MEMBERS PRESENT:

17 Tim Towarak, Chairman
18 Kristin K’eit, Bureau of Indian Affairs
19 Geoff Haskett, U.S. Fish and Wildlife Service
20 Beth Pendleton, U.S. Forest Service
21 Sue Masica, National Park Service
22 Mr. Cribley, Bureau of Land Management
23
24 Bertrand Adams - Southeast RAC
25 Rosemary Ahtuangaruak - NS RAC
26 Peter Buck - Seward Peninsula RAC
27 Molly Chythlook - Bristol Bay RAC
28 Andrew Firmin - Eastern Interior RAC
29 Ralph Lohse - Southcentral RAC
30 Jack Reakoff - Western Interior RAC
31 Walter Sampson - NWA RAC
32 Mitch Simeonoff - Kodiak RAC
33 Lester Wilde - YK RAC
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35 Charlie Swanton, State of Alaska Representative
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37 Keith Goltz, Solicitor's Office
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CHAIRMAN TOWARAK: I'll call this meeting back to order. We were in recess from yesterday afternoon. We've got a little juggling of our agenda this morning and I'm going to ask Pete to review it with us before we get started.

MR. PROBASCO: Thank you, Mr. Chair, and good morning. Board members. We heard a lot of testimony yesterday and particularly to Proposals 4, 5, 6, 7. And prior to getting into proposals, Larry Buklis will be giving us a brief summary on the consensus agenda items, and that's just to introduce them and then we'll have an opportunity for public to comment on those two proposals on the consensus agenda item. Once that's completed, and I don't have any public testimony for the consensus agenda, once that's completed we'll go to the proposals and my understanding, Mr. Chair, is, once we go to the proposals we'll ask Geoff Haskett to speak and Mr. Haskett will have a motion for the Board to consider, and if that motion is accepted and passed then that would deal with Proposals 4, 5, 6 and 7.

So, Mr. Chair, I would recommend we start out with any comments from the Board members. I know Mr. Charlie Swanton from the State has some opening remarks and I'd turn the mic back over to you.

CHAIRMAN TOWARAK: Thank you, Pete. Any comments from the Board or from the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: If not then we'll yield the floor to the State.

MR. SWANTON: Thank you, Mr. Chairman. Good morning, Members of the Federal Subsistence Board, Rural Advisory Council Chairs and representatives. Commissioner Campbell sends regrets of not being able to attend but wanted me to convey that the State of Alaska is poised and prepared to assist this regulatory body to conduct its work, although we do not often agree on certain issues and various approaches to resolving renewable natural resource problems, we can say that the
State is committed to maintaining the long-term health of our fish and game resources and most certainly preserving the opportunity for those folks that rely so heavily upon them for daily sustenance.

At the table to my right is Ms. Jennifer Yuhas. Behind, off to my right, is Mr. George Pappas. And we have today Trooper Burke Waldron, who will be available to answer any particular questions related to enforcement and the difficulties between the dual management system in terms of enforcement, from an enforcement perspective.

Those folks, primarily George and Jennifer, will be presenting the State's comments on the various proposals you will be addressing, and, please, note, the unabbreviated comments are published and available within your Board notebooks for the record, and we request that the full written comments be incorporated into the meeting transcripts.

Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. We're ready for Mr. Buklis.

MR. BUKLIS: Thank you, Mr. Chairman. My name is Larry Buklis. I'm the Fisheries Division Chief with the Office of Subsistence Management.

We originally received 19 proposals in response to our call for fisheries regulation changes. We also had two proposals deferred from the last fisheries cycle, for a total of 21 proposals. Four proposals of this total were withdrawn by the proponents, upon their request, prior to action by the Regional Advisory Councils, which is consistent with Board policy. That leaves 17 proposals for Board action. And these are further divided into consensus and non-consensus agenda items.

As Pete noted there are two items on your consensus agenda. That agenda is found on Page 3 of your Board meeting book. They're both in the Yukon Northern Management Area.

FP11-04 prohibit the use of fishwheels to harvest salmon in Yukon River Districts 4 and 5. And the consensus position is to oppose.
Secondly, FP11-06 restrict the depth of gillnets. Again, the consensus position is to oppose.

And there may have been some confusion yesterday but to make clear, the consensus agenda does not mean agreement to adopt a proposal. It's consensus on a position relative to a proposal, and that can be to support or oppose.

Mr. Chair. As described on Page 3 of the meeting book, consensus agenda items are those proposals for which agreement exists among the affected Regional Advisory Councils, the Federal InterAgency Staff Committee and the Alaska Department of Fish and Game. Once again concerning Board action, whether it is to adopt, adopt with modification, oppose or defer, and in this case both are a position of oppose.

Requests may be made at this meeting to move a proposal off the consensus agenda, but the Board retains authority for moving items off consensus. That rests with the Board.

With that said, based on the agenda before you and drawing upon our assessment of the positions of the relevant parties as of December, there are two proposals on consensus agenda and 15 on non-consensus. The Board is scheduled to take action on the consensus agenda after your deliberations and decisions on all the other proposals, as is noted on your main meeting agenda.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Mr. Buklis.

We now proceed with the.....

MR. PROBASCO: Mr. Chair. I have -- usually we open the floor at this time for public comment. And this might be a good time to just remind the public that if you would like to testify on any of the proposals that the Board will be taking up, please go to the desk up front as you entered and fill out a green card. At this time I have no public signed up to testify on those two proposals that Larry just introduced. So, Mr. Chair, I think we move into the non-consensus agenda items and I would recommend you turn the mic over to Geoff, Mr. Haskett.

CHAIRMAN TOWARAK: Thank you, Pete. We
will then turn the floor over to Board Member Geoff.

MR. HASKETT: Thank you, Mr. Chair. So this is going to be in regards to Proposals 4, 5, 6 and 7. After hearing the testimony yesterday from a member of the Mountain Village Working Group and their request to withdraw all four of their proposals, I'd like to make a motion to that effect, if it's okay.

CHAIRMAN TOWARAK: The floor is open for your action.

MR. HASKETT: So my motion would be to accept the request from the Mountain Village Working Group to withdraw Proposals 4, 5, 6 and 7. This motion would also be consistent with the recommendations of all four Regional Advisory Councils to oppose all proposals. I will provide my justification if I get a second.

MS. K'EIT: Second.

CHAIRMAN TOWARAK: It's been seconded. Proceed.

MR. HASKETT: Okay. As we heard yesterday, the proponents no longer support the proposals, and have requested this Board honor their request that they be withdrawn. As stated in our policy on withdrawal of regulatory proposals, the Board may approve such requests. Since this request is consistent with the recommendations with the Yukon Kuskokwim-Delta, Western, Eastern Interior and Seward Peninsula Regional Advisory Councils, I don't see any reason not to accept the request for withdrawal since there appears to be no support for them by the users along the Yukon River.

CHAIRMAN TOWARAK: I was distracted for a second.

MR. HASKETT: Should I -- want me to do it again?

CHAIRMAN TOWARAK: Yes, please.

MR. HASKETT: Okay. So the bottom line is that this is within our policy to be able to withdraw by the Board; the Board can approve requests when they're made like that. This request is consistent with the recommendations of all the Councils, the Yukon Kuskokwim-Delta, the Western and Eastern Interior and Seward
Peninsula Regional Councils, so I don't see any reason not to accept the proposal to withdraw since there appears to be no support for this by the users along the Yukon River anyway.

CHAIRMAN TOWARAK: I'm sorry the motion was seconded by Board Member K'eit.

Any discussion, questions on the motion.

MS. PENDLETON: Mr. Chairman. I'd just like to hear from the RACs that are involved with this and just make sure that there isn't any issue or comment or concern.

CHAIRMAN TOWARAK: Go ahead, Mr. Reakoff.

MR. REAKOFF: Mr. Chairman. As Western Interior RAC Chair, I appreciated Mountain Village Working Group withdrawing their proposals. And I feel that it's within the purview of the Board to adopt the motion as stated.

CHAIRMAN TOWARAK: Mr. Wilde, do you have any comments.

MR. L. WILDE: Thank you, Mr. Chairman. No, I don't have any real comments. But I appreciate the fact that the proposals are going to be withdrawn because we felt that they had no business in the proposal book in the first place.

Mr. Chairman, thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Wilde.

Any other comments. Mr. Sampson.

MR. SAMPSON: Thank you, Mr. Chairman.

I think we also need to understand that if the proposers wish to look at proposals down the road that's their right to look at doing that but I think as a Regional Advisory Council I honor the request of the withdraw of the proposals from the book.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Sampson. Mr. Firmin, did you have your hand up.
MR. FIRMIN: Yes, thank you, Mr. Chair.

We also would just like to thank Mountain Village Working Group for withdrawing their proposals and we honor that request. And I think it also saved us a lot of hassle and time in the long run as well.

CHAIRMAN TOWARAK: Thank you. Any other comments.

(No comments)

CHAIRMAN TOWARAK: Is the Board ready for action on the motion.

MR. CRIBLEY: Mr. Chairman. Being the new guy on the Board, I think I get a pass for at least one dumb question. I'm new to this process and not exactly sure of how things evolve here as far as dealing with issues and stuff. I support the proposal that Geoff has made as far as dropping these four proposals. I think it's a good recommendation and I think prudent as far as the time of everybody in the room. But the question I have is it seems like the proposals themselves are kind of an indication of a problem, kind of a symptom, and it's not necessarily the right solution but an indication that there's an issue within this entire drainage and fisheries. And I'm curious of how -- what does the Board or is it the Councils that take the initiatives on looking at that larger problem and coming up with; how do we deal with that issue and come up with solutions for that?

It seems like it's good to drop this proposal, but it seems like also we need to have -- be working on some alternative solutions to this issue, and does the Board make recommendations on that or do the Councils, are they -- is it kind of the onus on them to come up with those solutions or just how does that work; maybe -- maybe that's my dumb question of the day?

CHAIRMAN TOWARAK: I appreciate that question. I am almost as new as you are.....

(Laughter)

CHAIRMAN TOWARAK: .....so I could probably give you a dumb answer.

(Laughter)
MR. CRIBLEY: Well, I doubt that.

(Laughter)

CHAIRMAN TOWARAK: But I will defer an answer to your question to Pete, if I could.

MR. PROBASCO: Thank you, Mr. Chair, and thank you Mr. Cribley. And I would say that's a very good question you have.

I think you need to look at our history, this Board and our Regional Advisory Councils, for many years, have been dealing with the issues throughout the state as they deal with fisheries, but particularly Yukon, and particularly as it pertains to chinook. And as recently as a little over a year ago, the Board passed some regulations that deal with gear in the hopes of passing and improving on the escapement, both into Canada and US tributaries. That's still early, the results are yet to be seen on that. Also in-season management, both by the State side and the Federal side, we have implemented what we call pulse timing as far as allowing fish to move up river and try to protect that pulse as it moves up river.

