

1 FEDERAL SUBSISTENCE MANAGEMENT PROGRAM
2 FEDERAL SUBSISTENCE BOARD
3 WORK SESSION MEETING
4

5 VOLUME I
6

7 OFFICE OF SUBSISTENCE MANAGEMENT BOARD ROOM
8 1011 East Tudor Road, Room 231
9 Anchorage, Alaska
10

11 July 16, 2009
12 8:30 o'clock a.m.
13

14 MEMBERS PRESENT:
15

16 Mike Fleagle, Chair
17 Gary Edwards, U.S. Fish and Wildlife Service
18 George Oviatt, Bureau of Land Management
19 Sue Masica, National Park Service
20 Wini Kessler, U.S. Forest Service
21 Kristin K'eit, Bureau of Indian Affairs
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26 David Bedford, State of Alaska Representative
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28 Keith Goltz, Solicitor's Office
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P R O C E E D I N G S

(Anchorage, Alaska - 7/16/2009)

(On record)

CHAIRMAN FLEAGLE: Good morning. We're live. Welcome to the Federal Subsistence Board work session on July 16. Maybe we should go around the room and do some introductions. I see some people in the audience I don't recognize. Start with the Board.

Mike Fleagle, Chairman.

MR. PROBASCO: Pete Probasco, assistant regional director for the Office of Subsistence Management.

DR. WHEELER: I'm Polly Wheeler with the Office of Subsistence Management.

MR. GOLTZ: Keith Goltz, Solicitor's Office.

MR. BERG: Jerry Berg, staff member for Fish and Wildlife Service.

MR. EDWARDS: Gary Edwards, Fish and Wildlife Service.

MS. K'EIT: Kristin K'eit, Bureau of Indian Affairs.

DR. CHEN: Good morning. I'm Glenn Chen with Bureau of Indian Affairs.

MR. BEDFORD: David Bedford, deputy commissioner, Alaska Department of Fish and Game.

MR. OVIATT: George Oviatt, Bureau of Land Management.

MS. SWANTON: Nancy Swanton, Interagency Staff Committee, National Park Service.

MS. MASICA: Sue Masica, National Park Service.

DR. KESSLER: Wini Kessler representing Board member Denny Bschor.

1 MR. JACK: Carl Jack, OSM.
2
3 CHAIRMAN FLEAGLE: Can we just go
4 around the perimeter.
5
6 MR. GOLDBERG: Gary Goldberg with OSM.
7
8 MS. SYKES: Carrie Sykes with Tlingit-
9 Haida Central Council.
10
11 MR. LARSON: Robert Larson with the
12 Forest Service.
13
14 MS. WILKINSON: Ann Wilkinson, OSM.
15
16 MR. KRON: Tom Kron, OSM.
17
18 MR. PAPPAS: George Pappas, Department
19 of Fish and Game, Subsistence Liaison Team.
20
21 MS. WILLIAMS: Christy Williams, legal
22 intern to Senator Begich's office.
23
24 MS. ZELCREST: Tiffany Zelcrest, aide
25 for Senator Begich.
26
27 MR. RABINOWITCH: Sandy Rabinowitch,
28 staff for Park Service.
29
30 MS. COOPER: Deb Cooper, assistant
31 regional director for resources, Park Service.
32
33 MR. MILLS: Dave Mills, National Park
34 Service.
35
36 MR. SHARP: Dan Sharp, staff committee
37 for BLM.
38
39 MR. CASIPIT: Cal Casipit, staff
40 committee member, Forest Service.
41
42 MR. EASTLAND: Warren Eastland, ISE
43 member, BIA.
44
45 CHAIRMAN FLEAGLE: All right. Great,
46 everyone. I did have a request -- looking at the
47 agenda, I did have a request from one of the members of
48 the audience for a brief opportunity to address the
49 Board on subsistence activities in southeast Alaska.
50 That's Carrie Sykes. We decided that we can fit that

1 in under other business. She wants to just present to
2 the Board for about five minutes. Is there anybody
3 else that would like to have that opportunity?

4

5 (No comments)

6

7 CHAIRMAN FLEAGLE: All right. Other
8 review of the agenda. Pete.

9

10 MR. PROBASCO: Thank you, Mr. Chair.
11 The one item based on recommendations from the
12 Solicitor's Office is to move our review of the annual
13 report replies to the Regional Advisory Councils.
14 Because they are in draft stage, we need to move them
15 into the executive session, so those will not be
16 addressed during the open workshop.

17

18 CHAIRMAN FLEAGLE: So item number 4 is
19 deleted from this agenda.

20

21 MR. PROBASCO: Correct.

22

23 CHAIRMAN FLEAGLE: All right. So
24 ordered. Others.

25

26 MR. PROBASCO: Just info exchange or
27 just agenda?

28

29 CHAIRMAN FLEAGLE: Agenda.

30

31 MR. PROBASCO: Okay. That's it.

32

33 CHAIRMAN FLEAGLE: Note the change to
34 the agenda and then we'll go ahead and move on. The
35 next item on the agenda is information exchange. Pete.

36

37 MR. PROBASCO: I'll go first and this
38 is just an FYI. As everyone is aware, the North
39 Pacific Fisheries Management Council has been dealing
40 with some very important issues that affect a lot of
41 our subsistence communities particularly in western
42 Alaska. They have recently formed a rural community
43 outreach committee consisting of members throughout
44 Alaska and I was asked to serve on that committee,
45 which will first meet in August.

46

47 The purpose of the committee is to
48 advise the Council and provide opportunities for better
49 understanding the participation from Alaska Native and
50 rural communities, to provide feedback on community

1 impact sections of specific analysis and/or proposals,
2 and to provide recommendations regarding which proposed
3 Council actions need a specific outreach plan and
4 prioritize multiple actions when necessary.

5
6 I thought that was a good plan by the
7 Council to try to better reach out to our rural
8 communities. Everybody is aware that they sent -- on
9 four of our Councils they sent representatives to deal
10 with the pollock issue last fall and I think as a
11 result of that that's where this committee came from.

12
13 CHAIRMAN FLEAGLE: Thank you, Pete.
14 Other items, information exchange.

15
16 (No comments)

17
18 CHAIRMAN FLEAGLE: Moving on. We're
19 going to move right into the RFRs. Pete, do you want
20 to lead off on that, please.

21
22 MR. PROBASCO: Thank you, Mr. Chair.
23 Actually I'm going to pass the baton to Polly. She's
24 take us through these five RFRs. Go ahead.

25
26 DR. WHEELER: Thank you. Good morning,
27 everybody. You remember from the May 15th meeting,
28 which seems like an eternity ago, but at that meeting
29 we did hand out the full analyses of each of the five
30 RFRs. These RFRs were submitted in response to Board
31 action in December of 2007, so you have to reel back a
32 little bit to remember where we were and what was going
33 on.

34
35 In your Board packets there's a very
36 brief summary of each of the five RFRs and I'm going to
37 speak to the claims contained within each of the five
38 RFRs. We'll just go through one by one. I'll read my
39 summary and the Board can take action.

40
41 Just as a reminder, this is a request
42 for reconsideration, the threshold step. There's three
43 criteria for reviewing the claims. The first criteria
44 is new information is provided that was not previously
45 considered by the Board. The second criteria would be
46 the existing information used by the Board is
47 incorrect. The third would be the Board's
48 interpretation of information, applicable law or
49 regulation is in error or contrary to existing law.

50

1 Any claims accepted by the Board at
2 this step are advanced for further analysis. Council
3 recommendations are sought and the Board addresses the
4 claims in a public meeting. Any claims rejected by the
5 Board at this step are considered concluded and a
6 letter to the requester is prepared for the Chair's
7 signature, ending the administrative process.

8
9 The numbering system for claims
10 consists of the criteria category one, two or three, as
11 I just read through. There's a decimal point separator
12 and then the sequence number for claims in that
13 category.

14
15 So the first fisheries request for
16 reconsideration is FRFR 08-01. It was submitted by the
17 State of Alaska. The issue in sum is that in December
18 of 2007 the Board rejected Proposal 08-04, which
19 requested that a fisheries no Federal subsistence
20 priority determination be made for the Juneau road
21 system. The Southeast Alaska Subsistence Regional
22 Advisory Council had recommended rejection of this
23 proposal.

24
25 There were six claims included in the
26 request for reconsideration. Claim 3.1 is that the
27 Board acted contrary to the ANILCA Section .802 mandate
28 for subsistence, quote, to be consistent with sound
29 management principals and the conservation of healthy
30 populations of fish and wildlife, close quote, by
31 continuing to cause significant conservation of all
32 stocks of fish in waters connected to the Juneau road
33 system.

34
35 Claim 3.2. The Board is unnecessarily
36 jeopardizing the availability of stocks of fish for
37 non-subsistence uses in waters connected to the Juneau
38 road system. This is in violation of Section .815 of
39 ANILCA.

40
41 Claim 3.3. The Board acted arbitrarily
42 and capriciously when it based its rejection of
43 Proposal 08-04 solely on the unsubstantiated erroneous
44 conclusion that such action would be unnecessarily
45 restrictive for subsistence users.

46
47 Claim 3.4 is that in rejecting Proposal
48 08-04, the Board ignored its own regulations which
49 require a community or area to, quote, generally
50 exhibit, close quote, eight factors with regard to,

1 quote, specific fish stocks, close quote.

2

3 Claim 3.5 is that in rejecting Proposal
4 08-04, the Board ignored its own regulations and
5 established precedent without any supporting evidence
6 by retaining an unsupported region wide customary and
7 traditional use determination despite a record
8 demonstrating that the Board has adopted numerous
9 location specific customary and traditional use
10 determinations consistent with its regulatory
11 requirements for other fish stocks and wildlife
12 populations throughout Alaska and has even maintained
13 location specific customary and traditional use
14 determinations for fish stocks in other portions of
15 southeast Alaska.

