CHAIRMAN TOWARAK: Good morning. My name is Tim Towarak. I'm the chairman of Federal Subsistence Board. I want to call this Board meeting to order. We'll wait a minute while our telephone gets hooked up.

I'd like to welcome everyone to this Board meeting. I'd like to begin the process with introductions and let's start with my right and go around the table here with the front table.

MR. CHRISTIANSON: Anthony Christianson.

MR. OWEN: Wayne Owen representing the USDA Forest Service, Alaska Region. I'm the alternate for Beth Pendleton, Regional Forester.

MR. HARD: Joel Hard representing the National Park Service for Sue Masica.

MR. CRIBLEY: Bud Cribley with the Bureau of Land Management.

MR. VIRDEN: Gene Virden, Bureau of Indian Affairs.

MR. HASKETT: Geoff Haskett, U.S. Fish and Wildlife Service.

MR. BROWER: Charles Brower, Barrow.

MR. LORD: Ken Lord with the Solicitor's Office.

MR. PROBASCO: Good morning. Pete Probasco with the Office of Subsistence Management.

CHAIRMAN TOWARAK: Thank you. Oh, I'm sorry. Jennifer.

MS. YUHAS: Jennifer Yuhas representing the State of Alaska.

CHAIRMAN TOWARAK: Welcome. I see Pat Pourchot also from the Secretary's Office here in
Anchorage. Welcome, Pat. We will continue on with the Board meeting. The next item on the agenda is the review of the agenda. Pete.

MR. PROBASCO: Thank you, Mr. Chair. I just have a couple clarifications for the agenda. When the Board goes into executive session, we will have a discussion on a paper that's been developed for the Board's review on the 2014 budget. The Board has been asked by the Secretary's Office to look at the 2014 and make recommendations back to the Department of Interior.

As far as agenda Item No. 6 and the public session, the update on the Memorandum of Understanding, actually that's an action item. What we're seeking -- what Staff is seeking is a green light from the Board to take this draft document out to the Regional Advisory Councils, the public and the tribes. The Federal Staff and the State Staff have been working on this throughout the spring and summer and we're ready to go forward if you concur, so that's going to be an action item.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there any other items anyone else would like to bring up on the agenda.

(No comments)

CHAIRMAN TOWARAK: Not hearing any. Then we will continue on to information exchange. The floor is open.

MR. PROBASCO: Just real quick, Mr. Chair. I just wanted to inform the Board that the Native liaison we made the appointment with a few months back, Jack Lorrigan, he'll be here at the end of the month. He comes to us from the Forest Service from Sitka. When Jack gets here, we have a big pile of stuff for him to deal with, so we're anxiously waiting for his arrival, so it's going to be good to have that Native liaison position in action.

Mr. Chair.

MS. YUHAS: Thank you, Mr. Chairman.

First of all, since the last time we've all gathered together in March we've hired a new fisheries liaison in the State liaison office. His name is Drew Crawford. He probably is familiar to several of our other fisheries managers. He's been helping with the proposals and can't wait for you to get to meet him.

With regards to agenda Item No. 9, I spoke to Pete a little bit earlier this week and the State will have official comments to submit to you. We did not participate in the ISC meeting. We were not made aware of that meeting, so we didn't have the opportunity and there's no State comments provided in what you've received today.

CHAIRMAN TOWARAK: Thank you, Ms. Yuhas. Good morning, Charlie. We will continue on if that's all we have on information exchange to public comment period on non-agenda items.

(NO comments)

MR. PROBASCO: Mr. Chair. I have had no public come forward that would like to testify at this time.

CHAIRMAN TOWARAK: We will leave that open and if anyone wishes to testify please see the Staff.

(NO comments)

CHAIRMAN TOWARAK: For those online do you have any non-agenda items that you would like to make any comments on.

(NO comments)

CHAIRMAN TOWARAK: Not hearing any, then we will continue on.

OPERATOR: It does look like we do have someone coming up.

CHAIRMAN TOWARAK: Okay, we will wait.

MR. CARPENTER: Thank you. I have no comments at this time and on line for the Southcentral RAC.
CHAIRMAN TOWARAK: We also have Rosemary on from the North Slope RAC, Harry Brower from the North Slope, Ernie Weiss and Robert Larson. We will continue on with the meeting then with Item No. 5, status report on the extraterritorial jurisdiction issue. Do we have Staff making that presentation? Mr. Owen.

MR. OWEN: Mr. Chairman. I could update the Board on the status of that letter. The last report -- and I was just checking right now. At our last report the letters as drafted by the committee had been approved by the Secretary of Agriculture and we're now currently working through the signature process at Interior. Everything's a go and I don't know if Pat has an update.

CHAIRMAN TOWARAK: Go ahead, Pat.

MR. POURCHOT: Pat Pourchot, Office of the Secretary of Interior. This morning the letter was approved for signature. It was the copy with the Secretary of Agriculture's signature that came over, so hopefully today that will be signed and out.

Thank you.

CHAIRMAN TOWARAK: Are there any questions of the ETG process?

MR. OWEN: ETJ process.

CHAIRMAN TOWARAK: ETJ process. Is there someone in the back that would like to ask a question.

MR. PROBASCO: Gloria Stickwan.

CHAIRMAN TOWARAK: Gloria.

MS. STICKWAN: Good morning. My name is Gloria Stickwan. It wasn't really a question. I wanted to testify on a non-agenda item, but I was too late, I guess.

CHAIRMAN TOWARAK: You've got such a soft voice. If I could get you to get a little closer to the mic we could hear you better.

MS. STICKWAN: I wanted to testify on a
non-agenda item.

CHAIRMAN TOWARAK: You have the floor.

MS. STICKWAN: I just wanted to say that AHTNA wrote a letter to the Federal Subsistence Board about including the size of moose antlers in Unit 13 and the width and we got a response from OSM. I understand it's up to the Office of Budget and Management to approve of this, but I just want to go on record saying that it's a concern in our area because we at AHTNA administer the community subsistence hunt and one of the things we have to do in our report is to report the Federal take for the size of moose and how any brow tines the antlers are and how many brow tines there are and who shot the moose. It has to be given in a report to Alaska Department of Fish and Game and we just wanted that to be included in the Federal harvest tickets. I'm just here to put that on record. I understand it's in the Office of Budget and Management right now.

That's my understanding.

CHAIRMAN TOWARAK: Thank you. Mr. Ardizzone.

MR. ARDIZZONE: Mr. Chair. We did receive the letter and we responded. We do want to collect the data on the request, but we have to get approval for our permits through OMB and currently we don't have approval to collect that data, but we are going through the review process to get that added. It probably won't be effective until January 2013.

CHAIRMAN TOWARAK: Okay. Gloria, your letter has entered the process and I think it will go through the system and we will address it at the appropriate time.

Ms. Yuhas.

MS. YUHAS: Thank you, Mr. Chairman. If there's anything the State can do for the letter would be helpful or if it would not be helpful and you'd like us not to write one, just please give us some direction on how we can assist with that.

CHAIRMAN TOWARAK: Okay.
MR. PROBASCO: Mr. Chair. I don't think there's going to be any problem getting the
approval to add that information. It's a bureaucratic process that takes time. We've already initiated that. It just won't be until 2013 that we get to collect that.

CHAIRMAN TOWARAK: Thank you. We were on Item No. 5, the extraterritorial jurisdiction issue. If there are no other comments to be made on that, we will continue on then to Item No. 6, which is update on Memorandum of Understanding between the Federal Subsistence Board and the State of Alaska. I understand there's an action item here.

Mr. Probasco.

MR. PROBASCO: That's correct, Mr. Chair. The lead on this will be Mr. Sandy Rabinowitch and Mr. Steve Kessler. They are two of the four Federal members that work on the MOU working group on behalf of the Board. The other two are myself and Jerry Berg and then Jennifer Yuhas from the State side.

Mr. Chair, I'd turn it over to those three individuals.

CHAIRMAN TOWARAK: Thank you. You have the floor.

MR. KESSLER: Thank you, Mr. Chairman and members of the Board. I'll start and then Sandy and Jennifer will add in information as needed. If you have hard questions for us, they can answer them as Mr. Bert Adams would say.

(Laughter)

MR. KESSLER: The Memorandum of Understanding is behind the first tab in your book and it says Memorandum of Understanding. This is a draft that has been worked through carefully with changes and comments on it. It's followed by a short briefing paper. There's sort of a blue page, I believe, in your book and then right behind the book there's a briefing paper and I'm going to be going through that briefing paper. Does everybody have that, I hope?

As Pete said, we have an MOU working group whose members are Jennifer from the State, Pete
Probasco, Sandy Rabinowitch, Jerry Berg and myself. We met over the winter to review the RAC comments and other comments that were received and developed proposed modifications to the 2008 MOU. This revised version has been prepared for your review and that's what's in the book with notes, including the rationale for all the recommended changes.

As you look at those recommended changes, you'll see that every comment that we received from a Regional Advisory Council has been incorporated in some way into each of those comments. In some cases, there may be a comment that was not responded to in any way. You'll find that in a comment in the right side of this document. Or there might have been multiple Regional Advisory Councils that asked for similar changes and where there were multiple Regional Advisory Councils that suggested similar changes that would be listed here in these comments also.

Today what we're requesting is your approval to distribute the draft MOU for comment to the Regional Advisory Councils, to the State advisory committees and the public and to tribes in ANCSA corporations for consultation.

We've listed here in this briefing paper some of the noteworthy modifications to this document and these are also mostly listed on the last page of the MOU with the draft changes on Page 9 where it says global comments.

The general changes, the plain language, several Councils requested that plain language be used whenever possible. A few changes were made in response as indicated in the document, so you can go into the document, you can see it says under preamble we changed a couple words and we said plain English consistent with Southeast, Yukon-Kuskokwim Delta and Northwest Arctic Regional Advisory Council comments. So we've got quite a bit of detail in those comments about how those changes might have been made.

We also would appreciate from the Councils and other reviewers if there are other changes that they might suggest. We thought about how to turn this into plainer language and it's very difficult. So we're asking for some help from the reviewers.

There's been some re-ordering that has
been done within the document to consistently place Federal language before State language as this MOU focuses on the Federal Subsistence Program and Federal public lands. For instance, if you take a look at Page 1, you'll see that the first whereas, which is the State of Alaska, whereas the State of Alaska under its laws and regulations, et cetera, has been changed and moved under the whereas for the Secretaries of Agriculture and the Interior. There have been a number of changes associated with just any consistency. The previous document sometimes had the State first, sometimes the Federal first. We made Federal first consistently. Part of this is to respond to multiple Councils' concerns about the tone of the MOU.

Jennifer has a comment on this one.

MS. YUHAS: Thank you, Mr. Chairman. I was simply asked to place on the record that while we've agreed to the language to go to draft and that this was not any sort of a deal breaker that several in leadership did see this change as unnecessary. While the general tone of the MOU was expressed as a necessary change by several of the RACs, the specific change of the reordering was seen as somewhat of a slight to several of our leadership. Not in and of itself a deal-breaker, but something they wanted to note on the record even though we are agreeing to move forward.

CHAIRMAN TOWARAK: Thank you.

MR. KESSLER: Then there are some specific changes in here. The first one I want to speak to is traditional ecological knowledge or TEK. Multiple Councils wanted to add TEK wherever scientific information was discussed. We have responded by adopting the ANILCA terminology, which is the knowledge of customary and traditional uses. That's been put in here in a number of places and provides clarity and it's consistent with ANILCA. With traditional ecological knowledge there are lots of different interpretations of that and we decided that customary and traditional uses was more consistent with ANILCA and with the general themes that we hear when we talk to people in rural Alaska.

