analysis you note that
36 since 2000 that the subsistence fishery has decreased
37 significantly. What do you attribute that to?
38

39 MR. CASIPIT: If I had to guess it's
40 because of that large closure area that was put in the
41 State -- put in through the State system. That red area
42 that showed on your Figure 1. That basically closed the
43 best fishing area to subsistence fishing.
44

45 MR. EDWARDS: So does that remain closed?
46

47 MR. CASIPIT: I believe that is still
48 closed.
49

50 CHAIRMAN DEMIENTIEFF: Go ahead.

1 MR. MECUM: Thank you. Mr. Chairman.
2 This closure that the State implemented was a closure
3 that was in response to requests from the people of Kake
4 to make their annual limit the same as -- the daily bag
5 limit and the annual limit the same. It is as you heard,
6 it's' a very remote, 50 miles away or something like that
7 and to be more efficient in their operations, to be able
8 to travel over there, they wanted to make those limits
9 the same. And so we were willing to accommodate that
10 request but at the same time we thought if people were
11 going to do that, be more efficient, that we want to back
12 them out a little bit.

13
14 And that was the reason for that. I mean
15 I really wouldn't even call it a closure, it's really a
16 line change which is just sort of a routine thing you do
17 in fisheries management.

18
19 There are also other opportunities, Falls
20 Bay, which is probably the primarily system where people
21 go to to get their subsistence fish, I think there's been
22 some displacement of effort to that location as well as
23 the fact that there is a lot of fish available in Kake
24 from their Gunacreek Hatchery operation on their chum
25 salmon program which has been very successful.

26
27 So those are the reasons for those
28 differences.

29
30 Thank you.

31
32 CHAIRMAN DEMIENTIEFF: Further
33 discussions.

34
35 MS. GOTTLIEB: Mr. Chair.

36
37 CHAIRMAN DEMIENTIEFF: Judy.

38
39 MS. GOTTLIEB: If I could ask, I guess
40 there isn't anybody from Kake on your Council, which may
41 be a little bit of a drawback and perhaps because this is
42 a recurring issue maybe we can do a little recruiting in
43 that direction and help your direct input. But I guess
44 I'm wondering, again, whether really what's called to
45 question here is if Kake needs a higher limit from this
46 Board or I guess I'd also like to know if anyone
47 testified how effective the closure that we currently
48 have in place has been or how helpful to Kake people --
49 Mr. Littlefield.

50

1 CHAIRMAN DEMIENTIEFF: John.

2

3 MR. LITTLEFIELD: Ms. Gottlieb, through
4 the Chair. The Kake people, I have to agree with Mr.
5 Mecum, are targeting other fish. It is a significant run
6 to -- you know when you run 50 miles you'd like to get
7 more than 15 fish so that was one of the things that was
8 a trigger to us that said, well, if they're going to run
9 50 miles they should be able to get 100 fish and if they
10 don't have a hundred limit then there's probably
11 something not up to par, we don't know what's going on.
12 But we say the numbers are not adequate to make this
13 decision. That was our recommendation.

14

15 But if you look at -- the State brought up
16 commercial fishing, so let's go to that table, Table 2 on
17 Page 266. You see that this has been a -- if you were to
18 graph this you would see that it is has gone up to a high
19 of 41,000 fish in 2001 and if you take those and average
20 them out, we came up -- these are hundreds of times the
21 take of the subsistence users in that area. We were real
22 concerned about the effects. We don't know what these
23 are either. We don't know exactly what those were and
24 that's why we said we don't have enough data. We've
25 asked the Council to research that and come up with some
26 reasons or whether this commercial take is impacting them
27 and we first saw this in the Gut Bay, Bay of Pillars,
28 Kutlaku closures, Falls Lake that were mentioned that
29 came before the Board in 2001. You could see that
30 progression going upward, and we don't know the effect of
31 those, and we can't say today. And that's why we're
32 telling you that we'd like to maintain those conservation
33 measures that are in effect and get some more data on
34 that.

35

36 We've asked for more data and I think we
37 could wait, there would be no harm in waiting a year to
38 flesh this out, or two.

39

40 Thank you.

41

42 CHAIRMAN DEMIENTIEFF: Doug.

43

44 MR. MECUM: Thank you. Well, Mr.
45 Chairman, I was glad Mr. Littlefield brought up the
46 commercial fisheries information, too, because that
47 information that is in front of you could be very
48 misleading if you were going to try to make any
49 conclusions about the impact of the commercial fishery on
50 this stock.

1 Those are four subdistricts that are
2 spread over a very large geographic area. If you look at
3 the harvest data from -- which is something we mention in
4 our comments, I thought, from the subdistrict, which is
5 also a fairly large area that's five miles from the
6 terminus of the stream, the harvest there over the past
7 10 years has been a total of 1,500 sockeye. The areas
8 that are listed in this report here are areas that would
9 have nothing to do with catches from that particular
10 stock.

11
12 And I guess one of the things I would say
13 that bothers me about the idea that we don't have enough
14 information, it's one of these sort of precautionary
15 black holes where there's no exit. If we're not going to
16 continue to fund weir programs there we're not going to
17 have the information and this, in effect, would amount to
18 a permanent closure, and I just think that's unwise.

19
20 You know, in essence what you have here is
21 a gear conflict, I guess, with people wanting to conduct
22 their subsistence fisheries, free from interference from
23 other users and I understand that, but that seems to be a
24 fairly draconian measure when, in my view, there clearly
25 is no conservation concern for this stock. So, I guess
26 in my view it's an unnecessary restriction.

27
28 Thank you.

29
30 CHAIRMAN DEMIENTIEFF: Thank you. Gary.

31
32 MR. EDWARDS: Mr. Chairman, there's a
33 couple of us over here who are still confused by these
34 two different closures, could you put that back on the
35 screen and sort of explain again exactly what it is and
36 what would or would not take place depending on how we
37 voted here?

38
39 MR. CASIPIT: I'll try. Well, let me give
40 this another try.

41
42 You'll see that red shaded area bounded by
43 the two green lines. That whole red area under the State
44 system, I use the word closure but Mr. Mecum said it's
45 not really a closure, but there is no subsistence fishing
46 allowed within those two green lines under the State
47 regulation. That yellow line is the line of Federal
48 jurisdiction. So even though the State has closed the
49 entire red area to subsistence fishing, that area below
50 that yellow line is still open to Federally-qualified

1 users for subsistence fishing. That area below the
2 yellow line is closed to Federally-non-qualified users.

3
4 If the Board was to remove the closure or
5 basically remove the closure as the proponent has
6 requested, all that area below that yellow line would now
7 be open to all users. I wouldn't know what would happen
8 in the area above that yellow line since that is State
9 jurisdiction and it's up to the State as to what's going
10 to happen there.

11
12 Did that answer your question?

13
14 MR. EDWARDS: Sort of. I'm a little
15 confused. I still don't understand why would the people
16 from Kake then, why would they want you to close that
17 area to them?

18
19 CHAIRMAN DEMIENTIEFF: Go ahead.

20
21 MR. MECUM: Mr. Chair. Again, this was
22 something that the area managers worked out with the
23 local people there again because I'm not sure what the
24 limits were on the permits, we do this all on an annual
25 basis by permit, but there was a daily limit that was
26 less than the annual limit and they said if we're going
27 to go all the way over there we want to have the
28 opportunity to catch more fish so we said, well, we could
29 make the daily limit the same as the annual limit, I
30 think 50 fish, but if we're going to do that we want to
31 make you a little less efficient by moving you out
32 further because obviously it's not a system that we can
33 really track on a daily basis. So this would be
34 typically the kind of thing you do in a fisheries
35 management is just move the fishery out a little further.

36
37 MR. EDWARDS: But it seemed what it
38 accomplished was reduce the participation.

39
40 MR. MECUM: Well, that's an assumption
41 that you're making Mr. Edwards, and I think that it's
42 more likely that that had to do with other opportunities
43 than with this particular action but I can't tell you
44 that for absolutely certain.

45
46 CHAIRMAN DEMIENTIEFF: John.

47
48 MR. LITTLEFIELD: Thank you, Mr. Chair.
49 If you'll look at the screen there, what was neglected
50 and I was trying to flag him down, was, the Federal

1 waters continue to the bottom of the screen, okay. In
2 other words, that little thing on the bottom there is a
3 lake, in other words that's Kutlaku Lake on the bottom
4 there, so the stream fishing -- in addition to the bottom
5 part of the red it's closed all the way up into the lake,
6 so those are other areas. And if you look back on Table
7 4, on Page 271, you're going to find that we have a bunch
8 of people fishing up there who I suspect are non-
9 Federally-qualified fishermen that are not catching any
10 fish and that's because they're not allowed to, so I
11 don't know why they would put those on their permits.

12

13 So I just didn't want to forget that it
14 included the freshwaters so there's a little bit more
15 that should be shown in that color.

16

17 Mr. Chair.

18

19 CHAIRMAN DEMIENTIEFF: Thank you. Further
20 discussion.

21

22 MR. BSCHOR: Yeah, Mr. Chair. Just a
23 couple of points. It seems that -- while I'm encouraged
24 with the information as far as the numbers that come from
25 the State and realizing that's one year, and then
26 realizing also that it's probably the only year of
27 information we're going to have because we don't have any
28 more study funded there, but I also think that the Board
29 needs to know that the in-season manager and the Forest
30 supervisor are still concerned about this particular
31 system relative to sockeye. I can't speak for them as
32 far as specifics, perhaps the Staff can give us what
33 their specific concerns are. But I do want you to know
34 that they really favor continuing a closure.

35

36 CHAIRMAN DEMIENTIEFF: Further discussion.

37

38 MS. GOTTLIEB: Mr. Chair.

39

40 CHAIRMAN DEMIENTIEFF: Yes.

41

42 MS. GOTTLIEB: I'm wondering if we do have
43 any data on the subsistence take from the lake.

44

45 MR. CASIPIT: Our permits really don't --
46 the permits that we issue and I believe the permits the
47 State issues really don't make a distinction where the
48 fish were caught, whether they were in the stream or the
49 lake or the immediate terminal area, it's just reported
50 as harvest at Kutlaku Lake.

1 CHAIRMAN DEMIENTIEFF: Denny, you have
2 something.
3
4 MR. BSCHOR: Yes, I'll make a motion at
5 this time if you feel it's appropriate.
6
7 CHAIRMAN DEMIENTIEFF: Yes.
8
9 MR. BSCHOR: I move to adopt the Southeast
10 Regional Advisory Council recommendation.
11
12 CHAIRMAN DEMIENTIEFF: Is there a second
13 to that motion.
14
15 MR. TONY: Second.
16
17 CHAIRMAN DEMIENTIEFF: It's been moved and
18 seconded. Discussion on the motion.
19
20 MR. EDWARDS: Mr. Chairman. I believe
21 that the last time this came up when the State came to us
22 and asked us for reconsideration, I was the only one at
23 that time that voted in favor of doing that. Since that
24 time we have gone out and we were concerned from a
25 conservation standpoint, we did go out and ask for a
26 study to be done, recognizing again it was only a year
27 study, it does seem pretty convincing that there is not a
28 conservation issue.
29
30 As has been discussed previously, you
31 know, one of our responsibilities is not to unduly
32 restrict other uses. It seems to me it's very clear here
33 that those other uses are pretty minimal. And as you
34 pointed out yourself, that if, in fact, if it becomes
35 problematic and this other additional use is having an
36 impact, then the in-season managers will certainly have
37 the opportunity to go in there and regulate that. So as
38 a result of this discussion, you know, I would plan to
39 vote against the motion.
40
41 CHAIRMAN DEMIENTIEFF: Thank you. Further
42 discussion.
43
44 MS. GOTTLIEB: Mr. Chair, if I could ask
45 maybe a couple more clarifying questions.
46
47 CHAIRMAN DEMIENTIEFF: Yes.
48
49 MS. GOTTLIEB: I think, Doug, you were
50 saying a number of about 1,500 commercial harvest about

1 five miles from the system. Is there any plan sometime
2 in the future to either try to track how many of those
3 might be going into the system or was that your estimate
4 of how many sockeye might be going into the system?
5

6 MR. MECUM: Mr. Chairman. What I said was
7 that there was 1,500 sockeye harvested in the last 10
8 years, harvest ranging from maybe one or none to upwards
9 of 500 in any given year. In the subdistrict -- the
10 commercial fishing subdistrict that's adjacent to Bay of
11 Pillars and the closure line for the commercial fishery
12 where the subdistrict starts is five miles away from the
13 stream terminus.
14

15 You know, even if you attribute all of
16 those sockeye caught in that subdistrict to Bay of
17 Pillars, which would be, you know, the maximum for that
18 stock, it's still as, you know, Mr. Edwards just talked
19 about, a diminimus number of fish as are the other uses.
20

21 And one other point while I have the
22 floor, I'd just say is that, you know, the State
23 subsistence fishery is going to continue on in this
24 particular case. We do not have any conservation
25 concerns for this stock and most of the harvest, if not
26 practically all of it occurs in the State subsistence
27 fishery.
28

29 Thank you.
30

31 MS. GOTTLIEB: Mr. Chair, one other
32 question please.
33

34 CHAIRMAN DEMIENTIEFF: Yes.
35

36 MS. GOTTLIEB: Do we have an estimate of
37 either a number of sport users or sport take if we
38 reopened this?
39

40 MR. BOYLE: Ms. Gottlieb. Mr. Chair. We
41 have presented Table 1, I believe in the handout to give
42 you the best information we have for the area. As Mr.
43 Littlefield said and Mr. Casipit said, we don't have
44 estimates in the past, specifically for Kutlaku Lake.
45 We've gotten literally one or two responses from our
46 mailout questionnaire over the last 20 years for that
47 particular location. We do estimate harvest over a much
48 broader area, roughly 1/7th the size of Southeast Alaska
49 and you can see over on the right-hand column on that
50 table, the estimates are in the order of magnitude of,

1 you know, two to 800 fish or so annually from the area
2 around Petersburg, Wrangell, and Kake as a whole in
3 freshwater.

4
5 I guess what I look at trying to ascertain
6 effects of reopening the sportfishery in this area is
7 what were the effects of the Federal Board when it, you
8 know, effectively closed the non-Federally use of the
9 sportfishery. It's very hard to detect a difference in
10 this information in the last two years relative to
11 several years beyond that, so with that, I would suspect,
12 again, reopening the area to non-Federal subsistence use
13 would have basically an undetectable consequence in what
14 we see in this table.

15
16 MR. EDWARDS: Mr. Chairman, I guess I'd
17 like to add one other thing to my remarks.

18
19 CHAIRMAN DEMIENTIEFF: Gary.

20
21 MR. EDWARDS: It seems to me that if we
22 pass on this motion and then do not plan to do any
23 further studies to evaluate whether this fishery, this
24 run can withstand both sport and commercial -- or sport
25 and subsistence fishing, then essentially we're going to
26 be closing it forever more because we're not going to be
27 doing anything to determine if and when it could be and
28 that seems to me that we're going to be then unduly
29 restricting other uses when there may not be a need to do
30 so.

31
32 CHAIRMAN DEMIENTIEFF: Further discussion.
33 John.

34
35 MR. LITTLEFIELD: I'd like to respond a
36 little bit to Ms. Gottlieb's question. If you'll look at
37 the State data that was supplemental materials for FP05-
38 25, and if you'll look at the back sheet in there you'll
39 actually see which districts they're talking about. It's
40 kind of hard to tell exactly where the Bay of Pillars is
41 on that chart if you're looking at Chart No. 2. But if
42 you come up about halfway up Chatham Strait at the
43 bottom, before you get to Frederick Sound on the right-
44 hand side, you'll see where it says Rowan Bay, and below
45 that the Bay of Pillars, so that's the area where we're
46 talking about, in that Bay of Pillars.

47
48 I don't think anyone can tell us with any
49 certainty where all these sockeye come from, whether they
50 migrate from the bottom through subdistrict 10, or

1 whether they go through 61 or whether they're coming from
2 the north, 51 or 20 on the other side. But if you were
3 to take and add up those four subdistricts, you're going
4 to see that it's one heck of a lot of fish. That was one
5 of the questions that we posed, is we want our Staff to
6 search that out and find out what's happening there
7 because those numbers are real significant. And I know
8 we looked at these earlier when we did close those three
9 streams and we'd like to find that out. We think there
10 will be some other additional information, and hopefully
11 the Staff will have that prepared for us at the next
12 meeting.

13
14 It doesn't have to remain closed forever,
15 we can look at this again. We've asked for additional
16 information and if we get information from the most
17 effective users, the Organized Village of Kake, and if
18 they tell us that that system's okay, we would then say,
19 sure, let's open it up, if there's enough for everybody
20 let's do it. I don't think they wanted a private enclave
21 although there was definitely a user conflict there just
22 like there was in Redoubt, but no one is proposing that
23 we close this forever.

24
25 Mr. Chair.

26
27 CHAIRMAN DEMIENTIEFF: Thank you.

28
29 MR. OVIATT: Does the Forest Service have
30 a commitment or are you going to do further studies, are
31 you going to elevate this? Are we going to get some data
32 coming in? I really hate to support closures, but I also
33 hate to go against the Forest Service and the management.
34 And if we thought you were going to elevate this on your
35 priority list for studies and we would get this data
36 coming in we could reevaluate this in the future.

37
38 CHAIRMAN DEMIENTIEFF: Cal.

39
40 MR. CASIPIT: Thank you, Mr. Chair. There
41 is no proposal to continue work at Kutlaku through the
42 FIS process, and I don't think that there's going to be
43 money coming out of our regular Forest Service funds
44 either. Most of this work that we do with salmon stocks
45 for subsistence come through the FIS program, and we did
46 dedicate \$2 million a year to the FIS program, and right
47 now there's just higher priorities out there. I mean
48 we've heard that folks are most interested in Falls Lake
49 and we've got projects going at Falls Lake. You know,
50 there definitely is conservation concerns at Falls Lake

1 and that's why we're choosing to spend our money there
2 instead. Klawock Lake, folks are very concerned about
3 Klawock Lake, we're spending money there.

4
5 It's just a matter of priorities and,
6 sure, if priorities change we'll go back to Kutlaku but
7 right now there's no plans to go back there.

8
9 CHAIRMAN DEMIENTIEFF: Thank you.

10
11 MS. GOTTLIEB: Mr. Chair.

12
13 CHAIRMAN DEMIENTIEFF: Judy.

14
15 MS. GOTTLIEB: Mr. Chair, thank you. In
16 the supplemental materials on the bottom of the second
17 page it says that the data confirmed that the supply of
18 food was adequate for the current level of fry production
19 and has the potential to support even higher numbers of
20 fry in the lake, so I mean I guess that's good news that
21 the thought that the lake could support more fish and
22 more fishing. So to me, I think, that also means though
23 that maybe a little less take has to occur so that more
24 of the fry can get up there and enhance the system.

25
26 CHAIRMAN DEMIENTIEFF: Further discussion.
27 Doug.

28
29 MR. MECUM: Yes, Mr. Chair, if I could
30 respond to Ms. Gottlieb on that particular point. You
31 really can't look just at the fry data in isolation with,
32 you know, considerations about spawning areas. You know,
33 these kind of systems are generally spawning limited so
34 I'm not sure that that would really do anybody any good.

35
36 The other thing to think about, and we've
37 laid this out in some of our comments, you know, that
38 8,000 sockeye, granted it's one year, I admit that
39 freely, but that's quite a few sockeye for a system of
40 this size. If you compare it to other systems in
41 Southeast Alaska, Hughsmith Lake, for example, which is a
42 much bigger system we have an escapement goal there of
43 about 800 to -- 8,000 to 16,000, I believe, Lake Eva, you
44 know, a few thousand fish. So those kinds of numbers are
45 kind of in the ball park of the kind of numbers you'd
46 expect to see in those type of systems.

47
48 CHAIRMAN DEMIENTIEFF: Paul and then
49 Denny.

50

1 MR. TONY: This is a question for the
2 State on whether you have any plans on maybe reallocating
3 or making this a priority for your research funds?
4

5 MR. MECUM: Mr. Chairman. Mr. Tony. No,
6 not at this time. I guess we kind of feel the same way
7 about the -- that the Forest Service does in terms of
8 where we put our money, this is not that high of a
9 concern for us at this time.
10

11 CHAIRMAN DEMIENTIEFF: Denny.
12

13 MR. BSCHOR: Mr. Chair, I guess where I am
14 is I don't particularly want to be in favor of something
15 that closes it forever, however, I still think I have not
16 -- with one year's worth of information that looks
17 positive, I don't think that's enough to solve the
18 conservation concern I have. And I know that's not
19 enough to solve the conservation concern the in-season
20 manager has. So I believe we still have a conservation
21 concern. Now, whether we have the priority to make the
22 studies right now or not that's another issue, I guess.
23 I don't think we can decide that at this point in time
24 with this particular decision. But I do think that
25 that's important relative to the issue of is it going to
26 be closed forever. So I have a feeling that issue will
27 become more important if we continue the closure.
28

29 So I'm going to still come out on the
30 conservative side on this when we vote.
31

32 CHAIRMAN DEMIENTIEFF: I tend to agree
33 with you, Denny. And I think with the one year study,
34 with the manager's concern and with the fact that, as
35 John mentioned in his testimony, the local people, who
36 are still supporting the closure, you know, I intend to
37 vote in favor of the motion as we do err on the side of
38 conservation.
39

40 I do have a request to take a brief break,
41 it's 11:20, we're not breaking for lunch, but a short
42 break, I have a request from one of the Board members to
43 take a real short break, so don't run away, and then
44 we'll continue our discussion on the motion.
45

46 (Off record)
47

48 (On record)
49

50 CHAIRMAN DEMIENTIEFF: I'll go ahead and

1 call the meeting back to order.