16

17 The final claim included in this
18 request for reconsideration is that the Juneau land
19 status map presented to the Board shows most waters
20 connected to the Juneau road system were specifically
21 excluded from the Tongass National Forest before
22 Statehood and thereby are effectively outside the
23 boundary of the forest.

24

25 Based on the threshold analysis
26 conducted by the Office of Subsistence Management
27 staff, there does not appear to be merit to any of
28 these claims and the recommendation of the Interagency
29 Staff Committee was to oppose the request for
30 reconsideration.

31

32 Mr. Chair, that's all I have for RFR
33 08.

34

35 CHAIRMAN FLEAGLE: Thank you, Polly.
36 Appreciate that summary. Deputy Commissioner, you have
37 indicated you want to speak to one of these proposals.
38 Will you chime in or let me know which one you want to
39 speak to, please.

40

41 MR. BEDFORD: Mr. Chairman. If I could
42 speak to FRFR 08-02, please.

43

44 CHAIRMAN FLEAGLE: Okay. We'll hold
45 off comments then from the State. Going back to FRFR
46 08-01. Discussion, Board members, questions. Pete, go
47 ahead.

48

49 MR. PROBASCO: I was just consulting.
50 Mr. Chair, I was just trying to clarify with Keith and

1 Polly if we should take each claim and address them
2 separately. We do not need to do that. We can do them
3 in the aggregate. Thank you, Mr. Chair.

4
5 CHAIRMAN FLEAGLE: Thank you. First,
6 any questions, Board members, for the presentation.

7
8 (No comments)

9
10 CHAIRMAN FLEAGLE: Hearing none. I'm
11 open for discussion on the presentation. Let's stand
12 down for a couple minutes. I want to have a discussion
13 with Keith off the record. Thanks.

14
15 (Off record)

16
17 (On record)

18
19 CHAIRMAN FLEAGLE: I know it hasn't
20 been five minutes, but we got this resolved. What I
21 wanted to do is confer with Keith about what we wanted
22 to have on the record as far as the vote for this
23 action goes and I think that it behooves us to at least
24 have a discussion. We all know that this information
25 was distributed to the Board and we've all reviewed it
26 sometime between May and now, but I think it would be
27 appropriate to at least address the concerns in some
28 discussion before we put it to a vote. I just don't
29 want to have the presentation given and then a vote
30 without some kind of supporting statements behind it.

31
32 Polly, would you like to speak further
33 to that, please.

34
35 DR. WHEELER: I just needed to make
36 clear or wanted to make clear that, again, the full
37 analyses for each of the five RFRs were provided to
38 everybody at the May 15 meeting, so there's been two
39 months to go through. The reason why we did that is
40 because the analyses are fairly lengthy, fairly
41 complex. This first one that we're talking about has
42 the most claims of all of them, I believe, but there's
43 a thorough analysis of each of the six claims in the
44 OSM Staff analysis. So just to make clear that the
45 reason we provided it in May was to give everybody
46 ample opportunity and time to go through it and digest
47 this complex lengthy analyses.

48
49 CHAIRMAN FLEAGLE: Thank you, Polly.
50 With that, is there anybody that would like to speak to

1 the validity or the merits of the claims. Wini.

2

3 DR. KESSLER: Having gone through that
4 information, I find that this does not meet the
5 threshold with respect to the three factors. There's
6 not new information that wasn't previously considered
7 by the Board, there's not existing information that's
8 incorrect and that the Board did not err in its
9 interpretation of the information. In my viewpoint,
10 this does not meet the threshold for reconsideration.

11

12 CHAIRMAN FLEAGLE: Other discussion.

13

14 (No comments)

15

16 CHAIRMAN FLEAGLE: Are we ready for a
17 motion one way or the other. Wini.

18

19 DR. KESSLER: I'm ready. I move to
20 accept Committee's recommendation to reject the request
21 for reconsideration.

22

23 MS. MASICA: Second.

24

25 CHAIRMAN FLEAGLE: Ready for the
26 question. Pete.

27

28 MR. PROBASCO: Thank you, Mr. Chair.
29 Final action on FRFR 08-01 to accept the Staff
30 Committee's recommendation to reject. Dr. Kessler.

31

32 DR. KESSLER: Aye.

33

34 MR. PROBASCO: Ms. Masica.

35

36 MS. MASICA: Aye.

37

38 MR. PROBASCO: Mr. Oviatt.

39

40 MR. OVIATT: Aye.

41

42 MR. PROBASCO: Ms. K'eit.

43

44 MS. K'EIT: Aye.

45

46 MR. PROBASCO: Mr. Edwards.

47

48 MR. EDWARDS: Aye.

49

50 MR. PROBASCO: Mr. Fleagle.

1 CHAIRMAN FLEAGLE: Aye.

2

3 MR. PROBASCO: Mr. Chair. Motion
4 carries.

5

6 CHAIRMAN FLEAGLE: Thank you, Pete.
7 That moves us on to RFR 08-02. Polly.

8

9 DR. WHEELER: Thank you, Mr. Chair.
10 Fisheries request for reconsideration 08-02 was also
11 submitted by the State of Alaska. The issue for this
12 request for reconsideration is as follows: The Board
13 rejected again in its December of 2007 meeting Proposal
14 08-07, which requested that the Federal steelhead
15 subsistence fishery on the ABC islands, otherwise known
16 as Admiralty, Baranof and Chichagof, be closed. The
17 Southeast Alaska Subsistence Regional Advisory Council
18 had recommended rejection of this proposal.

19

20 There were three claims included in the
21 request for reconsideration. Claim 1.1 is as follows.
22 Presented as new information was that ADF&G has
23 submitted a proposal to the Alaska Board of Fisheries
24 that would result in non-retention of steelhead in the
25 State's sport fishery in all but 16 streams in
26 southeast Alaska.

27

28 Claim 3.1 was that the decision to
29 reject Proposal 08-07 was inconsistent with ANILCA's
30 requirements that subsistence fishing be consistent
31 with sound management principals in the conservation of
32 healthy populations of fish and wildlife.

33

34 Claim 3.2 was that reconsideration is
35 required because the decision to reject 08-07 will
36 cause unnecessary restrictions on other uses. The
37 Office of Subsistence Management threshold analysis
38 found that there does not appear to be any merit to
39 these claims and that recommendation of the Interagency
40 Staff Committee was to oppose the request for
41 reconsideration. Mr. Chair.

42

43 CHAIRMAN FLEAGLE: Thank you, Polly.
44 Before I go to the Board, I'm going to offer the State
45 Deputy Commissioner an opportunity to have a couple
46 comments here. David.

47

48 MR. BEDFORD: Thank you, Mr. Chairman.
49 Thank you for the opportunity to speak to this issue.
50 Since 2000 the Federal Board had incrementally

1 liberalized the southeast steelhead regulations. For
2 example, reducing size limits that protects spawners,
3 allowing the use of bait and increasing bag limits. As
4 required by regulations, the State has provided
5 evidence referenced in this RFR that such
6 liberalization is inconsistent with recognized
7 principals of fishery management and may jeopardize the
8 sustainability of steelhead stocks.

9
10 Before the Board takes an official
11 vote, I would ask that you consider two process-related
12 issues and then some new information that has become
13 available after we filed this RFR. First to the
14 process questions.

15
16 In December 2007 the Federal Board
17 rejected FP08-07 despite the increasing conservation
18 concerns. The final regulations were published in
19 March 2008. The State filed this RFR in May 2008.
20 Today is July 2009, 14 months and two steelhead fishing
21 seasons later. Regardless of whether there's agreement
22 on the existence of a valid conservation issue, we urge
23 the Federal Board to adopt a process that provides a
24 more timely response to an RFR that involves a
25 conservation issue raised by the State.

26
27 Secondly, during this year-long delay
28 in acting on the RFR another fisheries proposal cycle
29 of the Federal Board has passed and both the Federal
30 Board and the State Board have evaluated additional
31 substantive evidence on the southeast steelhead
32 conservation issues. The Federal Board in December
33 2007 and thus was not referenced in our RFR.

34
35 We recommend that you request that the
36 State and the Federal Staff analyze the additional
37 substantive information brought before both the Federal
38 and State Boards. The State Board of Fisheries adopted
39 new restrictions in February 2009 to protect steelhead,
40 which underlines the significance of this new
41 information. We request that you either accept our RFR
42 because there's new information or postpone taking
43 action until you've had an opportunity to delve further
44 into the new evidence.

45
46 Additional information that's become
47 available. At the December 2007 Federal Subsistence
48 Board meeting, the Department provided information on
49 the results of a subsistence study of the harvest of
50 steelhead on Prince of Wales Island. That study

1 clearly demonstrated that residents are not reporting
2 harvests on Federal permits. Despite apparent limited
3 compliance with the Federal permit requirements,
4 Federal Staff have continued to argue that the permit
5 system shows low participation and that the permit
6 reporting would detect any problems of overfishing on
7 small stocks. These two sources of data are in direct
8 conflict.

9
10 The Office of Subsistence Management
11 initiated a study over a year ago to conduct a Federal
12 household survey of Prince of Wales Island. The Board
13 and the State should be provided the results, which
14 will give us an opportunity to test the assertions on
15 both sides of the question.

16
17 As a preventative measure, the Board
18 should request that the Federal southeast staff provide
19 a breakdown on a weekly basis. Information acquired
20 from each permit holder so that we can test again how
21 effectively Federal procedures will detect harvest of
22 small susceptible stocks in advance of any damage being
23 done.

24
25 I would note on that point though that
26 the Federal administrator in Sitka does a very good job
27 of collecting information on the road system. We
28 suggest that the Board request information from State
29 and Federal law enforcement for the past two years to
30 see whether there is data that confirms the study
31 results that residents are not acquiring the Federal
32 permits or not reporting accurately.

33
34 Again, a non-user report is a source of
35 data that would allow testing of the efficacy of the
36 permit system. Rarely do Federal Staff analyses
37 acknowledge the significant discrepancy the State
38 subsistence household survey revealed between the
39 results and the permits reports. We would think that
40 this information would be important in reviewing the
41 management system for its precautionary features and
42 its ability to deal with uncertainty.

