MEMBERS PRESENT:

Mike Fleagle, Chair
Geoff Haskett, U.S. Fish and Wildlife Service
George Oviatt, Bureau of Land Management
Sue Masica, National Park Service
Denny Bschor, U.S. Forest Service
Niles Cesar, Bureau of Indian Affairs
Bertrand Adams - Southeast RAC
Harry Brower - North Slope RAC
Sue Entsminger - Eastern Interior RAC
Ralph Lohse - Southcentral RAC
Myron Savetilik - Seward Peninsula RAC
Commissioner Denby Lloyd, State of Alaska
Representative
Ken Lord, Solicitor's Office

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CHAIRMAN FLEAGLE: Good morning. It's January 15th, a blustery spring day in Anchorage. 

CHAIRMAN FLEAGLE: As we wrap up our meeting we left hanging with the discussion on the deferral of the Yukon River fisheries regulatory proposals, but before we.....

REPORTER: Mike, hold on.

CHAIRMAN FLEAGLE: Excuse me, go ahead.

(Equipment malfunction - sound)

CHAIRMAN FLEAGLE: Well, let's take five more minutes and have some coffee while she gets the sound system figured out.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Okay, good morning, the Federal Subsistence Board is back on record, January 15, and, once, again, we left hanging the discussion on deferring the Yukon River proposals. And first, before we go there, we want to open the opportunity for testimony on non-agenda items.

Pete, do we have anybody that wishes to testify this morning?

MR. PROBASCO: Mr. Chair, I don't have anybody that's signed up but maybe they didn't realize that they had that opportunity again.

CHAIRMAN FLEAGLE: Anybody want to testify on non-agenda items.

(No comments)

CHAIRMAN FLEAGLE: All right, hearing
none, we'll go ahead and move on with our discussion.

Before we start are there any other announcements, Pete.

MR. PROBASCO: Mr. Chair. I have no
announcements at this time.

CHAIRMAN FLEAGLE: Okay. So we had
wrapped up a discussion as to the merits of deferring the
Yukon River fisheries proposals to a further time or not,
and at this time I'd like to open it back up for Board
discussion.

Commissioner.

COMMISSIONER LLOYD: Thanks, Mr.
Chairman.

You have our letter before you and I made
some introductory comments yesterday. I don't intend to
repeat them. But I wanted to address what may be some
either misapprehensions or misconceptions.

First of all, the State of Alaska
acknowledges that there's a conservation concern with the
chinook stocks in the Yukon River. In fact, the Board of
Fisheries has labeled them a stock of yield concern under
the Sustainable Salmon Fisheries Policy, and in their
regular schedule which comes up next January they'll be
considering whether or not to elevate that level of
concern for Yukon chinook to, say for example a stock of
management concern. So to the extent that some people
believe that the Alaska Board of Fisheries or the Alaska
Department of Fish and Game has not considered
conservation issues with regard to Yukon chinook, I hope
it's clear that that's not the case that, in deed, we've
been managing conservatively over the past few years
given the tools we have and that we take this issue very,
very seriously.

I had to cringe a little bit yesterday at
one suggestion which was that perhaps the Federal
Subsistence Board could take action soon, this year, and
that somehow within the span of a three year phase in
period that the Federal Board could reconsider that
decision if it learned something new and kind of take
some of it back and I guess I'd like to warn you in a
friendly way that that kind of back and forth in terms of
management decisions is very, very disruptive to users,
particularly users in very rural areas who expend a lot
of time, a lot of money to attend all the various
meetings that could have a bearing on their livelihood and lifestyle. So I hope that that suggestion is not taken seriously other than in the case of very, very meaningful and influential information. But if you're going to take action I would suggest that you do it based on being fully informed and fairly certain that the action you're taking is necessary.

My final comment is that we heard various folks say, anyway, that they believe that this issue has just been deferred, deferred, deferred and, as you know, it hasn't been simply deferred it's been fully considered a number of times and various decision-making bodies, including yourselves, have decided that up to this point there hasn't been sufficient information to take the drastic action that's embodied in the proposals in front of you.

So with those somewhat new considerations, Mr. Chairman, we're strongly urging you to utilize the Alaska Board of Fisheries schedule and system which will more comprehensively review the Yukon River as an entire drainage, as a complete set of fisheries and that soon thereafter, depending on how you might want to best schedule your activities, immediately thereafter or soon after the Alaska Board of Fisheries meets in January of next year, you can take action if you believe that that were necessary.

Thank you, Mr. Chairman.

CHAIRMAN PLEAGLE: Appreciate those comments, Commissioner Lloyd.

Board members.

George.

MR. OVIATT: Well, I -- Commissioner Lloyd, I appreciate what you've just said. I think what's bothering all of us is that we move, maybe, too fast with the wrong information and apply all our attentions against a solution that really is not the solution and we miss the point or applying our attentions to the real solution, which there's also a real need and a cry out there, and if this is a solution that's going to help then we move as fast as we can on it and I think it's the issue or problem we're all facing trying to figure this out.
And I know, Sue, yesterday mentioned, well, what about deferring this for one year and I think that's what you have indicated, too, and I think it's worthy of us to really discuss that. It would give the State a chance to do more studies this summer. It would give the Board of Fish a chance to meet in January, and this Board could meet shortly after that and make a decision.

So I think it's worthy of us discussing -- at least discussing that option. I'd like to put that out for a point of discussion.

CHAIRMAN FLEAGLE: Thanks, George. I think I'll weigh in. I just remember the content of the proposals from last year and the amount of testimony that we had that doing the changes requested in the proposals, the impact that it would have on the subsistence users in the lower section of the river and that wasn't even considering the people that were up in the mid and upper sections who were actually supporting the proposal, and that's where the conundrum, I think, was, was that we had effects -- negative effects to some users and unknown effects to other users based on the information that we had at the time.

Another real compelling issue that I had and raised at the last meeting was the fact that these proposals, these restrictions would only apply to the section of the Yukon River that passed through or adjacent to Federally-managed lands and that would mean a patchwork system of six places -- six stretches of the Yukon River where you would have gear restriction and the remainder would still be under State regulations and I still feel that if there's an opportunity to address the whole river system in an entire drainage manner like the Department is suggesting that that's the best way and then if what they do is not adequate then the Board, I think, can step in and place further protection for subsistence where it can and where it's necessary but I don't see that we have any new rationale or reasoning to act on this quickly.

I was actually a little surprised that so quickly after the vote was taken the same proposals were presented. And the Board doesn't have a process to deny proposals just on the fact that they've already been dealt with. We were talking about this a couple of days ago. And once those proposals are received they are given the deference of the process, which I think is good
but it does lead to these decisions where you're faced
with an issue that somebody just wants to keep trying to
put in front of the Board because they feel strongly
about it and I'm not denying that there is not any strong
feelings on these issues, but that it puts us in the
position of trying to decide what the appropriate action
is.

I believe that the appropriate action is
to continue to wait until we have further results of the
studies that are being done. I think I heard from the
Department that although the mesh size study was
curtailed last year due to the slack run, that that data
will be used and will be beneficial to the overall -- it
was planned to be a three year study, last year was the
second year. I know that there's an ongoing fecundity
study. I was actually down in Emmonak last summer just
to observe these studies and there's a lot of work going
on that I think we will benefit from if we wait.

And I agree with Commissioner Lloyd that
if we take action with the intent that we can withdraw
some of that action I don't think would be the
appropriate way to go. I don't know where we are very
successful at taking something back once we've put it out
but I know that it's still an opportunity as it was
suggested.

At any rate I'm going to support delaying
this further. And I don't know timeline, the next
fisheries meeting is obviously -- would be the most
beneficial because we'd have the Staff that are necessary
for that, however, that puts it two years down the line.
We could probably do like we did on an earlier proposal
and say not more than two years, which would leave the
option of the fisheries -- next fisheries cycle open but
if there were substantial evidence to take it up earlier,
we could do that through a special meeting or tack it on
to the wildlife meeting, which would be a lesser
possibility, I think.

At any rate that's my comments and I'll
open it up for more.

Geoff.

MR. HASKETT: Well, last night thinking
about this I came to about two or three different
options. And I think the request from the State makes
sense, I mean we ought to look at as much information as
we can when you're facing something like this but I also
heard from those folks who obviously felt very strongly
that this has gone on too long, that we need to do
something right away. So the more I thought about it, I
thought of a couple different ways we might do this.

I actually like what you just said, I
guess I have a question, though, for the State, instead
of having the April meeting where we made a decision
that's only going to be part of the river and, again I
think it's better to have the entire river covered, as I
understood it was three years out before anything could
really be finished or really be taken up; so the question
I have is if we wait until next January and we try to
coincide with that, is we could have a two year period of
time as opposed to a three, so those folks who are
concerned don't have any different timeline.

CHAIRMAN FLEAGLE: That three year period
is mentioned in the proposals as a phase in and that's
where that came from.

MR. HASKETT: Right. But I guess I'm
asking if that could be two years instead of three
because then what I heard people saying yesterday was
they were mostly concerned it's going to be three years
out and we're delaying another year then you end up
actually in the same place timewise if you could do that.

CHAIRMAN FLEAGLE: Well, I mean that
would be up to the Board to make that decision once those
proposals were on the floor. I mean that three years is
in the proposals and so I mean we don't have the ability
to change that.....

MR. HASKETT: No, I'm.....

CHAIRMAN FLEAGLE: .....now.

MR. HASKETT: .....just trying to get an
indication of whether that's even possible or likely.

CHAIRMAN FLEAGLE: Commissioner.

COMMISSIONER LLOYD: Mr. Chairman.
That's in your discretion, these are your proposals, you
will be taking action on them. To the extent that you
believe at that point that you want to proceed with them
and that a two year rather than a three year phase in is
necessary, that's subject to your deliberation.
CHAIRMAN FLEAGLE: George, and then Sue.

MS. MASICA: Go ahead, George.

MR. OVIATT: Sorry, Sue. I'm really not too interested in delaying this for a two year period, I really think that we should put a timeframe on it and move with what information we have and I think that should be shortly after the State Fish and Game has had an opportunity to meet. I would not be too much in favor of saying two years and then sooner if possible. I think we should say that as soon as we could meet after we've received the results of the State Board of Fish in January.

Thank you, Mr. Chairman.

MS. MASICA: The question, Mr. Chairman, that I had was -- my understanding is there are different studies and different pieces of data that were sort of the additional information to help us be better informed. Some of that would be available in April if we were to proceed as scheduled, some of it not because of what happened last summer. What if we have another situation this summer as happened last summer, will we be in a similar spot a year from now, well, we got to wait again because what we thought what was going to happen in 2008 and then didn't -- was going to happen in 2009 and then if it doesn't happen in 2009 are we positioning ourselves where we're going to be in the -- the potential for perpetual deferral because of lack of information, you know, are we ever going to really have all the information we could possibly have.

CHAIRMAN FLEAGLE: Appreciate that. I heard the Department say that they were going to use the data that was taken from last summer's portion of the summer that was completed, it wasn't completely undone and that they did say that it was important enough that they felt that they were going to complete the study next year, correct me if I'm wrong, Commissioner?

COMMISSIONER LLOYD: No, Mr. Chairman, that's exactly correct.

CHAIRMAN FLEAGLE: Thank you. So we do intend to have the data set complete next summer.

Niles.
MR. CESAR: It's a real problem both with people down river as well as middle and upper river and I obviously am not in favor of a two year delay. I mean I'm struggling with a delay until January, quite frankly.

I think that there is information and I believe that you could take that information and make some assumptions off of it, is that -- that valid, I don't know. I just don't believe that you're going to see much more earth shattering new information come out of this thing. And I believe it's been demonstrated that bigger mesh sizes catch bigger female fish, and we're concerned about that. Folks up river are very concerned about that as they should be.

A further delay has compounding impacts on the whole river. And by us further delaying this thing I don't believe that we're doing the best service to the subsistence fishermen, either ones, either ones down river or up river, they need to have some sense of something's really happening here.

Having said that I believe that we cannot delay past January or February of next year. I just don't believe that that's in the best interest of our program. So I don't have a problem with saying that the April is an unmanageable timeframe for us to really deal with this but waiting to 2011 is not something that I would support. And I really believe that if there is information out of this summer's program that leads us in a different direction then I'm assuming that we will be provided with at least some information, not the report, obviously that has to be dealt with by their board, their process, but it's catastrophic information that would make a difference on that river then I think it behooves everybody to share information.

So I would go along with the delay but not past January of February.

CHAIRMAN PLEAGLE: Pete.

MR. PROBASCO: Mr. Chairman. Mr. Cesar. I hear what you're saying but to put one more piece of information that has to occur is we have to provide the opportunity for our affected Councils to look and act upon the analysis to these two proposals. So if we were to defer this until after the Board of Fish, January 2010, our RAC schedule is February/March 2010 so that would put us into April for a Board meeting, which we
could do but I just wanted to make sure we recognize we have to have that opportunity for our Councils to look at it.

MR. CESAR: Yeah, and I appreciate that and I don't have a problem with that. I think that that is a logical kind of step to take.

CHAIRMAN FLEAGLE: So it sounds like there is at least some support to deferral it's a time issue so maybe we could break this down into two parts and deal with them separately. I see lots of hands so I'll go ahead and let the discussion complete. I'll call on Steve and then -- okay, Steve and then Sue. Steve, go ahead.

MR. KESSLER: Thank you, Mr. Chairman. I guess I see both sides of the issue too as others have and Niles has brought out.

One of the things that I was sort of debating in my mind is whether there would be some way to have both our Board and the Board of Fisheries listen to the same information at the same time so that -- you know, we keep having the public come in -- in our process the public comes in, in the State's Board system we keep hearing from the biologists, often we hear from the same biologists at both meetings and I'm just thinking that -- as I understand it the Board of Fisheries meeting is next January, perhaps there is a way that we could have both Boards come together at the same time and hear the same information and then, of course, deliberate and take separate action.

