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FEDERAL SUBSISTENCE BOARD
PUBLIC MEETING FOR CONSIDERATIONS REGARDING
EXTRATERRITORIAL JURISDICTION IN THE
ALASKA PENINSULA/ALEUTIAN ISLANDS
COMMERCIAL SALMON FISHERIES

VOLUME II

EGAN CONVENTION CENTER
ANCHORAGE, ALASKA

APRIL 28, 2004
8:30 o'clock a.m.

00147

P R O C E E D I N G S

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(Anchorage, Alaska - 4/28/2004)

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CHAIRMAN DEMIENTIEFF: We are going to call the meeting to order right now at this time. Mr. Bedford, for the State, I guess you're going to lead in the analysis of the State report.

9

10

MR. BEDFORD: Mr. Chairman, we recognize that this is a particular difficult issue for the public, for the Board. It's one that has far reaching ramifications as well.

14

15

The State's comments today will focus on the specific question that's in front of the Federal Subsistence Board and that is how you might advise the Secretary to respond to petitions requesting the exercise of extraterritorial jurisdiction.

20

21

We have three people here from the State who will be delivering specific comments. Lance Nelson with the Department of Law will speak to the standard for the application of extraterritorial jurisdiction. Geron Bruce, Deputy Director of the Commercial Fisheries Division will be laying out some of the State's regulatory program that ensures a meaningful preference for subsistence uses of the stocks that are of interest in this proceeding. And finally Mary Pete, the director of the Subsistence Division will be talking about one of the tools that the State uses to try to track the efficacy of our own management program in providing for subsistence under the State's authorities. That, in specific, is the amounts necessary for subsistence.

35

36

When they're done with their comments, I have a couple of ancillary remarks that I'd like to make.

38

39

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead.

41

42

MR. NELSON: Mr. Chairman. My name is Lance Nelson, I'm an assistant attorney general with the Department of Law here in Anchorage. And I'm going to address the legal standards for the application of the extraterritorial jurisdiction as already stated by Counsel for the Board, Mr. Goltz, and as found in the regulations.

49

50

Before I get started on that, just one

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1 point, and that is without meaning any disrespect or lack
2 of concern for the fisheries in Northern Norton Sound,
3 the standards that you're looking at clearly state that
4 only a failure to provide a subsistence priority on
5 Federal public lands may be considered by the Federal
6 Subsistence Board or the Secretaries and as has been
7 explained already, in Northern Norton Sound, there is
8 very little Federal land or water and existing
9 subsistence fisheries are not subject to Federal
10 jurisdiction. As much as we might share concern about
11 those fisheries, this isn't the forum to address those
12 concerns.

13

14 Also Yukon fall chum are subject to
15 Federal subsistence fisheries, but the available data
16 shows there's no significant presence of Yukon fall chums
17 in the Peninsula fisheries. So we won't be presenting
18 information on that stock.

19

20 A failure to provide subsistence for a
21 subsistence priority connotes more than just an impact on
22 Federal subsistence fishing, it connotes more than
23 speculation. As Secretary Norton has explained, it
24 requires a clear demonstration of the State's action
25 constitutes a substantial and impermissible interference
26 with the Federally-protected right. We know from the
27 Ninilchik case in the Ninth Circuit that that court
28 agreed with the Federal Subsistence Board that ANILCA's
29 subsistence priority is not an absolute priority or a
30 guarantee but rather a meaningful preference over other
31 uses and that elimination of other uses is not required
32 before subsistence uses can be restricted in any way.
33 The Court also stated in that decision that subsistence
34 is not a per se preempting statutory priority. The idea
35 that ANILCA prohibits any restriction at all on
36 subsistence fishing regardless of whether a meaningful
37 preference is still being provided is unfounded in the
38 law.

39

40 An absolute priority would result in
41 basically no non-subsistence fishing, period, and
42 subsistence fishing probably only in terminal natal
43 streams, even the fishing in most traditional fishing
44 areas would be precluded under a strict reading of the
45 subsistence priority.

46

47 The current and proposed State and
48 Federal regulations managing Western Alaska salmon stocks
49 currently provide a meaningful preference for subsistence
50 fishing. The State of Alaska has an extensive regulatory

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1 program that ensures that subsistence uses will continue
2 to receive a meaningful preference over other uses of
3 fishery resources.

4

5 Before the Federal Subsistence Board can
6 recommend extension of Federal jurisdiction, it must be
7 demonstrated that an identified failure to provide a
8 meaningful preference for subsistence fishing was
9 directly caused by the State's regulatory program for
10 fishing occurring beyond Federal public lands. Even
11 assuming for a moment that a failure to provide a
12 meaningful preference for subsistence has occurred
13 somewhere in the subsistence fisheries in Western Alaska
14 there's nothing that demonstrates direct causation
15 preceding from the management of any fishery off of
16 Federal public lands. Proof of direct causation requires
17 more, again, than mere speculation.

18

19 We believe that there's no sound basis
20 for concluding that the South Peninsula June fishery or
21 the post-June fishery have caused or directly caused or
22 will directly cause any failure of the subsistence
23 priority on Federal public lands in Western Alaska.
24 While the fishery harvest of some salmon from stocks
25 taken in subsistence fisheries in Western Alaska, the
26 State of Alaska agrees with the conclusions of the
27 Federal Staff report that the regulation of the fisheries
28 does not interfere with the meaningful preference
29 accorded subsistence under the current State and Federal
30 regulations.

31

32 The petitions filed before this Board
33 focus on only one regulatory decision rather than the
34 range of factors that might lead to the failure to
35 provide for subsistence. The State believes that
36 assuming a failure of a subsistence priority occurs, it's
37 more appropriate that the Federal Subsistence Board and
38 the State, together, examine the entire range of
39 fisheries in State and Federal regulations that impact
40 the stocks in question to find the most effective
41 approach to the problem. We don't believe it's
42 consistent with principles of Federalism and mutual
43 respect between fishery resource managers for the Federal
44 government to focus on one particular aspect, a complex
45 State regulation and as Secretary Norton noted in her
46 letter, in my four C's approach to management, I stress
47 the importance of coordination and consultation with the
48 State. In dealing with this issue, I expect you to work
49 constructively with the State of Alaska. I will not
50 intervene in the State-managed fishery occurring outside

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1 Federal jurisdiction without first attempting to reach a
2 joint resolution with the State of Alaska.

3

4 While the State would not be inclined to
5 consider a joint resolution that focuses on only one
6 narrow factor in a complex fishery management question,
7 the State, of course, is always ready to cooperate in
8 joint efforts to address subsistence fishery challenges
9 with the Federal Subsistence Board.

10

11 Those are the end of my comments, Mr.
12 Chairman.

13

14 CHAIRMAN DEMIENTIEFF: Thank you.

15

16 MR. BRUCE: Mr. Chairman. My name is
17 Geron Bruce. I'm the Deputy Director for the Division of
18 Commercial Fisheries and my comments will briefly
19 summarize the prominent aspects of the State's fisheries
20 management program that provide a meaningful preference
21 for subsistence on Federal public lands.

22

23 There is not a failure to provide for a
24 subsistence preference on Federal public lands because
25 the State of Alaska provides a meaningful preference for
26 subsistence use through regulations of the Board of
27 Fisheries and in-season management by the Alaska
28 Department of Fish and Game. While the specific means of
29 providing this preference varies somewhat according to
30 local circumstances, in general, the subsistence
31 preference is provided by allowing more fishing time in
32 an area for subsistence fishing and the use of a broader
33 array of subsistence fishing gear than allowed in
34 commercial, sport or personal use fishing. Furthermore,
35 subsistence fisheries are free from substantial
36 restrictions that are applied to commercial, sport and
37 personal use fisheries.

38

39 Federal subsistence regulations basically
40 duplicate the State subsistence fishing regulations and
41 through a Federal, State and State Memorandum of
42 Understanding, State management plans are used by both
43 management systems. Coordination between the State and
44 Federal management systems during the fishing season
45 continues its progression of providing a meaningful
46 preference for subsistence fisheries.

47

48 I'll briefly describe the specific
49 measures implemented by State regulations and in-season
50 management within the subsistence and commercial

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1 fisheries for summer chum salmon within the Kuskokwim and
2 Yukon River drainages and for sockeye salmon with the
3 Kvichak River drainage. The regulations themselves may
4 be found Title V of the Alaska Administrative Code,
5 primarily within Chapters 1, 5, 6 and 7.

6

7 The subsistence fishing windows enacted
8 by the Board in 2001 within the Yukon and Kuskokwim River
9 drainages have come up a number of times during public
10 testimony. The primary importance of these windows is
11 for chinook salmon, secondarily for chum salmon. These
12 windows were developed to spread the subsistence fishing
13 opportunity more evenly over the run and throughout the
14 drainage. This was an attempt to provide equitable
15 subsistence harvest opportunity to users both in the
16 lower and upper portions of these lengthy river systems.
17 The other purpose of the schedule was to improve the
18 quality of the spawning escapement, especially for
19 chinook salmon in the upper reaches of these rivers. The
20 Board determined in adopting the windows that they
21 provided a reasonable opportunity for subsistence
22 harvest.

23

24 In the Kuskokwim area, while subsistence
25 fishing is allowed within the entire Kuskokwim drainage,
26 this is a river length of 931 miles, commercial fishing
27 is restricted to the extreme lower portion of the river,
28 which corresponds to Districts 1 and 2, a river mile
29 length of 183 miles. However, commercial fishing has not
30 occurred in District 2 since 2000 because of market
31 conditions. So essentially the fishery is limited to
32 about 20 percent, the commercial fishery of the entire
33 drainage while subsistence fishing can occur throughout
34 the drainage.

35

36 Subsistence regulations, again, in the
37 Kuskokwim, authorize the use of gillnets, beach seines,
38 hook and line attached to a pole, hand line or fish
39 wheel. Although, commercial gillnet gear is restricted
40 to six inches and stretch mesh, subsistence fishing gear
41 is unrestricted. Additionally, because of the
42 subsistence need there is no directed commercial chinook
43 salmon fishery in the Kuskokwim River.

44

45 Subsistence fishing in the Kuskokwim
46 begins before commercial fishing commences. We only
47 start a commercial fishery after a sufficient percentage
48 of the run has entered the river, that we can assess that
49 the run is large enough to meet subsistence needs and
50 also meet our escapement goals and then we open a

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1 commercial fishery assuming that there's markets
2 available to take the fish. That usually results in a
3 quarter of the run entering the river before we would
4 ever start a commercial fishery. During that period of
5 time subsistence fishing is going on.

6
7 Once commercial fishing begins, fishing
8 periods are spread out to limit exploitations of the
9 various components of the chum salmon run. The periodic
10 closures of the commercial fishing allow continued
11 utilization by subsistence harvesters throughout the
12 duration and on the various components of the entire chum
13 salmon run. When the summer chum salmon run is projected
14 to be inadequate to meet escapement and subsistence
15 needs, the Board has directed the Department to manage
16 the commercial coho salmon fishery to minimize the
17 incidental harvest of chum salmon and to provide coho for
18 subsistence needs. So essentially substituting coho for
19 chum salmon.

20
21 The Kuskokwim River Salmon Rebuilding
22 Management Plan clearly provides the conservative
23 management strategy for meeting salmon escapement goals,
24 providing for subsistence use and only allowing
25 commercial fishing if a surplus above escapement and
26 subsistence uses is identified.

27
28 Turning to the Yukon River. Many of the
29 regulations in the Yukon River are similar to the kind of
30 approach taken in the Kuskokwim. More time is provided
31 for subsistence fishing than commercial fishing, a wide
32 array of fishing gear may be utilized for subsistence
33 fishing, most of which are more efficient than the gear
34 allowed for sport fishing and in some cases virtually
35 efficient as commercial fishing gear. And, again, like
36 in the Kuskokwim, we don't begin the commercial fishery
37 for chum salmon until we've got a sufficient number of
38 fish in the river that we can project that we're going to
39 meet escapement goals and we will also have enough
40 surplus available to meet subsistence needs, then we
41 would open a commercial fishery based on markets, again,
42 which is a consideration. And, again, about a quarter of
43 the run will be -- will have entered the river and be
44 available for harvest by subsistence fishers before we
45 would start the commercial fishery. And, again, like in
46 the Kuskokwim, the commercial fishing periods are spread
47 out with breaks in between and subsistence fishing can
48 occur between those commercial periods.

49
50 The harvest of Yukon River summer chum

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1 salmon is conducted under the terms of the Yukon River
2 Summer Chum Management Plan. This provides a meaningful
3 preference for subsistence by opening subsistence
4 fisheries under circumstances in which the commercial
5 fisheries are closed. Subsistence fishing is allowed
6 when the summer chum salmon run size is projected to be
7 between 600,000 and one million fish. A river wide
8 commercial fishery is not allowed until the run
9 projection is greater than one million fish. Although
10 limited commercial fisheries in some tributary systems
11 may be allowed if escapement goals and subsistence needs
12 are met within those tributaries.

13

14 The Board of Fisheries provided this
15 preference for subsistence fishing by setting aside the
16 lower end of the biological escapement goal for the Yukon
17 summer chum salmon which was 800,000 fish and adopting an
18 optimum escapement goal of 600,000 fish to provide a
19 meaningful preference for subsistence. The lower
20 escapement resulting from the use of an OEG is likely to
21 result in reduced harvest in the future for commercial
22 fisheries, that is, it will be below the MSY production.
23 But it is expected to provide adequate surpluses and
24 future uses for subsistence. This demonstrates -- this
25 aspect of this plan demonstrates a clear preference for
26 maintaining subsistence harvest on an ongoing basis
27 instead of maximizing production through an MSY approach
28 for commercial fisheries.

29

30 In some subdistricts of the Yukon River
31 drainage subsistence is allowed concurrent with low
32 effort commercial fisheries and further, unrestricted
33 subsistence fishing is allowed in the Koyukuk River
34 drainage where commercial fisheries are not allowed at
35 all.

36

37 Now, in Bristol Bay, the Kvichak River
38 system, the approach is somewhat different, again,
39 dictated by the local circumstances, but there are some
40 similarities. Subsistence fishing in Bristol Bay opens
41 before commercial fishing ends and it extends after
42 commercial -- it opens before commercial fishing does and
43 it extends after commercial fishing is closed. There's
44 more area open. And there are also provisions made
45 within the fishery to allow subsistence fishing to occur
46 within the commercial fishing districts when subsistence
47 -- when commercial fishing is going on. And in the case
48 of the Nushagak River, if there are extended closures for
49 the commercial fishery, the Department is directed to
50 allow, by emergency order, subsistence fishing in the

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1 Nushagak commercial fishing districts, even though we
2 might not have a commercial fishery going on.

3

4 Although in recent years the Kvichak
5 sockeye run has often not met its escapement goal,
6 subsistence fishing has not been restricted.
7 Furthermore, there are no seasonal limits or closed
8 periods in regulation nor has there ever been an
9 emergency order closure or restriction on the subsistence
10 fishery. On the other hand, commercial fishing in the
11 Naknek/Kvichak district has been heavily restricted in
12 recent years to provide for escapement and subsistence
13 fishing. Furthermore, the sportfishing regulations also
14 give the Department guidance to minimize allocation
15 conflicts between sport and subsistence fishing on the
16 Kvichak stock. This regulation specifies a reduced bag
17 and possession limit when the sockeye salmon escapement
18 for the Kvichak is expected to be below two million fish.
19 It also calls for closures in four specific areas that
20 were identified in the Board of Fisheries process where
21 there could be conflicts between sport and subsistence
22 fishing.

23

24 And in summary, the State subsistence
25 statute and the regulatory measures adopted by the Alaska
26 Board of Fisheries and the in-season management practices
27 of the Alaska Department of Fish and Game, ensure that
28 the subsistence fisheries on the Yukon, Kuskokwim, and
29 Kvichak Rivers are accorded a meaningful preference over
30 other uses of the fishery resources. However, while
31 State regulations are relevant to determining whether the
32 Federal standard for the subsistence priority is met,
33 these regulations were adopted to implement the
34 subsistence priority created by State law. An additional
35 measure of the efficacy of the State's regulatory program
36 in providing the subsistence priority is the
37 determination of the amount of salmon reasonably
38 necessary for subsistence and assessment of whether the
39 management program is successful in delivering this
40 amount to the subsistence fisheries. The State's
41 management program is successful in both providing a
42 meaningful priority as called for in Federal law and when
43 run size exceeds conservation requirements in providing
44 the amounts necessary for subsistence under State law.

45

46 And Mary Pete will now describe some of
47 the provisions of the ANS regulations.

48

49 CHAIRMAN DEMIENTIEFF: Go ahead.

50

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1 MS. PETE: Thank you, Geron. Thank you,
2 Mr. Chair. My name is Mary Pete. I'm the Director of
3 the Division of Subsistence for the Alaska Department of
4 Fish and Game. Good morning to other Board members and
5 RAC members.

6
7 As both Lance and Geron mentioned, State
8 law has two measures to ensure implementation of the
9 subsistence priority. One is identification of the
10 amounts reasonably necessary for subsistence uses or ANS
11 for short, of each stock and game population and the
12 other is that regulations provide a reasonable
13 opportunity to attain this ANS. State management boards
14 are required to determine the ANS for subsistence uses
15 for each stock and game population subject to customary
16 and traditional uses. These determined amounts provide a
17 target for management to reach much like escapement
18 goals.

19
20 With this general statement regarding the
21 State subsistence law, I will focus on stocks at issue
22 for this meeting, mainly Kvichak sockeye, Kuskokwim chums
23 and Yukon summer chums.

24
25 In the case of salmon in the Arctic,
26 Yukon, Kuskokwim regions, the Board of Fisheries updated
27 and refined the customary and traditional use salmon
28 stocks and amounts necessary for subsistence use
29 determinations for these stocks in 2001. The Board
30 updated its findings with more complete recent surveys
31 and a fuller examination of the historical harvest
32 records.

33
34 For the Yukon and Kuskokwim updates, the
35 quantities of fish necessary for subsistence use was
36 determined based on harvest levels of the most recent 10
37 years, 1990 through 1999, excluding 1993 for Yukon chum
38 salmon and 1997 for Kuskokwim chum. Those were years of
39 closures or voluntary reductions. The low production of
40 those years were excluded from the ANS calculation in
41 order to show harvest under good returns with little or
42 no restriction on the subsistence fishery.

43
44 The Board of Fisheries has identified 15
45 salmon stocks in Western Alaska north of the Alaska
46 Peninsula with customary and traditional subsistence
47 uses. Most have specific ANS findings associated with
48 them. Of the chum stocks, Kuskokwim subsistence harvests
49 have been consistently above the lower bound of the ANS
50 determination. These determinations are generally in the

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1 form of a range of a lower bound to an upper bound.

2

3

4 In the Bristol Bay region, Kvichak
5 sockeye harvests have averaged at 78 percent of the lower
6 bound of the ANS in the past five years, 1998 to 2002.
7 And as you heard Geron Bruce say, that fishery has no
8 restrictions, it's allowed to occur 24 hours a day, seven
9 days a week. And what we have found is that effort has
10 not reduced -- we get the same number requests for
11 permits so it seems to be an abundance based production.

11

12

13 Yukon River summer chum salmon harvest
14 have been within the ANS range for three of the five
15 years, from 1998 to 2002 and just below ANS for two of
16 those years. In some of those years Yukon and Kuskokwim
17 managers and regional organizations have asked for
18 voluntary reductions in subsistence harvest under
19 disaster declaration management. Note, also that the
20 harvest numbers are estimated well after the close of the
21 season and serve as a report card of the previous
22 season's harvest productivity. And as Mr. Bruce
23 mentioned the Kuskokwim chum salmon stock is under a
24 rebuilding plan.

24

25

26 Another feature as I mentioned of the
27 State regulatory program that guides implementation of
28 the State subsistence priority law is the standard to
29 provide a reasonable subsistence opportunity. This is
30 not a guarantee of harvest success but an opportunity to
31 get the amount reasonably necessary for subsistence.

31

32

33 The Board of Fisheries instituted the
34 windows fishing schedule in 2001 that Mr. Bruce described
35 in order to provide opportunity for all fishing
36 communities throughout the Yukon and Kuskokwim Rivers and
37 to ensure a conservation measure for discreet stocks on
38 those rivers. The windows schedule was established so
39 that reasonable opportunity is afforded throughout the
40 drainage to its up river reaches where salmon numbers
41 have been reduced from being subject to down river
42 fisheries as well as each salmon stock by verging into
43 its spawning tributary.

43

44

45 The Kuskokwim schedule is the simplest to
46 explain as it allows for four days of subsistence fishing
47 and three days of closure as each run progresses up the
48 river. The lower portion of the river is subject to the
49 schedule by June 1st and each up river portion assumes
50 the schedule the following week.

50

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1 The Yukon schedule is similar with
2 multiple windows each week. Prior to this windows
3 fishing schedule up river communities often expressed
4 frustration about consistent fishing productivity in even
5 years of high returns, high runs.

6
7 In summary, the ANS determinations
8 provide a target to assess a reasonable opportunity for
9 subsistence uses of these stocks and the windows
10 subsistence fishing schedule allows distribution of
11 reasonable opportunity and a conservation measure of
12 discreet stocks.

13
14 That concludes my comments, Mr. Chairman.

15
16 CHAIRMAN DEMIENTIEFF: Thank you.

17
18 MR. BEDFORD: Mr. Chairman, I wanted to
19 address a couple of specific subjects. The first one is
20 how we intend to monitor the fisheries in Area M this
21 coming summer.

22
23 The Fisheries Monitoring Program that the
24 State has just as a customary matter is an intensive one.
25 We, in the ordinary course of business, we're looking at
26 the fishery performance, the conduct of the fishery by
27 the fleet, what the harvest is by species, by area, by
28 gear type, however, for this coming summer there's a
29 couple of additional things that we're looking at.

30
31 One of them is recognizing that the
32 decision by the Board of Fisheries with Area M was
33 predicated to some extent on the notion that a change in
34 management would actually provide an opportunity for the
35 fleet to reduce its harvest of chum salmon and that that
36 was based on the notion that with longer fishing periods
37 that the fleet would be able to pick up its gear and move
38 when it found itself on a concentration of chum salmon.