43
44 State management of steelhead stated
45 that the opportunity for harvest under the
46 incrementally liberalized Federal regulations cannot
47 sustain the stocks without intensive stock assessment
48 and monitoring, programs which are not at this point in
49 place.

50

1 In 1994, the Department and Board of
2 Fisheries initiated major changes in State fishery
3 regulations in order to restore steelhead throughout
4 southeast Alaska to sustainable levels. Since 1994
5 those regulations have been further refined to reduce
6 interception by commercial fisheries and to reduce
7 harvest by personal use, recreational and subsistence
8 users in order to protect the mature spawning stock.
9 Size restrictions and methods and means restrictions
10 have been implemented as well. Those steps have proved
11 successful so that recreational, subsistence, personal
12 use and commercial fisheries continue under the State's
13 management regime.

14
15 At the December 2007 Federal
16 Subsistence Board meeting, the Department cautioned the
17 Board that rejection of FP08-07 would perpetuate an
18 increasing conservation concern for small steelhead
19 stocks that are vulnerable to overharvest under Federal
20 regulations and would likely result in additional
21 restrictions that could be avoided. At the December
22 2007 meeting, the Federal Subsistence Board rejected
23 the proposal.

24
25 To improve Federal Agency understanding
26 of our successful management of steelhead, the
27 Department stepped up its efforts to coordinate with
28 Federal Staff to explain the many steps taken over the
29 past 15 years. We also put more effort into working
30 with the Southeast Regional Advisory Committee to
31 explain the Department steelhead management program,
32 all of which reflect an ongoing commitment by the
33 Department to assuring the Federal subsistence
34 opportunity continue. However, we do need cooperation
35 from the Federal level as well.

36
37 Significant effort by State Staff in
38 2008 resulted in an evaluation of known waterways to
39 document sustainable and vulnerable stocks that were
40 addressed in a new proposal that we put forward.
41 Despite all these efforts, the Federal Board
42 substituted its judgment about steelhead management and
43 rejected both our 2008 proposal and any of the other
44 alternatives that were put forward.

45
46 As a consequence of the Federal
47 Subsistence Board rejection, the Board of Fisheries
48 adopted additional restrictions on non-subsistence uses
49 in February 2009. The Department did not file a
50 request for reconsideration on the January 2009 Federal

1 Subsistence Board rejection of the State proposal
2 because the Board agreed to form a technical fisheries
3 working group to review steelhead data and make
4 recommendations to the Regional Advisory Council and
5 the Federal Subsistence Board and the State Board of
6 Fisheries.

7
8 In July 2009, after the deadline for
9 the State to file an RFR, the Federal Subsistence Board
10 withdrew the offer to assign a technical fisheries
11 staff to review the conservation issues. The threshold
12 analysis before the Federal Board on this RFR is based
13 on Federal Staff analysis of information provided
14 before the new information that I've referenced was
15 provided at the January 2009 Federal Board meeting and
16 the February 2009 Alaska Board of Fisheries meeting.

17
18 In conclusion, additional information
19 on steelhead stocks and management concerns has become
20 available since we filed this request for
21 reconsideration in May 2008, including information that
22 resulted in action by the Board of Fisheries to address
23 the conservation concerns.

24
25 We urge you to either accept the
26 request for reconsideration or postpone a vote until
27 there's been an opportunity to review what really is a
28 substantially different informational landscape. Thank
29 you.

30
31 CHAIRMAN FLEAGLE: Thank you, Deputy
32 Commissioner. Questions, Board members. Wini.

33
34 DR. KESSLER: Just some clarification.
35 The Board of Fish proposal that Dr. Wheeler referenced,
36 that was withdrawn or didn't pass, correct?

37
38 MR. BEDFORD: There were a number of
39 steelhead proposals. The Department had one steelhead
40 proposal that we were going to put forward but that we
41 withdrew, looking forward to having a more intensive
42 and collaborative dialogue on the technical merits of
43 various management strategies to deal with steelhead.
44 So we withdrew that from the Board of Fish
45 consideration.

46
47 The Board of Fish, nonetheless, acted
48 on two other proposals that constrained fishing
49 opportunities for non-subsistence, non-Federally
50 qualified subsistence users, one of those being to

1 eliminate harvest on the Juneau road system and the
2 other to require catch and release only on, I believe,
3 31 different systems throughout southeast Alaska,
4 particularly those that have fall run stocks.

5

6 CHAIRMAN FLEAGLE: Gary.

7

8 MR. EDWARDS: Can you elaborate, at
9 least I think I heard you say that there's a difference
10 between what's being reported in the household surveys
11 and based upon the number of permits issued and what's
12 being reported on the permits, can you elaborate a
13 little more on that.

14

15 MR. BEDFORD: I can't provide you with
16 the specific numbers, but the household surveys that we
17 do, of course, go out to individuals and families and
18 ask them how much steelhead have you consumed, and what
19 we find is that there's fairly substantial use of
20 steelhead, yet what we find with the permit reporting
21 system is that we have very, very small numbers of
22 steelhead that are effectively reported on permits.

23

24 MR. EDWARDS: I guess can somebody in
25 OSM then address that if that was looked at, that
26 difference between those two. Do we have concerns
27 about the differences?

28

29 MR. PROBASCO: Mr. Chair. I think
30 that's an appropriate question to Cal.

31

32 CHAIRMAN FLEAGLE: Cal.

33

34 MR. CASIPIT: Thank you, Mr. Chair.
35 Mr. Edwards. From what I remember of those household
36 surveys, those interviews were done in the mid '80s. I
37 think one was in the early '90s. They were different
38 communities on Prince of Wales Island. What we did is
39 we took those data tables and we subtracted out
40 steelhead retained from commercial catches and we only
41 looked at steelhead taken by rod and reel and other
42 non-commercial means and that totaled up to around 600
43 fish for Prince of Wales Island. At the time, that was
44 the only thing we were looking at and those household
45 surveys were only for Prince of Wales Island.

46

47 I think the thought back then was that
48 these household surveys are indicating 600 steelhead
49 being taken by non-commercial means or rod and reel
50 basically for a long time and at that time I think the

1 Board figured that 600 fish has to be sustainable
2 because people have been taking this level of fish for
3 years and years and they're still there. I think that
4 was one of the reasons.

5
6 I want to go back to these household
7 surveys and the Mike Turk report that was referenced
8 earlier by Deputy Commissioner Bedford. That
9 particular study really didn't look at the difference
10 between household surveys and permit returns. That was
11 not the focus of the research that was documented in
12 that report. The focus of that research was how people
13 take steelhead on Prince of Wales Island for
14 subsistence uses.

15
16 There was some respondents in that
17 research that talked about these permits and how some
18 people didn't like having to get these permits. If I
19 recall, most of those comments that were like that came
20 from one community on Prince of Wales Island.

21
22 First of all, the study does not look
23 at the issue of household surveys versus permit
24 returns. Any information that comes out of that along
25 those lines were just responses to an interview
26 question that was presented by the researchers. It
27 wasn't a systematic questioning of every user do you
28 get a permit or what have you.

29
30 Now the issue of household surveys
31 versus permit returns, yes, that is currently being
32 researched by the Organized Village of Kasaan and
33 Hydaburg Cooperative Association. This is the final
34 year of the work and they have some time to prepare the
35 final report. That would be available to us and at
36 some point in the future we can work with that. I
37 guess that's all I have.

38
39 MR. EDWARDS: So there's no current
40 household surveys being done? That's what I'm trying
41 to understand, the relationship between the two.

42
43 MR. CASIPIT: No, the last household
44 surveys that were done in southeast Alaska were
45 commissioned by the Forest Service in support of the
46 Tongass Land Management Plan and that's the truck
47 studies and most of that work was done in the late
48 '80s, early '90s. There's nothing contemporary.

49
50 MR. EDWARDS: As I was going through

1 the analysis, we brought up the issue of illegal
2 harvest and we make a statement that illegal harvest
3 likely occurs, but it's not appropriate to assign these
4 fish to any fishery, whether sport or subsistence,
5 since fish were taken outside the regulation of either
6 fishery. I guess I'm not sure whether we can totally
7 ignore the illegal harvest. Certainly in an incidence
8 with Stellar's Eiders up on the North Slope it's
9 illegal to take them, but we're very concerned with the
10 fact they've been taken.

11
12 So I think from a conservation
13 standpoint there's a lot of illegal harvest going on,
14 whether it's within the sport, commercial or
15 subsistence fishery. I don't see how we can ignore
16 that from a conservation standpoint. I don't know
17 whether that's a significant number, if we think it's a
18 significant number, but I don't think you can just say,
19 well, the regulation says it's illegal, so we can
20 basically ignore the illegal harvest from a
21 conservation standpoint, but that's high under any of
22 those. It seems to me is a conservation issue.

23
24 DR. KESSLER: We do have information
25 about how many fish we think are being taken and we
26 don't have evidence to my knowledge that there's
27 illegal -- a significant or a conservation concern that
28 might possibly revolve around illegal take, but I'll
29 let Cal comment on that. Why don't you talk about what
30 we know about, the levels of take that are occurring
31 there.

32
33 MR. CASIPIT: Mr. Chair, with your
34 permission. Thank you. Dr. Kessler. Let me put it
35 this way. Our law enforcement officers spend about
36 7,500 hours patrolling on Prince of Wales Island and
37 southeast Alaska during the steelhead seasons. Up
38 until now they haven't been very successful in finding
39 very many subsistence users. Mostly sport users
40 they're running into.

41
42 There was an incidence of illegal
43 harvest on one stream on Prince of Wales Island in
44 2005. We immediately closed that stream to harvest.
45 As soon as we found the heads, the local manager closed
46 the system and I think the State followed suit soon
47 after.

48
49 If we find illegal activities, we try
50 to react to them and do what's right. Quite frankly,

1 our law enforcement officers spend 7,500 hours out on
2 the ground during these seasons and they're not finding
3 subsistence users. They're finding sport users.