Now, again, the issue of how that would interface with the Regional Advisory Councils -- right now if we were to take this forward and meet in April we would use the information we have at hand. Now, will there be more information by next January, there may be some, there may be some information that's available for the fall meetings of the Regional Advisory Councils, but, you know, I think that if there's a way that we could move this forward in a very timely manner, we don't know what the Board of Fisheries will do and I believe that we have sort of delayed, deferred this issue. The Board has addressed it and has really, in my mind, decided to just delay and defer until we have more information and more information, well, we do have more information now, we do have the Bromaghin study which we -- I think it's pretty clear that there is a problem, we don't maybe yet what...
the correct mesh size would be to have a different -- for
information's coming fairly quickly.

So, anyway, if we could figure out a way
that we could jointly meet, hear the same information
from Staff and let the public, make sure that everybody
hears all the comments all at the same time, maybe we
could work something out and then act in a pretty timely
fashion.

CHAIRMAN FLEAGLE: Okay, before I go to
you Pete, we'll go to Sue and then George.

MS. ENTSMINGER: Thank you, Mr. Chairman,
for allowing me a question.

I just wanted to ask Pete a question, he
-- you gave the timeframe if it was taken up and had to
go before the Councils, is it the same timeframe for the
herring in Southeast that was deferred earlier, I just
want us to be treated equally.

MR. PROBASCO: Mr. Chair, if I may. Ms.
Entsminger. The Makhnati Island issue hasn't been
deferred to a time certain. What the Board passed was
not to exceed two years. So once that information on the
Makhnati Island becomes available then my Staff, during
a Board work session would present that to the Board and
then they would make a determination on what date they
would like to meet. They don't have to fall in line with
just these two meetings, they can actually have a meeting
time outside of that.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Thank you, Mr. Chairman. If
what I'm hearing here is that we would allow the State
Board and if we could meet at the same time or not
doesn't -- it -- it would be nice if we could hear the
same information. But looking at the timeframe they meet
in January 2010, our RACs meet February and March, then
I assume that this Board would come together probably in
April, would be the soonest that we could come together.
Is that time enough to cause some impact for that
summer's fishery on the Yukon?

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. Mr. Oviatt, If
the Board were to take action in April of 2010 on
specific proposals those could be implemented for the
season through our other special action process, et
cetera, and Ken may want to expand upon that, but we do
have the ability if the Board takes action.

CHAIRMAN FLEAGLE: Lester.

MR. WILDE: Thank you, Mr. Chairman. I
think we all realize that there are a lot of different
things that are affecting the size change of the salmon
in the river. We need to take the information that is
collected, I don't know whether we have any information
that is collected out in the Bering Sea on the bycatch on
the size of salmon that they're catching out there, also
the global situation out in the ocean, and we -- we
really -- I -- in my mind I don't think that the mesh
size is the only culprit that's causing the reduction or
the poor returns that we've been getting into the river,
there's a lot of different avenues that we need to
investigate in order for us to come with a decision that
we -- because it's our livelihood that we're discussing,
we're talking about.

Our people have always shown that they've
had the ability to be able to control what their take is
in the river. And if you have enough people that are
concerned like we are on the river, we want to find the
answer also, and we want to be able to make a decision
that are based on facts and not on speculation.

Delaying these proposals would give us an
opportunity to get more information because just by mesh
size alone we can't determine exactly how to handle the
situation, we need to get the information from all the
entities that are involved in the problem with the
fisheries.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Lester.

And this Board, I know it's changed in composition
somewhat since we were presented, but let's see it was in
March '07 I believe when we were presented by the
Department a study that talked about the fish coming into
the river and there were four-- I remember four
possibilities as to talking about the size of the fish
and you mentioned a couple, the high seas drift
fisheries, the weather affecting the temperatures of the
water and not stirring up the nutrients that the -- the
So, next, is Commissioner Lloyd.

COMMISSIONER LLOYD: Thanks, Mr. Chairman. You had been discussing somewhat about scheduling and meetings and things and I want to follow up as I have in regard to other proposals, that we would invite and welcome RAC Chairs, RAC members, Board members for that matter, to attend the Board of Fisheries meeting so that you would be listening to the same information. Further, we certainly hope that our respective staff will be working together leading up to both the Alaska Board of Fisheries meeting and to your Federal Subsistence Board meeting so that we follow our covert mandate here of not having dueling biologists but actually we're going to be working with the same level of information, same data sets, et cetera.

But to the extent that you, your members, or RAC Chairs could benefit from getting the comprehensive suite of information that will be available to the Alaska Board of Fisheries, please do come, please do attend and then subsequently it sounds like the RACs will have their independent meetings so they'll be fully informed if they do come and they can develop their own recommendations for your subsequent meeting if, indeed, that's how you choose to schedule.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Sounds like we just solved our field trip issue, Sitka, January, February.

(Laughter)

COMMISSIONER LLOYD: Mr. Chairman. That meeting is January 2010, I anticipate it will be in Anchorage.

(Laughter)
COMMISSIONER LLOYD: But you can come to
Sitka too if you'd like.

CHAIRMAN FLEAGLE: All right, further
discussion.

Geoff.

MR. HASKETT: Well, I guess I'd like to
-- it seems to me, though, as opposed to just being
invited, I like the idea of actually having an official
meeting where it shows we're very serious about this and
we actually deliberate after we hear some information,
not just have a waiting, so I think that would be my
preference.

CHAIRMAN FLEAGLE: I think that would be
something that we haven't done before and have to have a
lot of discussion as to how and I'm not sure that we
could do that discussion right now on the table to get
together to complete the different regulatory agencies --
I mean I'm not saying it's impossible but we'd need to
really look at the legalities and all the possibilities
and I think that that's probably something Staff should
work on as a suggestion.

Geoff.

MR. HASKETT: Okay, well, I guess just
something to look at, not to make a determination today
but see if it's possible if we could work it out that
way.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. We'll work
with Commissioner Lloyd's staff to see -- I got all kinds
of yellow lights going off as far as trying to get two
regulatory bodies together to go beyond just listening to
information and then deliberate. So it'll be difficult
1 to sort through all of them right now but we will look
2 into it.

CHAIRMAN FLEAGLE: You see yellow lights,
I see red flags.

(Laughter)

CHAIRMAN FLEAGLE: And Ken's probably
seeing stop signs.
(Laughter)

MR. LORD: No, actually I'm not.

CHAIRMAN FLEAGLE: Oh, okay.

MR. LORD: I think that it could be done but from our program perspective the three things we would need would be an opportunity for the Councils to develop recommendations beforehand that we could act on, a public notice of the meeting and a record, an administrative record there.

CHAIRMAN FLEAGLE: Well, that's something that Staff can certainly look at the possibility if the Board chooses to go that way.

Commissioner.

COMMISSIONER LLOYD: Thank you, Mr. Chairman. We have a similar process with the North Pacific Fishery Management Council.

We have a protocol committee between the two bodies that is a subset of members and then once a year, at least, the attempt is made once a year to meet with both full bodies together. That is an information exchange however because various mandates are different and schedules are different, but the idea of having those once a year meetings between the two bodies is to put issues of common interest on the table and to better understand between the two bodies how respective action will be subsequently taken.

It sounds like we could accomplish something along those lines even if we stop short of having full deliberation and decision-making by both bodies at the same meeting.

CHAIRMAN FLEAGLE: Thank you. George.

MR. OVIATT: Yeah, I like that idea because that then lets us allow time for the RACs to hear this and then we can move shortly after that as to what this Board would want to do.

CHAIRMAN FLEAGLE: Pete. Pete.

MR. PROBASCO: A lot of stuff is going through my head right now but keep in mind also Board
members that January, is also our wildlife meeting, and
if it continues as in past years, we usually deal with
somewhere in the neighborhood of 55 to 65 proposals so we
also have that work load as well.

CHAIRMAN FLEAGLE: Niles, and then Sue.

MR. CESAR: It wouldn't be -- I mean it
would be possible for us to hold that wildlife meeting at
the end or before the Board of Fisheries so that we
wouldn't incur a tremendous amount more of expense to do
that. For example, if we met in Sitka and we attended
and listened, you know, I'm not clear about
deliberations, I'm actually not much in favor of that
together, but listening and getting the information and
sharing it, we could do that the first part of the
meeting or even the last part of the part of the meeting
and still have our wildlife meeting accomplished. So I,
you know, I think I speak in favor of doing this and
trying to adjust our wildlife meeting somehow and maybe
it isn't jointly in the same town but clearly right close
or in conjunction with this Board of Fisheries meeting.

CHAIRMAN FLEAGLE: Sue.

MS. ENTSMINGER: Yeah, thank you, Mr.
Chair. I would have another suggestion and that is that
all the Councils on the Yukon River also meet somehow
jointly prior to the meeting so -- I believe strongly
that you're going to have a continual, you know,
polarized situation if we don't begin to try to work
together also and when you're face to face on contentious
issues you can work out things a little differently than
if you're apart, separately.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chairman. Ms.
Entsminger. I think the concept of getting the three
Councils together is a good one, we have tried in the
past and we've had very limited success. The most recent
one was back in the early 2000s where we did one in
Wasilla but it's something we can explore, very time
consuming. If you recall that meeting was almost a week
long to complete. While we had the meetings prior to get
the Chairs and all that and so you had all the prep
meetings up to the actual meeting so, anyway, we can look
into that.

CHAIRMAN FLEAGLE: Geoff.
MR. HASKETT: I understand totally Niles concern but I didn't think -- I thought we said no deliberations, I think the intent was to put the groups together to hear all the same information, have meetings close together but the deliberative part would be separate.

MR. CESAR: Yeah, and that term.....

REPORTER: Niles. Niles.

MR. CESAR: That term was used by someone and it may not have been us, I just don't remember quite frankly. But the term deliberations was used and so I'm obviously not in favor of that and our Board is not suited to do that, I believe.

CHAIRMAN FLEAGLE: All right, I got Bert next.

MR. ADAMS: Thank you, Mr. Chairman. I would also support -- I appreciate Commissioner Lloyd's invitation, you know, for RACs to attend the Board meetings but I think they also need to be coordinated so that we don't have them at the same time. An example here is, as I understand it, the Board of Fish is going to be meeting in Sitka from February 17th to the 26th, well, our RAC meeting is going to be held in Petersburg from the 24th to the 26th, so there's a little bit of, you know, conflict there and I hope that, you know, these kinds of situations can be leveled out so that RAC people would be able to attend these Board meetings without having to rush to another meeting.

CHAIRMAN FLEAGLE: All right, we've had a lot of discussion let's see if we can start wrapping it toward closure. It doesn't sound like there's too much opposition to at least waiting a little longer and not holding the April meeting. Maybe if we could just break it down in pieces and talk about the deferral to times. Is there a motion to further defer these proposals, not dealing with the time right now, could we just get that out of the way.

MR. HASKETT: Mr. Chair, I'd like to make that motion to defer.
CHAIRMAN FLEAGLE: Is there a second.

MR. OVIATT: I'll second.

CHAIRMAN FLEAGLE: All right, we got a second.

The purpose of the motion is just to gage whether there is interest at least to defer, we can discuss the deferral to time once we determine that we are all in support of deferring.

Discussion.

George.

MR. OVIATT: Mr. Chairman. Why couldn't we put some timeframes on that motion to state that we would not delay this any longer than April of 2010.

CHAIRMAN FLEAGLE: Okay, if we think we can get there then let's do that, do you want to withdraw the motion and work on it a little bit.

MR. HASKETT: Yeah, I would like to withdraw, I think that's actually what we should do.

CHAIRMAN FLEAGLE: All right.

MR. OVIATT: I'll withdraw my second.

CHAIRMAN FLEAGLE: All right, then let's get a motion on the floor that we can deal with and work with.

(Laughter)

CHAIRMAN FLEAGLE: George.

MR. OVIATT: I guess I can try. Mr. Chairman. I put a motion on the floor that we defer, is there a title to this, or -- Yukon fishery regulatory proposal for a time period no later than April of 2010. Would that be sufficient, Pete.

CHAIRMAN FLEAGLE: Is there a second.

MR. HASKETT: Second.

CHAIRMAN FLEAGLE: Okay, we do have a
MR. OVIATT: Well, I think it's been well discussed. But the points are that we would allow -- we going along a lot of what you said, Mr. Chairman, that we would allow additional time for studies to be completed this summer, hopefully, and some of that reports -- the opportunity to meet with the -- along with the State Board of Game and opportunity to have the State Board of.....

CHAIRMAN FLEAGLE: Fish.

MR. CESAR: I intend to support that. I am somewhat concerned about the flow of information back and forth between us and the Department as to lead up to -- at the end of this upcoming fishing cycle. And I know that we've committed to -- that our people would cooperate with the Department and share information so that as information becomes available it gives us a chance to, at least run through any outside information and provide updates to our RACs because I want us to -- you know I don't want us to hit January and it sounds like at least one RAC is going to be meeting in January already and so there'd be virtually no time that they will have so I believe whatever information we can provide to them before that period would be beneficial to them. Am I wrong, Bert, are you meeting in January?

CHAIRMAN FLEAGLE: Bert.

MR. ADAMS: No, in February.

MR. CESAR: Oh, February 24th.

MR. ADAMS: Right.
MR. CESAR: Okay. Okay, my mistake. But I still believe that positive sharing of information early on as we get it would be in our best interest to share it.

CHAIRMAN FLEAGLE: Okay, appreciate that. Further discussion on the motion.

Bert.

MR. ADAMS: Yes. Just a clarification here, Mr. Chairman, Mr. Niles, through the Chair. You know, the Board, am I correct is going to be meeting in Sitka February 17th through the 26th, and then we have our meeting the 24th through the 26th and, you know, if I were to go I'd be away from home too long and, you know, I can't jump from one meeting, you know, just off the cuff to another and my choice would be, of course, to go to the RAC meeting and maybe send a designee there but I just wanted to clarify the fact that these meetings, you know, should be coordinated so that we would have time to prepare after our RAC meetings or before, you know, for the Board of Fish or Board of Game meetings, for that matter.

CHAIRMAN FLEAGLE: Response, Pete.

MR. PROBASCO: Yes, thank you, Mr. Chair. And what we would be looking at, Mr. Adams, is the schedule for 2010, you're looking at 2009 and that may be challenging when we look at Makhnati but 2010 is what we would focus on for this.