2

3

Further discussion on the motion.

4

5

MR. EDWARDS: Mr. Chairman.

6

7

CHAIRMAN DEMIENTIEFF: Gary.

8

9

MR. EDWARDS: I guess I just would want to
10 sort of reiterate that in some of the previous decisions
11 we made, you know, we stressed the fact that we do have
12 this in-season management capability and it was a system
13 that we established and to use your words, it's a system
14 that we need to trust. And it seems to me that certainly
15 it can apply in this case, and that if we vote to open
16 this and if the in-season managers determine that there
17 truly is a conservation concern then they could close it
18 in-season. And it just seems to me that if we're going
19 to use that rationale, we ought to be willing to use it
20 in all cases and not just in selective cases.

21

22

CHAIRMAN DEMIENTIEFF: And I think in
23 trusting that system that we have to realize that the
24 managers do have a conservation concern right now, and so
25 I trust that. I trust the process. And if there is that
26 concern, until, in this case, the local people, again,
27 and our managers have been able to do away with that
28 concern, then I think our best interest is to err on the
29 side of conservation and support the Regional Council
30 recommendations.

31

32

John, did you have something.

33

34

MR. LITTLEFIELD: Thank you, Mr. Chair.
35 I'd mentioned earlier that OVK said their needs weren't
36 being met. If you look at -- I know the transcript is
37 kind of hard to read through if you look at the
38 transcript of what happened at our meeting, but you'll
39 see that we had quite lengthy testimony. And one of the
40 things that I'm looking for and I'm trying to find it, in
41 addition to their needs not being met, they said that the
42 stream was not up to par. Those people who had their
43 pulse upon the fishery said that it hasn't recovered yet,
44 so that's the second part of the information you got to
45 weigh. Those people said it isn't up to par, as well as
46 their needs are not being met. Their needs cannot be met
47 with 15 fish. They're 50 miles away from Kake, they're
48 not going to spend \$2 a gallon to go get 15 fish in
49 Kutlaku and that's why the opportunity is not there. But
50 they go there and those people have told us that that

1 system is not up to par yet. And that's the second part
2 of this that I hope you would weigh, to be included in
3 your vote.

4
5 And the question of whether we can fund
6 this or not is money driven. We didn't have enough money
7 to fund the projects that we talked about this year, even
8 though we did agree with the Technical Review Committee,
9 there were projects we thought should have been funded
10 too. It's a money issue. That's separate. That has --
11 it's totally different from what we're asking you to do.
12 I would say that the Council has said that they wanted
13 more information and we directed Staff to get us some
14 more information at our next meeting. If we get that
15 information and that information is indicative of opening
16 up that stream and OVK says that it should be open, we're
17 going to recommend that it be open. We're not telling
18 you to close this up for life.

19
20 That's all I have, Mr. Chair.

21
22 CHAIRMAN DEMIENTIEFF: Is that your spring
23 meeting, John, that this information is going to be
24 available?

25
26 MR. LITTLEFIELD: Mr. Chair. At the
27 spring meeting we'll be discussing bear regalia made of
28 claws.

29
30 CHAIRMAN DEMIENTIEFF: Okay, let's not go
31 there.

32
33 (Laughter)

34
35 CHAIRMAN DEMIENTIEFF: Any further
36 discussion on the motion.

37
38 MS. GOTTLIEB: Mr. Chair.

39
40 CHAIRMAN DEMIENTIEFF: Judy.

41
42 MS. GOTTLIEB: Mr. Chair, thanks. It does
43 sound like we've heard very strongly from the Kake area
44 that, again, their needs are not being met and I don't
45 know whether the closures that were illustrated also
46 plays into that or not but it also seems to me we're
47 struggling with user conflicts as well as the needs
48 and/or conservation issues. And if there's a way,
49 perhaps, to, separate out the discussion or the issue of
50 user conflicts and commit to cross-communication and some

1 sort of dialogue with the managers with Kake and other
2 users of that region and the Regional Advisory Council,
3 that commitment might go a long way towards, as John is
4 saying, we hope not to have this closure in place
5 forever, but to provide that information necessary to
6 determine how soon an end point could arrive at.

7
8 CHAIRMAN DEMIENTIEFF: Thank you.
9 Further discussion.

10
11 (No comments)

12
13 CHAIRMAN DEMIENTIEFF: I guess finally in
14 closing from my point of view, we have to remember that
15 we have a user friendly system. That things can be
16 brought up even out of sequence with us, we're not hard
17 and fast. If there is information that does become
18 available, you know, it can be brought forward because we
19 are user friendly.

20
21 Any further discussion.

22
23 (No comments)

24
25 CHAIRMAN DEMIENTIEFF: All those in favor
26 of the motion, please signify by saying aye.

27
28 IN UNISON: Aye.

29
30 CHAIRMAN DEMIENTIEFF: Those opposed, same
31 sign.

32
33 MR. EDWARDS: Opposed.

34
35 MR. OVIATT: Opposed.

36
37 CHAIRMAN DEMIENTIEFF: Okay, motion
38 carries.

39
40 FP05-27.

41
42 MR. CASIPIT: Thank you, Mr. Chair. The
43 Staff analysis for FP05-27 begins on Page 272.

44
45 Proposal FP05-27 was submitted by the
46 Southeast Regional Advisory Council. It addresses the
47 area's Federal subsistence coho salmon fishery. If
48 adopted, this proposal would remove the annual harvest
49 limit for coho salmon and delete the prohibition of
50 retaining incidentally caught trout and sockeye salmon in

1 the Southeastern Alaska, other than 3-A, 3-B and 3-C.

2

3 Basically the intent of this proposal is
4 to standardize the Federal regulations for subsistence
5 coho salmon fishing in Southeast Alaska. If you look at
6 the existing regulations that are displayed on 274 we
7 have two sets of regulations governing coho harvest in
8 Southeast, one for Sections 3-A, 3-B and 3-C, which is
9 the west coast of Prince of Wales Island and everywhere
10 else. And what this proposal seeks to do is combine
11 those two sets of regulations together for one regulation
12 for coho harvest in Southeast region-wide.

13

14 A little on regulatory history. The
15 regulatory restriction governing the harvest of coho
16 salmon in 3-A, 3-B and 3-C, the west coast of Prince of
17 Wales Island were in effect during the 2001 fishing
18 season, in the subsequent year, 2002 a similar regulation
19 was adopted for the remainder of Southeast Alaska area.
20 And, again, the State adopted their subsistence coho
21 fishing regulations effective in the 2003 season.

22

23 A little on harvest history. I'll call
24 your attention to Table 1 on Page 276, that displays the
25 salmon harvest for 2002 and 2003 from Federal permits.
26 We've broken out 3-A, 3-B and 3-C, the remainder of
27 Prince of Wales and all of Southeast together so for
28 comparison purposes you can see the numbers there.

29

30 The effect of this proposal would be to
31 streamline the Federal regulations, and provide users
32 with a consistent regulation for the harvest of coho
33 salmon throughout the Southeastern Alaska area. This
34 would include the use of gaffs in 3-A, 3-B and 3-C and
35 this proposed regulation would not change recent harvest
36 practices, nor will it effect conservation of the
37 species.

38

39 With that, I'll answer any questions.

40

41 CHAIRMAN DEMIENTIEFF: Thank you. Written
42 public comments.

43

44 DR. SCHROEDER: Mr. Chairman, there are no
45 written public comments for this proposal.

46

47 CHAIRMAN DEMIENTIEFF: We have no
48 additional request for public testimony at this time.
49 Regional Council recommendation.

50

1 MR. LITTLEFIELD: Thank you, Mr. Chair.
2 Our recommendation is on Page 273 and it is extremely
3 short. We do not believe this raises any conservation
4 concerns. The Staff analysis that we received supports
5 the change. The data shows that there is no conservation
6 concern. It might help subsistence users by clarifying
7 and simplifying regulations. And we believe it has no
8 effect on other users.

9
10 The Regional Advisory Council supported
11 this motion 8/1.

12
13 Mr. Chair.

14
15 CHAIRMAN DEMIENTIEFF: Staff Committee.

16
17 MR. KESSLER: Mr. Chairman, the Interagency
18 Staff Committee supports the proposal consistent with the
19 recommendation of the Southeast Regional Advisory
20 Council. And just to further note that any concerns that
21 may arise in the future from this regulation can be
22 addressed by specific conditions stipulated on the
23 required subsistence fishing permit.

24
25 Mr. Chair.

26
27 CHAIRMAN DEMIENTIEFF: Thank you.
28 Department comments.

29
30 MS. SEE: Mr. Chair. We note that most
31 harvest of coho is occurring in the marine waters and we
32 don't know as much about some of the smaller systems,
33 there are about 1,800 coho systems in Southeast.

34
35 The Board of Fisheries as was noted in the
36 Staff analysis previously aligned State regulations with
37 Federal regulations that would diverge again if this
38 proposal were adopted. And a lot of what I'm going to
39 say has to do with the difference in approach to how
40 harvest could be regulated under these different
41 regulations of both State and Federal systems.

42
43 We note that the harvest data -- I'm
44 sorry. In the immediate future the State will monitor
45 harvest trends in the coho subsistence fisheries as
46 reported on the permits, but will retain annual limits at
47 the discretion of area management biologists. And we
48 feel that annual limits are a helpful tool. When
49 regulations by the Alaska Board of Fisheries providing
50 for a subsistence coho fishery in State managed waters

1 were adopted there was a concern at that time with
2 potentially excessive harvest of the many small coho
3 salmon systems. We think that annual limits do help
4 alleviate those concerns until harvest patterns are
5 better understood, and that's a key point, I think that
6 we would like to get better information on those harvest
7 patterns, especially in the small systems.

8
9 We previously recommended an alternative
10 approach to this proposal, recognizing that the intent
11 was to try to harmonize the regulations throughout the
12 region. We felt that really it should be, the
13 harmonization should be reversed, in fact, that if the
14 regulations -- the current Federal regs for coho salmon
15 outside Sections 3-A, 3-B, and 3-C were also extended to
16 Prince of Wales, they would align the annual limits
17 throughout Southeast with State subsistence fishing
18 regulations, and we supported that approach. We
19 recognize, however, that the lack of interest in that
20 approach by the Council is, again, somewhat of a
21 philosophical one in the way that you develop regulations
22 with the kind of sideboards that the State has
23 traditionally used are not being supported as much in the
24 Council's approach to this and it's a difference of
25 approach. It carries with it some benefits and some
26 drawbacks, which we just want to make sure are clearly
27 understood when these kinds of changes are being
28 considered.

29
30 One of those areas is about incidental
31 harvest. The State does not limit incidental harvest of
32 trout and Dolly Varden in the subsistence salmon
33 fisheries but there's two important distinctions between
34 State and Federal regulations that pertain to this. The
35 State does not allow a directed subsistence fishery for
36 those species so there's no confusion between targeted
37 and incidentally caught trout and Dolly Varden, and
38 defined seasons apply in the State salmon fisheries,
39 while Federal regulations are year-round.

40
41 Federal Staff have clarified that
42 incidental subsistence harvest of trout and Dolly Varden
43 taken with rod and reel gear will be limited to State
44 sportfishing bag limits.

45
46 Without a defined fishing season there's a
47 concern about the levels of incidental harvest of trout
48 and Dolly Varden that would occur under the Federal
49 salmon regulations. Further, because existing Federal
50 regulations also provide for directed harvest of trout

1 and char, the resulting harvest potential for
2 incidentally-caught trout and char could far exceed the
3 opportunity provided for targeted trout and Dolly Varden
4 harvest limits.

5
6 This is largely because of when you might
7 be fishing that the potential exists, especially in small
8 systems, for a lot of Dolly Varden or trout to be
9 harvested, when, in fact, we could potentially find that
10 that might not be a desirable outcome.

11
12 Repealing the incidental harvest
13 provisions, combined with the year-round Federal season,
14 therefore raises some conservation concerns to us and may
15 result in enforcement problems. We think that the annual
16 limits and the seasons are, in fact, really helpful tools
17 in this regard. So with this divergence, if, in fact,
18 this regulation goes forward as is proposed by the
19 Council, we feel that this puts an additional
20 responsibility on the Federal manager, which may be
21 something that the Federal program wishes to do, but we
22 think that puts additional responsibility on the Federal
23 managers to really monitor the effects of this. Are
24 there, in fact, going to be areas in which there should
25 be some additional scrutiny and monitoring and follow-up
26 about the effects of harvest on some of these species
27 that would not occur with some of the side boards that
28 the State system currently provides.

29
30 So we would just note that that's an
31 important angle of this and it should be something that
32 the Federal program would have to commit to if, in fact,
33 this regulation passes, as is proposed. We don't
34 currently support this regulation as written. Again, we
35 prefer to see these side boards in place. We would
36 support the kind of modification that we've presented.
37 We recognize that that has not been of interest to the
38 Council at this time.

39
40 Thank you.

41
42 CHAIRMAN DEMIENTIEFF: Thank you.
43 Discussion.

44
45 (No comments)

46
47 CHAIRMAN DEMIENTIEFF: Let me just tell
48 you what my plan is here. I'm hoping we can complete
49 this proposal because I got a request to accommodate
50 somebody with public testimony right after lunch. I was

1 thinking about breaking, but I don't want to break the
2 whole -- if we could come right back to the proposal
3 after lunch, then we'll just take a little bit later
4 lunch and maybe try to finish work on this proposal if we
5 can.

6

7 (Pause)

8

9 CHAIRMAN DEMIENTIEFF: Well, we are going
10 to have to. I forgot that we have public testimony right
11 at 1:00, so we are going to have to break for lunch.
12 We'll break for lunch, we'll accommodate that testimony,
13 then we'll accommodate Mr. Andrew from AVCP who has a
14 travel conflict and then we'll come back to
15 deliberations. I've been working with our Staff with
16 regard to something about Unit 2 deer. The person who's
17 done the primary work for them now is going to be leaving
18 also. I've been informed by them that they will be ready
19 for that, so we will close the day with that Unit 2 deer
20 update, so that will be kind of out of sequence. So
21 that's where we're at and we'll come back with public
22 testimony and deliberate this. So we'll try to get here
23 as close to 1:00 o'clock as we can, please.

24

25 (Off record)

26

27 (On record)

28

29 CHAIRMAN DEMIENTIEFF: We'll call the
30 meeting back to order on marine jurisdiction, the
31 proposed rule. Bill Knauer will give the introduction at
32 this time.

33

34 Bill.

35

36 MR. KNAUER: Thank you, Mr. Chairman,
37 Members of the Board, Council. A proposed rule to revise
38 and clarify jurisdiction in coastal waters was published
39 in the Federal Register by the Secretaries on December
40 8th of 2004. This rule would amend the Federal
41 subsistence management regulations to clarify that the
42 jurisdiction is confined to inland waters and pre-
43 Statehood withdrawals. This amendment would primarily
44 impact coastal areas within the Yukon-Kuskokwim Delta,
45 Bristol Bay and Kodiak/Aleutian regions.

46

47 In the Katy John decision, the 9th Circuit
48 Court of Appeals concluded that the Federal Subsistence
49 Program must be crafted to reach waters in which the
50 United States has an interest by virtue of the reserved

1 water rights doctrine. Subsequently, regulations were
2 published in 1999 which extended subsistence management
3 jurisdiction to all navigable and non-navigable waters
4 within the exterior boundaries of Federal regulations in
5 Alaska. As a result, Federal subsistence management
6 regulations now cover hundreds of thousands of acres of
7 saltwater marine embayments within refuge boundaries that
8 were not withdrawn prior to Statehood.

9
10 The Federal Subsistence Board never
11 intended that its regulations be construed to include
12 marine waters other than the pre-Statehood withdrawals.
13 Its entire focus was on inland waters. The proposed
14 amendment would remove these saltwater embayments shown
15 on these maps in yellow that you see before you by
16 clearly defining the demarkation between inland waters
17 for the Federal Subsistence Management Program.

18
19 This map shows the Yukon Delta area and,
20 again, the areas in yellow are the highlighted areas that
21 would be divested from jurisdiction in this program. The
22 proposed amendment would also specifically identify those
23 pre-Statehood withdrawals shown here in red of submerged
24 lands underlying marine waters in which the Federal
25 Subsistence Board would still exercise jurisdiction by
26 virtue of owning title to the submerged lands.

27
28 The Federal Subsistence Board is now going
29 to hear public testimony and we'll ask for comments from
30 the Regional Councils during their winter meetings coming
31 up in February and March. A final rule will be published
32 by the Secretaries after consideration of public and
33 Regional Council comments.

34
35 Thank you, Mr. Chairman.

36
37 CHAIRMAN DEMIENTIEFF: Thank you, Bill.
38 We have no requests for public testimony, but I do need
39 to note for the record because written request was filed
40 by Eric Johnson of AVCP who has since notified us that he
41 will file a written comment and will testify that way.
42 With that being said, we have no other requests and we'll
43 deal with it by written comments and look forward to the
44 round of Regional Council meetings.

45
46 So we'll move on. Timothy Andrew. Tim
47 has a travel conflict, so we're just going to accommodate
48 him and allow him to speak to his proposals at this time.

49
50 MR. ANDREW: Thank you, Mr. Chairman, for

1 the opportunity to testify today and I appreciate you
2 moving me up a little bit earlier to accommodate my
3 travel schedule.

4

5 My name is Timothy Andrew. I'm the
6 director of Natural Resources for the Association of
7 Village Council Presidents. I am testifying before you
8 today in support of Proposal 05-02 and 06 and in
9 opposition of Proposal No. 05-03.

10

11 In regards to Proposal 05-02 and 06, in
12 1998 or late 1990s we were faced with an extreme and
13 critical shortage of salmon entering the Yukon-Kuskokwim
14 Rivers. At that time, AVCP reluctantly supported windows
15 as a management tool to allow salmon to reach their
16 spawning grounds and also to allow interruptions of our
17 subsistence fishing activities within the two rivers.

18

19 In our cooperative appeal with the State
20 of Alaska and the U.S. Fish and Wildlife Service, we
21 stated that we would support windows as a conservation
22 tool only as long as it does not become a way of life.
23 It has now been several years since the appeal and the
24 subsistence fishery is still managed by windows. In
25 other words, it has become a way of life.

26

27 For the last two years both Chinook and
28 chum salmon runs have rebounded to a point where some of
29 the escapement goals have been met and subsistence needs
30 are also being met and limited commercial fishing is
31 occurring as well. When the commercial fishery is
32 opened, the windows management system is immediately
33 relieved to allow a relaxed subsistence schedule.

34

35 Mr. Chairman and Members of the Federal
36 Subsistence Board, that is where the point of contention
37 lies. It appears, at least peripherally, that the
38 subsistence fishery is based purely on the allowance of
39 the commercial fishery. In other words, subsistence is
40 tied with commercial opportunity. Additionally, we have
41 been blessed with good weather, good drying weather
42 conditions for drying salmon throughout the late month of
43 May and June when the windows are in place.

44

45 If the weather conditions were not
46 favorable, many would not come close to meeting their
47 subsistence needs. With unfavorable weather conditions,
48 they declared subsistence opening would not achieve the
49 harvest participation due to fear of wasting precious
50 salmon.

1 Another adverse possibility is wiping out
2 a run destined for a particular stream. In a confined
3 opening where people have only a limited opportunity to
4 harvest their needs, maximum participation will occur.
5 We have seen it around Bethel and I'm confident the same
6 occurs elsewhere in the state.

7
8 It is human nature, when faced with
9 limited opportunity people will take advantage of it.
10 Conversely, when ample opportunity to harvest salmon
11 exists, people will harvest only what they need for the
12 time and at a slower pace as weather conditions and
13 environmental conditions allow.

14
15 Additionally, windows are extremely
16 disruptive to the customary and traditional way of life.
17 Faced with restrictions, many of the families have moved
18 to the villages and away from fish camps due to the
19 limited subsistence fishing opportunity.

20
21 Mr. Chairman and Members of the Board, we
22 do not necessarily oppose the utilization of windows as a
23 management tool. We just oppose it being tied to the
24 commercial fishery. When a commercial fishery
25 opportunity is announced, the windows are lifted at that
26 time.

27
28 In regards to Proposal 05-03, the stated
29 proposal seeks to decrease the depth for allowable gear
30 in the Lower Yukon area. This proposal, if adopted,
31 would severely disenfranchise the subsistence fisher
32 along the Lower Yukon River. New nets on the average
33 cost \$1,200 pre-hung and I don't know what the cost would
34 be for the subsistence fisher to decrease their mesh
35 sizes and the amount of work that would be involved as
36 well. In any case, it's considerable cost to the
37 subsistence fisherman. The proposal, if adopted, would
38 also be more restrictive than what is allowed in State
39 regulation.