4

5 MS. K'EIT: Mr. Chair.

6

7 CHAIRMAN FLEAGLE: Kristin.

8

9 MS. K'EIT: Cal, of the legal
10 subsistence harvest, do we have any estimates of what
11 we're getting per year?

12

13 MR. CASIPIT: Ms. K'eit. Yes, we take
14 total southeast Alaska about no more than 50 steelhead
15 a year under the Federal subsistence permitting system
16 and we get the reports back. For comparison purposes,
17 excluding Yakutat, the southeast Alaska sport catch for
18 steelhead in southeast Alaska has averaged 139 fish per
19 year since 2006. That doesn't include catch and
20 release mortality of a catch of somewhere I think
21 around 3,000 in southeast Alaska and you have to apply
22 catch and release mortality figure and there's some
23 debate about that, two or three percent, something like
24 that.

25

26 Also there's this out there that I have
27 to say has really bugged the Southeast Regional
28 Advisory Council as the level of unreported,
29 undocumented commercial catch in the commercial
30 fisheries. This is something that has really bugged
31 the Councils since the beginning and some of the Board
32 members too.

33

34 CHAIRMAN FLEAGLE: Cal, in your
35 comments you refer to the law enforcement activity on
36 Prince of Wales and you refer to the harvest report
37 surveys being done on Prince of Wales. How do you tie
38 that into the ABC islands? Is it comparative or what's
39 the correlation?

40

41 MR. CASIPIT: I think the analysis
42 talks about the reported harvest from the ABC islands,
43 but it's no more than a few dozen for ABC on an annual
44 basis. I would guess probably less than 10, but it's
45 in the analysis.

46

47 MR. BERG: Thirty-six.

48

49 MR. CASIPIT: Thirty-six over the
50 past.....

1 MR. BERG: That's what it says.
2
3 CHAIRMAN FLEAGLE: I understand. I was
4 just wondering about the 7,500 hours of law enforcement
5 on Prince of Wales applied to the discussion on ABC
6 fisheries.
7
8 MR. CASIPIT: That's 7,500 hours in all
9 of southeast. Admittedly most of it occurs on Prince
10 of Wales because that's where the issues are.
11
12 CHAIRMAN FLEAGLE: Other discussion.
13 Keith.
14
15 MR. GOLTZ: David, I couldn't hear the
16 first part of your presentation because of the fan.
17 Can you just give me bullets on what the new
18 information is that you were talking about?
19
20 MR. BEDFORD: There's the region-wide
21 assessment.....
22
23 CHAIRMAN FLEAGLE: You need to turn
24 your microphone on.
25
26 MR. BEDFORD: I'm sorry. Keith, can
27 you hear me better now?
28
29 (Laughter)
30
31 MR. BEDFORD: There was a region-wide
32 assessment that the Department Staff conducted on a
33 watershed by watershed basis to look at what kind of
34 information we have and try to categorize stocks by
35 those which we are confident have harvestable
36 surpluses. Those which we are not very satisfied with
37 the levels of information we have those where we think
38 there's some potential conservation issue. Then there
39 are the questions about how effectively we're
40 accounting for the harvest with the Federal permits and
41 the kinds of information that is available, but I went
42 through that at the tail end of what I was discussing,
43 which I'm assuming the fan was not interfering with
44 that.
45
46 MR. GOLTZ: Thank you.
47
48 CHAIRMAN FLEAGLE: Further discussion
49 or questions. Pete, go ahead.
50

1 MR. PROBASCO: Deputy Commissioner
2 Bedford, since I was involved in assisting in drafting
3 the workgroup charge for the steelhead workgroup and
4 the State was an integral part in assisting in drafting
5 that, your statement towards the end of your
6 presentation left me in question on where we stand with
7 that. I'm sort of curious. Mr. Chair.

8
9 MR. BEDFORD: By your leave, Mr.
10 Chairman. At this point we're still reviewing the
11 secondary document that came through. It is a dramatic
12 departure from the initial draft and we'll be providing
13 comments on that presently.

14
15 CHAIRMAN FLEAGLE: All right. Just for
16 clarification of the record then, the Federal
17 Subsistence Board did not withdraw its offer to
18 participate in this process. We just got involved with
19 it on a higher level and amended it. So the offer is
20 out there, although, as Deputy Commissioner Bedford
21 states, it has changed significantly, but it is still
22 out there.

23
24 Other questions or discussion. Gary.

25
26 MR. EDWARDS: This seems like one issue
27 that just won't go away. I'm not sure for how many
28 years we have addressed this. I think I've said this
29 before. I think the reality is some of these streams
30 probably ought to be closed to all uses from a
31 conservation standpoint, but it doesn't seem one the
32 State is certainly willing to bite the bullet because
33 we still have catch and release, which certainly has
34 some level of mortality with it and I think as is
35 pointed out in the analysis I don't think we're in any
36 position to restrict subsistence harvest while we have
37 other uses taking place.

38
39 I know I've said it numerous times and
40 Cal just repeated it, until the State is willing to do
41 a better job on managing that commercial harvest at
42 least from the standpoint of at least reporting so we
43 know what level is being taken there. I think the
44 Forest Service has done an excellent job of trying to
45 monitor this and taking actions when necessary. I just
46 think hopefully this group, if we can ever get it
47 started, might be able to bring it up, but it just
48 keeps coming back and coming back and we seem to have
49 the same arguments with the same analysis over it. So
50 I'm certainly going to not support this thing for

1 reconsideration.

2

3 CHAIRMAN FLEAGLE: I appreciate those
4 statements. I want to remind the Board too that we are
5 dealing with just the merits of the request for
6 reconsideration and not the details of the fishery
7 itself or the biology or the harvest. I understand that
8 it was important to have the discussion in light of new
9 information, but I want to get back to focusing on the
10 merits of the request and whether we feel it meets the
11 criteria. Carl.

12

13 MR. JACK: This RFR raised the question
14 of whether we were going down the path of prioritizing
15 subsistence over the uses and whether that would be
16 consistent with Title VIII of ANILCA. Question to the
17 solicitor.

18

19 CHAIRMAN FLEAGLE: Keith.

20

21 MR. GOLTZ: You mean prioritizing other
22 uses over subsistence?

23

24 MR. JACK: Prioritizing subsistence
25 over other uses.

26

27 MR. PROBASCO: I think Gary made a good
28 statement on that. As long as there are the uses on
29 it, it raises real questions about whether we should be
30 restricting subsistence.

31

32 CHAIRMAN FLEAGLE: Sue Masica.

33

34 MS. MASICA: Mr. Chairman. There was a
35 question raised by the State about sort of the timing
36 of the reconsideration. The calendar was laid out.
37 I'm just curious, being new to this process, is there a
38 time frame normally associated with RFRs or is that
39 something that we might want to put on our to do list
40 to have some discussion about so that these are taken
41 up in a slightly more timely way than this seems to be.

42

43 MR. PROBASCO: Mr. Chair. Sue, thank
44 you for that question. It is indeed correct through
45 Mr. Bedford's comments that it's been over a year on
46 this RFR. What's not put in the proper context is that
47 this RFR was submitted along with 17 other RFRs and so
48 it's just a managing workload and getting the Board
49 members, getting the analysis completed, et cetera.
50 Granted, I wish we could do it more timely, but when

1 you take the RFR load on top of the special action load
2 on top of the proposal load, we're not as efficient as
3 we would like to be.

4

5 Thank you, Mr. Chair.

6

7 CHAIRMAN FLEAGLE: Thanks. I
8 appreciate the comment though. If there's an
9 opportunity that we can review the process and see if
10 there's a way to streamline it by getting more money
11 maybe, that's the other part of the mix, is reduced
12 budget. I agree, if there is a way that we can speed
13 up the process, I think we should look for those. I
14 appreciate your statements. Wini.

15

16 DR. KESSLER: Thank you, Mr. Chair.
17 These discussions have been very helpful. Considering
18 all the points, I'm prepared to make a motion. I move
19 to reject the request for reconsideration of FRFR 08-02
20 or to reject this request because the three points of
21 the threshold are not met.

22

23 MR. EDWARDS: Second.

24

25 CHAIRMAN FLEAGLE: Further discussion
26 on the motion.

27

28 (No comments)

29

30 CHAIRMAN FLEAGLE: Are we ready for the
31 question. Pete, would you please poll the Board on 08-
32 02.

33

34 MR. PROBASCO: Thank you, Mr. Chair.
35 Final action on FRFR 08-02 to reject. Ms. Masica.

36

37 MR. PROBASCO: Ms. Masica.

38

39 MS. MASICA: Aye.

40

41 MR. PROBASCO: Mr. Oviatt.

42

43 MR. OVIATT: Aye.

44

45 MR. PROBASCO: Ms. K'eit.

46

47 MS. K'EIT: Aye.

48

49 MR. PROBASCO: Mr. Edwards.

50

1 MR. EDWARDS: Aye.
2
3 MR. PROBASCO: Mr. Fleagle.
4
5 CHAIRMAN FLEAGLE: Aye.
6
7 MR. PROBASCO: Dr. Kessler.
8
9 DR. KESSLER: Aye.
10
11 MR. PROBASCO: Motion carries 6-0.
12
13 CHAIRMAN FLEAGLE: All right. Thank
14 you. That moves us to 08-03. Polly.
15
16 DR. WHEELER: Thank you, Mr. Chair.
17 Fisheries request for reconsideration 08-03 was also
18 submitted by the State of Alaska. The issue on this
19 RFR was the Board adopted Proposal 08-09 with
20 modification at its December 2007 meeting. The
21 proposal requested that temporary community fishwheels
22 be established on the Kenai and Kasilof Rivers to the
23 take of salmon.
24
25 Board action established a temporary
26 fishwheel fishery only on the Kasilof River and
27 included other modifications as well. The Southcentral
28 Alaska Subsistence Regional Advisory Council had
29 recommended support with modification but to also
30 include the Kenai River.
31
32 There were two claims included in the
33 request for reconsideration and the claims were under
34 two separate criteria. The second criteria, the
35 existing information used by the Board is incorrect.
36 The third criteria, the Board's interpretation of
37 information, applicable law or regulation is in error
38 or contrary to existing law.
39
40 Claim 2.1 was that the Board's
41 determination to adopt a 72-hour fishwheel harvest
42 reporting requirement rather than a shorter 24-hour
43 requirement was based on incorrect information because
44 in making that determination the Board did not
45 adequately address conservation issues.
46
47 Claim 3.1 was that the Board's
48 determination to adopt a 72-hour fishwheel harvest
49 reporting requirement rather than a shorter 24-hour
50 requirement was based on an interpretation of

1 information that was in error or contrary to existing
2 law because the Board did not adequately address
3 conservation issues.

