MEMBERS PRESENT:

Tim Towarak, Chair
Geoff Haskett, U.S. Fish and Wildlife Service
Julia Dugan, Bureau of Land Management
Sue Masica, National Park Service
Beth Pendleton, U.S. Forest Service
Kristin K'eit, Bureau of Indian Affairs
Ralph Lohse - Southcentral RAC
Daniel O'Hara - Bristol Bay RAC
Bertrand Adams - Southeast RAC
Sue Entsminger - Eastern Interior RAC
Lester Wilde - Yukon-Kuskokwim Delta RAC
Timothy Smith - Seward Peninsula RAC
Rosemary Ahtuangaruak - North Slope RAC
Jack Reakoff - Western Interior RAC
Spiridon Simeonoff - Kodiak/Aleutians RAC
Kelly Hepler, State of Alaska Representative
Keith Goltz, Solicitor's Office

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Chairman Towarak: Good morning. I'm going to call this meeting to order. We were on recess since yesterday morning, and we're ready to reconvene.

Before we get started, I'd like to recognize North Pacific Fishery Management Council member Sam Cotton. Sam, welcome to our meetings.

We were on Item No. 8, a draft tribal consultation protocol, and Mr. Steve Kessler will walk us through that issue. Steve.

Mr. Kessler: Thank you, Mr. Chairman. Good morning, Board members, Council Chairs, State of Alaska liaison, tribal representatives, and members of the public.

My name is Steve Kessler. I serve on the InterAgency Staff Committee representing the U.S. Forest Service. I had a lead role in developing this preliminary tribal consultation protocol which you will be discussing today. That preliminary tribal consultation protocol starts on Page 31 of your book.

First I would like to provide some background. Executive Order 13175, titled Consultation and Coordination with Indian Tribal Governments, requires regular and meaningful consultation and collaboration on a government-to-government basis when there are substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between Federal Government and Indian tribes.

In the past, because of the foundational role of the Regional Advisory Councils in the Federal program, as well as the requirement in ANILCA, Title VIII that the Board defer to the Councils' recommendations, the Board has not explicitly consulted with tribes during the development of regulations. However, the Board has always been clear about inviting and encouraging tribes to engage in the regulatory process at every step, including at Council and Board meetings.
In 2009 as the Board was developing the proposed wildlife rule for the 2010 to 2012 regulatory periods and finalizing the fisheries rule for the 2009 to 2011 regulatory period, the U.S. Department of Agriculture became concerned about the language in our rule's preambles concerning the executive order. As a result, the Secretaries offices for the Department of the Interior and the Department of Agriculture agreed to modify language in the proposed wildlife rule and to clarify the opportunities for tribal involvement in the Board's regulatory process.

In 2010 the Department of the Interior Deputy Solicitor for Indian Affairs asked for a more explicit consultation procedure with tribes. As a result, the Board decided to develop a tribal consultation protocol.

In December 2010 the Board initiated discussion with the tribes and ANCSA corporations across the state to figure out what that protocol should look like. The ANCSA corporations were included because the corporations must be consulted with on the same basis as tribes as required by Public Law 108-199 as amended by Public Law 108-447.

A letter to the tribes and corporations said that on January 21st the Board would discuss with tribes how best to structure future tribal consultation, working with the Board and the Regional Councils, and that to ensure more comprehensive and effective future tribal involvement, we also intend to develop a tribal consultation protocol. The Board also stated their intent to discuss with Regional Councils how they envision tribal government-to-government consultations should occur.

The Board continued that based on input and the discussion at the meeting on January 21st and later with the Regional Advisory Councils, the Board will develop a draft approach to tribal consultation, and that the Board will share that approach with tribes and Regional Councils prior to finalizing the process.

In a letter to the Department of the Interior Deputy Solicitor for Indian Affairs dated December 20th, 2010, the Board said it expected to adopt the final consultation protocol at its meeting in May 2011, which is this meeting.
On January 21st, 2011, the Board heard from many different tribal members concerning their interest in consultation. Summarized comments can be found on Page 82 to 83 of your Board packet. Written comments were also received and are summarized on Pages 83 and 84. Those comments helped build the preliminary consultation protocol in front of you now.

In February and March 2011, the Regional Advisory Councils met for their winter meetings. The Regional Advisory Councils also provided comments concerning tribal consultation, and those can be found on Pages 85 and 86 of your packet. And I think you'll be hearing from the Council Chairmen today also.

A common theme from the comments included the need for better communication, including increased tribal awareness of the Federal regulatory process, and greater involvement of tribes. Some on the Regional Advisory Councils were concerned that this process should not diminish the role of the Councils.

So consistent with the Board's intent to develop a tribal consultation protocol based on discussion at your January 21st meeting with tribes and Alaska Native corporations, and with input from the Regional Advisory Councils, this preliminary tribal consultation protocol in front of you has been developed.

Before we discuss the preliminary protocol, I would like to point out the timeline as expressed as a flow chart on Page 37 of your book. That chart shows possible next steps in the development of the protocol. If you were to follow the plan as laid out, there would be two opportunities for further discussion of this protocol with tribes, including government-to-government consultation, government-to-corporation consultation at the BIA Providers Conference in late November, and one opportunity for further discussion with the Regional Advisory Councils at their fall meetings. This is consistent with our intent stated in letters to the tribes, corporations, and Regional Advisory Councils to have them involved in further review, discussion and modification of this approach prior to finalization.

The flow chart shows final protocol completion at your January 2012 public meeting. And the flow chart is up on the screens right now.
I won't go further into this flow chart now unless you would like me to. We can do that during further discussion, if you wish.

I'll now go into the tribal consultation protocol package itself, which starts on page 31.

The preliminary draft of the protocol was developed and then shared with your InterAgency Staff Committee members and your Native liaison or tribal relations program managers. Based on their review in a meeting held with them on April 20th, the version of the consultation protocol in your book was developed.

At that meeting there were a number of suggestions that have not been specifically included, but I will mention some of them as I go through the protocol. Since that meeting, additional ideas have also surfaced from participants, but they're not included here, and I think there will be some discussion of those later on.

There's also at least one modification that must be made, a typo, in one of the definitions.

I'd like to go over the protocol and some of the key parts. There are some areas of concern or areas that may need some decisions from you, assuming you agree that this is an appropriate starting point.

The introduction is on Page 31. This section provides a short history of the development of this protocol, and proposes further review by tribes and Regional Advisory Councils. In the final protocol, this section would be modified to show what process was actually followed, and not the process that is proposed to be followed.

This section also provides a definition of tribes for this protocol. That includes both Federally-recognized tribes for which we have government-to-government relationships and ANCSA corporations for which we have government-to-corporation relations. We did struggle some with what to call this combination of federally-recognized tribes and ANCSA corporations.

The introductory section also refers to the Department of the Interior's draft policy on consultation with Indian tribes and the Department of Agriculture's action plan for consultation and collaboration. It states that the Board's intent is that
this protocol would tier to both Department's department-wide policies. It appears that the protocol as now presented to you is consistent with both the USDA action plan on Page 38 of your book and the draft Department of the Interior policy on Page 72.

When the DOI's policy's finalized, probably later this summer, and the USDA departmental regulations are adopted under the action plan, this protocol may need some modification.

On Page 31 then is the section on policies. This section states that the role of -- states the role of the Board and then it defers to recommendations of the Councils. It recognizes Executive Order 13175 on consultation and coordination with Indian tribal governments, and it says why the Board has not explicitly consulted with tribes in the past, and states a new policy, which I'm going to quote, to formally incorporate regular and meaningful consultation with tribes into the Federal Subsistence Management Program in order to help ensure more comprehensive and effective tribal involvement.

On Page 32 are goals and objectives, and they are an important part of this document. They drive the actual steps of the protocol. I won't go through them, but hopefully everybody has read through those goals and objectives.

The procedures start on Page 32. The section recognizes that there are many parts of the Federal subsistence program that can be consulted on with tribes, and that consultation can be prompted by either a tribe's specific request to the Board or a specific action proposed by the Board.

This section also states the consultations would occur on a recurring annual basis during the promulgation of Part C and D regulations. And this section also says that generally the Board will offer to consult on all topics presented to the Councils for their comment.

The consultation process, other than the regular annual cycle would be determined on a case-by-case basis.

Steps for the promulgation of the annual regulations are first presented in this section and then
expanded in the section called consultation protocol which I will discuss next. That section starts on Page 33.

The annual cycle of rule promulgation has five steps, and a sixth step is added to this protocol.

First, the proposed rule notice is published. The proposed rule is always to continue the previously adopted rule. In the past all tribes have been on the mailing list to receive the proposed rule. The changes in this step are (1) to ensure that mailings are received by keeping an up-to-date contact list; and, second, offering assistance to tribes in preparing regulatory proposals or to just talk about potential proposals.

So a few notes on this step. DOI is work -- currently working separately to figure out ways to maintain an up-to-date contact list. Hopefully the Federal Subsistence Board will be able to depend on that DOI effort.

As far as assisting tribes with developing proposals, the program has always done that, but it may not have been clear to tribes that we actually provide that service. It would be clear through this protocol.

The next step is publication of a book with proposed regulatory changes and a request for comments. The changes in this step are similar to the previous step: ensure tribes receive copies of the proposed change; and offer tribes help in understanding and commenting on the proposed changes. Again the program has done that in the past, but it may not always have been clear. Here in this protocol we make it explicit.

The third step is the Council meetings. In this step there are a few significant additions from past practice. Step 3.b., and you can see these steps if you look on -- in the protocol here, I'm on Page 33. Step 3.b. requires personal contact if proposals of special interest to a tribe or tribes will be discussed. The idea here is that there will be no surprises. The step includes the already in place practice of having a location on the agenda for discussion by tribes with the Council of regulatory proposals of tribal interest.
One change is that the Chair of the Council would specifically ask if the speaker officially represents a tribe.

Also, in step 3.c.ii., if a Board member is present, they sit with the Council during the discussion with tribes. That is a change.

But any discussion would not be considered government-to-government consultation. That would occur only with the entire Board.

Step 3.d. is also new. Testimony by a tribe at a Council meeting would be presented to the Board when the tribe is unable to present to the Board in person.

Step 4, and it's on Page 34, is the Board meeting. There should be government-to-government, government-to-corporation consultation at the Board meeting. There are at least two ways to do it: As you did at the last fish meeting by having a consultation meeting in advance of the regular meeting; or as proposed here, adding a specific tribal consultation section during the step-wise discussion of each proposal.

Besides this change, there are a number of additional changes proposed:

First, if there is a proposal of special interest to a tribe, personal contact should be made so that they know that a proposal will be discussed. Again, no surprises.

Second, if there is a known objection by a tribe to a proposal, that proposal would not be placed on your consensus agenda.

And, third, through consultation, although the Board must defer to a Council's recommendation, the Board may have some latitude to respond to a tribe's concerns in a meaningful way.

The last step, step 5, which is on Page 34, is new. It would provide for a follow-up to tribes so that they are informed of the Board's decision on a proposal. The Board already does this for the Regional Advisory Councils. With this change, the Board would also inform tribes.
That includes [sic] the steps of the protocol for the annual rulemaking.

The final step in the overall tribal consultation protocol would be a monitoring step as shown on Page 34 of your book. Within two years following the adoption of this protocol, the Board with Regional Advisory Councils and tribes would review this process, see if it resulted in meaningful interaction and effective tribal involvement, and continue to respect the role of the Councils. The protocol would be revised if necessary.

So that's the end of the protocol, except for some definitions. I'd call your attention to the definitions on Page 36. We know that these will need to be modified based on the final adoption of the departmental consultation policies.

One error should be noted in the first definition where the wording says, a substantial effect an Indian tribe. That should be worded as a substantial direct effect an Indian tribe, consistent with Executive Order 13175.

Some points that I mentioned as I went through the protocol, and a few others that the Board may want to discuss include the development of this protocol was by Staff only. It built off the comments received from tribes and Councils. It was not developed jointly with them. Note that the December letters to tribes, corporations and RACs envisioned this and had the Board building the first draft of the protocol.

Another item, it's not clear what we should call that combination of tribes and ANCSA corporations. In the protocol as written, the combination is referred to as tribes. One option has -- is to have protocols for each which eventually may be found consistent with the Department of the Interior's consultation policy.

Also, how to go about consultation associated with the Regional Advisory Council meetings is not clear. Perhaps it is not possible since the Regional Advisory Councils do not directly represent the Federal Government. The protocol presented to you would have a Federal Board member, perhaps their designee sit with the Council during discussions on a proposal with tribal representatives.
Also, how do the tribes consult with the Federal Subsistence Board? The proposal here is to incorporate consultation during the regular step-wise discussion of proposals. Should there instead be government-to-government consultation and government-to-ANCSA corporation consultation prior to the Board meeting on all proposals as one -- at once as was done at your last fisheries regulatory meeting? There's some questions about that. Would it be it be a closed session? Would the Regional Advisory Council Chairs be invited? There will need to be a decision on how to consult on the proposed wildlife regulations coming out this January with a stand-alone consultation or using the methods in this preliminary protocol.

Finally, you need to decide actual process of completing this protocol. There's the flow chart proposal on Page 37. Note that it includes an important step of consultation on the protocol to be held as part of the BIA Providers Conference in late November. That would be an additional meeting of the Board.

And that's all I have. Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you, Mr. Kessler.

Are there any questions from the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Our normal process is to open the floor to any public comments, and then we will hear from the State to make any comments on the presentation, and then listening to the Regional Advisory Council Chairs.

Mr. Adams.

MR. ADAMS: Mr. Chairman. Before you go any further, I did have a question and a comment to make. And I was trying to gather my thoughts while we were at pause there.

But I thank Mr., you know, Kessler, for the presentation he made to us today, but I'm really concerned about whether we have any know -- you know, we got this on Page 36, Federally-recognized tribes.
Actually there's two categories of Federally-recognized tribes. There's a tribe that operates 638 contracts and then there is a compacting tribe. And, you know, I that definition needs to be placed in here somewhere.

And the difference between the two is that a 638 contracting tribe, you know, can enter into contracts, you know, with the Federal Government on very limited types of programs, services, functions or activities. A compacting tribe can actually take over a program, function, service or activity, you know, if they so wanted. And so those -- I think that definition also needs to be included, you know, in that section there, because it does really identify, you know, the power and authority of tribes.

And I'm kind of concerned about where ANCSA corporations are going to fit into the category. They may be regarded as tribes, but they are not Federally-recognized tribes. And so I think the process here is that if ANCSA corporations have any issues to bring before the Board, that they should work through Federally-recognized tribes.

Thank you, Mr. Chairman.

Chief of Staff, TOWARAK: Thank you, Mr. Adams.

I see Mr. Kessler making notes on your comments.

MR. ADAMS: I promised him I wouldn't ask him a hard question.

(Laughter)

Chief of Staff, TOWARAK: Mr. Smith.

MR. SMITH: I had a question for Mr. Kessler, too. In part of your presentation you talked about discussions on whether the meetings would be opened or closed. I'm just wondering what the legal basis for closing the meetings would be.

MR. KESSLER: Well, I think, that they're -- Mr. Chairman. Mr. Smith. I think that there are probably others that are more expert in tribal consultation than I am, but typically tribal consultation between designated members, designated representatives of a tribe and the Federal government can be a closed meeting. And as such done in private without a record or anything else.
The way this program is set up, it's a very open and inclusive process, and with transcripts that are done, both at Council meetings and at the Federal Subsistence Board level.

So exactly how the meetings with tribes would be conducted, whether they would be conducted as closed sessions or as open sessions as part of the regular Federal Subsistence Board process is a question I think that needs to be addressed by the Board.

MR. SMITH: Just to follow up on that, I think that as a practical matter, having them closed might be a problem. For example, in our community, I think there are five tribes, and then probably the majority of residents of Nome are not members of any of the tribes that are based in Nome. If you held a meeting in -- a closed-door meeting, you would exclude almost everybody, almost the entire community would be excluded, you know, if you met with a single tribe. It just doesn't seem efficient. If the goal -- then you would have to have some kind of -- I would think you would have to have some kind of a separate meeting to inform the other stakeholders.

MR. KESSLER: Thank you, Mr. Chairman.

At this point, the way this protocol is written, there are no closed meetings. But the question is whether there should be some closed meetings, and the opportunity for a closed government-to-government consultation event.

CHAIRMAN TOWARAK: I think the Nome situation would also apply to Barrow, to Kotzebue, to Bethel, you know, to the major regional hubs. So I think we should review that and make sure it doesn't exclude people.

Do we have any further questions of Mr. Kessler.

(No comments)

CHAIRMAN TOWARAK: We'd like to take maybe a three-minute break to do a little consultation here before we proceed. So if you would excuse us, we'll take a three-minute break.

(Off record)

(On record)
CHAIRMAN TOWARAK: I'd like to reconvene.

As we're coming back to our chairs, I'd like to point out that we -- this whole tribal consultation process is a new one with the new administration and the directions I think that were set by the President himself. I attended his first meeting with the nationwide tribes, and it was very interesting. And the reactions that we felt at that time were very positive.

As far as how it relates to the Federal Subsistence Board, I think we've been very careful to make sure that we're approaching this whole issue right. And so as we work our way through this issue, we're trying to make sure that we cover as much of the grounds as we could during the whole process.

And I'd like to turn the mic over to Board Member.....

MR. HASKETT: Geoff.

CHAIRMAN TOWARAK: Geoff.

MR. HASKETT: Thank you, Mr. Chair. So let me explain a little bit what's happening here, because I think I've thrown some concern into the ranks as you can see for our quick discussion there.

So I want to thank Steve and the Staff that worked on this. I think it's an excellent proposal. I think this is a very complicated, tough issue to figure out how to do it right.

And we had some other ideas that we've been talking about over the last couple of days, and since this is a work session as opposed to one of our regular sessions, we're making sure it's okay to go ahead and put some possible amendments in for consideration.

And what I'd ask for was I thought it would make more sense to go ahead and do that early on instead of later, so it might change the number of questions, the kind of questions people might ask. So what I've asked is for Crystal Leonetti, who's my native liaison, to go ahead and make some potential proposals on some other things we might look at for this in terms of the process. And this is not meant to be something that's it came from, you know, any certain group. I think there's been lots of discussions here. You know, some of the native liaison's from the other bureaus have
been involved. This is not a position, this is just hear some other ideas to look at and think about.

So I appreciate the Board giving me the chance to go ahead and have Crystal through a couple other ideas on the table. So with that, I'll turn it over to Crystal.

MS. LEONETTI: Quyana. (In Yup'ik) My Yup'ik name is (Yup'ik), and for all of my relatives who I haven't met in the room yet, my parents are Al and Grace Poindexter from Anchor Point. My paternal grandparents are Chuck and Beula Poindexter from Anchor Point. And my maternal grandparents are Harry and Daisy Barnes from Dillingham.

Again, my name is Crystal Leonetti and I'm the Alaska Native affairs specialist for U.S. Fish and Wildlife Service.

First I just wanted to read a definition of consultation, because I think everybody has a different definition in their head, and for a lack of a statutory definition of consultation, this is what Fish and Wildlife Service has as a definition. The plain meaning, the dictionary definition, is to consult -- to consult means to ask for advice or to see an opinion. It does not mean obtaining consent. For a working definition, what we go by is a mutual, open and direct two-way communication conducted in good faith to secure meaningful participation in the decisionmaking process as allowed by law. So that's just a precursor.

So what I'm presenting as Geoff said has been agreed upon by Fish and Wildlife Service and the Native liaisons from the DOI agencies.

And, again, thank you, Steve, for all the work you've done putting together the draft protocol.

So we need to have something going forward for the fall cycle. We need to do consultation for the fall cycle of RAC meetings.

And what I'm going to recommend for the Board to consider is three things. One is that we have an interim process for the fall cycle. And I'll go into in addition to this protocol what that recommendation would be.
The second thing is consultation in December at the BIA Service Providers Conference, which Steve already mentioned, which is, I've talked to BIA, the afternoon of December 1st. It will be at the BIA Service Providers Conference. So consultation with tribes on December 1st.

And then the third thing I'm recommending to the Board is that a work group made up of InterAgency Staff Committee members, Native liaisons, and tribal leaders to further work on this consultation protocol. And the reason for that is the shortfall that I've seen so far is that tribal leaders have not been at the table in drafting this and they need to be at the table if it's going to be fair to them.

So going into an interim process for the fall cycle, the premise about tribal consultation is that it should be done early. And because the Federal Subsistence Board gives deference to the RACs, consultation should be done before the RAC meetings occur. Consultation should be a dialogue and not confined to the rigid structure of the RAC meetings. Consultation is between the two governments, the Federal government and the tribal government.

So for the interim fall cycle, I would recommend to the Board that at least one Board member with at least one other Federal Staff visit four hub locations to consult on proposals prior to the start of the RAC cycle, and that that be done before the Federal Staff analysis of all the proposals so that the analysis can include results from the consultations and the RACs can meaningfully consider what occurred at the consultations. So the consultation summaries will be used in the Federal analyses and incorporated into the RAC books. The RACs will use consultation summaries as a piece of information to consider.

As far as the development of a final protocol and this is again just a recommendation for the Board to consider, a work group made up of equal numbers of InterAgency Staff Committee, Native liaisons from each of the agencies, and tribal leaders would convene at least twice prior to finalizing the protocol. The work group would help put together the consultation at the BIA Service Provider's Conference, and also present the draft protocol and announce the December consultation during the AFN convention.
The work group will be responsible for developing the final protocol for the Federal Subsistence Board to consider in either January 2012 or May 2012, and I leave that up to the Board to decide. But I think this probably needs to be done before January 2013.

Okay. That's all.

CHAIRMAN TOWARAK: Thank you, Crystal.

If you could stay on the microphone, are there any questions of Crystal and the recommendations that she's made. Are there any objections to any of the recommendations.

(No comments)

CHAIRMAN TOWARAK: Personally I think they are very well -- it's been well thought out on your part, and I appreciate that.

MR. ADAMS: Mr. Chairman. I do have a question for Crystal, because I was taking notes real quick, and sometimes, you know, my mind doesn't catch up with them as fast as I'd like to any more.

But you mentioned, you know, a consultation to be done before the RAC meetings with tribal governments on a real government-to-government relationship as I understood that. How do you envision that taking place? Because one of the things that I found very difficult to do when we have our meetings, you know, we have two meetings a year, and we try to have them in areas where tribal members or people in that area have an opportunity to come to our meetings. We have a difficult problem trying to get as many people involved in our meetings.

And tribes have a real problem, because they don't have the funds. I know -- I think I mentioned this before, the tribe I belong to only has a $1200 budget on subsistence. And you can't do very much with that kind of money for that.

Even though we're saying tribes get more and more involved, I'm kind of curious, how are you going to reach out to those tribes and, you know, get them excited? I think they're excited about it. They just need to have some guidance on how they can become more involved. I think education and training and so forth is in order, but I'm kind of curious what you might have in
Thank you.

MS. LEONETTI: Well, that was a lot of stuff. Well, the first thing is, how would tribes be involved in the consultations, and how would especially tribes with limited resources get to those consultations. I would say that just like tribes have limited resources, so do the Federal agencies, and we can't get to every single village across the state. I think a good middle ground would be to go to some hub locations and then open up the phone line. And I've asked tribes if that's amenable to them, and they agreed that that would be very nice for them to be able to be on the phone and participate in a dialogue.

The other part of your question was about how do you get the word out to tribes and make sure that they're meaningfully involved. And that's actually a hurdle that the Federal government has been trying to tackle for at least since the Obama administration began. And one of the things is having a really good contact list, making sure that tribes are getting the information that you're sending them.

We've piloted an idea at Fish and Wildlife Service to have a share-point site that tribes can access on the internet. And if tribes don't have good internet access, we would note that and make sure they're receiving information by fax or by mail. But you could have a lot of information, instead of sending tribes stacks and stacks of paper in the mail. They can take what they want from -- I think there's 99 proposals and look at the ones they want.

So that -- it is a struggle, but I think it can be done.

MR. ADAMS: A follow-up, Mr. Chairman.

Thank you, Crystal. That, you know, is encouraging, you know, that you're going to be reaching out to tribes, and just hopefully, you know, we'll be able to be successful in getting them to come out and actually participate.

I know I've been encouraging my tribal council to even come up here and sit in the audience here and listen to what's going on. But they -- you know,
we've already addressed it. they have limited resources, and they just don't have the ability to be able to be involved as much as they would like to.

But I would -- I'm going to be, you know, really concerned if, you know, we don't get as much people involved as they should.

I sit on the Wrangell-St. Elias Subsistence Resource Commission meeting, and one of the things that I always tell our coordinator to do long before our meeting is reach out to those communities or those villages. We invite a tribal leader to come in and make opening comments, you know, and somebody will even offer a prayer for us. Try to get them involved that way, and it's very difficult trying to get them to come to those meetings. And here we are making decisions that directly affects their lives and then when they see a regulation or something, an issue that comes up before them, then, you know, they start, you know, crying about not being involved. But, you know, I know we try to reach out to them.

And in the past few years, you know, we've seen how Tlingit and Haida Regional Housing Authority has been more and more involved, and they represent, you know, about 18 tribes in Southeast Alaska, and I think a situation like that would be -- is really encouraging to me.

But you've got 250 some tribes in Alaska, and try to reach them all, you know, to be involved is I think going to be a real issue. And I hope we're successful in reaching them also, that they can be involved. There's a lot of power in tribes, you know. And it would be really nice to see that process, you know, take place and get them all involved.

Yeah, money is a problem, but I think we need to work a little bit harder at it.

Thank you. Mr. Chairman.

CHAIRMAN TOWARAK: Mr. Lohse.

MR. LOHSE: Thank you, Mr. Chair. Can I talk to Crystal, ask her a question?

Crystal, you brought up a question or something in my mind anyhow when you talked about
government-to-government, and when we start dealing with
it from a Council standpoint. And a Council can't deal
with a tribe on a government-to-government basis, so we
cannot consult with the tribes, so what I got from your
presentation was that you would have with members -- with
a member of the Board and Staff or something, you would
have a prior consultation with the tribes involved and
present their information in part of our -- in our
booklet form. In other words, as information to the
Council.

But that doesn't preclude us from
allowing tribes and tribal individuals from testifying at
our Council just as anybody else can testify at our
Council. I mean, it's not a government-to-government,
but they can still come and testify as concerned
individuals, concerned tribes, concerned entities. I
mean, we'll have the Advisory Councils and stuff come and
testify to us. So they still have that opportunity. I
mean, we're not being -- just because we have it in our
book as information from a government-to-government
consultation, that doesn't preclude us from including
them in our discussions, does it?

MS. LEONETTI: No, not at all. And, in
fact, in the protocol that Steve laid out, I think having
a spot on the agenda where tribes can come and talk about
the government-to-government consultation that they had
with the Federal government, as well as any other
positions that they would like to state to the RAC, I
think it's important.

MR. LOHSE: Well, that's the question
that I had then though, because we can't have government-
to-government -- we can't put it on our agenda as a
government-to-government consultation, but we can still
have it on our agenda as the opportunity to testify just
like everybody else does, and recognize where they're
coming from. But technically speaking, we could not put
it on our agenda as the Council consulting with a tribal
government.

MS. LEONETTI: That's right.

MR. LOHSE: Yeah. And I'll go on to one
thing that Bert said, and one of the things I've read
through here a lot is it keeps saying that the Federal
government shouldn't have any unfunded mandates. And to
me this looks like a lot of unfunded mandates about the
time that you start telling people that we need to have
consultation with you, but we're not funding your ability
to come and have that consultation. And I think that's
a real shortcoming in here, like what he was saying.
Somehow or another if the government wants government-to-
government consultation, and the other party does not
have the funding to have that consultation, it's the
responsibility of the government then to fund that
consultation; otherwise it's an unfunded mandate.

MS. LEONETTI: I'll leave that to the
Board to decide.

MR. ADAMS: Mr. Chairman.

CHAIRMAN TOWARAK: Mr. Adams.

MR. ADAMS: I'm trying not to say too
much today.

But in the consultation process, Crystal,
I think that's a real good start. But I also think that
during that process tribes should be encouraged to go
through the process of developing a proposal, you know,
and encourage them to do -- develop proposals on their
behalf.

And as a member of the Southeast RAC, I
look at proposals from the standpoint of who put that in.
You know, sometimes an individual does it, and I have
some very strong suspicions about that, because, you
know, my question is, you know, was there public comment,
you know, involved in this? And if there's no evidence
of that, then, you know, I have a tendency to not support
that. If there's an organization, then it has a little
bit better, you know, power and authority for me to, you
know, vote positive on that issue, because they're
representing a group of people.