40
41 We do not fish 24/7 in the Lower Yukon
42 River whether for subsistence or for commercial. We are
43 currently restricted by both subsistence windows and
44 commercial windows. During periods where windows are not
45 in effect, limited fishing occurred because people have
46 already met their subsistence needs.

47
48 For the last several years we have had two
49 36-hour windows for subsistence fishing, with the
50 exception of the coastal district, which is open seven

1 days per week due to the limited amount of population in
2 the area and also the limited area where people can
3 actually subsistence fish. The Black River fish camp
4 being the most concentrated area in the coastal district.
5 It becomes more liberal as you go further up the river.
6 There's anywhere from -- there's two 42 hours to
7 unrestricted openings as you go further up the management
8 districts on the Yukon River and this occurs through July
9 15th.

10

11 As far as commercial openings on the Lower
12 Yukon River, we also have a maximum of six hour openings
13 that has occurred over the last couple years and rarely
14 have gone beyond 12 hours. Those situations we are --
15 the window system is not intentionally in place, but it
16 also allows the fish to pass through because 24 hours
17 prior to the commercial opening and 24 hours after a
18 commercial opening we cannot fish for our subsistence
19 needs, but after July 15th we are allowed 12 hours before
20 and after.

21

22 Mr. Chairman, that concludes my testimony.
23 I'll be happy to answer questions.

24

25 CHAIRMAN DEMIENTIEFF: Are there any
26 questions by Board Members.

27

28 (No comments)

29

30 CHAIRMAN DEMIENTIEFF: Thank you. We're
31 happy to accommodate your schedule and appreciate the
32 testimony. Yes, John.

33

34 MR. LITTLEFIELD: Thank you, Mr. Chair.
35 In your comments you said that the Regional Advisory
36 Councils were going to have the chance to review the
37 marine waters and I'd just note the actual comment period
38 ends on January 24. I was wondering, this thing occurs
39 in between our meetings, so I'm wondering how we could
40 comment on the proposed rules and still comply with the
41 regulations.

42

43 MR. KNAUER: Mr. Chairman, the comment
44 period does officially close on January 24th, but because
45 it did appear in the Federal Register between Council
46 meetings, we are providing a special opportunity for each
47 of the Regional Councils to provide their comments during
48 their winter meetings. There will be a statement in
49 their booklets as well as a full copy of the Federal
50 Register notice for them to examine.

1 CHAIRMAN DEMIENTIEFF: That's the public
2 comment period that was advertised, but we can
3 accommodate the RACs is basically what the deal is.
4
5 MR. LITTLEFIELD: Thank you for the
6 explanation. I'll save my comments for the appropriate
7 time then.
8
9 Thank you.
10
11 CHAIRMAN DEMIENTIEFF: Board discussion on
12 Proposal 27.
13
14 (No comments)
15
16 CHAIRMAN DEMIENTIEFF: Hearing none, is
17 anybody prepared to offer a motion at this point in time?
18
19 MR. BSCHOR: I'll move to adopt the
20 proposal as recommended by the Southeast Regional
21 Advisory Council.
22
23 CHAIRMAN DEMIENTIEFF: Is there a second
24 to that motion.
25
26 MR. OVIATT: Second.
27
28 CHAIRMAN DEMIENTIEFF: Discussion.
29
30 MS. GOTTLIEB: Mr. Chairman, I was
31 wondering if I could ask Chairman Littlefield if this
32 would in any way change recent harvest practices.
33
34 MR. LITTLEFIELD: I don't know. It might
35 mean the opportunity might be increased so that you could
36 go out and get more fish, but I can't really answer that.
37
38 CHAIRMAN DEMIENTIEFF: Further discussion
39 on the motion.
40
41 MR. BSCHOR: Yes, I'd just like to say
42 that it doesn't appear there would be any conservation
43 concerns from this proposal. Just for the record, the
44 divergence from State and Federal regulations is
45 something I think we should continue to be concerned
46 about, but in this case I'm okay with what's being
47 proposed here.
48
49 CHAIRMAN DEMIENTIEFF: Thank you. Any
50 other discussion.

1 (No comments)

2

3 CHAIRMAN DEMIENTIEFF: Hearing none, all
4 those in favor of the motion please signify by saying
5 aye.

6

7 IN UNISON: Aye.

8

9 CHAIRMAN DEMIENTIEFF: Those opposed.

10

11 (No opposing votes)

12

13 CHAIRMAN DEMIENTIEFF: Motion carries. I
14 think we ought to have lunch more often. I'm kind of
15 mellow today. No. 29.

16

17 MR. CASIPIT: Thank you, Mr. Chair. The
18 Staff analysis for FP05-29 begins on page 278 of your
19 book. This Proposal FP05-29 was submitted by Mr. William
20 Welton, requests a 36-inch minimum size limit and a two
21 fish annual harvest limit for the Prince of Wales and
22 Kosciusko Island Federal subsistence steelhead fisheries.
23 This proposal indicated no restrictions on gear types.
24 The proponent is concerned that existing Federal
25 subsistence regulations may allow too much steelhead
26 harvest for populations to handle, so he requests a
27 change to the minimum size restriction of 36 inches along
28 with a two fish annual harvest limit as exists in State
29 regulation.

30

31 The Board is very familiar with the Prince
32 of Wales steelhead fishery. We've discussed this over
33 the past three years in the annual regulatory cycle. The
34 regulatory history and biological background is much the
35 same as what you've seen in the past. I did want to
36 point out that we do have some additional information on
37 subsistence harvest that's provided to you, but I did
38 want to point out that the existing fishery is harvesting
39 a very small amount of steelhead on the island, you know,
40 less than 100. It was 24 this year and 26 the year
41 before that.

42

43 The fall fishery this year for 2004, I was
44 talking with Jeff, for instance, for the fall fishery
45 that began on December 1st, only six permits have been
46 issued, only one has been fished and no fish have been
47 harvested. It's a fairly small amount of effort going
48 on.

49

50 The effect of this proposal would be to

1 restrict the Federal subsistence harvest of steelhead on
2 Prince of Wales and Kosciusko Islands and reverse the
3 Board's decision establishing the current regulations.
4 Prior to the Federal regulatory change, steelhead harvest
5 was identified by community harvest surveys and in order
6 to improve the harvest assessment information and
7 document this harvest, the minimum size limit was removed
8 to be able to track this previously non-legal or non-
9 documented steelhead harvest.

10

11 The Board's action in December 2002 was
12 designed to accommodate harvests as documented in these
13 community harvest surveys. Annual household limit of two
14 fish over 36 inches does not meet subsistence users
15 documented use of seven steelhead per household for the
16 households reporting using them on the island. This
17 would be an unnecessary restriction to subsistence users,
18 although reported harvests have been low, permit returns
19 have indicated that some households have harvested an
20 annual limit in the spring fishery.

21

22 With a minimum size limit of 36 inches,
23 less than one percent of the steelhead population is
24 available for harvest, which would not provide for
25 subsistence uses. Harvest opportunity for Federally-
26 qualified subsistence users would be greatly reduced and
27 catch and release mortality may increase with the minimum
28 size limits. Based on the low reported harvest from the
29 Federal fisheries, little or no effects would result for
30 other user groups by restricting the fishery.

31

32 I'll be happy to answer any questions.

33

34 CHAIRMAN DEMIENTIEFF: Thank you. Written
35 public comment.

36

37 DR. SCHROEDER: Mr. Chairman, we have no
38 written public comments for this proposal.

39

40 CHAIRMAN DEMIENTIEFF: We have no
41 additional requests for public testimony at this time.

42

43 Regional Council recommendation.

44

45 MR. LITTLEFIELD: Thank you, Mr. Chair.
46 Our recommendation is on page 279. I'd like to note that
47 we opposed this proposal 9-0, unanimous. Steelhead has
48 been before the Council. I cannot even remember how many
49 times, but I'm sure you've heard it many times here. We
50 believe that the existing program on Prince of Wales

1 Island is working just fine. No conservation concerns
2 with it. As you heard, there was maybe 50 fish taken in
3 the last couple years.

4
5 But over the discussion of this issue is
6 when we came up with the oversight where the Council
7 chairs and the affected Council were not being consulted
8 on the closures of streams, which was approximately 21 or
9 somewhere in that area previous year and we wanted to be
10 consulted and we are being consulted. We're not going to
11 unnecessarily recommend anything. If there's a
12 documented conservation concern, we would certainly
13 recommend that that land manager take action.

14
15 One of the things we noted here in the
16 discussion as well as in a previous item, the Council
17 further notes that ANILCA would
18 appear to require closure of streams for non-subsistence
19 harvests, including sport fishing, before Federal
20 subsistence fishing opportunities were curtailed. Again,
21 we were asked earlier in the session whether we used law
22 enforcement and legal to make our decisions in Southeast
23 and I would have to say we do that quite actively.

24
25 At this time, if it's possible to address
26 that particular question, whether that statement is true
27 or not, I would like to ask the lawyer from the
28 Department of Agriculture, who we rely on, who's at our
29 meetings, to address that. He gives us information on
30 substantial evidence as well as other things. This is in
31 direct contradiction to what the State of Alaska,
32 Mr. Lance Nelson said. So, for the record, if we could
33 have Mr. Ustasiewski address that particular comment in
34 our recommendations. That's all I have, Mr. Chair.

35
36 CHAIRMAN DEMIENTIEFF: Now, out of
37 sequence, or Board discussion? Will that work?

38
39 MR. LITTLEFIELD: It's all part of the
40 process. I would like to have him address that for you,
41 please, at whatever time you wish.

42
43 CHAIRMAN DEMIENTIEFF: The request is so
44 noted. During Board discussion we'll open with that.
45 Thank you, John.

46
47 Staff Committee.

48
49 MR. KESSLER: Mr. Chairman and Board
50 Members. The Interagency Staff Committee recommends that

1 you oppose the proposal, consistent with the
2 recommendation of the Southeast Regional Advisory
3 Council.

4
5 The justification for that is on page 280
6 of your book. Following two years of Federal regulation
7 implementation for the harvest of steelhead, no apparent
8 conservation concern has been detected resulting from
9 these regulations for Prince of Wales Island. An annual
10 household limit of two fish over 36-inches does not meet
11 subsistence users documented needs and this would be an
12 unnecessary restriction to subsistence users.

13
14 So, in summary, this proposal would not
15 serve conservation and would be an unnecessary
16 restriction. Mr. Chairman.

17
18 CHAIRMAN DEMIENTIEFF: Thank you.
19 Department comments.

20
21 MR. BOYLE: Thank you, Mr. Chair. Prior
22 to the Southeast Regional Advisory Council in October of
23 2002, the Federal and State Staff agreed that small
24 steelhead stocks should be protected and that additional
25 harvest opportunity proposed at the time should be
26 directed away from fall steelhead stocks on Prince of
27 Wales Island.

28
29 Conservation provisions on spring and
30 winter permits issued since 2003 provided some protection
31 for small stocks utilizing 21 listed streams. We remain
32 concerned that existing Federal steelhead regulations and
33 permit provisions applied to date do not assure that
34 small stocks and fall runs are adequately protected.
35 I'll reference our Regulatory History and
36 Stock Status of Trout in Southeast Alaska paper as well.

37
38 The federal analysis notes the intent of
39 the Federal Subsistence Board that the current federal
40 regulation be assessed after two years. Again, we talked
41 about this yesterday, the results from the correspondence
42 study conducted on steelhead fishers in Prince of Wales
43 Island in 2004 indicate that the current permit return
44 system is not capturing all contemporary harvest on
45 Prince of Wales Island. The study concluded that the
46 actual harvest of steelhead is greater than the number
47 reported on the permits. Again, as we said yesterday,
48 this suggests
49 that the new regulations may not be providing the benefit
50 of improved harvest reporting as originally intended.

1 Our recommendation would be to support the
2 proposal with the modification that adopting the proposed
3 regulations as written could unnecessarily limit
4 opportunity on larger systems for subsistence fishing
5 that are thought to contain larger numbers of fish.
6 However, we would recommend that the proposed regulations
7 apply to all small streams on Prince of Wales Island that
8 could not sustain increased harvest. This would protect
9 all steelhead systems thought to support 100 or less fish
10 of spawning adults while maintaining the harvest
11 opportunity on larger systems.

12
13 Also, we encourage the Federal Subsistence
14 Board to support improved subsistence steelhead harvest
15 monitoring and reporting, as well as any stock assessment
16 of steelhead on Prince of Wales Island.

17
18 Thank you.

19
20 CHAIRMAN DEMIENTIEFF: Thank you. As we
21 begin Board discussion with regard to the issue, we do
22 have a request that's on record from Chairman Littlefield
23 and Jim is here, prepared to respond, hopefully.

24
25 MR. USTASIEWSKI: Yes, hopefully. Mr.
26 Chair, when this issue was raised yesterday on a
27 different proposal, I believe Mr. Goltz's answer was that
28 it would depend on the circumstances and I think that's
29 essentially my answer as well. I'd like to maybe flesh
30 that out a little bit more than we had time for
31 yesterday.

32
33 The statement I was just now asked to
34 address about ANILCA appearing to require closure of
35 streams for non-subsistence harvest, including sport
36 fishing, before Federal subsistence fishing opportunities
37 were curtailed. I think that's probably generally true.
38 There would be some situations where that would probably
39 not be the case. Clearly, if there were conservation
40 concerns about a system, both subsistence and non-
41 subsistence harvests could be curtailed. At the same
42 time, we wouldn't have to do one before the other.

43
44 There may be a situation where subsistence
45 harvests are higher than they may somehow need to be.
46 I'm not sure if that's something that happens very often,
47 but if we had a bag limit of 40 coho per year, for
48 example, and it was determined that only 20 were needed
49 or something, that would be a situation where maybe the
50 subsistence opportunity was then greater than what it

1 needed to be. But barring some sort of odd circumstance
2 like that, I think in general that ANILCA requires, as
3 was pointed out, a meaningful priority for subsistence
4 over non-subsistence. I think even there was some
5 discussion yesterday from the State in agreement that
6 that's what the Federal law provides, a meaningful
7 preference. If there's a non-subsistence fishery in an
8 area but the subsistence fishery is closed, it's hard to
9 see how that could be a meaningful subsistence
10 preference. In other words, the subsistence people, if
11 they're blocked out of an area, their needs are not being
12 met, it's hard to see that that's a meaningful preference
13 under ANILCA as required.

14

15 So, I think in general that statement is
16 true, but there could be some situations where we would
17 curtail subsistence even if all of the non-subsistence
18 were not eliminated.

19

20 CHAIRMAN DEMIENTIEFF: Thank you. Further
21 discussion.

22

23 Gary.

24

25 MR. EDWARDS: I guess I'm trying to
26 understand meaningful preference. If you had a situation
27 where you had six streams within a quarter of a mile of
28 each other and subsistence needs were being met on three
29 of those, could you restrict subsistence use on the other
30 three and still allow sport fishing? If the sport
31 fishing in this case was a catch and release where you
32 knew that the mortality would be significantly lower than
33 if those streams were open to subsistence take.

34

35 MR. USTASIEWSKI: Through the Chair. In
36 your example, the subsistence needs are being met on the
37 other three streams?

38

39 MR. EDWARDS: Yes.

40

41 MR. USTASIEWSKI: And it's simply a
42 question of allowing some catch and release opportunities
43 where subsistence needs are otherwise being met.

44

45 MR. EDWARDS: Under my scenario, then you
46 would close three of the -- because you had some concerns
47 of overharvest, you would close three of the streams to
48 subsistence, but remain open to catch and release only
49 because you would assume that the mortality would be
50 significantly less.

1 MR. USTASIEWSKI: I suppose it could be
2 significantly less and you would still have conservation
3 concerns. There had been discussion about how with catch
4 and release fishing there's incidental mortality. In
5 discussion on other topics, I understand it was in the
6 range of five to ten percent, something like that. It's
7 not a huge percentage, but there could be a situation
8 where that, itself, might pose a conservation concern. So
9 you might not have catch and release even there. I don't
10 know. I guess I'd fall back to the answer it depends.

11
12 You're coming up with a hypothetical that
13 it seems on its face if subsistence needs are being met,
14 then they're being met. There's no need to create a
15 subsistence priority if subsistence needs are being met.
16 I think there may be some issue with whether they're
17 being met or not, so the hypothetical may not square with
18 reality in some of these stream systems.

19
20 CHAIRMAN DEMIENTIEFF: John.

21
22 MR. LITTLEFIELD: Mr. Chair, I'd like to
23 address that if I could. There's a part that's always
24 kind of put in the background of Title VIII and that's
25 right in the line with conservation that talks about
26 continuing the use. In other words, I interpret that as
27 if I am fishing on a stream in Sitka and my ancestors
28 have fished there forever and you tell me that I've got
29 to go 60 miles away to another stream and catch those
30 fish there. That's not the same -- that would be okay
31 under the State, but that's not allowed underneath the
32 Federal program because the Federal program says we're
33 supposed to be allowed to continue to access that stream
34 in our customary and traditional manner. So I think
35 maybe you could talk about that, Mr. Ustasiewski, but you
36 need to be able -- that's an equal part of this. Not
37 only conservation, but to be able to continue the use
38 patterns that are customary and traditional.

39
40 MR. USTASIEWSKI: Mr. Chair, if I could,
41 just to follow up. I have tended to use a shorthand
42 term, subsistence needs, yet Title VIII I think maybe in
43 one place talks about subsistence needs, but, as John
44 pointed out, the language in general is about providing
45 for an opportunity that's necessary to continue
46 subsistence uses. That's the language in Section 802.2
47 of ANILCA, which is a statement of Congress's policy in
48 enacting Title VIII. Section 804 talks about necessary
49 to continue subsistence uses and Section 815 talks about
50 necessary to continue subsistence uses. Section 805(c),

1 which has been bandied around a couple times in this
2 discussion does talk about subsistence needs as a basis
3 for rejecting a RAC recommendation if it's detrimental to
4 subsistence needs.

5
6 But the basic construct is what's
7 necessary to continue subsistence uses. That, as I say,
8 I shorthand as subsistence needs sometimes. I'm not
9 really sure what that means. I think it's something that
10 has to be defined in each situation you find yourself in.
11 What's necessary on Prince of Wales Island for the
12 continuation of customary and traditional uses of
13 steelhead, that's going to be, you know, I think up to
14 the RAC in the first instance to state what's necessary
15 in their experienced position, opinion, and then for the
16 discussion to develop as to just what the facts really
17 are. I thank you for clarifying that. Like I say, we
18 tend to sort of just say what's necessary for
19 subsistence, but it's important to look at the actual
20 language of Title VIII.

21
22 CHAIRMAN DEMIENTIEFF: Further discussion.
23 Yes, Jack.

24
25 MR. REAKOFF: Mr. Chairman, this is a
26 multi-region-wide question and I would agree with Mr.
27 Littlefield that under 802 of ANILCA the regulations are
28 supposed to have the least adverse impact upon the
29 subsistence users. Of the eight criteria, the third
30 criteria is economy of time, effort and expense. It's
31 not economical to go 60 miles away to go get fish in
32 another area. If there's a sport interest or a
33 commercial interest that's competing with the subsistence
34 users, that interest is supposed to be curtailed to
35 provide the least adverse impact on the subsistence user,
36 so I will agree with the chair from Southeast.

37
38 CHAIRMAN DEMIENTIEFF: Thank you. Other
39 discussion. Go ahead.

40
41 MR. BSCHOR: Mr. Chair. Just a couple
42 questions for the State, Mr. Boyle. The streams that
43 have a 100 or fewer spawners, do you have a list of those
44 on Prince of Wales Island?

45
46 MR. BOYLE: Mr. Bschor, I'll refer that to
47 our regional management coordinator for Southeast, Tom
48 Brookover.

49
50 MR. BROOKOVER: Mr. Bschor, through the

1 Chair. I'm looking at the appendices lined out in the
2 Federal Staff analysis on page 296 and 297. On 297 is
3 Appendix B. That's a list of Prince of Wales Island
4 steelhead drainages accessible by road with fall
5 steelhead systems italicized. In the left-hand column is
6 a list of the road accessible small streams, so that
7 would include that list. As well as a number of streams
8 on Appendix A, which are remote steelhead systems. A
9 number of those are small streams.

10

11 MR. BSCHOR: And those are the ones you're
12 referring to? There aren't any more than that that you
13 know of?

14

15 MR. BROOKOVER: Mr. Bschor, through the
16 Chair. No, those are the ones that we know about.

17

18 CHAIRMAN DEMIENTIEFF: Thank you.

19

20 Ralph.

21

22 MR. LOHSE: Mr. Chair, could I ask a
23 question. These small streams that are listed that
24 you're talking about that have less than 150 fish, are
25 they open for sport fishing right now?

26

27 MR. BROOKOVER: Mr. Chair. Yes, they are.

28

29 CHAIRMAN DEMIENTIEFF: Okay. Thank you.

30

31 Paul.

32

33 MR. TONY: Thank you, Mr. Chair. Just
34 looking at Table 2 on page 289 again and noting, I guess,
35 in this weir study anyway, only eight of over 1,100 fish
36 were in this category. It just doesn't seem reasonable
37 that that would be something that would be a meaningful
38 way to meet the subsistence priority.

