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FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING

VOLUME III

EGAN Convention Center
ANCHORAGE, ALASKA

January 12, 2017
8:30 o'clock a.m.

MEMBERS PRESENT:

- Anthony Christianson, Chairman
- Charles Brower, Public Member
- Rhonda Pitka, Public Member
- Bud Cribley, Bureau of Land Management
- Greg Siekaniec, U.S. Fish and Wildlife Service
- Mary McBurney, National Park Service
- Lynn Polacca, Bureau of Indian Affairs
- Beth Pendleton, U.S. Forest Service
- Ken Lord, Solicitor's Office

Recorded and transcribed by:
Computer Matrix Court Reporters, LLC
135 Christensen Drive, Second Floor
Anchorage, AK 99501
907-243-0668; sahile@gci.net

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P R O C E E D I N G S

(Anchorage, Alaska - 1/12/2017)

(On record)

CHAIRMAN CHRISTIANSON: Okay, we're going to go ahead and get started. If I can have the Staff let me know where we're at on the agenda. I think we're going to start this morning with the Kenai proposals.

(Pause)

CHAIRMAN CHRISTIANSON: So if we can go ahead and get started I'll kind of give a brief rundown on what the agenda looks like this morning. We'll go ahead and call this meeting to order and welcome everybody.

On the agenda today we're going to start with the public comment period on non-agenda items. We'll have a public comment period on the consensus agenda items. We're going to add a topic, potentially, to discuss some negotiated agreements with NTC. We'll go into the presentation of the community -- Kenai Community gillnet threshold analysis. And we'll get into the proposals on the fisheries side. And then Special Action 16-03 for the wildlife.

So that's just a short rundown of the schedule we plan to follow this morning.

Thank you.

(Pause)

CHAIRMAN CHRISTIANSON: And so first on the list this morning we have a request from Ivan.

(Pause)

CHAIRMAN CHRISTIANSON: Okay, I think Ivan's out in the hallway.

(Pause)

MR. I. ENCELEWSKI: Mr. Chairman. Members of the Board. I signed up for tribal consultation testimony this morning but things are kind

1 of fluid so I'm going to defer my testimony until the
2 individual proposal items.

3

4 CHAIRMAN CHRISTIANSON: Thank you.

5

6 Any additional public comment.

7

8 (No comments)

9

10 CHAIRMAN CHRISTIANSON: Anyone on line.

11

12 (No comments)

13

14 CHAIRMAN CHRISTIANSON: This is on non-
15 agenda items.

16

17 (No comments)

18

19 CHAIRMAN CHRISTIANSON: Hearing or
20 seeing none, we'll move on to public comment period,
21 our consensus agenda items.

22

23 (No comments)

24

25 CHAIRMAN CHRISTIANSON: At this time
26 I'm going awed ask that we get a motion to insert
27 Greg's discussion that he'd like to have with us this
28 morning regarding the negotiated agreement with NTC.

29

30 MS. MCBURNEY: Mr. Chair. Are you
31 looking for a formal motion to amend the agenda?

32

33 CHAIRMAN CHRISTIANSON: Yes, I am. It
34 isn't listed on our main agenda so I'd like to just
35 have a motion to insert it so we can give Greg the
36 floor.

37

38 MS. MCBURNEY: I would like to amend
39 the agenda to include a presentation from Greg
40 Siekaniec from the Fish and Wildlife Service.

41

42 MR. CRIBLEY: Second.

43

44 CHAIRMAN CHRISTIANSON: There's been a
45 motion made and seconded.

46

47 Any discussion.

48

49 MR. BROWER: Question.

50

1 CHAIRMAN CHRISTIANSON: Question's been
2 called. All in favor say aye.

3
4 IN UNISON: Aye.

5
6 CHAIRMAN CHRISTIANSON: Any opposition.

7
8 (No opposing votes)

9
10 CHAIRMAN CHRISTIANSON: Motion carries.
11 Thank you.

12
13 You have the floor, Greg.

14
15 MR. SIEKANIEC: Hey, Mr. Chairman, and
16 good morning everyone in attendance. Just real
17 quickly, one, I'd like to say thank you for the last
18 couple of days of all the effort and work that's been
19 put into, you know, the Subsistence Board and the
20 hearings and the public testimony and I apologize for
21 not being here for a couple of days. Unfortunately I
22 was a little under the weather. Feeling a little bit
23 better today, though, and looking forward to the
24 discussions today, particularly around the Kenai
25 gillnet fishery relative to working with the Ninilchik
26 Traditional Council and the negotiations and
27 discussions that we've been having.

28
29 From what I understand, you have been
30 provided with the summary of the agreement, in
31 principle, which lays out all of the key points that we
32 have been working towards implementing on the Kenai
33 fishery. And you've also been provided with a summary
34 that shows all of the steps that we need to take. And
35 what I'd like to say is that there's a -- very much a
36 difference between a negotiation and getting to some
37 agreed principles and then taking the legal steps that
38 are required in order to make this successful. What we
39 do not want to do is falter on the legal aspect of it
40 by not doing the appropriate rulemaking that needs to
41 take place to ensure that this fishery can be
42 successful that we would lose under an Administrative
43 Procedures Act challenge, and then take the entire
44 thing out and put it back to us and start over.

45
46 So bear with us as I think we sort of
47 lay out the groundwork that needs to be put in place to
48 make this truly successful.

49
50 I have confidence that our negotiations

1 are leading to a very successful opportunity for both
2 the Ninilchik Traditional Council as well as other
3 subsistence users that are going to be working with
4 them in order to acquire the subsistence resources
5 they're interested in from the Kenai River, and I
6 believe it will add for the proper management and
7 conservation concerns for chinook salmon, sockeye
8 salmon, coho salmon, pink salmon, and other species
9 that are in the river relative to, you know, management
10 of the area from the fisheries resource standpoint.

11
12 And in regards to that, I am not going
13 to go through on a point by point basis, I would
14 certainly, Mr. Chair, offer up for -- if people have
15 questions about it, at the appropriate time, but I do
16 want to make a couple of recommendations or
17 particularly what I would like to do on behalf of the
18 US Fish and Wildlife Service, in the spirit of this
19 sort of negotiation we've been through, and my belief
20 that we are going to get to a successful resolution of
21 this and a successful fishery, I am going to withdraw
22 our request for reconsideration, 15-01, that was
23 submitted by the US Fish and Wildlife Service and as
24 identified as Letter 360 in the appendix of the Board
25 materials. And what I would also like to do is make a
26 motion, I believe this needs to be done by the Board,
27 that I would like to have the Board withdraw Proposal
28 FR17-08 -- excuse me, FP17-08 and Fisheries Proposal
29 17-07. And I would like to have the Board withdraw
30 those proposals because I think in the negotiations and
31 then in the rulemaking and the settlement we have there
32 are a number of issues that will potentially add
33 conflicting regulation again to the action that we
34 would be taking on behalf of putting this negotiated
35 settlement in place and then coming out with these two
36 proposals. As an example, we're talking about
37 household limits on salmon again with relative to
38 chinook, and let me see if I can find the other
39 proposal I can give you another example. We
40 potentially would be adding a date conflict of when
41 chinook may be harvested within the Kenai River July 16
42 to September 30. So in order to avoid us getting into
43 having to come back and undo some of the things that
44 may come out of 08, if it was successful, I would like
45 for now to just have the Board accept the motion from
46 me to remove that from consideration for now, take it
47 off the table, 08 and 07.

48
49 So, Mr. Chairman, how do you want to
50 proceed with that.

1 CHAIRMAN CHRISTIANSON: I would accept
2 that as a motion.
3
4 MR. SIEKANIEC: Okay.
5
6 CHAIRMAN CHRISTIANSON: We have a
7 motion by the US Fish and Wildlife Service to remove
8 FP07 and 08 from the agenda.
9
10 MS. MCBURNEY: Second.
11
12 CHAIRMAN CHRISTIANSON: Discussion.
13
14 (No comments)
15
16 CHAIRMAN CHRISTIANSON: Hearing none,
17 call for the question.
18
19 MS. PENDLETON: Question.
20
21 CHAIRMAN CHRISTIANSON: All in favor
22 say aye.
23
24 IN UNISON: Aye.
25
26 CHAIRMAN CHRISTIANSON: Opposed same
27 sign.
28
29 (No opposing votes)
30
31 CHAIRMAN CHRISTIANSON: Motion carries.
32
33 MR. SIEKANIEC: Thank you, Mr.
34 Chairman. And, you know, as I had indicated, if there
35 are any questions specific to the information that's
36 been handed out, I certainly would entertain any
37 dialogue around that now if you would like. If not, we
38 can certainly go on with the agenda.
39
40 CHAIRMAN CHRISTIANSON: Is there any
41 questions for Fish and Wildlife, Greg, in relation to
42 the plan they have drafted.
43
44 Mary.
45
46 MS. MCBURNEY: Just a clarification
47 then, the summary of agreement that we received a
48 couple of days ago, that that is still current, as of
49 this morning?
50

1 MR. SIEKANIEC: My understanding is
2 that is it current excluding the correct spelling of
3 Lynn Polacca's name, which we will correct in the
4 record. You know, but, yes, the rest of it outlines
5 the principle of the agreement.

6
7 MS. MCBURNEY: Thank you.

8
9 MR. SIEKANIEC: And if there's any
10 points on that that, you know, you would like some
11 additional discussion or clarification on, please, ask,
12 since you have it and you've probably all had the
13 opportunity to read it, I tend to not just go through
14 things on a point by point basis but I'm certainly open
15 for discussion.

16
17 MS. MCBURNEY: Mr. Chair. I wouldn't
18 mind having just a quick point by point discussion just
19 so that we have that read into the record.

20
21 MR. SIEKANIEC: Okay.

22
23 MS. MCBURNEY: We can just make it
24 quick and brief but just so that we can kind of touch
25 on those points.

26
27 MR. SIEKANIEC: All right. So there's
28 two aspects of this. One of them is the summary of
29 agreement in principle, between the Ninilchik
30 Traditional Council and the Federal Subsistence Board.
31 I'll go through that one first and when I'm done with
32 that one we can then go through the implementation
33 pathway to make sure that it is entered into the
34 record.

35
36 Obviously you note that we've had a
37 couple of different negotiations, the last one being on
38 December 9th, you see the attendees there, myself, Lynn
39 Polacca, Greg Encelewski and Ivan Encelewski, Sky
40 Starkey and Ken Lord as legal counsel.

41
42 The first bullet point is that
43 Ninilchik residents must be given an opportunity to use
44 a single gillnet as established through a regulation
45 includes the essential elements of the fishery and
46 eliminates any potential conflicts with existing
47 regulations and, therefore, is not dependent upon
48 annual approval and an operational plan and issuance of
49 a permit. I believe that we can successfully get to
50 that via of our adoption of the agreement.

1 Main target species are sockeye and
2 coho, with the net to be placed accordingly in shallow
3 or near shore waters. As you know from last year there
4 was a very successful fishery that was administered in
5 such a way that it targeted sockeye salmon and the
6 discussions have been built around the idea that they
7 would be and continue to successfully harvest sockeye
8 salmon from the Kenai River. Now, early run chinook
9 must be protected with no use of the gillnet at all
10 prior to July 1st and no retention of chinook until
11 July 16, unless the State concludes that the optimum
12 escapement goal for the early run has been met and
13 harvest guidelines for the rod and reel fishery are
14 followed. What that means is the slot limit that is in
15 place, if the fishery is open by the State for early
16 run salmon will apply to the gillnet fishery. The
17 optimum escapement goal has been raised as a -- you
18 know, how long will that be available to be an
19 opportunity or an option to use because the State may
20 be changing how it views optimum -- or how it views
21 escapement, discussions, if that changes, we will have
22 to address whatever the change is as the State presents
23 its information that would be needed to make this a
24 successful agreement as well. But right now that's
25 what we have to go on because that is what is used on
26 the river.

27
28 Conservation retention and encounter
29 rates will help address conservation concerns for
30 chinook, trout and Dolly Varden. If you've noted that
31 conservation -- or excuse me, encounter rates will be
32 utilized during the July 1 to the July 16, 50 encounter
33 rates of chinook salmon, if we have more than 50
34 encounter rates within that net, the season would be
35 closed during that particular window of July 1 to the
36 16th. If you remember last year's harvest or last
37 year's report, they encountered one chinook salmon
38 during their fishery so, again, from Ivan, in
39 particular, on the management of the fishery has great
40 confidence there will be very few chinook salmon
41 encountered when the net is placed as per the
42 discussion around the effort to harvest sockeye salmon.

43
44 Rainbow trout and Dolly Varden, again,
45 a species of concern was addressed from the standpoint
46 of an overall harvest goal of, I believe 150 and 100,
47 encounters again. Last year, I believe, they
48 encountered a couple of Dolly Varden and I'm drawing --
49 I'm not sure if they even encountered a trout on the
50 harvest from last year. Again, strong confidence that

1 that'll be a low number, but, again, if those encounter
2 rates are met the fishery, from the gillnet standpoint
3 does close.

4

5 The Board's blanket prohibition against
6 retention of early run chinooks need to be modified or
7 revoked to allow for retention for subsistence uses,
8 when appropriate. I believe we will address that when
9 we go through the proposed implementation pathway.

10

11 The Board size restrictions regarding
12 rainbows and Dolly Vardens should be modified or
13 revoked to allow the retention of dead fish for
14 subsistence uses regardless of size. That is, I
15 believe, probably perhaps more of a personal
16 perspective from my standpoint, that if we do have a
17 mortality in the net associated with it, to me, from a
18 subsistence standpoint, personal use, it makes no sense
19 to leave that fish floating down the river. So I am in
20 support of any dead fish that is in the net is to be
21 retained.

22

23 Retention of dead incidentally caught
24 fish for subsistence purposes is appropriate. Those
25 retained -- they will be counted towards the total
26 harvest or encountered limits, depending on what
27 species of fish it is.

28

29 Some level of subsistence take is
30 appropriate when non-subsistence take is being
31 permitted. I think that one is perhaps self-
32 explanatory. That if there is a sport harvest being
33 allowed on the river, then it is appropriate for
34 subsistence harvest to be allowed as well.

35

36 Replacing the maximum total subsistence
37 allocation of 4,000 sockeye with a household limit of
38 25, with an additional five for each member of the
39 household is a more equitable way to distribute
40 subsistence caught fish that addresses concerns raised
41 by Cooper Landing and Hope residents, and certainly
42 Ninilchik's ability to take large numbers of fish with
43 a gillnet. The subsistence allocation for coho and
44 pink salmon should be similarly adjusted from a total
45 annual allocation for all communities to a household
46 limit. Now, in the, I believe, subsistence regulations
47 already, there are household limits established for
48 these species of fish. The concern that was raised is
49 that if the cap remains at 4,000 fish and Ninilchik is
50 successful at taking fish from the river, they could

1 push towards that cap and thereby stopping the fishery
2 and not allowing Hope and Cooper residents the
3 opportunity to fish. I do believe that the more
4 equitable way would be to provide the household limits
5 that are published within the subsistence guidelines
6 already, therefore there would be no cap that would
7 prohibit Hope and Cooper Landing residents from having
8 an opportunity to fish. And I also believe that
9 because of the way that we will need to think about
10 this, that the annual allocation for the household
11 limit is not in addition to what a personal fishery
12 authorized by the State in other areas of the Kenai
13 River would allow. They are not cumulative, they are
14 one in the same in a number sense. So you can't go
15 down and get a fish, personal use fishery permit on the
16 mouth of the river and take your fish, and then turn
17 around and get a subsistence permit on the Kenai River
18 within the Moose Range Meadows area and take another
19 limit. It is one total limit.

20

21 A September opening will allow
22 Ninilchik residents to target coho while minimizing the
23 take of other species of concern. We had a lot of
24 discussion around the idea that Ninilchik is very
25 interested in coho, or silver salmon. We talked at
26 great length about the time from when the July to
27 August fishery would potentially end and when the coho
28 might be in the river at a point where it would allow
29 for a meaningful harvest and we came up with the idea
30 that if we split that season to end on, I believe
31 August 15th, and then not open again until September
32 10th, the silver salmon should be much more prevalent
33 in the river. Now, from the 10th to the 30th of
34 September, since we have not fished that in a gillnet
35 area, we don't know precisely what would happen
36 relative to the number of fish moving through the river
37 then, but we would use the same size of the net being
38 placed in the shallow water areas of the Moose Range
39 Meadows in such a way to try and target the coho. You
40 know, we -- you know, from a conservation standpoint my
41 concern was that between August 15th and, you know, the
42 mid-point or 10th of September, we'd be catching fish
43 that are truly in a spawning aggregation, and from a
44 conservation standpoint that doesn't look good for
45 anyone to be taking spawning fish out of the river
46 when, in particular, this is their key time. But
47 recognizing that we would also try to provide some
48 opportunity for coho, I think this provides a
49 meaningful opportunity.

50

1 The subsistence gillnet fishery may be
2 closed, if necessary, in accordance with section, and
3 I'm not sure why it's blank, 19 of the Federal
4 Subsistence regulations, but not unless Federally-
5 managed waters are also closed to sportfishing. This
6 is just to ensure that subsistence harvest does not get
7 closed prior to any sportfishing actions allowing
8 continued use by other users and stopping the
9 subsistence opportunity. Fish and Wildlife Service
10 committed to engage in the necessary process to allow
11 Ninilchik residents to access a specific location or
12 locations on Refuge managed lands along the bank of the
13 Kenai River in the Moose Range Meadows area for the
14 purpose of anchoring the net and engaging, perhaps, in
15 other related low impact activities for subsistence
16 uses, such as cleaning table and things that would help
17 them manage their fishery. For subsistence uses for
18 the 2017 season and the duration of the regulation and
19 authorize of the gillnet fishery. This is -- what
20 we're looking for is an opportunity, one, to make this
21 subsistence fishery, you know, a relatively easy
22 fishery for them to be able to accomplish, agreed to
23 with the Refuge from the standpoint of location and a
24 means of being able to anchor the net that provides for
25 very minimal habitat change or damage on the banks of
26 the river because we've done a great job in protecting
27 the banks of the Kenai which is important to, whether
28 it be smolt or whether it be fry salmon, you know, that
29 are using the river. We don't want to lose that public
30 perception that, you know, we're working hard to ensure
31 that the river provides the conservation benefits and
32 values that we're all interested in from the standpoint
33 of the fishery. I think there are some ways that we
34 can be successful with this and we're going to work
35 with the Ninilchik Traditional Council to identify the
36 areas and work hard to get them in place.

37
38 Both parties see a benefit in improving
39 the cooperative relationship related to management of
40 Ninilchik subsistence fisheries and agree to work in
41 good faith to develop a memorandum of understanding or
42 some form of an agreement that results in a meaningful
43 tribal consultation prior to the US Fish and Wildlife
44 Service taking fishery management actions that impact
45 Ninilchik subsistence opportunity and to develop a plan
46 for NTC's access and use of US Fish and Wildlife
47 Service managed lands.

48
49 I think this is simply good business
50 for all of us. I believe there's also already

1 consultation in place within the Federal Subsistence
2 rules and regulations, so this is not something that we
3 would just simply pass off lightly, this is an
4 important element of us being successful in
5 administering -- administering a successful fishery in
6 partnership with the Ninilchik Traditional Council and
7 other subsistence users associated with their permit.

8
9 So with these s in mind, we will be
10 presenting to the Board these regulatory requirements
11 of an operational plan and permit, that be removed from
12 regulation and replaced with specific requirements that
13 are articulated as follows:

14
15 Again, if the State announces the
16 optimum escapement goal, prior to July
17 1, no use of a gillnet.

18
19 From July 1 to July 15, the State
20 announces that the optimum escapement
21 goal for the early run chinook has not
22 been met then there is no retention of
23 chinook allowed, except for those that
24 are already dead.

25
26 When 50 chinook have been encountered,
27 whether dead or alive, the gillnet
28 fishery closes until July 16.

29
30 And I would like to, again, identify
31 that that would be under the same regulations or rules
32 as the rod and reel fishery for slot limit of fish.

33
34 If the State announces that the optimum
35 escapement goal for early run chinook
36 has been met then retention of up to 50
37 chinook is permitted. Once 50 chinook
38 have been retained or encountered, the
39 fishery closes until July 16.

40
41 July 16 to August 15, retention of up
42 to 200 chinook, fishery closes until
43 September 10 when that number is
44 reached, or I should say or when that
45 number is reached.

46
47 September 10 through -- I'm sorry, I'm
48 reading some of this incorrectly --
49 fishery closes until September 10 when
50 that number is reached.

1 September 10 through the 30th, gillnet
2 fishing allowed using the same gear
3 type as before with coho as a target
4 species as I described.

5
6 And then for the entire season, the bag
7 limit for the Ninilchik gillnet fishery
8 is the total of the household limits
9 for all households participating in the
10 Ninilchik Kenai gillnet fishery.

11
12 The household limits are:

13
14 25 sockeye per participating household
15 permit holder, and five additional
16 sockeye for each additional household
17 member. This replaces the 4,000 total
18 sockeye bag limit currently in
19 regulation.

20
21 20 coho salmon per participating
22 household permit holder, and five
23 additional coho for each additional
24 member of the household. This replaces
25 the 3,000 total coho bag limit
26 currently in regulation.

27
28 15 pink salmon per participating
29 household permit holder, and five
30 additional pink salmon for each
31 additional member of the household.
32 This replaces the 2,000 total pink
33 salmon bag limit currently in
34 regulation.

35
36 These bag limits are not cumulative
37 with State harvest limits.

38
39 There is a maximum encounter rate of
40 100 rainbow trout and 150 Dolly Varden.
41 If these numbers are reached then the
42 gillnet fishery is closed. All live
43 rainbow trout and Dolly Varden will be
44 released.

45
46 Retention of all dead fish is permitted
47 regardless of size or species, but such
48 retention counts towards the encounter
49 and retention number for specific
50 species.

1 The ensnarement of a jack salmon, jack
2 chinook, which is not spawning. I
3 don't if that language is correct or
4 not, but it does not count as a
5 retained or encountered fish. This is
6 similar to what the State sort of
7 approaches, the State rule or
8 regulation on the Kenai River.

9
10 Existing net length of 10 fathoms and
11 mesh size of five and one-quarter inch
12 restrictions will remain unchanged as
13 part of what's already in the
14 regulation. Only one net is permitted.

15
16 The Ninilchik Traditional Council will
17 record daily catches and report all
18 harvested fish to the Federal in-season
19 manager within 72 hours of leaving the
20 gillnet location and file an annual
21 report after the end of the season.

22
23 Ninilchik Traditional Council will
24 coordinate with the Federal in-season
25 manager to provide samples of retained
26 chinook salmon for genetic testing and
27 that does not always mean that we would
28 be after a sample off of every chinook,
29 but it would be up to what it is that
30 would provide the adequate sample for
31 us to gain an understanding of
32 additional science needs within the
33 Kenai River.

34
35 NTC will be permitted, or the Ninilchik
36 Traditional Council will be permitted
37 to place an in-river anchor and buoy
38 marker below the line of mean high
39 water, which may be left in situ from
40 July 1 until September 30 in support of
41 a successful Kenai River gillnet
42 fishery.

43
44 And this discussion really was involved
45 around the idea that it takes up to an hour for them to
46 set the anchor each and every time they come out, and
47 every hour that they're spending setting and/or
48 anchoring is one less hour that they're fishing, one
49 less hour they're getting the fish that is
50 appropriately being sought after under the subsistence

1 fishery and what we're looking for are ways to
2 facilitate this fishery to be successful, and not sort
3 of complicate it and take away from it, because the
4 more hours they can get in, the more likely they're
5 going to be able to meet their subsistence harvest
6 needs.

7

8 So that is the agreement, in .

9

10 And now if you would turn your thoughts
11 to the revised draft proposed implementation pathway,
12 as we -- after we discussed this, we came back and we
13 talked about well what is it that is already in
14 regulation, it needs no thought or adjustment, what is
15 it that under the Fishery Proposal 17-10 would still
16 need something that we can successfully do during this
17 Board meeting right now, today, and what is it that
18 will take both a special action and a rulemaking to
19 ensure that we do not overstep our bounds of the
20 Administrative Procedures Act and provide for the
21 appropriate public engagement, to make sure that we end
22 up with a successful fishery.

23

24 And then the final one would be and
25 what does the Fish and Wildlife Service need to do in
26 concert on its own in order to engage in this to become
27 a successful fishery.

28

29 So you'll see four different areas kind
30 of identified.

31

32 10 fathom gillnet length already in
33 regulation.

34

35 Single gillnet permitted, in
36 regulation.

37

38 Fishery takes place in the Moose Range
39 Meadows, already in regulation.

40

41 Fisheries dates, addressed today.

42

43 Reporting daily catch within 72 hours,
44 addressed today.

45

46 Remove operational plan requirement, we
47 would address that today.

48

49 Live release of all rainbow trout and
50 Dolly Varden, we would address that

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50

today.

Salmon taken in gillnet fishery included as part of the dipnet rod and reel fishery annual household limits, only, would be addressed today.

Collection of samples from all harvested chinook salmon for genetic testing, addressed today, probably likely through recognition in permit stipulations.

Anchor point and buoy, in the permit stipulation. Buoy may be any color but red. I have no idea why it can't be red but a nice bright florescent orange one. There are a number of buoys in the river, I do not see this as creating any kind of a navigational issue. When you look at the lower river area when it is -- that is how they do anchor their fishery boats in the lower river area. So I'm confident this can be figured out and worked -- addressed today.

Eliminate annual total harvest limit for late run chinook salmon. This will take both a special action to make this fishery happen this year, as well as in the followup rulemaking to remove that 4,000 cap, and put in place, I believe, all of the discussion I had around the various species and the household limits.

Eliminate annual total harvest limit for sockeye, coho and pink salmon, again. Early run chinook season, closure until 7/16 once limit is met, with the seven month -- through the 7/15 potential for harvest and alignment with the State on early run kings. This will take both special action and rulemaking.

Late run chinook harvest limit associated with the time period 7/16 through 8/15, the closure of the

1 gillnet fishery until 9/10, if limit is
2 reached. Again special action and
3 rulemaking.

4
5 Establish specific limits and time and
6 -- select time periods for chinook
7 harvest, chinook salmon harvest, again,
8 special action and rulemaking.

9
10 Establish early run chinook salmon
11 household limit, special action and
12 rulemaking.

13
14 Resident fish encounter limits of 100
15 rainbow, 150 Dolly Varden, closure of
16 fishery for season if limits are
17 reached and retention of fish that die
18 in net, again, is a special action and
19 rulemaking.

20
21 Retention of all incidental mortalities
22 regardless of species or length,
23 retentions count towards encounter and
24 harvest totals for specified species,
25 special action and rulemaking.

26
27 Retention of jack salmon, which does
28 not count towards encounter or harvest
29 totals, which is a salmon less than a
30 -- a chinook salmon less than 20
31 inches, again, special action and
32 rulemaking.

33
34 Federal subsistence regulations and
35 adopting State seasonal river bank
36 closures will not apply to gillnet
37 fishery is a special action and
38 rulemaking.