So it's an ongoing process. I don't think there's one solution that's going to solve our problem. I think we'll be continuing to deal with this for the years to come but I think we're getting closer for dealing with this. And, you know, management of fisheries in Alaska is very dynamic and once you think you have all the answers, next year you're proven wrong. So we just need to be open and be ready to deal with them.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Does that answer your question?

MR. CRIBLEY: (Nods affirmatively)

CHAIRMAN TOWARAK: Go ahead, Keith.

MR. GOLTZ: I'd like to add to that some legal perspective.

What this program generally tries to avoid is top down solutions. What we look for bottom up
solutions, and the engine for that is the Regional
Advisory Councils.

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: If I may, Mr. Chairman.
You know we've spent a lot of years trying to get the
Upper Yukon and the Lower Yukon to work on one solution
and that was to increase the amount of chinook that we
have in the river and our fathers and our elders have
told us down through the years and ages that once we
start fighting for our resource that that resource
disappears and nobody will be getting any of those
resources. And that is absolutely true. If we can't
find a solution to the problem that we have on the river
together and where one area keeps taking whatever is left
then we're sure that we're not going to have anything
left.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Any other
comments.

Board Member, K'eit.

MS. K'EIT: Mr. Chair. Yesterday, Mr.
Wilde brought up a suggestion of having the Councils on
the Yukon River meet and I believe it's within our
purview to recommend a subcommittee and give them some
direction. I'm not sure if this is the appropriate time
to have that conversation, but if it is maybe we should
go that direction.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: We currently have a
motion on the floor and we're discussing that motion and
I think we could make a -- my understanding, or my
suggestion is that we take note of your comments and
perhaps at the of our voting of these proposals, this
motion then we would discuss your solutions plus any
others that might come up.

Board Member Haskett.

MR. HASKETT: I think there's at least
two proposals coming up where there's going to be
recommendations that'll be kind of in line with this too,
to set up some subcommittees to look at customary trade
on the entire drainage, so I think we'll get the chance to look at that question, at least, in part, later today as well.

CHAIRMAN TOWARAK: Okay. So if you could mentally make a note of that, between us Board Members -- we Board Members and the Staff, we will take it up as a discussion item later in the day.

Getting back to the question on the floor, are there any comments.

Mr. Adams.

MR. ADAMS: Thank you, Mr. Chairman. I'd just kind of like to, if I might, Mr. Chair, elaborate a little bit on what Mr. Wilde said earlier about when we begin to fight over these resources, they will begin to disappear.

This is a real principle in my Tlingit culture. And most of you are all new Board members but when I first got involved in this I told the story about the creation, Raven, is our creator. And at the end of the creation, after he put all of the animals and the birds and the fishes in their proper places, and he made the tribal houses, the first tribal house for them to live in, then the migrations began, but he left them with about 10 or 12 values, or principles that I always like to share only four, you know.

And he told the people that you must have respect and reverence for the Creator.

And then the second principle is to respect everything. Respect one another, respect the resources, respect, you know, anything from the resources that you take from the land. And we believe, you know, that there's life in everything. There's life in that glass of water. There's life in the glass. There's life in the wood. There's life in the trees and in the water. And when you treat those resources with respect, then nature will provide you with all of the things that you need to sustain your lives. And when we begin to show disrespect for those resources, as Mr. Wilde has said, then those resources are going to start disappearing. And then, you know, to bring them back, we're going to have to go back to living with the laws of nature.

And so I just wanted to bring that out as
a matter of principle because we are all involved in the management of these resources and if we don't do it in a proper way then those things are going to disappear.

And one of the other principles that Raven, you know, left us with is that we should share, share our resources with one another.

And I just thought maybe since Mr. Wilde brought that up it was really important, you know, if I shared this with you at this point. Maybe sometime I'll share the creation story with you and you'll get the whole story behind that. But I just wanted to drop that off, you know, as a matter of thought as you go through your deliberations today.

Gunalcheesh.

CHAIRMAN TOWARAK: Thank you, Mr. Adams. Mr. Sampson -- oh, I'm sorry, Mr. Reakoff had his hand earlier, and then we'll go to Mr. Sampson.

MR. REAKOFF: The Western Interior has a conservation proposal before the Board. The Western Interior has requested a working group. There is work being done on this recognized issue, this conservation of the chinook salmon on the Yukon River is not going to go away, and this Council, Western Interior is committed to addressing that issue. And so I just wanted to inform the new Board members that the bottom up -- and I would like to reach out to the communities, the tribal councils with input and am very encouraged by the tribal council input into looking to alleviate this issue.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Mr. Sampson.

MR. SAMPSON: Thank you, Mr. Chairman. I guess to the new kid on the block there.

This is certainly an educational process that you certainly will have to go through.

I remember the agency had asked for some proposals from Regional Advisory Councils throughout the state, any Regional Advisory Council or any individual who feels that they need to address the need for the resources so they submit the proposals based on what they
see that is needed to be addressed. And it is the
certainty of the agency, through your biologists to
find out exactly what the population and health of that
resource is. Then based on what's been given to you,
based on the information, this is where you make your
decision through the process of deliberation to try to
get to a fine line of where you need to go; and that is
why the folks from the Yukon have withdrawn. They see
that they've created something that they didn't need to
create so therefore they withdrew their proposal, and I
certainly respect that.

And it's a process that takes sometimes
arguing on one proposal, for instance, if it's such that
there's no agreement between the two, then that's where
you get into the point of amending those proposals.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr.
Sampson. Mr. Adams.

MR. ADAMS: Every time somebody says
something it triggers another idea often so I just can't
keep my mouth shut.

(Laughter)

MR. ADAMS: But I appreciate what Mr.
Reakoff brought out a little earlier about working from
the bottom up. ANILCA was designed for that particular
purpose. And to go even further than the Regional
Advisory Councils, we need to reach out to the
individuals in the communities and to the tribal councils
or other organizations and then it works its way up, you
know, to here.

But I'd like to also just emphasize the
work that the Regional Advisory Councils do in order for
those proposals to come before you.

You know, when you talk about C&T
determinations, there are seven or eight factors that
needs to be put into the formula, we consider all of
those things, so there's a tremendous amount of work that
Regional Advisory Councils do for you people before it
gets to this point. And, then, of course, you know, you
have your own criteria or factors, you know, to determine
whether that proposal is a good one or not.
When we do a proposal, I know in our Council, we really require that when a person is making a motion to accept a proposal, that they give their reasons why, and we use four criteria.

Is there enough data to support that proposal.

Is it founded upon sound principles, well, that's what that is too.

How does it affect subsistence users. We even take into consideration, you know, the affect it might have on non-subsistence users.

And so a proposal, you know, that comes before us, we go through those four criteria and, you know, if they all fit in together then we say, okay, this is a good proposal and then it's brought up to your level. And that's why, you know, I, myself, feel somewhat let down when the Board, you know, does not accept a proposal because you're supposed to give -- well, the handbook says that deference is given to Councils, however, it's not necessarily so. And in a couple instances, you know, we felt really bad that we weren't able to get a couple of our proposals through and they're still coming forth on the table again.

But I just thought I'd share that, you know, with the newcomers because a lot of the groundwork is done from the Regional Advisory Councils, but we listen, and hopefully in the future we'll get more and more tribes involved, you know, to the people that we are representing.

Thank you, Mr. Chairman, I appreciate it.

CHAIRMAN TOWARAK: Thank you, Mr. Adams. Any further comments. Go ahead, Mr. Firmin.

MR. FIRMIN: At the Eastern Interior Council's meeting in October we had a motion that moved that the Eastern Interior, Western Interior, and the YK-Delta Councils meet together so that we could have a one day meeting with all of us in the same room to try to figure out something like this as well, to try to find some common ground with the general attitude that we normally have is what Mr. Cribley was saying earlier, was what Mr. Wilde said himself yesterday in his opening comment, we will never get along or be in agreement but
it's a good dream to have; and that's a dream that I have
too, but hopefully we'll be around to see it some day.

Thank you.

CHAIRMAN TOWARAK: Thank you. Further
comments.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, we're
ready for the vote on the motion. I mean we're ready for
the final action and I'll ask Pete Probasco to call the
roll for the vote.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on the motion presented by Board Member
Haskett to withdraw Proposals 4, 5, 6 and 7.

Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: Yes.

MR. PROBASCO: Ms. Cooper.

MS. COOPER: Yes.

MR. PROBASCO: Ms. Pendleton.

MR. PENDLETON: Yes.

MR. PROBASCO: And Mr. Towarak.

CHAIRMAN TOWARAK: Yes. Yes.

MR. PROBASCO: Mr. Chairman. Motion
carries, 6/0.

CHAIRMAN TOWARAK: Thank you, very much.

We're ready to proceed then with No. 8.

MR. PROBASCO: Mr. Chair. We have Donald
Mike, who is our Council coordinator, Helen Armstrong is our Division Chief for Anthropology, and I believe Mr. David Jenkins will do the analysis on Proposal 8.

Mr. Chair.

CHAIRMAN TOWARAK: The floor is yours Mr. Jenkins.

MR. JENKINS: Thank you, Mr. Chair. My name is David Jenkins. I'm an anthropologist with the Office of Subsistence Management. You have in front of you two, no three proposals to limit customary trade on the Yukon River. I presented analysis of the three proposals to the YK Regional Advisory Council and the Eastern and Western Regional Advisory Councils and I would like to start by thanking those Councils for their careful discussions of customary trade, from which I learned a great deal, so thank you.

I'd like to start with a brief regulatory history of customary trade and then some of the recent Board actions. And that history and those actions are contained in the sections in your Board books on FP11-05 and even though we're on 08 now, if you want to refer to the sections in 05 I will give you a brief history that's contained in those sections.

So Title VIII of the 1980 Alaska National Interest Lands Conservation Act, ANILCA, recognized customary trade as a subsistence activity. Although undefined in ANILCA, the term customary trade was later defined in implementing regulations as exchange for cash of fish and wildlife resources.

Now, it's worth emphasizing that customary trade as defined by Federal regulation refers to only subsistence caught fish or wildlife exchanged for cash provided such exchanges do not constitute a significant commercial enterprise. Any exchanges of subsistence caught fish for cash that rise to the level of significant commercial transactions are not customary trades and are prohibited under current Federal regulations. However, the term, significant commercial enterprise, we've been talking about was not defined in regulation and this posed a problem. No one knew when customary trade ended and a significant commercial enterprise began.