39

40 CHAIRMAN DEMIENTIEFF: Thank you.

41

42 Judy.

43

44 MS. GOTTLIEB: Mr. Chair. I agree. When
45 we've had this discussion at least a few times before
46 that saying to people they can keep fish over 36 inches
47 is pretty meaningless, actually. I think we can be
48 consistent with our decision on 28 here and hopefully
49 commit to that improved monitoring and reporting to get a
50 more accurate, perhaps, reflection of what is actually

1 being taken.
2
3 MR. BSCHOR: Mr. Chair, looking at the
4 past couple of years we've had, what is it, 24 and 25
5 fish, is that correct, that have been harvested?
6
7 MR. BROOKOVER: Twenty-four and 26.
8
9 MR. BSCHOR: And we have a cap of 100,
10 right?
11
12 MR. BROOKOVER: A cap of 100 in the fall
13 and a total cap between two seasons of 600.
14
15 MR. BSCHOR: So it's obvious to me if --
16 we probably have a little bit of an indication now what
17 the subsistence use is, which we didn't know before. It
18 may not be all the reported fish that are taken, but it
19 is very few compared to what our expectation was and that
20 expectation was not very high as I remember our past
21 discussions.
22
23 CHAIRMAN DEMIENTIEFF: Further discussion.
24 Paul.
25
26 MR. TONY: Thanks, Mr. Chair. Yeah, in
27 addition to that, too, I think we funded a study that's
28 going to go forward this year that the State is
29 participating in that will do some stock assessment work.
30 I would note, too, that under methods and means that
31 spears are allowed and it would be kind of hard to spear
32 a 35-inch fish and then release it.
33
34 CHAIRMAN DEMIENTIEFF: Further discussion.
35 See, you've just got to take your tape measure out there
36 before you spear. Is somebody prepared to offer a
37 motion.
38
39 MR. BSCHOR: Yes, I'm prepared to move to
40 adopt the proposal that's in line with the recommendation
41 from the Southeast Advisory Council.
42
43 CHAIRMAN DEMIENTIEFF: We have a motion.
44 Is there a second.
45
46 MR. TONY: Second.
47
48 CHAIRMAN DEMIENTIEFF: Discussion on the
49 motion.
50

1 MR. BSCHOR: Let me just say I don't know
2 if there's substantial data to say we have a conservation
3 problem with continuing as we are. Also I think if this
4 proposal that's been requested is adopted that it would
5 interfere with subsistence harvest.

6
7 CHAIRMAN DEMIENTIEFF: Any further
8 discussion.

9
10 (No comments)

11
12 CHAIRMAN DEMIENTIEFF: Hearing none, all
13 those in favor of the motion please signify by saying
14 aye.

15
16 IN UNISON: Aye.

17
18 CHAIRMAN DEMIENTIEFF: Those opposed same
19 sign.

20
21 (No opposing votes)

22
23 CHAIRMAN DEMIENTIEFF: Motion carries.
24 Proposal 30.

25
26 MR. CASIPIT: Thank you, Mr. Chair.
27 Proposal FP05-30, the Staff analysis begins on page 304
28 of your book. This proposal was submitted by John
29 Littlefield of Sitka. It requests changes to the
30 existing Federal subsistence regulations for trout, char,
31 and grayling in the Southeastern Alaska Area. Changes
32 are proposed for harvest and size limits. The proponent
33 states that subsistence users have a long history of
34 utilizing trout and that the existing regulations do not
35 provide for their needs.

36
37 This proposal was submitted out of concern
38 that existing regulations do not provide enough
39 opportunity for rural residents of Southeastern Alaska to
40 harvest trout, char and grayling for
41 subsistence purposes. I wanted to point out for a couple
42 of these species that we have an interesting situation.
43 Under Federal regulations, a subsistence fishing permit
44 is not required for harvesting fish other than salmon,
45 trout, char, and eulachon in Subdistricts 1-C and 1-D.

46
47 Since grayling are not a member of those
48 genera, then Federally-qualified users may harvest
49 grayling without a subsistence fishing permit under the
50 existing Federal regulations in the Southeastern Alaska

1 management area. There are general Federal regulations
2 regarding methods and means, seasons and harvest limits
3 for grayling in Southeastern Alaska and I've displayed
4 them further below in the existing Federal regulations.
5

6 Brook Trout (*Salvelinus fontinalis*) are a
7 char, and are not native to Alaska. All populations in
8 Southeastern Alaska were introduced in the last century.
9 Since they are a char, Federally qualified users are
10 required to have a Federal permit to harvest them, there
11 are general Federal regulations regarding methods and
12 means, seasons or harvest limits.
13

14 I want to point out again that both
15 grayling and brook trout were introduced to Southeast
16 Alaska and they were introduced early in the last
17 century.
18

19 Under Federal regulatory history I wanted
20 to point out that the Board first deliberated the issue
21 of subsistence harvest of trout in the regulatory cycle
22 for '01, FP01-22 was the proposal that was deliberated.
23 That proposal requested liberalized harvest limits of six
24 trout and ten Dolly Varden per day with no minimum size
25 limits. The result of that was the Board did go with the
26 10 fish Dolly Varden, which was consistent with State
27 regulations. The Board also increased the limit for
28 trout in Six Lakes in Southeast to six trout; however,
29 everywhere else the sport fishing regulations for trout
30 were used.
31

32 I'll talk a little bit about biological
33 background of the species. I've displayed some
34 information that we have for lakes that contain grayling
35 and brook trout and those were provided to you on the top
36 of page 308. As far as the cutthroat, rainbow trout and
37 Dolly Varden populations, Table 1 displays the
38 information that we do have for those species in various
39 locations through Southeast. It's not a very big list
40 compared to the populations that are out there. A
41 similar table to Table 1 here is what you saw in FP01-22.
42

43 Table 2 I wanted to point out. This is
44 the results of the community harvest surveys in
45 Southeastern Alaska by community, by year and by species.
46 So you can see, for instance, in Angoon in 1996 for Dolly
47 Varden there were 213 fish taken. That would repeat for
48 all the communities throughout Southeast where we have
49 the data and it goes on for almost two and a half pages.
50

1 Table 3 displays the harvest and catch of
2 cutthroat, rainbow trout, Dolly Varden and grayling and
3 brook trout throughout Southeast. I wanted to point out
4 that, in general, the catch estimates that are listed
5 there are more prone to error than the harvest estimates.
6 Harvest limits tend to constrain reported harvest but
7 don't have the same effect on catch. People tend to
8 round up versus round down and literature indicates that
9 people tend to exaggerate their catch, particularly for
10 non-memorable fish caught in large numbers. All of these
11 tend to inflate catch estimates to varying degrees. I
12 want to also point out there are no directed commercial
13 harvests of trout, char or grayling in Southeast Alaska.
14

15 The effect of this proposal will recognize
16 existing subsistence harvest for grayling, brook trout,
17 Dolly Varden, rainbow, and cutthroat trout in
18 Southeastern Alaska that has not been permitted in the
19 past. It is unclear what effect this proposal will have
20 on harvest opportunities for grayling
21 and brook trout since the existing Federal regulations do
22 not specify methods and means, seasons or harvest limits
23 and are not clear for those species. Brook trout and
24 grayling are found only in a handful of locations in
25 Southeastern Alaska. Having no harvest limit for Dolly
26 Varden could lead to conservation concerns for the
27 species in some locations.
28

29 I want to point out also that Federal in-
30 season managers still have the ability to adjust
31 regulations as needed for conservation and to ensure the
32 Federal subsistence priority. I'll be happy to answer
33 any questions.
34

35 CHAIRMAN DEMIENTIEFF: Thank you. Written
36 public comment.
37

38 DR. SCHROEDER: Mr. Chairman, we've
39 received two public comments. One is from Mark Vinsel of
40 Rain Country Flyfishers in Juneau, Alaska. He opposes
41 Proposal FP05-30 and he's concerned particularly about
42 there being a real possibility of the decimation of these
43 fish in heavily impacted Juneau areas. He points to how
44 fish in the Juneau road connected area are recovering
45 after restricted regulations to restore populations were
46 implemented in the 1990s.
47

48 So his recommendation is that waters
49 accessible by the Juneau road system be exempt from this
50 proposal and that those areas continue to be managed

1 under the current sport fish limits. He also feels that
2 other areas of Southeast Alaska with road system access
3 that have special restricted regulations may warrant
4 exclusion from the proposed regulations.
5

6 Our second public comment was received on
7 January 11th of this year. Opposes Proposal 30. The
8 comment is from a Mark Kelke (sp) of Juneau, Alaska. He
9 believes that the current harvest limit of 10 fish daily
10 provides ample access to Dolly Varden for subsistence
11 uses while not jeopardizing the long-term health of the
12 stocks. He points out that given the very slow growth
13 rate of these species, both the current harvest and size
14 minimums are appropriate.
15

16 Mr. Chairman, that concludes our written
17 public comments.
18

19 CHAIRMAN DEMIENTIEFF: We have no
20 additional requests for public comment. At this time,
21 Regional Council recommendation.
22

23 MR. LITTLEFIELD: Thank you, Mr. Chair.
24 Our recommendation is on page 300. We voted to support
25 this proposal and the vote was 8-0 unanimous. We did not
26 believe that any conservation concerns were presented.
27 It also would recognize a long-term existing practice.
28 We've had people arrested doing these activities. The
29 data presented was strongly in support of the proposal
30 and this proposal would certainly benefit subsistence
31 users. We do not believe there's any significant effect
32 on non-subsistence users.
33

34 One of the things during discussion here
35 that we noted was that the sport harvest catch and
36 release mortality was significant. When you look at the
37 numbers of a number of trout as well as steelhead, this
38 discussion came up that, you know, even using a five
39 percent figure we believe that the catch and release
40 mortality was higher than the subsistence take. Many
41 Council members were concerned about that because that's
42 basically playing with your food when we're talking about
43 taking a fish home to eat it. For those reasons, we did
44 support this with modifications.
45

46 One of the things I just noted from the
47 Interagency Staff Committee is this option where they
48 recommended stream-by-stream basis and we earlier had
49 rejected that in other proposals and I would say that
50 works as well here. We craft a region-wide proposal and

1 let the land managers address any streams that may be at
2 risk. If those are shown to be a problem, certainly the
3 land manager would do that after consulting with us and
4 we would have no reason to not recommend conservative
5 measures. Mr. Chair.

6

7 CHAIRMAN DEMIENTIEFF: Thank you. Staff
8 Committee.

9

10 MR. KESSLER: Mr. Chairman, Board Members.
11 Again, I'm Steve Kessler with the U.S. Forest Service.
12 The Interagency Staff Committee recommendation is on
13 pages 301 and 302 and I would like to make sure and bring
14 to your attention again that there was a corrected pages
15 301 and 302 that were in your supplementary materials.

16

17 The Interagency Staff Committee did not
18 reach consensus on this proposal, resulting in two
19 recommendations or options. With the two options I'll go
20 a little bit more into detail about those options.

21

22 Option A is to support the proposal with
23 modification consistent with the recommendation of the
24 Southeast Regional
25 Advisory Council. The modified proposed language for
26 this option is shown on pages 301 and 302.

27

28 Justification for this option is shown on
29 302. This proposal would legalize the opportunity for
30 Federally-qualified subsistence users to harvest the
31 quantities of Dolly Varden, brook trout, grayling,
32 rainbow and cutthroat trout
33 they need for subsistence purposes. Unlimited harvest of
34 Dolly Varden, as requested by the proponent, could lead
35 to conservation concerns for that species and that has
36 been modified.

37

38 Considerable concern has been expressed
39 over the potential effects of eliminating the size slot
40 limit for cutthroat trout. Under current State and
41 Federal regulations, only fish 11-22 inches in length may
42 be retained. Although studies have documented reduced
43 cutthroat populations at a number of Southeast Alaska
44 localities, the influence of subsistence harvest in such
45 declines is unclear, as many systems have been targeted
46 by resident and non-resident sport anglers. The
47 mortality rate associated with cutthroat trout catch and
48 release sport angling is estimated at five percent of the
49 total sport catch in Southeast Alaska with estimates of
50 that catch ranging between 30 and 40,000 fish.

1 Therefore, if harvest of fish less than 11 inches is a
2 concern, the substantial sport fishery should be
3 curtailed before restricting the take by Federally-
4 qualified subsistence users.
5

6 Some concern has been expressed concerning
7 the harvest limit for grayling and brook trout and I
8 would like to call to your attention again that these are
9 introduced species to Southeast Alaska.

10
11 The Southeast Regional Advisory Council is
12 aware that there may be management situations where
13 additional harvest restrictions may be needed to protect
14 these species and the Council has agreed that these
15 protections may be established through in-season
16 management following consultation with the
17 Council.

18
19 The other Option B is to oppose the
20 proposal, which is contrary to the recommendation of the
21 Southeast Regional Advisory Council. The justification
22 for that option is that liberalizing subsistence harvests
23 of resident fish on a region-wide basis could place small
24 populations at risk from over-harvest. The small
25 introduced populations of grayling and brook trout may
26 also be over-harvested with adoption of this regulation.
27 Past regulatory actions by the Federal Subsistence Board
28 in 2001 indicated there were conservation concerns with a
29 region-wide approach to liberalizing subsistence harvests
30 of resident trout due to insufficient baseline data for
31 these species. There is currently very little population
32 monitoring of resident fish populations in Southeast
33 Alaska by either the State or Federal agencies. It is
34 unclear how in-season management adjustments would be
35 accomplished in the absence of an active fishery
36 monitoring program on these species.

37
38 In this option it is recommended that
39 adjustments to subsistence harvests of resident fish
40 should be approached in smaller geographic areas to
41 provide greater safeguards to these small stocks and
42 allow greater flexibility in setting harvest limits.

43
44 Mr. Chairman, that concludes my testimony
45 for this proposal, which is the last Southeastern Alaska
46 proposal and, therefore, concludes the materials I'll be
47 presenting to the Board.

48
49 Thank you.
50

1 CHAIRMAN DEMIENTIEFF: We might not be
2 done with you yet. Department comments.

3
4 MR. BOYLE: Thank you, Mr. Chair. The
5 Department understands that the current regulations for
6 trout do not provide a meaningful subsistence priority.
7 However, the regulations were adopted for the sport
8 fishery and weren't intended for the subsistence fishery.
9 In 1994, the Alaska Board of Fisheries concluded that the
10 region-wide harvest limits at the time of five fish per
11 day for trout were leading to declines in cutthroat trout
12 abundance. The Board recognized that the specific
13 biological characteristics of cutthroat trout put them at
14 a high risk of stock declines caused by fishing. These
15 factors include low abundance, slow growth, low fecundity
16 and a high natural mortality rate.

17
18 In response, the Board of Fish established
19 the current Southeast regulations, which are two fish per
20 day, bag limit, a ban on the use of bait and a minimum
21 length limit of 11 inches. These regulations were
22 designed to reduce fishing mortality, increase the
23 reproductive potential of each trout population. These
24 regulations were the results of an extensive review of
25 successful trout management techniques used throughout
26 the United States and Canada in a two-year public
27 planning process conducted by the Department. I'll
28 reference you again to that paper we provided in the
29 supplemental materials, Regulatory History and Stock
30 Status of Trout in Southeast Alaska.

31
32 These trout regulations were implemented
33 on a region-wide basis because the Department recognized
34 that we did not have the ability to monitor stock status
35 and fisheries in the hundreds of lakes and streams that
36 contain cutthroat trout. We also recognize that because
37 these regulations were so restrictive we would be
38 foregoing harvest opportunity for trout in many lakes and
39 streams. This was necessary to allow the recovery of
40 trout stocks in all waters.

41
42 This conservative approach to trout
43 management was supported by the majority of the sport
44 fishermen and it has led to significant reductions in the
45 cutthroat harvest and fishing mortality. Since 1994 the
46 cutthroat trout harvest has averaged about 4,800 fish per
47 year as compared to a harvest of over 20,000 annually
48 occurring in the early '80s. Catch and release mortality
49 is specifically listed as a concern and we heard that
50 from Mr. Littlefield earlier and in the Staff analysis.

1 Since 1994, the average number of fish
2 caught and released has been about 36,000 fish per year
3 at an estimated mortality rates, this equates to 1,800
4 cutthroat trout per year. It should be noted that a
5 similar rate of catch and release fishing was occurring
6 prior to 1994. At that time, the bag limit was five fish
7 and there was no length limit. The point being that the
8 current trout regulations have not caused an increase in
9 catch and release fishing mortality.

10
11 In 2001, a similar regulatory proposal was
12 before the Board, as Cal mentioned. It requested a six
13 fish subsistence harvest limit for trout in all Federal
14 waters. At that time, the State and the Federal Staff
15 agreed that this regulation would lead to unsustainable
16 harvest and the Board rejected the proposal, citing
17 conservation concerns.

18
19 The State's position on this current
20 Proposal 30 has not changed since our views in 2001. We
21 continue to maintain that a region-wide harvest limit of
22 six trout is not sustainable. This regulation is
23 essentially the same regulation that led to the trout
24 stock declines in the 1970s and '80s. The majority Staff
25 recommendation at that time in the 2001 proposal has
26 changed, but it's not clear why. The Staff analysis does
27 not address the substantial body of information that led
28 the Alaska Board of Fisheries to enact the existing
29 conservation measures. Nor does it provide any new data
30 to justify this change of position.

31
32 As we mentioned in Proposal 28 and it's
33 addressed somewhat in Option B in this proposal,
34 subsistence harvest for resident fish should be
35 approached in smaller geographic areas and that's not
36 necessarily stream by stream. It would be geographic
37 areas around a community, it will provide greater
38 safeguards protecting small stocks and allow greater
39 flexibility in setting harvest limits. We believe that
40 this approach will provide a subsistence priority and
41 ensure that trout fisheries are sustainable region-wide.

42
43
44 We have the regional Southeast Staff here
45 to answer any questions.

46
47 Thank you, Mr. Chair.

48
49 CHAIRMAN DEMIENTIEFF: Thank you, sir.
50 Board discussion.

1 MR. EDWARDS: Mr. Chairman. For Staff,
2 with regards to steelhead and rainbow trout, what is
3 currently allowed under subsistence regulations?

4
5 MR. CASIPIT: For steelhead?

6
7 MR. EDWARDS: No, for cutthroat and for
8 rainbow.

9
10 MR. CASIPIT: There's six lakes that are
11 in the regulations that say you can take six fish in
12 these six lakes. Everywhere else it's exactly as the
13 sportfishing regulations, which is two fish between 11
14 and 22 inches.

15
16 MR. EDWARDS: And what's being proposed
17 would do what to that?

18
19 MR. CASIPIT: This proposal would
20 basically for cutthroat trout and rainbow would eliminate
21 the slot limit, so there would be no size limit and also
22 would increase the bag limit from two to six.

23
24 MR. EDWARDS: And a subsistence permit
25 would be required, correct?

26
27 MR. CASIPIT: Correct.

28
29 CHAIRMAN DEMIENTIEFF: Any other
30 discussion? John.

31
32 MR. LITTLEFIELD: Thank you, Mr. Chair. I
33 probably should have mentioned this under 28, but I'm the
34 proponent of this proposal as well as 28 and I wanted to
35 make sure that on the record, to be fair in Southeast,
36 even though this was meant to be a Southeast proposal, I
37 did relinquish the chair and let the vice-chair handle
38 these two and I felt that was appropriate, but I don't
39 have any conflict of interest in this, just for the
40 record.

41
42 Mr. Chair, the grayling and brook trout,
43 if you would continue that question of Mr. Edwards on
44 what are the limits there. Well, there are no limits and
45 we haven't decimated that fishery. These are putting
46 some reasonable limits on. The proposal was meant to
47 flush out information from Staff and what was
48 sustainable.

49
50 I would note that the State's comments, if

1 you'll read them, there are over 5,000 bodies of water
2 that have these fish in them. So it's a little bit --
3 I'll go back to my preposterous hat again to say let's
4 develop 5,000 proposals and submit them to you on a
5 stream-by-stream basis. We need to do this on an
6 area-wide basis and then protect those areas where there
7 are documented conservation concerns. Mr. Chair.

8

9 CHAIRMAN DEMIENTIEFF: Thank you.

10

11 Doug.

12

13 MR. MECUM: Mr. Chairman, a question of my
14 colleague to the left here if I could. With respect to
15 what the Council did, the Board has established customary
16 and traditional use determinations for a number of
17 geographic areas in Southeast Alaska, which is the
18 Appendix A that has been referred to earlier. Did the
19 Council consider these liberalizations of regulations for
20 these subsistence fisheries for the areas where it's been
21 shown to be a customary and traditional use and instead
22 went with all over Southeast Alaska where there are no
23 customary and traditional use determinations for these
24 species?