39
40 Fish and Wildlife Service action to
41 allow public easement access to bank in
42 Moose Range Meadows to anchor net, that
43 is a Fish and Wildlife Service action,
44 and we will take that type of action as
45 is necessary.

46
47 And what we need to do is to meet with
48 the Ninilchik Traditional Council on the river and
49 certainly understand where it is that they would like
50 to place their net so that we can come to an agreement

1 as to where the appropriate location would be and then
2 work towards that because there are a couple of
3 different areas and options that are in consideration.
4 One of them is a powerline right-of-way which has much
5 more flexibility potentially with it than does some of
6 the easements that we retain and hold. You know, no
7 matter how you look at it, we have to still meet the
8 intent and purpose for which the easements were
9 acquired but we believe we can be successful at finding
10 the right resolution.

11
12 With that, we've sort of, point by
13 point, covered what would be and has been entered into
14 the record.

15
16 Mr. Chairman.

17
18 MS. MCBURNEY: Thank you, Mr.
19 Siekaniec, I appreciate that. I do have a question.

20
21 MR. SIEKANIEC: Okay.

22
23 MS. MCBURNEY: With respect to the
24 implementation pathway and those items that have both
25 special action and rulemaking. I understand the
26 special action would help to get us through this next
27 season. With respect to the rulemaking, is that
28 anticipated to be something that would take place at
29 the next fisheries cycle, two years from now, or would
30 that be taken out of cycle and dealt with sooner.

31
32 MR. SIEKANIEC: Mr. Chairman. Would it
33 be all right if I ask Gene to address that.

34
35 MR. PELTOLA: Or Ken.

36
37 MR. SIEKANIEC: Or even Ken.

38
39 CHAIRMAN CHRISTIANSON: Go ahead, Gene.

40
41 MR. PELTOLA: Thank you, Mr. Chair.
42 This package of items under the agreement that'll be
43 addressed by the Federal Subsistence Program would be
44 taken out of cycle. It is not precedent setting.
45 Actually this body did something similar, back, in, I
46 believe it was '97 or so, and of all things we were
47 addressing Kenai regulations at the time.

48
49 MS. MCBURNEY: Thank you, Gene.

50

1 CHAIRMAN CHRISTIANSON: Ken.

2

3 MR. LORD: Thank you, Mr. Chair. I
4 just wanted to put a little lawyerly fine print on the
5 presentation here just to be clear that Mr. Polacca and
6 Mr. Siekaniec are the only two that have seen -- the
7 only two Board members that have seen this sort of
8 agreement, in , up to this point. The promise -- while
9 the negotiation -- the goal of the negotiation was that
10 we thought this was a good way for Ninilchik to get its
11 meaningful preference while addressing many of the
12 concerns raised by the Fish and Wildlife Service and by
13 others in the RFRs, but no promises were made as to
14 what the Board would decide on this agreement, in
15 principle. And that's a key point I wanted to be clear
16 about.

17

18 Like I said, most of the Board members
19 are just seeing this for the first time, and this is
20 just being presented as a proposal to the Board at this
21 point.

22

23 CHAIRMAN CHRISTIANSON: Thank you for
24 that, Ken.

25

26 Any additional questions from the
27 Board.

28

29 Judy.

30

31 MS. CAMINER: Thank you, Mr. Chair.
32 Judy Caminer representing the Southcentral RAC and, of
33 course, we haven't seen this either. But I would like
34 to followup maybe even more specifically on the timing
35 aspect of it, because we are talking about a special
36 action for fishing this year, and then just while one
37 can't ever estimate how long regulations might take to
38 approve, you might be able to estimate how long they
39 might take to write.

40

41 Thank you.

42

43 MR. SIEKANIEC: Mr. Chair.

44

45 CHAIRMAN CHRISTIANSON: Go ahead, Greg.

46

47 MR. SIEKANIEC: Thank you. Good
48 question. And as Gene had indicated, we have taken a
49 look at what we think are the timeframes that would
50 allow us to be successful at putting in place both the

1 special actions and the rulemaking that would need to
2 be associated to end up with the, you know, sort of a
3 successful fishery, and we think that within Board
4 taking action today on the elements that we can,
5 obviously that happens today. The proposed rule,
6 announcing the call for proposals to rewrite the regs,
7 which is what this public rulemaking part would be,
8 should be available within the next 10 days or so, the
9 way it looks on my chart. Then we would move towards
10 the brief of the Southcentral RAC on the Board's
11 strategy to address the Kenai gillnet regulations
12 around February 13th or thereabouts. And then we would
13 propose a special action request submitted by the Fish
14 and Wildlife Service, OSM, and the Ninilchik
15 Traditional Council and then we would -- Staff would
16 conduct the analysis on the request, that would be in
17 probably the third to fourth week of February and we
18 would present the special action to the Board for the
19 Kenai gillnet season late February to early March. And
20 then in the spring and summer of this year we would
21 have Staff draft conduct analysis on the regulatory
22 aspects of it and then the fall of 2017 we would
23 present the analysis to the Southcentral RAC and get
24 recommendation to the Board, and then in October of
25 2017 we would hold the Federal Subsistence Board work
26 session for the Board to take action on the Kenai
27 regulatory rewrite proposal. And in the winter of 2017
28 we would publish new Kenai subsistence regulations in
29 the Federal Register, which would then conclude that
30 portion of the rulemaking.

31
32 Now, that's everything falling in
33 place. You know, Gene, as the administrator for the
34 Office of Subsistence Management has indicated that he
35 feels very confident this is a successful timeline that
36 can be delivered on.

37
38 Does that help.

39
40 (Board nods affirmatively)

41
42 MR. SIEKANIEC: Okay, thank you. Thank
43 you, Mr. Chairman.

44
45 CHAIRMAN CHRISTIANSON: Thank you,
46 Greg. Any other questions or discussions -- oh, the
47 State has a question, yes.

48
49 MS. KLEIN: Okay, thank you, Mr. Chair.
50 I'd like to turn it over to Tom Vania, he's our

1 regional supervisor in the Division of Sportfish and
2 for the Southcentral region and he has a couple of
3 questions if that's okay now.

4

5 MR. VANIA: Thank you, Mr. Chair.
6 Again, for the record, my name is Tom Vania, I'm the
7 regional supervisor for Division of Sportfish for the
8 Southcentral region here, which encompasses the Cook
9 Inlet area. A few comments, I guess, and then some
10 questions that are associated with that.

11

12 Some of this surrounds the timeline for
13 that first two weeks of July where we have special
14 regulations for the protection of five ocean
15 tributaries spawning chinook salmon. These regulations
16 have been put into place since 2002 with the slot
17 limit, which is preventing the harvest of these five
18 ocean chinook which are at a historically low level.
19 So these regulations have been put into place for over
20 14 years now. And when we look at the number of this
21 particular age class of chinook salmon returning to the
22 tributaries, in 2016 we estimated only 69 of them. In
23 2015 we estimated 101. In 2014, 40. In 2013, 110.
24 Now, we have a long-term average where we had over 500,
25 571 is the long-term average for five ocean tributary
26 spawning fish, which move in during that early run time
27 period. The recent 10 year average was 172, the recent
28 five year average is 85. So that's the concern that
29 was placed upon this particular age class for these
30 fish and that concern remains into effect, as you can
31 see. And during the time period from July 1st to July
32 15th we estimated on average about 23 percent of the
33 tributary of spawning fish are still moving through the
34 waters in which this fishery would occur. Now, starting
35 July 16th that drops down to about four percent. So
36 the regulations that the State has relative to the
37 timing that these fish are moving through this area.
38 And so in these waters, starting July 16th, the slot
39 limit then goes away because we recognize that there
40 are some tradeoffs. You minimize effects so you can
41 have fisheries and provide opportunities, so we
42 understand that.

43

44 And in looking at all the bullet points
45 that you have -- there's a lot of really good points
46 here. There's a lot of really good movement on this to
47 create a good sustainable fishery that alleviates some
48 of these conservation concerns. But when I look at the
49 bullet point of the fishery that occurs from July 1st
50 to the 15th, one, is if the OEG hasn't been met, and

1 that OEG is set from where the early run comes into the
2 fishery starting May 15th and it ends on June 30th, so
3 come July 1 we have the final count and we would
4 estimate what harvest may be to subtract from what the
5 sonar count is, so come July 1 we know whether or not
6 the OEG has been met. If the OEG hasn't been met the
7 sportfishery has been closed. And in all reality the
8 sportfishing is likely closed well before July 1. And
9 now the sportfishery may open back up on July 1 below
10 Slikok Creek, which is below the waters in which this
11 fishery would occur. Because now they are focusing the
12 harvest on mainstem spawning fish, which occur
13 primarily starting July 1. So there's that little bit
14 of aspect there, that salmon would continue upstream of
15 Slikok Creek in those waters for at least several more
16 weeks, if not, through the end of the month, which
17 we've done before, for tributary spawning fish. So
18 when we look at the aspect of there's no retention of
19 chinook, so kind of there's this question here, well,
20 if the OEG has not been met we're not allowing any
21 sportharvest to continue in those waters, but then you
22 may allow a net in there. So there's that one kind of
23 question.

24

25 But then if we meet the OEG, the slot
26 limit remains in effect, the slot limit doesn't go away
27 for those first two weeks of July because, again, we
28 know tributary spawning fish are still moving through
29 that area in fairly good percents, and then afterwards
30 it does drop down to a minimal number.

31

32 So there's some questions there.

33

34 And then I didn't see anything, any
35 mention about the net being closely attended or
36 monitored. Now, when we saw the fishery occur this
37 last season it was in a relatively short time period,
38 and the monitoring of the net was extraordinary. I mean
39 they were there on the net pulling fish out as they
40 hit. And I don't think anybody really anticipated that
41 level of monitoring on the net because it is very time
42 consuming, it's very difficult. Typically when we see
43 a setnet we're expecting the setnet to soak and they're
44 going to allow it to soak and they're going to pick it
45 at various times, depending upon the conditions that
46 are there. So within the agreement I see nothing about
47 being closely monitored. And so if you have these
48 stipulations about encounters and retentions and trying
49 to reduce the mortality of those fish, if the net's not
50 being closely monitored, there's no stipulations that

1 are in there, then you don't know how the net will be
2 operated in the future. I mean it could change. So
3 that was one kind of concern, is I didn't see any of
4 that monitoring of the net that was in there.

5
6 And the concern about that first two
7 weeks of July in regards to the five ocean tributary
8 spawning fish, which that concern hasn't gone away and
9 we don't see foresee it going away in the near future.

10
11 Then the last question I think I had
12 was when you talk about closing to sportfishing then
13 subsistence would close, I understand that. But keep
14 in mind that when we close sportfishing, sometimes it's
15 only for a particular species. We may close it to
16 fishing for chinook but fishing could still be open for
17 sockeye so that, I wasn't quite sure when you saw close
18 to sportfishing, there may be a little bit more that
19 needs to be discussed as far as what level of closed to
20 sportfishing. Is it closed to the harvest, is it
21 closed to all fishing, is it closed to just for
22 chinook. We wouldn't be closing it to fishing for
23 sockeye based upon the forecast that's coming up for
24 this next season. We could have it closed to the
25 sportfishing for sockeye but it could still open for
26 chinook, we could -- probably always are going to have
27 it continue to open for fishing for trout, while we may
28 be closed to certain salmon species.

29
30 So those were kind of some of the
31 questions that I saw within the agreements that are
32 there that I felt maybe needed to be a little more
33 discussion.

34
35 Thank you, Mr. Chair.

36
37 CHAIRMAN CHRISTIANSON: Thank you. Any
38 questions. Responses for the State.

39
40 MR. SIEKANIEC: Mr. Chair. Thank you
41 very much. One, I appreciate the information you
42 provided relative to the long-term averages and such
43 things and we share the concern with you on early run
44 salmon, in particular. You know, it's difficult --
45 it's difficult to figure out what type of a fishery you
46 can allow in an area where you have this small of an
47 aggregate of early run fish that are absolutely at
48 their spawning grounds, spawning beds, you know, from a
49 conservation standpoint, you want them to be
50 successful. They've made it five, six, seven years and

appreciate that, I agree with that, which is why I
3 believe the consideration, I worked hard to sort of
4 make sure was in place, was that it followed the slot
5 limits absolutely that were allowable in the rod and
6 reel fishery so that we didn't all of a sudden open
7 that up that up to those fish being removed.

8
9 Your point about closely attended net
10 is very -- is heard very loud. The intent is for the
11 net to be very closely attended. I see Darrel standing
12 in the back of the room and I'm sure he would
13 absolutely agree that that is how they manage their
14 fishery. I believe we can probably cover that via our
15 permit, or stipulation that we have when we put this
16 fishery in place.

17
18 I'm not sure I followed all of your
19 point though on the optimal escapement goal and the
20 timing if the optimal escapement goal has been met, and
21 the variances that can occur relative to State openings
22 or closures. You know, I mean I hear that we should
23 try to be aligned as much as possibly can. The opening
24 of the fishery below, and I know my geography won't be
25 great, Slikok Creek, is then targeting second run fish;
26 is that what you were saying.

27
28 MR. VANIA: (Nods affirmatively)

29
30 MR. SIEKANIEC: Okay. And the first
31 run may still need to have some conservation aspect to
32 it, which, again, from a subsistence opportunity is
33 probably, fits to me within that release of all fish
34 within the slot limit perspective still. So I'm not
35 sure how to think differently about that.

36
37 Yeah, I don't know what else to say, I
38 don't know how to view that as it would be differently.
39 Now, in our discussions I will say that it was -- the
40 reason that we really have this July 1 through the 15th
41 window is the concern that was voiced over if the
42 sockeye happens to develop earlier than July 15th.
43 Historically that has now shown to be the case, but
44 they were asking for the opportunity to be in there for
45 the purposes of pursuing primarily the sockeye
46 interests, but also not getting penalized given that
47 there might be chinooks in the area as well.

48
49 You know, if the fishery is put in
50 place similar to what it was this past year and shows

1 and demonstrates the same kind of success in the
2 shallow water areas that the harvest of sockeye is the
3 primary fish, with very few encounters, you know, we'll
4 all be happy. But what we'll do is we'll find out over
5 the course of this next couple of seasons as to, you
6 know, what that probably looks like. You know, I think
7 if Ivan was sitting in front of us he would say,
8 without doubt, they know how to fish this fishery to
9 the point of, you know, the principal harvest is going
10 to be on sockeye salmon and that's what the goal is,
11 and that's what we're working for and putting in place,
12 but without changing it or punishing them to have to
13 stop that fishery in regards to other fish that are in
14 the area.

15
16 But I hear your concern and your
17 points. Same concerns that I'm hearing from, you know,
18 Jeff Anderson, and Andy Loranger, Fish and Wildlife
19 Service employees on the river, so thank you.

20
21 CHAIRMAN CHRISTIANSON: Any further
22 discussion.

23
24 MR. SIEKANIEC: Mr. Chairman.

25
26 CHAIRMAN CHRISTIANSON: Yes, Greg.

27
28 MR. SIEKANIEC: Through the Chairman,
29 to Lynn, and, you know, Lynn was also involved in this
30 and Lynn if you have any thoughts on the discussion or
31 the negotiation I'd just like to offer you an
32 opportunity if you'd like.

33
34 MR. POLACCA: Yeah, it was a very good
35 negotiations that took place between Fish and Wildlife
36 Service, Ninilchik Traditional Council and, you know,
37 it was something that I really wanted to see come to a
38 full, you know, full agreement on what we wanted and
39 looking at the conservation of the fish that were out
40 there. And you know I think -- I'm really hopeful that
41 Ninilchik Traditional Council will be able to speak on
42 this matter also, too, and be able to voice their
43 concerns. I know that in the end they really wanted to
44 get something that was approved that was all
45 encompassing but I know with the discussion there was
46 that hesitancy towards accepting, you know, as how it's
47 been broken out as far as trying to get some of the
48 actions approved through our existing FP17-10 and then
49 going on through a special action and getting that
50 broken out and eventually coming down later on this

1 year, next year, you know, that being passed on down,
2 eventually, you know, with a likelihood that might
3 never come. You know I know Ninilchik Traditional
4 Council is very concerned about this being passed over
5 again and, you know, they voiced that concern
6 throughout the whole entire time we were there at the
7 negotiations and, you know, I'm really hopeful that
8 anything that is passed and all that, that we'll be
9 able to give that reassurance to Ninilchik Traditional
10 Council that these steps will be taken to take these
11 special actions and, you know, bring it to light and
12 eventually get to a point where we can have a
13 rulemaking actually be done to close the whole entire
14 thing and make sure that everyone is being treated
15 fairly and equally on all sides. I think what we're
16 looking, the Traditional Council was looking at, was,
17 you know, not circumventing the process, what's there
18 right now, they just wanted to have the same -- be
19 treated just as equally as the sportfishery side of it.
20 If there's an opening they wanted to have that same
21 opportunity to be able to open -- I know that they're
22 very conscientious of conservation of chinook salmon
23 and so, you know, with that I'm really hopeful that
24 we'll be able to move forward and find a way to get
25 this completed up.

26
27 I really encourage all the items that
28 are going to be coming before us on a special action,
29 that we do take those to heart. I know that the
30 Ninilchik Traditional Council, you know, they just want
31 to be able to have that opportunity to be able to
32 harvest sockeye and if there's also the ability to be
33 able to take some coho -- chinook, you know, that's
34 also what they also wanted to do, have that
35 opportunity.

36
37 I know it's something -- there's a lot
38 of information here I think that we need to look at and
39 digest but, you know, in summary, that's kind of where
40 I'm speaking on behalf of the Traditional Council also,
41 too, I would like to see this come to full light.

42
43 MR. SIEKANIEC: Thank you.

44
45 CHAIRMAN CHRISTIANSON: Thank you, BIA.
46 And I think at this time maybe I'll entertain Ivan, if
47 he would like to come up and speak for Ninilchik.

48
49 MR. I. ENCELEWSKI: Thank you. Mr.
50 Chair. Members of the Board.

1 I really appreciate this opportunity to
2 testify here today and talk about this issue. For the
3 record my name is Ivan Encelewski and I'm the executive
4 director for the Ninilchik Traditional Council.

5
6 And I just want to first off start by
7 stating that Greg did an excellent job summarizing the
8 principle agreement and going through the timeframe and
9 I think I did he a real great service to you guys to
10 let you know exactly how that agreement played out and
11 so appreciate that.

12
13 I'm going to start just kind of -- I'm
14 going to read something into the record a little bit
15 and then I'll make a couple of quick comments at the
16 end.

17
18 So thank you for the opportunity to
19 address the Board on what has been a promise of
20 achieving a goal that NTC has been striving for for
21 over decades, a meaningful subsistence fishery on the
22 tribe's fishing grounds and the tribe sincerely thanks
23 the Board members who voted last July to allow NTC to
24 set its gillnet in the Kenai for the very last of the
25 season. This allowed us the chance to show that the
26 fishery the tribe proposed and conducted could be
27 successful at both avoiding conservation concerns for
28 Dolly Varden, trout and chinook salmon, and catch some
29 fish to deliver to the members of the community. And
30 as you know we caught about 723 sockeye, which was just
31 absolutely wonderful. And when you put it in
32 perspective to our educational fishery, which is about
33 300 and some, so this is a real important opportunity.
34 The tribe also wants to thank the Fish and Wildlife
35 Service Regional Director Greg Siekaniec and Lynn
36 Polacca with the BIA, the Solicitor Ken Lord for
37 meeting with the tribe and with our attorney and our
38 representatives to engage in a good faith discussion to
39 bring the issue and the litigation closer to resolution
40 and to reach an agreement that is before you today.

41
42 I want to present a little background
43 on where we got here and underscores the significance
44 of the action that is before you.

45
46 Under current interpretation of laws
47 and jurisdiction, NTC does not have subsistence fishing
48 rights for many waters customarily used by the tribe
49 for generations. The waters closest to the village are
50 under State management. Under State law all the

1 fishing grounds on the Kenai are in a non-subsistence
2 use area, meaning that is illegal to provide a
3 subsistence fishing priority. Under this legal
4 framework NTC elders have been forced to abandon many
5 of their fishing locations while they watch thousands
6 of sportfishers year after year descend on the same
7 waters and take the salmon that used to help fill their
8 fish racks. For decades elders and all other
9 subsistence users in the village have suffered through
10 lean times despite the fact that they are illegally
11 entitled and morally to meet their nutritional and
12 cultural needs. The loss we have suffered over this
13 time, as elders have passed and youth have come of age,
14 not having the opportunity to experience the fullness
15 of a traditional fishery just beyond description, and
16 cannot be measured.

17
18 Title VIII passed 35 years ago was
19 supposed to help our village avoid this hardship and
20 loss. The first sentence of Title VIII recites
21 Congress' finding and declaration that the continuation
22 of the opportunity for subsistence uses by Alaska
23 Natives on the public lands is essential for Native
24 physical, economic, traditional and cultural existence.
25 The politics of the Kenai River and the dominance of
26 the sportfishery have, however, long delayed meaningful
27 implementation of the Federal subsistence fishing
28 rights. Despite the fact that the Southcentral
29 Regional Advisory Council has consistently supported
30 NTC's fishing rights, it took nearly 30 years in
31 litigation for the Board to even recognize that the
32 tribe had customary and traditional use of the fish in
33 the Kenai drainage. It took until 2015 for the Board
34 to authorize a single community gillnet for Ninilchik
35 in the Kenai and it took until the end of July 2016 for
36 the Board to authorize an operational plan to implement
37 the regulation it adopted in 2015. And we are here at
38 the beginning of 2017 with an opportunity to start a
39 new path that will help lead to nutritional cultural
40 health for our community and the tribe.

41
42 The tribe supports the agreement that
43 has been put before you and the public and urges the
44 Board members to support the agreement in full.

45
46 There are three steps and each step is
47 essential.

48
49 The first step is an action today that
50 adopts the actions listed on the OSM handout that are

1 derived from current fishery proposals before the Board
2 and also, and very importantly, adopts the strategy and
3 timeframe for a special action request and final
4 rulemaking in the handouts from OSM.

5

6 The second step is to follow through on
7 the special action request.

8

9 The final step is to follow through on
10 the final rulemaking before the end of 2017.

11

12 Also noted in the agreement and
13 handouts, there is a commitment from the Fish and
14 Wildlife Service to initiate regulatory action that
15 will provide NTC with access to Refuge lands and waters
16 for their subsistence fishery and for engaging in other
17 low impact activities for subsistence users. And we
18 are confident that the Fish and Wildlife Service will
19 follow through on this agreement in time for us to
20 begin the 2017 fishery.

21

22 The tribe and the Fish and Wildlife
23 Service had originally agreed that all elements in the
24 agreement could be accomplished in a single action
25 before the Board today, after further assessment the
26 OSM and the Solicitor, that turned out not to be the
27 position presented to you today. Instead it is the
28 three step process as described to you. This is a
29 disappointment to the tribe from the standpoint that it
30 presents some risk that the Board will only adopt part
31 of the agreement and leave other important parts in
32 step two and three, the tribe, however, is willing to
33 take this risk depending on the good faith of the Board
34 to adopt the entire package for today and for the OSM,
35 Fish and Wildlife Service and the Board to follow
36 through on the steps fully as they occur.

37

38 NTC urges a unanimous vote of the Board
39 accepting this agreement as presented.

40

41 And, again, we've obviously been at
42 this for a very, very long time and this would really
43 provide a meaningful opportunity. I think it's in the
44 best interest of, not only our community and the tribe,
45 but the Federal Subsistence Board, I think as you guys
46 know, this has been before you, the Kenai issue is a
47 very contentious issue, and we think that this will be
48 an excellent and positive way to move forward to
49 resolve all these issues. You know, we're making a big
50 leap forward and Greg and I, and Greg Encelewski, you

1 know, we had a good discussion when we met through
2 these and we come to compromise but ultimately the goal
3 is conservation of the resource and meaningful
4 opportunity and I think we hit a homerun when we're
5 willing to negotiate and sit down and do that. And
6 really feel like the Board would really be doing us a
7 great service today to adopt this process that Greg
8 Siekaniec has committed to and really appreciate that
9 opportunity.

10
11 I just want to say one quick thing on
12 some of the State concerns with -- and I'm not going to
13 get into the -- but the State does have a gillnet in
14 the river at test mile 8.6 all June and July and in
15 2016 they caught 218 chinook, we caught one last year
16 in our harvest. So there is actually a net occurring
17 with harvest limit and it doesn't include slot limits
18 and those kind of things. So Greg Siekaniec and I, we
19 talked extensively about that in our discussions, about
20 that and other fisheries.

21
22 So I think I just want the Board to
23 fully understand there's the conservation concerns in
24 our meetings and the settlement were heavily, heavily
25 addressed and considered and I think this provides
26 absolute 100 percent conservation of the resource from
27 all the, you know, agency sides, but also provides us a
28 meaningful opportunity.

29
30 So once again thanks for listening to
31 me, thank you to all the OSM Staff, thanks to the Board
32 members and especially Greg and Lynn put a lot of
33 effort into coming down and working with us and we
34 appreciate their effort and we'd ask that you support
35 us.

36
37 Thank you.

38
39 CHAIRMAN CHRISTIANSON: Thank you,
40 Ivan.

41
42 MR. STARKEY: Mr. Chairman, if I might.
43 Mr. Chairman, this is Sky Starkey. I've been legal
44 counsel for Ninilchik throughout this process.

45
46 I also wanted to mention in terms of
47 the State's concerns about slot limits, that there's
48 one part that got left out and the State can correct me
49 if I'm wrong, but here's how I understand the
50 regulations work. That slot limit comes into play only

1 when the sportfishery for chinook is open, and only
2 when they're allowed to keep the harvest. It is not in
3 place, of course, when there is no harvest, but often
4 times when there's no harvest allowed there's still a
5 catch and release fishery going on. There's still a
6 fishery in those waters where there's catch and release
7 going on for chinook salmon and the State has to
8 acknowledge that there is mortality associated with
9 that catch and release.

10

11 So if they really were concerned about
12 the slot limit to the degree that they want to restrict
13 subsistence uses, then they should shut down all
14 fishing in those waters, including catch and release
15 fisheries if they're concerned about that slot limit
16 and mortality.

17

18 Thank you, Mr. Chairman.

19

20 CHAIRMAN CHRISTIANSON: Thank you, Sky.
21 Is there any questions or discussions from the Board
22 for the two presenters.

23

24 (No comments)

25

26 CHAIRMAN CHRISTIANSON: State.

27

28 MR. VANIA: Thank you, Mr. Chair. Tom
29 Vania with Fish and Game. Just a point of
30 clarification, yes, the State does have a gillnet at
31 Mile 8.6 in the river. It is a drift gillnet that is
32 used in conjunction with our sonar assessment program.
33 It's used to apportion counts, it is not a harvest
34 fishery. The net is designed to not kill chinook. We
35 do everything we can to keep the fish alive. So as
36 soon as a fish hits the net, we pull the net, we're
37 sampling that fish for age, sex, composition
38 information, genetic sampling and we're releasing the
39 fish. There is mortality associated with that, I mean
40 that's the cost of having to do business to have an
41 assessment program trying to obtain abundance
42 estimates. Mortality, we have somewhat of an estimate
43 of mortality based upon that particular gillnet
44 project, that's with fish that we tag with radio tags,
45 and so there may be some mortality associated with the
46 radio tagging, the extra handling for that, but that
47 could be about 20, to 25 percent mortality based upon
48 our in-river gillnetting program that's associated with
49 the abundance program.