39
40 We think that there's some opportunity
41 here to monitor deliveries within a longer fishing
42 period. If you have a four day fishery, for example,
43 fishermen will deliver more than once and we would expect
44 to see a reduction in the number of chum salmon as
45 compared to sockeye salmon over the course of the fishing
46 period.

47
48 So that's one of the things that we
49 intend to have a look at.

50

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1 We also want to see if it's possible for
2 us to monitor how the fleet moves within the area to see
3 if there's some way to see the fleet shifting from
4 locations where there might be concentrations of chum
5 salmon to seek out areas where there's a better ratio of
6 sockeye salmon. So those are two things that we want to
7 try to accomplish this summer to help us see how
8 effective the regulatory structure is in meeting some of
9 the objectives that the Board had in mind, and that in
10 fact the fishermen from Area M have brought to you here
11 in the course of this meeting.

12
13 Another area where there'll be some
14 activity will be in enforcement. The Alaska Bureau of
15 Wildlife Enforcement is, at this time, developing a
16 Comprehensive Peninsula Salmon Program. This is going to
17 involve assets in both air, land and sea to monitor
18 compliance with a regulatory program both for reporting
19 catches and also with the full retention requirement
20 that's in regulation. I can't speak really in great
21 detail on this. It's something that's in draft form. It
22 hasn't been finalized by the Department, but there is an
23 awareness on the part of wildlife enforcement that
24 there's an important issue that needs to be dealt with in
25 that area, and so they are looking very closely at that.

26
27 Another area that has -- or issue that's
28 come up a lot in the course of the discussions here and
29 that, actually we were talking about internally prior to
30 the time that I came up here, was -- is what kind of
31 research do we need to do in the future in order to try to
32 assure that we are effectively managing the stocks and
33 the fisheries that are at issue, not only here, but with
34 the Board of Fisheries and with the Department.

35
36 Our current take on it is that probably
37 the best methods that we could develop for looking at
38 stock composition and then also at migratory patterns for
39 the stocks that are of concern, would be to develop
40 genetic stock identification. That's something that
41 we've already started with sockeye for Bristol Bay. It's
42 not something that we've made a great deal of progress
43 with on chum, I mean we've made some but we haven't been
44 able to develop a full set of markers that would permit
45 us to distinguish between all of the various salmon runs
46 from Western Alaska. So there's certainly baseline work
47 that needs to be done and then also fisheries sampling
48 that would have to be done so that we can actually track
49 those stocks through the fisheries.

50

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1 So this is the kind of thing that we're
2 certainly willing to discuss with the Federal agencies,
3 with non-governmental organizations from Western Alaska
4 and from the Alaska Peninsula, to see how we might go
5 about doing this. Needless to say, one of the things
6 that we run into with any sort of research priority is
7 the availability of resources to do it. So we'd also
8 want to be exploring opportunities for funding for
9 something like that as well.

10

11 In any event, I'd be pleased to deal with
12 any questions.

13

14 CHAIRMAN DEMIENTIEFF: Thank you. We
15 will get to that. Let me just lay out our plan this
16 morning so everybody understands. I'm going to have the
17 Regional Council Chairs make their opening statements,
18 and then we will engage in discussion where they will be
19 free to ask questions.

20

21 One of the things that happened, you
22 know, since we scheduled this meeting is the Secretary's
23 in town, Secretary Norton is in town so the Board is
24 going to have to leave, they have a luncheon, they have a
25 responsibility, so we're going to be adjourning,
26 actually, about 11 or 11:15 at the absolute latest, so we
27 need to keep that in mind as we begin these discussions.
28 So as the RAC's get into their issues, we need to keep
29 that timeframe in mind. We may not take a break to allow
30 opportunity because I do want, after you make your
31 opening statements, I do want you to have the opportunity
32 to engage in discussion. In keeping with my Athabaskan
33 tradition, we go with the sun, Virgil, go ahead and open
34 up.

35

36 MR. UMPENHOUR: Thank you, Mr. Chair.
37 Yesterday I provided some documents to the Staff and so
38 what I'm going to start out by saying is this, I'm the
39 one that made the motion for the Eastern Interior RAC to
40 do this. I went to the Board of Fish meeting in February
41 and I represented the Fairbanks Advisory Committee. When
42 I got off the airplane, I ran into Dr. Eggers, when I ran
43 into Dr. Eggers I said, Dr. Eggers, what are you doing
44 here and he says, well, I'm leaving, I just presented my
45 '87 tagging study and I says, well, that's amazing to me
46 because it was withdrawn after the mistakes were found in
47 it right after it was presented to the Board in November
48 of 1991, and then Mr. Edfelt -- after Mr. Edfelt found
49 another mistake in it in February of '95 it was withdrawn
50 by the Department and never used again.

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1 So you'll find in the stuff that I gave
2 you, a piece of paper from Dr. Ray Hillborne of the
3 University of Washington. If you look on the first page
4 and read the bottom paragraph, I'm just going to read it
5 real quick:

6
7 However, one cannot state with any
8 certainty that the False Pass fishery
9 does not often intercept large numbers of
10 Yukon bound chums, that is, the Board of
11 Fisheries cannot as a result of the '87
12 tagging study results, dismiss the Yukon
13 fishermen's concerns.

14
15 He goes on further about that. Then I
16 got to the meeting and I looked at the GSI study that had
17 been presented by Dr. Lisa Seeb. The GSI study was
18 lacking three pages, I've included those pages in your
19 information.

20
21 These are from the GSI study that was
22 presented to the Board of Fisheries at the meeting in
23 1998.

24
25 Okay, on Page 32, which is not in the one
26 presented to the Board this year, it says:

27
28 That the actual numbers of fall chum
29 salmon in test period June 12 and 13 was
30 10 percent.

31
32 It then goes on to say that in the first
33 commercial period where it was tested, June 15th through
34 20th, the composition of Yukon fall chums was six
35 percent. Then in June 21 through 25 commercial fishery,
36 fish tested, five percent were Yukon fall chum, and then
37 it goes on June 26 through 30 period, it was three
38 percent. I'm absolutely dismayed that the Department of
39 Fish and Game told the Board of Fisheries there were no
40 fall chums in that fishery.

41
42 Now, you're also going to find in this
43 group of stuff I gave you, excerpts of transcript of
44 Board of Fisheries deliberations on the False Pass June
45 issue, one through three, March 1995. That was a 15-day
46 Board meeting, that was the last three days of the Board
47 meeting. I've highlighted just a little bit of things in
48 there. If you turn to Page -- I highlighted it but I've
49 messed up just a little bit, what I want to speak to --
50 I'll just start at the front, it's what Mr. Edfelt said,

00161

1 Mr. Edfelt, who was the Vice Chair of the Board at the
2 time -- Mr. Edfelt said, on the very first page if you go
3 down to the -- it will be the third paragraph, the second
4 paragraph is only one sentence, read the last sentence;
5 it says: Chums out of the South Peninsula fishery, in
6 order to put a few more fish into the Norton Sound area
7 as Mr. Kron said, every fish counts in Aniak, that's
8 Edfelt talking about that, that was Dr. Kron, who is now
9 your administrator for the Office of Subsistence
10 Management. He spoke about every fish counts. He was
11 speaking about the Aniak River, he was also speaking
12 about Norton Sound.

13

14 Then if you get to Page 2, Chair Larry
15 Ingle says, at the very bottom, this last year we heard
16 the pink salmon helped replace some of the lost chum
17 salmon. He's talking about and -- northern Norton Sound,
18 if the people can eat pinks instead of chums because
19 their chum salmon subsistence fishery was totally closed.

20

21 Then you get to Edfelt again and he talks
22 about, and this is on Page 3, Edfelt talks about northern
23 Norton Sound and he talks about large scale commercial
24 fisheries and then if you turn to Page 4 he does the same
25 thing again, he says, that doesn't mean that there aren't
26 weak stocks in Southeast Alaska or Kodiak Island or
27 Prince William Sound. As we've gone around the state
28 we've certainly seen areas of concerns in those areas as
29 well, but for the most part the salmon management program
30 in the state of Alaska has been extremely successful and
31 I'm not about to turn that successful program on its ear
32 at this time in order to manage for the weakest, smallest
33 stock, any mixed stock fishery under the guise of
34 managing sustained yield. I think we're providing for
35 sustained yield.

36

37 If you turn over to Page 5 it's me
38 talking, you go down to the bottom and I say, in Norton
39 Sound their fisheries are closed. Escapements have not
40 been met and it should have been northern, but it says
41 western, Norton Sound with the exception of this last
42 year for a number of reasons, nine of them to be specific
43 for in the neighborhood of 10 years. To me, that is not
44 sustained yield. The subsistence fishery has been
45 totally shut off or severely restricted for the last five
46 years. To me that's not meeting subsistence priority if
47 people are allowed to fish period.

48

49 That same holds true for Moses Point,
50 which is also a Norton Sound subdistrict C, they've been

00162

1 closed down. That river's not met escapement for a
2 number of years. The Department even went to far when
3 Demby Lloyd was the head of commercial fisheries to lower
4 the escapement goal by 6,500 fish. And then in the
5 following year they got 11,000 fish up the river past the
6 counting tower and that's the best counting tower in the
7 state of Alaska.

8

9 Ingle, at the very end, he says, on Page
10 6, he says, so the point is yield is also a very
11 different term to define, but one level this sustained
12 yield is at the highest possible level for maximum
13 utilization. At the lower level, that's difficult to
14 define, the species can no longer sustain itself and
15 there's no yield, and that's defined. I guess in my mind
16 when -- by when a fish fits this category of threatened
17 and endangered species -- threatened and/or endangers and
18 then he goes on to talk about that.

19

20 He then goes on to talk about, and I
21 don't even know where I've marked it, he talks about
22 yield and he's saying that there may be -- that yield is
23 only the amount of fish necessary for bears to eat, such
24 as in the McNeil River or for people to view or to have
25 catch and release sport fishery. And so I closed by
26 saying, I just want to reemphasize one thing, escapement
27 was met in northern Norton Sound this year, it was met at
28 the expense of a zero directed commercial fishery for an
29 area that used to have a very viable fishery. It was met
30 with subsistence closures and when I say subsistence
31 closures I mean people had not fished there for four
32 years.

33

34 To me it's a travesty, it's criminal to
35 assume that the burden of conservation that those people
36 are bearing is spread equally throughout the migration
37 route of these fish.

38

39 What this prompted me to do when I got
40 back from the meeting, I called up Robin Samuelsen, who,
41 at that time was on the North Pacific Fisheries
42 Management Council and was a past member of the Board of
43 Fisheries and is currently a member of the Bristol Bay
44 RAC, and I says, Robin, we have to have a definition of
45 sustained yield and we says, I totally agree with you, so
46 myself and an attorney by the name of Bill Caldwell from
47 Alaska Legal Services, who's a good friend of mine, we
48 sat down and we wrote what we thought was a good
49 definition of sustained yield. Then I talked to Dr. John
50 White who was on the Board with me at the time and he

00163

1 says, no, that's not what we need, that's not going to do
2 any good. What we have to have is a sustainable
3 fisheries, salmon fisheries policies, so that's included
4 in here.

5
6 We came up with a sustainable salmon
7 fisheries policy, it took a long time to do it. It went
8 through extensive public review. I had lunch with Duncan
9 Fields yesterday, that attorney from Kodiak, he spent
10 time as one of the public members on it, several years.
11 This thing was peer reviewed by science, it was out to
12 the public, it was changed, many, many times, I was
13 involved in that. I wasn't on the direct committee, but
14 I was one of the people that made lots of changes --
15 effected lots of changes in that thing.

16
17 Okay. I just want to say one little
18 comment about the Staff report. And that is that the
19 State says that tripling the amount of fishing time in
20 the Area M fishery is probably only going to double the
21 harvest, well, I really strongly object to that. Because
22 I tried at every Board meeting practically to reduce the
23 depth of the gear in Area M, I was always unsuccessful.
24 But during those pursuits I obtained every bit of
25 scientific data I could find on vertical distribution of
26 sockeye salmon and chum salmon. I've included part of
27 that. One of them, is it's a thesis for a master's
28 degree for the University of Washington in 1969. This
29 individual had been involved in all kinds of test
30 fisheries, with the Fisheries Research Institute, which
31 was the people under Dr. Rogers, used to be the guy in
32 charge of it, that did this stuff in Bristol Bay, that
33 forecasted Bristol Bay runs, and so they did all these
34 studies, I've enclosed a couple pages of that.

35
36 I'll just read a tiny bit of it. It
37 says, he found that sockeye and chum salmon ascended
38 toward the surface during the night and descend during
39 the day. And then he speaks some more about this guy,
40 Mitch Adory, in 1966, studied the vertical distribution
41 of salmon in the Northwest Pacific Ocean in June '62,
42 mid-July to early August '63, he found that almost 90
43 percent of immature sockeye were in the upper 10 meters
44 at night and almost none were below 20 meters.

45
46 There's another thing here and it says at
47 the top of it, it says Life History of Sockeye Salmon,
48 I've got one paragraph in there, it's up in the upper
49 left-hand corner. It says Mitch Adory, 1966 analyzed
50 data from operations in the Northwest Pacific Ocean and

00164

1 Bering Sea. He made variously -- in June to August, the
2 same thing.

3

4 Anyway, fish ascend towards the top at
5 night, as the commercial fisherman that I used to be, I
6 know that you catch many more fish at night and it's for
7 a number of reasons. One reason they come up closer to
8 the top at night because predation is not as bad; the
9 next reason is during periods of limited visibility they
10 can't see the nets and swim away from them as easy so you
11 fish -- you catch more fish at night.

12

13 Okay. I think I've pretty much covered
14 what I wanted to cover in my opening statement. I have
15 some other questions, some other things that I want to
16 bring up but I will say this, that the things I've
17 presented, information from Dr. Ray Hillborne about the
18 '87 tagging study, it shouldn't be used, you can't do
19 those kind of things. I've got a memo from John
20 Hellsinger, who at the time was the Regional Director of
21 AYK region to Dr. Eggers dated 10/14/91 with his
22 concerns. I've got my concerns as the Co-Chairman of
23 YRDFA, in 1991 a letter that I wrote on 12/December of
24 '91 pointing out things like the same day after the main
25 tagging effort was a commercial opening, 30 percent of
26 the tagged fish were caught during this opening, 30
27 percent. There was no commercial fishery on the Yukon
28 River for fall chums in 1987. I've got newspaper
29 articles over here that tell that -- and Mr. Demientieff
30 very well knows about what happened in 1987 because he
31 lives in Nenana and normally and they're quoting Fred
32 Andersen in the newspaper article, by this time, there
33 would have been 50,000 summer chum salmon caught but only
34 3,000 have been caught in 1987 because the fishery was so
35 poor in 1987 they totally closed the damn fishery. The
36 people that live on the Tanana River, that live in Nenana
37 and Fairbanks didn't get to commercial fish, they had one
38 opening and caught 3,000 fish.

39

40 But anyway, I wanted you to take a look
41 at that. I wrote that to the people at UAF to do an
42 analysis of the '87 tagging study, that's on the very
43 last page, they concur with Dr. Hillborne.

44

45 So to have this '87 tagging study brought
46 up, resurrected after it had been pulled and the Board
47 never was allowed to consider it again and that happened
48 in 1995, to use it again in 2004 and say there's no fall
49 chums there and that it's not going to impact any streams
50 in the AYK region by increasing this fishing time by this

00165

1 much, which I figure is going to increase the effort or
2 the harvest by about triple because they're increasing
3 the fishing time by triple, to me, is unconscionable.

4

5 One last item, and, that is, that there's
6 always been rumors of discarding of chums and that the
7 accountability of the chum harvest reported in the Area M
8 was not accurate. And so I had asked the Department on
9 numerous occasions, can't we just look at the harvest
10 records, the fish tickets, no, you can't do that. So I
11 talked to Lance Nelson that's sitting over there and this
12 was in the year, I guess it would have been late 2000,
13 and I talked to him, I says, Lance, look, we're
14 regulators, we're making -- we're promulgating
15 regulations for the conservation and the development of
16 our fisheries. I don't feel our regulations are being
17 complied with. I had one Bristol Bay fisherman tell me
18 that he had a relative working in Area M on a drift
19 gillnet vessel and that there's this one guy bragging
20 that he's never, ever sold a chum salmon, he just throws
21 them overboard. So I says, can't we somehow look at the
22 records and I also spent a lot of time talking with
23 Captain Kaine, who was the trooper representative for the
24 Board. I convinced him, I says, Captain Kaine, you need
25 to do like we did in Vietnam when I was a sniper officer,
26 you need people with good optics, you need to insert them
27 prior to the fishing season so they can observe the
28 fleet. Well, they attempted it one time and they failed
29 because they screwed up their insertion. But then they
30 did it again. They did it in 1999, and this time they
31 videotaped off Popoff Head the absolute evidence they
32 needed. The one person went to trial in Sand Point and
33 was found not guilty. So the State decided, and I got
34 all this information from Captain Kaine, now, by the way,
35 at this Board meeting in February, just this last
36 February, what happened to the disposition of the other
37 two people that they video'd discarding chum salmon, the
38 other two went ahead and plea-bargained, so they did get
39 two convictions out of it.

40

41 So anyway, what ends up happening is I --
42 as Captain Kaine tells me, now, this is back in 2000, he
43 tells me, look, we can print -- to a print off, the
44 troopers can, of the harvest records, these fish tickets,
45 and the fishermen will be just numbers and we can make it
46 so that year after year it's the same number is the same
47 fisherman, and I said, great, that's what I need. I want
48 to analyze those fish tickets, so Mr. Nelson, I assume
49 okay'd it, anyway, it got presented as a record copy at
50 the Board of Fish meeting in 2001. Mr. Mike Stanley,

00166

1 who's attorney for the fishermen in Area M objects and
2 says this violates the confidentiality statute, and I
3 said, no it doesn't, but somehow he convinced the
4 director of commercial fisheries that it did because --
5 and I'll tell you why they pulled it. They pulled it and
6 this was the explanation given by Mr. Stanley, the
7 attorney for the Area M commercial fishing fleet, he
8 says, look, these fishermen signed contracts with their
9 processor, the contracts states that they will sell 100
10 percent of their fish to that processor, some of these
11 fishermen sold part of their fish to other processors and
12 so the processors will be able to take these fish
13 tickets, now, we're talking about a stack of records this
14 thick, over 800 pages and compare them to their fish
15 tickets that they have and they will be able to figure
16 out who these fishermen were and they'll be mad at them
17 because they breached their contract to them, so the
18 State pulled them.

19

20 And so at the Board meeting in February,
21 it was a 4/3 vote. Remember the Board passed -- the
22 reason why we're here by a 4/3 vote, so there was a
23 minority of three people. The minority people, which was
24 the two Nelsons that are currently sitting on the Board,
25 one of them that's term expires here real quick, and Dr.
26 Bass from Fairbanks, we had talked -- Dr. White and I, we
27 were both at the meeting, and so we discussed this with
28 those three Board members, that are current Board
29 members, we discussed this with Captain Kaine, and so
30 what we wanted to happen at the Board meeting, which
31 didn't happen, was Captain Kaine to give an analysis and
32 a review of those records, and so that didn't happen.
33 But I can tell you one thing, the sockeye to chum salmon
34 ratio, when the Board upped the cap to 900,000 in
35 November of 1991 and the newspaper articles are on the
36 wall back there to document this, the reason they raised
37 the chum cap to 900,000 was because the Bristol Bay
38 forecast was going to be very high and at the current
39 chum cap of 600,000, based on the fact that historically
40 for every 100 sockeye caught there were 40 chums caught,
41 that they would have to increase the chum cap to 900,000
42 in order to allow the Area M fleet to harvest the 8.3
43 percent of the Bristol Bay forecast. That's why they
44 upped it to 900,000.

45

46 After that happened, which was in '91, we
47 petitioned the Board, unsuccessfully two times, YRDFA
48 did. I wrote the petitions, my wife and I and a guy
49 named Ed Ruttledge from Tanana Chiefs. That didn't work.
50 So then we started a petition drive. After we got over

00167

1 10,000 signatures and sent them to the Governor, the
2 Governor directed the Commissioner of Fish and Game to
3 direct -- to call a special Board meeting and we did have
4 that special Board meeting and they lowered the chum cap
5 to 700,000. But after that happened, and all that
6 attention was placed on the harvest of chum salmon,
7 somehow the sockeye to chum ratio jumped up to as high as
8 seven to one instead of two and a half to one and it was
9 that way until the Board made the changes in 2001, which
10 I was one of the people that really argued like hell to
11 get those changes made, to give them three 16 hour
12 periods a week, no nighttime fishing so they couldn't
13 chuck the chums overboard in the periods of limited
14 visibility, and because that was just part of a
15 conservation plan to address nine stocks of concern in
16 the AYK region we put conservation measures in the
17 terminal areas and conservation measures in Area M.

18

19 This new Board left all conservation
20 measures.....

21

22 CHAIRMAN DEMIENTIEFF: Virgil, I'm going
23 to ask you to summarize your opening comments out of
24 respect for your fellow RAC representatives because they
25 do have opening comments as well. We will have the
26 opportunity to engage, so if you would, please, it's been
27 about 20 minutes and that's -- the other people have
28 things to say, too, I know that, so, please.

29

30 MR. UMPENHOUR: Okay. I will summarize.
31 And sorry if I seem inconsiderate, it's just that I have
32 a very long background in this issue.

33

34 So, anyway, what has happened is that the
35 sockeye to chum ratio jumped way up until the actions
36 were taken in 2001 the conservation measures put
37 throughout the migratory range of the fish, now the
38 sockeye to chum ratio for the last two years is less than
39 two to one, so that alone indicates that the reporting of
40 the chum salmon harvest between 1992 and 1999 is totally
41 flawed.

42

43 Thank you, Mr. Chair.

44

45 CHAIRMAN DEMIENTIEFF: Thank you, Virgil.
46 We appreciate the information and I don't mean to cut you
47 off but the other people have to have a chance to talk
48 too.