25

26 CHAIRMAN DEMIENTIEFF: Your response,

27 John.

28

29 MR. LITTLEFIELD: Mr. Mecum, through the
30 Chair. The current C&T designations that are on Appendix
31 A basically were taken from the State of Alaska C&T
32 designations as near as I know. There may be a change in
33 District 13 where I think we added something a couple
34 years ago, but basically those were State recommendations
35 on C&T. In particular, I was asked a question earlier in
36 Juneau what was going to come up, which is District 11.
37 Well, no one ever developed a C&T there, so it would
38 default to the less restrictive open to all rural
39 residents, the remainder of Southeast Alaska.

40

41 I guess as far as where the problem is is
42 you can't feed a family on two fish. I don't care if
43 you're in Hoonah, Angoon or Sitka. You can't feed a
44 family with two fish. So we thought that subsistence
45 regulations should have been liberalized to allow people
46 to at least feed their family and if you're going to feed
47 your family, slot limits don't make any sense because
48 you're only doing this once or twice. If you're out, it
49 doesn't matter where you are in Southeast, you ought to
50 be able to take enough fish to feed your family without

1 fear of prosecution, which is what's happened in the
2 past. Mr. Chair.

3

4 CHAIRMAN DEMIENTIEFF: Thank you. The
5 State has follow-up.

6

7 MR. MECUM: Yes, thank you, Mr. Chairman.
8 Just to be clear, I wasn't asking that question in any
9 way to get into the issue of the opportunity -- the
10 meaningful preference question for subsistence uses.
11 That's not the point of my debate. My question still
12 remains, I guess I don't understand why the subsistence
13 fishery liberalization is applied to the entire of
14 Southeast Alaska when there's already customary and
15 traditional use determinations on the books that, yes, it
16 was a State determination, but it was a State
17 determination through the Board of Fisheries public
18 process. If I remember correctly, there are Staff here
19 that participated in that. It took quite a considerable
20 amount of time to go in and document those uses and it
21 just doesn't make any sense to me to apply it to such a
22 broad area when you have C&T determinations in front of
23 you already that the Board has already accepted.

24

25 CHAIRMAN DEMIENTIEFF: Thank you. Go
26 ahead.

27

28 MR. LITTLEFIELD: Thank you, Mr. Chair. I
29 guess if you look at the C&T designations, they say Dolly
30 Varden mostly and trout, smelt and hooligan or eulachon
31 or whatever you call them, we call them hooligans, for
32 the remainder of Southeast Alaska. Some of the other
33 districts, in particular 2, 5, 13, have salmon where
34 we've added those. This particular proposal talks about
35 all the char as well, so this would now put all of those
36 on there. It would put grayling, brook trout instead of
37 Dolly Varden trout. So it would just clarify it. I
38 don't know if that's answered the question or not.

39

40 CHAIRMAN DEMIENTIEFF: Further discussion.
41 Judy.

42

43 MS. GOTTLIEB: Mr. Chair. Perhaps I could
44 ask Chairman Littlefield again. It seems to me what you
45 and the Council were trying to craft was something
46 reflective of harvest patterns, which would in a way
47 include what's customary and traditional and by whom.
48 Also, your previous comment about efficiencies of harvest
49 seems to me are incorporated in here. Am I interpreting
50 that correctly?

1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MR. EDWARDS: Mr. Chairman. Correct me if
4 I'm wrong, but I thought I heard it said that the Board
5 had previously kind of considered this blanket-wide
6 approach and had not approved it because they had some
7 conservation concerns. If that's the case, I guess I'd
8 ask Staff what has changed since that decision to
9 indicate that there is no longer these conservation
10 concerns.

11

12 MR. CASIPIT: Mr. Chair, Mr. Edwards. As
13 far as stock status information about these systems,
14 there hasn't been a whole lot of research done on these
15 populations in the past few years. I guess, to answer
16 your question directly, you know, over these intervening
17 years we've been hearing from folks at these Council
18 meetings that, number 1, their needs for trout are not
19 being met. We also had testimony at the latest meeting
20 that there are lots of lakes -- in fact, a tribal member
21 got up and said there's lots of lakes that he knew of
22 that he can walk to that there's lots of cutthroat in
23 them. They don't get any longer than about eight inches,
24 so those fish don't even make it into the slot limit.

25

26 I was just talking with Jeff earlier this
27 morning that he received an '04 permit back that he sent
28 on to Bob Larson to put into our database, but there was
29 a comment in there from an individual saying, you know, I
30 took so many trout and it was more than the limit and the
31 reason I did it is because I can't feed my family on two
32 fish. So we've been seeing lots of anecdotal
33 information. Obviously not scientific studies, but
34 basically traditional knowledge and concerns from users
35 saying that our needs are not being met. In some cases,
36 the fish don't even grow into the slot size. So that's
37 some of the information that we've been hearing since
38 then.

39

40 MR. EDWARDS: Maybe as a follow-up, would
41 you acknowledge that there are probably some streams that
42 do need -- that there are conservation concerns on? If
43 we're not going to be doing any monitoring of these
44 streams, how are we really going to know if we have a
45 problem or don't have a problem?

46

47 MR. CASIPIT: Without a doubt, especially
48 in terms of the Juneau road system and all where we may
49 want to have our in-season managers take action to reduce
50 the amount of harvest out of those locations. You know,

1 case by case, point by point areas where we probably
2 don't want to allow that harvest and our in-season
3 managers have that authority to restrict harvest if they
4 have to for conservation.

5
6 CHAIRMAN DEMIENTIEFF: Staff Committee, do
7 you have additional information?

8
9 MR. KESSLER: Yes, Mr. Chair. One of the
10 changes that has occurred since early 2000 when I think
11 the proposal was up before is that now we have a Federal
12 subsistence permit that's required for these harvests.
13 It may have been limited -- we were just discussing this
14 back here -- limited harvest permit back then and we have
15 this in-season management authority now. With a
16 combination of those two, we have much greater ability to
17 understand where fish are being harvested and to control
18 those harvests if there becomes a conservation concern
19 through that in-season authority. We didn't have all
20 those tools before.

21
22 CHAIRMAN DEMIENTIEFF: John, you had
23 follow up.

24
25 MR. LITTLEFIELD: Yes, Mr. Chair. Along
26 that same line, I don't like to read our comments because
27 I assume that you're reading them, but on page 300, one
28 of the last statements up there before the regulation
29 language says that the Council is aware that there may be
30 management situations where additional harvest
31 restrictions are needed to protect these fish species.
32 These may be established through in-season management
33 with consultation with the Council.

34
35 So we are aware that there are some
36 streams certainly where you don't want any fishing,
37 roadside streams. Like I said, identify those. The land
38 manager, ADF&G or anybody, even a member of the public
39 could approach ADF&G and say we think this stream needs
40 some protection. We would certainly expect the land
41 manager to take the action that's appropriate to protect
42 those areas. Mr. Chair.

43
44 CHAIRMAN DEMIENTIEFF: Follow up.

45
46 MR. EDWARDS: One thing I don't quite
47 understand is that when we passed Proposal 28 we had
48 specific language in there that said the permit
49 conditions and assistance to receive special protection
50 will be termed by the local Federal fisheries managers in

1 consultation with ADF&G and I'm a little unclear why we
2 don't have similar language in this when we're talking
3 basically a similar situation.

4

5 CHAIRMAN DEMIENTIEFF: Ralph.

6

7 MR. LOHSE: Mr. Chair. I'd just like to
8 ask a couple questions and maybe some of the biologists
9 can correct my assumptions if I'm wrong and maybe give us
10 some further explanation on it. I understand that we
11 have about 5,000 streams down in Southeastern from what
12 we're talking about right now and most of these are small
13 streams. I'd almost be willing to bet that 99 percent of
14 the streams in Southeastern end up in the ocean one way
15 or the other. There may be some land-locked ones, but I
16 would doubt there's very many of them.

17

18 With some of the studies that are being
19 done on cutthroat trout and dollies right now, we're
20 finding that they're not as home-based as we ever thought
21 they were. We find that the same dolly that might winter
22 in this lake ends up wintering in a different lake, like
23 20 miles away, 100 miles away, 200 miles away.
24 Cutthroats do the same thing. They don't necessarily go
25 back to their natal stream. The ones that go to the
26 ocean they can winter in one lake this winter and they
27 can winter in another lake the next winter.

28

29 So most of these small streams that seem
30 to be the crux of the issue have fishing coming in them
31 and out of them from saltwater at some time or another or
32 can be fed from saltwater some time or another. Most
33 people aren't going to fish in streams that don't have
34 any fish and if there is a problem, as has been pointed
35 out, the land manager could close some, especially those
36 that are accessible by road or close to communities.

37

38 But it's not a case that if somebody makes
39 a mistake and has a picnic at one of these small streams
40 and takes the six fish that are in that small stream that
41 that small stream is never going to have fish again. I
42 mean it's not like you're going to go out and wipe out a
43 small stream for the future for cutthroat or Dolly Varden
44 trout. Now, I'm not going to say anything about
45 steelhead because it's possible that you could do that.

46

47 We've seen in the Chitina Valley, and I'll
48 use our area for an example, we have fish back in streams
49 now that when I talk to some of the old-timers when I
50 first came there, they said 50, 60 years ago there were

1 fish there and there hadn't been fish for a long time.
2 We have steelhead in streams that we haven't had fish for
3 a long time. We have salmon in streams that we haven't
4 had fish for a long time simply because of the fact that
5 under our current management we've been allowing
6 sufficient escapement up the river. We have pioneers and
7 these pioneers go into these streams and repopulate them.

8
9 So, if you're talking about these little
10 streams down in Southeastern and you're worried about
11 making a mistake and somebody is going to have a picnic
12 and catch too many fish on one stream once, as a
13 subsistence user, they're not going to go back there
14 again if there aren't any fish there. Those streams
15 aren't wiped out forever. Overall, they don't affect the
16 general population of Southeastern because you're talking
17 about fish that move. They go up one stream, they come
18 down one stream, they run down to the ocean.

19
20 I don't know how many of you have ever
21 fished Dolly Varden in the ocean, along the beaches, as
22 they travel back and forth. Or how many of you fished
23 cutthroat in the ocean. We see it all the time in Prince
24 William Sound. You see cutthroat jumping along the
25 shore. They don't go into the same stream every time.

26 So, with that in mind, I'm kind of like John in
27 that way, I don't think we need to put the worst case
28 scenario on everything all of the time and I find both
29 sides doing that. I find both sides trying to put the
30 worst case scenario. If we don't get it, this is going
31 to happen or if we do get it, this is going to happen.
32 Let's take a look at things more on a broad scale. The
33 world is a little bit more flexible than we think it is.

34
35 Thank you.

36
37 CHAIRMAN DEMIENTIEFF: Thank you. Doug.

38
39 MR. MECUM: Well, I was listening to that,
40 what Ralph said, and I think he's actually arguing
41 against his point in that really what the State is just
42 calling for is a more fine-tuned approach to the
43 management program here. We're not trying in any way,
44 shape or form to limit the opportunity. And you're
45 correct, a given system that may be an over-wintering
46 system for Dolly Varden or cutthroat trout may have very
47 different needs in terms of restrictions you might take
48 then for a small spawning stream where some of these
49 populations segregate out into.

50

1 I think what Mr. Edwards just said makes a
2 lot of sense, that if you have a consultation process in
3 consultation with the Alaska Department of Fish and Game,
4 who has done most, if not nearly all, of the pioneering
5 work and research on life history characteristics and the
6 populations in Southeast Alaska in particular. That
7 certainly would make us a lot more comfortable.

8

9 Thank you.

10

11 CHAIRMAN DEMIENTIEFF: Thank you. You had
12 a follow-up, Ralph.

13

14 MR. LOHSE: Yes. I'd like to agree with
15 Mr. Mecum, it's probably true that maybe I did argue
16 against myself, but the thing is -- I guess it's a
17 question of whether you're going to micromanage
18 everything or you're going to try to look at the bigger
19 picture. We have a tendency in our day and age we want
20 to get everything under our control. We want to
21 micromanage things right down to the last iota. But the
22 world doesn't work that way. We've just seen what's
23 happened in part of the world. We've seen what's
24 happened in California. We've seen what's happened in
25 Indonesia. The world doesn't work on micromanagement.
26 It works on a bigger scale. And the world is a lot more
27 resilient than we think it is. And we're a lot smaller
28 than we think we are. So I guess maybe I'm arguing
29 against myself, but as you people that have been around
30 me know, I'm not for micromanagement. I don't think we
31 have those kind of capabilities at this point in time.

32

33 CHAIRMAN DEMIENTIEFF: Thank you.

34

35 John.

36

37 MR. LITTLEFIELD: Thank you, Mr. Chair. I
38 believe on the land manager issue I believe they have
39 that authority to do those special action requests
40 delegated by the Board and it doesn't matter whether it
41 states in there that the permit conditions do it or not.
42 They still have the responsibility to ensure the
43 conservation of the fishery at all times. I would have
44 no objection to inserting that language as an amendment
45 to this. It doesn't change anything and it only
46 strengthens it if you want to look at it. That will
47 still be done. The land manager will be consulted and
48 protect the fishery. Mr. Chair.

49

50 CHAIRMAN DEMIENTIEFF: Thank you.

1 Denny.

2

3 MR. BSCHOR: Mr. Chair, I believe since
4 there is a permit required we definitely want to do that
5 anyway. It's just part of the process. I think I'm
6 prepared to offer a motion here to adopt the proposal as
7 modified by the Southeast Regional Advisory Council.

8

9 CHAIRMAN DEMIENTIEFF: We have a motion.
10 Is there a second.

11

12 MR. TONY: Second.

13

14 CHAIRMAN DEMIENTIEFF: Moved and seconded.
15 Discussion on the motion.

16

17 MR. BSCHOR: My main concern is that we
18 would be able to legalize the opportunity for Federally-
19 qualified subsistence users to harvest these species and
20 I'm relatively certain that the conservation concerns can
21 be managed through the permit system and dealt with that
22 way.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. Further
25 discussion.

26

27 Gary.

28

29 MR. EDWARDS: Mr. Chairman, I guess
30 considering the fact that we've put this language in 28
31 and it seemed to be something that the Council at least
32 is willing to agree to and strengthen, I guess I would be
33 interested at some point in trying to have that language
34 inserted. I don't know how we would actually do that,
35 but I think there would be some value in that.

36

37 CHAIRMAN DEMIENTIEFF: Thank you. Further
38 discussion. These can be done fairly simply. Maybe it
39 doesn't have to be done today, but we can always do that
40 fine-tuning and we've shown that ability to do that in
41 the past. Let it run through the process.

42

43 MS. GOTTLIEB: Mr. Chair. I think to
44 reiterate one major change and really commendable ones,
45 since we've heard these proposals over the years, is the
46 good and positive and strong working relationship and
47 good communication that has taken place amongst the on-
48 site managers as well as with RAC and local residents and
49 that strengthens the information base that you all have
50 to make those day-to-day decisions.

1 CHAIRMAN DEMIENTIEFF: Further discussion.
2 Gary.

3
4 MR. EDWARDS: Mr. Chairman. I guess just
5 to follow up on what I had suggested, I guess I would
6 offer maybe as an amendment that we approve the
7 recommendation as proposed by the Southeast Council with
8 the addition of the language that we used in Proposal 28
9 reference permit conditions and consultation with ADF&G.

10
11 CHAIRMAN DEMIENTIEFF: We have an
12 amendment. Is there a second to the amendment.

13
14 MR. OVIATT: I'll second.

15
16 CHAIRMAN DEMIENTIEFF: John, you had a
17 comment.

18
19 MR. LITTLEFIELD: Yes, Mr. Chair. If you
20 look on page 211, that will give you the language of 28
21 that the amendment talks about. It says the permit
22 conditions in systems to receive special protection will
23 be determined by the local Federal fisheries manager in
24 consultation with ADF&G. This is 27(i)(13)(iii). So you
25 have to remember there's a whole book with the same
26 things, (iii). I question this. Where do these come in?
27 Well, after that comes 30. If you look at the language
28 farther on that restricts that, it's the same permit,
29 we're using the very same fishing permit that we're
30 already going to issue you under the main heading. So I
31 really think it's already taken care of. If you're going
32 to get a fishing permit under these conditions in
33 Southeast Alaska, and maybe I could be corrected by
34 Staff, but I believe that you're already going to have
35 this protection and if you want double protection, I
36 guess I don't have any problem with it either.

37
38 I'd like to note for the record that I did
39 yield the priority to my colleague to the right on that
40 last question.

41
42 CHAIRMAN DEMIENTIEFF: There is a motion
43 to amend. Our regulations specialist has noted that we
44 do need the amendment, so it's a necessary thing. Is
45 there any further discussion on the amendment.

46
47 (No comments)

48
49 CHAIRMAN DEMIENTIEFF: Hearing none, all
50 those in favor of the amendment please signify by saying

1 aye.

2

3 IN UNISON: Aye.

4

5 CHAIRMAN DEMIENTIEFF: Those opposed same
6 sign.

7

8 (No opposing votes)

9

10 CHAIRMAN DEMIENTIEFF: Motion carries. We
11 now have the main motion as amended before you. Is there
12 any further discussion. Paul.

13

14 MR. TONY: I just had a question just for
15 my own edification about what the significance of
16 referring to some of the species as introduced is, how
17 that affects the proposal.

18

19 CHAIRMAN DEMIENTIEFF: I think Keith has
20 had this discussion before with us. Would you like to
21 run through that again, Keith, please.

22

23 MR. GOLTZ: I think in this case we
24 probably don't need it. ANILCA applies to wild,
25 renewable resources whether introduced or not.

26

27 CHAIRMAN DEMIENTIEFF: Thank you. I knew
28 we'd been down this road before. It's a good point to
29 bring out though. Any further discussion on the main
30 motion as amended.

31

32 (No comments)

33

34 CHAIRMAN DEMIENTIEFF: Hearing none, all
35 those in favor signify by saying aye.

36

37 IN UNISON: Aye.

38

39 CHAIRMAN DEMIENTIEFF: Those opposed same
40 sign.

41

42 (No opposing votes)

43

44 CHAIRMAN DEMIENTIEFF: Motion carries.
45 With that motion carrying, it ends the Doug, John and
46 Ralph show over there. The discussion was really great.
47 I'm kind of teasing a little bit, but I was enjoying it.
48 The three of you sitting side by side were going at it
49 pretty good for a while. Go ahead.

50

1 MR. BSCHOR: Mr. Chair, I'd like to take
2 just a couple of minutes to say a few words. You know, a
3 lot of work goes into this whole process, especially from
4 the ground level before it even gets to us, and we have a
5 lot of excellent on-the-ground support from dedicated,
6 hard-working resource professionals, technicians and
7 cooperators. I just want to take a moment to mention
8 that one of our finest fisheries biologists, Ricardo
9 Seinz, who worked on the Misty Fiord Ketchikan Ranger
10 District, was in the field on November 4th. This is a
11 person who is highly respected by the community, by
12 fellow employees and his peers, and he had an unfortunate
13 accident while he was retrieving equipment from the
14 Blackwell Lake fish ladder and lost his life and I just
15 wanted to say on the record -- I just wanted to express
16 our sadness and grief over his loss and offer our
17 condolences and sympathy to his family and friends.

18
19 CHAIRMAN DEMIENTIEFF: Thank you very
20 much. It's nice of us to think of people that we -- it's
21 not the first one we've lost in our program, but we are
22 always mindful of those kind of things and I appreciate
23 that part of the things we do.

24
25 We do have an opportunity at the end of
26 the agenda for Council chairs and Board discussion, but
27 I'm going to invite John -- I know he's got a parting
28 concern. Since we're still on Southeast, I'm going to
29 ask him to please share those with us.

30
31 MR. LITTLEFIELD: Thank you, Mr. Chair. I
32 appreciate everybody hanging in there with us. I'll try
33 to keep these comments under four hours. Basically, Mr.
34 Chair, what I would ask the Federal Board to do is, I
35 don't believe that you satisfied the requirements of
36 ANILCA on 17 when you discussed that. It was turned down
37 and I would like to see you make that right for the
38 record, why you did that, because I don't think the
39 805(C) letter is going to cover that. You only have
40 today to do this because if we want to bring it up for
41 reconsideration, you need to do that today.

42
43 As a matter of housekeeping, I'd like to
44 see that and again remind you that you can reject that
45 proposal, as I mentioned during that time, for those
46 three reasons. You rejected it and I'd like you to state
47 for the record what your conservation concerns were, what
48 your concerns were with the evidence that we submitted,
49 as well as the detriment to subsistence users, so that we
50 maintain the process here that we're required to under

1 law. If you could do that.

2

3 I guess on the rest of these things, we
4 spent quite a bit of time on these and I'll hold my
5 comments until the end of the meeting until the other
6 chairs have had a chance. If you could address 17, I
7 would appreciate that before the end of the day.

8

9 Thank you.

10

11 CHAIRMAN DEMIENTIEFF: Just hang on one
12 second here. Yes, John, I do believe that I did say on
13 the record that I could find no and my Staff Committee
14 rep could find no violation, that we did look at it. I
15 do, I guess if anything, apologize for not elaborating
16 enough. I know we did consider it. I don't know what
17 the pleasure of the Board is, but I think we did comply
18 with the -- but what it was was a wake-up call and we
19 have truly done diligence on every other one in terms of
20 elaborating on why when there's a difference with the
21 Regional Council. It was an exercise I had done
22 personally, but it's not something that I elaborated on
23 enough at the time. For that I truly apologize, but I do
24 know that it was on the record.