4

5 The Office of Subsistence Management
6 threshold analysis found that there does not appear to
7 be merit to either of these claims. The recommendation
8 of the Interagency Staff Committee was to oppose the
9 request for reconsideration. Mr. Chair.

10

11 CHAIRMAN FLEAGLE: Thank you, Dr.
12 Wheeler. Questions. Gary.

13

14 MR. EDWARDS: It's my understanding
15 that Ninilchik has submitted a request and my
16 understanding also is that they actually are working on
17 developing a wheel. I'm assuming then with that
18 request there was a plan submitted, which I think got
19 submitted probably to the refuge and to our fisheries
20 office.

21

22 My question in there, I don't know if
23 OSM has reviewed that plan or not, but does that plan
24 address hours of operation because in this analysis
25 there are statements made that it won't operate like a
26 Copper River wheel, it won't be running 24 hours a day,
27 seven days a week, and it's going to be stopped a lot
28 of times. I guess I'm just curious if the plan
29 actually supports that assumption.

30

31 CHAIRMAN FLEAGLE: Pete.

32

33 MR. PROBASCO: Thank you, Mr. Chair.
34 Both OSM, Jerry Berg, the refuge manager, the in-season
35 manager of Kenai, were all involved in drafting the
36 conditions of the permit for the fishwheel. Just to
37 quickly summarize the concern that you've raised or
38 addressed, it's not a 24/7 type fishwheel operation.

39

40 Mr. Chair.

41

42 CHAIRMAN FLEAGLE: Other questions.

43

44 (No comments)

45

46 CHAIRMAN FLEAGLE: Do you want to make
47 a motion. Gary.

48

49 MR. EDWARDS: I move that on request
50 for reconsideration 08-03 I move that we reject the

1 request given that it does look like there's adequate
2 safeguards in place and actions will be taken that
3 would ensure that conservation is certainly considered
4 and that the harvest would remain within acceptable
5 levels.

6
7 CHAIRMAN FLEAGLE: I have a motion for
8 rejection.

9
10 MR. PROBASCO: We need a second.

11
12 MS. MASICA: Second.

13
14 CHAIRMAN FLEAGLE: We have a second
15 now. Thanks, Pete. Discussion.

16
17 (No comments)

18
19 CHAIRMAN FLEAGLE: Ready for the
20 question. Pete, on 08-03, please poll the Board.

21
22 MR. PROBASCO: Thank you, Mr. Chair.
23 Final action on FRFR 08-03. Mr. Oviatt.

24
25 MR. OVIATT: Aye.

26
27 MR. PROBASCO: Ms. K'eit.

28
29 MS. K'EIT: Aye.

30
31 MR. PROBASCO: Mr. Edwards.

32
33 MR. EDWARDS: Aye.

34
35 MR. PROBASCO: Mr. Fleagle.

36
37 CHAIRMAN FLEAGLE: Aye.

38
39 MR. PROBASCO: Dr. Kessler.

40
41 DR. KESSLER: Aye.

42
43 MR. PROBASCO: Ms. Masica.

44
45 MS. MASICA: Aye.

46
47 MR. PROBASCO: Motion carries 6-0.

48
49 CHAIRMAN FLEAGLE: Thank you. Moving
50 on to RFR 08-04. Polly.

1 DR. WHEELER: Thank you, Mr. Chair.
2 Fisheries request for reconsideration 08-04 was
3 submitted by the State of Alaska. The issue under this
4 RFR is the Board adopted Proposal 08-11 with
5 modification again at its December 2007 Board meeting
6 and this proposal requested the addition of snagging to
7 the legal methods of harvesting salmon for the Alaska
8 Peninsula and Chignik areas. Modifications adopted by
9 the Board allowed for capture by snagging with hand
10 line or rod and reel and also by spear, bow and arrow,
11 and hand capture, and to not require a permit for
12 capture by these methods.

13
14 The Bristol Bay Subsistence Regional
15 Advisory Council had recommended support with
16 modification along the lines of subsequent Board
17 action. There were two claims included in the request
18 for reconsideration. Both of these were submitted
19 under criteria for reviewing the claims and that is the
20 Board's interpretation of information, applicable law
21 or regulation is in error or contrary to existing law.

22
23 Claim 3.1 was that Board adoption of
24 Fisheries Proposal 08-11 is not consistent with Section
25 .805(c) of ANILCA. Adoption of 08-11 was, quote, not
26 needed to provide a meaningful opportunity for
27 subsistence uses, close quote. Adoption of Proposal
28 08-11 is detrimental to the satisfaction of subsistence
29 needs because it puts subsistence fishermen at risk of
30 enforcement action if they attempt to take any fish
31 using methods prohibited under State law while standing
32 on non-Federal land.

33
34 Claim 3.2 was that Board adoption of
35 08-11 will cause conservation issues because, quote,
36 liberal harvest limits are amplified by the fact that
37 many fish hooked by snagging will not be landed, close
38 quote, and others will be injured. This method of
39 harvest should only be implemented with an associated
40 monitoring program. Again, those are the claims
41 contained in the request for reconsideration.

42
43 The Office of Subsistence Management
44 threshold analysis found that there does not appear to
45 be merit to either of these claims. The Interagency
46 Staff recommendation is to oppose this request for
47 reconsideration. Mr. Chair.

48
49 CHAIRMAN FLEAGLE: Thank you, again,
50 Dr. Wheeler. I failed to welcome Ken to the table.

1 Welcome, Ken. Questions for the summary. Discussion.
2 Gary.

3
4 MR. EDWARDS: I just had a question for
5 Keith or Ken. The State argues that by having this new
6 method it's not needed and you can still meet
7 subsistence needs. Just because needs can be met using
8 other methods certainly is not a reason for rejecting
9 new methods.

10
11 CHAIRMAN FLEAGLE: Keith.

12
13 MR. GOLTZ: No, it's not. Traditional
14 methods and means are a part of the statutory intent
15 and I recall the Board record that was the impetus
16 behind this regulation.

17
18 CHAIRMAN FLEAGLE: Other discussion.
19 Park Service. Do you want to make a motion on the
20 action? I invite you to anyway.

21
22 MS. MASICA: Mr. Chairman. The motion
23 that I would make is to reject the request for
24 reconsideration. The information provided does not
25 meet any of the three threshold questions and for that
26 reason make the motion to reject.

27
28 CHAIRMAN FLEAGLE: Is there a second.

29
30 MR. OVIATT: I'll second.

31
32 CHAIRMAN FLEAGLE: Further discussion.

33
34 (No comments)

35
36 CHAIRMAN FLEAGLE: Pete, hearing no
37 discussion, calling for the question on 08-04. Would
38 you please poll the Board.

39
40 MR. PROBASCO: Thank you, Mr. Chair.
41 Final action on FRFR 08-04. Ms. K'eit.

42
43 MS. K'EIT: Aye.

44
45 MR. PROBASCO: Mr. Edwards.

46
47 MR. EDWARDS: Aye.

48
49 MR. PROBASCO: Mr. Fleagle.

50

1 CHAIRMAN FLEAGLE: Aye.
2
3 MR. PROBASCO: Dr. Kessler.
4
5 DR. KESSLER: Aye.
6
7 MR. PROBASCO: Ms. Masica.
8
9 MS. MASICA: Aye.
10
11 MR. PROBASCO: Mr. Oviatt.
12
13 MR. OVIATT: Aye.
14
15 MR. PROBASCO: Motion carries 6-0.
16
17 CHAIRMAN FLEAGLE: Thank you, Pete.
18 Our final FRFR for consideration at this meeting 08-05.
19 Dr. Wheeler.
20
21 DR. WHEELER: Thank you, Mr. Chair.
22 Fisheries request for reconsideration 08-05 was
23 submitted by the State of Alaska. The issue is that at
24 it's December meeting the Board adopted Proposal 08-12
25 with modification. The proposal requested the addition
26 of traditional small scale subsistence fish traps and
27 weirs, termed fyke nets and leads in regulations, made
28 of wooden stakes to the list of legal gear in the
29 Kvichak/Iliamna-Lake Clark drainage. Modifications
30 adopted by the Board provided for additional
31 conservation controls.
32
33 The Bristol Bay Subsistence Regional
34 Advisory Council had recommended support with
35 modification along the lines of subsequent Board
36 action.
37
38 There were three claims included in the
39 request for reconsideration. All three fall under the
40 third criteria that the Boards interpretation of
41 existing information, applicable law or regulation is
42 in error or contrary to existing law.
43
44 The first claim, Claim 3.1, was that
45 Board adoption of Fisheries Proposal 08-12 is
46 inconsistent with Section .802 of ANILCA, which
47 requires subsistence use to be consistent with sound
48 management principals in the conservation of healthy
49 populations of fish and wildlife. The use of Lake
50 Clark National Park and Preserve portion of the Bristol

1 Bay region poses a threat to the health of the Kvichak
2 River sockeye salmon run and to other fish species
3 within the watershed.