Predator management. There were a number of comments specific to active management and its application to the Federal program. We interpreted
that as a desire by some of the Regional Advisory Councils to have the Federal program more involved in predator management. We added to the MOU a section that quotes from the Board's predator management policy. That you can find on Page 3 near the top. Although that's not consistent with what Regional Advisory Councils generally wanted, which would be more active management, it is the Board's policy that issues associated with predator control and habitat management are the responsibility of the individual land management agencies and not the Federal Subsistence Board. So that's been put in here just to make sure that it's very clear to everyone.

 Item number 6, State management plans. The current MOU states that State Fish and Wildlife Management plans will be used as the initial basis for management actions. This has been changed as shown in item 4, number 11, which is on Page 4. Now the language has been changed to use Federal, State and cooperative management plans.

 Item number 7 is about evaluation of the MOU. The Southeast Regional Advisory Council requested a way to evaluate whether the MOU is accomplishing its goals. We thought that was a good idea. Language has been added specifically recognizing an annual opportunity for Regional Advisory Councils and State committees to comment on how the MOU is working and for those comments to be provided to the signatories and considered by the signatories. So that's under number 8, which is on the bottom of Page 5.

 Now just having the briefing paper to remind everyone that if that goes through that's a commitment for future action. So that would be a commitment for annual action, both requesting whether there are any comments from the Regional Advisory Councils or any feedback on how this MOU is working and also then for the signatories to respond to those or to at least consider them.

 Then multiple Councils asked that existing protocols be reviewed and updated. The intent is to follow up with a review of those protocols after adoption of this MOU. There's nothing that's stated in the MOU that those existing protocols would be reviewed, but that too is a commitment for future action.
So I guess a question for the Board.
Is everything clear? Hopefully everyone received this in advance and was able to take a look at some of these changes and some of the comments. Is there anything that anyone on the Board would like to discuss here?

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Steve, you also worked up a schedule?

MR. KESSLER: I thought we'd go over that next, but first see if there are any questions about any of the changes that are proposed in the MOU and that would go out for review by Regional Advisory Councils and ACs and the public.

CHAIRMAN TOWARAK: I've got a question. Since there's at least three of us on the Board that are relatively new and item number 5 on predator management, I get a lot of questions on that from people just on the street. I heard your explanation that this is a Federal Subsistence Board policy created from the notes that I see in 2004. Does that mean we have the ability to change that if we want or are there restrictions on our capabilities of making any changes?

MR. LORD: Mr. Chair. Ken Lord from the Solicitor's Office. That is a policy call whereby the Board decided to put in writing the fact that it would leave predator management and predator control issues to the individual managing agencies and the State of Alaska. You could change that policy, but there would be a lot of questions associated with that and a lot of thought that would have to go into it before we did so.

CHAIRMAN TOWARAK: Okay. So in my case when answering questions by the public, my response will be that it is a Board policy and historically has been a Board policy that most predator control issues are handled by individual agencies. Okay. Sandy.

MR. RABINOWITCH: Sandy Rabinowitch with the National Park Service. I would just add that -- and my memory might not be perfect, but I believe the policy was developed in concert with the original programmatic EIS. So back in 1990 there was a large multi-volume environmental impact statement done and this is the part of my memory keeping it straight and the record of decision of that environmental impact
statement there is specific language -- and Ken, miraculously, looks like he has that there, so we'll see if my memory is any good or not. I believe the policy is tied back to the EIS. So whether it's in that document or one of the other volumes we'll see, but my point is it didn't come out of thin air. It came out of previous discussion of that issue.

Thank you.

CHAIRMAN TOWARAK: Go ahead, Pete.

MR. PROBASCO: I think Sandy brings a good point that supports what Ken is discussing. If the Board were to elect to look at that policy and wanted to make changes, those type of issues would have to be researched and briefed to the Board as far as the Board's authority, et cetera. Mr. Chair.

CHAIRMAN TOWARAK: Just out of curiosity, has there been any significant changes in general practices or policies on predator control since 2004? That's eight years ago.

MR. PROBASCO: Mr. Chair. As far as significant changes, we've had significant issues that agencies have addressed independent of the Federal Board. We've had numerous Councils asking the Board either through submitting proposals and/or making direct comments to the Board to ask them to weigh in, but the Board has always referenced their policy.

Mr. Chair.

CHAIRMAN TOWARAK: That clears my mind. Any other comments or questions regarding the review or the draft MOU comments made by the Staff.

(No comments)

CHAIRMAN TOWARAK: We will continue on then, Mr. Kessler.

MR. KESSLER: Thank you, Mr. Chairman. What we request from the Board is approval to distribute this draft MOU for comment to the Regional Advisory Councils, to the State Advisory Committees and the public and to tribes and ANCSA corporations for consultations. Let me go over the proposed schedule, which is also on this briefing paper. At that point I
think the Board could have additional discussion about
the action item.

So June, July. We're in July now. The
revised version of this MOU is provided to the Board
and to the State for review and approval to move
forward with RAC and AC review. The State agrees that
it's ready to move forward for those reviews.

August through October. The Regional
Advisory Council and the ACs would review and provide
comments. We invite the tribes and corporations to
consult on the revised version at Council meetings or
by special request to Office of Subsistence Management.
We anticipate that at least one Federal MOU working
group member participate in each RAC meeting to
dialogue about the revised draft. We will attempt to
have a person at each of the meetings and otherwise, if
that's not possible, by conference call.

In November, after those Regional
Advisory Council meetings, the Federal and State MOU
working group members will meet again to address
comments that are received and any remaining issues
will be identified.

November to December would be a meeting
of each side of the signatories with their agency staff
to discuss the revised version and any additional
issues. Those comments again would go to the MOU
working group. So that would require in November or
December at some point a working meeting of this Board.

Go ahead.

MS. YUHAS: From the State side, Mr.
Chairman, we're looking at later in November. Our
advisory committees don't meet on the same schedule
that the RACs do and with September being hunting
season October will likely be the first time that the
ACs are able to sit and actually discuss with each
other what they think about the changes, so we may not
know until November. So when we look at the proposed
schedule from the State's perspective we're looking at
late in November having collected our AC comments.

MR. KESSLER: Also in November and
December the MOU working group would meet to resolve
any of those signatory issues and then at the Board
meeting in January the Federal Subsistence Board would
have an opportunity to have final consultation with
tribes and ANCSA corporations in person and the
signatories would meet to work out final details and
agree to sign the revised MOU. This meeting would also
serve as the annual MOU meeting, which is required in
the MOU.

So this sort of lays out a strategy to
have the whole process completed by the Board's meeting
in January. With the first step, of course, being
approval to send this out for comment.

CHAIRMAN TOWARAK: Go ahead, Mr. Stacer
-- Haskett.

MR. HASKETT: You're just trying to
throw me, Mr. Chair. I have no real concern about
what's being laid out as the proposed schedule other
than it's a long time and it sounds like there's not
much choice based upon review periods and when the
different meetings take place. So I guess my question
is once this is done and we've signed it, we're not
going to have to go through this process every couple
of years, are we?

I guess what I'm asking is, assuming
there's not major changes and there's minimal revisions
at any point, that this can stand for some long period
of time. We don't have to go through this long process
again any time soon.

MR. KESSLER: Mr. Chairman. Mr.
Haskett. The way this is set up it has a review
process that has been incorporated into it so that
annually we would ask the advisory committees and the
Regional Advisory Council do they have any comments,
any concerns about how this is functioning and then all
those comments would go to the signatories and the
signatories then would have the choice whether they
wanted to make some changes or not, but I don't foresee
any big change like what we're going through right now.
I think that this -- hopefully we can just have little
minuscule changes from here out that respond to just
specific issues that might come up.

MS. YUHAS: I'm actually grateful for
Mr. Haskett's question. The State has had concerns as
we've moved along that part of the message has been
lost in this whole MOU process because it was
specifically initiated after the AFN letter and that
we've gone through the timeline we have. The message
has been lost that the ACs and the RACs and the public have always had the opportunity to comment. This isn't creating a new opportunity.

When Steve and I were reviewing the language for the briefing today, we discussed making sure that it simply showed that the new draft was recognizing an annual opportunity. It didn't create one. That opportunity has always existed. I think this particular concentrated review process lost that message and I've had the perception communicated from some of our AC members that there wasn't an opportunity before and we really had to put a lot of effort into correcting that. At any point in time someone could bring a comment to this Board and we even debated some of the language, whether it was necessary to say that the Board would consider it.

The expectation from the State's end would be any comment would be considered and either adopted or rejected with justification at any point in time, but the schedule of an annual opportunity is simply a reminder to the ACs and the RACs that the opportunity exists in the State's mind and we wanted to avoid creating a process whereby comment was mandated, thumbs up or thumbs down, every year midway through the year. If AC wants to bring a comment, we'd expect we'd communicate that to the Board and you would act. They'd like correction if that's the wrong perception because that's the one we have.

CHAIRMAN TOWARAK: My understanding also is that this whole agreement would be eliminated if the State assumed 100% State fish and game management.

MS. YUHAS: Is that an offer, Mr. Chairman?

CHAIRMAN TOWARAK: I think it's been on the table all these years, I think.

Any other comments.

Any questions of the Staff.

(No comments)

CHAIRMAN TOWARAK: Thank you. I know it's a hard process to go through and I appreciate
especially the State's input into the MOU. I think it's an important document for both the State and the Federal government to acknowledge the need to work together.

If there are no further comments, then we will continue on. Oh, I'm sorry, action by the Board. At this point the floor is open for a motion to approve distribution of the draft MOU to the Regional Advisory Councils and the State's Advisory Councils and also I think to the tribes at this point and the public. Everyone.

Go ahead.

MR. JUSTIN: Can I make an appointment?

CHAIRMAN TOWARAK: Sure.

MR. JUSTIN: Thank you, Mr. Chairman.

Wilson Justin, Cheesh'na Tribal Council. I wanted to reflect a concern and add a comment to the discussion prior to the formal action by the Board. The concern is the issue that was reflected upon by the State. I'm not really in agreement with the State on the issue of the process, but I do have a concern about the issue of the rollout and the timing.

I understand the compression of the process is very necessary. I also understand that the Federal Subsistence Board needs to have some kind of a process, but to me it seems like there's a little bit of a backwards activity here. I would think that consultation prior to the language would be absolutely necessary and at this stage probably a foregone conclusion that the process is going to continue as it is, but I would have liked to have seen some tribal consultation with some of the draft language prior to initiating this action. I think it was very important.

I'll give an example. There is absolutely no mention or use of the term climate change in this document. Without the issue of climate change being a part of the Memorandum of Understanding to me the issue of having scientific data being used as the platform is completely worthless. There is no need for scientific debate in the rural arena unless you're talking about climate change to previous existing platforms that have, as some might say, gone down the river. That's a concern and a comment.
The final comment that I would like to make, in spite of the fact that the process concerns me, I do support the process. The one thing that I like about the process is that it is a participatory process. I know the State's concerned about anybody jumping up in the middle of the process and I think that's a very strong show of the Federal Subsistence Board grasp of democracy. I don't think that a process like this which has a large public concern should be closed at any given stage even though we have the obligations of consultation and the obligations of the MOU to participating parties. I still think in this country a citizen should be able to stand up and say, hey, I want to be heard too.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Justin. Is there a response? Pete.