25

26 So I don't know what the pleasure is. If
27 somebody wants to go through the exercise again. It is
28 on the record, just not as strong as we'd like it to be.
29 I'll just leave it at that. If there's nothing else,
30 then we'll move on.

31

32 MR. BSCHOR: Mr. Chair, my concern was the
33 situation it would set up which could cause the
34 detrimental -- the action could cause a detriment to the
35 satisfaction of subsistence needs and specifically there
36 are some words that I would like to enter. Let me read
37 them just so that we have them very clearly.

38

39 If the manager and law enforcement are not
40 aware of the location and time of harvest, there is
41 substantially greater likelihood that those taking the
42 fish will be stopped, questioned or potentially cited.
43 No permit is required by taking those fish, therefore
44 there will be no record of whether the harvest is legal
45 or illegal. In the long run, this could be more
46 detrimental to the satisfaction of subsistence needs and
47 the affecting of religious ceremonies than what is
48 currently required.

49

50 CHAIRMAN DEMIENTIEFF: Thank you. There

1 being no motion for reconsideration, we'll go ahead and
2 move on. Thank you very much, John, for all of your hard
3 work, everybody, all the Staff. We are going to take a
4 short break here momentarily, but I just want to let you
5 know what our schedule is for the day. I did mention
6 Unit 2 deer. It's unclear to us how long it's going to
7 take to complete the work. It could take as little as 10
8 minutes. It could take as long as a half hour, so we're
9 just going to schedule that for 4:30 today and whenever
10 we get done we'll be done with the business for the day.
11 As close to 4:30 as we can, depending on what proposal we
12 have. It may be a little bit sooner, maybe a little bit
13 later, depending on where we're at. I don't want to
14 leave a proposal on the table overnight is what I'm
15 saying. So that will be our schedule. John.

16
17 MR. LITTLEFIELD: Thank you, Mr. Chair.
18 Thirty seconds. I'll just teach you a little bit of
19 Tlingit. I try to teach the Council a word or two every
20 time. It's like this, hoo-cha (sp), there's no more, I
21 don't have anymore left.

22
23 Thank you. Thank you for sticking with
24 us.

25
26 CHAIRMAN DEMIENTIEFF: Okay. After the
27 break we'll come back with Prince William Sound Proposal
28 No. 13.

29
30 (Off record)

31
32 (On record)

33
34 CHAIRMAN DEMIENTIEFF: Proposal No. 13.
35 Jerry Berg, I believe, is going to do the Staff.

36
37 MR. BERG: Thank you, Mr. Chair. For the
38 record, my name is Jerry Berg. I'm a Staff fishery
39 biologist in the Office of Subsistence Management.

40
41 Proposal 13, submitted by Ahtna Inc., the
42 Copper River Native Association, and the Chitina Native
43 Corporation, requests regional modifications to the
44 customary trade regulations. It requests that customary
45 trade of salmon to people other than rural residents in
46 the Upper Copper River District be limited to \$100 per
47 household per year and no more than 50% of the annual
48 household catch, that there be a reporting requirement
49 and that sales of traditionally-prepared salmon be
50 allowed.

1 Also, customary trade of salmon between
2 rural residents would not have a dollar limit, but would
3 be limited to no
4 more than 50% of their annual household catch and, again,
5 sales of traditionally-prepared salmon would be allowed.

6
7 There was testimony from two of the three
8 proponents during the Southcentral Regional Council
9 meeting this past October in Soldotna. They suggested
10 that the customary trade limit between rural residents of
11 the Upper Copper River District and others be increased
12 from the \$100 level in the original proposal to \$500 per
13 household annually. There was also some discussion at
14 the meeting that the \$100 limit would not allow the trade
15 of many salmon and that it also seemed more practical to
16 require all customary trade transactions of salmon to be
17 recorded on a form.

18
19 The proponents felt that customary trade
20 of salmon may increase in the Upper Copper River because
21 people are now more aware of the regulation and because
22 the area is on the road system. They want to see
23 customary and traditional practices continue, but do not
24 want subsistence harvest to increase in their area due to
25 the customary trade provisions. They also believe the
26 proposed changes would help keep customary trade at
27 traditional levels in the Upper Copper River area.

28
29 A Federal subsistence fishing permit has
30 been required to harvest salmon in the Upper Copper River
31 district since 2002. Only rural residents who reside in
32 the area with a positive C&T use determination for salmon
33 in the Upper Copper River district qualify for the
34 Federal permit.

35
36 Table 1 in the analysis summarized the
37 number of Federal permits that have been issued and then
38 reported harvest by subdistrict and species. However,
39 the majority of permits issued in salmon harvested
40 continues to occur under State-issued subsistence and
41 personal use permits for the Upper Copper River District.

42
43 To engage in customary trade, subsistence-
44 harvested fish must be harvested under Federal
45 regulations and, thus, would need to be harvested using
46 the Federal permit available. Subsistence salmon fishing
47 in the Upper Copper River District is well documented,
48 dating back many generations. However, there are no
49 records of the amounts of salmon exchanged in customary
50 trade in the Upper Copper River District or the amounts

1 of cash involved. Historically, there was some level of
2 exchange of traditionally prepared salmon for barter and
3 possibly some more recent exchanges of traditionally
4 prepared salmon for cash, but it has not been documented.
5

6 The proposed language to include a
7 provision that there be no monetary limit for cash sales
8 of salmon between rural residents already currently
9 exists in the statewide customary trade regulations. The
10 portion of the proposal that would allow the sales of
11 salmon processed using customary and traditional methods
12 falls outside the Federal subsistence program. Food
13 health issues, including fish processing, are controlled
14 by the State of Alaska. The customary trade regulations
15 do not exempt anyone from complying with State health
16 regulations for processing foods for sale. The portion
17 of the proposed language to allow the sale of processed
18 salmon could mislead users to think that they could sell
19 processed fish without meeting the required health
20 standards.
21

22 Without a requirement for sales between
23 rural residents and a limit of no more than 50 percent of
24 the annual household harvest of salmon, it would be
25 difficult to monitor or enforce the 50 percent provision.
26

27 The testimony and discussions at the
28 Southcentral Council meeting helped frame the issue in a
29 regional context. The result was a suggestion that the
30 customary trade limit between rural residents of the
31 Upper Copper River District and others be \$500 per
32 household annually and that all customary trade
33 transactions of salmon be recorded on a form.
34

35 If adopted, there would need to be a
36 focused outreach effort to help avoid further to help
37 avoid further confusion in this complex area of
38 regulation. Users would need to be informed that allowed
39 customary trade is limited to salmon harvested with a
40 Federal permit, that they would need to adhere to dollar
41 limits and a limit on their percentage of catch and a
42 recording requirement. Most importantly, we would need
43 to inform people that these regulations do not provide an
44 exemption from the existing food health permit
45 requirements.
46

47 Thank you, Mr. Chair.
48

49 CHAIRMAN DEMIENTIEFF: Thank you. Written
50 public comments.

1 MR. MIKE: Thank you, Mr. Chair. The
2 written comments you'll find on page 332. We received
3 two written public comments. The first one is from the
4 Ahtna Subcommittee. Initially, we probably received this
5 comment prior to our Regional Advisory Council meeting in
6 Soldotna in October of 2003. The Ahtna Subcommittee
7 initially supports the customary trade of salmon among
8 rural residents limit on amount of cash as long as 50
9 percent of the annual catch is kept by the household.
10 The customary trade cash value does not exceed \$100.

11
12 After public testimony in the meeting in
13 Soldotna, the Ahtna Subcommittee supported the modified
14 proposal, that it would change it from \$100 to \$500.

15
16 The second public comment is from the
17 Wrangell-St. Elias National Park Subsistence Resource
18 Commission. They unanimously support the proposal with
19 modification. The commission voted to
20 amend the proposal as follows: The monetary limit on
21 customary trade between rural and urban residents would
22 be increased from \$100 to \$500. In addition, a reporting
23 requirement should apply to customary trade between rural
24 residents. The \$100 limit on customary trade with urban
25 residents unnecessarily restricts customary trade, and
26 thus a \$500 limit would better allow the continuation of
27 customary trade by subsistence users. The reporting
28 requirement on customary trade with rural as well as
29 urban residents will help develop baseline information on
30 the extent and nature of customary trade that takes
31 place.

32
33 Additionally, the SRC voted unanimously to
34 recommend to the Federal Subsistence Board that a study
35 be initiated of the current and historic level of
36 customary trade. They feel that additional information
37 on this practice is needed and that this information
38 would be of use to them in decision making.

39
40 Thank you, Mr. Chair.

41
42 CHAIRMAN DEMIENTIEFF: Thank you. We have
43 one request for additional public testimony at this time.
44 Gloria Stickwan.

45
46 MS. STICKWAN: My name is Gloria Stickwan.
47 I work for Ahtna Corporation. I just wanted to say that
48 we support Southcentral Regional Advisory Council's point
49 and we also wanted to have a study done, too. We'd like
50 to see that done, a customary trade study done.

1 CHAIRMAN DEMIENTIEFF: Thank you.
2 Regional Council comment.

3
4 MR. LOHSE: Through the Chair, Regional
5 Council voted unanimously to support this proposal as
6 modified. You'll find our modifications on page 329 and
7 330. We, like Jerry said, had very good discussions. We
8 ended up understanding that the cash sale of processed
9 fish was not something that could be handled underneath
10 this proposal. We ended up with a consensus on the \$500
11 and a consensus on the reporting requirement with all the
12 people that were there and with the Council itself. I
13 would recommend that you include that. With that, unless
14 you have some questions, I have nothing further to say.

15
16 Oh, one other thing. I do have something
17 further to say. We will be presenting you with a
18 resolution at the end of the meeting asking for that
19 study that Gloria Stickwan mentioned.

20
21 CHAIRMAN DEMIENTIEFF: Thank you. Staff
22 Committee.

23
24 MR. GERHARD: Yes, Mr. Chairman. For the
25 record, I'm Bob Gerhard with the National Park Service
26 and a member of the Interagency Staff Committee. The
27 Staff Committee recommendation can be found on pages 330
28 and 331 of your book.

29
30 The Staff Committee concurs with the
31 Southcentral Regional Advisory Council's suggestion that
32 this proposal be supported as modified. The regulatory
33 language is shown at the bottom of page 330 and the top
34 of 331. You'll note that this includes the entire
35 section of the customary trade regulations so that you
36 can see the similarities and differences with the Bristol
37 Bay actions that the Board took last year.

38
39 As a justification, the Staff Committee
40 notes the following four points. First, that
41 establishing a limit on the dollar amount and percentage
42 of harvest that could be sold through customary trade and
43 requiring sales to be recorded should provide additional
44 control and accountability, but will place a burden of
45 recording these transactions on the seller.

46
47 Second, there is no reason to adopt the
48 statement about no monetary limit between rural residents
49 because that is currently provided for through the
50 statewide customary trade regulations.

1 Third, the portion of the proposal that
2 speaks to the sales of salmon processed using customary
3 and traditional methods is outside the authority of the
4 Federal subsistence program. Food health issues,
5 including fish processing, are regulated by the State of
6 Alaska. The proposed language could be misleading if
7 people do not realize they are also required to comply
8 with processing health standards.

9
10 And, finally, mostly just a comment,
11 current customary trade regulations are challenging to
12 communicate effectively. This regulatory change would
13 benefit from a focused outreach effort to clarify the
14 regulatory changes to the users.

15
16 That is the Staff Committee
17 recommendation.

18
19 CHAIRMAN DEMIENTIEFF: Thank you. I
20 inadvertently passed by the Eastern Regional Council
21 recommendation.

22
23
24 MR. NICHOLIA: Thank you, Mr. Chair. The
25 Eastern Interior Regional Council supported the general
26 concept, the proponent and subsistence users along the
27 Copper River.

28
29 CHAIRMAN DEMIENTIEFF: Thank you very
30 much. Department comments.

31
32 MS. SEE: Thank you, Mr. Chair. We note
33 that our main concern about customary trade proposals is
34 really that there needs to be a documentation of the
35 customary nature and levels
36 of trade that's demonstrated in the regulatory record.
37 That has been a consistent comment that we've made about
38 these proposals. We think that given that, if that
39 information can be brought forward as regulations are
40 crafted, we would view them quite differently because we
41 feel that's kind of an evidentiary standard that the
42 program should require.

43
44 We certainly would support that studies
45 and projects that will allow that kind of information to
46 come forward should be supported and toward that end we
47 acknowledge and appreciate the support from the Federal
48 subsistence program to direct efforts to get that kind of
49 information through projects that are funded.

50

1 Given that the past adoption of such
2 regulations by the Federal Board, that there has been
3 adoption of regulations, the State does generally support
4 restrictions in the amount of fish or dollar values
5 allowed to help prevent abuse and commercialization of
6 the practice.

7
8 At this time, it is important to note that
9 until we see that documentation of the nature of the
10 practice, we pretty consistently do not support
11 regulations authorizing customary trade because we think
12 that piece is really essential to include as part of the
13 rationale for the regulation. Although the original
14 proposal did not have a way to assess the proposed limits
15 because customary trade in the original language did not
16 have a reporting requirement between rural residents, we
17 note that the Council does propose amending the proposal
18 to require reporting customary trade between rural
19 residents, which would address that deficiency or that
20 problem rather.

21
22 We do commend that the Council spent a lot
23 of time on this particular proposal and really looking at
24 all the different aspects of it. Toward that end also,
25 we noted on the record at that meeting and I would just
26 note it here that it is a difficult concept to
27 communicate and toward that end I think it's important to
28 use the term customary trade very specifically and
29 repeatedly for this practice and not to confuse this with
30 sale. That really confuses people in a hurry. This is a
31 practice which involves trading of harvested materials
32 for cash, but in fact that is related to the mixed
33 subsistence cash economy out there and the need to offset
34 the costs of subsistence which involve cash.

35
36 So that is the fundamental nature of a
37 customary trade. It is a trade and I think the casual
38 use of the term sale really presents a great problem in
39 communicating about this provision and this practice. So
40 we would just note that sort of for the record that as
41 you discuss this, it is important to use the right
42 terminology.

43
44 At this point in time, because of our
45 concerns about the need to document in any area, the
46 actual nature of the levels of trade and the customary
47 nature of it, that we do not support this particular
48 proposal. I think you need to look at that
49 recommendation in the context of all the points that I
50 raised about that and would be happy to answer any

1 questions if you have them.

2

3

Thank you.

4

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CHAIRMAN DEMIENTIEFF: Thank you. With that, we'll go to Board discussion.

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MR. EDWARDS: Mr. Chairman, I have a question for Staff and maybe also for the Council. Could this be interpreted that you could actually sell 100 percent of your catch if you only sold 50 percent from rural to rural and then 50 percent from rural to others?

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MR. LOHSE: Mr. Chair. I don't know if legally you could interpret it that way, but if you would look at the record that the Council set and the past discussion, you would see that never was our intention. Our intention was that subsistence was taken for your home use first and no more than 50 percent of that should be surplus that you could end up trading or bartering or selling to somebody else. The idea wasn't that you could take 50 percent from one and 50 percent from the other and not keep any for yourself. The idea is to prevent abuses and point out that the subsistence really is for home use to start off with.

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MR. EDWARDS: I concur. I guess I'd still ask the question. If you read it literally, it would appear that if you sold 50 percent from rural to rural, then you could sell the other 50 percent to others. I don't know if that's the case, but it seems to me we ought to clarify and if we need clarifying language, maybe we need to do that.

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CHAIRMAN DEMIENTIEFF: I guess the point taken by Staff is that we do need to clarify it in the regulation. As we heard Ralph say, the Council's intent was for that not to happen, but we need to craft some language. Yes.

40

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MR. REAKOFF: Mr. Chairman, this 50 percent language was worked on at the Western Interior Council when we were discussing this customary trade issue. It was understood this language came out of a subcommittee meeting. It was understood that 50 percent was to be retained for personal and family consumption and no more than 50 percent could be sold or bartered.

48

49

50

MS. GOTTLIEB: Mr. Chair.

1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MS. GOTTLIEB: I'd like to thank the
4 Wrangell-St. Elias Subsistence Resource Commission for
5 their input on this issue as well as the Regional
6 Advisory Council. Park Service, Diane McKinley and
7 others prepared a one-page handout that explains the role
8 of the SRCs in this process and their relationship to the
9 RACs as well as the local Advisory Committees and to the
10 Park Service. I think they really provided a valuable
11 assistance in this case.

12

13 I also wanted to clarify that, of course,
14 we did implement this in Bristol Bay last year and we do
15 have a few results from that implementation. We also
16 have examples of press releases as well as the forms that
17 were used by people who applied for the record-keeping
18 aspect of it. I think one thing we need to make clear to
19 people who would want to do the recordkeeping and
20 reporting is that it does become part of the public
21 record, so this is important to make people aware of.

22

23 Likewise, we have our in-season manager
24 from the Copper River here, Eric Veach, who would explain
25 if we would like what kind of outreach program would take
26 place to inform people about this system and how we would
27 go about distributing the recordkeeping information and
28 collecting the reporting information. So, if the Board
29 wishes, we can do that as well.

30

31 CHAIRMAN DEMIENTIEFF: Thank you. Anybody
32 else.

33

34 MS. GOTTLIEB: Mr. Chair, if I could ask
35 Eric just to say a couple words, please.

36

37 CHAIRMAN DEMIENTIEFF: Go ahead.

38

39 MR. VEACH: Mr. Chairman, Ms. Gottlieb.
40 Eric Veach with Wrangell-St. Elias National Park and
41 Preserve. We are prepared to implement a public outreach
42 and education effort if Proposal 13 is adopted. This
43 will include issuing a press release prior to the season
44 notifying subsistence users of the new regulation and the
45 requirement to obtain a reporting form from our office.
46 We use our well-established network that we use for
47 publishing special actions that seems to be real
48 effective in getting the information out to the users.

49

50 Also, when the users come in to obtain a

1 permit from our office, we'll have a handout prepared
2 that will also explain the new regulation and if they
3 request a reporting form, we'll go through the form with
4 them and explain how to complete the form and it will
5 become part of the public record and we'll ask them to
6 return that form with their permit approximately 30 days
7 after the end of the season.

8

9 CHAIRMAN DEMIENTIEFF: Thank you. Any
10 other discussion.

11

12 Ralph.

13

14 MR. LOHSE: Mr. Chair. If you really do
15 or part of the Board really does feel that there is a
16 discrepancy that would allow, with the way this is
17 written, 100 percent of the harvest to be sold, then I
18 would suggest that you make a modification. It would be
19 pretty easy to do in either one or the other where you
20 could just say that no more than 50 percent of the annual
21 harvest may be sold cumulatively or something to that
22 effect so that you could come up with some wording that
23 way. If it's clear the way it is, then just leave it the
24 way it is.

25

26 I was looking back through the record and
27 we made it very clear that while we recognized that the
28 50 percent is not something that's going to be easy to
29 enforce or is actually unenforceable, it's more there to
30 set a tone and that tone is that the harvest should be
31 taken for yourself and your family first. If you have
32 surplus above your needs, you could use it for trade or
33 barter.

34

35 So, if you feel that needs clarification,
36 I would suggest that you do that through an amendment at
37 some time before you pass on this motion.

38

39 CHAIRMAN DEMIENTIEFF: Go ahead, Tom.

40

41 MR. BOYD: Mr. Chair, I'm in agreement
42 with Chairman Lohse and I've been sort of trying to
43 reconcile the language with some kind of an amendment to
44 what Chairman Lohse described as the Council's intent.
45 As I look on page 329 under the bold letters that
46 constitute the purported amendment by the Council, I
47 think that's where we find the problem language in that
48 it says Upper Copper River District. The total number of
49 salmon per household taken within the Upper Copper River
50 District and exchanged in customary trade to rural

1 residents may not exceed 50 percent of the annual harvest
2 of salmon by the household.

3

4 If you'll go to the companion language on
5 the next page, 330 at the top, it deals with exchange
6 between rural residents and individuals other than rural
7 residents. What it says is that may not exceed \$500
8 annually and it says and no more than 50 percent of the
9 annual household harvest may be sold. I don't find that
10 as problematic because that's pretty clear that the total
11 that can be sold is 50 percent. So I think we need some
12 kind of similar language in the preceding page and I'm
13 not exactly sure how to structure it off the top of my
14 head. I've been trying to figure that out right now. We
15 can do that if we understand the concept and the intent.

16

17 CHAIRMAN DEMIENTIEFF: Ralph.

18

19 MR. LOHSE: Mr. Chair. With what Tom has
20 just said, I went back and looked at our first section
21 which he said is the one that's not so clear and what
22 would happen if you would just say the exchange in
23 customary trade or for sale -- well, you can't do that.

24

25 MS. GOTTLIEB: Mr. Chair, I'll go back to
26 Chairman Lohse's previous comment that I don't think we
27 need to micromanage the words because I believe the
28 intent of the Council was very clear. No more than 50
29 percent. Also believe the intent of the Council was that
30 a recording and reporting requirement was expected and I
31 would like to move that we support the Regional Council's
32 recommendation.