49

50 Mr. Stoney, do you have opening comments.

00168

1 MR. STONEY: Mr. Chairman. This is
2 Raymond Stoney. I don't have too much comment, but I
3 certainly want to thank you and the Federal Subsistence
4 Board for taking time for yesterdays very, very strong
5 testimony from Southeastern [sic] Alaska, and then
6 evidently it came to where the subsistence and commercial
7 fishing in Bethel area, it's real highly impacted and I
8 want to congratulate that people from Bethel and
9 Southeastern gave very strong testimony that the -- in
10 the Federal Board of Game [sic]. Like, for instance,
11 myself, I'm from the Kotzebue area, there is no -- not
12 too much commercial fishing at all for about four or five
13 years, and subsistence fishing in that area has been very
14 highly return fish in the last couple of years.

15
16 Again, Mr. Chairman, I want to thank the
17 members of the Board, you know, for all that time
18 yesterday, and heard very strong testimonies.

19
20 One thing I'd like to say is that from
21 Southeastern and all the way up to the Arctic Slope
22 Interior, that we need to just sit down and make a plan
23 that will fit all commercial fisheries throughout the
24 state of Alaska. Again, Mr. Chairman, thank you very
25 much.

26
27 CHAIRMAN DEMIENTIEFF: Thank you, Ray.
28 Grace.

29
30 MS. CROSS: Good morning. I'm going to
31 begin by reading something that really bothered me and it
32 comes from the comments by the State of Alaska and they
33 were the very first words that they used this morning.

34
35 In southern Norton Sound, there is
36 Unalakleet Wild and Scenic River, a variety of non-
37 navigable waters and Federal BLM lands, but in northern
38 Norton Sound there is very little Federal land or water,
39 existing subsistence fisheries are not subject to Federal
40 jurisdiction, therefore, all references in the petitions
41 to Norton Sound salmon fisheries may not be considered by
42 the Federal Subsistence Board because they are not
43 Federal subsistence fisheries and the Federal public
44 lands.

45
46 In other words, the State is saying to
47 you, is urging to you to discriminate between rural
48 subsistence users depending on the amount of Federal land
49 there is out there.

50

00169

1 In other words, they are saying, I just
2 didn't realize that ANILCA's intent is to discriminate
3 between rural subsistence users, depending on how much
4 Federal lands you have within a given region.

5
6 I don't think so.

7
8 Throughout, the decades of problems we
9 have in our fisheries, we have looked upon both the State
10 Board and the Federal Board for assistance. From our
11 region we have testified for decades to have something be
12 done with our depleting fisheries. We are now at the
13 situation we may not recover. When there are nine chum
14 salmon in a small stream, is there hope of recovery?

15
16 Or perhaps the State does not want the
17 Federal Board to look at their management schemes that
18 they have applied in our region for decades to the point
19 that we have streams and rivers that have no chum stocks.
20 Maybe they don't want to have you look at Unalakleet Wild
21 and Scenic River, which is experiencing problems at this
22 very moment, subsistence has curtailed and it is
23 spreading, and maybe we are very fortunate that an
24 unfortunate to Yukon, Kuskokwim and Bristol Bay that
25 those large schemes of water are also being affected by
26 what has been happening to us for decades.

27
28 Maybe the Federal Board should look at it
29 this way, maybe the Federal Board should look at the
30 management -- what management has been done to Norton
31 Sound that have failed, that have succeeded and is that
32 same scale of management being applied to large scales of
33 land where Federal waters are and how will it -- will the
34 impact be the same?

35
36 You know, I am not much of a person to be
37 angry about things, but even from some of the testimony
38 that you heard from my region, there's a certain amount
39 of anger that's coming out, resentment maybe, despair, we
40 are in an area, we have -- we have areas where we have no
41 more subsistence fishing. How much does it take? When
42 there's none, there isn't any. We have Tier II
43 situation, is that working? I think those are some of
44 the things that the Federal program better look at
45 because it may be the future of the Yukon, Kuskokwim, and
46 Bristol Bay and other areas of Alaska. In the future
47 there may be more Tier II fishermen.

48
49 And what happened to those individuals,
50 those fisher people that didn't get Tier II fishing

00170

1 permits, maybe somebody is right, those of you who have
2 plenty, perhaps we should start buying from you or maybe
3 you can start sharing, giving us what you have. We are
4 already doing that, you know, through our CDQ. During
5 the summertime, the CDQ buys fish and we are handed fish,
6 chums. The most I think we can get is six chums, but,
7 chums just the same.

8

9 I really hate to see the situation that
10 we have in Nome subdistrict expand to other regions of
11 Alaska, but it is, unfortunately it is, unless the State
12 and the Federal government work together to resolve what
13 is happening, to look at realistically and different
14 constructive studies to see what is happening to our
15 salmon, the future is as bleak as we are in Nome
16 subdistrict. Norton Sound, period. The small river
17 streams that we've got under Federal management are also
18 being affected.

19

20 I would really urge this Board to make
21 strong recommendations that one of the things that needs
22 to be done is to take a look at Norton Sound fisheries
23 and see what kind of management was applied, what worked,
24 what did not work, whether those same kind of management
25 schemes are going to be utilized in other parts where
26 there's a lot of Federal lands. Should those be avoided?

27

28 I think I'm going to conclude with that
29 and I will still be making some comments later on. But
30 if somebody doesn't do anything, regardless of whether or
31 not the State of Alaska or the Federal government wants
32 to close their eyes in what happened to Norton Sound,
33 it's going to happen to the rest of the country.

34

35 And I guess lastly, it's really appalling
36 and disheartening when you have to be made to feel
37 because of the few Federal lands that we got, to get the
38 feeling that you might be an unwanted child in the
39 Federal Subsistence Program. I hope that's not the case.

40

41 Take a look at our region and learn from
42 it, do not let the same things happen to areas that are
43 starting to crash.

44

45 Thank you.

46

47 CHAIRMAN DEMIENTIEFF: Appreciate the
48 comments, Grace. You probably know it, but my son works
49 over there for Fish and Game and that's one of the things
50 that he does, he does the counting in the area, and I'm

00171

1 going to do everything I can to try to get a trip up
2 there this summer to try to get a -- you know, to see for
3 myself. The Board is already committed to their summer
4 schedule for their trips and they're going to the upper
5 Yukon this year. And, of course, I've been all through
6 that, but I kind of would like to go and see, too, so I'm
7 just going to do the best I can to try to get up there
8 even if it's only myself and maybe Carl.

9

10 But, yeah, I kind of would like to see
11 firsthand myself, yeah, he's told me some of the stories,
12 I'm really -- I really want to see, so thank you very
13 much for your opening comments.

14

15 Jack.

16

17 MR. REAKOFF: Thank you, Mr. Chairman. I
18 want to thank the Board for their deliberation on this
19 very contentious issue. I can feel your pain also for
20 listening to all that testimony and the decisiveness.

21

22 I felt that starting off with the Staff
23 Committee presentation, that there are flaws in that
24 Committee presentation. The Board of Fisheries and Staff
25 assume that the Bristol Bay forecast is accurate, that's
26 the premise of this expansion of the Area M fishing time,
27 whereas, therefore, the harvest of a significant portion
28 associated risk to the Area M -- or in Area M of the AYK
29 chums in a non-terminal area fishery, far outweigh the
30 fact that the Bristol Bay forecast are routinely plus or
31 minus 50 percent off. And especially in an unstabilized
32 marine situation where we have not realized a recovery of
33 the marine system. And so I feel that that's the basis
34 of this expansion, as it revolves around that forecast.
35 I feel that that forecast should not be looked at
36 absolute fact.

37

38 The Staff downplays the extension of
39 basically three times the fishing amount of time with 14
40 nights to be fished and calls it really a 100-fold
41 increase in harvest, potential because of the darkness.
42 Having fished in a marine system with drift gillnet gear
43 in Bristol Bay, we caught thousands of fish at night.
44 The weather is a primary factor, fishing with the gillnet
45 gear will have full effectiveness during the night
46 fishing. Fish don't quit swimming just because it gets
47 dark out.

48

49 Summer AYK chum salmon have not
50 demonstrated a recovery to date. Neither has the Kvichak

00172

1 River sockeye to warrant such an optimism and to throw
2 caution to the wind is very risky, especially to the
3 subsistence users who rely on those resources.

4

5 The State's presentation revolves around
6 the in-river subsistence managements and that's not the
7 question here. The question is in regard to not the
8 management regimes of how we manage fish once they enter
9 the river, including subsistence, this meeting revolves
10 around the tripling of fishing time in Area M and the
11 concern for chum salmon passage through this ventura and
12 the preemption of their reaching the subsistence
13 management regimes in-river.

14

15 I'm the designated representative from
16 the Western Interior Regional Advisory Council,
17 therefore, I am compelled to stand by my Council's
18 unanimous vote to support the extraterritorial
19 intervention by the Federal Subsistence Board and the
20 deregulation of the Area M salmon fishery. To take a
21 silent position on the State Board of Fisheries recent
22 action for commercial salmon harvest in Area M would
23 violate the more weightier portions of ANILCA, Title
24 VIII. Disregarding scientific principles for
25 conservation of an AYK salmon stocks of yield and
26 management concerns shall have the greatest adverse
27 impact to rural residents subsistence users who must
28 conserve in-river.

29

30 The justification that insufficient data
31 regarding chum salmon destination and their composition
32 within the Area M harvest somehow validates the
33 deregulation, holds high risk for the AYK subsistence
34 users. Insufficient data is prima facia evidence that
35 caution is required to assure escapement and subsistence
36 needs.

37

38 As one Council member, who has listened
39 to all the public comment, I would advise:

40

41 That the Federal Subsistence Board find
42 that the Board of Fisheries has violated the Sustained
43 Salmon Policy for conservation of stocks of concern in a
44 non-terminal mixed stock harvest area.

45

46 Prudence of the dual management system
47 requires a request for a joint meeting of the Board of
48 Fisheries and the Federal Subsistence Board, focus of the
49 meeting would strategize an execution of the Area M
50 fishery with assurances for true protection of the AYK

00173

1 chum salmon passage.

2

3 Scale back harvest windows or chum caps
4 with verification by observers on some vessels, for
5 example.

6

7 The need for genetic stock apportionment
8 of the Area M chum salmon harvest and with questions as
9 to what timeframes are various chum salmon passage
10 correlated to destination river systems and amplitude.
11 What stocks are represented on a yearly basis, whether
12 summer and fall chum, and the genetic stock analysis
13 should be accomplished by a neutral entity.

14

15 We don't want to put the fox in the
16 chicken coop.

17

18 And so that's my opening comments and I
19 thank you for your attention, thank you.

20

21 CHAIRMAN DEMIENTIEFF: We've been kind of
22 passing notes around up here. And this is obviously one
23 of the most important issues, you know, to deal with, so
24 we are going to either have people that feel compelled,
25 Board members, you know, they have Staff Committee, we
26 work very close together -- I work very close together
27 with my representative, Carl, so I'm going to revise my
28 earlier statement, and that we are going to sit here and
29 do diligence. We are going to make sure that everything
30 gets heard, and if it goes through the afternoon, so be
31 it, yeah, we will one way or the other be here. And
32 don't feel if some of the directors feel like they have
33 to go, their Staff Committee gives them the information,
34 so we will go as long as we have to. So I just wanted to
35 revise my earlier comment, just kind of, this is our
36 priority right now, so, please, you know, that's the way
37 we'll go. We will take the time. We will do diligence
38 because next week we have a decision point and we want to
39 make sure that everybody has their say. So we will just
40 do this, this is our priority.

41

42 Okay, John, do you have comments.

43

44 MR. LITTLEFIELD: Thank you, Mr.
45 Chairman. I think that's a wise decision, and I don't
46 believe you're going to be held here overly long because
47 of my statement.

48

49 My name is John Littlefield and I'm the
50 Southeast Chair. When I said that, when I introduced

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1 myself the other day I had several people say what are
2 you doing here? What's Southeast doing here, that Area M
3 is a long ways away. But when we look at Southeast, the
4 major land holding, of course, is the Tongass National
5 Forest. And the Tongass National Forest is virtually
6 surrounded by marine waters. Marine jurisdiction has
7 raised its head before in Southeast and it's quite likely
8 that it could happen again. So we're interested in the
9 process. I've sent an e-mail to all the members of the
10 RAC to get their ideas and we haven't taken a position on
11 Area M and I'm not going to take a position on that at
12 this meeting.

13

14 But we are very interested in this
15 process, of how we get to extending extraterritorial
16 jurisdiction.

17

18 One of the things that I did when I
19 looked at this report, and I wish I'd gotten it earlier,
20 that we could have shared it, but when I did read through
21 it, it has complete reliance on the Alaska Department of
22 Fish and Game, Comm Fish Division reports. Every bit of
23 literature that's cited in the back of that report is
24 from Comm Fish or personal communications of the Comm
25 Fish director. I'm not going to refer to the Department
26 by names as some might have done, but I'm certain that
27 most of you are aware that forecasting fish returns is an
28 imprecise science at best and a person with a crystal
29 ball could sometimes do just as well. We're making wild
30 guesses here. Blind faith acceptance that the take in
31 Area M will double when fishing time is tripled is voo-
32 doo science at its best. It's totally unsupportable by
33 the test of ANILCA, which is substantial evidence. There
34 is no substantial evidence.

35

36 Further, it's not supported by clear and
37 unambiguous and scientific proof that some people have
38 asked you to provide before you can exert -- exercise
39 extraterritorial jurisdiction.

40

41 Federal Staff used that unsupported
42 doubling factor to justify their conclusions in the
43 report, that increased fishing times will not interfere
44 with the subsistence fisheries. I don't know the affect
45 of tripling the time and exactly what it will be, but
46 this issue is of such magnitude that the Federal Staff --
47 the Federal biologist should have been making a report to
48 you based upon their research and their best professional
49 judgment instead of relying so heavily on the State.

50

00175

1 And I found that quite troubling.
2 Because most of what the State said earlier I disagree
3 with, but that's nothing new. We have two different
4 programs here, the State has their program, which calls
5 for reasonable opportunity. You will find that nowhere
6 in ANILCA or amounts necessary for subsistence. Those
7 are words that are not in ANILCA. And we're here because
8 this is the Federal program we're talking about. This is
9 a Federal solution to something that was thrown in our
10 lap.

11
12 If you read through this report it says
13 we don't have any information now, we won't have any
14 after the season's over and what do you do next year if
15 this is before you. That's ridiculous. Somewhere in
16 here somebody's got to have a plan on how to get that
17 information to the State and to the Federal Subsistence
18 Board.

19
20 And some ideas that were brought up by
21 previous speakers have lots of merit. I would urge you
22 to do the very most that you could to make sure that
23 funding is secured for those that have good ideas and
24 work with the biologists, work with the State and try to
25 get these forward.

26
27 I have some other things I'd like to talk
28 about, too, and that's the -- and if you'll refer to Page
29 4 of the Federal Staff report, I'll talk about that in a
30 couple times [sic] here.

31
32 I support the Staff interpretation of the
33 application of Federal regulations that were described on
34 Page 3. In other words, the Secretary can exercise
35 extraterritorial jurisdiction, I believe that to be
36 indisputable. Although some do and say it can't be done,
37 personally I believe that it is and the law and
38 regulations cited in this book support that.

39
40 I didn't agree with the summary that was
41 on Page 12 that demanded a very high threshold to justify
42 extraterritorial jurisdiction. 50 CFR 100, Section 10(a)
43 as cited on Page 4 does not require any such
44 extraordinary high threshold, only that the activities
45 interfere with the subsistence activities to such an
46 extent as to result in a failure to provide the
47 subsistence priority. That's what's required.

48
49 The exercise of extraterritorial
50 jurisdiction would be to protect the purposes of ANILCA.

00176

1 In other words, if we were to do this we would be
2 protecting the purposes of ANILCA. The mandate of ANILCA
3 is often said that it's to provide the subsistence
4 priority on Federal public lands and associated waters.
5 What we're seldom reminded of is to read the whole text,
6 which is on Page 4, Section .802 (2). In there towards
7 the last third of that, it says, or the continuation of
8 subsistence uses of such population. And when we talk
9 and if you substitute from ANILCA subsistence as
10 customary and traditional, what you've got is you've got
11 to, in addition to providing the subsistence priority,
12 you've got to make sure that the customary and
13 traditional uses that have been established continue.

14
15 That's the difference between the State
16 and the Feds.

17
18 They're talking about a reasonable
19 opportunity where you can go from Stream A to Stream B
20 and if it's only 30 miles away, that's a reasonable
21 opportunity, and that applies under State regs. It does
22 not apply under ANILCA. If you've established a
23 customary and traditional practice at that stream, then
24 you need to be able to continue it under the mandate of
25 ANILCA. And I think quite often that's one of the things
26 that's neglected, it's certainly neglected by the State
27 because they don't address that.

28
29 I guess I would just close in saying that
30 many of the previous speakers had a lot of the points I
31 thought I was going to cover and there's no sense to go
32 on with them, I don't want this to go until 4:00 o'clock
33 either, but they had some really good ideas, and
34 hopefully everybody got them down, genetics, tagging, and
35 all of these things and you're doing exactly what the
36 regs require, that you consult with the RACs, you consult
37 with the State and in summary if you decide that this
38 interferes with subsistence and is not a direct cause as
39 some say, it doesn't say that anywhere in this document,
40 but if it interferes with the subsistence priority then
41 you have a duty to recommend to the Secretary that she
42 exercise that authority for extraterritorial
43 jurisdiction. I'm not saying that you want to do that
44 here in this case, but I'm saying that that's what I
45 believe the process to be, and, hopefully we can get that
46 defined sometime, of, what standard is to be applied to
47 exercise extraterritorial jurisdiction.

48
49 I just don't believe that the bar as set
50 out in this report is correct. I think it's way too

00177

1 high, and I'd like to see that discussed by the Board.

2

3 That's all I have for now. Thank you,
4 Mr. Chair.

5

6 CHAIRMAN DEMIENTIEFF: Thank you, John.
7 I just want to point out one thing. I do know that we
8 are mobile, you know, in response to your, why are you
9 here? We are a lot more mobile than we were, you know,
10 years ago. And there are Tlingit people and non-Native
11 people, rural residents that fish near my home, and they
12 still have relatives at home. And I'm sure they're in
13 Area M, you know, and all other areas, people move
14 around. I do know that. You know, I know a lot more
15 than I let on about that. But they still have family in
16 your region, of course, they're represented by other
17 Regional Councils, but, you know, where they're currently
18 living now, but they're still family. So you have every
19 right to be here in my estimation because it does affect
20 families of rural residents in Area M and AYK. So if
21 they are unable to provide then that burden is going to
22 fall back on to the families in Southeast.

23

24 So I just want to point that out. I do
25 know that for fact. Because I stay with them, you know,
26 at home, and I know there are other people in other
27 places. So I just wanted to point that out.

28

29 Thank you, for your comments.

30

31 Della.

32

33 MS. TRUMBLE: Thank you, Mr. Chair. I
34 would like to defer at this time to the proponents of
35 these petitions. I spent a lot of time last night going
36 through and typing up some of what I have taken a list
37 of. So what I'd like to do is defer to Bristol Bay and
38 then continue after John is done.

39

40 CHAIRMAN DEMIENTIEFF: Sure.

41

42 MR. O'HARA: She sounds like a lawyer or
43 something, I was going to get even with her, talk after
44 her, but she by-passed me. Darn.

45

46 (Laughter)

47

48 MR. O'HARA: Anyway, my name is Dan
49 O'Hara, Chair of Bristol Bay. Federal Subsistence Board,
50 Staff and State of Alaska and the public, it's been a

00178

1 rather interesting busy day yesterday.

2

3

4 I think, Mr. Chairman, that one of the
5 things that we need to kind of keep in mind with the
6 State of Alaska is Mrs. Pete, you mentioned that the
7 subsistence was doing quite well in the Bristol Bay area.
8 But I think there's a couple areas we need to maybe just
9 think a little bit about and that is in the in-season
10 part of the harvest where subsistence is taking place in
11 all the major river systems, that's fine. But when you
12 get to Lake Iliamna and you only have a certain amount of
13 fish going up the Lake Clark system and then you have
14 maybe some going to Gibraltar over there, Kohkonak, the
15 Ilimana people, at their proper residence that they are
16 at and Pedro Bay and places like that, can't move 30 or
17 40 miles to get subsistence fish, they're not getting it.
18 So I think you need to take into consideration that
19 subsistence is not well with the State of Alaska as far
20 as providing the needs that these people have.

20

21

22 And the Interior, these people can't move
23 40 miles even with an outboard motor on a skiff to go do
24 subsistence. And if you're catching one too many chums
25 in the Area M, then that's one too many chums for
26 subsistence needs met up in the Norton Sound and Yukon
27 area.

27

28

29 So whereas we can catch a good number of
30 fish in the Kvichak system, the outlying areas are not
31 having their needs met.

31

32

33 Also the people in the Lake Clark area,
34 they have decided, a lot of them, to not even do
35 subsistence in that lake and bring their fish in from
36 Bristol Bay itself. You know, if you have a 206 that
37 works fine. If you're at Nondalton with a 18 foot Lund
38 it doesn't work that way.

38

39

40 So I think you need to reconsider the
41 statements that you make when you talk about satisfactory
42 subsistence in the Bristol Bay region even though the
43 other five river systems have met their escapement goals
44 and harvest as well and subsistence. But the Kvichak and
45 Lake Clark, as you well know in the last five years, that
46 has not happened. And so I want to point that out to
47 you.

47

48

49 Also there's a problem that lies in
50 reference to lack of fishing time. I heard the Area M
guys mention this a lot, that, you know, their lack of

00179

1 fishing time. For the last five years we have been in
2 the river. You've had 800 boats in the Egegik River and
3 if you had a 12 hour opening, you probably got the fish
4 six hours and the tide's out, that river is about -- when
5 the tide goes out is about as wide as this building. You
6 can't put 800 boats in there and expect to have 12 hours
7 of fishing because if the tide goes out there's just a
8 little stream. So, you know, we have been really
9 hampered by trying to get the Kvichak run back and that's
10 why we're sitting here today, and the AYK and the Norton
11 Sound as well, Yukon, you know, and their chums.

12

13 So we have gladly fished, I think gladly
14 fished in the river, just to try to get the Kvichak run
15 back and it hasn't come back yet.

16

17 So there's been lack of fishing time on
18 Area M's part and our part, too, and I must give Area M
19 credit that, you know, they haven't gotten any fish in
20 the last five years either. They really have -- you
21 know, there hasn't been any fish and so we haven't gotten
22 the fish.