MR. PROBASCO: Mr. Justin, I think you bring a good point and I just wanted to clarify. I think you're aware of it, but what we're asking the Board is to approve the draft and this draft we will be sending directly to all the tribes for their comment to report back to the Board, so you'll have that opportunity.

MR. JUSTIN: I absolutely understand the point and what I was wanting to impress upon the Board is that there are a lot of activist tribal members out in the rural arenas who would have liked their Councils to be able to determine some of the language specific for instance to TEK and customary and traditional uses to be proposed within this draft before it came to this Board for action. That's a small point, but I thought a fine legal point that should be brought to your attention.

Thank you.

CHAIRMAN TOWARAK: Are you satisfied that you can still make comments?

MR. JUSTIN: Correct. As a representative of Cheesh'na, I absolutely have the ability to make comments during the consultative process or as I am doing now, but my point really is all about elders. We're losing elders at a fairly rapid rate and a lot of them should have had the
opportunity to speak to this process because the one
segment of the population in rural Alaska and Alaska
Natives that is most impacted and completely impacted
by subsistence activities is elders and their voice is
almost never heard in these proceedings. So what I'm
really talking about is the fact that we should have
been able to bring in elder narratives into the
discussion, particularly about climate change, prior to
the draft being put on the table. So I'm really saying
my comments are really all about just a select few.

CHAIRMAN TOWARAK: I appreciate your
comments. I know what you're saying.

MR. JUSTIN: Thank you.

CHAIRMAN TOWARAK: Ms. Yuhas.

MS. YUHAS: Thank you, Mr. Chairman.

I'd just like permission to clarify the State's
position on input. I thought I was clear when I stated
that the State has viewed this and continues to view
this as an open process where we are happy someone
could jump in at any time and that we did not want the
document as written to communicate that there was one
set point in a year only. We were trying to state on
the record that we've always recognized the process was
continual and open.

MR. JUSTIN: Mr. Chairman.

CHAIRMAN TOWARAK: Go ahead.

MR. JUSTIN: I very much appreciate
that clarification.

CHAIRMAN TOWARAK: Thank you. I'd like
to introduce the deputy commissioner of Fish and Game,
Mr. Fleener. Welcome to our meeting.

MR. FLEENER: Thank you.

CHAIRMAN TOWARAK: Any other comments
regarding the MOU.

(No comments)

CHAIRMAN TOWARAK: We will continue on.

Thank you for the work that you did again. The floor
is still open for Board action.
MR. BROWER: Mr. Chair. Move to approve the draft Memorandum of Understanding between the Feds and the State of Alaska.

MR. OWEN: Second.

CHAIRMAN TOWARAK: You heard the motion and the second. Any discussion. Mr. Haskett.

MR. HASKETT: So I just want to make sure I'm clear on what we're doing here. So it's to adopt the draft and send it out for comments is the motion.

CHAIRMAN TOWARAK: (Nods affirmatively)

MR. HASKETT: Okay. Good.

CHAIRMAN TOWARAK: Is that appropriate?

MR. KESSLER: (Nods affirmatively)

CHAIRMAN TOWARAK: Any further questions or discussion.

(No comments)

CHAIRMAN TOWARAK: Is there a call for the question.

MR. CRIBLEY: Call for the question.

CHAIRMAN TOWARAK: The question has been called for. Are there any objections to the motion.

(No objections)

CHAIRMAN TOWARAK: Not hearing any, the motion passes. Thank you, Staff and Ms. Yuhas.

We are up to Item No. 7, update on implementation guidelines on the Federal Subsistence Board tribal consultation policy.

Ms. Leonetti.

MS. LEONETTI: Waqaa (ph). That's the new hello. It's also the really old hello in Yup'ik. Waqaa.
MR. HASKETT: Waqaa.

MS. LEONETTI: Thank you.

Just a brief update on where we're at with the Federal Subsistence Board tribal consultation policy and writing the implementation guidelines for that policy. On May 9th you adopted the new tribal consultation policy and that was a great day. Since that time Chairman Towarak sent a letter to all the tribes and ANCSA corporations. That's a big mailing, by the way. It's like 450 letters. So I just want to take the time to thank OSM and especially Anita Roberts and Pam Raygor and Glenn Westdahl for doing that hard work.

The letter did three things. It informed the tribes and ANCSA corporations of the new tribal consultation policy and the continuing development of an ANCSA consultation policy. It asks for nominations to the consultation work group from tribes and corporations. To this date I don't think we have received any nominations thus far.

The third thing it did was inform the tribes and corporations of the draft analyses, which is why Kathy O'Reilly-Doyle is sitting with me and I'd like her to explain that part of the letter now and then I'll go into where we're at with the implementation guidelines.

MS. O'REILLY-DOYLE: Thank you, Crystal. Mr. Chair. My name is Kathy O'Reilly-Doyle and under tab number 2 in your folders you'll see both of the letters that Crystal is referring to. As Crystal has stated too, it was quite a mailing. So one thing that we wanted to do was to combine two information items out to the tribes and ANCSA corporations at the same time and combine those for their benefit.

The first part of that Crystal will address. The second part of the process that's being adopted as part of this tribal consultation policy is contacting tribes and ANCSA corporations when there is an opportunity for consultation. With the proposed changes to the Federal subsistence fishing regulations, this is one of those opportunities.

So what we laid out in the second part
of the letter is that there will be several opportunities for consultation in this process. One will be through the Regional Advisory Councils. The other will be through the meetings that the Federal Subsistence Board has. Everyone has the opportunity as well to contact the Office of Subsistence Management and ask for individual tribal consultations. They can consult with us and set up appointments. So we just wanted to lay out what that's going to look like in terms of consultation on this new set of regulations.

Is there any questions?

(No comments)

MS. O'REILLY-DOYLE: Thank you.

CHAIRMAN TOWARAK: Thank you.

MS. LEONETTI: Kathy, if you'll stay here too because, you know, if there's any questions on the phone from tribal or ANCSA corporation representatives when I'm finished with my briefing about that part, then maybe you can answer those questions.

MS. O'REILLY-DOYLE: I can do that.

MS. LEONETTI: The next step on writing the implementation guidelines is to meet with field level managers as you directed me to do to make sure that the field level managers are able to carry out the work that may be written into the implementation guidelines. Then the consultation workgroup will convene to continue writing those implementation guidelines and hopefully finalize them by your January meeting where we'd like to present those implementation guidelines to you, then it will go out to the Regional Advisory Councils and to tribes and ANCSA corporations for their review before you finalize the implementation guidelines and adopt them. So that's the plan right now.

As far as the ANCSA corporation consultation policy, Department of Interior is still working on that final version of their ANCSA corporation consultation policy and when that's finished the consultation workgroup will resume writing ANCSA corporation policy for you.

Are there any questions from the Board.
MS. LEONETTI: I'd also entertain any questions from tribal or ANCSA corporation representatives if there are any on the phone or in the room.

MR. BROWER: Mr. Chairman.

CHAIRMAN TOWARAK: Go ahead.

MR. BROWER: Just a question regarding your two policies you're working on, the one with ANCSA corporations and the other with tribal. Is that going to be two different policies, one with State regulation and the other with Federally recognized tribes on the ANCSA?

MS. LEONETTI: The ANCSA policy will be tailored to ANCSA corporations. I don't know that it has a State component. It's a Federal law that we are mandated to follow. Does that answer that?

MR. BROWER: I know it's an executive order, but at the same time ANCSA is a corporation chartered by the State and we, as a tribe, are Federally recognized, so what is going to be the difference between these two policies?

MS. LEONETTI: Let me explain. There's two things. There's the executive order, which requires us to consult with Federally recognized tribes. The second thing is a law that was included in the appropriations acts of 2004 and 2005 that said that Federal agencies will consult with ANCSA corporations. So the two policies -- the first one is honoring the government-to-government relationship with Federally recognized tribes.

The second policy, because there's a different relationship with ANCSA corporations, as you said, chartered under State law as a corporation, that there's a different relationship. So that second policy will be to follow the law that was passed requiring us to do that and tailor it to ANCSA corporations, which will be different from the government-to-government relationship that we have with tribes.

MR. BROWER: Thank you.
MS. LEONETTI: You're welcome.

CHAIRMAN TOWARAK: Any other questions. Pete.

MR. PROBASCO: So, Mr. Chair, that's an update from Crystal and Kathy. The next time the Board will look at that we'll have some potential language that will look at implementation.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. We will continue on then. Thank you, Crystal and Kathy. Go ahead, Mr. Haskett.

MR. HASKETT: I should have done this before you started to move on, but I would like to thank Crystal Leonetti for all the work she's done on this. She's put a tremendous amount of effort in this. I know there's a lot of people involved too. So her and all the folks working on this just deserve a great round of thanks for keeping this moving forward. It's been a challenging assignment, I think, so thank you.

CHAIRMAN TOWARAK: I agree. It seemed like I read -- Crystal, I should have asked this while you were up front, but it seemed like there are other agencies that are waiting for us to go through the process so that they could possibly use this as a format that they also could use.

MS. LEONETTI: I don't know about other agencies waiting for this, but I do know that the Federal Subsistence Board is setting a precedent for something that's very unique with multiple agencies involved in a government-to-government process with two different departments involved. This is something, I think, unique across the country and possibly could be the example for other efforts in the future. But, yeah, people are watching closely about how the Board is undertaking the process and what the language is that we're putting into the policies.

CHAIRMAN TOWARAK: One other thing I'd like to add. If we could do it in any future distribution to the 400 recipients of the letter, if we could put a short paragraph in there about the restrictions that this Board has on the relationship between ANCSA corporations and tribes, that we don't
have any authority to make any changes on that portion. It's a mandate from the President's office down to this level. I think there's people that don't understand that yet.

MS. LEONETTI: I agree, it's complicated and you've actually done a good job at that in your letter on June 28th. There's a footnote on the bottom of the first page that explains where that language is located. It cites the statute and it says exactly what the line was and the law that was written into the Appropriations Act. So hopefully, you know, if we continue to do that, it will be more understood as we go forward. I do think that the future ANCSA corporation consultation policy will be clear about that relationship with ANCSA corporations and that will help us as we go forward as well.

CHAIRMAN TOWARAK: Thank you. So that concludes our discussion on the.....

MR. PROBASCO: Is there anybody online that wants to say anything?

CHAIRMAN TOWARAK: We should offer anyone online that would like to make any comments regarding the tribal consultation policy.

OPERATOR: Please press star 1.

(No comments)

CHAIRMAN TOWARAK: Thank you, Operator. Not hearing any.....

OPERATOR: I do have one person coming up.

CHAIRMAN TOWARAK: Okay. We will wait.

MR. ADAMS: Mr. Chairman.

CHAIRMAN TOWARAK: You have the floor.

MR. PROBASCO: Go ahead, Bert.

MR. ADAMS: Okay, can you hear me okay, Mr. Chairman?

CHAIRMAN TOWARAK: We hear you well.
MR. ADAMS: Okay. I came on at the beginning of the meeting and then our power went out, so I lost contact for a bit, but aside from the MOU thing, I'm glad that we're moving forward on that, but when I lost contact with the conference we were on the territorial jurisdiction issue and I was just wondering what the issues are and what's going to go forward on that. I'll probably have to excuse myself there after a bit. I feel a little bit of a bad flu coming on me.

MR. PROBASCO: Mr. Chair. Mr. Adams. We had Dr. Wayne Owen on behalf of the Forest Service just give an update and then Mr. Pourchet gave us this morning's update on the status of the letters as far as those going out and back to the recipients, those people involved in the extraterritorial jurisdiction. Mr. Pourchet reported that those letters were in the Secretary's Office and should be going out shortly.