And when I mentioned earlier that tribes
have a lot of power, I think this is where their power is
going to come from is through that process. And if we
can encourage them to represent their villages that they
have jurisdiction over, and when they see a problem with
subsistence in any shape, form, or whatever, you know,
then they should have the ability to be able to submit
proposals. I don't see very many tribal councils, you
know, submitting proposals. And that would really,
really throw a lot of weight, you know, on how our
Council votes. And so I think that's really important,
go through the process of developing a proposal and
submitting it. And I think that's, you know, where they
can be most effective.

The government-to-government relationship
I think, you know, is another subject that is not in that
category. The government-to-government issue is, you
know, tribe dealing with another government, a Federal
government agency, like if a tribe, you know, wants to
work with any one of these agency people, you know, the
Park Service or Fish and Wildlife Service, you know, to
enter into, you know, co-management agreements and so
forth. I think that's really appropriate, you know.

And then, you know, if they have issues
that they need to address in other areas like submitting
a proposal to address a problem they're experiencing,
that would be another avenue that they can become more
effective -- more involved in.

But it's going to -- you guys have got a
tough job ahead of you. I mean, I can tell you that
right now, but I feel confident, you know, that we are
going to make some good headway. Tribes are the way to
go as far as I'm concerned.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Adams.

MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Geoff, did you have a
comment?

MR. HASKETT: Just a point of
clarification to kind of help how this conversation goes.
I want to make it clear what Crystal's doing and what
she's not doing here, is that -- I want to recognize that
the work done by the Staff group and what Steve
presented, we think was very, very well done. And I
think that most of the bones of what we're talking about
is there.

What we're bringing forward and what's a
little bit different is we had some specific ideas about
some ways we might amend that and do some things slightly
differently. And so the questions to Crystal, there's
not a full blown, here's everything we have on how to do
this yet. What we're talking about doing is putting
together a group that will include Staff, Native
liaisons, some native representations that will bring
something back to the group, taking a look at this kind
of combined thing.

So we don't have all the answers yet. And I know there's going to be a lot of questions, but I
want to make it clear, it's not kind of a final product
here. We're going to put a group together to come back
to us with something that will take what was presented
here with some amendments to be considered.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Kristen.

MS. K'EIT: Mr. Chair. Thank you.

I have some comments, not actually any
questions, but comments for our consideration as a Board,
for our RACs and also for the public, as those of you who
have signed up to provide comments, some additional food
for thought as you prepare your comments.

One thing to keep in mind I think is
that, you know, it's been over a decade since the first
executive order came out concerning government-to-
government consultation. And none of the work done by
the Staff Committee or in other discussions is meant to
preclude the work of the RACs and the importance of what
the RACs do on behalf of subsistence users.

And it is though to recognize that very
unique legal and trust relationship between the Federal
government and Federally-recognized tribes. And the
Board represents two agents of the Federal government.
We represent the Secretary of Interior and the Secretary
of Agriculture. And this is a very important step
towards establishing a better mechanism for tribes,
Federally-recognized tribes, to be involved in the
process of regulations for subsistence.

You know, Board members who have been
here many years longer than I, and newer Board members,
we recognize the importance of subsistence to the members
of Federally-recognized tribes as well as non-tribal
members.

And one of the points that Crystal
brought up was that this process is also looking at a
dialogue between the Federal government and Federally-
recognized tribes. And I think that's part of the
impediment of this -- the existing process of RACs and
the Board is that there isn't a real opportunity for
dialogue. There's a great benefit to Robert's Rules of
Order and the formal structure of that, but there's -- it
can be an impediment, too, to the conversation of what a
Federally-recognized tribe is working towards for its
tribal members.

And I think about the history of how many
proposals tribes have brought forward to the Board
through the RACs and how many of those have actually
succeeded in doing what the tribe was requesting that the
Board do. And, I mean, my short time on the Board, my
short time in the Federal government, you know, just
barely 10 years, I have not seen a lot of success for our
tribes.

So this is an opportunity to acknowledge
and to honor that unique relationship with Federally-
recognized tribes and provide them a better opportunity.

I'm also concerned, as both Bert and
Ralph brought up, the issue of unfunded mandates. This
has been a unfunded mandate since the executive order was
first put in place in the 90s. But I also know that for
tribes, when there's an issue that is of utmost
importance to them, they will do what they can to find
the mechanisms to be involved. And it is our
responsibility on the Federal side to make that as easy
as possible. It's not always a matter of being able to
give them money to participate, but it can mean we send
our Staff, or we send an agent of the government to
initiate and participate in that government-to-government
dialogue.

A key point I think that I was going to
bring up as we do the budget discussion for OSM is that
OSM has a position of a Native liaison, and that person,
part of their responsibility is assisting tribes and
being a part of the Federal Subsistence Board process.
That position has been vacant for a while. And the
budget concerns, all the cuts in the overall Federal
budget have been a concern to filling that position, but
as we go forward with this protocol and those activities,
that position is going to be key. I mean, it's going to
be I think the number 1 -- well, maybe not the number 1,
but it's going to be a high effect to whether this
process succeeds or not.
And lastly, I really appreciate the idea, and I think it's a useful idea, of having those government-to-government consultation opportunities before the RAC meetings so that RACs can hear the input that Federally-recognized tribes have provided, and that it be part of their overall process and part of their consideration as they do their work in the RAC meetings.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you Kristen. And I think you bring out a very interesting point to me, that, you know, talking about Robert's Rules of Order, we're going to have to now include tribal rules of order, and I think that's a worthy effort on our part.

Sue, you had some comments.

MS. MASICA: Thank you, Mr. Chairman.

I had a question for Crystal. I just want to make sure from a sequencing standpoint, using the protocol that was in the book as the starting point, what I had understood was suggested would be the addition of a pre-RAC, these hub area meetings of some sort with a subset of the Board, either one or two members or whatever it would be, and then there would still be the opportunity as I understand the draft of the protocol, before for the entirety of the Board, when the Board formally meets, there would still be a tribal consultation section at that point also. Is that -- did I understand what you were proposing correctly?

MS. LEONETTI: Almost. I didn't say anything about before the Federal Subsistence Board meets, but I think that's a valid idea as well.

MS. MASICA: Or in conjunction with that I guess would -- I was going by 4.d. in the protocol in terms of what had been laid out, that there would still be an opportunity in conjunction with the Board consideration of a regulatory proposal.

MS. LEONETTI: Yeah. So what I was recommending is taking the protocol laid out by Steve and adding to that the four hub locations, four or five hub locations prior to the RAC meetings.

MS. MASICA: Mr. Chairman. That leaves me with I guess a legal question. Maybe we don't know it
yet, or it's out there, but sort of this can -- and maybe
this is something the work group's going to have to
grapple with, a piece of the Board versus the entirety of
the Board at that first step. I mean, given that we have
the entirety of the Board at the second step, maybe
that's sufficient, I don't know, but I don't know if
there's clarity on that point out there, but it's an
unresolved question in my mind.

MS. LEONETTI: I think there's some FACA
considerations, and I don't -- I'm not a FACA expert, but
I think having the entire Board in one location at one
time means that you have to have an open meeting that's
published ahead of time, and government-to-government
should be the Federal government with the tribal
government, and that's why I just recommended one or more
Board members at each of those hub locations.

MR. GOLTZ: I think there's a lot of
legal uncertainty about how we're going to be able to put
this all together. I think we have to remember that we
do not have a departmental policy yet either from
Agriculture or Interior. What we are doing is trying to
craft something to get us through the next six months so
that we can improve our process, but the -- it's too
early for me to say what the final is going to look like.

MR. HASKETT: And I think whatever the
group comes up with will clearly be subject to legal
review as well.

There's one other part of that, too, that
I'm not sure people heard. So these pre-meetings, if we
decide to go this way, where one of us goes to different
place, there was also an option in there I think where if
there's a specific area that's not covered by one of
those four places we go to, that we could also have the
option of having one of us go there as well. So that's
just some clarification from Crystal I'm asking for.

MS. LEONETTI: Yeah, I think so. And
then depending on what items are on the table or what
tribes want to consult about, you would decide which
agencies most pertain to those subjects that are on the
table.

CHAIRMAN TOWARAK: If you don't mind,
we're going to switch to the tribal rules of order here
and begin our hearing process. Public comments first.
MR. PROBASCO: Thank you, Mr. Chair. And we also have Lee Wallace on the phone that we'll take after I go through a couple, giving us time to dial them.

So first up will be Mr. John Sky Starkey.

MR. STARKEY: Thank you, Mr. Chairman. I'm going to give this testimony on behalf of Myron Naneng and AVCP, the Association of Village Council Presidents, which is a tribal consortium representing 56 villages out in the Y-K Delta region.

AVCP sponsored a resolution through the Yukon-Kuskokwim Delta RAC, which I'm sure you've seen. The draft that was produced seems like a good start, and Crystal's ideas seems like also a good start in an interim effort, and I appreciate those efforts. It's good to get some kind of a straw man up there so people can at least have a basis on which to formulate comments and consultation.

A couple of ideas for thought. Years ago the Secretaries of Interior and Agriculture engaged in a thorough consultation process with the tribes in the Lower 48 in term of what to do for Endangered Species Act issues. There's two Secretarial orders out. There's a Secretarial order for Agriculture and Interior about how the agencies will consult with tribes on Endangered Species Act issues.

And why that's relevant is because of the legal context that came up was it wasn't clear the tribes have a hunting and fishing right when there's an endangered species finding, but because it wasn't clear, they needed to figure out a way to engage the tribes in a meaningful way around these issues, because they do have treaty rights.

There's also a part of that order that applies specifically to Indian tribes, and requires some fairly very extensive tribal consultation process, so that might be a model for this working group to take a look at.

A couple of substantive comments. It seemed appropriate for the Board to consider that if they're going to have a tribal consultation process, and because tribes have a government-to-government
1 relationship just as the State of Alaska does, and
2 because Alaska Native corporations control some 44
3 million of acres of land and the resources on those lands
4 to some degree, that you may find it advantageous and I
5 appropriate to include a tribal liaison that sits in the
6 same capacity as the state does with your Board as you
7 meet, and has the same capacity to provide input on the
8 tribal consultation issues. I would suggest if you think
9 this is a good idea to consider having that person hired
10 maybe through the Bureau of Indian Affairs rather than
11 OSM or the current structure and that the tribes and I'm
12 sure BIA could work out a way to make sure that the
13 tribes had a lot of input into who and how that position
14 would work, and who that person would be.
15
16 I would foresee that if that was a good
17 idea, that person would make it their responsibility to
18 make sure and communicate with the tribes on exactly what
19 their consultation positions were and keep them informed
20 so that they would be informed and could provide kind of
21 a continuing input and dialogue as the Board is engaged
22 in it decisionmaking process much as the State does.
23
24 The other sub -- another substantive
25 issue, in terms of the definition of consultation, it
26 would be nice to see something in that definition that
27 indicated that when the Board was making its decisions,
28 it was going to try to accommodate the positions taken in
29 that consultation to the degree that it san consistent
30 with its legal an other responsibilities rather than just
31 a listening session. And I think there is -- there's
32 foundation for that in some of the memorandums and
33 executive orders that came out, and that are laid out in
34 the Agriculture policy that's included in your book.
35
36 And then finally consultation also
37 includes coordination and eliminating procedural barriers
38 so that tribes can be more meaningfully involved in the
39 entire process.
40
41 And one part of this program in ANILCA
42 that has really never been implemented really to any
43 meaningful degree with tribes, except for maybe the
44 fisheries research positions, has been Section .809 of
45 ANILCA which allows the Federal Board and the OSM to
46 engage in cooperative management agreements with
47 organizations such as tribes, and Alaska Native
48 corporations. So one aspect of consultation that could
49 be included would be to ensure that you are opening up to
50 the degree possible this .809 process so the tribes can
be meaningfully involved.

And that would also help with some of the staffing and participation issues that the Southeast RAC Chair was pointing to. It is overwhelming for many tribes to engage meaningfully in consultation, because of their staffing, et cetera.

And I think one thing to think about as this thing all moves forward is, it's a different proposition to ask a question. For example, some of the questions that the Board asks are fairly complex. It may not be as complex if the Board asks a question about a season for caribou or something like that, but if the Board asks and wants meaningful comments on something what criteria should we be employing when we make our determinations about rural status, what criteria should we be looking at for customary and traditional use, and those kinds of issues, to ask the question without people understanding the body of information and the underlying issues, and having a sophisticated view of the issues to understand the question determines greatly the quality of the impact -- of the input in the consultation you're going to get.

And, you know, I think that's even, from my experience, a problem with some of the questions that get asked the RACs. You know, how does customary and traditional use determinations work? Well, a lot of the RACs say it works fine, but it's a complex and there's a lot of thought that needs to go -- I mean, customary and traditional use, for example, is really the heart of protection for village use, and in ANILCA is what determines whether or not you're talking about essentially a welfare situation where people are provided subsistence, or whether it protects a way of life. And so it's a complex issue.

My point is that some thought needs to go into this in terms of how the question will be asked and what kind of analysis will go out. And my thinking on it, and AVCP's, is that it would be the most advantageous if there were, for example, through an .809 contract, an independent staff of people who could help facilitate the consultations by providing information, background and other informations and options and ideas for tribes before they go into the consultation so that they go into it in sort of an educational and meaningful way.

So that will conclude my comments, but I do want to really support the idea of the task force, or
the working group that Crystal mentioned. And on that note, I think it's important that you include in that work group the ability for the tribes to have their own staff there as well, and for their staff to be meaningfully involved at the table. Too often at these kind of a task force, you've got the tribes there and you've got the agency people there who are well informed, and their staff, but you don't -- then, you know, you don't allow the tribal people to have their staff and have it meaningfully engaged, and I think that's really important on an issue like this.

So thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you Mr. Starkey.

Is there any questions.

(No comments)

CHAIRMAN TOWARAK: Thank you. Next.

MR. PROBASCO: Mr. Chair, we have Mr. Lee Wallace on line. Mr. Wallace, can you hear us okay?

MR. WALLACE: Yes, I can.

MR. PROBASCO: Okay. The floor is yours.

MR. WALLACE: All right. Well, Mr. Chair, thank you for this opportunity to participate in this way.

Originally on with the beginning of the meeting yesterday, I received email that it was going to be a listen only, and that type of a reply was to me totally unacceptable. I believe this FSB, Southeast RAC process should be very open and transparent.

Let me speak to tribes like Saxman. Saxman's a small and needy tribe. We have a population of about 400 citizens on our village. We have very little funds to attend important meetings, and many tribes like Saxman are in the same situation. And so for the program to make it available for small tribes like Saxman to participate either on the web with ability to give dialogue, comment and testify, it's the utmost importance. With today's technology, there's no excuse that this program should make that available to tribes.
But, Mr. Chair, I do thank you for allowing me to participate in this way, and I want to thank the regional RACs for their participation. That hadn't been there in the past, so there has been some slow changes since Secretary Salazar's address back in 2009.

And I want to specifically thank the Southeast RAC and the Chairman, Mr. Adams, for their past and continued support for the Saxman rural status issue.

Yesterday I did send some emails out with some attachments. I sent it to Mr. Bert Adams and I sent it to -- I faxed one to you, Mr. Chair, and other Board member of the FSB. And I'd like, Mr. Chair, and FSB to revisit the Saxman decision. The decision was made when the system was broken, and the decision was bad and wrong, and it just simply needs to be revisited.

I want to remind individuals that ANILCA was enacted to protect users. Users like the residents of Saxman. Well, one has to look at it as the data that's available of our take of fish and game and gathering, of our way of life. Tests in current regulations make it harder and harder for users like Saxman. You notice I said our way of life. I really step away from using the S word. It's our way of life.

In the very beginning of the FSB program, Saxman was determined to be rural. At subsequent decennial review periods FSB and supporting Staff added criteria on to make it harder and harder for communities to be determined rural. And communities had to use valuable time to dedicate towards, you know, making sure that the village would remain rural.

And there's many villages like Saxman. We have a total of about three and a half staff members. And those are the staff members that are dedicated to look at the issues, and also you have the council members that are voted in by the citizens to oversee these programs. But again we are very limited on things we can do, especially with the funding situation.

Where you talked about consultation, there's many tribes again like Saxman that don't funds to go to consultation meetings. They just simply don't have the funds, and so how meaningful could that be. And again I ask use of technology. Here we are on a simple
phone call, but again there is other technologies that
are available, and they should be used in a wise manner.
So I asked the -- well, let me get back.

Last year with the support of Southeast
RAC's annual report, central council's resolution, Saxman
submitted a resolution, to revisit the Saxman rural
issue. This is one of the easy quick fixes that this
current Chair and Board could address. And they've
simply got to do a few things, is review the RFR that we
submitted from the Organized Village of Saxman, re-
examine that, and you would simply see that the process
of adding all the different criteria on that staff
members had placed on the Board for Board decision was
totally uncalled for.

Earlier today you guys were talking about
closed meetings. That's simply out of the question.
This program should be open and a very transparent
process.

And I ask that my letter that I -- that
is dated May 3rd, addressed to the Chair, to be entered
into the record for the FSB meeting, and other
attachments that I sent or faxed to individuals. And I
say that because last month I requested the Southeast RAC
coordinator, Robert Larson, to enter into the record a
letter dated March 22nd, 2011 that I e-mailed to him
addressing Chairman Adams. That was not done as I read
the transcripts this past weekend of the meeting they
recently had in Sitka. All I read is that it was
mentioned that the Council had the letter before them,
but did not read the letter that I submitted for the
record. It wasn't in the transcripts. It was just
mentioned that they had it before them.

Many tribes in Alaska would agree that
the process has been slow after the address from
Secretary Salazar in 2009. The system's broke. It's
still broke. Here we are in 2011 after his 2009 address,
almost a year and a half later. Very few things have
been changed or addressed.

There is a few things that have been
great. The new Chairman. I applaud that. I applaud
that the RACs are sitting there with you folks at your
FSB meetings.

But one thing again, it's been slow.
Maybe it's time to discard the broken vehicle and start
with a new one.

Tribes like Saxman should maybe consider a true nation-to-nation approach and have direct consultations with Secretary of Interior Ken Salazar, Secretary of Agriculture Tom Vilsack, because what we're -- what's occurring now is something that is dissatisfying to tribal leaders and tribal councils, that the process is much too slow, and maybe with direct nation-to-nation consultation with the Secretaries, maybe then we could preserve our precious way of life.

Our way of life. We've been leading this way of life for generations to generations. And the clock is ticking for Saxman. We have until May 2012 before we lose our rural status. We enjoy it now, and we enjoy the opportunities that a small village like Saxman is able to have that rural status. But if the decision isn't overturned and reversed, the summer of 2012, what you'll end up doing is turning law abiding citizens into outlaws. I would imagine that many of us that lead this way of life will continue to lead that way of life. And the law was enacted to protect our way of life. And right now it isn't the case at all.

I thank you for this opportunity to call it. Gunalcheesh howa.

CHAIRMAN TOWARAK: Thank you, Mr. Wallace.

Are there any questions from the Board. Go ahead.

MS. K'EIT: Mr. Chair. Thank you.

Mr. Wallace, I was thinking that it might be helpful for you describe or define the term small and needy tribes for Board members and RAC Chairs that may not be familiar with that term.

Thank you.

MR. WALLACE: Okay. It's a term that's determined -- we have our funding that comes to tribes like Saxman, and we're in that category of small and needy and we receive about $163,00 a year to operate our government. Like I say, we have a small staff of a tribal administrator, half-time secretary, a social worker, and that's pretty much it. And so all these
programs that we run from our citizens, you know, the 
financial situation is so small that we just can't afford 
to, you know, fly off to all these important meetings 
that occur. Every year we're very careful of which 
important meeting are we going to attend. So that's kind 
of the basics of a small and needy tribe in Alaska and 
throughout the nation.

I hope that adequately informed or 
answered the question for you.

CHAIRMAN TOWARAK: Thank you, Mr. 
Wallace.

Mr. Adams.

MR. ADAMS: Thank you, Mr. Chairman.

Mr. Wallace, this is Bert here. I really 
apologize for not having the oppor -- not taking the time 
for the Council to look at your letter when you submitted 
it to us. I believe that it was toward the end of our 
meeting, and we were already running behind, you know. 
We had about an hour for people to catch their airplanes. 
And if I remember correctly, you know, we just didn't 
have the time to do that. However, we do have it, and, 
you know, at our next meeting we will address it.

I also argued your cause yesterday. I 
don't know whether you were on line, Lee, at the 
beginning of the meeting, but in our opening remarks I 
made mention of your email to me, and I addressed the 
same issues that you addressed here. So I just wanted 
you to know that as well.

Thank you.

MR. WALLACE: Thank you, Chairman Adams.
Yes, I did, you know. Again thank you for your past and 
your present support. I know you've always been behind 
Saxman in our rural status issue.

In regard to the quality of the audio 
yesterday on the internet, it was poor. We have good 
internet access here in Saxman. We're on DSL, so that 
wasn't the issue of our end having poor quality. The 
quality somehow generating up in Anchorage with the 
system you guys are using, that needs to be looked at. 
I know it's you're second time attempting using the 
internet. There are difference software you could use
where people that log onto the internet could have interaction. I've been to webinars with that, different types of systems where I'm able to participate. And I think I'd request from the FSB and Staff is that you look into different programs that you could use that would be more user friendly and better quality.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Wallace, for your testimony. The next.

MR. WALLACE: Thank you, Mr. Chair.

CHAIRMAN TOWARAK: That's it.

(No comments)

MR. PROBASCO: Thank you, Mr. Wallace, and I will sign off now.

MR. WALLACE: All right. Thank you.

MR. PROBASCO: Our next person to testify is Mr. Carl Wassilie.

MR. WASSILIE: Yeah. Quyana. (In Yup'ik) My name is Carl Wassilie. I'm currently occupying the whole State of Alaska, but my family is from here, been here since time immemorial. I could go into a long story that would take a few days to where I come from. And I'm a Yup'ik biologist.

And regarding these, I thank the Board for taking a look at this, at the tribal consultation policy. It's very important, especially looking at the history, the state is very new here as far as being fairly young historically. So the conflict can go back, and very deep racial conflict that has -- which is probably the reason why there's so much confusion and difficulty at this point in time in 2011. A lot of these policies by various agencies, not just the Feds, but also the State, have brought us here to this point.

And so I'd also like to thank those that have been working their lifetimes to have an adequate voice in continuing the way of our ancestors. I think that's very important at this point in time to acknowledge and recognize the current policy which is the tribal government, the trust responsibility that the
Federal government has, and the State is failing miserably at upholding any trust to the tribal governments. And I think that's where a lot of the problems can be rooted to.

But to get to the point of this policy, I think it's really important to look at the definition. There's still -- there is a lot of conflict within multiple agencies, the President, the administration, as well as the courts regarding definition of Alaskan Native tribes, and the tribal -- the Federally-recognized tribes are the authority.

And there's been a lot of shifting of funds away from tribes and, of course, the State through the corporation -- incorporation of Alaska Native corporations, which they're not tribes. The Alaska Native corporations have been able to -- are very successful at securing funds for the Indian Self-Determination Act, which should be going directly to tribes. That would help significantly in the funding issue that's being discussed here. The Self-Determination Act, the Indian Self Determination Act. So I'd recommend that language be changed on a Federal level.

Some recommendations to clarify the tribal governments is the tribal governments are the -- in some areas are much different than tribal governments in other areas. My experience working with the Alaska Intertribal Council, there's a lot of differences between tribes.

There's also -- there's major language barriers. So I think one of the things that I'd recommend also is make sure there's adequate translation, and peer reviewed consultation in these government-to-government meetings. The translations are always a challenge. The differences in direct translation and to translation on paper. I think the paper translation is important.

As a Yupi'k biologist in which hundreds of my family members are extremely dependent upon the abundance of the earth, the migratory birds, the migratory fish, the anadromous fish, and the whales, the seal, and all the abundance of the earth, the water and the air.

I think this is a step in the right
direction to address the Board to -- I support the
movement of Saxman also to really rearrange and start
fresh here. I mean, the Board originally when ANCSA
passed was to have -- the discussion that took place was
to have the Native people to take -- to have management
in the regions, and that was before Alaska Native Claims
Settlement Act was passed. There was discussion on this
regional management issues.

I think these things need to be looked
at, the history is an important part of this discussion
on the framework and the communications. There's still
massive cross communication differences, and this can be
solved by putting the tribes at the forefront with
adequate translation protocols.

So that's about it for now regarding this
specific topic. I do support the inclusion of tribal
governments onto the Board. That would be a significant
barrier to the communication problems.

CHAIRMAN TOWARAK: Thank you, Mr.
Wassilie.

We will proceed on to the next.

I might announce here, too, that we're
planning to take a lunch break between 11:30 and 1:00
o'clock today. We have a couple of Board members that
have an obligation during the lunch period today, so if
we could -- if I could ask whoever comes up to testify to
focus on tribal consultation, that would help us in our
meeting our schedule today.

Pete.

MR. PROBASCO: Thank you, Mr. Chair.
Next, Mr. Tony Delia. Pass? Okay. I apologize if I
mispronounce. Nikos Pastos.

MR. PASTOS: Good morning. My name is
Nikos Pastos. I'm a person from the Confederated Salish
and Kootenai Tribes of the Flathead Nation. I was born
here in Anchorage, Alaska, and I've lived most of my life
in Alaska. I'm a tribal person.

Some of my comments, which I'll leave for
the end of what I have to say are personal. But
professionally I work with the Center for Water Advocacy.
We're a nonprofit advocacy organization based in Homer,
Alaska. We were formerly known as the Center for Tribal Water Advocacy. And in that capacity, I'm their human rights coordinator, on the board of directors for the Center for Water Advocacy.

Specifically we have some comments on the tribal consultation protocol which is number 8 on the agenda. And this is a brief outline of our comments. We will submit substantive comments in writing via U.S. Post this week after we hear some more of what you folks are deliberating today.

And first of all, all of my comments and the work that we do at the Center for Water Advocacy are offered respectfully, and any criticism is -- we hope would be taken as constructive criticism.

I guess the idea with the Center for Water Advocacy is that we are focusing a lot on environmental justice and human rights matters having to do with customary and traditional life ways of hunting, fishing, gathering, navigation, commerce, barter and trade. And with that in mind, we would like to remind everybody in the room that indigenous peoples in tribes have -- since time immemorial have long-standing traditional governments that carry on through to this day.

That whatever management scheme we have now in conjunction with the State of Alaska has managed to horribly squander the global commons. And we wish to offer support for anyone who wants to move forward in working in good faith and a good way to properly manage what we consider to be fundamental human resources of food and water.

So in a global context, food security is a huge matter, and in international law, which -- by the way, I'm a sociologist. I am not a lawyer. But in international law the resources of Alaska, food resources and the natural resources are of vital strategic interest to the United States and the various tribal nations. This is very serious when we talk about how we regulate people's food and water.

When we get to the definition on Page 15, number 1, of Federally-recognized tribe, the Federally-recognized Indian Tribe List Act of 1994 does not include Alaska Native Claims Settlement Act corporations or any other corporations. Corporations are not tribes.
Corporations are created to develop profit and develop resources or activities for their shareholders, which may or may not be in the interest of tribal governments or tribal peoples.

Let's see. So some of the -- we really question -- I guess there's -- and I'm trying to keep things very simple here, but we really question the underpinnings of recognizing ANCSA corporations as tribes. Yes, they're very significant landholders. Yes, they benefit greatly tribal governments and tribal peoples. Alaska Native Claims Settlement Act corporations I say again are not tribal governments.

We had trouble finding where the ANCSA part for the tribal consultation protocol was spoken about in the previous meetings. We weren't sure how it arrived on the agenda. Perhaps we didn't have those minutes.

Okay. The next thing is there are a list of authorities, such as Executive Orders 13175, 13084, 12898, which mandate government-to-government consultation, environmental justice, and those are listed in the USDA and Department of the Interior guidelines.

A couple of things that we'd like to recommend that you look at are Native American Graves Protection and Repatriation Act and the National Historic Preservation Act. There are several guidances from assistant solicitors which show that Alaska....

Oh, Alaska Native corporations are not tribes in the regulations of like the National Park Service. And that is not fully -- it's not fully -- I guess legally fully defined yet. So it's legally questionable anyway. I think that's fair to especially if you look at NAGPRA, for certain agencies of the Department of the Interior. Also the Indian Self-Determination Education Assistance Act. So there's a hodgepodge of agency regulations that do not lead to a clear definition of how lands are transferred, or natural resources between the Federal agencies and corporations.

