

00001

1

2

3

4

5

6

7

8

9

10

11

12

FEDERAL SUBSISTENCE BOARD

13

14

EGAN CONVENTION CENTER

15

ANCHORAGE, ALASKA

16

17

18

VOLUME I

19

20

DECEMBER 17, 2002

21

8:30 o'clock a.m.

22

PUBLIC MEETING

00002

1 PROCEEDINGS

2

3 (Anchorage, Alaska - 12/17/2002)

4

5 (On record)

6

7 CHAIRMAN DEMIENTIEFF: Good morning. As

8 we make our way to our chairs it looks like we've got our

9 full Board here and ready to go. Introductions, I guess,

10 we'll maybe just kind of go around the table. My name is

11 Mitch Demientieff, I'm the Chairman of the Board. Tom.

12

13 MR. BOYD: I'm Tom Boyd. I'm the

14 Assistant Regional Director for the Office of Subsistence

15 Management, U.S. Fish and Wildlife Service.

16

17 MR. BUNCH: I'm Charles Bunch. I'm

18 standing in for Niles Cesar, Regional Director Bureau of

19 Indian Affairs.

20

21 MS. GOTTLIEB: Judy Gottlieb, National

22 Park Service.

23

24 MR. GOLTZ: Keith Goltz, Solicitor's

25 Office.

26

27 MR. EDWARDS: Gary Edwards, Fish and

28 Wildlife Service.

29

30 MR. BISSON: I'm Henry Bisson, BLM State

31 Director for Alaska.

32

33 MR. BACHOR: I'm Denny Bachor. I'm

34 Regional Forester for the U.S. Forest Service.

35

36 CHAIRMAN DEMIENTIEFF: As we begin the

37 meetings I'm going to -- I've always taken this job as

38 something that I really enjoy doing. And as we begin the

39 meeting I'm going to apologize in advance if I seem to be

40 a little bit -- if I seem to be distracted somewhat, it's

41 because I am, I don't want to be here. It's too close to

42 Christmas, you know, and I'm missing -- I've got a couple

43 of grandkids at home, they're in pre-school, and I'm not

44 looking for sympathy I'm just telling you, you know, I'm

45 missing their very first Christmas program this week. So

46 if I do seem a bit distracted, you know, I'll just

47 apologize in advance, that's where my heart is, it's at

48 home. And I'm sure those of you that are traveling are

49 in the same situation. It's just too close to Christmas.

50 So anyway, I just wanted to let you know, if I do seem

00003

1 distracted or not quite myself that's why.

2

3 Are there any corrections or additions to  
4 the agenda at this point?

5

6 MR. BOYD: I have an administrative  
7 thing.

8

9 CHAIRMAN DEMIENTIEFF: Go ahead.

10

11 MR. BOYD: Thank you, Mr. Chair. I would  
12 just like to mention to the Board and to the Staff and  
13 those in the audience, that at the front desk we have a  
14 handful of these coupons for parking at the 6th Avenue  
15 Parking Garage. I guess they're good for the day. And I  
16 understand that tomorrow we will have additional coupons  
17 that might be good also for the 5th and the 6th Avenue  
18 parking garages. So that's something that has been  
19 provided to us and we will thank the Anchorage Parking  
20 Authority, I guess.

21

22 CHAIRMAN DEMIENTIEFF: We have no request  
23 for public comment at this time and non-agenda items, so  
24 with that we'll just go ahead and move into our agenda  
25 and get on with the Fisheries Monitoring Plan. Steve, I  
26 guess.

27

28 We do have consent agenda items. You  
29 should have the handout in front of you. Maybe we'll go  
30 ahead and take a motion at this time to adopt the consent  
31 agenda items, it's the yellow handout.

32

33 MS. GOTTLIEB: Mr. Chairman.

34

35 CHAIRMAN DEMIENTIEFF: Yes.

36

37 MS. GOTTLIEB: I'll move that we adopt  
38 those projects listed on the consent agenda provided to  
39 us.

40

41 MR. BUNCH: I second that.

42

43 CHAIRMAN DEMIENTIEFF: It's been moved  
44 and seconded that we adopt the consent agenda items.  
45 Steve, did you have comments with regards to the consent  
46 agenda items?

47

48 MR. KLEIN: Mr. Chair, this year we're  
49 using a different process. It's to more parallel the  
50 regulatory process and streamline this presentation. On

00004

1 the consent agenda you have 28 projects that we had  
2 unanimous consent between the Technical Review Committee,  
3 the Regional Advisory Councils and the Staff Committee,  
4 and those are the 28 projects and we'll cover some non-  
5 consent agenda items during the formal briefing.

6

7 Thank you.

8

9 CHAIRMAN DEMIENTIEFF: Thank you. Any  
10 other discussion on the consent agenda items?

11

12 (No discussion)

13

14 CHAIRMAN DEMIENTIEFF: None. All those  
15 in favor of the motion to adopt those items, please  
16 signify by saying aye.

17

18 IN UNISON: Aye.

19

20 CHAIRMAN DEMIENTIEFF: Those opposed,  
21 same sign.

22

23 (No opposing votes)

24

25 CHAIRMAN DEMIENTIEFF: Motion carries.  
26 Mr. Klein.

27

28 MR. KLEIN: Thank you, Mr. Chair. Board  
29 members. This first topic, what we're here to do is to  
30 review and approve the 2003 Monitoring Plan. This is the  
31 fourth plan that we've brought to the Board, we're in  
32 year four. I have a powerpoint presentation that will  
33 probably take about 20 minutes and I will proceed with  
34 that. And with me today I have Dr. Polly Wheeler and Dr.  
35 Steve Fried to assist me.

36

37 So the briefing today, I'm going to try  
38 to make it short and focused. We have a smaller program  
39 this year in 2003 compared to years past. In years past  
40 we've had monitoring plans up to \$7 million, this year  
41 most of our money is tied up in continuing projects and  
42 we're looking at a program that's less \$2 million for  
43 2003.

44

45 I want to thank the FIS Staff and the  
46 Technical Review Committee for the hard work they've done  
47 through the year to bring this monitoring plan to you  
48 today.

49

50 The outline, I'm just going to go over

00005

1 the Draft Monitoring Plan, the process we followed. We  
2 had several changes we initiated this year. We'll also  
3 present a consent agenda, which is something new, I'll  
4 provide an overview of that. And then I'll ask Polly and  
5 Steve to go over the non-consent agenda items. We have  
6 four non-consent items. Then we'll take comments, we need  
7 to take comments from the public, we need to hear from  
8 the Regional Council Chairs, the Alaska Department of  
9 Fish and Game and the Staff Committee.

10

11 So that's the outline and we'll proceed  
12 unless there's questions of the Board.

13

14 Okay, so for 2003, to develop this plan,  
15 again, it's been an ongoing effort over the past year  
16 from a lot of dedicated folks, again, we utilized the  
17 same seven step process that we've used in the past  
18 years. We'll go over several of these steps to describe  
19 to you the process we used. I wanted to highlight step  
20 one and step six right here. Step one is identification  
21 of information needs, that's an ongoing process where we  
22 work with the Regional Councils to update their issues  
23 and information needs. This year the Staff worked with  
24 all the Councils to strategically plan for the future  
25 there. We looked at what's on their issues and  
26 information needs, assessed what the gaps were and in  
27 most cases we updated those issues and information needs  
28 this year. Then at step six, when we take the draft plan  
29 to the Councils, that's a value added step and this year  
30 bore that out as well. The plan we took to the Councils,  
31 they suggested several changes and we're bringing to you  
32 a better plan as a result of input from the Councils.

33

34 For 2003, we did requests for proposals  
35 in November of last year. At that time, we only  
36 anticipated only \$1.3 million dollars available so,  
37 again, it's a very reduced program from past years. And  
38 the focus for 2003 was on continuing projects we had  
39 initiated in 2000 and 2001 with just over a million  
40 dollars available. There's a lot of projects we funded  
41 in the first two years where the funding lapsed and the  
42 focus for 2003 was to continue those high priority  
43 projects. Next year in 2004 we anticipate about \$5  
44 million to be available for the monitoring program and  
45 that will give us a chance to really strategically look  
46 at what our priorities are and ensure that we're funding  
47 the highest priorities.

48

49 So from that call for proposals, this  
50 year we received 60 proposals. Also I wanted to add, for

00006

1 2003, to maximize the amount of funding available in  
2 2004, for any continuation projects we limited them to  
3 one year of funding so that in 2004 we'll be looking at  
4 all the projects and sorting through priorities. So for  
5 this focus call we received 60 proposals. It was  
6 reviewed by the Technical Review Committee. Those four  
7 ranking factors that we've used, strategic priority, the  
8 technical and scientific merit, past performance of the  
9 investigator and partnership and capacity building.  
10 Those are the four criteria we use at the Technical  
11 Review Committee level to sort through the priorities.  
12 We also have the issues and information needs from the  
13 Councils and those elevate the priority of any project if  
14 it is on the issues and information needs of the Council.

15

16 Of those 60 proposals that we received,  
17 the Technical Review Committee advanced 37 of those for  
18 developing of investigation plans where we can really  
19 look at the objectives and methods and make sure that  
20 we're bringing sound science to the Regional Councils as  
21 well as the Board. From those 37 investigation plans we  
22 reviewed those, the TRC recommended 30 of those projects  
23 be advanced for the 2003 plan and that's what formed the  
24 2003 Draft Monitoring Plan that we took to the Councils.

25

26 And broken apart by the two data types  
27 that we have, for those 30 projects, 25 of them were  
28 stock, status and trends, the biological projects and  
29 five of them were in the harvest monitoring, TEK,  
30 traditional, ecological knowledge component. For the  
31 amount of projects in harvest monitoring and traditional,  
32 ecological knowledge, our target really is about one-  
33 third and so we are a little light in the amount of  
34 projects we received this year. I think that's a result  
35 of two things. One, the researchers, the social  
36 scientists and anthropologists out there, most of them  
37 are fully absorbed implementing projects that the Board  
38 has already approved and they're implementing, either  
39 through the monitoring plan or through their agencies or  
40 organizations. Secondly, within FIS, my division, we  
41 didn't have any anthropologists until Dr. Wheeler came on  
42 board about a half year ago, and I think in the future  
43 under Polly's leadership we'll see a lot more harvest  
44 monitoring and TEK projects there and now that we're  
45 fully staffed we'll be working with investigators out  
46 there and organizations to drum up more proposals and  
47 investigation plans.

48

49 So for 2003, the recommendation was 25  
50 stock, status and trend projects, five harvest monitoring

00007

1 and TEK projects. And those are summarized in Tab A,  
2 Page 9.

3

4 So that formed the Draft Monitoring Plan.

5 And then we have several review steps. First of all was  
6 the Regional Councils and like last year we went to the  
7 Councils and presented the Draft Plans and reviewed it  
8 with them during their fall meetings. We also had a  
9 public comment period where we accepted comments through  
10 October 15th and then last month we took the TRC  
11 recommendations and the input from the Councils and  
12 presented that to the Staff Committee and Alaska  
13 Department of Fish and Game.

14

15 So that's the process we followed for  
16 2003. We're going to review that one last time in terms  
17 of the projects that we're recommending to be funded.  
18 That kind of concludes the process part of the 2003 plan  
19 and now I'd like to move into a quick overview of the  
20 consent agenda and then we'll move into the four non-  
21 consent agenda items.

22

23 The consent agenda is on this yellow  
24 form, you've adopted that as the consent agenda and, of  
25 course, we can provide more details on any of those  
26 projects. But on that consent agenda we have 28  
27 projects. Originally the TRC had recommended 30 of them  
28 and for 28 of them we had complete agreement between the  
29 Technical Review Committee, the Regional Councils and the  
30 Staff Committee, so those 28 projects represented 1.7  
31 million, that is a little higher than what we anticipated  
32 in the call for proposals but we had some cost savings  
33 within the Subsistence Management program where we're  
34 actually able to fund up to 1.8 million in projects. And  
35 those 28 that are on the consent agenda represent 1.7.

36

37 So we got 28 projects on the consent  
38 agenda. I did want to highlight -- I'm not going to go  
39 over all 28 of those, I just wanted to highlight three of  
40 them as kind of some of the examples of the outstanding  
41 projects that we're recommending that you fund on the  
42 consent agenda. The first one is in Southeast Alaska.  
43 And as all of you know, sockeye salmon are very important  
44 for subsistence, there's a lot of smaller systems that  
45 never really have been assessed or not assessed enough.  
46 We have two projects that are on the consent agenda that  
47 are recommended to look at escapements for four systems  
48 near Kake and Sitka. A lot of these projects get to be  
49 very expensive but through the efforts of Doug McBride,  
50 he worked with the Southeast Sustainable Salmon Fund and

00008

1 we obtained matching funds from that organization so that  
2 we could fund both of those studies. So here we're  
3 funding a high priority subsistence species in Southeast.  
4 They're cooperative projects that have the Forest Service  
5 working with the State and tribal organizations. It's  
6 supporting the regulatory program. This is just an  
7 example of two of the projects that you'll be funding if  
8 you approve the consent agenda.

9

10 Secondly, on the Yukon River, there's two  
11 weir projects and one sonar project, these are on the  
12 Eastfork Andreafesky, the Gisasa and the Chandalar  
13 Rivers. These projects were cut out of the Fish and  
14 Wildlife Service's budget, they would not have been  
15 conducted in 2003 without this program. They came to the  
16 monitoring program looking for funding to continue those  
17 high priority projects, they're supported by the in-  
18 season managers and we'll be recommending those three  
19 projects for funding today. So here's an example of  
20 where we're being responsive to the needs of the in-  
21 season manager and ensuring that the information they  
22 need to manage fisheries is available to them.

23

24 Final example is also from the Yukon  
25 River. There's a project on the consent agenda where the  
26 Fish and Wildlife Service Genetics Lab will work with  
27 Yukon River Drainage Fishermen's Association to look at  
28 stock identification of chinook salmon, local knowledge  
29 observations are that there's blueback and whitenose  
30 chinook salmon that are different stocks. So in this  
31 study we're going to, YRDFA will link up with the  
32 Genetics Lab and will do some genetic analysis to look at  
33 the blueback and whitenose chinook salmon. So there's an  
34 example where we're blending western science with  
35 traditional knowledge to support the subsistence  
36 management program.

37

38 So those are just three examples. We  
39 have 28 projects that are equally as important to the  
40 monitoring program in providing for subsistence  
41 fisheries.

42

43 And if you had questions on any of the  
44 other projects we can certainly entertain those. Within  
45 your Board books, you also have descriptions of all of  
46 these 28 projects as well as the non-consent agenda  
47 items.

48

49 Next, I propose that we go into the non-  
50 consent agenda items of which we have four of those. And



00009

1 first I'll ask Dr. Wheeler to address Southeast. The  
2 four projects are going to be in Southeast, regulation  
3 history of Southeast Alaska, Subsistence Salmon Fisheries  
4 Regulations; Prince of Wales Island steelhead and rainbow  
5 trout harvest. The other two non-consent agenda items  
6 are fisheries biotechnician training and Afognak Lake  
7 sockeye salmon assessment and Dr. Fried will address  
8 those when Polly completes her presentation.

9

10 CHAIRMAN DEMIENTIEFF: Yeah, let's take  
11 them one at a time.

12

13 MR. KLEIN: Dr. Wheeler.

14

15 MS. WHEELER: Mr. Chair. The first two  
16 non-consent agenda items are linked so if it's okay with  
17 you I was planning on speaking about them together. I  
18 mean I'll do it one at a time but they are linked.

19

20 CHAIRMAN DEMIENTIEFF: Go ahead.

21

22 MS. WHEELER: Thank you, Mr. Chair. The  
23 regulatory history of Southeast Alaska subsistence salmon  
24 fisheries regulations project is described fully in your  
25 Board book under Pages 13 to 17, so I'm not going to get  
26 into details of the project here. As is noted in your  
27 book and up on the screen, the Technical Review Committee  
28 recommended this project for funding but the Southeast  
29 Regional Advisory Council did not. The Regional Council  
30 did not support this project in large part because they  
31 felt it lacked a sufficient capacity building component  
32 and they also felt that their issues and information  
33 needs regarding regulatory review of subsistence salmon  
34 fisheries regulations had been addressed through a  
35 project previously conducted by the Central Council of  
36 Tlingit and Haida Indian Tribes of Alaska entitled  
37 Regulating Subsistence Fisheries in Southeast Alaska.

38

39 In addition to not recommending this  
40 project for funding, the Southeast Regional Advisory  
41 Council removed regulations review from their issues and  
42 information needs. At the same time the Regional Council  
43 identified Prince of Wales Island steelhead as a top  
44 priority for their issues and information needs.

45

46 In order to address Prince of Wales  
47 steelhead, the Council recommended adding a component to  
48 an existing FIS project, Project 01-105 entitled Klawock  
49 River and Sarcar Lake sockeye salmon harvest use pattern.  
50 The Council recommended adding a component to that

00010

1 project which would collect information on customary and  
2 traditional use of steelhead on Prince of Wales Island.  
3 This project component would begin to address a high  
4 priority information need as defined by the Regional  
5 Council. The principal investigator for that project is  
6 Mike Turek with the Division of Subsistence, Alaska  
7 Department of Fish and Game. He was at that Regional  
8 Advisory Council meeting and he indicated that adding  
9 this additional work to their existing project wouldn't  
10 pose a problem and the proposed modification is described  
11 on Pages 19 to 21 in your Board book. The proposed  
12 modification would address a high priority need and would  
13 be within the realm of the existing project.

14

15 Both the Technical Review Committee and  
16 the Southeast Regional Advisory Council recommended  
17 funding for this project. The project addition, just to  
18 clarify is on the non-consent agenda because it arose out  
19 of the Southeast Regional Advisory Council's  
20 recommendations to one, not fund the regulatory review  
21 project, and, two, to, instead fund the addition to the  
22 existing project which would address Prince of Wales  
23 steelhead. This latter project addition did not,  
24 therefore, go through the normal process since the idea  
25 was developed at the Southeast Regional Advisory Council.  
26 A conceptual proposal has been reviewed by the TRC and  
27 we'll also review the IP.

28

29 Mr. Chair, this effectively addresses the  
30 first two non-consent agenda items.

31

32 Thank you.

33

34 CHAIRMAN DEMIENTIEFF: Thank you. We  
35 have no request for public comments at this time.  
36 Regional Council comment.

37

38 MR. THOMAS: Mr. Chairman. I think the  
39 activities that occurred around these added were covered  
40 by the presenters.

41

42 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
43 Committee recommendation.

44

45 MR. BRELSFORD: Thank you, Mr. Chairman.  
46 The Staff Committee was pleased to receive the package  
47 for the Fisheries Monitoring Program this year and we  
48 take note of the fact that 28 of the projects were on the  
49 consent agenda. That represents a tremendous achievement  
50 in the technical review by the investigators and the

00011

1 scientists and in community review and community support  
2 from the Regional Councils. Where we have a couple of  
3 non-consent agenda items, we were similarly impressed and  
4 appreciative of the problem-solving approach by the  
5 Regional Councils and the Staff in the Fisheries  
6 Monitoring Program.

7

8           So in this instance Staff Committee  
9 concurs with the judgment of the Regional Council and of  
10 the FIS Staff that Project No. 44, the regulatory history  
11 project should not be funded at this time and that,  
12 instead, we should add additional funding for the  
13 monitoring project concerning Prince of Wales steelhead.  
14 The Staff Committee justifications are noted in the book.  
15 I might mention a word from the justification on Page 19  
16 concerning the Prince of Wales steelhead project, we do  
17 believe that there is a sound technical basis to add this  
18 project to an existing project on Prince of Wales Island.  
19 It is out of cycle but we have seen the judgement of the  
20 FIS Staff that this is feasible and appropriate to do and  
21 on that basis we recommend that the regulatory project  
22 not be funded and that the Prince of Wales steelhead  
23 project be funded using, in redirecting that budget  
24 allocation.

25

26           So that concludes the Staff Committee  
27 recommendation on these two items to you.

28

29           CHAIRMAN DEMIENTIEFF: Thank you.  
30 Department comments.

31

32           MS. SEE: Good morning. The Department  
33 supports the Staff Committee recommendation on these two  
34 proposals. We also note that we recognize the potential  
35 usefulness of the regulatory project as noted by the TRC,  
36 but agree with the Staff Committee that it's not the time  
37 to do this particular project.

38

39           Thank you.

40

41           CHAIRMAN DEMIENTIEFF: Board discussion.

42

43

44           MS. GOTTLIEB: Mr. Chair.

45

46           CHAIRMAN DEMIENTIEFF: Yes.

47

48           MS. GOTTLIEB: I guess I have a  
49 procedural question, perhaps, for Steve. We're being  
50 asked about several non-consent agenda items. Is there

00012

1 money for all of them or are we going to have to choose  
2 amongst these for funding?

3

4 MR. KLEIN: The Staff Committee is going  
5 to recommend that you fund three of the four. We can  
6 certainly fund those. There is funding available to fund  
7 all four of that were the wishes of the Board.

8

9 MR. EDWARDS: Mitch.

10

11 CHAIRMAN DEMIENTIEFF: Gary.

12

13 MR. EDWARDS: Steve, as a follow-up to  
14 that, if those projects were not funded and you do have  
15 money for them, then how would that money be used?

16

17 MR. KLEIN: Mr. Edwards. Mr. Chair.  
18 What we've done in the past three years when we've had  
19 surplus funding, we forward funded existing projects to  
20 make that available in the future years. So if we use  
21 that this year, we would fund the -- for projects we  
22 already have approved by the Board, we would fund the  
23 2004 component of those and allow more funding available  
24 for new projects in 2004 with the 2004 funds.

25

26 CHAIRMAN DEMIENTIEFF: Further  
27 discussion.

28

29 (No discussion)

30

31 CHAIRMAN DEMIENTIEFF: If there's none,  
32 we're ready for a motion with regard to Project 03-044.

33

34 MR. BACHOR: Mr. Chairman, I move that we  
35 support the Staff Committee recommendations as presented.

36

37 CHAIRMAN DEMIENTIEFF: Is there a second  
38 to that?

39

40 MR. BISSON: I second it.

41

42 CHAIRMAN DEMIENTIEFF: It's been moved  
43 and seconded. Discussion on the motion.

44

45 (No discussion)

46

47 CHAIRMAN DEMIENTIEFF: Hearing none. All  
48 those in favor of the motion please signify by saying  
49 aye.

50

00013

1 IN UNISON: Aye.

2

3 CHAIRMAN DEMIENTIEFF: Those opposed,  
4 same sign.

5

6 (No opposing votes)

7

8 CHAIRMAN DEMIENTIEFF: Motion carries.

9 01-105.

10

11 MR. BACHOR: Mr. Chairman. I had thought  
12 I voted on both but I also would move to accept the  
13 proposal as recommended to add the money to this  
14 particular proposal.

15

16 CHAIRMAN DEMIENTIEFF: Yeah, that's 01-  
17 105, right?

18

19 MR. BACHOR: Okay, there is a motion, is  
20 there a second?

21

22 MR. BISSON: I second it.

23

24 CHAIRMAN DEMIENTIEFF: Yeah, the motion  
25 actually was to do them one at a time. The combining of  
26 that was in the presentation. Discussion on the motion.

27

28 (No discussion)

29

30 CHAIRMAN DEMIENTIEFF: Hearing none. All  
31 those in favor of the motion please signify by saying  
32 aye.

33

34 IN UNISON: Aye.

35

36 CHAIRMAN DEMIENTIEFF: Those opposed,  
37 same sign.

38

39 (No opposing votes)

40

41 CHAIRMAN DEMIENTIEFF: Motion carries.

42 Okay, Item No. 3, non-consent agenda item No. 3.

43

44 MR. KLEIN: Mr. Chair. Dr. Fried will  
45 present non-consent agenda Items 3 and 4. Dr. Fried.

46

47 MR. FRIED: Thank you. Good morning, Mr.  
48 Chair. Non-consent agenda Items 3 and 4 have a linkage  
49 similar to what we already discussed for Southeast. Item  
50 3 is the fisheries biotechnician program proposal, it's

00014

1 on Pages 23 to 25. And 4 is the Afognak Lake sockeye  
2 salmon assessment project, it's on Pages 27 through 30 in  
3 your books.

4

5           The fisheries biotechnician training  
6 program basically would provide local residents education  
7 and training that they would need to work as fisheries  
8 technicians for Federal and State agencies and other  
9 organizations. It's actually based on a pilot program  
10 that was done by the done by the investigator last year  
11 which was quite successful. It's done in conjunction  
12 with the University of Alaska-Fairbanks, the Bristol Bay  
13 campus and the people that go through the program  
14 actually get university credits for completing it. It's  
15 a pretty intensive three week program.

16

17           It's on the non-consent agenda. The TRC  
18 recommended funding for this. The Bristol Bay, Alaska  
19 Peninsula Regional Advisory Council supported this and  
20 they also recommended funding. The Kodiak/Aleutians  
21 Council, although they saw the value of this and  
22 supported the value of these types of projects, they said  
23 that this was not as high a priority as some other needs  
24 in their region.

25

26           And what happened was is in 2002, there  
27 was a problem that occurred with a subsistence fishery on  
28 Afognak Lake sockeye, it was actually closed and this  
29 occurred after we had received proposals and reviewed  
30 proposals and investigation plans so it was out of cycle,  
31 basically for that. We did work with the investigator.  
32 The investigator was actually at the Council meeting in  
33 the fall. They provided an investigation plan, it was  
34 reviewed by the Technical Review Committee and what this  
35 would do -- the Technical Review Committee actually  
36 supported funding for this project but they also wanted  
37 to see some modifications. And the modified project,  
38 what it would do would be to enumerate the sockeye salmon  
39 smolt migrating out of Afognak Lake in 2003. And it was  
40 considered to be very important because the last three  
41 years this sockeye run has been declining and these smolt  
42 will be produced from some fairly low escapement so it  
43 would be, you know, very valuable information. It was  
44 also looked at as a pilot study, though, because nobody's  
45 ever done a smolt enumeration project on this system.  
46 And while it really seems like it would work, I mean it's  
47 not 100 percent certain so it's a one year pilot study.

48

49           The Kodiak/Aleutians Council thinks this  
50 is their number 1 priority in the region because of what

00015

1 occurred last season. And as I said the Technical Review  
2 Committee also recommended this project be funded and  
3 that's why these two are linked, the fisheries  
4 biotechnician training and the Afognak Lake sockeye  
5 salmon projects.

6

7 If you want further information I could  
8 provide some otherwise that's about all I have to say  
9 right now.

10

11 CHAIRMAN DEMIENTIEFF: Thank you. With  
12 regard to 03-046 is there comments from the Regional  
13 Councils.

14

15 MS. TRUMBLE: Thank you, Mr. Chair. When  
16 we went through this during our meeting and as it was  
17 explained, our concern was funding and what happened with  
18 Afognak Lake. And trying to figure out how we can get  
19 that funding because there was a concern in the region,  
20 and that's why it's in here.

21

22 And as far as the Bristol Bay and the  
23 training, the concern, I think, that came up with that  
24 is, you know, we supported it and felt it was important  
25 but the concern being that the three regions are  
26 technical -- well, they're technically three regions, the  
27 Kodiaks, the Aleutians and Bristol Bay and the large  
28 area, on whether, you know, people in our region would be  
29 able to participate or have more people participate than  
30 having to go through the Bristol Bay region.

31

32 MR. O'HARA: Mr. Chair.

33

34 CHAIRMAN DEMIENTIEFF: Yes.

35

36 MR. O'HARA: You're dealing with Bristol  
37 Bay's biotechnician program?

38

39 CHAIRMAN DEMIENTIEFF: Yeah, the  
40 biotechnician training program.

41

42 MR. O'HARA: All right, I have some  
43 comments on this. My name is Dan O'Hara, Chair of  
44 Bristol Bay Council. And of course, the Bristol Bay  
45 Advisory Council supported this proposal. And you will  
46 notice that when you look at 03-046, that the  
47 participants in this program receive college credit. And  
48 I would assume that the age limit is about junior and  
49 senior in high school. And we, of course, had one of  
50 these young people make a presentation to the Bristol Bay

00016

1 Native Corporation Board of Directors on the success of  
2 this program and it's an exceptional program. That is  
3 one factor I think that is important.

4

5 This is one of the areas where if you  
6 were to think in terms of co-management and sometimes the  
7 local people want co-management and it may not be,  
8 sometimes, the very best thing to do but this would be an  
9 area where co-management would work. They become  
10 educated on the program. This resource becomes their  
11 resource. And I notice that they're dealing with the  
12 young people so this is something that would probably  
13 happen over many generations to come.

14

15 Also the partnership of this program is  
16 pretty impressive. We notice that the Kijik Corporation,  
17 which is your local Native corporation supports this,  
18 tribal council supports, Lake and Peninsula Borough,  
19 Alaska Department of Fish and Game, U.S. Fish and  
20 Wildlife Services and then the University of Alaska. You  
21 have residents of Nondalton, Newhalen, Iliamna, Port  
22 Alsworth. If Port Alsworth supports anything I think you  
23 should have a yes vote because, well, like the people in  
24 the Old Testament who's hand was against every man, and I  
25 like those people, it has nothing to do with liking them  
26 or disliking them, but this is an exceptionally good  
27 program.

28

29 And I think one of the things that Title  
30 VIII should do is that you should really consider the  
31 financial contribution as made in subsistence. And I'm  
32 sure our short-haired, well-shaven Republicans may not  
33 agree on that, but I think this is a very important  
34 issue. You are contributing financially to the area. I  
35 think the bottom line, though, is Bristol Bay has not had  
36 a harvest in the Kvichak in five years and anything we  
37 can do to conserve and educate and figure out what has  
38 happened, why don't we have a return on the smolt in  
39 Bristol Bay is very important. \$22,000, is that, Mr.  
40 Chairman, the amount you're looking at here, Steve?

41

42 MR. FRIED: That's correct.

43

44 MR. O'HARA: Yeah. I think that's a very  
45 well invested amount of money. Thank you, Mr. Chair.

46

47 CHAIRMAN DEMIENTIEFF: Thank you. I  
48 should have noted that we didn't have any request for  
49 public comment with regard to the issue. And with that  
50 we'll move on to Staff Committee.



00017

1 MR. BRELSFORD: Thank you very much, Mr.  
2 Chairman. This is another instance in which the Staff  
3 Committee finds the recommendation of the Staff and the  
4 input from the Bristol Bay Regional Council persuasive.  
5 The benefits of this project have been described. I  
6 think we can characterize it as a demonstration project  
7 that is demonstrating new strengths in science education  
8 and resource conservation education at the very local  
9 level. This is exceptional and is very worth our while.  
10 It is also highly cost-effective as Dan has just noted.

11  
12 Let me add one note and that is that as a  
13 result of the conversation between the two Regional  
14 Councils, the training will be conducted in the Lake  
15 Clark, but residents from the Kodiak/Aleutians region as  
16 well as the Bristol Bay Alaska Peninsula area will be  
17 involved.

18  
19 So the Staff Committee recommends that  
20 funding go forward on this particular proposal.

21  
22 Thank you.

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

26  
27 MS. SEE: Mr. Chair. The Department also  
28 strongly supports this proposal and feels it's a very  
29 good investment in the future.

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

33  
34 MR. EDWARDS: Mr. Chairman, I'd like to  
35 ask Della a question. Della, I attended your meeting  
36 when this project was discussed and as you had indicated,  
37 if I recall, the two concerns were, should we fund this  
38 at the expense of potentially other projects and in this  
39 case the one in question does appear that we're going to  
40 be able to fund it but you also expressed concerns about  
41 the breadth of this and in looking at the transcript, you  
42 know, you had indicated that you could feel a lot  
43 different about it if it could be expanded to a number of  
44 schools and a number of regions. And my sense is that  
45 you were saying that, not only in the terms of your  
46 regions but regions across the state; is that correct?

47  
48 MS. TRUMBLE: Yes, that is correct.

49  
50 MS. GOTTLIEB: Mr. Chair.

00018

1 CHAIRMAN DEMIENTIEFF: Yes.

2

3 MS. GOTTLIEB: This project, as many of  
4 you know, started with the Fisheries Subsistence money  
5 that the National Park Service received after  
6 implementation of the program. And the future goal and  
7 the one we're working on is to have this repeated in  
8 other parts of the state and as has been stated we have  
9 pledged, upon hearing the Regional Advisory Council's  
10 concern that we will recruit more actively this year to  
11 Kodiak/Aleutian areas so some of the students might be  
12 able to participate as well. But it has a demonstration  
13 project that received a lot of praise from the Deputy  
14 Secretary of Interior, he got to see it first hand, hear  
15 about it, and certainly one we'd like to continue and  
16 we'd appreciate the support.

17

18 Thank you.

19

20 CHAIRMAN DEMIENTIEFF: Is there a motion.

21

22 MS. GOTTLIEB: Mr. Chair.

23

24 CHAIRMAN DEMIENTIEFF: Yes.

25

26 MS. GOTTLIEB: I move that we accept the  
27 project 3-046, the biotechnician training program for  
28 funding for this year.

29

30 CHAIRMAN DEMIENTIEFF: Is there a second?

31

32 MR. BUNCH: I second it.

33

34 CHAIRMAN DEMIENTIEFF: It's been moved  
35 and seconded. Further discussion.

36

37 MR. EDWARDS: Mr. Chairman, I plan to  
38 vote in favor of the motion, however, I do, I guess have  
39 kind of a basic concern having to do with, you know,  
40 looking at these kinds of projects. I certainly think  
41 it's a wonderful project, I think it's something that we,  
42 as Federal agencies have an inherent responsibility to  
43 look at opportunities to participate in those. As Ms.  
44 Gottlieb said, not only did the Deputy Secretary visit  
45 and was highly impressed, he even followed that up with a  
46 letter that, I think, went to all the Interior Bureaus  
47 asking them to look into this project and look for ways  
48 that they might be able to participate. And I guess,  
49 from my standpoint, I think, that is the best way to go.  
50 And I guess we're willing to pledge that after this year,

00019

1 we've already assigned somebody who is supposed to be  
2 getting with the Park Service to talk about ways that we  
3 could participate and maybe help fund this program  
4 outside of the subsistence program, which, I guess, I  
5 think is probably where it best should fit.

6

7 CHAIRMAN DEMIENTIEFF: Thank you.

8 Further discussion.

9

10 (No discussion)

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,  
19 same sign.

20

21 (No opposing votes)

22

23 CHAIRMAN DEMIENTIEFF: Motion carries.  
24 03-047, we've already had the Staff presentation. We  
25 have no request for public comments. Regional Council  
26 comment.

27

28 MS. TRUMBLE: Mr. Chair. Della Trumble,  
29 Kodiak/Aleutians. Our Regional Council fully and  
30 strongly supports this. They worked closely with Steve.  
31 There's a lot of concern with Afognak Lake the last three  
32 years and this past year more so after the subsistence  
33 fishery was shut down. And we would really ask that for  
34 the support that this proposal needs, that it gets  
35 passed.

36

37 Thank you.

38

39 CHAIRMAN DEMIENTIEFF: Thank you.  
40 Additional Regional Council comment.

41

42 MR. O'HARA: Mr. Chairman.

43

44 CHAIRMAN DEMIENTIEFF: Yes.

45

46 MR. O'HARA: Dan, Chair of Bristol Bay.

47 I think one of the reasons that Bristol Bay did not  
48 probably make comment on this is we really don't fully  
49 understand, you know, the needs of other regions like the  
50 Regional Council themselves would support it. But any

00020

1 time you see a decline like you've experienced here, I  
2 think that there is no doubt that we would have to  
3 support this proposal.

4  
5 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
6 Committee.

7  
8 MR. BRELSFORD: Thank you very much, Mr.  
9 Chairman. The Staff Committee recognizes the urgent need  
10 to take up this proposal out of cycle and also that the  
11 technical quality of this pilot project is sound and for  
12 those reasons the Staff Committee recommends that the  
13 Board adopt this proposal within the funding package.

14  
15 Thank you.

16  
17 CHAIRMAN DEMIENTIEFF: Thank you.  
18 Department comments.

19  
20 MS. SEE: The Department supports the  
21 Staff Committee recommendation in support of the Regional  
22 Advisory Council for this proposal.

23  
24 CHAIRMAN DEMIENTIEFF: Thank you. Board  
25 discussion and/or action.

26  
27 MR. BISSON: Mr. Chairman, I move we  
28 accept Staff recommendation on this.

29  
30 MR. BUNCH: I second.

31  
32 CHAIRMAN DEMIENTIEFF: It's been moved  
33 and seconded that we approve the Staff Committee  
34 recommendation with regard to Project 03-047. Any  
35 discussion with regard to the motion. Yes.

36  
37 MR. EDWARDS: Mr. Chairman, I just want  
38 to say again, listening to this discussion, if I wasn't  
39 convinced for the need of it prior to that meeting, I  
40 certainly was convinced of the need of it when I left  
41 that meeting. There was certainly a very passionate and  
42 I think a very informative discussion on this particular  
43 project, so I certainly plan on voting in favor of it.

44  
45 CHAIRMAN DEMIENTIEFF: Thank you. Any  
46 other discussion.

47  
48 (No discussion)

49  
50 CHAIRMAN DEMIENTIEFF: Hearing none. All

00021

1 those in favor of the motion please signify by saying  
2 aye.

3

4 IN UNISON: Aye.

5

6 CHAIRMAN DEMIENTIEFF: Those opposed,  
7 same sign.

8

9 (No opposing votes)

10

11 CHAIRMAN DEMIENTIEFF: Motion carries.  
12 Thank you very much.

13

14 MR. KLEIN: Mr. Chair.

15

16 CHAIRMAN DEMIENTIEFF: Yes.

17

18 MR. KLEIN: That concludes the non-  
19 consent agenda items. We still would need approval on  
20 the consent agenda and if there was any questions or you  
21 needed further discussion we would certainly try to  
22 answer those questions. I think we need a motion to  
23 approve. We had a motion to adopt what was on the  
24 consent agenda, to bring about full completion we would  
25 need a motion to approve the 28 projects on the consent  
26 agenda, Mr. Chair.