Mr. Chair.

MR. ADAMS: Thank you, Pete, but I was just using as an example of what, you know, I would like to see avoided.

Thank you.

CHAIRMAN FLEAGLE: Are we ready for the question on the motion to defer to no later than April 2010.

Steve.

MR. KESSLER: Just a little bit more follow up. I think that -- and I expect to vote in favor of this, but I think we should take a look at what our
different options are for, you know, a joint meeting and not deliberation, see if there is a way that we can bring the Councils in so that we can have a rapid deliberation on this. You know if the Board of Fisheries meets in January, we're sort of pushing a lot of info -- a lot of timelines, if there's brand new information that comes forward at that meeting, have that information go out to the Regional Advisory Councils in a winter meeting and have the Board meet in April, I mean I think that's going to be very difficult to do that. So what we need to look at efficient ways to bring information in early, have all that information available as best as we can to the RACs so that they can meet. I think it's going to have to be a meeting before January, I just don't see how everything can be put together. But, anyway, that's really for Staff to work out how all that's going to work out. But I see timeline difficulties and I think that we're going to have to look at innovative ways to meet that April date given that Board of Fisheries meeting is happening in January.

CHAIRMAN FLEAGLE: Pete says we'll be fine.

All right, Lester.

MR. WILDE: Thank you, Mr. Chairman. I just wanted to say one thing, you know, in making this decision where you're affecting a lot of lives on that river, there's a lot of people that are going to be having a lot of problems with not just -- with the -- with the runs coming in, with the livelihood and their dependency on their ability to be able to collect the resource and be able to utilize it to their advantage but I just want to let you know, you know, this decision has to be made with all the information that's there. We don't know if all the information that is pertinent to this is going to be in at that time, but I know with my Council we're going to have to look at this real hard because it affects us all, every one of us in that region. So giving yourself a timeline I think is a good idea but also remember that we need all that pertinent information before a decision is made.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. And it sounds like that's our goal and so I'm going to go ahead and recognize the question on the motion.
MR. PROBASCO: Thank you, Mr. Chair. The motion before you is to defer the two proposals, which are FP0912 and 13 to no later than April of 2010. And, Mr. Kessler.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Yes.

MR. PROBASCO: Ms. Masica.

MS. MASICA: Yes.

MR. PROBASCO: And Mr. Oviatt.

MR. OVIATT: Yes.

MR. PROBASCO: Motion carries, six/zero.

CHAIRMAN FLEAGLE: All right, thank you. Appreciate all the input everybody had into that discussion.

We're now moving to Board discussion of Council topics with Regional Advisory Chairs or designees and then we'll do the DVD after that, so we'll start the Council Chair discussion and I think I had something....

MR. KESSLER: Mike.

CHAIRMAN FLEAGLE: Go ahead.

MR. KESSLER: Would it be possible just to take a couple minutes so we can switch over and have Denny come back in.

CHAIRMAN FLEAGLE: Oh, yeah, good idea, I need a new cup of coffee anyway, 10 minute break.
MR. KESSLER: Thank you.

CHAIRMAN FLEAGLE: Break.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good morning, Federal Subsistence Board is back on record. And I did find my talking points for the Council Chairs meeting, and most of it already has been said.

So this discussion is for an opportunity for the Council Chairs to have an open discussion with Board members on topics that we haven't already dealt with in the meeting. I encourage open discussion and these discussions are part of an open public meeting. Council representatives are free to introduce administrative and resource oriented matters for discussion, however, please keep in mind those who wish to participate in the discussion must still be recognized before speaking and the meeting requested by the Eastern Interior Council Chair should focus on ways to improve the dual management system, whether the State is in compliance with ANILCA is outside the purview of the Federal Subsistence Management Program. Council Chairs should be aware that they are subject to the Hatch Act and, therefore, approaches identified for improving the dual management system cannot involve influencing legislators. Any list of ideas developed during the proposed meeting will be forwarded to the Federal Subsistence Board and possibly to the Secretaries of the Interior and Agriculture for consideration but will not be afforded .805(c) reference.

And leading out with that we're now open for discussion.

Bert.

MR. ADAMS: Thank you, Mr. Chairman. I appreciate this opportunity that we have, you know, to have an open dialogue between Council Chairs and the Federal Subsistence Board.

I'd like to elaborate on a couple things here and I apologize, you know, if what I say might, you know, touch some touchy spots in people's hearts but I feel it needs to be said.
You know, ANILCA says that the State and the Federal government must work together on subsistence resources in the state of Alaska, and that the State of Alaska will manage resources as long as it is under Federal law, which is under the guidelines of ANILCA. The State has come out of compliance because of a conflict with the State Constitution that says all resources belong to everyone and to discriminate, you know, against any one group of people was their reason for being out of compliance. And I know that there were several attempts, you know, for the State to come into compliance but you've got these lawsuits that are pending that have to be taken care of before, you know, that effort is made. And so I just wanted to, you know, make mention of that.

And I'd like to also, if I might, Mr. Chairman, share with you some insights that I believe that the American people are really ignoring, passing up or not aware of, and it has to do with our Constitution. You know I didn't intend to talk about this until, you know, Diane McKinley mentioned, are you going to give an educational presentation on the Constitution, I'd just like to take a minute or two and elaborate on a few things that I have discovered.

One of the things that I found out, I'm not an attorney for one thing, you know, so I wouldn't be able to buck heads with Ken or Keith or, you know, Steve on any issues that are a little more detail, but I've had conversations with attorneys and I've gone head to head with them on certain issues that I'm going to share with you today.

One of the things that the Declaration of Independence says, is that, we're all created equal in the eyes of the Creator, and that among these are the protections of our lives, our liberties and our pursuits of happiness. And a sentence or two later it goes on to say, and I mentioned this several years ago, I think it was at a meeting in Ketchikan, that when the government no longer does these things then it's up to the people to either alter or abolish that government and start a new one that is based on those very same principles and that is the protection of our lives, or liberties and our properties and our pursuit of happiness. I don't think that we're at a point where we need to abolish our government just yet but I do believe that there's a lot of room for altering. And I think, you know, we need to keep that in back of our mind as we go through all of the
proposals that are before us, you know, are we restricting too much or, you know, are we taking more and more rights away from individuals to go out and enjoy the resources that are there for us.

And then there are some issues in the Constitution itself that really bothers me. And when I was going to college I took this course on the US Constitution, a whole semester of it, and what we did is we put it apart, analyzed here and there and then we put it back together again, and, you know, when an individual by the name of Alexis Tocqueville, who is from France, sent by his government over to America in the mid-1800s, and his purpose was to come here and find out why America became such a powerful nation in such a short order of time. It took other nations hundreds and even up to a thousand years to reach their pinnacle of success and, yet, in about 50 years or so America began to flex its muscles and make a presence in the world. And so he was sent here to find out what was going on that made us such a great nation. And he spent about 18 months here and then he went back to France and he wrote this book called Democracy in America. And there are three things that he noticed when he went through the cities in America, is that, there were strong families and the school system was teaching the Constitution in their classrooms, they were doing what I did when I took this course at Brigham Young University, they took it apart and put it back together and the purpose of that was to be able to know and understand, you know, what contained -- what is contained in that instrument that made us what we are so that we wouldn't have to go to war and defend it, that we can do it with words. And so that's what I'm going to try to do today, Mr. Chairman, is use my knowledge and understanding to help us realize some of the things that we might have strayed away from or what we can do to bring back again.

There are a couple of amendments in the Constitution that I think was very damaging. One of them was the 16th Amendment, which authorized the Federal government to impose taxes on our direct incomes. This was passed in 1913 and it really wasn't intended by Congress -- you know, either parties, it was a contest between the Democrats and the Republicans to introduce this bill but neither one of them wanted it because one didn't want the other one to prevail in it but it got introduced into Congress and, of course, you know, it was passed by both the House and the Senate. Well, it required two-thirds of the vote of the American people
for it to become an amendment to the Constitution and low
and behold it happened and so now we have, what I think
is one of the most damaging amendments to the way that
our government functions. And it wasn't until the 1930s
during the Depression when this began to blow out of
proportion and I'll leave it right there, but the power
to tax as some of you may have read some of my articles,
is the power to destroy. And when you take, you know,
hard earned people's money and put it into one pot and
try to redistribute it, you know, nations have tried it
in the past and it's never worked.

And then the other one has to do with the
State's rights issue and that's the 17th amendment.
Prior to that Senators were appointed by the State
Legislatures and their purpose was to go to Congress and
represent the best interests of the states.

The Representative was elected by the
people of the states and their purpose was to go to
Congress and represent the best interest of the people.

Now, I don't know why the 17 amendment
was passed but it also had to go through the votes of
both Houses and two-thirds of the American people, and,
now, today the Senators are elected by the people and so
they are more responsive to the people than they are to
the states and so, you know, the State's right issue and
so forth and I think it was this amendment that has
weakened the states in that regard.

So I really -- you know, I'm not going to
try to elaborate on what we can do to remedy those
things, all I can say is that, you know, if see something
happening that is not right then it is our right as
American people to either, you know, make changes as
necessary so that we can go back to the principles of
protecting our lives, our liberties and our pursuits of
happiness.

And I need to make mention, also, that I
think it's Article 1, Section 8, paragraph 17 or 18 about
Federal government's ability to have control or own land,
and it says in -- and one of the things about the
Constitution is that the Constitution was designed for
the purpose of controlling government, and the
governments -- of the states and the Federal government
and so forth was designed to control people, and so, you
know, that concept needs to be brought back again. And
so that section only authorizes the Federal government to
have control of lands that are 10 miles square for its central body of government, we're talking about Washington D.C., and then any other lands in the states that has anything to do with Navy bases, Army bases, post offices and things like that, and the Federal government cannot come in and take land away from the people in the states without the consent of the people. And so, you know, I need to say that ANILCA is a lot different than all of the other states because it was a cooperative -- well, I say -- ANILCA did come in and you know with the consent of the state of Alaska, so we're okay there, it's just that I think, you know, that these things need to be also, you know, deeply looked into and find out what we can do to really make it work for us.

That's enough on that, Mr. Chairman, I'll just make a couple more comments here.

The State of Alaska last year, if I remember correctly, came up with an idea that they should have some working groups, you know, to take care of issues that can be brought to, you know, the front during meetings, regular Board meetings and so forth and I -- I rejoiced at that idea and I think it's a real good one. But I didn't, you know, remember them saying, you know, who was going to be included in this and I really think that RAC Chairs should be involved in that working group as well as the community. We should be as transparent as we possibly can when we have these working group meetings, okay, much like the way that other public meetings and again it must comply with FACA as well. So we need to be transparent in that particular issue as well.

And yesterday I saw something that kind of turned on the light bulb and it had to do with the C&T determination with Ninilchik. I think the Board needs to be really consistent with their C&T determination. And I'll bring up the issue of Gustavus, which the Board, you know, accepted that area of C&T a couple years or so ago. And I have to -- you know, this was brought up in our RAC meeting and I brought up the issue, you know, that one individual submitted that proposal and it managed to make it all the way up to the Board and it got accepted and I agree, you know, that anyone can submit a proposal. But the thing that disturbed me about this particular issue is that there wasn't any public hearing, they didn't try to involve some of the other communities that was going to be affected like Hoonah and, you know, the communities that were around them, and so I think, you know, that we...
need to be really consistent with the C&T proposals.

I know that every community has their own special characteristics and so forth, you know, and we must consider those as well and I think a little bit more consistency is in order here.

Excuse me, my mouth is getting dry.

But, Mr. Chairman, I appreciate the opportunity you've given me to express these opinions to you.

We do still have the greatest nation in the world and it was the US Constitution that made us that and when we start drifting further and further away from those principles that the Founding Fathers established for us and I believe that they were very wise people, then we need to do something about bringing back those principles that made us a great nation.

Alexis Tocqueville, and I'll just use this as my closing remarks, said in his book, Democracy in America, he said America is great because America's good and America will cease to be great only when it ceases to be good. And we have seen 19 or so great nations that have come and gone throughout the history of man, and they started off, you know, with very strong principles and rose themselves to the powers that they were but they all fell, and another thing that Tocqueville mentioned was the fact that nations don't necessarily fall by consequence without -- they fall because of erosion from within, and, so, you know, just leave you these thoughts and appreciate the opportunity to express these to the body.

Mr. Chairman.

Gunalcheesh.

CHAIRMAN FLEAGLE: Thank you, Bert. Sue.

MS. ENTSMINGER: Thank you, Mr. Chairman.

And thank you for the history lesson, Bert, it's very important, I agree.

If I could ask a question about this Hatch Act, I'm a little bit -- I didn't read it so I'm not sure -- you're just saying we cannot come up with anything at this meeting that would institute lobbying
legislators, is that, in short, what you're saying?

CHAIRMAN PLEAGLE: Ken.

MR. LORD: That, in short, is what we're saying, yes, that's right.

MS. ENTSMINGER: Well, I finally learned something. Okay.

MR. LORD: I'm happy to -- I can get you more materials on the Hatch Act if you'd like.

MS. ENTSMINGER: Okay, then that.....

MR. LORD: It's something you should know about.

MS. ENTSMINGER: .....brings me to a question. As an individual, if I wanted to lobby, I can just never -- what am I limited to?

MR. LORD: You have to do it in your own individual.....


MR. LORD: Sorry. You'd have to do it in your individual capacity, not in your capacity as a Council member.

MS. ENTSMINGER: Am I limited to saying that I might have this experience of serving?

MR. LORD: We need to -- we probably should talk off the record about this.

MS. ENTSMINGER: Okay.

MR. LORD: Yeah.

MS. ENTSMINGER: Well, I'll try not to jump on the Hatch Act here. But I'm going to talk about ways to improve dual management, I believe that's what we're after here.