In 2004 and 2005, the Federal Subsistence
Board reviewed and adopted two regional proposals defining upper limits for customary trade. In 2004, for the Bristol Bay fishery management area, the Board limited the cash value per household of salmon exchanged in customary trade between rural residents to no more than $500 annually, and limited the cash value per household of salmon exchanged in customary trade between rural residents and others to no more than $400 annually. The Board also imposed a recording requirement for rural to others customary trade but not for rural to rural customary trade.

The next year, in 2005, for the Upper Copper River District the Board limited the total number of salmon per household exchanged in customary trade between rural residents to no more than 50 percent of the annual household harvest of salmon. The Board limited the cash value per household of salmon exchanged in customary trade between rural residents and others to no more than $500 annually. And when taken together customary trade to rural residents and to others may not exceed 50 percent of the annual household limit. The Board additionally imposed a recording requirement for both rural to rural trade and rural to others customary trade. Such trades must be immediately recorded on a customary trade recordkeeping form, and the responsibility for which resides with the seller.

Now, since 2000 there have been a few studies of customary trade funded by the Federal Subsistence Board. These include a study published in 2007 which described sharing, barter and customary trade in the Bristol Bay area. A study which describes customary trade and barter in the Seward Penn area and a study which describes customary trade of salmon in three communities on the Yukon River, Alakanuk, Holy Cross and Tanana.

Let me briefly mention that study, the details of which you can find in FP11-05 discussion.

Now, the study was conducted by researcher Moncrieff and local assistance. And fishers interviewed in her study reported that they engaged in customary trade only if they first harvested sufficient fish for their own family's use and satisfied obligations to share fish with a network of extended family and friends. They did not subsistence fish primarily to sell fresh or processed salmon. Cash raised through customary trade appears to support other subsistence activities and
is used to pay for various household and other expenses.

Moncrieff didn't address commercial or market level transactions in her report.

Now, two other studies of customary trade reports results that are similar to Moncrieff and although focused on different regions, in conjunction with Moncrieff's study, indicates similar patterns of customary trade. Let me mention a couple of the key findings from those studies. Customary trade is common but it's infrequent. Cash as exchanged under customary trade are for relatively small sums of money with a few exceptions and customary trade is not part of the market economy, for example, prices for subsistence caught fish and other resources are exchanged, exchanged under customary trade are determined by tradition and not by market forces.

So that's the background material for all three of the proposals, and then we'll move to FP11-08.

This proposal submitted by the Yukon Kuskokwim-Delta Subsistence Regional Advisory Council requests that customary trade in the Yukon River Fisheries Management Area be prohibited in any year when chinook salmon runs are insufficient to fully satisfy subsistence harvest needs and subsistence fisheries are restricted. As submitted the prohibition would only affect customary trade between rural residents.

The proponent of this proposal states that prohibiting customary trade in years of poor chinook salmon runs would have significant positive effects on fish populations as well as on the lawful subsistence fisher. The proponent also states that under current regulations when chinook runs are low, subsistence users are restricted but not subsistence uses. In the case of customary trade the emphasis, the proponent argues, should be reversed, and customary trade should be restricted before subsistence users are restricted. And the proponent is particularly concerned with reports, numerous reports of Yukon River rural residents selling large numbers of Yukon chinook salmon in the urban areas of Alaska.

Now, what are the effects of the proposal.
Note that the proposal seeks to limit customary trade under 27(c)(11), which you can see in your Board books, which refers to customary trade between rural residents. The proponent, however, is also concerned with customary trade between rural residents and others which is governed under a different paragraph, 27(c)(12). If adopted as submitted, customary trade between rural residents and others would not be affected. As it stands, the current proposal doesn't target all of the relevant regulations.

Note, also that if adopted the proposal would prohibit all customary trade of any subsistence caught fish between rural residents under the following conditions:

If in any given year in the Yukon River Fisheries Management Area, chinook salmon runs are insufficient to fully satisfy subsistence harvest needs and the fisheries are restricted.

If the proposal is adopted, then a definition of when chinook salmon runs are insufficient to fully satisfy subsistence harvest need would need to be created. State subsistence regulation include amounts needed for subsistence but Federal subsistence regulations do not.

Now, if adopted the proposal would limit the ability of Federally-qualified subsistence users to engage in customary trade under the conditions specified and presumably non-Federally-qualified subsistence users as recipients of customary trade would also find their engagement curtailed. The total number of fish exchanged in customary trade is unknown, however, therefore, the effect of this proposal on fish populations is not known.

Let me make one other point here. If limitations based on conservation concerns are necessary it may be appropriate to conduct an analysis under ANILCA Section .804, which requires the Board to select amongst subsistence users, not uses, based on the premise that all subsistence uses equally qualify for the subsistence preference. In other words, there are no unimportant subsistence uses.

OSM's conclusion is to oppose this proposal. So why oppose?
Customary trade is recognized as a subsistence use under ANILCA. As defined by Federal Subsistence Management regulation customary trade refers only to subsistence caught fish or wildlife exchanged for cash provided such exchanges don't constitute a significant commercial enterprise. Any exchanges that rise to that level of significant commercial enterprise are customary trades. Such commercial level of transactions are prohibited under current regulations.

As I mentioned recent studies indicate that customary trade constitutes a small but vital component of a variety of local and cultural and economic relations and these studies suggest that customary trade is infrequent and transacted for relatively small sums of money, which is often used to support other subsistence activities.

The proposal does not explicitly target customary trade of Federal Subsistence Board caught chinook salmon. As it's written, as I mentioned, it would preclude all customary trade of any subsistence caught fish between rural residents. If supported the regulatory language, it should be made explicit.

In order to align the proposal with the apparent concern over the conduct of customary trade in urban centers of Alaska, the Federal Subsistence Board may choose to support this proposal with modification. The modification being the addition of paragraph (c)(xi), which as I mentioned, addresses customary trade between rural residents and others. And finally customary trade is included in the definition of subsistence, as I mentioned before, if limitations based on conservation concerns are necessary it may be appropriate to conduct an analysis under ANILCA Section .804, in which the Board selects amongst subsistence users and not uses.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Jenkins. Any questions from the Board or from the -- Mr. Sampson.

MR. SAMPSON: Thank you for your report. One question regards to the dollar value. How did the agency come out with a dollar value for the sale?

MR. JENKINS: The dollar values that I reported from the Bristol Bay and the Upper Copper River
were suggested by the Regional Advisory Councils for each of those areas.

MR. SAMPSON: Okay.

MR. JENKINS: So it wasn't the agency that came up with those figures.

MR. SAMPSON: Okay, thanks.

CHAIRMAN TOWARAK: Any further questions.

(No comments)

CHAIRMAN TOWARAK: Thank you, Mr. Jenkins. We will now listen -- hear the summary of written public comments. Mr. Mike.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, regional council coordinator.

The Eastern and Western, Yukon Kuskokwim and Seward Peninsula Councils considered the written public comments at their fall 2010 meetings. With the exception of the Ruby Advisory Committee comments, which were received recently.

The comments received are accepted as the programs administrative record for the Yukon Northern Area Fisheries Proposals.

Two general comments were received from Mr. Gerald Nicholai of Tanana Tribal Council and Mr. Doug Carliberg. No particular proposals were addressed by Mr. Nicholai and Mr. Carliberg. These comments, Mr. Chair, are blanket comments for all the Yukon Northern Area fisheries proposals. Comments from Mr. Nicholai can be found on Page 321 of your Board book and comments from Mr. Carliberg begin on Page 317 to 320 of the Federal Subsistence Board Board meeting materials. These comments should be considered in addition to the individual proposals when deliberating on the proposals.

Mr. Chair. Summary statement read will apply to the remaining Yukon Northern Area proposals.

Specific to Proposal 08 seven written comments were received. Just to note, Mr. Chair, Ruby Tribal Council comments, those comments received had eight additional -- eight residents were signatory of
those comments, and the -- a letter signed by 37
residents of Galena, that's included as part of the seven
written comments will be summarized here today.

Written comments are on Pages 44, 45 and
331. Additional written comments from the Ruby Advisory
Committee can be found in your packet.

One comment supported the modified
proposal requiring reporting and regulating the sales of
subsistence harvested fish during all years.

The second comment to support the
proposal and stated that it does not make sense to allow
selling of salmon strips while other users are not
meeting their needs.

The Ruby Advisory Committee took no
action on this proposal stating that the issue needs to
be addressed with more discussion by a river wide working
group.

Four comments were received in opposition
to the proposal.

They stated the commercial fishing is
depleting the stock and users have to adapt, adjust or
improvise. Blaming others is not going to address the
conservation issue. The proposal is unreasonable. Some
villages have no access to salmon and will trade for game
meat for salmon.

One comment recommended that the proposal
should state, if in any given year that the number of
fish is insufficient to fully satisfy the subsistence
harvest, commercial fishing will not be allowed.

That concludes the written summary of
public comments, Mr. Chair.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Mike.
Any questions from the Board.

(No comments)

CHAIRMAN TOWARAK: Okay, next, is --
MR. PROBASCO: Public comment or testimony.

CHAIRMAN TOWARAK: Oh, okay.

MR. PROBASCO: Thank you, Mr. Chair. Now is the opportunity for public testimony. And the first person out of the chute is Mr. Tim Andrew from AVCP.

MR. ANDREW: Good morning, Mr. Chairman. Members of the Board. Regional Advisory Council representatives. Guests. My name is Timothy Andrew. I'm the director of Natural Resources for AVCP.

As I had indicated yesterday that the Yukon River situation is of real concern to us, primarily for the people in our villages. It has been classified as a stock of yield concern by the Alaska Board of Fisheries. And we have been under extremely restrictive regulations since, I believe, it was 1998 and the years following. And it has been extremely hard for the people on the lower part of the river to abide by the regulation as you can see back in 2008 there was a protest fishery that occurred there in Marshall. You know it certainly shows that, you know, people do need the fish, and we need to take some kind of a drastic action to try and rebuild the stock to its historical levels.

It's -- and we have to take some kind of a management action and customary trade unfortunately is part of one of those that we have to take. Since the inception of ANILCA, with its provisions as classifying subsistence uses for rural residents it doesn't specifically state Alaska Natives, but a lot of non-customary and non-traditional people have started taking advantage of the opportunity to participate in this economic enterprise on the Yukon River. And we believe that this opportunity to participate has a devastating impact on our fishery resources and it's not only the chinook salmon alone but perhaps other salmon as well.

We would support this proposal along with a modification on process of how to go about achieving adequate language to meet the needs of the residents of the Yukon River and it's primarily for the tribal membership, and I believe that the tribes must come up with a solution because subsistence and the resources are tribal issues. And we would also look forward to participating in that form and arriving at language that would be acceptable for the entire Yukon River.
Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Mr. Andrew. Any questions from the Board.

Go ahead.