4
5 The second claim, Claim 3.2, was that
6 the Board's decision on Fisheries Proposal 08-12 was
7 made contrary to Alaska State law, Alaska Statute
8 41.14.870, the Fishway Act, which requires a habitat
9 permit from the Department of Natural Resources for,
10 quote, anyone who intends to install a permanent or
11 seasonal structure that is anchored or attached to the
12 river bottom or within the habitat zone, close quote.

13
14 The State claims that the Department
15 made nine references to concerns for habitat in its
16 comments, but these concerns were not recognized,
17 mentioned, referenced or deliberated upon throughout
18 the entire Federal public process.

19
20 The third claim, Claim 3.3, was that
21 Board adoption of Fisheries Proposal 08-12 is not
22 consistent with ANILCA Section .805(c) and adoption of
23 this regulation is detrimental to the satisfaction of
24 subsistence needs as the regulation put subsistence
25 fishermen at risk of enforcement action because it
26 authorizes activities which are not legal in State
27 regulations, quote, in waterways where there is little
28 Federal land, close quote, as, quote, over 60 percent
29 of the shoreline of Lake Clark is a non-Federal
30 ownership, close quote.

31
32 The Office of Subsistence Management
33 threshold analysis found that there does not appear to
34 be any merit to these claims and the Interagency Staff
35 Committee recommendation is to oppose the request for
36 reconsideration. Thank you, Mr. Chair.

37
38 CHAIRMAN FLEAGLE: Thank you, Polly.
39 Questions. Discussion.

40
41 (No comments)

42
43 CHAIRMAN FLEAGLE: I want to just
44 review that Claim 3.2 for a second. I know that the
45 bulk of the claim is based on State law, which we
46 didn't take into consideration in our meeting, I
47 understand that, but the second half of that claim was
48 that the Board didn't discuss or have any discussion on
49 the habitat issues that were raised by the Department
50 of nine references. Would that, Keith -- I'm just

1 trying to find the line between new information.....
2
3 (Operator announcing Rose Fosdick has
4 joined)
5
6 CHAIRMAN FLEAGLE: Good morning.
7 Welcome.
8
9 MS. FOSDICK: Thank you.
10
11 CHAIRMAN FLEAGLE: So what I'm trying
12 to do is the line that we find where there's new
13 information -- the interpretation of information. I'm
14 sorry. Can you just give us your view on -- I'm sorry,
15 I'm not asking you the question very well, but I think
16 you understand what I mean.
17
18 MR. GOLTZ: I think so. I don't know
19 if it's really new information. You're saying that the
20 Board did not correctly assess the material that was in
21 front of it the first time. I think that the legal
22 standard is, is there enough information on the record
23 so that you could form a reasonable conclusion that's
24 supportable by law. The argument is, well, you weren't
25 reasonable for all these reasons. Your counter-
26 argument is you were for other reasons.
27
28 You can strengthen the record, I
29 suppose, by answering every claim, but the law does not
30 require you to go on forever and ever and keep chasing
31 claims around the same tree. What it requires is that
32 you have a rational discussion that's based on the
33 evidence that leads you to a reasonable conclusion. If
34 you're asking whether I'm concerned about that claim,
35 I'm not. I think that the RFR analysis deals with
36 that.
37
38 One of the things missing in this
39 discussion is the fact that these are very extensive
40 analyses professionally done that the Board has
41 reviewed before and is not really part of this
42 discussion because we know it so well. When we get it
43 in front of a Board, all of that material will be in
44 front of us and I think the Board's action is
45 defensible.
46
47 CHAIRMAN FLEAGLE: Thanks for that
48 explanation. I just wanted it on the record that we
49 don't debate every piece of information. The Board
50 does make decisions that are sound and defensible. I

1 just wanted to point that out. I think that's the
2 first time I've seen a claim in one of these that we
3 didn't adequately give consideration to a small piece
4 of the discussion.

5

6 Further questions. Discussion.

7

8 (No comments)

9

10 CHAIRMAN FLEAGLE: I want to welcome
11 you, Rose, online. Sorry, I didn't give you a proper
12 recognition when you signed on. We were right in the
13 middle of discussion. We're just wrapping up our
14 fisheries requests for reconsideration, the last one,
15 and we're not going to be taking up item number 4 on
16 the agenda. During the work session we determined that
17 those need to be discussed in executive session later.
18 The only other business on the agenda is to schedule
19 the November meeting.

20

21 If there is something you would like to
22 address to the Board, I have offered that opportunity
23 to another member of the public here. Are you
24 interested in that?

25

26 MS. FOSDICK: No, but thank you. I do
27 have a question about number 4. (Indiscernible) not
28 necessary to review it (indiscernible)?

29

30 CHAIRMAN FLEAGLE: We'll hold that
31 question for just a minute. We'll wrap up the business
32 on this proposal. I was just giving our board member a
33 chance to formulate their motion and then we'll come
34 back to you with the answer for that. Thanks, Rose.
35 Sue.

36

37 MS. FOSDICK: Thank you.

38

39 MS. MASICA: Mr. Chair. I'd like to go
40 ahead and make a motion on 08-05, which is to reject
41 the request for reconsideration. The claims were all
42 made that we had not correctly interpreted the
43 information, applicable law or regulation, and I don't
44 find that to have any merit and recommend that we
45 reject the request for reconsideration.

46

47 CHAIRMAN FLEAGLE: Thank you, Sue.
48 Further discussion.

49

50 MS. K'EIT: Second.

1 CHAIRMAN FLEAGLE: Oh, yeah. Good
2 discussion there. Thanks. Now other discussion.
3
4 (No comments)
5
6 CHAIRMAN FLEAGLE: Are we ready for the
7 question. All right. Pete, would you please poll the
8 board on 08-05.
9
10 MR. PROBASCO: Thank you, Mr. Chair.
11 Final action on FRFR 08-05. Mr. Edwards.
12
13 MR. EDWARDS: Aye.
14
15 MR. PROBASCO: Mr. Fleagle.
16
17 CHAIRMAN FLEAGLE: Aye.
18
19 MR. PROBASCO: Dr. Kessler.
20
21 DR. KESSLER: Aye.
22
23 MR. PROBASCO: Ms. Masica.
24
25 MS. MASICA: Aye.
26
27 MR. PROBASCO: Mr. Oviatt.
28
29 MR. OVIATT: Aye.
30
31 MR. PROBASCO: Ms. K'eit.
32
33 MS. K'EIT: Aye.
34
35 MR. PROBASCO: Mr. Chair. Motion
36 carries 6-0.
37
38 CHAIRMAN FLEAGLE: That concludes item
39 number 3 on the agenda, requests for reconsideration.
40 We do have a question, although item number 4 is not
41 going to be taken up at this meeting, I feel that's an
42 appropriate question and I'd like to have somebody from
43 OSM give a response. Dr. Wheeler, please.
44
45 DR. WHEELER: Thank you, Mr. Chair.
46 Hi, Rose. This is Polly Wheeler with OSM. The Seward
47 Peninsula Regional Advisory Council didn't submit an
48 annual report, which is why there's no response to
49 review.
50

1 MR. EDWARDS: Is that an option?
2
3 DR. WHEELER: That is an option and
4 some Councils avail themselves of it.
5
6 CHAIRMAN FLEAGLE: Did you get that,
7 Rose?
8
9 MS. FOSDICK: Yes. Thank you for the
10 information.
11
12 CHAIRMAN FLEAGLE: Thank you for the
13 question and thank you for joining us. Moving on, item
14 number 5 is to schedule a November meeting. Pete.
15
16 MR. PROBASCO: Thank you, Mr. Chair.
17 We would like to take this opportunity for the Board to
18 schedule a work session in November. As I mentioned in
19 May, we started to stray away from more frequent Board
20 work sessions. If you recall, go back in time, we were
21 actually doing one about every two months. I think it
22 would be wise for us to schedule one in November based
23 on the agenda items before our Councils and various
24 other items before our program. I think taking this
25 opportunity with everybody here in the room would be
26 wise.
27
28 We have looked at our calendars and
29 suggest that possibly the first week of November, 11/2,
30 which is a Monday, to Friday, 11/6, is wide open. The
31 second week of November there's only three days that
32 are open, 9th, 10th or the 12th. Then the third week
33 the days open are the 17th or the 20th. Mr. Chair,
34 that's what I'm seeking, is to get.....
35
36 (Operator announcing Harvey Kitka has
37 joined)
38
39 CHAIRMAN FLEAGLE: Welcome, Harvey, for
40 joining us. We're on our agenda on item number 5
41 scheduling our November meeting. We have opportunity
42 under other business if you'd like to address the
43 Board. I'd provide that opportunity to you.
44
45 MR. KITKA: Thank you. I mostly wanted
46 to listen and hear what was going on. Thank you.
47
48 CHAIRMAN FLEAGLE: Okay. Thank you,
49 Harvey. Back to the meeting schedule. I know a lot of
50 times when we try to nail down a meeting time at a

1 meeting like this a lot of people don't have their
2 schedules available or whatnot. We can try and see
3 where we get. Otherwise the other option would be to
4 try to do this by email again. I can say right away
5 the first week is not available for me, so that limits
6 it quite a bit already.

7

8 MR. EDWARDS: Mr. Chairman, later, in
9 our executive session, we're going to discuss the Board
10 field trip that we took. After taking that trip and
11 given what went on this year and is going on this year
12 in the river and the civil disobedience, I think it
13 would be very helpful and informative to the Board to
14 both have the Service's in-season manager as well as
15 the State in-season manager to comment and maybe sit
16 down and discuss with the Board what took place, what
17 actions they put into place and why and what their
18 thoughts are.

19

20 I don't know if this is more
21 appropriate for a public meeting, a work session or an
22 executive session, but I think it would be very
23 beneficial to the Board and those who were on that
24 field trip might also agree that to hear from the folks
25 who are actually dealing with this on a day-to-basis
26 because it seems to me this is going to be an issue
27 that could certainly repeat itself next year.

28

29 If we should wait until November to do
30 that or schedule something sooner, I just think it
31 would be very helpful, particularly if we might want to
32 even give some thoughts of the Board maybe taking some
33 actions and doing things different than what's done
34 this year.