And some of the discussion at the first day of the meeting that I heard brought up some questions to me but the -- if I look, you know, overall looking at the meeting we just had there was almost everything
probably could have been done prior to the meeting without having a meeting of three days based on if we work on dual management and you have a system, so I'm going to push hard for a system between the State and the Federal that a lot of these, you know, the idea to throw a proposal out there and go through this horrible process that could have been done prior to and the proposal never got to the Board level, that maybe there was a solution to it before it ever got to the Board level. I mean you did talk to it, Pete, how that could be done. So I mean that is one of the things I think is very, very important. And if there's a way to have RAC involvement in that process that would also be important.

And I guess I want to, you know, both the State and the Federal, I see -- we are volunteers, maybe some people have the luxury of, you know, to go to all these meetings but it's very challenging to get to all these meetings and I don't know how we can make it a little easier on volunteers. Like for me, I can't just run to an airport and get on a plane, I got to either drive to Fairbanks or Anchorage so it becomes real difficult to participate. You have to ask yourself how much time you want to dedicate to it. And at this point in my life it is very important to me to see Alaska working together and not having so much layers of government that make it hard for individuals to be involved, and that's what we've gotten to here, I think, now. So any way that we can minimize that is vitally important, I don't know, even teleconferencing ahead of time. Because one of the main concerns I have as the Chair of the RAC is a lot of things come up at a meeting that I had never been aware of prior to the meeting so then you don't have good knowledge to make decisions at those meetings and I think the Staff people, somehow or another needs to try to get us more involved prior to the meetings. And I know we can sit in on InterAgency Staff meetings but again it becomes real challenging the amount of time you can do that also and keep working. So I guess, you know, there was a time you had the RAC Chairs ask for some type of income to help them out but I guess it cannot happen because of FACA is my understanding.

I'm going to leave it at that and hope some other Council Chairs have something to input to it.

CHAIRMAN FLEAGLE: Lester.

MR. WILDE: Thank you, Mr. Chair. I am at this time going to school and being at my age I am
going to the school of becoming a practicing elder and
being in that school has taught me a lot, you know, with
our elders they've taught us tolerance of each other and
the ability to be able to understand the situation and
the problems that are being forced on us, in some cases
by different cultures other than ours.

And one thing that we must all understand
is that there are lives that are out in the villages that
you don't even know of or have heard of in the area that
you are dealing with. But tolerance is something that
you've got to be able to go out and see. You've got to
go out to the villages, you've got to go out and be
hungry with the people that are living there. There's a
piece in the newspaper today from Emmonak describing some
of the situations that some of the people out in the
villages have to go by, shortage of fuel, the price of
fuel going up as far as -- as high as it has this last
season and this price will be with us until the next
delivery of fuel which is going to be next -- first part
of next spring, so we're going to be living with the $7
out in the Yukon -- out in Hooper Bay where I come from.

But one of the problems that I've seen is
the abuse of customary trade for cash with the resource
that we are trying to protect in-river, our king salmon,
which is the number 1 salmon resource that we have and
collected by every one of the indigenous people that are
living along that river. And I think one thing that
needs to be done is to -- you know we have regulations
for all of our -- there's -- to our subsistence resources
that we deal with and I think one of the things that need
to be looked at is the customary trade for cash, that is
being abused in some cases along the river. And I think
if I'm able to at the next meeting, I'm going to have
either myself or our Staff put in a proposal to be able
to regulate so that we can regulate that customary trade
for cash with the resources that are being deleted, I
guess you could say, but I think -- I just lost my -- I
just lost my train of thought, but anyway that's one
thing I wanted to get before you, is that, you know, we
have to be tolerant, you have to be tolerant. We all
have to be tolerant with each other. And we need to be
able to understand what it is to be hungry. Hungry is
not missing a meal. Hungry is being so hungry in your
body for the nutrition that your body is used to.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Lester.
Other discussion. Harry.

MR. BROWER: Thank you, Mr. Chairman for giving me the opportunity to communicate to you this morning. You know it's -- I've been sitting here listening to the discussion about fisheries, I don't -- I have to say that I'm fortunate I don't have to see that type of problem up in my area. If you're talking bowhead whales it would be a different issue for you, coming from me, and for the Board to learn more about bowhead whales. That's one of our biggest resources up on the North Slope. But in comparison to what type of discussions that occur here with the resources and the user groups is somewhat difficult to comprehend because it seems to be lacking, some of the communications that really need to occur to address the problem.

You know I make that comparison in terms of how we, as Alaska Eskimo Whaling Commission and the whaling communities communicate to manage one resource, the bowhead whale, we all have to come together because we're under a quota system that's been imposed on us by international regulations for whaling. So I just sit here and I made my observations, you know, there was a process that was in place early on but I couldn't really understand why the process was taken out of the system as it was being addressed, it was the very issue that we are talking about, you've been talking about for the past few days, in regards to this Yukon fisheries. I remember -- and there's been change in Staff, in some Board members since I've been part of the Council, you know, it's been part of my work -- I'm currently the deputy director for the Department of Wildlife Management in the North Slope Borough, and it's been part of my work to monitor the Federal Subsistence Program. I started off as the subsistence coordinator, research coordinator for the North Slope Borough, Department of Wildlife Management, and it was part of my job to monitor the Federal Subsistence Management Program. I'm not going to claim that I know everything about the Federal Subsistence because it's a big, big organization to be monitoring and there's a lot of information in the mandates for each of the Federal agencies and trying to learn all that I don't think I can claim to say that I know it all, I don't and I acknowledge that. But just from my observations, you know, there was a process I was alluding to just a bit ago in terms of a means of trying to answer the concern of the resource problem that the user groups are being subjected to in terms of the availability of the fish along the Yukon River, and that was utilizing the RAC --
the tri-RAC, each of the three groups that were along the Yukon River meeting to see what was the best process to use and make recommendations to the Board to make their decisions. And I forget what the protocol was on, I can't -- like I said, I can't remember it all, but it's been several years and I was just mentioning to one of our Staffs here in terms of what happened to that process that was already in place, I'm just thinking that I'm going back into a Deja vu about trying to address the concern that was being addressed five years ago, I guess that train of thought's been removed and new people have come into play within that transition in time -- over time, the State's gotten involved, it was the part of all the groups, the user groups, the resource managers from the Federal and the State working together to try to address the concern that you're dealing with today.

I thought that needed to be brought back on the table for this to really -- to address the concerns of the user groups, you know, it's been five years already and yet you're still making the delays and defer to take action on a process that probably could have been addressed some time ago if the continuation of one of those protocols had been just kept moving along and communications between the Chairs or the Regional Advisory Councils themselves, the three of them coming together to see how they can best manage the resource, with the involvement of the Federal agency and the State. I thought that had been a pretty good process in trying to address the concern and, yet, you're still struggling to try and answer the issue.

And there are just my observations that I'm sharing with you, and I think bringing that tri-group back together and involving the subsistence users to help generate the discussions as to the best approaches to manage the resource. I mean this is one resource. I'm just having thoughts and recalling what the process was, it was the three Regional Advisory Councils along that Yukon River to come together and work on a solution that would help benefit the resource and the users at the end. And I was working with Ida, I was trying to remember her name yesterday, Ida Hildebrand, that had set up some of these Council meetings and went to the communities to help document some of the concerns of the people in regards to how to best manage the fisheries for just this one -- I wrote it down, that king salmon -- I'm not a fisherman, I am not sure of all the different names of all the salmon that the fisheries utilize. If you were talking bowhead I could be very specific on that and all
the subspecies of a salmon, I can't say I know them all,
it's just that I was writing notes down on what fish you
were talking about when you were giving the different
names, the chinook or something like that.

I'm, again, learning through the
processes, and I just wanted to share some of my thoughts
and observations for how to better approach this, you
know, I think -- I thought there was -- at one point in
time when the meetings were between the three groups and
proposals were being generated by the three groups and
submitted to the Board on the way forward somehow got
lost along the way and yet you're still trying to answer
that very concern today. If those records could be
brought back at some point in time for your information
to review what was accomplished and why it was stopped
I'm not sure if it would help the Board to make its
decision, or the Alaska Board of Fisheries to make its
decisions, there was some -- I just recall that there was
proposals ready to be submitted to both Boards to
consider on the way forward of the management of this one
species.

In regards to other issues I think
going to the Regional Advisory Council Chairs back to
discussing some of their agenda topics might be helpful
to see where we could support each other, you know, in
comparison to the process that's being used now. I think
that's been something that's been lacking, and I think we
need to acknowledge that at some point in time. Like I
said I'm thankful that you provided us this opportunity
this morning. It's something that it was much -- a
little bit more condensed with the RAC Chairs meeting
before the session of the Federal Subsistence Board, and
we aired out some of our differences and seek, you know,
support on each proposals that were within specific
boundary lines. We have boundaries that have been
introduced by the Federal Management Program that
resources don't recognize and users utilize both sides of
the boundary and, yet, we're only to speak about the
region that we're representing. I use the North Slope
Regional Advisory Council boundary as the North Slope but
outside the boundary in the Gates of the Arctic around
Anaktuvuk, their boundary line is right in the middle of
the community so they're able to traverse both sides of
that boundary and seek resources that they'd like to
subsist on at a given time, so I share that with you.
And that -- without that communications with -- without
the exchange of information, I think that's being lost in
a way that should not be, there needs to be that
communication as to how these proposals are impacting the
users on each sides of those boundaries.

Like I said I have my observations as
being part of the Alaska Eskimo Whaling Commission we
know that resources do not have boundaries because we
have international boundaries that the resources cross,
just the bowhead itself crosses three boundaries on its
migration north and south. It starts out in the Bering
Sea, goes into Russian waters, goes up into the Alaskan
waters again and then into the Canadian Beaufort, so
those are the boundaries of one resource, and the
resource doesn't have those boundary lines, it's the
users that -- we, as users, have been given to learn and
utilize as to when we can take the resource and when it's
available but the communications between all three of
those countries, it's just been very recent that we've
been able to communicate to meet the needs of the people
in using that resource, specific resource. I think
that's what needs to be sought here is in terms of
subsistence documentation, what is the need of the
community and how do you address to meet that need, with
regulation -- instead of imposing so much restrictive
regulations on the user groups. I think that's something
I'd like to -- I wanted to share with you, Mr. Chair, and
the Board and others in terms of a way forward on
managing a very specific resource. I think it was --
like I said, I was just trying to recall it was an
example to utilize as to how the comparative between the
State and the Federal Management Program on a process to
if we're going to be on board with both resource managers
that we use this as an example and that Yukon River
Management Area was one of them. If it was not going to
work there, it was not going to work with the rest of the
resources on a way forward to manage wildlife or fish
under the two resource management agencies.

I leave you with these thoughts, Mr.
Chairman. I probably could talk a bit more in terms of
comparison of the different resources, marine mammals and
where the -- where I'm more familiar with, I'm not too
familiar with the fisheries process, and we don't see
that too much up on the North Slope. Like I said we're
fortunate, we're not into that situation but we do have
other resources that we're dealing with that we do have
problems with that -- and that's related to marine
mammals. And there are other resources that we have
difficulty in managing but we -- it's not under this
purview, under the Federal Subsistence Management, in
terms of migratory birds and marine mammals.
Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Harry. And even though you don't have as much experience in the issues that we've dealt with here at the Board we still welcome and appreciate and value your input and your involvement, and I jotted down three subjects that you touched on that I'd like to further talk about. A couple of them I'm going to turn to Staff for.

But the first one is you talked about coordination between the State and the Federal folks, biologists and managers and trying to work on these proposals before they come to the Board, and that's a theme that we've been trying to figure out between ourselves. And since I've been the Chair of the Board we've been working with the State, there's a small group of us, there's George Oviatt, Pete Probasco and me, I almost said a different last name for you there.

(Laughter)

CHAIRMAN FLEAGLE: And three members from the State and we've been talking about -- we don't talk about policy, we don't talk about proposals, we just talk about how to better our communications, our relations, our involvement with Staff and we are seeing positive results. We are seeing better coordination, we are seeing -- we still have some holes, we still get proposals that come forward that might have been better addressed at a Staff level in the region where the proposal originated, and we saw that at this meeting a couple of times. And so the good news is we've already identified this as a problem and we're working on the solution, but as you know we got two completely different bureaucratic systems with their boundaries and trying to mesh those is really difficult, so we're working on it and I think that we've seen improvements and we can only continue to see more improvement.

The bottom line, and the State agrees with this in all the conversations I've had with them, the bottom line is we want to be responsive to the users of the resources, and that's our jobs, we just have a little different mandates on how to do that, and how it's applied, but we do have that common interest so we're going to work on that.

Appreciate you bringing that up and maybe that'll speak a little bit to your concern to, Sue, about
how we can better this process.

I think that some of the topics that we're talking about here we can certainly bring to our next group, like you talked about a protocol, and this one I'm not familiar with, you referred to a protocol that existed where the State and the Councils and stuff, and maybe Pete you could address that and edify me and whoever else isn't aware of it and maybe this is something that we should look at reinstituting.

MR. PROBASCO: Yes, Mr. Chair, and Mr. Brower's been involved in the Federal Subsistence Program for quite awhile, and he actually served as a member on the MOU working group when it was in the initial stage and there was specific protocols that we were charged to try to develop. One was the information sharing protocol and the other one was the Yukon River management protocol. And we had Council members serving on that to do just like they're doing here, to counsel and bring the public into the process. Unfortunately and unknown to us at that time having -- the way this program was structured and the way we were working we were in violation of FACA. And this group was not FACA sanctioned and so consequently as a result of that along with the change in the State Administration the working relationship we had slowly dissolved.

With that said, where we're at now, we're back on a course that I view that we've regained that ground. We have an MOU that we all agree to. We are meeting just like you've stated. And we need to find a means to bring the affected areas or public into this process as well as we work towards some of these protocols in the future. But Mr. Brower articulated very well they were good discussions and it was very valuable in developing those two protocols.

Mr. Chair.

CHAIRMAN FLEAGLE: All right, thanks, Pete. Well, I encourage us to see if there's an opportunity to revive that and we'll discuss over on our side as to how we can start to work on that and I'm sure that we can sit down with the State and have some assistance where they are involved in the issue as well.