MS. CYTHLOOK: Thank you, Mr. Chair. Tim Andrew. Tim, I know that the villages in your region are pretty well in-depth with their traditional uses of the resources. The customary trade as explained to us as cash trade, I know from living a traditional lifestyle that that is not the custom, that has never really been a custom of cash trade for us. It always has been trading with resource or just sharing and now that there's been - it sounds like in one community there was a study in 28 communities and I guess that kind of that study was used to come up with the customary trade ruling, I guess, and Bristol Bay has come up with the customary trade and how Bristol Bay came about with that is there was a study, survey within different communities and the findings was that there was minimal use of customary trade, which is buying and selling of fish. Because the communities are not -- well, the cash in these villages aren't available, and so as tradition there's always been just sharing and never really selling and buying.

But as the new generation, we all know, are coming up behind us and they're more apt to use that, I guess, tradition, and so I guess I'd have to appreciate the, you know, what's been developed for Bristol Bay and that is $500 limit annually per household and we're going to have to live with that knowing that this is going to limit a tradition that is -- right now is used in a limited fashion. But not knowing the future of our younger generation, you know, I have to appreciate what's been in place.

And I guess my question, I guess, to you, I know you have quite a lot of communities, 57, and knowing some of those communities, and knowing that they're traditionally -- they're traditional communities, you know, what's your feeling about the -- I guess what's kind of been mirrored, you know, as far as C&T placement, I guess it's -- it's -- I guess a study was done to try to identify the C&T, and this may -- this is probably not the only mirror that will be used but I guess I just need to know from your region what the thought has been regarding this -- the C&T placement for one area of your
Thank you, Mr. Chair.

Mr. Andrew: Mr. Chair, if I can respond. Thank you, Molly, for that characterization of customary trade in our region. And Molly is right, the customary trade for cash is extremely limited in our area. Most of the people utilize the chinook salmon primarily to give as gifts perhaps when we have guests that come into our villages for potlatches and other events as they occur in our villages. And it was primarily used for customary trade and barter, not necessarily for cash, like for example, some of the villages further up the river wouldn't have access to seal oil, or seal products, they'd trade with the coastal communities, salmon for other products that weren't available and, you know, vice versa as well.

And as far as the customary and traditional user, you know, people along the lowest part of the Yukon River from Russian Mission on down to the coastal communities are extremely customary and traditional users, and they maintain that mind set. And, you know, for people that have moved into the area or moved into the Yukon River, people from lord knows where they're from, regardless, that are not extreme customary and traditional users are taken advantage of this opportunity to make it an economic enterprise to support whatever their endeavors are.

Chairman Towarak: Thank you, Mr. Andrew. Any other questions.

Ms. Ahtuangaruak: Mr. Chairman.

Chairman Towarak: Mrs. Ahtuangaruak.

Ms. Ahtuangaruak: I also have a lot of concern for this. I was born in Fairbanks and my dad had a junkyard. There was a lot of times where we traded with different people from different communities for traditional foods. There could be all sorts of different items that left the junkyard to various places throughout the state in response to needs. We might take years to get some of the subsistence foods to cover the cost of the items that we traded for.

My aunt is renowned for some of her smoked fish. We have requests throughout the state every
summer for trade for that. Some people offer cash in
exchange for that. Most of the trading goes in relation
to other subsistence foods, but there's also cash that's
used. With the increased cost of fuel and getting
products to the Arctic it's never enough to cover the
cost of the need to go out and do the subsistence
harvest.

But I have concerns with the dollar value
put on that.

Some of our works to create unique items
from our harvesting, certain types of food preparations,
certain ways to take items from the food into special
items, special preparations are very important for our
continued usage and trading and working together. It
builds the ties that helps our communities survive in
what we're dealing with. It builds the opening channels
for communications when we have such tremendous issues
that we're facing when we have the link of sharing that's
so important.

When we're taking or harvesting, we might
take enough to use for special events. We've got Quiviq
coming up in Barrow and there's going to be a lot of
trading of foods to meet the demands of the hundreds of
people that are going to come into Barrow during this
event. They're very important throughout this process
but some people will give gas, parts for their
snowmachines, parts for the boat. Some of this stuff can
cost thousands of dollars to replace a clutch on a
snowmachine, $3,000. One of my uncles harvested
whitefish and would build up enough to get a snowmachine.
Those kinds of things are very important he uses for his
hunting and fishing and whaling activities that are so
important to get the harvest to feed the whole village.

These are too important to put a cash
value on. The importance of sharing the education with
our next generations, teaching them of the areas that we
hunt and harvest in because in Nuiqsut, the land use
changes has tremendously affected these stories of the
lands around us because there's areas that have changed
and they're no longer conducive to subsistence activities
but the importance of sharing these stories from these
lands continue beyond the generations that do not harvest
from these areas in hopes that restoration may occur in
the future as generations have seen that they have not
occurred in our area.
It's too important to put a dollar value on this. There's too much that goes into generations for this process.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mrs. Ahtuanguruk. Mr. Reakoff.

MR. REAKOFF: Mr. Chairman, thank you.

I wanted to ask Tim if the YK-Delta, AVCP recognizes that there's a complete disparancy between how fish are used throughout the Yukon River drainage? I mean fuel prices are different, the use of the fish is different, these are regional differences. And I was wondering if AVCP would, as the Western Interior has suggested, like to see a village and tri-RAC working group, work together on recognizing the regional differences in trying to set an amount for what would be recognized as customary trade?

MR. ANDREW: Yeah, Mr. Chairman, if I may. I believe this issue has been brought to the Alaska Federation of Natives Board and they have assigned this issue to the subsistence committee to work things out. And as far as AVCP participating in the tri-RAC meeting to address this issue, we'd be more than glad to sit down and assist in whichever way we could possibly assist in coming up with something that will work for the villages. But as long as all of the villages on the Yukon River understand that we have a conservation issue and that, you know, all the users got to cut back in some way or another, and we've done that with our commercial fishery on the Lower Yukon. Some of the buyers down there are not focusing their efforts on chinook salmon anymore, they're targeting chums and coho, you know, that's an incredible sacrifice in itself.

And we also have been regulated from an unrestricted mesh now to 7.5 inch, which is coming up this coming season. We have extremely restricted windows for subsistence harvest. And, you know, this is one area that really needs to be looked at seriously to try and reduce the harvest to where we can achieve our escapements into Canada and also into some of our escapement projects further up the river.

CHAIRMAN TOWARAK: Thank you, Mr. Andrew.

Are there any other questions.
MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead, Ms. K'eit.

MS. K'EIT: Thank you, Mr. Chair. Mr. Andrew, would you be able to talk to the question of what would users or what have users had to do when their subsistence fisheries have been closed or cut short?

Thank you.

MR. ANDREW: I believe it was in the summer of 2008 we took a press team on a tour in select communities of the Lower Yukon and some of you who might have seen that coverage, but every smokehouse that we went and interviewed and the people processing salmon, a lot of the salmon was the summer chum salmon in place of the chinook salmon. A lot of people expressed concern because they didn't have enough chinook salmon. And our drying season in the Lower Yukon is primarily during the month of -- latter part of May to about mid-part of July, but after that the weather turns to rain and it's really not conducive to drying so we have that limited window that we need to process salmon and the only two resources that we have at that time are either the chinook salmon or the summer chum salmon. The summer chum salmon does not have near the fat quantity as the chinook salmon. And, you know, with the absence of that important resource, especially right now when it's like 20 below, 30 below chill factor is when people need that fat content, it makes it extremely hard for people on the Lower Yukon.

CHAIRMAN TOWARAK: Thank you. Any further questions.

(No comments)

CHAIRMAN TOWARAK: If not, thank you, Mr. Andrew for your comments.

MR. ANDREW: Thank you, Mr. Chair.

CHAIRMAN TOWARAK: We appreciate your insight.

Before we go any further we're going to take a 15 minute break. We've been going for almost an hour and a half so we'll be back at five after 10.
CHAIRMAN TOWARAK: I'm going to call the session back to order from the break. We're on the first of 15 proposals, and I'm going to ask the people, including those of us at the table here to make our questions direct as possible in the interest of time, but still feel free to take the time you need to make your point.

We were on the Proposal 11-08, and on public comments, and Pete do you have the next one.

MR. PROBASCO: Yes, Mr. Chair. We have probably six or seven more people to testify on Proposal 08, and Mr. John Andrew, you're up on Proposal 08, Organized Village of Kwethluk.

MR. ANDREW: Mr. Chairman. My name is John Andrew. I'm from the Organized Village of Kwethluk.

I was asked to comment on Federal Fishery Proposal 11-08. 11-08 to prohibit customary trade of salmon on the Yukon River Fishery Management Area in any year chinook subsistence harvests are restricted.

Historically in the Native communities all along the Yukon River, including the Kuskokwim, there is no such thing as customary trade, historically, it was never in our language, not even in our Native language, only barter and trade. Barter, you know, only bartering that's exchanging some goods so you have for what you need, the other one is sharing.

That's one big issue where people always get confused at.

Because my parents, my grandparents, my forefathers they never knew the word, customary trade.

And there was another issue along with that, that hurts our people, that's in subsistence fishing, those are closures. Whenever you have a closure it hurts the people, people that need the fish to live on. The fish they harvest, especially the salmon, we share it with all our relatives, in our immediate family, our neighbors, and the community. In the last few years,
especially when you have closures on the Yukon side, I've seen some of my own people share what they have from their own resource and they share it with the people on the Yukon River [sic]. And for in our -- my tribe, my council asked me to oppose this proposal -- Fishery Proposal No. 11-08. And I'm sorry I missed out yesterday when I had a chance to testify, they asked me to oppose any customary trade because of the way it is written and after reading the Staff analysis, they recommend -- their recommendation was to oppose it or ask the proposers to withdraw their proposal.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you, Mr. Andrew. Are there any questions of Mr. Andrew.

(No comments)

CHAIRMAN TOWARAK: Thank you very much for your testimony.

MR. ANDREW: Yeah, Quyana.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Our next person is Peter J. Demoski.

MR. DEMOSKI: Good morning, Mr. Chairman. Members of the Board. Mr. Probasco, I hope you do understand that I'm not here to speak on any specific proposal. I did inform you that I have some general comments about fishing regulations, period.

MR. PROBASCO: Yes, Mr. Chair. Mr. Demoski did speak to me but his issue is specifically to the Yukon issues and I said this would be the appropriate time.

CHAIRMAN TOWARAK: You have the floor Mr.....

MR. DEMOSKI: Okay, thank you. As I said yesterday I represent Nulato Tribal Council. Their views are what I am here to present to you. They may not be my personal views but I promise to present the community views.

Their first preference is to leave
current rules and regulations as is.