50

1 And, yes, during the early run, catch's
2 can range from as low as 50 fish during these periods
3 of low abundance to several hundred. For the late run
4 it's generally more because there's more fish. It
5 could be about 180 up to a thousand fish when the late
6 run mainstem spawning fish are doing well. But it is
7 not a harvest fishery gillnet, it's designed to keep
8 fish alive.

9

10 In regards to the slot limit, there are
11 times that we will use catch and release as a, you
12 know, step down measure to slow the mortality of
13 chinook salmon during the early run, or even the late
14 run, and then there's times where we close it
15 completely. We estimate the mortality associated with
16 catch and release fishery, we apply about a six percent
17 mortality associated with that, and that six percent
18 mortality was based upon studies that used all gear
19 types including bait and multiple hooks. Now, in a
20 catch and release fishery we are at a single hook and
21 it's an unbaited, actually barbless single hook, so we
22 anticipate the catch and release mortality to be less
23 than six percent, but we still apply a six percent
24 mortality and we include that in. And, yes, again, not
25 all fisheries are clean, they all have mortality
26 associated with the activities that are there, and,
27 again, we do what we can to minimize the harvest of
28 those. And so the regulations that we have for early
29 run fish, which are primarily for tributary spawning
30 fish are designed for -- to minimize the effects of
31 five ocean fish, that's where we have the slot. We
32 know there's going to be mortality associated with it.
33 And we understand there'll be mortality associated with
34 the subsistence gillnet fishery and we understand that.

35

36 And -- but -- and in the points that
37 you guys came to an agreement, those are all really
38 good, those are really good towards helping to mitigate
39 that, mitigate that concern. And that's why I got to
40 the closely attended portion of it. You know I didn't
41 see anything about closely attended, but really if
42 they're going to run the net like they did in 2016
43 where they're out there and they are monitoring it and
44 pulling fish out as they hit, then that's about as good
45 as you can get to minimize the effect of it. And as
46 long as that is there and people can see that and know
47 that that is how that net will always be run, then
48 their concerns really are, you know, about as minimal
49 as you can get during that time period. I mean really
50 I commend a lot of these points that are there that

1 they made, I think it's great headway and you're doing
2 what you can to minimize that impact. And I commend
3 it.

4

5 CHAIRMAN CHRISTIANSON: Thank you.

6

7 Ivan.

8

9 MR. I. ENCELEWSKI: Thank you. Mr.
10 Chair. Members of the Board.

11

12 I just want to assure you guys that we
13 will monitor the net closely and I think because of the
14 bank access issues and the way that the fishery is
15 along that bank, you don't have any choice, I mean it's
16 almost without saying that you literally got to be
17 right there. It's not like you could even walk away
18 from it or beyond this big bank, I mean because we had
19 to operate inside the mean high tide marker, we're
20 literally standing in the water the entire time, so I
21 just want to assure you guys that we're committed to
22 that and that's actually how the fishery, we believe,
23 from the implementation aspect has to occur.

24

25 And one little final quick note is that
26 I appreciate what Lynn said on the process. We always
27 agreed, you know, when we -- after our December 9th
28 meeting, we agreed with the summary, in principle, and
29 to these points and here today, I think where we had a
30 little bit of confusion was on the process, and we
31 understand that happens, you know, we have to make sure
32 everything works. So we were a little bit concerned on
33 the process side of how everything gets implemented but
34 we're here today after working those issues to say that
35 we support this process that's before you today.

36

37 CHAIRMAN CHRISTIANSON: Thank you for
38 that Ivan. I think that helps the Board as we look at
39 accepting this or not.

40

41 Thank you.

42

43 I think at this time I'm going to call
44 for a short recess, five minutes.

45

46 (Off record)

47

48 (On record)

49

50 CHAIRMAN CHRISTIANSON: Okay, we'll get

1 started here in one minute.

2

3 (Pause)

4

5 CHAIRMAN CHRISTIANSON: Okay, it looks
6 like we have everybody back. We'll go ahead and get
7 started.

8

9 So what we're going to go ahead and
10 start back this morning with is we're going to pick
11 back up the discussion here we were having with the
12 agreement in principle with the Ninilchik Traditional
13 Council. Having heard from all the parties listed on
14 the agreement, I think I would like to open the floor
15 for a motion.

16

17 MR. SIEKANIEC: Mr. Chairman.

18

19 CHAIRMAN CHRISTIANSON: We need to hold
20 here one second for procedure.

21

22 (Pause)

23

24 CHAIRMAN CHRISTIANSON: Sorry. I
25 misunderstood the direction we were taking. So what
26 we're going to do at this time is have the Staff
27 present to us Proposal 10 and the information in
28 Proposal 10 and then we'll move forward with the
29 agreement.

30

31 (Pause)

32

33 MS. CAMINER: Mr. Chair.

34

35 CHAIRMAN CHRISTIANSON: Okay, just hold
36 for a second, we're trying to find out what
37 procedurally is correct on how we proceed with the
38 principle in agreement and we have our proposal that is
39 affected by it and we want to make sure that, for the
40 record, we get this straight.

41

42 MS. CAMINER: Mr. Chair. Mr. Chair.

43

44 CHAIRMAN CHRISTIANSON: Yes, Judy.

45

46 MS. CAMINER: Thank you. Just one more
47 point of clarification that maybe will be useful in
48 your further discussions. On the chart here, the flow
49 chart, timeline, the second one on the bottom says
50 proposed rule announcing the call for proposals to

1 rewrite the regs. Perhaps that could be clarified in
2 your discussions that you're not really looking for new
3 proposals, you're going to be putting out, as I
4 understand it, a draft regulation specific only to
5 these issues discussed today, rather than something
6 more broad that might bring in proposals contrary to
7 your intentions.

8

9 Thank you.

10

11 CHAIRMAN CHRISTIANSON: Thank you for
12 that clarification.

13

14 (Pause)

15

16 CHAIRMAN CHRISTIANSON: So we'll start
17 with FP-10.

18

19

20 (Off record)

21

22 (Technical malfunction - So Sorry!)

23

24 (On record)

25

26 CHAIRMAN CHRISTIANSON: All right,
27 we'll come back from a recess. We have remedied our
28 technical difficulties and we will, again, ask Staff to
29 start on FP17-10.

30

31 MS. HARDIN: Good morning, Mr. Chair.
32 Members of the Board. For the record my name is
33 Jennifer Hardin, and I'm the acting Fisheries Division
34 Chief for OSM. Before Scott gets started on the
35 presentation I just wanted to make a note that the
36 Staff analysis for FP17-10 was completed before the
37 agreement in principle was negotiated between the
38 Federal Subsistence Board and Ninilchik Traditional
39 Council, therefore, the presentation you are about to
40 hear does not reflect the elements in the agreement in
41 principle that are associated with FP17-10 and the
42 proposed implementation pathway. And with that note I
43 will turn it over to Scott Ayers who will present the
44 analysis for the Board.

45

46 MR. AYERS: Mr. Chair. Members of the
47 Board. Scott Ayers from the Office of Subsistence
48 Management, for the record.

49

50 This is the Staff analysis of FP17-10,

1 which deals specifically with the Kenai River community
2 gillnet regulations. This analysis can be found on
3 Page 411 of your Council book.

4

5 Proposal FP17-10 was submitted by the
6 Ninilchik Traditional Council, hereafter, referred to
7 as NTC. The proponent is seeking a number of changes
8 to the Kenai River community gillnet fishery
9 regulations that they believe would provide security
10 for a continued fishery, regulatory clarity and
11 meaningful subsistence fishing opportunity for
12 Federally-qualified subsistence users from Ninilchik.
13 The proposal contains seven separate requested changes
14 to the community gillnet fishery regulations.

15

16 1. To increase the annual duration
17 of the fishery.

18

19 2. To make the Office of
20 Subsistence Management of the
21 issuer of a registration permit
22 for the fishery rather than the
23 in-season manager.

24

25 3. To replace the operational plan
26 with specific permit
27 conditions.

28

29 4. To name NTC in regulation as
30 the coordinator of the fishery.

31

32 5. To remove the post-season
33 reporting requirement.

34

35 6. To add a 72 hour reporting
36 requirement as a permit
37 condition.

38

39 7. To establish a collaborative
40 process through which NTC and
41 the Southcentral Alaska
42 Subsistence Regional Advisory
43 Council are informed and
44 consulted prior to any
45 potential closures or other
46 actions by the Federal in-
47 season manager.

48

49 This would result in a wholesale
50 replacement of all current regulatory language for the

1 fishery if adopted as written.

2

3

4 Currently the State does not have an
5 authorized subsistence fishery in the Kenai River but
6 it does administer commercial, sport, personal use and
7 educational fisheries on the fish from this system.
8 Following the creation of a Kenai River Federal
9 subsistence fishery in 2002, numerous Federal
10 regulations have been put into place to manage gear,
11 time, and areas open, as well as harvest possession and
12 annual limits for salmon and select resident species.

12

13

14 With the adoption of FP15-10 in 2015, a
15 community gillnet became an authorized gear type in
16 Federal subsistence regulations for the residents of
17 Ninilchik. The authorization of this gear type has led
18 to much debate including request for reconsideration to
19 the Board related to the adoption of FP15-10 and
20 proposals to rescind the regulation and remove the gear
21 type from Federal regulations.

21

22

23 Implementation of this community
24 gillnet fishery has been slow due to identified
25 regulatory conflicts and conservation concerns
26 expressed by the Federal in-season manager and the
27 Kenai National Wildlife Refuge manager. However, a
28 brief experimental fishery was conducted in 2016
29 following Board approval of Federal Special Action FSA
30 16-02. The fishery was conducted over 16 days between
31 July 28th and August 15th. It resulted in the
32 retention of 726 sockeye salmon, six pink salmon, one
33 chinook salmon and 12 coho salmon. And the release of
34 29 sockeye, two Dolly Varden, one pink salmon and one
35 whitefish.

35

36

37 All Pacific salmon are distributed
38 within the Kenai River drainage as well as resident
39 species such as rainbow trout and Dolly Varden. The
40 main non-commercial fisheries are sport and personal
41 use. The primary target for harvest in the Kenai River
42 is sockeye salmon, which is differentiated into two
43 runs, early and late run. Early run sockeye salmon
44 fishery occurs primarily in the Russian River system,
45 while the late run sockeye salmon fishery is disbursed
46 throughout the drainage. Like sockeye salmon, chinook
47 salmon are also categorized into early and late runs.
48 Abundance of chinook salmon in the Kenai River has been
49 on a mostly declining trend since the last peak in 2004
50 prompting at least 12 Federal special actions and 20
51 State emergency orders since 2010 to restrict or close

1 fishing on the run. Size and age structure in the run
2 have also been decreasing. Due to these issues more
3 restrictive regulations have been put in place to
4 protect the stocks, primarily early run chinook salmon.
5 In 2016, however, chinook salmon returns to the Kenai
6 River resulted in far fewer State restrictions and no
7 additional Federal restrictions. Other salmon
8 fisheries such as coho, chum, and pink salmon occur
9 within the Kenai River drainage but are not as
10 intensively managed.

11
12 The Kenai River supports one of the
13 largest sportfisheries for rainbow trout and Dolly
14 Varden in the United States. Although many
15 restrictions have been added to State regulations to
16 protect these populations there is still harvest as
17 well as a recognized rate of unintended mortality
18 associated with catch and release practices in these
19 fisheries.

20
21 Request 1.

22
23 This request proposes to alter the
24 dates of the community gillnet fishery from the current
25 June 15th through August 16th season to an expanded May
26 1 through November 15 season. The following are points
27 to consider for request one.

28
29 This would create a higher probability
30 of harvest in general, harvest of fish species other
31 than salmon and harvest of salmon in spawning phase
32 conditions. This would provide additional subsistence
33 harvest opportunities for Federally-qualified
34 subsistence users from Ninilchik. Regulatory conflicts
35 with the community gillnet fishery would remain as the
36 fishery is linked with salmon harvest seasons from the
37 Kenai River dipnet/rod and reel fishery, all of which
38 occur during time periods within the State range.
39 Incidental harvest of rainbow trout and Dolly Varden,
40 18 inches in length or greater would remain and
41 possibly and possibly increase.

42
43 Kenai National Wildlife Refuge
44 regulations prohibit use or access between July 1 and
45 August 15 to any portion of 25 foot wide public
46 easements or other designated areas within the Moose
47 Range Meadows area.

48
49 Request 2.

50

1 This request proposes to make OSM the
2 issuer of the registration permit for the fishery.

3
4 The following are points to consider
5 for request two.

6
7 Moving issuance of permits and
8 management of the fishery to OSM would substantially
9 slow the process as OSM does not currently have
10 delegated authority over the fishery or the
11 infrastructure to conduct in-season management of
12 fisheries. Absent the in-season manager, management of
13 the fishery would be conducted through the Federal
14 Subsistence Program's special action request process.

15
16 Fishery management in Alaska may
17 require a more immediate response than the special
18 action request process to protect continued viability
19 of fish populations, continuation of subsistence uses
20 or issues of public safety.

21
22 Request 3.

23
24 This request proposes to replace the
25 operational plan requirement of the fishery with
26 specific permit conditions.

27
28 The following are points to consider
29 for request three.

30
31 The Board adopted Proposal FP15-10 to
32 authorize this fishery with the requirement of an
33 approved operational plan to address any outstanding
34 conservation concerns and logistics for the fishery
35 prior to implementation each season. Replacing this
36 requirement with static permit conditions would reduce
37 the burden on the proponent prior to, during, and
38 following the fishery each year. This change may
39 decrease the opportunity for the Federal in-season
40 manager and community gillnet fishery operating
41 organization to collaborate and make adjustments to the
42 fishery, as necessary, based on prior year's harvest
43 and any other issues that may arise. The change may
44 limit the ability to address issues related to
45 distribution of fish to residents of the entire
46 community, safety concerns and other relevant topics.

47
48 Request 4.

49
50 This request asks to name NTC as the

1 fishery coordinator in regulation.

2

3 The following are points to consider
4 for request four.

5

6 The existing Kenai River community
7 gillnet regulation provides flexibility to allow the
8 coordination of the fishery to change based on the
9 future needs of residents of Ninilchik. Designating
10 NTC in regulation as coordinator of the community
11 gillnet fishery may discourage Federally-qualified
12 subsistence users in Ninilchik that are not associated
13 with this organization from participating in the
14 fishery. However, this is essentially how the
15 community gillnet fishery was conducted during the
16 brief 2016 experimental fishery. OSM is recommending
17 this change specifying NTC as the coordinator of the
18 fishery for Proposal FP17-09 during the five year
19 experimental period of the Kasilof River experimental
20 community gillnet with the intent to allow any concerns
21 about NTC organizing the fishery to be voiced or
22 addressed prior to a determination on whether to make
23 that fishery permanent. As the Kenai River community
24 gillnet fishery is not experimental in regulation and
25 has no sunset provision, no such mechanism is in place.

26

27 Request 5.

28

29 This request proposes to remove the
30 annual report requirement.

31

32 The following are points to consider
33 for request five.

34

35 The current regulations requires that
36 after the season the organizer of the fishery will
37 provide written documentation of required evaluation
38 information to the Federal in-season manager,
39 including, but not limited to, persons or households
40 operating the gear, hours of operations, and number of
41 each species caught and retained or released.

42

43 Removal would mean that information
44 provided to the Federal in-season manager at the end of
45 each season and used to address the fishery would not
46 longer be required of the proponent. This would
47 decrease the burden on the proponent during and
48 following the fishery each year. This would make the
49 task of assessing the fishery and its impacts to non-
50 targeted species more challenging. Information

1 provided in these types of reports helps to identify
2 data gaps and set priority information needs for future
3 research.

4

5 Request 6.

6

7 This request asks to add a required
8 permit condition that NTC will report all fish
9 harvested within 72 hours of leaving the fill net
10 location.

11

12 The following are points to consider
13 for request six.

14

15 Specific reporting timelines are not
16 provided for this fishery in current regulation. A 72
17 hour reporting timeline would match the timeline in
18 place for the Kasilof River experimental community
19 gillnet fishery. This may require more effort on the
20 part of the proponent.

21

22 Request 7.

23

24 This request proposes to establish a
25 collective process through which NTC and the
26 Southcentral Council are informed and consulted prior
27 to any potential closures or other actions by the
28 Federal in-season manager.

29

30 The following are points to consider
31 for request seven.

32

33 The creation of a collaborative
34 decisionmaking process prior to initiating action on
35 the fishery would give the proponent a greater
36 influence over management than they currently have.
37 Statutory constraints outlined in the Federal Advisory
38 Committee Act dictate the necessity for convening a
39 publicly noticed Council meeting for the Council to
40 make a recommendation regarding the fishery. The
41 current structure of Title VIII only provides that
42 Councils may make a recommendation to the Board, not to
43 persons with delegated authority. However,
44 consultation with Council Chairs, not the Council as a
45 whole, is part of the regulatory process in place for
46 special action requests. If consultation with the
47 entire Council is desired, the timeframe required to
48 convene a Council meeting would likely render the
49 Council's involvement ineffective for in-season
50 management decisions.

1 The intent of the delegation of
2 authority is that subsistence management by Federal
3 officials be coordinated with the Alaska Department of
4 Fish and Game and involve Regional Advisory Council
5 representatives. While operating under delegated
6 authority from the Board the Federal in-season is
7 obligated to engage in tribal consultation consistent
8 with the Board's government to government tribal
9 consultation policy, however, an exemption from this
10 policy for in-season management decisions may prevent
11 consultation during the fishery season.

12
13 In addition, the Board may wish to
14 consider two additional items as discussed in the
15 additional issues for Board consideration section on
16 Page 448, including removal of annual total harvest
17 limits for this fishery leaving the household limits
18 for harvest and rewriting the Cook Inlet area
19 regulations to provide clarity and simplification.

20
21 The OSM conclusion is to defer FP17-10
22 so as not to preclude any decisions on FP15-10 with the
23 ongoing request for reconsideration process as well as
24 litigation regarding this community gillnet fishery.

25
26 Again, this analysis was completed
27 prior to the negotiated agreement between the Federal
28 Subsistence Board and the Ninilchik Traditional
29 Council.

30
31 Thank you.

32
33 CHAIRMAN CHRISTIANSON: Thank you,
34 Staff.

35
36 Any questions.

37
38 (No comments)

39
40 CHAIRMAN CHRISTIANSON: I'm trying to
41 find myself here.

42
43 (Laughter)

44
45 CHAIRMAN CHRISTIANSON: Any questions.

46
47 (No comments)

48
49 CHAIRMAN CHRISTIANSON: I also want to,
50 at this time, thank you guys for your extra work you've

1 done this week in trying to help us figure this out.
2 It wasn't an easy job and I know some of you Staff have
3 stayed up a little extra trying to get this
4 accomplished and it truly doesn't go unnoticed and we
5 appreciate you, in your extra effort, to make sure that
6 today can go a little smoother and definitely want to
7 extend our appreciation as a Board to you, as the
8 Staff, and recognizing that extra work truly is
9 appreciated.

10
11 (Board nods affirmatively)

12
13 CHAIRMAN CHRISTIANSON: If there is no
14 questions here we'll look for a summary of written
15 public comments from the Regional Council coordinator.

16
17 MR. MIKE: Thank you, Mr. Chair.
18 Donald Mike, Council coordinator. You will find a
19 summary of written public comments beginning on Page
20 472 to 480 in your meeting materials.

21
22 We received eight written public
23 comments all opposing Proposal FP17-10, and I'll
24 summarize the main points.

25
26 The majority of the comments were, the
27 theme was -- their primary concerns for rainbow trout,
28 Dolly Varden and chinook salmon, they were concerned
29 about the conservation of those species.

30
31 Thank you, Mr. Chair.

32
33 CHAIRMAN CHRISTIANSON: Thank you. At
34 this time we will open the floor to public testimony,
35 or those people on line.

36
37 (No comments)

38
39 CHAIRMAN CHRISTIANSON: We do have a
40 request here from Darrel Williams.

41
42 MR. WILLIAMS: Mr. Chairman. Members
43 of the Board. I'll defer my testimony to the
44 agreement.

45
46 Thank you.

47
48 CHAIRMAN CHRISTIANSON: Thank you, Mr.
49 Williams.

50

1 Next we have Ivan Encelewski.

2

3 MR. I. ENCELEWSKI: Thank you, Mr.
4 Chairman. Members of the Board. My name is Ivan
5 Encelewski, Executive Director for the Ninilchik
6 Traditional Council. I just want to say, again, Greg,
7 Mr. Siekaniec did an excellent job summarizing the
8 agreement that we held with Fish and Wildlife Service
9 so we support FP17-10 as noted in the agreement and
10 just hope for your consideration and approval of the
11 conditions as noted in the agreement.

12

13 Thank you.

14

15 CHAIRMAN CHRISTIANSON: Thank you,
16 Ivan.

17

18 Any additional public testimony, the
19 floor is open. Anybody on line.

20

21 (No comments)

22

23 CHAIRMAN CHRISTIANSON: Hearing none,
24 we'll move on to Regional Council recommendations.

25

26 MS. CAMINER: Thank you, Mr. Chair.
27 This is Judy Caminer sitting in for the Southcentral
28 Regional Advisory Council. You can find our general
29 recommendations on Page 465. And, again, of course,
30 these are a couple months old and some of them have
31 been overcome by the more recent events.

32

33 But the Council supported FP17-10 with
34 one amendment as proposed by the proponent during our
35 discussions, that was the Ninilchik Traditional Council
36 during public testimony where they stated that the
37 fisheries dates from June 15th to September 30th would
38 be practical for them to do. The Council said that
39 these amended dates would provide a good season for the
40 harvest of sockeye salmon and, of course, now, with
41 your new agreement these dates may be further modified
42 in your upcoming discussions.

43

44 It was commented on that the net that
45 was used in 2016 seemed to be selective enough and that
46 there was good monitoring of the net, as was just
47 stated, that as such it did not appear to present a
48 conservation concern.

49

50 Additionally, it was noted that the

1 daily reporting would serve as a way for the Federal
2 in-season manager to monitor what was occurring in the
3 fishery should any action need to be taken.

4

5 The Council supported the idea of OSM
6 issuing a permit with conditions rather than the
7 current system of an operational plan that had to be
8 approved by the Federal manager. We raised concerns
9 about how the operational plan process had occurred
10 thus far and disagreed with the assertion that
11 switching from an operational plan to a permit with
12 specific conditions would decrease the potential for
13 collaboration between the proponent and Federal in-
14 season manager and Refuge manager, and I think that's
15 being recognized through your agreement as well.

16

17 We also discussed specific dates being
18 put into place for certain actions that would need to
19 take place during the permitting process so that better
20 planning could take place for the whole fishery and
21 reduce the uncertainty. And, again, I believe your
22 agreement has covered that nicely.

23

24 The Council heard and read the concerns
25 of residents of Cooper Landing and Hope, who pointed
26 out that the current sockeye salmon limit of 4,000 for
27 all subsistence users could possibly be reached with a
28 gillnet or by themselves. The Council requested that
29 OSM and the Inter-Agency Staff Committee examine
30 whether an annual total harvest limit of 4,000 sockeye
31 salmon for the Kenai River Federal subsistence fishery
32 is a reasonable number or should be modified or if it
33 should be replaced altogether with a household limit.
34 Again, I'm glad to see this is something that you will
35 hopefully be pursuing in short-term.

36

37 The Council also requested that OSM
38 continue to examine the regulatory conflicts for the
39 Cook Inlet area gillnet fishery seasons and dates in
40 Section J and the preexisting dates in Section D to
41 which the gillnet fishery is linked and make
42 recommendations to the Board for fixing them. So I'm
43 pleased to also hear this is something that the Board
44 is going to be hopefully directing Staff to do shortly.

45

46 I'm glad to see that a lot of these
47 items have been discussed by you and will be voted on
48 today and I will remind you that the RACs do have
49 deference and you have on your card in front of you,
50 three reasons why you wouldn't have to take that

1 deference, but we hope you will vote accordingly.

2

3 Thank you very much.

4

5 CHAIRMAN CHRISTIANSON: Thank you,

6 Judy.

7

8 Any questions for Council Chair.

9

10 (No comments)

11

12 CHAIRMAN CHRISTIANSON: Tribal Alaska

13 Native Corp comments, Native Liaison.

14

15 MR. LIND: Good morning, Mr. Chair.

16 Board members. Orville Lind, Office of Subsistence

17 Management, Native Liaison.

18

19 During the consultation with NTC on

20 November 18th there was no comments or questions.

21

22 Thank you, Mr. Chairman.

23

24 CHAIRMAN CHRISTIANSON: Thank you,

25 Orville. We'll move on to the Alaska Department of

26 Fish and Game comments, State Liaison.

27

28 MS. KLEIN: Okay, thank you, Mr. Chair.

29 Again, I'd like to caveat like OSM did that our

30 recommendations and comments were developed in advance

31 of receiving the new information on the agreement this

32 morning between US Fish and Wildlife Service and

33 Ninilchik Traditional Council.

34

35 So the State's comments for Fisheries

36 Proposal 17-10 are that the State is neutral on the

37 option to defer the proposal. The State supports the

38 Ninilchik Traditional Council's desire to participate

39 in subsistence activities that are meaningful to them

40 under the Federal Subsistence regulations. While the

41 2016 season operational plan was limited in scope, due

42 to the late timing of the special action, the State was

43 pleased with the harvest numbers, especially the

44 minimal, incidental catch and harvest of chinook salmon

45 and resident species.

46

47 Allowing the use of a gillnet in the

48 Kenai River while tributary spawning chinook salmon are

49 transitioning in the area increases the potential for

50 the harvest of the five ocean tributary spawning

1 chinook salmon, which you heard earlier, have been
2 below historic abundance levels and we are concerned
3 about. But it is possible that the community gillnet
4 could be structured to address these conservation
5 concerns through an approved operational plan or a
6 permit that either contains seasons that would avoid
7 encounters with the five ocean tributary spawning
8 chinook salmon and actively spawning rainbow trout, or
9 as we requested earlier, that the gillnet be closely
10 attended so that fish can be released quickly to
11 minimize mortality.

12
13 So the State concurs with the majority
14 of the recommendations of the Office of Subsistence
15 Management on the following issues.

16
17 So request one. Oppose the expansion
18 of the season to May 1 through November 15th from the
19 current June 15th to August 15 season. These dates
20 would not address current regulatory conflict with
21 chinook salmon, rainbow trout and Dolly Varden harvests
22 nor with the riverbank closure areas. Riparian habitat
23 is protected in this area because it is susceptible to
24 trampling. The State recommends a program to monitor
25 the habitat to be established to assess the impact of
26 this fishery. And as long as the net is closely
27 attended we could support a modified date of the July
28 16.