MR. ADAMS: Thank you very much. That's encouraging as well. Okay. Thanks a lot. Mr. Chairman, I think I'm going to go off line here right now and probably go to the clinic and get some treatment done before I get any further worse yet.

CHAIRMAN TOWARAK: Please do.

MR. ADAMS: Okay. Thank you. Have a good meeting. Bye.

OPERATOR: I have no further comments.

CHAIRMAN TOWARAK: Thank you, Operator. We will continue on then with Item 8, approaches to the rural/nonrural determination process.

Dr. Jenkins.

DR. JENKINS: Mr. Chair. Board members. Good morning. David Jenkins, Office of Subsistence Management. I'm not sure that it's possible to speak briefly about rural issues, but I'm going to try. In fact, quite briefly. At your January 2012 meeting, the Board passed a motion to direct the Staff to initiate a review of the rural determination process and the rural determination findings through a proposed -- the publication of a proposed rule.

As I understand it, the intention of the Board is to conduct a global review of rural determination processes and the methods and findings
beginning with public input. Mr. Virden referred to
the review at your January meeting as a bottom up
process which would include public comment, tribal
consultation and Regional Advisory Council
recommendations.

OSM Staff, in conjunction with the
Interagency Staff Committee met to develop a tentative
outline of the global review and project a timeline for
the review. Let me start with the timeline. You have
an outline of the Federal Register process in your
books.

The first question to answer is what
kind of Federal Register announcement to make and the
Staff concluded that a public notice is the first step,
which would be published under a local signature and
not a secretarial signature, so it could proceed
quickly and that public notice would ask for public
input on the rural process on methods, criteria and
determinations.

You can see if you look at that
timeline simply the Federal Register process is quite
lengthy. It would start with a draft notice for a
public review, which is being drafted in our office at
the moment. It requires an ISC, interagency staff
review, the publication of the notice, a comment period
of 90 days, an analysis of those comments, which could
be another 90 days, further ISC review and so on to
Federal Subsistence Board review and action, after
which a draft proposed rule would be written.
There would be a 60-day period to draft that further
ISC review.

If you follow through the timeline
here, the total just for the Federal Register process
is nearly two and a half years to go through this
timeline. There are other variables that will have to
be added in. Tribal consultation, public review
process. So that could expand that period of time
considerably beyond the two and a half years just for
the Federal Register process itself.

Embedded in that then would be the
global review that the Board has asked for this rural
determination. In that global review for public
comment would be issues like rural determinations,
composition thresholds, rural characteristics that are
used to define at this point rural issues, the
aggregation of communities into larger units and then
information sources.

The ultimate goal is to come up with rural
determinations that the Board would make and to do so
before the five-year period that has been imposed on
you to get that completed.

So if there are questions, I can answer
specific questions on any of these issues. Otherwise,
that's as brief as I can be.

Thank you.

CHAIRMAN TOWARAK: Go ahead, Pete.

MR. PROBASCO: Mr. Chair, if I may. On
behalf of both OSM and the Staff Committee is that
we've laid this process out. We want to make sure that
the Board is comfortable with that. This is our best
estimate on how long it will take. It could be longer,
it could be less. It just depends upon some of the
unknowns and how long those take. Particularly if you
get into the discussion on methods and means and
aggregation, et cetera. If we complete this in two
years and four months or somewhere around that, we're
still well ahead of how long it took us in 2000 to go
through that process and we will meet the deadline
based on the Board stay of the earlier 2007 decision.
We would meet that prior to the five years coming to an
end.

So, Mr. Chair, this is what we have.
I'm looking for a thumbs up agreement and we will
proceed.

CHAIRMAN TOWARAK: Are there any
questions of the Board.

(No comments)

CHAIRMAN TOWARAK: I've got a general
question. Has there been any distribution to the
public about the process? Is it well known what our
restrictions are and an explanation of the hoops that
we need to go through in order to meet requirements?

DR. JENKINS: Mr. Chair. Since your
January directive to Staff there's been no such public
dissemination of information and it's going to start
with this public notice and that will start the process
going.

CHAIRMAN TOWARAK: Any further questions.

OPERATOR: If you would like to ask a question or make a comment over the phone, please press star 1.

CHAIRMAN TOWARAK: I understand Mr. Lee Wallace from Saxman would like to speak on this issue. Mr. Saxman, are you available?

(Laughter)

CHAIRMAN TOWARAK: Mr. Wallace.

MR. WALLACE: Thank you. Mr. Chair and Board. Thank you for this opportunity and thank you for taking up this matter. Now we're in the very beginning stages although it's been a long road for Saxman, this rural/nonrural issue. I guess what I want to impart on the Board is that look at the beginnings of the FSB and the Title VIII and then you look at the proceedings of the number of years since then, into a couple review periods. Saxman was on the first review period. At that time they were thinking about making us nonrural. The first one was reversed. They kept us rural. Then the second review they determined that they would aggregate us with Ketchikan. This Act was to protect our way of life, the Native seasons. The way I've seen it is that they put the different criteria in the years to make it difficult for us. So when you deliberate the whole process definitely look at the criteria that's used. I hope this is a just review period. I would definitely like to see Saxman and any other villages like Saxman to remain rural.

As far as I'm concerned, there may be many like this also that -- there's probably two nonrural communities in Alaska. That would be Anchorage and Fairbanks. Thresholds and community makeups, ultra makeups. In the past Board review of the wolf study, that was rejected. We fully supported it as well as many other communities and organizations. I definitely think it's worthwhile to examine and look at the wolf study. Just make it simple.

That's my comments. I'll be looking for future mailouts as far as the review process, the
outline that's laid out for you folks. Thank you for this opportunity. Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Wallace. It will be a very public process that we will go through and enough notices I think will be sent out so that the public will be aware of almost every move that we make on this issue.

Thank you for your comments.

MR. WALLACE: Thank you.

CHAIRMAN TOWARAK: Anything else further.

OPERATOR: You have a comment from Winona Wallace. The line is open.

MS. WALLACE: Mr. Chairman. I'm Winona Wallace and I'm the tribal administrator for the Organized Village of Saxman. Good morning. Can you hear me?

CHAIRMAN TOWARAK: Yes, we could. Go ahead.

MS. WALLACE: I have a question. Earlier it was stated by Mr. -- I think it was Jenkins -- who talked about the process maybe being an extended rural determination process. I was listening to him and much of what I did hear is that there would be a simple review on population thresholds, the definition of rural, methods and means and aggregate. My question is how different is that from what we've been doing or what the FSB has been doing? Is it going to be a repeat of what has been occurring? So I'm just wondering how different all of the population thresholds, the aggregates, the methods and means and all that is going to be different than what has already cropped up.

Thank you.

DR. JENKINS: The intention is to review all of the characteristics, all of the aggregation criteria, the definitions and the information sources by which we make ultimately these determinations. So my understanding is the Board has directed us to get public input to have a complete
review of the process from start to finish. So what
the public can come up with are recommendations or
critiques or even approval of parts of the process. So
anything is open. If you want me to discuss
particulars at this point or thresholds, for example, I
could do that, but that might be too detailed at this
point in time.

Thank you.

MR. PROBASCO: Mr. Chair. If I may add
to.....

CHAIRMAN TOWARAK: Sure.

MR. PROBASCO: .....Dr. Jenkins'
comments. The Board has not determined what process
they will be utilizing for the 2010 data in the census.
A direct answer to Ms. Wallace's question is what was
done based off the 2000 census is not necessarily the
approach the Board will take. They're seeking public
from the tribes, the public corporations, et cetera, on
how to conduct this next analysis. So we're
esentially starting from scratch.

Thank you.

CHAIRMAN TOWARAK: I'm going to assume
that we've answered your questions, Ms. Wallace. Just
as a reiteration, we are at the very beginning and the
doors are open, I think, to any suggestions on the
procedures that we will be taking. Any further
comments from the public.

MR. LORD: You'll have to excuse me.
I'm from Nenana and my flight came in a little bit
late, so I don't know if there was an introduction
period earlier. Victor Lord with Nenana Native
Council.

Part of the reason I came down here is
just to familiarize myself with your Board process, Mr.
Towarak. I'm kind of familiar in the backgrounds of
this because I used to help the late Mitch Demientieff
with a lot of his proceedings, preparations for these
kind of Board meetings. Anyway, I noticed the
rural/nonrural consultation and the rural/nonrural
designation, a review process here. I'm down here to
try to catch up with what you guys are doing and your
process. Nenana, as you know, is like on the Parks
Highway and Alaska Railroad, which landed on us. We didn't land on that.

Anyway, Mr. Lord, me and him aren't related. I don't believe it is unless he migrated down from Barrow and wound up in Athabaskan country.

MR. K. LORD: No, but I get asked pretty regularly if I am related to you, so I'll be interested in talking to you afterwards.

MR. V. LORD: We'll have to get together here. That's about it. I just wanted to introduce myself and thank you guys for all your efforts. I've been on a few boards and I know it's a lot of work and volunteer and stuff, especially for you Tim.

Thank you.

CHAIRMAN TOWARAK: Thank you for your comments. Not hearing any, then let's take a 10-minute break.

(Off record)

(On record)

CHAIRMAN TOWARAK: I'd like to call our meeting back to session. We had just completed our discussion on the rural/nonrural determination process. The next item on the agenda is delegation of authority on the Kenai NWR. National Wildlife Refuge.

We will ask Mr Berg to give us an overview.

MR. BERG: Thank you, Mr. Chair. Jerry Berg. I'm an Interagency Staff Committee member for Fish and Wildlife Service. So I thought I'd start out first and kind of go back and provide some background information on how we got to where we are today on this issue because maybe not all the Board members may be aware of what's been going on with moose on the Kenai over the past year and a half.

Conservation concerns related to the moose populations on the Kenai have heightened in recent years due to extremely low bull/cow ratios and those have been documented during the fall composition
surveys conducted from '07 to 2010. Then in the spring
of 2011 the Board of Game eliminated the spiked fork
component of the harvest on the Kenai and changed the
large bull harvest provisions from bulls with antlers
of 50 inches or three or more brow tines to 50 inches
or four or more brow tines. Although that action was
not a full closure it effectively reduced the bull
harvest down on the Kenai by about 80 to 90 percent.

The Board of Game stated that the
intent of that action was to increase the bull/cow
ratio as quickly as possible while retaining some
harvest opportunity. They also committed to review the
results of that action at their spring 2013 meeting in
order to develop and implement a longer-term harvest
management strategy at that time.

So based on the conversation concerns
for the moose population and the Board of Game action,
two special action requests were submitted to the
Federal Board prior to last season and they were
basically to mirror these changes that were made by the
Board of Game for the early and late Federal
subsistence moose season. Then the Federal Board about
this time last year adopted the special action which
closely aligned with the State regulation for the
Federal subsistence early moose season.

But that left the existing regulations
in place for the late season. During the late season
the refuge manager already has the delegated authority
to close the season when needed. Due to continuing
conservation concerns for the moose population, that
late season was closed last season after about a week
of hunting, after three bulls were taken in a very
small area that was easily accessible fairly close to
Soldotna.