33

34 CHAIRMAN DEMIENTIEFF: We have a motion to
35 support the Southcentral Regional Council's
36 recommendation. Is there a second.

37

38 MR. OVIATT: Second.

39

40 CHAIRMAN DEMIENTIEFF: Moved and seconded.

41

42

43 MR. EDWARDS: Mr. Chairman, I guess, while
44 I don't disagree that we shouldn't micromanage, but when
45 it comes down to a matter of law and enforcement of it,
46 it seems to me that you want your regulations as clear as
47 they can be so there's not any misunderstanding either by
48 the people who it applies to or a misunderstanding when
49 it might ultimately go to trial.

50

1 MS. GOTTLIEB: Mr. Chair. I guess with
2 respect to reporting we could either say the recording
3 and reporting requirement, et cetera, rests with the
4 seller or we could leave that reporting requirement to be
5 as part of the permit that people would be coming in to
6 get. That can easily be taken care of.

7
8 MR. EDWARDS: Maybe then as a follow up,
9 Mr. Chairman, I'd offer an amendment. I think we all
10 understand what we're trying to accomplish and maybe at
11 this point we don't need to sit and try to word-smith it,
12 but as long as we convey what the intent of the Council
13 is, then maybe Bill Knauer can take that intent and then
14 craft the proper wording that will get us to where we
15 want, so there's no confusion and the total is only
16 limited to 50 percent.

17
18 CHAIRMAN DEMIENTIEFF: It is clear that
19 the language in Section 27(11) is the problematic one,
20 but in 12(ii) if there was to be a motion amended, the
21 easiest way is the make a motion to amend to make section
22 (ii) consistent with section 12 and that gives us the
23 flexibility to do that and gets us out of that. Ralph.

24
25 MR. LOHSE: I think if you just looked at
26 section 12 down there, which is the one that seems to
27 cover it pretty good, if you just said and no more than
28 50 percent of the annual household harvest may be sold or
29 traded, that would cover everything, I think. Maybe the
30 legal could give me an idea if that was correct.

31
32 CHAIRMAN DEMIENTIEFF: Keith.

33
34 MR. GOLTZ: Bill Knauer does this
35 superbly. I think if we just tell him what the intent of
36 the proposal is that he can craft it. I think we're
37 probably just going to cloud his job if we get too nit-
38 picky about the i's and e's.

39
40 CHAIRMAN DEMIENTIEFF: So the motion to
41 amend to have section 11 language be consistent with
42 section 12 gives us the flexibility. Is that correct,
43 Keith?

44
45 MR. GOLTZ: It's enough for Bill. He just
46 nodded to me.

47
48 CHAIRMAN DEMIENTIEFF: Well, that's how
49 we'd fix it. We know what we want, okay. So if we just
50 move to amend to make section 11 language consistent with

1 section 12, then Bill has the flexibility to fix it
2 without us having to sit here and draft the language
3 ourselves.

4
5 MR. GOLTZ: Yes, I don't think we want to
6 draft the language.

7
8 CHAIRMAN DEMIENTIEFF: I think we've been
9 down that road before. So the Chair would entertain a
10 motion to amend.

11
12 MR. EDWARDS: I made that motion already.

13
14 CHAIRMAN DEMIENTIEFF: I'm sorry. That
15 was the intent of your motion.

16
17 MR. EDWARDS: I didn't do it very well,
18 but that's what I intended to do.

19
20 CHAIRMAN DEMIENTIEFF: So we do have a
21 motion to make section 11 language consistent with
22 section 12. Is there a second.

23
24 MR. BSCHOR: Second.

25
26 CHAIRMAN DEMIENTIEFF: Discussion on the
27 amendment. It's already been pretty well discussed. All
28 those in favor signify by saying aye.

29
30 IN UNISON: Aye.

31
32 CHAIRMAN DEMIENTIEFF: Those opposed same
33 sign.

34
35 (No opposing votes)

36
37 CHAIRMAN DEMIENTIEFF: We now have the
38 main motion before us as amended. Is there any further
39 discussion on that.

40
41 (No comments)

42
43 CHAIRMAN DEMIENTIEFF: Hearing none, all
44 those in favor of the main motion as amended please
45 signify by saying aye.

46
47 IN UNISON: Aye.

48
49 CHAIRMAN DEMIENTIEFF: Those opposed same
50 sign.

1 (No opposing votes)

2

3 CHAIRMAN DEMIENTIEFF: Motion carries.
4 Thank you very much.

5

6 MS. GOTTLIEB: Mr. Chair. I guess I would
7 ask as we're developing the recordkeeping form and
8 outreach materials, we'll keep in mind the comments by
9 the Department and try to be as clear as possible in our
10 forms.

11

12 CHAIRMAN DEMIENTIEFF: Okay. We're going
13 to Kuskokwim. When you're ready, you can begin the Staff
14 analysis on 06.

15

16 MR. UBERUAGA: Mr. Chair, Members of the
17 Board. My name is Richard Uberuaga. I'm a fisheries
18 biologist with the Office of Subsistence Management and
19 I'm assigned to work on the Yukon and Kuskokwim Rivers.
20 The analysis for this proposal is found on page 371 of
21 your Board book.

22

23 Proposal FP05-06 was submitted by the
24 Association of Village Council Presidents, Eek
25 Traditional Council and the Organized Village of Kwethluk
26 and requests that permanent Federal subsistence
27 regulation that lifts or relaxes the subsistence fishing
28 schedule for salmon in the Kuskokwim River Drainage.
29 When in-season indicators of run timing and run strength
30 provide sufficient assurances that upriver subsistence
31 needs and salmon population viability concerns will be
32 met.

33

34 The proposal seeks to immediately lift the
35 subsistence salmon fishing schedule when the State of
36 Alaska opens a commercial chum fishery on the Kuskokwim
37 River. A similar in-season special action request to
38 this one was submitted to the Federal Subsistence Board
39 from AVCP in 2003. Your response at that time was that
40 subsistence regulations to address this issue are
41 unnecessary as the Federal in-season manager currently
42 has the authority to open and close subsistence fishing
43 periods in areas of Federal jurisdiction based upon in-
44 season run strength independent from the State's
45 decisions.

46

47 This proposal would provide clear guidance
48 on when to relax the subsistence fishing schedule in
49 regulation. The current authority of the in-season
50 manager has been spelled out in a delegation of authority

1 letter from the Board. However, this delegation of
2 authority letter is not widely distributed nor widely
3 known.

4
5 Once it is determined that the salmon run
6 abundance is strong enough to meet escapement subsistence
7 needs, the windowed fishing schedule is relaxed. State
8 and Federal managers use the same information to assess
9 run strength and timing. It would therefore be difficult
10 to make decisions that there are enough salmon to relax
11 the schedule prior to also making the assessment that
12 there are enough fish to have a commercial opening.

13
14 Joint Federal and State news releases are
15 issued once the Federal in-season manager has assessed
16 the run and consulted with Alaska Department of Fish and
17 Game on each action.

18
19 State regulations have prevented the four-
20 day-per-week subsistence fishing schedule from being
21 lifted unless in-season indicators of run strength
22 indicated sufficient harvest abundance to allow
23 commercial chum salmon fishery.

24
25 In January of 2004, however, the Alaska
26 Board of Fisheries amended the existing regulatory
27 language regarding the relaxation of the subsistence
28 fishing schedule. Removing that reference to the
29 commercial fishing -- again, this is only for the
30 Kuskokwim River, the regulation now supports relaxing the
31 subsistence fishing schedule if in-season indicators
32 indicate a run strength that is large enough to provide a
33 harvestable surplus and a reasonable opportunity for
34 subsistence and non-subsistence users.

35
36 This new state regulation will continue to
37 require sufficient abundance to allow the opening of
38 other fisheries besides subsistence before the schedule
39 will be lifted. The Federal proposal would provide clear
40 guidance in Federal regulations when to relax the
41 windowed fishing schedule.

42
43 The linkage between the windowed
44 subsistence fishing schedule and the commercial fishery
45 has been an issue of concern since 2001. Management of
46 this fishery is an incremental process and there is no
47 need to directly link relaxing the windowed subsistence
48 fishing schedule to a consideration of a commercial
49 fishery or providing for other non-subsistence uses.

50

1 Thank you, Mr. Chair. That concludes my
2 remarks.
3
4 CHAIRMAN DEMIENTIEFF: Thank you. Written
5 public comments.
6
7 MR. MATHEWS: Mr. Chairman, there were no
8 written public comments on this proposal.
9
10 Thank you.
11
12 CHAIRMAN DEMIENTIEFF: We had one request
13 for additional public testimony at this time, Eric
14 Johnson.
15
16 MR. JOHNSON: Good afternoon, Mr. Chair,
17 Members of the Board. Pardon my voice today. I'm still
18 recovering from whatever is going around and my voice is
19 just about gone, so I'll just croak through my testimony
20 here briefly.
21
22 As was discussed in the issue paper that I
23 believe is a part of your packet of materials, the
24 fishing schedules are a serious restriction on customary
25 and traditional subsistence uses. We believe this was
26 made clear in past public testimony before this Board and
27 in Staff reports, particularly the Staff report that was
28 submitted at the time of the ONC and KNA special action
29 request in 2002.
30
31 Given that these are serious restrictions
32 on subsistence, the standard for justifying restrictions
33 on subsistence is set out at Section 3114 of ANILCA.
34 Basically restrictions on subsistence need to be
35 necessary either to protect viable populations of salmon
36 or to protect continued subsistence uses.
37
38 The problem right now is the State
39 regulations say that you need a surplus that's sufficient
40 for non-subsistence fisheries before you can lift or
41 relax the schedules. The Federal regulations, as you
42 know, have this blanket incorporation of the State
43 regulations, so that limitation -- that part of the State
44 regulations that require a sufficient abundance for
45 non-subsistence fisheries has basically been incorporated
46 by reference into the Federal regulations.
47
48 All we're asking is that the Federal
49 regulation reflect what the Federal legal standard is
50 under ANILCA when the State regulation clearly does not.

1 Federal Staff and the State now say that a regulation
2 isn't needed because of the January 2004 changes that
3 were made by the Board of Fisheries, but what did these
4 regulatory changes do. They dropped reference to the
5 word commercial, but they replaced it with the
6 requirement that there still be sufficient fish for non-
7 subsistence fisheries before the schedules can be lifted.
8 In other words, the change really didn't change anything
9 in so far as the trigger is still a non-subsistence
10 consideration and not a consideration based around
11 population viability.

12
13 We don't think it should be all that
14 controversial just to have the Federal regulations
15 reflect what the Federal standard says under ANILCA,
16 particularly here where there's a State regulation that's
17 in conflict with ANILCA. That's all I have to say at
18 this time unless there's questions or comments.

19
20 CHAIRMAN DEMIENTIEFF: Any questions.
21 Thank you very much, Eric. Regional Council
22 recommendations, Yukon-Kuskokwim and then Western.

23
24 MS. GREGORY: Mr. Chairman. Mary Gregory.
25 The Yukon-Kuskokwim Delta Council spent several hours
26 discussing the similar proposal from the other one and
27 the Board of Fisheries dropped a reference to the
28 commercial fisheries and the Board of Fisheries currently
29 supports relaxing fishing schedules when numbers of fish
30 are sufficient. The modification is on page 373, the
31 second (a), that the windowed subsistence fishing
32 schedule specified in 5AAC07.365 may be lifted when in-
33 season salmon run strength is assessed to be sufficient
34 to meet the escapement goals and subsistence uses.
35 That's what we did.

36
37 I'd like to add fish come when nature
38 calls. They don't come when the regulatory system people
39 say it's time for you to come up the river. They come
40 when God -- God put everything on this earth for a
41 purpose. The fish we use and when it's time for them to
42 come, they'll come. My people have been using the fish
43 for ages. We never exploited it, never disappeared.
44 We've been here for ages. We work hard. When we put the
45 windows for the first two weeks in June, that's the
46 crucial part for us to dry our food without spoiling it
47 because we want to get it when the sun is shining and get
48 them dried and then smoke them before bad weather comes
49 around.

50

1 We're the best conservation that's in the
2 world, too, because since we've been here we've never had
3 any shortages of food of the resources we use from off
4 the land, the earth, the river. And we do not exploit.
5 We only take what we can use for the winter and also to
6 support our extended families. We are the best recyclist
7 people in the world. My dogs don't eat dog food from the
8 store, they eat my leftovers from my house.

9
10 CHAIRMAN DEMIENTIEFF: Thank you.
11 Western.

12
13 MR. REAKOFF: Thank you, Mr. Chairman.
14 Jack Reakoff, Western Interior Council. This proposal,
15 in that Council members that live on the Kuskokwim River
16 expressed concern that some drainages in the Upper
17 Kuskokwim were still not making escapements or very low
18 escapements. There's concern as to assessing the
19 Kuskokwim run in season and assuring that those
20 subsistence needs and escapements are met.

21
22 The Western Interior Council is very
23 supportive of the windowed fishing schedules to allow
24 dissemination of the fish throughout all of the areas
25 that are harvesting fish and providing for escapements.
26 So our Council has been very supportive of these windows.
27 We are reluctant to take the windows away without real
28 hard run assessments.

29
30 CHAIRMAN DEMIENTIEFF: Thank you very
31 much. Staff Committee.

32
33 MR. SIMMIONS: Thank you, Mr. Chair, Board
34 Members and Council Chairs. For the record, my name is
35 Rod Simmions with Fish and Wildlife Service. I'll be
36 providing recommendations of the Interagency Staff
37 Committee for both the Kuskokwim and Yukon proposals.
38 I'll refer you now to page 374 for the Interagency Staff
39 Committee recommendation on this proposal.

40
41 The Staff Committee was opposed to this
42 proposal, consistent with the recommendation of the
43 Western Interior Council but contrary to the
44 recommendation of the Y-K Delta Council. During its
45 winter 2004 meeting, the Alaska Board of Fisheries
46 approved regulations that separated the lifting of
47 windowed subsistence fishing schedule from opening a
48 commercial salmon fishery on the Kuskokwim River. This
49 change thus accomplishes the proponents intent of
50 decoupling these two actions within the Federal program

1 and these revised State regulations would similarly apply
2 to Federal subsistence regulations.

3
4 The Interagency Staff Committee recommends
5 to the Federal Board that this separation of subsistence
6 windows and commercial fishery openings be described in
7 the 2005 booklet that provides information to the public
8 on Federal subsistence fishing regulations. That
9 concludes comments, Mr. Chair.

10
11 CHAIRMAN DEMIENTIEFF: Thank you.
12 Department.

13
14 MS. SEE: Mr. Chair, our comments consist
15 of two portions. I'll offer the first part. We note
16 that based on Staff attendance and participation in
17 Council meetings and in our observations that we request
18 that the Federal Subsistence Management Program
19 reevaluate the process now used to review proposals for
20 migratory fish in the Yukon and Kuskokwim River
21 watersheds.

22
23 We think it's very problematic that there
24 are three Regional Advisory Councils involved in the
25 Yukon River proposals and two Councils involved in the
26 Kuskokwim River proposals because they're meeting
27 separately and without benefit of broader river-wide
28 discussion and public input that all occurs at the same
29 time.

30
31 Because of the complexity, particularly of
32 the Yukon River, each proposal affecting migratory fish
33 will likely affect all fishers in these large drainages.
34 For all of the current proposals, the separate Councils
35 have developed substantially opposing viewpoints. This
36 is a concern for Proposals 02 through 06, and I'm
37 mentioning this now because 06 happens to be the first
38 one of this group, but it really applies to all.

39
40 Each individual Council has heard
41 different information and public comment pertaining to
42 some of these proposals. Communication we feel is
43 lacking when the Councils meet separately or certainly
44 it's impaired and conflicts between users are
45 unnecessarily increased. Councils need to have clear and
46 uniform information about management and the related
47 concerns.

48
49 Thus, for fishery proposals, the
50 Department urges that the Office of Subsistence

1 Management consider combining the river Councils for the
2 purpose of discussing and taking joint actions on
3 Councils as a single body. The three Yukon River
4 Councils and the two Kuskokwim River Councils we feel
5 should meet together to discuss and take joint action on
6 migratory fish proposals as needed. This, in fact, was
7 done at the Wasilla meeting last year, which we think in
8 many ways was a very successful approach to this.

9
10 Proposals would be discussed by all
11 effective users in these forums and a single
12 recommendation on proposals could at least, at times,
13 result from these kinds of meetings. This approach would
14 be more efficient and cost-effective as well. The
15 wildlife cycle of meetings would not at all be affected
16 by this request. Specific comments on this particular
17 proposal will now be offered by Dan Bergstrom.

18
19 CHAIRMAN DEMIENTIEFF: Thank you. As we
20 begin Board discussion -- oh, is there a question? I'm
21 sorry.

22
23 MR. BERGSTROM: Yes, Mr. Chairman, now for
24 comments on Proposal 06. I'm summarizing from page four
25 of the Department's final comments on proposals.

26
27 Existing State management plans and
28 fishing regulations provide a reasonable opportunity for
29 subsistence fishing. This proposed wording would not
30 change management actions. However, adoption of this
31 proposal will likely increase the likelihood of users
32 believing the schedule being relaxed earlier than
33 managers can agree. Currently, management tools are
34 already in place to relax subsistence salmon fishing
35 schedules on the Kuskokwim River if the run strength is
36 strong enough to do so.

37
38 During the January 2004 Board of Fisheries
39 meeting, in response to a proposal from AVCP, the
40 Kuskokwim River Salmon Rebuilding Management Plan was
41 amended to clearly break the link between relaxing the
42 subsistence fishing schedule to seven days per week and
43 implementing a commercial fishery and that's in
44 5AAC07.365.

45
46 This wording provides the Department
47 guidance to manage the subsistence fishery to achieve
48 escapement goals and gives the flexibility to relax the
49 subsistence fishing schedule based on run abundance. The
50 Department does not support the proposal. The Department

1 does support the Interagency Staff Committee
2 recommendation to describe the current management
3 strategy in their 2005 booklet.

4
5 We do not support a regulation to describe
6 State regulations in a management plan. Thanks.

7
8 CHAIRMAN DEMIENTIEFF: Thank you. As we
9 begin Board discussion, I just want to respond to one
10 point, Marianne. I'm not discrediting your whole
11 testimony because there were some valid things that I
12 learned from in there. Last year we went through great
13 effort and great expense to bring the Regional Councils
14 together to share information. That part of it went
15 really well, but it did nothing to build consensus, so
16 that's why we decided not to do that again this year.
17 Not only that, it disenfranchised rural residents from
18 being able to go because we had to bring them to Wasilla
19 to a neutral site to have the meeting. Then they had
20 their individual Council meetings and the users simply
21 couldn't afford to get to one location. That's why we
22 had to go to a neutral site because it wouldn't have been
23 fair to have some of the people get to participate and
24 some not.

25
26 I just wanted to assure you also that the
27 program went through great effort to make sure that the
28 same information -- one person provided the same
29 information to all three of the Regional Councils, so
30 that was done by one person. In each individual Regional
31 Council meeting, of course, there were local people
32 working in the field that have their own land manager
33 people that are there that may provide some different
34 information, but the basic information was provided by
35 one person from OSM.

36
37 So I just wanted to clarify that on the
38 record that we have tried and it was helpful, but we went
39 through great pains this year to make sure everybody is
40 dealing off the same information. So I just wanted to
41 assure you of that. Other discussion.

42
43 MR. EDWARDS: Mr. Chairman, I guess I
44 might want to take a little different tack on this.
45 While I certainly agree that we've made efforts to try to
46 figure out how you bring three different kind of user
47 groups maybe together and three different regions, it's
48 my sense that back in 1999 when we started the fisheries
49 program, to some extent we tried to shoehorn it into our
50 existing organizations and existing Council structures

1 and geographic areas. My guess is if we hadn't
2 previously had 10 years of the organizations that we had,
3 we might have taken a totally different approach if we
4 simply had a responsibility for fisheries and might have
5 looked at it a little different.

6
7 I just think it might be worthwhile that
8 we could either ask the Staff or the Staff Committee to
9 kind of wrestle with that issue and have them ask is
10 there a better way that we can address these issues. I
11 find it sometimes very difficult when we have three
12 Councils represented and maybe two of them oppose and one
13 is for. I mean one can argue in some ways it makes your
14 job a little easier because you can almost pit one
15 against the other, but I don't think that's what we're
16 supposed to be doing. We're supposed to be looking at
17 how do we best manage these major systems for all users
18 that are 800 miles apart. Maybe, in reality, the
19 existing way we're organized to try to get that
20 representation there might be a better way to do it.

21
22 CHAIRMAN DEMIENTIEFF: Yes.