I guess in closing, for the Center for Water Advocacy, we believe that there's three natural resource trustees in the United States. And that would be the Federal government through its Federal agencies, and then the tribal governments, which are on the same parity, and then the states as they have asserted
themselves. So we have three natural resource trustees
that are entrusted to protect these very significant food
and water resources and energy resources.

And we would like to encourage the
Federal Subsistence Board to move forward in good faith
efforts to create meaningful and real consultation, but
recognize that if you don't have the tribal sovereign
governments on the RACs, Regional Advisory Councils, it
may be that you're going on that unfunded mandate off the
end of a diving board which will cause more confusion.

I think we've reached a point in history
where Alaska's not too big. The resources are
significant. The relationships that we have with the
peoples who have been here since time immemorial need to
be honored. We can do that. And we could start here
when we're talking about the very substantial what we
call subsistence, but it's much more than that. It's the
sacred way of life, to protect our food, water, the
migratory birds, the fish, you know, all of the creatures
of the land and the air and the water.

And having said that, I want to say one
last personal thing and I'll conclude. There's a famous
writer from my tribe named Darcy McNichol, and he wrote
a lot of influential poetry and literature as well as
helped start the National Congress of American Indians.
And one of his most famous novels is called Wind from an
Enemy's Sky. It's advocacy of a land ethic. But he
spent his whole life, and this is how I'll finish, trying
to help resolve the cultural differences between tribal
peoples and non-tribal peoples, Indian and white
relations for -- we call ourselves Indians and white
people where I come from in Montana. And despite the
good efforts of many, his novel ends disjunctively and
violently. And Alaska's a place where we can instead of
perpetuating confusion and conflict, can move forward
with the beautiful lives that we have.

Thank you for the opportunity to comment.

CHAIRMAN TOWARAK: Thank you, Mr. Pastos.
Next.

MR. PROBASCO: Mr. Chair. Next is Ms.
Mary Ann Mills.

MS. MILLS: Thank you. Just a minute.
Oh, geez. My computer for some reason is logging off.
I don't know why. Is there someone else you'd like to call until I get this up, because I don't want to waste time. Okay.

CHAIRMAN TOWARAK: Bring your i-pod next time.

(Laughter)

MR. PROBASCO: We'll come back to you, Mary Anne.

MS. MILLS: All right. Thank you.

MR. PROBASCO: Next is Faith Gemmell.

Ms. Faith Gemmell.

MS. GEMMELL: (In Gwich'in) I'm Faith Gemmell, and that's language in Pit River and Windta. I was raised in Bushrike-o (ph), known to all as Arctic Village, Alaska. And so today I'm here speaking on behalf of the Arctic Village Council.

As I was preparing for this meeting, I was struck by a thought. We, the indigenous nations of Alaska, our lineage and ties run deep here. This relationship between ourselves and our homelands is one of spirit, which I believe some have no comprehension of. Otherwise we would not even be having this dialogue today.

So deep is our connection to our ancestral territories all the way back to the time of creation when the Creator bestowed on us our natural laws. These laws supersede man's laws and are ingrained in our way of life.

The issues on the table when regarding our traditional way of life, which is now termed subsistence, are of sacred significance to us. Generation upon generation have continued to live in our customary and traditional ways unbroken. This way of life encompasses our rights which were bestowed on us by the Creator. Our inherent rights to live as our ancestors have since time began, an unbroken connection to our homelands which provide us with our necessary physical, cultural, spiritual, social and economic means.

Subsistence for us is more than food security.

Many have come before you and referenced...
laws and acts since the treaty succession with a litany
of each unjust law and act that followed, so I will not
reference those. I want to focus on one act to make my
point to you today in regard to the protocol.

The discovery of oil at Prudhoe Bay
established an alignment of the oil companies and the
U.S. Federal government to promote their combined
interests. This alliance provoked an urgency to settle
indigenous land claims in Alaska in order to provide a
right-of-way for the Trans Alaska Oil Pipeline. The U.S.
Congress unilaterally passed the Alaska Native Claims
Settlement Act, known as ANCSA, in 1971 to legitimize
U.S. ownership and governance over indigenous peoples,
our lands and access to our resources.

The lands which were taken from us
through this Act became corporate assets of newly created
state-chartered limited liability for profit Native
regional and village corporations. ANCSA conveyed
indigenous traditional lands, ancestral lands to the
corporations instead of our existing indigenous
traditional governing structures, because our governments
were perceived as an impediment to assimilation and a
threat to U.S. control in Alaska.

Section 4.b. of ANCSA is the reason we
are discussing this issue today. ANCSA changed the
dynamics of how Alaska Natives relate to the land, but
also how we relate to one another. State-promoted
economic development interests are aligned with these
Native corporations that pursue lands and marine
ecosystems for economic gain despite adamant opposition
by Alaska tribes whose subsistence way of life is
endangered by economic development proposals.

In a nutshell, the difference between the
Native corporations and tribes is very simple. The
corporations' bottom line is profit at all costs and
business interests. Our sovereign tribal governments'
bottom line is the health and well-being of our peoples.
Two very different values.

If the effort to recognize corporations
as tribes is allowed within government-to-government
consultations, you basically will have the fox guarding
the henhouse. And handing over authority illegitimately
to entities that by their very nature are the very ones
in partnership to exploit our homelands and resources for
profit, which undermines and threatens our subsistence
way of life, you would choose to consult these entities instead of our sovereign governments.

No corporation should be granted sovereign status. It can be likened to granting BP sovereignty. And I really question that part of this protocol.

Most alarming is the draft protocol will be used as precedent-setting protocol in all government-to-government negotiations from here on. In reality, if this language is passed in this protocol and policy, it would be termination policy, which would be set by this insidious language that's right at the beginning of this protocol, which states, consistent with the Secretaries of the Interior and Agriculture's Secretaries, emphasis on respectful relationship with tribes, the Federal Subsistence Board has developed this draft protocol to enhance our government-to-government relationship with Alaska's Federally-recognized tribes and government-to-corporation relationships with ANCSA corporations, collectively called tribes in this document.

This language diminishes and undermines sovereign tribes here in Alaska as well as the Federal trust responsibility in government-to-government consultation processes. This language is a violation of your own laws that confirm the relationship with tribes. So to me this process is flawed if that language is maintained. So to correct this, that language at the beginning of this protocol should be stricken from this document today. Today.

I've read the transcripts from the meetings that were held in January, and there were no comments whatsoever from any Federally-recognized sovereign tribe to include corporations in the protocol, so I don't understand why it's there. And I surmise there must have been closed-door negotiations or meetings without our presence, which points out that that's also flawed process if that is what had occurred. And that would dishonor us as sovereign tribes of Alaska as well as our ancestors and future generations.

In closing, I recommend you reference and adhere to Resolution 2011-33 from the Tanana Chiefs Conference which advocates for 42 Interior tribes which resolves, TCC requests that tribal consultation protocols be amended by Congress to include tribal governments only in their required consultation protocols and not include
ANCSA corporations.

In this process, I support Mr. Adams' statement in part. If the government is requesting tribal consultation to draft the protocols, then it should be the responsibility of the Federal government to fund the government-to-government protocols and consultation process so that our tribes can meaningfully participate within the process.

Thank you. (In Gwich'in) And I thank you all my relations.

CHAIRMAN TOWARAK: Thank you, Ms. Gemmell. Next.

MR. PROBASCO: Thank you, Mr. Chair. Next is Ms. Irene Dundess.

MS. DUNDESS: Thank you. My name is Irene Dundess. I currently serve on Ketchikan Indian Community Tribal Council. We have 5,338 tribal members in Ketchikan. I'm Tlingit. I grew up in Saxman and Kake. And bought a house in Ketchikan, and that's why I am on the tribal council for KIC and not in Saxman, because of jurisdiction.

I have not had time to go over the protocols intensely where I read them line by line. I think it's a good start. And I think in the future I would like to probably see procedures and processes that define when the tribe can officially consult with the Board.

In Ketchikan we have an excellent working relationship with the tribe -- or with the Forest Service, and we have flexed our muscle in the government-to-government relationship when we use -- when we are making amendments to TLMP. And because of those rules and procedures that defined how KIC can -- well, at the time it was Denny Bschor, talked to him and we demanded our president talk to your president. And we made amendments to that. And by us knowing those procedures allowed us to have a wonderful working relationship.

There was some comments about tribal citizens not participating in the process or even attending. I think once the protocols are defined more and timelines and procedures are put inside the protocols, I would really like to see that it allow for
tribes to have some times, like a month in advance, when
giving notice to the tribes. Our tribes sometimes only
meet -- or our council only meets once a month. And at
times when we get notices from the Forest Service or any
other government agency, our tribal council has already
meet and the time -- we cannot officially respond by
resolution or official letter.

And somebody else mentioned the closed
door that the Board -- I also agree that there should not
be a closed-door consultation or closed-door meetings
with this Federal Subsistence Board, but I believe when
-- I just believe that it should be explored. I don't
think that this group should meet closed doors, but I
think if there was an opportunity that the tribe can meet
with -- on a government-to-government relationship with
specific issues that are specifically for a particular
tribe that deal with sacred issues or even within our own
cultural protocols that we have within our nations, I
think that government-to-government relationship with a
specific tribe, and not necessarily closed doors as in
nobody can come into the room, but hopefully that when
the tribe is meeting with the government agency that --
because I know as a tribal council member I am elected.
I have 5,338 members who elect me to a position. I am
the lawmaker and I am the policy and procedure maker and
that when I'm meeting with the government agency, our
rules are the rules. So I just want to make that
statement. So there's some issues that I think that
should be allowed in a closed-door room with the Board,
but I don't agree with this Board meeting in private.

So that's all I have. Thank you.

Gunalcheesh.

CHAIRMAN TOWARAK: Thank you, Irene. The
next.

MR. PROBASCO: Mary Ann's nodding. Ms.
Mary Ann Mills.

MS. MILLS: My name is Mary Ann Mills.
I'm vice chair.....

UNIDENTIFIED VOICE: Turn your mic on.

MS. MILLS: I am vice chair for the
Sovereign Nation of Kenaitze and chair of the Cook Inlet
Treaty Tribes, which is a consortium of eight tribes.
Thank you, Mr. Chairman and Board members for the opportunity to speak on the draft tribal consultation protocol that the Board has developed.

According to your introduction, the Secretaries of Interior and Agriculture request the Federal Subsistence Board to place emphasis on respectful relationships with the tribes. The Board, however, developed the draft protocol to enhance our government-to-government relationships with Alaska's Federally-recognized tribes and government-to-corporation relationships with ANCSA corporations, and have collectively ANCSA corporations tribes in this document. As a tribal leader, I object to the assimilation and regionalization the Board is attempting to implement upon the tribes of Alaska.

State-chartered corporations are not governments. Corporations are for-profit entities mandated to make profits for its shareholders or stockholders. How ridiculous would it be if the tribes decided to ask Ford Motor company to give us 97 percent of state's fish and wildlife. And what if Ford Motor Company said yes? What would the United States say? The United States would not oblige nor would any other government.

Executive Order 13175 directs agencies to establish regular and meaningful consultations and collaborations with tribal officials in the development of Federal policies and have tribal implications, yet the Board admittedly -- admitted they did not consult with tribes during the development of regulations and does not take tribal concern seriously unless it is done through the strict format of ANILCA, which falls short of Alaska Native people's legal status and international obligations of the United States of America.

Former Secretary of Interior Stuart Udall stated, economic life of rural -- of Alaska rural villages is the loom of which the thread of Native culture continue to be woven, and the contextual framework for every traditional village life. He continued, Title VIII wouldn't have been enacted if non-Native subsistence was the primary focus of concern. Udall stated, subsistence title and other subsistence provisions of this bill are derivative of ANCSA.

The Federal court consistently recognizes the Settlement Act to be Indian legislation entitled to
all the presumptions and statutory interpretations
associated with that generic class of status.

Congress finds and declares and con --
declares continuation of opportunity for subsistence uses
by rural residents of Alaska on public land by Alaska
Natives and non-natives, and by Natives on Native land is
essential to Native physical, economic and traditional
and social existence.

The State of Alaska cannot find room for
our way of life. One state, one people deny Native
peoples our cultural values based upon communal sharing.
ANILCA does not protect native hunting and fishing. The
State gave 97 percent to the commercial fishing industry
and the lion's share to sports hunters.

The United States Constitution guarantees
our right to our religion. The United Nations guarantees
freedom of religion. The Bible gives us free will. Our
religious beliefs requires certain things such as
potlatches which require fish and wildlife. The
International Declaration on the rights of indigenous
peoples gives us the right to our food and culture, yet
we are deprived of these things.

We never consented to ANCSA. We never
voted for statehood. And we were never conquered. The
indigenous peoples of Alaska has never ceded its land,
nor have we relinquished or voluntarily abandoned our
land. When are the United States and the State of Alaska
going to be satisfied? How much more of our souls are
they planning to take? The United States and the State
of Alaska is destroying us slowly and purposefully. The
late and very well-respected human rights scholar,
Christian Bay stated, ethnocide is genocide on an
installment plan.

Mr. Chairman. A paltry two percent of
fish and game is designated by Federal agencies, leaving
villages in danger of winter -- in winter due to food
scarcity. Food has been airlifted in the past couple of
years to some villages. The Federal Field Commission
report of the Alaska Natives and their lands recognized
that 60 to 80 million acres of land were needed for
village survival. Mr. Chairman and Board members, I
strongly recommend 30 to 40 million acres is needed for
village life and that the amount of land be set aside
from Federal and State lands.
Thank you very much.

CHAIRMAN TOWARAK: Thank you, Mrs. Mills.

MR. PROBASCO: Next, Mr. Chair, we have Mr. David Harrison.

MR. HARRISON: Good morning. I wanted to clarify who I am speaking in behalf of. I'm the executive director for the Alaska Intertribal Council. The Alaska Intertribal Council was created after almost 80 Federally-recognized tribes signed a treaty. Our charge is to advocate for the Federally-recognized tribes across Alaska. We are the only organization in Alaska that advocates in behalf of all Federally-recognized tribes. And therefore the comments from those Federally-recognized tribes should carry a great weight in making Federal decisions.

We've heard this morning several discussions about funding and the authority of the tribes. My comments yesterday, there's been inferences and outright statements that the present management style of the State and the Federal government is genocide. And you have to look at the terms that are written in Federal legislation. And you can find the definitions of genocide in United States Code under Title 18, Section 1091. It's very real.

Bringing the issue of corporations to this table of government-to-government consultations is a direct violation of Federal statute. The late Senator Stevens attached many riders to many bills that has caused and continues determination of Federally-recognized tribes and their citizens. He did great things for the ANCSA corporations and the State of Alaska as corporations. For tribal citizens it was an assault, and we have yet to this day found a Federal Congressperson that will champion legislation for the Federally-recognized tribes in Alaska or elsewhere.

We mentioned yesterday that the Alaska Natives, the Alaska First People, their villages, their tribes, their nations and their citizens own Alaska, not the State, not the Federal government. So inclusion of ANCSA corporations into any type of government-to-government consultation is a slap in our face.

The United States has a Federal obligation under the United Nations Charter, Article 73,
to assist us in determining what type of government that
our indigenous nations in Alaska choose.

The unfunded mandate, there doesn't need
to be that unfunded mandate. The United States has
negotiated with other sovereign nations in assisting them
to determine what type of government they want. They
have spent billions of dollars assisting other nations
around the globe establish their governments.

The resources here are many. The United
States does not want to establish those negotiations with
Alaska's indigenous peoples. And they do want to
maintain a foothold in Alaska, not only for the
resources, but Alaska is a very strategic military
location. I've recently heard, and which I'm in the
process of confirming, the ratio of military personnel in
Alaska to Alaska Natives is six to one. Why is that?

The issues of this consultation must be
directly with those Federally-recognized tribes.

I heard talk about going to hub cities,
four or five. What's that, Juneau, Anchorage, Fairbanks
and Barrow? That does not assist those small, poor
tribes out in Yup'ik country. It does not help the poor
tribes in Cook Inlet area. It does not help the poor
tribes in the Interior or Southeast. Four or five
locations does not help. There are more hub regions, hub
cities that this Board and other Federal agencies need to
go to for attempting to have meaningful consultation as
the regulation and the mandate from the Presidency of the
United States.

The United States has failed in assisting
the indigenous people in Alaska on many levels. This
just happens to be one of them.

You send out information on
consultations, and I wonder what your rate of return is
if you send it through the U.S. Post Office.

The Alaska Intertribal Council has
probably got the most up-to-date list of Federally-
recognized tribes in Alaska. In our last mailing we had
10 envelopes returned out of 229 Federally-recognized
tribes.

So the consultation and the information
going out to these tribes and these tribal leaders is
very critical. And to have meaningful consultations, you have to go to where they're at, not to Anchorage. Anchorage happens to be one of the hub cities for some of the local tribes in this area, but you have to get out and get close to the people so they can actually sit down across the table from you and see you, because our elders need to be in these conversations as well. They're the ones who are guiding our people's, our villages, our traditional governments. It is the younger people like myself who have the ability to get out and walk around and have learned the English language extremely well.

I've also studied Federal Indian law for more than 30 years. And I know the United States laws that affect our people. And the United States refuses to utilize those laws for their own gain and for the gain of those multi-national optimopolies [sic] that not only the State of Alaska, but the Federal government has working for them at the demise of the people who own this land.

I want to bring to your attention a recent solicitor's opinion of March 18th, 2011 on NAGPRA. And it relates to whether the ANCSA corporations should be included in government-to-government consultations. Their conclusion is, no. This opinion was delivered, like I said, March 18, 2011 on the Native American Graves Repatriation Act. And I would recommend that this Board review that and adhere to that policy of denying ANCSA corporations government-to-government consultations and exclude the ANCSA corporations from being deemed as tribes as Mr. Kessler has stated in his protocol.

Mr. Chairman, I think I really like your determination of tribal rules of order. It is not many Federal meetings that indigenous people have with the Federal government do they understand tribal rules of order. And the protocols and procedures that are necessary to have a meaningful consultation with a sovereign government. Yet they do those processes and protocols with other nations. The United States can do the same with our nations.

I don't like the term regionalization. Regions. There are seven indigenous nations in Alaska, not 12 regions. We have seven nations. And those nations need to be respected and honored. And those leaderships in those nations, from their traditional governments, need to be respected and honored. And the laws that those nations, their villages and their tribes
create need to be respected and honored by the State of Alaska and the Federal government.

Thank you for allowing me to advocate in behalf of the 229 Federally-recognized tribes.

CHAIRMAN TOWARAK: Thank you, Mr. Harrison.

Earlier I had stated that we would probably take a lunch break, but I think in wanting to have continuity, we're going to continue this here until we hearing until we hear from the last person. We have six more people to go, and we'll continue that and then break for lunch.

Next.

MR. PROBASCO: Thank you, Mr. Chair.

Next is Mr. John Andrew.

MR. ANDREW: Thank you, Mr. Chairman, members of the Board, RAC Chairs. My name is John W. Andrew for the record. I'm from the Organized Village of Kwethluk.

I had a lot of things in mind to bring up, but some of them were presented by the other testifiers. I thank them for that.

Our Organized Village of Kwethluk met with the City of Kwethluk city council along with the Kwethluk Corporation, and sometime back we met with the Native Villages of Allakaket, Atqasuk and Tuluksuk on this tribal consultation. On tribal consultation, and they were unanimously opposed to the corporations being includ -- to be included on the consultation process.

For centuries our people or precontact in the rural villages, tribal governments are the only form -- tribal governments were the only form of governments. And sometime later, is that after they came into contact with the outsiders, in those days they called them outsiders or non-Natives, and they realized there were people out in the villages. And the Federal government take them as their wards, and then -- and they -- in the territorial days, the BIA was intrusted to look after the tribes, and all these years we've been governed by the Federal Government.
Then statehood came in 1959. Now we have dual government. And it created a mess right in the villages. We have our own tribal government, then we have the State government and the Federal government trying to tell us when and where we can go on subsistence and to support our families.

Now this protocol wants the corporations to be involved. And when we met, we -- our people did not go with it, because there -- for a number of reasons. One is being will this -- back in around 1980 after ANCSA came about, they said the corporations were created to look after your land, that is, separate entities to look after your land and corporate affairs, not tribal affairs.

There's several other reasons which they described, one was that under the Federally-recognized tribe terminology, regional corporations and corporations are not recognized. The other one was they were afraid that if this becomes a reality, it will further erode the tribal sovereignty of the villages, and the corporations will be fighting for the same funds that the villages are supposed to get. And it -- if you have three separate entities within your community, they're actually fighting for each -- fighting each other. In our terminology, in the Native way of life, a community is a tribe, not three separate entities. Those are some of the reasons they brought up.

And thank you for letting me do my little presentation. Quyana.

CHAIRMAN TOWARAK: Thank you, Mr. Andrew.

Next.

MR. KRON: Our next testifier is Richard Bender. Richard Bender.

MR. BENDER: Hello. My name's Richard Bender. I stumbled on this event. I stopped by our CDQ Yukon Delta, they told me to come testify. I also got permission from tribal chiefs. So I'm up here. I'm a college student majoring in economics.

And a lot of stuff I want to say has already been discussed, but I want to present it again in view of an economics student.

One of my concerns about the tribal
consultation is the financial problems that tribes are facing. The fear of unfunded mandates. This is a control problem, and if there's conflict, there's no room for constructive conflict. We just need to wait to assure that this consultation can continue through until the end.

As for ANCSA, I believe they do have a lot of benefits. I don't see it as cultural extinction, but a more diverse, stronger culture that helps us deal with today's environment.

With ANCSA and statehood they brought us health care, and I want to quote, health care and all kinds of good stuff that made the life easier for us. One elder told me that we live in a material culture, not in two worlds. Another elder told me that -- I shared this view, and said, what are you going to do if you die in one world, hop to the other?

Our subsistence lifestyle and our cash economy go together. Subsistence users and the commercial user are the same people that go home to the same family, so we've got to figure out ways, you know, to get us to get along and cooperate.

As for ANCSA being a tribal entity, I don't think they should be a tribal entity, but, you know, a business sector for the tribe. You know, we're -- there are benefits from the CDQs and the ANCSA corporations are essential to the survival of the villages and subsistence way of life.

And my -- what I want to ask for is a way to strengthen the tribes for three reasons, is that the brain drain that's caused by no opportunity in the tribes and village. We're sending all our -- all the youth out to college, and then we're educated and there's no opportunity for us to go back. And this escalates into a communication problems. I believe that the college, the educated college Natives are going to be the intermediaries that has to deal with the Federal Subsistence Board and the other agencies, and if we're talking apples and oranges, we're going to end up with bananas, you know.

(Laughter)

MR. BENDER: And there's conflict within the corporate and the subsistence users. I heard there's
supposed to be a subsistence summit that's supposed to
address this. Are any of you guys aware of the
subsistence summit?

CHAIRMAN TOWARAK: Not immediately. We
haven't heard of it.

UNIDENTIFIED VOICE: There's a leadership
summit that's going to be happening this week, the 5th,
6th and 7th at the Millennium Hotel.

MR. BENDER: I think the purpose of this
summit is to try to find ways to come to a consensus with
the subsistence and the corporate entities. And this is
a real problem. I heard on the grapevine on one of our
past meetings that one of the corporate people are going
to cut off the funding to the nonprofit, because there's
disagreement. And this problem needs to be addressed --
I mean, fixed. My suggestion is to strengthen the tribes
through business, some kind of business opportunities so
that we can attract the college-education people back
into the tribes, and we can make better decisions.

The pollock industry is a big potential
for a lot of us communities on the coast. It's in full
swing, and there's probably no way that we're going to
stop the pollock industry and the bycatch, and the
externalities that's caused by the pollock industry is
directly affecting us as subsistence users. And if we
could somehow get a bigger piece of that pie so we can be
compensated for what we're missing out, because it's
going to be pretty hard to stop the pollock industry.

I'm here today, because two scholarships
from the Bureau of Indian Affairs, they paid for most of
my -- all of my tuition, and then some, and then the CDQ
groups paid for my education. If it wasn't for them, I
wouldn't be here. So we rely on all these agencies,
including that my tribe pays for my housing rental, so we
all need each other, and we all need to cooperate.

And one way I think would be a good way
to get the tribes making money is to do like a tribal
development quota similar to a community development
quota, and then we could build relationships with the
other organizations that are here, and then they can
incubate us to get ourself on our feet so that we can
fulfill -- I mean, complete our goal as a tribal-to-
government consultation.
Thank you, Chair and Board, for allowing me to speak.

CHAIRMAN TOWARAK: Thank you, Mr. Bender.

Next.

MR. KRON: Our next testifier is Maurice McGinty. Maurice McGinty.

MR. MCGINTY: I'm carrying this along for balance. I don't have nothing written on it.

Thank you, Mr. Chair. In reading the protocol, I pretty much agree with what speakers before me have said, you know.

I don't believe our corporation has -- is the right organization that the Federal government should be consulting when it comes to subsistence way of life, simply because they're a business-oriented corporation that focuses 100 percent on profits, very, very little, if any, to do with our way of life out in the village.

The region I'm from is Tanana Chiefs. And we deal with about 46 villages in our region. And I want to say the leader of that group is usually Tanana Chiefs. They're the ones who deal with us directly on subsistence issues and ways of life directly in our communities.

I do not believe that we have representation on the RAC Council. I might be wrong. But for that reason -- and we don't have anyone on the Board that's from our region, so we never get represented on anything that pertains to subsistence other than the laws that come down, you are going to do this, you are going to do that, and you will not do this, and you will not do that. And it makes for a subsistence way of life, a community like Nulato to become invalids to the Federal and State.

You hear -- since yesterday you've been hearing people talk about subsistence way of life. And I would just like to know just how many of you actually live the subsistence way of life that pertains to Alaskans like myself. I'll tell you right now if I ask for a raise of hands, there would not be very many people that would raise their hand to the questions I'm going to ask you.
How many of you eat bear meat? How many constantly? Equals to one bear a year? How many of you eat moose meat just about every meal of the day? How many of you eat fish at least once a week taken out of the Yukon River, and every day in the salt strips form, in the barrel form, in the dried form? How many of you eat sun dried fish with seal oil whenever they get a chance like I do? How many people beg from people from Unalakleet so that I can get some white muktuk so that I can keep it on my table for myself so I can eat it whenever I want? How many of you make bear grease that you can use to dip your dried meat in when you eat around a table by yourself?

These are subsistence way of life, gentlemen and ladies. How many of you make your own fruit from raspberries and salmon berries like I do? How many of you make all of your jam from blueberries, raspberries, and salmonberries and high bush cranberries and low bush cranberries like I do?

Ladies and gentlemen, it's good to see some hands come up. This is subsistence way of life. This is subsistence way of life.

I don't like beef, because there's too much injection of different kind of forms that they need to preserve the meat when they put it on the shelves in the store, so I try to -- I'm not saying that there's any less on the shrimp, but I try to eat shrimp whenever I come to town. I just stay away from beef, because it's a cholesterol forming piece of -- that you inject into your body.

This is subsistence, ladies and gentlemen. This is what we're talking about. And for that reason, when you look at that protocol up there, I don't like the idea of ANILCA on there. I think ANILCA should be scratched from that protocol before it's introduced to the Secretary of the Interior and whoever, and tribal governments be included as the form that they reach for communications, so that when things like this that pertain to subsistence are introduced, we have an input in it, direct input. It's very important.

You know, we are at a point now where we cannot continue living by the non-Native laws, because they're battling our Native laws. Ladies and gentlemen, there's not much that you need to discuss on the matter. It's our way of life versus yours, and right now you're
winning, because we're not given the opportunity to
express our feelings like I am today.

I was told, by who I don't know if it was
Federal or State, that we're going to reduce your fishnet
size now by half an inch. We're going to reduce your
fishnet from 8-inch mesh to 7-1/2-inch effective this
summer. I wonder how much we're going to kill because
they make that mesh smaller while they're thinking about
how many fish they're going to see get to the spawning
area.

And not only that, but I just found out
that they're going to send a fishnet that I cannot use.
Why? Because there's no float line on it and no lead
line. They're just going to send me the webbing. I in
turn am going to send them a fully usable eight-inch mesh
fishnet that's ready to drop in the water. That's
nonsense. I'm not going to live with that kind of law
over my head.

Now, I've been told that I may have to
apply for a permit to go out and king salmon. That's
again a nonsense. I will not do it. I'll go to jail
first. I'm sorry to say that, but I will. I have to
fight for my way of life. And if that means going to
jail to do it, then so be it.