27

28 CHAIRMAN DEMIENTIEFF: Okay, thank you.  
29 I thought we'd already done it. Is there a motion to  
30 approve the consent agenda items.

31

32 MR. EDWARDS: Mr. Chairman, I move that  
33 we vote to accept all the 28 projects listed on the  
34 consent agreement.

35

36 CHAIRMAN DEMIENTIEFF: Is there a second  
37 to the motion.

38

39 MS. GOTTLIEB: Second.

40

41 CHAIRMAN DEMIENTIEFF: Discussion.

42

43 (No discussion)

44

45 CHAIRMAN DEMIENTIEFF: Hearing none. All  
46 those in favor signify by saying aye.

47

48 IN UNISON: Aye.

49

50 CHAIRMAN DEMIENTIEFF: Those opposed,

00022

1 same sign.

2

3 (No opposing votes)

4

5 CHAIRMAN DEMIENTIEFF: Motion carries.

6

7 MS. GOTTLIEB: Mr. Chair.

8

9 CHAIRMAN DEMIENTIEFF: Yes.

10

11 MS. GOTTLIEB: I'd just like to thank  
12 Steve and the Technical Review Committee and everybody  
13 else for revamping the process a bit and making it a lot  
14 clearer and easier for us to work on this year.

15

16 Thank you.

17

18 MR. KLEIN: Mr. Chair.

19

20 CHAIRMAN DEMIENTIEFF: Yes.

21

22 MR. KLEIN: Ms. Gottlieb. Thank you for  
23 those comments, Judy. We didn't really spend a lot of  
24 time on the 28 projects on the consent agenda and there  
25 really is some great work there and I would make the  
26 offer to the Board or individual members if they wanted  
27 further briefing on what we'll accomplish with those  
28 projects, my Staff and I would be available at any time  
29 to do that.

30

31 Thank you.

32

33 CHAIRMAN DEMIENTIEFF: Sure.

34

35 MS. TRUMBLE: Mr. Chair.

36

37 CHAIRMAN DEMIENTIEFF: Yes.

38

39 MS. TRUMBLE: If I could make one  
40 comment. I wanted to thank the Staff for their work on  
41 the 03-047. They worked closely with the region and the  
42 Council members to get this put together and it was  
43 something of great importance to them. I'd like to thank  
44 Steve for working closely with them on this. Thank you.

45

46 CHAIRMAN DEMIENTIEFF: Thank you. With  
47 that we'll move on in the agenda. Do we have a motion to  
48 adopt the consent agenda items? We'll stand down a  
49 moment

50

00023

1 (Pause)

2

3 CHAIRMAN DEMIENTIEFF: It's a little bit  
4 of a different format than we're used to dealing with and  
5 that's what's confusing me here. I think what we've done  
6 in the past is listed the consent agenda items and given  
7 anybody an opportunity to take those items off of the  
8 consent agenda and then we've approved them at the end is  
9 the way we've done it in the past. So maybe at this time  
10 we'll just go ahead and do as we've done in the past and,  
11 maybe, Tom, you could go through the consent agenda items  
12 or who's going to do that for us?

13

14 MR. BOYD: I can.

15

16 CHAIRMAN DEMIENTIEFF: Yeah, just to list  
17 them and then we will go to -- as opposed to doing it in  
18 two motions, we will just simply approve those items, if  
19 there's no objections to them, at the end of the meeting  
20 like the way we've done it in the past. Okay, go ahead,  
21 Tom.

22

23 MR. BOYD: Thank you, Mr. Chair. I would  
24 refer the Board to the gold handout that was in front of  
25 you on your table, Federal Subsistence Board agenda. And  
26 then on Page 4 of that handout, this is to replace items  
27 that are currently in your Board book. We've modified,  
28 slightly, this particular item so you see there five  
29 items that are listed on the consent agenda.

30

31 These are FP03-21; FP03-11 and FP03-13,  
32 which will be dealt with together. FP03-16; FP03-18 and  
33 FP03-03, all of these are listed as consent agenda items.  
34 The remainder of the proposals would be non-consent  
35 agenda items.

36

37 CHAIRMAN DEMIENTIEFF: Okay, so those are  
38 the consent agenda items and we will adopt at the  
39 conclusion of our meeting, if there's no objections or  
40 request for consideration of those issues. With that  
41 we'll move on to statewide proposals. The first one  
42 FP03-27.

43

44 MR. SHERROD: Thank you, Mr. Chair. The  
45 beginning of the proposal can be found on Page 153, the  
46 commencement of the analysis is on Page 162 in your books  
47 under Tab B.

48

49 CHAIRMAN DEMIENTIEFF: Yes.

50

00024

1 MR. SHERROD: Okay. Proposal 03-27 was  
2 submitted by the Office of Subsistence Management and  
3 requests that the Federal Subsistence Board establish a  
4 statewide regulation allowing the taking of fish for  
5 religious and ceremonial or potlatch purposes. While  
6 Federal Subsistence regulations allow for the taking of  
7 wildlife outside of established seasons and harvest  
8 limits for such purposes, no such provisions exist for  
9 the taking of fish.

10  
11 The first regulatory provisions adopted  
12 by the Federal government contained provisions in Subpart  
13 B allowing the Board to authorize the taking of fish and  
14 wildlife outside of prescribed seasons and harvest limits  
15 for purposes, including, ceremonies and potlatches.  
16 Since that time, the Board has, on a case by case basis,  
17 implemented unit-specific regulations, either through  
18 regulatory changes or special actions allowing for the  
19 taking of wildlife for cultural, education and religious  
20 programs and ceremonies. As of the regulatory year  
21 2002/2003, there were provisions in 13 of the 26 wildlife  
22 and fisheries management units. Although there were no  
23 regulations allowing for the taking of fish for  
24 ceremonial or religious purposes, the Board has, on at  
25 least three occasions, authorized such taking by a  
26 special action. For example, the Board permitted the  
27 harvest of 50 coho salmon for a memorial potlatch in  
28 Sitka and that was under Special Action 01-05.

29  
30 While there is variation between these  
31 unit-specific regulations and that is for wildlife, the  
32 Board has required that the harvesting of these resources  
33 does not violate recognized principles of fish and  
34 wildlife conservation and that the following be provided  
35 to the appropriate Federal manager.

- 36
- 37 1. That information about the  
38 activity and in the case of a  
39 funerary or mortuary ceremony,  
40 the name or names of the  
41 decedents.
  - 42
  - 43 2. Reporting of the species, sex,  
44 number, location and timing of  
45 harvest and the name and  
46 addresses of the harvesters.
  - 47
  - 48 3. Furthermore, the Board has  
49 required that the harvester be a  
50 qualified rural subsistence user



00025

1 for the species and area in which  
2 the harvest occurs. That is, he  
3 has or she has C&T.

4  
5 4. Additionally, in most cases, the  
6 appropriate Federal manager must  
7 be notified prior to attempting  
8 to harvest the resource.

9  
10 The serving of fish and wildlife is  
11 central to Alaska Native ceremonial feasting. Such foods  
12 reaffirm ethnic identity and the tie to the land and  
13 resources. Fresh salmon and steelhead are available only  
14 part of the year for many Alaska Natives. Where  
15 available, they are an important resource for funeral and  
16 mortuary cycles, including memorial potlatches.

17  
18 While most ethnographic descriptions of  
19 potlatches focus on the ritual behavior and the  
20 distribution of material well, that is, blankets, guns,  
21 detail documentation of food is rare. One exception is  
22 Rifle, Blankets and Beads by William E. Simeone. Simeone  
23 records the offering of, and I quote, "pans of Copper  
24 River salmon" at a Tanacross potlatch in the 1980s.

25  
26 All the fisheries management areas have  
27 harvest limits, temporal restrictions or both for some  
28 species of fish. Statewide, however, most fish can be  
29 harvested by subsistence users without restriction and  
30 would not require use of the proposed provisions. The  
31 proposed limit on steelhead and salmon trout would not  
32 equally affect subsistence users in all parts of the  
33 state because of temporal and geographic distributions.  
34 Steelheads have been documented along the Aleutian Chain  
35 but data of their distribution in the Bering Sea is  
36 limited. Salmon are rare north of Kotzebue Sound. In  
37 addition, both are only available in freshwater  
38 seasonally.

39  
40 The affects of the proposal, adoption of  
41 this proposed regulatory change should have minimal  
42 impact on salmon and steelhead populations or other fish  
43 populations.

44  
45 That is the end of my presentation, Mr.  
46 Chair.

47  
48 CHAIRMAN DEMIENTIEFF: Thank you.  
49 Written public comment.

50

00026

1 MR. MATHEWS: Yes, Mr. Chairman. I'm  
2 Vince Mathews, Regional Coordinator with the Office of  
3 Subsistence Management.

4  
5 We received five written comments. One  
6 in support. Two support with modification. And two  
7 opposed.

8  
9 The Copper River Native Association  
10 supports the proposal.

11  
12 The Cordova District Fishermen United  
13 supported it with modification to require a permit  
14 specifying the name of the harvester, their address,  
15 number of species and the date and location of harvest.

16  
17 The Wrangell-St. Elias National Park  
18 Subsistence Resource Commission supported with  
19 modification. Basically they requested that it should be  
20 based on the need, the number of fish, the need to meet,  
21 not 25 listed in the proposal, it could be greater than  
22 that.

23  
24 Ed Warren, II, of Eklutna -- Klukwan,  
25 excuse me, opposes the proposal because he feels the  
26 existing guidelines for subsistence are accommodating.

27  
28 The last one was Tanana Chiefs  
29 Conference. They oppose the proposal because prior  
30 notification is contrary to many cultural practices and  
31 it may hamper the harvester's luck to harvest that  
32 species. They also recommend that it should be a tribal  
33 reporting requirement. There are representatives here  
34 from Tanana Chiefs that may expand upon this.

35  
36 Mr. Chairman, that's all the written  
37 comments that I know of.

38 CHAIRMAN DEMIENTIEFF: Thank you. We  
39 have no request for public comment at this time.  
40 Regional Council comments.

41  
42 MR. THOMAS: Mr. Chairman.

43  
44 CHAIRMAN DEMIENTIEFF: Yes.

45  
46 MR. THOMAS: This is an interesting  
47 proposal. It's a practice that has gone on as long as  
48 fish have been in these waters. And as long as there  
49 were ceremonies within the tribes of Alaska this has gone  
50 on. And I'm not sure what language is going to finally

00027

1 wind up being in the books on this. But if it's not  
2 liberal enough then the people are going to find it  
3 difficult to abide by whatever short allocations are made  
4 with this. The total amount of fish used throughout the  
5 state for these purposes can't even be measured with the  
6 resources that are out there.

7

8           So I think the more liberal language you  
9 could include in there would better meet existing  
10 practices, uses, which are hysterical -- historical --  
11 hysterical, too. And if we're going to use the words  
12 customary and traditional, this certainly falls within  
13 that.

14

15           Thank you, Mr. Chairman.

16

17           CHAIRMAN DEMIENTIEFF: Thank you.

18 Additional Council comments. Ron.

19

20           MR. SAM: Thank you, Mr. Chair. Under  
21 the written comments you notice that the Tanana Chiefs  
22 submitted some comments on recommendations. Because as  
23 so ably stated, us, among the Koyukuk River and some of  
24 the Yukon, we do not like the language as prior to  
25 attempting to take. You know, we usually submit reports  
26 after we've harvested or used these certain species for  
27 our ceremonies, after the taking. We do not like putting  
28 numbers on any of these proposals, especially for  
29 religious ceremonies. Because if you notice, under some  
30 of our micro-managing techniques, the more you try to  
31 micro-manage the more you restrict your subsistence  
32 harvesting and you more or less make outlaws of your own  
33 people just to practice these religious ceremonies.

34

35           Thank you, Mr. Chairman.

36

37           CHAIRMAN DEMIENTIEFF: Thank you. Ralph,

38 you had a comment.

39

40           MR. LOHSE: Thank you, Mr. Chair.

41 Southcentral, to a certain extent concurred with both of  
42 the previous speakers with a little bit different outlook  
43 on it. We, too, didn't feel that a number should be  
44 established on it. For one thing each situation is  
45 different. And we thought that we had in-season managers  
46 and that whoever was involved with taking the fish could  
47 work with the in-season managers to come up with a number  
48 that was sufficient for what their needs were, so we  
49 didn't like the restriction of a number on there.

50

00028

1           We recognized the need for a permit for a  
2 different purpose and that was for the protection of the  
3 person that was taking them. We could see where somebody  
4 who was taking fish for a funerary potlatch and  
5 enforcement would come down on them and it would be  
6 pretty hard for the person taking the fish to prove,  
7 especially in the kind of situation we have in the Upper  
8 Copper, that he was engaged in a legal activity. And so  
9 we looked at the permit as a protection for the purpose  
10 taking the fish not as something that was established for  
11 the purpose of the manager that was issuing it.

12  
13           Our suggestion on that was that the  
14 permits be blank permit forms, remain in all of the  
15 tribal councils and that when a situation like this came  
16 up all they had to do was make a phone call to the in-  
17 season manager. They could get a number, fill in the  
18 permit and the person taking the fish would have the  
19 permit on hand, he wouldn't have to go any place and that  
20 way he would be protected if a Fish and Wildlife  
21 protection officer came along, which is probably more  
22 common in our area than it would be in other areas.

23  
24           We also agree with what Bill Thomas said  
25 on the idea of restriction. And so we looked in Section  
26 B down there, it says the local Federal fisheries manager  
27 may restrict the number of species. We'd like to see  
28 restrict crossed out and put establish. Establish is a  
29 positive word, restrict is a negative word. And I don't  
30 see any reason to have negative words in something like  
31 this when you can write it in a positive manner.

32  
33           And from that standpoint, we supported  
34 the idea that a permit reporting was necessary and permit  
35 could be necessary for the protection of the person  
36 taking it but we, like I said, to reiterate it, we didn't  
37 think there needed to be a pre-established limit because  
38 all situations are different and we think it should be  
39 written in positive language.

40  
41           Thank you.

42  
43           CHAIRMAN DEMIENTIEFF: Thank you.  
44 Additional Regional Council comment. Harry.

45  
46           MR. WILDE: Mr. Chairman, Yukon Kuskokwim  
47 Council, they have been practicing with their elders,  
48 that's why they oppose this. They feel that they're not  
49 applied to Yukon and Kuskokwim, because when somebody has  
50 died or ceremonial purposes, people help each other, a

00029

1 lot of neighbors and others, they brought some food and  
2 fish. They feel that fish is always be available in the  
3 Lower Yukon area, they do use only fish alone itself,  
4 they also use mostly to make what you call (In Native),  
5 use fresh fish, pikes and all those. So they try to  
6 continue follow their customary trade through their  
7 elders.

8

9 CHAIRMAN DEMIENTIEFF: Gerald.

10

11 MR. NICHOLIA: Thank you, Mr. Chairman.  
12 We had quite the discussion on this in our last meeting.  
13 I didn't agree with the notifying the in-season manager  
14 before time because it's against our traditional beliefs.  
15 But the only place that it will affect us in the Eastern  
16 Interior is in the Yukon Flats, that's the only place and  
17 we never really did have no voices from there. But we  
18 supported with the modification.

19

20 And the person, like around Tanana, the  
21 person that really doesn't report nothing but we really  
22 agreed that the tribal government should, like Tanana  
23 tribal government, it's mostly how we go about dealing  
24 with potlatches and stuff in our area.

25

26 That's just what I wanted to say, thank  
27 you.

28

29 CHAIRMAN DEMIENTIEFF: Thank you.

30 Additional comment. Della.

31

32 MS. TRUMBLE: Thank you, Mr. Chair. The  
33 Kodiak/Aleutians did not like the way the limitations  
34 that were listed in here so they had taken those out.  
35 They also inserted local manager and designee to  
36 determine the amount of salmon and/or steelhead to be  
37 taken. And that's basically it.

38

39 CHAIRMAN DEMIENTIEFF: Thank you. Any  
40 other Regional Council comment. Staff Committee.

41

42 MR. JACK: Mr. Chairman. Board members.  
43 You will find the Staff Committee recommendation on Page  
44 159, Tab B.

45

46 In making its recommendation the Staff  
47 Committee recognized the sensitivity of the persons  
48 grieved, that is, with the respect to giving personal  
49 information and also recognizing the people in the  
50 villages can deal with their tribal governments easier.

00030

1           The recommendation is to adopt the  
2 proposal with modification. The proposed regulation  
3 would read:

4  
5           The taking of fish from Federal waters is  
6 authorized outside of published open  
7 seasons or harvest limits if the  
8 harvested fish will be used for food in  
9 traditional religious ceremonies which  
10 are part of funerary or mortuary cycling,  
11 including memorial potlatches provided  
12 that:

13  
14           (a) the person or designee or tribal  
15 government organizing the ceremony  
16 contacts the appropriate Federal  
17 fisheries manager prior to attempting to  
18 take fish to provide the nature of the  
19 ceremony, the parties and/or clans  
20 involved; the species and the number of  
21 fish to be taken and the Federal waters  
22 from which the harvest will occur.

23  
24           (b) the taking does not violate  
25 recognized principles of fisheries  
26 conservation and uses the methods and  
27 means allowable for the particular  
28 species published in the applicable  
29 Federal regulations. The Federal  
30 fisheries manager will establish the  
31 number, species or place of taking, if  
32 necessary, for conservation purposes.

33  
34           (c) each person who takes fish under this  
35 section must, as soon as practical, and  
36 not more than 15 days after the harvest  
37 submit a written report to the  
38 appropriate Federal fisheries manager  
39 specifying the harvesters name and  
40 address, the number and species of fish  
41 taken and the date and location of the  
42 taking.

43  
44           (d) no permit is required for taking  
45 under this section. However, the  
46 harvester must be eligible to harvest the  
47 resource under Federal regulations.

48  
49           The justification is adoption of the  
50 proposal would recognize the importance of fish in

00031

1 traditional ceremonial and religious activities. The  
2 Federal Subsistence program has already established  
3 regulations to allow the taking of wildlife for  
4 ceremonial and religious purposes. This regulation would  
5 extend similar opportunities for the taking of fish.

6

7 The proposed regulatory language provides  
8 flexibility to subsistence users while maintaining the  
9 authority of the manager to establish conditions that  
10 ensure the conservation of salmon and steelhead stocks.

11

12 Thank you.

13

14 CHAIRMAN DEMIENTIEFF: Thank you.

15 Department comments.

16

17 MS. SEE: Mr. Chair. The Department  
18 supports the Interagency Staff Committee recommendation  
19 to modify the original proposal and to thus provide for a  
20 specific fish harvest opportunity for ceremonial use in  
21 Federal waters. As noted by some of the statements from  
22 the Councils this may apply more in some areas of the  
23 state than others because in many situations the fish  
24 that are needed for ceremonial use can be harvested under  
25 existing State subsistence regulations.

26

27 We'd note that we concur with the  
28 recommendation as in the modified proposal for some  
29 specific regulatory approaches. And, in particular, that  
30 there be coordination with local Federal fisheries  
31 managers as well as a type of harvest reporting to  
32 monitor conservation concerns.

33

34 CHAIRMAN DEMIENTIEFF: Thank you. Board  
35 discussion. Gary.

36

37 MR. EDWARDS: I guess I'd like to ask  
38 Carl, it appears that Staff Committee kind of picked and  
39 choosed from the various modifications that were  
40 identified by the various Councils. Were you able to  
41 identify sort of which ones you accepted and which ones  
42 you didn't? For example, the one that Ralph raised about  
43 having to establish or not to establish, it looks like  
44 you adopted that. I'm just trying to understand, what  
45 were the other ones that you adopted?

46

47 MR. JACK: Mr. Edwards. Mr. Chair. As  
48 you note the Regional Councils recommendations are  
49 different. What the Staff Committee did was to try to  
50 synthesize and come up with a reasonable recommendation

00032

1 that it did.

2

3 MS. GOTTLIEB: Mr. Chair.

4

5 CHAIRMAN DEMIENTIEFF: Judy.

6

7 MS. GOTTLIEB: I think the Staff  
8 Committee did a really good job of listening to the  
9 Council suggestions and making changes. I guess I would  
10 want to ask, Ralph, you mentioned specifically it would  
11 be good for a person to have a permit, that's not in here  
12 although the contact between the person and the manager  
13 occurs. So do you see this version as being workable?

14

15 Thank you.

16

17 MR. LOHSE: Again, this comes as part of  
18 the problem with trying to make a statewide regulation  
19 that applies to different situations all over the state.  
20 And in Southcentral, where we have a lot of road access,  
21 we have on the Copper River, for example, five or six  
22 different user groups taking salmon out of the Copper  
23 River. We've come up with ways to try to mark fish, to  
24 differentiate them between subsistence users and State  
25 subsistence users and sportfishermen. We have  
26 enforcement. And all of this is confusing enough to the  
27 enforcement that they've got to try to figure out what  
28 the person is taking the fish under.

29

30 We actually felt that a permit would  
31 protect the person taking the fish because in our area  
32 it's totally possible that somebody may tap you on the  
33 shoulder and say why are you taking these fish and why  
34 are you taking so many over the bag limit for. And, you  
35 know, we've just gone through the same thing on marking  
36 of fish wheels. I know we like in an age with instant  
37 communication and just a phone call away is the tribal  
38 council. We can't even come down on a conclusion on how  
39 to mark our fish wheel with just a number without having  
40 names and addresses on them. We just felt that it would  
41 be totally possible for somebody taking fish under the  
42 terms of one of these without a permit to all of a sudden  
43 have some tall explaining to do and be interrupted in the  
44 process of taking the fish and, you know, you hate to  
45 have to prove you have the legal right to do anything  
46 when there's a law officer standing right there. And the  
47 law officer is not supposed to be the judge as to whether  
48 or not you're doing it legal or not, he's got to have  
49 some kind of evidence that what you're doing is a legal  
50 activity. And that's why we felt that if there could be



00033

1 permits at the tribal council that all they'd have to do  
2 is -- even in the Staff Committee recommendation it calls  
3 for a phone call to the local fisheries manager ahead of  
4 time, that fisheries manager could give them a permit  
5 number, they could write on the permit and they would  
6 have something in their possession to protect them.

7

8           That was our feeling on it.

9

10          Thank you.

11

12          MR. THOMAS: Mr. Chairman.

13

14          CHAIRMAN DEMIENTIEFF: Yes.

15

16          MR. THOMAS: In hopes I'm not out of  
17 order by requesting this time. With all the language I  
18 see in this particular proposal has less to do with the  
19 resource and more to do with the user. And I see  
20 unnecessary focus on managing the user. Because the  
21 resource that's going to be harvested for the use is  
22 defined in this particular proposal are not even going to  
23 be measurable. And to allocate the amount of law  
24 enforcement that you have at hand, the only reason I  
25 could see for this particular proposal is to give law  
26 enforcement something to do. And if they don't have  
27 anything to do maybe there's an area we could save some  
28 funding for managing this program.

29

30          But it's not a real compatible worded  
31 proposal, either for OSM, the Board or the users in  
32 general.

33

34          Thank you, Mr. Chairman.

35

36          CHAIRMAN DEMIENTIEFF: Further  
37 discussion. Tom.

38

39          MR. BOYD: Thank you, Mr. Chair. I'd  
40 like to attempt to ask the question that Mr. Edwards  
41 asked earlier regarding the changes made from the Staff  
42 Committee recommendation, from the proposal. I may not  
43 have caught them all but I will highlight a handful of  
44 those changes for you so you'd have that in your mind.

45

46          Under Item A in the Staff Committee  
47 modification or the proposal itself, I think the  
48 language, the person or designee and we added or tribal  
49 government that was recommended.

50

00034

1           We also removed, I'm not sure where this  
2 is but the requirement for the name of the decedent.  
3 That was also in the proposal, it's not in the Staff  
4 Committee recommendation.

5  
6           We removed the requirement for a  
7 specified number of fish to be harvested or a limit, that  
8 to be determined by the in-season manager.

9  
10          And then the positive language that was  
11 noted by Mr. Lohse, instead of saying restrict to say to  
12 establish, that was in (b).

13  
14          I think, generally, those are the kinds  
15 of changes that were made.

16  
17          Thank you, Mr. Chair.

18  
19          CHAIRMAN DEMIENTIEFF: Further  
20 discussion. If not, I think we're ready for a motion.

21  
22          MS. GOTTLIEB: Mr. Chair.

23  
24          CHAIRMAN DEMIENTIEFF: Yes.

25  
26          MS. GOTTLIEB: I certainly think the  
27 concept here is very good and appropriate and provides  
28 for the conservation of resources as well as  
29 acknowledging the importance of food for traditional  
30 ceremonies. I think that Staff has done a good job of  
31 showing the variety between the regions and that this  
32 wouldn't affect anybody's personal permit. I'm willing  
33 to support it as recommended by the Staff Committee and I  
34 think if there are ways that we can work specifically on  
35 Southcentral's concerns then maybe we can do that  
36 afterwards. So I support as recommended by the Staff  
37 Committee.

38  
39          CHAIRMAN DEMIENTIEFF: Is there a motion  
40 to take action with regard to FP03-27?

41  
42          MS. TRUMBLE: Mr. Chair.

43  
44          CHAIRMAN DEMIENTIEFF: Yes.

45  
46          MS. TRUMBLE: If I might make a point  
47 here. On the first -- on the Staff Committee  
48 recommendations, I think there needs to be an or between  
49 traditional or religious ceremonies. That's the way it  
50 was originally was written. The way this is written is

00035

1 traditional religious ceremonies.

2

3 CHAIRMAN DEMIENTIEFF: Pardon me?

4

5 MR. EDWARDS: Are you still looking for a  
6 motion?

7

8 CHAIRMAN DEMIENTIEFF: Yeah.

9

10 MR. EDWARDS: Mr. Chairman, I move that  
11 we accept the Staff Committee recommendation for Proposal  
12 3-27 with the edit that was just suggested.

13

14 CHAIRMAN DEMIENTIEFF: Which would put an  
15 or between traditional or religious ceremonies?

16

17 MR. EDWARDS: Yes.

18

19 CHAIRMAN DEMIENTIEFF: I just want to be  
20 specific about that. Okay, is there a second to that  
21 motion?

22

23 MR. BUNCH: I second that.

24

25 CHAIRMAN DEMIENTIEFF: Yes, Tom, you had  
26 something?

27

28 MR. BOYD: With regard to the edit and I  
29 just want to make the clarification, I'm not trying to  
30 suggest one or the other, but I think it was  
31 characterized, I may be wrong on that Della, but I think  
32 it was characterized as part of the original proposal,  
33 that the or was in there. I'm not sure that that was the  
34 case. What appears in our books is that it says the  
35 proposed regulation was traditional religious ceremonies,  
36 if that suggestion makes it better, I think is another  
37 matter to consider, but it was not part of the original  
38 proposal.

39

40 MR. BISSON: Mr. Chairman, in reading  
41 that change, by adding or, it really doesn't change the  
42 regulation. It's still for the purposes of funerary or  
43 mortuary cycles and I think that's the driving force  
44 behind the regulation to permit the taking of fish for  
45 this purpose and that doesn't change either way. So I  
46 think the or is fine -- and I second the motion.

47

48 CHAIRMAN DEMIENTIEFF: Okay. Discussion.

49

50 MR. EDWARDS: Mr. Chairman, I do, share,

00036

1 I guess a little bit of Ralph's concerns, particularly  
2 because my understanding is that we're talking about this  
3 activity taking place during a closed season or during  
4 restrictions and with law enforcement folks out there. I  
5 guess that said, I think we probably ought to go forward  
6 with it as written but certainly in our case and, any, I  
7 think, of the Federal agencies who may be enforcing any  
8 of these regulations we certainly need to make sure that  
9 our law enforcement folks understand that this provision  
10 is in place and, you know, just be aware of as they go  
11 about their activities.

12

13 MR. BACHOR: Mr. Chairman, I intend to  
14 vote for this. I have a similar concern having dealt  
15 with similar programs as Mr. Lohse mentioned relative to  
16 programs on firewood permitting for traditional purposes  
17 and that sort thing and I've seen that program work very  
18 well. I don't believe that the proposal eliminates the  
19 possibility of that happening voluntarily if the suer  
20 wants to ensure that they're not going to get into a  
21 situation with a law enforcement officer, perhaps that  
22 could be a voluntary thing. It says no permit is  
23 required, it doesn't say one couldn't be issued in  
24 consultation and agreement with all parties involved.  
25 But I am concerned about that enforcement issues.

26

27 Nevertheless, I still feel that this  
28 proposal provides for a relatively limited harvest for  
29 traditional religious ceremonies and yet, still it allows  
30 local managers to deal with the harvest stipulations and  
31 conservation concerns.

32

33 CHAIRMAN DEMIENTIEFF: Thank you. So let  
34 me see, what agency are we dealing with in terms of and,  
35 in particular, I think Ralph pointed out the Copper  
36 River, who's agency is that?

37

38 MS. GOTTLIEB: Park Service.

39

40 CHAIRMAN DEMIENTIEFF: Park Service.

41

42 MS. GOTTLIEB: And I'm not sure if you're  
43 concerned about lower down the river or not, but  
44 certainly Park Service area on the middle and upper  
45 Copper River.

46

47 MR. BACHOR: The lower river it would be  
48 the Forest Service and maybe -- I don't know about Fish  
49 and Wildlife Service.

50

00037

1 MR. EDWARDS: It certainly would address  
2 the Yukon and Kuskokwim, right, when we have restrictions  
3 on those and what it would do, in my understanding, would  
4 allow take during those restricted periods for these  
5 purposes.

6  
7 CHAIRMAN DEMIENTIEFF: I guess what I'm  
8 getting at is that if we could deal with the Southcentral  
9 Regional Council concerns with regard for a permit by  
10 agencies. And I'm looking for the agencies to see if  
11 that's something that can be done and tailored  
12 specifically for the areas that Southcentral are  
13 concerned about.

14  
15 MS. GOTTLIEB: Mr. Chair, our Federal  
16 fisheries manager will be glad to work with Southcentral  
17 Council and other tribal groups to make arrangements for  
18 a permit system or whatever we end up deciding on.

19  
20 CHAIRMAN DEMIENTIEFF: Yeah, and in  
21 particular I'd point out to the conversation that was --  
22 I'm sorry, who made the point, that it's not required but  
23 it doesn't prohibit for a particular area. And this  
24 particular area is Southcentral where the concern has  
25 been raised. So if we can work that out with the  
26 managing agency to accommodate that concern, does that  
27 seem satisfactory to you Ralph?

28  
29 MR. LOHSE: Mr. Chair. I think that's  
30 very satisfactory. Because like I said this is a case of  
31 trying to make a shoe that's one size fits all and that  
32 doesn't work. I do have a question, if I may ask it?

33  
34 CHAIRMAN DEMIENTIEFF: Go ahead.

35  
36 MR. LOHSE: I was under the impression  
37 from one of your members of the Board up there that this  
38 only applies in times when there aren't any other  
39 resources available. We thought that this would also  
40 apply if the season was open for other resources, that's  
41 where we saw the conflict was -- when salmon come up the  
42 Copper River there's always something open. I mean  
43 that's basically what it boils down to. So if you're  
44 going to be taking salmon for a funerary or mortuary  
45 potlatch, you're going to be taking it at the same time  
46 that there are other seasons and other methods available  
47 for taking it. But this is being taken for a specific  
48 purpose and we didn't look at this as going on, I'll use  
49 the word, somebody's limit out of their own personal  
50 subsistence limit or sport limit or anything on that

00038

1 order. Because we have so many restrictions on the  
2 taking of salmon in the Copper River, different bag  
3 limits for different methods and means and things like  
4 that that we didn't see this as only being applicable  
5 when the season was closed to all other uses. We saw  
6 this as taking part at the same time that other uses were  
7 going on and so that's where you would have the conflict  
8 of whether a person is doing something legal or not.  
9

10 Thank you.

11  
12 CHAIRMAN DEMIENTIEFF: I'm not seeing  
13 anything in the regulation that addresses that, is there  
14 something I'm missing?

15  
16 MR. EDWARDS: No, maybe I can clarify  
17 that, Ralph, no, I think you're right. I think as  
18 written it doesn't just do that but my point is that it  
19 would allow that harvest to take place during those  
20 periods during restrictions. And my guess is that's  
21 where it's going to be probably the most critical time  
22 and so, therefore, you're going to have restrictions on  
23 fishing and then you're going to have a few folks out  
24 there that have been approved to fish for this purpose  
25 and then that's when the issue as to, you know, how do  
26 enforcement folks deal with that and they just need to  
27 make sure that they understand that they could observe  
28 people fishing who are legitimate to fish during a closed  
29 season.

30  
31 CHAIRMAN DEMIENTIEFF: Further discussion  
32 on the motion.

33  
34 (No discussion)

35  
36 CHAIRMAN DEMIENTIEFF: Hearing none. All  
37 those in favor of the motion please signify by saying  
38 aye.

39  
40 IN UNISON: Aye.

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

44  
45 (No opposing votes)

46  
47 CHAIRMAN DEMIENTIEFF: Motion carries.  
48 We're going to take a break.

49  
50 (Off record)

00039

1 (On record)

2

3 CHAIRMAN DEMIENTIEFF: I'm going to call  
4 the meeting back to order. We'll move on to FP03-28.  
5 Staff analysis.

6

7 MR. UBERUAGA: Mr. Chair. Members of the  
8 Board. I'll refer you to Tab B, Page 162. Fisheries  
9 Proposal FP03-28 submitted by the Office of Subsistence  
10 Management would streamline the Federal Subsistence  
11 Board's in-season special action process. State  
12 emergency orders would apply to Federal waters in  
13 instances where the State and Federal managers are in  
14 agreement. In-season special actions would be issued only  
15 when Federal management actions differ from State  
16 management actions. While overall the streamlining may  
17 be good, in some instances there may be exceptions that  
18 require a special action.

19

20 Under this streamlining proposal the  
21 Regional Advisory Council's, subsistence users and the  
22 public would continue to be involved in the Federal  
23 decision-making process. The designated Federal  
24 fisheries managers would continue to consult with  
25 concerned individuals and groups in developing management  
26 recommendations for all State issued emergency orders.  
27 Additionally, Regional Advisory Council members or the  
28 public could appeal management decisions at any time to  
29 the Board if they disagree with the decision.

30

31 Our normal procedures require that each  
32 change we make in the fisheries management take place by  
33 or through a special action. On the Yukon River, for  
34 example, during the 2001 season, 27 special actions were  
35 initiated by the Federal in-season manager, 26 of these  
36 were identical to the State emergency orders. In 2002  
37 the Federal Subsistence Board approved a temporary one  
38 year streamlining of special action process on a trial  
39 basis for the Yukon and Kuskokwim Rivers. This process  
40 is identical to the one proposed here. Discussion with  
41 the in-season managers for the Yukon and Kuskokwim  
42 regions indicate that the streamline special action  
43 approach worked very well. However, for other areas of  
44 the state, the streamlining process may be premature.

45

46 In one region the belief is that the  
47 proposed streamlining places an undue burden on in-season  
48 managers. Another reason the statewide proposal may be  
49 premature that currently there's a Federal/State  
50 Memorandum of Agreement for developing regulatory process

00040

1 protocols for managing fisheries statewide. The hope is  
2 that the successes of what happened on the Yukon and  
3 Kuskokwim Rivers can be built into this Federal/State MOA  
4 protocol approach.

5  
6 With me today I have Mr. Russ Holder and  
7 Robert Sundown, Yukon and Kuskokwim River in-season  
8 managers. Both of them, with your permission would like  
9 to briefly address the Board on this process.

10  
11 CHAIRMAN DEMIENTIEFF: Go ahead.

12  
13 MR. HOLDER: Mr. Chairman. Board  
14 members. Staff. Audience. Thank you for the  
15 opportunity to comment. My name is Russ Holder. I'm the  
16 designated Federal Fisheries manager for the Yukon River  
17 and I'm speaking in support of Proposal FP03-28.

18  
19 During this era of dual management  
20 authority, State and Federal managers in the Yukon River  
21 have worked hard to decrease public confusion regarding  
22 fishery management actions by developing mutually agreed  
23 upon management actions which are announced as joint news  
24 releases. The legal document, which actually temporarily  
25 change the regulations being announced in the news  
26 release are the State emergency orders and the Federal  
27 special actions.

28  
29 The primary issue being addressed by this  
30 proposal is that when State and Federal managers are in  
31 agreement about a management action, the Federal special  
32 action process is largely a duplicate administrative  
33 record. The general public doesn't see them. The  
34 typical time frame doesn't allow for the required  
35 newspaper publication and the publication of the actions  
36 in the Federal Register is often time consuming and does  
37 not fulfill the purpose of informing the public at large  
38 in a timely manner.

39  
40 A second issue is a large amount of Staff  
41 time required by both management and administrative Staff  
42 to process Federal special actions. After the 2001 in  
43 which the in-season manager wrote 26 special actions, a  
44 less time consuming approach called streamlining was  
45 conceived.

46  
47 The streamlining approach still requires  
48 an administrative record be produced by the Federal  
49 manager but the record is more of a memorandum of  
50 agreement to the file rather than a legal document.



00041

1 In testing out the streamlining approach  
2 during this 2002 fishing season and in writing 28  
3 streamlining concurrences, my assistant and I were able  
4 to spend more time actually focusing on assessing the  
5 salmon run and working with State managers on solving  
6 fishery issues rather than writing special actions.

7  
8 Changing the Federal administrative  
9 requirement for documenting a Federal management action,  
10 which is the same as a State regulatory emergency order  
11 action does not alter, change or in any way diminish my  
12 management authority. A Federal special action can be  
13 issued if Federal and State managers disagree.

14  
15 It is my request that you support FP03-28  
16 as recommended and modified by the Staff Committee. I  
17 worked well during the trial period of 2002. It will  
18 allow a more productive use of Staff time and I believe  
19 it has assisted in improving our working relationship  
20 with our State counterparts.