The other topic that I noted that you referenced the Council Chairs meeting where Council Chairs gathered to discuss proposals and talked about
supporting and not supporting, my understanding is that they used to do this but because of budgetary reasons we weren't able to afford extra meetings and that's why it was pulled into the Board meeting, right, Pete, maybe you can give me a brief recap of how the process used to work and what's different now.

MR. PROBASCO: I wouldn't -- on that topic, Mr. Chair, I wouldn't say it was budgetary reasons, and I'm going to go to Ken, but we had the meeting of the Chairs in conjunction with the Federal Board meeting, there were issues raised in the manner that we were dealing with that that raised some legal concerns.

Ken.

MR. LORD: Well, actually in a way it's related to the issue of executive meetings of the Board. These discussions were occurring between the Board and the Council Chairs outside the eye of the public and there was concern that substantive issues were being talked about, proposals, and that decision-making may be occurring behind closed doors and that raised some concerns in the public so it was felt that we had to bring the meeting between the Council Chairs and the Board into the public eye and have it in this kind of a forum.

So that's where it is now.

CHAIRMAN FLEAGLE: All right. So that's why we're doing it at the meetings now in this open session, okay, I recollect now.

All right, further discussion, okay, I got two hands, I got Sue and then I'll go back to -- oh, Harry you want a direct response.

MR. BROWER: Yes, just a comment, a follow up comment, Mr. Chair. I'm trying to recall what the protocols were in terms of -- I think it was something to do with the definitions that were being utilized, amounts necessary for subsistence and subsistence use amounts, like I said I just needed to think back a bit about where we were and how we were approaching it and I think that's one of the definitions and terms that we were trying to work on at the time.

Thank you, Mr. Chairman.
CHAIRMAN FLEAGLE: All right, thank you, Harry, we really appreciate your input.

Sue, and then Bert.

MS. ENTSMINGER: Thank you, Mr. Chairman.
I just wrote down some ideas that I wanted to pass on on working together.

You know on a ground level, the State has the Advisory Committee process and then the Federal level we have the RAC process, I hear at the ground level, at Fish and Game Advisory Committees and without mentioning names, Staff people, and the State are concerned that a lot of times the Federal Staff is working on their data and then not collaborating and they get frustrated, so I just feel like if there's a way that the State people can be, at the ground level working on, like these analysis that are being done, that -- and I don't know, Denby, it's possible that there's too much work on the Staff as far as the State people is concerned, but it just seems like it's important that there's always some ground level participation on the topics like this.

And then I guess that would come under your procedure as OSM and Staff and, you know, I look at this procedure on the Federal side, and I see several layers actually, and maybe it has to be, you have to help me out here, we have OSM Staff from all the different regions, they prepare an analysis, and then the next thing is the InterAgency Staff, they get together and they come up with another opinion, they agree mostly but it just seems, you know, as somebody like myself who's trying to make a living on my own and self-employed you can't have too many layers or you're suddenly -- you've not accomplished any work, and I guess for me it appears that maybe some of the layers could be simplified.

And then the other thing I noticed in the years that I've been on this Council, if I picked up the Federal regs and then I picked up the State regs, I can find C&Ts in the Federal regs that is really only on State land, so when you're doing C&Ts I think it's very important to not be concerned about -- and I might be out of line here, there might be some other reason, but it's just another layer of work where there's C&Ts on State land that it's just, why, you know, if it doesn't apply there.

And the other thing might border on
lobbying, but I just want to throw out an idea, and this has been talked about since this subsistence began in the state of Alaska, with the difference in the Federal and the State is the State, as soon as you become a State resident you automatically qualify for subsistence; on the Federal as soon as you -- and that's a year for the State my understanding; and then on the Federal side, I don't know if anything has changed, but the minute you become a resident, which is 30 days, you qualify, it used to be that way, it could have changed, but regardless, it could be 30 days, a year, the difference is you immediately move into an area, I mean the similarity is, you immediately move into an area, you qualify for subsistence. And some of the talk and be ready to Hatch me, if I'm wrong here for bringing this idea up, some of the talk in the communities is why not have some residency requirement, how long they're in a community, five, 10 years for instance before they immediately qualify. That was an idea and, you know, that would be something I know that has to change on both of the laws.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Sue. I don't know where that requirement for residency is or where it would be inserted, I mean that probably is beyond the Board's purview, though, I guess.

MR. LORD: (Nods affirmatively)

CHAIRMAN FLEAGLE: Ken's shaking his head, yes. So I'll focus on what is within our purview. We've heard similar concerns about our ground level Staff not cooperating as fully as they could and we've addressed this with the group sessions that I've talked about before and we're seeing improvements, and we're continuing to try to get those improvements and I think with this new memorandum of understanding that we just signed is going to help in that area because we both, as regulatory agencies, realize the importance of the ground level Staff and their involvement, and so we are working for this.

And I'd like to say when I was over in Emmonak last summer I saw a real good case of this at play, the biologist from the State that was working on the studies over there and the biologist from OSM, Russ, he's in the room, too, they met daily, they talked, they talked about the data that was going through and so it works, it's just -- we need to expand that. And I
appreciate you bringing that up.

The other topic that you mentioned on Federal versus State regulations, I know we've also been criticized for broadly basing our overlaying the State regs with our regs so we have basically two regulations, where they're the same, and I know that there's been some discussion that we might try to move toward a one book, one regulations book for everything. I don't know if we can ever get there, but it's kind of a semi-goal.

One of the responses to having these dual regulations is that often times Federal regulations allow for different methods of harvest than the State does. So even though it's the same season a Federally-qualified user can do those Federal activities using different methods, so we feel that it's important that we still recognize a Federal season even though it's the same as a State season, and this is one of the areas that the State doesn't agree with us on. But maybe at some point it's something that we can figure out a way to make work, but it is what it is for now.

So anyway that's our response -- or I mean my response to your points.

And I got several more hands, I'm going to go to Bert and then to Lester.

MR. ADAMS: Thank you, Mr. Chairman. I was very enlightened to have a brief conversation with Tina yesterday and she confirmed the fact that the State and the Board are working a lot closer together so my compliments to you all, and then I got the same responses from members of the Board so I think we're making some good progress in that direction, Mr. Chairman.

I'd like to just bring up some issues that I made in my introductory comments and see if we can get responses from you on a couple of the issues that I brought up.

But before I do that I'd like to bring your attention to an issue that I brought out about the sockeye -- the sockeye issues in Southeast, you know, in Chatham Straits, you know, there's some pretty serious conservation issues there. And then in Yakutat last summer we didn't have any sockeye show up at all, I mean they were showing up but by mid-season we only had about 9,000 pass the weir and the goal was to get 19,000 so we
were way short, not even half of what the goal was, and
so I called up Gordy Woods, the biologist there with the
State and I asked him, do you have any idea what's going
on here and he says, yeah, I mean he didn't say I don't
think so or I think so, but he says, yeah, and I told him
that we were having an ANB/ANS meeting the following week
and would you please come down and give a report on what
you found out so far. And he came and he brought with
him a report that addresses the thermal limits and ocean
migrations of sockeye salmon long-term consequences of
global warming, and I'm going to leave this with Pete
and, you know, Denby, you can contact Gordy and I'm sure
he'll be happy to email this to you. But in a nutshell,
Mr. Chairman, what this report says is that there was a
couple years there when these little frys took off from
the river and they went out into the ocean and it was a
time when the oceans were very, very unusually warm and
because of the warmness of the waters the plankton that
normally, you know, habitated those environments were
gone, whether they didn't produce themselves or, you
know, anyhow it wasn't there and that's what these little
frys feed on. And so he says in a sense they starved to
death. Another reason is that he said the water was so
warm that these little frys weren't able to survive, in
other words they fried or cooked, and then, you know, it
affected the runs this year. They were predicting real
healthy sockeye runs for the Situk River this year and it
just never showed up. And so in a nutshell, you know,
that's what this is all about. And I'm not a scientist
and as I mentioned earlier I'm not a lawyer but I do
have, you know, this information here and I want to leave
it to you and then anyone else who wants to get it, I'm
sure Gordy would be willing to share it with you.

The other thing that I'd like to address,
you know, that I mentioned in my opening remarks is —
and I'd like maybe the Board or, you know, someone from
the agency to respond to it. I know, you know, Larry
Buklis has many times, and I'm feeling like a broken
record on this issue but I'm not going to stop because,
you know, I feel it's important, it's in regards to
Councils generating RFRs, requests for consideration. I
know that Councils are an advisory committee to the
Board, the State is also an advisory committee to the
Board but they are allowed to do RFRs. And, you know, as
I mentioned earlier, it's a situation I think that is
greatly needed because we do represent the people in
Southeast Alaska that in many cases will not be able to
have the resources to submit RFRs and we are it, and so
I would just kind of like to get a response from someone,
you know, on that. And I know a couple three years ago
the book that I had, you know, I think it's the Federal
handbook of regulations or something like that had a
section in there where RACs could make RFRs and then for
some reason it came out and a statement from OSM, you
know, saying that this was going to be discontinued. I'm
still -- I still have a question as to the reasons why
and so if somebody could respond to that I'd appreciate
it.

I already talked about Board executive
sessions so I don't think I want to belabor that.

Maybe the Sea Otter Management Program
for Southeast area, we see the sea otters just, you know,
devastating the subsistence resources there and they are
in direct competition with our subsistence way of life
and we need a management plan that will, you know, kind
of balance things out so that we can reap the benefits of
our clams and cockles and crabs and so forth.

And then another issue that I'd like to
maybe have someone respond to is this issue of alternate
Council members. I know it's, you know, going to create
a budget issue here but there were times when we didn't
have a quorum, you know, at a RAC meeting or at our
Subsistence Resource Commissions meeting a couple times
and it would have been helpful if we'd had alternate
Council members so that we were able to do business and
we weren't able to in those situations.

So, Mr. Chairman, those are three issues
that I brought up and I'd like to see if we could get
somebody to respond to them.

Thank you, sir.

CHAIRMAN FLEAGLE: Thank you, Bert. I'll
do that. I think we got some good response coming but
I'd like to give us a break, 10 minute break and then
we'll come back.

(Off record)

(On record)

CHAIRMAN FLEAGLE: All right, we're back
on record. And we left hanging with some responses to
some comments that Bert made and then we also have a
couple of responses to comments made previously that
weren't responded to.

MR. ADAMS: Mr. Chair.

CHAIRMAN FLEAGLE: Bert, go ahead.

MR. ADAMS: May I interject just for a

minute here.

CHAIRMAN FLEAGLE: Yeah, go ahead.

MR. ADAMS: I'm wondering, you know, are

we going to go -- are we going to be done this morning or

are we going to go into the afternoon or what? I need to

check out of my hotel at noon if I'm going to stay so I

need to know what to do here.

CHAIRMAN FLEAGLE: That's up to you all.

(Laughter)

MR. ADAMS: I'm actually scheduled to go

home tomorrow but it'd be nice if I could go home today.

CHAIRMAN FLEAGLE: Okay, it's 11:05 and

my hope was to have been out of here within a couple of

hours of starting this morning and I only put three hours

on my meter so at 11:30 I need to run out and plug my

credit card in the slot so I hope we'll be done by noon.

MR. LOHSE: I'll try to make my comments

short.

(Laughter)

CHAIRMAN FLEAGLE: Okay. We have the

issue of the Council's generating RFRs, I know that's

been spoken of a couple times, Pete, do you want to

just.....

MR. PROBASCO: Ken's going to.

CHAIRMAN FLEAGLE: Ken, do you want to

reiterate our position on that please.

MR. LORD: Well, I can read [sic] it, I

probably need to explain it a little better too.

You know, this may come as a shock to you

and I'm glad you all are sitting but, you know, the
Federal government is not perfect and so for that reason it's important that we have judicial review of this Board's decisions.

The court system, though, will not take a review of an administration action unless the entity requesting that review, the plaintiff, has exhausted their administrative remedy, basically the court system says, we don't have jurisdiction to consider this question until you have given the administrative agency every possibly chance to make the right decision, and go and jump through all those hoops.

So with regard to Councils filing RFRs, if there's an aggrieved community and the community does not file the RFR but the Council files it instead, and then the Board doesn't act in a way that satisfies that community the community has lost its right to bring a lawsuit, to have its claims settled because it did not jump through that hoop of filing a request for reconsideration.

So I understand what you're saying, Bert, when you say that, you know, the Council wants to act on behalf of its constituents but in a way you're not doing them any favors or at least potentially you're not doing them any favors if you're the one filing the RFR instead of that community. So that's the concern and the reason we don't allow Councils to file RFRs.

MR. ADAMS: Mr. Chairman, may I ask Ken a question.

CHAIRMAN FLEAGLE: Yes.

MR. ADAMS: What about assistance to a community, would the expertise on the RACs Staff be able to help them prepare RFRs and, you know, at least provide expertise for them to move forward in that effort.

MR. LORD: Well, there is some awkwardness there in that you're helping a potentially -- a party that you're potentially, you know, going against with developing its position but, that said, you know, the Staff at OSM is always helping those who want to file information with this program to do it correctly and do it properly and to make sure that they have the -- you know, what steps to go through and what information is needed. So I don't know that they really need to do anything else other than to -- you know, in filing an RFR
it's not that difficult, you let the Board know what it
is your -- you want reconsidered, you have to do it
within 60 days, and you have to lay out your reasons why
you think it was wrong and I don't think it's really that
high of a burden on aggrieved parties.

MR. ADAMS: Mr. Chairman, a follow up.
I kind of disagree there. Because in many cases I
mentioned before, over and over again, that there is no
-- the expertise isn't in the community, you know, their
are tribal governments and their community governments
are pretty limited in the resources that they have to
actually put together a document such as these and so,
you know, any way that we can be of any help and
assisting them with that, you know, I'm just kind of
concerned with the fact that we can't. And, again, you
know, I really feel, you know, that they need to be
repres -- you know properly served and if that's not
available to them, you know, then they're not going to
file any RFRs and they're going to be left out there, you
know, in the cold.

You know that's my concerns and, you
know, appreciate your comeback on that but at least now
I can say that I had my head to head butt with an
attorney, thank you, sir.