23
24 MR. REAKOFF: As a participant in the
25 Regional Council process from day one on the first
26 Council meeting in Western Interior, I find it fairly
27 frustrating to find out what Eastern has done, reading
28 their transcripts, their misperceptions of what our
29 proposals might mean. There has to be some kind of more
30 coordination with the Councils. Whether that entails
31 teleconferencing with the leadership or the coordinating
32 fishers committees or however that may be, I agree with
33 you, Mr. Chairman, that meeting in urban areas and not
34 having local participation is kind of a down side to that
35 and I didn't feel that the Tri-Council meeting was very
36 effective. It did bring everybody on the same sheet of
37 music, everybody understood where the other Councils were
38 coming from, but it was very expensive and still there
39 are certain aspects that all users are going to have
40 divisions on in those regions. We do need to have closer
41 Council coordination on presentation of various things
42 and understanding between the Councils so that when it
43 comes to a vote, we understood what the other Council is
44 talking about. So I would state that from the Western
45 Interior.

46
47 Thank you.

48
49 CHAIRMAN DEMIENTIEFF: Thank you. Other
50 discussion. Yes, Mary.

1 MS. GREGORY: Several years back we
2 invited Gerald to meet with us in one of our spring
3 meetings because we were dealing with fisheries that
4 involved his area from the Lower Yukon, so that is going
5 on. We're not just ignorant, but we do try. Because of
6 the differences in our cultures, our language, our way of
7 life, it's not going to get resolved that easy.

8
9 CHAIRMAN DEMIENTIEFF: I think one of the
10 things we have to be careful of, as we found out in the
11 last few years, is that four-letter word, FACA, and there
12 may be implications. I would suggest that maybe we
13 continue the discussion on a coordination. Tomorrow we
14 have the opportunity. Remember when we used to have the
15 meeting between the Board and we had to change it to a
16 public forum, which this clearly is and will be on the
17 record.

18
19 So I would suggest that not in the heat of
20 the regulation but in the process that's already
21 scheduled that we just go ahead and talk about this more
22 tomorrow because it is important to us and we know that
23 it's out there. We just need to come up with some ideas.
24 Maybe everybody sleeps on that part of it and then we'll
25 talk about it without the pressure of a regulation on us.
26 We could get farther. So that's just what I'm
27 suggesting. Is that agreeable? I see nods. Jerry.

28
29 MR. NICHOLIA: Mitch, I have a lot of
30 problems with this three-RAC system on the Yukon River.
31 It creates a lot of dissent. Where we first started
32 about five, six, seven years ago, we built a lot of
33 working relationships. Last year I seen it kind of good,
34 but we left out the public users. It creates a lot of
35 dissent, like especially when the Eastern Interior has to
36 meet first, then either the Y-K or the Western. From
37 what we did in Eagle created other actions in Western and
38 Y-K where if we would have had more coordination or
39 something for what's going on, we would have done
40 something different, but it already happened. We're here
41 with all our different views now. Where we tried to work
42 before to work as consensus, no matter what we do the
43 mouth of the river is not going to be the same as the
44 upper end of the river. It's just three different
45 regions that have to work together. From my view, it's
46 not working together to provide a subsistence opportunity
47 to the users along the Yukon.

48
49 CHAIRMAN DEMIENTIEFF: Thank you. Further
50 discussion on the proposal.

1 MR. EDWARDS: Mr. Chairman, if we're back
2 to Proposal 06, if you're ready for a motion, I'm ready
3 to make one.
4
5 CHAIRMAN DEMIENTIEFF: Yes.
6
7 MR. EDWARDS: Mr. Chairman, I move that we
8 accept the recommendation made by the Western Interior
9 Council that would reject the proposal. As has been
10 stated several times already, this regulation is
11 unnecessary as it represents a management strategy that
12 is already being practiced both by the State and the
13 Federal fisheries managers. Relaxation of the schedule
14 is based upon the abundance of fish, not whether a
15 commercial fishery is implemented or not.
16
17 CHAIRMAN DEMIENTIEFF: Thank you. Is
18 there a second to the motion.
19
20 MR. OVIATT: I'll second.
21
22 CHAIRMAN DEMIENTIEFF: Discussion on the
23 motion.
24
25 MS. GOTTLIEB: Mr. Chair. I guess again
26 here's an example of where public information and
27 communication and outreach and I know previously there's
28 been a lot of joint press releases and a lot of radio
29 notices done by both State and Federal managers. I think
30 the information can hopefully get out there in ways that
31 everybody understands. An example of us not needing
32 perhaps to do a regulation, but could just work on
33 regular information.
34
35 CHAIRMAN DEMIENTIEFF: Thank you. Further
36 discussion on the motion.
37 (No comments)
38
39 CHAIRMAN DEMIENTIEFF: Hearing none, all
40 those in favor please signify by saying aye.
41
42 IN UNISON: Aye.
43
44 CHAIRMAN DEMIENTIEFF: Those opposed same
45 sign.
46
47 (No opposing votes)
48
49 CHAIRMAN DEMIENTIEFF: Motion carries.
50 I've been closely watching the time. It took us about 30

1 minutes to go through that proposal. The next proposal
2 that we're going to consider is a very similar proposal.
3 I would anticipate it would take us at least 30 minutes
4 to go through that. We don't know how long the report is
5 going to be on Unit 2 deer, but I'm just going to say if
6 we get done early with that, fine, but we just want to go
7 ahead and resolve that today. We'll pick up with
8 Proposal 02 in the morning. That's the way we're going
9 to deal with it.

10

11 So if we can get the staffers for the Unit
12 2 deer report and we'll be done when they're done. John.

13

14 MR. LITTLEFIELD: Mr. Chair, now I know
15 why you made me number 1. I wore you guys out.

16

17 CHAIRMAN DEMIENTIEFF: Okay, Region 10.

18

19 MR. HERNANDEZ: Thank you, Mr. Chairman
20 and Members of the Board. My name is Don Hernandez. I'm
21 a member of the Southeast Regional Advisory Committee
22 Council and I'm the chairman of the subcommittee of the
23 Regional Council that was put together to deal with a
24 planning effort for Unit 2 deer. I'd like to thank you
25 for the opportunity for this timely report on deer
26 hunting during your fisheries meeting.

27

28 Our work is under way at this time and
29 hopefully will be completed this spring, so it's
30 important that I inform you of what we are doing. After
31 I read you this report, I'll be glad to answer any
32 questions you have.

33

34 This is a brief progress report and it's
35 intended to inform the Board of the work of the Council's
36 Unit 2 Deer Planning Subcommittee since the formation of
37 the subcommittee in May of 2004. I'll focus on the
38 process that we are following and working on Unit 2 deer
39 issues. The subcommittee will report to the Council when
40 its work is accomplished.

41

42 The subcommittee had three meetings so
43 far. The first one was an initial organizational meeting
44 in May and we've had since then working meetings in
45 Craig, Prince of Wales Island in November and a meeting
46 in Ketchikan in December. The subcommittee composition
47 includes members from the communities that use Unit 2
48 deer. There are four members from Ketchikan, there's two
49 members from Petersburg, one from Wrangell and the other
50 members reside on Prince of Wales Island in various

1 communities.

2

3

4 Membership of the subcommittee is
5 representative of the persons who are concerned with Unit
6 2 deer issues and they include a registered guide, we
7 have commercial fishermen, we have tribal government
8 staff, Regional Council representatives, Fish and Game
9 Advisory Council chair, we have the Craig Ranger District
10 on Prince of Wales Island and the Alaska Department of
11 Fish and Game, Division of Wildlife Conservation regional
12 supervisor is also on our subcommittee.

12

13

14 We adopted a goal statement for this
15 planning process and I'll read that to you now. The goal
16 of the Deer Management Planning Subcommittee for Unit 2
17 is to recommend a subsistence-based management approach
18 for deer in this unit. The recommended approach will be
19 reported through the Southeast Regional Advisory Council
20 to the Federal Subsistence Board. This management
21 approach will need to ensure the long-term conservation
22 of Unit 2 deer populations, allow subsistence users to
23 meet their needs as provided in ANILCA, account for the
24 habitat and other ecological changes that may affect the
25 deer population over time, recognize the changes in
26 access and tomography that may change subsistence and
27 other demands for deer, and minimize adverse effects on
28 non-subsistence hunters who also rely on Unit 2 deer
29 populations. This management approach will include
30 public education on deer management and habitat issues
31 and on subsistence protections found in ANILCA.

31

32

33 I'd like to tell you about the formation
34 of the subcommittee. Resolutions requesting formation of
35 the subcommittee were passed by the Southeast Regional
36 Advisory Council at its March 17-20, 2004 meeting. The
37 Federal Subsistence Board authorized the subcommittee at
38 an April 2004 work session.

38

39

40 The subcommittee held an organizational
41 meeting in May 28th and 29th in Ketchikan. The purpose
42 of this meeting was to discuss the direction received
43 from the Council and the Board, review subcommittee
44 composition, develop operating procedures and outline a
45 scope of work. The subcommittee reported to the Council
46 in a public meeting held on June 1st. The Council acted
47 on a subcommittee report and made recommendations
48 concerning the subcommittee to the Board at its next
49 meeting in mid June 2004.

49

50

The Council's recommendation to the Board

1 outlined the objectives of the subcommittee and its work
2 plan and suggested an expanded membership for the
3 subcommittee. The Board approved the Council's
4 recommendations. U.S. Forest Service has contracted with
5 Shineburg and Associates to provide facilitation services
6 for the subcommittee planning effort.

7
8 I'd like to tell you about our
9 subcommittee membership. I'd also like to point out that
10 through some very excellent efforts by the Shineburg and
11 Associates facilitator and the U.S. Forest Service and
12 ADF&G Staff, I think they did an excellent job in
13 recruiting members for our subcommittee and membership is
14 as follows:

15
16 We have Mike Bangs, a Petersburg resident,
17 commercial fisherman, hunter, former Advisory Committee
18 member and chair, and he is presently a Southeast
19 Regional Advisory Council member.

20
21 We have Anthony Christianson, a Hydaburg
22 resident, member of the Hydaburg Community Association.
23 He's the natural resources staff for Hydaburg Community
24 Association and he's an avid subsistence hunter.

25
26 Mike Douville, Craig resident, Prince of
27 Wales Island. He's an active hunter and trapper and he's
28 also a Southeast Advisory Council member.

29
30 Dolly Garza from Ketchikan. She's an
31 educator, subsistence harvester, also Southeast Alaska
32 Regional Council member.

33
34 Myself, my primary residence is Point
35 Baker on Prince of Wales Island. I'm presently spending
36 my winters in Petersburg for school year, so I kind of
37 represent both communities on this subcommittee. And I'm
38 a commercial fisherman and active hunter and, as I said
39 before, a member of the Southeast Regional Advisory
40 Council.

41
42 Elena James is another Craig resident.
43 She represents the Craig community association. She's a
44 natural resources staff and she's an avid subsistence
45 hunter.

46
47 Johnnie Laird, Ketchikan resident. He's
48 an active, registered hunting guide and an active hunter
49 on the island. Former resident of Prince of Wales Island
50 now living in Ketchikan.

1 Tom Skulka is a Ketchikan resident. He's
2 with the Alaska Native Brotherhood. He's the president
3 and he's an active hunter on Prince of Wales Island.

4
5 Tom Sims from Wrangell. He's the chair of
6 the Wrangell Fish and Game Advisory Committee. He's a
7 commercial fisherman and an avid hunter.

8
9 A.J. Slaygill, Ketchikan resident. He's a
10 hunter/trapper and his position is to represent the sport
11 hunting interest for Ketchikan residents.

12
13 So we have four Prince of Wales Island
14 residents, four Ketchikan residents, a person from
15 Wrangell and a person from Petersburg and they represent,
16 as you can see, various interest groups and I think we're
17 very well represented.

18
19 Subcommittee actions and their schedule to
20 date, subcommittee met November 18th and 19th in Craig.
21 At this meeting, the subcommittee agreed on the planning
22 processes and goals. We reviewed information provided by
23 the ADF&G and U.S. Forest Service Staff concerning ANILCA
24 provisions, deer population characteristics, deer habitat
25 and predator/prey effects. We looked at the inter-island
26 ferry operations. We also looked at the effective timber
27 management on habitat in Unit 2 and we provided for
28 public testimony at that meeting. We had four members of
29 the public provide testimony and about 25 community
30 residents attended all or part of that meeting.

31
32 We met again in December 14th and 15th in
33 Ketchikan. At this meeting the subcommittee heard
34 further Staff reports concerning second growth
35 management, access management, subsistence uses and needs
36 assessments, enforcement activities and planning for
37 wildlife information projects. The subcommittee spent a
38 full day discussing ways of improving harvest reporting
39 in Unit 2. About 15 members of the public provided
40 testimony at this meeting and about 50 community
41 residents attended all or part of this meeting.

42
43 Our next meeting will be in Wrangell and
44 that will be next week, January 18th through the 20th.
45 The subcommittee will give the Southeast Regional
46 Advisory Council a progress report at the Council's
47 February meeting scheduled in Petersburg and we will be
48 providing for public testimony from people in Petersburg
49 at that meeting.

50

1 Our fourth meeting will be held back on
2 Prince of Wales Island in the community of Thorne Bay and
3 that's March 15th through the 17th.

4
5 Our final meeting will take place once
6 again in Ketchikan and that's April 13th and 14th, at
7 which time we will hopefully prepare a final report to
8 the Council for their review. The Council can then act
9 on the subcommittee's report either at a noticed
10 teleconference meeting or at its fall 2005 meeting in
11 Sitka.

12
13 With the support of the Forest Service,
14 the subcommittee will be identifying persons interested
15 in Unit 2 deer issues through a newspaper insert in local
16 papers and persons who respond will be put on a mailing
17 e-mail list for further contact. With the support of the
18 Office of Subsistence Management, subcommittee documents
19 will be available on the website.

20
21 I did want to point out to you when we had
22 our meeting in Ketchikan, it was reported on the front
23 page of the Ketchikan Daily News. We got a lot of press
24 coverage for that meeting and a lot of public information
25 was given out that way.

26
27 So, in summary, the subcommittee has found
28 that deer hunting in Unit 2 has been greatly changed over
29 the past 20 years as a result of the timber harvesting,
30 road building and changes in human population that have
31 taken place. Future declines in the quality of habitat
32 for deer and decreases in deer population are almost
33 certain to occur as regrowth of clear-cut areas proceeds.
34 Improvements in inter-island transportation continues to
35 improve access to deer hunting areas for both urban and
36 rural residents. Because of these and other changes
37 affecting Unit 2, the hunters who depend on Unit 2 deer,
38 maintaining future deer hunting opportunities may require
39 changes in deer management.

40
41 The subcommittee will do its best to
42 provide sound recommendations to the Council concerning
43 future deer management. Its recommendations may also
44 encourage more aggressive management of habitat for deer.

45
46 I'd like to thank the Board for
47 encouraging the Council to undertake this subcommittee
48 process and I'd also like to thank you for your support
49 in making this all happen. Before I entertain questions,
50 which you may have, I'd just stress a few of the points

1 here from my report that I think are important.

2

3 The first one is that everything we do in
4 this subcommittee will be passed on to the Regional
5 Advisory Council for their review and any actions that
6 result from our efforts will be approved by the Regional
7 Advisory Council.

8

9 Another thing is that I think I recognize
10 that the make-up of the Board is probably one of the most
11 important factors in its success and I'd like to say that
12 I am very pleased with the membership on this Board.
13 We've had a couple meetings now and we really seem to be
14 working well together. I think there's a lot of
15 cooperation.

16

17 Also, cooperation of the agencies is very
18 important to the success of this effort and I'd also like
19 to say after our two meetings I think we're seeing a lot
20 of really excellent cooperation. I think that's going to
21 be vital to our success.

22

23 Also, public involvement is going to be
24 key. That will happen through public testimony, news
25 stories, as I pointed out, and a newsletter and
26 distribution of information as a result of this process.

27

28 Also, something else that I think is good
29 to point out in this effort is fostering a lot of
30 understanding between the different user groups. Members
31 of the committee are and will continue to be involved in
32 resource issues and I think working together with a lot
33 of these people is going to be very positive for a lot of
34 things that happen in the future.

35

36 Also, our goal in this is for long-range
37 planning to deal with changing situations. I think we
38 all agree that our approach to this is to emphasize the
39 need for good information, that all user groups will
40 accept as reliable. If we have that information and we
41 can all agree on what information is really good and
42 reliable, I think it will go a long ways towards
43 resolving some of these issues.

44

45 So, again, thank you very much and if you
46 have any questions, I'd be glad to answer them.

47

48 CHAIRMAN DEMIENTIEFF: I don't really have
49 a question, but we've used this tool in other difficult
50 issues that we've had to deal with and, to me, I

1 congratulate everybody that has had an effort in this.
2 It sounds to me just from hearing your report -- well, to
3 be honest with you, I kind of track it through channels
4 and been keeping track of your work. It just looks like
5 to me that the group is doing exactly what we hoped it
6 would do. Whether or not we get a resolve, I know the
7 spirit of cooperation amongst the various users is so
8 very important to all of us. Hopefully it will resolve
9 in a consensus-building and a resolve to a very thorny
10 issue. But it sounds like you're doing everything that
11 at least I personally have hoped that the group would do
12 and we look forward to continue tracking the group and
13 your efforts.

14

15 Any other questions or comments. Gary.

16

17 MR. EDWARDS: Mr. Chairman, I just would
18 like to echo that and applaud all the people who are
19 involved in this. I attended the meeting, the only
20 meeting I've attended in the Southeast when we were first
21 trying to get this started and I actually had a couple
22 follow-up conversations with Mr. Hernandez and I think
23 it's exceeded all of our expectations. I think it's
24 right where we think we should be with this and I applaud
25 him for his leadership of the committee and the Forest
26 Service for stepping up and doing a lot of positive
27 things and the Council and the State for participation.
28 Hopefully, with all of that, it will result in some
29 agreed-upon, very positive recommendations that we
30 hopefully will get everybody down there and on the same
31 page and work out some of these tough issues.

32

33 I did have one question. When I attended
34 that meeting, one of the concerns was a lack of data that
35 this group would come together but might not have all the
36 facts that they needed to try to really wrestle with some
37 of these very difficult issues and one of them I recall
38 had to do with the non-subsistence harvest and trying to
39 get a better handle on that, an understanding of what is
40 taking place. Are we making any progress in that area or
41 is that still a significant data gap that needs to be
42 addressed?

43

44 MR. HERNANDEZ: Thank you, Mr. Chair. Mr.
45 Edwards. We did spend a fair amount of time at our
46 December meeting talking about the needs for data
47 gathering. As you know, there have been proposals put
48 forward both to the Federal Board and the State Board for
49 a registration permit requirement for reporting. The
50 subcommittee did reach consensus that that was a good

1 proposal. Since that meeting that recommendation went
2 into further discussion prior to the upcoming Board of
3 Game meeting to see how that might be implemented and we
4 had a very good meeting between Fish and Game and Forest
5 Service Staff discussing the needs of getting better
6 reporting requirements. I think we're well underway in
7 coming to some good agreement as to how that might
8 happen. These talks are still going on, but I expect
9 there will be a good result for us to consider.

10

11 CHAIRMAN DEMIENTIEFF: Any other
12 questions. Judy.

13

14 MS. GOTTLIEB: Mr. Chair. Likewise, I
15 want to thank you and your subcommittee. Just like our
16 Regional Advisory Council chairs, we know you're all
17 volunteers and we appreciate your dedication and personal
18 efforts towards issues that are really important to all
19 of us.

20

21 Thank you.

22

23 CHAIRMAN DEMIENTIEFF: Any questions.

24 Yes, John.

25

26 MR. LITTLEFIELD: Thank you, Mr. Chair.
27 As a member of the mutual admiration society, I would
28 like to echo those comments. I really appreciate the
29 Board saying this to Mr. Hernandez and your comments, Ms.
30 Gottlieb, were right on. You have 12 members there, 10
31 official members and two liaisons. Ten of them are
32 serving as volunteers for five meetings and that's
33 commendable that you'd do that and I want you to make
34 sure that you take the comments of this Board as well as
35 myself back to those members and tell them that we
36 appreciate their public service on behalf of the rural
37 residents. I know it's a lot of hard work. Everybody
38 has to give up something to do this, whether you're
39 retired like I am now or something, you have to give up
40 some time to do this and I appreciate the time that the
41 subcommittee has put in on this.

42

43 Thank you.

44

45 CHAIRMAN DEMIENTIEFF: Any other comments.

46

47 MR. BSCHOR: I'd be remiss not to join in
48 here and thank Mr. Hernandez. I know we had a
49 conversation right before this subcommittee began to meet
50 and it wasn't a very long discussion, but I think Mr.

1 Hernandez would agree that where you are right now was
2 one of my primary hopes that would happen by the end of
3 the process. So I'm really pleased and, likewise, let
4 the rest of your subcommittee members know that we're
5 pleased with the progress.

6

7 CHAIRMAN DEMIENTIEFF: Closing comments
8 anybody. Thank you. Once again, John, you're still
9 taking up our time. Chairman Littlefield says we can
10 leave now for the day. We'll see you at 8:30 and we'll
11 pick up on Yukon stuff.

12

13

(PROCEEDINGS TO BE CONTINUED)

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C E R T I F I C A T E

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

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

THAT the foregoing pages numbered 116 through 247 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically by Nathan Hile on the 12th day of January 2005, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 29th day of January 2005.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/08 _