Fish and Game has the responsibility to estimate numbers of chinook salmon entering the Yukon River and establish rules and regulations that will allow fishermen along the river to harvest safe numbers of salmon and still leave a predetermined number of salmon to reach their spawning areas in Canada. It is these offspring that will return to the ocean and five to six years later return to the Yukon River completing the cycle. Preservation of the chinook salmon is the ultimate goal. The inability of fishermen along the Yukon River to come to agreeable and sustainable harvest quotas that will ensure perpetuation of the species does more to endanger the survival of the species than anything caused by nature.

This is just a repeat of yesterday and they do stress to leave current rules and regulations as they are for now.

Commercial fishing. District 4 and 5 has not had commercial fishing for 16 years. The Lower Yukon districts are the only districts that have substantial commercial fishing and commercial fishing, like the pollock industry, doesn't limit the catch to one species. Thousands of chinook salmon caught as bycatch is unavoidable. Subsistence fishing along the river is generally closed during commercial openings. For Districts 4 and 5 where there is no commercial fishing both subsistence and commercial are therefore curtailed. Districts 1, 2 and 3 can harvest chinook during both subsistence and commercial openings. One could argue that to be fair, open commercial fishing along the whole river, why should a few districts be allowed to double dip into a declining resource while the rest of the districts cannot.

Set district quotas. Everyone can agree that the closer the fishing districts are to the mouth more salmon will be harvested than the districts 500 miles and further up the river. Fish and Game uses sonar to estimate numbers of salmon entering the river. Fish and Game determines subsistence fishing windows along 1,500 miles of river based on these estimates. This has not worked to the satisfaction of fishermen 500 miles and further up the river. Fishermen closer to the mouth will always harvest more than fishermen further up the river. An alternative is to set quotas of chinook salmon harvested per district. This will allow districts
further up the river the opportunity to harvest their subsistence needs.

District 4A covers the Yukon River from Holy Cross on up to Galena. During subsistence openings fishermen around Holy Cross are harvesting chinook salmon a week before fishermen in Nulato, yet, the subsistence window is the same. An alternative is to break up District 4A into two districts, maybe 4A1, 4A2, a line of determination which would constitute 4A1 and 4A2 needs to be determined preferably by the RAC Councils.

Sonar. Whenever anyone recommends that more sonar stations along the Yukon River are necessary the response is that the State of Alaska does not have the money. People in the community of Nulato suggest that this is no longer a believable response. Alaska is probably one of the richest states in the Union. And there are too many tributaries along the Yukon River that chinook salmon will access, thereby nullifying any estimates to determine subsistence windows for any district. They suggest establishing sonar stations potentially at the mouth of the Anvik River, Nulato River and Tanana River will greatly increase Fish and Game's ability to determine sustainable harvest quotas.

The law in 2011 will be 7.5 inch mesh nets along the whole Yukon River. We understand that fishermen along Interior who cannot afford new fishing nets will be assisted, either by the State or the non-profit corporations from their areas. People in Nulato generally use two to three nets because they may lose one or more nets during the fishing season due to drift logs, deterioration, et cetera. They're suggesting that one net may not be enough to replace the three or four nets that they may generally use already. Fishermen in the Lower Yukon use nets up to 300 feet long. Fishermen in District 4 are restricted to 150 feet. People in my community do not understand why this disparity is not addressed and everyone along the river is limited to the same length, 150 feet.

I thank you for your tolerance in letting me speak to you.

As I said yesterday this is my first time at one of these meetings. I'm not sure about your procedures. I know I'm not following protocol but I thank you for letting me speak to you.
Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Demoski. We appreciate your comments.

The next -- the next testifier.

MR. PROBASCO: Thank you, Mr. Chair. The next testifier is Mr. Gene Sandone, Kwik'pak Fisheries.

MR. SANDONE: Good morning, Mr. Chair. Members of the Board, RAC Chairs and Representatives.

First off I want to reference my previous testimony regarding subsistence use priorities and also the lack of a definition of a significant commercial enterprise. I also want to point out that you've been given my comments, my written comments from Kwik'pak Fisheries. You should each have those. I think there's a lot of new information that you haven't seen before in those comments and also summaries of old information in that report.

Regarding Proposal 08. We agree with ADF&G comments that support a modified proposal that requires reporting and regulate sales of subsistence harvested fish during all years, not just those of low salmon returns, and adopt a definition of significant commercial enterprises and addresses education and enforcement issues.

I want to note that the Yukon Kuskokwim-Delta Regional Council recommendation was to support 08 with modifications to delete all proposed language and replace it with the following:

Yukon River Fishery Management Area.
The total cash value per household of salmon taken within Federal jurisdiction in the Yukon River Fishery Management Area and exchange in customary trade to rural residents may not exceed $750 annually.

And we fully support that proposal.

One alternative provided by Federal Staff was for each RAC to suggest a customary trade limit for their particular area.

Yukon River chinook salmon provided a lot
of fish prior to 1998. Commercial fisheries exceeded
100,000 fish every year. Subsistence fisheries were
basically unrestricted. Since 1998 commercial fisheries
have been dismal for chinook salmon. In some years it's
been zero. So there's been a production shift in the
chinook salmon that has caused conservation concerns.
Escapements into Canada, although very good prior to
2007, the escapements were not made in 2007, 2008 and
2010. I'm bringing this up because there's been concerns
for the escapement, concerns for the subsistence harvest
and just like it was difficult to get agreement on the
7.5 inch mesh -- maximum mesh size from an unrestricted
mesh size for chinook salmon, we did it. It was done.
It was the right thing to do. Customary trade is the
same thing. I'm not really concerned about customary
trade as defined by the Federal government, what I'm
concerned about is the abuses. And as I said before we
need a limit, a definition of significant commercial
enterprise.

That concludes my testimony, thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Sandone. Any questions of Mr. Sandone from the Board or
the RACs.

Mr. Reakoff.

MR. REAKOFF: Mr. Sandone. I was
wondering if yourself and Kwik'pak have thought about,
you know, you're setting a $750 limitation but there's an
inflation question there, have you considered, like the
Western Interior Council suggested, poundage amounts or
numbers of fish amounts?

MR. SANDONE: That would be the best way
to go, Mr. Reakoff -- Mr. Chair. Mr. Reakoff. That'd be
the best way to go, I think, with poundage or numbers.
Probably poundage. And I think the original proposal
limited it to 200 pounds, but that would be the best way
to go. But it's going to be difficult to quantify, when
you're talking about strips or jar salmon, or something
like that, and that's -- we see that as a problem in
using numbers or pounds of fish. If that could be some
kind of correction factor for that, then we'd be in
support of that, then, yes.

CHAIRMAN TOWARAK: No further questions.

(No comments)
CHAIRMAN TOWARAK: Thank you, Mr. Sandone. Pete.

MR. PROBASCO: Thank you, Mr. Chair. The next person to testify is Mr. James Roberts, Tanana Tribal Council.

MR. ROBERTS: Thank you for this opportunity to speak. I am from Tanana and the Tribal Council has asked me to come down here and speak on behalf of the Tanana Tribe.

We strictly oppose the customary trade limitations due to the fact that we feel that if we keep giving up rights, keep giving up rights then some day they won't let us fish at all.

And then I do have concerns for some of the elders in our area. They live on $250 a month longevity. Some of them don't have Social Security to speak for, and $250 a month isn't going to cover their costs. And this is what they did all their life. And if you take this away, what are they going to have, food stamps?

But another thing that really concerns us, is you guys are making decisions for us and $750 is a low, low limit. What's the level of poverty, I mean the least we could do is that for these people.

And then these people that fish and they sell a lot of fish, there's a number of people that help them, it's not just one person. You're talking families, extended families, you know, 20 to 30 people depend on these, and these people have good spots that could sustain this numbers of people.

And I feel that if we keep giving up our rights we're not going to have no rights at all, and that's all I have to say.

CHAIRMAN TOWARAK: Thank you, Mr. Roberts. Any questions from the Board or the RACs.

(No comments)

CHAIRMAN TOWARAK: Thank you, very much Mr. Roberts.

MR. ROBERTS: Thank you.
CHAIRMAN TOWARAK: Next.

MR. PROBASCO: Mr. Chair. The next person is Stanley Ned.

MR. NED: Good morning. My name is Stanley Ned. I'm from Allakaket, which is about 180 miles northwest of Fairbanks on the Koyukuk River up there we do only subsistence, there's no commercial enterprise there.

But my late father used to tell me, you know, talking to some people is like a fart in a blizzard, some people don't hear you.

(Laughter)

MR. NED: And it seems like we've been doing that for years, and it's about time people start listening to us.

I'm glad to see that the RAC Chairs are involved in making these decisions.

But he also told me that if you're not going to say anything nice, don't say anything at all, you know, so I learned from that.

But my testimony is on customary trade, which is really a controversial topic at this point in time. My suggestion to the Board, before the Board makes any kind of decision on this, is to form a working group from all the RAC Chairs and also to consult with all the villages on this issues before the decision is made to put a dollar amount on customary trade. I think the lady from North Slope made a good testimony saying, you know, you can't really put a dollar amount on it.

That concludes my testimony.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Mr. Ned.

Any questions from the Board or the RACs.

(No comments)

CHAIRMAN TOWARAK: Thank you, Mr. Ned.

MR. PROBASCO: Mr. Chair. Our next
person is Andrew Firmin.

MR. FIRMIN: Thank you for letting me change my hats here so often. My name is Andrew Firmin. I'm here as a private citizen and also I have with me a letter from Ft. Yukon Tribal and community members. And I'd like to thank Mr. Demoski for his support of the fishermen and I agree with his testimony and Mr. Sandone's actually.

But from this letter here, I basically sat at a potlatch over Christmas and just sat by the door and left these proposals on the table and explained to people what they might have meant to them and they basically -- none of them want to be restricted in any way.

The tribal members of Ft. Yukon have not met their subsistence needs since I graduated from high school, at least, not all of them. The only people that maybe do are the ones that are out there, you know, fishing 24/7, they're out there working hard for a month straight.

And just a lot of that's basically because these restrictions based on subsistence use, you guys have the letter here in front of you, they would like to see commercial entities restricted before even considering anything restricted on subsistence users, as their rights defined by ANILCA, and they need to be a priority.

And some of the frustrations from them are basically like last year on CNN there was a man from Emmonak -- excuse me -- no matter how many times I sit up here I still get nervous.

(Laughter)

MR. FIRMIN: But there was a man from Emmonak on CNN saying he's starving, he's hungry, but he's standing in front of a smoke cache that's just overflowing, and I could see that's kind of taken out of context because they need that commercial entity to take care of their family to buy the other supplies they need. And ADF&G has constantly been asking us to conserve, conserve this, conserve that over the years, and this is a jar of king salmon from Ft. Yukon, you can see how nice and orange and oily it is, and this is what Fish and Game wants me to feed my son. Well, this is what I was raised
on and this is summer chum prepared in the same way, 
caught in the same wheel. This is actually a good 
looking jar, I should have brought one that was a little 
nastier looking.