It's not a fun thing. I feel sorry for
you guys, because you're going to have to make decisions
that's going to be recommended to the Secretary of the
Interior and Department of Agriculture. For you RAC
people, I feel sorry for you as well, because you have a
lot of work ahead of you. You know, it's nothing that's
easy. It's easy for me to sit here and testify, but it
isn't easy for you people to sit down with all the
information that you've been fed yesterday and today and
formulate that into some kind of usable documentation
that will come back and represent us as subsistence users
in the State of Alaska, and more importantly on the Yukon
River where very, very little representation is ever
brought to us in the form of a human being. Where do
they go? Ketchikan, Kenai, Anchorage, Cordova, Yakutat,
Sitka, Nome, Bethel. Any place when depending on the
season of the year they can fish or they can hunt, but
very little is brought to the Yukon River where actuality
is the means of survival.

So, ladies and gentlemen, I thank you for
your time to listen. I'm sincere in what I ask and say
to you. I can only hope that you listen to the people out here, and I know you do, and come up with something that's going to be usable by all of us.

Thank you for your time.

CHAIRMAN TOWARAK: Thank you, Mr. McGinty. And the next time you mention all that good food right before lunch, we're go penalize you.

MR. MCGINTY: Yeah.

(Laughter)

CHAIRMAN TOWARAK: Next.

MR. KRON: Okay. The next testifier is Larry Simeon. Larry Simeon.

MR. SIMEON: Good afternoon. Or is it morning yet? Good morning. My name is Larry Simeon, I'm with the Cheesh'Na Tribal Council.

Consultation. I think it's -- you know, when you're talking about subsistence and our subsistence issues, it seems like it's after the commercial use is dealt with, and the State use is all dealt with, and then they come and deal with subsistence users in the rural areas. All that -- even if it's the last item, it's not the smallest issue. The consultation should start way at the beginning, you know, before like you're dealing with commercial. That's just all money. We're not dealing with selling our subsistence rights or anything.

And yesterday the chief from Huslia spoke plain as day about how subsistence is. And then here comes this piece of paper from Ahtna, Incorporated. People favored that from here, from the Board. You favored something from -- that's not even a tribe issue. I mean, it didn't even come from a tribe and you guys favored that. That's not consultation.

And a couple years ago the State, we ended up in court with the State over subsistence moose hunt that Federal made available, but they didn't do any consultation with the tribes. It ended up in court because they adopted the State's subsistence, however they did it. There was no consultation there. So we need to work with that up front I think.
And another deal that -- it's not Federal, but it's an example, the State brought up this potlatch moose which is, you know, a sacred time of honor for any Alaskan Native anywhere in the State. It's time to honor, you know, the people, whether it's loss or whatever. The potlatch moose is taken by another clan, there's rules about it in our culture. And the State went ahead and recognized Ahtna, Incorporated Board of Directors to manage that, which is -- I think that's illegal from the North Slope all the way down to the tip of South America in our culture.

There's -- consultation is a serious matter. I think it needs to be dealt with.

That's what I have. Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Simeon.


MS. STICKWAN: I want to start by saying that the Ahtna Customary and Traditional Use Committee is a subcommittee of the Ahtna Corporation, and it represents the Ahtna regional subsistence, seeing customary and traditional use, because the Ahtna tribes in CRNA, Copper River Native Association nonprofit, does not have the monies to attend meetings. That's why you don't see our villages here, is because they don't have the funds to attend these meetings. And so the only way they could represent customary and traditional use of the resources was through the Ahtna Corporation forming a subcommittee.

That will probably change. We're working towards that. When it changes, I don't know when, but we are working towards forming another entity, a nonprofit, a tribal conservation district to represent the tribes, but that's going to take a while for that to form, and it's being worked on right now. When it gets formed, I don't know.

But that C&T committee is made up of people from our villages, from all the seven villages in our area. They live in those villages and they make the decisions at statewide meetings on behalf of the Ahtna people. And that's the system we have to work with right now.
What we talked about at our C&T meeting in January concerning this issue, was that we wanted to have a commission like Sky said earlier. All the things Sky said this morning is what we talked about at our C&T meetings, that we wanted to have a commission formed. A commission formed. It would have to be decided by the tribes, of course. And it should be funded by OSM or BIA or Section .809 of ANILCA.

We -- all of the issues that are brought before the Federal Subsistence Board should be brought before this commission. They should have someone helping them that's independent, like he said.

All of those things he said this morning is what we talked about at our meeting, and I'm not going to go over them again. That's what we supported.

CHAIRMAN TOWARAK: Thank you, Gloria.

MR. KRON: Our next testifier is Michael Peter. Michael.

MR. PETER: Thank you, Mr. Chair. My name is Michael Peter. I'm from Fort Yukon. I'm the Gwitchyaa Zhee Tribe first chief. And also I'd like to thank my family and my wife for letting me come down here, because right now I'm taking time away time for me for gathering of the geese and birds that we store for winter.

And I think that some of the things that I've got here, there's so much that I don't even know where to start.

It would be nice if we had help in the hub villages, not Fairbanks or Anchorage to where that some of our people -- that we can actually have some more government-to-government consultation. And I think that a lot of the decisions that are made, that the agency leaders should be there, also our tribal leaders. And I think this draft here, I think it should -- now the cat is out of the bag, I think this draft needs to be drafted up by the tribes and presented to the Secretary of Interior from the tribes and the tribal leaders of Alaska.

And I think also like has been mentioned before, corporations shouldn't be viewed as tribes. And I think the main Board, you know, like Mr. McGinty was
saying, you know, like the Board should be made up of
more people from the rural areas, from the villages that
know what's going on out there, and also with that there
should be at least more cooperation and all of that. We
get to where we're -- we get regulated so much that we
can't even barely put food on the table for our families
to eat. It's regulation, and, you know, they need to
start managing the resources, not the people, because the
regulations, it's so hard to even try to get by on any
regulations.

And with that, I'd like to thank you for
hearing me out, and (in Gwitch'in).

CHAIRMAN TOWARAK: Thank you, Mr. Peter.
That concludes the public hearing process.

Would you like -- would the State like to
make any statements real briefly before we adjourn for
lunch, and then we'll hear from the Regional Advisory
Council Chairmen after lunch if you don't mind.

MR. HEPLER: Thank you, Mr. Chairman.
It's always tough when you're the last person to go.

First of all, thank you for giving us the
opportunity to talk about this issue. This is something
clearly that's between you and the tribes to work out.
The only nexus I see where the State has in this is that
there has been some discussion about whether it would be
closed-door meetings or not. And I can't speak to the
legal side of that, that's what the counselors get to do,
but I can just share with you at least what I've seen of
how you run these meetings the last day and a half, Mr.
Chairman.

You're very open, very respectful, and I
ask you to bring that into the same process with the
consultations with people.

I've spent about 32 years working the
regulatory process and I've been involved in some closed-
door meetings, and nothing typically comes to any good
out of those meetings. Even nothing bad happens during
the meeting, the perception is something's going on that
I should be part of. And there's things I could, you
know, go back and do over again in my 32 years, it's one
thing I would certainly suggest is that you're much
better off to be inclusive than exclusive. But I think
certainly, Mr. Chairman, you certainly evidence that, so
I don't -- I'm not telling you anything new there.

So, anyway, that's all we have, Mr. Chairman. Thank you, and have a good lunch.

CHAIRMAN TOWARAK: Thank you. We will then recess for lunch. It's about 12:00 o'clock. We'll be back at 1:30.

(Off record)

(On record)

CHAIRMAN TOWARAK: We are ready to reconvene. I will call this meeting back to order.

We're on Item 8. And down to the last portion of our hearing process, to hear from the Regional Advisory Council Chairs. We'll start this time with Mr. Smith.

MR. SMITH: I don't really know where to start on this one. We didn't discuss this a lot at our Regional Advisory Council meeting.

It says in the report that we didn't take a position. That's not quite true. The Chairman talked at some length about our concern that this was going to be a way of circumventing the Regional Advisory Council process, and I didn't -- we didn't pass any motions or anything, but I know I shared his concerns.

I think the Regional Advisory Councils work very well. I think they're much better for rural users, rural people than the State's Fish and Game Advisory Committees. And I wouldn't want to do anything to circumvent or work around the Regional Advisory Councils.

I'm not sure -- you know, I'm speaking mostly for myself now. I'm not sure exactly what the benefit of this would be. Again, I think the Regional Advisory Councils are good.

You know, I've lived in rural Alaska and western Alaska most of my life, and communications in the multi-cultural environment are tough enough. They're -- it's always a problem, but to filter it through this bureaucratic process, you know, if I understand what's going on, somebody from an agency will meet with a tribal
entity, and then pass their input on to the Federal Subsistence Board and maybe through the Regional Advisory Councils. Well, it's going to be kind of like, you know, the old game of telegraph, you know, where one person tells another person, and that person tells another person. I think we're going to have an awfully hard time getting a clear view of what the input was. Not being able to ask questions, not being able to -- not having the persons there to provide clarification, and so I don't really see the advantage of doing this.

And I can also tell you that the first result of this is some people are going to feel like they're not properly represented. You know, they're going to feel like some people have -- are getting more than their share of input into the fish and wildlife regulatory process. And so, you know, even if it's not true, it creates a perception of unfairness I think that's really a real problem.

Again, I just don't know where to start or where to stop on this.

The ANCSA corporations, you know, I think 40 years ago there was an idea, a perception that these corporations were going to serve a social welfare function. But that's long since gone. They're the biggest corporations. They're for-profit corporations and some of the biggest corporations in Alaska. Corporations exist to grow, not necessarily even to benefit their shareholders. They exist to grow. In some cases their objectives, their profit objectives may go -- work against the wishes of the subsistence hunters and fishermen, you know. And we see that in offshore oil drilling, mining. These corporations are there for growth. It makes about as much sense I think as putting British Petroleum in charge of representing fishermen and hunters in Louisiana.

And, so, I don't know, I would like to see this go -- I would like to go back to our Council with what I've learned here. I'm still pretty confused on what's going on, but I'd like to take what I've learned, go back to them and talk about it some more, and provide more meaningful input on it before any action is taken, if that's possible.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Smith.
I think, and perhaps Keith is going to explain it, but it came down as a Presidential directive.

MR. GOLTZ: Yeah, it's hard to know when to jump in. And I listened intently to a lot of people talk this morning about the tensions between ANCSA corporations and tribes.

But the simple fact is we don't have any choice. This is a Congressional directive that says that we shall consult with ANCSA corporations on the same basis as tribes. And if you take a look at Steve's presentation this morning, there should have been copies in your packet and there should be copies for the audience out in front. If you'll look at the first footnote on Page 5, you'll find the legal citation there.

And, in addition, we have checked with Washington as to how they're interpreting this. There is no budge on this. It's not a choice we're making. It's a choice that's been made by other people.

What the Department of the Interior is doing in recognition of the tensions is to have two separate consultation policies. We have a draft now that's either out for public review or soon to be out for public review, and a committee in Washington is now starting to craft a separate ANCSA corporation document. We haven't seen that. We can only guess at what it's going to look like, but the people who strongly object to that are take -- and expressing their objection here, are taking it to the wrong forum. It really has to go back to Congress. There's no room on that one.

CHAIRMAN TOWARAK: If it's any consolation to those of you here today, I attended the first tribal conference with President and he had all the regular tribes sit in front and all the corporations sat way in the back. You had to watch him on a little TV.

(Laughter)

CHAIRMAN TOWARAK: Is that it, Mr. Smith?

MR. SMITH: I just want to say one thing, that I've been to a lot of meetings like this, and I've got to say, Mr. Goltz, you're the most clear speaking attorney I've ever listened to.

(Laughter)
MR. SMITH: I mean, I just -- I really appreciate that. You come up with very, very good answers.

MR. GOLTZ: Thank you. I try.

CHAIRMAN TOWARAK: Rosemary.

MS. AHTUANGARUAK: I want to thank everyone for coming and participating in this meeting. It has had a lot of burden upon my shoulders coming before this process. I was very concerned about the way that we're being put into this process, and there's a lot of rubbing of shoulders and there isn't the direct interaction to facilitate some of these communications.

In light of that, the discussions that we've had from the tribal membership that came and presented today were very powerful. They gave good history, they gave references to documents that led some of these processes. They gave presentations of decades of participation in this process. That's very important to me as I have to look at the process and look at the way the consultation has occurred.

At our last meeting in January I commented about the way consultation had been done in our area and how things were not done in a good way. The damages that come from poor consultation can affect generations. Damages that affect the health of our generations cannot be tolerated. Our generations have carried on traditions and cultures that have sustained our survival to this point, and now we have efforts before us that are trying to control our resources, but they're creating laws that affect our daily lives. They're creating laws that cause some of our people to become illegal when they're trying to care for their elders in our traditional foods, our traditional cultures and our traditional sustenance. It's not right when we're doing those kinds of things.

There are many things that affect our resources, and when we're pulled into a way of participation that narrows the understanding, we're limited on the tools that we can bring to the table to help us make some of these decisions.

I had to go to meetings and discuss concerns about health for our people. I talked to some of our corporations about these concerns, but they told
me, we're not a health department, but yet they were contributing to some of the health issues that we're facing.

I talked to them about some of the social impacts that were being caused because there were changes that were affecting our lands and waters, that were affecting that we hunt and live in our lands, in our waters. And again they said, we don't deal with social impacts.

It's important when we come to the table, because these discussions are affecting our health. They're affecting our interactions with our communities, our leadership and our process for decisionmaking. But the importance of our tribes and looking at the wholeheartedness of who and what we are is different than the corporations that come to the table.

We have a very difficult task before us, but the effort is to improve the consultation. Some of the work that has gone forward in presenting this has been very good. Some of the work that has come from out participants to share has added some discussion to this process.

I agree with my colleague who says that we need to go back into our regions and discuss this further. There is information that we bring. There's information that has been brought to others in this process that affect the way that we decide these things. We need to go forward in a good way. And we need to look at where we're coming from and we need to bring it back to where we're coming from to do a good consultation.

I feel that we are pushing the cart very fast, trying to meet the decisionmaking process. And we need to allow us to do it the way it should be. We should be receiving this information, coming back into our communities, meeting with our councils, allowing our councils to absorb this process, bring additional information into an additional meeting, and coming back to us at this table with our decisions. We need to have the involvement going at the way it should be. And if we're going to do meaningful consultation, that's how we must do things. We have to allow the interactions to occur that allow us to move forward as we need to, not at a timeline.

Thank you.
CHAIRMAN TOWARAK: Thank you, Rosemary.

MITCH.

MR. SIMEONOFF: Thank you, Mr. Chairman.

If I could, I could just read the comments made at our last RAC meeting. At the Kodiak/Aleutians they discussed the consultation process at some length, and I can take the comments made by Council members.

One of them thought that there was a reason why ANILCA speaks to rural and not Native priority, and while it is important and very valuable for tribes to give their input, he does not support of tribes going around the Council.

And some Council members were very supportive of tribes consulting with the Board since tribes are governments and they have a role to play in the process.

And another council member pointed out that it is not a conflict to get tribes involved. Subsistence is for rural residents, and we are all in the same boat.

Another Council member stated that tribal governments are a political reality and tribal consultation is good, because it have a -- we have a way to express our opinions, that tribal consultation could be a good thing. We can all work together and help support each other.

Another member explained that the tribal consultation process is different than his role on the Council. He has to communicate with the tribes and other people, and he would never go against anything that a tribe decided on, but the Council role is to review and make recommendations on a bunch of subsistence issues.

And having government-to-government consultation is in addition to having individual tribal members on the Council. Tribal consultation is above the Council.

Another Council member pointed out that as Council members, we are advisory, and in some ways tribes have a stronger voice.

Another Council member stated that tribes talking to Councils doesn't make sense. You have the Councils -- the Council should not be in the middle of tribal consultation. Excuse me. I get a little nervous
once in a while. The tribes should talk to the Federal Board.

Another Council member pointed out that they are five representatives of tribes on the Kodiak/Aleutians Council, so the tribes -- so tribal councils do have some representation on the Council.

Another pointed out that the Council -- pointed out by the Council is that it would be good if members of the Federal Board went to Council meetings. That way they could year the Council recommendations.

And that was the discussion at the Kodiak/Aleutians RAC meeting in March.

And one other question that came up earlier, was if tribes -- during consultation if they wanted a private consultation, would that be open to them given if there was a real touchy issue and there were other -- and there were people from the public that just persisted in coming in to make comments, instead of making progress, the discussion would just go around in circles if they did not have a private consultation. That question was, would they be able to request a private consultation with the Board.

CHAIRMAN TOWARAK: Go ahead.

MR. PROBASCO: Mr. Chair. Mr. Simeonoff. As far as how the tribal consultation protocol will be developed and the issue of meeting with the tribes in private or behind closed doors, that will be an issue that the Board will be discussing. My discussion with Staff and that, it -- and what I've learned so far, and I'm not 100 percent on this, but the information I've learned is that it can occur. There's nothing against that.

Mr. Chair.

MR. SIMEONOFF: Thank you. I'll take that back.

MR. GOLTZ: Yeah. I just want to clarify that the RACs could not do that. The RACs could not meet in private with an individual entity. And that's because of the restrictions in the Federal Advisory Act. But the Board is not subject to FACA; it probably could meet in private.
MR. SIMEONOFF: Yes, sir. That was
understood. They weren't asking to meet in private with
the RAC. They were asking to have a tribal consultation
with the Board. A private consultation with the Board.
That was their question.

MR. GOLTZ: Okay. I'll have more to add
later.

CHAIRMAN TOWARAK: Is that it, Mitch?

MR. SIMEONOFF: Yes.

CHAIRMAN TOWARAK: Sue.

MS. ENTSMINGER: Thank you, Mr. Chair.
First of all I'd like to apologize for not being here for
the time that I was absent. I have some health issues
and I had doctor's appointments, so I wasn't able to be
here, and I wish I could have been. I'll get an update
from my cohorts here.

Also, the Eastern Interior, we found out
at our last meeting that we've got so much on our plate
that this did not get discussed like it could have. So,
I mean, a lot of the Yukon fisheries stuff, we have -- we
had so much come at us that time, and I -- we were all
kind of making statements like, man, we need a three-day
meeting, and then Polly there, and she said, yes, you can
have a three-day meeting, so that's probably what's going
to happen to the Eastern Interior in the future and there
will be more discussion on something like this. I can
see from what I'm hearing here that the Eastern Interior
would really like to look at it and evaluate it more.

And then I'm looking at what's in the
book here, and they said that we didn't have much
comments, but when we discussed the Arctic Village sheep
issue, someone on the Council felt that due to the
sensitivity of the sheep issue, it might be good for that
village to come directly to the Board with their
concerns.

So that was the only thing that we ended
up taking up at that time.

Thank you.

MR. REAKOFF: Thank you, Mr. Chair.

Western Interior Council reviewed and recognizes and felt
that communication lines to the tribes needs to be improved. And communities and tribes should be made aware of the RAC meetings and what the agenda items are, and what the RACs are going to be working on. We need better communication flow. It's going out -- we had people that stated to myself that they were unaware of the meeting. We need better publication, better communication to the tribes as a basis of communicating with the tribes.

The tribal involvement should be encouraged through participation at the RAC meetings, inviting tribal members to the RAC, or providing written comments or some information flow to the RACs that could provide a basis for tribal involvement in the process. The tribal council recog -- the Council, Western Interior Council recognized that the Federal Board has deference to the Regional Councils, and the RACs are the final gathering point for information and recommendations to bring before the Federal Subsistence Board, and also recognizing that Councils can come and speak directly to the Board themselves.

But a lot of times, as was stated, there's not a lot of funding to go to the Federal Board process.

My review of the draft document, my personal feelings are that the draft document has good basis as a building point, but needs some tweaking and adjustment and there's a real need for an interim document before our next regulatory cycle, but I do feel that there needs to be an extension to the process to allow thorough vetting.

And one of the issues that was unclear, and maybe I missed it in the document, that the RACs have, you know, how our communication to the tribal councils is going to work. The councils need to bring us information, but we need to be able to ask information, and we seem to be precluded from doing that. And during our discussion on the sub -- the customary trade subcommittee issue that the Board directed the Councils to review, I wanted to consult the tribes and send out a questionnaire to the tribes and develop a process of questioning the tribes. But I was told that if there was over 10 persons that you poll, we'd fall under some preclusion.

And so there needs -- the Board needs to
develop some mechanism for when the Councils need
information from tribes and have to be able to convey
that, whether that's through OSM that goes filtering back
down to the Council -- or to the tribal councils. There
needs to be a recognition that the information flow, the
Council -- there has to be a two-way conversation between
the RACs and the tribal councils. and so that would be
my summation.

Thank you.

CHAIRMAN TOWARAK: Thank you, Jack. Mr.

Adams.

MR. ADAMS: Thank you, Mr. Chairman. I'm
going to share with you the points, you know, that our
RAC in the form of a letter submitted to our Chairman and
the Federal Subsistence Board.

We did, you know, consider the concept of
how to best incorporate tribal consultation in the
Federal management process during our meeting in Sitka.
The Council does believe that there is an important role
for tribes in managing our wildlife and renewable
resources, and encourages the Board to formalize tribal
consultation protocol, which you have already done, and
Mr. Kessler had done an excellent job in presenting that
to us.

These are the recommendations that some
of the members of our Board came up with. There's only,
you know, four of them that we have recorded in our
letter.

But number A is a written report should
be prepared for the Councils by the Office of Subsistence
Management to all relevant tribal consultations regarding
topics under consideration by the Council in their
region. This report will cover the time period since the
previous Council meeting and include all Federal
agencies.

There should be a place on the agenda at
each Council meeting for tribes to provide testimony to
the Council. Now, we do this in our meetings. You know,
there is a protocol that is -- or a process that is
followed after, you know, a proposal has been introduced
and is analyzed, you know, by the Federal agency person
that's doing, we then open it up for discussion, you
know, for agency people and so forth to make their
comments. And one of the things that we do call on are
tribal governments.

I mentioned earlier that I particularly
am somewhat disappointed in the fact that we don't get as
much tribal involvement at our meetings, and I think that
really needs to be improved.

There should be, going on here, another
person said there should be a place on the agenda at each
Council meeting for tribes to consult with any Board
member or any member of the Board that may be in
attendance. Any member of the Board, you people over
there, should be able to, you know, have an oppor -- give
an opportunity for tribal people to consult with that
individual.

And then there should be a place on the
agenda at each Board meeting for tribes to consult with
the Subsistence Board. So that just means that, you
know, you're -- I think you're doing quite a bit of that,
but it maybe needs to be recognized, you know, as tribes,
anyone from a tribe can have an opportunity to come up
and make their comments over there.

So that's, you know, the extent of, you
know, the comments that were made by the Southeast
Regional Advisory Council.

And I'd just like to maybe, Mr. Chairman,
if you will, you know, elaborate on some of the other
things that has already been mentioned and reemphasize
those.

Better communication is really needed.
The word needs to get out to those tribal entities that
the RAC is having a meeting at such and such a place,
and, you know, you're encouraged to attend.

Another thing that I think is really
important is that we should see more tribal entities
submitting proposals. And then it should go through the
process, you know, just like any other proposal. I think
that's going to give a lot of weight to RACs when we see
those, you know, increasing more. We hardly see any, you
know, tribal entities, you know, involved in that
process, and I think it's really important.

When I first got involved in tribal
government in 1994, the very first time that I got on
board, I was elected the chairman or the president of the
council, and one of the very first things that the
council wanted me to do is to go to Washington, D.C. in
about three weeks to attend a self-governance
demonstration project convention that was taking place
there. And this is where I got involved, you know.

That job that I took was an appointment
by the council, and it was only supposed to last for
eight months. Because I said, no, three times, you know,
at the invitation to that -- fill that seat, and finally
they pulled me in by saying, well, you can only -- you
know, we want you just to serve it for the term that's
going to end, which is eight months, and then you can,
you know, not have to run after that.

Well, they sent me to that self-
governance conference in D.C. that year, and at the same
conference there was a Forest Meeting that was taking
place, and I was encouraged to go to that, because there
was going to be a guest speaker. I can't remember the
tribe that he came from, but he was a judge there. His
name is William H. Burke I believe. And I was really
impressed by his opening remarks. He said that there are
three government entities that we will be -- that we
ought to be involved in and become familiar with he says.
Number 1 is the Federal government. Number 2 is the
state governments. And then he said it in this way, and
then there are the sleeping giants, the tribal
governments. And then he went on and he explained the
reasons why tribal governments should play an important
part in the self-governing process.

So I just wanted to emphasize that, you
know, at this point, too, because tribes have been way in
the background, and they need to start coming out into
the forefront and playing their role. And it's difficult
for them, because of the funding, you know, the limited
amount of funding that they have. And if that can be
improved, I'm sure that you will see more participation,
you know, in the consultation process.

Another thing that I want to share with
you, too is when the Indian Reorganization Act came into
being, that was a real big step forward for tribal
organizations. And soon after that became law, thee was
an individual, Felix S. Coen, wrote an article in the
Indian Report about the Indian Reorganization Act. And
I think this is really important. He said that not all
who think of self-government mean the same thing by the
term. Self-governance, he says, is something that is not determined by some throne in Washington or in heaven, but that it is where decisions are made by the people who are most affected by it. And that means, you know, the common person out in the villages and in rural areas, they're the ones, you know, that really should bring forth, you know, the issues that affect them in every way and take it through the proper process and so forth.

So, you know, ANILCA was designed from bottom up. And, you know, it needs to be really emphasized that, you know, the villages, the people in the villages need to be more involved through their tribal governments.

And then the self-governance demonstration project, ladies and gentlemen, didn't come from the government. If any of you are familiar with it. It came from tribal leaders throughout the country who were not satisfied with the way the Bureau of Indian Affairs was administering their funds. And so a group of tribal leaders started petitioning Congress to start a self-governance demonstration project. And I think it was John McCain and Senator Inouye from Hawaii who introduced the bill, and they were able to get 50,000 -- $500,000 to do a demonstration project. It was supposed to last for four years.

And what it did is it enabled tribes to be able to take more of the programs that the Indian -- or that the Bureau of Indian Affairs was administering to tribes, except for the inherent ones, you know, that the Bureau had. But all of the other programs and services and functions and activities was supposed to be taken down to the tribal level.

And it became such a successful demonstration project that after it became permanent, you know, other tribes began to enter into the program. I think they were accepting, you know, anywhere between 7 to 10 tribes every year. And until, you know, eventually there was a bunch. But, you know, there's 500 and some tribes in the United States and there's very few tribes who have the compacting abilities or the self-governance, you know, category. In Alaska there are 120 some tribes, and of that there are only about 28 who have the self-governing compact program. They have to meet certain criteria in order to reach that, but it does open a door for a lot of tribes to be able to be more involved and actually, you know, administer some of the programs that
any one of you people have in your agencies.

The criteria that was set when I was involved in that working group was that if there is any historical, geographical or cultural significance to a tribe that -- like, for instance, you know, the Forest -- well, the Forest Service wasn't included, because they're under the Department of Interior. Let's take the National Park Service or the Fish and Wildlife Service.

If there was a program, function, service or activity that they had under their belt, that tribe should be able to start working on an annual funding agreement to have those programs taken down to their tribal level. And as far as I know, ladies and gentlemen, there's only about five tribes in the whole United States who are in that category right now, because many people don't know about it, and some of the agencies, you know, are resisting it, because they don't want to give up the money or the control, or for some other reason. That's an important program, folks, and I encourage many of the tribal leaders in this room here, you know, to look into it a little bit more.

But I'm going to stop right now, Mr. Chairman. I appreciate the opportunity to share these thoughts with you. And just wish us all good luck as we go through this process. It's not an easy one. And good luck.

Thank you. Gunalcheesh.

CHAIRMAN TOWARAK: Thank you, Mr. Adams.

Ralph.

MR. LOHSE: Thank you, Mr. Chairman.

Like I've said before, if you're going to do anything, you better lead before Mr. Adams, because if you go after Mr. Adams, there's nothing you can say.

(Laughter)

MR. LOHSE: He pretty well covers everything. But I'd like to just give some observations that I've picked up out of all of this.

And as a Council, we didn't come up with any direct recommendations or anything. We kind of adopted a wait and see. We recognize the importance of it.
And the thing that's come out of this meeting to me is the difference between the Board and the Council. There's a tremendous difference from what I'm getting, for what I'm hearing between the consultation process at the Board level, which is government-to-government, and the Council level which is neighbor-to-neighbor, or rural resident-to-rural resident, or subsistence user-to-subsistence user, or however we want to put it. And like Mr. Adams said, you know, we've always had a place in our process for tribal comments. And again these aren't at government levels, because in case anybody has never noticed it, tribes don't always agree with other tribes. All You have to do is look at some of the competition and conflict on some of our major rivers or our river systems, and you can see that they're individuals. They're different groups. They have different ideas.