So also as a result of conservation
corns the Refuge submitted a proposal to the Federal
Board to align regulations permanently in Unit 15 for
the moose harvest regulations with the new State
regulations. However, after hearing concerns from the
subsistence users on the Kenai about the potential for
that regulation to become permanent and remain in place
longer term, the Refuge opted to withdraw that proposal
during the Southcentral Council meeting last fall. The
Refuge told the Council that they would re-evaluate
other options and bring them forward to the Council in
the winter of 2012.
So prior to the 2012 Council meeting the Refuge went to Ninilchik in February to engage them in a discussion regarding the delegation of authority to the Refuge manager for all wildlife on the Kenai. This meeting with Ninilchik also included a representative from the Seldovia tribe who was on the phone and then we later briefed the Port Graham tribe by telephone that same day.

We presented the option of the delegated authority to the Refuge manager as a preferred option as we believe it would provide the manager with the ability to address conservation concerns in a timely manner with the added flexibility to manage the moose harvest within the refuge on an area specific basis as dictated by the moose population status, accessibility and hunting pressure.

For example, this approach would provide the flexibility to leave areas open while restricting harvest in other areas thereby allowing maximum opportunity for subsistence users while addressing conservation needs. As I mentioned, the Refuge had to close that area the whole season last year due to three bulls being taken in that one small area.

So with the input received from the subsistence users or the input we received during these meetings from the subsistence users was generally supportive of the in-season management authority and in particular of having the flexibility to leave areas open that could sustain harvest while closing or restricting areas that needed protection. A second option was discussed during these meetings regarding the submission of multiple special action requests to the Board for the various areas on the peninsula, but all agreed that the delegated authority was the better option.

Then at the Southcentral Council meeting this past March refuge manager Andy Loranger and I briefed the Council on the possible request for delegation of authority to the refuge manager and asked them specifically if they'd like to take any action in support of or in opposition to this delegation of authority to the in-season manager. All these discussions were focused on moose at the time, is the primary concern there. During the Council meeting the chairman stated that he didn't see the need for the Council to take action and that the Council has never
not supported this type of a request.

So although the discussion was focused on moose based on the chairman's statement at that meeting and no opposing views from other Council members, it seemed reasonable to us to request delegated authority for all wildlife since the manager already has authority to open and close the brown bear season and the late moose season.

So, if granted for all wildlife, the additional species that would be affected would be moose in the early season, black bear and then small game, ptarmigan, grouse and furbearers. We thought it would be best to make this one request rather than to come back to the Board with multiple requests.

So the moose harvest restrictions put in place last season on the Kenai did result in improvements to the bull/cow ratio. As I mentioned earlier, the harvest was down by 80-90 percent, so there was some improvement to the bull/cow ratio, but the ratios still remain below objective levels and conservation continues to be an issue.

The restrictive harvest management actions needed are intended to be in place short term in hopes of improving the bull/cow ratio quickly. It's important to recognize that we're in a period of transition for managing moose harvest on the Kenai to address conservation issues and that the outcome we're all seeking is to ensure healthy populations and implementation of a viable long-term strategy.

This request for delegated authority is responsive to our commitment to the Regional Council to search for solutions that address conservation needs while being the least restrictive to subsistence users. This delegated authority will allow the refuge manager to evaluate and adjust management actions quickly and it will avoid multiple special action requests from the Refuge to the Board requiring the Board to get involved with the details of managing moose on the Kenai in a quick turnaround situation.

Any special action requests to the Board would likely be complex and the Board's decision process usually takes a longer time frame that may hinder the ability to address conservation needs in a timely fashion. Special actions acted on by the Board
usually take about one to two weeks for action in a multi-step process rather than the more responsive process for in-season managers that can often deal with needed actions in a matter of just a few days.

So, if granted, this would bring the Kenai wildlife delegations into similar status with all the statewide fisheries in-season management delegations the Board has approved. I would note that many of the fish species included in the fisheries delegations have never required any sort of special actions, which is likely the case for the other wildlife species on the Kenai. In addition, similar delegations of authority for deer, moose and goats were put in place two years ago for all of Southeast for the Forest Service lands in all of Units 1 through 6. The Forest Service has 10 letters of delegated authority to 10 different district rangers in Units 1 through 6.

Finally, under the delegated authority for wildlife, the Kenai refuge manager would certainly keep the Board apprised of any actions taken and overall management goals. Mr. Loranger has the in-depth knowledge of moose and other wildlife populations on the refuge and providing this delegated authority to take appropriate actions on behalf of the Board to adjust seasons and harvest strategies is what we believe to be the best approach. If a particular issue arises to a level of it needing to go to the Federal Board, Mr. Loranger always has the option to forward any such request to the Board.

So, Mr. Chairman, I thought I'd just kind of go over the options that went out to all the Board members via email just to remind the Board members that the options before the Board are to adopt one of the two draft letters that were sent out, that being the delegated authority to the Kenai refuge manager for all wildlife as requested or to delegate the authority to the Kenai refuge manager for moose as some have suggested in some of the discussions we had in our staff committee or elect to not take action to delegate authority for either one.

With that, Mr. Chair, I'll be happy to answer any questions at the pleasure of the Chair. Thank you.
OPERATOR: If you'd like to ask a question over the phone, please press star 1.

MR. CARPENTER: Mr. Chairman.

CHAIRMAN TOWARAK: Go ahead, Mr. Carpenter. You have the floor.

MR. CARPENTER: Thank you very much. I would like to comment in regards to what Mr. Berg has just presented the Board in regards to the refuge manager's delegation of authority. I was the acting chair at the meeting that he referred to and also in regards to the comments that were made at the meeting I guess I want to make it clear to the Board that I believe Mr. Berg represented things quite accurately, but I think we have to take this whole thing into context because we were specifically talking about the moose situation on the Kenai Peninsula and on the refuge in particular.

I think it's a little concerning to me listening to the conversations that have taken place today and also some conversations that took place with another representative of the RAC at the last Federal Board meeting. A change that was asked by the Federal Staff and the Federal manager in regards to delegation of authority from moose in Unit 15 on the refuge has now changed to a delegation of authority for all species.

Now I'm not saying that the RAC is going to be for or against such action, but my concern at the time is that this has not been presented to the RAC. This request is completely different than the request that was asked for at our fall meeting. Trying to follow some of the practices that we've been accustomed to, I feel that changing this request needs to go back to the RAC at our next meeting to see what the general support or not support for such action is.

I have talked to a few other RAC members about this because I had heard that it was coming before the Federal Board and I think there is some concern that maybe this is not the actual correct approach that we ought to take at this time. So there were some questions and I'm not sure if Mr. Berg can answer those or if somebody on the Board or the Federal Staff can answer those that were brought to my attention by other members of the RAC.
A couple of the questions were do all other Federal managers under the subsistence authority have the authority for all species of wildlife. He referenced some delegation letters in Southeast, but I'm talking about statewide. So that's one question.

The other question was if this power was granted to the refuge manager, would there no longer be the need for a special actions request in regards to a species and would that lead to no consultation with the RAC chairs or tribal entities in regards to the species of concern at the time.

So I'll standby on the line. That's the position that the RAC is going to take at this time. We would rather see the Board defer this back to the RAC for further comments before it makes its final determination on this so that we can let the general feelings of the RAC members be heard. Also, if it's possible, could you possibly have somebody address the questions that I brought to you.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Carpenter. We're going to refer you to Mr. Haskett.

MR. HASKETT: Thank you, Mr. Chair. I guess I understand the concerns from the RAC that this wasn't -- we have two proposals here and one of them isn't what we presented, so I'd like to simplify this because I'm going to be the one that will be making the motion when we get to that point. I'd like to take off the table -- we have two different letters in here. One is for all species and one is specifically for moose. In your book, I think the second letter is the one that's -- the proposal for the delegation be for moose only. So I'd like to make this a lot more simple and make it for moose only to address the first concern I heard from the RAC and we'll just take off the table the whole question about all species.

CHAIRMAN TOWARAK: Go ahead, Mr.

Probasco.

MR. PROBASCO: Thank you, Mr. Chair. Because this request comes from the U.S. Fish and Wildlife Service Mr. Haskett's request and direction is appropriate and we would only be focusing on the intent of moose only.
Mr. Chair.

CHAIRMAN TOWARAK: Go ahead, Mr. Haskett.

MR. HASKETT: So I think that addresses the first concerns from the RAC and then the other questions I'd like to turn those over to either Jerry Berg or we also have Andy Loranger here too if we need to pull him up, the refuge manager from Kenai. We can pull him up as well to answer some of those questions. So I'd like to have Jerry address the other questions.

CHAIRMAN TOWARAK: Go ahead, Mr. Berg.

MR. BERG: Well, I guess maybe Chuck can also help clarify, but as far as consultation with other entities, I don't know if Mr. Carpenter has seen the actual draft letters of delegation, but certainly for any action, special action coming in or action initiated by the refuge, the refuge manager would consult with the local RAC members on the Kenai as well as the chair of the Council before actions are taken. Then as far as other delegations of authority, maybe I'll let Chuck kind of go over some of those for some background information on the wildlife side.

MR. ARDIZZONE: Chuck Ardizzzone for the record. I can answer Mr. Carpenter's first question. Generally in-season managers aren't delegated the management for all wildlife. It's usually specific species. We do have a number of in-season managers that have multiple species like in Southeast, but there's not a blanket delegation like for fisheries.

Then I would agree with Jerry on the second question. Right in the letter it says there would be consultation with the RAC and with Fish and Game and other management agencies in the area, so Mr. Loranger would have to do that if the Board granted the authority to him.

CHAIRMAN TOWARAK: Any further discussion. Go ahead, Mr. Berg.

MR. BERG: And then as far as other delegations for Southeast -- you know, so there are delegations for deer, moose and goats in Southeast, so the district rangers down there have the authority to take all -- to issue special actions or take action on
special actions regarding those species in areas 1 through 6. We also have various delegations around the state for various species.

MR. ARDIZZONE: Mr. Chair. There's approximately 50 delegations across the state for wildlife, give or take. Most of them are for ungulate species. There's a few for brown bear and one for wolf, but generally there's not, like I said, the blanket delegation.

CHAIRMAN TOWARAK: I don't know if Mr. Carpenter can hear you, but when you speak if you could speak a little bit closer to the microphone, we could hear you better. Any further discussions. Mr. Cribley.

MR. CRIBLEY: I guess it's as much process as anything, but it seems like we should have something formally from the RAC giving us a position on this particular recommendation or request rather than just assurances of conversations and such before the Board itself would take action on that. I don't know what the procedure is in regards to this type of an action. Plus having the conversation or listening to the discussion from the individual who was the acting RAC chairman at that time sounds like there's some questions. Not necessarily concerns, but an interest in having additional dialogue between Fish and Wildlife Service and the RAC before we move forward or make a motion on this recommendation.

CHAIRMAN TOWARAK: If I could refer a question to Mr. Haskett, I'd also like to know if there's a time crunch on making a decision.

MR. HASKETT: This is time sensitive. We're running up against where it's going to be too late if we don't take an action pretty soon. Again, I'm going to ask Andy Loranger to come up and speak to the Board. I think we have the acting RAC on the phone who was there and what I heard him say and I'd like to hear him again, but what he said was that Jerry had accurately portrayed the reaction from the RAC at the meeting based upon it only being moose and the only questions I heard were when you've got multiple species, which is why I said let's pull that off and not have it complicated.

So, respectfully -- and we could
certainly have additional discussion. I'd like to move this forward where we do have a motion and discussion and a vote. I'd like to hear from the acting RAC from the meeting again because he was there and I think he can give us the official position specific to it being moose only. Again, I'd like to hear from Andy on why it's time sensitive as well.

MR. CARPENTER: Mr. Chairman. Can you still hear me?