21  
22 Thank you. And I believe Mr. Robert  
23 Sundown of the Yukon-Delta National Wildlife Refuge Staff  
24 has comments on behalf of the Kuskokwim River management  
25 staff.

26  
27 MR. SUNDOWN: Thank you, Russ. Thank  
28 you, Mr. Chair and Members of the Federal Subsistence  
29 Board. My name is Robert Sundown. I'm here representing  
30 Mike Reardon, the manager for the Kuskokwim region, the  
31 Yukon-Delta National Wildlife Refuge.

32  
33 I'm here in support of Proposal 28 for  
34 several reasons.

35  
36 Our goal is to streamline the process and  
37 minimize the bureaucracy that occurs over the course of  
38 the in-season which is an intense short period of time of  
39 intense management for the fisheries. And the primary  
40 goal of this streamlining is to benefit the various user  
41 groups on the Kuskokwim and throughout the Yukon as well.  
42 Any time we minimize the bureaucracy we minimize the  
43 regulatory confusion that is associated with the Federal  
44 and State EO, special action processes. And this is  
45 especially helpful around the somewhat congested areas of  
46 the borders near Aniak and the Kuskokwim Bay region where  
47 a lot of the fisheries occur and you have both, joint  
48 State and Federal waters.

49  
50 This also allows more time to be devoted

00042

1 to harvest resource monitoring projects which the various  
2 Native organizations carry out. And should any special  
3 action requests come about or diversions from State  
4 regulatory proposals come, they would basically come from  
5 the State -- I mean from the harvesting monitoring  
6 projects that come about from the Native organizations.  
7 This would also give us more time to devote on resource  
8 monitoring projects that occur on the various rivers that  
9 we have with weirs and other monitoring projects that we  
10 employ with the Alaska Department of Fish and Game.

11

12 Another reason is we have a strong record  
13 of integrated decision-making. You know, we utilize the  
14 Kuskokwim Salmon Management Working Group which  
15 represents all the user groups on the Kuskokwim, anywhere  
16 from the commercial to the sport user to the subsistence  
17 users. So it's an integrated decision that comes out of  
18 the management action.

19

20 We maintain good communications with  
21 Native organizations such as the Association of Village  
22 Council Presidents, the Kuskokwim Native Association and  
23 the Orutsaramiut Native Corporation. We have regular  
24 meetings with the Alaska Department of Fish and Game  
25 prior to any management actions that occur on the  
26 Kuskokwim River. All of our research and monitoring  
27 projects are going to be determined by the Kuskokwim  
28 Fisheries Resource Coalition which basically is a  
29 combination of, again, all the user groups in our area.  
30 And we determine all of the research and monitoring  
31 priorities that are going to occur on the Kuskokwim.

32

33 You know, for all these reasons the  
34 streamlining of the special actions and emergency orders  
35 would make a great deal of sense.

36

37 And finally, we do reserve our ability to  
38 employ a special action should diversion from State  
39 regulations need by.

40

41 Thank you.

42

43 CHAIRMAN DEMIENTIEFF: Thank you.

44 Written public comments.

45

46 MR. MATHEWS: Yes, Mr. Chairman. The  
47 Board received three written public comments. Two in  
48 support and one to defer.

49

50 The Cordova District Fishermen United

00043

1 support the proposal in the interest of clarity and  
2 consistency.

3

4           The Copper River Native Association  
5 supports the Staff recommendation to adopt the proposal  
6 only for the Yukon and Kuskokwim regions.

7

8           The Wrangell-St. Elias National Park  
9 Subsistence Resource Commission deferred on this  
10 proposal.

11

12           Mr. Chairman, that's all the written  
13 public comments.

14

15           CHAIRMAN DEMIENTIEFF: Thank you. We  
16 have no request for additional public testimony at this  
17 time. Regional Council recommendations.

18

19           MR. THOMAS: Mr. Chairman.

20

21           CHAIRMAN DEMIENTIEFF: Yes.

22

23           MR. THOMAS: For one thing Southeast is  
24 opposed to this proposal. With all due respect to the  
25 presenters, confusion is not a new factor in this  
26 business and there's nothing or anything anybody can do  
27 to remove the element of confusion so long as the  
28 government's involved in management, that's just the way  
29 it is.

30

31           Mr. Chairman, I also have some prepared  
32 statements that I want to share at this time comments  
33 that I would be compelled to share with you, however,  
34 reluctant I feel this will result in approved  
35 communication, understanding and process guidance.

36

37           These comments are prompted to present  
38 them at this time with respect to the arduous efforts  
39 that OSM endured for year to apply requirements of FACA  
40 as you determine to satisfy specific standards of the  
41 Act.

42

43           An observation from Region 1 is that a  
44 majority of recommendations from the RAC has gone down in  
45 defeat due to political preferences rather than good  
46 science. It appears that our Regional Advisory Council  
47 doesn't have credibility at this forum with our level of  
48 local knowledge and experience. Title VIII is written  
49 with the intention of this additional resource of  
50 information because the resources without them have

00044

1 resulted in the State of Alaska losing subsistence  
2 management authority on Federal public lands and waters.  
3

4           When we first implemented ANILCA, which  
5 was 10 years after adopted by Congress, virtually all of  
6 the documents furnished by the Department portrayed  
7 negative characterization of the subsistence community.  
8 The difference between the State and Federal  
9 acknowledgement of subsistence resources was profound.  
10 It reflected an approved future for the subsistence  
11 community. The general comment at that time was that the  
12 Department was hostile towards the subsistence community.  
13 Since then a significant number of Department employees  
14 terminated their employment with the State of Alaska and  
15 assumed responsibilities in Federal Subsistence  
16 management and with that came a certain amount of  
17 potential conflict of interest by way of some family  
18 working for Department and a member of the same family  
19 working in senior positions with OSM. This is a very  
20 unusual scenario in this process.

21  
22           Some things to consider have been  
23 mentioned at this forum almost every time we've met.  
24 Subsistence gathering and needs dictate seasons, bag  
25 limits, methods and means and gear type. Western science  
26 focuses on regulating users and law enforcement and in  
27 most cases regulations criminalize subsistence gathering.  
28 If we are, in fact, assuming responsibility for providing  
29 a continued opportunity for subsistence use as a priority  
30 as worded in Section .801 we need to get serious about it  
31 and recognize and accept the responsible nature of the  
32 majority of subsistence users.

33  
34           We know that there's an explanation for  
35 this observation and assessment but we don't believe it.  
36

37           OSM and the Federal Board is hostage to  
38 political guidance or stand a chance of compromising  
39 their career. We understand that and agree that it is an  
40 unfortunate circumstance. It further impedes practical  
41 stewardship of subsistence use of natural resources.

42  
43           Again, we felt compelled to bring these  
44 observations to your attention. The Board and OSM have  
45 made many gestures to change the configuration of the  
46 initial process. They all appear arbitrary at best. No  
47 specific or scientific justifications have been  
48 presented. This has gone on for so long that it has the  
49 appearance of a locomotive out of control.  
50

00045

1           The most concerning factor that it all  
2 appears to be deliberate in nature and without an  
3 expected motive or anticipated outcome. When we started  
4 this process we started as a team. That seems to have  
5 been replaced with adversary-like counterproductive  
6 efforts. This makes the administration and the  
7 Legislature delighted to have this occur. We don't  
8 expect things to improve as long as this continues we  
9 just wanted to note that it doesn't go unnoticed.

10

11           We see a need for sensitivity and  
12 cooperation from the Federal Subsistence Management Board  
13 to portray the appearance to the subsistence community as  
14 a friendly and supportive while being responsible and  
15 providing continued opportunity as a priority. We  
16 continue to pledge our best representation of Title VIII  
17 to the subsistence community as defined in .801.

18

19           The Regional Advisory Councils are the  
20 only statutory structure in Title VIII. We need to keep  
21 that in mind and support them accordingly. Should you  
22 feel compelled to discuss this issue with the Regional  
23 Chairs or the Southeast region we're at your disposal.  
24 We would, however, appreciate any initial response in  
25 writing so that individual RACs can appropriate  
26 deliberate any follow-up, if necessary.

27

28           Mr. Chairman, thank you for allowing me  
29 this time to share those comments with you. But Region 1  
30 opposes adoption of this proposal.

31

32           Thank you, Mr. Chairman.

33

34           CHAIRMAN DEMIENTIEFF: Thank you. Other  
35 comments. Ron.

36

37           MR. SAM: Thank you, Mr. Chairman. We  
38 understand the huge task in front of us because,  
39 especially on the Yukon River where we have the  
40 checkerboarding effect on Federal lands and Federal  
41 waters versus State lands and State waters.

42

43           We feel that, and this is in my home  
44 region, especially the Koyukuk River, that we have huge,  
45 huge Federal land holdings therefore Federal waters. And  
46 I guess we felt comfortable with any supersession by the  
47 Federal special action teams that would go into effect,  
48 that we felt fairly comfortable with this and that's why  
49 we supported it with modification.

50

00046

1 Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Harry.

4

5 MR. WILDE: Mr. Chairman. Yukon-  
6 Kuskokwim Delta Regional Advisory Council recommend that  
7 support with modification. Yukon-Kuskokwim Regional  
8 Council support proposal No. 28 with the Staff  
9 modification. I also see the regulatory wording shows  
10 with the recommendation.

11

12 CHAIRMAN DEMIENTIEFF: Thank you. Other  
13 Regional Council comments.

14

15 MS. CHIVERS: Mr. Chair.

16

17 CHAIRMAN DEMIENTIEFF: Go ahead.

18

19 MS. CHIVERS: I'm Michelle Chivers. I'm  
20 the coordinator for the Northwest Arctic Regional  
21 Advisory Council. My acting Chair regrets being unable  
22 to be here, Raymond Stoney and Enoch Schiedt will be  
23 showing up later this morning so I'll go ahead and read  
24 the Northwest Arctic Council recommendation.

25

26 They did not make a recommendation on  
27 this proposal. The Council chose to leave this  
28 recommendation to Councils affected by this proposal.

29

30 Thank you.

31

32 CHAIRMAN DEMIENTIEFF: Barbara, you had  
33 something.

34

35 MS. B. ARMSTRONG: Yes, I do, Mr. Chair.  
36 Coordinator for Seward Penn. Grace Cross was not able to  
37 attend this Federal Board at this time.

38

39 Seward Peninsula region wish to support  
40 the Yukon-Kuskokwim region on this proposal because it  
41 affects two of their communities which is Stebbins and  
42 St. Michael and they support it with modification to  
43 read:

44

45 For the Yukon and Kuskokwim areas,  
46 Federal subsistence fishing schedules,  
47 openings, closings and fishing methods  
48 are the same as those issued for the  
49 subsistence taking of fish under Alaska  
50 emergency orders unless superseded by a

00047

1 Federal special action.

2

3 Thank you, Mr. Chair.

4

5 CHAIRMAN DEMIENTIEFF: Thank you. Any  
6 other Regional Council comment.

7

8 (No discussion)

9

10 CHAIRMAN DEMIENTIEFF: If not, we'll go  
11 to Staff Committee recommendation.

12

13 MR. JACK: Mr. Chairman. Board members.  
14 You will find the Staff Committee recommendation on Page  
15 173. The recommendation is to adopt with modification to  
16 apply only for the Yukon and Kuskokwim area at this time  
17 consistent with the Yukon Kuskokwim-Delta, Western  
18 Interior and Eastern Interior Regional Council  
19 recommendations.

20

21 Allow the current Federal/State in-season  
22 protocol effort to develop operating guidelines and  
23 recommendations for the statewide implementation.  
24 Regulatory wording would read as follows:

25

26 Appropriate section will be inserted in  
27 this:

28

29 For the Yukon and Kuskokwim areas.  
30 Federal Subsistence fishing schedules  
31 openings, closings and fishing methods  
32 are the same as those issued for the  
33 subsistence taking of fish under the  
34 Alaska State emergency order -- and it  
35 cites the appropriate section there --  
36 unless superseded by a Federal special  
37 action.

38

39 The justification. In adopting a  
40 proposed regulation the Board will make permanent for the  
41 Yukon and Kuskokwim areas, the streamlined approach  
42 implemented on a trial basis in these areas during the  
43 2002 fishing season. Informal evaluation to date have  
44 not identified any concerns with the process and it  
45 appears that cooperation and coordination is in place.

46

47 The one year trial for the Yukon and  
48 Kuskokwim areas has reduced redundancy and confusion  
49 concerning in-season fishery management actions and  
50 should be adopted permanently at this time for these two

00048

1 reasons.

2

3           The purpose of the original proposal was  
4 to streamline the special action process on a statewide  
5 basis, however, applying this regulation statewide  
6 appears premature at this time due to concerns from some  
7 regions regarding possible unintended consequences.  
8 Implementing this regulation in the Yukon and Kuskokwim  
9 area provides a model for developing the statewide  
10 approach through the current Federal/State In-season  
11 Management Protocol. This approach will also allow other  
12 Regional Advisory Councils to comment and contribute more  
13 fully to the efforts of the in-season management protocol  
14 working group which are anticipated to conclude in 2003.

15

16           Mr. Chairman, that concludes the Staff  
17 Committee recommendations.

18

19           CHAIRMAN DEMIENTIEFF: Thank you.  
20 Department comments.

21

22           MS. SEE: Mr. Chair. Members of the  
23 Board. Chairs of the Councils. We support the original  
24 proposal but we concur with the Interagency Staff  
25 Committee recommendation as an interim step.

26

27           The Department does support streamlining  
28 the special action process where special actions are  
29 issued only in-season when Federal management actions  
30 differ from State management actions. Under this  
31 provision whenever State and Federal managers agree on  
32 subsistence fishing management actions then one emergency  
33 order applies to both State and Federal waters.

34

35           Currently in practice on the Yukon River,  
36 this approach has successfully promoted a more  
37 coordinated management approach for State and Federal  
38 managers. We feel that it provides efficient, timely and  
39 clear information to the public and it provides -- it  
40 coordinates legal notices regarding identical management  
41 actions.

42

43           As an initial step toward achieving these  
44 goals, we do support the Interagency Staff Committee  
45 recommendation to adopt this proposal now for only the  
46 Yukon and Kuskokwim River drainages. But we really want  
47 to emphasize that we will continue our efforts to work  
48 with Federal Staff and all the public to implement this  
49 proposal on a statewide basis given the benefits that we  
50 believe it does provide.



00049

1           Also, just as a small editorial note,  
2 from the original proposal to the modified version there  
3 is a correction which is needed to note that the  
4 emergency orders are in statute so that's essentially  
5 what the correction does compared to the original  
6 version.

7  
8           Thank you.

9  
10           CHAIRMAN DEMIENTIEFF: Thank you. Board  
11 discussion.

12  
13           MS. GOTTLIEB: Mr. Chair.

14  
15           CHAIRMAN DEMIENTIEFF: Yes.

16  
17           MS. GOTTLIEB: I'd like to thank Russ and  
18 Robert for taking the time to come testify today and I  
19 know the efforts this past summer were on a learning  
20 curve but I think we did, really very well, and I would  
21 concur with everyone that the efforts so far are  
22 progressing with Yukon and Kuskokwim, that would be a  
23 good place to start.

24  
25           So I would move that we adopt the Staff  
26 Committee recommendation and begin this system just on  
27 the Yukon and Kuskokwim and strongly encourage the  
28 protocol working group to continue working towards  
29 additions.

30  
31           CHAIRMAN DEMIENTIEFF: We have a motion  
32 to adopt the Staff Committee recommendation with regard  
33 to Proposal FP03-28, is there a second?

34  
35           MR. BACHOR: I second.

36  
37           CHAIRMAN DEMIENTIEFF: Discussion.

38  
39           MR. EDWARDS: Mr. Chairman, I certainly  
40 agree. I think the pilot study has worked extremely well  
41 and it's at this point it's time to go forward to the  
42 next step in making it permanent. As we heard from our  
43 two in-season managers, I think they're very supportive  
44 of it, both, in the context that it still allows them to  
45 be, you know, a major player and allows to delegate  
46 special actions down to them but at the same time will  
47 free them up to provide better service to all users with  
48 regards to the program.

49  
50           CHAIRMAN DEMIENTIEFF: Thank you.

00050

1 Further discussion.

2

3 (No discussion)

4

5 CHAIRMAN DEMIENTIEFF: Hearing none. All  
6 those in favor of the motion please signify by saying  
7 aye.

8

9 IN UNISON: Aye.

10

11 CHAIRMAN DEMIENTIEFF: Those opposed,  
12 same sign.

13

14 (No opposing votes)

15

16 CHAIRMAN DEMIENTIEFF: Motion carries.  
17 With that we'll move onto Southeast. We have Proposal  
18 FP03-20.

19

20 MR. CASIPIT: Thank you, Mr. Chairman,  
21 Board members, Council Chairs. The materials in the  
22 Board book for this proposal FP03-20 starts on Page 187  
23 in your book behind Tab C.

24

25 Proposal 20 was submitted by the Sitka  
26 Tribe of Alaska. They request closing the Redoubt Lake  
27 watershed and part of Redoubt Bay to sockeye salmon  
28 fishing except by Federally-qualified subsistence  
29 fishermen under terms of a Federal subsistence fishing  
30 permit. The proponent also requests changes to the  
31 sockeye salmon harvest limits, open seasons and methods  
32 and means.

33

34 The proponent believes that Federal  
35 jurisdiction should extend into marine waters and the  
36 entire fishery should be managed under a Federal fishing  
37 permit. The proponent is concerned about conflicts with  
38 non-Federally-qualified users, conflicting State and  
39 Federal regulations and reductions in the resource.

40

41 To where you this is a little bit Redoubt  
42 Lake is located on Baranof about nine nautical miles  
43 south of Sitka. The Federal Subsistence Board, in their  
44 December 2001 meeting adopted regulations for the  
45 management of sockeye in the fresh waters of Redoubt  
46 Lake. These regulations were in response to a proposal  
47 submitted by Sitka Tribe of Alaska in that regulatory  
48 cycle. On July 26th of this year, the Federal  
49 Subsistence Board removed the Federal regulations at  
50 Redoubt which reopened sockeye fishing to all users, this

00051

1 action was in response to above average projected  
2 escapements and presently there are no specific Federal  
3 regulations pertaining to Redoubt.

4

5 I wanted to touch a little bit on State  
6 and Federal proposed regulations, just kind of summarize  
7 things that appears in your Staff analysis. Allowable  
8 fishing gear is the same under State and Federal  
9 regulations except that rod and reel is allowed under  
10 Federal regulations but not under State regulation.  
11 Federal and State open seasons are the same while the  
12 proposal asks for a year-round open season under Federal  
13 regulations. The bag limits vary between the State and  
14 Federal bag limits and what the proponent requests. The  
15 proponent is asking for a daily limit of 25 sockeye and  
16 an annual limit of 50 sockeye. Federal regulations have  
17 a household possession limit of 10 sockeye with no annual  
18 limit and the State subsistence regulations allow a  
19 possession limit of 10 and an annual limit of 50 fish per  
20 individual or household. The State sportfishing daily  
21 limit is six per day and 12 in possession.

22

23 The biological background. A weir has  
24 been operated by the United States Forest Service and the  
25 Alaska Department of Fish and Game on the outlet of  
26 Redoubt Lake nearly every year since 1981. Sockeye  
27 escapement is trending up, however, the 2000 and 2001  
28 escapements were just short of 3,000 fish in 2000 and  
29 3,600 fish in 2001 despite the early season closures of  
30 sport and subsistence fisheries in those years. The  
31 total escapement for 2002 is much improved and nearly  
32 24,000 sockeye, this escapement is above the average  
33 annual escapement of 21,000 sockeye during the period of  
34 1982 to 2001.

35

36 The effect of the proposal. In regards  
37 to jurisdiction, the Federal Subsistence Board does not  
38 have the authority to extend Federal jurisdiction into  
39 marine waters. With respect to the freshwater fishing  
40 closure, ANILCA, Section .815, Subparagraph 3 does not  
41 allow the restriction of non-subsistence uses unless  
42 necessary for the conservation of healthy populations of  
43 fish and wildlife or to continue subsistence uses of such  
44 populations. Overall the harvest of sockeye salmon in  
45 this system by non-Sitka resident subsistence users and  
46 non-State resident sport users from 1984 to 2001 was low,  
47 about three-tenths of a percent of the terminal sockeye  
48 run. Closing the freshwater to all but Federally-  
49 qualified subsistence users will not noticeably benefit  
50 subsistence users or increase escapement, therefore the

00052

1 proposed closure would unnecessarily restrict non-  
2 Federally-qualified users.

3

4 In terms of Federal permit requirement.

5 If this proposal were adopted, Federally-qualified  
6 subsistence users would have to obtain a Federal  
7 subsistence fishing permit to fish in fresh water. This  
8 would be in addition to an ADF&G subsistence fishing  
9 permit to fish in marine waters and freshwater. Dual  
10 harvest reporting will result in reduction in data  
11 quality of the harvest reporting system and a confusion  
12 of fishermen. An additional source of confusion is  
13 differing State and Federal fin removal requirements on  
14 harvested sockeye.

15

16 In regards to harvest limit, the

17 proponent is requesting a daily limit of 25 sockeye per  
18 household. The number of dipnet fishing sites is very  
19 limited at the falls, in years of lower sockeye abundance  
20 a lower daily limit of 10 would allow protection of the  
21 stock, help reduce crowding of the users and reduce the  
22 need for in-season action by managers. In years of  
23 higher sockeye abundance, State managers have the in-  
24 season authority to increase the daily limit to 25  
25 sockeye per day. Federal managers would have the same  
26 flexible if this proposal were not adopted.

27

28 Hopefully Board members have distributed  
29 to them the draft State management plan that's being  
30 developed, that has been developed by the Sitka Advisory  
31 Committee. The intent of this proposal -- well, the  
32 State Board of Fish proposal No. 115 seeks to develop  
33 this management plan for Redoubt sockeye. The task force  
34 was consisted of local users representing diverse  
35 interests. It has met throughout the fall to develop an  
36 escapement based management plan. The consensus plan was  
37 drafted by the task force and was presented to the Sitka  
38 Fish and Game Advisory Committee on December 5th, 2002.  
39 The Committee voted unanimously 11-0 to support the plan  
40 developed by the task force. The State Board of Fish  
41 will consider the plan in their January or possibly  
42 February meeting and Federal staff attended task force  
43 meetings and provided information to aid the task force  
44 members in development of this management plan.

45

46 I just wanted to key in on some of the  
47 features of the Redoubt -- of this draft plan before the  
48 State Board of Fish. This plan has a draft biological  
49 escapement goal of 10,000 and 25,000 sockeye.  
50 Conservation of the resource is the top priority.

00053

1 Subsistence users have priority over other uses.  
2 Allowable uses would be managed based on projected  
3 sockeye escapement. Bag limits would increase as  
4 projected escapements increases. Rod and reel would be  
5 allowed as a subsistence harvest method under State  
6 regulation. Snagging of sockeye would be allowed in  
7 marine waters as a subsistence harvest method. The  
8 length of the open season is longer. And community  
9 harvest permits would be allowed as escapements  
10 increased.

11  
12 The sockeye resource at Redoubt will  
13 benefit from an escapement management plan that is  
14 accepted and supported by the users. Subsistence users  
15 will have a clear priority under the plan. With the  
16 State plan in place the need for additional Federal  
17 regulations should be minimized if not eliminated. This  
18 will result in less conflict between State and Federal  
19 management and ultimately less confusion for all users of  
20 Redoubt sockeye.

21  
22 And that concludes my presentation.

23  
24 CHAIRMAN DEMIENTIEFF: Written public  
25 comments.

26  
27 MR. SCHROEDER: Mr. Chairman, we have one  
28 written public comment.

29  
30 The Southeast Alaska Seiners oppose  
31 extending Federal jurisdiction into marine waters near  
32 Redoubt Bay. They also don't believe that a restriction  
33 on non-subsistence harvest is necessary at this time.

34  
35 Those are all the written public  
36 comments.

37  
38 CHAIRMAN DEMIENTIEFF: Thank you. We  
39 have no request for additional public testimony at this  
40 time. Regional Council comments.

41  
42 MR. THOMAS: Thank you, Mr. Chairman.  
43 Southeast Regional Council recommendation is to support.  
44 I might add that 50 sockeye annual harvest is really a  
45 conservative use of the species.

46  
47 Of all the salmon that are used in  
48 Southeast, the sockeye is one of the most versatile  
49 species down there for their methods and means of  
50 preserving and using. So the presentation gave you a

00054

1 very good overview and should be considered.

2

3 Thank you.

4

5 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
6 Committee recommendation.

7

8 MR. THOMPSON: Mr. Chairman, the Staff  
9 Committee recommends rejecting the portion of the  
10 proposal that relates to the extension of Federal  
11 jurisdiction into marine waters and rejecting the closing  
12 of freshwater to all but Federally-qualified subsistence  
13 users. We also recommend deferring that portion of the  
14 proposal requesting changes in the sockeye salmon harvest  
15 limit, methods and means as will be addressed in the  
16 management plan by the State Board of Fish later this  
17 spring.

18

19 Our justification for making this  
20 recommendation is as follows: The Federal Subsistence  
21 Board does not have the authority to extend Federal  
22 jurisdiction into marine waters and, therefore, the  
23 marine waters portion of this proposal is outside the  
24 scope of the analysis that was presented to you.

25

26 ANILCA Section .815 (3) does not allow  
27 the restriction of non-subsistence uses unless necessary  
28 for the conservation of healthy populations of fish and  
29 wildlife or to continue subsistence uses of such  
30 populations.

31

32 In the case of Redoubt, the projected  
33 escapement for 2002 is above the average annual  
34 escapement of 21,841 sockeye during the period of 1982 to  
35 2001. Closing the freshwater to all but Federally-  
36 qualified subsistence users is not necessary to continue  
37 subsistence uses or for the conservation of a healthy  
38 sockeye population. Redoubt Lake sockeye are closely  
39 monitored using stock assessment information and in-  
40 season management authority local Federal and State  
41 fisheries managers are in the best position to protect  
42 the stock. Codifying regulations on systems such as  
43 Redoubt would reduce the flexibility of managers to  
44 respond to the needs of subsistence users and changes in  
45 sockeye abundance as they become aware of those returning  
46 runs.

47

48 As Mr. Casipit pointed out the management  
49 plan which was just recently released, December 5th by  
50 the Sitka Fish and Game Advisory Committee recommends

00055

1 seasons, harvest limits, methods and means. The plan is  
2 developed and recommended by a planning group consisting  
3 of local people who represented all user interests and it  
4 will be considered -- we understand it will be considered  
5 by the Board of Fish in their spring meeting.

6

7 Staff Committee recommends deferring that  
8 portion of the proposal until the Board of Fish acts on  
9 the management plan and its recommendations so that you  
10 would have the opportunity to consider the outcome of the  
11 Board of Fish action and the wisdom of aligning Federal  
12 regulations with whatever the Board of Fish adopts.

13

14 Thank you, Mr. Chairman.

15

16 CHAIRMAN DEMIENTIEFF: Department  
17 comments.

18

19 MS. SEE: Mr. Chair. Board members.  
20 Council Chairs. We support the interagency Staff  
21 Committee recommendation which has two elements of  
22 addressing -- addresses two elements of this proposal.

23

24 Regarding harvest methods and means, we  
25 support deferring that portion. And the reason for that  
26 is when it comes to the portion about Redoubt Bay sockeye  
27 salmon, there is a locally-based process already going on  
28 that is specifically intended to propose solutions to  
29 local concerns and present these to the Alaska Board of  
30 Fisheries. A task force of representatives of Redoubt  
31 salmon user groups will be addressing the issues raised  
32 in this proposal and they will be submitting the sockeye  
33 management plan to the Board.

34

35 We support and strongly support the  
36 concept of local residents working to resolve user  
37 conflicts within a fishery. We also believe that  
38 consideration by the Alaska Board of Fisheries is the  
39 next step to consider all uses and to propose ways to  
40 respect and balance those uses.

41

42 Regarding the second portion of this  
43 proposal, the closure in marine waters, we do not support  
44 that portion. The Federal Subsistence Board does not  
45 have authority to regulate fisheries within State and  
46 marine waters as has been noted in previous comments.

47

48 Thank you.

49

50 CHAIRMAN DEMIENTIEFF: Thank you. Board

00056

1 discussion. Gary.

2

3 MR. EDWARDS: Mr. Chairman, I'd like to  
4 ask Mr. Thomas, what his thoughts are with regard to this  
5 Redoubt sockeye task force, both their workings and the  
6 products they've produced.

7

8 MR. THOMAS: Thank you, Gary. The  
9 information I got is an in progress report as to what  
10 they're doing. They have a group in Sitka that is  
11 working extensively on this trying to come up with --  
12 they're trying to design their approach and management of  
13 Redoubt the most effective way for the fluctuation of the  
14 escapement that Redoubt has been experiencing. And so I  
15 think with the information that you have before you at  
16 this time is that the information that comes from the  
17 working group in Sitka, which is before you, is a good  
18 model to go by.

19

20 CHAIRMAN DEMIENTIEFF: Any other  
21 discussion.

22

23 MR. BACHOR: Mr. Chair, I think I should  
24 take the opportunity to emphasize what the Staff  
25 Committee already said, so I won't go into detail, but I  
26 think it's important to look at the State sponsored local  
27 cooperative management plan and give that a chance to  
28 come to fruition. I also think that at this point in  
29 time there is no conservation reason to close the  
30 portions of Redoubt Bay as proposed.

31

32 I also want to reemphasize that the  
33 Federal government is in court over the jurisdictional  
34 issues relative to the marine waters so I also think that  
35 we need to keep this in mind.

36

37 Because of those reasons I intend to vote  
38 against Proposal 20.

39

40 CHAIRMAN DEMIENTIEFF: Further  
41 discussion. Do we have a motion then?

42

43 MR. BACHOR: I would like to propose a  
44 motion. I move to reject the proposed extension of the  
45 Federal boundaries in Redoubt Bay and reject the proposed  
46 restriction on non-subsistence users. Further to defer  
47 proposed changes to seasons, harvest limits, and methods  
48 and means pending State Board of Fish action on the State  
49 sponsored management plan.

50



00057

1 CHAIRMAN DEMIENTIEFF: Is there a second  
2 to the motion?

3

4 MR. BISSON: Second.

5

6 CHAIRMAN DEMIENTIEFF: Further  
7 discussion.

8

9 MS. GOTTLIEB: Mr. Chair.

10

11 CHAIRMAN DEMIENTIEFF: Yes.

12

13 MS. GOTTLIEB: Well, I would commend the  
14 efforts of the task force and maybe we can find out when  
15 we can get a report back then how it ends up and what the  
16 Board of Fisheries decides to do.

17

18 MR. VINCENT-LANG: Well, I would love to  
19 be able to project what the Board of Fisheries is going  
20 to do but I can't even project who the Board of Fisheries  
21 members are right now. We'll report back to you, they're  
22 scheduled to take this up in either January or February.  
23 I think it's January, the subsistence group, so we'll  
24 report back to you some time after that at your next  
25 meeting.

26

27 CHAIRMAN DEMIENTIEFF: Further  
28 discussion.

29

30 (No discussion)

31

32 CHAIRMAN DEMIENTIEFF: Hearing none. All  
33 those in favor of the motion please signify by saying  
34 aye.

35

36 IN UNISON: Aye.

37

38 CHAIRMAN DEMIENTIEFF: Those opposed,  
39 same sign.

40

41 (No opposing votes)

42

43 CHAIRMAN DEMIENTIEFF: Motion carries.  
44 Proposal FP03-22, are these all linked?

45

46 MR. CASIPIT: Mr. Chairman, yes, all the  
47 proposals are covered by one Staff analysis.

48

49 CHAIRMAN DEMIENTIEFF: Okay, good. Go  
50 ahead, with the Staff analysis.

00058

1 MR. CASIPIT: Thank you. Mr. Chair.  
2 Members of the Board. Council Chairs. The materials for  
3 these proposals begin on Page 217 behind Tab C and  
4 continue to the end at Tab D.

5  
6 Proposals 22, 23, 24 and 25 request  
7 modification of the current Federal subsistence  
8 regulations for steelhead on Prince of Wales Island.  
9 Proposal 26 requests the closure of steelhead fishing by  
10 both Federally-qualified and non-Federally-qualified  
11 users on Prince of Wales Island.

12  
13 A little on the regulatory history. All  
14 steelhead harvest occurred either incidentally in  
15 subsistence and commercial fisheries or under sportfish  
16 regulations. Prior to 1994, the regulation was one fish  
17 per day, any size and since 1994, sport regulations have  
18 changed to one fish per day, two annually, 36-inches or  
19 greater. The daily limit can be two fish if one is a  
20 hatchery fish as evidenced by a healed atopol scar.  
21 There are no size restrictions for a hatchery steelhead.

22  
23 Commercial fishing regulations were also  
24 changed during the 1994 cycle prohibiting the sale of net  
25 caught steelhead. These fish, however, may be retained  
26 for personal use. The trawl fishery was not restricted  
27 and may still sell steelhead.

28  
29 Federal regulations. During the fiscal  
30 year 2001 fishing regulatory cycle, the Federal  
31 Subsistence Board allowed fishing for steelhead on Prince  
32 of Wales Island by modifying PF01-23. Essentially that  
33 regulation put in place the sportfish regulation or State  
34 regulation as Federal subsistence regulations.

35  
36 During the fiscal year 2002 fisheries  
37 regulatory cycle the Federal Subsistence Board rejected  
38 FP02-40 and this proposal was very similar to FP-123.

39  
40 On Prince of Wales Island steelhead are  
41 present in 74 systems. Peak numbers of steelhead are  
42 present in April and May and are represented by two  
43 stocks of steelhead, a fall run and a spring run and the  
44 spring runs are dominate.

45  
46 Available information for Prince of Wales  
47 Island steelhead is very limited. Since 1994, both the  
48 Alaska Department of Fish and Game and United States  
49 Forest Service has initiated snorkel surveys of some  
50 Prince of Wales Island systems. How well these counts

00059

1 indicate trends is unknown as very little data has been  
2 collected to relate peak counts to actual escapements.  
3 Actual population numbers are unknown as well. Tentative  
4 escapements for some Prince of Wales Island systems were  
5 estimated in the 1980s. No predictive models have been  
6 developed to determine harvestable surplus but a model  
7 developed for the Karluk River has suggested that harvest  
8 could range between 9.8 to 29 percent. Prince of Wales  
9 Island potential sustainable exploitation may be near the  
10 lower end of this model approximately at 10 percent.

11

12           Length data for Prince of Wales Islands  
13 is lacking. Table 2 of your analysis shows a sample of  
14 1,075 steelhead that suggests only six-tenths of a  
15 percent are larger than 36-inches. Since these lengths  
16 are derived mainly from one system, the Carta, actual  
17 length composition for Prince of Wales Island may not be  
18 fully representative plus length frequency may vary year  
19 by year and by system.

20

21           Habitat changes from past logging  
22 practices may be having an effect on steelhead. There  
23 have been no long-term monitoring projects implemented so  
24 any negative impacts on Prince of Wales Island systems  
25 are unknown.

26

27           For harvest history, household  
28 subsistence harvest surveys displayed on Table 3 in your  
29 analysis have estimated harvest by Prince of Wales Island  
30 communities is roughly 600 steelhead per year, most taken  
31 by rod and reel. If you notice on your table on Table 3  
32 the total there lists 770 steelhead, however, we  
33 subtracted out steelhead that were caught in net  
34 fisheries and reported on these household surveys.

35

36           Local sport regulations up until 1991  
37 resulted in large sport harvests of steelhead on Prince  
38 of Wales Island, that's displayed in Table 4. Sport  
39 harvest peaked in 1987 at 1,950 steelhead and since 1994  
40 estimated sport harvest has ranged from zero to 114. A  
41 limited number of mortality studies suggested two to  
42 three percent catch and release mortality and managers to  
43 be conservative commonly assume five percent. Bait  
44 mortalities tend to be from three to nine times higher  
45 than artificial lures.

46

47           Commercial fishing by-catch is displayed  
48 in Table 4. It has ranged from 533 to 11,540 prior to  
49 the 1994 regulation changes with the majority 65 percent  
50 occurring in gillnet fisheries. Since 1997 fewer than 50

00060

1 reported landings have occurred yearly in the trawl  
2 fishery. There is uncertainty with these recent  
3 estimates as net caught steelhead are not documented.

4  
5 All proposals except 26 would liberalize  
6 steelhead harvest on Prince of Wales Island. Without an  
7 annual harvest limit and harvest cap there is a  
8 conservation concern with allowing increased harvest. An  
9 annual season may potentially expose smaller fall run  
10 stocks to overharvest. Allowance of the use of bait  
11 could cause conservation concerns because of the  
12 increased mortality factor towards lost or released  
13 steelhead trout and char.

14  
15 I did want to mention four things that I  
16 think is important for the Board to remember in their  
17 deliberations on possible seasons, bag limits and such.

- 18  
19 1. That any harvest be directed away  
20 from extremely small runs that  
21 are road accessible.  
22  
23 2. That they be directed away from  
24 fall runs.  
25  
26 3. Provide no more than the  
27 documented contemporary harvest  
28 by Prince of Wales Island  
29 residents at this time estimated  
30 at 600 steelhead.  
31  
32 4. And we also should not further  
33 constrain harvest by use of  
34 length limits.

35  
36 With that I end my presentation and would  
37 be happy to answer questions.

38  
39 CHAIRMAN DEMIENTIEFF: Thank you.  
40 Summary of written public comments.

41  
42 MR. SCHROEDER: Mr. Chairman, we received  
43 three written public comments. Two opposed and one  
44 support these proposals.

45  
46 The Tongass Sportfishing Association  
47 strongly opposes relaxing harvest restrictions for  
48 steelhead on Prince of Wales Island streams. The writer  
49 believes that biological data doesn't support change from  
50 the current management plan.