23

24 That leads, I think, into the reason that
25 our Advisory Board, Council made a recommendation for
26 requesting the Federal Subsistence Board to exert
27 extraterritorial jurisdiction and reverse the action of
28 the Fish Board of the year 2004, because they bypassed
29 the system of 2001, which was giving some protections.

30

31 Now, lastly, and we've heard it all, I
32 think that one of the greatest concerns that we have and
33 the reason that we are doing this as a Council, is
34 because they're projecting as many as 46 million fish
35 coming back to Bristol Bay next year. You know, we
36 shouldn't even be here. We should be hiding behind a
37 rock somewhere saying, oh, we hope they do show up and
38 not make any noise, you know, but that's not necessarily
39 the case. Last year, Egegik had a projected harvest and
40 we harvested 50 percent of what the State of Alaska
41 projected would be our harvest, 50 percent off at 35
42 cents a pound, you know, you could sell pencils on Fourth
43 Avenue and make more money than that. It's a joke. So
44 we're not necessarily going to the bank with 46 million
45 fish.

46

47 Now, here's the issue, in my closing
48 remarks, the issue is that all the Advisory Committees
49 from the State of Alaska, and you people represent the
50 State of Alaska, all the Advisory Boards for the State

00180

1 Advisory Boards went to the Board of Fish and said we do
2 not want you to take June 3rd to June 27th three miles
3 off shore from Ugashik all the way to Togiak and open it
4 up completely to unrestricted fishing. Why? The first
5 run that comes in is the Kvichak run. Ahead of the
6 Kvichak run come the Lake Clark run. That's Federal
7 lands, and that's Federal waters. We wanted to put that
8 restriction upon ourself, that Board just arbitrarily and
9 absolutely with no regard for our concerns and our wishes
10 and even have an advisory committee just did total
11 absolute reversal of what we asked them to do.

12

13 And if this is the way they're going to
14 handle this fishery then I think we need to sit down with
15 a very serious negotiation with these people and work
16 this out.

17

18 I don't know what's going to happen there
19 if the numbers don't come back. Here, you know, we're in
20 trouble again and the biologists, the State of Alaska in
21 the Bristol Bay area are very, very good. They're just
22 exceptionally fine people and they do a good job and they
23 could monitor that fishery, they have an emergency order,
24 they could handle that fishery without any problem at
25 all.

26

27 So those are the concerns that we have,
28 and thank you very much, Mr. Chairman, for the comments.

29

30 CHAIRMAN DEMIENTIEFF: Thank you, Dan.
31 John.

32

33 MR. HANSON: Yeah, thank you, Mr.
34 Chairman. I'd like to thank all the people that
35 testified yesterday, even the Area M people, they gave a
36 good testimony.

37

38 And my comment, if I read this I'm pretty
39 sure the Board -- the Federal Subsistence Board has a
40 copy of it. I met with the four villages on the lower
41 Yukon, below Mountain Village, Kotlik, Emmonak, Alukanuk
42 and Nunam Iqua, which is Sheldon's Point about a week
43 before I came here. And each one of those villages
44 wanted me to write my comments and I took the comments
45 from the meeting and I had them written down. I normally
46 don't do this, even when I was on the Fish Board, I
47 normally don't write I just put it all in my computer up
48 in my head and then that's it.

49

50 Well, Mr. Chairman, Members of the Board,

00181

1 and public. My name is John Hanson. I'm from Alukanuk.
2 I'm the Vice Chair of the Yukon, Kuskokwim-Delta Regional
3 Advisory Council. I'm a long life subsistence fisherman
4 at the mouth of the Yukon River. I commercial fish
5 commercial king salmon -- fish commercially for king
6 salmon whenever they open it for commercial. I am amazed
7 at what the Board of Fish did on Area M fisheries and
8 opening the lucrative fishery wide open.

9

10 The Board took the 350,000 chum cap off,
11 they also took three percent of Bristol Bay sockeye cap
12 off so now that gives Area M 286 percent fishing time
13 with no chum cap and three percent of sockeye cap off of
14 Bristol Bay. This is going to hurt subsistence on the
15 Yukon/Kuskokwim region, the Bristol Bay region, the
16 Norton Sound region, the northern Norton Sound region
17 also. For the past 10 years our summer chum, fall chum
18 and coho have been steadily declining. Our escapements
19 of summer chums, fall chums and coho have not met their
20 escapement goals. Last summer our summer chums were way
21 below average or at the low end. We do not commercially
22 fish on them but when we commercial fish king salmon we
23 catch very few chums incidentally but we keep them for
24 ourselves.

25

26 Summer chum, fall chum and coho are the
27 salmon mainly for subsistence use for the Yukon/Kuskokwim
28 region. Last summer the Koyukuk River residents never
29 saw summer chums up their river they had to travel about
30 40 miles to get their subsistence chums. With Area M
31 fishing 286 percent, you and I know what is going to
32 happen to the summer chums, fall chums and cohos, they'll
33 be gone and subsistence will have to be closed for a
34 couple of years. Past years we have had subsistence
35 closed a few times so more chums can escape to the
36 spawning streams. At the mouth of the Yukon River we
37 have had conserve every year for more than 15 years, but
38 because our spawning streams have not reached their
39 escapement goals except for a couple of years. All the
40 summer chums, fall chums and cohos migrate through False
41 Pass and Unimak Pass in June and July.

42

43 We are asking the Federal government,
44 Secretary of Interior and Agriculture to put Federal
45 interference on Area M fisheries until we start seeing
46 our summer chums, fall chums and coho salmon return back
47 to satisfactory returns.

48

49 And this is the ones that the four
50 villages wanted me to write so the Board has it.

00182

1 Last summer our summer chums were way
2 below average. There's a sonar at Pilot Station that
3 counts the salmon and the sonar at Pilot Station didn't
4 get 500,000 summer chums. According to the report from
5 Fish and Game, I think their report is from the year
6 before because I looked at the report at our St. Mary's
7 meeting with the Subsistence Council and it wasn't, to
8 me, it wasn't there, but there was no -- Emmonak,
9 biologist at that meeting, only one that was there was a
10 Kuskokwim biologist.

11

12 And here, I don't know how the Board of
13 Fish decided to take the caps off of Area M, the chum cap
14 and the 3.0 percent Bristol Bay sockeye. If they had
15 kept those caps on we wouldn't be here battling Area M
16 fisheries. When I got out of the Fish Board I thought I
17 was done with Area M but here I am sitting with the
18 Federal and I'm talking about Area M.

19

20 (Laughter)

21

22 MR. HANSON: I got friends in Area M, but
23 one thing we have to remember is the escapement goals for
24 Kuskokwim, Yukon or Norton Sound have to be achieved,
25 that's number 1, otherwise if we don't get our escapement
26 goals every year, what's going to happen, we're going to
27 be just like Norton Sound. Look how many years Norton
28 Sound has never got their escapement goals and now
29 they're on Tier II. The Yukon is almost there. If we
30 don't get our escapement goals on summer chums, fall
31 chums and cohos, we're going to be just as bad as Norton
32 Sound, they'll put us on Tier II. And our C&T will be
33 tripled.

34

35 Norton Sound's C&T is tripled to half now
36 because they got the Tier II.

37

38 I think this Federal Board, Federal
39 Subsistence Board that we have here are the ones to make
40 the decision after all these meetings is done, and the 10
41 Regional Councils are their backbone. The 10 Regional
42 Councils advise the Federal Subsistence Board. They get
43 their advice from the 10 Regional Councils. They're not
44 like the State, the State side, they're different from
45 State.

46

47 And the last thing I want to say on this
48 State of Alaska comments, I was going through them
49 yesterday and it hit me pretty hard, I'm on the Federal
50 side, I was born with Federal when I was born with one

00183

1 biologist that took care of the whole Yukon from Circle
2 all the way down to Chris Point at the mouth of the Yukon
3 River, one biologist, you see him once and no more. Now,
4 we have 15, 20 biologists, maybe six at Emmonak, maybe 10
5 of them up the Yukon River, this one here, reason Board
6 of Fisheries action will not cause a failure of the
7 subsistence fishing priority, well, how does the
8 Department of Fish and Game know that. With the
9 declining escapement goals and a lot of them haven't even
10 reached their escapement goals, well, they're -- I think
11 they're speaking before the rotten apple, to me.

12

13 And then back at the end of it, I'll
14 quote the wording here, the State of Alaska respectfully
15 requests that the Federal Subsistence Board recommend to
16 the Secretaries of Interior and Agriculture that the
17 petitions calling for Federal extraterritorial
18 jurisdiction be denied. The State of Alaska cannot tell
19 the Federal Board to deny. The 10 Regional Councils can
20 tell the Federal Subsistence Board to deny because we're
21 the ones that's being hurt. We're using what they give
22 us and we're being hurt, every one of the people that's
23 sitting here. Not the people that's in Anchorage or not
24 the biologists that's in Anchorage. I'm not a biologist
25 but I can always tell how the fish are running, just by
26 looking at them, because I live with them, every person
27 Native person that's along the rivers, along the creeks,
28 they know exactly how the runs are and they're better
29 biologists than the ones that went to college and get a
30 DH or Ph or anything.

31

(Laughter)

32

33 MR. HANSON: I never went to college, but
34 I'm pretty sure if I took my college test I'll get a D
35 maybe.

36

(Laughter)

37

38 MR. HANSON: Thank you, Mr. Chairman.

39

40 CHAIRMAN DEMIENTIEFF: Thank you. Now,
41 that we've gotten our priorities together we're going to
42 go ahead and take a little break and then I'll come back
43 with Della after the break, you know, give her some --
44 anyway, but listen up now, don't be running off. I just
45 want to caution us as we proceed with our dialogue. I
46 think we have to take -- follow the leadership of all the
47 people that testified yesterday and how polite they were.
48 If we get to the point where we're starting to badger
49
50

00184

1 people, I will cut you off, I do have the button right
2 here to do that, I will not allow that.

3

4 We are going to proceed on after Della's
5 presentation and we are going to go for points of
6 clarification and we will keep focused on that. So I
7 just urge you all to take that leadership from that, you
8 sat all through yesterday and you saw how, even though
9 people had different points of view they were very
10 polite, your opening comments was fair game, but then
11 when we get into the point of discussion it's going to be
12 focused on clarification. And, again, I remind you that
13 I will cut you off if I don't think that that's what's
14 going on. I hope you don't mind me being a heavy-handed
15 Chairman but I do want to keep us focused on the issue
16 and clearly that's it, if I see something else it will
17 get cut off.

18

19 Okay, so thank you.

20

21 (Off record)

22

23 (On record)

24

25 CHAIRMAN DEMIENTIEFF: Before Della gets
26 into this, we are going to break at 11:30 to 1:00 o'clock
27 to allow people to go to the Secretary's deal, and we
28 will come back at 1:00 o'clock, so that's going to be
29 our schedule for this to accommodate that particular
30 meeting, just so people know what we're going to do and
31 then if we go on into the afternoon then we will resume
32 at 1:00 o'clock.

33

34 Okay, Della.

35

36 MS. TRUMBLE: Thank you, Mr. Chair. I
37 thank you for the opportunity and I really appreciate the
38 testimony yesterday given by everybody. I think that was
39 very insightful. There was a sense of a willingness to
40 want to work together and I think that was great.

41

42 I've asked the Chair from Bristol Bay to
43 keep me in line here so if I miss something on a page
44 he's going to point it out.

45

46 (Laughter)

47

48 MS. TRUMBLE: Just to give you some sense
49 of my involvement with this Board. I've been a member on
50 the Kodiak/Aleutian Federal Subsistence Advisory Council

00185

1 for the past seven years. I've been the Chair for the
2 past four years. I'm also the president of Eastern
3 Aleutian Tribes which represents all of the health and
4 behavior health and elderly work for our communities
5 within the Aleutian East Borough and that includes the
6 communities of False Pass, Sand Point, Nelson Lagoon,
7 Cold Bay, Akutan and King Cove where I was born and
8 raised. I attended high school in Kodiak and college in
9 Fairbanks. I'm also as a real paid job, the
10 administrator of the Agdaaguz Tribe in King Cove and do
11 all the BIA, the child care, social work, that's the
12 education with the people of our community.

13

14 I would like to maybe just state that
15 some of the history in these past four years of my
16 involvement and I think following the 2001 Board of Fish
17 determination, at which time we believed this decision
18 had been based on political pressure, not on the facts
19 and science as presented. Our communities did suffer
20 extensively.

21

22 The past three years, as you've heard
23 from testimony, some of our, most of our -- a lot of our
24 families have lost their boats, they can no longer
25 participate in other fisheries that have help sustain
26 them, and that is other cod fisheries and other small
27 fisheries that help them keep their boats and maintain
28 their livelihood and to remain in our region.

29

30 This has also resulted in an increase on
31 dependency of Welfare which has been high in our region,
32 that's never been something that people have utilized
33 before.

34

35 We heard yesterday in testimony about
36 people moving from our region, our smaller communities,
37 like False Pass, Nelson Lagoon, can hardly keep enough
38 students in those schools to keep those doors open and
39 may have to -- there's been a couple times over the past
40 couple of years that they may have had to close.

41

42 We've heard by testimony yesterday from
43 someone that testified that the increased dependency on
44 alcohol, domestic violence, suicide and an increase in
45 major medical complications that have resulted in a high
46 number of deaths in our region.

47

48 Later in 2001, and I mean later, this is
49 the exact same year, and it was about the spring of 2001,
50 the Regional Councils from Eastern Interior, Western

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1 Interior and YK signed resolutions asking the Federal
2 Board to exert the extraterritorial jurisdiction
3 beginning from the north side of the Aleutians, the
4 Chigniks all the way through the Shellikof Straits for
5 all commercial fisheries for a period of one year.
6 Following that request, an expanded effort was made, both
7 financially by Fish and Wildlife and cooperatively to
8 work closely with these Councils so that we better
9 educate ourselves to the needs and lifestyles of our
10 respective regions and to try to work together. I have
11 attended a number of tri-Council meetings, I've had that
12 opportunity, I very much appreciate it, the interaction,
13 the education and I think the underlying need that all of
14 have to maintain, to survive within our regions is the
15 bottom line.

16

17 And I think we've also, at one point, had
18 a presentation by NMFS that basically showed what they're
19 doing over the years to lower the by-catch of chum
20 salmon.

21

22 The Kodiak/Aleutians has numerous times
23 requested financial support and having the Chairs from
24 the other regions come to our region so they can better
25 understand exactly what our region is about and how we
26 actually survive.

27

28 You know, you've heard testimony from
29 various fishermen from our region as to what they do to
30 limit the incidental harvest of chum salmon and that this
31 is not a targeted species, it basically -- an underlying
32 statement that when you fish for sockeye you're fishing
33 for yourself, when you fish for chums you're fishing for
34 your fleet. The work, the trying to limit this
35 incidental catch is extensive. There was another one --
36 when I go through this -- when I continue on with my
37 testimony I just want us to hopefully focus that we are
38 here today, not because this is a Board of Fish meeting,
39 but that we are here before us with a question before the
40 Federal Subsistence Board and the Secretaries as to
41 whether there is a failure of the subsistence priority to
42 justify the extraterritorial jurisdiction, and I would
43 hope that we don't get into issues of chum chucking and
44 roe stripping, because they're not pertinent to this
45 question.

46

47 You've read our resolution, 04-01 that
48 was passed by the Kodiak/Aleutians in their meeting in
49 March and we basically do support the Board of Fisheries
50 actions in the Area M commercial fishery and the

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1 Governor's position upholding, and further and later
2 understand that the Governor -- it was stated by the
3 State that they would monitor this fishery closely this
4 year. Our Council understands the concerns expressed by
5 Eastern Interior, Western Interior, Bristol Bay and YK,
6 and we feel that there is a substantial misunderstanding
7 regarding the perceived efforts of the Area M commercial
8 fishery on Western Alaska salmon stocks, harvest by
9 subsistence users. We strongly support further education
10 of this matter, because I think that is what's going to
11 help us be able to work together to resolve these issues.

12

13 The allegations made to the State Board
14 of Fish is disheartening in my mind and I'll explain why.
15 It has been my experience with my involvement with this
16 Board, and a number of incidents, and I'll use the
17 caribou in Unit 90 and 10, it's been stated yesterday and
18 it's been a fact that we weren't able to hunt caribou for
19 a period of two years because our numbers were too low,
20 we worked cooperatively and closely with our RAC, the
21 Advisory Council, the State of Alaska and the Fish and
22 Wildlife to be able to hunt these caribou, and we are, in
23 fact, at this point we've got an increased subsistence
24 caribou hunt which we very much appreciate. Those
25 caribou are rebounding. And recent efforts in Kodiak on
26 the goat issue, that was another joint effort by all
27 involved. And as to the harvest of goats and who had
28 access to them, it was an issue that could have been
29 fairly serious because of the issue between the
30 subsistence users, the sports guides and just then the
31 system that was set in.

32

33 Also, because of my involvement with the
34 Councils and because of the prior request for
35 extraterritorial jurisdiction I've been involved and I do
36 get the daily reports from both the State and the Federal
37 on the management along those systems, the openings, the
38 closures, the numbers and the escapement. The co-
39 management efforts of the State of Alaska, Fish and
40 Wildlife, Regional Council, Advisory Councils and the
41 Native entities on the Yukon/Kuskokwim is another good
42 example. In reviewing the 2003 preliminary Yukon area
43 chinook and summer chum salmon fisheries summary,
44 subsistence reports from fishermen indicated satisfaction
45 with the summer chum salmon catch. It appears that
46 subsistence needs were met and that commercial fishing
47 was open in both 2002 and 2003. I've heard testimony
48 from the elders and it's not the first time I've hear it,
49 I heard it at the Tri-Council and I know they don't like
50 having to fish the windows and that it imposes problems

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1 with them when those windows are not in the weather that
2 they are looking for, the dry fish or to be able to
3 harvest and put away their fish as they would like to.
4 But unfortunately this is what allows more fish to
5 continue through these river systems so that more
6 communities will share in the taking of salmon for
7 subsistence.

8

9 You need to realize that our region has
10 been managed, regulated and for so long and looking to
11 2004 even more so, and this is, technically, our way of
12 life, we don't know any other way. We work with it, we
13 abide by it, we do the best we can.

14

15 We, too, share the hardships with Mother
16 Nature when she does not cooperate and the weather is
17 bad. We miss out on fishing time and we live in a harsh
18 environment where the weather is not too kind the
19 majority of the time.

20

21 This issue of wanting to utilize the
22 extraterritorial jurisdiction by selection of a certain
23 region and not to involve the whole migratory path of
24 these salmon is questionable. Especially since there
25 does not appear to be a crash of these systems, but only
26 in theory as to continue to severely restrict our area.
27 The decision recently made by the Board of Fish was based
28 on information that they haven't had. It is in essence,
29 was a responsible decision, because it was based on
30 factual information presented at the time. It has been
31 stated by many people, and also by the Chairs in their
32 statements that we need good information, that we need to
33 put the time, effort, and the money into the cooperative
34 effort amongst all the regions in order to produce that.

35

36 I believe that this will, at least, put a
37 lot of the regional differences to rest and will allow us
38 to make better decisions.

39

40 Mr. Osterback and others have expressed a
41 need and desire to do so and working together. I know
42 following the Alaska Board of Fish meeting I had the
43 opportunity to watch the show in Dillingham that Harvey
44 Samuelsen does, where Harvey and David and Myron and I
45 know Sam Cotton and others were participating, and even
46 at that time there was a sense to be able to try to work
47 together so we can try to resolve some of the issues and
48 answer some of the questions, whether it's environmental
49 or other as to what is happening to our salmon.

50

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1 I also, unfortunately, did follow -- hear
2 some statements that were made that don't apply to our
3 region and I know they've been used year after year and
4 decade after decade and they're wrong. Some of the
5 continued misconceptions that I've heard from testimony
6 in regard to Area M continues today as it has over the
7 decades and technically is a perception and not reality.
8 We are Eastern Aleuts and want to continue to live and
9 survive off the land and waters as our ancestors have for
10 thousands of years.

11

12 In the very center of King Cove, where I
13 live, these past four years, we've been working on an
14 Aleut Village site each summer for two months. This site
15 has been carbon-dated over 4,000 years old. What we're
16 taking out of this site is fish and wildlife that our
17 ancestors have survived off for thousands of years as
18 your ancestors have. In some cases in village sites it
19 is as far back as 9,000 years, and we truly feel that we
20 deserve the same trust responsibility as under any other
21 Native group in Alaska or in the United States. We are
22 small in numbers and we've got a population of 2,600 when
23 you're looking at 20,000 in some other regions.

24

25 We subsist, by, as it was mentioned a lot
26 of times, by commercial take, but also we subsist by
27 State permit, not because we want to but mainly because
28 we have to. Our areas for taking on Federal lands of
29 fish is very minimal. In fact, if you look at the
30 Kodiak/Aleutians there's only two cases, I think that
31 it's being done and that is on the Buskin River in Kodiak
32 and for king crab in Woman's Bay in Kodiak.

33

34 In closing, we support the Board of Fish
35 process and ask that the Federal Board continue to work
36 closely with the State of Alaska. We ask that the
37 Federal Board direct the Secretary of Interior and
38 Agriculture to not exert the extraterritorial
39 jurisdiction on Area M and in the future, truly weigh the
40 consequences of this action -- that this action would
41 have in the future.

42

43 This is not a solution to be easily
44 justified that it can be utilized so easily. It should
45 not be a tool, it should be taken seriously.

46

47 We ask the Federal Board work toward
48 continued efforts that our regions better understand each
49 others cultures and work together as expressed by so many
50 who have testified to find the answers and solutions,

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1 whether it be cooperatively by region, by government
2 agencies.

3

4 And then last but not least, I think, we
5 believe we have shared the burden of conservation and
6 would like -- but we would, and only in proportion to our
7 impact, please don't -- this continuing finger pointing
8 to our region when it's so minimal when there are other
9 questions and other things out there that may be more so
10 and bigger of an impact is what we need to all take a
11 look at and consider because it's to the best of all of
12 our interests.