In fact, on Page 12 in your thing right here, like it says, many tribal leaders have, however, cautioned Federal agencies against the sole use of such bodies as a means of input since tribal communities and cultures vary so wildly, and no one tribal government is empowered to speak for all either at the national or regional level. And that's what we're dealing with, because a lot of times these proposals have out -- I don't like to use the word, but they basically have an allocation issue at stake.

And Kristen said that she hasn't seen many positive things come out of the Councils from tribal input. And I'm going to have to take exception to that, at least I'll take exception to that for our Council. And maybe we have an advantage. Our Council has road access, so funding's not quite such a big issue, and I can look out in the audience and I can see tribal members that have attended our Council meetings and I know proposals that have been brought forward, and I know of proposals that we have pushed forward as a Council even when the Board voted them down, and we pushed them forward again and again and again in response to tribal entities. Issues of C&T, issues of subsistence seasons, issues that weren't popular with the State or weren't popular with somebody else on subsistence fish issues.

And so I do think that they have had an opportunity, at least I'll say in our Council for input. And that's what I see as part of the Council process. I see them coming. I see the things that we need to encourage. And I've encouraged them for as long as I've
been there. Get proposals in. Come and present your
stuff. Give us the information, and that's what a
Council then does. And then the Council gives advice to
the Board level.

The Board level has got a mandate to
directly government-to-government consult with tribes.
The Councils are made up of people who -- they're not all
subsistence users, but they're supposed to represent the
subsistence users in the area that they have. Those
subsistence users, those rural users are tribal members
and non-tribal members. And their input is all
important. And the input is all accessible.

So from that standpoint, I hope to see
out of this, I hope to see a little bit of a dichotomy.
I hope to see the Councils remain as Councils. And the
Councils remain as being open and willing to get
information from everybody, and to recognize the
information, and recognize that even two neighbors might
have a different idea of how something should be handled.
And so that's going to be true as you gather things
together. And I think what we've -- and I'll just use
our Council as an example, because that's all I can do.
We have tried to work with the idea of consensus, you
know, let's do the best we can with the least damage we
can do to anybody else. And I hope that continues as a
RAC. If it doesn't continue, I think the RAC process is
gone.

But at the same time, that doesn't cut
down from the responsibility of the Board to have a
consultation problem -- consultation -- a government-to-
government consultation process. Protocol, process,
whatever you -- whatever word you want to use that's
directly applicable to tribal involvement. And the idea
that somebody presented of, okay, now you've had this
official consultation. That kind of information should
be in our RAC books so that we have it just like we have
the other information that comes from the other
government agencies or whatever that comes and is
presented to us, that we can still take, and we can still
use our neighbor's input, and we can still use our
personal knowledge, and we can still use our -- whatever
you want to call it, let's say just the fact that we know
what's going -- you have this feeling, you know what's
going on in your area. And we can use that to make our
RAC decisions for giving our advice to the Board, so it's
all part of the same picture, but it's not the thing that
drives it. Where you have a different mandate than we
have, and I hope that separation stays, because if it
doesn't stay, if -- then I think what we're going to do
is then we become a one-focus group, and that doesn't
work, not when you're dealing with neighbors.

Thank you.

CHAIRMAN TOWARAK: Thank you. And I
assume that our Staff are taking notes.

MR. ADAMS: Mr. Chairman. May I just
make one footnote to my comment?

CHAIRMAN TOWARAK: Sure.

MR. ADAMS: That eight-month's job that
I was given turned out to be 12 years. So I became a
student of tribal government.

CHAIRMAN TOWARAK: Thank you. Mr.
O'Hara.

MR. O'HARA: No kidding.

(Laughter)

MR. O'HARA: Was that the last word?

(Laughter)

MR. O'HARA: Let's quote somebody here.
Write it down.

Well, I was -- I'm not the Chair of the
Bristol Bay Advisory Council, Mr. Chairman. And I look
around the table, and a few familiar faces, and, Pete,
you were sitting in the back of the room the last time I
was here; now you're at the front table. I don't know
how you managed to do that, but I'm not so sure it's a
good thing, but that's okay.

(Laughter)

MR. O'HARA: Molly Chythlook, our Madam
Chair, could not be here. She's down at some big Indian
powwow probably digging up tribal stuff in America. And
so Richard Wilson, he was fairly new, and he said, you've
got some nasty issues at that Council meeting; I'm not
going in there; you go in, O'Hara and sit with those
guys. So I kind of come in here, you know, sideswiped by
this issue that's before you today.

But, Mr. Chairman, if you look at the original, how Title VIII started, it started from the ground on up, and that's exactly where it should start from. It started right from the Councils, supposedly from the traditional councils and tribes coming to the Chairs and us taking that to your Board level. And the State of Alaska did not do that. The State of Alaska made the mistake of starting with the Commissioner and the Board and working on down.

Now, granted, I know about the State of Alaska. I sat on the Naknek/Kvichak Advisory Committee for 20 years. Long enough to retire and then come to this Board. I'm the original chairman of the Bristol Bay Council. So it's not like I haven't been here before. Okay.

Now, the State of Alaska did something pretty good though. They had an advisory board that represented actually every village actually. And they would fly those advisory board members to -- say it was the Ugashik Advisory Committee. Ugashik, Pilot Point, Port Heiden, Igiugig would all meet. Naknek was big enough where they had their own advisory committee. The Kvichak, Iliamna Lake area, Nondalton, Kakhonak, Pedro Bay, all those villages, they got together and they all fly in there.

And then it comes to the main board. And then occasionally a board member from the State of Alaska would come down. They had to make sure it was King Salmon or Dillingham or Bethel, you know, where they had rugs that thick on the floor, you had to use a pair of snowshoes to walk across it, and make sure they had to get out the next day. You can't stay there too long.

(Laughter)

MR. O'HARA: Yeah. I mean, that's -- and you people, you have never showed up in the region, you know that? You have never showed up in the region where we do subsistence. And we'll talk about that at the end of the presentation today, because I wrote down some notes, which I usually don't do.

So that is not bad. But I told Mr. Probasco over there, Pete, I said, don't even mention ANCSA Native corporations with the Federal Subsistence
Advisory Board and the Council and traditional councils. It should not even be mentioned. Not one testimony was given out here today, not one member of the corporation showed up here. Is that right, Mr. Chairman?

CHAIRMAN TOWARAK: It's true.

MR. O'HARA: It is true. They don't even know. And I'll tell you why. I can write a chapter on this, because I served on the Bristol Bay Corporation board of directors for 31 years. Started off on the land committee, ended up on finance. That's not bad. Seven stock market people that we go to the Hilton down in Hollywood, and they've really got thick rugs down there, and they feed you really good, and you make really good money. You think these people are -- they're not interested in subsistence, and they don't want to be.

But they're our same people. They are -- I have 100 shares in the BBNC, and all the board members that are on the BBNC are subsistence people, and they have a great empathy for subsistence, you know. We have a slogan, you know, protecting our traditional lifestyle. That's a wonderful thing.

But they're profit-making people. We have 34 subsidiaries. We have stockbrokers, you know. They're not interested in subsistence. And wherever this idea ever came from. This Federal Board should today say, forget it, Secretary of Interior and Secretary of Agriculture. It has no place there.

And you know what, another thing I would think that would be good, since we're talking about it, is if I don't care if the tribes or the traditional council replaced our advisory council. What difference does it make? Those are the people that really -- when that gentleman gave us a resume on what we eat, and I don't like brown bear meat, by the way.

(Laughter)

MR. O'HARA: Very much any more. But I used to eat it when I was young. Seal meat's pretty good. It's slimy. Seal oil and caribou roast is good, too. Those are the people who know what subsistence is all about. When I grew up, we drove dogs, and I never saw a chainsaw, double-bladed ax. And I fly a very nice Aero Cherokee 6 now. What's way better than a chainsaw that I ever got introduced to.
(Laughter)

MR. O'HARA: And so I know both lifestyles. I know both lifestyles. And so I think that I just can't imagine where we got in this quagmire of talking about ANCSA corporations dealing with subsistence.

The young university student back there gave us an analogy I thought was pretty good. He said, you've got apples and oranges, and you end up with a banana. I tell you what, that is so incredible.

But in closing I would like to mention that GCI came to Igiugig on Lake Iliamna, the largest lake in the State of Alaska, compared to the Great Lakes actually, 93 miles long. That's where I grew up, in the headwaters. And they took a line from Igiugig down to Levelock by snowmachine. They started off and then they got down there and they couldn't get back for dinner, and so they had to find -- they had a helicopter to finish it up. Now they're going to take a line from Homer all the way across Cook Inlet, across the portage at Pile Bay where I grew up, down Lake Iliamna, hook it up, and we're going to have internet coming to our community that's very fast.

And if these tribes and these councils want to deal with our Councils, it's getting to the place any more where you can go the University of Alaska or Fairbanks, get a degree, and live in rural Alaska in a remote village, and still do business by computer. And I don't even like turning one on, you know.

My cell phone. Nobody has a cell phone like this any more. But it works two ways. I can make a call and I can get a call. That's good enough for me. Good enough for me.

But these young people, Mr. Chairman, coming in now -- we had a lady in South Naknek, and you've got to fly our kids across to school every day there, and I'm a bush pilot of PenAir. And they can -- she can sit there in her computer and work at Naknek Electric in a remote community. And it's improving all the time.

And if AT&T and GCI, these tribal and traditional councils dealing with our Councils, I see the Chair sitting here today. It can be done. Not those
profit-making corporations.

You know, BBNC is worth $1.6 billion. We have 34 subsidiaries and seven stock markets. Do you think they're interested in seal meat that somebody's up in the Arctic Circle?

Thank you for your time, Mr. Chairman. Okay. We saved the best to last.

(Laughter)

CHAIRMAN TOWARAK: Mr. Wilde.

MR. WILDE: Thank you, Mr. Chair. Ditto, ditto, ditto.

(Laughter)

MR. O'HARA: No, you've still have to talk.

MR. WILDE: First of all, I want to thank the tribal representatives and tribal members for coming here and testifying on this very important subject. And I know it's not easy for you to come up from the village and sit in front of these people up there and testify without shaking like I do when I get started sometimes.

But, Mr. Chairman, the Yukon-Kuskokwim Delta Regional Council didn't know the timeline and the process that we were going to use to -- are you ready? Okay. We didn't know the timelines and the process that we were going to use to discuss this subject, but AVCP submitted a resolution that the Yukon-Kuskokwim Delta Council considered, and we supported it unanimously. And for the record, Mr. Chairman, the resolution is as follows.

It's a resolution of the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council regarding tribal consultation and adding public members to the Federal Subsistence Board to represent rural subsistence users.

Whereas many members of the Yukon-Kuskokwim Subsistence Delta Regional Advisory Council recognize the essential role tribes and tribal organizations play in protecting subsistence resources, subsistence opportunity, and the customary and
traditional way of life that define the region; and

Whereas the Regional Advisory Council
believes meaningful and substantial tribal participation
and involvement in all facets of subsistence management
is critical to the success of the Federal Subsistence
Management Program, and to the well-being of the tribal
subsistence users and the tribal subsistence way of life;

Whereas after its May 3rd, 2011 meeting
the Federal Subsistence Board will be making
recommendations to the Secretaries regarding the
appointment of two members of the public to the Federal
Subsistence Board to represent rural Alaska subsistence
users; and

Whereas the Federal Subsistence Board and
the Office of Subsistence Management have begun process
of establishing a protocol for government-to-government
consultation with Alaska tribes and plans to develop a
draft approach to tribal consultation in the near future;

Now therefore be it resolved that the
Yukon-Kuskokwim Delta Subsistence Regional Advisory
Council recommends that the Federal Subsistence Board
include in its recommendation to the Secretaries that the
voting membership of the Federal Subsistence Board should
be include tribal representation; and

Be it further resolved that the Yukon-
Kuskokwim Delta Subsistence Regional Advisory Council
recommends that the Federal Subsistence Board and the
Office of Subsistence Management help facilitate and fund
a meeting of tribal leaders from throughout Alaska to
discuss among themselves and make recommendations to the
Federal Subsistence Board on how government-to-government
consultation should be conducted with tribes in Alaska,
and this should be done as soon as possible and prior to
the OSM developing a draft tribal consultation policy for
the Federal Subsistence Board.

Dated this 24th day of February 2011 at
Mountain Village. I signed this. I know I did, but this
resolution didn't have my signature on it. But it was
sent. Our coordinator sent this to OSM and you should
have a signed copy of this.

Mr. Chairman. Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Wilde.
And our Staff acknowledges that we do have a copy of your resolution.

That concludes the testimony on tribal consultation. What's our next -- the next step I guess is for the Staff to review all the comments, especially from the Regional Council Chairs and continue following on the steps that we've set, although this is just a draft, right?

MR. PROBASCO: Mr. Chair. You're correct, we've heard the comments. Mr. Kessler has the summarized comments prior to. And what's before you now is the concepts, not only presented by Mr. Kessler, but Ms. Leonetti as well as the public testimony. And now it's up to the Board to give direction to Staff how we want to proceed.

The point I want to make is that we have two processes from my viewpoint. One is what do we do in the interim, and then, two.....

CHAIRMAN TOWARAK: The audience is signalling they can't hear.

MR. PROBASCO: Can you guys hear me now?

MR. BENDER: I can hear you now.

MR. PROBASCO: Okay. You can hear me.

CHAIRMAN TOWARAK: He's got young ears.

MR. PROBASCO: Young ears.

(Laughter)

MR. PROBASCO: But there's two parts to the process that I see. One is what do we do in the interim, because we are in our wildlife cycle; and, two, how do we proceed on developing the protocol that the Board will follow in the long term.

And, Mr. Chair, I think some Board members have some issues or comments that they'd like to make.

CHAIRMAN TOWARAK: Okay. Let's open the floor for discussion from the Board. Go ahead, Sue.
MS. MASICA: Thank you, Mr. Chairman. I just want to thank everybody for the testimony and all the input that was received today. I think there were a lot of comments and suggestions made, and things for us to ponder as we think about how to go forward.

I think we do have a lot of -- there's additional work to be done, and I think we all recognize that.

Speaking on behalf of the National Park Service, certainly we recognize the trust relationship with the tribes, and that is very different and a very different kind of relationship than exists that's a government-to-government relationship. But then as Keith has pointed out, there is the statutory requirement in terms of interacting with the ANCSA corporations. And I think we need to figure out how to deal with both, but to separate them out. And I think that that's something that maybe is -- if we form this work group that was talked about this morning, we might be able to work our way through that.

My understanding is the DOI policy is likely to separate them out, and that might prove to be a model that we could follow.

You know, I think that we're all committed to doing effective consultation. We want that consultation to be meaningful and also not burdensome. That was certainly something that was made reference to by a number of folks today.

And what we've come up with ultimately does have to still recognize and respect the statutory defined role for the RACs that ANILCA provides for, and that we're trying to accommodate, as we frequently have to do, multiple requirements to meet both the consultation needs and also the RAC process that the law calls for.

So personally I think the idea of a work group that was put out there this morning is a good one. I think that that's a way to move the discussion forward, to engage folks in the discussion, and as Pete reminded us, the need to also have something that's an interim step, given that we don't want to stymie effectively dealing with the wildlife cycle that's before us. And get hung up. We don't want to keep that process from moving forward also.
Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Go ahead.

MS. DUGAN: Thank you, Mr. Chair. And I want to thank everyone who took the time to come and talk to us.

And there were several things that I noted that I wanted to refer to and put on the record. And I understand why statutorily we may be required to consult with Alaska Native corporations on the same basis as tribes. I would ask that as we develop these documents that we refer to the tribes and Native corporations separately and not collectively as tribes. I think that's almost insulting to use that term.

One of our RAC Chairs, and I think it -- I'm not sure who it was, and perhaps it was you, Mr. Simeonoff, but you said, RACs shouldn't be put in the middle between tribes and the Federal Subsistence Board, you know, and I think that's right. And I think if there's one thing that probably all of us are going to come away from today with is more understanding of that Federal Subsistence Board government-to-government relationship with tribe is far different than the RACs. And I certainly don't want to see the RACs be put in the middle of trying to work through those issues for the Board. I don't think that's the right place. And as our other Chair said, I think then it completely changes the focus of the RACs if we ask them to do that.

And, you know, Mr. O'Hara, you mentioned that Federal subsistence has been set up in Alaska to come from the ground up, from the people up, develop proposals, move it up.

And then I think, Mr. Wilde, you followed up with that -- with the idea of could we bring tribal leaders together to talk and develop a protocol that would be brought from the ground up. And while I think a working group is a good idea, too, I really liked that idea, because who better to ask how to work this than the people that we need to be consulting with. So I thought that was a very good idea, and follows along with our concept of how subsistence is developed.

And I think we've heard over and over again you can't have effective consultation without money behind it. That's the reality of it. We can't ask
people to join in our processes without giving them some
support.

And I think that also I heard very
clearly that there's a need in some way to help people
understand the process and develop proposals. And I
don't know what kind of training's been provided in the
past, but I think that's something that we really should
look at.

And then I think it was -- Rosemary, I
think it was you that said, it seems like we're pushing
the cart really, really fast. And, Pete and Sue, you
know, I understand that we don't want to trip up our next
cycle, and I don't think anybody wants to do that. It's
complicated enough as it is. But I would hope if we are
engaging in a meaningful way, continuing to talk about
this, continuing to work on this, that we wouldn't create
something just to just stick in the middle, because we're
checking a box. And I would hope that maybe -- is there
some way we can agree we're working towards this and we
don't have to have some structured process we're jamming
in the middle of this cycle. I would hope we could
respectfully agree we're working on our government-to-
government relationship.

I think that's all for me right now, Mr.
Chair.

CHAIRMAN TOWARAK: Anybody next.

MS. PENDLETON: I just want to build on
a couple of the comments that I've heard and that really
stood out.

And I, too, really want to thank the
public for their comments this morning, and for the RACs
for your input as well. And I also want to thank the
work of the committee for drafting the draft protocol,
and then for the amendments that were offered by Ms.
Leonetti.

I think that there is probably a little
bit more urgency relative -- given that we're in the
midst of the wildlife cycle to really focus in and come
up with an interim protocol so that we can continue to
move forward with the cycle and the work ahead of us in
the next few months. So I do feel that before we leave
today that we need to have, you know, some agreement on
that.
I think the protocol that was presented by Mr. Kessler and as amended by Ms. Leonetti, it gets us pretty much there so that we can move, you know, that work forward.

I did hear from a number of the RAC Chairs that because of the very busy last set of RAC meetings they had that some of them may not have had the full opportunity to really ponder and consider this item. And I feel that providing them in fairly short order with, based on everything that we've heard here today, a more refined protocol for the longer term would be important that they could take back to their Councils to more thoroughly consider and provide feedback to the Federal Subsistence Board.

And I think that was it. Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you.

MR. HASKETT: Mr. Chair. Thank you. So I also agree there's been lots and lots of good conversation here today.

It's interesting though, because I only heard two place where I heard a lot of agreement. And where I heard the most agreement on was -- actually the second most agreement on, was that whatever we do needs to be meaningful, substantial. Consultation has to be real. And I dint' hear anybody disagree on that, although I didn't hear a lot of agreement of how we get there. There's lots of different ideas on what it will take to do that.

The other place that there's universal agreement from everybody I heard from today is that there's a real concern about corporations being treated the same way as villages, you know, in terms of the consultations. It's too bad, that's the one place where we have a Congressional directive where I don't know that we have a lot of choice, although I kind of like the way I think that Julia put it is that then whatever we do though, we need to make sure that we do a clear distinction, and we figure out what we're legally directly to do, but I think we can make some distinctions there to make it clear just what that means and there are differences.

As I said earlier, I think the proposal
by the Staff Committee was very well done. I mean, clearly I thought what Crystal presented is something that will be helpful, although not all the answers are there. I think when we're all done here my intent is to make a motion I think to have some kind of combination for that group to look at, with some interim policy done by the end of May, because I hear about pushing the cart too fast, but we need something just to be able to get through the cycle, with the intent of coming up with something final, continue to work on this consultation process and hopefully doing it the right way where sometime early in 2012, and I don't know what the exact dates are that we need to have that done by, whether it's January or May or something in between, we can come up with something final that, you know, we can come to some kind of agreement where most people, if not get where everyone does, where most people say, yeah, that works pretty good.

So I think we went a long ways today, and, well, I've kind of telegraphed what I intend to do at some point. We haven't heard from everybody yet, but I think we're getting close to where we can at least get moving on this.

So thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Kristen.

MS. K'EIT: Thank you, Mr. Chair. I think I provided the bulk of my comments earlier this morning, but just a few areas that I'd like to expand on.

One is I agree with some of the other Board and the RACs, you know, this -- the draft that we looked at the first time around was really well done under the circumstances of trying to get it done quickly and having a large number of people to work with, and a lot of different ideas to try to accommodate or incorporate. And I think then with Crystal's presentation this morning, that demonstrates that there are still lots of ideas, and as we've heard today, areas for improvement.

One thing that, this is kind of a semantics thing specific to the document, is there's a few places where the document references either proposals of special interest to the tribes, or subjects of tribal interest and so forth. I think that then takes away the opportunity from the tribes to themselves determine
what's of interest to them and what's of special priority or interest to them. So I think there needs to be some work in that area so that we're not assuming that either the Board or the RAC or a Council coordinator or Staff knows what's of special interest to their tribes. Let's, you know, make sure that we don't take any authority or opportunity from the tribes in that area.

Also again I'm going to emphasize the need for the Native liaison position at OSM. We really need to get that filled to make this process and future work successful. I believe it is part of that position's responsibility to help tribes be aware of the cycles coming up, of what the proposals are, of how they can participate, and even directing them to the right people if there's a question about some of the science stuff, that the Native liaison can then direct the tribe to the right person to talk to either at OSM or another agency on the science. So that liaison position is really desperately needed.

And I really like the idea that, and I think it was Jack from Western Interior brought up that there should also be a process for the RACs and the tribes to communicate. There is that already in a sense of the tribes can participate as any other member of the public can, but maybe what has been successful at Southcentral's RAC could be discussed as a model or a process that could be built on or adapted for the other RACs. I think that would be useful and I think it would increase the cooperation and the usefulness of the work that the Board has to do through the other RACs.

Definitely we heard resources, resources, money, money is needed. That's always going to be an issue until all our tribes, I don't know, become casino tribes or something, you know, and that's not happening any time soon. So a couple suggestions on that topic of funding. Bert referred to a couple times the .638 process, the Self-Determination Act process, and that could be one mechanism. And I bring forward an example that Alaska Region BIA used when we worked on our regional strategic plan. And we notified all our tribes of this process that we were wanting to start. We recommended that they decide how they wanted to participate, and one of the regional tribal consortia stepped forward and said, we could facilitate the process of getting tribes to your meetings if you have funding that you could provide. And so that -- one, that relieved a large administrative burden off of the Bureau
and it also simplified the process for tribal members to attend our strategic planning meetings where that consortium was funded specifically to provide travel, logistics, and pay for -- take care of the travel for tribal members to attend our meetings. So, you know, that could be a possibility.

One way, if BIA doesn't have the funding to do something like that, we could still be used as the mechanism where if funding comes from the Secretary's Office or another agency, there are interagency mechanisms to distribute funding, that kind of thing.

And also I don't have very much experience with the .809 Section of ANILCA, but that was something Bert brought up. And I'd like to hear some more discussion about that. What is Section .809 referring to, where's that funding at, how does that provide an opportunity to fund tribal involvement.

A very key point that came out was timelines for any consultation or requests for review by a tribe needs to have more than 30 days in there, and I think that was Rosemary brought that up, because it's true. Most of our tribal councils only meet once a month, and during the busy, busy, you know, spring to fall subsistence season, you're not going to be able to call those council members up and do a phone poll or an email poll. So, you know, if we give them something and say, we need this in two weeks, you know, it's going to be like luck of the draw if they're having a council meeting.

Translators. That's really important. We have a number of villages where English is the second language, especially for our elders. That needs to be considered.

Again, two different policies. That's a great idea. One for tribes, one for the corporations and the statutory requirement.

And I would suggest for my fellow Board members to consider that very simple process we used for the fisheries regulations earlier this year, using that for wildlife. I mean, it was simple, it was easy, it wasn't the best method, but then we're not going to be wrangling or arguing over definitions and semantics and some of the other pieces that we have to work out.
Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. I myself appreciated all of the testimony that we heard today, and I think the message came across very strongly about the reference to the regional corporations, the ANCSA corporations.

Personally I would have preferred to see it -- see the regional nonprofits assigned that duty if you call it that on the region, because those regional nonprofits, their base are tribes. The tribes are the ones that elect the board members. And that would be another process I think we should take a look at on whether or not we could utilize the existing regional nonprofits. They're represented in every region of the state.

So although I worked for a regional for-profit corporation for 11 years, I personally don't think that's the right vehicle either to work subsistence issues.

I like the proposals to use the fish process that we used as an interim. I think that's a good suggestion. We do need some interim process to carry until the final process is done.

I also wanted to point out that I would hope that this consultation protocol will be a living document, and by that I mean, it will change. It's not going to be, you know, something that we can't change. Even the Bible's being changed nowadays, so if they can change the Bible, we can change a protocol.

(Laughter)

MR. O'HARA: I'm not so sure that's a good idea, okay.

(Laughter)

CHAIRMAN TOWARAK: If you see lightening strike my head, don't do it.

(Laughter)

CHAIRMAN TOWARAK: Anyway, I think we've got pretty good direction from people. We still -- the door will still be open. I think we should continue
taking in suggestions, because this is a new process.
It's being done I think by every Federal agency. And I
think with patience we could come up a workable protocol.

MR. PROBASCO: Mr. Chair. If I may, I
think it would -- I think we're getting near our final
discussion on this issue, but I think it would be very
wise so the record is clear and so the Staff is clear on
what the Board would like on how we would like to
proceed. You heard two concepts on what to do during the
interim, also how to develop the more longer term
protocol if you will. So, Mr. Chair, I would seek that
direction.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: Thank you, Mr. Chair. So
I hope I've condensed this to kind of be a synthesis of
what we've talked about here.

And one thing I guess I explain first
before I make the motion, too, because a friend in the
audience pointed out to me that maybe everybody doesn't
know what we're talking about when we're talking about
Native liaisons. So just -- it's come up a couple times
that OSM has a position that we need to hire again that's
been there for a long time, but a lot of the bureaus have
our own Native liaison's, too. So Crystal Leonetti, for
instance, is my person we've hired over the last year
who's my representative on lots of Native issues. And so
a lot of the bureaus have that. So when I'm talking
about Native liaisons, that's the kind of position that
I'm talking about, which will be part of my proposal, so
I thought I should go ahead and explain that.

So I think that I would move that we take
the proposal that was presented by Steve Kessler that
came from the Staff Committee this morning, take that as
the basis for a working group to work on. And that
working group would be comprised of our native liaisons
from the different bureaus; also members from the Staff
Committee that worked on the original proposal; and
representatives from the tribes.

And I recognize the devil's in the
details on what -- to figure out how we're going to do
that, but we'll figure out some way to bring
representatives into that as well.

With the idea of coming up with an
interim policy really fast, I mean, because we need something pretty quickly, so by end of May, something interim that we can utilize to get through this process, but with the intent of coming up with something as a draft policy for consideration to come back and get public comment and again go through this process by January of 2012 with the idea of coming up with a final by May of 2012.

And that that group would be -- I'm going to go ahead and offer up Crystal as a person to head up the group, and with the charge again of an interim policy within the next month, draft by January 2012 and a final by May of 2012.

Everybody's looking at me like I'm crazy.

(Laughter)

CHAIRMAN TOWARAK: We need a second.

MS. DUGAN: Mr. Chair, could I ask Mr. Haskett a clarifying question?

CHAIRMAN TOWARAK: We do need a second before we do any discussion.

MS. DUGAN: Okay.

CHAIRMAN TOWARAK: Is there a second.

MS. DUGAN: I'll.....

MS. PENDLETON: I second.

CHAIRMAN TOWARAK: Okay. The motion's been moved and seconded. Discussion. Go ahead.

MS. DUGAN: Thank you, Mr. Chair.

Geoff, were you -- I know you tried to be really clear there in what you were tasking at. Are you suggesting we task this group with doing an interim protocol for this upcoming cycle, and you said by the end of May, but that group would also be the same group that would work on, if you will, a full protocol to be used from this point on?