29
30 Request 2. Oppose -- we oppose
31 requiring OSM to issue the permit rather than the US
32 Fish and Wildlife in-season manager, recognizing that
33 OSM doesn't have the delegated authority to issue the
34 permits.

35
36 Request 3. Oppose replacing the
37 operational plan with permit conditions. There are
38 conservation concerns and logistic issues that could
39 best be addressed through an annual operational
40 planning process.

41
42 Request 4. Oppose that NTC be named as
43 the coordinator of the community gillnet fishery. This
44 would allow time for community input on the role of NTC
45 during the experimental phase.

46
47 Request 5. Oppose removing the annual
48 report requirements. Given that there are conservation
49 concerns with this fishery additional information
50 provided in the annual post season report is important

1 and we heard how that works on the Kasilof yesterday
2 and think that it's good to have that happen in the
3 Kenai fishery as well.

4

5 Request 6. Support requiring the 72
6 hour reporting. This is consistent with other
7 fisheries, provides valuable in-season information for
8 management decisions.

9

10 Request 7. Oppose establishing a
11 collective process through which NTC and the
12 Southcentral Regional Subsistence Advisory Council are
13 informed and consulted. The Federal in-season manager
14 already has delegated authority to perform notification
15 and consultations with affected parties.

16

17 Thank you.

18

19 CHAIRMAN CHRISTIANSON: Thank you. Any
20 questions for the State.

21

22 (No comments)

23

24 CHAIRMAN CHRISTIANSON: Hearing none,
25 we'll move on to the Inter-Agency Staff Committee
26 comments.

27

28 MS. HOWARD: Thank you, Mr. Chair.
29 Good morning. Good morning, Board members. Again, for
30 the record, I am Ameer Howard. I am the acting Chair
31 for the Inter-Agency Staff Committee. The Inter-Agency
32 Staff Committee comments can be found on Page 467. And
33 in reference to the discussion we had just prior to
34 your deliberation on FP17-10 I'm just going to hit some
35 highlights of the comments.

36

37 So in addition to the Inter-Agency
38 Staff Committee's standard comments, the Inter-Agency
39 Staff Committee noted that given the ongoing process
40 for request for reconsideration for the Kenai River
41 community gillnet, the Board may consider deferring
42 action on FP17-10 until a subsequent meeting. However,
43 the ISC also considered that results of the effort to
44 negotiate with the Ninilchik Traditional Council may
45 present options to address issues associated with this
46 fishery and this proposal.

47

48 We also noted that the Southcentral
49 Alaska Subsistence Regional Advisory Council supported
50 FP17-10 with a modification in the fishing dates which

1 Ms. Caminer went over with you. And while the Council
2 supported with modification, the Board needs to
3 consider the regulatory concerns and other issues
4 identified in the Staff analysis and some of these same
5 regulatory concerns that were addressed by fisheries
6 special action 16-02 that occurred July -- for the
7 fishery to occur July 28th and August 15th, 2016 and I
8 believe after the discussion just prior to FP17-10, a
9 lot of those same concerns have been addressed.

10

11 So just to note, if the Board adopted
12 FP17-10 as proposed or as recommended by the Council,
13 subsequent action would still be required by the Board
14 to implement the fishery in 2017, which we have also
15 discussed with the pathway and the negotiated
16 agreement.

17

18 The shoreline closure issue, of special
19 note, is outside of the Board's jurisdiction, so that
20 still may be something that needs further action on the
21 part of Fish and Wildlife Service.

22

23 I'm going to conclude the ISC comments
24 there. And just for the record, they were written and
25 established before the discussion and before the
26 negotiated agreement.

27

28 Thank you.

29

30 CHAIRMAN CHRISTIANSON: Thank you,
31 Ameer.

32

33 That moves us to Board discussion with
34 Council Chairs and the State Liaison.

35

36 (No comments)

37

38 CHAIRMAN CHRISTIANSON: Hearing none,
39 we'll move on for Board action.

40

41 MR. SIEKANIEC: Mr. Chairman. I would
42 like to entertain a motion. I guess the best way maybe
43 to say it as a package resolution to address the Kenai
44 River gillnet proposals, I move to adopt the proposed
45 implementation pathway that we discussed and that I
46 entered into the record earlier.

47

48 The specific request in the
49 implementation pathway on rows four through 10 that
50 were highlighted in blue will be addressed today as a

1 Board modification of Proposal FP17-10. The other
2 specific requests will be addressed by the Board via
3 subsequent special action request rulemaking and
4 specific Fish and Wildlife Service rulemaking to gain
5 access in Refuge lands. And I would also ask that, by
6 way of this motion, the Board direct the Office of
7 Subsistence Management to take up this special action
8 request and rulemaking in an expedient manner so that
9 we can accomplish this within the timeline that we
10 discussed during the presentation I made.

11

12 Thank you.

13

14 CHAIRMAN CHRISTIANSON: Thank you.

15

16 There's a motion on the floor.

17

18 MR. POLACCA: I second that motion.

19

20 CHAIRMAN CHRISTIANSON: There's been a
21 motion made and a second. Any further discussion.

22

23 MR. SIEKANIEC: Mr. Chair.

24

25 CHAIRMAN CHRISTIANSON: Yes, Greg.

26

27 MR. SIEKANIEC: Just maybe a little
28 more thought on the justification.

29

30 As was previously stated, this
31 implementation pathway I believe provides an important
32 opportunity for the residents of Ninilchik to harvest
33 salmon and addresses many of the concerns that have
34 been raised by other Federally-qualified subsistence
35 users. It also addresses some of the conservation
36 concerns for early run chinook salmon which is of
37 utmost important to me and resident fish species.

38

39 So in conclusion, I believe very
40 strongly this provides a meaningful opportunity as well
41 as addresses the conservation concerns as best we can
42 at this point in time and I look forward to working on
43 a successful Ninilchik Traditional Council Kenai River
44 gillnet fishery.

45

46 CHAIRMAN CHRISTIANSON: Thank you,
47 Greg.

48

49 Hearing no other Board discussion, call
50 for the question.

1 MS. MCBURNEY: Question.
2
3 CHAIRMAN CHRISTIANSON: Roll call,
4 please.
5
6 MR. PELTOLA: Okay, Mr. Chair, roll
7 call vote on Fisheries Proposal 17-10.
8
9 Starting off to my left and working
10 westward, Fish and Wildlife Service.
11
12 MR. SIEKANIEC: Yes.
13
14 MR. PELTOLA: Public member Brower.
15
16 MR. BROWER: Support.
17
18 MR. PELTOLA: Public member Pitka.
19
20 MS. PITKA: I support this.
21
22 MR. PELTOLA: Bureau of Indian Affairs.
23
24 MR. POLACCA: I support.
25
26 MR. PELTOLA: US Forest Service.
27
28 MS. PENDLETON: I support.
29
30 MR. PELTOLA: Bureau of Land
31 Management.
32
33 MR. CRIBLEY: I support.
34
35 MR. PELTOLA: National Park Service.
36
37 MS. MCBURNEY: I support this proposal
38 and I also just want to say how gratifying it is to be
39 here today where we are establishing a meaningful
40 subsistence opportunity for NTC. And I did have the
41 opportunity this last summer to observe the fishery in
42 action on the river and I hope that perhaps that
43 opportunity is available to all of the members to
44 perhaps take a field trip this summer to observe the
45 fishery but it was conducted very responsibly and the
46 attention to taking care of the net, I, too, believe
47 that this is going to address many of the concerns that
48 people have for those early run five ocean fish.
49
50 So I'm just very, very pleased to be

1 able to say that we do support this agreement today.

2

3 Thank you.

4

5 MR. PELTOLA: Thank you. And Mr.

6 Chair.

7

8 CHAIRMAN CHRISTIANSON: I support.

9

10 MR. PELTOLA: Mr. Chair. Fisheries
11 Proposal 17-10, as modified by the Fish and Wildlife
12 Service is passed and accepted by the Federal
13 Subsistence Program with a vote 8-0, eight in favor and
14 zero in opposition.

15

16 CHAIRMAN CHRISTIANSON: Thank you.

17

18 Okay, thank you for that. Then now
19 we'll move on to FP17-06.

20

21 (Pause)

22

23 CHAIRMAN CHRISTIANSON: Go ahead,

24 Staff.

25

26 MR. DECOSSAS: Good morning, Mr. Chair.

27 Members of the Board. For the record my name is Gary
28 Decossas. I am a fisheries statistician with OSM and I
29 will be presenting Staff analysis, FP17-06. The Staff
30 analysis for FP17-06 can be found on Page 204 of your
31 Board book.

32

33 Proposal FP 17-06 was submitted by the
34 Cooper Landing and Hope Federal Subsistence Community
35 Group. The proponent requests the Federal Subsistence
36 Board to eliminate gillnets as a method for harvest in
37 waters under Federal subsistence jurisdiction of the
38 Kenai River. This is Section J in the regulations.

39

40 The Cooper Landing and Hope Federal
41 Subsistence Community Groups reasons for submitting the
42 proposal are listed at the bottom of Page 212. The
43 Cooper Landing and Hope Community Group believes that
44 the Kenai River gillnet regulations aggrieves their
45 Federal subsistence priorities and rights as well as
46 violates various sections of ANILCA and recognized
47 principles of sound fisheries management.

48

49 The State has not authorized
50 subsistence fishing in the Kenai River since 1952 but

1 it does administer commercial, sports, personal use and
2 educational fisheries in this system. Following the
3 creation of a Kenai River Federal subsistence fishery
4 in 2002, numerous Federal regulations have been put
5 into place to manage gear, time, areas open as well as
6 harvest possession, annual limits for salmon and select
7 resident species. With the adoption of FP15-10 in 2015
8 a community gillnet became an authorized gear type in
9 Federal subsistence regulations for the residents of
10 Ninilchik. The authorization of this gear type has led
11 to much debate including requests for consideration to
12 the Board related to the adoption of FP15-10 and
13 proposals to rescind the regulation to remove the gear
14 type from Federal regulation.

15
16 Implementation of this community
17 gillnet fishery has been slowed down due to identified
18 regulatory complex and conservation concerns expressed
19 by the Kenai Refuge in-season manager. However, a
20 brief experimental fishery was conducted in 2016
21 following the Board's approval of Federal Special
22 Action 16-02. The fishery was conducted over 16 days
23 between July 28 and August 15 and it resulted in the
24 retention of 726 sockeye salmon, six pink salmon, one
25 chinook salmon, 12 coho salmon, and the release of 29
26 sockeye, two Dolly Varden, one pink salmon and one
27 whitefish.

28
29 All Pacific salmon species are
30 distributed within the Kenai River drainage as well as
31 resident species such as rainbow trout and Dolly
32 Varden. The main non-commercial fisheries are sport
33 and personal use. The primary target for harvest in
34 the Kenai River is sockeye salmon, which is
35 differentiated into two runs, early run and late run.
36 Early run sockeye salmon fishery primarily occurs in
37 the Russian River system, while the late run sockeye
38 salmon fishery is disbursed throughout the drainage.
39 Like sockeye salmon, chinook salmon are also
40 categorized in an early and late run.

41
42 Abundance of chinook salmon in the
43 Kenai River has been on a mostly declining trend since
44 the last peak in 2004, prompting at least 12 Federal
45 special actions and 20 State emergency orders since
46 2010 to restrict and close the fishing on the run.
47 Size and age structure in the run have also been
48 decreasing. Due to these issues more restrictive
49 regulations have been put into place to restrict the
50 stocks, especially early run chinook salmon.

1 Other salmon fisheries, such as coho,
2 chum, pink salmon occur within the Kenai River drainage
3 but are not intensively managed. The Kenai River
4 supports one of the largest sportsfisheries for rainbow
5 trout and Dolly Varden in the United States. All of
6 the species listed above currently have some acceptable
7 level of fishing mortality, which includes mortality
8 associated with catch and release fisheries, especially
9 with chinook salmon and rainbow trout and Dolly Varden.

10
11 I will now go through the effects of
12 these proposals under three scenarios as well as what
13 the results of the recent community gillnet fishery
14 allows to infer.

15
16 If one or both of these proposals were
17 adopted, the community gillnet salmon fishery in the
18 Kenai River for Ninilchik residents would be
19 eliminated. Additionally residents of Hope and Cooper
20 Landing and Ninilchik will have subsistence
21 opportunities provided under the Federal dipnet and rod
22 and reel fishery as well as the additional rod and reel
23 fishery in the Kenai. Finally residents in Ninilchik
24 would not have the additional subsistence opportunity
25 for community harvest of salmon using a gillnet in the
26 Kenai River.

27
28 If this proposal is not adopted, the
29 community gillnet fishery in the Kenai River for
30 Ninilchik residents would continue to be administered
31 as originally adopted by the Board in 2015 and
32 stipulated in Federal subsistence regulations.
33 Additionally, the community gillnet salmon fishery will
34 continue to provide additional subsistence
35 opportunities for the residents of Ninilchik.
36 Residents of Hope and Cooper Landing will continue to
37 have subsistence opportunities provided to them under
38 the Federal dipnet and rod and reel fisheries in the
39 Kenai.

40
41 Finally, there is a potential that
42 annual total harvest limits for the Kenai River sockeye
43 salmon fishery could be obtained through the community
44 gillnet fishery before residents of Hope and Cooper
45 Landing are able to harvest at their preferred
46 locations in the upper Kenai River at Russian River
47 Falls. Removal of an annual total harvest limit would
48 alleviate this concern and would allow the fishery to
49 continue to be managed by annual household limits. The
50 Federal in-season manager could continue to open and

1 close the fisheries by Federal special action, if
2 necessary.

3

4 The results from the recent community
5 gillnet fishery this past summer allows us to make some
6 inferences on the impacts of a single community gillnet
7 in spawning areas of late run chinook salmon. Only one
8 chinook salmon was caught and harvested. By regulatory
9 definition this chinook salmon was a late run chinook
10 salmon as it was harvested after July 16. Regardless
11 of the regulatory existence of a community gillnet, the
12 harvest of the late run chinook on spawning areas in
13 the Kenai River is still allowed with other methods and
14 can still occur under Federal regulations up to 1,000
15 fish. Additionally, no inferences could be made on the
16 impact of a single community gillnet fishery in the
17 spawning areas of early run chinook salmon. The
18 gillnet fishery was not implemented until July 28th by
19 which time the seven to 20 percent of early run chinook
20 salmon that do spawn in the mainstem of the Kenai River
21 would have mostly spawned. If implemented by
22 concurrent Federal regulations from June 15 to August
23 15, the gillnet could potentially capture staging early
24 run chinook salmon. The potential would also exist to
25 capture the small portion of the mainstem spawning
26 early run chinook salmon. The potential capture is
27 dependent on numerous variables that could be
28 controlled through other sources. Also if early run
29 chinook salmon were captured they would have to be
30 released as currently stipulated in Federal
31 regulations. Depending on the range of injuries
32 sustained as a result of capture, survival and/or
33 spawning capabilities could be reduced.

34

35 Finally, limited predictions could be
36 made on the effects of the gillnet on salmon and
37 resident species in the Kenai River. Removal of the
38 community gillnet may allow a number of salmon species
39 to continue to migrate to the spawning grounds
40 throughout the Kenai River system, however, harvest
41 could still have occurred under Federal regulations but
42 with different gear types, the dipnet and rod and reel
43 fishery. Studies on the effect of a single community
44 gillnet is limited. Other scientific studies with
45 gillnets have been performed and show that incidentally
46 caught species and captured induced mortality depend on
47 a numerous amount of variables.

48

49 With that, the OSM's conclusion for
50 FP17-06 is to defer Proposal FP17-06 so as not to

1 preclude any decisions that have yet to be made by the
2 Board through the request for reconsideration process
3 associated with the Board's decision on FP15-10 or
4 contradict any potential direction received from the US
5 Court as a result of the pending litigation.
6

7 That concludes my presentation on FP17-
8 06 and I will be glad to answer any questions that the
9 Board may have.
10

11 Thank you.
12

13 CHAIRMAN CHRISTIANSON: Thank you,
14 Gary. Any questions for Staff.
15

16 (No comments)
17

18 CHAIRMAN CHRISTIANSON: Hearing none,
19 we'll move on to the summary of written public comment.
20

21 MR. MIKE: Thank you, Mr. Chair.
22 Donald Mike, Council coordinator. You will find your
23 summary of written public comments beginning on Page
24 259 and ending on Page 320 in the meeting materials.
25 We received 61 comments in support of Proposal FP17-06
26 and 07. I'll summarize the comments, Mr. Chairman.
27

28 17 written comments were received
29 commenting on FP17-06 and 21 written comments were
30 received supporting the Cooper Landing, Hope proposal
31 to remove the current regulations for subsistence
32 harvest of salmon from the Kenai River.
33

34 Mr. Chairman. The main points of the
35 comments in support of the Cooper Landing proposal will
36 provide for a meaningful access and opportunity for
37 subsistence and recreational use, to follow fishery
38 conservation principles by using selective gear which
39 allows for release of survival for fish opposed to non-
40 selective gear. Imposing a gillnet on the Kenai River
41 will impact the current --they oppose the Kenai
42 gillnet fishery on the Kenai, which will impact the
43 current fishery. Other opportunities are available to
44 fish with the use of non-selective gear. Gillnets will
45 adversely impact chinook and other salmon species so
46 they oppose the gillnet fishery. Supporting the
47 proposal -- the gillnet fishery threatens the health of
48 fish populations in the Kenai River. And to disallow
49 gillnets, gillnets impact future fish on the Kenai
50 River. And bycatch concerns of non-targeted species

1 causing mortality. Other comments received were in
2 support to deregulate the gillnets on the Kenai River
3 for conservation and sustainable management for salmon
4 for long-term sustainability of fish stocks.

5
6 And 21 written comments received in the
7 Cooper Landing and Hope proposal, the main concern was
8 to protect and conserve the resources we have and do
9 not allow gillnets on the Kenai River. And the other
10 concerns they have were bycatch of Dolly Varden and
11 trout in the gillnet fishery. And do not allow gillnet
12 fishery which will impact current -- impact fishery on
13 the Kenai River.

14
15 Thank you, Mr. Chair.

16
17 CHAIRMAN CHRISTIANSON: Thank you.
18 Alaska Department of Fish and Game comments.

19
20 MS. KLEIN: Thank you, Mr. Chair. The
21 State comments on Fisheries Proposal 17-06 are that the
22 State is neutral on this proposal and neutral on the
23 option recommended by the Office of Subsistence
24 Management to defer this proposal.

25
26 Thank you.

27
28 CHAIRMAN CHRISTIANSON: Thank you. And
29 I did jump over one process in this, I forgot to open
30 the floor to the public. So I'm going to jump back to
31 two and if any public wants to come speak to the
32 proposal, the floor is open at this point. And I do
33 have Ivan and Darrel.

34
35 MR. I. ENCELEWSKI: Thank you, Mr.
36 Chairman and members of the Board. For the record my
37 name is Ivan Encelewski, Executive Director for the
38 Ninilchik Traditional Council and a Federally-qualified
39 subsistence user.

40
41 On behalf of the Ninilchik Traditional
42 Council we oppose FP17-06 obviously. We believe we've
43 successfully operated a Kasilof gillnet for two years
44 and a gillnet on the Kenai, no conservation issues were
45 presented. We stand by the settlement agreement, which
46 we believe is a good and positive opportunity,
47 meaningful fishery for our people.

48
49 And lastly I would just note on the
50 issue with Cooper Landing, one of the things that we

1 discussed a lot about in the RAC meeting was this 4,000
2 limit allocation which was shared between Cooper
3 Landing, Hope and Ninilchik, and I think this process
4 that we've laid out with the settlement agreement and
5 everything is going to work out really nicely by having
6 just the 25/5, you know, individual limits and
7 eliminating the household limits so that would
8 completely eliminate any conflict with allocation
9 between the communities of Cooper Landing and
10 Ninilchik, so I think that addresses that point
11 specifically in the existing process.

12

13 So we just thank you and I think that's
14 all we have.

15

16 CHAIRMAN CHRISTIANSON: Thank you.

17 Darrel.

18

19 MR. WILLIAMS: Mr. Chairman. Members
20 of the Board. I can't add anything to what Ivan said.
21 We oppose FP17-06 and I think he's covered all of our
22 issues.

23

24 Thank you.

25

26 CHAIRMAN CHRISTIANSON: Thank you.

27

28 Anybody on line.

29

30 (No comments)

31

32 CHAIRMAN CHRISTIANSON: No, hearing
33 nobody on line, Regional Council recommendation.

34

35 MS. CAMINER: Thank you, Mr. Chair.

36

37 Southcentral Regional Council had a
38 great deal of public testimony during our meeting. But
39 I'll mention that the intent of any of the proposals
40 was never to restrict other subsistence communities or
41 deny them subsistence opportunities.

42

43 The subsistence community gillnet
44 fishery on the Kenai River was executed, as you know,
45 in the summer of 2016, and the impact to the fish
46 species of concern was minimal. The gillnet authorized
47 to harvest sockeye salmon is only 60 feet in length,
48 about 10 fathoms, and, in reality, a lot shorter
49 because of the current creating quite a bow in the net
50 itself. The net mesh size is intended to target

1 sockeye more than chinook. The community gillnet is
2 operated in the shallow section of the river away from
3 migrating chinook. The total area encompassed by the
4 gillnet is really very small, does not seem to pose any
5 conservation concerns. There also has to be some
6 allowance, as you've discussed, for incidental
7 mortality.

8

9 The Kenai community gillnet fishery is
10 beneficial to subsistence users. It has provided food
11 and methods for cultural practices to be passed along
12 to the younger generation.

13

14 Because of the timing of the
15 experimental gillnet fishery no concerns can be
16 substantiated about the impacts of declining stocks of
17 early and late run chinook, the harvest of staging or
18 spawning late run chinook is already permissible by
19 Federal regulation and other user groups are harvesting
20 in this area. Removing Section J removes a meaningful
21 subsistence preference. No one wants to see anything
22 happen to any of the fish populations. Reporting is
23 done on a timely basis and the Federal managers will be
24 taking action if catches were ever too high.

25

26 The Council recommends that the Kenai
27 community gillnet fishery continue and be monitored as
28 you have discussed in your agreement.

29

30 Thank you, very much.

31

32 CHAIRMAN CHRISTIANSON: Thank you,
33 Judy.

34

35 Any questions.

36

37 (No comments)

38

39 CHAIRMAN CHRISTIANSON: Hearing none,
40 we'll move on to tribal Alaska Native Corp comments,
41 Native Liaison.

42

43 MR. LIND: Mr. Chairman. Board
44 members. Orville Lind, Native Liaison. I don't have
45 anything on FP17-06.

46

47 CHAIRMAN CHRISTIANSON: Thank you,
48 Orville. that brings us to Inter-Agency Staff
49 Committee comments.

50

1 MS. HOWARD: Thank you, Mr. Chair.
2 Board members. The Inter-Agency Staff Committee's
3 standard comments apply for FP17-06.
4
5 CHAIRMAN CHRISTIANSON: Thank you.
6 Board discussion with Council Chairs, State Liaison.
7
8 (No comments)
9
10 CHAIRMAN CHRISTIANSON: Hearing none,
11 the floor is open for Board action.
12
13 MS. MCBURNEY: Mr. Chair, I'd like to
14 make a motion.
15
16 CHAIRMAN CHRISTIANSON: Okay.
17
18 MS. MCBURNEY: I would like to move to
19 take no action on FP17-06. and I believe that the
20 issues identified in this proposal were dealt with in
21 our previous action on FP17-10, which was modified to
22 accept the action items described in the agreement in
23 principle between NTC and the Federal Subsistence
24 Board, so, therefore, no action is necessary on this
25 proposal.
26
27 CHAIRMAN CHRISTIANSON: We have a
28 motion.
29
30 MR. BROWER: Second.
31
32 CHAIRMAN CHRISTIANSON: The motion's
33 been seconded.
34
35 Discussion.
36
37 MR. CRIBLEY: Mr. Chair.
38
39 CHAIRMAN CHRISTIANSON: Yes, Bud.
40
41 MR. CRIBLEY: I guess I would -- if --
42 what is the purpose of defer -- if we defer it, do we
43 have to reconsider it at a later date or what happens
44 with this proposal as opposed to just opposing or
45 taking a vote on it, up or down? It's just a
46 procedural question, I guess.
47
48 CHAIRMAN CHRISTIANSON: I think right
49 now we're going to take no action, not defer, but I
50 guess I would have to lean on the Solicitor for an

1 answer.

2

3 MR. LORD: A vote of take no action is
4 essentially the same as an oppose vote. It is not a
5 deferral for a later time.

6

7 MR. CRIBLEY: Okay. Okay. So we would
8 not reconsider it, we would just.....

9

10 MR. LORD: Maybe we should ask Ms.
11 McBurney to.....

12

13 MR. CRIBLEY: Well, okay.....

14

15 MR. LORD:clarify her intent.

16

17 MR. CRIBLEY:that would be the
18 question -- maybe I should ask the question of why we
19 would want to do that as opposed to just taking a vote
20 on it, so I could better understand the approach.

21

22 MS. MCBURNEY: If voting to oppose is a
23 cleaner approach I would certainly withdraw my motion
24 and perhaps restate it, but we have taken no action on
25 proposals before and this just seemed to be a
26 reasonable way to address this issue and this proposal
27 at this time.

28

29 CHAIRMAN CHRISTIANSON: I'm with you
30 Bud.

31

32 Any other discussion, questions.

33

34 (No comments)

35

36 CHAIRMAN CHRISTIANSON: Hearing none,
37 so the motion stands, to take no action with a second.

38

39 Any further discussion.

40

41 (No comments)

42

43 CHAIRMAN CHRISTIANSON: Call for the
44 question.

45

46 MR. SIEKANIEC: Question.

47

48 CHAIRMAN CHRISTIANSON: Roll call,
49 please.

50

1 MR. COGSWELL: Roll call vote on
2 Fisheries Proposal 17-06, the motion is to take no
3 action.
4
5 We'll start with Public Member Brower.
6
7 MR. BROWER: No action.
8
9 MR. COGSWELL: Public Member Brower.
10
11 (Laughter)
12
13 MR. BROWER: No action.
14
15 CHAIRMAN CHRISTIANSON: Is that in
16 support of no action.
17
18 (Laughter)
19
20 MR. BROWER: (Nods affirmatively)
21
22 CHAIRMAN CHRISTIANSON: Okay.
23
24 MR. COGSWELL: Thank you, Chair.
25
26 Public Member Pitka.
27
28 MS. PITKA: I support taking no action.
29
30 MR. COGSWELL: Bureau of Indian
31 Affairs.
32
33 MR. POLACCA: I support no action.
34
35 MR. COGSWELL: US Forest Service.
36
37 MS. PENDLETON: I support no action.
38 And my rationale really is given all the specific
39 provisions in the negotiated agreement and now voted
40 and supported by the Federal Subsistence Board, I don't
41 believe that there are any compelling reasons or
42 conservation concerns to not allow the continued use of
43 a single community gillnet on the Kenai River.
44
45 Thank you.
46
47 MR. COGSWELL: Thank you. Bureau of
48 Land Management.
49
50 MR. CRIBLEY: I support. And support

1 the rationale of the eloquent -- the eloquent rationale
2 expressed by the US Forest Service.