13

14 And last, but not least, I really have a
15 lot of respect for this process, I have a lot of respect
16 for the Chairs, the RACs that I've been involved with and
17 their want and need to continue to do what's best for
18 their region, and I think that continued effort and as we
19 grow and move forward to try to work together to find a
20 solution is what we need to do, not extraterritorial
21 jurisdiction.

22

23 Thank you.

24

25 CHAIRMAN DEMIENTIEFF: Thank you, Della.
26 Now, as we begin this other open dialogue between the
27 Board and the RAC Chairs, the one thing that we do, for
28 those of you who are unfamiliar with the process, is, you
29 know, we had a lot of good testimony yesterday. The
30 Board members do have the ability to call upon anybody,
31 including somebody who may have testified yesterday for
32 points of clarification, but that is limited to Board
33 members only. So if you see that happening, that's why
34 that will be happening, and we have the ability to call
35 people back up.

36

37 So with that, we'll just go ahead and
38 open the dialogue.

39

40 MR. O'HARA: Mr. Chairman.

41

42 CHAIRMAN DEMIENTIEFF: Dan.

43

44 MR. O'HARA: I need to make a correction
45 on a statement I made earlier about subsistence, and if
46 Mary Pete would help me on this, I think I misrepresented
47 you on the take of subsistence on Lake Iliamna, could you
48 repeat that again if you would, please, kind of help me
49 clarify that.

50

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1 MS. PETE: Mr. Chair. Dan, what I said
2 was that the Kvichak sockeye harvest was 78 percent of
3 the lower bound of the ANS, but it was within the ANS
4 range.

5
6 CHAIRMAN DEMIENTIEFF: Virgil.

7
8 MR. UMPENHOUR: Thank you, Mr. Chair.
9 Well, I would like to refer to the preseason forecast put
10 out by the Alaska Department of Fish and Game. But if
11 you look at the part where it says Yukon -- summer chum
12 salmon fishery for the Yukon River, at the very bottom it
13 says, if in-season qualitative indicators of run
14 strengths suggest sufficient abundance exist to have a
15 commercial fishery, the commercial harvest in Alaska
16 could range from zero to 50,000 summer chum, you turn the
17 page over and it says, management strategies. Management
18 for escapement and to spread out subsistence harvest
19 opportunity along the entire Yukon River. And then it
20 says based on evaluation of in-season indications of run
21 strength. If a poor run develops, reduce the subsistence
22 salmon fishing schedule to meet escapement goals. And
23 then if you turn it over it has the steps in the
24 management plan, the little blocks there, it's going to
25 tell you that you have to have a million chum salmon into
26 the Yukon River, it's over on the last page, they have a
27 -- it says chum salmon actions based on projection run
28 sizes and it says below 600,000 no one gets to fish.

29
30 Anyway, you don't get to have a directed
31 commercial fishery until there's a million fish. So that
32 leads me to believe or assume that the Department can now
33 forecast to within 95 percent accuracy. Because if there
34 was a 50,000 fish harvestable surplus above the needs for
35 escapement and subsistence that would be a million and
36 50,000 fish. I don't think they can do that within 95
37 percent accuracy.

38
39 I have one other table that I presented
40 in there, it's Table 10 from the report of the Board of
41 Fisheries by the Alaska Department of Fish and Game date
42 2003. The Department is saying they can forecast within
43 95 percent of being accurate, we're not going to have a
44 problem with reasonable amount necessary for subsistence
45 but you got to remember that this is the parent year, the
46 main parent year, the four year old fish return to spawn
47 in the year 2000, if you look at this Table 10 you will
48 find that 457,687 chum salmon passed the Pilot Station
49 sonar, the lowest ever recorded. That's the main parent
50 year.

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1 They also speak about productivity in the
2 marine environment being low, I don't agree with that,
3 but what I'm saying is they're talking about there's a
4 lot of uncertainty, if you read all the text, about
5 what's going to come back. And you look at what happened
6 this year, this year it says they had 1,234,553 chum
7 salmon pass the sonar but if you go to the East Fork
8 Andreafsky River it's the lowest escapement ever
9 recorded, only 20,000 something fish whereas they have
10 had escapements of over 200,000 fish. You go to the
11 Anvik River, which the Department likes to say normally
12 produces approximately 50 percent of the summer chums
13 produced on the Yukon, there was only 251,000 fish, the
14 second lowest escapement on record, with the record
15 lowest escapement being the year 2000, the parent year
16 for the next coming season. If you go to Kaltag River
17 tower, which I know the guy that runs the tower
18 personally, very conscious individual, here that river
19 has had runs of 77,000, 51,000, 48,000, he told me they
20 had a super accurate count this year, only 3,056 fish.
21 Less of 10 percent of what they average. You go to the
22 Nulato River tower, the same thing there, it's had runs
23 of over 200,000 fish, only 23,000. Gisasa River has had
24 runs of over 150,000, 28,000. You go to Clear Creek
25 tower which runs into the Hogatza River and the Koyukuk
26 drainage, they've had runs of over 100,000 only 5,000
27 fish.

28

29 All these speak to uncertainty and the
30 precautionary principle in the Sustainable Salmon Policy.
31 I don't think the Department can predict the number of
32 summer chums coming back to the Yukon within '95 percent
33 accuracy.

34

35 Thank you, Mr. Chair.

36

37 CHAIRMAN DEMIENTIEFF: Thank you. One
38 other thing that I failed to point out is Larry Buklis
39 who is the primary -- or headed up the writing of our
40 report on the issue as well as any of the State people
41 sitting here, you know, Mr. Bedford or your Staff, if
42 there are points that you want to respond to, it is an
43 open dialogue so you are more than welcome to just signal
44 and we, you know, because we're trying to learn.

45

46 Larry.

47

48 MR. BUKLIS: Thank you, Mr. Chairman. I
49 do respect the views of the Council Chairs and the Board
50 and the public in giving their testimony and I do not

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1 want to engage in a debate or get into areas where views
2 can reasonably differ. But a few things that were said
3 that I wanted to just point to the Staff report on and
4 try to clarify but I don't mean to engage debate by doing
5 that.

6
7 First, regarding the composition of the
8 Area M chum catch relative to Yukon River fall chum
9 salmon, we stand by our reference to the research. The
10 Staff report says on Page 2, and I quote, Yukon area fall
11 chum salmon were found by Seeb, Crane and Debevec, 1997,
12 to be a small component or absent in catch samples
13 collected from the Area M June fishery in a 1994 to 1996
14 genetics study. I go to the referenced report and I
15 quote, estimates for China, southern Russia fall Yukon,
16 Prince William Sound and Susitna River indicated these
17 reporting groups were a small component or were absent in
18 the fisheries sampled, period.

19
20 Secondly, there was a lot of discussion
21 about variation in Bristol Bay return forecasts. Page 6
22 of our Staff report acknowledges confidence interval
23 levels. I think I said in my oral report that Bristol
24 Bay lends itself to a more statistical interpretation as
25 compared to Yukon and Kuskokwim River outlooks. Page 6
26 of our Staff report says, an 80 percent confidence range
27 of 36 to 58 million sockeye salmon for the 2004 return
28 point estimate was constructed based on deviations of
29 actual returns from forecasted levels for 1999 through
30 2003. So if the Board doesn't want to rest on a point
31 estimate there's an 80 percent confidence range provided
32 for you for Bristol Bay sockeye salmon return ranging
33 from 36 million on up through the mid-point to 58 million
34 sockeye. That's based on actual performance of the
35 forecast program, these last five years.

36
37 Third, there has been a lot of testimony
38 about the doubling factor. I won't try to get into the
39 nuances of the fishery, the ability of the fleet to go
40 around the clock, and the behavior of the fish in those
41 waters. I will point to the Staff report on Page 11 that
42 says, absent experience with the fishery operating under
43 the new regulations, the ADF&G assessment represents the
44 best available information. That being said, if a factor
45 of 2.9 were used and all other assumptions remained
46 unchanged the harvest of chum salmon of the Northwest
47 Alaska summer, quote/unquote, stock group, that one would
48 estimate as due to the change in the regulations would be
49 239,000 to 377,000 fish instead of the estimate of
50 126,000 to 199,000 fish used in this report. The point

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1 being that this is provided to the Board if you want to
2 look at the potential effect of that on your evaluation
3 of the situation. The Board will need to evaluate the
4 petitions and develop their recommendation to the
5 Secretaries taking into account these and other
6 uncertainties.

7

8 Fourth, there was a comment about the
9 preponderance or all of the references about these
10 fisheries and their management and research, drawing upon
11 the Department of Fish and Game work, that is because the
12 Department of Fish and Game is the agency that manages
13 and studies these fisheries.

14

15 Fifth point, there was comment about the
16 fact that we won't know after the fishery what the
17 composition was in the Area M fishery. This is mentioned
18 on Page 12 of the Staff report where we say, however,
19 even then we will not have the information needed to
20 attribute for any run shortfalls that may occur the
21 component of the cause that may be due to downturns in
22 natural productivity and the component that may be due to
23 interceptions in the Area M June fishery and elsewhere.

24

25 This, Mr. Chairman, is what we'd call a
26 gap analysis statement. It's not meant to say that it's
27 good that we don't know and I don't have the authority as
28 Staff to press that we will have a study mounted in the
29 next 60 days in that fishery, it's simply identifying the
30 gap in knowledge.

31

32 And finally, there's a statement on Page
33 5 that talks about the primary concern before this Board.
34 And we say that while regulations that provide an
35 increased commercial salmon harvest in the Area M June
36 fishery are a reallocation of fish from other fisheries,
37 such reallocations among State managed fisheries are not,
38 in themselves, the issue to be addressed here. A lot of
39 the comment is about how, you know, will there be any
40 impact, or the Staff report says there will be no impact,
41 the Staff report doesn't say there will be no impact.
42 The Staff report concludes limitations of available
43 information make it difficult to reliably anticipate --
44 Page 12, in advance, the outcome of regulation changes in
45 the Area M June fishery, however, making reasonable use
46 of the best available information there does not appear
47 to be a high likelihood of a failure to provide the
48 subsistence priority on Federal public lands in 2004, and
49 then it's very specific as to what places and what
50 species of fish. It's not saying there won't be any

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1 impacts, that perhaps local commercial fisheries may be
2 smaller because of catches elsewhere, it's talking about
3 Federal lands and the subsistence priority for the runs
4 of those fish, and the relative likelihood in the face of
5 the uncertainty.

6

7 Thank you, Mr. Chairman.

8

9 CHAIRMAN DEMIENTIEFF: Thank you. Go

10 ahead.

11

12 MR. BRUCE: Thank you, Mr. Chairman. I'd
13 just like to make a couple comments. First, I think I'd
14 like to address the comment that was made just a little
15 while ago about the nature of the outlook for the Yukon
16 River summer chum salmon, it is not a prediction and we
17 don't maintain that it is a prediction. We've identified
18 it as an outlook, sort of it's an advisory. And that, of
19 course, is the reason why, as I said earlier, we don't
20 allow any commercial fishing until we have enough fish in
21 the river, in-season to assess based on actual data, what
22 kind of run strength we have.

23

24 So that's just a clarification.

25

26 And then I would like to say a little bit
27 about the 1987 tagging study as well. Before the 1987
28 tagging study there was virtually no information about
29 the chum salmon composition in the Area M fishery and
30 there were lots of rumors. Said people said it's all
31 Asian, some people said it's all Northwest Alaska, some
32 people said it's -- a lot of different things, there was
33 no information.

34

35 Legislators from Western Alaska actually
36 were the ones that initiated the tagging study. They
37 went and got money through a CAP that the State made
38 available and I assume that they were doing this because
39 residents of Western Alaska wanted better information and
40 wanted to have a tagging study. We went out and did the
41 tagging study to the best of our ability, we worked with
42 a contractor. I think the Department stands behind a lot
43 of the information collected in the tagging study. It
44 certainly did advance the knowledge of the fishery beyond
45 what it had been before. There were some issues with --
46 and there are still are some issues with deriving exact
47 harvest rate information from that study for individual
48 stocks in the Northwest Alaska summer chum complex. And
49 I believe that is the particular thing that Mr. Umpenhour
50 was referring to that was withdrawn at the Board meeting,

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1 not the entire tagging study and the work associated with
2 it, but that particular harvest rate analysis. That was
3 reworked, we tried to improve it, it's not perfect, we
4 put it out there with the caveats and assumptions clear
5 to everybody but it certainly provides better information
6 than existed before.

7

8 Now, when you put the tagging study --
9 there are difficult technical issues involved with a
10 large scale tagging study such as this, we knew that when
11 we undertook this project, but we were directed by our
12 State Legislature to do it, so we went out and did it the
13 best we could. But we do not think tagging studies are
14 the best tool to use for determining stock composition in
15 a fishery like that and this is why we are moving towards
16 genetic stock identification. And in the early '90s or
17 early to mid-90s we actually conducted a genetic stock
18 identification program out there and you've heard -- you
19 have the information from that, you've reviewed it, and
20 there is some correlation between things that were
21 determined from the tagging study and things that were
22 determined from the genetic stock studies. There are
23 some differences, but there also are correlations.

24

25 You put the two together and you have an
26 even better picture and more reliable picture of what the
27 stock composition is in that fishery than you did
28 certainly before the 1987 tagging study and with only the
29 1987 tagging study.

30

31 So, you know, we're interested in getting
32 the best information we can in managing these fisheries
33 with the directives and towards the policy and allocative
34 ends that our Board directs us to do. And I believe that
35 we are doing that within our best of our ability and I
36 think we're making progress. We're interested in further
37 utilization of genetics to carry this effort ahead but
38 it's not an easy task, and it's an expensive task, it's
39 something that we're more -- would be very eager to talk
40 to you and the Federal agencies and this Board, the
41 users, anybody that's interested in advancing the
42 knowledge of this fishery and its impact on the various
43 stocks that are harvested in it.

44

45 Thank you, Mr. Chairman.

46

47 CHAIRMAN DEMIENTIEFF: In the nine, plus,
48 years, I think I've Chaired this Board, you know, my
49 participation actively in the State system, you know, has
50 been limited although I continue to serve on the Advisory

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1 Committee but I haven't been able to go, you know, this
2 takes too much energy and I just don't have -- there's
3 only so many hours in a day. But in years back, as I
4 recall, we looked, I think, if I remember right and I
5 don't know if this is still the practice, five year
6 studies -- five consecutive year studies before you get a
7 reading on, you know, what's going on with stocks; is
8 that still the case?

9

10 MR. BRUCE: Mr. Chairman. Yes, certainly
11 to have a series of years gives you a lot better
12 information and that's what we did with the genetics
13 work. But with the tagging study, the funding we had was
14 a one year shot so we went out and did the best we could.
15 That was a several hundred thousand study as I recall and
16 simply that's all we could do with the funding that was
17 provided and -- but you are correct, multiple years give
18 you a much better definition. In fact, if we could do it
19 continuously that would be what we would like to do but
20 that's dependent on funding and other resource allocation
21 issues.

22

23 Mr. Chairman, if I could add one other
24 thing about why the tagging study and the GIS work was
25 presented to the Board again in 2004. And the reason for
26 that was the Board requested it. Most of those Board
27 member were not familiar with this issue and the
28 fisheries involved and they were seeking all the
29 background information that they could get, which I think
30 is appropriate for policymakers to do and so they
31 requested it, and that included people who voted
32 eventually for the change in the Area M and people who
33 voted against it. People on both sides of the issue
34 requested the information. We, initially weren't
35 planning on presenting it. But when we had the request
36 from the Board, we scrambled, were able to come up with
37 the authors of the studies, get them to do oral
38 presentations and then we provided the historic written
39 documents as well, just trying to provide, to be
40 responsive to our Board, provide them as much information
41 as we could for their decisions.

42

43 CHAIRMAN DEMIENTIEFF: How much would it
44 cost to run a genetics study per year at this time, does
45 anybody have an idea?

46

47 MR. BRUCE: Mr. Chairman, I can't give
48 you an estimate for the Area M fishery, but I can -- we
49 are looking within the Bristol Bay -- within Bristol Bay
50 itself and with just sockeye salmon, we are interested in

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1 applying genetic techniques to better allocate catch to
2 rivers of origin within fishing districts where we are
3 catching both -- more than one stock, and the estimate to
4 do that program and there's some development work to get
5 the appropriate markers, I'm not including that cost in
6 this, but the annual cost of operating a program like
7 that would be something -- we're estimating right now
8 would be something in the nature of 200 to \$300,000 a
9 year.

10

11 CHAIRMAN DEMIENTIEFF: Because the reason
12 I bring that up and focus on that in particular, is that,
13 yesterday is we heard testimony from several people who
14 were interested or several organizations that were
15 interested in contributing to the study. And in the
16 spirit of cooperative management, then I think we need to
17 seriously consider putting together a package and seeing
18 who is willing to commit the resources for several years
19 to do this, and I think that would be really important
20 for us all. And I think if we do, in fact, cooperatively
21 contribute towards this effort and, you know, genetics
22 are the best way to go then that's fine. You know, we
23 just need the information, I think we all need the
24 information. And so we did hear that, so we need to --
25 maybe that's one of the things, Mr. Bedford that we ought
26 to think about is just seeing who can put forward what
27 and is willing to commit so that we can get that
28 information, you know, finally to really -- because, you
29 know, over and over again, too, in the public testimony I
30 noted yesterday the people talked about the weakness of
31 the biological information that we have and quite
32 frankly, you know, I bought that argument because it is
33 true, and I know that from being in that forum before,
34 you know, on the Fish Board forum and it is weak
35 information.

36

37 And so if we could make an effort to do
38 that, maybe it's too late for 2004, I don't know. I
39 know, certainly we, the Federal side, we have already
40 committed to our programs, you know, for research for
41 2004 so it's late for us to enter into that. But
42 certainly, it's something, you know, we may want to
43 consider for 2005 and just try to come up with some
44 accurate information so we know exactly what we're
45 dealing with. So it may be something we want to
46 consider. And I don't know if we can put something
47 together, I just know it's too late for us we've already
48 committed, but it's something that we ought to work
49 together on because we -- it's going to help all of us to
50 make better decisions.

00199

1 MR. BEDFORD: Mr. Chairman, I definitely
2 endorse that. As I said in my own comments, this is the
3 kind of thing the State was looking at independently. I
4 would think where this will have to start though will be
5 gathering some baseline information so that we're able to
6 distinguish between different stocks from Western Alaska.
7 At this point we're only able to distinguish that as a
8 very large stock grouping. So in terms of being able to
9 get more discriminatory information out of the Area M
10 fishery, I would think it's unlikely.

11
12 However, I would concur with the notion
13 that we should get started, if we can. We can look at
14 our budget and see if we have anything available. As I
15 said earlier, our chief fisheries scientist is already
16 looking at this in conjunction or in coordination with
17 the area management biologist so it's definitely
18 something that's on our radar screen.

19
20 CHAIRMAN DEMIENTIEFF: We do have --
21 Grace, I'll be with you in just a minute. We do have,
22 you know, of course, a close relationship with our RACs.
23 I mean I think it was John Hanson put it the best in
24 terms of that they're the backbone of our program, I
25 think it was John, but we do have a Memorandum of
26 Agreement with the State and it's not like we haven't
27 been engaged but it's pretty much with the policymakers
28 and stuff, but we do have a Memorandum of Agreement, and,
29 you know, we should continue to use that tool and maybe
30 think seriously about expanding it, you know, that's all
31 my point is.

32
33 Grace.

34
35 MS. CROSS: I was just going to mention
36 it, too, along with other agreements that the State and
37 the Feds have worked on very serious problems. Remember
38 when that Western Caribou Arctic Herd crashed, it was a
39 very big disastrous situation, but the people that were
40 concerned, the State government, the Federal government,
41 the tribal entities, everybody worked together on
42 something that seems like a really major disaster. It
43 took a number of years, but look where we are at now with
44 that herd, it's huge, to the point that people are scared
45 it might crash again, it's overpopulated. But things do
46 work out, but it just takes a number of years.

47
48 And I really want to urge everybody, when
49 it comes to a solution other than extraterritorial
50 jurisdiction, that all those that are affected,

00200

1 regardless of how much land they have, Federal land or no
2 Federal lands, would work together. Because take a look
3 at Yukon/Kuskokwim, they consist of many lands, it's not
4 going to just take the Federal lands and the State lands
5 to resolve that, there's other entities that are
6 involved. It's going to take a whole statewide effort to
7 recovery from some things. And if the Board is going to
8 go in the direction of making recommendations and I would
9 urge the Board to say if there are certain
10 recommendations are made, that all those that are
11 affected by this be included, that no one person be left
12 behind.

13

14 It really saddens me to see us pitting at
15 one another, but we have, all of us have been in
16 situations where something happened and we all worked
17 together and the solution comes. It may take years but I
18 think this is a very good beginning and I just wanted --
19 maybe I'm just having after effects from earlier
20 statements about my region that I feel really defensive
21 about, perhaps being left out, but I know that will not
22 happen and I have expressed my concern regarding that.
23 But if other efforts are going to be made make sure that
24 everybody involved in this work together, and not one
25 area is left behind.

26

27 I just wanted to express that.

28

29 CHAIRMAN DEMIENTIEFF: Thank you. We're
30 going to be breaking soon for lunch, we're going to come
31 back right after and we'll open up with your comments,
32 John, at 1:00 o'clock. But in the meantime, I would hear
33 you out right now but Gary, unfortunately is not going to
34 be able to get back after lunch and has a couple of
35 questions so I'll let him ask, but 1:00 o'clock, you have
36 the floor, is that agreeable with you, John?

37

38 MR. HANSON: This wouldn't take long.

39

40 CHAIRMAN DEMIENTIEFF: Well, yeah, I
41 mean.....

42

43 MR. HANSON: Well, somebody's ahead of
44 me?

45

46 CHAIRMAN DEMIENTIEFF: No. I'll I'm
47 saying is that if you.....

48

49 MR. HANSON: Okay.

50

00201

1 CHAIRMAN DEMIENTIEFF:at 1:00
2 o'clock if we open up with your comments or questions or
3 whatever, you know, right at 1:00 o'clock, you'll be the
4 first one up. Gary has to go so he's going to have his
5 alternate. Go ahead.