MR. HASKETT: Yes. Through the Chair.
The intent is for that same group, because they're going to be the ones most knowledgeable. We've already put them together. And to come up with something again, they can go through a process to where we can actually get input and get something final, but recognizing we need something on a more fast track by May. So the same group would continue to do this work.

CHAIRMAN TOWARAK: Any further question or any further discussion. Go ahead.

MS. PENDLETON: I like the proposal. I'm just a little concerned about by the end of the month having this interim process worked out given how we're going to involve the tribes. I'm just cognizant it's a very short window. So giving a little more flexibility here until the end of June, if that work. Just -- because we're going to have to get a lot of folks together to have that conversation, and I'm concerned that it may not be an opportunity for meaningful dialogue given that very short window.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: So can I amend my -- the reason -- the question, clarification, so I was getting clarification from Pete on what the latest it could be to still make this meaningful and so we can use it. The end of June is the latest he said, so I'd be more than willing to go ahead and amend my original to go from -- instead of end of May to end of June, which is still not a lot of time, but at least it's another month.

CHAIRMAN TOWARAK: I think we can do that without going to a vote, and just.....

MR. PROBASCO: If Julia is okay with it.

CHAIRMAN TOWARAK: Are there any objections to the proposed change?

MS. DUGAN: I just -- I don't have an objection, I have a question. Which is, Pete, can you just sort of articulate why the end of June is a trigger point from a date standpoint?

MR. PROBASCO: Mr. Chair. Ms. Dugan. A couple of things are going why we have to have this by
the end of June. The first is we need to know what
process we're going to go through to be prepared for our
first Council meeting, which is the latter part of
August.

On top of that, we're all going through
the process of FBMS where we're consolidating our
expenditures, and I have to have airline tickets, meeting
places, et cetera, all confirmed by July 29th. And so I
don't have that flexibility that I have in prior years.

And on top of that, we have to put out
proper notification for the tribes and the involvement
and in the RACs.

So it's a process that's not expedient
and time is of the essence to get it done.

CHAIRMAN TOWARAK: Go ahead.

MS. K'EIT: Mr. Chair. I'd also point
out that once that draft interim document is approved or
whatever our process is so that we start using it for the
wildlife cycle, if we say the end of June, then we have
a month and a half to actually do the consultation with
the tribes. So if we want to meet a 30-day timeline to
give tribes opportunity to review the review the
material, digest it, meet at their counsel with it,
prepare a resolution and comments, that only gives our
Staff two weeks to take that draft interim policy and
create the letter about the wildlife proposals and
prepare all of that and get it out in the mail in time
for the tribes to receive it with more than 30 days for
the tribes to respond. And I would say that's probably
or that was one reason for my suggesting we keep with
a simpler process of similar to what we did in January,
so that we're not really using a lot of Staff time to
develop a draft interim policy, but rather we're using
Staff time to prepare materials to get it to the tribes
with enough time to comment.

Because then the third issue we have to
consider is from June to July and August, how many of our
tribes are going to be out fishing and hunting and
gathering and won't have frequent time in the office to
be prepared.

Thank you, Mr. Chair.
CHAIRMAN TOWARAK: The motion then is to.....

MR. HASKETT: .....with the mic on.

(Laughter)

CHAIRMAN TOWARAK: The motion on the floor then is using the July?

MR. PROBASCO: End of June.

CHAIRMAN TOWARAK: End of June.

MR. HASKETT: End of June.

CHAIRMAN TOWARAK: Does everybody understand the motion that's on the floor that we're going to be voting on?

Go ahead, Geoff.

MR. HASKETT: Mr. Chair, yes. My original proposal, except for end of June, recognizing the tough time constraints with that, but as opposed to end of May.

MR. PROBASCO: And just for clarification, based on what you said, Ms. K'eit, I think the interim process can include your concept, the concept that Ms. Leonetti put out, or whatever. All I'm asking is that we have an idea of what it is by the end of June.

MR. HASKETT: Okay. Okay. And I apologize for anybody who heard my little exclamation here. Hopefully it didn't go out.

So my proposal is to take the proposal originally presented by Mr. Kessler this morning that came from the Staff Committee, and use that as the basis for -- and a working group will take that to go ahead and come up with an interim policy that will be done by end of June. That group will be comprised of Native liaisons, Native representatives and Staff Committee, and that that group will continue to work on a process that will be proposed as of next January as a draft, to go through the whole process to make sure that what we have is, you know, understood and going through the consultation process, with the idea of ultimately adopting whatever that we end up with as final by May of
Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Are there -- is there further discussion on the motion.

MS. MASICA: Yeah.

CHAIRMAN TOWARAK: Go ahead.

MS. MASICA: Geoff, can I clarify? You said Native representatives, but you mean tribal representatives?

MR. HASKETT: Yes.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: So this group will have the charge to consider that, too, but I think what I'd said was that we have some Congressional direction so that needs to be part of the process, but we'll make it very clear, and that group will have to take on how we do that, that there's different kinds of consultation going on. I don't know how to define it more than that. So I think they need to work it out, but the group will work on that as well.

MR. PROBASCO: Thank you, Mr. Chair and Board members.

The question that I had, and also Mr. Kessler has, is on the interim policy, I think our goal would be to have the draft developed and then that we would share it with Board members before acting on that interim policy. In other words we would get the draft to where we felt it was comfortable, then share it with the Board members for their green light.

MS. MASICA: Based on the work group's
work, right? I mean, that's really the work group's product. Yeah. Okay.

CHAIRMAN TOWARAK: Further discussion.

(No comments)

CHAIRMAN TOWARAK: Is there a call for the question.

(No comments)

CHAIRMAN TOWARAK: No.

MS. MASICA: So I guess my only hesitancy is are we going to expend a lot of energy on an interim policy process. Would it -- as an alternative to that, to just say we're going to follow -- we'll do what we did similar to the fisheries cycle. We'll add a day at the front end of the January meeting for wildlife, do the tribal consultation then, and have the effort -- the energy of the work group and the tribal representatives who are going to participate in it working the bigger long-term policy.

It's just an alternative. And that's where my hesitancy is in moving the question, is I'm must processing in my own mind, are we going to spend a lot of time on an interim step when we have an interim step that worked and might be worthwhile to use again.

CHAIRMAN TOWARAK: Geoff.

MR. HASKETT: I guess I'm having some resistance to -- I mean, we could do that as an alternative, but I'm feeling a fair amount of pressure, I think, a need to actually get something a little -- yeah, I mean, something just started. I mean, something that's a little more substantive. And I don't see that that's wasted effort, because I'm hoping whatever the group comes up with will not be totally alien to what they're doing for the rest of the time anyway. It just seems important to me to actually get the group heading in a direction where it's not going to be a wasted step to have an interim policy.

CHAIRMAN TOWARAK: There's no aliens in tribes.

(Laughter)
MR. HASKETT: Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Now, I assume that we have clarity on the motion on the floor.

(No comments)

CHAIRMAN TOWARAK: Not hearing any further discussion, all those in favor of the motion say aye.

IN UNISON: Aye.

CHAIRMAN TOWARAK: Those opposed say nay.

(No opposing votes)

CHAIRMAN TOWARAK: The motion passes unanimously.

In the interest of time, could we just take a five-minute break before we go on to the next item, which is customary and traditional use determination.

(Off record)

(On record)

CHAIRMAN TOWARAK: Could we reconvene.

(Pause)

CHAIRMAN TOWARAK: I'm going to call this meeting back to order. The next item, No. 9, customary and traditional use determination process. We've got Mr. Kron and Ms. Armstrong to guide us through this process.

MR. KRON: Mr. Chair. Members of the Board and Council Chairs. First of all brief comments about Ms. Armstrong, she's here with me today. Helen is the OSM Anthropology Division Chief and has 18 years of experience working with customary and traditional use issues.

In the December 17th letter, Secretary Salazar requested that the Board review, with RAC input, the customary and traditional use determination process and present recommendations for regulatory change. This is Item No. 5 from the Secretary's letter on Page 3 of
To date more than 300 C&T determinations have been made by the Federal Subsistence Board. The Board’s decision on C&T have been affirmed by the courts when they have been challenged. At their winter 2011 meetings, the meetings this past February and March, we asked the 10 Regional Advisory Councils for their input on the customary and traditional use determination process. We asked them if the Federal C&T process is working for them; we asked them what could be changed. A draft summary of the RAC comments on the customary and traditional use determination process is included in your Board notebook on Pages 87 and 88.

Nine of the 10 Councils feel that the Federal customary and traditional use determination process is working. There were several recommendations concerning the C&T process. There may be some value in allowing a little more time for review of this issue; it's the Board's call.

Thank you, Mr. Chair.

(Pause)

CHAIRMAN TOWARAK: What's the process.

(Pause)

CHAIRMAN TOWARAK: I'm sorry, do we have questions from the Board, or from the RACs.

(No comments)

CHAIRMAN TOWARAK: We will then do the process of the public comments.

MR. PROBASCO: Thank you, Mr. Chair.

First up is Mr. John Sky Starkey.

(No comments)

MR. PROBASCO: Mr. Starkey.

(No comments)

MR. PROBASCO: Mr. Carl Wassilie.

(No comments)
MR. PROBASCO: Mr. Carl Wassilie.

(No comments)

MR. PROBASCO: Mr. Larry Sinyon.

(No comments)

MR. PROBASCO: And Mr. Nikos Pastos.

(No comments)

MR. PROBASCO: Mr. Chair. That's all I had signed up.

MR. HARRISON: No, I signed up.

MR. PROBASCO: David.

MR. HARRISON: Yeah.

MR. PROBASCO: Okay. You weren't specific on C&T but we can take it.

MR. HARRISON: Yes, it was. Look a little further.

MR. PROBASCO: Go ahead.

MR. HARRISON: Keep looking.

CHAIRMAN TOWARAK: Go ahead.

MR. HARRISON: The issue of customary and traditional use is vital to our tribal citizens. Traditionally ever since United States began to occupy our country, Alaska's First Peoples have provided the United States occupiers with food in exchange for goods and services in exchange.

Those that built what is known as the Alcan Highway, my tribe, the AHTNA people, sold to the military moose, caribou, fish so they could eat while they were building that road. Today in many villages they don't make hundreds of thousands of dollars a year as many people think across America -- think Alaska First People are rich because of all the oil. They think we're rich because many of these ANCSA Corporations have created 8(a) companies and that those dollars get to our tribal citizens. Those dollars stay primarily with
ex-military personnel running those 8(a)s and the
executives in these regional corporations. In many of
our communities we have three or four families living in
one home. We have an extremely high rate of suicide. We
have an extremely high rate of Diabetes in our
communities. And we have to ask the question, why?

When you have your grandparents, your
parents, aunts, uncles and their kids all living in the
same home, our young people are not dumb; they don't want
to be a burden on the family. And when they're denied
their access to their traditional foods and life ways,
rather than be a burden, they disappear, so that what
little food sources that they have in their family, those
elders can have.

This issue is close to my heart. I grew
up living in a customary and traditional use life ways.
Even though we're close to Anchorage we still lived off
the land. We went and hunted. We went and fished. We
gathered our birds. As a 10 year old, I watched
my father get killed and I was put into a foster home.
I continued to live a subsistence lifestyle because all
the time I was in a foster home, my foster parents
understood that I grew up in the woods, and they had
family on Lake Clark so every summer I went to Lake Clark
and I hunted and I gathered at Lake Clark.
It wasn't until I was a little older that I really
appreciated being able to hunt off the land.

When I got involved I was 19 years old.
I watched our caribou herd go from a couple of hundred
thousand animals down to somewhere around maybe 20 and
30,000. It's the Nelchina Caribou Herd. I can't go hunt
them without asking pretty please to the State and by the
luck of the draw getting a permit under that system. I
have not went and got a State license that I can remember
since I was 16. No one is going to tell me that I can't
go hunt or fish to feed my family. I have been charged
and I have been arrested many times for it. I will go do
it again.

Many of our people, especially in the
areas off the highway system have it a lot easier than
those along the road system to hunt and fish and gather
in a customary and traditional way. They don't have a
grocery store down the street that they can run to and
trade these green pieces of paper for whatever is on the
shelf. Many of us that live along the highway system,
when we can't go and hunt and gather that's what we have
to do. We trade little green pieces of paper that don't have no value for food stuff to eat that cause Diabetes, obesity. And then you wonder why our people are ill when you make determinations that restrict our access to our traditional way of life.

And I have a question -- and I have a question for you, Mr. Haskett, what is your role as a Federal official?

MR. HASKETT: Well, my role is a Federal official is -- well, I mean there's a lot of roles. I'm the Director of Fish and Wildlife Service so I have authority over the Refuge system, which is 80 million acres of land. I am a member of this Board. My main reason for being on this Board is to, both, make sure that we are meeting requirements under ANILCA for subsistence but also making sure that it's legal under the other authorities that I deal with in the Refuge system. I have responsibilities for Endangered Species Act.

I have responsibility for all kinds of different things so it's not an easy question to answer in just like one or two sentences.

(Telephone interruption)

(Laughter)

MR. HASKETT: She was watching out for me, I think.

(Laughter)

MR. HARRISON: Well, in growing up in Chickaloon, it's at the north end of the Matanuska Valley. The Matanuska Valley is one of the most racists place in Alaska. And so we've had a lot of trouble with asserting our tribal authority as it relates to our customary gathering, traditional uses of food sources.

And I say that the Matanuska Valley was one of the most racists places because as a kid going to school we were shipped from Chickaloon to Palmer and we were known as the dirty rotten little Indian from Chickaloon. But it wasn't until the mid'70s that any African-American people were allowed to move into the Valley because all those colonists, some of their children would go and harass those people and run them
Alaska First Peoples have been the source of many experiments that started with the Matanuska Valley in the 1930s. The state of Alaska and the United States has not stopped experimenting since on our peoples. Alaska Natives, Alaska First Peoples are a control group. Military personnel are another control group that they can control.

The access to our customary and traditional uses for our food sources is critical for our health.

And in looking at all of these issues you want us to stay narrowed focused with blinders on, that's not our way. We try and look at the whole picture because everything is related and there is a connection and if you don't see what's going on over here you're not going to know what to do here.

So it's really important that when our elders get up and speak before you, when our Alaska First Peoples get up and speak before you, that you hear them. I know you're listening, but I want you to hear what they're saying. It's important that you hear, not so much that you listen but that you actually hear. Because there's subtleties in what they're saying, that if you don't hear you're not going to pick up on.

And with all due respect when you hold consultations, don't hold them during our subsistence times of year. Don't try and rush something through that's so important to the very lives of thousands of thousands of people. There's many things that our people have to deal with, not just consultations with Federal Subsistence Board, but consultations with Department of AG, Department of Justice, Bureau of Indian Affairs, Department of Interior, National Park Service, Forest Service, the State Department, and do a little coordination with these other consultations. Another one is Department of Energy.

Alaska's First People have been denied access to participate with the Ocean Policy. And we know that we're critical and a lot of damage is being done out there that affect our access to our fish. At a recent meeting that I had with the Commander of the Navy for the Northwest Region, I asked for their assistance to help us patrol the Bering Sea, to help us protect our resources.
from those bottom trawlers and making sure that there's

enough fish getting to our people so that they can have

sustenance. Subsistence just isn't what you can eat,

it's a means of life. You can go to any dictionary and

look up subsistence and it's the very basic of sustaining

life; then we have the United States trying to tell us we
can't feed our family and have the very basics. Our

tribal citizens won't stand for that. Our tribal

citizens are going to go hunt, we're going to go fish and

we're going to go get our birds and we're going to get

our berries and we're going to do that on our traditional

lands, our traditional territories.

And I ask any of these Staff members,

Federal agencies who are looking at our customary and

traditional use, what credentials do you have. Have you

lived a subsistence lifestyle. Have you went out there

and lived off of the land. Or is it from books. Is it

from data from a university. Because without their

living it you don't know it. And the ones that you

should be consulting with are these elders who lived it

their whole life, in those villages. They're the ones

who have the doctorate degree in subsistence, not a

nonNative person that goes out there once in a while and

says tell me what you know. They're the ones that need

to go back to school, but you can't get that in a year or
two either, you have to live the cycle to understand what

true living off the land means.

Again, I thank you for allowing me this
time to advocate on behalf of the 220 Federally-
recognized tribes.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr.

Harrison. While you're here I'd also like to suggest

that the Staff contact you and get some of the addresses

of all of your tribes.

MR. HARRISON: I will contract with you

and help you disseminate information. I will not give it

freely to the Federal government, they have to pay for

it.

(Laughter)

(Applause)

MR. PROBASCO: Mr. Chair. I'll run
through the names once more and then we can move on.  Mr. Sky Starkey.

(No comments)

MR. PROBASCO:  Mr. Carl Wassilie.

(No comments)

MR. PROBASCO:  Mr. Larry Sinyon.

(No comments)

MR. PROBASCO:  And Mr. Nikos Pastos.

(No comments)

MR. PROBASCO:  That's it, Mr. Chair.

MS. TEPP:  Mr. Chair.  Is it okay for me to go up and speak on this, I didn't sign a piece of paper for it.

MR. PROBASCO:  It's your call.  Testimony for the public record.

CHAIRMAN TOWARAK:  Go ahead, if you can focus on the customary and trade issue specifically -- customary and traditional use, I'm sorry.

(Laughter)

CHAIRMAN TOWARAK:  If you could state your name and who you represent.

MS. TEPP:  My name is Rosalie Tepp. I'm the tribal Chair person of Kenaitze Indian Tribal Council.

First of all I would like to say I don't feel intimidated by this Federal Board Group, the last one I did, they weren't very friendly. They weren't very friendly to the Kenaitze people and they weren't friendly to the tribal people. I feel that I can sit here and speak my heart and not be threatened, and I thank you personally for that.

When I testified last year at a traditional hunting fishing, gathering of the Native people taking moose for funeral potlatches I was
successful in helping an elder explain what it meant to
them and us when the Board didn't understand. When you
go and use your foods, gather your foods, get together
with your family and go out on your traditional hunting
and fishing grounds it's your whole human self, your
language, your love, your spirit, your whole sense of
being with a family and teaching them to respect the
land, to give back; when you take you give back.

And a lot of people have forgotten that.

And as a Native person that still speaks
my language -- when I go home to my village I get
humanized again. I get away from the kind of city life
but I still practice my ways in my home, which is now
Kenai, Alaska. It has been for 35 years, 37 years. When
I went to Kenai I was appalled that those -- that the
Kenaitze people couldn't go out like I did in the village
and gather without looking behind our backs to see if
there was Fish and Game. I was 18 years old, I didn't
understand that, and I made a vow to change that, and now
I'm 57. I'm not going to stop. I'm not going to quit.
Because I have children, grandchildren now, I'm a
grandmother. To tell my granddaughter, she's six now, I
want you to take my place someday, I take her to
meetings, once in awhile she'll correct me when I get
upset because I'm very vocal, I'm up front, to go out and
hunt, to teach my people, seven generations ahead of
time, I want them to live the way I did. I have a broken
heart when I come, very broken. Why is it that my people
they take away from. Why do I have to beg, and I beg all
the time when I come and testify, I shouldn't. I'm a
'Uk, I'm a Yup'ik of this land, nobody should have to
beg.

Remember Thanksgiving, the nonNative
wouldn't have survived if it wasn't for the Indian down
Lower 48, they gave with no payment of any sort coming,
asking, that's all I ask. I don't want no stipulations
because I'm Native to go out and ask that my people eat.
Very sad. I have a very broken heart. But one thing I'm
'thankful for, there's a difference in this group
compared to the last one, listen with your hearts, teach
your kids about -- your grandchildren and your kids and
your sons that are growing, and your daughters that are
growing about sharing, about taking in a good way, that
we have done for thousands of years, and I apologize for
crying a little bit because it means so much to me.

Those that we are teaching, those that we
have and you're sitting there, you need to teach your kids, too, to listen to your heart, that's all I ask, let us use our traditional hunting grounds, let us eat so we don't get sick anymore. Like look at me, I'm overweight, I never used to be. I never used to eat chocolates, now I do, that's nonNative way. If I could go out and have more berries the way I used to eat I'd be healthier, think about those things.

Thank you.

CHAIRMAN TOWARAK: Thank you.

MS. MILLS: I have something.

CHAIRMAN TOWARAK: If you've got something specific.....

MS. MILLS: Yes, I do.

CHAIRMAN TOWARAK: .....to customary trade [sic].

MS. MILLS: And I won't take up -- very, very short.

CHAIRMAN TOWARAK: Thank you.

MS. MILLS: My apology, I don't know why I didn't see the customary and traditional. In our area, on the Kenai Peninsula was aggregated with several other communities and that's one of the reasons that we don't have -- we are considered nonrural. But, yet, there's people who have recently moved into areas that are considered rural that has subsistence, and, you know, we believe in sharing. That's -- I'm not bringing it up because of, you know, of not wanting to share with who comes into our country, but our traditional foods have been in our genetics for 30,000 years and because of that when we don't have our traditional food we do get sick. We have the highest rate of cancer, the highest rate of Diabetes, the highest -- we have the highest -- among the highest disease rate in the whole nation and subsistence is vital to us, not only for our health but it keeps our communities together.

We have a story that was brought to us about probably, I don't know, long before my time, of Raven, when he came and he gave us these fish, he gave the fish to us because at one time our people were
starving. Now, that we don't have our subsistence food, you know, we have insulin for our Diabetes, we have heart medicine for our heart but we're still unhealthy people. And some of us are criminals. We've been made into criminals instead of hunters and fishers. And in our culture we respect everything. Everything living. And everything even not living. We believe everything has the spirit of Creator.

So in our -- subsistence is so important for us and I know we have tried to get back to the nonrural status and we are told we can't but, you know, if it wasn't for the sharing of other indigenous peoples and in barter and trade, I think we would be -- have a lot more problems than what we have today.

I'd like to thank everyone for listening and for being here and I do appreciate the Board and the Councils.

Thank you very much.

CHAIRMAN TOWARAK: Thank you. This concludes the public portion of our comments. We'll give the floor to the State if you have any comments regarding customary and traditional.

MR. HEPLER: Mr. Chairman, thank you. Just a very brief comment. It seems like a majority of the Regional Councils agree with the process -- working right now, but if the Board does entertain some proposed changes, we look forward to working with your Staff and, you know, the ability to comment on those.

Mr. Chairman, thank you.

CHAIRMAN TOWARAK: We will go to the Regionals and this time we'll start with Lester. Mr. Wilde.

MR. WILDE: Thank you, Mr. Chairman. The Yukon Kuskokwim Delta felt that the current C&T process is working. I got some hair in my mouth, sorry.

(Laughter)

MR. WILDE: Even though we feel that we don't always agree with the determinations that are made but we feel that it is fine just the way it is.
Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Ralph.

MR. LOHSE: Thank you, Mr. Chair. In the interest of brevity I'll say that our comments are on Page 87 and we pretty much echo what Lester just said. We're generally satisfied with the process, we think it has worked in a lot of cases, we also have had our disagreements with how things have worked out and we've worked back through them and some of them have worked out to a way, we, as a RAC, thought they should, and some they haven't.

Our Council basically has worked with the premise that C&T is inclusive and not exclusive and we've kind of worked from that premise.

It's interesting sometimes that the C&T for one group is a little different than the C&T for the other group and what kind of information is needed, but that's also got to be remembering that you're taking into account the fact that you're dealing with RAC members who are supposed to apply the knowledge that they have from having lived that kind of lifestyle or are living in the area or knowing the people involved. Some of those things can't be set down on paper so we think it's worked to a certain -- to a good extent.

CHAIRMAN TOWARAK: Thank you, Mr. Lohse.

MR. ADAMS: Thank you, Mr. Chairman. I'm going to refer to the letter that our Regional Advisory Council submitted to the Chair and to the Board.

We did, you know, have a committee, a subcommittee that looked at the C&T regulations at that time and the Council provided -- they thought that the Council was provided inadequate information to make any real comprehensive comments, you know, about the customary and traditional use determination process. The Council should have been provided additional background information, including a copy of the regulations regarding C&T determinations, a history of the past Board actions taken on customary and traditional use determinations in this region and a review of public comments received on the draft customary and traditional use policy from 2007. Without that information it is not possible to make a determination at this Council meeting
whether the customary and traditional use regulatory
process is working to the benefit of subsistence users in
the Southeast Alaska region. However, we would like to
make the following observations and there's bullet No. 1
here.

ANILCA does not require that customary
and traditional use determinations be
made, nor that the eight factors be
utilized in evaluating subsistence uses.

The C&T determination and eight factors
analysis is a carryover in implementing
regulations from the State of Alaska
when it was unknown how long the Federal
government would maintain management
authority.

The State of Alaska has a strict
interpretation of the eight factors and
there is uncertainty in how the Federal
Subsistence Board should apply the eight
factors as evidenced by recent requests
for reconsideration and litigation.

The Council also recommended the Board
incorporate the following concepts in making the new
regulations.

The Board gives deference to the Council
recommendation for customary and
traditional use determinations.

The Council also felt that 50 CFR
100.16(a) should be modified:

The regulation should
read the Board shall
determine which fish
and wildlife have been
customarily and
traditionally used for
subsistence. These
determinations should
identify the specific
communities or areas
use if possible -- and
then they struck this
part out -- of specific
fish stock and wildlife
populations and then
put in bold, all
species of fish and
wildlife that have
traditionally used in
their past and present
geographical areas.

If an eight factor approach is continued
then the regulations should be modified
to include specific language for a
holistic approach rather than a strict
interpretation that the State of Alaska
has applied.

The final paragraph says, that the
Council is looking forward to additional
dialogue on the issue of C&T and with
the Board and Office of Subsistence
Management during the September 2011
Council meeting.

That's the extent of my comments, Mr.
Chairman, thank you very much.

CHAIRMAN TOWARAK: Thank you, Mr. Adams.

MR. REAKOFF: Thank you, Mr. Chair. The
Western Interior Regional Council has worked through the
customary and traditional use determination process with
the Federal Subsistence Board, we feel that the process
is working adequately.

We felt that changing the process at this
point would jeopardize the over 300 customary and
traditional use determinations that have already been
made and we don't want to throw the baby out with the
bath water. And so we felt that, you know, if there's
contentious concerns, like, you know, we have this Unit
21E moose request for 19A residents, the Board -- in
contentious positions, the Board has directed the Council
to work these out with the various tribal entities and at
our fall meeting we will work that through a one day
process prior to our meeting.

And so we feel that the customary and
traditional use determination process is working and it
may need a tiny bit of tweaking but to our interpretation
we feel that the process is adequate for meeting
subsistence users within our region.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Ms. Entsminger.

MS. ENTSMINGER: Thank you, Mr. Chair. The Eastern Interior felt comfortable with the process. They said in most cases there is no need to change the process. One member expressed the thought that the only time it doesn't work is when you pit user against user, which they feel happens at times.

CHAIRMAN TOWARAK: Thank you. Mr. Simeonoff.

MR. SIMEONOFF: Thank you, Mr. Chairman. The Kodiak/Aleutians felt, in general, that the process was working and that -- they had some comments and questions. One member thinks that the process is good and they thought that sometimes the process was a little too liberal and sometimes a little too literal, but it's a process that -- it's improving and it works, you know, they expressed that they didn't know another way of doing it.

They wanted to make sure that customary and traditional use determinations, while it isn't perfect, they wanted to make sure that the subsistence priority remains in the process. And the questions that were raised were how does the introduced species fit into the process of traditional use and determination, and the question of what does long-term use and seasonal use mean in regards to determining customary and traditional use of those introduced species.

That's what came from Kodiak/Aleutians.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mitch. Rosemary.

MS. AHTUANGARUAK: I want to thank everyone for your discussions, it's really been good to be able to listen to the way things have been going at these meetings and the communications that we're receiving are very important and relevant to the issues.
In the North Slope we did not have -- we were fine with the current C&T process and had no suggestions for changes.

Getting to hear Mr. Adams communications and the observations that he provided are very relevant and I wanted to support that also.

Thank you.

CHAIRMAN TOWARAK: Thank you, Rosemary.

Mr. Smith.

MR. SMITH: The Seward Peninsula Regional Advisory Council found that the C&T determinations are working well enough. It's, you know, the nature of C&T makes it very arbitrary. I like things a little more black and white but it's just not possible.

(Cell phone ringing)

MR. SMITH: Sorry about that I thought I turned it off.

But I came to Alaska to work on -- I did a graduate study on muskox on Nunivak and I worked afterwards afterward on reintroduction of muskox into Alaska and so I was in customary and traditional use determinations in several areas.