CHAIRMAN TOWARAK: Yes, we could. If we could hear from Mr. Loranger and then we will take your question next, Mr. Carpenter.

MR. LORANGER: Thank you, Mr. Chair. Good morning, Board members. The moose season begins -- Federal season begins on August 10th, so we're within less than a month in the opening of the season.

Thank you.

CHAIRMAN TOWARAK: Thank you. Mr. Carpenter, you had a comment.

MR. CARPENTER: Thank you. I appreciate the dialogue that's taking place here today in regards to this. I want to reiterate that in no fashion is the RAC trying to impede the Federal manager or the Federal process in regards to the viability of the sustainable moose populations or practices on the Kenai Peninsula.

I think there was a question by one of the Board members about a statement that I made while I was acting chair and I'd like to reiterate that Mr. Berg and Mr. Loranger both presented the testimony and basically the subject was moose and there was some concern that the refuge manager did not have the appropriate time in certain situations to react fast enough to either close or slow down the hunt if necessary and that was the information that was presented to us at the RAC meeting.

I will present from my own recollection that there were some members from the Kenai Peninsula that are on the RAC that had some concern that the Federal manager with the delegation of authority would react too fast in some situations and they had some concern about giving him that authority. My position
was, and I was stating my own position, though I'm quite familiar with management practices around the state, that my position was that you never should take away a manager's responsibility to act appropriately and that I did not have a problem myself with the delegation of authority for moose. Remember, we were specifically speaking about moose. So those are my comments.

I would also suggest that the last time there was a special action for a moose closure Mr. Loranger did call me because he could not get a hold of our chairman. I was actually duck hunting at the time and I had my cell phone and my cell phone rang and we actually discussed the closure and appropriate actions were taken. So I think that as long as the consultation continues between the RAC and the Federal entities in the general vicinity of where this closure is going to take place that the general perception from the RAC some are for, some are against. I think it's up to the Board to make the determination as the way we go in regards to moose.

The real concern is with giving a delegation of authority for all species. I think there's been comments by some Board members that that might not take place and I think that if a proposal was brought back to the RAC in regards to the rest of the species we could look at that at some further time because we don't feel that it's appropriate at this time. So I hope that those reflections from the RAC meeting and comments from myself help the Board making its decision.

Thank you.

MR. HASKETT: So I think those comments were very helpful and I think it made it clear and if I don't get this right, please correct me, but it was clear that the biggest concern from the RAC was on multiple species, which I've gone ahead and made sure that the Board recognizes we're not asking for that anymore. We're asking specific for moose. I think we can see this is a very time-sensitive measure.

I also very much appreciate the comments and I see them in the State's comments as well. I know the State hasn't been able to offer theirs up yet, their concerns, but there's obviously a
lot of trust in our refuge manager, Andy Loranger. I'd say a lot of the State comments are Andy Loranger knows what he's doing and we trust him and hear the same comments from the RAC as well.

My plan is, when we get to that point, to be making a motion and just kind of a reminder to the Board that when we vote and when I vote I always make sure that whenever I can I go with what's being recommended from the RAC. I think 95 percent of the time that's true unless there's some conservation issue or concern that we have on the refuge. This is one where we clearly have that.

I guess Bud, I'm going to go directly to you since you had the concern about whether or not we should move forward on this based upon whether we have enough information or whether we need something in writing from the RAC. I guess I'm hoping you're okay that what we got from the RAC was good enough what we heard just now or not.

MR. CRIBLEY: I guess what we heard was personal opinions. We don't have a recommendation from the RAC per se. We have an account of the dialogue that took place at the RAC meeting. I think it was Mr. Carpenter who was on the -- who is on the phone reflected his personal opinion on it and support of it, but he didn't -- it didn't sound like the RAC took a vote on it and gave us a formal recommendation. Maybe I'm wrong on that and don't understand that.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: We don't have to have a recommendation from the RAC. It was presented to the RAC. The RAC chose not to give an official recommendation. The best we have is a discussion of what concerns there were or not and I don't feel that it's incumbent upon us if the RAC chose not to give a specific position on this that we have to have that in order to move forward on this issue.

CHAIRMAN TOWARAK: Go ahead.

MR. PROBASCO: Thank you, Mr. Chair. I want to speak to what Mr. Haskett and Mr. Loranger said on why this is so important. If this delegation of authority for moose is not provided, then what Mr. Loranger has to do then is go through a special action
process, which is not as timely as having delegated
authority. So he'd have to submit that request, we
would go to the Staff Committee, et cetera, et cetera.
So you're days out as far as an action item.

Mr. Chair.

CHAIRMAN TOWARAK: Mr. Virden.

MR. VIRDEN: Thank you, Mr. Chair. I
would like to see it go out to the RAC and if there's
any way we can speed up that special action to just a
handful of days or for getting to that point where the
harvest is going to hurt the moose population, I'd
rather work on that and let the RAC come back to us
with something formal. It's been a criticism and I've
been at the RAC meetings in the past, not so much right
now, but I don't want to leave the impression that
we're not listening to what the RACs have to say or
give them the opportunity to say.

Thank you.

CHAIRMAN TOWARAK: Just out of
curiosity, has there been any opposition to restricting
it to a moose only from the RAC?

MR. BERG: Mr. Chairman. At the spring
RAC meeting this past March in Anchorage I specifically
asked the RAC if they would like to take any action in
opposition to or in support of the request for
delegation and the response back from the chairman was
that they had never not supported that type of request
in the past. There was no other comments from other
Council members regarding taking a specific action. So
that's how it was left. We specifically asked him if
they wanted to take action and they chose not to at the
time.

CHAIRMAN TOWARAK: I'm going to ask --
I noticed that you had put a couple of memorandums on
our chairs during the break.

Do you have any comments?

MS. YUHAS: I do. Thank you, Mr.
Chairman. I fully understand that I'm simply here in
an advisory capacity and not voting in any way. The
State does have comment on this in general. You have
several pages of perennial comments. They're nothing
new to the Board. I know that the Board appreciates brevity and so I’ll simply hit on the highlights.

We do want to make a matter of record of expressing our confidence in the current refuge manager for his competency, his management abilities, his outreach efforts and his general positive collaborative efforts with the State, the tribes and the general public. The State has traditionally objected to anything other than a temporary delegation considering that outside of the boundaries of ANILCA Section 1314 and considered that an abrogation of the Board’s responsibilities more than a matter of simple delegation of authority.

What we see missing from this is the temporary nature. While we have the confidence in the current refuge manager, we’d be much more comfortable with a temporary delegation. We’ve not expressed that confidence in all refuge managers and certainly not the current refuge manager’s predecessor as you’re aware.

You’ve already made an amendment, Mr. Haskett, to portions of this and the State would ask if you'd be willing to make that a temporary delegation rather than one that's in perpetuity for all future refuge managers.

*******************************
STATE OFFICIAL WRITTEN COMMENTS
*******************************

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board Delegation of authority to the Kenai National Wildlife Refuge (NWR)

This agenda item proposes to delegate the Federal Subsistence Board’s authority to open, close, and restrict hunting letters of authority to federal land managers in the Kenai NWR.

The State was unfortunately excluded from participation in the Interagency Staff Committee (ISC) meetings related to this agenda item, therefore State comments are not included in your ISC report and recommendations today.
As the Board is aware, the State has previously stated objections to blanket delegations of authority which range greater than specifically named inseason authorities which are temporary in nature such as WP10-22 (see comments attached).

The Alaska Department of Fish and Game has previously supported such as wildlife special action WSA09-04 which temporarily granted federal land managers inseason authority to close a portion of the federal subsistence moose season in a portion of GMU 5A for conservation purposes following consultation with the Alaska Department of Fish and Game. Although the department supported this special action, the Department requested that the change in delegated authority should not be to expand the moose quota in regulations and requested the authority be clarified by inserting the present harvest quota into the proposal language to establish the upper harvest limit. Confirming that the delegated authority retains the existing maximum harvest quotas and limits set by the department and Federal Board, while delegating authority to reduce the quota and implement a closure is necessary to assure conservation of the moose population.

Refuge managers currently enjoy alternative emergency closure regulations. Federal Regulations at 50 CFR 36.42 provide emergency closures or restriction authority, and provide that these actions may be implemented only after public notice and hearing.

The Alaska Department of Fish and Game reiterates and amplifies this concern with the proposed delegation of authority. First, the guidelines of the delegation in the provided draft letters under item 6 state only that the Refuge Manager will issue timely decisions and notify users at least six hours before superseding state action. Mention of consultation with affected state managers is notably absent from these guidelines. Furthermore, while WSA09-04 addressed a moose season in a portion of a specific unit, the proposed delegation before the board today would broadly delegate in-season federal subsistence hunt authority to federal land managers in the Kenai NWR.

The Department recommends the delegation of in-season management authority for
federal land managers should be explicitly detailed in
the Scope of Delegation and Guidelines of
Delegation sections of letters of delegation from the
Federal Subsistence Board for the purpose of
authorizing in-season management actions based on
conservation. The letters of delegation should contain
sideboards on the delegated power, such as specifying
upper limits in quotas for conservation purposes. This
is required by 50 CFR 100.10(d)(6) and 36 CFR 242
10(d)(6), which authorize the Board to delegate
authority only within frameworks established by the
board. Consultation with the Alaska Department of
Fish and Game is requisite in developing these
sideboards. The Alaska Department of Fish and Game
recommends language be developed which prohibits
liberalizations and conditions that result in
reallocation between users without the direction set by
the Federal Subsistence Board. The Department also
requests that language be added stating that federal
managers will consult with the Department prior to
making decisions that involve the Department's
management of fish and wildlife, as specified in our
January 12, 2010, review of the October 14, 2009,
proposed rulemaking involving special actions to define
what that consultation entails.

Although the proponent and the federal
staff explain that addressing this proposal through the
Federal Subsistence Board process would allow for a
public review and discussion of the
proposed solution, adoption of this proposal would
eliminate the public from the regulatory process of
modifying and expanding delegated authorities.

The State views this expansion as an
abrogation of Board responsibility well beyond the
initial congressional intent set out under ANILCA SEC.
1314:

(a) Nothing in this Act is intended to
enlarge or diminish the responsibility and authority of
the State of Alaska for management of fish and wildlife
on the public lands except as may be provided in title
VIII of this Act, or to amend the Alaska
constitution.

(b) Except as specifically provided
otherwise by this Act, nothing in this Act is intended
to enlarge or diminish the responsibility and authority
of the Secretary over the management of the public
lands

(c) The taking of fish and wildlife in all conservation system units; and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park system monuments in the State shall be closed to the taking of fish and wildlife, except that the action constitutes diminishment of the responsibility and authority of the State for the management of wildlife on public lands by providing refuge managers with increased authorities outside the intent of ANILCA.

The State expresses our confidence in and commend the current Kenai NWR Manager for his competency, management abilities, outreach efforts, and general positive collaborative working relationship with state staff and the public. This confidence however does not override the State's concerns regarding the principle of the delegation, and reminds the Board that this delegation is not remanded to the specific individual in question but to the position, of which there are currently sixteen refuge managers in Alaska. Previous refuge managers for this particular area have not in the State's view possessed the competency or abilities currently expressed by the present staff, nor does the state express this confidence in all regions. The State recognizes that it is common practice to hire refuge managers in Alaska which are directly recruited from the Lower 48 states, often with little experience managing wildlife or familiarization with the intricacies of the guiding principles outlined under the authority provided within ANILCA. Conversely, State Area Management Biologists typically have years of experience in Alaska at introductory positions with increasing experience before being hired as Area Biologists.