6
7 MR. EDWARDS: Thank you, Mr. Chairman.
8 And I thank you for yielding your time. I guess my first
9 question I would ask to maybe Mary Pete, would probably
10 be the best one to respond. Since we don't use amounts
11 necessary here on the Board I always get confused as to
12 exactly what it refers to. And I do know enough, I
13 guess, to understand that the range of numbers that the
14 State uses coming up with that has more to do than with
15 just sort of the amount of protein that subsistence users
16 have to receive, that it includes a lot of other things.

17
18 But given that, when I look at the charts
19 that were put together for the Board of Fish and the
20 specific one that I'm referring to was for the Yukon
21 River for all species. At least as a lay person looking
22 at this and, again, with not having a lot of background
23 in what comprises amount necessary it looks like for the
24 Yukon, that the numbers are identified as the amounts
25 necessary have not been reached since 1996, and that
26 means that they've been below the lowest range of the
27 amounts necessary. So, again, just quickly looking at
28 that and not understanding all the details, it would seem
29 that that would be saying that subsistence needs have not
30 been met in the Yukon River reference all species since
31 1996. Is that a correct reading of that table?

32
33 MS. PETE: Mr. Chair. Mr. Edwards, is
34 there a specific graph or table you're referring to?

35
36 MR. EDWARDS: This one. Can someone take
37 that over there.

38
39 (Pause)

40
41 MS. PETE: Yes, that would be correct.
42 The Board of Fisheries, as I said, update and refined
43 both customary and traditional use stocks, separated them
44 out by species on the Yukon and in doing that they
45 separated out each ANS by species, and once that happened
46 the big driver in the drop of attainment of ANS was Yukon
47 fall chum as you can see in the chart. The yellow
48 portion is the portion that has declined the most. Once
49 the ANS and C&T stocks were redefined, it showed that
50 certainly the biggest drop in attainment of ANS was Yukon

00202

1 fall chum.

2

3

MR. EDWARDS: So then is it -- again, I'm just trying to understand what the chart says. So then is it fair to say that amounts necessary and therefore, subsistence needs have not been met in the Yukon River since 1996?

8

9

MS. PETE: It's the Board of Fisheries that determines whether reasonable opportunity has been provided by regulation. ANS -- attainment of the lower bound of ANS is one measure of that and it's the Board that determines what constitutes a C&T stock. If you look at this table, the C&T stock was all salmon until 2001 and then in 2001 the stock -- the stocks identified as C&T stocks were changed so the ANS determination for each stock was made on a species specific basis and once that happened, as I mentioned, the two species where the lower bound of the ANS was not attained, or the one species subject to this forum here, Yukon summer chum was attained three of the past five years and just below the lower bound in two of the past five years.

23

24

MR. EDWARDS: So I guess the answer is, yes, it has not been met or is it a qualified yes?

26

27

MS. PETE: In terms of the law and how it's implemented, by species, the two that -- the one that was not attained certainly is fall chum, but as we reported at the beginning of our presentation, fall chum is not subject to this forum. The other species where attainment of the lower bound of ANS has not happened in two of the past five years is summer chum.

34

35

MR. EDWARDS: So I guess for further clarification, the table -- the impact of fall chums are greatly -- are reflected in that particular table?

38

39

MS. PETE: That's correct.

40

41

MR. EDWARDS: Okay, thank you. Another question that I have and it was brought up by several of the people who testified, expressed concerns about the escapement goals, and I guess from my perspective that's the one thing I think we should all be concerned about because that really dictates whether we're going to continue to have ultimately subsistence fishing or Area M fishing or commercial fishing or any of that. And as Mr. Umpenhour brought up in part of his testimony in looking at the escapement goals for summer chums on the Anvik, it

00203

1 does appear that over the last -- three out of the four
2 last four years we've been below the lower range of the
3 BEG; is that correct, and if so is that something we
4 should all be concerned about?

5
6 MR. BRUCE: Mr. Chairman, with your
7 indulgence, I'd like to ask Gene Sandone to respond to
8 that question.

9
10 CHAIRMAN DEMIENTIEFF: Sure.

11
12 MR. SANDONE: Mr. Chairman. Members of
13 the Board. RAC Chairmans. That is correct. I don't
14 have those numbers right in front of me. But the Summer
15 Chum Management Plan is based upon passage at Pilot
16 Station. Historically the Anvik River has contributed
17 about 50 percent of the Pilot Station run. Last year it
18 didn't. Last year -- for the last two years we had over
19 a million fish if I remember correctly, pass Pilot
20 Station, and last year only about 257,000 went into the
21 Anvik River. We were perplexed at that. We did a lot of
22 looking at Pilot Station. We did two separate research
23 trips to Pilot Station to understand if there was a
24 problem there and we discovered no problem. We just feel
25 the summer chum probably went to other places in the
26 drainage and we expect maybe the Tanana because there was
27 flooding in that drainage that we couldn't detect.

28
29 I know I got off your question a lot.

30
31 But the Summer Chum Management Plan, we
32 have a BEG for the river, or an escapement goal for the
33 river of 800,000 to 1.6 million and the Summer Chum
34 Management Plan allows for subsistence fishing down to
35 600,000 so it provides for subsistence fishing even below
36 the low end of the escapement goal.

37
38 And one other thing I want to mention is
39 that the biological escapement goal for the Anvik River
40 is based upon the escapement that will produce maximum
41 sustained yield. Now, going below that escapement goal
42 isn't disastrous, I mean it will hopefully provide for
43 subsistence -- it may not provide for a commercial
44 fishery three and four years later but probably would
45 provide for a subsistence fishery at that time.

46
47 MR. EDWARDS: Okay, thank you. Mr.
48 Chairman, just a couple more questions. I was pleased to
49 hear what Mr. Bedford said about what folks are planning
50 on doing under the Governor's charge that he expected

00204

1 this new fishery or this increased fishery to be closely
2 monitored and I was particularly pleased to hear that the
3 public safety is looking like they're putting a plan
4 together, because I know some folks have been concerned
5 since the brown shirts have become blue shirts, that the
6 wildlife and fish side of the house may not get addressed
7 but it does appear in this case that they are actually
8 planning on getting out there.

9

10 Can you give us a little more detail as
11 to what, on the game and fish side, what are some of the
12 -- you said you were going to monitor it and all, can you
13 give us maybe a little more specific or are there some
14 details worked out, actually what you going to be doing
15 on the ground?

16

17 MR. BEDFORD: Are you speaking about our
18 fisheries monitoring practices?

19

20 MR. EDWARDS: Yes, sir.

21

22 MR. BEDFORD: Again, as I was saying
23 earlier, as an ordinary matter we look at what the
24 harvest levels are by subdistrict and we're getting
25 tender reports on a nightly basis. The area manager gets
26 reports back from the tender men and the processors in
27 terms of what the deliveries are. We can find out from
28 those what the ratios are of sockeye and chum salmon.

29

30 What I was suggesting is kind of a
31 different wrinkle on things for this year, is that,
32 again, we expect to see a change in the ratio of chum
33 salmon to sockeye over the course of a four day opening.
34 Recall that the prior management practices for the last
35 three years have limited to 16 hour openings, with
36 they're then closed for a period of time and then another
37 16 hour opening. The problem that this created for the
38 folks who are fishing out there is that they were saying
39 that they couldn't move off of concentrations of chum
40 salmon because there was too short of fishing period to
41 do that. But they have said time and time again that,
42 really, that's their intent. So what we should see is
43 that over a course of over a four day opening, that if a
44 person starts off, and again speaking for the fleet as a
45 whole, I mean for any particular fishermen, their
46 decisions may or may not be efficient or effective
47 decisions, but for the fleet as a whole, what you should
48 say over the period of a four day opening is that the
49 ratio of sockeyes to chums should improve over that time
50 so we're looking at monitoring that.

00205

1 I think that we're going to be able to do
2 that with the tender reports that we're receiving and
3 also with fish ticket information, which is going to
4 actually allow us, I think, to do a fairly fine grained
5 analysis.

6
7 But then in addition to that we're
8 looking at having our overflights of the area -- there's
9 some areas of the state where we do overflights and we
10 determine on a fairly regularly and frequent basis where
11 the fleet is located at and we're looking at doing that
12 in Area M this year. We haven't done that much of it in
13 the past but we think that there's an opportunity then to
14 see how the fleet is moving around and see if they're
15 moving between districts. It's not clear that we're
16 going to be able to tell within a district how
17 efficiently the fleet is able to move off of chum and
18 onto of sockeye but between districts we may be able to
19 accomplish that.

20
21 MR. EDWARDS: Mr. Chairman, my last
22 question has to do with one of the parts of the Staff
23 report. When the report comes up with the numbers of
24 fish estimated to be harvested, it downplays the fishing
25 that's going to occur at night and it basically says it
26 doesn't really think it's going to be an impact, and I
27 think it references a purse seining based upon personal
28 communications, but we heard a couple testimonies over
29 here which would indicate that actually a lot of harvest
30 would occur at night. Larry, was there any, other than
31 personal communication, any other literature that can be
32 cited that basically supports the report's belief that
33 the fishing that occurs at night will not be that
34 significant?

35
36 MR. BUKLIS: Mr. Chairman. Mr. Edwards,
37 no there wasn't additional literature search on that.
38 And my understanding of the Department's best estimate of
39 a doubling, approximate doubling would be both the
40 practical logistics of the fleet, needing to off load
41 fuel and ability of the fleet to operate around the clock
42 and also, although, I don't know that it's been studied a
43 sense that the purse seine gear would be less effective
44 during the night time hours than during the day time,
45 recognizing, though, that in June it isn't going to be
46 dark of night.

47
48 I think the Department could speak
49 perhaps with more direct experience with the fishery than
50 I can, but I would, as I did in my opening comments today

00206

1 that the report also provides to the Board the working
2 through the numbers, all other assumptions being equal,
3 what the 2.9 multiplier factor would do and that is
4 available to the Board as they evaluate and consider
5 their recommendation.

6

7 MR. EDWARDS: But the report specifically
8 says the effectiveness of fishing during the night time
9 is dramatically reduced especially for purse seine gear.
10 As you pointed out, if it's not going to be night, how
11 does that occur?

12

13 CHAIRMAN DEMIENTIEFF: Larry.

14

15 MR. BUKLIS: Mr. Chairman, I didn't say
16 it's not going to be night, I said it's not going to be
17 dark of night and then I said we should look to the
18 Department of Fish and Game with their expertise.

19

20 Mr. Chairman.

21

22 CHAIRMAN DEMIENTIEFF: Does that give you
23 the information you need at this point?

24

25 MR. EDWARDS: Well, I heard from two
26 folks here that said that they had fished at that time
27 and that that fishing that occurs during that time is
28 very effective and then we have a Staff report which says
29 that it will be dramatically reduced, I'm just trying to
30 understand what is the true answer.

31

32 CHAIRMAN DEMIENTIEFF: David, I think you
33 have follow up on this. I'll be with you in a minute,
34 Della, you want to speak to this issue as well?

35

36 MS. TRUMBLE: Yeah.

37

38 CHAIRMAN DEMIENTIEFF: Well, you were
39 actually first, go ahead.

40

41 MS. TRUMBLE: Yeah, if I may. I know
42 you've heard Virgil's statement, you've heard the
43 State's, you've heard the Federal Staff, and what I'd
44 like to recommend is that a couple of our fishermen come
45 up here and tell us if we need to -- and exactly how they
46 do this, because they're the ones that are being put on
47 the spot here and they're the ones that are going to be
48 the best to be able to respond to this as they're the
49 ones that are on the water fishing.

50

00207

1 CHAIRMAN DEMIENTIEFF: David.

2

3 MR. BEDFORD: I'd just add a little bit
4 of, I guess, it's anecdotal information to this. If you
5 stand on the back deck of a purse seine vessel when the
6 gear has been deployed after dark and there's an
7 phosphorescence in the water, you can see a glowing
8 lattice that goes out through the water. That's the
9 phosphorescence being activated when it hits the net.
10 Purse seine gear is very, very ineffective under those
11 circumstances because the fish have no problem seeing it
12 either.

13

14 CHAIRMAN DEMIENTIEFF: Okay, John Hanson
15 has to go catch a plane at 2:00 o'clock so we're going to
16 go ahead and hear his statement now.

17

18 MR. HANSON: Yeah, thank you, Mr.
19 Chairman. I got a printout here that I asked for just
20 for the Yukon, and it goes from 1960 to 2003. Like I
21 mentioned in the testimony that I wrote, for the last 10
22 years our chums have been declining. Okay, for the whole
23 Yukon, the 10 years that I mentioned, the chums every
24 year were declining. 2003 the whole Yukon took 70,360
25 chums from the mouth to the border. That's how come the
26 upper Yukon, a lot of the people didn't even get their
27 subsistence needs. And then for fall chums, the whole
28 Yukon took 80,000 fall chums from the mouth to the
29 border.

30

31 So you can see that there's a -- well, I
32 call it a disaster for the whole Yukon on chums, and fall
33 chums, because a lot of people up above Holy Cross,
34 starting from there a lot of them didn't even get their
35 subsistence needs for the whole winter. And with 80,000
36 spread out that's not even -- we didn't take what we
37 usually take down at the mouth, the four villages, so we
38 were short on our subsistence.

39

40 And then on Unimak and Shumigan, well,
41 those there they went way over what the Yukon took. In
42 2003, Unimak and Shumigan took 282,436 chums, those two
43 areas. So you can see. I got this through the internet
44 and it gives me a good idea how the chums went into the
45 Yukon and the spawning streams are way down, their
46 escapement goals by looking at this one.

47

48 Thank you, Mr. Chairman. I wanted to
49 just bring it out to you.

50

00208

1 CHAIRMAN DEMIENTIEFF: Thank you. Well,
2 I know we've got some players that are going to be gone,
3 I think David you're going to be gone after lunch, too,
4 is that correct?

5
6 MR. BEDFORD: I'm going to see if I can
7 change my schedule and stay.

8
9 CHAIRMAN DEMIENTIEFF: Well, what I'm
10 getting at is that we need to -- this group that wants to
11 get together to try to design a cooperative research
12 mechanism for us, Tom will be there, and it's a decision-
13 type of a meeting, by any stretch, but we just need to
14 identify who wants to come forward. Because like I said,
15 I know State does, obviously, you know, so all the
16 players will just need to get a hold of Tom and we can
17 get together and try to get our hands around what we want
18 to do. But Tom will do that on our behalf and whoever
19 the State wants and, you know, I know other organizations
20 want to be involved with this so whoever does, we need to
21 get the names of people so that we can get a hold of
22 people, and the first meeting will just be trying to get
23 our hand around the thing. It's not a decision meeting,
24 but, I know there's a lot of interest so we need to just
25 know who the players want to be.

26
27 So with that, we do have to break for
28 lunch, honest. We'll be back at 1:00 o'clock or as soon
29 thereafter as possible.

30
31 Thank you.

32
33 (Off record)

34
35 (On record)

36
37 CHAIRMAN DEMIENTIEFF: There's a
38 gentleman here, Myron Naneng, who Board members have
39 asked for some clarifying points and he's got to leave in
40 the next few minutes so I'm going to call on Myron first
41 to come up and give his clarifying points. Again, it's
42 the privilege of the Board to call on anybody they want
43 to.

44
45 MR. NANENG: Thank you, Mr. Chairman.
46 Members of the Board. This morning we heard the report
47 for the State of Alaska stating that subsistence priority
48 is a priority that they're supposed to uphold under the
49 State Constitution as well as under Title VIII of ANILCA.
50 A couple of years ago, AVCP, or in 2002 AVCP petitioned

00209

1 the Federal Subsistence Board with a special action
2 request to open subsistence fishing around the village of
3 Russian Mission, which is one of our villages within the
4 AVCP region because the State of Alaska stated that there
5 was no commercial openings in District Y3 therefore there
6 is not going to be a subsistence opening for that
7 village, which leads to the question:

8

9 Who is really determining within the
10 State of Alaska subsistence opportunity
11 for the people in the river system?

12

13 Is it the Division of Commercial
14 Fisheries? Division of Subsistence? And in other words,
15 who is in the world is trying to determine the
16 subsistence priority on behalf of our people on the Yukon
17 River?

18

19 And, you know, did we have to file a
20 special action request to the Federal Subsistence Board
21 to have them recognize that these people are subsistence
22 fishermen and we're also within the jurisdiction of the
23 National Wildlife Refuge, the Yukon-Delta National
24 Wildlife Refuge, where subsistence priority is supposed
25 to exist. I know that they've tried to make corrective
26 changes since that time, but I don't think in the first
27 place we should have had to file a special action request
28 for our people who have customary and traditionally
29 subsisted off that salmon, and not have to wait for a
30 commercial opening to be allowed for the food that they
31 might need on the table for the winter. And, you know,
32 that kind of begs the question, does the State of Alaska
33 really have a subsistence priority? And if they don't,
34 then I would think that the Federal Subsistence Board
35 would hold the fire to their feet to ensure that
36 subsistence priority is lived up to. Because at the time
37 ANILCA was passed, there was a promise by the State of
38 Alaska that they would deal with and work with the people
39 to protect their subsistence rights, and that's the
40 question that I think needs to be clarified for all of
41 us, including the Federal Subsistence Board, exactly what
42 the State of Alaska subsistence priority is.

43

44 CHAIRMAN DEMIENTIEFF: Would you care to
45 respond?

46

47 MR. BEDFORD: I think that both Geron
48 Bruce and Mary Pete provided a response to that in the
49 State's comments.

50

00210

1 In particular, the subsistence priority
2 that we have is realized through a number of regulations
3 that provide a very substantial advantage for subsistence
4 harvesters in terms of time, area and gear. Again, we
5 have threshold levels in our escapement numbers for some
6 streams where you have subsistence harvest in situations
7 in which there will be no commercial harvest or for that
8 matter where sportfisheries are also constrained.
9 Furthermore, you have a situation on the Yukon, as was
10 presented earlier, where we're not managing for maximum
11 sustained yield, but rather we have an optimum escapement
12 goal that allows subsistence harvesting that will, of
13 necessity then, reduce future returns and reduce future
14 commercial harvests.

15
16 I mean it's hard for me to imagine that
17 that is not a very substantial preference when you allow
18 advantages in gear, more time to fish, more area to fish
19 and where you have thresholds that start the fishery that
20 are below what you require for starting a commercial
21 fishery.

22
23 CHAIRMAN DEMIENTIEFF: Thank you. Any
24 other discussion. John.

25
26 MR. LITTLEFIELD: Mr. Chair. That
27 response kind of clarifies what I was talking about this
28 morning when I gave my opening comments. Nowhere in that
29 did you hear anything about continued use in the
30 customary and traditional manner that the people have
31 conducted their activities.

32
33 We heard complaints about windows, I
34 don't know how they got to windows without eliminating
35 the commercial fishery. In other words, if it's the
36 custom and tradition of the people on the Yukon and the
37 Kuskokwim, and it is to dry fish when the weather is
38 good, that is their customary and traditionally use and
39 the Federal system says that we need to protect that for
40 them. Nowhere will you find that in the State system,
41 that's not considered.

42
43 So there's a huge difference between the
44 two things that we're talking about here and I just want
45 to make sure that everyone understands, we're here as a
46 Federal Board and a Federal system, and what we're
47 talking about is to continue those opportunities for
48 those people as best we can and that means that the other
49 uses go first and that's our mandate.

50

00211

1 CHAIRMAN DEMIENTIEFF: Thank you. In
2 terms of that, John, we are planning on scheduling -- we
3 had a request that was filed yesterday and we are
4 planning on having a meeting to deal with that issue, and
5 locals -- the Regional Councils and the AVCP and the
6 village people will be putting forward a proposal that we
7 will consider. So, you know, along those same lines we
8 do have, at least a tentative plan to -- I mean that
9 won't be 100 years down the road, we will address it
10 fairly soon.

11
12 I think there was some interest in
13 bringing it up at this meeting, but how large this issue
14 is, I chose not to do it right here. But even if we did
15 it within the next month it would still be timely for the
16 fishing season. So there is something under foot, you
17 know, we do have a request that was filed.

18
19 MS. GOTTLIEB: Mr. Chair.

20
21 CHAIRMAN DEMIENTIEFF: Yes.

22
23 MS. GOTTLIEB: I guess just a follow up
24 on some of the earlier discussions, some of Gary's
25 questions, Dan's comments. It does concern me when it
26 said that the amount necessary for subsistence hasn't
27 been met or haven't met the thresholds. And I know some
28 of the rivers are both Federal and State managed, making
29 things even more complicated, but it is the
30 responsibility of this Board for those Federal waters, to
31 provide that opportunity, and particularly the residents
32 around Lake Clark National Park depend so much, as well
33 as some of the streams we've discussed off of the Yukon
34 and Kuskokwim.

35
36 CHAIRMAN DEMIENTIEFF: Thank you.
37 Virgil.

38
39 MR. UMPENHOUR: Thank you, Mr. Chair.
40 I'm the one to blame for the windows. I take full
41 responsibility. On the Yukon, Dr. John White did it on
42 the Kuskokwim as a Board of Fisheries member. The reason
43 why we did it was three-fold.

44
45 The first reason was for conservation of
46 king salmon, to get the large female king salmon onto the
47 spawning grounds, the older larger female king salmon.
48 That was the first reason.

49
50 The second reason is because catch per

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1 unit effort in the upper Yukon area, such as in the Fort
2 Yukon area, specifically, is much, much lower than it is
3 in the lower river, and so we did an analysis and we had
4 a lot of committee that helped us do the analysis and we
5 determined how much fishing time would be reasonable so
6 that people could get their subsistence needs met. And
7 that is how we came up with those windows and that's the
8 reason why the windows, in the lower river they get -- on
9 the Yukon, for instance, they get two 36 hour periods per
10 week, but up at Fort Yukon above the bridge on the Yukon,
11 from the village of Steven's Village to the Canadian
12 border, they get to fish seven days a week unless they're
13 further restricted because of conservation problems of
14 not meeting escapement or the border passage that's in
15 the Salmon Treaty with Canada.

16

17 That's the reason the windows are there,
18 which brings me to the next subject and that is, the
19 border escapement to Canada is a treaty between our two
20 countries. And so if we're not going to get the border
21 escapement the people that really get the short end of
22 the stick are the people from Fort Yukon to the border,
23 which takes in the village of Eagle and Circle and
24 Central and a number of other villages.