00061

1           The Prince of Wales Island Steelhead  
2 Conservation Association also opposes relaxing harvest  
3 restrictions. The writer believes this would be  
4 detrimental to the resource.

5  
6           Ed Warren of Klukwan supports increasing  
7 steelhead trout harvest to five fish per day.

8  
9           That concludes the written public  
10 comments we've received.

11  
12           CHAIRMAN DEMIENTIEFF: Thank you. We  
13 have no request for additional public comment at this  
14 time. Regional Council recommendation.

15  
16           MR. THOMAS: You know in our wisdom of  
17 streamlining our proposals I spent the whole time during  
18 the presentation trying to see where we're at. Where did  
19 you wind up, Cal? What page did you wind up on?

20  
21           MR. CASIPIT: Mr. Chair. Mr. Thomas, if  
22 you'd go to 248, summarizes the Southeast Regional  
23 Advisory Council's recommendation.

24  
25           MR. THOMAS: Thank you.

26  
27           MR. CASIPIT: And their justification  
28 appears on 249.

29  
30           MR. THOMAS: So with regards to FP03-26,  
31 the Southeast Regional Advisory Council opposes. These  
32 proposals were combined in one Staff analysis and one  
33 Council deliberation process.

34  
35           But anyway, that's been -- that's the  
36 bottom line of our recommendation is to oppose and with  
37 that I have some additional comments.

38  
39           With regard to the steelhead. True  
40 subsistence users use responsibly the natural resources  
41 to sustain life. They use practical protocols coexisting  
42 with the environment as nature designed. This does not  
43 correspond with Western science, biology or speculation.  
44 It has nothing to do with politics. It's surviving  
45 versus not surviving.

46  
47           While steelhead is closed to subsistence  
48 and remains open for sportfishing. This is a blatant  
49 violation of existing language and the intent of Title  
50 VIII. Also in harvesting subsistence, size or gender is

00062

1 not always a factor and responsible use of the resource.  
2 The driving factor is quality and quantity. If less than  
3 adequate food is harvested people remain hungry. This is  
4 why you've heard the expression that the Western term,  
5 definition and intent does not reflect those of the  
6 subsistence community. We need to give this more  
7 recognition and demonstrate sensitivity to the  
8 subsistence community.

9

10 Also I just received a fax from a member  
11 of our Council, if I might Mr. Chairman.

12

13 CHAIRMAN DEMIENTIEFF: Go ahead, Bill.

14

15 MR. THOMAS: This just came in this  
16 morning from Mike Douville. He lives on Prince of Wales  
17 Island and his comments are as follows. I'd like to make  
18 some comments to the Federal Board regarding steelhead.  
19 First I will tell you that I'm a 53 year old resident of  
20 Craig having spent all those years on Prince of Wales  
21 Island. I have fished steelhead since my early teens.  
22 We know that steelhead has a limited winter run. This  
23 run of fish has supplied fish for the people of Craig and  
24 Klawock since I can remember. From 1995 to present we  
25 have not been able to harvest virtually any of this run  
26 of fish because of State regulation. Restrictive size  
27 and bag limits prompted by low fish counts through the  
28 Carta River weir prior to 1995. I do know that in some  
29 years before 1994 that plus 600 steelhead were taken from  
30 this system. I would also point out that these fish, for  
31 the most part were caught by users other than rural. It  
32 is never efficient to take steelhead from the Carta for a  
33 subsistence user living on the west side of Prince of  
34 Wales as fish in other systems are easier to access.  
35 However, the Carta River weir counts were used as a basis  
36 to put present State regulations in place for all streams  
37 on Prince of Wales Island. In fact, the fishing was as  
38 good as it was ever was in other streams, yet all the  
39 meetings held in one -- I believe 1994 the Department,  
40 sport biologists were told that there was no steelhead  
41 anymore and strict regulation was needed to save what was  
42 left. I found myself scratching my head in bewilderment  
43 as fishing had been fine in all places I had been fishing  
44 that year and in all previous years. I asked this  
45 biologist how he knew this was so and he answered by  
46 telling us that the Carta and the Sitik River had low  
47 fish counts through their weirs. I asked what did that  
48 have to do with the fish in Thorne, Stanning, Klawock and  
49 other places, the fishing is good in those places and the  
50 Thorne and Stanning have never had a weir so how could he

00063

1 know the fish numbers were low. An adequate answer was  
2 never given. So we would have to assume that  
3 professional judgment was used. I see this term used  
4 frequently when hard facts and numbers are lacking  
5 concerning this issue. It became clear that the decision  
6 to restrict had already been made. The meeting with us  
7 was just a formality. I will point out that the State  
8 bag limit on steelhead prior to '95 was one fish per day,  
9 two if you could show on had a fin clip or was hatchery  
10 fish so a household, we'll say, two fishermen could  
11 legally take 14 fish a week. You could double that  
12 number if half were hatchery fish to 28. I don't  
13 remember that there were any closed season.

14

15         The point I'm trying to make is that the  
16 RAC's recommendation is just a small fraction of the  
17 harvest prior to '95. Also only six percent or less of  
18 the households on a Prince of Wales applied for Federal  
19 permits to fish coho, which are, in fact, much easier to  
20 catch than steelhead. I would not expect the steelhead  
21 effort to be any different. The Department would like  
22 you to believe that every household on the Island with a  
23 harvest of steelhead a week based on what we see on coho  
24 effort, this is a long way from reality. High water,  
25 freezing conditions and short day light hours are only a  
26 few obstacles encountered when fishing steelhead in the  
27 winter. Many people have no interest but for some this  
28 is the only salmon available. Some have no boat, no car  
29 but can walk to the river catch a fish to eat. This has  
30 always been a customary and traditional -- what is not  
31 customary and traditional is to catch and release dozens  
32 of fish to get that 36-inch one that is legal to take  
33 home to eat. By the Department every two fish out of 100  
34 are 36-inches, which represent accepted mortality rate of  
35 five percent, that's not a professional judgment by the  
36 Department. You would release at least five fish that  
37 would die to get that 36-inch fish to take home. This is  
38 against the accepted rules of subsistence I have been  
39 taught and used for the past 40 years.

40

41         The effort for steelhead would be  
42 minimal. The tools are already in place too closely to  
43 monitor this fishery through a permitting system. We  
44 have a Federal biologist on the Island. The District  
45 Ranger has the authority to take action should there be a  
46 need. Title VIII says subsistence has a priority over  
47 all other users. The Department agrees stocks have  
48 recovered from '94 levels, another professional judgment,  
49 many streams are exempt from this proposal and the season  
50 asked for is short in comparison to past years. No

00064

1 subsistence fishery has been allowed since '95, yet  
2 there's a full-blown sport fishery that is open at this  
3 time, this is against the principles of Title VIII. The  
4 subsistence that I know believe that this fishery is set  
5 aside for guided sportsman by the Department. It also  
6 appears that the Department opposes any proposal or RAC  
7 recommendation, it is futile to pursue, is this true.

8

9 For the reasons stated above, I urge the  
10 Federal Board to support the steelhead proposal as  
11 recommended by the Southeast Regional Advisory Council.

12

13 Thank you for your consideration, Michael  
14 Douville, Craig, Alaska.

15

16 Thank you, Mr. Chairman.

17

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

20

21 MR. SCHROEDER: Mr. Chairman, could I  
22 clarify the Regional Council recommendation?

23

24 CHAIRMAN DEMIENTIEFF: Go ahead.

25

26 MR. SCHROEDER: Mr. Chairman, the  
27 Regional Council did oppose FP03-26 which was the  
28 steelhead proposal to close all fishing on Prince of  
29 Wales. The recommendation that the Council did pass is  
30 shown on the screen. The Council recommends a season of  
31 December 1 to May 31st, a harvest limit of one fish per  
32 week and a harvest cap of 600 fish.

33

34 Thank you.

35

36 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
37 Committee recommendation.

38

39 MR. THOMPSON: Mr. Chairman, the Staff  
40 Committee did not reach consensus on a recommendation.

41

42 The majority of the members favor  
43 rejecting Proposals 22, 24, 25 and 26 and supporting  
44 Proposal 23 with modification.

45

46 A minority of the Staff Committee members  
47 recommend adopting the recommendations of the Southeast  
48 Council which supported Proposal 25 with modification.

49

50 The justification for these alternate



00065

1 recommendations are as follows.

2

3 For the majority viewpoint, current State  
4 and Federal, regulations provides some harvest  
5 opportunity for steelhead including subsistence harvest  
6 by Federally-qualified users. The recommendation of the  
7 majority of the members of the Staff Committee is to  
8 liberalize subsistence fishery regulations on Prince of  
9 Wales Island to reflect contemporary use which appears to  
10 be sustainable. Closures of all uses on Prince of Wales  
11 Island Federal public lands is not necessary for the  
12 continued viability of steelhead populations, continuous  
13 of subsistence uses or for reasons of public safety.  
14 Productivity of steelhead is low in comparison to salmon  
15 and should be managed conservatively. Subsistence  
16 harvest opportunities should reflect documented  
17 contemporary use that appears sustainable. Directed  
18 harvest opportunity for steelhead should be kept  
19 conservative due to the limited abundance and  
20 productivity, lack of assessment data, ease of access  
21 throughout the road system, and relatively large numbers  
22 of potentially Federally-qualified fishers.

23

24 In general subsistence harvest should do  
25 the following:

26

- 27 1. Be directed away from extremely  
28 small runs that are road  
29 accessible.
- 30
- 31 2. Not be directed at the fall run  
32 of steelhead.
- 33
- 34 3. Provide no more than documented  
35 contemporary harvest by Prince of  
36 Wales Island residents, which is  
37 estimated to be 600 steelhead.
- 38
- 39 4. And not be further constrained by  
40 length limits.

41

42 The minority view is -- if the minority  
43 is adopted, the modified regulation -- excuse me. If the  
44 majority view is adopted, the modified regulation would  
45 read as follows:

46

47 You may take steelhead trout on Prince of  
48 Wales Island only under the terms of a  
49 Federal Subsistence permit from March 1  
50 to May 31st. The annual limit is two

00066

1 fish. You may use only a dipnet, spear,  
2 rod and reel with artificial lure or fly.  
3 You may not use bait. The annual harvest  
4 level cap is 600 steelhead for Prince of  
5 Wales Island. And the permit conditions  
6 and systems to receive special protection  
7 will be determined by a local manager in  
8 consultation with the Alaska Department  
9 of Fish and Game.

10  
11 It is necessary to obtain additional  
12 assessment data and this should be done before increasing  
13 harvest beyond current documented levels.

14  
15 The majority of members on the Staff  
16 Committee strongly endorse funding steelhead assessment  
17 through the Fisheries Resource Monitoring Program to  
18 determine accurate identification of small runs, stock  
19 assessment of larger runs including estimates of  
20 abundance and length structure. The majority members of  
21 the Staff Committee also encourage additional effort to  
22 undertake yearly subsistence harvest assessments for  
23 steelhead and other fish species used by Prince of Wales  
24 Island residents.

25  
26 For the minority viewpoint, the Staff  
27 Committee members in the minority who support FP03-25 as  
28 modified base their recommendation on the following  
29 factors:

- 30
- 31 1. Concurrence with the Southeast  
32 Alaska Subsistence Council  
33 recommendation, which included  
34 numerous steelhead population  
35 conservation measures.  
36
  - 37 2. Evidence to support the  
38 sustainability of the proposed  
39 steelhead subsistence fishery.  
40
  - 41 3. Lack of biological and harvest  
42 data to support a modification in  
43 the Council's recommendation on  
44 harvest seasons and weekly  
45 harvest limits.  
46
  - 47 4. Alignment with mandates provided  
48 by Title VIII, Section .805(c).  
49

50 If the minority view is adopted, FP03-25

00067

1 as modified would read as follows:

2

3           You may take steelhead trout on Prince of  
4           Wales Island only under the terms of a  
5           Federal Subsistence fishing permit from  
6           December 1 to May 31st. The following  
7           conditions would apply. The annual  
8           harvest limit is one fish per week per  
9           household. You may use only a dipnet,  
10          spear, rod and reel with artificial lure  
11          or fly. You may not use bait. The  
12          annual harvest level cap is 600 steelhead  
13          for Prince of Wales Island. The permit  
14          must be returned within 15 days of the  
15          close of the season. And these would  
16          apply in 21 listed systems that would go  
17          into the regulations. The minimum size  
18          limit would be 36-inches or larger and  
19          spears could not be used in these 21  
20          listed systems.

21

22           That's the Staff Committee  
23 recommendation, Mr. Chair.

24

25           CHAIRMAN DEMIENTIEFF: Thank you.  
26 Department comments.

27

28           MS. SEE: Mr. Chair. Members of the  
29 Board. Council Chairs. These proposals raise some  
30 complex issues.

31

32           We support the Interagency Staff  
33 Committee majority recommendation. We feel that State  
34 and Federal Staff can now agree that some additional  
35 subsistence harvest opportunity for steelhead can be  
36 provided on Prince of Wales Island while also maintaining  
37 healthy stock status. This conclusion is based, in part,  
38 on new household survey data showing that the  
39 contemporary harvest of steelhead on Prince of Wales  
40 Island are higher than previously believed. State Staff  
41 along with Federal Staff and local users have worked  
42 closely to reach an agreed upon approach that will  
43 provide for increased harvest opportunity while at the  
44 same time protecting sustainability of individual  
45 steelhead trout stocks. Given that virtually no stock  
46 status information is available for the area streams.

47

48           The regulatory approach supported by the  
49 majority of the Interagency Staff Committee  
50 recommendation includes some provisions that we consider

00068

1 essential toward achieving additional harvest opportunity  
2 for steelhead on Prince of Wales Island while also  
3 protecting the vulnerable stocks from over-exploitation.  
4 Specifically, we support the recommended season length,  
5 the annual harvest limit, gear allowances and annual  
6 harvest caps. Of these, we strongly support and want to  
7 emphasize the season opening date of March 1st. We feel  
8 this is important to protect fall run stocks that are  
9 extremely vulnerable to harvest pressure due to low  
10 abundances and lack of stock specific information.

11

12 We also note that we support delegating  
13 responsibility to the Federal fisheries manager to set  
14 harvest provisions by permit and the associated harvest  
15 reporting requirements. This delegation provides a key  
16 management tool to help prevent over-exploitation of road  
17 and non-road accessible streams that support small stocks  
18 of steelhead trout.

19

20 Finally, we'd like to note that we  
21 strongly recommend that the Federal Subsistence Board  
22 support funding for additional steelhead trout research  
23 on Prince of Wales Island to help assure that harvest  
24 opportunity is not impacting the sustainability of the  
25 area's steelhead trout stocks.

26

27 Thank you.

28

29 CHAIRMAN DEMIENTIEFF: Thank you. Board  
30 discussion.

31

32 MR. EDWARDS: Mr. Chairman.

33

34 CHAIRMAN DEMIENTIEFF: Gary.

35

36 MR. EDWARDS: I guess I got a couple  
37 questions because I'm having -- trying to separate all  
38 these different proposals out and trying to read through  
39 all of this. But, I guess, maybe I'd direct the question  
40 to either OSM Staff or the Interagency Staff Committee or  
41 the State, what I don't understand is what's being  
42 proposed by the majority of the Staff Committee actually  
43 doesn't seem to be as conservative potentially as what's  
44 being actually recommended by Southeast. The way I  
45 understand it, each of them have a threshold of 600 fish.  
46 One of them has a six month season, one of them has a  
47 three month season. But we sort of concurred that  
48 there's probably not going to be much fishing occurring  
49 in December, January and February. And based upon the  
50 data it appears that somewhere around 117 households have

00069

1 been participating in these fisheries, and if it's -- and  
2 assuming, for example, that a household is not going to  
3 fish for those whole three months, which would be 12  
4 weeks and if they only fished four weeks their harvest  
5 could potentially be significantly less than if you  
6 allowed every individual to fish.

7

8           So I'm just trying to understand why  
9 what's being recommended by Mr. Thomas and his folks, in  
10 fact, could not -- might even be much more conservative  
11 than what's being recommended by the Staff Committee and  
12 plus I also think that they provide a size limit on  
13 certain waters which is not my understanding in the Staff  
14 Committee recommendation.

15

16           MR. THOMPSON: Mr. Chairman, let me  
17 launch a response. One of our primary concerns is about  
18 targeting pressure on the fall run steelhead. And by  
19 having a different season start up date it has a  
20 different impact on those fall run of steelhead. But I  
21 guess I would defer to Staff to explain more fully the  
22 reasoning behind adjusting the season in order to -- and  
23 to explain how that removes the pressure on the fall  
24 steelhead. It's a little more involved than just the  
25 length of the season.

26

27           MR. CASIPIT: Thank you, Mr. Chair.

28

29           CHAIRMAN DEMIENTIEFF: Go ahead.

30

31           MR. CASIPIT: Mr. Edwards. Council  
32 Chairs. Let me take a stab at this as well.

33

34           Basically, I would have the same comment  
35 about the December 1 start up date as Mr. Thompson did.  
36 In the months of December, January, basically the only  
37 fish that are going to be in streams are going to be fall  
38 run fish, we don't want to direct a whole bunch of  
39 pressure at fall run fish. The other consideration here  
40 is that for the in-season management to work, to make  
41 sure that we stay under the 600 fish cap, in this case,  
42 the in-season manager Jeff Reeves, to my left there, he's  
43 got a couple choices. I mean we could require some  
44 onerous reporting on users like a weekly harvest report  
45 or a bi-weekly harvest report to get the actual harvest  
46 through the season so to keep track of the 600 fish cap  
47 or Mr. Reeves could use, you know, harvest potential of  
48 the existing permits that have been issued with that  
49 December 1 start up date. So, you know, December 1 could  
50 work. It would require either more frequent reporting on

00070

1 the part of the users or that Jeff make his calls based  
2 on harvest potential of the permits out there, not  
3 necessarily what is harvested but what is the harvest  
4 potential. And there could be a situation, you know,  
5 this is just speculation, I understand Bill's -- Mr.  
6 Thomas' concern about speculation, but, you know, it  
7 could be that Mr. Reeves might have to use in-season  
8 authority to close the fishery before May 31st and, you  
9 know, therefore, kind of mess up the opportunity in the  
10 spring is where we want to direct the fishing is in the  
11 spring.

12

13 So those are some of the concerns that  
14 we're kind of bouncing and bouncing around.

15

16 MR. EDWARDS: But I believe Mr. Thomas'  
17 position was that the reality is that there will be  
18 virtually very limited fishing in December, January and  
19 February. Do we have any evidence that would lead us to  
20 believe that there is going to be a significant amount of  
21 fishing occurring at that time of year?

22

23 MR. CASIPIT: Again, it's all speculation  
24 and, you know, what we think is going to happen. You  
25 know, at least in this first go around we kind of prefer  
26 to take a more conservative approach, a first step.  
27 Maybe in a couple of years when we get more research  
28 information and more information on harvest patterns and  
29 that, like you approved for the Fisheries Resource  
30 Monitoring Program earlier this morning, maybe based on  
31 some of that information we could take some steps to  
32 broaden that out and liberalize. But at this point in  
33 time for the first step, we want to try to remain a  
34 little bit conservative.

35

36 MR. EDWARDS: Then one other question.  
37 Then by limiting it to a three month season and  
38 potentially putting more anglers out there since you're  
39 dealing with individuals as opposed to households, as  
40 what is being recommended, doesn't that have the  
41 potential that during those three months to maybe have a  
42 much higher harvest occur or much greater participation  
43 than you might want during that period?

44

45 MR. CASIPIT: Again, within terms of  
46 participation, you kind of have to look at the existing  
47 C&Ts and how those are arranged on Prince of Wales  
48 Island. If you look at the south end of the Island, the  
49 areas around Hydaberg, Klawock and Craig, those are very  
50 narrow C&T determinations so that we believe the, if you

00071

1 will, the customer base is going to be a lot smaller. If  
2 you look at the north end of Prince of Wales Island where  
3 there is no specific C&T, any rural resident of the  
4 Southeast region can fish there and, you know, that's --  
5 that's where you might see the real big increase in use  
6 is on the north end.

7

8 MR. THOMPSON: Mr. Chairman.

9

10 CHAIRMAN DEMIENTIEFF: Yes.

11

12 MR. THOMPSON: Could I elaborate on his  
13 response. The Staff Committee did consider a couple of  
14 other associated issues here. One is, as you may well  
15 know, Prince of Wales Island is very well roaded, access  
16 is exceptional to a number of these steelhead systems  
17 during all year long. And so access becomes a little  
18 more of an issue here than perhaps in a lot of our  
19 subsistence -- rural subsistence fishing communities.  
20 Also the element of having increased numbers of spring  
21 run steelhead intermingling with the fall run fish tends  
22 to reduce the likelihood that those fall fish will be  
23 caught. That's why we wanted to concentrate the harvest  
24 when there is more total fish being made available to the  
25 subsistence fishing community. So it tends to reduce the  
26 pressure on the fall run.

27

28 CHAIRMAN DEMIENTIEFF: Go ahead.

29

30 MR. BISSON: Mr. Chairman, just so I'm  
31 clear, what I'm hearing is that from the period of  
32 December to March 1, any harvest of the steelhead would  
33 be -- it's your belief it would be -- professional  
34 judgment it would be from fall run fish, that there's no  
35 spring run fish in there and so that any impact would be  
36 on the fall run?

37

38 MR. CASIPIT: Mr. Chair. Mr. Bisson,  
39 that is correct. The December 1 through -- the period  
40 December 1 through beginning of March are almost  
41 exclusively fall run fish.

42

43 MS. GOTTLIEB: Mr. Chair.

44

45 CHAIRMAN DEMIENTIEFF: Yes.

46

47 MS. GOTTLIEB: I'm glad the Federal  
48 manager is here because I have a few questions for Mr.  
49 Reeves. And that is the list of streams that has been  
50 developed, is that list either something you participated

00072

1 in or one that you and perhaps the State would agree is a  
2 pretty good list of designating streams that would be of  
3 concern?

4

5 MR. REEVES: Mr. Chairman. Ms. Gottlieb.  
6 Board. For the record my name is Jeff Reeves and I'm  
7 with the Forest Service. Are you referring to the list  
8 of road side systems in the appendix?

9

10 MS. GOTTLIEB: Let's see, the one I think  
11 mentioned in the minority report.

12

13 MR. REEVES: Okay, the ones in there.  
14 Those are all small road side systems and I did sit down  
15 with Fish and Game and the biologist from the Thorne Bay  
16 Ranger District who is also on the Island and we were all  
17 pretty much in agreement that the estimates of escapement  
18 on those were under the threshold that we felt --  
19 basically we felt that a threshold of about 200 fish was  
20 the breaking point and those were all had estimates under  
21 200 or no estimates at all. So -- and these all have at  
22 least one access point linked on the road system. And so  
23 we just felt that for right now, yes, these should  
24 maintain a 36-inch size restriction.

25

26 Does that answer your question?

27

28 MS. GOTTLIEB: It does. If I could also  
29 follow-up, in that, if we -- would you be able to  
30 implement a system that has been described, that you  
31 could sustain the 600 limit, overall, but also not  
32 jeopardize any of the stocks that might be of concern in  
33 these specific streams?

34

35 MR. REEVES: I believe we could. We  
36 could either stay with this regulation, maintaining a  
37 size restriction. I believe there was an option that was  
38 potentially considered that would allow some small  
39 harvest but then we get back to Cal's point that it would  
40 require a really intensive reporting requirement.

41

42 MS. GOTTLIEB: If I might, well,  
43 reporting requirement would help you keep track, pretty  
44 up to date as to what the status is and so maybe a  
45 question to the Regional Advisory Council or some of the  
46 other users, whether that requirement would be really  
47 burdensome or whether that would be a positive in terms  
48 of knowing that the stock status was being monitored in a  
49 timely way.

50



00073

1 MR. SCHROEDER: Mr. Chairman. Ms.  
2 Gottlieb, I think subsistence users on Prince of Wales  
3 will participate in a permit reporting system. And I  
4 will point out that one motive force for this proposal is  
5 that subsistence harvest surveys found that there were  
6 quite a few fish being taken already on Prince of Wales  
7 Island. These fish have essentially been off the record.  
8 So one thing that bothers managers, of course, is the  
9 harvesting that goes on that isn't recorded. So one  
10 thrust of this proposal will be to get better harvest  
11 data and to know where those fish come from and also the  
12 seasonality of that harvest.

13  
14 CHAIRMAN DEMIENTIEFF: Earlier, Gary, you  
15 asked also a question of the State manager as well and  
16 Mr. Lang has been trying, I think trying to respond to  
17 your earlier questions.

18  
19 MR. VINCENT-LANG: Thank you, Mitch. I  
20 guess a couple comments. The list of streams that's in  
21 the minority Staff report, when the State and the Federal  
22 government sat down and the Forest Service sat down and  
23 talked about those, our managers, we never talked about  
24 those streams in context of providing a winter fishery.  
25 We always talked about this within the context of  
26 providing a fishery when the stocks were mixed in those  
27 streams. That is, on a mixed stock of spring and fall  
28 run fish. So if you end up going back and trying to take  
29 the minority Staff opinion, certainly the list of streams  
30 isn't an accurate reflection of how we would feel about  
31 providing the harvest opportunity underneath that  
32 regulation since that regulation is proposing to have it  
33 start December 1st.

34  
35 We are very concerned that that list, for  
36 instance, does not include small non-road accessible  
37 streams that are just as equally vulnerable as road  
38 accessible streams in many instances. You can get to  
39 them and just because it's small or non-small doesn't  
40 mean it's any less vulnerable.

41  
42 The second comment was with respect to  
43 this, I guess your question, Gary, is this being an  
44 individual harvest limit versus a household harvest  
45 limit. If you have 120 households and you allow each  
46 household to take one fish over a very long period of  
47 time, over what amounts to about six months, the Staff  
48 feel that, at least, that harvest potential may, in fact,  
49 cause some problems on some of the small streams, whether  
50 they're roaded or non-roaded along Prince of Wales

00074

1 Island. If you take the numbers, of instance, as a two  
2 fish annual limit per individual, if there's about a 120  
3 households participating in that fishery out there, about  
4 three individuals per household, that gives you a harvest  
5 potential of about 360, take that times the two fish  
6 annual limit you end up with about 720 fish that are  
7 being harvested. Knowing not every individual within  
8 every household is going to participate gets you about  
9 where you want to be as a 600 fish harvest potential out  
10 there.

11

12 So I think you can make the numbers work  
13 however you want them to work but I think having an  
14 annual limit allows an increased flexibility for a  
15 household to go out and participate above a one fish  
16 annual harvest limit for a household. It allows a group  
17 of people to go out and participate and take the  
18 steelhead they may need.

19

20 So with that, I guess, I think that  
21 answered your question.

22

23 CHAIRMAN DEMIENTIEFF: Bill.

24

25 MR. THOMAS: Thank you, Mr. Chairman.

26 You know since this started we've made references to  
27 data, lack of data and I know for a fact that on Prince  
28 of Wales the data that we're throwing around here doesn't  
29 exist.

30

31 You heard that the model was taken from  
32 the Carta River system, which is the only system out  
33 there that produces the size limit allowable under State  
34 regulation and I'm getting both from the Staff Committee  
35 and from the Department the very thing I mentioned  
36 earlier, was a negative characterization of the  
37 subsistence community. You're talking about the  
38 potential overharvest of available fish. Subsistence  
39 users do not have a history of exploiting anything.  
40 Anything. Nobody recognizes the importance of a  
41 sustained yield better than a subsistence user. There's  
42 a difference of importance to them.

43

44 When you take one out of five fish and  
45 expect that four of them die from mortality, that's not  
46 good management.

47

48 In the winter, you heard about the low  
49 pressure because the cold weather and the uncomfortable  
50 conditions. Not many people are going to be going out

00075

1 there.

2

3 It seems to me like .804 is someplace we  
4 should be looking at with regards -- if we're going to be  
5 concerned about overharvesting. Our job is to provide a  
6 continued opportunity and access for subsistence use of  
7 these resources. If there, in fact, is a shortage, an  
8 identified shortage for this to occur, then we need to  
9 take a look at .804.

10

11 Thank you, Mr. Chairman.

12

13 CHAIRMAN DEMIENTIEFF: Thank you. Gary.

14

15 MR. EDWARDS: I just have one other  
16 question. Now, am I correct, the current regulation  
17 basically allows, it's a year-round harvest but puts a  
18 length limit on the fish and you can't take more than two  
19 fish per person per year over 36-inches, so there is not  
20 a -- there's no time frame, there's no closure?

21

22 MR. CASIPIT: That is correct.

23

24 MR. EDWARDS: And then what does the  
25 current data show with regards to that harvest as to  
26 which month those fish are taken or at least attempt to  
27 take? Because the way I read that you can go out and  
28 fish any time but any fish you catch under 36, you have  
29 to release, right? So I mean theoretically with 100-some  
30 households and three people fishing and taking two fish,  
31 you could take, theoretically a whole bunch of fish over  
32 36 inches, because you'd have 12 months to do that to get  
33 it accomplished, right?

34

35 MR. CASIPIT: Yeah. In a general sense  
36 that's right. The problem comes is that if you look at  
37 the length data that we do have for Prince of Wales  
38 Island, granted it's only from the Carta River, one of  
39 the better rivers, you know, one of the better producers  
40 on the Island, only six-tenths of a percent of the fish  
41 that were measured are greater than 36 inches. So  
42 conceivably you could take two fish a year under the  
43 sport regulations, under the existing Federal regulation.  
44 But the likelihood of catching 200-plus steelhead in a  
45 year is -- I'm not sure that most people do that, that  
46 catch 200 fish in a year and release them. The other  
47 part of that is the mortality that Bill was alluding to,  
48 you know, the five percent mortality of hook and release  
49 steelhead that was mentioned earlier.

50

00076

1 MR. BUNCH: Mr. Chair.

2

3 CHAIRMAN DEMIENTIEFF: Yes.

4

5 MR. BUNCH: If I may. I'm not familiar  
6 with these watersheds that are listed here in the  
7 booklet, does that represent a geographical of all the  
8 Prince of Wales Island or are those grouped in a certain  
9 locale on the Island, those that are named in the  
10 minority report?

11

12 MR. CASIPIT: Thank you, Mr. Chair. The  
13 systems you see listed there are small road accessible  
14 systems. If you're interested in a more extensive list,  
15 in the appendix, A and B, lists some additional streams  
16 based on -- well, Appendix A lists the remote Prince of  
17 Wales Island systems, that is, off the road system.  
18 Appendix B lists road accessible systems, both in terms  
19 of basically small stocks and larger stocks.

20

21 MR. BUNCH: Okay, as a follow-up to that,  
22 do all the streams in Prince William have a fall and a  
23 winter run or a fall and a spring run?

24

25 MR. CASIPIT: No, they're -- go ahead.

26

27 MR. REEVES: Mr. Chairman. Mr. Bunch.  
28 To clarify a couple of your questions, basically, if you  
29 look on the list there that's on the overhead there, if  
30 you were to jump in your truck from Red Bay Lake Creek  
31 there and you were to drive to Dog Salmon Creek, you're  
32 probably going to be driving close to 150, 160 miles on  
33 road. So, you know, these are all spaced out. And if  
34 you could repeat your second question there, if you  
35 wouldn't mind just resummarizing it for me?

36

37 MR. BUNCH: Do all of these named streams  
38 have both a fall and a spring run of steelhead?

39

40 MR. REEVES: No, they do not. Basically  
41 the ones that are identified as fall steelhead systems  
42 are currently listed in the sportfishing regulations, you  
43 know, they fall under a separate sportfishing regulation  
44 now and there's 13 of them that they have listed in  
45 there. And if you were looking at individual systems  
46 it'd be more, but it's actually 13 drainages, I should  
47 say that are combined.

48

49 MS. GOTTLIEB: Mr. Chair.

50

00077

1 CHAIRMAN DEMIENTIEFF: Judy.

2

3 MS. GOTTLIEB: Or.....

4

5 MR. BACHOR: Mr. Chair.

6

7 CHAIRMAN DEMIENTIEFF: Yes.

8

9 MR. BACHOR: Looking at my watch, it  
10 looks like it's about time for lunch and I'm getting  
11 hungry.

12

13 But nevertheless this is obviously one of  
14 the more emotional species we deal with no matter where  
15 it is in the United States and it's very important. And  
16 I think this recommendation is extremely important to  
17 everyone. We also have some changing conditions and I'm  
18 glad you brought up the fact that how far it is between  
19 streams if you're driving a road and if the road system,  
20 it may be there but in many cases very difficult. With  
21 that aside, I think we can continue to look towards  
22 increased pressure over the years. And gathering  
23 information, yeah, we don't have all the data. Think of  
24 how complex it is with such a large area to gather all  
25 the data, we do have indicators. There is a concern, I  
26 think we need to deal with that.

27

28 I also am fairly well convinced that that  
29 fall stock is something we better be very much paying  
30 attention to. And with the complexity of the systems  
31 over there, it's hard to pinpoint stream by stream right  
32 now. I think we need to rely upon our local State and  
33 Federal managers to really work together to look at and  
34 find out where those problems are.

35

36 Now, in order to bring this to some sort  
37 of a closure or a vote, I would ask once again, Ken  
38 Thompson, if you could reiterate the majority Staff  
39 proposal and possibly the minority so we can look at that  
40 more specifically, just summarize that again. I think  
41 you said the majority Staff proposal was Proposal 23 with  
42 modification, could you reiterate that for us, please.

43

44 CHAIRMAN DEMIENTIEFF: I think maybe  
45 we'll just go ahead and break for lunch right here. I  
46 don't think we're going to be able to finish this. But  
47 we will.....

48

49 MR. BACHOR: That's certainly.....

50

00078

1 CHAIRMAN DEMIENTIEFF: .....open.....

2

3 MR. BACHOR: .....an option.

4

5 CHAIRMAN DEMIENTIEFF: .....up probably  
6 about 1:15 or so and so we'll get a response at.....

7

8 MR. BACHOR: Okay.

9

10 CHAIRMAN DEMIENTIEFF: .....that time to  
11 your question.

12

13 (Off record)

14

15 (On record)

16

17 CHAIRMAN DEMIENTIEFF: Okay, we'll go  
18 ahead and call back to order. I think we left the  
19 question off with Ken regarding trying to clarify the  
20 difference between the two majority and minority  
21 recommendations. Are you prepared?

22

23 MR. THOMPSON: Thank you, Mr. Chairman.

24 There are, in fact, a number of similarities between the  
25 two recommendations, but to help the Board understand why  
26 you may want to go one way or the other, we tried to  
27 tease out the differences between the majority and the  
28 minority or RAC recommendation and we've put this up on a  
29 powerpoint on the screen.

30

31 And there are basically three elements  
32 that differentiate the two recommendations or the two  
33 opinions that probably should rest most heavily in the  
34 Board members minds in deciding how to craft this  
35 regulation.

36

37 The season is the first major difference  
38 between the two opinions. The majority is recommending a  
39 season of March 1 to -- starting on March 1 and the  
40 minority on December 1st. What this issue -- what this  
41 addresses is the element of intercepting fall steelhead.  
42 With an earlier opening date you are going to be  
43 targeting in a much more significant way, the harvest of  
44 the fall run fish which we're trying to protect. The  
45 second item that should be considered is the harvest  
46 limit by having a harvest limit of per two year per  
47 person as the majority recommends as opposed to one per  
48 week per household that the minority or the Council  
49 recommends. You are, in this case, avoiding burdensome  
50 weekly -- what we think should be necessary is weekly

00079

1 reporting under the one per week per household because of  
2 the potential of harvesting more fish in a shorter period  
3 of time. By going with the two per year per person you  
4 avoid that burdensome frequent reporting requirement.

5

6 The third issue is identification of  
7 small systems. The question there is do we want to  
8 provide the in-season manager the authority to stipulate  
9 in permit what the conditions ought to be for fishing or  
10 should we codify it in the regulations. In the opinion  
11 of the majority, by putting it in permit conditions and  
12 not codifying it give more flexibility for the local  
13 manager to identify where he or she could provide  
14 subsistence fishing to accommodate a subsistence  
15 opportunity, whereas if we put it in regulation it's  
16 locked in basically for the season. So that gives us  
17 actually a better way of providing or maximizing  
18 subsistence opportunity.

19

20 I think that summarizes the main elements  
21 of differences that you'd want to consider.

22

23 MR. BISSON: Mr. Chairman. Mr. Thompson,  
24 it seems to me there is another element here and that has  
25 to do with the size limit of fish that can be taken.  
26 There is a difference between the two proposals as I read  
27 it. And one of the concerns I would have is that, you  
28 know, considering what Mr. Thomas said earlier about  
29 mortality, it would seem to me that not having the size  
30 limit as the majority recommends may actually allow some  
31 fish be taken that would otherwise be wasted and they  
32 would count as part of the annual take. In my feeling it  
33 would result in less impact on the fish if we, for  
34 subsistence purposes, if we eliminate that size  
35 requirement which requires them to sort through a number  
36 of fish that probably, some of which are going to die  
37 anyway and if they do injure one, one they catch with it  
38 hook and line instead of simply putting it back with the  
39 likelihood it's going to die, at least, they have the  
40 option of taking that fish for subsistence purposes.

41

42 MR. THOMPSON: Mr. Chairman, let me refer  
43 to Staff on explanation of your concern there.

44

45 MR. CASIPIT: Thank you, Mr. Chair. Mr.  
46 Bisson, yeah, your perception is exactly right. With the  
47 majority opinion, the permit conditions of which minimum  
48 size limit could be a permit condition, if you will, for  
49 those small systems, that could be set by permit and be  
50 up to the local manager to figure out if that can be done

00080

1 or not. With the minority opinion, the list of those  
2 streams, if you were to pass it as written, that list of  
3 streams would have a 36-inch minimum size limit on it,  
4 you know, subsistence users would have to only take fish  
5 greater than 36 inches in that list of streams.