If adopted, designated in-season officials should be issued a letter of delegation by the Federal Subsistence Board which grants all in-season authorities currently in regulation. However, future changes to the letter of delegation risk expanding that authority outside of the public process, thus eliminating the transparency of the public process in rulemaking.
The Department has cooperatively guided and assisted federal staff during development and execution of federal subsistence fisheries and hunts for closure for 12 and 22 years, respectively. Eventual full delegation of in-season management authority is not necessary for rational implementation of federal subsistence regulation for conservation of fish and wildlife resources for federal subsistence users on federal public lands in Southeast Alaska. Though the proposed framework for eventually achieving full delegation of authority to designated federal officials has not been deliberated by the Federal Subsistence Board, the Federal Board clearly has not delegated full authority to any federal staff in Alaska for the purpose of managing federal subsistence wildlife hunting or trapping.

The Department presently works cooperatively with federal staff and does not foresee the benefits of adoption of this proposed delegation. Delegation of all of the Board’s authority to open, close, and restrict hunting by federal staff is not only unnecessary and contravenes public process, but it may also exacerbate misunderstandings that the state remains responsible for the sustainability of all wildlife on all lands in Alaska.

The State objects to a delegation of authority to the Kenai NWR beyond a temporary delegation accompanied by the aforementioned parameters.

The State respectfully urges the Board to deny the request, amend the request to one that is temporary and accompanied by the aforementioned parameters, or defer the request until after the Southcentral RAC meeting where more public testimony may be gathered before making a decision.

Recommendation: Oppose.

If adopted, modification is needed that clarifies that the letters of delegation will be developed in consultation with the Alaska Department of Fish and Game to include:

(1) maximum harvest quotas and harvest limits that do not exceed sustainable harvest established by the State and other sideboards on the exercise of delegated authority,
(2) details the requirements and process for consultation with the State,

(3) clearly detail the public review process required for modifying letters of delegation and/or protesting such modifications, and

(4) direct federal staff to make the letters of delegation reasonably available to the public for review.

ATTACHMENT INSERTED HERE

*******************************
STATE OFFICIAL WRITTEN COMMENTS
*******************************

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Wildlife Proposal WP10-22: The Southeast Subsistence Regional Advisory Council proposal would delegate all of the Federal Subsistence Board’s authority to open, close, and restrict hunting and trapping through in-season letters of authority to federal land managers in Game Management Units 1-5.

Discussion: The Southeast Regional Advisory Council proposes the Federal Subsistence Board grant the Southeast federal land managers their board authority for inseason management of federal subsistence hunting and trapping seasons to close, open, or change federal subsistence seasons and adjust federal harvest and possession limits. Currently, only certain federal land managers in Southeast Alaska are delegated specific inseason management authorities for identified federal subsistence hunts. The Council Chair stated their desire for granting the federal land managers some authority at the April 29, 2008, Federal Subsistence Board meeting to close federal subsistence hunting or trapping seasons for conservation purposes if already authorized to change other regulations (e.g., open a season, as granted to federal subsistence fisheries managers). The Council also requested delegation of inseason hunt authority in its 2008 Annual report to the Federal Subsistence Board, approved at the Council’s March 24, 2009, meeting. The Federal Subsistence Board responded to this request for
inseason management of federal subsistence harvest of
wildlife on August 4, 2009, as follows:

The Southeast Region has been faced
with a number of situations in the past two years where
special actions were necessary to provide for
conservation of wildlife resources. The Council
recommends the board delegate in-season management
authority for all wildlife to the same Forest Service
managers that have in-season management authority for
fish.

The federal letter in response to the
Council annual report stated:

Under 50CFR100.10 and 36CFR242.10, the
Board can delegate to agency field officials the
authority to set harvest and possession limits, define
harvest areas, specify methods or means of harvest,
specify permit requirements, and open or close specific
fish or wildlife harvest seasons within frameworks
established by the Board. As you note, the Board has
previously delegated inseason management authority for
fisheries, and in some instances for wildlife, to
agency field officials. A primary reason for equipping
field officials with in-season fisheries management
authority is to provide the required tools to implement
timely conservation actions, recognizing the dynamic
nature of fish populations. A similar need to
universally delegate in-season management authority of
all wildlife populations in order to provide for
conservation of wildlife resources has not been
demonstrated. Instead, for wildlife management,
delegation of authority occurs on a case-by-case basis.
Any field official receiving delegated in-season
management authority is required to complete an
analysis, consult with appropriate agencies and
individuals, and document rationale for the special
action. The Board believes that such processes have
been responsive and timely in regard to processing
special actions. Anyone may submit a proposal during
the upcoming call for 2010-2012 wildlife regulatory
proposals requesting delegation of authority for
wildlife management field officials. (Emphasis added)

While the Department supports wildlife
special actions (e.g., WSA09-04) which temporarily
grant federal land managers inseason authority to close
a portion of a federal subsistence wildlife season for
conservation purposes following consultation with the
Department, the delegated authority should not be expanded to change the quota set in regulations, increase bag limits, or to establish an upper harvest limit. The delegated authority needs to be clarified to retain the existing maximum harvest quotas and limits set by the Department and Federal Board, while authorizing reduced quota or a closure if necessary to assure conservation of the population.

In contrast, WP10-22 as proposed would broadly delegate all in-season federal subsistence hunt authority to federal land managers in Units 1-5. The delegation of in-season management authority for federal land managers should be explicitly detailed in the Scope of Delegation and Guidelines of Delegation sections of letters of delegation from the Federal Subsistence Board for the purpose of authorizing in-season subsistence management actions based on conservation. The letters of delegation should contain sideboards, such as specifying upper limits in quotas for conservation purposes. This is required by 50 CFR 100.10(d)(6) and 36 CFR 242 10(d)(6), which authorize the Board to delegate authority only within frameworks established by the board. The Board should consult with the Department in developing these sideboards, to prohibit liberalizations and conditions that would result in reallocation between users without direction set by the Federal Subsistence Board. The Department also requests that language be added that specifies the consultation that federal managers will conduct with the Department prior to making decisions that involve the Department’s management of fish and wildlife, i.e., defining what that consultation entails and respecting the Department’s decisions on sustainable harvest levels and conservation needs.

Although the proponent and the federal staff explain that addressing this proposal through the Federal Subsistence Board process would allow for a public review and discussion of the proposed solution, adoption of this proposal would eliminate the public from the regulatory process of future modifications of delegated authorities. If adopted, designated in-season officials would be issued a letter of delegation by the Federal Subsistence Board which grants all in-season authorities currently in regulation, but future changes to the letter of delegation could expand that authority outside of the public process, thus eliminating the transparency of
the public process in rulemaking. The proponent and
federal staff indicate this proposed change is
necessary for rational implementation of wildlife
regulations and cooperative management. This point is
overstated. The Department has cooperatively assisted
federal staff during development and execution of
federal subsistence fisheries and hunts for closure for
10 and 20 years, respectively. Eventual full
degression of in-season management authority is not
necessary for rational implementation of federal
subsistence regulation for conservation of fish and
wildlife resources for federal subsistence users on
federal public lands in Southeast Alaska and removes it
from the close public involvement now required. Though
the federal staff may desire a framework for eventually
achieving full delegation of authority, such delegation
has not been deliberated and the Federal Board clearly
has not delegated full authority to any federal staff
in Alaska for the purpose of managing federal
subsistence wildlife hunting or trapping.

The Department presently works
cooperatively with federal staff and does not foresee
the benefits of adoption of this proposal. Delegation
of all of the Board’s authority to open, close, and
restrict hunting and trapping by federal staff in
Southeast Alaska is not only unnecessary and
contravenes public process, but it may also exacerbate
misunderstandings by some federal staff that the State
remains responsible for the sustainable management of
all wildlife on all lands in Alaska.

Recommendation: Oppose.

If adopted, modification is needed that
clarifies that the letters of delegation will be
developed in consultation with the Alaska Department of
Fish and Game
to include:

(1) maximum harvest quotas and harvest
limits that do not exceed sustainable harvest
established by the State and other sideboards on the
exercise of delegated authority,

(2) details the requirements and
process for consultation with the State,

(3) clearly detail the public review
process required for modifying letters of delegation
and/or protesting such modifications, and

(4) direct federal staff to make the
letters of delegation reasonably available to the
public for review.

NOTE: The revised OSM analysis
provided for the April Interagency Staff Committee
meeting appears to have proposed the limits necessary
for such delegated authorities in the Department s
comments above. The summary of the OSM proposed
modification appears intended to delegate only the
existing inseason federal subsistence management
authority for wildlife as currently referenced in
regulation and, thus, does not delegate the extent of
authorities as proposed by the Council. Further
discussion with OSM is needed to determine if the
limitations address the Department concerns discussed
above.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So my preference would be
to make this permanent, but if it looked like I wasn't
going to be able to get it any other way, I'd be able
to shift to where we did it for this summer with the
idea of looking at how it works and bringing it up
again for something more permanent. I'd like to hear
from Andy Loranger too.

MR. LORANGER: I think one of the
important things to keep in mind in regards to this
particular proposal and this request for a delegated
authority, and Mr. Carpenter is 100 percent correct.
It was specifically about moose and has been primarily
about moose from our perspective. It is about a
conservation concern for extremely skewed sex ratios
and the harvest management strategy decided upon and
put in place through the decisions and actions of the
Board of Game were understood to be a short-term
strategy with an interest of increasing the bull/cow
ratio as quickly as possible. In other words,
responding to that conservation concern as quickly as
possible with the revisiting of what the results of
that were.

Year one were positive. The bull/cow
ratio did respond to the restrictions that were in
place. Harvest, as Jerry mentioned, was decreased by
slightly more than 90 percent. Most of the increase in
the bull/cow ratio we saw, and not surprisingly, was
due to an increase in the number of yearling bulls
counted in the fall composition surveys. Those
primarily are -- they constitute peninsula-wide roughly
70 percent of the harvest on an annual basis, so
protecting that component.

So the conservation concern. The
survey, we made progress last year. We hope to make
similar progress this year. I will say that we have
some additional concerns because we just went through
perhaps one of the most severe winters at least in the
last 20 or 30 on the Kenai. We had significant
mortality in the 2011 cohort, so that cohort is already
reduced.

So, again, the conservation concern for
protecting that segment of the bull population remains
in place and the request for delegation of authority is
in response to trying to address that conservation
concern. I think what we're all very much interested
in in the long term and committed to is development of
a long-term, viable harvest management strategy that is
beneficial to the population. It addresses
conservation issues as well as to all users on the
Kenai.

Thank you.

CHAIRMAN TOWARAK: Go ahead, Pete.

MR. PROBASCO: Mr. Chair, and for the
Board's benefit, to talk about expediency as it deals
with special actions. Special actions can be
implemented in a fast manner under only one
circumstance in the Federal process in that if there's
unanimous
consent from the Staff Committee. If the Staff
Committee does not agree unanimously on the special
action request, then it has to come to the Board and
the Board has to act on it. So dealing with the Kenai
moose issue and looking at how much discussion we've
had on just the delegation of authority letter, there's
a high probability that if Andy needs to do something
on conservation related to the skewed sex ratio, you
could run into a situation where he needs to make that
decision immediately and we have to go through our
process because we don't have unanimous consent on the
Staff Committee and I have to organize a Board meeting.
Mr. Chair.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: A question for the State. Conferring with my colleague, refuge manager out there. Of course, we'd prefer to get this permanent but what I was hearing the State say is that if we made it for this temporary period and kind of look and see how it works for the summer only the State would withdraw its objections to a motion if I made it?