25

26 CHAIRMAN DEMIENTIEFF: Virgil.

27

28 MR. UMPENHOUR: They're the ones that get
29 the short end of the stick.

30

31 CHAIRMAN DEMIENTIEFF: Virgil, if I may.
32 I don't want to enter this debate right now, it's off
33 track of what we're doing. We're focusing, so I will not
34 allow anymore, because we are going to schedule a
35 meeting, you know, to get on with that issue, and that
36 will be done in a public forum very soon, in time for the
37 fishing season. So we'll debate those issues at that
38 time. Mary.

39

40 MS. PETE: Thank you, Mr. Chairman. To
41 address Ms. Gottlieb's questions that are sort of a
42 follow up to Mr. Edwards questions, I'd like to provide
43 more information on what ANS means in terms of State
44 management if I could.

45

46 ANS is a term of art, it's in statute.
47 It basically means a target that managers have to try to
48 attain to provide reasonable opportunity for subsistence
49 uses, it doesn't necessarily mean people have to get that
50 much to fulfill the law, the spirit of the law, it just

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1 means that that's what managers have to manage for, so
2 the lower end of the ANS.

3

4 There's a lot of reasons why communities
5 or areas of the river may not get to the lower bound to
6 an ANS. You know, they certainly, in a big picture,
7 speak to attainment of need, but when the Department used
8 to ask about either the quality of that particular season
9 or whether your needs were met there were many reasons
10 that people offered for not getting the usual amount, if
11 they didn't. I mean either they were busy, they had
12 equipment failure, or, you know, they decided they had
13 fish from last year or there were many reasons why
14 catches fluctuated. So just to remind the Board that
15 amount reasonably necessarily for subsistence is a term
16 of art in statute, it doesn't necessarily translate to
17 people not getting what they need.

18

19 The other measure that we do have is a
20 crude measure, in-season, about the quality of that
21 particular fishing season, our in-season teleconferences.
22 On the Yukon, that YRDFA sponsors as well as Kuskokwim
23 River Management Working Group meetings for the Kuskokwim
24 River. And at those meetings, each community on-line
25 that's on-line for that particular teleconference has
26 representatives that address whether for that season they
27 feel like their portion of the river is getting their
28 needs met or has adequate opportunity to catch fish.
29 And, you know, the years that these teleconferences have
30 happened, when we hear -- when the Department and
31 managers hear that portions of the river are having
32 trouble, we certainly take that seriously. But in recent
33 years we certainly haven't gotten that indication in-
34 season.

35

36 And if I may clarify what the Board of
37 Fish did in 2001 in refining C&T stock, what a C&T stock
38 is as well as it's associated amount reasonably necessary
39 for subsistence determination. The findings on both the
40 Yukon and the Kuskokwim -- and Norton Sound refinement
41 was done in 1999, but for the Yukon and Kuskokwim, the
42 refinement was from all salmon stocks and the amount
43 reasonably necessary for all salmon stocks -- species, I
44 should say, to a species specific finding per drainage,
45 so there was a -- chinook salmon became its own C&T stock
46 as did summer chum, fall chum, coho and the same on the
47 Kuskokwim. So the Department could then manage that
48 specific -- that species as a C&T stock, rather than
49 being lumped with all the other salmon species. What
50 this allowed was a closer examination and focus on where

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1 the problems were with not attaining the lower bound of
2 the ANS. And the focus then on the Yukon became Yukon
3 fall chum. You know, you can see that the other stocks
4 were not doing as poorly, and the same on the Kuskokwim.

5
6 It allows management and the Board to
7 focus on where the problems are. When you mask, you
8 know, the complexity as a fishery that's as complex as
9 subsistence salmon fishing on the Yukon that starts
10 through late May and goes through early October, you can
11 mask a lot of the complexity and a lot of the issues that
12 managers need to focus on if you don't make those refined
13 determinations.

14
15 So that's the first step the Board did in
16 2001 to help itself and the managers figure out where the
17 problems were. And I'm hoping that clarifies some of the
18 questions about what ANS means and how it translates to
19 either provision of reasonable opportunity or having
20 needs met.

21
22 Thank you, Mr. Chair.

23
24 CHAIRMAN DEMIENTIEFF: Well, I can
25 certainly identify with one part of that, that equipment
26 failure. Basically that's what happened to the Board
27 after yesterday's long day of testifying, I think we were
28 all having a little equipment failure.

29
30 Judy.

31
32 MS. GOTTLIEB: Thanks, Mr. Chair. A
33 couple other questions for the State. One is, I believe,
34 in your statement or comments, mentioned that there will
35 be some monitoring by the Board of Fisheries of the
36 Norton Sound fishery and, so, one, I was curious about
37 what that monitoring would be. And the second question
38 is, several people in their comments yesterday suggested
39 that the Area M be Alaska residents only and so I
40 wondered if you would comment on the legality or
41 potential of that, just to kind of clear the air on that.

42
43 MR. BEDFORD: Regarding the second
44 question first, whether or not it would be possible to
45 limit any Alaskan fishery to Alaska residents only, any
46 commercial fishery. We're prevented from doing that by
47 the Commerce Clause of the United States Constitution.
48 There's just -- it's just something that is
49 impermissible.

50

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1 I'm not sure about the response on the
2 question about Norton Sound, maybe I'll see if Staff has
3 a response to that.

4

5 MR. BRUCE: Mr. Chairman. Ms. Gottlieb,
6 could you direct me to the place in the Staff comments
7 where you are referring to because I'm not really sure
8 what your question is referencing.

9

10 MS. GOTTLIEB: Well, I'll have to look,
11 too, I just jotted it down as a note so I thought it was
12 said yesterday but I'll try to find it as a reference but
13 I think having heard of concerns in and around Norton
14 Sound, it may be useful for us to hear what sort of
15 monitoring would be planned, either today or within the
16 next few days.

17

18 MR. BRUCE: We can tell you what we're
19 doing in-season. We have a number of escapement projects
20 up there, and an area office with staff in Nome and I'll
21 let Gene Sandone provide some of the details for you.

22

23 CHAIRMAN DEMIENTIEFF: Okay.

24

25 MR. SANDONE: Mr. Chair. Ms. Gottlieb,
26 we have a number of -- as Geron said, we have a number of
27 escapement projects in and around Nome. Nome River,
28 Snake River and some of these projects are in conjunction
29 with Kawerak. Also we have a tower up the Neukaluk (ph)
30 River and farther to the east, the Quiniak River. We
31 have, I think, Kawerak is manning a weir project on the
32 Pilgrim with some assistance from ADF&G. So we're
33 monitoring the runs as they come in.

34

35 We have historic run timing curves and we
36 have escapement goals on most of these rivers for chum
37 salmon so we can determine whether the escapement goal is
38 going to be met or not around maybe the quarter point or
39 a little bit later in the run. We start off with
40 subsistence fishing, Tier II, in marine waters and then
41 when we know that an escapement goal is going to be
42 attained, we move subsistence fishers -- we open the
43 rivers to subsistence fishing, Tier II. And then when we
44 feel that we have enough for escapement we may actually
45 go to Tier I where all Alaskan residents are eligible to
46 subsistence fish.

47

48 CHAIRMAN DEMIENTIEFF: Thank you.
49 Anything else. Virgil.

50

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1 MR. UMPENHOUR: I want to address fall
2 chums and that is, earlier someone said, I don't remember
3 who it was, someone from the Staff said there weren't
4 really any tagging studies, I disagree with that.
5 Tagging studies have been done in the Area M since 1923
6 when Dr. Gilbert started, but the one that I feel that is
7 an important tagging study is the one done in 1961. You
8 have that, it was part of the things I submitted. It was
9 done by a guy named Thorstenson or Thortenson or
10 something like that. And that tagging study, if you look
11 at it, of the tags that were recovered 22 percent when to
12 the Yukon River. Of course, that was before hatcheries.
13 and if you look at this thing that I handed out, it came
14 from Dr. Jack Helle, who's in charge of National Marine
15 Fisheries Service at Auke Bay, what it indicates, because
16 we've heard this in Staff reports that there's a
17 productivity problem with the wild chum salmon in Western
18 Alaska, which is true, but there really isn't a
19 productivity problem if you look at that, this has the
20 productivity of the ocean, the harvest from 1915 through
21 the year 2000 and right now the productivity in the
22 marine environment is just about the same as it was
23 between 1915 and 1940, from 1985 until present. The only
24 thing is about half the fish are hatchery produced fish
25 and so the wild fish, it's true, are having productivity
26 problems but the productivity is caused by wild fish.

27
28 And I think this is very relevant because
29 the Eastern Interior RAC, two or three years ago sent a
30 letter to the Federal Subsistence Board asking them to
31 look into this problem.

32
33 And so that brings me to a letter here
34 from Louis Barton, who's retired, research biologist for
35 the Yukon River and it says that he found a spaghetti tag
36 in the Toklat River, which runs out of Denali National
37 Park, which is a stock of concern in the Yukon drainage
38 and has been for a long time, two lawsuits over it,
39 because of people not getting their subsistence needs met
40 on the Kantishna River, which the Toklat River runs into,
41 but he did find a tag there that was tagged in the '87
42 tagging study in the Shumigan Islands.

43
44 So I wanted to point those things out.

45
46 And then I want to go back again to the
47 tables that were left out of the genetic stock
48 identification study presented to the Board this last
49 February that were presented to the Board of Fisheries in
50 1998 that indicate as high as 10 percent of the harvest

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1 of chum salmon, and that was on the 12th and 13th test
2 fishery of 1966 of June were Yukon River fall chum
3 because the only chum salmon stock that is genetically
4 distinct is the Yukon fall, that's a single stock. And
5 so if we go back to what Dr. Hillborne says in the thing
6 that I submitted, the paper by Dr. Hillborne is that
7 these stocks, that's why one tagging study for one year
8 is worthless, practically, except it's going to show the
9 presence maybe or absence of fish.

10

11 What it does show and what he says in his
12 report is that the numbers of fish can vary from year to
13 year by a tremendous amount, so if you go by the
14 precautionary principle that's found in the Sustainable
15 Salmon Policy and you say, well, okay, if 10 percent of
16 the fish caught there are Yukon fall chums and then you
17 use my math instead of the Department's math and that
18 night time fishing really is effective, if you're a
19 gillnetter, not a seiner, and say that they catch three
20 times as many fish this year -- and you have to bear in
21 mind also that the same fleet the last couple of years,
22 instead of all 130 of them fishing like they were in the
23 '90s, only 23 did, I think last year, so with all this
24 increased fishing times many more of those people may
25 fish then they could harvest a million chums in that
26 fishery.

27

28 So let's take 10 percent, just a simple
29 number of those fish being fall chums, or even the low
30 figure, let's take three percent, that would be 30,000
31 fish. Thirty thousand fish if you're talking about fall
32 chums, border passage into Canada is the straw that
33 breaks or makes the camel's back as to whether the people
34 in Fort Yukon up river get shut down for subsistence or
35 not. So I mean we're really pushing the -- I think it's
36 pushing the edge as far as the precautionary principle
37 goes into saying that the action taken to triple the
38 amount of commercial fishing time in Area M is not going
39 to cause subsistence restrictions on the Yukon River,
40 especially with fall chums. And I already spoke to the
41 escapement objectives, the parent year and et cetera and
42 what escapement has taken place. And so if you just take
43 that 10 percent off the 22 percent from the Thortenson's
44 study in '61, I mean we're really pushing the envelope in
45 stating that we are not going to have an affect on
46 subsistence harvest in the Yukon River.

47

48 CHAIRMAN DEMIENTIEFF: Yeah, Della, Jack
49 and then Grace.

50

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1 MR. UMPENHOUR: Thank you.

2

3 CHAIRMAN DEMIENTIEFF: Della.

4

5 MS. TRUMBLE: Thank you, Mr. Chair. Mr.
6 Umpenhour, I'd like to, because prior to after lunch --
7 or before lunch this question came up and the answer to
8 whether or not our fishermen fish at night time, they do
9 not. They fish -- usually stop fishing around 11:00
10 p.m., and they start again at 6:00 a.m.

11

12 Another thing I'd like to address, maybe
13 is a question. You've brought up the 30 percent, the 30
14 percent, this number, it's not been determined in reality
15 what exactly of that 30 percent are chum that are going
16 to an area, or whatever stock fish they are. There's
17 nothing documented that says there's an actual number.

18

19 The other thing that we question in
20 response to that, is what happens to that 90 percent,
21 where does that 90 percent go? Where is it lost between
22 those two regions.

23

24 The other thing, I think, in sitting
25 through this -- I'm sorry, if I'm getting a little upset
26 here -- sitting through this, is, I'm starting to think
27 here, if we go through this process, even if it went to a
28 determination of extraterritorial jurisdiction, that
29 doesn't solve the problem. It doesn't answer the
30 questions and that problem is still there. We've got to
31 work to find a solution.

32

33 CHAIRMAN DEMIENTIEFF: Jack.

34

35 MR. REAKOFF: I am concerned that the
36 Subsistence Division was not present at the Board of
37 Fisheries meeting due to low personnel and budget cuts.
38 And since we have a Federal liaison at that meeting, I
39 was wondering what the Board had asked of that Federal
40 liaison regarding the effects of the AYK subsistence
41 users of this fishery. Were there dialogue in regard to
42 the subsistence users in AYK.

43

44 CHAIRMAN DEMIENTIEFF: Pete.

45

46 MR. PROBASCO: Thank you, Mr. Chair. Mr.
47 Reakoff, at that time I served as the Federal liaison to
48 the State Board of Fisheries, and because of the
49 proposals that the Board of Fisheries was addressing
50 focused on commercial fisheries and there was only one

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1 proposal that addressed subsistence, our involvement in
2 the Area M Board of Fisheries meeting was very little.
3 And, in fact, I was not asked those questions and I was
4 not in attendance during that time if those questions
5 were brought up.

6

7 Mr. Reakoff.

8

9 CHAIRMAN DEMIENTIEFF: Thank you. You
10 need to follow up, go ahead.

11

12 MR. REAKOFF: That gives me deep concern,
13 that the Board did not deliberate the subsistence aspect
14 for this commercial fishery that has a very far reaching
15 effect on subsistence users in AYK.

16

17 CHAIRMAN DEMIENTIEFF: Go ahead, Mr.
18 Bedford.

19

20 MR. BEDFORD: In terms of the Alaska
21 Board of Fisheries process, I think that it's important
22 to remember that the Board of Fisheries in the month of
23 January had a meeting dealing with AYK issues that they
24 were provided with comprehensive reports by the
25 Department of Fish and Game at that time, and so the
26 Board had all of that information to it, and that was
27 still part of what was available to them at the
28 subsequent meeting since they'd been through it just the
29 previous month.

30

31 In addition to that it should be noted
32 that there was a substantial amount of testimony from the
33 affected public, both people from the Alaska Peninsula
34 area and then there were also a number of people there
35 who were from Western Alaska.

36

37 CHAIRMAN DEMIENTIEFF: Thank you. Is
38 yours follow up to this issue -- okay, go ahead, I'll
39 allow that. Grace, we'll get to you in a minute -- oh,
40 do you have comments on this issue as well?

41

42 MS. CROSS: I missed it -- I was going to
43 comment a couple of things on the Nome subdistrict so you
44 can continue.

45

46 CHAIRMAN DEMIENTIEFF: Okay. I just want
47 to complete this issue, Virgil, go ahead.

48

49 MR. UMPENHOUR: Thank you, Mr. Chair. In
50 eight years on the Board of Fisheries, I was never at a

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1 Board of Fisheries meeting where the locals, commercial
2 fish staff was not present and where subsistence staff
3 was not present. Neither staff was present at that Board
4 meeting. So my question is this, because the standard
5 procedure at every Board meeting before the vote's taken
6 is that the Chairman goes around the table with the Staff
7 and says is there anything we need to know about what the
8 effects of this proposal will be on spawning escapements
9 and subsistence. And so if the staff was not there, the
10 local AYK staff to answer the questions about escapement
11 and if no one was there from the Subsistence Division to
12 ask questions about subsistence on that specific proposal
13 -- because in the January Board meeting, there was no
14 proposal -- what they did was not a proposal. That was a
15 Board generated proposal at the meeting the night before
16 they addressed it and the three minority Board members
17 knew nothing about it until it was -- the motion was made
18 that next morning.

19

20 So my question is this of Mr. Bedford,
21 who answered those questions or were those questions even
22 asked? It's a two part question.

23

24 MR. BEDFORD: I'm sorry, I wasn't at that
25 Board meeting at that time. I'm going to have to pass
26 that question off.

27

28 CHAIRMAN DEMIENTIEFF: Mary.

29

30 MS. PETE: Mr. Chairman, there was
31 Subsistence Division Staff present. There are
32 Subsistence Division Staff that have responsibility for
33 Area M and Gene Sandone, the AYK regional supervisor for
34 Commercial Fisheries Division was also there, so there
35 was Staff, specific Staff for Area M from Subsistence
36 Division. The AYK Staff for Subsistence Division were at
37 a Board of Game meeting that was at the same time.

38

39 In terms of, and maybe Lance can help me
40 out here, the Area M meeting was noticed for Area M
41 action, not for AYK action.

42

43 CHAIRMAN DEMIENTIEFF: Thank you.

44 Virgil, you got follow up to that.

45

46 MR. UMPENHOUR: Thank you. The June
47 fishery has no Area M salmon in it, only the AYK region
48 does and so the question, the Staff that should have been
49 there and has been there at every Board meeting that I've
50 been to with the exception of this one, for final

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1 deliberations, for the last 14 years, has been the
2 Subsistence -- either yourself, the director and the
3 predecessor of you, who later became the Deputy
4 Commissioner, was either there plus their Staff from Nome
5 was always there or Fairbanks, such as Ms. Wheeler that
6 was here earlier today has always been at every one of
7 those meetings to answer those questions.

8

9 And so my question is, please tell me the
10 name of who that person was because I don't think there
11 was anyone there.

12

13 CHAIRMAN DEMIENTIEFF: Okay. Well --
14 Mary, you had something else?

15

16 MS. PETE: Mr. Chairman, it was Dr. Jim
17 Fall. And like I said, he's not AYK Staff, he's Area M
18 subsistence Staff, but Gene Sandone was there and he is
19 AYK Staff.

20

21 CHAIRMAN DEMIENTIEFF: Okay. Thank you
22 very much. I think we resolved that issue and it's time
23 to move on.

24

25 While I understand the inter-relationship
26 between the two managers, you know, I want to try to get
27 away from -- as much as we can from debating State Fish
28 Board action, this is the Federal Subsistence Board and
29 we need to keep focused on our issue.

30

31 Grace.

32

33 MS. CROSS: I'm sorry, I came in late
34 when there was discussion of Nome subdistrict.

35

36 But I wanted to give two pieces of
37 information. The Tier II fishing in Nome only occurs
38 west of Cape Nome, it doesn't happen in all of the
39 district, there's a division. Number 2, is that, there
40 are subsistence fish take statistics as you are required,
41 either in Tier I and Tier II, to submit a report of how
42 much fish you caught. And I think at some point in time
43 that may be useful information for whoever is looking t
44 what's happening to take a look at those permit recording
45 requirements.

46

47 CHAIRMAN DEMIENTIEFF: Thank you. Keith.

48

49 MR. GOLTZ: Yeah, I was starting to get
50 nervous. I think you've probably taken care of most of

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1 it. But I want to reemphasize that we're not here to
2 reweigh the evidence or substitute a Federal judgment for
3 that of the State's, our job is to determine if there's
4 been a subsistence failure and if so what the cause has
5 been.

6

7 CHAIRMAN DEMIENTIEFF: Thank you.
8 Further discussion. Della, go ahead.

9

10 MS. TRUMBLE: Thank you. And I don't
11 want to get into a dialogue where we're going to run
12 across the room here. But maybe just a point of
13 clarification, Virgil, you did state earlier that there
14 are definitely Area M stocks present in the June
15 fisheries, I mean you said that they're not, there are.
16 This is why I've been asking that the Chairs from the
17 other regions or representatives take the time to come
18 down to our region in June, look at our fishery, get on a
19 boat, fish at night time if they let you, but take that
20 time to better understand. Because this -- throwing
21 these allegations and things out is not only hurtful but
22 it doesn't solve anything, and that's all I ask.

23

24 Thank you.

25

26 CHAIRMAN DEMIENTIEFF: Thank you. Judy.

27

28 MS. GOTTLIEB: Mr. Chair. Well, thanks,
29 Della. And I'd like to really follow up on Della's offer
30 here. A couple of offers were made during the testimony
31 yesterday to do an exchange, whether it be people coming
32 to the region or people going from the Aleutian Peninsula
33 region and going to the Yukon or Kuskokwim, and so I'd
34 encourage maybe to work through Della on anyone who cares
35 to visit and vice versa, the other RAC Chairs, perhaps,
36 if people want to go to their region. I think that would
37 sure give us a good start.

38

39 CHAIRMAN DEMIENTIEFF: Thank you. I
40 think that the group that is being assembled that we
41 talked about prior to lunch, we could bring that before
42 that planning committee and they could discuss that so
43 we're all getting a handle on exactly what we're doing.
44 And I think also the other way around, you know, if
45 they're going to be doing work up in the other areas, you
46 might want to have a representative to go to those as
47 well, you know, just to increase understanding. I mean
48 there's got to be a point in time where we have to get an
49 understanding.

50

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1 Anybody else.

2

3 Virgil.

4

5 MR. UMPENHOUR: I just have one other
6 thing I want to point out and that is, I've learned a lot
7 from these old Department of Commerce, Fur and Fishery
8 industry reports, I have them, all of them from Federal
9 times and Dr. Gilbert, the guy that did all these tagging
10 studies back in the '20s that we refer to here, well, he
11 did an investigation of the salmon fisheries of the Yukon
12 River in 1920 and this was as a result of the salmon
13 failure of 1919. And it's extremely interesting reading.
14 I just want to point out one thing that he says in here.

15

16 And that is, estimating the average dried
17 king salmon at five pounds and the average chum at one
18 and one-third pounds, there was 23,000 kings and one
19 million chums put up on the Yukon in 1920 for local use,
20 that's not counting the fresh fish. Because at this
21 meeting and public testimony yesterday there were people
22 that -- and I've heard this so many times before that say
23 that the history of the fishery in the AYK region is
24 short as far as the commercial fishery goes, that's not
25 true. It's not short as far as a commercial fishery
26 goes. That said for local use, a lot of those fish were
27 for commercial use.