6

7 CHAIRMAN DEMIENTIEFF: Gary.

8

9 MR. EDWARDS: One question I have, under  
10 the permit conditions of the majority, where you find  
11 yourself in a position based upon more people are  
12 requesting the fish and assuming that everybody who you  
13 give a permit to is going to catch two fish, aren't you  
14 going to have to draw the limit at 300 permits or maybe  
15 even less than that so it'd be the first 300 people that  
16 show up are going to actually be allowed to fish?

17

18 MR. REEVES: Mr. Chairman. Mr. Edwards,  
19 I would believe, I guess that would be a decision that  
20 would probably have to be made at how soon that 300th  
21 permit was issued. And if it had happened by March 24th  
22 then we probably wouldn't want to issue any more. If we  
23 only issued 275 by May 28th, you know, we could probably  
24 issue a few more. So I -- as for the legality of whether  
25 we'd have to stop at 300, that, I do not know. I'd have  
26 to probably ask either law enforcement or maybe Jim about  
27 something like that. Ideally probably 300 would be a  
28 good place to cut off assuming that each permit would  
29 harvest the two fish. That would effectively hit the  
30 cap.

31

32 CHAIRMAN DEMIENTIEFF: So with regard to  
33 the RAC recommendation, there still would be reporting  
34 requirements, right, you're talking about weekly  
35 reporting or something?

36

37 MR. THOMPSON: Yes, that's correct.

38

39 CHAIRMAN DEMIENTIEFF: Okay. So if they  
40 were going after and getting the fish that we didn't want  
41 them to get after, wouldn't we know about that right away  
42 and don't our in-season managers have the ability to  
43 close?

44

45 MR. THOMPSON: Yes, we would.

46

47 CHAIRMAN DEMIENTIEFF: You know, there's  
48 conservation built, I think, into each plan. And I think  
49 with that weekly reporting we're going to know exactly  
50 what's going on. And I really commend everybody for



00081

1 their hard work and in particular the RAC for their hard  
2 work. And, you know, we already established this morning  
3 that there's built in conservation apparently something  
4 that the people are willing to do in terms of that weekly  
5 reporting. I really see no reason to go against the  
6 recommendation of the RAC at this point. I just don't  
7 see, we haven't established any of our grounds to go  
8 against it.

9

10 MR. BUNCH: Mr. President.

11

12 CHAIRMAN DEMIENTIEFF: Go ahead.

13

14 MR. BUNCH: I highly agree with you. I  
15 think that regardless of what Mr. Thomas might think, I  
16 think that when you have a RAC that has a unanimous  
17 decision that it's incumbent on this Board to give that a  
18 lot of weight. Conversely, it's our duty to protect the  
19 resource. But I haven't seen any clear cut evidence  
20 here, while there is some concern voiced about the impact  
21 on the fall run, I haven't seen any data that says that  
22 the subsistence users on the Prince of Wales are going to  
23 harm it. Apparently they haven't to this point so I  
24 don't know what there's going to be that's going to be  
25 different that would cause some harm to the fall  
26 steelhead. I mean it seems to be conjecture that people  
27 are going to go out and do the worst with that resource  
28 and I don't think that that's called for either.

29

30 CHAIRMAN DEMIENTIEFF: Gary.

31

32 MR. EDWARDS: Mr. Chairman, unless I'm  
33 wrong I don't think there's a weekly reporting under 3-  
34 25. The way I read it, they only have to report after 15  
35 days after the close of the season it's a harvest per  
36 week but I don't think there's a reporting, is there,  
37 Bill?

38

39 MR. THOMAS: Say again.

40

41 MR. EDWARDS: The Chairman had indicated  
42 that he felt that there was a weekly reporting  
43 requirement under your recommendation but I don't believe  
44 that is the case, is there?

45

46 MR. THOMAS: I have to yield to Staff.

47

48 MR. CASIPIT: Right now the only thing in  
49 that recommendation is that the permit must be returned  
50 within 15 days of the close of the season. So if there

00082

1 isn't a weekly reporting element in there right now, the  
2 Board would have to insert that if the Board so chose.

3

4 CHAIRMAN DEMIENTIEFF: I guess I was  
5 basing my comment on based on what I heard Ken talking  
6 about and he was talking about in the minority that they  
7 would have to -- there would have to be weekly reporting.  
8 Ken, I don't know, if you want to.....

9

10 MR. THOMPSON: Yes, Mr. Chairman. I'm  
11 sorry, our Staff believes that if we do have a one per  
12 week per household limit that we should have more  
13 frequent reporting, i.e., weekly reporting but that's not  
14 part of the minority or the Council recommendation. As  
15 Mr. Bisson has pointed out, it would be reporting within  
16 two weeks of the close of the -- 15 days of the close of  
17 the season.

18

19 CHAIRMAN DEMIENTIEFF: Yeah, that's what  
20 it says in the regulation.

21

22 MR. THOMPSON: Right.

23

24 CHAIRMAN DEMIENTIEFF: Mr. Lang, did you  
25 have something?

26

27 MR. VINCENT-LANG: Well, I just wanted to  
28 point out that Gary was correct, that wasn't and the  
29 concern that we had when we sat down and talked about it,  
30 is you kind of look at 120 households and you take 28  
31 weeks, which is the length of the season of the minority  
32 Staff and the RAC recommendation and you come up with a  
33 harvest potential sitting at around 3,300 fish so it was  
34 the Staff recommendation that if you put that kind of  
35 harvest potential out there you need some kind of in-  
36 season harvesting reporting. And when we talked about it  
37 we thought that that was quite a burdensome type of  
38 harvesting reporting requirement so that's why the  
39 majority Staff Committee and the Department's  
40 recommendation is more centered around something that was  
41 less burdensome to the user.

42

43 MR. BUNCH: Mr. President.

44

45 CHAIRMAN DEMIENTIEFF: Yes.

46

47 MR. BUNCH: But the input doesn't have to  
48 rely on the subsistence user reporting, can't there be  
49 some kind of krill census or some kind of monitoring by  
50 the fisheries management?

00083

1 MR. VINCENT-LANG: Mr. Chair. I guess  
2 you could develop that system but certainly there's  
3 nothing like that in place down there at the current time  
4 and there's certainly no funding to put that in place. I  
5 guess if the Federal agencies would like to have a krill  
6 survey to monitor this to stay within the 600 fish  
7 harvest cap, you might ask the Federal agencies about  
8 that one.

9  
10 MR. BUNCH: Okay. But historically there  
11 hasn't been more than 600 taken and do you have anything  
12 that would make you believe there would be more than 600  
13 taken if the minority report was.....

14  
15 MR. VINCENT-LANG: Mr. Chair. That's the  
16 million dollar question. When you regulate a fishery and  
17 you put it in your books, yeah, history has, at least on  
18 the State side you increase participation levels. So I  
19 think initially you want to start out conservatively to  
20 find out if you're going to adopt the 600 fish cap as the  
21 top of this thing, you have some responsibility to assure  
22 that you're overshooting that cap in the first couple  
23 years. So I think the way we approach this working with  
24 the Federal agencies is how we could provide that  
25 reasonable opportunity for the subsistence users out  
26 there but yet meet the conservation issues associated  
27 with the protection of fall run stocks and not have an  
28 incredibly burdensome reporting requirement that I, I  
29 think the Staff heard pretty loud and clear that none of  
30 the local users wanted out there.

31  
32 MR. THOMAS: Mr. Chairman.

33  
34 CHAIRMAN DEMIENTIEFF: Bill, go ahead.

35  
36 MR. THOMAS: See that's the difference  
37 between the State and the Federal. You just heard him  
38 use the term reasonable opportunity. .801 says continued  
39 opportunity. That's the only reasonable opportunity, the  
40 continued opportunity. And two fish a year per person  
41 does not meet the needs of the subsistence people. One  
42 people is more reasonable.

43  
44 See the difficult thing about this forum  
45 is that there isn't anybody with the exception of maybe  
46 the Chair that understands anything about the issue at  
47 hand, which is subsistence. You're trying to manage  
48 something you've never seen before. And the reason we're  
49 here is because the RACs, we're part of the language of  
50 Title VIII, no one else was. And still we find ourself

00084

1 working like hell to try to survive being pitted against  
2 the Interagency Staff who doesn't know any more about the  
3 resource than the Board members. And your experts and  
4 experience on this issue are the people from the RACs,  
5 those are local people. I don't know what the hell's  
6 going on here.

7

8 Think about it. Thank you.

9

10 CHAIRMAN DEMIENTIEFF: Gary, you had  
11 something.

12

13 MR. EDWARDS: I guess I was going to ask  
14 Doug, it's my understanding under the current regulations  
15 people can go out now, subsistence users and target all  
16 run steelhead, the only restriction is that they can only  
17 keep fish over 36 inches, but right now it is, the fall  
18 runs are all wide open; is that correct?

19

20 MR. VINCENT-LANG: That's correct, Mr.  
21 Edwards. However, there are very few fish over 36 inches  
22 that could be harvested out there. And if you reduce  
23 your minimum size limit then you end up increasing  
24 harvest potential in those small stocks.

25

26 MR. EDWARDS: But a subsistence user  
27 could go out there and catch as many fish as he wants in  
28 hopes of catching one over 36, which as part of that  
29 effort we're assuming that there's going to be a fair  
30 amount of mortality of those fish that they release?

31

32 MR. VINCENT-LANG: That's entirely true.  
33 However, we think that with the gear restrictions we have  
34 in place for those fisheries during that period of time  
35 there isn't a lot of mortality associated with it. And  
36 the opportunity that's being provided here would remove  
37 those minimum size limits to increase the opportunity for  
38 a subsistence user to take fish.

39

40 CHAIRMAN DEMIENTIEFF: Well, I think  
41 we've all got our hands pretty much around the issue,  
42 just what's the pleasure of the Board at this time?

43

44 MR. THOMAS: I have a motion, Mr.  
45 Chairman.

46

47 MS. GOTTLIEB: Mr. Chair.

48

49 CHAIRMAN DEMIENTIEFF: Yes.

50

00085

1 MS. GOTTLIEB: I wonder if there's --  
2 maybe we could put this to both the Federal and the State  
3 managers, the possibility of modifying the season but  
4 keeping the harvest limit and the permit conditions as  
5 suggested by the majority, provide for an enhanced  
6 opportunity, at least, timewise but be carefully  
7 monitoring the 600 total that way?

8  
9 MR. EDWARDS: Mr. Chair, maybe to go  
10 along with Judy's suggestion, I don't know if given our  
11 timeframe and all for the regulations, if there is an  
12 opportunity to maybe remand this back to the RAC and to  
13 OSM and whoever else and see if we can't come up with a  
14 better regulation. I mean I have to tell you that, quite  
15 frankly, I'm uncomfortable with almost all of them and  
16 would not real feel comfortable on voting on any of them,  
17 one way or the other, particularly with the lack of  
18 information that we seem to have.

19  
20 CHAIRMAN DEMIENTIEFF: Then you're  
21 willing to take it out of cycle, take the issue out of  
22 cycle, which we'd have to do in order to get a regulation  
23 on the book for next year, we'd have to take it up out of  
24 cycle? It'd go back to the RAC in their spring meeting,  
25 you know, we're going to have to come back with  
26 consideration of the proposal because how many months  
27 does it take to get it in regulation -- 90 days, is that  
28 it?

29  
30 MR. BOYD: I don't understand the  
31 question, Mr. Chair.

32  
33 CHAIRMAN DEMIENTIEFF: Once the Board  
34 takes an action, is it 90 days or 120 after to get it in  
35 regulation?

36  
37 MR. BOYD: Mr. Chair, if I may, I don't  
38 think there's a prescribed amount of time. We think we  
39 can get it effective fairly soon. There are time  
40 requirements for publication in the Federal Register and  
41 those sorts of things but we've made temporary  
42 regulations effective immediately and I think it's upon  
43 Board decision.

44  
45 CHAIRMAN DEMIENTIEFF: Well, just let me  
46 understand here. The basic -- or one of the basic  
47 problems that we have is with regard to reporting  
48 obligations for in-season management. That's the biggest  
49 problem here. And that would be one of the issues and if  
50 we remanded it back to the RAC, that would be, I guess,

00086

1 if I'm hearing things right?

2

3 MS. GOTTLIEB: Mr. Chair.

4

5 CHAIRMAN DEMIENTIEFF: Yes.

6

7 MS. GOTTLIEB: Could I ask Mr. Edwards,  
8 did he mean people should work on it in the next day or  
9 two so we could maybe complete it during this Board  
10 meeting or did you mean back to the RAC cycle?

11

12 MR. EDWARDS: I meant at a later date. I  
13 don't know if we have time to do that and still get it, I  
14 mean I just, quite frankly, am sort of somewhat  
15 uncomfortable with personally trying to vote on this one  
16 way or the other.

17

18 CHAIRMAN DEMIENTIEFF: Well, anyway, I  
19 still stand on what I say. I'm prepared to go with the  
20 RAC recommendation. But if somebody else wants to do  
21 something else, we just need to get a motion. We need to  
22 get a motion on the table here.

23

24 MR. BACHOR: Mr. Chairman.

25

26 CHAIRMAN DEMIENTIEFF: Yes.

27

28 MR. BACHOR: It seems to me that we're --  
29 I'm just not sure if a whole 'nother year of study is  
30 going to get us anywhere. And there are some definite  
31 differences in the proposal, not considerably different.  
32 I am concerned that the added burden of reporting and  
33 that sort of thing is, from what I understand, from my  
34 Staff is significant so I'm not really enamored with  
35 that. I'm also not sure that more studies are going to  
36 tell us anything different about the 13 or so streams  
37 that are fall run streams that have problems.

38

39 So if you want a motion, I could propose  
40 a motion here and we can vote on it and see where it  
41 goes.

42

43 CHAIRMAN DEMIENTIEFF: Yeah.

44

45 MR. BACHOR: Okay. I move to adopt the  
46 Proposal 23 as modified and recommended by the Staff  
47 Committee majority.

48

49 CHAIRMAN DEMIENTIEFF: There's a motion,  
50 is there a second?

00087

1 MR. BISSON: I second.

2

3 CHAIRMAN DEMIENTIEFF: It's been moved  
4 and seconded. Discussion on the motion.

5

6 MR. EDWARDS: Mr. Chairman, I do think  
7 there may be some other options. I guess I wasn't  
8 thinking that we would wait and spend a whole 'nother  
9 year on this. It seems to me, for example, if both of  
10 them require permitting process then you would know under  
11 3-25, if nobody came in December, January and February  
12 and asked for a permit you know that there wouldn't be a  
13 problem because nobody, obviously, would be fishing  
14 because there would be no permits issued. So there may  
15 be some options of coming up with ways to monitor those  
16 initial permits and set some threshold or something. I  
17 just think that there are some other potential options  
18 that wouldn't necessarily take a whole year of study and  
19 try to find out.

20

21 It seems to mean the primary concern is  
22 these fall runs and if we can do something that would  
23 allow the fishing to go forward and yet, at the same  
24 time, protect those, it seems to me we ought to try to do  
25 that.

26

27 MS. GOTTLIEB: Mr. Chair.

28

29 CHAIRMAN DEMIENTIEFF: Yes.

30

31 MS. GOTTLIEB: I would agree with Gary.  
32 I think there's a few other things that could be explored  
33 amongst the managers, the minority Staff Committee  
34 opinion was put together about three or four weeks ago so  
35 I think it just hasn't had a chance to have full  
36 discussion and perhaps discussion with the RACs and  
37 others. And I think some of the information that came up  
38 today would also be worthwhile to have further discussion  
39 rather than having a potentially, you know, contentious  
40 issue for starters here. I think there is opportunity  
41 for some common ground and resolution.

42

43 CHAIRMAN DEMIENTIEFF: Bill.

44

45 MR. THOMAS: Mr. Chairman.....

46

47 MR. BISSON: Mr. Chairman, I just wanted  
48 to say that I would not be opposed to deferring to give  
49 people a chance to try to see if they could work out a  
50 compromise solution. If it could be done, if Staff could

00088

1 meet and perhaps meet with Mr. Thomas this evening or in  
2 the next couple of days, if they could come up with an  
3 alternative that we could agree on, you know, between now  
4 and Thursday, I think that would be fine with me. If it  
5 takes more time than that, then I guess we need to decide  
6 on whether we want to do that or not.

7

8 CHAIRMAN DEMIENTIEFF: Procedurally,  
9 though, Mr. Thomas has the unanimous mandate from the  
10 RAC, okay. It would be very difficult, I think, for Mr.  
11 Thomas to go against the unanimous recommendation from  
12 the RAC. I mean it would be very difficult for any Chair  
13 to go against the recommendation of their RAC.

14

15 Bill.

16

17 MR. THOMAS: Thank you, Mr. Chairman.  
18 See, what we're -- I'm really surprised at this. What  
19 you're Board is confused over is speculation, numbers  
20 that don't have basis. You know, they anticipate a worst  
21 case scenario, which is a historical means of managing  
22 the resource in the state. The information you got from  
23 the RAC has been substantiated with experience of people  
24 that use these systems and this resource. That's where  
25 our recommendation came from. I don't understand why we  
26 have to put so much effort into trying to prevail over an  
27 Interagency Staff Committee especially on a proposal like  
28 this.

29

30 Thank you, Mr. Chairman.

31

32 MR. BUNCH: Mr. Chair, I would  
33 wholeheartedly agree with Mr. Thomas on that issue. I  
34 think that if we were to vote right now I'd have to vote  
35 against the majority report simply because I don't think  
36 it meets the needs of subsistence users.

37

38 CHAIRMAN DEMIENTIEFF: Is there any  
39 further discussion on the motion?

40

41 (No discussion)

42

43 CHAIRMAN DEMIENTIEFF: Hearing none, I  
44 think we better go for a roll call vote, Tom.

45

46 MR. BOYD: Okay.

47

48 MR. EDWARDS: Mr. Chairman, just one  
49 point though.

50



00089

1 CHAIRMAN DEMIENTIEFF: Gary.

2

3 MR. EDWARDS: A no vote does what?

4

5 CHAIRMAN DEMIENTIEFF: A no vote -- the

6 motion is to accept the majority report of the Staff

7 Committee and a no vote rejects the majority Staff

8 Committee opinion.

9

10 MR. EDWARDS: But it doesn't accept the

11 minority?

12

13 CHAIRMAN DEMIENTIEFF: Pardon?

14

15 MR. EDWARDS: But it doesn't accept the

16 minority?

17

18 CHAIRMAN DEMIENTIEFF: No, but it's not

19 -- that option would still be open to the Board. You

20 know, the thing I think we've got to realize is our Board

21 meets every year. We adopt a regulation, this goes into

22 effect for this season and we're going to be right back

23 here next December and have a chance to fine tune any

24 regulation in time for next season. So that's the thing

25 that we have to keep in mind. We schedule all of our

26 regulations every year. So if there are, in fact,

27 biological issues or something that comes up, other

28 information, we could come right back to it. So that's

29 why one of the stronger reasons why I'm prepared to go

30 along with the RAC recommendation, and that's basically

31 it.

32

33 Are we ready for a vote?

34

35 (Affirmative nods)

36

37 Go ahead, Tom.

38

39 MR. BOYD: Mr. Bachor.

40

41 MR. BACHOR: Aye.

42

43 MR. BOYD: Mr. Bisson.

44

45 MR. BISSON: Aye.

46

47 MR. BOYD: Mr. Edwards.

48

49 MR. EDWARDS: No.

50

00090

1 MR. BOYD: Ms. Gottlieb.

2

3 MS. GOTTLIEB: I'll vote for but only  
4 because of my concern about the fall run. I would like  
5 to see some further follow-up work on the part of the  
6 managers and in talking to the subsistence users about  
7 permitting requirements and whether there truly is or  
8 isn't a burden to making that happen.

9

10 Thank you.

11

12 MR. BOYD: Mr. Bunch.

13

14 MR. BUNCH: No.

15

16 MR. BOYD: Mr. Chair.

17

18 CHAIRMAN DEMIENTIEFF: I vote no. Motion  
19 fails three to three.

20

21 (Pause)

22

23 CHAIRMAN DEMIENTIEFF: Do we have another  
24 motion.

25

26 MR. BUNCH: Mr. Chair.

27

28 CHAIRMAN DEMIENTIEFF: Yes.

29

30 MR. BUNCH: I move that we accept the  
31 minority report on the RAC, as I feel that more closely  
32 meets the needs of subsistence users on Prince of Wales  
33 Island.

34

35 CHAIRMAN DEMIENTIEFF: There is a motion,  
36 is there a second?

37

38 (Pause)

39

40 CHAIRMAN DEMIENTIEFF: There is no  
41 second? Well, we can't get a second.

42

43 MR. BUNCH: Mr. Chair, can I have a  
44 clarification here, if I may.

45

46 CHAIRMAN DEMIENTIEFF: Pardon?

47

48 MR. BUNCH: Can I have a clarification on  
49 a procedural point?

50

00091

1 CHAIRMAN DEMIENTIEFF: Go ahead.

2

3 MR. BUNCH: As you know I'm not a full-  
4 time member of this Board, I'm only sitting in for Niles  
5 Cesar. But it's my understanding for this Board to turn  
6 down the recommendation of a RAC there has to be some  
7 criteria in order for us to do that. Would you explain  
8 to me what that criteria is, please?

9

10 MR. BOYD: Mr. Chair, if I might  
11 paraphrase from .805(c).

12

13 CHAIRMAN DEMIENTIEFF: Yes.

14

15 MR. BOYD: If the Board rejects a Council  
16 recommendation it must do so on the basis of three  
17 reasons listed in .805(c) and those are that it would be  
18 detrimental to the satisfaction of subsistence needs;  
19 that it would violate conservation principles or that it  
20 lacks substantial evidence.

21

22 Mr. Chair.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. We  
25 usually have those right with us because it's something  
26 that does come up all the time but we just didn't do it  
27 in this particular packet, I guess.

28

29 So anyway, procedurally what we'll do is  
30 if we don't get a second then we're going to end up doing  
31 nothing on the whole proposal.

32

33 MR. EDWARDS: We might have another  
34 motion.

35

36 CHAIRMAN DEMIENTIEFF: What?

37

38 MR. EDWARDS: We might have another  
39 motion.

40

41 CHAIRMAN DEMIENTIEFF: Well, that motion  
42 dies for a lack of a second.

43

44 MR. EDWARDS: Are you interested in  
45 another motion?

46

47 CHAIRMAN DEMIENTIEFF: Sure. Well, yes,  
48 I think, you know, we have a responsibility to do  
49 something, you know. We've tried two approaches and I  
50 just don't want us to walk away from this, you know, with

00092

1 leaving it basically in limbo. So, yes, I do want  
2 another motion.

3

4 MR. EDWARDS: Well, I guess, Mr.

5 Chairman, if there would have been a second on that I  
6 would have probably voted against that motion again  
7 because I'm certainly convinced that we need to be  
8 concerned about the fall runs. I guess I'm not convinced  
9 that necessarily what's being proposed by the RAC would  
10 necessarily impact that although I certainly don't know.  
11 I'm assuming, though, that if people wanted to fish  
12 during December and January and February and that's why  
13 they asked for it, then people would fish. So my view is  
14 there would probably be some level of harvest, I'm not  
15 sure what that is.

16

17 I do think, again, there still is some  
18 options to it without maybe having to spend a year on it.  
19 I guess I would move that, I don't know what the correct  
20 word is, if we remand it back to the RAC and pick it up  
21 at our next meeting with the charge of the RAC to try to  
22 sit down with all the concerns and address what the --  
23 identify the conservation concerns and try to come back  
24 with a proposal that would do that but at the same time  
25 providing a subsistence opportunity.

26

27 MR. THOMAS: Mr. Chairman.

28

29 CHAIRMAN DEMIENTIEFF: There's a motion,  
30 is there a second?

31

32 (Pause)

33

34 CHAIRMAN DEMIENTIEFF: Is there a second?

35

36 MS. GOTTLIEB: Mr. Chair, could that be  
37 repeated, please?

38

39 MR. EDWARDS: I'm not sure I can. I  
40 think the motion was and I guess if remand is the correct  
41 term, that we would remand the -- refer -- defer -- we're  
42 going to refer the proposal back to the RAC asking them  
43 to bring it back to the Board at the next time we meet  
44 and with the charge of working, sitting down and trying  
45 to work with all interested parties to address what is  
46 viewed as the conservation concerns and to hopefully come  
47 back with a proposal that would address those issues and  
48 that we would be able to vote in the affirmative on.

49

50 CHAIRMAN DEMIENTIEFF: Is there a second

00093

1 to that motion?

2

3 MS. GOTTLIEB: Mr. Chair.

4

5 CHAIRMAN DEMIENTIEFF: Yes.

6

7 MS. GOTTLIEB: I guess I'll second it

8 with the amendment that if all parties meet and want to

9 come back to us sooner than the May meeting that would be

10 fine with me.

11

12 CHAIRMAN DEMIENTIEFF: When is the next  
13 time that the Southeast RAC meets?

14

15 MR. THOMAS: We meet again in February.

16

17 CHAIRMAN DEMIENTIEFF: February.

18

19 MR. THOMAS: I have a question if it's

20 allowable?

21

22 CHAIRMAN DEMIENTIEFF: Go ahead.

23

24 MR. THOMAS: I don't know what's missing

25 from the information for Mr. Edwards. We got a letter

26 from the person that probably knows more about the system

27 on Prince of Wales than anybody in here. It's an

28 accurate account of what's going on. We have 13 members

29 on our Council. We're all familiar with the resources

30 and its use. This is not new to us. We've been doing

31 this before time was measured. And there's still fish

32 there. You're talking about added pressure, everybody on

33 Prince of Wales is eligible for a subsistence permit.

34 And so where else could the additional pressure come from

35 except from off the Island. If you're going to let that

36 happen you can't measure the pressure that would show up

37 from off the Island. I don't think we should be

38 victimized because of that speculation or that

39 possibility.

40

41 Thank you, Mr. Chairman.

42

43 CHAIRMAN DEMIENTIEFF: Thank you.

44 Further discussion on the motion.

45

46 MS. GOTTLIEB: Mr. Chair.

47

48 CHAIRMAN DEMIENTIEFF: Yes.

49

50 MS. GOTTLIEB: I guess in my mind it

00094

1 comes back to Federal and State managers and cooperation  
2 and coordination. I don't think I heard an answer in  
3 terms of how permitting process can be improved. Right  
4 now it's 15 days, or the end of the year -- 15 days after  
5 the season, whatever it might be, what can you do without  
6 putting undue burden on yourselves and/or the users to  
7 improve the permitting system so we can get a little bit  
8 better feedback. You can have better feedback and  
9 judgment on the fishing pressure and the strengths of the  
10 runs.

11

12 MR. CASIPIT: Well, again, I guess I'll  
13 take my best shot at this. There's no question under the  
14 majority opinion, it'd be a heck of a lot easier for the  
15 manager to deal with issues of staying under the 600 fish  
16 cap and what have you. No question it's an easier job  
17 for the managers to work with the majority opinion.

18

19 The minority opinion, the SERAC opinion,  
20 you know, we could probably make that work, too. It's  
21 going to cost us, you know, cost us more money and it's  
22 going to require that users report on a weekly basis and  
23 that sort of thing to keep the harvest controlled and  
24 keep under the 600 fish cap.

25

26 That means then I don't know what to say  
27 about any proposals in between because there's not  
28 anything -- you know, there's not anything in between for  
29 us to respond to right now.

30

31 MS. GOTTLIEB: Mr. Chair, I guess I'm  
32 still confused, sorry about this, I thought it was within  
33 15 days not weekly reporting, at the close of the season,  
34 I thought that was the proposal?

35

36 MR. CASIPIT: Yeah, that's what's in the  
37 minority opinion, the RAC opinion. When Staff Committee  
38 came up with the majority opinion, you know, we were  
39 working with a three month season so we didn't see the  
40 need for weekly reporting. You know, if the majority  
41 Staff Committee opinion was the SERAC position then we  
42 would have to -- we would be discussing with you right  
43 now the issue of weekly reporting so that we could stay  
44 under the 600 fish cap.

45

46 MR. BISSON: Mr. Chairman, it seems to me  
47 that some of the uncertainty is not knowing how much of  
48 the fall run steelhead would be harvested, you know,  
49 before you end up with a mixture of fish beginning in  
50 March. The question I would have is whether it's

00095

1 feasible to have a reporting system just for the period  
2 that the Southeast RAC has recommended from December 1st  
3 to March 31st and then eliminate the reporting so at that  
4 point you would know how many steelhead had been  
5 harvested and you'd know what you have to work with in  
6 that later period.

7

8           So you'd limit it to just those people  
9 that are harvesting fish during that time period, which,  
10 if there aren't many people going out there, it doesn't  
11 seem like it would be an undue burden.

12

13           MR. CASIPIT: Just first blush answer to  
14 that, that seems like it's totally -- that seems workable  
15 to me.

16

17           MR. BISSON: I believe with that change,  
18 if we had a reporting requirement during that period then  
19 I think I certainly believe that I could support the  
20 Southeast RAC recommendation.

21

22           CHAIRMAN DEMIENTIEFF: We kept monthly  
23 calendars, I know, in the Interior, does it have to be a  
24 weekly calendar, or a weekly report?

25

26           MR. THOMAS: Mr. Chairman, I'd be willing  
27 to arm wrestle the Park Service to get this settled.

28

29           (Laughter)

30

31           CHAIRMAN DEMIENTIEFF: Just what I was  
32 talking about and I agree, that maybe making it go away  
33 after the three months, but even, I think, monthly  
34 information would be less of a burden on the managers  
35 [sic] and still give current enough information to see if  
36 there is, in fact, that going on.

37

38           Doug.

39

40           MR. VINCENT-LANG: I want to answer  
41 Judy's question earlier, I don't think anybody really  
42 answered that.

43

44           I guess from the Department point of  
45 view, if you took 600 fish out of the fall run there  
46 would be some conservation issues associated with that.  
47 Now, I think 600 fish being taken out of a mixture of  
48 fall and spring spawners don't have conservation  
49 concerns. But I think if you set up a system whereby you  
50 would allow all 600 fish to be taken out of the fall run

00096

1 you could potentially or credibly end up with stock  
2 conservation problems in fall run streams on Prince of  
3 Wales Island.

4

5 And I think the second question you asked  
6 about permitting, without some upper cap being placed on  
7 the number of fall run fish being taken you still have  
8 the potential of ending up with all 600 fish early on.  
9 So I think if you go that direction, wanting to provide  
10 some opportunity during the fall run you're going to have  
11 to look at some conservative harvest strategy to prevent  
12 overharvest of those fall run stocks.

13

14 I think this is an issue that begs for  
15 further discussion.

16

17 MR. THOMAS: Mr. Chairman.

18

19 CHAIRMAN DEMIENTIEFF: Yes.

20

21 MR. THOMAS: Again, if, if, if. You  
22 know, you can't feed a family on if. You got to give  
23 them the opportunity to get out there and get it. And if  
24 they recognize that there's a conservation issue they  
25 respect that and deal with it accordingly.

26

27 Thank you.

28

29 CHAIRMAN DEMIENTIEFF: Yeah, I think what  
30 we're hearing is could be conservation concerns. And  
31 again, we don't have cause to go against the RAC  
32 recommendation. I don't remember where we're at here.  
33 We had a motion?

34

35 MR. BOYD: The motion was, I believe, to  
36 refer it back to the RAC.

37

38 CHAIRMAN DEMIENTIEFF: Refer it back to  
39 the RAC. It was moved and seconded. And that's  
40 basically the motion that we have in front of us.

41

42 MS. GOTTLIEB: Mr. Chair.

43

44 CHAIRMAN DEMIENTIEFF: Yes.

45

46 MS. GOTTLIEB: I think Doug led us to the  
47 point where can the managers and the subsistence users,  
48 with as much or as little specificity as possible come up  
49 with potential harvest limits and I know we don't have  
50 all the data but we have some background knowledge of who



00097

1 uses what areas. And just generally come up with a  
2 scheme of approximate number of permits, even maybe by  
3 season to allow this to happen but with the cautions.  
4 But it's going to be up to the permitters to take some  
5 stronger -- a stronger lead on that in my opinion.

6

7 MR. THOMAS: Mr. Chairman.

8

9 CHAIRMAN DEMIENTIEFF: Yes.

10

11 MR. THOMAS: Sending it back to the RAC  
12 isn't going to do anything. We gave you everything we  
13 got. It's credible. It's accurate. It's useable. It's  
14 manageable. We're the only information that gave you  
15 with those properties in it. If you give it back to the  
16 RAC and we got to deal with an agency Staff Committee,  
17 the State, I don't think it will be give and take. And  
18 it's a matter -- I don't know, I think our biggest  
19 problem here is educating the Board. I think that's  
20 where it's at. And it's too bad that that's the case.  
21 You try to go by instincts. I try to demonstrate some  
22 loyalty. There's camaraderie. There's a lot of  
23 components, I'm familiar with government. And you got to  
24 put that aside and embrace this issue like you were given  
25 the charge to do so. We're not doing that.

26

27 Thank you.

28

29 CHAIRMAN DEMIENTIEFF: Yeah, I agree.

30 This is not something -- I certainly can't support the  
31 motion at all. You know, from my -- if the reporting  
32 were the issue, we could have used the RAC recommendation  
33 as a vehicle and amend to take care of those three months  
34 reporting, the three months that are of concern and we'd  
35 have a Board action. You've got a unanimous  
36 recommendation of the RAC and, you know, they're going to  
37 come back with the same recommendation or very little  
38 difference, you got to wait until February to get that  
39 done, we have the opportunity to do something today.

40

41 So for that reason I can't support the  
42 motion to refer back to the RAC.

43

44 MR. BISSON: Mr. Chairman, can I ask a  
45 question.

46

47 CHAIRMAN DEMIENTIEFF: Yes.

48

49 MR. BISSON: I guess the question I would  
50 have, at least, at this point, I think you're right.

00098

1 From where I'm sitting I think the proposal of the RAC is  
2 something I could accept with some sort of reporting  
3 requirement to take care of that time period that would  
4 go -- with so much potential for removal of fish from the  
5 fall run. The question I would have is whether, at the  
6 same time, it's possible to establish a number that could  
7 be acceptable. If you're going to collect information on  
8 a monthly basis as you recommended, is there a number of  
9 fish from the fall run that, at least, on a trial basis  
10 in this first year we could live with so that with  
11 monthly reporting, if 200 fish got taken out of the fall  
12 run, there'd be an opportunity to delay any additional  
13 catch until you get to March 1st or whenever the mixed  
14 fish are in there.

15

16 I don't even know whether that's feasible  
17 or not but it seems to me that that's a reasonable  
18 approach to take and that avoids taking all 600 fish out  
19 of that one run which is of a great deal of concern to  
20 the biologist.

21

22 CHAIRMAN DEMIENTIEFF: I think that's why  
23 we have in-season managers. We don't need to set  
24 parameters as a Board. If there's a biological concern  
25 by the in-season managers, they have the ability to close  
26 the season and so that's not something that we would  
27 necessarily have to come up with in regulation.

28

29 MR. BISSON: So what you're saying is if  
30 we went with the Southeast RAC recommendation with some  
31 sort of reporting requirement with the managers, the in-  
32 season managers could look at then they could make that  
33 determination at any point. They wouldn't necessarily  
34 have to allow 600 fall fish to be taken. They could  
35 decide that some lesser number is all that the fisheries  
36 can sustain and then open it back up again in the spring.

37

38 That seems reasonable to me.

39

40 CHAIRMAN DEMIENTIEFF: Yeah, we have  
41 that in place now. And if there are biological concerns  
42 the managers can just simply close the season at that  
43 point. Bill.

44

45 MR. THOMAS: Thank you, Mr. Chairman. If  
46 there's going to be any concerns about the resource,  
47 conservation wise, the first people to be concerned about  
48 it to do something about it are the users. So the  
49 biologists have nothing to worry about. Because the  
50 subsistence, inherently assume the responsibility of the

00099

1 source of their resource.

2

3 Thank you, Mr. Chairman.

4

5 CHAIRMAN DEMIENTIEFF: So basically  
6 that's what quite often happens in management. Users who  
7 are concerned will often be, and that's what Bill is  
8 saying, will often be the very first ones to get a hold  
9 of the managers and say, we've got a problem. We've got  
10 a biological problem here or we think we do. And I know  
11 it's something that I've done before in the State system,  
12 during my third year, whatever tenure as Chair in  
13 chairing our Advisory Committee and I know other members  
14 of the Advisory Committee, very many also did the very  
15 same thing.

16

17 MR. BACHOR: Mr. Chairman, I'm just  
18 wondering, I'm kind of confused where we are in the  
19 process now, if we got a motion on the floor or not. But  
20 is there any advantage or opportunity to maybe tabling  
21 this for a day so that the parties can talk about maybe  
22 drafting a motion that might be a combination of what  
23 everybody needs here? Because my initial gut feeling is  
24 we're not that far off and I would hate to put this off  
25 for another year if we could avoid that, mainly because  
26 subsistence needs won't be met if we do that.

27

28 MR. THOMAS: That's right.

29

30 CHAIRMAN DEMIENTIEFF: I certainly would  
31 be prepared to do that. I mean the motion is to refer to  
32 back to the Regional Council, which would mean that the  
33 next time that the Council could take it up would be  
34 February.

35

36 MR. EDWARDS: Mr. Chairman, I'm willing  
37 to withdraw my motion if we could come up with something  
38 to allow a couple of days for folks to try to address it.

39

40 CHAIRMAN DEMIENTIEFF: Who seconded that  
41 motion?

42

43 MR. EDWARDS: Judy.

44

45 CHAIRMAN DEMIENTIEFF: Judy, do you  
46 concur with the withdrawal?

47

48 MS. GOTTLIEB: I would concur.

49

50 CHAIRMAN DEMIENTIEFF: Okay. We'll go

00100

1 ahead and do that. We'll ask the managers to get  
2 together with Bill and see if we can resolve the  
3 reporting concerns. Like I said, I think it's perfectly  
4 fine. I like the idea and I'm not trying to tell you  
5 guys how to resolve it but I like the idea of having the  
6 reporting for the first three months of the season when  
7 the concern is. But if you guys could get that and see  
8 if we can't work something out. I mean he's obviously  
9 got to stick by his recommendation of the Council as I  
10 said earlier. But if we can work out some kind of a  
11 compromise, he's still going to support the Regional  
12 Council recommendation as it's presented because his  
13 Council has voted on that and that's what he's obligated  
14 to do. So if you guys can sit down, I'm certain it's  
15 just a scheduling thing. I'll just go ahead and  
16 reschedule it and we'll see if we can't come up with  
17 something.