(Laughter)

MR. FIRMIN: But those are the types of 
conservation methods that we've been going through. And 
a lot of that basically is because we haven't been 
meeting our needs. We don't have full smoke caches. And 
actually while I was at the potlatch getting these 
signatures there wasn't hardly any fish. There wasn't 
hardly any moose meat. And there was a lot of ham and 
turkey, and that's just one of the things that, you know, 
that people don't -- I would refrain from eating it there 
just so the elders that are at the potlatch could have 
their fair share. And these are for sale, by the way, 
because I almost had to eat them at the security at the 
airport coming down here so....

(Laughter)

MR. FIRMIN: Thank you for your time.

(Laughter)

CHAIRMAN TOWARAK: Thank you, Mr. Firmin.

Any questions from the Board or the other RACs.

(No comments)

CHAIRMAN TOWARAK: Thank you. If you 
need help disposing of your fish let me know at 
lunchtime.

(Laughter)

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Thank you, Mr. Chair. The 
next person to testify is Mr. Gerald Nicholai, Tanana 
Tribal Council.

MR. NICHOLAI: Thank you, Mr. Chair.

Board Members. RAC Chairs. Good to see some of the old 
faces again. And this thing about customary trade, I 
really respect the lady that spoke, you can't put no 
limit on my lifestyle. It's just like me putting a limit 
on you guys, going shopping at Safeway or something; you
can't put no limit on if I give my auntie one king salmon
and she gives me a Sno-Go, or a boat and a motor, you
can't put no limit on that.

It's just wrong, what you guys are doing.
You guys are going in the wrong direction with ADF&G, you
make the Eastern Interior RAC, Western Interior and the
YK fight; for what? You guys mismanage, you let them do
a chum fishery, you let them do a chum fishery,
commercial fishing and there went your Canadian border
escapement. Now that's just what they said in Tanana;
that's just oops management. You guys got to work
together.

You put these three RACs together and
work it out. Don't be butting heads. Don't be butting
heads with Fish and Game either. You guys sit down and
work it. This is my lifestyle, my people, my family, my
ancestors lifestyle you guys are messing with and that's
wrong. There's no limit on customary trade in my book.
What my dad, what James Roberts said, there's some people
that don't even get Social Security, 82 years old, still
out there, don't get food stamps or nothing, and is
raising her grandchildren on just living since she was a
kid, she's been selling king salmon strips, dry fish, and
everything; she don't get a paycheck like you guys.

What you guys are doing is wrong, you
guys got to work together more. That's just
disrespectful, micromanaging the user, when both managing
agencies are butting heads and making the RACs fight and
not doing the right thing for the user. It's just like
the user is working for the government when the
government is supposed to be working for the user. You
know you could ask me questions, you could tell me
anything you want, but you guys are going in the wrong
direction.

When I first started, 20 or 30 years ago
working with this program it had a good outlook, but all
I see you doing is just putting more restrictions on us.
I spent more money this last summer trying to catch fish
with all the restrictions and the drift and rain and
everything and I hardly even caught anything. And we
have to feel, not only my family, not only James' family,
we have to feed like about three or four families out of
one fishing group. What you guys are doing is wrong.
I'll say it right now.

But remember, me, Harry, Ron Sam, we
worked it out. You sit here and argue about your little stuff and you're micromanaging, you guys got to work with Fish and Game, everything, it's a big river, it's a big system, there's a lot of people, a lot of issues, a lot of everything, but you got to sit down together, not just one Board and pit each other against each other. That don't work, man, the only thing you're hurting is the resource and the people who use it since time immemorial. You can't change the system that I grew up. You could try, but the only thing you're going to do is just make outlaws out of us.

What you're doing is wrong. That's just my comment.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Nicholai. Any questions from the Board or the RAC Chairs.

I might point out -- go ahead, Mr. Firmin.

MR. FIRMIN: Mr. Nicholai. I kind of agree with you there, I think -- over the past summer I purchased a new 7.5 inch mesh net, 100 feet long and it cost me $450 landed, not including the buoys, the cordage, and I'm a younger fisherman, I don't have a big family spot close to town. I had to travel a ways to find my own spot and hash out my own deal so I don't have to, you know, deal with so much other people and people trying to rob you or whatever, but I think I quit counting at $1,500 this summer and I didn't fill my one freezer.

Thank you.

MR. NICHOLAI: Like I said, I respect what that woman said right there, Rosemary, thank you for your comments, man, you can't put no limit on customary trade anywhere. All you're doing is just making.....

CHAIRMAN TOWARAK: Mr. Nicholai, I've got a question for you. Are you stating that we shouldn't put any limits on customary trade and allow as much as fish as anybody wants throughout the whole river?

MR. NICHOLAI: No. No. Don't get me wrong here. Don't get me wrong at all. What you should
be doing, instead of micromanaging the users is working with the Alaska Department of Fish and Game because what happened last summer, you let a chum fishery happen, or ADF&G, let a chum fish happen, incidental bycatch of chinook salmon, that was the border escapement. You made a lot of Canadians mad, and how many years we tried to work with those Canadians, we don't take any more than we need. If my aunties children need school clothes, whatever for their school, she's going to sell what she needs. How you going to put a limit on that. I mean how much fish they could catch in one season. Last summer we tried like heck to catch fish in our district, District 5, we had rain, so much drift and everything, even when the open season was opened, so we were already limited anyway. I mean it's a struggle. And to have you guys say you're going to put more restrictions on us and everything, like I said you're just going to make outlaws out of us. I mean that's -- it's just like I said what this program started out with, it had a good outlook, I said, but it looks like you guys are just -- in my view, from my experience, it looks like it's just going backwards. It should be more working with ADF&G, more working with the tri-Councils on the river, and all the Fish and Game RACs and come up with better ideas than micromanagement -- instead of micromanaging the users. You guys got to work together more, two agencies; it's dual management, it should be a better working system than what it is.

CHAIRMAN TOWARAK: Thank you, Mr. Ned [sic]. And for your information our Staff are recommending that we oppose this -- the proposal and we have discussions going on between the three RACs on the Yukon to get together and come up with a solution. Would you support something like that?

MR. NICHOLAI: I'll make one more suggestion here. It'll be, in my view, no matter how hard it is, I know there's a lot of differences between the three RACs, but if you could get them together and sit them together and sit them down together and let them discuss things, even include the Fish and Game Committees or whatever, and listen to all their views, with the -- your Board sit down with the Fish and Game Board, too, I mean just get all in one room and hash it out, and don't be butting heads because all you're hurting is the users. I mean my grandma, she expects a king salmon every year and I didn't give her one this year, and that hurt her, you know, and this micromanaging stuff don't work for us.
Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Nicholai. Any other questions of the Board or RACs.

MR. REAKOFF: Mr. Chairman. I'd like to ask Gerald one question.

CHAIRMAN TOWARAK: Mr. Reakoff.

MR. REAKOFF: Do you feel that customary trade should not be limited within the region on the Yukon River, how do you feel about large volumes of sales to other areas, like to the urban areas and outside of the region?

MR. NICHOLAI: Well, there's so many views on customary trade. In my view it could be for money, gas, or like I said for -- to give -- I gave my auntie, like one king salmon a couple years ago, she gave me a brand new Sno-Go, or she could have gave me $5,000, so you can't put no limit on it. It's traditional, it's passed down from one to the other. How could you put a limit on that, I mean it's already limited, you're only allowed to catch so much and the time allowed and the windows, the only way you're going to catch more if you just fish outside those windows. But when the windows do come, or whenever the pulse does come around, by the time you open up the window the pulse is already going by Tanana and all we get are the dead end of it.

I mean we're already limited anyway so much and the customary trade, man, you're hurting more people on the river than you could ever believe. What you should be is -- what you guys should do is work together with the Alaska Department of Fish and Game and watch what you're doing in your commercial fisheries and watch what you're doing, work with the North Fisheries Council -- National Marine Fisheries Council and get them to work with you so we could have more control over whatever is happening out there because there's a lot of take before it even gets to the Yukon River.

CHAIRMAN TOWARAK: Thank you, Mr. Nicholai for your testimony.

Next.

MR. PROBASCO: Mr. Chair. This is our last public testifier and it's Mr. Tim Smith, Nome
MR. SMITH: Mr. Chairman. Members of the Board. My name is Tim Smith and I'm the President of Nome Fisheries Association. I'm also on the Seward Peninsula Regional Advisory Council. I'm from Nome. My wife and I have lived there for about 30 years. She's originally from the same community that Tim Andrew is, Marshall, and her family's all from the Lower Yukon. And I'd like to talk a little bit about how this customary trade affects us personally.

The Nome area is probably the most restricted in salmon harvesting of any place in Alaska. We've had the only Tier II fishery since 1999 in the state and we have a hard time getting salmon there. Things don't look like they're ever going to get better. We like Yukon River dry fish. We don't really expect to get king salmon strips anymore, they're a little too scarce. And fall chums, and silvers also are very scarce, but we like summer smoked and dried, dry fish, chum salmon dry fish. And we buy it. And subsistence is an economic activity. It's an important part of Alaska's economy. I feel it's really unfair to expect people to put all the labor and the time into producing dry fish and just to share it with us. In the past, you know, they did that. Now, it's a burden. It takes a lot of money and it takes a lot more time with these restricted fishing seasons, it takes a lot more time to produce the fish. You don't get large numbers of fish all at one time which would be the most efficient, you get a them a little at a time over the season. And so it's a lot more expensive for them to make dry fish and I feel it's only fair for me to contribute something in return. And, you know, we have -- you know I could get more of some subsistence products than we really need. We can get more meat or something, but they don't need that. What they need is cash. The cost of living in rural Alaska is going through the ceiling as everybody knows. And it takes a lot of money to subsist. The cost of subsistence is very high now. Outboard motors are $25,000, it's unbelievable. A net is $2,500. It just takes a lot of money to subsist.

And so I realize there's abuses. There have been abuses. But let's not throw out the baby with the bathwater, you know, there needs to be a way to exchange cash for subsistence products.

I think that imposing too low of a limit
is throwing out the baby with the bathwater. There was
a time when $750 might be a significant amount of money
but not anymore. You know look at the cost of
everything, everything's just gone so high. And cash is
really the best meaning of exchange, it's the most
efficient way to do it, say if you live close together
and you have something, maybe you could exchange
subsistence products, but for us cash is the only thing
that's going to work and we have the cash. You know my
wife and I both have incomes, we can afford to give back
to the people that produce the fish that we need.