(Cell phone ringing)

MR. SMITH: Oh, wow.

(Laughter)

MR. SMITH: It's a difficult situation. The Board of Game ruled one time that there was no C&T and then in a subsequent C&T finding they ruled that there was C&T based on exactly the same information, it's just very arbitrary. And, you know, I don't know how I could make it any better so, you know, I'm glad I don't have to do the C&T findings, I could just provide information, so, you got a tough job.

CHAIRMAN TOWARAK: Thank you. This concludes the hearing process, what's the next step.

MR. PROBASCO: Thank you, Mr. Chair. As Mr. Kron pointed out, this is one of the directives that
the Secretary gave to the Board and that was to review,
with the Councils input, the customary and traditional
use determination process and present recommendations for
regulatory changes, if necessary.

And so at this point in time the Board
has heard from the Councils and the question before the
Board is to direct Staff how they would like to proceed.
Is the current process sufficient or are there areas that
have caught your interest where you would like to explore
possible changes.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Let's hear
brief discussion by each Board member starting with you,
Sue.

MS. MASICA: Mr. Chairman. I would say
I didn't hear a whole lot that said we should be rushing
to make a whole lot of changes in the short-term.

MS. K'EIT: Mr. Chair, thank you. I --
although we didn't hear a lot of discussion about changes
I did note a couple Councils seemed to not have had
enough information or enough time to really prepare a lot
of remarks and I appreciated Southeast RAC's letter, that
provided more information they were able to work on a
little after the fact.

I'm wondering if it might be an idea of,
much like we do with our wildlife and our fish
regulations, to put the regulation out there and request
formal comment and proposed changes and then that might
spur a little more activity or provide time for
additional thought from our RACs or the public or the
tribes that are definitely affected. And I have a little
concern, though, about how that might fit in with the
workload for the RACs now, with all the wildlife
proposals, but it's still something I think would be
beneficial.

Thank you.

CHAIRMAN TOWARAK: Beth [sic].

MS. DUGAN: Mr. Chair. I did hear, I
think, some things that we certainly should consider.

One, being the more holistic approach
rather than a species by species, and I have to admit I
don't understand all the rationale for why it has to be
done species by species but I know every time I hear it
I wonder why we do it that way.

And then -- now, I've lost -- there was
one other comment that -- oh, introduced species was very
interesting, too, to consider, but I didn't hear the
overwhelming need to make -- to move into significant
changes.

CHAIRMAN TOWARAK: Thank you. Geoff.

MR. HASKETT: Thank you, Mr. Chair. So
this, to me, was the area we had the least amount of
disagreement. I mean what I heard from the public, from
the RACs, from the Board comments so far, from Staff
comments, from the State under discussion earlier today
is that no one's saying it's perfect but there's not a
whole lot of major concern with this process, how it's
working, that doesn't mean there aren't things we
couldn't listen to in terms of maybe addressing some of
these things. But I think overall, I think if we got one
that's working as well as it appears to be, this is one
we ought to keep using the way it is for the most part,
so to me it's a fairly simple decision to make; on this.

MS. PENDLETON: Mr. Chair. I, would,
too, agree in considering the comments of the RACs as
well as public testimony, that generally the comments are
supportive that the existing process is working fairly
well.

The one area that certainly sparked my
interest was the comment from the Southeast RAC, again
relative to what Ms. Dugan brought up, that the
determinations, that we consider identifying that more
holistic approach, particularly for fish, as subsistence
users are gathering fish, that all species of fish and
wildlife that have traditionally been used be considered.

Other than that I think that it seems
that this process is working well.

Thank you.

CHAIRMAN TOWARAK: Thank you. Go ahead.

MR. GOLTZ: I think I can clarify a
couple of points.
First we do it species by species because that's the way the State did it. When we first drafted these regulations we thought they'd be in effect for about six months and then we would be returning it back and that didn't happen and so here we are 20 years later and we're still doing species by species.

As to the introduced species, once it's out there it's a wild renewable resource and, therefore, subject to the terms of ANILCA. Whether it becomes a subsistence species or not becomes an individual determination. But we have a long list of introduced species that also have C&Ts on them.

CHAIRMAN TOWARAK: Ms. Armstrong, you have a comment and any suggestions.

MS. ARMSTRONG: Well, I did have just -- I just wanted to reemphasize, I think, because we started talking about species, doing it species. I think where the difficulty has come in and I'm particularly sensitive to this because I've had to work on the Kenai Peninsula, specifically Ninilchik customary and traditional use determinations, for fish for many years, the deletion that Southeast suggested was the specific fish stocks and wildlife population and instead of saying stocks saying all species of fish and that's where we've gotten into some real difficulties with, you know, do we have to look at specific stocks in every stream and that sort of thing and what Southeast has suggested is doing it by species, which would clarify it.

And I did find the other day, because I've been working on this, an old memo from the previous regulatory specialist, who has since retired, he was here from the beginning of the program, that the intention had not been to do it on stocks, but that the people who wrote the regulations weren't fisheries biologists and didn't really understand what they were doing, and I think that this would -- what the intent was, was to do it by species. I believe -- now, Keith -- Keith, I think, could clarify that, maybe that's not true, but I was curious when I ran into this old memo. Anyway that would be -- I just wanted to clarify when you were talking about species, that really what it is is to get rid of the stocks language.

MR. GOLTZ: Well, it's time to declare myself. I think I remember the memo, and the group of people that he was talking about who were not biologists,
included me, so it's come full cycle now.

(Laughter)

CHAIRMAN TOWARAK: Is there a desire to do something with that specific suggestion from the Southeast Council.

Geoff.

MR. HASKETT: Well, I think we should probably explore it. I mean I think if that's something they want us to look at, I'd say, yeah, sure, we could go ahead and take a look at it, but I don't know that we need to do anything official in terms of this request from the Secretary for that. It seems like that's something we could work on and try and get an answer on.

CHAIRMAN TOWARAK: Well, we basically want to leave the door open, I don't think we're restricted by time are we, Pete?

MR. PROBASCO: Mr. Chair. You know, the process is the question. I think the one that's probably the cleanest and since it came from Mr. Adams' Council, that Staff could work with Southeast and if they felt after getting additional information and going through the history, if they felt that it was necessary they could come back to the Board and say, hey, we looked at this and we think this should be changed, or we looked at it, we have a better understanding, whatever. I mean we could leave it up to the Council to come back to the Board.

Mr. Chair.

CHAIRMAN TOWARAK: Geoff.

MR. HASKETT: So I just got the regulations brought to me and actually what it says, is these determinations shall identify the specific communities or areas, use of specific fish stocks and wildlife populations. So, again, we could still look at it, but it sounds like it might be a little more complicated than I was thinking at first in terms of making changes, but, I mean we could also make regulatory changes, too, if we decided to go that direction.

CHAIRMAN TOWARAK: Go ahead, Pete.
MR. PROBASCO: Mr. Chair. Board members. I'm trying to keep it so we don't get stuck and get quagmired in the mud and I think Mr. Adams' letter clearly articulates the request for more information and a little bit better understanding. Their experience, though, is very wide and their history is very wide on C&T but I think they're looking at some possible suggestions for changes, but I think putting it back to the Councils and have them work with Staff would give a better clarification instead of us trying to, you know, what are we looking at?

CHAIRMAN TOWARAK: Mr. Adams.

MR. ADAMS: Yeah, I really don't want to bog you down on, you know, anything specific right now. You know, what I think we could probably do is -- a change to the regulation is probably come back with a proposal in the future so we can do that.

Thank you.

CHAIRMAN TOWARAK: Is there any objections from the Board for that suggestion?

(No comments)

CHAIRMAN TOWARAK: We will do that then. We will basically defer this back to your Council.

Go ahead, Pete.

MR. PROBASCO: Or any other Council that would want to take it on but you were specifically addressing Southeast and I was using that example but, you know, North Slope, whoever, if they wanted to, could also look at it.

Mr. Chair.

CHAIRMAN TOWARAK: Geoff, go ahead.

MR. HASKETT: So then just a question, to help clarify the record, since this was a direction from the Secretary's office, then we just need to, as a Board, I think, go back, I'm not sure what the process is for doing that, just let them know that we actually think it doesn't need to change, other than minor tweaks, we think it works pretty well.
CHAIRMAN TOWARAK: We will just leave that issue on the table for the Staff.

MR. PROBASCO: Yes, Mr. Chair, and just to remind the Board that a year from the date that the Secretary gave us the letter, we are to report back to the Secretary and so we are going to be reporting back and if you see the draft status report I have in your booklet I gave in the beginning, that's sort of a template that we would work from. But we will, at some point down the road, be developing a response back to the Secretaries on our progress.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. I think that takes care of that issue without any -- it doesn't need any Board action, the Staff will follow up on this discussion.

That concludes the discussion on customary and traditional use determination process.

We will then move on to No. 10, the Memorandum of Understanding, it's the MOU with the State of Alaska, it's on Page 89 through 91 -- or 93.

MR. PROBASCO: Thank you, Mr. Chair. I'll take the lead and then look for assistance from my Staff Committee friends.

But an additional directive from the Secretaries was to review, with RAC input, the December 2008 Memorandum of Understanding with the State to determine either the need for the MOU or the need for potential changes to clarify Federal authorities in regard to the Subsistence Program.

And during the winter cycle this Memorandum of Understanding was sent out to the Councils, as well as posted for public comment, and the document was reviewed.

Just briefly, Mr. Chair, I think everybody's well aware of the history of the MOU. It actually started out as a MOA. It went through a long, tedious process, and through that process the MOA was initialed by both the State and the Federal groups and then they agreed to work towards finalizing the MOU and it was in 2008 that the MOA was changed to an MOU and we
were successful in getting it signed by both parties, both the Federal Board and then the representatives -- the Chairs from each respective Board of Game and Board of Fish and Commissioner.

I just want to state that the purpose of the MOU is to provide a foundation and direction for coordinating interagency fish and wildlife management for subsistence uses on Federal public lands consistent with specific State and Federal authorities and will protect and promote the sustained health of fish and wildlife populations; insure conservation and stability in fish and wildlife management; include meaningful public involvement.

That was the purpose of the MOU.

As I stated it went out for review, and I'm not going to speak for the Councils, they are here, but their comments are on Page 96 and I know you'll refer to them for their direction.

As I stated, this is a directive from the Secretaries. Today, before you is the direction you want to proceed, and we'll go from there.

As far as Staff, and when I say Staff, the OSM and the Staff Committee met on this issue and we felt that the MOU, based on the RACs input was a meaningful document. We also felt that based on the comments received and that both signatories to the MOU, both sides agreed that it was a living document, we felt from the review comments and as well as our review, that there could be some tweaking and clarifications to the documents. If you look at the comments, a lot of the comments talked about clarifying and putting it in terms that are more easily understood.

A possible process that the Board could consider is that when this MOU was developed, there was a smaller group, it was called the MOU working group on the Federal side, that consisted of Mr. Steve Kessler from the Forest Service, Mr. Sandy Rabinowitch from the Park Service and myself and we worked with our counterparts with the State in developing a draft and then that draft went to the respective parties and they worked through various meetings in finalizing that document. You could reorganize that MOU working group and task them with looking at the comments and make recommendations back to each respective side. But keep
in mind we're only speaking for the Federal side. So to make that possible we may want to look at drafting a letter for your signature to the State counterparts requesting that they reform the working group to look at the comments, both from the Federal side and I know the State is working through a process, they haven't completed yet, to get comments from their Advisory Committees, and then we could come back and take a look at those comments collectively and see where that document could be tweaked and provide another draft for both sides to review and go from there.

If you look at the current MOU the goal is for the signatories to meet annually. We have -- on both sides, we have a new administration with the State, we have new Board members here and some of them have not had the opportunity yet to meet. If you look at the last time we met, it's time for us to meet again. When that should occur, I think, needs to be tied in with how we proceed on this MOU.

So, Mr. Chair, I would look towards the Board's direction. I think the Board should focus on how they view the MOU and if they want to consider a recommitment to the MOU and then look at how best to proceed in bringing the State side in, and then working towards taking this document, which was identified as a living document, and see how we can improve upon it. And as far as a timeframe, and the State may have some comments we may want to look at something drafted either for the fall or winter meeting cycles and try to shoot for something 2012 or whatever.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Did we have anyone from the public that wanted to testify?

MR. PROBASCO: No, Mr. Chair.

CHAIRMAN TOWARAK: Okay.

MR. PROBASCO: The State.

CHAIRMAN TOWARAK: Could we hear from the State on your thoughts.

MR. HEPLER: Thank you, Mr. Chairman.

Pete, I think, did a real nice job articulating, I think, where the process is. And we're going through another
process, we have MOUs with, you know, Park Service,
Forest Service, US Fish and Wildlife Service and we're
entertaining going and looking through those same types
of MOU processes, seeing what's working, where we still
think maybe there's some tension we need to work through
and we're going -- you know, the commitment there is
we're going to work with the Regional Directors and their
Staff and with meetings this fall, at the latest, to try
to work some of those things out. This falls under the
same process, Mr. Chairman.

This is -- you know I was part of the
original MOA working group, I, you know, hate to date
myself that long ago and it has gone through some changes
and, you know, we appreciate seeing what -- you know,
what's came in from the RACs, we also got comments back
already, Pete, from our Advisory Committees, so it's
important to get their input, and then we'll get back and
we'll work this thing out. I think we'll sit down with
Pete and we'll figure out the size of the group we need
to work on this, and we'll get, you know, on the State
side, too, make sure we get the right people at the
table. But our commitment is that we're committed to
this MOU, we're committed to working with the Board.

I think it would be good for, for a
chance, like Cora to come back and meet you guys, we have
a new -- different Board, at least some of the Board
members are new, bringing them back and having a chance
to talk to you guys, too, so we'll work out a process and
come back to you, Mr. Chairman, we're on board with it.

CHAIRMAN TOWARAK: Thank you. Let's hear
from the Regional Council Chairs, starting with Mr. Smith
at this time.

MR. SMITH: The Seward Peninsula Regional
Advisory Council voted to support the wording of the MOU.
The only thing we added was there's an issue about data
collection, and we thought it would be useful, since we
have a number of hunts for the same species under Federal
and State rules, but with different rules and there was
no way to determine whether an animal was taken under
Federal rules or under State rules, that it would be
useful to get the State to add a box to the harvest
report so that the hunter could indicate whether he was
hunting under Federal rules or State rules. As it is now
we can't really determine how many people are
participating in the two types of hunts. It affects
muskox hunts, moose hunts, grizzly bear hunts on the
Seward Peninsula.

CHAIRMAN TOWARAK: Is that the most honest way to do it?

MR. SMITH: Well, it's the only way to do it, really, because it depends.....

CHAIRMAN TOWARAK: Yeah.

MR. SMITH: .....whose line you're on when you take the animal in most cases.

CHAIRMAN TOWARAK: Yeah. My concern -- well -- Rosemary.

MS. AHTUANGARUAK: The North Slope was supportive of the MOU and felt that it was a valuable document. It also recommended the following changes.

Section 1, paragraph 2; change such as to especially.

Wording needed to be added throughout the MOU wherever it states who is involved in the MOU to include knowledgeable subsistence uses and/or tribal representatives.

For example the following edit should be made, Section 4, No. 9, additions in italics, to designate liaisons for our policy communications as appropriate to identify tribal and/or local agency representatives who are knowledgeable out subsistence uses.

Thank you.

CHAIRMAN TOWARAK: Thank you, Rosemary. The Staff has the notes on your comments.

Mitch.

MR. SIMEONOFF: Thank you, Mr. Chairman. The Kodiak/Aleutians Council supports the idea of the MOU as it reduces redundancy and includes local input as possible. The MOU basically states that the State and Federal programs will try and work things out and cause the least adverse impact possible on subsistence users, which the Council supports.
One Council member stated that she wasn't sure how the MOU addresses the Nunivak issue, but she felt it was a good idea to work together.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you, Mitch.

Sue.

MS. ENTSINGER: Thank you, Mr. Chairman. The Eastern Interior does like this MOU and there was some discussion at our meeting regarding the sharing of data, raw data. And we had put together a letter, I don't know if you guys got it, specifically to this, it said, we generally support it but the Council does not recommend the -- I'm sorry -- the Council does recommend the protocol for data sharing between agencies be reviewed and updated. It's been the experience of the Council members that fisheries raw data are not released and shared but often held back until a finished product is published. The Council feels that the opportunity for interested scientists to review and analyze raw data as they become available could support and improve timely management decisions.

So we had sent that to you guys.

And I wanted to say, too, in our region, on the Fortymile Caribou Herd, there's a joint Federal/State permit and that really works well. People tend to understand where the Federal land is, where the State land is, when State land is closed there's a little bit more opportunity for the people to go hunting on Federal land and they don't have to get another permit and for the user it's really nice to have that working relationship with the State and Federal people.

Thank you.

CHAIRMAN TOWARAK: Thank you. Jack.

MR. REAKOFF: Thank you, Mr. Chairman.

The Western Interior Council reviewed the MOU and supports and recognizes that working with the State is a very important position in the comanagement regime that we have in Alaska but at the ground level, Western Interior last year, in our annual report, requested basically management -- maintaining viable ungulate management plans and so we received a response from the Federal Subsistence Board that basically stated a
subservient role to the State's management, and I will read our response from the Federal Subsistence Board.

The Board acknowledges the Council's concerns regarding maintaining viable ungulate populations as noted in last year's annual report. The Office of Subsistence Management, the Federal managers pay close attention to the population data and make management recommendations and decisions based on this information.

We understand the Council would like to see the development of comprehensive management strategies region by region, however, the Board has elected to work with the State to coordinate efforts to address population declines and other wildlife issues statewide, generally using State development management objections.

The Memorandum of Understanding between the Federal Subsistence Board and the State of Alaska facilitates better collaboration between the agencies and local managers to address wildlife management issues.

However, the Board has, and will continue to make management decisions to insure there's a subsistence priority on the Federal public lands.

But the reality is we have management regimes implemented by the State Board of Game that highly affect populations and I could name several populations within our region, the Mulchatna Caribou Herd, the bull/cow ratio was killed down to 14 bulls per 100 cows, far below any recognized scientific principle. Unit 19A and B, we had moose populations killed off by excessive hunting pressure to eight bulls per 100 cows. What we were requesting was that management plans like the Federal Board and the Councils entered into a process on the Koyukuk and we developed a moose management plan with the State of Alaska that is the template of how to manage moose, we have 30 bulls per 100 cows, we have good access, we also have higher encounter rates and so subsistence needs are more satisfied with healthy
populations of game.

I passed out, the Council has wording stated in your packet, but I passed out this document that's been lettered, it's on the table here, it's 08, May 3rd, 2011; this document, I went through the ANILCA law and it's very clear that Congress stated that the continuation for the opportunity of subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska with result and pressure on subsistence resources by sudden decline in the populations of some wildlife species which are crucial subsistence resources by increased accessibility of remote areas containing subsistence resources and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management. This is .801(3). Section .802 of ANILCA says that Congress mandated that -- it says -- we state that Congress mandated that the Federal managers adhered to sound management -- according to recognized scientific principles. It is hereby declared in Section .802 to be the policy of the Congress consistent with sound management principles and the conservation of healthy populations of fish and wildlife the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resource of such lands consistent with management of fish and wildlife in accordance with recognized scientific principles and the purpose for each established unit.

The crux of our contention is that the response that utilizing State management principles, which the State Board may choose to overharvest the population, putting subsistence users, of highly impacting subsistence users is not what Congress intended.

What our recommendation here, it should be clear in the Memorandum of Understanding is that the Federal management has an obligation to manage for healthy populations using recognized scientific principles. The State calls it sustained yield. If the Board of Game chooses, I would like the Board of Game and the Federal Subsistence Board to work together on developing management objectives for populations, and if those objections are violated by the State Board process, if the populations are declining, it's incumbent upon the managing agencies to preclude further decline of populations, it puts the subsistence users in hardship
and it's contrary to Title VIII of ANILCA.

So the language that we would like to be brought before the Memorandum of Understanding consultation that you will do with the Board of Game and the Board of Fish is, ANILCA Title VIII requires Federal managers to adhere to fish and wildlife management consistent with sound management principles and the conservation of healthy populations of fish and wildlife, in accordance with recognized scientific principles for the purpose for each unit established. Federal managers shall scientifically delineate and manage healthy populations.

If State management Board's actions jeopardize fish and wildlife population health, Federal managers shall preempt State regulations to assure population health in accordance with ANILCA.

That is something that this Board has not wanted to go to, but the reality is ANILCA, Title VIII mandates that, protection of the subsistence resources for the subsistence users. If the State chooses to exceed sustainability then it's incumbent upon the managing agencies to preclude that continued use.

That concludes my statement on the Memorandum of Understanding.

CHAIRMAN TOWARAK: Thank you. Any questions of Jack.

(No comments)

CHAIRMAN TOWARAK: I'm assuming that these suggestions are going to a committee?

MR. PROBASCO: Mr. Chair. If the Board elects to go down that path, along with Western Interior's comments that Mr. Reakoff articulated as well as the other Councils and public, those all would be put into consideration.

CHAIRMAN TOWARAK: Mr. Smith.
MR. SMITH: I have a question for you Jack. Don't you think the, like the, State Constitution's requirement for sustained yield provides that level of attention?

MR. REAKOFF: No, we have a political board process. And it's incumbent upon the Board of Game to adhere to sustained yield, but that's not occurred on caribou and moose within the Western Interior Region. It's recognized principles that you got to have 35 bulls per 100 cows in many management objectives, yet, the Board process and continued hunting pressure allowed depletion to 14 bulls on Mulchatna with one adult bull per 100 cows, that's hunting pressure that does that, nothing more. And so the State Board violated sustained -- well, we can't sue the State but a lot of those Federal public lands, the managing agencies have -- if it's Lake Clark Preserve they have to close the season down. It's a hard pill to swallow and it's something that this Board has not wanted to go to.

But I want it very clear this is becoming more and more rampant. In our region we've got caribou populations and moose populations that have been taken below recognized scientific principles, Congress did not intend this Board to do that. This Board -- Congress intended Federal management agencies to preclude that.

It's very clear. Your solicitor will.....

CHAIRMAN TOWARAK: Keith, are there any legal issues?

MR. GOLTZ: Well, conservation is number 1 in the statute, that's clear. I think the problem you're alluding to has to do more with jurisdiction. I think the management principles on the Federal units are clear. It becomes less clear once we get off the Federal units what our authorities would be and you're right we have not gone off Federal lands.

CHAIRMAN TOWARAK: Go ahead.

MR. REAKOFF: Mr. Chair. I'm not referring to extraterritorial, I'm strictly referring to harvest under State regulations that affect subsistence resources on Federal lands, public lands, and when those parameters are exceeded, I feel, and it's feeling of the Congress and declared by Congress, that there should be
a preclusion to have the least adverse impact on the
subsistence users. Not extraterritorial.

CHAIRMAN TOWARAK: Any feelings from the
Board.

(No comments)

CHAIRMAN TOWARAK: On the Eastern
Interior.

MR. PROBASCO: Western.

CHAIRMAN TOWARAK: Oh, the Western
Interior Council proposal to incorporate the language
into the preamble into the MOU.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: I understand the concern.
I'm not sure that I want to agree that that's something
-- I think if we have any kind of discussion in terms of
things we address in the MOU but not as a position for
us. I mean I certainly -- I'm not going to put this very
well -- but we could have discussions, we could talk
about it but if we're asking for direction -- the Board
to make a decision right now I wouldn't be prepared to do
that.

CHAIRMAN TOWARAK: Pete, go ahead.

MR. PROBASCO: Thank you, Mr. Chair. I
think Mr. Reakoff's comments are something that we need
to consider, but keep in mind the MOU, as Mr. Haskett was
articulating, is two bodies, the State and the Federal
side, and so I don't think we want to solidify a position
at this time until we sit down and hear from the other
side and work in that manner, Mr. Chair.

CHAIRMAN TOWARAK: Go ahead, Geoff.

MR. HASKETT: And I guess I'm going to
have more general comments once we work our way through
here, we, maybe could come back to that a little bit, but
I think there's a specific reason why the MOU's a good
idea and why we need to continue to do it and I don't
want something else to bog us down in that process, but
I'm prepared to talk about that later.

CHAIRMAN TOWARAK: Okay, what's next.
MR. PROBASCO: Go to the next.....

(Pause)

MR. PROBASCO: Mr. Adams.

CHAIRMAN TOWARAK: Oh, Mr. Adams.

MR. ADAMS: Thank you, Mr. Chair. Mr. Lohse asked me to apologize he had to leave to catch an airplane and if he was still here I would let him go before me, but he's zipped now.

(Laughter)

MR. ADAMS: He asked me to read Southcentral's comments into the record when I'm done with ours.

The Southeast Council -- you know, we had a committee look at the MOU and these are their comments, and it's found on Page 98 of your book. And, you know, let me just highlight a couple things here.

The Council agrees that an agreement describing communication and coordination protocols between Federal and State governments and supporting agencies is required for effective management of fish and wildlife resources.

The Council had the following general comments and concerns.

MOU is unnecessarily difficult to understand and it should be written in plain language.

That there has been testimony that the information sharing protocol has not been working as intended and that the document should be reviewed.

That information vital for management of fish and wildlife is more than scientific data. The role of traditional and ecological knowledge needs to be emphasized.

That the wording and tone of the agreement appears to highlight the role of the State and how the Board manages subsistence and minimizes the role of the Councils.
That there needs to be a process to evaluate and monitor whether the purpose and guiding principles of cooperation are working to the advantage of subsistence users.

And that there needs to be a process to monitor and evaluate how the information sharing protocol is working.

The Council had the following specific recommendations.

In Section 4, paragraph three, they're suggesting that you delete the reference to the State Statute 16.05.258 in the last sentence. The Federal Program is concerned with providing a priority for rural residents, that is the paramount distinction between the State and Federal government programs and should be made clear in this section. The Council rejects the reasonable opportunity standard specified in the State statute.

And then in Section 4, paragraph 11, delete the second sentence that begins, consider the State fish and so forth and so forth, you know, it's in the MOU there. There is no need to incorporate State rules unnecessary to Federal Program. If there is need to adopt a management plan or policy it should be considered rulemaking and be subject to our regular public process. The standards for addressing subsistence needs and priority are different under State and Federal rules and so it is impossible for the Board to commit to providing for subsistence priority under both Federal and State law.

Mr. Chairman, this is the extend of the report that the committee had submitted to us to share here with you today.

And if it's okay I could read into the record Southcentral's comments.

CHAIRMAN TOWARAK: I think it would be
appropriate since Mr. Lohse had asked you to do that.

MR. ADAMS: Thank you, Mr. Chairman.

It's very short.

Southcentral supports the MOU in principle but had a number of comments. The Council agreed that the two programs, the ADF&G FSMP need to coordinate because both have different mandates.

Additional revisions recommended by the Council included:

- Strengthening the tribal consultation component.

- Ensuring that the third paragraph in Section 4 is clear, that it only references the State Program, and not that the Federal Program is agreeing to the mandate.

- And suggesting that TEK be added as an important source of information whenever biological information is mentioned.

The Council also agreed that the Federal terms and the State terms be included to the MOU.

The Council is interested in feedback once the MOU is revised.

And that's the extent of their comments, Mr. Chair.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Adams.

MR. O'HARA: Yes, Mr. Chairman. I think the only thing -- I think you have our Bristol Bay comments on the MOU. I think it's a really good thing.

The very first one might give you a little bit of heartburn there.

This includes keeping an open mind to the possibility of implementation of predator control when the conservation of a particular species is in peril.
So it doesn't seem to me like the Federal Board isn't really happy about predator control, but it's something that we put in there and you can read the rest of it for yourself, it's pretty common.

Thank you, very much, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Mr. Wilde.

MR. WILDE: Thank you, Mr. Chairman. The Yukon Kuskokwim -- I'm just going to read what's in the book here.

The Yukon Kuskokwim Council requests that the MOU be written in plain language that people who speak English as a second language can understand it better.

And the specific guidance for edits was as follows:

Section 3, guiding principle number 5. After the end of principle, after and add through active management where conservation of the resource or continuation of subsistence uses is of immediate concern reviews shall not delay timely management action.

Section 4, number 9, addition in italics, to designate liaisons for policy communication and as appropriate to identify tribal and/or local agency representatives.

The point the Council wanted to make was that the tribes should be communicated with and not city offices. Several commenters said that tribal government are more active in fish and wildlife management issues than the village corporations or the city governments.

Tribal governments have more influence on the Federal process than city governments and city governments know what the State wants them to do and are reluctant to be involved in tribal affairs.