35

36 CHAIRMAN FLEAGLE: Pete.

37

38 MR. PROBASCO: Thank you, Mr. Chair. I
39 think your suggestion is a good one, Gary. I would say
40 knowing in-season managers both on the Federal and
41 State side, how busy they are, and then throwing in our
42 RAC meeting schedule in the fall, like for the Yukon
43 area, that officially goes well into September, so that
44 puts us right on top of the RAC meeting window, so that
45 forces us into November, but I think that would be a
46 wise topic to have and do it in an open work session.
47 Mr. Chair.

48

49 CHAIRMAN FLEAGLE: I agree. Now just
50 looking at the schedule, are we willing to try to pick

1 a day. I just want to remind folks of that second week
2 available, the 11th, which is a Wednesday, is Veteran's
3 Day, a holiday. So I don't know if that would fit
4 people's schedules to have a meeting either one side of
5 that or the other. Which would leave Monday or the
6 following -- anyway. Discussion. Pete.

7

8 MR. PROBASCO: Let's put it in OSM's
9 court here. When we go through emails and make these
10 similar requests, we get the same thing you're
11 discussing. We get a whole bunch of dates and then we
12 send numerous emails out and it's very hard to nail
13 dates down because everybody has a different schedule.
14 If everybody could just nail us down to a couple dates
15 and say I want to get back and check my schedule, that
16 would be better than us trying to throw a bunch of
17 dates out and continuously try to narrow it down in
18 that fashion. Mr. Chair.

19

20 CHAIRMAN FLEAGLE: Thank you, Pete.
21 Let me just throw this date out. How about Tuesday,
22 11/17. Tentative. If anybody has a major problem.....

23

24 DR. KESSLER: Mr. Chair. The only
25 major conflicts that my regional forester has is that
26 week. The others are okay.

27

28 CHAIRMAN FLEAGLE: Thursday the 12th?
29 Okay, let's tentatively schedule that.

30

31 MR. PROBASCO: Thank you, Mr. Chair.
32 11/12.

33

34 CHAIRMAN FLEAGLE: All right. Under
35 other business there is one item and Carrie Sykes would
36 like to give a brief presentation to the Board on
37 subsistence activities in southeast Alaska. Carrie,
38 Dr. Wheeler is giving a seat here for you so you can
39 speak into the microphone.

40

41 MS. SYKES: Thank you. For the record,
42 my name is Carrie Sykes. I'm the subsistence
43 coordinator for Tlingit-Haida Central Council. I'm a
44 Haida. I was raised in Ketchikan by my grandmother. I
45 grew up very traditionally. I've been involved in
46 subsistence all my life, so subsistence is very near
47 and dear to my heart.

48

49 I've routinely participated in Regional
50 Advisory Council meetings and both provided reports and

1 testified on proposals. I've learned a lot about
2 subsistence issues and regulations in my work at
3 Central Council. There's a lot of issues going on.
4 There has also been a lot of work in southeast Alaska
5 to try to look for solutions to these issues.

6
7 As we know, there's the Yukon River
8 salmon protest issue. There's the issues with the
9 Sitka herring eggs and conservation that has been
10 trying to be addressed by the Sitka Tribe of Alaska.
11 So those are a couple of very major concerns.

12
13 In addition, there's been some other
14 concerns that have been brought to my attention just
15 recently. Kasaan has issues with the commercial
16 opening of dungeoness crab. There's a lot of issues in
17 addition to these management issues. We are also
18 competing with sea otters. There's been a lot of
19 discussion in that area. The sea otters consume a lot
20 of food, so they are depleting resources, so we've been
21 doing some work in that area, too. We're working with
22 the Fish and Wildlife to get on that management
23 committee and start making some changes in that.

24
25 I want to point out when I first
26 started in this position we sent out a subsistence
27 ballot to all of the Federally recognized tribes in
28 Alaska to try to identify the top concerns. Some of
29 you are aware of these efforts. I've distributed that
30 information to some of you. I do have that information
31 with me today. I'll leave copies here for the Board.

32
33 I want to point out that the two top
34 subsistence concerns from the tribal ballots were
35 Natives on commissions and Boards and providing a
36 voice. This is something we've been actively working
37 on. We are right now collecting a pool of qualified
38 Natives to possibly be seated in these different
39 positions and that's something I'm going to be
40 following up on.

41
42 Another concern that has been brought
43 up is the Federal Subsistence Board taking State of
44 Alaska positions. This is an ongoing concern that I
45 think we should provide more tribal consultation to get
46 that voice into the process. With some decisions that
47 have happened between the RAC and the Federal
48 Subsistence Board, it's the feeling of some of the
49 tribes that there is a break in the process. They
50 believe that the RAC is a forum for public involvement

1 and local input on subsistence issues.

2

3 Just for the record, I have been
4 working with a subsistence workgroup. We had our first
5 initial meeting and that's where some of these
6 additional concerns have been raised. That is a very
7 big concern for them, is that they want to make sure
8 that the public involvement process is there.

9

10 They have concerns about RAC meetings
11 being held in communities where Alaska Airlines flies.
12 They think that they need to have these meetings in the
13 rural communities where you have the high use
14 subsistence harvesters. They also have concerns about
15 the RAC getting due deference.

16

17 So those are pretty major concerns. We
18 hope to work more with those processes to address those
19 concerns. Another one too is the criteria for
20 determining whether a community is rural or urban. You
21 know about the Saxman decision. There was quite a bit
22 of concern over that. I talked with Saxman and I know
23 these people. I grew up in Ketchikan. So it's really
24 upsetting to them about that determination. A
25 suggestion from my workgroup is that that criteria be
26 revisited to make sure that it's working for our
27 communities where there's high subsistence use.

28

29 I've been working with several areas.
30 With my efforts in southeast, I've been doing a lot of
31 subsistence education outreach. I've been noticing
32 that the Native people don't know enough about the
33 regulations. There's a lot of confusion among the
34 harvesters between the two jurisdictions, so I've
35 really been doing a lot of education and trying to get
36 more people to be involved. While they're not
37 understanding the process, regulations are happening
38 around them and then they find out afterwards and
39 sometimes it ends up with a citation because they don't
40 know. So I'm really working to educate people, our
41 tribal people, so they know what is happening in two
42 jurisdictions.

43

44 Another concern that was raised by the
45 working group was the requests for reconsideration.
46 They feel like the Regional Advisory Councils should be
47 able to submit these requests also to have an equal
48 standing. One other area that they've raised is they'd
49 like to have more coordination among the RACs. I guess
50 there used to be meetings prior to the Federal

1 Subsistence meetings, but there was an issue with the
2 Federal Advisory Council requirements. There was a
3 suggestion that they could have those meetings, which
4 is publicize the notice of those meetings in the
5 Federal Register.

6
7 One last very big concern was the MOU
8 that was signed between the Federal Subsistence Board
9 and the State of Alaska. There were objections by AFN
10 and also Central Council. A major issue was the lack
11 of review by the Regional Advisory Councils. I think
12 that was an area where there could have been more
13 coordination and input at the Regional Advisory Council
14 and local level. So that was an area where there was
15 really concern.

16
17 There are a lot of issues and there's
18 really been a decline in the push for subsistence
19 rights and it's really upsetting. Like I said,
20 regulations are happening around us. One of the
21 Tlingit elders in Juneau, June Pease, stated that --
22 well, what happened is her doctor had recommended that
23 she eat more traditional foods and she said that she
24 didn't have access and that foods were being regulated
25 out of their mouth.

26
27 So there's a real concern particularly
28 in the urban areas where they don't have as many
29 subsistence rights. There's not the opportunity for
30 them to continue their traditional ways. I know adult
31 people who don't know how to filet a fish. Native
32 people. They don't get the opportunity. In Juneau,
33 you end up buying fish. That's really taking away from
34 our traditional ways and how we taught our future
35 generations how to subsist. It's a major part of our
36 traditional culture.

37
38 In addition, there's really a lot of
39 health benefits from eating traditional foods, like I
40 mentioned before. So I've been really working hard to
41 try to educate more people. I have presented at the
42 Central Council's southeast environmental conference
43 and that was where I first kind of informally polled
44 the group and asked them how many of you know about
45 ANILCA? The lack of response was really upsetting to
46 me. They don't understand the process and they're
47 working in environmental programs which are very
48 closely related to subsistence activities and whether
49 there's going to be a resource to harvest. So I was
50 very concerned about that.

1 After that conference I went and spoke
2 at the National Native Fish and Wildlife Society and
3 did a similar presentation. There were some other
4 tribes from around the state that were very grateful
5 for the overview. Basically I'm doing an overview of
6 the State and Federal processes, talking about my
7 activities and giving a report on the different issues
8 or different projects that are going on. But there's
9 really a need to educate more people. I really am
10 finding that there's a break there. People are not
11 paying attention of what regulations are happening.

12
13 In addition to those people, I also
14 went to our own executive council and did the same
15 presentation and also to our managers, so I've really
16 been trying to educate more people. I was just down on
17 Prince of Wales and I did a similar presentation in
18 Hydaburg and I just did one in Kake.

19
20 So I'm trying to generate more interest
21 and get more people involved so they can know about the
22 processes, when they happen, when decisions are made so
23 that they can provide comment and get some input into
24 the process.

25
26 It's been a disappointment to me to see
27 that Native people don't know. I have to admit before
28 I started this job I knew there was ANILCA, I knew
29 there was Title VIII, and there was the issue with the
30 jurisdictions, so I knew about it, but I didn't know
31 how the process worked myself. So I've had to do a lot
32 of learning and I'm really trying to educate people
33 about that.

34
35 In any case, people are not getting
36 their subsistence needs met, especially in villages, a
37 real economic disadvantages. This last year I had the
38 opportunity to do two presentations. We called them
39 Heat or Eat and I think all of you have heard about the
40 dilemma with energy. Last winter we had a summit and
41 was asked to do this talk because people were having to
42 decide whether they were going to buy heating fuel or
43 were they going to take a chance and get some gas in
44 the boat and hope that they get some subsistence foods.