18

19 So with that we'll go ahead and  
20 reschedule for either tomorrow or the next day for  
21 further consideration of the proposal and prepare to move  
22 on.

23

24 MR. THOMAS: Are you going to take a  
25 break so I can wrestle the Park Service?

26

27 (Laughter)

28

29 CHAIRMAN DEMIENTIEFF: Yeah, maybe that's  
30 not a bad idea, we'll take a short one.

31

32 (Laughter)

33

34 (Off record)

35

36 (On record)

37

38 CHAIRMAN DEMIENTIEFF: We'll move to the  
39 Cook Inlet area. We're going to be doing Proposals FP03-  
40 8(a) 9(a), 10(a) and 8(b), 9(b) and 10(b). Who's going  
41 to do the Staff analysis, is that you Pat?

42

43 MS. PETRIVELLI: Yes.

44

45 CHAIRMAN DEMIENTIEFF: Okay.

46

47 MS. PETRIVELLI: Mr. Chairman, my name is  
48 Pat Petrivelli. The analysis for 8(a), 9(a) and 10  
49 begins on Page 268 in Tab D.

50

00101

1 Fish Proposal 03-08(a) submitted by  
2 Michele Haynes, a resident of Chisik Island in Western  
3 Cook Inlet requests a positive customary and traditional  
4 use determination for shellfish for the residents of  
5 Chisik Island in Tuxedni Bay only. 9(a) submitted by  
6 Henry Kroll, a resident of Tuxedni Bay in Western Cook  
7 Inlet requests a positive customary and traditional use  
8 determination for crab and razor clams in Tuxedni Bay for  
9 residents of Tuxedni Bay only. 10(a) submitted by  
10 Ninilchik Traditional Council, Steven Vanik and Frank  
11 Bahr requests a positive customary and traditional use  
12 determination for all shellfish in the Cook Inlet area  
13 for residents of the Kenai Peninsula district.

14  
15 There are no customary and traditional  
16 use determinations for shellfish in the Cook Inlet area,  
17 therefore, all rural residents are currently eligible.  
18 8(a) asks for recognition for the local residents of  
19 Tuxedni Bay and Chisik Island, 9(a) Tuxedni Bay only and  
20 then the 10(a) has the largest group, the residents in  
21 the Kenai Peninsula district or the communities  
22 surrounding Cook Inlet.

23  
24 Proposals 9(a) and 10(a) were originally  
25 submitted in 2000 and included a request for other  
26 species. These requests were dealt with during the  
27 2001/2002 regulatory cycle and the analysis of FP02-11(a)  
28 12(a), 13(a) and 14(a) that dealt with the use of salmon  
29 and other freshwater fish species and those  
30 determinations were deferred until a study of Cook Inlet  
31 subsistence finfish fisheries was completed. The request  
32 for the customary and traditional use of shellfish was  
33 deferred until this cycle.

34  
35 Seasons and harvest limits for this area  
36 for shellfish are addressed separately in the analysis of  
37 8(b), 9(b) and 10(b). The largest group of users  
38 requested in the three proposals is identified as  
39 residents of the Kenai Peninsula district. The Kenai  
40 Peninsula district isn't defined in the Federal  
41 Subsistence Management Program regulations. For the  
42 purposes of this analysis the boundaries of the Kenai  
43 Peninsula Borough were used as these boundaries are  
44 inclusive of the groups described by all three  
45 proponents.

46  
47 A preliminary step was made to review  
48 shellfish use by residents in areas surrounding the Kenai  
49 Peninsula Borough. To the north in the rural portions of  
50 the Matanuska-Susitna Borough where shellfish harvest

00102

1 areas were mapped and where shellfish use occurred, these  
2 residents obtained shellfish from Clam Gulch or Kachemak  
3 Bay. To the west, in Lake Clark, in the Lake Clark and  
4 Lake Iliamna area, the harvest areas on the west side of  
5 Cook Inlet described for Nondalton, Pedro Bay, Iliamna,  
6 Newhalen and Kokhonak extended from Chinitna Bay south to  
7 Akumwarvik Bay. To the east and in Prince William Sound  
8 harvest maps for Whittier showed that uses occurred in  
9 the Prince William Sound area.

10

11           So due to the lack of documented use by  
12 residents of other areas, the analysis of community  
13 characteristics and the eight factors for determining  
14 customary and traditional use will be focused on the  
15 residents of the Kenai Peninsula Borough.

16

17           As to Federal waters under consideration,  
18 marine water jurisdiction where shellfish resources  
19 relevant to this analysis will occur applies in the  
20 Tuxedni subunit of the Alaska Maritime National Wildlife  
21 Refuge which surrounds Chisik Islands in Federal waters  
22 within the exterior boundaries of the Lake Clark National  
23 Park in Tuxedni Bay. These areas were referred to in  
24 this analysis as the Tuxedni Bay area. Hashed marked  
25 areas indicate these marine waters on the map and are  
26 described in detail in the analysis on Page 269.

27

28           A summary of the historical depth  
29 population and ethnic composition of the communities and  
30 areas in the Kenai Peninsula Borough can be found on  
31 Table 1 on Page 272. Data from ADF&G household surveys  
32 are -- is listed in Table 2 on Page 273. This data was  
33 available for seven communities and a study of the other  
34 rural areas of the southern Kenai Peninsula. The scope  
35 of the area included in these studies is indicted on  
36 Pages 271 through 273 of the analysis.

37

38           The data relating to household that's  
39 available showed that from 86 to 100 percent of these  
40 households harvested subsistence resources. Shellfish  
41 made up from 2.3 percent to 18.5 percent of the per  
42 capita pounds used annually in those households.  
43 Seldovia at 34 pounds had the highest per capita annual  
44 use. Cooper Landing at 2.3 pounds had the lowest per  
45 capita annual use. Two generally used patterns are  
46 evident. These two use patterns are reflected in varying  
47 degrees by the communities in the Borough that use  
48 shellfish. The patterns are related to their nearness to  
49 shellfish resources. In communities where a wide variety  
50 of shellfish occurs locally, the use is spread throughout

00103

1 the year. This use pattern of readily available  
2 shellfish is evident in Port Graham, Nanwalek and  
3 Seldovia. This shellfish use pattern is also described  
4 by Kroll in the three generations of their families along  
5 with the residents in the Tuxedni Bay and Chisik Island  
6 area respectfully.

7  
8 The other use pattern reflected in the  
9 Tyonek seasonal round involves traveling to where the  
10 specific resource occurs at specific times of combining  
11 other activities with the trip. The description clamming  
12 trips in the 1984 ADF&G study provides detailed  
13 information for the regular use of the area from Little  
14 Jack Slough to Tuxedni for these activities. Besides  
15 Tyonek, this use pattern of the Tuxedni Bay area is shown  
16 in varying degrees for Ninilchik, Seldovia, Hope and  
17 Cooper Landing. In addition to hunting being combined  
18 with clamming activities when traveling a number of  
19 households from Seldovia and Ninilchik have fished  
20 commercially in the west side of Cook Inlet during the  
21 course of which they engaged in subsistence activities  
22 such as clamming, fishing and hunting. Resource use  
23 mapping by the ADF&G, Division of Subsistence, provides  
24 evidence of use of these Federal waters by Tyonek and  
25 Cooper Landing. Other resource use maps show use by  
26 residents of Ninilchik.

27  
28 Testimony at Council meetings in written  
29 documents show use of Federal waters by residents of  
30 Seldovia in the two proponents -- the residents of  
31 Tuxedni Bay and Chisik Island.

32  
33 As to the effects of this proposal, or  
34 these proposals, currently there are no determinations of  
35 shellfish for the Cook Inlet area. These proposals were  
36 limited to selected groups of residents of the Borough.  
37 Also considering Federal jurisdiction relative to  
38 shellfish distribution the area affected by the proposal  
39 is very limited. Rural residents of other communities  
40 will be excluded from the customary and traditional use  
41 determination, these communities could continue to  
42 harvest clams under State personal use or sport  
43 regulations and harvest of tanner crab could also  
44 continue under State personal use regulations.

45  
46 That concludes my presentation.

47  
48 CHAIRMAN DEMIENTIEFF: Thank you.  
49 Written public comments.

50

00104

1 MS. WILKINSON: Ann Wilkinson,  
2 Coordinator. Mr. Chairman, there were none.

3

4 CHAIRMAN DEMIENTIEFF: Thank you. At  
5 this time we have no request for additional public  
6 testimony. Regional Council recommendation.

7

8 MR. LOHSE: Mr. Chair, Southcentral  
9 Regional Council made no recommendations on this  
10 proposal. In fact, on Section (a) on the proposal, we  
11 didn't even bring it to the floor for a vote. We were  
12 kind of concerned partly because the people who submitted  
13 the proposal had no information in front of us either.  
14 There was no written comment or no comment from the  
15 people who it was for.

16

17 Thank you.

18

19 CHAIRMAN DEMIENTIEFF: Thank you.

20

21 MR. O'HARA: Mr. Chairman.

22

23 CHAIRMAN DEMIENTIEFF: Yes, Dan.

24

25 MR. O'HARA: Bristol Bay's boundary goes  
26 over to the -- across to Alaska Peninsula and over to the  
27 west side of the Cook Inlet region over there and so we  
28 had a comment on it. We supported the Staff  
29 recommendation and they had a list of names there, it's  
30 in your book, on both 8 and 9, was it -- yeah, 8, 9 and  
31 10(a), and those were our comments.

32

33 However, I would like to ask, is it Pat  
34 Petrivelli?

35

36 MS. PETRIVELLI: Yes.

37

38 MR. O'HARA: You listed -- if I could,  
39 Mr. Chairman.

40

41 CHAIRMAN DEMIENTIEFF: Go ahead, Dan.

42

43 MR. O'HARA: She listed names of villages  
44 and Lake Iliamna that participated in bottom fish and  
45 shellfish on the Cook Inlet side, would you list those  
46 names again? I have names like Iliamna, Pedro Bay, Port  
47 Alsworth, Nondalton, Newhalen, Igiugig and Kokhonak.

48

49 MS. PETRIVELLI: Let's see, oh, well,  
50 what I said was -- oh, Nondalton, Pedro Bay, Iliamna,



00105

1 Newhalen and Kokhonak?

2

3 MR. O'HARA: Nondalton and what, Pedro  
4 Bay?

5

6 MS. PETRIVELLI: Yeah, Nondalton, Pedro  
7 Bay, Iliamna, Newhalen and Kokhonak, yeah. Is harvesting  
8 from Chinitna Bay south to Akumwarvik. That's what the  
9 technical report identified as their shellfish harvest  
10 areas and not north of Chinitna Bay -- not north in the  
11 Tuxedni Bay area.

12

13 MR. O'HARA: One of us should turn our  
14 mike off so there's no backfeed. I think that, you know,  
15 Port Alsworth, Iliamna, Newhalen and all those places  
16 went over there and did those fisheries, just so that's  
17 in the minutes.

18

19 Thank you, Mr. Chairman.

20

21 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
22 Committee.

23

24 MR. CHIN: Thank you, Mr. Chair. The  
25 information I'd like to present to you is shown on Page  
26 257 under Tab D of your notebook.

27

28 The Interagency Staff Committee  
29 recommendation on Proposals 8(a), 9(a) and 19(a) are to  
30 adopt the proposal with modification to make positive  
31 determinations of customary and traditional use of clams  
32 and crab for residents of Tuxedni Bay, Chisik Island and  
33 Tyonek.

34

35 The Staff Committee felt it was important  
36 to provide a more succinct geographic description of the  
37 area involved here and so they recommend the inclusion of  
38 the following language in the regulation.

39

40 Cook Inlet area, meaning the Federal  
41 waters in Tuxedni Bay area within the  
42 boundaries of Lake Clark National Park  
43 and Preserve or the Alaska Maritime  
44 National Wildlife Refuge.

45

46 Our justification for our recommendation  
47 is as follows. The Staff Committee reviewed data from  
48 ADF&G household studies, various studies, resource use  
49 maps and personal written communications which show that  
50 Tuxedni Bay area has been used for the harvest of clams

00106

1 for residents of Tuxedni Bay, Chisik Island and Tyonek.  
2 While data from the ADF&G household studies show that  
3 these communities and the other rural residents of the  
4 Kenai Peninsula Borough uses crab there is no  
5 documentation for the use of crab in the Tuxedni Bay area  
6 except for the information provided by the residents of  
7 Tuxedni Bay and Chisik Island. It also showed that there  
8 are other rural residents of the Kenai Peninsula Borough  
9 used shellfish obtained mainly in the Lower Cook Inlet  
10 area, the east side of Cook Inlet. There is no  
11 documentation for use of Tuxedni Bay area by any other  
12 rural residents.

13

14 The Staff Committee found that there was  
15 lack of substantial evidence to recommend adoption of the  
16 recommendation of the Bristol Bay Advisory Council, which  
17 said support the proposal with modification to make  
18 positive determinations of customary and traditional use  
19 of clams for residents of Tuxedni Bay, Chisik Island,  
20 Tyonek as well as Cooper Landing, Hope, Ninilchik and  
21 Seldovia and also positive determinations of customary  
22 and traditional use of crab for residents of Tuxedni Bay  
23 and Chisik Island.

24

25 That concludes my presentation.

26

27 CHAIRMAN DEMIENTIEFF: Thank you.

28 Department comments.

29

30 MS. SEE: Mr. Chair. Members of the  
31 Board. Council Chairs. On Proposals 8(a), 9(a) and  
32 10(a), we support the Interagency Staff Committee  
33 recommendation. The communities of Tuxedni Bay, Chisik  
34 Island and Tyonek of uses of shellfish which are  
35 documented and which are consistent with the  
36 determination of customary and traditional use. The  
37 proposal, as modified by the Interagency Staff Committee  
38 would align with those documented uses.

39

40 Thank you.

41

42 CHAIRMAN DEMIENTIEFF: Thank you. Board  
43 discussion.

44

45 MS. GOTTLIEB: Mr. Chairman.

46

47 CHAIRMAN DEMIENTIEFF: Yes.

48

49 MS. GOTTLIEB: I'd like to make a motion  
50 but perhaps first a comment on Mr. O'Hara's statement

00107

1 about the use of these areas and I know the Staff  
2 Committee felt that there had been a lack of substantial  
3 evidence to support all of the Council's recommendations  
4 for communities but maybe that's something we can look  
5 into more in the future.

6

7 But for now, I would like to make a  
8 motion for the combined Proposals 8(a), 9(a) and 10(a),  
9 that we adopt the unanimous Staff Committee  
10 recommendation for a positive C&T finding for shellfish  
11 for the residents of Tuxedni Bay, Chisik Island and  
12 Tyonek. Data from a variety of sources do show that the  
13 Tuxedni Bay has been used for the subsistence harvest of  
14 clams by residents of Tuxedni Bay, Chisik Island and  
15 Tyonek.

16

17 We certainly understand that many people  
18 harvest clams in this area but there's little, if any  
19 documentation that the Kenai Peninsula residents do this  
20 as part of subsistence.

21

22 Adopting the motion would not preclude  
23 those residents from harvesting clams in these Federal  
24 waters, they still would be able to under the State  
25 regulations. And there's also not documentation for the  
26 use of crab from Tuxedni Bay area as a subsistence  
27 resource by the residents of the Kenai Peninsula.

28

29 So we're also talking about a very small  
30 area of Federal waters in and around Chisik Island and  
31 most of the clamming takes place at the mouth of Polly  
32 Creek and Crescent River, which are State.

33

34 Community patterns on the west side of  
35 the Inlet are pretty easy to discern from the data and  
36 what's less clear is how to define and discriminate  
37 between the Kenai Peninsula communities.

38

39 Thank you.

40

41 CHAIRMAN DEMIENTIEFF: There's a motion,  
42 is there a second.

43

44 MR. BUNCH: I will second the motion part  
45 of that.

46

47 CHAIRMAN DEMIENTIEFF: Further discussion  
48 on the motion.

49

50 (No discussion)

00108

1 CHAIRMAN DEMIENTIEFF: Hearing none, are  
2 we ready to vote?

3

4 (Affirmative nods)

5

6 CHAIRMAN DEMIENTIEFF: All those in favor  
7 of the motion please signify by saying aye.

8

9 IN UNISON: Aye.

10

11 CHAIRMAN DEMIENTIEFF: Those opposed,  
12 same sign.

13

14 (No opposing votes)

15

16 CHAIRMAN DEMIENTIEFF: Motion carries.

17 Okay, we've got 8(b), 9(b) and 10(b). Larry, go ahead.

18

19 MR. BUKLIS: Mr. Chairman, Larry Buklis,  
20 Fisheries biologist with the Office of Subsistence  
21 Management. That brings us to Proposal 8(b), 9(b) and  
22 10(b) and the Staff analysis can be found on Page 285.

23

24 Current Federal regulations do not allow  
25 the take of shellfish for subsistence purposes in the  
26 Cook Inlet area. The Staff analysis addresses the  
27 harvest regulation portion of these three combined  
28 proposals for shellfish. Pat has already highlighted the  
29 content of the proposals as submitted and the source of  
30 the proposals. Commercial shellfish fisheries have been  
31 concentrated in lower Cook Inlet. Tuxedni Bay as Pat  
32 identified for you is located on the west side of the  
33 Central District, which is north of the area of primary  
34 commercial use.

35

36 The abundance of shellfish resources  
37 within the specific waters of our Federal jurisdiction in  
38 the vicinity of Tuxedni Bay is uncertain.

39

40 The greater Gulf of Alaska region which  
41 includes the Cook Inlet area supported rapid expansion of  
42 crab and shrimp commercial fisheries during the period  
43 1960 to 1980 but since then most of these fisheries have  
44 collapsed. Climate change and overfishing are typically  
45 given as the causes of these stock collapses. Within the  
46 State subsistence regulations the only current  
47 subsistence shellfish fishery in Cook Inlet is limited to  
48 the take of clams in the Port Graham subdistrict which is  
49 well south of Tuxedni Bay.

50

00109

1           Let me highlight a few key points on  
2 shellfish stock status in the Cook Inlet area. King crab  
3 fishing has been closed to all user groups in State  
4 regulations for over 15 years due to depressed stocks.  
5 The dungeness crab commercial fishery was closed in  
6 regulation by the Alaska Board of Fisheries beginning in  
7 1997 and in March 2000 the personal use and  
8 sportfisheries were also closed. Tanner crab commercial  
9 fisheries have been closed since 1995 and other uses are  
10 allowed under State regulations with restrictive limits.

11

12           For the shrimp fisheries commercial,  
13 personal use and sport uses have been closed in  
14 regulation since 1997.

15

16           Razor clam concentrations are present in  
17 many areas of Cook Inlet but are most dense near Polly  
18 Creek on the west side and from Clam Gulch to Ninilchik  
19 on the east side. The east side is set aside exclusively  
20 for personal use and sport use under State regulations  
21 and has been so since 1959 whereas the west side also  
22 supports commercial use. Discussion at the fall meeting  
23 of the Southcentral Council indicated that there are sand  
24 beaches at a few locations on Chisik Island, which is  
25 within our jurisdiction, that do support razor clams,  
26 although, not in the abundance found at Polly Creek which  
27 is State jurisdiction.

28

29           Also it was said that some crab are found  
30 in nearby waters within our Federal jurisdiction,  
31 however, the head of Tuxedni Bay is reportedly mud-  
32 bottomed and does not support shellfish populations.

33

34           I guess in perspective, effort and  
35 harvest would be expected to be low in the Federal  
36 subsistence fishery due to the remoteness of this  
37 location, the limited area of our jurisdiction and the  
38 uncertain abundance of shellfish resources within that  
39 jurisdiction. Even so, a precautionary approach is  
40 warranted, given the depressed status of many of the  
41 shellfish stocks in the Cook Inlet area. A requirement  
42 for a subsistence permit does not appear to be necessary  
43 at the present time. Paralleling State personal use  
44 regulations for the take of shellfish would maintain  
45 conservation features in place for those species of  
46 depressed stock which I described. Because of the  
47 limited geographic area of our jurisdiction and the lack  
48 of good information on shellfish abundance within that  
49 area, the public would be well served to have this noted  
50 in our public booklet version of the Federal regulations

00110

1 if these harvest regulations are adopted.

2

3 Mr. Chairman, that concludes my review.

4

5 CHAIRMAN DEMIENTIEFF: Thank you.

6 Written public comments.

7

8 MS. WILKINSON: Mr. Chairman, there were

9 no written public comments.

10

11 CHAIRMAN DEMIENTIEFF: Thank you. We

12 have no request for additional public testimony at this

13 time. Regional Council recommendation.

14

15 MR. LOHSE: Southcentral took no action

16 on this, we deferred it to Bristol Bay since it's in

17 their jurisdiction.

18

19 MR. O'HARA: Mr. Chair, pretty much the

20 same comment we had earlier on we don't feel that the use

21 of this resource would be detrimental to the stocks and

22 what the Staff came up with we supported.

23

24 Thank you.

25

26 CHAIRMAN DEMIENTIEFF: Thank you. Staff

27 Committee recommendation.

28

29 MR. CHIN: Thank you, Mr. Chair, members

30 of the Board. I'd like to turn your attention to Page

31 258, Tab D that describes the information I'm presenting

32 here.

33

34 The Interagency Staff Committee

35 recommendation on Proposals 8(b), 9(b) and 10(b) are to

36 adopt the proposal with modification to allow the take of

37 shellfish in the Cook Inlet area.

38

39 Under harvest regulations the parallel

40 State personal use fishery regulations and these are also

41 consistent with the recommendation of the Bristol Bay

42 Regional Advisory Council.

43

44 I'd like to just summarize some of the

45 highlights of the proposed regulation.

46

47 There will be no harvest of king crab,

48 dungeness crab or shrimp for subsistence purposes. There

49 will be limited harvest of tanner crab under specific

50 season, possession limit, size limit and gear fishing

00111

1 requirements. There will be a little bit of harvest of  
2 shellfish, specifically clams and butter clams that will  
3 be allowed. And there will be no restrictions on any  
4 other shellfish species that might be harvested.

5

6 Our justification for our recommendation  
7 is as follows.

8

9 We feel that a precautionary approach is  
10 warranted given the depressed status of many of the  
11 shellfish stocks in the Cook Inlet area. Modification of  
12 the proposals is recommended in order to parallel State  
13 personal use regulations for the take of shellfish since  
14 this would implement conservation features for these key  
15 species. The limited geographic scope of relevant  
16 Federal jurisdiction and limited information on shellfish  
17 abundance in this area of jurisdiction are worth noting  
18 in the public booklet version of these regulations to  
19 informing the public.

20

21 Thank you, Mr. Chair.

22

23 CHAIRMAN DEMIENTIEFF: Thank you.  
24 Department comments.

25

26 MS. SEE: Mr. Chair. Members of the  
27 Board. Council Chairs. With respect to Proposals 8(b),  
28 9(b) and 10(b), we support the Interagency Staff  
29 Committee and the Bristol Bay Regional Advisory Council  
30 recommendation.

31

32 We support a precautionary approach for  
33 depressed stocks, thus we support the proposed regulation  
34 as modified to parallel the State's personal use harvest  
35 regulations for shellfish in Cook Inlet. Currently  
36 harvest opportunities in this area for clams are provided  
37 under State personal use or sport regulations and by  
38 personal use regulations for tanner crab. The existing  
39 regulations incorporate a precautionary strategy based on  
40 knowledge that many stocks in this area of shellfish  
41 stocks are depressed.

42

43 We believe that adopting this approach in  
44 Federal Subsistence regulations will provide Federally-  
45 qualified subsistence users in this area with reasonable  
46 opportunity to harvest these resources on a sustainable  
47 basis.

48

49 Thank you.

50

00112

1 CHAIRMAN DEMIENTIEFF: Thank you. Board  
2 comments. Action.

3

4 MS. GOTTLIEB: Mr. Chairman.

5

6 CHAIRMAN DEMIENTIEFF: Yes.

7

8 MS. GOTTLIEB: I move that we adopt  
9 Proposals 8(b), 9(b) and 10(b) as modified by the  
10 Interagency Staff Committee. This modification is  
11 consistent with the recommendation of the Bristol Bay  
12 Regional Advisory Council and the State concurs as well.

13

14 MR. BUNCH: Second.

15

16 CHAIRMAN DEMIENTIEFF: It's been moved  
17 and seconded. Discussion.

18

19 MS. GOTTLIEB: Mr. Chair.

20

21 CHAIRMAN DEMIENTIEFF: Yes.

22

23 MS. GOTTLIEB: I just wanted to mention  
24 that, again, the extent of the shellfish resources within  
25 these waters is uncertain and the conservative harvest  
26 approach is warranted. Adopting this proposal that  
27 parallels the State personal use regulations provide for  
28 conservation of the crabs and clams, but also provides  
29 for subsistence opportunities for those residents of  
30 Tuxedni Bay, Chisik Island and Tyonek who have C&T use of  
31 the shellfish resource based on the action of our  
32 previous proposal.

33

34 CHAIRMAN DEMIENTIEFF: Thank you.  
35 Further discussion.

36

37 (No discussion)

38

39 CHAIRMAN DEMIENTIEFF: Hearing none. All  
40 those in favor of the motion please signify by saying  
41 aye.

42

43 IN UNISON: Aye.

44

45 CHAIRMAN DEMIENTIEFF: Those opposed,  
46 same sign.

47

48 (No opposing votes)

49

50 CHAIRMAN DEMIENTIEFF: Motion carries.



00113

1 Okay, Tab E, Prince William Sound, Proposal FP03-12.

2 Pat.

3

4 MS. PETRIVELLI: Mr. Chairman, Proposal  
5 FP03-12 was submitted by the Office of Subsistence  
6 Management. It requests a positive customary and  
7 traditional use determination for freshwater fish  
8 throughout the Copper River drainage upstream of Haley  
9 Creek for the residents of Lake Louise and Paxson. This  
10 proposal was submitted at the request of the Federal  
11 Subsistence Board to allow full public and Regional  
12 Council review of the minority Interagency Staff  
13 Committee recommendation that was made during the last  
14 regulatory cycle for Proposal FP02-15.

15

16 The communities with customary and  
17 traditional use determinations for freshwater fish in  
18 this area are listed on Page 335. The proposed  
19 regulation would add Lake Louise and Paxson to the  
20 freshwater fish determinations.

21

22 Federal waters of the Copper River  
23 drainage are shown on the slide and described in the  
24 analysis on Page 336. In the last regulatory review  
25 cycle the Federal Subsistence Board made positive  
26 customary and traditional use determinations for  
27 freshwater fish for the communities listed on Page 335.  
28 These communities were proposed by the Wrangell-St. Elias  
29 National Park Subsistence Resource Commission. During  
30 Board discussion of the proposal concern was expressed  
31 that Lake Louise and Paxson were not included in the  
32 determination as pointed out in the minority Interagency  
33 Staff Committee recommendation. It was agreed that the  
34 Office of Subsistence Management would submit the  
35 proposal to include these two communities.

36

37 Lake Louise and Paxson are both located  
38 within the Copper River Basin area. The characteristics  
39 shared by these two communities are their location by a  
40 major lake system, nearby caribou migration routes over  
41 80 percent seasonal occupancy of the houses. The current  
42 settlement of the communities began at the turn of the  
43 20th Century and in both areas there is archeological  
44 evidence showing use of the area.

45

46 In addition to a review of the use of  
47 freshwater fish by Lake Louise and Paxson this analysis  
48 also considered the use by other communities in the  
49 Copper River Basin that may be affected by this action.

50

00114

1           The resource use maps for freshwater fish  
2 done by ADF&G Subsistence Division showed that the west  
3 Glenn Highway study area described on Page 337 which  
4 includes residents of Matanuska Glacier Sheep Mountain  
5 and portions of Chickaloon harvested their freshwater  
6 fish locally and did not travel to the Copper Basin to  
7 harvest freshwater fish. Resource use mapping for the  
8 east Glenn Highway area, described on Page 338 in  
9 Sourdough showed use of freshwater fish in the Copper  
10 River drainage. So the analysis considered the use by  
11 residents of Lake Louise, Paxson, Sourdough and the east  
12 Glenn Highway area. A summary of these communities time  
13 depth population and ethnic composition are presented in  
14 Table 1 on Page 339.

15  
16           The data used in this analysis was  
17 obtained from two ADF&G Division of Subsistence household  
18 surveys. The survey years were 1992 and 1987.  
19 Information was also obtained from two 1983 reports  
20 written by Holly Reckerd for the National Park Service.  
21 For the communities with customary and traditional use  
22 for freshwater fish, the 1987 household survey showed  
23 that from 91.7 percent to 100 percent of all households  
24 use subsistence resources and the estimated per capita  
25 harvest of all subsistence resources in these communities  
26 ranged from 95 pounds to 342 pounds per year. Data for  
27 Lake Louise, Paxson, Sourdough and east Glenn Highway  
28 fell within this range. And that's shown in Table 2 on  
29 Page 341. In those communities not on the Copper River  
30 that have customary and traditional use of freshwater  
31 fish, fish other than salmon made up greater than 20  
32 percent of their annual per capita use in those -- there  
33 were eight communities in that category. Lake Louise,  
34 Paxson and Sourdough fall into this category. In Lake  
35 Louise, 22.4 percent of their annual per capita harvest  
36 is freshwater fish and Paxson 21.6 and in Sourdough 27.9  
37 percent. In the east Glenn Highway area, the harvest of  
38 non-salmon fish is 7.4 percent of the per capita harvest.  
39 A level similar to the communities on or near the Copper  
40 River.

41  
42           Freshwater fishing areas mapped by the  
43 ADF&G Subsistence Division for these residents show the  
44 use of Federal waters in the Copper River drainage above  
45 Haley Creek. These locations are listed in Table 3 on  
46 Page 343.

47  
48           The effects of this proposal, currently  
49 there are customary and traditional use determinations  
50 for freshwater fish in the Copper River drainage for 25

00115

1 communities and areas. Adoption of this proposal would  
2 recognize residents of two additional communities, Lake  
3 Louise and Paxson. During review of the evidence of use  
4 by other Copper Basin residents, two additional  
5 communities and areas, Sourdough and east Glenn Highway  
6 area showed potential customary and traditional use.

7

8 For the record, the conclusion and  
9 justification presented on Page 346 was a preliminary  
10 conclusion prepared for the Regional Council meeting and  
11 has been superseded by the Interagency Staff Committee  
12 recommendation on Page 332 and the same goes for the  
13 conclusions for 11 and 13.

14

15 And that concludes my presentation.

16

17 CHAIRMAN DEMIENTIEFF: Thank you.

18 Written public comments.

19

20 MS. WILKINSON: Ann Wilkinson, Regional  
21 Coordinator. Mr. Chairman, there are two. They were  
22 both in opposition.

23

24 The Copper River Native Association on  
25 behalf of the Ahtna region is opposed to adding any more  
26 communities to the list of customary and traditional  
27 determinations. The evidence of customary and  
28 traditional use is inadequate compared to the evidence  
29 shown by the Ahtna region. The Ahtna region provided  
30 written documentation and many oral testimonies that  
31 showed substantial evidence of customary and traditional  
32 use of fish and wildlife. Every community should show  
33 the same degree of evidence before customary and  
34 traditional use determinations are made.

35

36 The second comment was received from the  
37 Wrangell-St. Elias National Park Subsistence Resource  
38 Commission. They wrote, the proposal does not adequately  
39 consider which communities are truly local and rural to  
40 resources in consideration. The communities listed in  
41 this proposal may exercise the opportunity provided by  
42 the State for the Chitina subdistrict fishery. The SRC  
43 strongly feels that it is important to be careful and  
44 thoughtful in expanding C&T and granting the Federal  
45 Subsistence priority. The communities involved need to  
46 be consulted.

47

48 That concludes the written comments.

49

50 CHAIRMAN DEMIENTIEFF: Thank you. We

00116

1 have no additional request for public testimony at this  
2 time. Regional Council recommendation.

3

4 MR. LOHSE: Mr. Chair, the Southcentral  
5 Regional Advisory Council opposes this proposal. The  
6 Council did not feel there was sufficient evidence to  
7 establish a customary and traditional level of use of the  
8 resource. We didn't think it was reasonable for those  
9 communities to travel the distance to the Copper River  
10 Basin to take freshwater fish when they lived adjacent to  
11 abundant sources of freshwater fish themselves. In fact,  
12 most of us realize that we would travel from the Copper  
13 River Basin to where they were to catch fish instead of  
14 them coming to us.

15

16 And the other thing that we didn't  
17 particularly like was it was an Interagency Staff  
18 Committee recommendation and the communities themselves  
19 showed no interest in the recommendation at all. They  
20 sent no written comment. They sent nobody to testify.  
21 They never said anything to it.

22

23 So with that, we oppose Proposal 12.

24

25 CHAIRMAN DEMIENTIEFF: Thank you. Any  
26 other Regional Council comment?

27

28 MR. NICHOLIA: Yeah, thank, your Mr.  
29 Chair, we opposed it, and we did that so Southcentral  
30 could handle their own issues. It wasn't across  
31 boundaries hardly.

32

33 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
34 Committee.

35

36 MR. GERHART: Yes, Mr. Chairman, for the  
37 record my name is Bob Gerhart, Staff Committee member for  
38 the National Park Service.

39

40 On Proposal 12, the Staff Committee  
41 recommendation can be found on Page 332. The Staff  
42 Committee did not come to consensus on this proposal.  
43 The vote was evenly split and, therefore, I'll be  
44 presenting two different recommendations for action.  
45 Although I would like to point out that Staff Committee  
46 was unanimous in agreeing that the proposal should not be  
47 accepted at this time.

48

49 I'll call them Options A and Option B.  
50 Half of the Staff Committee recommended Option A, which

00117

1 is to reject the proposal. That is consistent with the  
2 recommendation of the Southcentral Regional Advisory  
3 Council. And the justification for that recommendation  
4 is that there is a lack of substantial evidence of a long  
5 term consistent pattern of use of the resource to  
6 establish a customary and traditional level of use. It  
7 is questionable that residents of either community travel  
8 such a distance when their communities are located  
9 adjacent to abundant sources of freshwater fish.

10

11 That half of the Staff Committee that  
12 recommended Option B wanted to defer the proposal and the  
13 reason for that, their justification is is that there is  
14 a Fisheries Monitoring Project, the title of which is  
15 Harvest and Use of Non-Salmon Fish in the Copper River  
16 Basin. That report is scheduled for completion in July  
17 of 2003. And those members felt that deferring action on  
18 this proposal for a year will allow time to provide the  
19 information needed.

20

21 And that completes the Staff Committee  
22 recommendation.

23

24 CHAIRMAN DEMIENTIEFF: Department  
25 comments.

26

27 MS. SEE: Mr. Chair. Members of the  
28 Board. Council Chairs. The Department supports the  
29 concerns raised by the Interagency Staff Committee as  
30 well as concerns raised by the Eastern Interior and  
31 Southcentral Regional Councils on this proposal. We do  
32 feel it's not appropriate to take it up at this time  
33 although, in fact, we could understand and not object to  
34 either course of action on this.

35

36 We have two concerns about this proposal.  
37 The present time we feel that the information is  
38 insufficient to evaluate and substantiate a finding of  
39 traditional and customary uses in portions of the Copper  
40 River Basin. That's the reason that the Department  
41 initiated a specific study, to gather information about  
42 these specific areas. That project is underway but the  
43 results, as noted earlier, are not yet available. The  
44 study is entitled the Harvest and Use of Non-Salmon  
45 Species in the Copper River Basin and it's supported by  
46 Fish and Wildlife Service. It's obtaining information  
47 about subsistence uses of freshwater fish by these  
48 communities and it will also provide map-based  
49 information. The project researchers have indicated that  
50 they'll have preliminary information available before

00118

1 summer 2003 and the final report is scheduled to be  
2 completed before the end of the calendar year of 2003.

3

4 We recommend that the Board not consider  
5 this proposal at this time. By the next proposal cycle  
6 the results of the study will contribute substantially to  
7 understanding the subsistence uses in this area. We note  
8 that the proposed approach of defining an area rather  
9 than naming a set of communities, which is also mentioned  
10 in this proposal, could provide a way to include those  
11 residents nearby but not within a community boundary.

12

13 And lastly, if this proposal is deferred,  
14 we recommend that the waters outside Wrangell-St. Elias  
15 National Park and Preserve that are under Federal  
16 jurisdiction be clearly identified in the future  
17 analysis.

18

19 Thank you.

20

21 CHAIRMAN DEMIENTIEFF: Thank you. Board  
22 discussion.

23

24 MR. BISSON: Mr. Chairman.

25

26 CHAIRMAN DEMIENTIEFF: Yes.

27

28 MR. BISSON: Just to correct the record,  
29 I think I heard the Staff Committee presenter say that  
30 rejecting the proposal was consistent with the  
31 recommendations of the Southcentral and Eastern RACs but  
32 the text up there on the board says that it would be  
33 contrary to the recommendations.

34

35 MR. GERHART: You're correct. My  
36 statement was correct. I believe that.....

37

38 MR. BISSON: That's what I thought.

39

40 MR. GERHART: .....graphic is wrong.

41

42 MR. BISSON: So as I understand this  
43 process, if we vote with the RAC to oppose the  
44 recommendation at this point in time, and Alaska Game of  
45 Fish Department [sic] completes its work, this could be  
46 brought back at any time after that work is completed as  
47 a revised proposal taking into account everybody's  
48 concerns. So whether we defer it or reject it we're  
49 accomplishing the same thing, either way, it basically  
50 goes back to the drawing board until there's new data in

00119

1 place.