Section 4, number 10, the Council focused some discussion on this portion.

Provide advance notice to Council and/or State Advisory Committee representatives before issuing special action or
emergency orders.

Council members noted that they do not hear about changes to regulations. They would like to make sure that Council members and State Advisory Committee members are told when there are special actions and emergency orders. No change in the MOU was suggested. This had to do with informing after special actions and emergency orders were implemented.

Section 4, number 12. Reporting systems.

Council members noted that there is a problem with relying on locals reporting harvest using the harvest ticket system. They always run out of harvest tickets and don't receive enough. It was suggested that harvest tickets should be distributed through tribal council or city council offices and not the store.

And that was the end of our discussion on that.

Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. That concludes the process on the MOU.

What are the wishes of the Board.

(Pause)

MR. GOLTZ: Do you want to get State comments.

MR. PROBASCO: They don't have anything.

MR. GOLTZ: Okay.

CHAIRMAN TOWARAK: Okay. Go ahead.

MR. HASKETT: Thank you, Mr. Chair. So just a couple of things. And, Jack, I understand your concerns, I think there's other places we can deal with that. I think it's very, very important to go ahead and keep this MOU in place. I think right now, I mean both Fish and Game and Fish and Wildlife Service have some fairly high profile disagreements, they've been played out in the papers and they're fairly -- probably a lot
more out there than either one of us want to have out there, and even in saying that though, over and over again I'm telling my people and I tell public folks and they are the group that's one of the most important groups for us to work with and probably especially when we have, you know, mandates that are different but have authorities and responsibilities covering the same areas and certainly subsistence is one of the most important areas we both have responsibilities for and I thought the MOU was a really good thing.

I understand there were lots of concerns about it.

I was actually very happy to hear most of the comments from the RACs because I wasn't hearing major concerns about the MOU, in fact, mostly I heard from people saying they think it's good so, to me, that's an area that -- I mean if we put a work group together to continue looking at it, I think that's not a bad idea. I looked at the signatories and the only two people that are still on that list are me and Sue Masica, who were really new when we actually signed that, so I think it is probably time to go ahead and take a look again.

So I think the MOU is a good idea, continue working with the State, I think it's very important to work with the State and I guess I was encourage not hearing anything too different from the folks coming around this room here.

MS. PENDLETON: Thank you, Mr. Chair. In considering the comments that we've heard from the RACs and then as I've reflected upon the MOU, I think the concept of the MOU is generally supported by the Councils, and certainly by myself and the principles that are described around, you know, strengthening communication, coordination and cooperation is very important. And I also think that the focus on really minimizing adverse impacts to subsistence users is critical.

So fully support continuing the MOU.

But I think it could use some refinement, some strengthening. And I support the idea of having a small work team that would work on this that would consider, I think, some really important comments and clarifications from the Council, this small team that would include representatives from the State and Federal
agencies. I also think that it's important that we look
at having somebody who's a really good writer/editor be
a part of that small team. There's a number of comments
that focus on the complexity of the language and for
those that, where English is a second language, that we
insure that this is written so that it could be clearly
understood, so having somebody with those writer/editor
skills I think would be very important. And then once
there's a revised draft of the MOU that we seek Council's
review, the Regional Advisory Council's review on that
draft.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Any further comments.
Go ahead, Sue.

MS. MASICA: Mr. Chairman. I concur with
what's been said. I don't know where -- if it's possible,
in terms of where the State is at in sort of assimilating
the comments through the parallel process that the
State's been using, but if there'd be any way to have
that work group to work with the State to come up with
that sort of revised draft, we meet again in July, that
we could see it, so that if we're going to do a further
step with the RACs in the fall cycle, it'd be great if we
could meet that timeframe. I don't know if that's doable
or not but I think we should try to keep this moving
forward, if we can, at all possible.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Ms. Masica, you scared me
when you said July. What I was -- from my perspective
and the work load that we have and I've already got a
little push back from the State, but I'm not sure
exactly, but my idea, recognized it may be a little
pushed back, is that we get the MOU work group, whoever
that will be, together, they work through the summer on
the document, with the goal of having the signatories
meet in the fall prior to our fall cycle to look at that
document, and then we utilize the fall cycle as an
opportunity to have the RACs input.

The other caveat is if the State's
concerned about timing, then we could just push that back
a little bit further and use the winter cycle, still
looking to have something finalized by the spring of
2012.
MS. MASICA: I think the fall cycle starts like August 24th, that's why I was saying July, so if it's winter, I understand.

CHAIRMAN TOWARAK: Go ahead, Kristin.

MS. K'EIT: Mr. Chair. Having taken in all the comments and information I'm prepared to make a motion of action for this topic.

CHAIRMAN TOWARAK: Do you have any comments.

MS. K'EIT: Should I go ahead?

MS. DUGAN: Mr. Chair, just briefly. As Mr. Haskett said, there certainly has been tension between the Federal government and the State of Alaska. And I know one thing relationships don't get better with less communication and cooperation and so I really support moving forward with looking at where we need to strengthen this MOU, it still is in effect, you know, we'll be operating under it as we move forward, so we haven't broken that communication, so I would be very interested in listening to a motion.

CHAIRMAN TOWARAK: I think the direction we're heading is the right direction and having a work group come up with recommended changes on the MOU working closely with the State. If it were up to me personally, I would put into that MOU, that this MOU is terminated as soon as the State passes a Constitutional amendment on subsistence.

(Laughter)

CHAIRMAN TOWARAK: I say that rather lightly, but I think it would be worth thinking about.

Anyway are you ready for your motion.

MS. K'EIT: Mr. Chair. I move that the OSM Staff prepare a letter to the State requesting reconvening of the MOU working group, where our Staff would incorporate comments from the RACs into a draft revised MOU to bring to the first working group meeting, should the State agree with our reconvening that working group, and that the working group will look at all comments received and in drafting a revised MOU they will include the RAC comments, the AC comments, and any public
comments in the draft. If the working group does not do that, they will prepare a report with explanation of why that wasn't appropriate or not legally possible and so forth. Further, the working group will return the draft and the described report to the Federal Subsistence Board for our review and our distribution to the RACs for review and for tribal consultation.

CHAIRMAN TOWARAK: You heard the motion, is there a second.

(No comments)

CHAIRMAN TOWARAK: The motion dies because of a lack of a second.

(No comments)

MR. HASKETT: So is it appropriate to.....

CHAIRMAN TOWARAK: Second the motion.

MR. HASKETT: No, I don't want to second.

(Laughter)

CHAIRMAN TOWARAK: That's the only way that a discussion could take place is if a motion is made and seconded. If it's not seconded then the motion dies.

(No comments)

CHAIRMAN TOWARAK: Not hearing a second the motion dies.

MR. HASKETT: So we can't have any discussion.....

CHAIRMAN TOWARAK: It's open discussion now. Go ahead, Geoff.

MR. HASKETT: Okay, because I didn't want to make a motion yet, I just wanted to discuss why I didn't second it, if that's appropriate.

(Pause)

MR. HASKETT: So I think it's good to have the working group. Where I started getting
concerns though was where you had provisions in there where we'd be required to put in all of the comments from the RACs, you know, regardless of how diverse they are and I think in order to have a good working group with the State we need to be able to have discussions that are more wide open than that, but certainly we should consider all of the comments here but not be required to make it part of it. I think we will have a rationale for what we come up with at the end, it was just too restrictive for me and there was too much requirements tied into your motion. So if you were little less restrictive in your motion I'd be much easier to be able to second it and have discussion on it.

MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead.

MS. K'EIT: Thank you, Mr. Haskett. I do just really have great concern that we represent our RACs in the MOU and represent the users -- the subsistence users and the priority for subsistence and I don't want to tie people's hands so much that the MOU fails, but I do want to make sure that our RACs concerns are heard and addressed and if we're not going to address them then we have an explanation and that's part of the communication process between our Board and the RACs. And I build from that, particularly because of Western Interior's comments of the Board's response to their annual report last year and having some dissatisfaction with that and so I want -- yeah, that's enough.

Thanks.

(Pause)

CHAIRMAN TOWARAK: What are the wishes of the Board.

(Pause)

CHAIRMAN TOWARAK: The floor is open.

MR. HASKETT: Okay, so I'll try for a motion. I would like to see a working group put together. And as I said I think it's a very positive thing to make sure we have an MOU with the State and recognize that we have a government relationship with the State as well, a different one, obviously. Recognize that that working group needs to pay attention to
everything we heard from the RACs. And certainly we
should be able to explain when we're done, if there are
things we didn't adopt, again, but not having a
requirement though that we start by having all those in
the document itself, that we need to have a wide open
discussion with the State in terms of what we end up with
in the MOU.

I made that way too complicated, I'm
sorry.

Let me try and rephrase it one more time.
I gave you rationale there.

(Laughter)

MR. HASKETT: So my motion is that we
should have a wide open process with the State, it's a
positive thing to continue with this MOU, that we not
have requirements for specific language that needs to be
in there prior to the negotiations but that we certainly
give rationale when we're done for areas that we didn't
adopt that are outstanding from the RACs or other places.

MR. PROBASCO: I got it.

MR. HASKETT: Okay, Pete's got it. Thank
you, Mr. Chair.

CHAIRMAN TOWARAK: You heard the motion,
is there a second to the motion.

MS. PENDLETON: Second it.

CHAIRMAN TOWARAK: It's been seconded.

Any discussion on the motion.

MS. K'EIT: Mr. Chair. We didn't really
talk about when we want anything done and when we're
going to submit a draft to the RACs or the tribes for
consultation.

CHAIRMAN TOWARAK: Go ahead.

MS. PENDLETON: Maybe I'll offer a couple
of amendments, is that.....

CHAIRMAN TOWARAK: Go ahead.

MS. PENDLETON: First would be that we
would continue to operate under the existing MOU, and then the second piece would be that we would -- as the small work team is reworking the MOU, in consideration of the comments that we've heard in public testimony and from the RACs, that we would have a draft ready for the fall cycle or winter -- winter cycle, thank you -- winter cycle, I'm just checking on dates, that would be this -- for the RACs to consider this -- this coming -- thank you, for the winter cycle, to provide comment on that draft back to the Board.

CHAIRMAN TOWARAK: There's a motion to amend the original motion, is there a second.

MS. K'EIT: Second.

CHAIRMAN TOWARAK: You heard the second, any further discussion. Pete.

MR. PROBASCO: Thank you, Mr. Chair. I just wanted to respond to why the winter cycle. I spoke to the work load that the RACs are going to have, we have 100 proposals and some RACs are going to have a lot of work to just get through their meeting, so this is an important document and listening to what -- speaking to Ms. Yuhas prior to this, there were concerns about getting Advisory Committee comments, and the proposal where I was looking at the fall cycle, my Staff was concerned about trying to put something in the fall cycle, so me having to deal with the work load, I recommend the winter cycle.

Thank you.

CHAIRMAN TOWARAK: Any further discussion. Go ahead, Beth.

MS. PENDLETON: No, I think we're okay. I just wanted to make sure I didn't need to amend it, because my intention was for the winter cycle, that it would be available for RAC review and input.

MR. HASKETT: Call for the question.

CHAIRMAN TOWARAK: Question's been called for, all those in favor of the motion say aye.

IN UNISON: Aye.

CHAIRMAN TOWARAK: Any opposed say nay.
CHAIRMAN TOWARAK: Motion passes unanimously. This brings us back to the original motion as amended. Any further discussion on that motion.

(No comments)

MS. MASICA: Question.

CHAIRMAN TOWARAK: Question's been called for, all those in favor of the motion say aye.

IN UNISON: Aye.

CHAIRMAN TOWARAK: Any opposed say nay.

(No opposing votes)

CHAIRMAN TOWARAK: Motion passes unanimously. Pete.

MR. PROBASCO: Mr. Chair. I just whispered to Mr. Haskett, and the intent is to have a letter to go to the State requesting the working group be put back together and he nodded, so Board members, okay.

(Board nods affirmatively)

CHAIRMAN TOWARAK: Okay, that takes care of Item 9. In other business we have two short issues, I assume, the update on the budget process and then the July Board meeting.

MS. K'EIT: Mr. Chair.

MR. PROBASCO: Mr......

MS. K'EIT: Excuse me. May I add one item.

CHAIRMAN TOWARAK: Sure.

MS. K'EIT: Thank you, Mr. Chair. I'd just like a brief, if Mr. Goltz would be willing, a brief description of the options open to Saxman for under the RFR -- or under the rural determination process because that was brought up during our public comment period and in different areas. So just some discussion or
explanation that we can take away with us to think about.

Thank you.

CHAIRMAN TOWARAK: Go ahead, Keith.

MR. GOLTZ: Let me check with the Staff. An RFR was submitted and it was denied. So the only options I see are the Board could take it up on their own initiative. But the way the regulations read is that once we've acted on an RFR, that's a final agency action. So Saxman's next legal move would be in the court.

CHAIRMAN TOWARAK: Geoff.

MR. HASKETT: So I'm glad you asked that question because I've been thinking about this for awhile and I got the opportunity to take a tour of Saxman when I was out there and I ended up with lots of questions and I would prefer not to get to the point where they were forced to litigate over this, I think if the Board has the ability to take this one up again then I'd be more than willing to do that whatever the process is, for us to go ahead and take a look at that, or at least have some discussion among the Board about making that happen.

MR. GOLTZ: It would be a special out of cycle action which we have done once before with the Kenai Peninsula, so we do have a template for it.

MR. HASKETT: So would it just be a motion?

CHAIRMAN TOWARAK: Yes, I think a motion would kick that in.

MR. GOLTZ: No, no, I don't believe we could do that at this meeting, this is a work session.

MR. HASKETT: So the next opportunity we could have to go ahead and propose that would be?

MR. GOLTZ: The next public meeting.

MR. PROBASCO: July 12.

MR. HASKETT: Okay.

MR. GOLTZ: It would be our next public meeting, whenever that is.
MR. PROBASCO: July 12th.

MR. GOLTZ: July 4th.

(Laughter)

MR. PROBASCO: The 12th.

CHAIRMAN TOWARAK: 12th.

MR. PROBASCO: July 12th, and, Keith, help me, but I think if the Board elects to put that on the agenda as a discussion then we'd have to notice it.

MR. GOLTZ: I believe that's correct.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: So I'd like to make a motion to put it on the agenda for the July 12th meeting and do whatever we need to do to make that happen.

CHAIRMAN TOWARAK: Is there.....

MS. K'EIT: Second.

CHAIRMAN TOWARAK: .....a second to the motion.

MS. K'EIT: Yes, I second.

CHAIRMAN TOWARAK: Seconded. Discussion.

Pete.

MR. PROBASCO: Mr. Chair. Since we're going to one of the items, let me tell the Board what's on their agenda and then ask them if they think one day's going to be enough now.

Right now what's on your agenda is the State's RFR on Ninilchik. We have to go through the Council nominations which would be an executive session and that's for all the nominees for the 10 Councils. And then Staff will be presenting you an update on their review of closures and their recommendations for your consideration. That, in itself, is a full day. If we add Saxman to it we might not have enough time for a one day meeting.

Mr. Chair.
MR. GOLTZ: That's probably correct, you're going to need a record for your Saxman motion so there will be some Staff work involved.

CHAIRMAN TOWARAK: The motion remains. Any further discussion on the motion.

MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Sure.

MS. K'EIT: I agree with Mr. Haskett's statement earlier that we work on doing what we need to to bring this to the next meeting because of the -- we have less than a year now before the situation expires and it has to go to court, so I'm fully aware of the time constraints or the additional time that this will add, but I also don't see a lot of options for doing this at another time.

Thank you.

CHAIRMAN TOWARAK: Is there any objection to adding a second day to our July 12th meeting? Beth.

MS. PENDLETON: I would ask consideration that it be the 11th and 12th. It's going to be difficult for my participation after the 12th, that week.

Thank you.

CHAIRMAN TOWARAK: Could we leave that discretion to the Staff?

MR. PROBASCO: I heard what Ms. Pendleton said, the 11th, if it's the 11th, that's fine, we would have to put out another notice, which is fine, to add a day. The other thing to consider is our Technical Review Committee for the Fish Monitoring Proposals meets on the 13th and 14th, and it does involve some of our Staff, but I think we can work around that. So our dates to look at, I would say, based on what we have is the 11th, to add, but I don't want to -- right now we have the Board members here, I would need either a yea or a nay that the 11th would work.

CHAIRMAN TOWARAK: Is there any objection to it.

(No comments)
CHAIRMAN TOWARAK: Not hearing any then it will be the 11th and 12th.

MR. PROBASCO: Thank you, Mr. Chair. And, Tina, we'll need you.

REPORTER: (Nods affirmatively)

(Laughter)

MR. PROBASCO: Thanks.

CHAIRMAN TOWARAK: Is there any other business that needs to come to the Board.

MR. PROBASCO: Thank you, Mr. Chair.

This next issue will be a tag team, myself and Ms. LaVerne Smith. Again, this is part of the Secretarial directive. And if you look at the letter that's on Page 3, at the request of the Director of the Fish and Wildlife Service and under departmental procedures, review and submit recommendations for departmental consideration of the annual budget for the Federal Subsistence Program. And then if you look at the directive from the Secretary to the Director, which is in your draft document on Page 4, where it's stated in the annual budget formulation process, seek input from the Federal Subsistence Board and other stakeholders on budgetary requirements and priority for the Subsistence Program.

And at this time, Mr. Chair, we'd like to review with the two draft documents, they're draft, and I'll turn the table over to Ms. Smith.

MS. SMITH: Okay, thank you, Mr. Chairman, and also to the Federal Subsistence Board, we'll try to go through this quickly because we realize we're late in the day but we really do need input and this is one of the tasks that was assigned to us and we've tried to sort of capture this effort in several different ways.

One, we've tried to come up with a document that will look at the directives that came from the Secretary's report and to show what action we're taking, what we're doing to monitor that we're carrying those actions, what the cost of those actions will be, and then to report our progress. So I think that this document is actually a document that we can use as we
continue to check off carrying out the directives that
came to the members of the Federal Subsistence Board,
that came to the Director of the Fish and Wildlife
Service and other folks in the Department of Interior and
sort of show our progress.

The most important thing and the most
timely thing to do right now is the input into the budget
because discussions are already starting relative to the
Federal 2013 budget process.

So what we would like to do today is just
sort of walk you conceptually through these two documents
and then ask for your input and review. We'd like to ask
for that input and review on a pretty fast time scale
because we do need to go back and do briefings in D.C.,
probably for both the Department of Interior and the
Department of Agriculture and we'll work more with the
Forest Service to figure out how we carry that out.

One of the things that we have done is
tried to go through and take each of the directives and
analyze the -- what is the -- you know, what's being
asked of us, are there additional costs, can those costs
can be absorbed within the existing agency budgets or is
there a need for additional funding. And you'll see that
in both the Word document, as well as in the PowerPoint.
I think the PowerPoint, we sort of put it together to
sort of help us conceptualize our thinking and is
something that would be a tool when we go back to brief
the Secretaries of both Interior and Agriculture on the
progress that we're making. And I think I can very
quickly sort of sum up what's in the PowerPoint and then
just ask you to review it after the meeting today. So if
you sort of stay with me for a few minutes and, Pete, you
jump in too if you feel like you need to.

Pages 1 through 9 are simply sort of the
overview of the Subsistence Program, so I don't think we
have to spend any time on those.

If you go to Page 10, I think it'll help
you see sort of how we've organized the remainder of the
PowerPoint. One of the things where I think there was a
lot of confusion, this is in the PowerPoint -- everybody
is flipping madly through -- does everyone have copies?

MS. K'EIT: Mr. Chair. I'm wondering if
Ms. Smith meant slides one through nine?
One of the issues that I think was of confusion when the review of the Subsistence Program was being conducted, was over the functions. The core functions that are carried out by the InterAgency, Office of Subsistence Management versus those functions that are carried out by the individual agencies. And I think this is one of the directives, is to look at how we're organized and how we carry out the responsibilities for subsistence.

So the first thing we did was to try to describe the functions of the InterAgency core Office of Subsistence Management. And what we put into this section are the things that are done by the InterAgency Office that Pete leads and the budget that is available for carrying out those actions.

The next thing we did was go through and try to describe what are the functions of the agencies, what are the responsibilities that the agencies carry out from sitting on the Federal Subsistence Board to managing hunts and fisheries and a number of -- law enforcement, outreach and other actions.

And then we get into the Secretarial Review and the directives and our status on those.

So quickly flipping through the InterAgency core functions, we tried to lay out the most important things and highlight the major portions of the budget for the Office of Subsistence Management. And I think those are ones we would like to hear feedback on and to see if, you know, if you guys think we have captured those correctly. And then we tried to lay out the funding, and the funding history. And then I think if you look at Slide 14, and then Slide 15, we did try to capture the fact that from the time we started with getting wildlife funding in 1991 and fisheries funding in 2001, that that funding has declined over time, probably at about 12 percent. We have made changes as that funding declined. One of the major changes we made was we went to a two year cycle in 2008 because we lost 500,000 of funding.
So that sort of leaves sort of the history, the functions that we do through OSM and the history of the funding for OSM.

And then we move to Slide 16, to the agency functions and budget.

And we tried to pick up the Federal Subsistence Board membership duties, the monitoring and assessment that agencies do to contribute data to the process. The hunt and fishery administration. Law enforcement. Outreach. And then we put in several examples to try to help people sort of picture what happens during a normal subsistence season. What are sort of the processes that agencies are responsible for. And these are slides that, I have to say we struggled with in the Fish and Wildlife Service, and if they're Fish and Wildlife Service centric, we apologize, so this is really the place that the other agencies who sit on the Federal Subsistence Board, we need your input. We tried to capture some of the areas that are big commitments, like in-season fisheries management, and where those responsibilities break out. So these -- and we used the Yukon River sort of as an example to try to dramatize these huge systems and multiple Federal management units that are in the system. So if someone has a better example we're glad to incorporate it, but this was sort of why we chose the Yukon and why that's in there as an example.

And then on Slide 22 you'll see that -- you know the 2001 fisheries funding, there's pretty good records for that and we certainly know what funding each agency has in 2010, and soon we can probably update that for 2011, but it got very murky when we went back trying to pull the history of what folks got back in 1991 for the wildlife funding, so I just left those blank at this point. If someone has some good data and something that's documented we can certainly enter it, but what I think I heard from talking to agencies and looking at all the documents that were reviewed during the review, is all the agencies feel like they're spending more money than what they receive in their subsistence line item, so I don't know that that '91 history is particularly helpful at this point, but if anybody has documentation for those earlier figures that would be helpful.

So we've reviewed two sections, one on OSM, one on the agency functions. And now moving to the final section, it's where we try to walk through the
directives that came out of the review and looking at the
cost of each of those.

And I think where we're going with that
and I think probably the best place to see it in a
summary form is actually back to the WordPerfect
document, on Page 5, the summary of the budget
implications. I'm trying not to talk through this slide
by slide, but to give you a feel for what we're trying to
do so that'll help you guys when you review it and
provide us with comments and suggestions.

So the budget implications, many of the
things that we were asked to do I think we've already
started. I think we're trying to take the directives of
the Secretaries very seriously, but some of the things I
think will require additional funding, and those are the
ones that are identified on Page 5, and these estimates
have been put together by Pete and his Staff, and what
we're trying to do is just sort of T those up and I think
probably some discussion about priorities, given tight
budget times, which ones of those can we do in 2013,
which ones can we do in further out years. But I think
that as we increase the membership of the Board and
there's increased travel cost, we tried to capture those.
The increase in tribal consultation, I think we've heard
today we want to make it a meaningful process and we want
to make it a process where we're doing consultation in
communities where it's most effective and there will be
additional costs, and we estimate that at 300,000. And
keep in mind these are the estimates for increased
funding for the InterAgency Office of Subsistence
Management. If other agencies see additional costs that
you think need to be captured, we haven't captured any
for the Fish and Wildlife Service, as an agency, but
simply as the OSM needs, and then training and support
for Regional Advisory Councils we added 100K, more
Subsistence Board meetings in rural areas, we added 100K
and the wildlife monitoring program, which is one of the
big ticket items, we added $2 million, recognizing that
that would be a start, but certainly would probably
nowhere near meet the full need. We also added some
capacity within the Office of Subsistence Management
200K, as we add more wildlife program we would also need
the corresponding support, research support there. And
then if we reinstate the annual fish and wildlife
regulatory cycle, we estimate that would cost 800,000.

So those are sort of -- it adds up to 3.5
million to do all the things that we believe the
directives ask us to do and to do it well. I think this is something that we do have to get in front of the, you know, the decisionmakers and the Department of Interior and Department of AG very soon for it to be able to be addressed in the 2013 budget. So I think -- I'm sorry it's the end of the day, and I'm trying to rush and get you guys out of here, but what we really need is for you to all look at it, give us your comments and input and we were hoping that we could ask for that by a week from today, and then we can incorporate that and hopefully get it in a form that we could have the Chair forward this to the Secretaries of Interior and AG.

So that's sort of the path that we wanted to lay out from here, to get this information back to D.C., and get it considered in the 2013 budget process.

So, Pete, what did I leave out or what did you want to add?

MR. PROBASCO: Verna, you did a great job. The only thing I would add, is more of an emphasis. The PowerPoint is also going to serve the function that we're going back to people within some of these agencies that don't understand our program. If you'll recall, Sue, a couple years ago she was with us when we went through the various entities explaining the Subsistence Program. As everybody knows, this program is unique to Alaska, and, quite frankly there's a fair number of people there that don't understand the importance of this program so that PowerPoint is going to serve that function.

And I think the other point I want to emphasize is what LaVerne finished with, is that, I think the strength in this document is it coming from the Board. In other words, we envision a letter going back to the Secretaries signed by Mr. Towarak with these two documents.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there any questions of the Board.

Geoff.

MR. HASKETT: Not so much a question, is just to add some emphasis to what Pete just said, because obviously I'm involved in the Fish and Wildlife Service's
budget process, and I can second what Pete just said, I mean back in Washington and my other regions, Alaska subsistence is something they don't deal with, it's not something they're really aware of, it's not something -- it never has like a huge priority, so I think this is a great opportunity because the Secretary said that he wanted input from the Board, as opposed to any of our individual bureaus, so the ability you have, as Chair, for the Board to go ahead and send something back, I think, has not come up in quite as good a place before, so there's a real opportunity here for us to educate and give the Secretary what the budget needs are and let the Secretary make a determination and it goes back on down to the bureaus. So I think it's really good timing on this.

MS. MASICA: I would just include, when you're briefing folks, we can talk about it off line, but there's some targeted folks you ought to make sure you talk to.

MS. SMITH: Okay, thanks.

CHAIRMAN TOWARAK: I have a note here that we have to be cleared out of this place by 6:00 o'clock. Is there any action that we need on the budget, or I assume that the Staff is just requesting that we review -- go ahead.

MS. PENDLETON: Just clarification, so the comments go to you, LaVerne or.....

MS. SMITH: Yes.

MS. PENDLETON: Okay.

MS. SMITH: You can send them to me.

MS. PENDLETON: All right.

MS. SMITH: We'll work on them and get a new version out to folks. And we'll be sure we have everyone's approval before we, you know, put anything in front of the Chairman to send back, but we do need to sort of fast track this, and I apologize to go through it so quickly, but we'll look forward to your input.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: And I would just add that
LaVerne and I are hoping to go back soon, probably the latter part of May, maybe early June, we don't have a definitive date, but we need to get the documents down there prior to us traveling.

CHAIRMAN TOWARAK: Anything else on the agenda.

(No comments)

CHAIRMAN TOWARAK: If not then we are at the floor opening for adjourning.

MR. HASKETT: We need a motion for that.

MS. PENDLETON: Do you need a motion for that?

CHAIRMAN TOWARAK: (Nods affirmatively)

MS. PENDLETON: I motion we adjourn.

MR. HASKETT: And I'll second it.

CHAIRMAN TOWARAK: There's a motion, is there any objection to it.

(Laughter)

(No comments)

CHAIRMAN TOWARAK: Motion passes.

MR. PROBASCO: Thank you.

(Off record)

(END OF PROCEEDINGS)
CERTIFICATE

UNITED STATES OF AMERICA )
) ss.

STATE OF ALASKA )

I, Salena A. Hile, Notary Public in and for the State of Alaska and Owner of Computer Matrix, do hereby certify:

THAT the foregoing pages numbered 2 through 118 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically on the 3rd day of May 2011, beginning at the hour of 9:00 a.m. at the Dena'ina Convention Center, Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed under my direction;

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

DATED at Anchorage, Alaska, this 18th day of May 2011.

____________________________
Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/14