45
46
47 I did the same presentation at the BIA
48 Providers Conference and there was a lot of people in
49 the room when I did that presentation. There's really
50 a lot of interest in what can be done so they can try

1 to address these issues and still be able to get their
2 subsistence foods.

3

4 Another thing too is there's a lack of
5 resources for the tribes to be able to effect a change
6 in the subsistence regulation arena. So I'm trying to
7 address a lot of issues. It was really upsetting to me
8 too just before I came to this meeting I got a phone
9 call from Klawock and a lady was telling me that
10 there's been some really heavy-handed law enforcement
11 on subsistence.

12

13 When I was in Prince of Wales just
14 recently, I was sitting down to eat breakfast and I was
15 reading the newspaper and I noticed that there was a
16 lot of citations during subsistence. Of course, some
17 of them were for people who didn't have their proper
18 permit, but others were failing to record the number
19 fast enough. I heard about them being cited for failure
20 to remove the fin. I'm getting upset that this is a
21 little heavy-handed.

22

23 I'm wondering whether some of this
24 might be a result of the action on the Yukon River.
25 I'm not sure. But this is really upsetting. The lady
26 who called me from Klawock was really upset. She said
27 these people are just trying to get their fish. She
28 said they got 78 percent of the people in their
29 community that live below the poverty level. So this
30 is really upsetting when they don't have money and then
31 they can't get their fish. So there's real concern.

32

33 We've had a lot of out-migration from
34 communities. Like Kake has really been struggling.
35 Their population has really gone down and it's going to
36 start affecting their numbers in their school. A lot
37 of different impacts. There's really going to be a
38 snowball effect as far as those communities.

39

40 So there's lots of issues, but I don't
41 want to just come with issues. I want to offer
42 solutions. That's been a big thing about the
43 workgroup. I want people to get educated and learn to
44 work within the two systems and look for solutions. I
45 want to emphasize that Central Council can be a
46 resource. We are a regionally Federally recognized
47 tribe. We represent almost 27,000 members, so we have
48 a large tribal membership.

49

50 I did complete research about

1 subsistence and I've learned a lot about the process
2 and I'm doing this education. In addition to that we
3 have a lot of historical experience. One person that's
4 on my subsistence workgroup is Harold Martin and he's
5 been involved -- most of you probably know Harold.
6 He's been involved for years.

7
8 My subsistence workgroup are
9 volunteers. Right now I am looking to try to find some
10 funding so that we can have regular meetings and
11 discuss current issues and try to provide some valuable
12 input. So that's a work in progress and hopefully I'll
13 be able to get funding and get that workgroup meeting
14 regularly to try to discuss these issues.

15
16 I was very pleased by my first initial
17 meeting which was held June 30th. There was a lot of
18 concern, like I just mentioned, that were raised. They
19 have a lot of solutions that they want to work on and I
20 think if we can start discussing these issues in the
21 workgroup that maybe we can come up with some proposals
22 or offerings.

23
24 We're looking for subsistence advocacy
25 through government to government relationships. We've
26 had quite a bit of success with the Forest Service.
27 You've probably heard about the acknowledgment ceremony
28 that we did in 2008 about the removal of smokehouses
29 from Forest Service lands. We're really hopeful that
30 we can foster better government to government
31 relationships in this area and that other agencies can
32 develop similar relationships with us.

33
34 We've talked with the Fish and Wildlife
35 Service about this, our sea otter, and we met with Pete
36 and Carl at one point. So this is something that we
37 really want to foster. I think the government to
38 government relationship is a strong area to promote
39 collaboration in working together.

40
41 Another good thing that came of that
42 acknowledgement ceremony was that the experimental
43 forest and it's going to be looking towards
44 incorporating traditional ecological knowledge. So
45 those areas are very encouraging and I applaud the
46 Forest Service for those developments. But we want to
47 look for similar relationships with other Federal
48 agencies and with the State too. We have a lot of work
49 to do. We're very hopeful. There's a lot of changes
50 going on, as everybody knows. We want to make those

1 changes big changes.

2

3 With the Obama administration, I spoke
4 with Senator Begich at the Alaska Native Issues Forum
5 on July 2nd. He advised that I contact Kim Elton's
6 office with his new position as director of Alaska
7 Affairs with the Department of Interior. I've made
8 that initial contact and expect to be working with them
9 too to talk about subsistence issues. There's a lot of
10 things going on. You've all heard about Niles Cesar
11 being reassigned. His seat at this Board is very
12 important. We want to make sure we get a strong
13 subsistence advocate in that position, someone that
14 understands Alaska subsistence issues since they are so
15 complicated.

16

17 Anyway, there's a lot of possibilities.
18 We're looking for possible appointments. Like I said,
19 I've been identifying people who could sit on different
20 commissions and Boards and I'm going to be getting that
21 information to the senator and to Kim Elton's office
22 too.

23

24 We really want to be proactive instead
25 of reactive. There's always so many issues and it
26 seems like we're always reacting, so we're trying to
27 look for solutions to be a part of the process so we
28 can make sure that our Native people are getting their
29 subsistence foods and giving input into the system.

30

31 I just would like to offer that Central
32 Council is a resource and we really would like to work
33 collaboratively to make improvements. Thank you.

34

35 CHAIRMAN FLEAGLE: Thank you, Carrie.
36 We appreciate those comments. As you state, we have
37 heard many of those concerns that you started out with
38 before many times and I know that we and the OSM Staff
39 and on the Board level are doing everything we can to
40 at least reverse what we feel may be characterizations
41 of the Board process. Other issues that you raised in
42 your statement, we're aware of the concerns.

43

44 I'm not sure that we have the magic
45 tool to just say, okay, we're going to change this or
46 change that process or change that perception is the
47 word I was looking for earlier. We're certainly aware
48 of them and are working to become better at being more
49 informative and getting information out and being more
50 cooperative with as many organizations as we can.

1 A lot of the issues you raised have
2 been addressed through legal means and legal opinions
3 and stuff that we don't have any authority over, such
4 as the rural determination thresholds. We don't set
5 those numbers. We abide by them, but we don't set
6 them. Other issues like that. We've certainly batted
7 these around and hopefully with your input we can come
8 to at least some understanding when we're faced with
9 the law as it is, that when given the choice between
10 complying with the law or not, I at least tend to try
11 to comply with the law. That's why we're here. I
12 appreciate the comments.

13

14 MS. SYKES: Thank you, Mr. Chair. I
15 realize there's no magic fix for everything. These
16 issues have been ongoing for quite some time. The
17 Native people really do need to get their fish and
18 there are so many impediments to them right now. The
19 cost of fuel and access.

20

21 Like in Kake, that was one thing I
22 forgot to mention, they were telling me that they have
23 to go like 50 miles to get their fish and they have to
24 go across some pretty rough waters. This summer they
25 said that they were notified that they were only going
26 to be able to get 25 fish instead of 50 and they didn't
27 have any prior notification of that change. They are
28 really upset that they're only going to get half the
29 fish they normally get.

30

31 There's lots of issues and I understand that.
32 I really think that we all need to work together to
33 make sure our Native people are getting their
34 subsistence food that's so important to them.

35

36 CHAIRMAN FLEAGLE: Thank you.
37 Question, comments, Board members.

38

39 (No comments)

40

41 CHAIRMAN FLEAGLE: All right. Thank
42 you. Appreciate you taking the time to come sit in the
43 meeting.

44

45 DR. KESSLER: Mr. Chair. I'm sorry. I
46 tried to get your attention when we were dealing with
47 the scheduling and I wasn't assertive enough. I had a
48 question. Since we were scheduling that in November,
49 it brought to mind that I think our MOU with the State
50 specifies a meeting every year, is that right, and, if

1 so, do we need to be talking about that because those
2 that have to travel for these meetings it's helpful if
3 we can kind of combine them. Is that a requirement?
4 I'm trying to remember.

5
6 MR. PROBASCO: I'm not sure if you'd
7 call it a requirement, Dr. Kessler, but it's
8 encouraged. I'm not sure if Mr. Bedford has talked to
9 Commissioner Lloyd on that yet, but I know Tina has
10 mentioned that to me and I think it would be wise to
11 try to find some time that we can do that.

12
13 CHAIRMAN FLEAGLE: David.

14
15 MR. BEDFORD: Well, in the spirit of
16 great minds thinking alike, I was waiting for an
17 opportunity to bring up the same subject. We think it
18 would be a good idea to have a meeting of the
19 signatories. To the extent that we can try to dovetail
20 that with other Federal meetings that that would be a
21 more efficient way to go about it. So we would
22 encourage consideration of some time in November that
23 would be coincide with the Federal meeting.

24 Now, that said, I haven't looked at my boss's
25 calendar. I recommend that you move ahead in your own
26 process and we would have to touch base at a later
27 point to make sure that it would be possible to have an
28 MOU meeting consistent with the Federal Subsistence
29 Board meeting.

30
31 CHAIRMAN FLEAGLE: Thank you. I
32 appreciate you bringing that up. I know that it was
33 our intent to keep that document alive and available
34 for review and that was partly -- I shouldn't say it
35 was in response to similar concerns like Carrie just
36 raised, but it was an answer to some of those concerns
37 that this thing wasn't nailed down hard. It was going
38 to be a document that was going to have reviews. I
39 agree, I think I did hear that we somewhat committed to
40 an annual review. That's a good point. Let's see if
41 we can accommodate that.

42
43 Other business.

44
45 (No comments)

46
47 CHAIRMAN FLEAGLE: Motion for
48 adjournment.

49
50 MR. OVIATT: So moved.

1 MS. MASICA: Second.
2
3 CHAIRMAN FLEAGLE: Thank you. We're
4 adjourned.
5
6 (Off record)
7 (END OF PROCEEDINGS)

1 C E R T I F I C A T E

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

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Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/2010