2

3 CHAIRMAN DEMIENTIEFF: Yes. I think --

4 Ralph, didn't I hear you say that there was nobody that

5 was interested?

6

7 MR. LOHSE: Mr. Chair, I think

8 Southcentral Regional Advisory Council would be more than

9 willing to reconsider it if there was new information

10 available and if the people from these communities

11 submitted it. To reject it at this point in time does

12 not close the door to them. They have the opportunity to

13 put a proposal in like that at any time in the future.

14

15 CHAIRMAN DEMIENTIEFF: Correct. Is there

16 a motion?

17

18 MS. GOTTLIEB: Mr. Chair.

19

20 CHAIRMAN DEMIENTIEFF: Yes.

21

22 MS. GOTTLIEB: I guess I would move to

23 defer Proposal 12 which is a request to revise the

24 existing C&T. And although there was not a consensus on

25 this, all the members did agree as, I believe, we've also

26 agreed in our discussion, that the proposal should not be

27 adopted at this time. While the RAC opposes the proposal

28 based on the belief that there's insufficient evidence to

29 establish C&T for Paxson and Lake Louise, I believe that

30 the deferral would not be a rejection of the Council's

31 recommendation and I'd hope that they would agree, but,

32 rather provides the opportunity that, I think, we're all

33 saying to address the main concern of the Council and

34 others, to gather more information about those

35 communities in question. And the Board shares the

36 Council's concern for the need for better information

37 regarding C&T determinations.

38

39 CHAIRMAN DEMIENTIEFF: There's a motion,

40 is there a second? No second?

41

42 MR. BACHOR: I'll second it.

43

44 CHAIRMAN DEMIENTIEFF: Okay. It's been

45 moved and seconded. From my point of view, I'm more

46 inclined to go with Option A, especially if we can't get

47 anybody from the affected communities to come forward and

48 request the action. And I agree with all that's been

49 said earlier, that it can be brought back at any time,

50 especially if somebody from that area wants to propose it

00120

1 and we get new information. I think the Board and Staff  
2 have done diligence in terms of consideration of the  
3 request to the Board. And I'd just be more inclined just  
4 to move it off and deal with it if it does come up by  
5 members of the community. But I'm not really -- I'm just  
6 concerned about leaving things on the table.

7

8 MR. BUNCH: Mr. Chair, I have a  
9 housekeeping question. Would that, if we defer it, does  
10 that kind of muddle up the agenda down the road or does  
11 that leave something hanging as unfinished business?

12

13 CHAIRMAN DEMIENTIEFF: Yes. It does  
14 leave unfinished business and that's why I think with no  
15 local interest and Regional Council recommendations to  
16 oppose, I'd be more inclined just to reject the proposal  
17 now and not leave it out there hanging around. And  
18 everybody else is exactly right, that's making the case  
19 that it can be brought up at any time.

20

21 MR. BUNCH: Well, it seems to me that if  
22 both options would do the same thing, if we went through  
23 the Option A, that that would clear up the agenda for us  
24 down the road.

25

26 CHAIRMAN DEMIENTIEFF: Yes.

27

28 MS. GOTTLIEB: Mr. Chair.

29

30 CHAIRMAN DEMIENTIEFF: Yes.

31

32 MS. GOTTLIEB: I would be willing to  
33 withdraw my motion.

34

35 CHAIRMAN DEMIENTIEFF: Who seconded that,  
36 Charlie, was that you?

37

38 MR. BACHOR: No, that was me and I'd be  
39 willing to withdraw my second.

40

41 CHAIRMAN DEMIENTIEFF: Okay. The motion  
42 has been withdrawn by the maker and the second. Do we  
43 have another motion.

44

45 MR. BUNCH: Mr. Chair.

46

47 CHAIRMAN DEMIENTIEFF: Yes.

48

49 MR. BUNCH: I move that we accept Option  
50 A for the Proposal of 3-12 of the Interagency Staff



00121

1 Committee recommendation.

2

3 CHAIRMAN DEMIENTIEFF: There's a motion,  
4 is there a second?

5

6 MR. BISSON: I second it.

7

8 CHAIRMAN DEMIENTIEFF: Further  
9 discussion. Yes, Ralph.

10

11 MR. LOHSE: Mr. Chair, I'm glad to see  
12 that you put this back on the table this way. I'll try  
13 to explain what it would look like to the Council to do  
14 it the other way and I don't mean anything against  
15 anybody by it or anything like that, but there's a total  
16 difference between deferring and rejecting, in other  
17 words, going along with the Council's recommendation.  
18 Deferring basically means or would mean to the Council,  
19 we knew what was best when we put this on the table and  
20 since you didn't go along with it, we're going to look  
21 for some more information until you agree with us. To  
22 oppose means to basically say, we'll go along with your  
23 recommendations and if somebody else wishes to bring this  
24 back to the table again, they have every right to do it  
25 and at that time it will be reconsidered again with the  
26 information that at's hand.

27

28 And that's why I'm very happy to see you  
29 do what you just did. Thank you.

30

31 CHAIRMAN DEMIENTIEFF: Thank you.  
32 Further discussion.

33

34 MS. GOTTLIEB: Mr. Chair.

35

36 CHAIRMAN DEMIENTIEFF: Judy.

37

38 MS. GOTTLIEB: I had also wanted to  
39 mention that most of the Federal waters that we do  
40 discuss are pretty remote from Lake Louise and Paxson and  
41 as the Council and we pointed out, both of the  
42 communities have pretty good sources of freshwater fish  
43 in their immediate area and those are not Federal waters  
44 so a C&T finding wouldn't impact those waters that they  
45 most logically use for subsistence purposes. But also if  
46 the Gulkana River is found to be utilized for subsistence  
47 fishing of freshwater fish by nearby residents, maybe we  
48 should consider a separate C&T determination for that  
49 part of the drainage.

50

00122

1 CHAIRMAN DEMIENTIEFF: Further  
2 discussion.

3

4 (No discussion)

5

6 CHAIRMAN DEMIENTIEFF: Hearing none. All  
7 those in favor of the motion please signify by saying  
8 aye.

9

10 IN UNISON: Aye.

11

12 CHAIRMAN DEMIENTIEFF: Those opposed,  
13 same sign.

14

15 (No opposing votes)

16

17 CHAIRMAN DEMIENTIEFF: Motion carries.  
18 Okay. Let's see, where are we at, FP-03-14. Staff  
19 analysis.

20

21 MR. BUKLIS: Mr. Chairman, the analysis  
22 for Proposal 14 can be found on Page 355. Larry Buklis,  
23 Fisheries Biologist, Office of Subsistence Management.

24

25 This proposal for the Upper Copper River  
26 district was submitted by the Subsistence Resource  
27 Commission for Wrangell-St. Elias National Park and  
28 Preserve. The proposal requests clarification of the  
29 requirement that permit holders immediately record their  
30 salmon take on the permit form and immediately remove a  
31 specified fin from the salmon taken.

32

33 First, for the recording requirement,  
34 Federal regulations require that the permit holder record  
35 the number of salmon taken immediately after landing the  
36 salmon. Definition of immediately is not provided in the  
37 Federal regulations, however, State personal use fishing  
38 regulations for the Upper Cook Inlet area note that  
39 immediately means before concealing the salmon from plain  
40 view or transporting the salmon from the fishing site.

41

42 State regulations for the Upper Copper  
43 River subsistence district subsistence fishery require  
44 that the permit holder record the number of salmon taken  
45 before leaving the fishing site. ADF&G has submitted a  
46 proposal to the Alaska Board of Fisheries seeking an  
47 explicit definition of what fishing site means. Their  
48 proposal would amend the State regulations to include the  
49 following:

50

00123

1 Fishing site is defined as the specific  
2 location or area where the fish was  
3 removed from the water and becomes part  
4 of the permit holder's bag limit.

5  
6 Secondly, for the fin removal  
7 requirement. Federal and State regulations require that  
8 a person may not possess salmon taken under the authority  
9 of a subsistence fishing permit in this fishery unless  
10 the specified fins are immediately removed. The  
11 definition of immediately is not provided in Federal or  
12 State regulations for this context. But I understand  
13 it's interpreted by the State to mean upon landing the  
14 fish.

15  
16 Improved clarity in our regulations would  
17 serve to better inform the public of what is required and  
18 reduce ambiguity for enforcement. The regulation change  
19 will ease the burden on subsistence users by allowing  
20 them to record harvest information and remove fins prior  
21 to leaving the fishing site. As noted by the proponent,  
22 this proposal is not expected to result in a change in  
23 harvest. To some extent, the proposed regulatory changes  
24 would simply make legal current practices in the fishery.

25  
26 The proposed regulation defines the term  
27 immediately. In doing so the term harvest site is  
28 introduced which is then defined using the phrase reduced  
29 to possession. The Southcentral Council recommended  
30 defining immediately in a way that uses their  
31 interpretation of harvest site. The Council approach  
32 would make use of removal of fish from plain view or  
33 transporting fish more than 50 feet as the standards for  
34 our regulations.

35  
36 The Alaska Board of Fisheries was  
37 originally scheduled to consider definition of fishing  
38 site under their regulations at their meeting beginning  
39 December 8th, that meeting has been rescheduled to being  
40 January 31st. Therefore, rather than the Federal  
41 Subsistence Board being able to consider the action taken  
42 by the Board of Fisheries, we are in the position of  
43 being the first one to address these related regulations.

44  
45 Mr. Chairman, that concludes my review.

46  
47 CHAIRMAN DEMIENTIEFF: Thank you.  
48 Written public comment.

49  
50 MS. WILKINSON: Thank you, Mr. Chairman.

00124

1 Ann Wilkinson, Regional Coordinator. There are three  
2 written public comments received, two in support and one  
3 to support with modification.

4

5 Cordova District Fishermen United  
6 supports this proposal. It clarifies marking  
7 requirements and therefore will aid enforcement. CDFU  
8 believes that the language, reduced to possession is  
9 confusing and that its definition should be clearly  
10 explained in the regulation.

11

12 Copper River Native Association supports  
13 the proposal. CRNA supports the proposal to record the  
14 salmon prior to leaving the harvest site or removing from  
15 plain view within 100 foot radius.

16

17 Wrangell-St. Elias National Park  
18 Subsistence Resource Commission wrote to modify  
19 incorporate the definition of a fishing site proposed in  
20 the Alaska Board of Fisheries Proposal 28, which reads:  
21 "fishing site would be defined as the specific location  
22 or area where the fish was removed from the water and  
23 becomes part of the permit holder's bag limit."

24

25 Mr. Chairman, that's all the written  
26 comment.

27

28 CHAIRMAN DEMIENTIEFF: Thank you. We  
29 have no request for additional public testimony at this  
30 time. Regional Council.

31

32 MR. LOHSE: Thank you, Mr. President.  
33 The Southcentral Regional Advisory Council's  
34 recommendation was to support this with modification.  
35 The Council realizes that subsistence fishermen have  
36 requested clear definitions of immediately and by  
37 inference the site. The amended language addresses their  
38 desire for clarity. The notation of 50 feet, which  
39 should be a sufficient distance from the fishing site to  
40 include the processing site is meant to give the Board a  
41 base for discussion. We aren't, in other words, we're  
42 not set on 50 feet and we don't expect a Game Warden to  
43 run around with a tape measure and get somebody for 51  
44 feet or something like that but what we're trying to show  
45 is that we feel that it is in the immediate area but yet  
46 far enough that a person can do this kind of work.

47

48 Our recommended modification to the  
49 proposed regulations are:

50

00125

1           1.    A permit holder must record on  
2                the appropriate form all salmon  
3                taken immediately after landing  
4                the salmon. Immediately means  
5                prior to removing the salmon from  
6                plain view or transporting the  
7                fish more than 50 feet from where  
8                the fish was taken from water.  
9                That, to us, is much clearer than  
10              where it becomes part of the  
11              permit holder's bag limit or is  
12              reduced to possession. We have a  
13              picture that we can see.

14  
15           And we'd use the same definition for fin  
16 clipping.

17  
18           2.    Immediately means, prior to  
19                removing the salmon from plain  
20                view or transporting fish more  
21                than 50 feet from where the fish  
22                was taken from the water. In  
23                other words, the fins have to be  
24                clipped before they can be put  
25                into the cooler or thrown in the  
26                back of a pickup truck with a  
27                tarp over the top of them or  
28                thrown into a freezer or taken 50  
29                feet from the place they were  
30                taken out of water.

31  
32           Thank you.

33  
34           CHAIRMAN DEMIENTIEFF: Thank you. Staff  
35 Committee.

36  
37           MR. GERHART: Thank you, Mr. Chair. The  
38 Staff Committee did reach consensus on this  
39 recommendation. It's found on Page 353 of your booklet.  
40 Staff Committee recommendation is to adopt this with  
41 modification consistent with the recommendation of the  
42 Southcentral Council.

43  
44           It consists of supplanting use of the  
45 term harvest site with a variation of the intended  
46 meaning of that term. The modified regulation language  
47 is in your booklet, I won't read it. It's almost  
48 identical to what the Council Chairman just read but I  
49 will point out a slight difference.

50

00126

1           As for justification, this proposal will  
2 not result in a change in harvest as modified, it simply  
3 clarifies the regulations to provide a workable  
4 definition for the term, immediately, as it relates to  
5 both the recording requirement and the fin removal  
6 requirement. Improved clarity in regulations would serve  
7 to better inform the users of what is required and reduce  
8 ambiguity faced by those attempting to enforce the  
9 regulations. The regulation change will ease the burden  
10 on subsistence users by allowing them to record harvest  
11 and remove fins prior to leaving the fishing site. The  
12 modified proposed regulatory language differs only  
13 slightly and not on a substantive element from the  
14 recommendation of the Council. The term concealing would  
15 be used instead of removing relative to plain view and  
16 removed from the water would be used instead of taken  
17 from the water relative to transporting. These phrases  
18 would be more consistent with State regulatory  
19 approaches.

20  
21           And as Mr. Buklis just mentioned, we  
22 thought that when we were giving the Staff Committee  
23 recommendation we would be able to report on what the  
24 Board of Fisheries did last week but that's not the case.  
25 They're now set to meet and discuss this issue at the end  
26 of January and this Board may choose to reconsider what  
27 it does based on their action.

28  
29           That concludes Staff Committee  
30 recommendation.

31  
32           CHAIRMAN DEMIENTIEFF: Department  
33 comments.

34  
35           MS. SEE: Mr. Chair. Members of the  
36 Board. Council Chairs. We support this proposal with  
37 some modifications to provide what we hope would be a  
38 practical and clear definition. The intent clearly is to  
39 define the marking requirement for salmon taken under  
40 subsistence regulations in the Upper Copper River  
41 district.

42  
43           The State's approach to this would be to  
44 recommend the regulatory language defining immediately  
45 which has currently been adopted by the Alaska Board of  
46 Fisheries under regulatory language for Upper Cook Inlet  
47 personal use salmon fishery management plan in which the  
48 term immediately mean before concealing the salmon from  
49 plain view or transporting the salmon from the fishing  
50 site.

00127

1           This definition has been used  
2 successfully in the Upper Cook Inlet fishery by State law  
3 enforcement. The State enforcement uses the same  
4 rationale for enforcement of regulations where that term  
5 immediately is used but isn't defined. We consider that  
6 this definition really accommodates practical aspects of  
7 how people fish.

8  
9           Defining the fishing site is something  
10 that we feel is unnecessary and can actually get fairly  
11 complex if you get into steep or constrained terrain, the  
12 50 feet, for example, may be a problem. We do consider  
13 that the State and Federal regulations should be the same  
14 if at all possible to maintain consistency in enforcement  
15 but primarily to be clear to the public.

16  
17           Thank you.

18  
19           CHAIRMAN DEMIENTIEFF: Thank you. Board  
20 comment. Gary.

21  
22           MR. EDWARDS: Mr. Chairman, I'm trying to  
23 understand the subtle differences between all this and  
24 somebody can correct me if I'm wrong. We have an  
25 original proposal which the Council modified by simply  
26 more or less streamlining probably the definition  
27 defining what immediate is. And then the Staff Committee  
28 made minor changes to the Southcentral, changes,  
29 basically one or two words, using hide as opposed to  
30 remove I think or something like that. Now, I'm unclear  
31 if the State has actually even more modifications or is  
32 it supporting the Staff Committee or is it supporting the  
33 RAC or is it supporting the original proposal?

34  
35           MS. SEE: I guess to cut to the chase,  
36 we're supporting that there be a definition but that you  
37 use the definition that I read, which is, before  
38 concealing the salmon from plain view or transporting the  
39 salmon from the fishing site.

40  
41           MR. EDWARDS: Is that different from the  
42 Staff Committee's?

43  
44           MR. GERHART: Yes, Mr. Chair. Mr.  
45 Edwards, the Staff Committee recommendation follows the  
46 Council's recommendation which, and the biggest, I think,  
47 difference is is that the Council tried to put something  
48 measurable, i.e., the 50 feet distance and we concur with  
49 that and make that recommendation. The additional  
50 changes of wording, I don't even think really are

00128

1 differences in wording and that probably will be worked  
2 out by the regulation specialist to come up with the best  
3 wording. But I think the intent under either the minor  
4 wording changes in the Council recommendation and the  
5 Staff Committee really say the same thing.

6

7 MR. EDWARDS: And the State says  
8 something different or does it basically say the same  
9 thing.

10

11 MS. SEE: Through the Chair. We do not  
12 support the distance specification in either of the  
13 original or the Staff modified versions because we think  
14 that's an unnecessary complication. We agree it should  
15 be defined but we recommend, instead, the language that  
16 we proposed would be more useful in a practical sense and  
17 would also be consistent with existing State usage of the  
18 term.

19

20 MR. EDWARDS: Okay. And then just one  
21 final question then, if we end up with Federal language  
22 and State language, do we have potential the same users  
23 working under two different languages?

24

25 MS. SEE: Through the Chair, that's my  
26 understanding, yes.

27

28 CHAIRMAN DEMIENTIEFF: Ralph, and then  
29 Larry.

30

31 MR. LOHSE: Mr. Chair. In answer to two  
32 different things that have been brought up, I'll start  
33 with the last question. I don't think that a subsistence  
34 user on the Copper River can hold both permits, I may be  
35 wrong on that. I'd like an expert opinion on that. I  
36 thought if you were fishing underneath the Federal permit  
37 you couldn't fish under a State permit, but I may be  
38 wrong. I would like an opinion on that one.

39

40 But as far as the difference between  
41 fishing site and putting a distance on it. We looked at  
42 the Copper River and I know it's different on the Kenai  
43 and places like that, what is the site when you're  
44 operating a fishwheel? Is it out on the fishwheel where  
45 you're taking it out? Is it where you step on the shore?  
46 Or is it your table that you've got set back a little  
47 ways away from the beach with your pump running water to  
48 it that you're running to, you know, where you're going  
49 to clean your fish? And we wanted to make it reasonable.  
50 In some places people pack them a long way up the bank



00129

1 and we didn't want to give somebody the opportunity to  
2 pack it all the way up the bank and be a quarter-mile  
3 away from their fishing site and say, well, this is the  
4 closest place I could go but we wanted to give them an  
5 area that they could say that within this reasonable  
6 distance you can take care of your fish and not be  
7 worried that somebody's going to say, now, let's see your  
8 fishing site is out here and you're taking them over here  
9 to work on them.

10

11 And it was in response to fears from  
12 people in the Copper River Basin because they wanted to  
13 be able to say that, you know, if we can do it within  
14 this kind of an area so that we're not worried that I've  
15 taken my fish, you know, away from the fishing site.  
16 Well, again, fishing site is an arbitrary word unless  
17 you've put some kind of definition on it. And that was  
18 the concerns that were expressed in the meeting and  
19 that's kind of what we tried to address.

20

21 Thank you.

22

23 CHAIRMAN DEMIENTIEFF: Larry.

24

25 MR. BUKLIS: Mr. Chairman, if I could  
26 just add upon what the Council Chairman said in response  
27 to Mr. Edwards. I think to focus you on the variations  
28 on this.

29

30 The standard of concealment from plain  
31 view carries through from the proposal to Council to  
32 Staff Committee, that aspect -- and the State. The  
33 concealment from plain view is one of the criteria for  
34 defining immediately can be found through all those  
35 versions. Where the divergence occurs is in grappling  
36 with this fishing site, harvest site, 50 feet, 100 feet,  
37 this transporting issue and how that's handled. And  
38 currently, the State is looking to their Cook Inlet  
39 regulations where fishing site is defined in a certain  
40 way. Where fishing site is used as the standard and  
41 they're now having a proposal in for Upper Copper River  
42 district to apply that fishing site approach and go on  
43 and define fishing site. But their action is yet to  
44 occur this spring. So we don't know exactly who they're  
45 going to define fishing site.

46

47 As the Council Chairman indicated, their  
48 approach, the Council's approach doesn't use the term  
49 fishing site, it avoids using the term and simply applies  
50 the standard of transporting a certain number of feet and

00130

1 avoids fishing site entirely. So there are variations on  
2 approaching that transporting issue.

3

4 MR. EDWARDS: Mr. Chairman, just one  
5 question then addressing to the State. If we go ahead  
6 and accept the language that Staff Committee's  
7 recommendation, would that be motivation for the Fish  
8 Board to try to adopt similar language, which, I guess,  
9 quite frankly, I think what we're proposing actually is  
10 probably more definitive and is much better probably for  
11 the user to understand as opposed to what the State  
12 currently has.

13

14 MS. SEE: Through the Chair, I don't  
15 think we're in a position to say one way or the other  
16 what they might do.

17

18 Thank you.

19

20 CHAIRMAN DEMIENTIEFF: I think it was  
21 pointed out earlier, who did that, Doug, yeah, we don't  
22 even know who they're going to be much less what they're  
23 going to do. Any further discussion. Judy, you got  
24 something?

25

26 MS. GOTTLIEB: Mr. Chair, I was just  
27 going to say this is an example of a proposal where a  
28 tremendous amount of work has gone into it to get us this  
29 far. I really want to acknowledge and thank the  
30 Subsistence Resource Commission from Wrangells for  
31 submitting the proposal and getting things starting,  
32 calling our attention to the problem. The Southcentral  
33 RAC put in also a tremendous amount of time and evidently  
34 it was the Chairman who gave the amendment and the motion  
35 that came up with the 50 feet, as you've described here,  
36 it could have been 100 but deciding unanimously on 50  
37 feet, I think that's something that's reasonable and  
38 something that this Board can acknowledge and accept.

39

40 So I would move that we adopt Proposal 14  
41 as recommended by the Interagency Staff Committee. This  
42 recommendation is consistent with the -- that Staff  
43 Committee's recommendation is also consistent with the  
44 Regional Advisory Council's.

45

46 CHAIRMAN DEMIENTIEFF: Is there a second  
47 to that motion?

48

49 MR. BUNCH: Second.

50

00131

1 CHAIRMAN DEMIENTIEFF: It's been moved  
2 and seconded. Discussion.

3

4 MR. EDWARDS: Mr. Chairman, I don't know  
5 if the State was prepared to answer Ralph's question or  
6 not about the two permits?

7

8 MS. SEE: Through the Chair, we're not  
9 aware of any reason that there would be a problem with  
10 having a user be able to fish under either State or  
11 Federal provisions.

12

13 CHAIRMAN DEMIENTIEFF: Larry.

14

15 MS. SEE: There's nothing that prohibits  
16 as far as we know.

17

18 CHAIRMAN DEMIENTIEFF: Larry.

19

20 MR. BUKLIS: Mr. Chairman, that's  
21 correct, as long as they qualify under our regulations  
22 and qualify under the State, they could fish under either  
23 or both, however, their limits would not be additive.  
24 They couldn't sum up to a new total limit, but they could  
25 switch between the two permit systems.

26

27 MR. EDWARDS: With that said, Mr.  
28 Chairman, I'm prepared to vote in favor of the motion and  
29 I hope that the Board of Fish will consider our wisdom in  
30 coming up with a good definition to address this issue.

31

32 CHAIRMAN DEMIENTIEFF: Further  
33 discussion.

34

35 (No discussion)

36

37 CHAIRMAN DEMIENTIEFF: Hearing none. All  
38 those in favor of the motion, please signify by saying  
39 aye.

40

41 IN UNISON: Aye.

42

43 CHAIRMAN DEMIENTIEFF: Those opposed,  
44 same sign.

45

46 (No opposing votes)

47

48 CHAIRMAN DEMIENTIEFF: Motion carries.  
49 FP03-15.

50

00132

1 MR. BUKLIS: Mr. Chairman, Larry Buklis,  
2 Fishery Biologist, Office of Subsistence Management. The  
3 analysis for Proposal 15 can be found on Page 364.

4  
5 This proposal also for the Upper Copper  
6 River district was also submitted by the Subsistence  
7 Resource Commission for Wrangell-St. Elias National Park  
8 and Preserve. The proposal requests that the regulations  
9 explicitly allow retention of freshwater fish taken  
10 incidentally to salmon in fishwheels. As the regulations  
11 currently read, rainbow, steelhead trout are the only  
12 species that may be kept incidental to salmon. Federal  
13 and State regulations allow targeted take of freshwater  
14 fish for subsistence under the authority of a subsistence  
15 freshwater fish permit.

16  
17 The number of fish taken by fishwheel  
18 incidental to salmon is thought to be very low. Species  
19 such as rainbow, steelhead trout, burbot, whitefish,  
20 grayling, dolly varden, suckers and lamprey are  
21 occasionally caught. No further biological impact on the  
22 fish stocks is expected from allowing users to legally  
23 keep these incidentally caught fish since they are  
24 typically dead when retrieved from the holding boxes.

25  
26 The proposed regulation would make legal  
27 the typical practice when fish incidental to salmon are  
28 occasionally captured by fishwheel. Further  
29 clarification in the regulations can be accomplished by  
30 modification to specify that these fish are taken  
31 incidentally to salmon.

32  
33 There is some interest in the information  
34 that would be obtained by extending the current permit  
35 recording requirement for salmon to include the recording  
36 of these incidental catches of freshwater fish species.  
37 Also the term immediately is used in the proposed  
38 regulation relative to removing a specified fin from  
39 rainbow, steelhead trout taken by fishwheel and we may  
40 infer it for the permit recording requirement.

41  
42 Given your action on Proposal 14 it  
43 follows that a consistent approach be taken and use of  
44 the term immediately here. For the release of rainbow,  
45 steelhead trout captured by dipnet, the key aspect is  
46 that they are released unharmed to the water.

47  
48 The Staff Committee recommendation  
49 addresses consistency and use of this terminology.  
50

00133

1           Following the Council meeting it was  
2 noted that our regulations are silent on retention of  
3 freshwater fish caught by dipnet incidental to salmon  
4 other than rainbow, steelhead trout which may not be  
5 retained. The dipnet capture of freshwater fish is very  
6 infrequent and there are not any particular management  
7 concerns for these stocks other than rainbow and  
8 steelhead trout.

9

10           Mr. Chairman, that concludes my review.

11

12           CHAIRMAN DEMIENTIEFF: Thank you.  
13 Written public comments.

14

15           MS. WILKINSON: Thank you, Mr. Chairman.  
16 Ann Wilkinson, Regional Coordinator. There are three  
17 comments, two in support and one supporting with  
18 modification.

19

20           The Cordova District Fishermen United  
21 supports utilization of freshwater fish incidentally  
22 caught in fishwheels rather than waste by returning them  
23 to the water dead.

24

25           The Copper River Native Association  
26 supports the proposal to keep fish other than salmon  
27 taken from a fishwheel and to record the harvest of these  
28 salmon and mark them as proposed in Proposal 03-14.

29

30           The Wrangell-St. Elias National Park  
31 Subsistence Resource Commission recommends adopting the  
32 proposal with the Staff modification as well as  
33 continuing the current regulation that requires users to  
34 record the incidental take of freshwater fish taken in  
35 fishwheels.

36

37           Thank you, Mr. Chairman.

38

39           CHAIRMAN DEMIENTIEFF: Thank you. There  
40 are no additional requests for public testimony at this  
41 time. Regional Council recommendation.

42

43           MR. LOHSE: Mr. Chair, Southcentral  
44 Regional Advisory Council recommends that you support  
45 this proposal. We believe it follows the principles of  
46 fish conservation and fish use. The catch information,  
47 we feel will be valuable and it will be recorded on the  
48 permit and it will give us baseline data for use in the  
49 future.

50

00134

1 We thank you for that.

2

3 CHAIRMAN DEMIENTIEFF: Staff Committee.

4

5 MR. GERHART: Mr. Chair. The Staff  
6 Committee recommendation can be found on Page 362. The  
7 Staff Committee was unanimous in agreeing that this  
8 proposal should be adopted with some modifications.  
9 Those modifications are consistent with the  
10 recommendation of the Southcentral Council. This may  
11 sound a little more complicated than it is but I'll  
12 mention the modifications consist:

13

- 14 1. Specifying that these fish are  
15 taken incidentally to salmon.  
16
- 17 2. Defining the term immediately and  
18 applying it to the recording and  
19 marking requirements which is  
20 consistent with the  
21 recommendation of Proposal 14  
22 that you just dealt with.  
23
- 24 3. Deleting use of the term  
25 immediately relative to the  
26 release requirement for rainbow,  
27 steelhead trout given how the  
28 term is defined for the other  
29 applications.  
30
- 31 4. Explicitly allowing retention of  
32 freshwater fish other than  
33 rainbow, steelhead trout captured  
34 by dipnet.  
35
- 36 5. Making use of the term retained  
37 instead of caught relative to the  
38 recording requirement for  
39 freshwater fish.  
40

41 For purposes of clarity the resulting  
42 regulation should be broken into two paragraphs and those  
43 you can read on Page 362.

44

45 The justification is that the number of  
46 freshwater fish taken by fishwheel incidentally to salmon  
47 in the Upper Copper River district is thought to be very  
48 low. These fish typically die in the fishwheel box. No  
49 further biological impacts on the fish stocks are  
50 expected from allowing users to legally keep these

00135

1 incidentally caught fish. Likewise, few freshwater fish  
2 are captured by dipnet incidental to salmon and the  
3 retention of these fish, other than rainbow, steelhead  
4 trout should not pose a biological impact to the stocks.

5  
6 Further clarification of the proposed  
7 regulation can be accomplished with minor modifications  
8 and by breaking the regulations into two paragraphs.

9  
10 Mr. Chair, that concludes the Staff  
11 Committee recommendation.

12  
13 CHAIRMAN DEMIENTIEFF: Thank you.  
14 Department comments.

15  
16 MS. SEE: Mr. Chair. Members of the  
17 Board. Council Chairs. Regarding this proposal, we  
18 support -- we have to modify slightly what we've said  
19 here.

20  
21 We support the Interagency Staff  
22 Committee and Southcentral Regional Advisory Council  
23 recommendation on this proposal because it largely will  
24 align State and Federal regulations in the Glennallen  
25 subdistrict regarding fish other than salmon that are  
26 taken in fishwheels with the exception of the new  
27 definition of the term immediately.

28  
29 Currently State qualified subsistence  
30 users are permitted to retain other freshwater species  
31 caught in fishwheels and report them on their subsistence  
32 permits and we support this provision.

33  
34 Thank you.

35  
36 CHAIRMAN DEMIENTIEFF: Thank you. Board  
37 discussion and/or action.

38  
39 MS. GOTTLIEB: Mr. Chair.

40  
41 CHAIRMAN DEMIENTIEFF: Yes.

42  
43 MS. GOTTLIEB: I think this is a good  
44 example of a regulation which is a modification that  
45 expands subsistence opportunity and legalizes the  
46 practice that's not specifically provided for in our  
47 current regulations. Both the Wrangell-St. Elias  
48 Subsistence Resource Commission and Southcentral Regional  
49 Advisory Council specifically recommended that freshwater  
50 fish taken incidental to salmon be recorded on the salmon

00136

1 permit. This has been incorporated into the proposal and  
2 does serve as a data gathering mechanism at virtually no  
3 additional cost to management agencies.

4

5           So I would move to adopt Proposal 15 as  
6 recommended by the Interagency Staff Committee and  
7 consistent with the intent of the Southcentral Advisory  
8 Council.

9

10           CHAIRMAN DEMIENTIEFF: There's a motion,  
11 is there a second?

12

13           MR. BISSON: I second it.

14

15           CHAIRMAN DEMIENTIEFF: It's been moved  
16 and seconded. Further discussion.

17

18           (No discussion)

19

20           CHAIRMAN DEMIENTIEFF: Hearing none. All  
21 those in favor of the motion, please signify by saying  
22 aye.

23

24           IN UNISON: Aye.

25

26           CHAIRMAN DEMIENTIEFF: Those opposed,  
27 same sign.

28

29           (No opposing votes)

30

31           CHAIRMAN DEMIENTIEFF: Motion carries.  
32 We're going to move on into, I think, Kodiak. It's  
33 clearly apparent that we're going to be done tomorrow.  
34 So I know the Staffers are working on the problem we had  
35 in Prince of Wales. Dan, I don't know, you were planning  
36 on getting here what time?

37

38           MR. O'HARA: Two.

39

40           CHAIRMAN DEMIENTIEFF: I hope we're here.

41

42           MR. O'HARA: What's that?

43

44           CHAIRMAN DEMIENTIEFF: I hope we're here.

45

46           MS. TRUMBLE: Mitch, if it's okay.....

47

48           CHAIRMAN DEMIENTIEFF: Yes.

49

50           MS. TRUMBLE: .....Mr. Chair, I've got a



00137

1 couple calls into Kodiak and I haven't been able to get a  
2 response so if it's okay with Dan, to move to Bristol  
3 Bay.

4

5 CHAIRMAN DEMIENTIEFF: Oh, yeah, that's  
6 fine, yeah, just in case. That's why I was asking you.  
7 And those of you who are traveling, we're going to have  
8 our travel person here tomorrow if you want to start  
9 going home earlier, you know, that will be possible.  
10 We'll be adjusting travel according to how we're  
11 proceeding on with the agenda. So I've already given  
12 Staff a head's up to get somebody here to make sure that  
13 we do that because I do know that I'm going home  
14 tomorrow.

15

16 Okay, we'll go to Bristol Bay then.

17

18 (Pause)

19

20 CHAIRMAN DEMIENTIEFF: FP03-05.

21

22 MS. McCLENAHAN: Thank you, Mr. Chairman.  
23 I'm Pat McClenahan, Staff anthropologist for the Bristol  
24 Bay region. We are at Tab G, Page 416.

25

26 Proposal FP03-05 submitted by the Bristol  
27 Bay Subsistence Regional Advisory Council requests a  
28 positive customary and traditional use determination for  
29 halibut, herring and herring roe on kelp in the Federally  
30 administered marine waters within the Bristol Bay fishery  
31 management area for the residents of the Bristol Bay  
32 management area. The existing and proposed Federal  
33 regulations can be found on Page 416.

34

35 We must defer consideration of the  
36 request for a positive customary and traditional use  
37 determination for halibut. At this time there are legal  
38 uncertainties regarding whether the Federal Subsistence  
39 Board can implement subsistence halibut regulations.  
40 Additionally, there are questions about how the Board  
41 will interface with the International Pacific Halibut  
42 Commission.

43

44 Currently, all rural residents have  
45 subsistence use of herring in the Federally managed  
46 waters of the Togiak district. All residents of the  
47 Bristol Bay fishery management area have subsistence use  
48 of herring in the Federally managed waters of what is  
49 termed the remainder of the Bristol Bay area. At this  
50 time residents of the Togiak district have customary and

00138

1 traditional use of herring roe on kelp in the Federally  
2 managed waters of the Togiak district. Togiak, Twin  
3 Hills and Manokotak are the communities in the Togiak  
4 district.

5

6 It should be noted that a very limited  
7 area of Bristol Bay marine waters is within Federal  
8 jurisdiction. They are confined to the Togiak district  
9 and portions of the remainder of Bristol Bay, including  
10 the Osviak River estuary, Metervik Bay and Unnamed Bay  
11 southwest of Metervik Bay, Kulukak Bay and Tvativak Bay.  
12 This area is limited to portions of the coast of Togiak  
13 National Wildlife Refuge.

14

15 Three patterns of subsistence use of  
16 herring and herring roe on kelp are discernible among the  
17 communities of the Bristol Bay area. First pattern,  
18 identified by Wright and Chythlook is a subsistence use  
19 of herring and herring roe on kelp in immediate proximity  
20 to the village. Togiak and Twin Hills residents  
21 subsistence fish for herring and gather subsistence  
22 herring and herring roe on kelp near Togiak Village.

23

24 The second pattern, also identified by  
25 Wright and Chythlook is a use of herring and herring roe  
26 on kelp by subsistence users who must travel a short  
27 distance from their village. Residents of Manokotak,  
28 Aleknagik and Dillingham who travel short distances to  
29 Kulukak and Metervik Bay to carry out their subsistence  
30 herring activities, carry out this pattern. Some  
31 residents have herring roe on kelp camps. Dillingham  
32 residents use the marine waters from Metervik Bay to  
33 Etolin Point in Nushagak Bay to take herring, herring roe  
34 on kelp, other salt water fish and marine mammals.  
35 Aleknagik residents use the marine waters from Asigyukpak  
36 Spit in Hagemeister Strait to Etolin Point in Nushagak  
37 Bay to harvest marine mammals and marine fish.

38

39 A third pattern consists of subsistence  
40 users from farther away who also may or may not have  
41 camps and may or may not participate with their families.  
42 Generally they are a few commercial fishermen from each  
43 of the Bristol Bay, Alaska Peninsula and Chignik fishery  
44 management area villages who are involved in a variety of  
45 subsistence activities during breaks in the commercial  
46 fishing periods, including taking herring and/or herring  
47 roe on kelp. For this type of use, specific fishing  
48 locations within Federally administered waters are not  
49 known.

50

00139

1           Several resolutions were received and  
2 public testimony was given at the September 30th/October  
3 1st Bristol Bay Subsistence Regional Advisory Council  
4 meeting about the participation of some residents of the  
5 communities in the Bristol Bay and Chignik management  
6 areas.