CHAIRMAN PLEAGLE: Thank you, Bert.
Pete.

MR. PROBASCO: The two other questions,
Mr. Chair, is alternate Council members. That is always
an option and if I recall it was budgetary that resulted
in that being removed. But the real problem is and this
is an opportunity for me to make a plug is right now for
the call for Council membership applications, we do not
have enough applicants to fill the vacant seats that we
have and so to add another tier to that to look for
alternate Council members would even make that more
difficult. We have extended the application period into
February and we're making a more assertive effort, even
more than what we've had to try to get more applicants
for each of the Councils so that we can at least get the
vacancy seats filled. And I'm open, Mr. Adams, to
looking at the alternate Council member concept but first
we need to get the Council vacancies filled.

And the other issue, Ms. Entsminger, on
the residency let me just read it because you don't quite
have it correct:
To qualify to hunt, trap or fish under Federal subsistence regulations you must have your primary permanent place of residence in a rural area and you must have lived in Alaska for the previous 12 months.

Having a seasonal residence does not qualify you as a rural resident.

So it has to be your primary residence, where do your kids go to school, where do you purchase your groceries, et cetera.

And we do know that we've had some problems in some areas of the state and I also know that those agencies that are responsible for those areas have elevated the review of people applying for Federal subsistence permits.

Mr. Chair.

CHAIRMAN FLEAGLE: Thank you. All right, and the one other comment that Bert had made was concerning sea otters and those are not managed by us and I'm not sure what the appropriate avenue for dealing with that -- National Marine Mammals -- no, Fish and Wildlife Service, okay, so talk to Geoff.

MR. HASKETT: I'm not actually prepared to do that now but we could certainly have a separate discussion about that, I'll give you my card and we can talk.

CHAIRMAN FLEAGLE: All right, good deal.

MR. ADAMS: Mr. Chairman, just a follow up on that. I'm just wondering, you know, what kind of influence, you know, and I think maybe Geoff would be able to answer that as we communicate one with another, but what kind of influence would we have with National Marine Fisheries in addressing that issue on behalf of the subsistence users and I think -- and I think the answer's going to come here in a bit but I just wanted to bring that out as a matter of concern here.

CHAIRMAN FLEAGLE: Thank you.

MS. ENTSMINGER: Just on that topic, that's the same thing that we feel, as the Eastern
Interior, your involvement, the Federal Board to the
National Marine Fisheries, like the bycatch on the Yukon,
we feel that that involvement is important for not only
us but other, you know, the Federal Subsistence Board,
and same as what he's pointing out on sea otters.

CHAIRMAN FLEAGLE: Right.

MR. ADAMS: Mr. Chairman. Yeah, isn't
there something, you know, that addressees you know one
Federal agency working with another agency and, you know,
what the limitations on that and if so.....

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. And I will use
the example of the Bering Sea salmon bycatch which will
be also addressed here after we're done on this part on
other business.

This Board has elected to, when it has
sufficient information and concerns as it relates to
those species under their responsibility that's affected
by another regulatory body to make comments to that body
via a letter signed by the Chair. And we have done that.
We were involved in the halibut subsistence issue where
they actually had Council members and Staff assisting the
North Pacific Fishery Management Council on that issue
and we've also drafted letters and sent them to the North
Pacific Fisheries Management Council.

Mr. Chair.

CHAIRMAN FLEAGLE: All right, thanks,
Pete. I do have a hand up from Myron and I do still have
Lester and I have Ralph, so guys hang fire [sic], let's
complete the discussions we're on, I do have you on.

Niles.

MR. CESAR: Well, you know, each of our
agencies operates under different mandates. Our
particular agency is under the mandate to assist Native
people. So it's within our purview to assist communities
at giving them advice in terms of putting together
paperwork and we do that often. We also have taken the
opportunity on many occasions over the last 18 years to
notify other Federal agencies and even State agencies of
our concern about the plight of Native people. And so
using those kind of venues we're always able to put our
oar in the water in defense of Native people and we would continue to do that.

That's a different hat than we would wear here, obviously, but it is part of our mandate, we are funded for tribal operations and we have a whole network of funded tribes out there who get money from us who do these types of things. So I would encourage, at least the Native folks, that if you have a concern about getting information to other agencies, that you contact us at any of our offices and speak to our superintendents and we can put together information for you which may assist you, it may not assist you but it may, it's hard to say. And also we have an interest in the Sea Otter Commission, we have funded the Sea Otter Commission upon occasion, not lately because we just don't have the money to do that but you can always ask us and they know that and the Whaling Commission knows that because I get to go to Portugal this summer so I make sure that they know that so Harry knows that we have funded them to a large extent over the years, too, that's just part of our different mandate for the protection of the rights of Native people.

CHAIRMAN FLEAGLE: Thanks for that insight Niles, appreciate that.

Mr. Chairman.

CHAIRMAN FLEAGLE: Now, I turn to Lester.

MR. WILDE: Thank you, Mr. Chairman.

Prior to this I failed to mention the fact that one of my best friends had sent his best regards and thank you to the Board -- to the Subsistence Board, Harry Wilde is also my brother, who is also one of the best friends I've ever had and he wanted me to mention the fact that he was wishing you all a good new year and thank you for the decisions that you've made even though you're not always make the decisions in the favor that we think that you go -- that we a-- we appreciate the fact that you do make those decisions anyway. But he's in good shape. He's had a heart attack and when he got his heart operation, a couple months later, he had a gall bladder operation, and right now he's in good health. He's probably better than he was before. I wanted to make sure that I remembered to mention that to you.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Great, thank you, Lester. Myron.
MR. SAVETILIK: I was looking at --
listening this morning about, Norton Sound would really
get involved too with everything that was on the table
this morning.

CHAIRMAN FLEAGLE: I'm sorry, I didn't
understand the question.

MR. SAVETILIK: The issues that were
brought up this morning I think Norton Sound would be
willing to go with the support of the lower Yukon and all
the other.

CHAIRMAN FLEAGLE: Okay, got it, thank
you. Okay, so that is what we're looking for, is
coordination and cooperation and I think that's what
we're trying to figure out, the best way to go about
doing it.

Ralph.

MR. LOHSE: Thank you, Mr. Chair. I got
about four items and I'll try to make them brief.

One of the things that's come up a number
of times today is the idea of Council Chairs meeting, and
I can understand the problem with Council Chairs meeting
if there's members of the Board present, but Council
Chairs don't make regulations so Council Chairs should be
able to meet with each other without being in conflict
with the FACA act, I would think, because we're not --
we're not even working on the same issues, it's just to
understand each other. And I'm just wondering if
something like that -- we did that for awhile and I
thought that was very good. I thought that it helped us
to have an understanding of each other, it helped us to
see that the problems go statewide, it helped us to
understand different outlooks on the different issues and
I'd like to see something like that happen again in the
future if it's possible, as just part of one of these
meetings, if even all we do as Council Chairs have a time
that we're excused or something to go for an hour or so,
have a cup of coffee together or lunch together or
something and do it as a body.

The next thing I had, Bert, brought it
up, and a member of my Council brought it up, about the
working groups, one of the concerns a member of my
Council has is on the brown bear working group and they'd
like to know what the status of that brown bear working
group is, that was between the Feds and the State and
they were just wondering whether that was going forward
or whether it was -- had kind of come to a standstill
right now.

And then we have the Yukon River and I've
sat here and listened to what's going on and talked to
Lester and talked to other people, and I went up to the
Yukon, this last year, I went up to the Yukon the year
before and went up just to look and see and visit with
some people up there and see what's going on and what I
see in our state and this is -- and I know I make this an
issue every place I go and I've made this an issue in our
Council, as we get more and more users of limited
resources, we're trying to manage them, one of the things
that you have to have for good management is you have to
know what's happening, you have to have good
recordkeeping, you have to have good recordkeeping, it
has to be timely and it has to be accurate. And
currently in our state the only thing that has any, I'll
say accurate recordkeeping at this point in time, is the
commercial fishery, and as you go up the river you -- I
found the same thing on the Yukon River that I found when
I went up the Copper River, stop and see somebody that's
got a fishwheel, say you're hungry for a fish, here take
one, there's no recordkeeping, there's a casualness about
the fish as you get farther up, and so what I would
suggest is -- and we've done this as much as we can in
Southeastern [sic], if we set up a Federal program, if we
set up a Federal subsistence thing, first of all we need
education, we need education as to how important it is to
manage the fish and how important it is to keep records
so that we can have good management of the fish and how
each of us as individuals can make impact on the fish
that are going to come back in the future and then we
should also stick in there, we should stick in
requirements. We talk about it as rights, actually each
one of us has the privilege of living here. We have the
privilege of living on this world and the privilege of
using these resources, and with that privilege goes
responsibilities and so we need to stress that, okay, if
we're going to give out permits let's at least do our
part, educate the people, and the importance of reporting
and give them good reporting mechanisms so that we can
actually know what's happening so that we're not sitting
here guessing as to how many fish were taken, where they
were taken and things like this, and it's something I
think our state needs to really work on too.

We have a lot of conflicting interests on
our resources today, we have sportfishing, we have
subsistence, we have personal use, we have commercial,
and we have Federal subsistence and State subsistence and
all of these take a chunk of the resource and a lot of
times we don't know what chunk was taken. So I would
really like to stress that if this Federal Board takes
action on the Yukon River, one of the things that should
be part of their action, just as an example to everybody
else, is good education and good recordkeeping so that we
can say that we're doing our part to collect the data
that's needed for good management, and I'm hoping that
our State wakes up to that in the near future and that
that goes on every sportfishing license, every personal
use license, every charter license, every everything so
that we know what's happening.

Then I'll just leave that at that, that
doesn't need a response.

Then I'll go to what I talked about
yesterday and I'm sorry if I stepped out of line when I
did, and I hope you didn't feel that I was angry with
your decision, I wasn't angry with your decision, I
wasn't even disappointed with your decision, and I know
you'll face the decision again and probably again.

As you could tell by the fact that the
Council passed that three times, the Council has very
strong feelings on it. The village of Ninilchik has very
strong feelings on it. It's something that we feel as a
Council -- or as Council members that one of the reasons
we exist as a Council is because we have local knowledge,
because we're more closely attuned to the oral history of
an area and one of the things that we do in our meetings
is we listen to a lot more oral history and testimony
than you have at your meetings here and the question I
was asking and it's something that has happened a number
of times, do we need to insist then -- I mean we've
listened to all of it, our opinion as local people is
this deserves to be passed but we can't come up with a
paperwork trail to cover it. Now, the oral history we're
listening to is dying out. And maybe I have a
recognition of that because I'm getting in that age
myself and if you waited another 20 years you're not
going to have to worry about oral history because the
people that have it are going to be gone. And if all of
this started 20 years later we wouldn't have to worry
about oral history either, we could use our records.

The records that we looked at yesterday
are less than 25 years old, and in that 25 year history
they disagreed with each other, and so I'm asking you as
a Council member, do I need to insist more that if we're
going to forward something we need a good current -- I'll
just use, short-term Western history style, recordkeeping
that proves our point or are we allowed, as a Council to
bring before you, the fact that we have heard old people
talk to us, we've heard people in the community talk
about their grandparents or their great-grandparents, we
know what we would do in the same situation, we've talked
to members of our Council that live there, we know what
y they do, and that's what we're trying to bring before you
as a Council; we're trying to bring before you that, I'll
say, local knowledge, that if we were doing it someplace
else we'd say TEK, but that's -- but we can't use that as
a Council, and so that's the answer that I need, I need
that from you Board members because I heard all the
discussion was over the chart, I didn't hear any
discussion about what somebody had said, what we had
heard or anything like that.

MR. PROBASCO: Thank you, Ralph. Our
Chair had to go put some more money in his parking meter
so he asked me to fill in for him while he's gone.

I'd like to take your question and give
it to Dr. Wheeler who deals with TEK, but to answer your
question, Ralph, yes, oral history and local knowledge is
very important in decision-making and, Polly, would you
want to add anything on how we utilize that stuff.

DR. WHEELER: How much time do we have.

(Laughter)

DR. WHEELER: Well, I'm a social
scientist so clearly my interest is in oral history,
traditional knowledge, documenting that. I think the rub
is, and this is something, maybe if I were on the Board
things might be different, but I think the tendency is,
of course, with Western Science is to look at the numbers
and treat everything else as anecdotal. The problem is,
of course, if you, you know, how do you get beyond
anecdotal. I think it's easier to look at the numbers,
and it's harder to look at the oral accounts because some
people say they are subjective but as we all know numbers
are subjective and certainly can be subjective as well.
So I think it's a matter of education and emphasis and
with social science I think there's a tendency to see
some of this information -- there's a tendency on the
part of some Western scientists anyway to see that
information as subjective, but it is due to the
interpretation.

So I guess it's a question for all Board
members is to look at the information and under ANILCA,
the purpose of ANILCA is to protect and continue and it's
not to protect and continue only if its numbers.

So that's my response to that but clearly
in our program we have an anthropology division and our
job is to provide information for the analysis, but we
can't instruct people on how to use that information, I
guess, would be my response.

MR. PROBASCO: Thank you, Polly. Board
members. Mr. Cesar.

MR. CESAR: Well, I mean obviously that
has been a problem for this Board to deal with over the
last 18 years I've been sitting here and at different
times we have dealt with it different ways.

There have been times that this Board has
paid a lot of attention to that traditional knowledge and
there have been times where that has, I would say,
discounted, doesn't get as serious a look as some people
might want it to get. I would say that I personally rely
a lot on the oral history because that's the nature of
the beast in Alaska, that many of our societies, that's
all we have is an oral history, we didn't have written
languages, we didn't have history books to rely on so
it's an important part.