3

4 Thank you.

5

6 MR. COGSWELL: National Park Service.

7

8 MS. MCBURNEY: Support.

9

10 MR. COGSWELL: Fish and Wildlife

11 Service.

12

13 MR. SIEKANIEC: I support.

14

15 MR. COGSWELL: Chairman Christianson.

16

17 CHAIRMAN CHRISTIANSON: I support.

18

19 MR. COGSWELL: The motion to take no

20 action on FP17-06 passes unanimously, 8-0.

21

22 CHAIRMAN CHRISTIANSON: I think at this

23 time we're going to take a break for lunch as the RFR

24 process has a lot of presentation with it and so in

25 order to accommodate not stopping mid-stride on

26 something, I would just recommend we come back at 1:30.

27

28 Thank you.

29

30 I mean 1:00 and 15 minutes after.

31

32 (Laughter)

33

34 (Off record)

35

36 (On record)

37

38 CHAIRMAN CHRISTIANSON: All right,

39 we're going to start this afternoon's session, and

40 before we do I'm going to turn over the floor to Beth.

41

42 MS. PENDLETON: Good afternoon, Beth

43 Pendleton, Regional Forester for the Forest Service. I

44 just wanted to take this opportunity to acknowledge a

45 longtime Staff member of the Subsistence Team for the

46 USDA and the Forest Service who is retiring next month.

47 Robert Larson, if you could just stand up for a minute,

48 I think most folks know Robert.

49

50 (Applause)

1 MS. PENDLETON: Robert, I think it's
2 fair to say almost a lifelong Alaskan has worked in
3 many different capacities, including the State and, I
4 think just over the 16 years, if I have the numbers
5 right, or somewhere around there, for the Forest
6 Service and a good part of that time has been as the
7 coordinator for the Southeast Regional Advisory
8 Council. And I think that Michael and many of the
9 members would agree that he has just done a fabulous
10 job in that capacity and we will miss you Robert, and
11 wish you the best in your retirement, and celebrate you
12 today for all the great work you've done for the
13 Subsistence Program.

14
15 Thank you.

16
17 (Applause)

18
19 CHAIRMAN CHRISTIANSON: Thank you for
20 that Beth. And thank you, Robert, for his years of
21 service. Being from Southeast I watched him work for
22 years and he was really engaging in the process. Thank
23 you Robert.

24
25 We're going to start off this
26 afternoon, finishing up the proposals. I stated
27 earlier we would get to the request for reconsideration
28 right after lunch but to follow process we're going to
29 finish up the rest of the proposals we have on the
30 table and then we'll get to the RFR.

31
32 Okay, the consensus agenda, yes.

33
34 (Pause)

35
36 CHAIRMAN CHRISTIANSON: We'll give
37 Staff a minute as I did change the agenda as presented
38 earlier. Thanks.

39
40 (Pause)

41
42 MS. HARDIN: Thank you, Mr. Chair. For
43 the record, Jennifer Hardin, acting Fisheries Division
44 Chief at the Office of Subsistence Management.

45
46 I believe you read into the record, the
47 four consensus agenda proposals earlier in the meeting,
48 would you like me to go through them again?

49
50 CHAIRMAN CHRISTIANSON: Maybe we could

1 just get a summary and a title of that since it's
2 already on the record.

3

4 MS. HARDIN: Certainly, Mr. Chair.

5

6 FP17-03. Requests revision of the
7 season dates for chum salmon and alignment of Federal
8 regulations with State regulations in Subdistrict 4A on
9 the Yukon River. The consensus recommendation was to
10 support with modification to allow subsistence drift
11 gillnet fishing for chum salmon in both the upper and
12 lower portion of the Yukon River, Subdistrict 4A
13 annually between June 10 and August 2nd.

14

15 FP17-11. Requests that the Dry Creek
16 community be added to the customary and traditional use
17 determination for salmon in the Glennallen subdistrict
18 of the upper Copper River district. The consensus
19 recommendation was to support FP17-11.

20

21 FP17-13. Requests modifying the
22 regulations to prohibit the use of nets in streams
23 flowing across or adjacent to the road systems within
24 the city limits of Petersburg, Wrangell and Sitka. The
25 consensus recommendation was to support as modified by
26 the Southeast Alaska Subsistence Regional Advisory
27 Council to identify the islands where the communities
28 of Wrangell and Petersburg are located.

29

30 FP17-14. Requests that a slingbow be
31 added to Federal regulations as an authorized gear
32 type. The consensus recommendation was to oppose FP17-
33 14. While this proposal may increase subsistence
34 opportunity there was a concern about possible
35 incidental mortalities and a poorly identified need for
36 additional gear types with an unknown but likely safety
37 concern.

38

39 If there are any questions, Mr. Chair,
40 I'd be happy to field them.

41

42 CHAIRMAN CHRISTIANSON: Thank you. Any
43 questions for Staff on the summary.

44

45 (No comments)

46

47 CHAIRMAN CHRISTIANSON: Hearing none,
48 we'll open the floor for public testimony on consensus
49 items.

50

1 (No comments)
2
3 CHAIRMAN CHRISTIANSON: On line as
4 well.
5
6 (No comments)
7
8 CHAIRMAN CHRISTIANSON: Hearing none,
9 we'll go to Regional Council recommendations -- I don't
10 know that we do those for the consensus agenda so was
11 there any comments received.
12
13 (No comments)
14
15 CHAIRMAN CHRISTIANSON: We'll move on
16 to the State.
17
18 MS. KLEIN: Thank you, Mr. Chair. We
19 have no comments at this time.
20
21 CHAIRMAN CHRISTIANSON: Thank you.
22 Inter-Agency Staff Committee.
23
24 MS. HOWARD: Thank you, Mr. Chair. The
25 Inter-Agency Staff Committee has no comments at this
26 time on the consensus agenda items.
27
28 CHAIRMAN CHRISTIANSON: Thank you.
29 Board discussion.
30
31 (No comments)
32
33 CHAIRMAN CHRISTIANSON: Hearing none,
34 we'll open the floor for Federal Board action on the
35 consensus agenda.
36
37 MS. PENDLETON: Mr. Chair. I would
38 introduce a motion that we go ahead and approve the
39 consensus agenda.
40
41 CHAIRMAN CHRISTIANSON: There is a
42 motion.
43
44 MR. BROWER: Second.
45
46 CHAIRMAN CHRISTIANSON: And seconded by
47 Mr. Brower.
48
49 Any discussion.
50

1 (No comments)
2
3 CHAIRMAN CHRISTIANSON: Hearing none,
4 call for the question.
5
6 MR. SIEKANIEC: Question.
7
8 CHAIRMAN CHRISTIANSON: Question's been
9 called. All in favor signify by saying aye.
10
11 IN UNISON: Aye.
12
13 CHAIRMAN CHRISTIANSON: Opposed, same
14 sign.
15
16 (No opposing votes)
17
18 CHAIRMAN CHRISTIANSON: Motion carries.
19
20 We'll give Staff a few minutes to do
21 RFR, I have to run outside for one second. Can you get
22 that.
23
24 (Pause)
25
26 MR. COGSWELL: Chairman Christianson
27 had to step out for a minute, he'll be right back in,
28 but I think it'd be appropriate for you guys to start
29 the analysis.
30
31 MS. HOWARD: Thank you, Mr. Cogswell.
32 Members of the Board. My name is Amee Howard and I am
33 currently the Policy Coordinator at OSM and I will be
34 presenting on the RFR in addition to Scott Ayers, to my
35 right, one of our fisheries biologists and so we'll
36 just jump right in.
37
38 So located at the front of your
39 supplemental materials right after the tab is the Kenai
40 River community gillnet threshold analysis. Now, with
41 the efforts that happened earlier this morning and the
42 withdrawal of the US Fish and Wildlife Service's
43 request for reconsideration, we also passed out to
44 everyone an updated version of the threshold analysis,
45 so this may be easier to utilize, where Staff went
46 through and struck the areas that were impacted by that
47 RFR. So that's kind of where we're going to jump off.
48 All the information's 'still contained but we wanted
49 to, on the record, strike through those areas that were
50 analyzed.

1 So the threshold analysis of the
2 submitted request for reconsideration for Fisheries
3 Proposal FP15-10 is to provide information to you, the
4 Federal Subsistence Board, to use in your determination
5 of whether or not any of the claims are found to have
6 met the threshold based on the three criteria in
7 regulation. The three criteria stipulated in
8 regulation are:

9

- 10 1. Provides information not
11 previously considered by the
12 Board.
- 13
- 14 2. Demonstrates that existing
15 information used by the Board
16 is incorrect.
- 17
- 18 3. Demonstrates that the Board's
19 interpretation of information,
20 applicable law or regulation is
21 in error or contrary to
22 existing law.
- 23

24 So the threshold analysis is the first
25 step in our RFR process. This is for the Staff to
26 analyze, a preliminary analysis of each claim that we
27 received to inform the Board on whether or not we think
28 it meets one, two or three, and it'll be up to the
29 Board to determine if they agree with the Staff
30 analysis. And I just really want to point out that
31 what we're looking at today is threshold and so it's
32 whether or not the claims have merit towards one, two
33 or three, the criteria listed in regulation.

34

35 Only information available and
36 considered at the time of the 2015 Board decision on
37 FP15-10 can be used to review these claims. So it's a
38 snapshot in time. So we're kind of all going to go
39 back to 2015 and reconsider and look at what's been
40 available. That's what Staff has done. What was
41 available and if the Board had enough information of
42 their decision on FP15-10 to make -- to cover that
43 claim, to cover the potential claims.

44

45 The Office of Subsistence Management
46 utilized the same threshold analysis process as was
47 conducted on RFR 15-02 regarding the Kasilof River
48 community gillnet resulting from the adoption of FP15-
49 11, which was deliberated by you, the Board, in July of
50 2016. So after your discussion and deliberation of

1 this threshold analysis, the Board may decide to have a
2 full analysis completed on any claims that are found or
3 that you find meet the threshold.

4

5 Now, I'm going to turn it over to Scott
6 Ayers.

7

8 MR. AYERS: Thank you. There were 739
9 requests for reconsideration submitted to the Federal
10 Subsistence Board following the adoption of Fisheries
11 Proposal FP15-10 at the January 2015 meeting. Adoption
12 of this proposal created a community gillnet fishery in
13 the Kenai River for residents of Ninilchik.

14

15 The majority of the correspondence
16 received was in one of two form letter formats, each
17 with some degree of personalization. Of the requests
18 for reconsideration received, 237 were in form letter
19 one format, while 472 were in form letter two format.
20 Additionally there were 21 unique letters submitted.

21

22 The Office of Subsistence Management
23 collected, organized and reviewed each request to
24 identify substantive claims that may meet the criteria
25 outlined in the request for reconsideration regulation.
26 Again, these criteria are:

27

- 28 1. Provides information not
29 previously considered by the
30 Board.
- 31 2. Demonstrates that existing
32 information used by the Board
33 is incorrect.
- 34 3. Demonstrates that the Board's
35 interpretation of information,
36 applicable law or regulation is
37 in error or contrary to
38 existing law.

39

40 Relevant claims were summarized from
41 the various requests and analyzed in a single threshold
42 analysis. A total of 38 substantive claims were
43 identified and summarized.

44

45 Four of the claims were categorized
46 under criterion one. One claim was categorized under
47 criterion two. And 34 claims were categorized under
48 criterion three.

49

1 As Amee stated earlier, this analysis
2 of the submitted requests for reconsideration is to
3 help determine whether or not any of the claims are
4 found to have met the threshold based on the three
5 criteria, any claims found to meet the threshold may be
6 considered for a full analysis. Only information
7 available at the time of the 2015 adoption of FP15-10
8 was used to review these claims for the purpose of the
9 threshold analysis.

10
11 MS. HOWARD: If you'll turn to Page 55
12 of your threshold analysis, you will see the summary
13 and OSM preliminary conclusion.

14
15 OSM's preliminary conclusion is to
16 support the request for reconsideration on FP15-10.
17 Claims 1.4, 3.12, 3.13 and 3.32 may have merit under
18 criterion one and criterion three, which justifies the
19 need for a full analysis and possible reconsideration
20 by the Board. All other claims presented in the
21 threshold analysis do not appear to meet the
22 established criteria. OSM recommends fully analyzing,
23 again, Claims 1.4, 3.12, 3.13 and 3.32.

24
25 So to go in-depth a little further,
26 Claim 1.4 presents new information the Board did not
27 consider during their deliberation of FP15-10. While
28 the Board may have assumed by inference that the
29 operational plan would include conditions to reduce or
30 eliminate potential public safety concerns as described
31 in the claim, the Federal public record does not
32 contain reference to public safety. Discussion at the
33 Board meeting did not reference public safety nor did
34 -- nor go -- nor provide guidance to Staff on how to
35 address or prevent potential for concerns.

36
37 MR. AYERS: Claim 3.32 illustrates that
38 adoption of FP15-10 is contrary to existing law. Early
39 run chinook salmon are in the Kenai River prior to July
40 16 and the allowable fishing season for chinook salmon
41 under relevant Federal subsistence fishery regulations
42 begins on July 16 and the Kenai River community gillnet
43 fishery extends from June 15 through August 16. While
44 there is some degree of ability to target particular
45 species by gear placement, it is possible that chinook
46 salmon will be captured in the gillnet during the
47 closed period and that some mortality may occur.
48 Additional Board action or changes to Federal
49 regulations will need to occur to resolve this conflict
50 if the community gillnet fishery is to continue.

1 Claims 3.12 and 3.13 illustrate that
2 adoption of FP15-10 is contrary to existing law. The
3 requirement to release rainbow trout and Dolly Varden
4 18 inches in length or greater is listed in the two
5 applicable sections of Federal subsistence regulations.
6 Again, while there's some degree of ability to target
7 particular species by gear placement, it's possible
8 that rainbow trout and Dolly Varden 18 inches or
9 greater in length may be captured in the gillnet during
10 the fishing season and that some mortality may occur.
11 Additional Board action or changes to Federal
12 regulations will need to occur to resolve this conflict
13 if the community gillnet fishery is to continue.

14
15 MS. HOWARD: So this concludes our
16 presentation on the threshold analysis to open up to
17 the Board any specific questions you may have we're
18 happy to answer those.

19
20 CHAIRMAN CHRISTIANSON: Thank you for
21 the presentation, Staff.

22
23 Glenn.

24
25 DR. CHEN: Thank you, Mr. Chair. We
26 had some questions about your recommendation regarding
27 Claim 1.4, the safety claim. It seems that all
28 subsistence activities have some inherent safety risks
29 associated with them, whether they be hunting or
30 fishing, and typically the Board doesn't bring these up
31 during its deliberations because there are rules in
32 place to address these concerns. For example, there's
33 no shooting across roadways, or near developed
34 recreation sites. And so we were curious as to the
35 basis for -- we would like some more discussion about
36 your justification with this recommendation.

37
38 MS. HOWARD: So on Page 1 -- or 14,
39 which is kind of fitting for Claim 1.4, you'll find the
40 claim outlined. The summary of this claim says
41 gillnetting will pose a serious safety hazard for boat
42 traffic. The excerpt from letter number 705 is below
43 that and it states, the use of a gillnet below Skilak
44 Lake will conflict with longstanding, existing non-
45 subsistence uses and pose a serious safety hazard for
46 boat traffic. The area proposed for the gillnet is a
47 prime location for catch and release trout fishery. In
48 addition, this section of the river is heavily used by
49 power and drift boats, which cause safety concerns as
50 boats hit the gillnet leading to potential injury and

1 conflicts.

2

3 When Staff was analyzing this claim, we
4 went through all of the transcripts from the meeting
5 and there was no reference within those transcripts or
6 discussion about public safety. There is also no
7 reference or discussion about public safety contained
8 in the analysis. And so, therefore, we thought it met
9 the criteria one as new information since it had not
10 been brought forward or discussed and, in essence,
11 warranted further discussion or another look at by the
12 Board since we didn't have anything on record
13 addressing it.

14

15 That's the basis for the justification
16 for the threshold analysis.

17

18 DR. CHEN: So a followup, if I could.

19

20 CHAIRMAN CHRISTIANSON: Yes.

21

22 DR. CHEN: Again, the Board hasn't
23 taken up the issue of public safety on its regulatory
24 actions. The only times I recall that being part of
25 the discussion, if it was a specific part of the
26 proposal, and there is assumptions or otherwise that
27 existing regulations and rules would address those and
28 so we feel that there may not be a need to forward this
29 particular claim based on that.

30

31 Thank you.

32

33 CHAIRMAN CHRISTIANSON: Thank you,

34 Glenn.

35

36 Mary.

37

38 MS. MCBURNEY: Thank you, Mr. Chair. I
39 know that the agreement in principle that the Board
40 adopted as part of Proposal 10 is pretty new and not
41 all of us probably fully understand what the
42 implications of that may be, but I was wondering if
43 Staff, maybe over lunch or anything, kind of noodled
44 through it a little bit, to discuss how our earlier
45 action and those action items that are part of that
46 agreement in principle might address particular issues
47 in this RFR with respect to, you know, the harvest
48 window for chinook salmon and also the various issues
49 that concern the slot limits for chinook, Dolly Varden
50 and rainbow trout. Any sense for that or maybe that's

1 an unfair question, trying to put you in front of a
2 crystal ball and making some predictions, but just
3 thought I would ask.

4

5 MS. HOWARD: So through the Chair. Ms.
6 McBurney. To noodle through those specifics is outside
7 the scope of a threshold analysis. And being that any
8 information that occurred post-decision for this
9 particular RFR could not be utilized for the threshold
10 analysis, we had to utilize information available to
11 the Board at the time of adoption. Any of the efforts
12 that have happened post-decision could not be factored
13 into whether or not the claims have merit.

14

15 So if you look at it from that context,
16 we were simply going through and seeing whether or not
17 the claims did have merit and pointed out that these
18 claims potentially have conflict -- regulatory conflict
19 and that's about as far as a threshold could go.
20 Because, again, in essence it warrants further
21 discussion.

22

23 Now, to work out the specifics on how
24 the agreement and these efforts that have happened
25 since this decision, that would be more appropriate and
26 best utilized in a full analysis.

27

28 MS. MCBURNEY: Thank you, that was very
29 helpful.

30

31 CHAIRMAN CHRISTIANSON: Any additional
32 comments from the Board.

33

34 Greg.

35

36 MR. SIEKANIEC: Thank you, Mr.
37 Chairman. A mee thank you very much for that last part.
38 I just want to make sure I'm understanding this.

39

40 So if there's a recommendation made by
41 the Board that we would support this preliminary
42 conclusion, the OSM full analysis will include the FP10
43 and agreement that we adopted this morning, and we will
44 be able to clearly see the differences between what has
45 been resolved by way of that agreement and what is
46 still left sort of standing, by way of the 740
47 submissions for the RFR. Is that -- am I.....

48

49 MS. HOWARD: You're.....

50

1 MR. SIEKANIEC:close. Close?
2
3 MS. HOWARD:correct, very close.
4
5 MR. SIEKANIEC: So close.
6
7 (Laughter)
8
9 MS. HOWARD: Through the Chair.
10 Absolutely the information that has occurred since
11 adoption of FP15-10, and so we're talking two years of
12 special action requests, RFRs on the Kasilof, there's a
13 lot more examples and a lot more information that could
14 be utilized, including what has passed today with FP17-
15 10 and FP17-06 and the information that was utilized to
16 come to those decisions could be utilized in a full
17 analysis.
18
19 Again, we are only, for the preliminary
20 conclusion on the threshold, we're only putting forward
21 four claims that we think need to go to full analysis.
22
23 And so you were 99.5 percent correct.
24
25 (Laughter)
26
27 CHAIRMAN CHRISTIANSON: Judy.
28
29 MS. CAMINER: Thank you, Mr. Chair. I
30 guess going back those practically two years since 15-
31 10 was passed, it would be my assumption that the Board
32 members wanted a fishery to take place and that was
33 their intent, maybe as always didn't have all of the
34 exact details to it, and perhaps some of that is what's
35 coming out in this RFR, as well as what's coming out in
36 the settlement itself, so I would encourage the Board
37 to think about whether the full analysis is needed on
38 the RFR or if you're okay with the agreement.
39
40 And, particularly, I'd like to
41 reinforce and urge the Board not to go with the safety
42 issue as one that you would want to advance for further
43 analysis. That leads you down a really kind of tricky
44 road. Does that mean for every proposal you'll need to
45 say, well, let's keep in mind that people should be
46 wearing red vests or let's keep in mind, or let's
47 assume that people are going to use their life vests.
48 It's just kind of an area that the Board hasn't gotten
49 into before and I think could possibly lead you to lots
50 of RFRs just on that issue.

1 Thank you.
2
3 CHAIRMAN CHRISTIANSON: Thank you,
4 Judy.
5
6 Any further Board discussion.
7
8 Greg.
9
10 MR. SIEKANIEC: Thank you, Mr. Chair.
11 So I'm trying to figure out this safety thing, so it's
12 recommended -- or it's noted that there was no
13 discussion, so what you're saying is that at some point
14 there just needs to be a discussion. What constitutes
15 that discussion happening, when it comes up for full
16 consideration under the RFR after the full analysis, if
17 that was to take place, or could the discussion happen
18 right now as Glenn has sort of recommended or started,
19 and it be done.
20
21 MS. HOWARD: So the claims put forward
22 by OSM is their preliminary conclusion, and it is at
23 the Board's discretion whether or not you wanted to
24 move forward with those claims and go to full analysis
25 or not. So the purview of your discussion can
26 encapsulate all of those claims and see if that would
27 be at the Board discussion, so I would have to defer
28 back to the body before me.
29
30 CHAIRMAN CHRISTIANSON: Thank you,
31 Ameer. Yeah, I think we were presented with a couple of
32 options on moving forward with this. We could either
33 accept it, we could defer it, or we could accept
34 components of it, in part to focus on and move forward
35 on those meriting attention. So I think before us
36 those are the options we would like the Board to
37 consider.
38
39 Ameer.
40
41 MS. HOWARD: And you could also move
42 forward without wanting full analysis on any of them.
43
44 CHAIRMAN CHRISTIANSON: Thank you for
45 that.
46
47 MS. HOWARD: Just to clarify.
48
49 CHAIRMAN CHRISTIANSON: Yes, that's one
50 of our options.

1 Thank you.
2
3 CHAIRMAN CHRISTIANSON: So it looks
4 like we're all thinking really hard and maybe we should
5 entertain a motion to move on.
6
7 (Pause)
8
9 CHAIRMAN CHRISTIANSON: I think we're
10 taking a minute to build a motion.
11
12 (Pause)
13
14 DR. CHEN: Mr. Chair.
15
16 CHAIRMAN CHRISTIANSON: Yes, Glenn.
17
18 DR. CHEN: Will we be hearing from
19 other groups such as the State on getting their
20 perspectives on the RFR?
21
22 CHAIRMAN CHRISTIANSON: I don't believe
23 so. I think the process calls for -- this is just a
24 preliminary analysis and doesn't call for the full
25 spectrum of public involvement, it's just something for
26 the Board to consider at this time to make a decision
27 on. That decision then would merit the additional
28 attention.
29
30 DR. CHEN: So we're approaching a point
31 where we should make a motion, is that what you're
32 saying?
33
34 CHAIRMAN CHRISTIANSON: Yeah, that's
35 what I just stated, I think we're at that point now.
36
37 DR. CHEN: Thank you.
38
39 (Pause)
40
41 MR. SIEKANIEC: Mr. Chair.
42
43 CHAIRMAN CHRISTIANSON: Greg.
44
45 MR. SIEKANIEC: Thank you, Mr. Chair.
46 I would like to make a motion that we support OSM
47 preliminary conclusion to Claims -- I want to make sure
48 I get this right, 3.12, 3.13 and 3.32 have merit and
49 should be fully analyzed, and by not including Claim
50 1.4, I believe that, if necessary, those can be

1 addressed by permit stipulations as we go through these
2 analysis as submitted earlier this morning. And in
3 support of that I believe that when OSM does the full
4 analysis, that if my understanding was even 90-some
5 percent close to that, Ameer, the review will help us
6 really sort out the issues that are left remaining at
7 the time when -- after we've got this negotiated
8 settlement, you know, farther down the road and a
9 better understanding of what it will reflect as to all
10 of the claims that were brought up in the RFR.

11

12 Thank you.

13

14 CHAIRMAN CHRISTIANSON: That was in the
15 form of a motion.

16

17 MR. SIEKANIEC: Sort of.

18

19 CHAIRMAN CHRISTIANSON: Can we get a
20 second.

21

22 MS. MCBURNEY: I'll second.

23

24 CHAIRMAN CHRISTIANSON: Thank you. Any
25 discussion on the motion.

26

27 (No comments)

28

29 CHAIRMAN CHRISTIANSON: Question.

30

31 MS. PENDLETON: Question.

32

33 CHAIRMAN CHRISTIANSON: All in favor of
34 the motion signify by saying aye.

35

36 IN UNISON: Aye.

37

38 CHAIRMAN CHRISTIANSON: Opposed, same
39 sign.

40

41 (No opposing votes)

42

43 CHAIRMAN CHRISTIANSON: Motion carries
44 unanimously, thank you.

45

46 MS. HOWARD: Thank you, Mr. Chair and
47 members of the Board.

48

49 MS. CAMINER: Mr. Chair.

50

1 CHAIRMAN CHRISTIANSON: Why don't
2 we.....
3
4 MS. CAMINER: Mr. Chair.
5
6 CHAIRMAN CHRISTIANSON:give
7 everybody five minutes so we can get ready for the
8 wildlife -- real quick, Judy.
9
10 MS. CAMINER: One quick question. Do
11 we have an estimated timeframe for completing the
12 further analysis, please.
13
14 CHAIRMAN CHRISTIANSON: Estimated
15 timeframe from Staff.
16
17 MR. PELTOLA: The best estimate of
18 analysis I could get to right now would be that from
19 what was passed here by this body today with regard to
20 17-10, we probably would not initiate any further work
21 on the full blown analysis of 15-10 until that was
22 complete, which would probably put us like at least
23 four weeks out from initiating work on it.
24
25 CHAIRMAN CHRISTIANSON: Thank you,
26 Gene.
27
28 MR. PELTOLA: After that our targets
29 would be either the April work session of the Board, or
30 the July work session of the Board, so any one of those
31 periods throughout the year when we would be able to
32 present again.
33
34 CHAIRMAN CHRISTIANSON: Thank you.
35 Take five. We'll get ready for wildlife.
36
37 (Off record)
38
39 (On record)
40
41 CHAIRMAN CHRISTIANSON: It looks like
42 we're all back here to the table, thank you, we'll get
43 started again. We will be addressing the wildlife
44 proposal, Special Action 16-03.
45
46 Staff.
47
48 MS. KENNER: Thank you, Mr. Chair.
49 Members of the Board and Council Chairs.
50

1 My name is Pippa Kenner and I'm an
2 anthropologist at the Office of Subsistence Management
3 here in Anchorage. I'm going to summarize the analysis
4 for Wildlife Special Action Request WSA16-03. The
5 analysis begins on Page 563 of your Board books.
6 Sitting with me are co-authors Joshua Ream and Lisa
7 Maas.