28

29 But anyway, that fishery was sustained up
30 until -- when I say that fishery, I'm talking about
31 earlier one of the people from Norton Sound pointed out
32 that there was an old Federal report and I do know what
33 the exact figure was, in 1956 there were 67,000 chum
34 salmon harvested in the Nome subdistrict. I know that
35 for a fact.

36

37 But anyway, these fisheries were
38 sustainable at high levels all the way up until the '80s,
39 when they started to decline and the first stocks to
40 decline were the ones in Norton Sound. And there's a
41 number of reasons for this, and one of the reasons I feel
42 that is directly responsible is the Area M June and I
43 feel the July fishery as well.

44

45 When the Department did an analysis for
46 the 2001 Board meeting of the biological escapement
47 goals, the BEGs, they wanted to lower them all the way
48 from Norton Sound to the end of the Yukon. And the
49 person that wrote this report this report, which was peer
50 reviewed and Dr. Phil Mundy was one of the peer reviewers

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1 and Ray Hillborne from the University of Washington was
2 one of the peer reviewers, a number of top scientists,
3 leading scientists in the world peer reviewed all of
4 this. But anyway, the author said that in 1980 something
5 happened to the Quiniak River, that's the river by Moses
6 Point, and the productivity in the marine environment
7 went down. That this also happened on the Andraefsky
8 River in the fishing branch which is in the Yukon
9 Territories. So here we have spawning grounds over 2,000
10 miles apart, something happened in 1980 that the marine
11 productivity went down. Well, if you look at this chart
12 that I passed out that shows the component that's
13 hatchery and what's wild, that's one thing that happened.
14 The second thing that happened was the Area M fleet
15 expanded tremendously. It more than doubled in permit
16 holders and it modernized. And a lot of the displaced
17 fishermen from the Bolt Decision in Washington State
18 bought these extra permits that the people in Area M
19 sold. And a third thing happened, and that was the 200
20 Mile limit. That happened in 1976 or '77, the Stevens-
21 Magnuson Act happened. The trawl fleet was no longer a
22 foreign fleet, it was a joint-venture fleet. And a guy
23 by the name of Larry Malloy, who's a retired biologist
24 from Fish and Game that works in Kodiak, he's the guy
25 that runs their hatcheries over there, the Aquaculture
26 Association, he told me at a Board meeting in Kodiak, I
27 believe in 1995 and we weren't even addressing Area M we
28 were addressing Kodiak and Chignik, he told me, you know,
29 when I worked for the Department, I think it was in 1979
30 or 1980 I was over at Dutch Harbor, because he had to go
31 check these people that were running these factory
32 trawlers that were joint-venture, he says, I don't know
33 where they're headed, but he said he was talking to one
34 of these guys that was the second, number 2 on this trawl
35 vessel and he was an American and he was a fisheries
36 biologist and he told them, he says, I don't know where
37 they're going but someplace a bunch of chum are not going
38 to show up because we're killing hundreds of thousands of
39 immature chum salmon, this was in either 1979 or '80.

40

41 So those are the three things that I
42 think happened that caused that -- the individual that
43 wrote the -- did the analysis to redo all the BEGs in AYK
44 or the ones in Yukon and in Norton Sound, those are the
45 three things that happened. But that's why I hate the
46 rickermuddle that they did that by because the
47 rickermuddle totally ignores what happens in the marine
48 environment, only what comes back to the river.

49

50 But anyway, I wanted to just kind of

00225

1 bring this up because I'm not accusing Area M of being
2 the only problem, they intercept a significant portion of
3 the stocks headed to the AYK region and particularly the
4 Yukon River. I've shown old studies that show that it
5 could be as high as -- it was 22 percent of the study in
6 1961 but there were no hatchery fish involved then, now,
7 there are hatchery fish involved. Okay, but in 1996 it
8 was as high as 10 percent in one period. To me, that's
9 substantial. And so there's, you know, three issues I
10 just pointed out that could have caused this productivity
11 to go down, all three of them something can be done but
12 it can't be done unless the action -- someone has to
13 start the action. It's like stopping the high seas
14 driftnet fishing. Someone had to start the action. I'm
15 hoping that this will be the forum to maybe take a look
16 at the effect of hatcheries on the wild stocks. Maybe
17 take a closer look at the by-catch because the by-catch
18 sampling methods in the trawl fishery is an absolute
19 joke.

20

21 When I was on the Board of Fisheries the
22 Council wanted to, the National Marine Fisheries Service,
23 they wanted to stop sampling the by-catch because when
24 they did the normal sample and compared it to a full haul
25 sample, there was no comparison, I mean they didn't
26 correlate whatsoever, but the Board of Fisheries said,
27 not, no, but hell no you're not going to do that we don't
28 care if it's not perfect it's better than nothing. But
29 something needs to be done about those two issues. We're
30 only addressing one of the three issues that are
31 affecting our wild stocks in the AYK, we need to address
32 all three.

33

34 Thank you.

35

36 CHAIRMAN DEMIENTIEFF: Thank you, Virgil.
37 I'd appreciate it if you would get your historical
38 information to Pete so he can arrange to make copies
39 because that's information that we also need to know and
40 study.

41

42 Anybody else. Dan.

43

44 MR. O'HARA: Yes. Just to remind the
45 Staff and the State of Alaska, too, that 40 percent of
46 the lands in Bristol Bay are Federal and 40 percent are
47 State and 20 percent is private owned. So the Feds do
48 have a pretty big stake in the Bristol Bay interest.
49 Granted the in-season fishery is taken and handled by the
50 State of Alaska and then there's not much left for the

00226

1 Feds to do once they get up -- because whatever's going
2 to come through the in shore fisheries into the spawning
3 grounds is already taken care of.

4

5 But it's, nevertheless, they're very big
6 players in this matter.

7

8 And Togiak and Chignik are really Federal
9 lands as we well know.

10

11 Another thing is, is I question the Staff
12 report, but I guess we've done that before, haven't we?
13 You know, I think about here about a year and a half ago
14 when we got rainbow trout as a subsistence use and I will
15 give people credit for, I think your Staff was split, at
16 least that's an improvement, you know, that was a big
17 issue and we said it's not going to hurt to have rainbow
18 trout as subsistence use, it's way up in these waters
19 and, of course, it just created a big hassle and we got
20 it and it worked fine. So I don't think that as an
21 advisor to the Board, that, you know, I'm going to fall
22 on my sword for the Staff and their reports when we first
23 started this business your computers were empty, I'm not
24 so sure they're very full yet, but we may be working on
25 it.

26

27 The last thing is, is I guess the Board
28 is going to vote right now within the next hour or so on
29 this issue?

30

31 CHAIRMAN DEMIENTIEFF: (Shakes head
32 negatively)

33

34 MR. O'HARA: So you guys are going to
35 wait?

36

37 CHAIRMAN DEMIENTIEFF: (Nods
38 affirmatively)

39

40 MR. O'HARA: I'd like to look you guys in
41 the eye when you say yes or no. Hello? Pardon, I asked
42 a question?

43

44 CHAIRMAN DEMIENTIEFF: Done.

45

46 MR. O'HARA: Okay, I'm done.

47

48 (Laughter)

49

50 CHAIRMAN DEMIENTIEFF: I was just making

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1 sure you were done. Well, you could look us in the eye
2 right now.

3

4 (Laughter)

5

6 CHAIRMAN DEMIENTIEFF: But I know I
7 explained it yesterday, but maybe you didn't quite catch
8 it or stepped out of the room or something, but we are
9 going to complete our work in executive session, that's
10 the purpose of this discussion and the testimony
11 yesterday. And the reason that we do that is in
12 protection of the Secretary's discretion. This is
13 obviously not a decision point, we are here to make a
14 recommendation. And when there's issues that get
15 advanced to the Secretary's offices, we forward the
16 information to them for their own consideration. We do
17 not allow that information to go out and -- because it is
18 totally, you know, the Secretary's choice, so it is
19 beyond us.

20

21 And out of respect to the respective
22 Secretaries we simply do not allow that information to go
23 out. So that's exactly how the process has worked in the
24 past and will continue to work in the future, including
25 this one since it is entirely the Secretary's choice and
26 we don't want that information to go out.

27

28 Go ahead.

29

30 MR. O'HARA: Could I ask the Counselor a
31 question along that line then?

32

33 CHAIRMAN DEMIENTIEFF: Yes.

34

35 MR. O'HARA: You know, in executive
36 session as you usually dealt with when you're dealing
37 with personnel and maybe that has a great deal to do with
38 it, I think maybe a little more of an open forum would be
39 a little more satisfactory, what do you think there, Mr.
40 Goltz.

41

42 MR. GOLTZ: This is an open forum.

43

44 MR. O'HARA: Now it is.

45

46 MR. GOLTZ: Now. The document that's
47 forwarded to the Secretary will be obviously pre-
48 decisional. The decision will be issued by the Secretary
49 and by every indication it will be done before the season
50 starts. That's as much as I know right now.

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1 CHAIRMAN DEMIENTIEFF: Niles.

2

3 MR. CESAR: Well, I was just struck, you
4 know, by your comment that we're doing this out of
5 consideration for the Secretary's ability to make a
6 decision, but I think also we're making it out of
7 consideration of our jobs which would probably disappear
8 if we were giving the information out too early.

9

10 (Laughter)

11

12 MS. GOTTLIEB: Mr. Chair.

13

14 CHAIRMAN DEMIENTIEFF: Okay, in the
15 interest of job security we'll follow Niles' lead.

16

17 (Laughter)

18

19 CHAIRMAN DEMIENTIEFF: Judy, go ahead.

20

21 MS. GOTTLIEB: Thank you. A few more
22 questions, perhaps for the Department during the actual
23 fishing. I mean whatever the facts may really be, which
24 we may all in this room eventually get to agreement on
25 but probably not today, it would seem, at least
26 simplistically that there might be some things that could
27 be done that would then further the communication of
28 exactly what's happening as the fishing is about to start
29 or as it starts.

30

31 And two thoughts there. People have
32 mentioned a test fishery, so I'm wondering, whether there
33 is normally a test fishery and whether there will be one
34 this year and how that could be a benefit relating to the
35 ratio of sockeye to chums. And secondly, and then
36 dispersing that information, and Mary's mentioned those
37 teleconferences, which, from what I've heard are very
38 useful as tools for communication, but the second half of
39 the question would have to do with the chum pooling that
40 was also discussed. And it seems like, again, I'm not
41 exactly sure of the timing, but you're getting some
42 relatively real time information on the takes, and so
43 whether this information could be disseminated so that
44 AYK and Norton Sound people know how the chum take is
45 progressing or the chum catches are progressing or
46 whether there could be some self-monitoring if those
47 numbers appear to be too high.

48

49 So just some thoughts, perhaps on how
50 communication could be improved once the fishing starts

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1 so everybody's more aware of the actual situation.

2

3

Thank you.

4

5

CHAIRMAN DEMIENTIEFF: David.

6

7

MR. BEDFORD: I'm going to pass the
8 question on the test fishery off to Geron. But as far as
9 chum pooling, we're going to have about as instantaneous
10 information as you can get when the area manager gets the
11 calls from the tender operators at about 8:00 or 9:00 or
12 10:00 o'clock at night. That's about as good as it can
13 get.

14

Now, in terms of trying to disseminate
16 that, I mean first off that's privileged information. I
17 mean it's a proprietary, so we can't hand that out in any
18 kind of -- in any sort of real -- I mean we might be able
19 to aggregate something and pass it along. But
20 furthermore, that information is really -- it hasn't gone
21 through any kind of analysis yet so I'm not sure that
22 we've got something at that point that really is very
23 helpful.

24

25

I would think that we might have
26 something at the end of a fishing period. I'm not sure
27 in that area what kind of information goes out with the
28 next notice for the opening, but there's often, in some
29 areas of the state anyway, there's a description of what
30 the harvest levels were in the previous fishing period.
31 So if we have that kind of thing there's no reason why it
32 can't be passed along.

33

34

But anyway, I'll pass the test fishing
35 question on to Geron.

36

37

MR. BRUCE: Mr. Chairman. Just to add a
38 little bit to what David was saying about the catch
39 information. As soon as the Staff out there has what
40 they believe is a complete picture of the catches for a
41 period and they've gotten the fish ticket data, it's been
42 entered, the information is available as a summary
43 information, you know, what the catch was by gear type
44 for -- even down to the district level, Unimak,
45 Shumigans. And I believe we post that information on our
46 web site. So it won't be available -- you know, it might
47 be a week or, you know, some period of days after the
48 fishery closes before we have all the fish ticket data in
49 hand, have it tabulated and our confident that it's --
50 it's still preliminary, it's not final data, but it's

00230

1 complete enough that we would publish it.

2

3

4 As far as the test fishery, we aren't
5 planning on conducting any test fisheries this year. We
6 have conducted a test fishery in the past in Area M as
7 part of various management plans that existed there over
8 the years, but it is not part of the management plan that
9 this Board passed and I'm not really sure that it would
10 give us any information. The fishery will give us the
11 best information. And we will be, as David described
12 earlier, monitoring the fishery as we always do, plus
13 trying to do some extra things this year.

13

14 CHAIRMAN DEMIENTIEFF: Thank you.

15 Virgil.

16

17

18 MR. UMPENHOUR: Thank you, Mr. Chair. I
19 would like to ask Mr. Nelson, from the Department of Law
20 for the State a question about this chum pooling, if I
21 may?

21

22

23 CHAIRMAN DEMIENTIEFF: Go ahead.

23

24

25 MR. UMPENHOUR: Okay. Mr. Nelson, I know
26 exactly what has to be on a fish ticket, so my question
27 to you is this, I don't understand this chum pooling. I
28 know that the buyer has to list the number of fish for
29 each delivery, put it on the fish ticket, the number of
30 fish by species, the number of pounds and the price paid.
31 Is this chum pooling somehow going to generate all these
32 fish tickets the way that the regulation says they're
33 supposed to be and is this chum pooling even legal?

33

34

35 MR. NELSON: Mr. Chairman. Mr.
36 Umpenhour, I don't know a lot about the details of the
37 chum pooling situation, it's a voluntary thing. But I
38 don't see anything in the regulations or statutes on fish
39 tickets that would prevent the pooling program, as I
40 understand it to be, that fish tickets will still be
41 required to have the number of chums for each delivery
42 listed on that fish ticket.

42

43

44 My understanding is that the processors,
45 rather -- well, rather than paying individually out to
46 the fishermen whose fish tickets record that number of
47 chums will be looking at those fish tickets, keeping
48 track of the number of chums, pooling the payment for
49 those fish together and instead of dispersing it out as
50 they normally would to, you know, per fish ticket, as for
51 chums go they'll be waiting until the end of the year and

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1 then calculating by participation, you know, what each
2 fisherman obtains from that. And my understanding it's
3 an equal share for the day that they participate as
4 opposed to how many chums they get.

5
6 There's nothing that prevents, in the
7 fish ticket regulation or the fish ticket statute, that
8 prevents that kind of contractual agreement between the
9 processor and the fishermen, to my knowledge.

10
11 CHAIRMAN DEMIENTIEFF: Go head Virgil,
12 follow up.

13
14 MR. UMPENHOUR: Follow up. I know that
15 in the past I've been told, by Staff at Area M, Board of
16 Fisheries meeting, that they were lucky to get the fish
17 tickets at the end of the season. Is the Department
18 going to be hard nosed to and require them to follow the
19 regulation and have the fish tickets into the Department
20 with in seven days, like the regulation states?

21
22 MR. BRUCE: Mr. Chairman. Mr. Umpenhour,
23 we're going to contact the processors and get the fish
24 tickets. I don't know where you heard that allegation
25 that we were lucky to get the fish ticket at the end of
26 the season. Maybe some, you know, I'm not familiar with
27 that, we have generally quite good compliance from
28 processors in getting fish tickets to the Department.
29 I'm not aware of the problem that you reference and if it
30 has been a problem in the past, I don't think it's going
31 to be a problem this year.

32
33 MR. UMPENHOUR: Thank you, Mr. Chair.

34
35 CHAIRMAN DEMIENTIEFF: John.

36
37 MR. LITTLEFIELD: Thank you, Mr. Chair.
38 I think I'd like to conclude my comments here. I want to
39 bring us back to why we're here, we're here as a Federal
40 Board and we need to quit talking about chum pools and
41 all that other stuff, it has nothing to do with what
42 we're here for.

43
44 I think if you follow the mandate of
45 ANILCA which mandates in .802, Section 1 that we first
46 look after the conservation and the health of the
47 resource, that's the number 1 job. And then secondly in
48 802 (2), it requires us to ensure the subsistence
49 priority and the continuation of C&T uses.

50

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1 If you take those into effect, and again
2 I refer you to Page 4 in your report, then answer the
3 four question that we do as a Council before we make a
4 decision, those four questions are:

5
6 Is there a conservation concern with the
7 species that we're looking at, in other
8 words we're asked to look at the Yukon
9 River, Kvichak and others. Is there a
10 conservation concern, and I think you can
11 answer that whatever way you want. But I
12 think you have enough information to do
13 that.

14
15 Are the subsistence needs being met.
16 From what I've heard from the users the
17 answer is unequivocally obvious to me. I
18 mean, any way you can -- but you have
19 enough information before you to make
20 that decision.

21
22 Third, what types of data were presented,
23 and was it substantial evidence. Well,
24 we can first off eliminate the personal
25 conversation with the Director as
26 substantial evidence, you don't need -- I
27 mean let's just get rid of that. But
28 there are other things that are available
29 to you that can give you the information
30 that you need to say, are there fish
31 being intercepted in this area, are there
32 fish being caught in the river by
33 commercial fishermen that affected all
34 throughout the whole, from Eagle on down.
35 You have all of that that you can look
36 at.

37
38 What are the effects on other users.
39 Well, in the worst case, if you were to
40 take Area M, and say we don't buy that
41 and you should go back to what you were
42 doing last year, there would be no
43 effect, if you were to take effect now,
44 well, obviously it would take a potential
45 benefit that they have. But you have
46 that information that you can make that
47 decision right now.

48
49 If you look at the information on Page 4,
50 Section 10 (D)(417), and what the duties of the Board

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1 are, it's to evaluate whether hunting and fishing or
2 trapping activities which occur on land or waters in
3 Alaska, other than public lands interfere with
4 subsistence hunting, fishing or trapping on the public
5 lands to such an extent, as to result in the failure to
6 provide the subsistence priority. That's the question, I
7 think you have enough information to answer that, it has
8 nothing to do with what -- the other stuff that's going
9 on here right now, throwing chums over, it just has
10 nothing to with it.

11

12 And then further if you read on in that
13 section it says, after appropriate consultation with the
14 State of Alaska, the Regional Councils and other Federal
15 agencies you could make that recommendation to the
16 Secretary. I think you have all of that available to you
17 right now. It doesn't say that you have to -- the State
18 has to agree with you at all. It says, you're consulting
19 with them, you're letting them know what's going on in a
20 public forum. And I say you have enough information
21 before you now to make that decision, and I wish you good
22 luck.

23

24 CHAIRMAN DEMIENTIEFF: Thank you. Well,
25 not only that but we are getting a little redundant here,
26 and I don't know if we haven't beat this thing to death.

27

28 Della you have something.

29

30 MS. TRUMBLE: I'm hoping we are in the
31 direction of closing here. But I did have a little bit
32 of a heartburn, because I know Southeast tried to do this
33 extraterritorial jurisdiction a few years ago, but I
34 appreciate what you've said. I think in response to that
35 I really hope that whatever decision is made, that
36 everything is -- that all the factor are being
37 considered. The impacts of Area M, and what those
38 potential, that percentage and where the rest of that
39 problem is. It needs to be heavily weighed before that
40 decision is made, it needs to be considered.

41

42 Then the other part of it is. We're
43 willing to work, I mean everybody that testified has made
44 that statement. I know I'm willing to put more effort to
45 it if I need to if people are busy and I'm willing to
46 work with people if not me there will be somebody there.
47 And I really appreciate the time and the effort taken.

48

49 Thank you.

50

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1 CHAIRMAN DEMIENTIEFF: Anybody else have
2 anything new. If not then I think I'll reinforce what I
3 said earlier, about the possibility of getting together a
4 working group, you know, and again I encourage you to get
5 ahold of Tom if you want to be a part of that process.
6 He's busy this afternoon, but we are easily accessible if
7 anybody wants to be a part of that group, you know,
8 because we are going to look to pool money for studies
9 and do what we can, with the State.

10

11 I want to thank everybody for their
12 wonderful participation. In particular I want to
13 congratulate you as I have for tackling a thorny issue.
14 In doing it in a way that is civil, we agreed to
15 disagree, but we didn't get mean with each other any
16 where. I think that is so very, very important to
17 resolve issues, if you agree to disagree, fine, but if
18 you start attacking each other all we do is just make it
19 -- but I want to congratulate the Council Chairs, and all
20 the people that testified again the only hostile one was
21 Niles over here. We always pick on each other Niles and
22 I, wouldn't be a Board meeting if we didn't get a shot at
23 each other.

24

25 Go ahead retaliate.

26

27 MR. CESAR: No, not at all. I mean I
28 appreciate the opportunity to be here and, you know, when
29 the decision was made to cut the meeting earlier, I
30 thought we I don't think that's a good idea, so I passed
31 a note on and the meeting was extended, and I bailed out.
32 So, I did my share.

33

34 CHAIRMAN DEMIENTIEFF: Okay, anyway. But
35 it has been really good and we all know we still have a
36 lot of work to do. But we will do diligence and we will
37 -- not only this issue but every other one, that we
38 tackle. Particularly the thorny ones like this one, and
39 we found out years ago, in working on tough issues, that
40 by working together we have a better chance of resolving
41 these issues and by getting on one side or the other and
42 fighting out, and that's the way it's always worked for
43 us, on whatever issues.

44

45 I want to thank you all again for being
46 here, and all the wonderful participation.

47

48 We stand adjourned.

49

50 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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

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

THAT the foregoing pages numbered 147 through 234 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically by Nathan Hile on the 28th day of April 2004, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 2nd day of May 2004.

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