I think the Western science is also very
important, I think that you've got to have -- you've got
to have a combination of both and try to use your common
sense to try to whittle out the right response. Now
admittedly this Board, a majority of people on this
Board come from a Western scientific background, there's
no question, that's it. And so I think that they're
entitled to their understanding and support of that
knowledge. I hope and I believe that the majority of the
Board does factor in the traditional knowledge, I believe
that. And I also believe, just like anything else, with
time, sitting behind this elongated table here, people
learn a little more about the relevant society that
they're dealing with, we're not in Oklahoma, we're not in
Florida, we're not in other parts of the United States
where, you know, they have different types of history and
some of the Choctaws, Cherokees, and folks like that do have a pretty established written history, over the last several hundred years anyway, we don't have that ability up here, so it becomes -- all of us, it's important for us to try to work that and blend it. And I think we do, I really believe that we do. I don't think anybody has a closed mind on that.

It's just how much is enough, I mean I don't know. I'm comfortable with my interpretation of it and that's pretty much where I'll stay.

MR. PROBASCO: Thank you, Niles. I'll turn it back to Mike and Geoff was next.

CHAIRMAN FLEAGLE: Geoff.

MR. HASKETT: I'd actually be really interested in looking at the oral history, I guess the only question I have because I don't really know how to treat them so I'd have to go through OSM folks and understand that and kind of translate it for me but I -- and I don't even know what that means when I'm saying that so I'd need some education obviously but I think it ought to be part of what we're doing.

CHAIRMAN FLEAGLE: Bert.

MR. ADAMS: Mr. Chairman, thank you. Let me give you an example of what we did in Yakutat. We had some record runs of sockeye in the East Alsek River, you know, through the '80s and into the middle '90s and all of a sudden it just crashed, and it had to be shut down and this came a real big concern for the people in the community and so we were able to get together, the tribal government, Forest Service, National Park Service, city and borough and the Native corporation and sit down in one room and try to figure out how we were going to address this issue and came up with about four proposals that we were going to submit to OSM, you know, to do some studies regarding the very first proposal that we emphasized was a TEK project. Now, the idea behind that was to -- and the proposals were going to be submitted by the tribe and I was president of the tribal council then, and the idea that we really emphasized was that we needed to document ways that our people, a long time ago managed their resources, and also take into consideration any other, you know, local knowledge that might come as a result of, you know, the situations down in that area and low and behold, you know, that project was approved. And
so we hired an anthropologist, who was from Yakutat
Native, and she took on that project and she did a study
of the Dry Bay area and documented all that. Now, the
idea for that was to take ways and means -- or methods
and means that our people manage the resources and then
bridge it with Western science when it came time to do
management schemes, you know, for that area and it worked
out very well.

And so, you know, I just wanted to share
that with you as an example of what we did in our little
community, taking TEK and bridging it with Western
science, it normally comes out to be the same thing
anyhow, you know, thank you.

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: Just one comment, I really
wasn't so much concerned about what you as a Board should
do with that as I am what I, as a Council Chair should do
with that, or what we should do as a Council, I mean we
know that you've turned us down before and, yet, when we
look at it from a Council standpoint it feels very valid.
Now, we can understand you turning it down, that's not
the problem. The problem is do I go back to the Council
and say, okay, from now on we don't -- where do we place
our importance, do we place our importance as a Council
on our local knowledge, on the oral history and testimony
we get from our neighbors and sitting over a cup of
coffee at the meetings and everything else, or do we as
a Council when we have to consider these things, do we
try to see if we can round up enough -- I mean our
Council has treated things like these reports as
axillaries to what we've heard and what we know. In
other words, these things in the light of our Council are
second place to what we know as people who live there and
people who know the people who live there and people
who've talked to the people who lived there and people
who have listened to the people who lived there and so
we, as a Council, have had a tendency to put these as
second place and the knowledge as first place, and what
I'm wondering is, do I need to, as Council Chair, go back
and say we need to reverse our priorities?

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Ken.
MR. LORD: Ralph, you know, when you read ANILCA, and I don't need to tell you this, it's clear that ANILCA was built in a way or Congress intended ANILCA to be built in a way that allows for the program to be bottom up, for the local users, not only to have a say how the resources are managed but also to have input in the decision-making process, and so I view your job as being, in part, to bringing that local knowledge to the table and to make sure it gets into the administrative record. Now, how you, as a Council, choose to treat it and choose to weigh it is up to you as a Council just as it's up to the Board. But I heard part of your question being, gee, should we be making the effort to bring this knowledge here to the Board and absolutely that answer is yes, and that's one reason we have people from OSM attending those Council meetings so they can hear what the local people have to say about, you know, any particular proposal and that either they can bring it into their analysis or make sure that it gets into the record or you can. But certainly it's a fundamental part of why the Councils exist.

MR. LOHSE: Thank you, Ken. And just as a side I'd like to say that I feel that the OSM that's attended the meeting has done a good job of bringing the record that we hear in the Councils to your attention, and I would have liked to, yesterday, have sat down and quoted right out of them because so much of what they said is right -- is what we had heard but you have the opportunity to read that. So with that, I have a sneaking suspicion that at this point in time anyhow our Council will probably continue to act in the same way that it's been acting, but I just had wondered whether with all of the lawsuits and everything, whether anything had legally changed so that we had to verify everything that we did with numbers, reports and things like that or could we just still -- our recommendation is to do this based on what we know, what we've heard, who we've talked to and everything like that.

CHAIRMAN FLEAGLE: Thank you, Ralph. I think we do hear the point, and I don't think it's intended to go all the way down to your level to dictate how your information gathering or presentation should change. I know that whenever we're represented by legal counsel to the courts they examine our record and, you know, we make reference to information you provide, it's all part of the written record and I think it's on us to establish a good record that's on record for our legal counsel to work with.
I thank you for the input.

Other discussion.

Denny.

MR. BSCHOR: Well, that's all right.

CHAIRMAN FLEAGLE: Polly, and then Sue.

DR. WHEELER: Thank you, Mr. Chair. I just wanted to respond to one of the questions that Ralph had asked and it was about the brown bear working group, that was one of his four points.

And just to give you some background, if you remember, those of you that were at the May Board meeting, you deferred action on Proposal 08-05, which was a proposal submitted by the State, it was sort of a statewide bear claw proposal issue and the Board deferred action on that proposal pending a working group and the direction to the working group, as discussed on the record, was to examine the issues of tracking of bear claws. There was some concern expressed in the proposal that this is out of control or it could potentially be out of control so we need to address this tracking of bear claw in handicrafts issue.

There's been some discussion recently of getting a work group together but there seems to be a little bit of differences of opinion about what the purpose of the work group is so we're trying to clarify that purpose before we move any further, but there will be RAC representation as directed by the Board with that working group. So if that gives you some background on that, Mr. Chair, and member Lohse.

CHAIRMAN FLEAGLE: Thanks, Polly. Sue.

MS. ENTSMINGER: Yeah, thank you, Mr. Chair. That is what I was going to ask, is to address two of his -- these other concerns that he brought up of the four, and, one, again the Council Chairs meeting at lunch and, of course, the brown bear, and this education thing that hasn't been addressed, I'd like to hear a little more on -- he had suggested these things so if we could get an answer to it.

CHAIRMAN FLEAGLE: Ken, do you got a response to an informal meeting?
MR. LORD: Absolutely I do. I agree with Ralph that there is no FACA problem if the Chairs want to get together over lunch or take some time to talk about whatever issues. The only time that would become a problem is if you, as a group, came back to the Board and said, well, you know, we, as the Council Chairs think that you, Board, should make a decision on a particular proposal. In that case you, as a body, would be providing advice or recommendations to the Board and then we might have a FACA problem, but short of that I don't think there's any problem at all with it.

MS. ENTSMINGER: But continuing that, so if the Council Chairs then brought up some things that they might have agreed on, come back onto the record and then talk about those individually, which would result in maybe a decision, is that okay, to us to say something?

MR. LORD: Well, if the something you're talking about is a proposal, is a deci -- is a rulemaking, really, your job is to speak on behalf of your individual Council. If the something we're talking about is a process question, gee, you know, we think maybe you should defer this question for awhile for whatever reason I don't think there'd be a problem, there's not a problem with that. It's really a regulation, if we're changing a regulation then we have to be careful.

MS. ENTSMINGER: And the education, how would you respond to his suggestion of education?

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Sue, that's a -- I mean we always try to do our best when we go to these Council meetings or other meetings to explain and educate what we know, which we recognize may not encompass everything on an issue before a Board or before a Council. Out side of being involved with Council meetings and various, like YR DFA, et cetera, if there are other avenues that are out there we're open to being involved with them as well. I don't know what concept you're looking at as far as education but that's how I look at it.

MS. ENTSMINGER: I guess the concept I was looking at is a lot of times it comes right down to the user, how the user would be educated about something that affects them and a lot of times it's hard, you know, we go to these meetings and we're -- we don't have the
ability to go to every community that's in our region and
educate them about something that affected them and a lot
of times they don't have that ability, you know, it's
more -- a little bit more detailed is what I'm getting
at.

MR. PROBASCO: We do have a lot of field
Staff that do take that on as part of their
responsibilities, can we improve on that, yes.

MR. LOHSE: Mr. Chair.

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: I guess what I was thinking
about on that is if we're going to issue permits, that
gives us an opportunity at that point in time to include
with the permit or on the permit, some education on the
whole issue of the fish and the reason for the permit,
the reason for the management, the reason for the
recordkeeping and that's what I was thinking. I was
thinking more -- more of a direct education with any kind
of permit that we give out, on the importance and why we
want the permit, why it's important that we get the data,
what kind of management decisions are dependent on this
data and things like that.

MR. PROBASCO: If I may, Mr. Chair. Mr.
Lohse. Yes, we have done that and if you remember we did
it on Kenai Peninsula, where Maureen, as the lead,
developed an informational document, we did it with Unit
18 moose where the Refuge took the lead, but we haven't
done it on all issues. And I think working with the
agencies as well as the Councils and the public
identifying those that need that type of extra effort, it
would be most beneficial.

CHAIRMAN FLEAGLE: Further Council
discussion.

(No comments)

CHAIRMAN FLEAGLE: All right, well.....

MR. ADAMS: Mr. Chairman.

CHAIRMAN FLEAGLE: Bert.

MR. ADAMS: I do have a question, you
know, this bear working group, you know, that Ralph was
alluding to and it was made mention that RAC Chairs would be -- or have been a part of that working group, and I was wondering if this was going to be a general practice for working groups in the future, that, you know, RAC Chairs or RAC designees, you know, would be part of the working group as well as, you know, keeping as transparent as possible, so I'm just throwing this out as a matter of satisfaction for myself.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Mr. Adams. This is nothing new. Our working groups that our program, Federal Program have been involved in, may it be deer in Southeast, moose working -- planning groups, caribou, et cetera, the affected Councils have been involved.

Mr. Chair.

MR. ADAMS: Thank you very much.

CHAIRMAN FLEAGLE: Alrighty, that appears to conclude the discussion with Council Chairs. I appreciate the topics brought up and the good suggestions and ideas and I also appreciate the opportunity to be able to share a little bit more from our perspective of what we're doing and how we're trying to meet these concerns, even before they're raised up because we know that they exist so we want to keep this dialogue open and the bottom line is to make a better process all around for everybody, especially the users of the resource like I mentioned before.

So with that we have a couple of other items under other business, and first I think I'm going to bring up the chinook bycatch issue, it seems to be the most important and as we talked about at the beginning of the meeting, we did send public comments to -- what was the name of the group we commented to, not the National Marine Fisheries.....

MR. PROBASCO: North Pacific Fishery Management.

CHAIRMAN FLEAGLE: North Pacific Fisheries Management Council. And Pete and others attended the meeting in Kodiak and so we are putting forth our concerns I think, Pete, I also heard at that meeting that it takes probably four or five year process
but that they might look at this as being a more urgent issue than that and take some quicker temporary action, right, Pete.

MR. PROBASCO: Yes, thank you, Mr. Chair. What I'm seeking on this action item, I have Mr. Don Rivard, who's been our lead for OSM in tracking the Council actions in this issue, is to, one, bring you up to speed on where we're at since the last time we met and, two, to seek your guidance. We, OSM, would recommend that the Board, again, comment on the action items that will be taken up by the Council in April. We would do it like last time where OSM would draft a letter, which would be shared with the Staff Committee and Board members and then once completed, Mike would sign it, and we would send it to them.

I plan on, like we did for the Kodiak meeting, to have the affected Councils send either their Chair or a representative to the April meeting, their involvement and testimony was well received and effective and I think we need to be there at the April meeting.

So if you would, Mr. Chair, Mr. Rivard has a briefing for you to get you up to speed and then we're looking for guidance from the Board.

CHAIRMAN FLEAGLE: You bet, Don.

MR. RIVARD: Thank you, Mr. Chair. Good morning to you, Board members and the Regional Council representatives.

My name is Don Rivard and I'm a fish biologist with the Office of Subsistence Management, and as Pete mentioned I'm also the Staff lead for the salmon bycatch issue.

We've been tracking this for about four years now pretty closely on behalf of the Board.

A draft environmental impact statement was released by the National Marine Fisheries Service in early December 2008. This draft environmental impact statement is evaluating the management measures to limit chinook salmon bycatch and just chinook at this time, in the Bering Sea pollock trawl fishery. Some of these management measures include having caps on the amount of chinook salmon bycatch in the pollock fisheries and the caps under consideration range from the annual amounts of
29,300 to 87,500 chinook divided seasonally into a winter and a summer/fall pollock fishery. Also that the seasonal closure of the pollock fishery when these bycatch limits are reached and/or a seasonal closure of areas where high salmon bycatch has traditionally occurred.

The North Pacific Fisheries Management Council has identified its preliminary preferred alternative now and it calls for an annual hard cap of 68,392 chinook with a pollock industry self-regulated incentive based program, also known as an inter-cooperative agreement in place to avoid salmon bycatch or an annual hard cap of 47,592 chinook if no such program or ICA is in place. so they're looking at either the 68,000 or 48,000 chinook as a hard cap.

Now, the timeline for the action that they're looking at is right now there's a 60 day public comment period on the draft environmental impact statement and that began, again, in early December and runs through February 3rd, I believe I just heard that they've extended that another amount of time, I didn't find out how long that was going to be.