8
9 The impetus for this special action
10 request occurred last April when the Board approved
11 WSA16-01 and closed Federal public lands in Unit 23 to
12 the harvest of caribou except by Federally-qualified
13 subsistence users from July 1st, 2016 through June 30th
14 2017, that's an entire regulatory year.

15
16 Subsequently, last June the Alaska
17 Department of Fish and Game submitted WSA16-03 to the
18 Board asking that Federal public lands in Unit 23 be
19 reopened to caribou hunting. The State said that new
20 information has indicated improvements in WACH
21 population parameters such as calf production. Now,
22 almost all caribou observed in Unit 23 belong to the
23 Western Arctic Caribou Herd, which I will refer to as
24 the WACH from now on. It should be noted that since
25 submitting its request the Alaska Department of Fish
26 and Game has conducted a photo census of the WACH on
27 July 1st. This census resulted in a minimum count of
28 194,900 caribou with a point estimate of 201,000
29 caribou. Results of this census indicate an average
30 annual decline of five percent per year between 2013
31 and 2015 representing a lower rate than the 15 percent
32 annual decline between 2011 and 2013. Since peaking --
33 to put this in perspective, since peaking at 490,000
34 animals in 2003 the WACH population has declined over
35 58 percent.

36
37 Federal public lands, which are
38 currently closed comprise about two-thirds of Unit 23.
39 Since 1988 the Alaska Department of Fish and Game, US
40 Bureau of Land Management, National Park Service, and
41 US Fish and Wildlife Service have discussed, researched
42 and implemented regulations to address user conflicts
43 in Unit 23. However, local caribou hunters have
44 consistently reported conflicts with non-local hunters
45 and observed aircraft affecting the behavior of
46 individual and groups of caribou in areas in Unit 23.

47
48 Now, I'm going to review the new
49 information described in the State's special action
50 request.

1 In its request to the Board, the State
2 said that new information has indicated improvements in
3 caribou calf production but calf production has likely
4 had little influence on the WACH population decline.
5 Decreased calf survival and decreased recruitment into
6 the herd has likely contributed to the population
7 decline. And new information in the State's request
8 has indicated improvement in WACH calf survival and
9 recruitment. Recent research has demonstrated that
10 2015 and 2016 cohorts have made up a large population
11 of the herd, however, because of their young age they
12 have remained vulnerable to difficult winter
13 conditions, and evaluating the overwinter survival of
14 the large cohort of 2016 will help to put the
15 demographic potential of this cohort into context.
16 Increased cow mortality has likely affected the herd
17 decline, and new information has indicated that adult
18 females have exhibited very good body condition and
19 high pregnancy rates in 2015 and 2016 and new
20 information has demonstrated decreasing annual cow
21 mortality rates in three of the past four years.
22 However, the overall population trend is decreasing and
23 the harvestable surplus of 12,000 caribou is likely
24 already being exceeded.

25
26 Now, the harvest of caribou from the
27 WACH has been stable averaging about 12,000 caribou
28 annually. Local hunters have taken about 95 percent of
29 the harvest since the late 1990s. The majority of WACH
30 harvest has occurred in Unit 23. And the timing of
31 hunting has caused conflicts between user groups
32 because about 90 percent of all caribou taken by non-
33 local hunters have been harvested between August 25th
34 and October 3rd, the same period as intense subsistence
35 hunting. While most local hunters have harvested with
36 snowmachines, boats, and fourwheelers, in contrast
37 about three-quarters of non-local hunters have accessed
38 hunt areas by plane. This mode of access can provide
39 non-local hunters with a range of access and speed in
40 reaching ideal hunting locations and also place them in
41 front of the migrating herd.

42
43 After receiving the special action
44 request in June, the Office of Subsistence Management
45 held public meetings in Barrow, Kotzebue, and Nome in
46 July and accepted comments to the Board. Public
47 comments generally opposed WSA16-03, except in Nome,
48 where the response was more split between supporting
49 and opposing.
50

1 At their fall 2016 meetings all four
2 Councils representing Federally-qualified subsistence
3 users, the Northwest Arctic, North Slope, Seward
4 Peninsula and Western Interior Alaska opposed WSA16-03.
5 At its meeting in December, the WACH Working Group,
6 voted to submit a wildlife regulatory proposal to the
7 Board to close Federal public lands in Unit 23 to non-
8 Federally-qualified subsistence users beginning July
9 1st, 2018. Additionally, the Alaska Board of Game
10 acted on six proposals this week. The Board of Game
11 adopted a registration permit requirement for the WACH
12 and expanded the Noatak Controlled Use Area to the
13 Nimiuktuk River.

14
15 To repeat. If the Board approved
16 WSA16-03, Federal public lands in Unit 23 would
17 immediately reopen to caribou hunting by non-Federally-
18 qualified subsistence users, affecting non-local State
19 residents because the non-resident hunt closed on
20 September 30th.

21
22 The OSM conclusion is neutral on WSA16-
23 03.

24
25 Thank you, Mr. Chair. Members of the
26 Board and Council Chairs.

27
28 We'll try to answer your questions now.

29
30 CHAIRMAN CHRISTIANSON: Thank you,
31 Pippa. Any questions for the Staff.

32
33 Glenn.

34
35 DR. CHEN: Thank you, Mr. Chair. I
36 wanted to follow up on the 201,000 current point
37 estimate for the population, maybe this is a question
38 for the State. But what's the statistical variability
39 around that estimate number?

40
41 MS. MAAS: Yeah, the standard error is
42 4,295 caribou.

43
44 DR. CHEN: Thank you, very much.

45
46 CHAIRMAN CHRISTIANSON: Any other Board
47 questions for the Staff.

48
49 (No comments)

50

1 CHAIRMAN CHRISTIANSON: Hearing no
2 other questions we'll hear from the -- oh, Louis.

3
4 MR. GREEN: Thank you, Mr. Chair. The
5 question I was wanting to come across the table with
6 was, what did WACH do, I didn't quite -- did they ditto
7 what the Councils did.

8
9 Thank you.

10
11 MS. KENNER: Thank you for that
12 question, Mr. Green, and through the Chair.

13
14 At its meeting in December, just
15 recently, the WACH Working Group voted to submit a
16 wildlife regulatory proposal to the Federal Subsistence
17 Board to close Federal public lands in Unit 23 to non-
18 Federally-qualified subsistence users beginning July
19 1st, 2018.

20
21 MR. GREEN: Thank you, Mr. Chair.

22
23 CHAIRMAN CHRISTIANSON: Greg.

24
25 MR. SIEKANIEC: Thank you, Mr. Chair.
26 The expanded Noatak Controlled Use Area, can you
27 explain, or maybe Bruce it's you that needs to
28 explain, what does that really mean in relation to the
29 area here and what's different now with that expanded
30 controlled use area than before.

31
32 MR. DALE: Thank you, Mr. Chair. The
33 Noatak Controlled Use Area has been in place for
34 awhile. It went from the mouth of the river up to
35 Sapun Creek. That protected an area around -- and
36 Noatak Village is about half way up there. It was a
37 five mile wide corridor on each side that precludes --
38 prohibits the use of aircraft for hunting caribou.

39
40 The caribou migration in recent years
41 has moved farther and farther to the east and this has
42 resulted so -- so the folks from Noatak, the folks from
43 Noatak have to go farther up river to find large
44 numbers of caribou and other users are concentrated in
45 that area too that fly in or float the river.

46
47 There was a proposal before the Board
48 of Game to extend it farther up river about 70 miles to
49 the Cutler River. Some of that area is a lot harder
50 for the local folks to get to, it's an awful long ways

1 and expensive. And the subsistence data that was
2 shown, showed most of their harvest was taken up to
3 about the Nimiuktuk River, about half -- a little less
4 than halfway up to the Cutler.

5
6 The Board initially couldn't find
7 resolution and with only six members the proposal was
8 voted down, but there was a compromise produced by
9 Noatak, Kivalina Advisory Committee that suggested that
10 some of the lower river could be taken out of the
11 controlled use area and extended farther up. That
12 amendment was adopted and -- but it was still voted
13 down as well. Subsequently the Board decided to
14 reconsider the proposal later in the meeting and
15 another proposal had been discussed but wasn't really
16 on paper that seemed better and that finally was
17 brought forward, amended and adopted. And what it
18 does, is it takes the controlled use area and now
19 instead of going from the mouth, it goes a ways up --
20 it starts a ways up river at the Aggashushuk, or Aggie
21 River, and goes up to the Nimiuktuk, and this
22 encompasses most of the area where the Noatak folks
23 have taken caribou.

24
25 But the migration route has changed and
26 migration routes do change, even in herds that aren't
27 hunted. The -- so there's still, you know, a problem
28 there and there's still going to be, you know, up in
29 that higher use area, there'll probably -- if the water
30 is high enough that they can get up there, there may be
31 some additional problems there, but that seems to be a
32 good change and you can speak to the Chairman of that
33 committee, I'm sure he's going to testify here, and ask
34 him if it's a good change.

35
36 CHAIRMAN CHRISTIANSON: Thank you. Any
37 other questions from the Board.

38
39 (No comments)

40
41 CHAIRMAN CHRISTIANSON: And I do have
42 here from Bruce a testimony request form and was going
43 to allow him time to speak to the special action if he
44 did wish to.

45
46 MR. DALE: Thank you, Mr. Chair. I very
47 much appreciate it. And I think maybe some
48 accommodation was made for my schedule and I very much
49 appreciate that as well.

50

1 We're here today, not to talk so much
2 about Wildlife Special Action 03, the State's request.
3 Most of the conflict and most of the use of the area by
4 people that are not Federally-qualified stopped long
5 ago. The people that are still affected are those that
6 would go back up home over the holidays that, you know,
7 used to live in the villages and now work in town, they
8 can no longer, with this special action, go home on the
9 holidays and help feed the elders that still remain
10 there or young people. So they're the ones that remain
11 affected. So we still think it's a good opportunity
12 for this Board to revisit it because of that. Those
13 people sometimes that have to go out and get the jobs
14 are also the people that, you know, some good hunters
15 too that would help feed villages.

16
17 But what we want to speak to mostly is
18 going forward and how we approach these issues in the
19 future because we already have a wildlife special
20 action filed to exclude Federally-qualified -- exclude
21 non-Federally-qualified hunters from moose that you'll
22 be working on later in the year, and these things won't
23 stop, and so we have some suggestions of ways that we
24 can work better to address these issues.

25
26 And to back up just a bit, you know, we
27 -- the State of Alaska has evidence through that
28 controlled use area, which has been in place for a long
29 time, and then modifying it, is -- is -- we care about
30 -- we have concerns for the herd, for sure, and we
31 certainly care about users and user conflicts and user
32 needs and we are committed to making those situations
33 better.

34
35 We have a very difficult situation now,
36 we have a large caribou herd and, you know, the old --
37 one of the old lores is that no one knows the way of
38 the wind or the caribou, and there's many different
39 stories about what happens and where caribou go when
40 they're not here where they used to be.

41
42 So we have the situation now where we
43 have two management -- you know, we have the Federal
44 Subsistence Board and the Board of Game. We have three
45 Federal agencies and the State of Alaska, plus Native
46 Corporation land all managed slightly differently for
47 the land uses. We have a big -- it's one population
48 though, it's one herd and we really want to manage that
49 in a holistic fashion, not based on what -- who owns
50 the land that they happen to be standing on at the

1 time. We really -- managing in a holistic fashion,
2 it's going to be best for the users and the resource.

3
4 And so we think that because these --
5 these issues are so complex with all the agencies
6 involved, different villages, different people with
7 different needs at different times and different
8 villages, that we need the full public process when we
9 address these things. I mean if there's true
10 emergencies, certainly a wildlife special action is the
11 thing to do. If it's a biological emergency, if
12 somebody needs food, you know, there's two systems.
13 The Board of Game actually has some flexibility there.
14 But these issues need the full public process.

15
16 So we would ask that the Federal
17 Subsistence Board, and the Board of Game use these sort
18 of special provisions and emergency actions only where
19 they're truly needed because the public count on a good
20 fair public process to reach good solutions, and that
21 takes time. And in addition, you know, we feel like we
22 bring an awful lot to the table in these discussions.
23 We've got a lot of the data on the herd, where it goes,
24 what it's likely to do, and what it's done and we also
25 keep track of many, many of the users in different
26 ways, from the Division of Subsistence surveys to
27 regular harvest reporting through other users.

28
29 So what I think is needed here for us
30 to provide better products and not just be talking
31 against each other and filing actions that you have to
32 deal with, is to have meaningful consultation with the
33 State, and mean -- and especially important in a
34 wildlife special action case and we could improve it
35 quite a bit in the regular Federal subsistence process
36 too. And we're -- we're committed to making that
37 happen from our end. You know, we haven't always been
38 fully engaged with the State -- the level of engagement
39 has varied, but we are committed to being here, we need
40 to have the entry points where we can talk together and
41 work together and find solutions.

42
43 One of the ways is to keep working with
44 Western Arctic Herd Working Group. This group has made
45 a plan that's pretty good and it needs to be
46 continually worked on and adapted to deal with issues
47 like this. All four agencies, the three Federal
48 agencies and the State supported this for a long time
49 because it is one area, or one vehicle, not the only
50 one, but one vehicle where we can get both Boards to

1 work together to manage the herd in a holistic fashion
2 for all the people.

3

4 The last thing is that when we have
5 issues like this, I think we need extra time, and we
6 need to have both the State and the Federal Program
7 come together and identify where the problems are and
8 fix the specific problems. Total closures don't make
9 sense. There are vast areas of Unit 23 that don't have
10 conflicts. I haven't heard anybody say much about the
11 -- in fact, most of the testimony was that south of the
12 Kobuk River and the Selawik Refuge, through other
13 means, conflicts are greatly reduced, and, you know,
14 there is an acute point problem near Noatak, everybody
15 recognizes that, but that doesn't mean that we should
16 do blanket closures. So we need more time. We need to
17 have entry points. We need more State involvement.
18 And look and make decisions that are smart based on
19 specific problems.

20

21 And I think through, you know, the
22 Federal agencies, the land managers, they have ways
23 that they can reduce conflicts. The State of Alaska
24 does like controlled use areas. And then this Federal
25 Subsistence Board has another level of regulation that
26 they can do. If we put all three together we have
27 combinations of ways to work on specific areas around
28 where hunters and caribou want to concentrate.

29

30 So we're here to offer our help and to
31 do whatever we can but we'll ask for your help as well
32 to take our help.

33

34 And that's essentially what I had to
35 say, Mr. Chair. I very much appreciate the time.

36

37 CHAIRMAN CHRISTIANSON: Thank you,
38 Bruce, for sharing that.

39

40 Any additional questions for Bruce from
41 the Board.

42

43 Bud.

44

45 MR. CRIBLEY: Yeah, I've got one
46 question. We had a good discussion two days ago, how
47 many days ago was it when we talked, the Board of Game,
48 it was two days ago wasn't it, okay, I'm losing track
49 of time here. But expressing the same concerns and
50 willingness to work on this particular issue.

1 And I guess the -- and I guess I'm
2 looking for ideas of, do we need -- do you see that we
3 would need to convene a group of all of the affected
4 entities to have a discussion and look for solutions on
5 that or is there a body that we could charge with or go
6 to that has -- everybody's already participating in.
7 What it is, is I don't want to recreate the wheel here
8 or create another group. I mean I think we're killing
9 ourselves with all the different working groups that we
10 pull together and stuff and I was just wondering if you
11 had any ideas or had any thoughts of, is there a group
12 we could go to to charge, or to ask to help us to
13 convene and have a dialogue and facilitate solutions.

14
15 MR. DALE: Thank you. Through the
16 Chair. There are a few ways.

17
18 I think that one thing that needs to
19 happen is that the agencies need to get together,
20 including the OSM Staff, State Staff and then the
21 agency Staff and look for possible solutions. And then
22 we need to have a forum, the Western Arctic Herd
23 Working Group, especially if it's perhaps fortified a
24 little bit with, you know, having the presence of these
25 people together, having the presence of Board
26 representatives from each Board, either as a
27 participant or the Staff advisors, working with
28 bringing this information to the Western Arctic Herd
29 Working Group and getting information from there. If
30 you had dedicated seats for RACs and local Advisory
31 Committees, from the State system, then there would be
32 a link there. The RACs would still, you know, they
33 exist and the ACs exist, and they're going to still
34 have their own opinions and they're still going to
35 bring forward, but at least there's a conduit there.
36 They can go back and say we made these decisions for
37 these reasons. And there won't always be agreement,
38 but there is a lot better avenue for public outreach
39 and having the interaction but, most importantly,
40 working with the agencies together to find solutions
41 that probably would take action by both Boards, in some
42 cases, in harmony.

43
44 And, you know, this is as complex a
45 situation as we're going to have with dual management.
46 If we get it right here we'll be doing pretty good.

47
48 MR. CRIBLEY: Thank you.

49
50 CHAIRMAN CHRISTIANSON: Before Greg,

1 Louis, and then Greg.

2

3 MR. GREEN: Thank you, Mr. Chair. I
4 did want to point another group out here that I don't
5 hear about and it's something that I've honed in on
6 since 1993. I ran for a village board, which is the
7 private land owner involved out in Alaska here and
8 there's a lot of it and you never seem to have them
9 included. I know that ANCSA Corps are to be -- what
10 was the word, the tribes and the ANCSA corporations,
11 consultations, but in my region, I've been witnessing
12 for the last few years is that the tribe -- not the
13 tribes, but the land owners, the village corporations
14 have been throwing in the newspaper, this is our lands,
15 don't trespass, get a permit or you can't hunt and it's
16 getting tighter. Our resources are pretty well
17 stretched out and people are feeling vulnerable due to
18 the fact that they can't put food in their freezer
19 living out in the Bush. And so this land owner issue
20 should be up on the front burner also.

21

22 And I just wanted to make people aware
23 at this meeting here that a serious consideration for
24 land owners should be involved.

25

26 Appreciate it.

27

28 Thank you, Mr. Chair.

29

30 CHAIRMAN CHRISTIANSON: Thank you,
31 Louis. We have the same thing happening in Southeast,
32 ANCSA corporations are starting to put the squeeze on
33 the usership of the land so it is becoming a statewide
34 issue.

35

36 MR. DALE: Thank you, Mr. Chair.
37 That's an excellent point. You know the land owners,
38 of course, are affected because they own the land that
39 people are walking around on, and caribou, but they
40 also bring another tool and that is with trespass
41 and/or, you know, negotiation for some chunks that
42 aren't of -- private land that aren't available to all
43 users could be negotiated possibly, made available, the
44 ones that they don't use for hunting could be made
45 available in exchange for controlled use areas, in
46 areas that they do -- and controlled use areas from the
47 State. So with land owners involved there's a whole
48 'nother -- a couple of tools added in there too, as
49 well as the fact that they rightfully should be there.

50

1 Thank you.

2

3 CHAIRMAN CHRISTIANSON: Thank you.

4 Greg.

5

6 MR. SIEKANIEC: Thank you, Mr. Chair.

7 Bruce, thanks for your comment and perspective and I
8 think you're nearing where I was sort of sitting
9 earlier trying to figure out, so what do you do with an
10 issue like this. And when I read through some of the
11 Western Arctic Caribou Herd management ideas and levels
12 and how they've, you know, sort of defined it as a
13 conservative to a preservative and we're right sort of
14 at that crossing between those two and you get to the
15 preservative and it recommends that harvest restricted
16 to residents only. According to State and Federal law,
17 however, closure of some Federal and public lands to
18 non-qualified users may be necessary, not closure of
19 all Federal lands to -- so I think we're talking the
20 same thing that the Western Arctic Caribou Herd
21 Management Group is so I'm stuck a little bit, with, so
22 how do we foster that. How do we, you know, when I
23 open that cover it's got State, Fish and Wildlife
24 Service, Parks, BLM, what do we need to do to foster
25 that discussion with the people that need to be
26 included to start looking at that and recognizing that
27 we can probably solve this by sitting down and saying,
28 what lands are appropriate to be closed, what lands are
29 not, what controlled use areas are appropriate and
30 where, you know, how do we build this so that it
31 represents the opportunities that we're talking about.

32

33 So that's where I'm -- how do we -- I
34 mean I can certainly tell Fish and Wildlife Service
35 folks that we want to be engaged with this, I think
36 they already are. I think as a Board we can probably
37 ask OSM, the Office of Subsistence Management, to sort
38 of help us foster that between the relationship
39 probably with the Regional Advisory Councils and the
40 working group that's already established. I'm looking
41 at Gene a little bit, he's not falling out of his chair
42 in surprise.

43

44 (Laughter)

45

46 MR. SIEKANIEC: So I guess that's where
47 I'm -- I'm just trying to figure out how this all sort
48 of all starts to happen in relation to what we're being
49 asked to consider today, you know, because if I
50 understand right, this special action expires in June

1 anyway, you know, so how do we start between now and
2 the next time we'd likely be getting a special action
3 request to do something.

4

5 MR. DALE: Through the Chair. Thank
6 you. I think one way to go about it, would be for OSM
7 Staff and the State of Alaska, to get together and I
8 think we have a pretty good idea where the conflict
9 areas are and I think we have a pretty good knowledge
10 -- hopefully we have a good knowledge about both rule
11 systems, the State and the Federal rulemaking systems,
12 and we come up with alternatives for each conflict area
13 that we identify and then we take those to the Western
14 Arctic Herd Working Group and give them the options, do
15 you like this one, or this one, and then they would
16 submit proposals as required to both Boards to make
17 those compromises, those solutions work.

18

19 That's one way to do it.

20

21 And then the other thing is that both
22 Boards would have to show some restraint in dealing
23 with closures and emergency orders and liberalizations
24 and that sort of thing while we move through that
25 process.

26

27 It seems plausible that by this time we
28 could have proposals before both Boards coming this
29 spring.

30

31 CHAIRMAN CHRISTIANSON: Gene.

32

33 MR. PELTOLA: Yeah, Mr. Chair, if I
34 may. I agree that that's potentially one option but
35 also if you look at the Federal Subsistence Program, we
36 have always said that we are designed that we act from
37 the bottom up, just by going through one entity that
38 may preclude some individuals, and some of the villages
39 that feel like they're being involved, so in addition
40 to going to the Western Arctic Caribou Herd Working
41 Group, I think some level of outreach and involvement
42 from the local subsistence user at the village level
43 would be warranted as well.

44

45 CHAIRMAN CHRISTIANSON: Thank you,
46 Gene.

47

48 Any additional comments or questions
49 from the Board.

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Glenn.

DR. CHEN: Thank you, Mr. Chair. We certainly appreciate the desire for collaborative approaches and maybe something more surgical than a blunt machete in terms of how to address some of these issues is probably warranted. There is an urgency, though, because the population, according to the point estimate, is right at that threshold between those two different levels of management, and so that's going to constrain our decision base. And there's going to be timing issues associated with getting all these discussions and negotiations underway. It's our understanding that there may be a special action in the works again, so can you provide some sense as to how quickly some of these efforts might get started and somewhere.

MR. DALE: Well, we're ready to go to work today.

I think that there -- I -- I would -- I would think that, you know, in a few months there could be some pretty -- pretty good options out there that could be taken out and discussed and as Gene says, you know, the Advisory Committees, these wouldn't be secret at all, we would have input and, you know, both systems are open and the RACs of course, and incorporating them. That's what I was thinking, strengthen the Western Arctic Herd Working Group with those entities as representatives there. And then once the proposals are generated then, of course, then the regular systems kick in on both sides, was one way to do it.

But I would think in a few months we could have some -- some options ready to go to the public. This has been fairly thoroughly analyzed. What hasn't been done is just putting our heads together and say you have that rule, and you have this rule and you have this ability at the agency level and so we combine those two or three things and we could protect this area in this way and it might be three different regulations.

Then the public process, of course, takes a little bit longer once -- once we get that done and then it becomes scheduling with the Boards and that sort of thing, you know, your half of it so I don't really know on that end.

1 DR. CHEN: Thank you.

2

3 CHAIRMAN CHRISTIANSON: Greg.

4

5 MR. SIEKANIEC: Thank you, Mr. Chair.

6 So I think I follow that, Bruce. So you get a
7 collective together, whether you take the Western
8 Arctic Caribou Working Group and expand it to include
9 the important organizations that need to be a part of
10 that, come up with the ideas and solutions but then you
11 have to come back to the Boards, of course, and
12 hopefully with some universal recommendation that is
13 going to be pretty satisfactory to the majority of the
14 potential users.

15

16 I mean to me this is the kind of
17 solutions and effort we should be talking about or the
18 way to try and approach these things, given --
19 especially what I already see written down in the
20 caribou group's recommendation, working group's
21 recommendations. So I'm still back to how do we want
22 to foster this, you know, if we don't start now it
23 isn't going to happen, you know. How would the State
24 feel if today the special action request was, you know,
25 not agreed to but in light it was a recommendation that
26 Office of Subsistence Management and, you know, State
27 started working together to try and define how we would
28 pull this working group together in such a way that,
29 you know, we have this three month target of having
30 some really good ideas pulled together and then looking
31 at what the Board schedules are an a variety of
32 organizations we know we're going to have to be in
33 front of.

34

35 What would the State feel if that
36 happened today, would the State still feel that this is
37 how we should be approaching this?

38

39 MR. DALE: As I said before, the first
40 half, the action on Wildlife Special Action No. 3, most
41 of that, the effects of that have already occurred.

42

43 MR. SIEKANIEC: Yeah.

44

45 MR. DALE: We're mostly concerned about
46 the next step, the second half of that. If we can make
47 some recommendations or some decisions on a way to
48 start moving forward here right now that would be very
49 useful.

50

1 MR. SIEKANIEC: Okay, thank you.

2

3 CHAIRMAN CHRISTIANSON: Deb.

4

5 MS. COOPER: Yeah, Mr. Chair. I just
6 wanted to reiterate, where it seems obvious that Office
7 of Subsistence Management and the Western Arctic
8 Caribou Herd will be pivotal to this, as Mr. Dale had
9 mentioned, we need agency representatives that can mesh
10 the potential regulations or overlying regulations of
11 agencies to include those discussions into a potential
12 solution. That leads me to believe it could be quite a
13 large group and the larger the group the slower they
14 often move. so I don't know if there can be a
15 subcommittee or task group of representatives from the
16 various entities, but, somehow we need to approach this
17 such that it isn't a room of 100 people coming up with
18 a special action, so -- and move as quickly as we can.

19

20 Thank you, Mr. Chair.

21

22 MR. REAKOFF: Mr. Chair, this is Jack
23 Reakoff.

24

25 CHAIRMAN CHRISTIANSON: Yes, Jack.

26

27 MR. REAKOFF: Are you going to ask the
28 Councils for input into this or it appears to be being
29 deliberated at this time?

30

31 CHAIRMAN CHRISTIANSON: I have been
32 taking comments and questions from the RAC Chairs as
33 they raise their hands, so if you need to share
34 something Jack you're welcome to.