MS. YUHAS: Through the Chair. That portion is correct and I hadn't quite finished with our State comments, but we had also hoped to see language that we don't see currently in the letter that the maximum harvest cap as established by the Board of Game and Federal Subsistence Board would be in place. It's not actually included in the letter. So a temporary nature with a cap of maximum harvest would satisfy the State at this point.

CHAIRMAN TOWARAK: I've got a question. Could we make it a temporary motion contingent on Regional Council review?

MR. PROBASCO: Mr. Chair. As Mr. Loranger pointed out, the season starts August 10th. Our Southcentral RAC meeting I believe is in October, so it would be after the fact.

Mr. Chair.

CHAIRMAN TOWARAK: But we still could make a motion with a temporary approval....

MR. PROBASCO: For this season.

CHAIRMAN TOWARAK: .....but contingent the temporary status terminates after Regional Council review.

MR. PROBASCO: If I understand your comment, Mr. Chair, what you're saying is that we could give delegated authority for this season only, have the RAC review it in October, report back to the Board for further action.

Mr. Chair.
CHAIRMAN TOWARAK: Is that an appropriate procedure especially since it's addressing a conservation issue? I think we could probably do it on a permanent nature if we needed to, but if we hinged it on Regional Council review on a temporary basis I think we would cover as many bases as we could.

Mr. Haskett.

MR. HASKETT: Maybe there's more discussion that we're going to do here, but I think when we get to the point where we've gone through all the discussion I need 10 minutes to put together what my motion is going to be with my folks. So I'm just kind of letting you know that we've had like three or four different things. I need a chance to get some of these things incorporated before I make a motion and there may be additional discussion as well.

CHAIRMAN TOWARAK: Go ahead, Mr. Cribley, and then we'll get the refuge manager.

MR. CRIBLEY: Mr. Chairman, the recommendation that you made as far as essentially providing for a short-term fix so to speak and then asking for the Regional Council to get involved with it and provide feedback to us, more formal feedback to us, I think meets my needs -- or not needs, but at least what I was concerned about as far as getting formal feedback without interfering with the conservation concerns and giving the refuge manager the abilities to manage that moose population properly. I think that's a good idea from my perspective.

CHAIRMAN TOWARAK: Did you have a comment.

MR. LORANGER: Thank you, Mr. Chair. I just think it's worthwhile to point out that I believe we are going to be in a period of transition and needing to respond to conservation concerns on Kenai moose beyond this season. So I hope that can be considered.

Thank you.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: Whatever proposal we make we'll make it clear that we're looking at this long
term and we're just going to get the best we can for
now, so we'll cover that.

CHAIRMAN TOWARAK: Do you still need a
nine minute break?

MR. HASKETT: Give me six minutes.

CHAIRMAN TOWARAK: Okay, you've got it.

We'll take a six-minute break.

(Off record)

(On record)

CHAIRMAN TOWARAK: We're all back in
attendance now. We'll reconvene the Board meeting.
Are there any other comments before we turn the floor
over to Mr. Haskett. Go ahead, Ms. Yuhas.

MS. YUHAS: I just have an easy one and
it's kind of embarrassing, Mr. Chairman, but I have the
wrong date on our comments and I have to point that out
for the record that it's 17 July, not August. My bad.

CHAIRMAN TOWARAK: That's like pre-
dating a check.

MS. YUHAS: Yeah, don't cash it yet.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So what I'm going to
attempt to do because there's three or four different
issues on the floor right now and I'm going to try and
explain how I'm going to cover this in my motion and
hopefully it will be enough to satisfy the questions.
I'm going to be making a motion. This is not my motion
yet. This is just kind of an explanation of where I
plan on going. A motion to provide the Kenai refuge
manager the in-season delegated authority for moose, so
it's going to be moose only, and what will be referred
to is that second letter in our package to take that
language and modify it however we need to to make it
clear on the other things as outlined in the draft
letter of delegation before us.

Part of this delegation includes
consultation by the refuge manager with ADF&G, the
Council and tribes prior to any action. We will then
ask the Southcentral RAC to review this delegation at their fall meeting, which gives us the ability to conduct this this summer as we need to. If they have any issues with it, then we'll adjust them through adjustments or revocation of this delegation in our January 2013 meeting. So we turned it around a little bit. As opposed to making this temporary, we've made it temporary but by way of allowing the RAC to go ahead and let us know if they have concerns and have us be able to then go ahead and address those concerns by cancelling it or adjusting it based upon their concerns if we need to.

I have one more thing for the State too. We did not include anything about the maximum harvest cap because we actually don't see where it would ever happen that the refuge manager would come up with a number that would exceed what the State had as a number, but since that concern is there we're not going to include it in the motion, but our promise is to work with the State again over the next half a year, whatever, before the next meeting to see if there is a way to address that more specifically, but we can't foresee any possibility of that actually happening.

MS. YUHAS: I think Mr. Haskett's comments on the record serve as a record of the Board's intent that that not happen.

CHAIRMAN TOWARAK: Go ahead.

MR. HASKETT: So I'm seeing no questions or concerns at this point, so I'm going to go ahead and make my motion if that's okay.

(No comments)

MR. HASKETT: I'm taking that as a yes.

(Laughter)

MR. HASKETT: So the motion is to provide the Kenai refuge manager the in-season delegated authority for moose as outlined in the draft letter of delegation before us. Part of this delegation includes consultation by the refuge manager with ADF&G, the Council and tribes prior to this action. We will then ask the Southcentral RAC to review this delegation at their fall meeting. If they have any issues with it, then we will address them
through adjustments or revocations of this delegation
at our January 2013 meeting.

MR. CRIBLEY: I second.

CHAIRMAN TOWARAK: You heard the motion
and a second. Any discussion.

MR. OWEN: Mr. Chairman. Wayne Owen
with the Forest Service. For the Board's information,
the U.S. Forest Service, Chugach National Forest,
Seward Ranger District, has requested closure authority
for the adjacent Unit 7 for moose hunting, specifically
for the spiked fork component for the season. This
request would parallel the action for Unit 15 and would
also be for conservation purposes. This request has
been received by OSM today, but they have not had a
chance to review or see it. So we are in parallel with
what you're hoping to do.

CHAIRMAN TOWARAK: Go ahead.

MR. PROBASCO: To add on to what Dr.
Owen said is that we would look at this and we would
report back to the Board for future action on Unit 7.
Mr. Chair.

Mr. Chair. Kenai Peninsula moose
management includes Unit 15, which is the Refuge area,
and then outside of that, still dealing with the same
moose for Kenai Peninsula, you have the Forest Service
lands, which are in Unit 7. So the Forest Service,
which we received this morning, is in lockstep with
what the U.S. Fish and Wildlife Service wants to do for
Unit 7 and we would have to act on that at a later date
but prior to August 10th to be in sync with the two
management units.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So just to keep things
simple though -- I mean I appreciate the information,
but I think we need to keep that separate from this or
ever else we'll get into a whole different discussion. So
I'd like to see us move forward with this and then if
we need to take up more on that would be the
appropriate time.

MR. OWEN: I agree. This information
was just shared to contribute to inform the Board and
the Staff has yet to look at our request. So not the
same, just information.

CHAIRMAN TOWARAK: Go ahead.

MR. CHRISTIANSON: My question is on
the consultation process and when you contact the
tribes. My history with that consultation process
being with Southeast is they call you and tell you what
you're going to do and that's what happens. I mean
that management -- it overrides it. So what if the
tribes in the area are in disagreement to that
management scenario that the director gives?

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So I think everyone heard
that the refuge manager is doing an excellent job of
making sure he's actually working with the local tribes
and the State. These are very complicated issues.
This is a biological question. I mean it's a
conservation issue. If the determination is that we
have to do this based upon reasons that are going to go
ahead and conserve the species out there, then I think
that the refuge manager reserves the right to move
forward, but I mean we'll have a true conversation, but
I expect that it could actually happen that way, you
know, in fact there could still be a decision made.
I'm not sure if there's a way around that if the
conservation issue exists.

CHAIRMAN TOWARAK: Further discussion.

Questions. Mr. Owen.

MR. OWEN: Thank you, Mr. Chair. Just
for my clarification, I wasn't quite sure, maybe
because I was dealing with this other thing, are we
requesting permanent authority or temporary authority?

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: No, we went for
temporary. The way we set it up is it can be revoked
the next time we get together if there's any concern at
the RAC or even if there's concerns that come up from
the tribes as well in part of the consultation process.
We could bring it up again.

MR. OWEN: Thank you.
CHAIRMAN TOWARAK: Go ahead.

MR. PROBASCO: I think it's good to put on the record right now that the Board can remove any delegation authority at any time. So once you issue the delegation authority you could pull it whenever you felt necessary. Mr. Chair.

CHAIRMAN TOWARAK: So there's nothing permanent.

MR. HASKETT: Not yet.

CHAIRMAN TOWARAK: Any further discussion.

MR. LORD: I'm not sure that that got characterized to my satisfaction. It's temporary in the sense that anything we do is temporary, but it's as permanent as any delegation ever is. If the RAC doesn't have any problem with it, it will stay in place indefinitely until the Board acts again.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: Although we made it clear in the way we worded that is to make clear that the Board can take it up and if there are any concerns, in fact, we will go ahead and revoke or adjust if that's the wish of the Board.

CHAIRMAN TOWARAK: Okay. That clears my mind. Further discussion.

(No comments)

CHAIRMAN TOWARAK: Is there a call for the question.

MR. BROWER: Question.

CHAIRMAN TOWARAK: The question has been called for. Is there any opposition to the motion.

(No objections)

CHAIRMAN TOWARAK: The motion passes unanimously. The next item on the agenda is other business. My understanding is that we will be going
into executive session. Some of that process will take
us quite a while. Could we take a lunch break now and
come back.

Mr. Probasco.

MR. PROBASCO: I was waiting for you to
get done, Mr. Chair, but you're on the right track. We
do have to do a formal close of the public session and
we do, as per our policy, announce what the executive
session is for, which is laid out in the agenda. It's
to deal with the Regional Advisory Councils member
applications and the nominations and the Board will
develop their recommendation to the Secretaries and
then we're also going to develop or discuss a
Secretarial request to the Board to review the 2014
budget.

So, Mr. Chair, those are the items and
it would be appropriate to break for lunch.

CHAIRMAN TOWARAK: We'll need a motion
to go into executive session right after lunch.

MR. HASKETT: I'll make that motion.

MR. CRIBLEY: Second.

CHAIRMAN TOWARAK: It's been moved and
seconded that we go into executive session. Is there
any objection to the motion?

(No objections)

CHAIRMAN TOWARAK: The motion passes.

We will take a break and return at 1:00 o'clock or
1:30.

MR. PROBASCO: Make it 1:15, Mr. Chair.

CHAIRMAN TOWARAK: 1:15. We will
reconvene at 1:15 then.

(Off record)

(END OF PROCEEDINGS)
I, Salena A. Hile, Notary Public in and for the State of Alaska, do hereby certify:

THAT the foregoing pages numbered 2 through 63 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, taken electronically on the 18th day of July 2012, beginning at the hour of 9:00 a.m. at the U.S. Fish and Wildlife Service, Gordon Watson Conference Room, Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed under my direction;

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

DATED at Anchorage, Alaska, this 24th day of July 2012.

__________________________________________________________
Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/14