The week of February 2nd the North Pacific Fisheries Management Council is holding a meeting in Seattle and the Council will review the effectiveness of conservation measures proposed by the pollock industry and I'll be attending that meeting. The week of the 30th of March, the North Pacific Fisheries Management Council will also hold a meeting here in Anchorage, which Pete just mentioned, to review comments on the draft environmental impact statement and to decide on a final preferred alternative which will be recommended to the Secretary of Commerce. And, again, as Pete said the Chairs or their designated representatives from the affected Regional Advisory Councils will be attending along with myself.

By December 2010 and this is kind of the timeframe you were mentioning, the National Marine Fisheries Service will review the Council's preferred alternative, write regulations, the regulations will go out for public review and the Secretary of Commerce will make a final decision. And if it all falls into place their actual new regulations will go into effect January 2011.

Now, the Federal Subsistence Board
doesn't have jurisdiction or authority over the Bering Sea/Aleutian Islands fishery but we have been closely monitoring this issue for the past five years and your Board recommended to the National Marine Fisheries Service to include an alternative hard cap of less than 37,000 chinook in their draft environmental impact statement, which they ended up doing.

Now, the action item for Board consideration is to send another comment letter to the North Pacific Fisheries Management Council with the Board's recommendation on a hard cap amount if you so choose.

Now, just a note here that the lowest amount of 29,300 chinook would be consistent with the stated goal of the US/Canada Yukon River Agreement signed in 2002 and would likely be most beneficial to subsistence users in Western Alaska.

Now, the North Pacific Fisheries Management Council is also evaluating options to limit chum salmon bycatch in the pollock fishery and the National Marine Fisheries staff has developed an analysis and will be reviewed by the Council in the spring and summer of this year and we'll continue to track developments with the chum salmon bycatch as they occur.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Don. Now, I was kind of confused, you mentioned the 68,000 and 47 or 48,000 numbers as provided by the pollock industry and then you mentioned the 29,000 as presented from us, and you made a comment that might have indicated that that's the number that they're going to be acting on or did I misread that?

MR. RIVARD: Well, again, the North Pacific Fisheries Management Council has come up with a preferred alternative that they've let people know about in this draft environmental impact statement, it's kind of showing which way they're leaning, and the higher number they're looking at, they will go along with that if the pollock industry comes up with a rational program within their industry of how they're going to reach that within their industry. If they can't agree on how they will do that internally then the North Pacific Fisheries Management Council's going to recommend a lower salmon bycatch of the 48,000.
CHAIRMAN FLEAGLE: Well, where does that 29,000 figure fit in?

MR. RIVARD: Well, that's the lowest option that they're looking at and that's more consistent, as I pointed out, with the US/Canada Agreement which was signed in 2002 when salmon bycatch was averaging about 38,000.

CHAIRMAN FLEAGLE: Okay, thanks. Now, we'll see where the Board wants to go with this but, I mean just from my perspective I mean even the lower of the industry's numbers of 48,000 is way too much. I mean we're talking about needing roughly 45 to 50,000 just to meet escapement goals for spawning to cross the border, another 100,000 for subsistence uses and when we add those numbers up, I mean they're not meant to be added, is it 100,000 total or 150,000 -- Dani. Dani Evenson.

MS. EVENSON: Thank you, Mr. Chair. I'm Dani Evenson, again, AYK regional research biologist for the Department of Fish and Game. And on the Yukon we have on average about 50,000 chinook taken on the US side of the border, on the Canadian side the aboriginal harvest could be anywhere up around 10,000. And you are correct we need about 45 or 50,000 fish for escapement just on the Canadian side of the border, that does not include the US side of the border.

CHAIRMAN FLEAGLE: Thank you. So to clarify my own comment, so we need just over 100,000 fish at least to enter the river to meet our goals and if we're allowing 68,000 or even 50,000 to be caught, I just see that as counter productive to our goals and I would suggest that if we do move forward with a comment, which I hope we do, do, is to go with the lower, the 30,000 range, the 29,000 range that was mentioned.

Don.

MR. RIVARD: Well, just to clarify not all the salmon bycatch is coming from the Yukon River, which is, I think, kind of what you're implying there. There's been studies and it shows that about 56 percent of the bycatch is comprised of chinook salmon returning to Western and Interior Alaska rivers, with 24 percent of that bound for the Yukon River alone. So we're talking more than just the Yukon River here.

CHAIRMAN FLEAGLE: Right, I understand
that. I appreciate that clarification, too. I didn't know if they were able to distinguish which stocks, so that helps, but I still think we ought to shoot for the lowest number as possible. These fish should be making it into the rivers. What do they do, they're not allowed to process or market the fish, the salmon as bycatch, my understanding, my understanding is it gets tossed overboard and becomes crab food, I think those fish should be allowed to enter the rivers. That's just how I feel. Right, they don't get to sell it, right, it's not used for human consumption.

MR. RIVARD: That's correct, they're not allowed to sell it, but they do give some of it away in Seattle, and there's been some mention in the North Pacific Fisheries Management Council meeting of trying to bring some of that fish back to Alaska. I believe a couple of the Councils have also recommended that, the Eastern and Western Interior in their letters to the Council.

CHAIRMAN FLEAGLE: Okay, thanks. I don't want to muddy it up any further but I do have some strong opinion on the issue. I'll let Board members jump in.

Pete.

MR. PROBASCO: Mr. Chair. Just as a reference and you mentioned it briefly there, that when the Board commented initially we looked at that lower cap number. We looked at the historical bycatch level, we looked at the agreement with the US/Canada and then we looked at the history and how it escalated and the Board landed on the lower number.

Mr. Chair.

CHAIRMAN FLEAGLE: Okay, thanks. Board members, any objection to taking the same course of action we did last year and that's to have Staff generate a letter that's reviewed by Board members and Staff Committee and send it out and also continue to participate in their process.

(No comments)

CHAIRMAN FLEAGLE: Hearing none we'll move forward with that. Pete.

MR. PROBASCO: Thank you, Mr. Chair.
1 That's the direction we're looking for and my Staff's
2 saying I need to speak up so I will do that, and as I
3 outlined we will go through a process where we'll draft
4 a letter working with Staff and then get it to the Staff
5 Committee and then ultimately to the Board for final and
6 that's it.
7
8 CHAIRMAN FLEAGLE: Thank you. All right.
9 Next item is there's some discussion about a field trip.
10 Last year the Board traveled -- or quite a few Board
11 members anyway traveled at the invitation of the Eyak
12 Tribe of Cordova to check out some of their Fisheries
13 Monitoring Program sites that they had there. It was a
14 very informative interesting trip. And we're trying to
15 find out if there's interest in a formal trip or
16 something from the Board that we might want to talk about
17 here.
18
19
20 George.
21
22 MR. OVIATT: Mr. Chairman. BLM would
23 certainly be interested in a trip, where we feel we'd
24 like to go is down the Kuskokwim River Delta area, we
25 haven't been down there in quite some time, and with the
26 issues that we are facing on the Yukon, I think it'd be
27 beneficial for us to make a trip down there.
28
29 MS. MASICA: You mean the Yukon River or
30 Kuskokwim.
31
32 MR. OVIATT: Yukon, I'm sorry, yeah,
33 Yukon River, or both, both would be fine, we have issues
34 -- we have other issues on the Kuskokwim too and if we
35 could arrange it for both that'd be great.
36
37 CHAIRMAN FLEAGLE: Pete.
38
39 MR. PROBASCO: Mr. Chair. I, too, was
40 thinking that would be a logical place for us to go. We
41 haven't been there in awhile. Not only do we have the
42 chinook issue we also have moose issues on the Yukon
43 Delta and if the Board agreed we'd work with the agencies
44 that -- land agencies that are responsible for that area
45 in putting this together.
46
47 Mr. Chair.
48
49 CHAIRMAN FLEAGLE: Just a reminder, if
50 you end up wanting to land and stay in Emmonak, don't
51 plan on finding a good place to stay and bring your
rubber boots.

(Laughter)

CHAIRMAN FLEAGLE: That was a joke. I actually found a really good place to stay but the hotel that I made reservations at wasn't open when I got there. So other discussion.

(No comments)

CHAIRMAN FLEAGLE: Is that suitable.

(Board nods affirmatively)

CHAIRMAN FLEAGLE: All right, well, we'll go with that. Thanks, Pete.

MR. PROBASCO: And, Commissioner Lloyd, as in the past, like the Copper River trip, I know you couldn't make that one but you had two of your directors and normally we extend that invitation as well.

CHAIRMAN FLEAGLE: All right, thank you. Now, that concludes everything, but viewing the DVD, is that something the Board wants to do on record at this meeting or I see we have them, take it home and watch it and comment.

(Board nods affirmatively)

CHAIRMAN FLEAGLE: Okay. Appreciate that being available, I think that -- Pete, go ahead.

MR. PROBASCO: Mr. Chair. I know we've been at this meeting for quite a while and we all have our jobs to get back to in addition to this, this DVD, and I respect that you want to take it back home and take a look at it, but please do, it's a very important part of our program. Beth Spangler has done a very good job of documenting this, we hope to use this throughout our various agencies in educating the public on the Partners Program. And I think what we'll do, since you don't want to take the time to review it here, we will have this viewed at a work session because it's done very well.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Great, yeah, thank
you, appreciate that, it looks interesting.

Now, that concludes topics that are on the agenda, are there any closing comments.

Commissioner Lloyd.

COMMISSIONER LLOYD: Thank you, Mr. Chairman. I appreciate it and I know we've been at this for quite a while but there are a few observations and requests that I'd like to share with you.

First of all between your last meeting and this one, we have signed a mutual memorandum of understanding between the Federal Subsistence Board, the Alaska Department of Fish and Game, the Alaska Board of Fisheries and the Alaska Board of Game, and I want to thank the indulgence and the cooperation of the Federal Board members, and I think we just should briefly celebrate the fact that we've come out of a number of years of dealing with an initial or an interim memorandum that was very difficult to deal with and some relationships that had been strained and I'm hoping that by virtue of the new memorandum of understanding between our various groups that we're heralding in and continuing an upswing and a sense of cooperation and recognition of our mutual responsibilities and authorities.

So please do recognize and celebrate the fact that we have a signed memorandum of understanding and hopefully we will find good ways to operate within that.

I'd also to thank the reception that the Regional Advisory Councils have given to, particularly the Fish and Game liaison staff, and our divisional staff. I think there, we're also seeing the benefits of changed relationships, improving relationships and while the Council Chairs are here I want to expressively thank them for what we believe is increased hospitality, increased indulgence and recognition that those biologists and liaisons have an important role to play, not just here but within the Regional Advisory Council meetings as well.

I'm hoping that also this sense of improved coordination and cooperation will become evident in the various meetings that our respective staffs have before these full Board meetings. I've mentioned this before in regard to a number of specific proposals that
you've dealt with at this meeting, I think on a number of
those we've shown some good progress. As you can imagine
for those that we don't believe -- or didn't agree with
the final Board action we believe that there's probably
room for improvement, but I am hoping in general that the
Federal Staff and our State Staff can work out more of
these issues of potential disagreement before we get to
the Federal Subsistence Board meeting. And I will be
directing my Staff to seek out those opportunities for
improved coordination and better agreement and
concurrence and I'm hoping that the Federal agencies will
direct their Staff to seek those opportunities as well.

Finally, more out of interest than grand
statement of cooperation, I was intrigued by a number of
Mr. Adams' comments, but one in particular strikes me as
having been laid on the table here but not dealt with,
and that is the competition between two sets of marine
mammals, those being humans and those being sea otters,
and I'm wondering if indeed the Federal Subsistence
Board, similar to the action you just decided to take to
write to the North Pacific Council about somebody taking
resources that might otherwise be available for
subsistence use, whether or not this Board would like to
write to the US Fish and Wildlife Service, simply
requesting whether or not there are any opportunities for
subsistence competition with sea otters, could be dealt
with. Because it's a very real issue I believe to many
communities and it seems to be an issue that's almost
untouchable because of the Marine Mammal Protection Act
and certainly out west because of the recent threatened
listing for sea otters there, that's not a problem in the
areas that these folks are talking about but still the
Marine Mammal Protection Act is not a Marine Mammal
Management Act, and I think we running afool of that so
I'm, again, asking whether the Federal Subsistence Board,
in recognition of severe competition for subsistence
resources would like to engage in a question and answer,
an inquiry to the responsible Federal agency, which in
this regard is not NMFS but it's the US Fish and Wildlife
Service.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. And I
guess I did allow that to be just glossed over because
the head of the Fish and Wildlife Agency for Alaska sits
at the table here and I think he heard the discussion and
I'd like to give Geoff an opportunity to address this.
MR. HASKETT: The only question I'd like to ask is do I have to sign a letter to my own self?

(Laughter)

CHAIRMAN FLEAGLE: We can have Jerry or Gary do that.

(Laughter)

MR. HASKETT: I think we ought to explore the issue so I'd be more than willing to work with the Board and seeing what some of the answers are there. I think as everybody knows it's going to be not the simplest of all questions to take on but, sure, I think it's a good idea to go ahead and have the Board work with the Fish and Wildlife Service on this.

CHAIRMAN FLEAGLE: So there's a suggestion of a letter to the Fish and Wildlife Service from the Board and the Fish and Wildlife Service is indicating that that's not objectionable.

Is there any objection from the rest of the Board.

(No comments)

CHAIRMAN FLEAGLE: No, all right, we'll work on that, Pete.

MR. PROBASCO: Yes, sir.

CHAIRMAN FLEAGLE: Other closing comments.

(No comments)

CHAIRMAN FLEAGLE: All right, how about a motion for adjournment.

MR. OVIATT: So moved.

MR. BSCHOR: Second.

CHAIRMAN FLEAGLE: All right, thank you. Meeting's adjourned, thank you everyone.

(END OF PROCEEDINGS)
CERTIFICATE

UNITED STATES OF AMERICA

STATE OF ALASKA

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

THAT the foregoing pages numbered 01 through 385 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING taken electronically by Computer Matrix Court Reporters on the 13th day of January through the 15th day of January 2009 beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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DATED at Anchorage, Alaska, this 7th day of February 2009.

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Salena A. Hile
Notary Public, state of Alaska
My Commission Expires: 09/16/2010