And so it's an issue of fairness.

And so I think that, you know, I'm not
sure that I have the answer to this. But I think that a
cap of a few hundred dollars is completely unreasonable
and unfair.

But by far the most unfair thing is the
allowing virtually unlimited harvest as bycatch in the
pollock trawl fisheries. You know we're talking about
limiting a few people living in villages barely getting
by when we're really not limiting the industrial trawl
fishery. They're catching hundreds of thousands of
salmon, throwing them over the side and wasting them.
That's really -- I think it's wrong.

And I'd like to, you know, echo what Mr.
Nicholai said, I understand the jurisdictional problems
but managing piecemeal doesn't make any sense. The Board
of Fish, North Pacific Fisheries Management Council and
your Board all have a piece of this management but if you
don't manage the whole stocks, the entire salmon stocks,
it's not going to work. It just doesn't make sense to
manage them piecemeal. It has to be a -- you have to
look at the big picture. And imposing the subsistence --
or the conservation burden on people in Western Alaska,
in the villages, disproportionately as this, I think
would do, I think is very, very unfair. So I'd like to
see this Board work more with the Council and with the
Board of Fisheries to address the real problem and that
is not enough fish, there's just not enough fish
available for subsistence users now.

And that's my comments.

CHAIRMAN TOWARAK: Thank you, Mr. Smith.
Any questions from the Board or the RAC Chairs.
(No comments)

MR. SMITH: Thank you.

CHAIRMAN TOWARAK: Thank you. That concludes the public testimony portion of our process. Our next step is having the Regional Council recommendations. And we will start with Mr. Wilde.

MR. L. WILDE: Thank you, Mr. Chairman. Speaking for proposal you'll notice that in the proposal itself it states prohibit customary trade of salmon in the Yukon River fisheries Management Area in any year. The key part of this, the meat of the whole proposal is in any year chinook subsistence harvest are restricted. And you'll know that we've been restricted a time or two on the Yukon River for subsistence when the Department felt that there was not going to be enough chinook salmon going up into the spawning grounds.

And if I may, Mr. Chairman, ask, Mr. Bue, has there been any commercial fishing at the time that chinook salmon harvest for subsistence have been restricted?

CHAIRMAN TOWARAK: Mr. Bue, if you could get next to a speaker.

MR. BUE: Yeah, thank you, Mr. Chairman. Could I ask, Lester, could you please repeat the question.

MR. L. WILDE: The question I asked, has there been any commercial fishing because there mention by some of the people that testified of the Lower Yukon fishing during the restrictions, has there been any commercial fishing at the time that chinook salmon harvest for subsistence has been restricted?

MR. BUE: Drainage wide historically there has been times. Certainly we try to avoid it and try to give a subsistence priority over fishing but, you know, as most of you area aware an early in the season assessment is difficult, management decisions are difficult and so there may be some occasion there is some allowance on commercial fishing. But for the most part we try to not have commercial fishing when we think we may have a subsistence restriction, in fact, we try to avoid that if at all possible.

MR. L. WILDE: Thank you. And has there
been any commercial fishing at the time that the restriction is in place?

MR. BUE: No. Not at the same time and same place.

MR. L. WILDE: Thank you. That was the information I wanted to make sure that was understood by everybody before we get into this area.

And this only applies to the year when there is a restriction on subsistence. If you're going to -- as you heard in the testimony, Mr. Chairman, families get together to go out to commercial fish. They fish together to get the family needs. So the families, restricting the families for subsistence is not the meat of this because the families do go out and have an opportunity to go out and get their subsistence needs. Until such time that the chinook subsistence needs are restriction, that's the only time that this commercial -- I mean that this proposal is -- that this was brought forth, at the time that the harvest for commercial subsistence -- I mean for subsistence is restricted, that's when we would like to see the monetary, I mean the customary trade restricted also because the families have already gotten their subsistence needs or have -- are working towards getting their subsistence needs.

And we felt that there is barter that happens all the time. Barter is when we -- as the definition in the book for barter is trading resource for resource, and customary trade is sale of the resource for monetary gain, or for monetary purposes.

And I'd like -- since this came from our Council, and we totally believed since we've had restrictions in the past for the needs of our people, we wanted to make sure that our people got their food first before any of our salmon that are being restricted, are sold to anyone else. This doesn't affect the families along the river, it affects the sale of the product that is the resource at the time that it is being restricted for subsistence.

Thank you, Mr. Chairman. And, thank you, Mr. Bue.

CHAIRMAN TOWARAK: In the booklet that we have Mr. Wilde it shows that the Yukon Kuskokwim-Delta Regional Council recommendation is to support 11-08 with
modifications; is that still the case?

MR. L. WILDE: That's still the case, the modifications, we felt that if in the event that there is a shortage of subsistence needs in the area, that none of the product should be sold. But that 700, what is the modification, I was looking at the.....


MR. L. WILDE: I don't see the modification here. Oh, here it is. With modification, what exactly did that mean, does that mean that we have changed our -- that the proposal is changed to what it is written on the bottom? May I have an answer there, Mr. Pete.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Mr. Wilde. Your modification is what's presented in bold. The Council took action to replace language under subsection (iii) and replaced with the following, and that's that black bold language.

Mr. Chair.

MR. L. WILDE: Mr. Chairman, if I may. When we first introduced this proposal it was -- we wanted to make sure that it was at the time that there was restrictions on subsistence, and that was the main gist of our proposal.

There must have been some misunderstanding on the modification but I think at times we make mistakes but the meat of this -- the proposal, at the time that we wanted it submitted, was just for restrictions at the time that we are being restricted for our subsistence purposes.

Mr. Chairman.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Thank you, Mr. Wilde, for the clarification. The Board can note Mr. Wilde's clarification to the language that's found on Page 39 and can proceed.

Thank you, Mr. Chair.
CHAIRMAN TOWARAK: I made a note then that the YK-Delta RAC supports with the modification and that modification should also include the wording that would apply only -- this would apply only in time of restrictions.

MR. L. WILDE: That's correct, Mr. Chairman. And with only the time that the subsistence restricted.

CHAIRMAN TOWARAK: Right. Any questions from the Board.

MS. COOPER: Yes, Mr. Chair, if I may.

CHAIRMAN TOWARAK: Go ahead, Ms. Cooper.

MS. COOPER: For Mr. Wilde, through the Chair. Just a clarifying question; if the RAC may be open for an additional modification or if they have given consideration, the way the proposal, 11-08 is currently written, any time the chinook run did not fully satisfy subsistence needs, or if the fishery is restricted, all customary trade of any species would be prohibited in that year. And that may not be the intent of the proponent, I was just wanting to ask for clarification, through the Chair.

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: If I may, Mr. Chairman. We are dealing with the species of concern, which is mainly the chinook. We have -- although we are -- we do utilize the summer chum salmon in our area, in the area that I come from, Hooper Bay, we don't as much -- we don't take king salmon, although we would like to get some, we don't often have the opportunity to get king salmon.

I think last year for our total village of subsistence dependence, of 1,200 people, there was something in the neighborhood of 200 to 300 chinook that were taken. That's in Hooper Bay. And, I, myself, had -- I was a little bit luckier than my friend Gerald, I was able to get one king.

And we wanted to make sure that if in the event that we're able we can get the resource built up to -- it's going to be a long -- we'll probably never see it in our lifetime, but we would like to have the pleasure
and the opportunity to be able to acquire some of the
chinook also out in our area. And that is a --
conservation means a lot to us out there because we
depend on our subsistence resources. There isn't any
other type of resource where you're able to get the
necessary funds to be able to go out and do other Native
-- other subsistence activities.

And as far as the commercial area in the
Lower Yukon, most of the resources, the monetary
resources that come into that area are in turn used for
expenses to go out and get other subsistence resources
that are available in that area.

Does that answer your question, Ma'am?

MS. COOPER: Mr. Wilde, through the
Chair. It does, in part. I'm just curious if there is
a restriction put on chinook, if the proposal, as written
is intended to then place restrictions on customary trade
of any species of fish or if it's just intended to put
restrictions on customary trade of the species in
question, chinook?

MR. L. WILDE: Ma'am, that was the -- it
states chinook, and that's the only species that we're
concerned with. Customary trade with other species can
be allowed. But the species of concern right now is the
chinook and that's what this proposal addresses.

MS. COOPER: Thank you, Mr. Chair.

MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead, Ms. K'eit.

MS. K'EIT: So I think I maybe understand
what, you know, that it was maybe a cut and paste kind of
mistake, but if we were to go to Page 31 in our proposal
books, the proposed regulation at the bottom, the three
little I's in bold, I think I understand that it would
keep that portion up to the semicolon in the last
sentence, and then in place of the phrase customary trade
will be prohibited, we would be inserting the language
proposed by the YK RAC for modification. So we would be
adding that sentence to the original proposal in place.

And if you like I can read that as how I
would understand it would be.
CHAIRMAN TOWARAK: If you would, please.

MS. K'EIT: Okay. So it would be for that subpart (iii):

If in any given year in the Yukon River Fisheries Management Area chinook runs are insufficient to fully satisfy subsistence harvest needs and subsistence fisheries are restricted, Yukon River Area Fishery Management Area, the total cash value per household of chinook salmon taken within Federal jurisdiction in the Yukon River Fishery Management area and exchanged in customary trade to rural residents may not exceed $750 annually.

Mr. Wilde, through the Chair, is that what the intended modification was?

MR. L. WILDE: The first part of what you read, is the meat of the whole proposal.

MS. K'EIT: Okay.

MR. L. WILDE: If in any given year that we do have restrictions on subsistence we would like to have the customary trade -- will be prohibited in those years only.

MS. K'EIT: Okay.

MR. L. WILDE: And not necessarily in any other year.

MS. K'EIT: Oh, okay.

CHAIRMAN TOWARAK: I've got one question for you, Mr. Wilde. Somewhere, I think it's in one of the Staff analysis or one of the discussions that we had earlier, there was the possibility and perhaps Mr. Reakoff might confirm this, of the desire of getting the three RACs together to come up with a proposal, and to put a decision off today on this particular proposal, to be determined after the three RACs work out a solution.

MR. L. WILDE: Mr. Chairman. If you lived in our area and you were out getting the subsistence needs that require to sustaining your family
for the year, I think you would understand why this proposal is needed. We need -- the monetary part of that, we're able to -- we would like to sit with the rest of the other three Councils to determine a value on customary trade. That is what we would like to sit in with the other three Councils with. But in the event that there is a subsistence fishery restriction, we would like to have customary trade restricted also.

Is that understood?

CHAIRMAN TOWARAK: Yes, that's clear in my mind.

MR. L. WILDE: Thank you.