35

36 MR. REAKOFF: Okay. Sure. Well, the
37 Western Interior Regional Council opposed WSA16-03
38 primarily because the State seems to think that this
39 herd is recovering and there is really no problem with
40 this herd or there is mild concern.

41

42 My concern is that there are three
43 cohorts that were alienated in the late spring of 2013,
44 it wiped out of the yearlings, it wiped out that calf
45 crop in 2014, reproduction was real poor. 2015/16 the
46 herd is starting to come back. But bulls only live to
47 be about seven or eight years old. We have a huge gap
48 in the population as far as the composition of the
49 herd. The reproductive capacity of the cows won't
50 start kicking in here for another year or so. There's

1 some real concerns about this herd continuing into a
2 decline.

3

4 You know the special action request is
5 more less a moot subject. The primary harvest of those
6 caribou by non-subsistence users is in the fall hunt
7 and are mostly large bulls with antlers. Once they
8 lose antlers, the drive to harvest caribou by non-
9 subsistence goes away. There is some real issues with
10 harvesting these cow caribou during migrations. During
11 the main migration, most of the caribou herd population
12 is led by cow caribou. The lead cows are very
13 important leadership for range use and predator
14 evasion. At this time cows are need additional
15 protection, especially the lead cows.

16

17 Here in the Central Brooks Range, the
18 village of Anaktuvuk Pass elders, they're knowledgeable
19 hunters, enforced a customary harvest band when caribou
20 are approaching the pass until lead caribou pass
21 through then harvest is allowed by the elders. And the
22 Nunimuit people of Anaktuvuk Pass have used caribou
23 from time immemorial, I have learned much from the
24 Nunimuit hunters. Cow caribou, the Western Arctic,
25 Teshekpuk, Central Arctic should be protected including
26 during migrations and calving at this time. Close
27 season production for cows should be from February 1
28 through October 1. Cows shouldn't be bothered during
29 the migration. When caribou migrate, cows are out in
30 front, bulls are in the back. Bulls should all harvest
31 from February 1 through October 10. You can harvest
32 bulls in the fall but after October 10 bulls have gone
33 through the rut, you can't eat them during the rut and
34 they're real skinny after that.

35

36 So there needs to be some real
37 conservation contemplated on the composition and how
38 caribou actually move, large herds move long distances.
39 Cow moose are never harvested if populations are low.
40 You typically have almost twice the reproductive rate
41 of caribou, moose cows four years old and older
42 typically produce between 20 to 90 percent twins, most
43 of the time; caribou never have twins after hard deep
44 snows or ice winters caribou primarily have little
45 production. These herds, Western Arctic, Teshekpuk and
46 now the Central Arctic Herd need to have two to three
47 percent maximum harvest. At this time if current
48 harvests are correct as stated at about 12,000 caribou
49 for the Western Arctic Herd, nearly a six percent
50 harvest rate on the caribou at this time, twice as many

1 as should be. The State and Federal regulations should
2 both reflect protection of cows during migration.
3 Uniform regulations through the ranges of these herds
4 and the harvest objective to remain at two to three
5 percent until the age composition bull/cow ratios and
6 bulls -- at reproductive levels and the herds are
7 starting to grow and recover. Large healthy herds
8 cover more area and -- they're -- or travel near more
9 rural villages and feed more people.

10

11 ANILCA, Title VIII, Section .812,
12 policy of the Congress, requires consistent for sound
13 management principles and the conservation of fish and
14 wildlife for the utilization of the public lands in
15 Alaska to cause the least adverse impact possible on
16 rural residents who depend upon subsistence uses of the
17 resources of such lands, consistent with management of
18 fish and wildlife in accordance with recognized
19 scientific principles.

20

21 I want to hear both Board of Game and
22 the Federal Subsistence Board talking to the recognized
23 scientific principles of this management of these very
24 important large herds, not just Western Arctic in 23.
25 Western Arctic goes into 22, 24 and 26. And so there
26 needs to be all three Arctic Herds, only the Porcupine
27 Herd is healthy and doing well right now, these three
28 large herds need consistent regulatory protection of
29 cows during migration and during calving time.

30

31 Thank you, Mr. Chair.

32

33 CHAIRMAN CHRISTIANSON: Thank you for
34 the wildlife lesson there, Jack.

35

36 MR. REAKOFF: I've been around caribou
37 my whole life.

38

39 CHAIRMAN CHRISTIANSON: Any further
40 questions.

41

42 (No comments)

43

44 CHAIRMAN CHRISTIANSON: Discussion.

45

46 (No comments)

47

48 CHAIRMAN CHRISTIANSON: Hearing none
49 I'm going to go ahead and call up Enoch Mitchell to
50 come on up from the WACH.

1 MR. MITCHELL: Mr. Chairman. Thank you
2 for giving me the opportunity to speak. This is my
3 first time here speaking before the Federal Subsistence
4 Board. I always had hopes of coming here someday. My
5 name is Enoch L. Mitchell. I was born and raised in
6 Noatak, Alaska. I'm a subsistence user on the land. I
7 serve on the Northwest Arctic Subsistence Regional
8 Council. I also serve on the Western Arctic Caribou
9 Herd Working Group. On the Cape Krusenstern
10 Subsistence Resource Committee. The Kobuk Valley
11 Subsistence Resource Committee. On the Unit 23 Working
12 Group. State Advisory Subsistence Committee.

13
14 I have worked diligently on getting a
15 small grant from the Red Dog Mine to make it possible
16 for me to come here and I paid my own way from the
17 village to Kotzebue to just to try to make it possible
18 for this closure to continue.

19
20 Noatak, the little village of Noatak
21 has a long and a documented history of user conflicts
22 with our caribou. User conflicts are shown using
23 science and traditional knowledge in the analysis of
24 16-03 and the Western Arctic Caribou are still in
25 decline. And the RAC has closed Federal lands in Unit
26 23 to non-Federally-qualified users. The Western
27 Arctic Caribou Herd Working Group adopted the motion,
28 11 in favor and three opposed to continue the closure
29 to non-local hunters. And this motion is inconsistent
30 with the Western Arctic Caribou Herd Management Plan.
31 The plan calls for reducing harvest when the herd
32 reaches 20,000 caribou. The Western Arctic Caribou
33 Herd will be submitting a proposal to the Board. The
34 Noatak Native Village Council has submitted four
35 letters of support in favor of this closure. And I
36 believe you guys have these four letters. And also
37 copies of three letters from the students at the school
38 in Noatak, Alaska that supported this closure, and was
39 happy with this closure and they want it to continue.

40
41 There was more letters that I left at
42 home from the villages, from the residents and I talked
43 a lot with the village people and they were happy with
44 this closure.

45
46 All of this work is supported by Title
47 VIII of ANILCA.

48
49 The people of Noatak would like to see
50 this closure continue. It has diminished a lot of

1 conflict.

2

3 (Pause)

4

5 MR. MITCHELL: And it has given us more
6 success in hunting.

7

8 Many boats, this year, because of the
9 closure, got their quota of five and did not have to
10 look around and scramble for one or two caribous.

11

12 Before the closure, we were struggling
13 for caribou. We were spending lots of money on gas.
14 We were going, trying to -- other villages to go on
15 caribou with our boat, we'd buy the gas to go to Kiana
16 and we'd buy the gas to go up the Kobuk River. And in
17 my dad's time that didn't happen before, now it's
18 happening in my time and getting worse.

19

20 Many of the people in the village of
21 Noatak have been sending for caribou from other
22 villages through the airlines, or they've been
23 bartering with fish that they caught just so they could
24 have caribou.

25

26 (Pause)

27

28 MR. MITCHELL: Excuse me. A couple of
29 years ago our elder hunter stated first time in his 81
30 years of hunting on the Noatak River he got skunked, he
31 never got one caribou. When he (indiscernible) caribou
32 bull he started looking for anything caribou, female,
33 just so he could have meat. Some of these people, and
34 me, in the village are hardwired for caribou. That's
35 our main diet in the village of Noatak, is our caribou.
36 I've lived off it all my life. And many of those, like
37 me, there are some with Diabetes, and when we go
38 without that caribou meat, our subsistence food, our
39 level goes up and goes out of whack. But they can't
40 help it when they don't have the meat. The prices of
41 food in the village is high.

42

43 We pay about \$10 a gallon of gas to go
44 hunt caribou, and today the caribou is up there 120
45 miles up river. Me and my brother had to put our money
46 together to go where they were crossing just to find
47 out there was too much sporthunters up there. We
48 watched the caribou start coming and they went right by
49 the river before they cross, but when the caribou come
50 down, and they come down early in the morning or late

1 evening, but when they come down, they wait on the edge
2 of the river or the gravel for about 10 or 15 minutes,
3 first the females would cross, 10 minutes later the
4 bulls would come out, same way, stay right at the edge
5 of the river, then they would cross and that's when you
6 hunt them. Noatak area is one of the few places where
7 you can hunt them in the river and that's the way we've
8 been doing it for years. But when the caribou come
9 out, my son, while we were waiting that day, he turned
10 around and looked on the hill behind us, we counted 88
11 sporthunters scattered all over the hill behind us.
12 Now, this didn't happen not once, but many times, and
13 it's getting worse and worse. The sporthunters start
14 shooting right behind us, over our heads, to the
15 caribou. One caribou got wounded, I don't know how
16 they're going to get it, they got no boats, let it run
17 away. I, myself, started to go out there, I don't like
18 to see animals get hurt, we have respect for our
19 animals, but I couldn't get it, I couldn't reach it.
20 It was -- it go too far. Like that's been happening
21 more than once, more than twice.

22

23 A lot of times, our village hunters
24 come to me, because in 2008, I've been serving for over
25 12 years now for the village of Noatak trying to
26 address these issues but down the line, in 2008, the
27 IRA Council, we got only one government in the village,
28 that's the IRA Council, they wrote a resolution for me
29 to address these issues, from 2008 up to today I am
30 still addressing these issues.

31

32 Our elder hunter stated that the first
33 time in the 81 years of hunting he got skunked. He
34 come to me and said he had heard, it's my uncle, this
35 year he heard it might become permanent. He just
36 passed away this winter. He said the sporthunters were
37 everywhere. I told him I know. They were on the hill,
38 on the gravel bars, in the sloughs, scaring the caribou
39 back up the hill, that's giving us unsuccessful hunts.

40

41 But you know with this closure, last
42 year, everyone was happy, it has helped us very much.
43 It has saved us money on gas. It has put food on the
44 tables. And it has stopped the conflict greatly.
45 Greatly. The people of Noatak would like to thank the
46 Federal Subsistence Board for this closure. We thank
47 you from the bottom of our hearts.

48

49 I thank you from the bottom of my heart
50 for that closure. It saved us a lot, you know. It was

1 a long time coming. It was like a relief from pain
2 hunger.

3

4 Thank you. Thank you all so much.

5

6 With this I would like to -- my uncle,
7 I watched him when he got that caribou, he was so
8 happy. I could not even write enough words to
9 demonstrate how happy he was, I mean to write how happy
10 he was, but when I see him so happy, I worked over 12
11 years over this caribou, when I see him jump for joy,
12 that was my pay day for 12 years of service, to see him
13 jump for joy, whew. So I don't know what to do because
14 I don't have enough paper here to write down that joy,
15 or enough time to tell you how much, but I'm going to
16 do a little demonstration, if I may.

17

18 CHAIRMAN CHRISTIANSON: (Nods
19 affirmatively)

20

21 MR. MITCHELL: Okay. That will take a
22 lot of words out of -- that will let you show, and
23 probably let you feel the joy he had himself. So with
24 that I'm going to do a little demonstration. It'll
25 take a couple minutes and I'll need one volunteer.
26 I'll need one caribou.

27

28 (Laughter)

29

30 MR. MITCHELL: I'll be right down here.

31

32 (Laughter)

33

34 MR. MITCHELL: Okay, we'll start.

35

36 (Demonstration)

37

38 MR. MITCHELL: So I think you feel it.
39 I think you felt the joy. I can only say oh he was
40 happy but you would not feel it, it's different to see
41 it and to hear it. That was my uncle's joy, whew.
42 That was my payday for 12 years of service.

43

44 Taikuu

45

46 Thank you.

47

48 CHAIRMAN CHRISTIANSON: Thank you so
49 much for your testimony. Is there any questions for
50 him.

1 Glenn.

2

3 DR. CHEN: Thank you, Mr. Mitchell, for
4 your testimony and for the very evocative presentation.

5

6 I think all our times that we travel to
7 your region we are reminded of how important this
8 resource is to your people, and we are very happy that
9 the Board action addressed some of your issues with
10 regards to collecting some of this important resource.
11 And we really appreciate you taking your time and
12 effort, including spending your own funds, to come to
13 the Board and talk to us today.

14

15 Thank you.

16

17 MR. MITCHELL: Thank you.

18

19 CHAIRMAN CHRISTIANSON: Thank you,
20 Glenn, you took my words. I really appreciate the
21 animation, and, again, the heartfelt work that you have
22 going for meeting the demands and needs of your people
23 and a lot of respect to you and the Board continues to
24 try to work to provide for the priority on the land,
25 and that is to make sure that people have enough food
26 to eat and we'll continue to maintain that as long as
27 I'm Chair, so thank you very much.

28

29 MR. MITCHELL: Thank you.

30

31 CHAIRMAN CHRISTIANSON: Okay, so we're
32 kind of going off of an ad hoc agenda here, so at this
33 time we're done with public testimony, we're going to
34 move on to tribal consultation that we received.

35

36 MR. PELTOLA: Mr. Chair, thank you. On
37 Page 611 of your Board book you can find a summary of
38 the consultation with tribes in addition to the
39 consultation with the ANCSA corporations.

40

41 A brief summary is that on August 4,
42 2016, tribal consultation was held with the Board on
43 WSA16-03 at the US Fish and Wildlife Service Regional
44 Office here in Anchorage. Some people attended in
45 person and others by teleconference, designees of the
46 Board, the representative of Bureau of Indian Affairs,
47 and the National Park Service attended. The Inupiat
48 Community of the Arctic Slope, Maniilaq Corporation,
49 Native Village of Noatak, Native Village of Kotzebue
50 and the Native Village of Kiana attended. Tribal

1 comments were largely in opposition of WSA16-03, and
2 several of the reasons can be found on Page 613, the
3 top of that page if you want to look at those
4 specifically.

5
6 And going down, the summary of the
7 ANCSA corporations, ANCSA consultation was provided
8 with the Board on August 4th, 2016 concerning WSA16-03
9 at the Fish and Wildlife Service Regional Office here
10 in Anchorage. Designees of the Bureau of Indian
11 Affairs, the National Park Service Board members
12 attended. Representatives of the village corporations
13 in Savoonga and Gambell attended, these representatives
14 indicated while their communities may have customary
15 and traditional use determination of the caribou in
16 Unit 23 they do not travel to Unit 23 to harvest the
17 resources because of the expense of doing so, they
18 declined to comment further on 16-03.

19
20 And, Mr. Chair, that was the summary of
21 the consultations provided for on WSA16-03, and if
22 you'd like me to I could give you a summary of the
23 Regional Advisory Council recommendations with regard
24 to the special action and the Chairs may choose to
25 provide comment directly but I'll provide a summary of
26 each.

27
28 CHAIRMAN CHRISTIANSON: Go ahead, Gene.

29
30 MR. PELTOLA: Okay, Mr. Chair. On Page
31 612 and 613 starting at the bottom is a summary of the
32 Regional Advisory Council actions.

33
34 Western Interior Subsistence Regional
35 Advisory Council was in opposition to
36 WSA16-03.

37
38 Seward Peninsula Subsistence Regional
39 Advisory Council was also opposed to
40 WSA16-03.

41
42 Northwest Arctic Subsistence Regional
43 Advisory Council was also in opposition
44 to WSA16-03.

45
46 North Slope Subsistence Regional
47 Advisory Council was also in opposition
48 to WSA16-03.

49
50 The justification for those positions

1 can be found at the bottom of Page 612, continuing on
2 to Page 613. And that's a brief summary of the
3 Regional Advisory Council recommendations.

4

5 Mr. Chair.

6

7 CHAIRMAN CHRISTIANSON: Thank you,
8 Gene. Did any of the Regional Advisory Councils want
9 to add anything to that.

10

11 (No comments)

12

13 CHAIRMAN CHRISTIANSON: All right.
14 Hearing no additional comment, we'll -- oh, we do have
15 some additional comment.

16

17 Andrew.

18

19 MR. FIRMIN: To comment additionally on
20 the wildlife proposal?

21

22 CHAIRMAN CHRISTIANSON: Yes.

23

24 MR. FIRMIN: Okay. That's what I was
25 hoping you said. I just wanted to add that while I
26 know that that's a big herd in a large area and I'm not
27 from the region, but in my area, in the Eastern
28 Interior, where we've been having -- facing somewhat
29 similar problems with the Porcupine Caribou Herd,
30 they're migrating -- ours are probably more due to
31 having very, just massive wildfires, I think that one
32 fire burned all winter and in the springtime it started
33 up again after a 40 below winter, so -- and we've had
34 several of them in the past like that, so the caribou
35 haven't been migrating through our area any more and
36 it's hard to see, you know, we're traveling 300 miles
37 one way by boat, you know, to try to -- hopefully they
38 cross the river by the Canadian border for us or we're
39 going to Arctic Village and Venetie area and to see
40 those other hunters that are non-local flying in -- and
41 I personally witnessed boats from going by Ft. Yukon
42 and going by my cabin and just seeing -- just having
43 that user conflict is so frustrating and then to see
44 them taking home horns and very little meat, I've seen
45 one boat pull up with 40 sets of caribou antlers in it
46 in Ft. Yukon and when we called the Fish and Game, Fish
47 and Wildlife, by the time they showed up, he said, oh,
48 somebody stole all my meat last night, they robbed my
49 camp, it's all these people here in town. And then we
50 talked to some other people and he said -- another guy

1 said, oh, I was towing the meat in my rubber raft
2 behind me and it swamped and I lost it all. I've heard
3 another story that said, oh, I made a cache in a tree
4 and I was going to fly back with a float plane and get
5 it, but I had all of this and I lost my GPS so I don't
6 know where it's at now.

7

8 I mean, you know, I've heard a lot of
9 the stories like that when you see people and it's just
10 downright disgusting sometimes but I just wanted to
11 share that. Those are some of the stories I've seen
12 and heard, because I'm kind of a territorial person
13 when it comes to that, and while I enjoy sharing, you
14 know, the beautiful country I'm from with other people,
15 it's -- you know, some people they ruin it for others,
16 and I just wanted to point that out, that I enjoy my
17 Federal hunts for Federally-qualified users because,
18 you know, you don't have to share it with the whole
19 state when you're doing it that way.

20

21 But I just feel for the people up there
22 having to put up with that kind of crowding and, you
23 know, especially when you know that those people --
24 they're not up there to subsistence hunt if it cost you
25 \$5,000 to go there and shoot a caribou, not in my book
26 anyway. I mean I know people that don't even make that
27 much money in a year and that's -- if they don't get
28 their moose they're not going to -- probably not going
29 to survive, so it's hard to see those people go
30 without.

31

32 I just wanted to add that to the
33 situation.

34

35 Thank you.

36

37 CHAIRMAN CHRISTIANSON: Thank you,
38 Andrew.

39

40 Was there any other Regional Advisory
41 Council Chair comments.

42

43 OPERATOR: We have a comment on line.

44

45 CHAIRMAN CHRISTIANSON: We'll get to
46 them in a second, we have somebody recognized here and
47 then I will call on the on line person.

48

49 Raymond.

50

1 MR. STONEY: Thank you, Mr. Chairman.
2 Just a little bit of comment, you know, what happened
3 to this herd here in the last 10 years so if this herd
4 continues to decline within five years they won't be
5 around at all.

6
7 Our concern, very concerned in
8 Northwest Alaska, all the way from Kotzebue and all the
9 way up to the headwaters of the Kobuk River, including
10 North Slope and the Bering Strait, if we don't do
11 something today or tomorrow, this herd will be gone.
12 We don't know what's going to happen. We have to
13 continue very strong with the Federal Subsistence Board
14 to support us for another closure for this coming
15 hunting season. If we don't do that, it'll be
16 different. All the people that come to Alaska is from
17 the Lower 48, they harvest many caribou and they leave
18 them and we get the blame for it. So the people from
19 our area is very, very unhappy about the sporthunters
20 that come to -- like for Kiana, there's always -- 150
21 non-resident hunters in our area and just 15 miles away
22 and they harvest the caribou and they live them. So
23 not only for this season when the RAC make a decision
24 to give that peoples that comes up immediately --
25 emergency closure, not to hunt last year at all, and
26 they continue asking for our support and your support
27 to continue to keep that hunting season closed.

28
29 Thank you, Mr. Chairman.

30
31 CHAIRMAN CHRISTIANSON: Thank you, Mr.
32 Stoney. Appreciate your comments.

33
34 On line, we had somebody who had some
35 testimony.

36
37 OPERATOR: Yes, Michael Kramer, your
38 line is now open.

39
40 MR. KRAMER: Thank you, Mr. Chairman.
41 My name is Michael Kramer and I am with the
42 Northwestern Arctic Regional Advisory Council. I was
43 asked to speak today on behalf of the people from
44 Northwest Arctic.

45
46 By supporting 16-03, you know, you're
47 causing a very big disturbance within the peace of
48 Northwest Alaska and the subsistence users. We enacted
49 16-01 to take preventative actions to prevent losing
50 our caribou herd.

1 Our dall sheep dropped off the radar
2 and that was due to the mistake of a Federal agency.
3 From that day forward we have learned our lesson. We
4 will not have the subsistence resource taken away from
5 us because those Federal agencies have done nothing for
6 us because we lost our sheep. Now our moose is on the
7 decline, our caribou is on the decline, once those are
8 gone I don't know what else we're going to have. We
9 ain't going to have very much left.

10
11 You know the Western Arctic Caribou
12 Herd Working Group, you know, they have a caribou
13 management plan and I believe that the State follows
14 along with it, you know, the Northwestern Arctic
15 probably harvests around 12,000 animals and then they
16 have a natural decline of about 5.5 percent, once the
17 contingency -- the caribou management plan reaches
18 under 200,000 they're required to do three things;
19 close to non-residents, predator control and land
20 enhancement.

21
22 You know, I served on the rural
23 advisory council for roughly about 12 years and I serve
24 with Raymond and Enoch and Attamuk and many of them
25 gentlemen that I work with, also Hannah Loon, today I
26 am the youngest person on that board and still they
27 consider me as a kid, but I have a big voice.

28
29 You know, understanding that caribou is
30 an important food source for both culturally and
31 traditionally and used widely throughout Game
32 Management Unit 23, by supporting 16-03 you'll be
33 declining the Western Arctic Caribou to a number that
34 may not over time recover. We will lose a staple part
35 of our subsistence food source, and you will make it
36 harder for people of the Northwest Arctic, because the
37 cost of living is so high here, you know, we've learned
38 many mistakes from the Federal agencies that are here
39 and we really need to be able to push to be able to
40 preserve that this herd continue and the sustenance of
41 the people of the Northwest Arctic continues.

42
43 You know, I know Gene and I know all
44 them people there, I wished I was there today to meet
45 all of you, the Board, and you could see who they're
46 speaking to. You know we have taken drastic measures
47 on behalf of the subsistence users in this region, and
48 the Western Arctic. We've taken some cuts and we're
49 going to continue to take cuts. The other thing is, is
50 that we requested from OSM in March to have a joint

1 meeting with Northwest Arctic North Slope, Western
2 Interior and Seward Peninsula Rural Advisory Councils
3 to meet, we are within the Western Arctic Caribou Herd,
4 we need to work together to be able to make a plan to
5 protect the Northwestern Arctic Caribou Herd.
6

7 I also serve on the Fish and Game
8 Advisory Council here. The problem is I see is those
9 two Councils don't coincide. There's a bunch of us
10 that are on both Councils. So trying to make it work
11 between the both of them, there needs to be a joint
12 meeting between both of them and we need to sit down
13 and be able to coincide our meetings together to where
14 we could come up with plans to be able to ensure that
15 this subsistence resource, the subsistence resources
16 continue forever for the people of Northwestern Arctic.
17

18 My brother Lance was at the Game of
19 Board meeting and he spoke there on behalf of the
20 people of Kotzebue for Northwestern Arctic.
21

22 You know, and I understand where Enoch
23 is coming from. I survive on that too. The other day
24 I was out with my nieces hunting caribou. To be able
25 to see my nieces smile when they hold that caribou
26 heart, and to bring that caribou heart home to the
27 family, to be able to work on that caribou, to put it
28 away for the rest of the winter, you know, I work hard
29 to support my family. Things cost money here, a lot of
30 money. And so I ask you to make a decision to not
31 support 16-03 because the State sees the mighty dollar
32 as more important than the subsistence resource or meat
33 in the freezer. They see that dollar as more important
34 to be able to -- they need to start learning to
35 coincide with the people of the rural communities in
36 rural Alaska. That's why I have asked and I have
37 requested that joint meeting between the four RACs and
38 I hope that the Fish and Game is present also and I
39 hope this meeting -- and I hope and pray that this
40 meeting gets together because we need to work together
41 to be able to protect and conserve this herd according
42 to ANILCA.
43

44 This last fall, the 16-01 was enacted,
45 the Park Service demised 16-01 and allowed non-resident
46 hunters to hunt on the river below the high tide marks,
47 that demised the people. That's going against the
48 people who are out there spending \$10 to \$15 a gallon
49 and every dime that they have to go out there and hunt
50 caribou to fill their freezers. Why would you do that?

1 That's a sign, the mighty dollar is more important than
2 conservation, subsistence and the local people.

3

4 I thank you Federal Subsistence Board
5 and I hope you consider what I had to say.

6

7 Thank you.

8

9 CHAIRMAN CHRISTIANSON: Thank you for
10 your testimony. We appreciate your words.

11

12 Any additional comments.

13

14 (No comments)

15

16 CHAIRMAN CHRISTIANSON: Questions.

17

18 (No comments)

19

20 CHAIRMAN CHRISTIANSON: We'll give the
21 ADF&G an opportunity again to speak, if they wish.

22

23 MR. DALE: We don't have any further
24 comments.

25

26 CHAIRMAN CHRISTIANSON: Good job being
27 a caribou, too.

28

29 (Laughter)

30

31 CHAIRMAN CHRISTIANSON: ISC.

32

33 MR. SHARP: Thank you, Mr. Chairman.
34 Dan Sharp with Bureau of Land Management. I'll
35 paraphrase the ISC comments, a lot of this material has
36 been covered.

37

38 Federal regulations state that the
39 Board may reopen public lands to non-subsistence uses
40 if new information or change to conditions indicate
41 that the closure is no longer warranted. The analysis
42 presented the new information from the State.

43

44 The ISC recommendation is that the
45 Board should focus its decision on whether the request
46 provides sufficient information to indicate the closure
47 is no longer warranted. While the State provided some
48 encouraging population data, the point estimate and
49 associated error shows that there's still uncertainty
50 as to whether the WACH is at a

1 conservative/preservative level base.

2

3

4 Further, the Board's decision to
5 initially close Federal public lands was based on
6 impacts to subsistence users, but WSA16-03 does not
7 provide new information or show that conditions related
8 to that aspect to the Board's decision have changed.