7  
8           I wish to clarify a feature of Table 1,  
9 which can be found on Pages 420 and 421 in your book.  
10 Unless it's specifically stated in the comments column  
11 that herring and herring roe on kelp is not listed in the  
12 CPDB. The dashes should be construed as zeros. Zeros  
13 would indicate that ADF&G asked the interviewee about the  
14 subsistence use of herring and herring roe on kelp but  
15 the interviewee did not report any harvest for that  
16 reporting year. Dashes would indicate there is no data.

17  
18           The proposal for herring and herring roe  
19 on kelp, if adopted, will provide the rural residents of  
20 the communities being granted a positive customary and  
21 traditional use determination. A limited opportunity to  
22 harvest a subsistence resource in a small area of  
23 Federally managed waters in the Bristol Bay management  
24 area confined to the Togiak district and portions of  
25 waters limited to portions of the coast of Togiak  
26 National Wildlife Refuge. This opportunity already  
27 exists under State regulations. It is not expected that  
28 adoption of this portion of the proposal will effect  
29 significant change in resource use patterns of Bristol  
30 Bay residents. Compared to other subsistence resources  
31 used by Bristol Bay communities, the documented  
32 subsistence use of herring and herring roe on kelp is  
33 low.

34  
35           Mr. Chairman, that concludes my  
36 presentation.

37  
38           CHAIRMAN DEMIENTIEFF: Thank you.  
39 Written public comments.

40  
41           MR. EDENSHAW: Thank you, Mr. Chair, and  
42 Board members. The public written comments were omitted  
43 from the book but we received four written comments at  
44 the Council meeting.

45  
46           One from the Ugashik Traditional Council,  
47 the Native Village of Port Heiden, Pilot Point and the  
48 Becharof Corporation for the community of Egegik all  
49 supported a positive and customary and traditional use  
50 determination for herring and herring roe on kelp.

00140

1 And those were the public comments, Mr.  
2 Chair.

3

4 CHAIRMAN DEMIENTIEFF: Thank you. There  
5 are no request for additional public testimony at this  
6 time. Regional Council comment.

7

8 MR. O'HARA: Mr. Chairman, you will  
9 notice that this proposal is a fairly long one and, of  
10 course, we support it. Along with all the items in this  
11 proposal, you will notice names of various communities  
12 that participated in roe on kelp. And just for your  
13 information as far as down as Chignik when the guys come  
14 around, even with the seiners to seine in the Metervik  
15 Bay and Mud Bay or wherever they're going to be seining,  
16 Tongue Point, these people will take time to go do a  
17 subsistence type thing on roe on kelp.

18

19 And so it's a pretty far reaching  
20 proposal. Probably the biggest impact I would imagine,  
21 Cliff, would be impacting Manokotak and Twin Hills and  
22 Togiak and those villages that are closer, you know, who  
23 are -- and some of them, of course, have a commercial  
24 permit for doing roe on kelp commercially. But for the  
25 subsistence part of it, we supported this proposal.

26

27 CHAIRMAN DEMIENTIEFF: Thank you. Staff  
28 Committee.

29

30 MR. SIMMONS: Thank you, Mr. Chair. Rod  
31 Simmons, Fish and Wildlife Staff Committee member. I'll  
32 summarize the Staff Committee recommendations, first on  
33 halibut and that's found on Page 411.

34

35 The Staff Committee recommends deferring  
36 that portion of the request for a positive customary and  
37 traditional use determination for halibut. With the  
38 justification that the management of halibut is governed  
39 by the International Halibut Treaty and the North Pacific  
40 Halibut Act with jurisdiction in the United States  
41 resting with the Secretary of Commerce. Title VIII of  
42 ANILCA does not supersede nor modify the North Pacific  
43 Halibut Act. At this time there are legal uncertainties  
44 regarding whether the Federal Subsistence Board can  
45 actually implement subsistence halibut regulations and,  
46 if so, whether these regulations would have to go before  
47 the International Pacific Halibut Commission for  
48 approval.

49

50 Upon resolution of these issues this

00141

1 proposal can be reexamined for appropriate processing and  
2 potential Board action. That concludes the Staff  
3 Committee recommendations relative to halibut.

4

5           On the second point, for herring and  
6 herring roe on kelp, the Staff Committee did not reach  
7 consensus on a recommendation on that portion of the  
8 request for a positive customary and traditional use  
9 determination. The majority of members would also defer  
10 this portion of the proposal because additional  
11 information is needed on the use of the resource  
12 pertinent to Federal waters for some of the Alaska  
13 Peninsula communities in the Bristol Bay area.

14

15           A minority viewpoint favors adopting the  
16 proposal as modified by the Bristol Bay Subsistence  
17 Regional Advisory Council. The modified proposal  
18 language as recommended by the minority viewpoint is  
19 found in the middle of Page 411 which names specific  
20 Federal waters and for herring roe on kelp, residents of  
21 Bristol Bay area and Chignik area.

22

23           The justification for the majority  
24 viewpoint on deferral recognizes that herring and herring  
25 roe on kelp are important resources taken, given and  
26 received, traded to greater or lesser extent by Bristol  
27 Bay area communities depending on a number of factors  
28 including proximity to the resource, harvest of competing  
29 subsistence resources and the presence in the community  
30 of one or more commercial herring fishermen. There is  
31 good documentation that the rural residents of the  
32 northern Bristol Bay communities use and have used  
33 herring and herring roe on kelp as important subsistence  
34 resources. However, there is less substantial written  
35 documentation of use of the resource for some of the  
36 Alaska Peninsula communities in the Bristol Bay area,  
37 possibly because the subsistence use of these resources  
38 is relatively small compared to all other subsistence  
39 resources. The majority of the members of the Staff  
40 Committee noted that only a very limited area of Bristol  
41 Bay marine waters located in the northern Bristol Bay  
42 area is under Federal jurisdiction.

43

44           The minority viewpoint of the Staff  
45 Committee members who supported the option of the  
46 proposal based on the recommendations of the following  
47 factors.

48

49           1.   Concurrence with the Bristol Bay  
50               Subsistence Regional Advisory

00142

1 Council's recommendation.

2

3 2. The documented C&T usage of  
4 herring and herring roe on kelp  
5 subsistence resources by the  
6 specified communities within the  
7 designated Federal waters.

8

9 3. The alignment with mandates  
10 provided by ANILCA, Title VIII,  
11 Section .805 (c).

12

13 That concludes the Staff Committee  
14 recommendation.

15

16 CHAIRMAN DEMIENTIEFF: Thank you.  
17 Department comments.

18

19 MS. SEE: Mr. Chair. Members of the  
20 Board. Council Chairs. We would offer that we should  
21 split our comments into the two areas also identified by  
22 the Staff Committee.

23

24 For herring and herring roe, we support  
25 the Interagency Staff Committee majority recommendation  
26 to defer this portion. There's substantial documentation  
27 of subsistence uses of herring and herring roe of  
28 communities in the Togiak district. This formed the  
29 basis of a customary and traditional use finding for the  
30 communities of Togiak, Twin Hills, Manokotak, Aleknagik,  
31 Dillingham, Clark's Point and Ekok by the Alaska Board of  
32 Fisheries. This was back when the State did  
33 determinations by communities. The Department believes  
34 that a Federal finding of customary and traditional uses  
35 for herring and herring roe is appropriate for these  
36 communities and would be consistent with the State's  
37 approach.

38

39 In addition, because the Federal marine  
40 waters in the Bristol Bay area are confined to the Togiak  
41 district. Adopting the State finding would focus the  
42 Federal rule on Federal waters. But in contrast, survey  
43 information from other communities in Bristol Bay and the  
44 Nushagak River documents a lack of substantial evidence  
45 of traditional harvesting of herring and herring roe by  
46 these communities. And by that I mean that there were  
47 surveys conducted in which specific questions were asked  
48 but usage was either not there or was very, very low.

49

50 The uses that have been documented are

00143

1 not longstanding but rather reflect a recent pattern of  
2 limited use whose origin and continuation is linked to  
3 commercial fishing. This issue warrants further  
4 consideration prior to a finding regarding customary and  
5 traditional uses. And by recent, I mean from  
6 approximately 1977. We also note that some technical  
7 problems with the analysis need to be addressed to  
8 accurately characterize the existing data and to clearly  
9 distinguish subsistence harvest from associated  
10 commercial activities.

11

12 At this time we considered that the data  
13 and analysis presented to address the eight factors for  
14 customary and traditional use do not support, including  
15 these other areas identified in the proposal.

16

17 We do recommend that the Board defer this  
18 portion of the proposal to look more closely at specific  
19 information about subsistence uses of herring and herring  
20 roe on by those communities that are outside the Togiak  
21 district.

22

23 Regarding the halibut portion of this  
24 proposal, the Department does not support that. For  
25 jurisdictional reasons we do not support a Federal  
26 customary and traditional use determination for halibut  
27 in Bristol Bay. As we noted in comments we previously  
28 submitted regarding this proposal back in the spring, the  
29 Federal Subsistence Board does not have jurisdiction over  
30 halibut caught in marine waters. Halibut are managed  
31 under the terms of an international treaty which is  
32 implemented by the Halibut Act and the regulations are  
33 adopted underneath that. Under this regime, the  
34 Secretary of Commerce and the North Pacific Fishery  
35 Management Council are charged with management authority  
36 for halibut fisheries in the U.S. waters. The elements  
37 of this proposal dealing with halibut should thus be  
38 directed to that Council rather than to the Federal  
39 Subsistence Board.

40

41 Thank you.

42

43 CHAIRMAN DEMIENTIEFF: Board discussion.

44

45 MR. EDWARDS: Mr. Chairman, it's my  
46 understanding and if I'm correct, that, currently herring  
47 roe on kelp is limited to the Togiak district and this  
48 would expand it to a larger community. Did we have any  
49 comments from folks in the Togiak district that are going  
50 to be impacted by this, what was their view on this?

00144

1 MS. McCLENAHAN: Thank you, Mr. Chairman.  
2 There were no people from Togiak except for our Council  
3 member from Togiak, who -- no one had any comments from  
4 Togiak area.

5  
6 CHAIRMAN DEMIENTIEFF: Dan.

7  
8 MR. O'HARA: You know, that's really a  
9 good point and I hesitate to say that we should speed  
10 along on this because I think there's a lot of areas that  
11 have not come forward on the use of it and I think Twin  
12 Hills, Manokotak and Togiak are going to have the  
13 greatest impact on a very small area of subsistence use  
14 and the roe on kelp doesn't come back very often and very  
15 soon. And you got to make sure you've got a recruitment  
16 stock there to keep using and you've got massive areas  
17 that have used it. Just like, how do you determine, you  
18 know, a customary and traditional use of something like  
19 that without anybody other than Peter, who, I believe,  
20 what we were 200 miles from Togiak having a meeting and  
21 no one was there with any public input. That's a  
22 concern. I appreciate that point.

23  
24 MR. EDWARDS: I guess then I just would  
25 add to that then, sort of what you're saying there, there  
26 may be some questions whether the residents of the Togiak  
27 district, you know, fully understood what was being  
28 recommended and fully had the opportunity to express  
29 their views one way or the other.

30  
31 MR. O'HARA: Mr. Chairman, may I comment  
32 on that?

33  
34 CHAIRMAN DEMIENTIEFF: Go ahead.

35  
36 MR. O'HARA: Yeah, that's putting it  
37 lightly. When you go over there, put about five or six  
38 microphones in the back and have a translator, they  
39 didn't even show up at Naknek so, you know, who knows how  
40 we're impacting those people and I've got to be careful  
41 that I don't go beyond the bounds of the Council's  
42 recommendation but that is where the rubber meets the  
43 road type of a thing. You have to have an interpreter  
44 when you go to Manokotak and Twin Hills and Togiak. When  
45 they come to Dillingham to meet with our Council if they  
46 have a concern, John Dysak from one of the Federal  
47 agencies interprets the language and when we had our  
48 meeting over there a few years back, we had to have an  
49 interpreter. So I don't think they're fairly represented  
50 as far as being knowledgeable about what we're doing here



00145

1 today.

2

3 MR. BISSON: Mr. Chairman, I would have  
4 one question. You know, given that there's two  
5 components to this proposal, one on halibut and one on  
6 herring roe; the one on halibut, I guess I'm trying to  
7 understand why there's any benefit in deferring it, why  
8 we wouldn't propose to simply reject it at this point. I  
9 don't see anybody that seems to think we have the legal  
10 authority to make a decision on it why would we want to  
11 keep it alive. So, you know, I guess as we think this  
12 through, I would ask that we consider rejecting the  
13 halibut part of the proposal and then deferring the  
14 remaining proposal until we have more information.

15

16 MR. BUNCH: Is that a certainty, Mr.  
17 President, do we -- Mr. Chair, do we have not have  
18 jurisdiction over halibut?

19

20 CHAIRMAN DEMIENTIEFF: Keith.

21

22 MR. GOLTZ: It's a matter we've been  
23 discussing with the North Pacific Fishery Council. We've  
24 gotten some surprising responses out of them and we still  
25 have to work through it.

26

27 CHAIRMAN DEMIENTIEFF: Maybe then the  
28 appropriate action would be just to go ahead and defer  
29 consideration of the whole proposal, having those two  
30 things completed at this point because we need to finish  
31 our work with -- find out if we do have jurisdiction and  
32 it sounds like we're not -- probably not going to get  
33 that far away. Pat.

34

35 MS. McCLENAHAN: Thank you, Mr. Chairman.  
36 Tim Jennings asked me to point out that use opportunity  
37 does exist for herring and herring roe on kelp already  
38 under State regulations.

39

40 CHAIRMAN DEMIENTIEFF: Yeah.

41

42 MR. EDWARDS: Mr. Chairman, I move that  
43 we defer on both aspects of this proposal as recommended  
44 by the majority of the Interagency Staff Committee.  
45 Certainly as we just discussed the legal uncertainties  
46 regarding the Federal Subsistence Board's authority and  
47 the North Pacific Halibut Act require that clarification  
48 would take place prior to enacting any regulations. And  
49 I'd also recommend we defer upon the herring and herring  
50 roe on kelp portion of the proposal to allow time for a

00146

1 more complete analysis to be prepared that would more  
2 adequately document community use.

3

4 In saying that, I do note that by  
5 deferring on herring wouldn't really have any effect  
6 because it's my understanding that it's open to all  
7 qualified users and certainly based upon the discussion  
8 we had with regards to potential impact on the Togiak  
9 district and their ability to be properly informed and  
10 voice their opinion on it, I think would warrant that we  
11 try to ensure that we have a broader discussion on the  
12 impacts on this issue and who may or may not be adequate  
13 to -- or having C&T demonstrated.

14

15 CHAIRMAN DEMIENTIEFF: There's a motion,  
16 is there a second?

17

18 MR. BUNCH: I second it.

19

20 CHAIRMAN DEMIENTIEFF: Discussion on the  
21 motion.

22

23 MS. GOTTLIEB: Mr. Chair.

24

25 CHAIRMAN DEMIENTIEFF: Yes.

26

27 MS. GOTTLIEB: I was wondering if one of  
28 the fisheries studies is going to or we might come up  
29 with the fisheries proposal -- fisheries information  
30 proposal to look at these specific geographic areas. I  
31 didn't know if that was one we had on the books now or  
32 might consider in the future.

33

34 CHAIRMAN DEMIENTIEFF: I don't know.  
35 We're just going to have to get that answer somehow Judy.  
36 Our people aren't here so we have no way of knowing.  
37 Okay, any further discussion on the motion.

38

39 (No discussion)

40

41 CHAIRMAN DEMIENTIEFF: Hearing none. All  
42 those in favor of the motion, please signify by saying  
43 aye.

44

45 IN UNISON: Aye.

46

47 CHAIRMAN DEMIENTIEFF: Those opposed,  
48 same sign.

49

50 (No opposing votes)

00147

1 CHAIRMAN DEMIENTIEFF: Motion carries. I  
2 think we're going to move into the Yukon northern area.  
3 Proposal FP03-02; is that right?

4

5 MR. BOYD: Yes.

6

7 CHAIRMAN DEMIENTIEFF: Okay. Kind of  
8 what my plan is, as they're setting up, is we will --  
9 having one proposal left from Kodiak and completing our  
10 work on Southeast, we'll begin work on the other Bristol  
11 Bay proposal at 1:00 o'clock. There's no real reason for  
12 us to begin at 8:30 in the morning, I don't think.  
13 Della's just running down some additional information for  
14 their proposal, it doesn't appear it's going to take very  
15 long. And completing work on Southeast shouldn't take  
16 very long either, you know, we had thorough discussion on  
17 it today. So we probably won't start until 10:00  
18 o'clock. We have to wait until 1:00 o'clock for Dan to  
19 get back. He's got to go back home tonight and then get  
20 back here and he won't get here until 1:00, so that's  
21 kind of going to be our schedule here.

22

23 Okay, go ahead.

24

25 MR. BERG: Thank you, Mr. Chairman. Good  
26 afternoon, Mr. Chair, Board members and Council Chairs.  
27 Fishery Proposal 03-02 is found under Tab H.

28

29 Fishery Proposal 03-02 was submitted by  
30 AVCP and requests  
31 the use of rod and reel to harvest salmon in Yukon River  
32 tributaries 24 hours a day seven days a week unless  
33 already specifically restricted in regulation.

34

35 This proposal would allow the use of rod  
36 and reel to harvest salmon in Federal waters of Yukon  
37 River tributaries during scheduled closed periods for  
38 subsistence salmon fishing. This would apply to both the  
39 subsistence schedule surrounding commercial openings and  
40 the relatively new subsistence schedules put in place  
41 over the past couple of years. Prior to 2001,  
42 subsistence fishing in the Yukon River drainage was  
43 generally open seven days a week until commercial fishing  
44 season opened. Once the commercial fishing season  
45 opened, subsistence fishing was either closed before,  
46 during or after commercial periods in the lower districts  
47 or was concurrent with commercial periods in the upper  
48 river districts. These regulations continue to apply in-  
49 season when commercial fishing periods are announced.

50

00148

1           In addition to these closures set in  
2 regulation, the Alaska Board of Fisheries adopted a  
3 reduced subsistence fishing schedule in January of 2001.  
4 This new schedule also applies to Federal waters and  
5 includes all methods as agreed to under the terms of the  
6 Federal/State interim Memorandum of Agreement. This  
7 relatively new reduced subsistence fishing schedule has  
8 been implemented in late May and applies chronologically  
9 by district consistent with the migration of the salmon.

10

11           All closures apply to all methods  
12 including rod and reel. While these subsistence fishings  
13 schedules close to harvest of salmon by all methods  
14 including rod and reel, sportfishing for salmon on the  
15 Yukon River tributaries is allowed seven days a week with  
16 various bag limits for salmon throughout the drainage.

17

18           Yukon River chinook, summer chum and fall  
19 chum salmon have been identified as stocks of concern by  
20 Alaska Board of fisheries and are being managed  
21 accordingly with a reduced subsistence fishing schedule.  
22 Similar reductions in subsistence fishing time have also  
23 been implemented in the Kuskokwim River drainage but that  
24 schedule only applies to nets and fishwheels.  
25 Subsistence fishing with rod on the Kuskokwim River  
26 drainage is allowed seven days a week, 24 hours a day in  
27 both State and Federal regulation.

28

29           There are a few specific Federal  
30 regulatory restrictions in place for various headwater  
31 streams within the Yukon River drainage. This proposal  
32 would not change these restrictions which generally apply  
33 to areas which have an easy access and could lead to  
34 conservation risks.

35

36           The average annual subsistence harvest  
37 for the past 10 years for the Alaska portion of the Yukon  
38 River has been almost 278,000 salmon. It's not known how  
39 many of these salmon are caught by rod and reel but it's  
40 likely a very low percentage of the overall harvest. The  
41 Yukon River residents do occasionally use rod and reel to  
42 harvest salmon for subsistence however the vast majority  
43 of salmon are harvested using drift and set gillnets and  
44 fishwheels.

45

46           If this proposal is adopted it would  
47 benefit subsistence fishermen who wanted to harvest an  
48 occasional fresh salmon with rod and reel during the  
49 subsistence fishing schedule closures.

50

00149

1           Although chinook, summer chum and fall  
2 chum salmon are being managed conservatively to help  
3 rebuild the runs, the few salmon likely to be taken by  
4 rod and reel would not likely result in a substantial  
5 increase in the overall harvest of salmon.

6  
7           The scheduled closures are most  
8 applicable to subsistence net and fishwheel fisheries.

9  
10          If this regulation were only applied to  
11 the tributaries of the Yukon River drainage, it would  
12 create a more complicated and confusing set of  
13 regulations. There is little, if any, rod and reel  
14 subsistence fishing in the main stem of the Yukon River,  
15 however, allowing rod and reel use throughout Federal  
16 waters of the entire river drainage including the main  
17 stem and tributaries would make regulations easier for  
18 everyone to understand.

19  
20          The proposal, if adopted, would create a  
21 difference between Federal and State subsistence  
22 regulations. The proposed regulation would allow  
23 subsistence fishing with rod and reel seven days a week  
24 in Federal waters of the Yukon River similar to the  
25 existing State sportfishing regulations except that  
26 subsistence fishermen would not be subject to a harvest  
27 limit unless superseded by a separate action in-season.

28  
29          If adopted, it is recommended that a  
30 system be established to monitor the subsistence salmon  
31 harvest by gear type, similar to the harvest data  
32 collection methods used in the Kuskokwim River area.  
33 This would help assess any potential concerns, especially  
34 if salmon harvest by rod and reel become large enough to  
35 adversely impact small disreect stocks in tributary  
36 streams.

37  
38          That's all I have, Mr. Chair. I'll be  
39 happy to try to answer any questions at this time.

40  
41          Thank you.

42  
43          CHAIRMAN DEMIENTIEFF: Written public  
44 comments.

45  
46          MR. NICK: Mr. Chair. The book show that  
47 there are no written comments but we just received  
48 resolution from Village of Mountain Village and with your  
49 permission, Mr. Chair, I'd like to read the resolution.

50

00150

1 CHAIRMAN DEMIENTIEFF: Go ahead.

2

3 MR. NICK: Resolution 02-27 submitted

4 Asa'carsarmiut Tribal Council of Mountain Village reads:

5

6 Whereas, the Asa'carsarmiut Tribal

7 Council is the Federally recognized governing body

8 representing the Asa'carsarmiut tribe; and

9

10 Whereas, the Asa'carsarmiut Tribal

11 Council feels that it is not in the best interest of

12 tribal members specifically of our elders that this

13 proposed regulation shall allow sportfishing and at the

14 same time to allow for subsistence with rod and reel; and

15

16 Whereas, in the Yukon River drainage

17 there has been times when sportfishing has been allowed

18 24 hours a day seven days a week while subsistence rod

19 and reel fishermen have been limited to specific

20 schedules, such as three days a week in the lower Yukon;

21 and

22

23 Whereas, the tribal council acting with

24 consultation with tribal members does not want

25 sportfishing to be allowed altogether on the Yukon River

26 drainage;

27

28 Now, therefore be it resolved that the

29 Asa'carsarmiut Tribal Council requests that this proposed

30 regulation not be adopted by the Federal Subsistence

31 Board.

32

33 Passed and approved by a quorum of the

34 Asa'carsarmiut Tribal Council the 16th day of December

35 2002 with a vote of six in favor, zero against and zero

36 absent and zero abstaining. And it was signed by James

37 C. Landlord, First Chief, Secretary and Treasurer.

38

39 Mr. Chairman, I do have limited copies

40 for the Board.

41

42 CHAIRMAN DEMIENTIEFF: Thank you. We

43 have no additional request for public testimony at this

44 time. Regional Council comments. Harry.

45

46 MR. WILDE: Mr. Chairman, Yukon

47 Kuskokwim-Delta Regional Advisory Council recommends

48 support the proposal as submitted. Yukon tributaries

49 only. I really have a problem with this proposal. I had

50 some people calling to me at my home even from mouth of

00151

1 Yukon, some elders, they say that if this proposal pass,  
2 you guys going to come down and teach us how to be  
3 sportfishermen. And this teach us as Council in that  
4 area, we have to respect our people. Instead when the  
5 Staff present something to us and that's not accepted  
6 right away, when we ask Staff if the sportfishermen will  
7 not able to come down to this area, they say, yeah, but  
8 then Staff written words, these sportfishermen will able  
9 to go down and fish while after the subsistence fishermen  
10 fishing.

11

12 That's the problem I had. So I want you  
13 to understand that we support it, Mr. Chairman.

14

15 CHAIRMAN DEMIENTIEFF: Thank you.  
16 Regional Council comments.

17

18 MR. THOMAS: Yes.

19

20 CHAIRMAN DEMIENTIEFF: I got a few  
21 questions for Jerry. Who has jurisdiction over those  
22 waters?

23

24 MR. BERG: Mr. Chair. Mr. Thomas, it  
25 would include the entire Yukon drainage so it's a  
26 patchwork of different Federal waters throughout the  
27 Yukon drainage and it would include, you know, National  
28 Park Service lands as well as some Fish and Wildlife  
29 Service lands.

30

31 MR. THOMAS: But they're still Federal  
32 waters -- they're still Federal, right?

33

34 MR. BERG: It's some Federal waters and  
35 also some State jurisdiction waters, it's kind of a  
36 patchwork as you move up stream. It goes through some  
37 Federal waters back into State and back into Federal, but  
38 a considerable amount are Federal waters.

39

40 MR. THOMAS: Okay, my next question is  
41 why is the subsistence harvest interrupted when other  
42 fisheries are occurring; do you know?

43

44 MR. BERG: Well, I guess it's mostly,  
45 from my understanding, from a law enforcement standpoint,  
46 to make sure that the subsistence harvest don't occur  
47 during the commercial openings at the same time, during  
48 the commercial openings so there's not a crossover of  
49 subsistence fish entering into the commercial market.  
50 Are those the closures you're referring to?

00152

1 MR. THOMAS: Yes, it is. What type of  
2 gear does the commercial fishermen use?

3

4 MR. BERG: Well, I believe I don't think  
5 I could answer it totally accurate. I believe for chum  
6 salmon they're using five and three-quarter inch gear  
7 probably.

8

9 MR. THOMAS: But they're not using rod  
10 and reel?

11

12 MR. BERG: They're not using rod and  
13 reel, correct.

14

15 MR. THOMAS: Okay. Do you have any  
16 reason why the gear type is limited to rod and reel?  
17 It's okay if you don't know.

18

19 MR. BERG: For this proposal the gear  
20 type is limited to rod and reel because all other gear  
21 types are currently allowed and this is the only gear  
22 type that's not allowed -- well, actually all gear types  
23 are closed during subsistence closures and this would  
24 just allow an opportunity for people to go out and  
25 harvest an occasional fresh salmon using rod and reel  
26 when other gear types are not allowed.

27

28 MR. THOMAS: Thank you. Mr. Chairman,  
29 might I ask a questions of the Board?

30

31 CHAIRMAN DEMIENTIEFF: In due time.  
32 Let's give the other Council Chairs here an opportunity  
33 to speak. Gerald.

34

35 MR. NICHOLIA: Yeah, thank you, Mr.  
36 Chairman. We support it with the modification the OSM  
37 Staff brought up along with Western.

38

39 CHAIRMAN DEMIENTIEFF: Ronny.

40

41 MR. SAM: Thank you, Mr. Chairman. As  
42 Mr. Wilde stated, we've been discussing this issue of how  
43 come the sportfisheries is open while all the subsistence  
44 activities were closed, especially with the rod and reel  
45 issue, we've been discussing this issue for a good two  
46 years or so and, again, Western Interior supports this  
47 proposal with modification simply because under ANILCA we  
48 believe that we have all subsistence rights and we should  
49 be granted this opportunity.

50



00153

1 Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Staff Committee.

4

5 MR. SIMMONS: Thank you. Mr. Chair.  
6 Members of the Board. I'll refer you to Page 452 of your  
7 Board book. The Interagency Staff Committee  
8 recommendation is to adopt the proposal with the  
9 modification to include all Federal waters in the Yukon  
10 River drainage consistent with the recommendations of the  
11 Eastern Interior and Western Interior Regional Advisory  
12 Councils.

13

14 The modified proposed regulation would  
15 read:

16

17 Unless otherwise restricted in this  
18 section, you may take fish in the Yukon  
19 northern area at any time. You may  
20 subsistence fish for salmon with rod and  
21 reel in the Yukon River drainage 24 hours  
22 a day and seven days per week unless  
23 specifically restricted in this section.

24

25 The justification of this recommendation  
26 is subsistence fishermen have traditionally used rod and  
27 reel to harvest salmon. The modified proposal would  
28 provide an added opportunity to harvest an occasional  
29 fresh salmon using rod and reel. This would apply  
30 throughout the Yukon River drainage during scheduled  
31 subsistence salmon closures unless restricted in-season  
32 by special action.

33

34 Restricting the use of rod and reel to  
35 only the tributaries would create a more complicated set  
36 of regulations. Allowing the use of rod and reel in all  
37 Federal waters of the Yukon River drainage would be  
38 easier for everyone to understand.

39

40 Current specific regulatory restrictions  
41 in a few of the Yukon River headwater streams would  
42 remain in place to continue protections of fish  
43 population in those areas. The small number of salmon  
44 likely to be taken by rod and reel before, during and  
45 after commercial openings as well as during closed  
46 periods of subsistence gillnet and fishwheel salmon  
47 fisheries will not likely impact the overall salmon  
48 harvest levels or the conservation efforts of salmon in  
49 the Yukon River drainage.

50

00154

1 While recognizing that the recommendation  
2 of the Yukon Kuskokwim-Delta Regional Advisory Council  
3 was to support the proposal as written, the Staff  
4 Committee recommended that the proposed regulation apply  
5 throughout the Yukon River drainage for the reasons  
6 stated above.

7  
8 That concludes Staff Committee  
9 recommendations, Mr. Chair.

10  
11 CHAIRMAN DEMIENTIEFF: Thank you.  
12 Department comments.

13  
14 MS. SEE: Mr. Chair. Members of the  
15 Board. Council Chairs.

16  
17 The Department recommends on this  
18 proposal that the Board defer the decision. It's really  
19 an issue about timing, primarily, that causes us to come  
20 forward with that recommendation.

21  
22 If adopted, this proposal as it stands  
23 now would create a divergence between State and Federal  
24 regulations regarding the use of rod and reel unless the  
25 State's regulation is also modified. The Alaska Board of  
26 Fisheries has received a recent request to change the new  
27 rod and reel regulation but deferred action until that  
28 region's regulations are reviewed next year. This action  
29 by the Board indicates that in the meantime they  
30 considered that there was reasonable opportunity for  
31 subsistence users to obtain the amount necessary for  
32 subsistence in the absence of a proposed change.

33  
34 There's another part we wanted to note  
35 here, currently, all subsistence fishing in the lower  
36 Yukon River is separated from commercial fishing periods  
37 in order to prevent subsistence caught salmon from  
38 entering the commercial market and I believe the Staff  
39 mentioned this a few minutes ago.

40  
41 This provision was enacted in January  
42 2001 when the Alaska Board of Fisheries revised the Yukon  
43 River King Salmon Management Plan and established window  
44 regulations for conservation purposes. And as most of  
45 you know, the windows, as they're called provide a way to  
46 ensure that fish can move up river to spawn and reach  
47 upper river users and, in fact, allow unfished fish to  
48 move up river.

49  
50 If a change in Federal regulations does

00155

1 occur and these fisheries then overlap, the Department  
2 recommends that the Federal fishery be monitored by the  
3 appropriate agency.

4

5 We just wanted to note also that under  
6 coordinated management, State and Federal regulations  
7 should provide harvest opportunity as well as be aligned  
8 as much as is possible to reduce potential confusion for  
9 the public. We do recommend that the Federal Subsistence  
10 Board consider deferring action for one year to address  
11 this proposal in this same public review period as the  
12 State regulatory process.

13

14 Thank you.

15

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

18

19 MR. EDWARDS: Mr. Chairman, given that if  
20 passed the small amount of harvest that would occur as a  
21 result of this and given that this would allow the  
22 subsistence fishermen to be consistent with the  
23 sportfishing opportunities.

24

25 I would move that we adopt the  
26 recommendations of the Eastern and Western Interior  
27 Regional Advisory Council which was the same as the Staff  
28 Committee's and that we would allow rod and reel  
29 subsistence fishing within the Yukon drainage 24 hours a  
30 day and seven days per week unless specifically  
31 restricted.

32

33 CHAIRMAN DEMIENTIEFF: There's a motion,  
34 is there a second?

35

36 MR. BUNCH: I second it.

37

38 CHAIRMAN DEMIENTIEFF: Discussion.

39

40 MS. GOTTLIEB: Mr. Chair.

41

42 CHAIRMAN DEMIENTIEFF: Yes.

43

44 MS. GOTTLIEB: I wonder if we could,  
45 maybe address Mr. Wilde's concern. It sounded like some  
46 of your RAC members or users were concerned that this  
47 might bring more sportfishing people into the region; was  
48 that correct?

49

50 MR. WILDE: Yes, ma'am. All this thing

00156

1 just start -- AVCP, they had only for hunting, moose  
2 hunting areas. What happened is when a couple of -- man  
3 and son, they were caught by the enforcement to try to  
4 get freshwater inside of -- in front of the camp and when  
5 enforcement catch them, they take everything they have  
6 and they really scared that little boy, 10 year old boy,  
7 and ever since then every time when they see law  
8 enforcement he hide, that's for that reason that AVCP had  
9 that opening from Piamuit Slough all the way down.  
10 That's what it is.

11

12 And elders, in the Yukon, they really not  
13 support this because they don't know how to use rod and  
14 reel.

15

16 CHAIRMAN DEMIENTIEFF: Further  
17 discussion. Bill -- oh, go ahead.

18

19 MR. BISSON: I was just going to say, Mr.  
20 Chairman, as I understand it though, this proposal  
21 doesn't affect the ongoing subsistence that's happening,  
22 it just expands and gives people an additional  
23 opportunity to do subsistence fishing at a time when they  
24 might otherwise not be able to. So it's for those people  
25 who can fish with a rod and reel, it gives them more  
26 opportunity to subsist.

27

28 CHAIRMAN DEMIENTIEFF: Bill.

29

30 MR. THOMAS: Thank you, Mr. Chairman.  
31 The RACs and the Board's only charge is to provide  
32 continued opportunity as a priority. We're talking  
33 subsistence. This is a subsistence forum. A subsistence  
34 management forum. And we're not here to choose sides and  
35 pick sides with other user groups. Other user groups  
36 have their own forums and their own schedule.

37

38 The Staff recommendation, I find it  
39 really inappropriate. The justification in there very  
40 eloquently manages the users and not the resource, we  
41 have to get away from that.

42

43 And conflicts with the State are going to  
44 occur. We knew that. You know, in 1969 when they  
45 decided to turn their back on a rural priority, that was  
46 expected to happen. And in talking about spawn, spawn  
47 nowadays is a primary target for many of those commercial  
48 fishermen because of the marketing difference and the  
49 profit difference. Okay, so what if subsistence fish  
50 enter the commercial market, there are provisions in this

00157

1 to deal with that. You got people that are going to  
2 violate, you're not going to -- you know, you can't  
3 manage them to a point to where they're not going to do  
4 wrong, I mean they're not Board members.

5  
6 So keep in mind that your responsibility  
7 is to the subsistence users and let the other groups take  
8 care of what they have. If you have to have a combined  
9 forum to address those then wait for that time to do it,  
10 but for now, let's put our sensitivities, our support,  
11 our responsibilities and charges with the subsistence  
12 community.

13  
14 Thank you, Mr. Chairman.

15  
16 CHAIRMAN DEMIENTIEFF: Additional  
17 discussion.

18  
19 MS. GOTTLIEB: Mr. Chair.

20  
21 CHAIRMAN DEMIENTIEFF: Yes.

22  
23 MS. GOTTLIEB: I think this proposal is  
24 very good because I think it is very responsive to the  
25 situation. Everyone on the Yukon/Kuskokwim was exposed  
26 to last summer where subsistence users were saying that  
27 they were basically sitting on the bank while sport  
28 people were fishing and so this rule -- this regulation  
29 would solve that problem but it won't solve the problem  
30 of people not knowing how to fish with rod and reel.

31  
32 CHAIRMAN DEMIENTIEFF: Further  
33 discussion. If not, we're going to go ahead and vote  
34 then.

35  
36 (No discussion)

37  
38 CHAIRMAN DEMIENTIEFF: All those in favor  
39 of the motion, please signify by saying aye.

40  
41 IN UNISON: Aye.

42  
43 CHAIRMAN DEMIENTIEFF: Those opposed.

44  
45 (No opposing votes)

46  
47 CHAIRMAN DEMIENTIEFF: Motion carries.  
48 That completes our public work today. We will reconvene  
49 again at 10:00 a.m. in the morning with either Kodiak or  
50 Southeast, whichever one comes first. We'll complete

00158

1 those two in the morning and do the Bristol Bay issue at  
2 1:00 o'clock and have the joint meeting with the RAC  
3 Chairs after that.

4

5           We are going to have a brief executive  
6 session at this moment so we'll let you guys clear the  
7 room -- not an executive session about the meeting, it's  
8 just an administrative matter.

9

10           (PROCEEDINGS TO BE CONTINUED)

00159

1           C E R T I F I C A T E

2

3       UNITED STATES OF AMERICA       )

4                               )ss.

5       STATE OF ALASKA               )

6

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

10

11       THAT the foregoing pages numbered 2 through 158  
12 contain a full, true and correct Transcript of the  
13 FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken  
14 electronically by Nathan Hile on the 17th day of December  
15 2002, beginning at the hour of 8:30 o'clock a.m. at the  
16 Egan Convention Center in Anchorage, Alaska;

17

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

22

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

25

26       DATED at Anchorage, Alaska, this 26th day of  
27 December 2002.

28

29

30

31

32

\_\_\_\_\_  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 4/17/04

33

34