8

9

10 Since the population trajectory of the
11 Western Arctic Caribou Herd suggests that it may still
12 be in decline, the Inter-Agency Staff Committee would
13 like to encourage efforts to involve as many as
14 participants as possible in the discussion of potential
15 future actions. The management -- the Western Arctic
16 Caribou Herd Management Plan lists the closure of some
17 Federal public lands to non-qualified users as a
18 possible recommendation for the preservative management
19 level, thus closure of specific Federal lands may be an
20 option to minimize impacts to subsistence users. In
21 anticipation of additional special action requests
22 coming from the Unit 23 region, the Board could direct
23 Staff to initiate discussions about user conflicts on
24 specific Federal lands with affected Councils,
25 Subsistence Resource Commissions, the Western Arctic
26 Caribou Herd Working Group, Unit 23 Working Group, the
27 State of Alaska, tribes, ANCSA Corporations and other
28 users.

28

29

Thank you.

30

31

CHAIRMAN CHRISTIANSON: Thank you.

32

33

Board discussion.

34

35

(Pause)

36

37

38

CHAIRMAN CHRISTIANSON: Board action on

39

40

(Pause)

41

42

MR. CRIBLEY: Mr. Chairman.

43

44

CHAIRMAN CHRISTIANSON: Bud.

45

46

47

48

49

50

MR. CRIBLEY: Yeah, I would like to
make a recommendation voting to oppose the special
action request with language consistent with the Inter-
Agency Staff Committee comment and with a second I'll
provide my justification.

1 MS. COOPER: I'll second.

2

3 CHAIRMAN CHRISTIANSON: We have a
4 motion and seconded.

5

6 MR. CRIBLEY: Okay. Opposing WSA16-03
7 is consistent with the recommendations of the Regional
8 Advisory Councils. The request did not provide
9 sufficient information to indicate that the closure is
10 no longer warranted. While the State provided some
11 encouraging population data, the point estimates and
12 associated error shows there's still some uncertainty
13 on whether the Western Arctic Caribou Herd is at the
14 conservation or preservation level.

15

16 Further, the Board's initial decision
17 on the closure was based on impacts to subsistence
18 users, but this request does not provide new
19 information or show that conditions have changed to
20 warrant lifting that closure or dealing with that
21 issue.

22

23 If the herd continues to decline, the
24 Board will likely be deliberating on additional closure
25 requests in the future.

26

27 I think that's pretty -- there's a high
28 level of certainty on that issue.

29

30 I, therefore, recommend, and this is
31 where it gets kind of confusing but, I recommend that
32 we initiate discussions regarding user conflicts to see
33 if there are other options to consider, such as
34 targeted closures. A targeted closure option
35 identified by Staff analysis and the ISC comment. And
36 I guess I was reminded that this is actually the policy
37 of the Board that was adopted back in August 29, 2007
38 on our policy for handling closures of hunting,
39 trapping, fishing on Federal public lands and waters in
40 Alaska so we're being consistent with our policies in
41 pursuing looking at what the problem is and seeing if
42 we can be more targeted in how we future manage -- or
43 manage future subsistence use in Unit 23.

44

45 CHAIRMAN CHRISTIANSON: Thank you, Bud.
46 And I know it's been a standard practice here of the
47 Board to make the motions in the positive and then to
48 explain why we would oppose it, so I would just ask if
49 the maker of the motion could restate the motion so
50 that the intent is in the positive and then we would

1 accept your justification as why you will oppose your
2 vote, I mean your motion.

3

4 MR. CRIBLEY: Okay.

5

6 (Laughter)

7

8 MR. CRIBLEY: Mr. Chairman. I would
9 like to make a motion to vote for -- make a vote of
10 support for this recommendation but with a second, I
11 would like to explain why I am opposed -- or would vote
12 to oppose this recommendation with a followup
13 justification. Is that close enough?

14

15 CHAIRMAN CHRISTIANSON: Thank you, Bud.

16

17 MR. CRIBLEY: Thank you.

18

19 MS. COOPER: I concur with the amended
20 motion.

21

22 CHAIRMAN CHRISTIANSON: So there is a
23 second on the amended motion -- so they concurred so we
24 have one motion, which is in the positive, which
25 justification to oppose.

26

27 Thank you.

28

29 Any discussion.

30

31 (No comments)

32

33 CHAIRMAN CHRISTIANSON: Call for the
34 question.

35

36 MR. BROWER: Question.

37

38 CHAIRMAN CHRISTIANSON: Question's been
39 called. I guess we'll do roll call on this one.

40

41 MR. PELTOLA: Okay, Mr. Chair. A
42 motion has been made in the positive to adopt Wildlife
43 Special Action 16-03 with a justification for
44 opposition. Starting on the east end working westward
45 of the table.

46

47 Bureau of Land Management.

48

49 MR. CRIBLEY: Opposed.

50

1 MR. PELTOLA: National Park Service.
2
3 MS. COOPER: No.
4
5 MR. PELTOLA: Fish and Wildlife
6 Service.
7
8 MR. SIEKANIEC: I oppose. But I also
9 would like to see the Board here recommend that OSM
10 initiate this effort that we had talked extensively
11 about regarding how we pull together a broader working
12 group in partnership with the State to create a
13 timeline and a recommended working group organization
14 itself, and who all should be included in that.
15
16 So, thank you.
17
18 MR. PELTOLA: Public member Brower.
19
20 MR. BROWER: Oppose.
21
22 MR. PELTOLA: Public member Pitka.
23
24 MS. PITKA: Oppose. To be consistent
25 with the Regional Advisory Council recommendations and
26 to support subsistence users of the area.
27
28 MR. PELTOLA: Thank you. Bureau of
29 Indian Affairs.
30
31 DR. CHEN: The BIA votes to oppose as
32 per the justification provided by Mr. Cribley.
33
34 MR. PELTOLA: Forest Service.
35
36 MS. PENDLETON: I vote to oppose
37 consistent with Mr. Cribley's rationale. And also for
38 the record want to support the working group and moving
39 that forward, and I think part of that is we're likely
40 to see other special action requests, so I think time
41 is of real importance and urgency there to bring that
42 group together to find workable solutions.
43
44 MR. PELTOLA: Thank you.
45
46 Mr. Chair.
47
48 CHAIRMAN CHRISTIANSON: Oppose.
49
50 MR. PELTOLA: Motion to adopt Wildlife

1 Special Action 16-03 fails on a 0-8 vote.

2

3 CHAIRMAN CHRISTIANSON: And, with that,
4 I would also reiterate what the Board has stated here,
5 that we look to find a pathway to find solutions with
6 this with the tools we have in our box, both State and
7 Federal. I think we do have very good Staff on both
8 sides and working groups that can lend their expertise
9 to finding a solution to the resource issue that we do
10 have.

11

12 Gene.

13

14 MR. PELTOLA: Yes, Mr. Chair. At the
15 direction of the Board, OSM would be willing to
16 facilitate such action as presented by the Regional
17 Director of the Fish and Wildlife Service. We would
18 engage with the Anthropology Division led by Jennifer
19 Hardin, also our Wildlife Division led by Chris McKee.

20

21 CHAIRMAN CHRISTIANSON: Thank you. So
22 Staff should take that as direction to begin the
23 process to collaborate with the State and the working
24 group as well as local subsistence users of the area
25 affected by the proposals and the action here by the
26 Board. Appreciate it. And I thank everybody for their
27 time on this and patience. Thank you for the heartfelt
28 testimony. And all of the people willing to move
29 forward in a positive direction.

30

31 Thank you.

32

33 MR. CRIBLEY: Mr. Chairman. Could I
34 make one more comment.

35

36 CHAIRMAN CHRISTIANSON: Yes, Bud.

37

38 MR. CRIBLEY: Thank you, sir. I really
39 want to thank the State of Alaska for reaching out and
40 taking the position, understanding -- I understand the
41 request, and -- but also I really appreciate them
42 taking a position to really sincerely wanting to work
43 with us to solve this problem. That's important. And
44 I think that's one of the things that is going to make
45 this successful, is that we all work together on this
46 in the same direction and try to find a common solution
47 and that's an important aspect to it and that's what's
48 going to make it successful here. And I just want to
49 thank you and the Board of Game for reaching out to us
50 and emphasizing that.

1 Thank you.
2
3 CHAIRMAN CHRISTIANSON: You're welcome,
4 and thank you.
5
6 Take five.
7
8 (Off record)
9
10 (On record)
11
12 CHAIRMAN CHRISTIANSON: We'll come back
13 now. We'll come back to finish up our agenda. If
14 everyone can pull everybody in here and take their
15 seats I'd appreciate it.
16
17 MR. SIEKANIEC: Where are we at?
18
19 CHAIRMAN CHRISTIANSON: Where we're at
20 is where it's at.
21
22 (Laughter)
23
24 CHAIRMAN CHRISTIANSON: We're going to
25 start off here with a presentation on the update for
26 the MOU between the Federal Board and the State of
27 Alaska.
28
29 Thank you.
30
31 MR. MATUSKOWITZ: Mr. Chair. I'm Theo
32 Matuskowitz, Regulation Specialist for OSM. As I told
33 Gene prior to the break, this is going to be a combat
34 brief, short, sweet, to the point.
35
36 This is not an action item for the
37 Board, basically just an informational brief.
38
39 The ISC has set up a subcommittee to
40 work on the MOU with the State. We have members from
41 the ISC, OSM and of course members from the State who
42 are working on this. We've had three meetings so far
43 since July of last year. Our next meeting is planned
44 for the 24th of January this year. The intent of this
45 working group is to come up with a draft document to
46 present to you, and basically what we're looking at is
47 a foundation document that can be built upon for
48 further protocols between the State and Federal
49 agencies to work on issues concerning subsistence.
50

1 At this time a draft has been presented
2 to the Regional Advisory Councils during the last
3 cycle. We've received comments from them. It has also
4 been presented to the State Advisory Committees,
5 although based on their meeting cycle there are still
6 some committees that have not yet met and so we'll be
7 waiting to get their comments. Once we get all those
8 comments, the next step is to put them together, review
9 them, between the State and the Federal agencies and
10 basically decide, you know, which ones we can include,
11 because some of the comments that we've gotten so far
12 are going beyond what we feel the scope of this MOU is.
13 They want to get into some of the rather extreme
14 details and as I said, we're looking at this MOU as a
15 foundational document that we can build on as we go
16 down the road.

17
18 There has been one issue that has come
19 up and this is reference who will sign it. In the past
20 we've had the Chairs for the Board of Fish, Board of
21 Game, the Federal Chair and then the members of the
22 Federal Subsistence Board and it's been discussed
23 should we just have the Chairs sign it; we're still
24 kind of looking into that and discussing it because
25 there is the strong possibility that subsistence issues
26 could be brought up that would be beyond the scope or
27 the authority of the Federal Subsistence Board,
28 however, it could be addressed by one of the individual
29 Federal agencies. So that's why we're thinking we
30 might want to continue having the heads of the Federal
31 agencies sign because that way they could address these
32 issues that might come up beyond the scope of the
33 Board's authority.

34
35 Once again, that's pretty much it in a
36 nutshell. Are there any questions.

37
38 CHAIRMAN CHRISTIANSON: Any questions.

39
40 Beth.

41
42 MS. PENDLETON: Through the Chair.
43 Theo, can you maybe just address timelines and when you
44 expect to bring this back to the Board for, hopefully,
45 a final kind of review, input and action.

46
47 MR. MATUSKOWITZ: Through the Chair.
48 Yes, ma'am. What we're looking at right now, as I said
49 we're waiting on the rest of the State Advisory
50 Committees to meet so we can get their comments, we'll

1 put them together, at the latest -- I would like to
2 present this again to the Regional Advisory Councils in
3 the fall session -- fall cycle of their meetings, fall
4 of this year, and then at the next Federal Subsistence
5 Board meeting, whether it be a work session or a
6 regulatory public meeting, we would present it to the
7 Board for your consideration at that time.

8

9 MS. PENDLETON: Thank you.

10

11 CHAIRMAN CHRISTIANSON: Thank you.

12

13 MR. MATUSKOWITZ: Thank you.

14

15 CHAIRMAN CHRISTIANSON: Appreciate the
16 presentation and get it done.

17

18 I know one of my first comments was on
19 that MOU and how I truly hoped that we do sign
20 something to bring our agencies closer together and as
21 we seen here with the State today and the willingness
22 to start to find solutions and come together and work
23 on them, outside of the MOU, but I think the MOU sends
24 that message clearly to the public on how our two
25 agencies are willing to work together, share
26 information, and come up with the best solutions for
27 all Alaskans. So definitely look forward to progress
28 on that MOU and the day we get to sign it would be a
29 good day.

30

31 With that we move on to scheduling our
32 upcoming Board meetings.

33

34 We have a July 2017 work session, 2018
35 April Wildlife Regulatory meeting, and they may also
36 need a tentative schedule for January 2018 work session
37 for FRMP.

38

39 Gene has something.

40

41 MR. PELTOLA: Mr. Chair. If you
42 recall, to the very first day, which seems like days
43 and days and days ago now, one thing I asked the Board
44 to consider is that since we have a new Chair, we have
45 a new public member, our chair from the Fish and
46 Wildlife Service is new and some others -- in
47 discussions with the Solicitor's Office, Ken, and OSM,
48 we thought it might be an opportune time to schedule a
49 retreat, so to speak, for the Board, so that we could
50 go through policies and regulations and process in

1 regard to the Federal Subsistence Board. So that's
2 also one thing we'd ask you to consider. And talking
3 with Ken, felt that towards the end of the fall cycle
4 of RACs, beginning of winter and that, end of October,
5 into November timeframe might be an appropriate time to
6 insert something. And if the Board chose to go that
7 direction, you could direct OSM to work towards that
8 and we could come back with a schedule and an agenda
9 for you.

10

11 CHAIRMAN CHRISTIANSON: Thank you. I
12 know that idea has been floated. As I was brought on
13 as a rural member, the retreat we had in Juneau was
14 very informative and brought a lot of information to
15 me, it helped inform me to making better decisions here
16 and so I think a retreat would be good for us, and the
17 timeframe, October, November is usually when travel
18 season starts so I think that would be a good time to
19 insert into our calendar.

20

21 Maybe we'd poll it.

22

23 (Pause)

24

25 CHAIRMAN CHRISTIANSON: So I don't know
26 if we're looking at this time to set hard calendar
27 times down, maybe we could look at the July work
28 session. I know Fourth of July is out of the question,
29 and the third week of July I am always busy, so if we
30 could hopefully not make it the third full week of July
31 I'd appreciate.

32

33 MR. PELTOLA: Mr. Chair. I know that
34 some Staff would want to come up and bludgeon me if I
35 say this, but I'm going to say it anyway, is that, if
36 we cannot come up with a firm date at this time,
37 sitting at the table immediately, we can take advantage
38 of the tools available such as a poll, to try to
39 coordinate between each and every Board members for the
40 appropriate times for the summer work, the spring
41 regulatory, and other meetings, including the potential
42 retreat. And I'd also like to reiterate for the group,
43 we call it a retreat, although it's not very much of a
44 retreat, it's 8 to 9 hours of work per day for the
45 Board, in addition to Staff.

46

47 CHAIRMAN CHRISTIANSON: Thanks, Gene.
48 And, again, looking just at my calendar, my days I
49 would be unavailable would be the 24th through the
50 28th.

1 MS. MCBURNEY: Mr. Chair.
2
3 CHAIRMAN CHRISTIANSON: Yes.
4
5 MS. MCBURNEY: I would still like to
6 make the proposal for that July meeting, especially if
7 it was maybe the last week of July or perhaps towards
8 the second week of July, that we build in a little bit
9 of time where Board members, that have the time, could
10 go and observe the Kenai River Fishery.
11
12 CHAIRMAN CHRISTIANSON: I think that's
13 a good idea.
14
15 So second week of July would be pretty
16 good, probably the week between the 10th and the 14th.
17
18 (Laughter)
19
20 MS. MCBURNEY: We' need to be sure that
21 they're fishing.
22
23 MS. CAMINER: Mr. Chair.
24
25 MS. PENDLETON: Mr. Chair.
26
27 MS. CAMINER: You might need to check
28 the regulations.
29
30 CHAIRMAN CHRISTIANSON: Yeah.
31
32 (Laughter)
33
34 MS. MCBURNEY: Let's see, we start on
35 the 16th now, I believe.
36
37 MS. PENDLETON: I was going to suggest
38 the week of the 17th.
39
40 MS. CAMINER: Of July.
41
42 CHAIRMAN CHRISTIANSON: That works for
43 me.
44
45 MR. SIEKANIEC: The week of the 17th, I
46 thought you said the third week of July did not work
47 for you.
48
49 CHAIRMAN CHRISTIANSON: I just looked,
50 it's the last full week of the month, and it is the

1 week of the 24th.

2

3 MR. SIEKANIEC: Okay, the 17th I think
4 would be a great week.

5

6 CHAIRMAN CHRISTIANSON: All right,
7 we'll direct Staff to look at a possible retreat the
8 week of July 17th through the 21st with a possible trip
9 to see the Ninilchik fishing.

10

11 MR. PELTOLA: For clarification that
12 was the retreat.....

13

14 CHAIRMAN CHRISTIANSON: Yeah.

15

16 MR. PELTOLA:and not the summer
17 work session, correct?

18

19 CHAIRMAN CHRISTIANSON: Yes. Oh, so we
20 might have two weeks, that would.....

21

22 MR. PELTOLA: That's why I want to
23 clarify.

24

25 (Laughter)

26

27 MR. SIEKANIEC: Can they both be done
28 in the same window of time. I mean I can't imagine a
29 retreat needing much more than what, a full day or two.

30

31 MR. PELTOLA: Typically, from what I've
32 been told the previous retreats of the Federal
33 Subsistence Board have taken two to three days, if you
34 couple that with -- my memory may be wrong, but in
35 addition if we put a work session in, example being
36 this last July meeting, three days was jammed packed.

37

38 (Laughter)

39

40 MR. PELTOLA: Two days were jammed
41 packed. So with that being said, if we went to a
42 Monday through a Friday we might be able to facilitate
43 both.

44

45 MR. SIEKANIEC: Or we can just say
46 we're just going to do it in two days and take what we
47 can in the two days.

48

49 (Laughter)

50

1 MR. SIEKANIEC: I'm asking everybody to
2 be quick learners here.

3
4 (Laughter)

5
6 MR. SIEKANIEC: I mean I would be
7 inclined to try and fit it within a reasonable window,
8 and does not take us into weekend travel and things and
9 we accomplish both at the same, if we could.

10
11 Thank you, Mr. Chair.

12
13 CHAIRMAN CHRISTIANSON: Yeah, if they
14 don't have to buy me two plane tickets, I'm happy.

15
16 (Laughter)

17
18 CHAIRMAN CHRISTIANSON: It's a long
19 ways from Southeast.

20
21 (Laughter)

22
23 CHAIRMAN CHRISTIANSON: Okay. It looks
24 like we may have covered two potentially there, a work
25 session/retreat, mid-July. That moves us to the 2018
26 April regulatory meeting. I think that one will be
27 setting regulation and inform the public when that is
28 and then also a tentative schedule for January, one
29 year from now for a work session for FRMP and I think
30 we have enough time to allow Staff to go ahead and
31 schedule that.

32
33 (Pause)

34
35 CHAIRMAN CHRISTIANSON: Is there
36 anything else that we see we need to schedule.

37
38 A mee.

39
40 MS. HOWARD: Just for clarification,
41 Mr. Chair, for the April 2018, that's for the wildlife
42 regulatory cycle, you want Staff to conduct a doodle
43 poll of sorts for that.

44
45 CHAIRMAN CHRISTIANSON: Yeah.

46
47 MS. HOWARD: As opposed to set a hard
48 date here.

49
50 CHAIRMAN CHRISTIANSON: Yeah, I'm not

1 100 percent sure what my April schedule looks like.

2

3 MS. HOWARD: Okay. Just -- thank you.

4

5 CHAIRMAN CHRISTIANSON: Any other
6 discussions on scheduling.

7

8 (No comments)

9

10 CHAIRMAN CHRISTIANSON: Okay, thank
11 you. We'll move on to other business.

12

13 Other business, a quick reminder,
14 tomorrow we have a work session tomorrow with the MOU
15 with AHTNA between the US Department of Interior and
16 AHTNA InterTribal Resource Commission for the
17 demonstration project for the cooperative management of
18 customary and traditional subsistence uses in the AHTNA
19 region. That will be at 8:30 in the morning here,
20 tomorrow, same place. And we anticipate, hopefully, a
21 half a day, everyone keeps asking the question but as
22 we see sometimes things tend to take longer than
23 anticipated.

24

25 We will try to listen and hear
26 everything, so tomorrow morning, 8:30, AHTNA.

27

28 Is there any other business that we
29 would like to -- any other Board would like to share.

30

31 MR. SIEKANIEC: Mr. Chair.

32

33 CHAIRMAN CHRISTIANSON: Greg.

34

35 MR. SIEKANIEC: Thank you, Mr. Chair.
36 I just have an item I'd like to bring to the Board's
37 attention. There's a little bit of change going on in
38 the Office of Subsistence Management, and there are a
39 couple of people that have been selected for new
40 positions that are going to be moving on and I think
41 everyone here has probably come to know and recognize
42 and like quite well, is, Anee Howard, is moving on, and
43 she is becoming our Congressional Affairs Liaison in
44 our External Affairs Office here in the Fish and
45 Wildlife Service in Anchorage. So Anee, thank you very
46 much for the couple of years that you've given to.....

47

48 (Applause)

49

50 MR. SIEKANIEC: And many of you have

1 probably already heard, Trevor Fox, has accepted a
2 position as the Deputy Complex Manager in the mid-
3 Columbia River National Wildlife Refuge in Washington
4 state and will be leaving us soon as well. You know,
5 whether it be the Kusko Partnership or the Kenai
6 gillnet, or Western Arctic, I quickly recognize that a
7 right-hand person, who happens to be on my left right
8 now, Trevor fell into that role and I've appreciated
9 his help greatly. So, Trevor, we wish you a
10 congratulations as well.

11
12 And I think both of these people, you
13 know, what really speaks to them, is the demeanor with
14 which they exhibit the willingness to work with all
15 interested parties relative to the work that they
16 conduct.

17
18 So, with that, to each of them I say,
19 thank you very much and wish you well in future
20 endeavors.

21
22 (Applause)

23
24 MR. SIEKANIEC: Thank you, Mr. Chair.

25
26 CHAIRMAN CHRISTIANSON: Thank you for
27 that recognition of our Staff.

28
29 MR. BANGS: Mr. Chair.

30
31 CHAIRMAN CHRISTIANSON: Mike.

32
33 MR. BANGS: Yes, I was just informed
34 that our All Chairman meeting was cancelled today. And
35 I just wanted to find out from Carl, is that the deal.

36
37 MR. JOHNSON: Yes, through the Chair,
38 Carl Johnson. You beat me to it there, Mr. Bangs, I
39 was going to mention that if an opportunity was there
40 to bring it up since it was mentioned on the record
41 previously, we just needed to have kind of a cutoff
42 time because we have some Chairs who are traveling this
43 evening that we wouldn't be able to facilitate that,
44 but your Council coordinator will be coordinating with
45 you within the next week, and with the other Council
46 Coordinators and Chairs, we still cover that agenda,
47 we'll just do it telephonically and then that way we'll
48 make sure we have the most participation.

49
50 MR. BANGS: Thank you for that, Carl.

1 I just felt like the -- you know, the Councils are the
2 backbone of the program and I think we would benefit
3 from sharing information amongst the Chairs that we
4 could take back to our Councils. So I think it's
5 something that would be beneficial to the program if we
6 had a chance to meet together, even if it's just
7 telephonically, it's a start, and I think sharing
8 information would be real beneficial.

9

10 Thank you.

11

12 CHAIRMAN CHRISTIANSON: Thank you,
13 Mike. I know it was pretty impressive when we came
14 here for the meeting with all the RACs in here, sharing
15 information and getting to know each other and a lot of
16 good connections came out of that and I know I
17 appreciated the fact that I got to come and share a
18 little bit of time with all of the Regional Advisory
19 Council members in one room and it is impressive to see
20 all of the people who dedicate their time to trying to
21 figure out and find solutions for all Alaskans in the
22 take of wildlife and fish. So, definitely, appreciate
23 the volunteer time that you Regional Chairs and your
24 Staff and all of the Board members that you do have in
25 your regions and want to just extend a big thank you to
26 you. You are the backbone of this program and we do
27 listen with all of our ears and eyes on, what it is
28 that you guys pass forward to the Board and use your
29 information to make our decisions. And definitely
30 appreciate the input we've received over the last few
31 days on some of these critical issues, it helps to
32 bring into context the problems that rural Alaskans are
33 facing in the take of wildlife, as well as all the
34 other user groups who have an interest in it. So we
35 definitely appreciate taking your time and having you
36 sit here through all of the agenda items.

37

38 Thank you.

39

40 Beth.

41

42 MS. PENDLETON: Mr. Chair. Maybe a
43 suggestion for the RAC Chairs might be at the next
44 regulatory meeting, which I guess would not be until
45 maybe a year from April, if I remember the dates right,
46 for the wildlife cycle, is that, through the RAC
47 Coordinators, maybe they look at an opportunity for the
48 chairs to meet, you know, as a part of this meeting
49 because you're all here and look at an opportunity to
50 extend by a half a day for the RAC Chairs. I think if

1 they all know and agree to that and working with the
2 coordinators, then that could be established maybe as a
3 part of this meeting, whether it be the fish or the
4 wildlife regulatory meeting.

5
6 But that's just a suggestion so folks
7 could plan.

8
9 Thank you.

10
11 CHAIRMAN CHRISTIANSON: Thank you for
12 that recommendation, Beth.

13
14 Any additional comments from any Board
15 members.

16
17 (No comments)

18
19 CHAIRMAN CHRISTIANSON: Hearing none,
20 I'll entertain a motion.

21
22 (Pause)

23
24 (Laughter)

25
26 MR. BROWER: So moved.

27
28 CHAIRMAN CHRISTIANSON: We have a
29 motion to adjourn.

30
31 MS. PENDLETON: Second.

32
33 CHAIRMAN CHRISTIANSON: It's been
34 seconded. Any opposition to the motion.

35
36 (No opposing votes)

37
38 CHAIRMAN CHRISTIANSON: Hearing no
39 opposition, the motion carries to adjourn.

40
41 Thank everybody. Thank you Staff for
42 all your diligence and hard work. Again, we appreciate
43 those late nights that you guys had this week and it
44 didn't go unnoticed.

45
46 Thank you.

47
48 (Off record)

49
50 (END OF PROCEEDINGS)

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C E R T I F I C A T E

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

I, Salena A. Hile, Notary Public in and for the state of Alaska and reporter of Computer Matrix Court Reporters, LLC, do hereby certify:

THAT the foregoing, Pages 189 through 312 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD MEETING, VOLUME III taken electronically by our firm on the 12th day of January 2017, 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 19th day of January 2017.

Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 09/16/18