CHAIRMAN TOWARAK: I'd like to ask for about a 10 minute break to kind of huddle with a couple of people before we get to the other two RACs that are involved in this decision so let's take a 10 minute break.

While I'm -- before I do that I had promised one of the Staff members I would do this.

Each of you on this table were given a sheet of paper to review the artwork by the children and make -- please fill out this form on which recommendations you will make for the grand prize and also the honorable mentions so -- and you have until noon to do that so during the break, if you want, you could take a look at the drawings.

Thank you.

10 minute break. Recess.

(Off record)

(On record)

CHAIRMAN TOWARAK: We're ready to reconvene.

(Pause)

CHAIRMAN TOWARAK: We're at the portion of our agenda where we are taking comments from our Regional Advisory Chairs. We had just completed the -- I'm sorry, God, the comments on -- from Mr. Wilde and
we're only hearing from the RACs that are affected by the proposal.

Pete, go ahead.

MR. PROBASCO:  Thank you, Mr. Chair. Thank you for the opportunity to say a few words.

Board members I think it's very important to understand the questions and the possible confusion we had when we were speaking with Chairman Wilde from the YK-Delta. What's printed on Page 39 that is in the bold black is true to the transcripts on what the Council passed. Now, keep in mind this is a Council meeting and it's a public sector. And what Mr. Wilde was speaking to was the broad discussion and what he recollected as far as the motion to be. That is, in part, inaccurate, because this comes from the transcripts, however, it's accurate on the discussion that the Council had.

Also keep in mind, Board members, that when we ask Councils on their opinion, they can only speak to what their Councils act on, they can project, well, I think my Council would support that because they actually have to work on the actions that their Council took so we need to be careful on that as well.

Mr. Chair.

CHAIRMAN TOWARAK:  Thank you for that clarification. Next on the list of Council members would be Jack Reakoff from the Interior RAC.

MR. REAKOFF:  Thank you, Mr. Chair. Western Interior Regional Advisory Council deliberated this proposal at our meeting in McGrath. We opposed the proposal and the reasons are that customary trade is recognized as a long standing use in the Middle Yukon area within the Western Interior Region.

We didn't agree with the dollar amounts being used because of the inflation factor as one of the reasons.

We did not feel that there was enough investigation through asking the communities and going throughout the various areas to find out what people felt were the amounts that would be considered a significant commercial enterprise.
The WI RAC recognizes this as a legitimate use of chinook salmon. The abuses of customary trade regarding large volumes of chinook salmon as a significant commercial enterprise needs to be addressed.

The WI RAC is in favor of defining a significant commercial enterprise.

This request is to be accomplished by having -- we are requesting that members of the YK-Delta, Western Interior, Eastern Interior designate -- we designated two members, but we could have at least two or three members to meet from each Regional Council. The request would follow the -- the meeting would actually follow sending out a request to the communities, the tribal councils with two questions.

The questions would be:

Is customary trade part of your community use of chinook salmon?

And;

How much chinook salmon on average is customarily traded, an approximate amount, not exact amounts, but approximate poundage per capita?

Like some commentor said there's large families getting together and putting up a lot of fish and they sell but if you put that per capita sale it actually might not nearly look like as much as it would off hand.

These questions would then be answered within a timeframe, the three RACs would meet and deliberate with real input from the communities what customary trade is throughout the whole Yukon River drainage and come to an agreement on what is an appropriate amount to set the threshold for a significant commercial enterprise. So that's why we submitted a request.

We opposed the proposal, we submitted a request for a working group and we feel that that would work towards a solution that's agreeable for all of the Regional Councils and the people of the Yukon River.
Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Any questions from the Board or other RAC Chairs.

MR. PROBASCO: Lester.

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: Mr. Chairman. One thing that was misunderstood at the time was with the word, with modification; that was the problem that we had.

We, at the time, thought that the rest of the area that was being addressed was going to be included also in that proposal, but I see that it was not and -- but we wanted the whole part in there where it says; if any -- in any given year the Yukon Fisheries Management Area, chinook runs are insufficient to fully satisfy subsistence, that is when we wanted to -- I just wanted to make this clear -- that that was the only time that we would like to have customary trade also be prohibited.

MR. REAKOFF: Mr. Chair, if I could. I failed to point one part of the question would be, to the communities, is how much fish is customarily traded or sold within region, rural to rural, versus rural to urban which is non-subsistence areas. That should be part of the question to the communities.

Thank you.

CHAIRMAN TOWARAK: That's being noted. Thank you, Mr. Reakoff. We will next go to Peter Buck from Seward Peninsula.

MR. BUCK: Yes, I'm Peter Buck from the Seward Peninsula RAC.

And the Council needed clarification on chinook and other salmon possible restrictions and we indicated, regardless of restrictions, people's wishes are to taste salmon and are willing to buy fish from other rural residents. And the Council indicated, as before stated, the Native people who are less fortunate subsistence fishing bought fish from other rural residents and customary trade tradition was passed on to this younger generation through elders and it has gone on
Taking this Native tradition away would cause unrest for some rural residents regardless of what new laws require. And when one family's affected an entire village can be affected by new laws on customary trade, and the Council appears to be knowledgeable about this -- the amount of fish and biological information and traditional knowledge from fish biology.

The Council supports the idea to establish a working group to deal with this issue because the working group recommendation is good. And the Council voted not to take any action on this.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Buck. Any questions of the Board or other RACs. Mr. Lohse.

MR. LOHSE: I've been sitting here listening to this and I was listening to Lester and I was looking at the chart that came with the paper that you were given and I just have a couple comments on this; I don't have any suggestions or anything like that.

But what I heard Lester trying to say, and maybe it always didn't come across clear, but he was basically saying that in any given year in the Yukon River Fisheries Management Area chinook, when the runs are insufficient to fully satisfy the household needs of subsistence users in that area, that the customary trade of chinook salmon to others, not to rural residents, but to others will be prohibited. And that seemed to me to be the nut of what he was trying to say here, is that, when there aren't sufficient chinook to meet the subsistence needs of the households of people who live on the river, then the sale of chinook salmon shouldn't be allowed to people who are not rural residents, are not subsistence users.

And actually when I sit down and I look at the chart that as to -- I can understand why that would come from him when I look at this chart that I'm sitting looking at right here. Here's, this is a chart that shows the take of subsistence salmon by household, and I requested some information as to where it came from, it comes from ADF&G data, and it shows Hooper Bay down here taking this many salmon per household, you know, and this is the middle and upper river right here,
this is the 40 fish mark right here, and I can understand
his concern, because they're not taking very many
subsistence salmon per household so what he's saying is
that if there aren't enough to meet the needs of the
households on the river, something needs to be done about
the sale of chinook salmon to people who are not rural
residents.

And I'm afraid I would probably support
him in that and I do see the need to get together as a
river and decide what is a significant commercial amount,
and possibly come up with some data on that and come up
with some decisions on that. But if there aren't enough
fish to meet the household needs of users on the river
then there aren't enough fish to sell to people who
aren't rural residents; at least from my standpoint, and
I would support Lester in that, but I'm not voting.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Lohse.

Any other comments. I think your comments kind of
clarified Mr. Wilde's position. I haven't seen him
object to any of the statements.

(Laughter)

CHAIRMAN TOWARAK: So I appreciate that.

MR. REAKOFF: Mr. Chairman.

CHAIRMAN TOWARAK: Mr. Reakoff.

MR. REAKOFF: I would like to clarify,
Ralph, that the proposal is actually customary trade to
rural residents. And so what we're saying is that this
is not to urban, this is to other rural residents, and
we're saying that that's a very important aspect of
customary trade.

Thank you.

MR. LOHSE: Thank you, Mr. Chair.

I.....

CHAIRMAN TOWARAK: Okay.

MR. LOHSE: Mr. Chair.

CHAIRMAN TOWARAK: Yes.
MR. LOHSE: Can I respond to Jack on that.

CHAIRMAN TOWARAK: Yes. Sure, and you'll be next.

MR. LOHSE: I understood that, too, Jack. And I think that what they were trying to get across was missed in the, you know, in what ended up getting written.

What they were -- from discussing and listening to him, what they're really concerned about is large scale sales to urban residents, they're not worried about the fact that other rural residents get some of these fish.

CHAIRMAN TOWARAK: Thank you. Mrs.....

MR. L. WILDE: If I may, Mr. Chairman.

CHAIRMAN TOWARAK: Oh, she's first, and then you'll be next, Mr. Wilde.

MR. L. WILDE: Thank you, Mr. Chairman.

MS. AHTUANGARUAK: These are all very important discussions on this issue. But there are individuals that will be made illegal through this process.

Great Auntie Jo that goes to Bingo and multiple families bring her the fish to sell, will she be illegal because she's sold over $750, and, yet, she's helping to sell fish for six or eight families. What about the process of the individual who understands the value of these fish but recognizes the needs of their subsistence are not being met and have to look for other ways to try to meet subsistence needs, if they choose to sell off this valued product that's so important to their subsistence but is so necessary to continue to feed their family because they aren't getting enough fish, is this going to make them illegal because they're doing this.

These are big arching concerns that are affecting many, many families and already we have many, many families who have individuals who are illegal and are in jail right now. This is not what this Board was meant to do. We are not meant to make us illegal for doing what we've done all of our lives and what our
generations have done all of our lives and is recognized as being who and what we are. We're taking what's important and the value from our individual families and letting others decide what they can or cannot do. That's not what we're here for.

Thank you.

CHAIRMAN TOWARAK: Thank you.

MR. L, WILDE: Mr. Chairman. I think the problem that we have is the different areas have different definitions of subsistence, and subsistence is carried out differently in different areas, namely, and that happens a lot on the Yukon River. We are a diverse group of people and we all live a different way of life. And subsistence to us on that Lower Yukon River means feeding the family for food and sustaining ourselves. That's subsistence to us. We don't have any other definition for subsistence except to feed the family, to make sure the family is fed and to make sure the family is fed to the best of our ability with the resources that are available. And if we're stepping on other people's feet we apologize for that. But the thing that really concerned us at the time, and the reason why I was the one that gave the -- wanted to have this proposal put in and the reason for that was to make sure that the species of concern is protected.

We've heard from all the people and all the users on the river that that is a very important resource on the river for our families, to feed our families. And if I happen to step on my brother's and sister's feet up river, I apologize for that, but for us, subsistence means feeding our families to making sure our children are fed. And if we are restricted on feeding our families we should also restrict those who feed others.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you, Mr. Wilde. We have one more Chairman to listen to and that's Andrew Firmin from the Eastern Peninsula -- no, the -- okay.

MR. FIRMIN: Thank you, Mr. Chair. This is Andrew Firmin with the Eastern Interior RAC. We went to great lengths at our meeting to go through this one proposal, I think we spent a few hours on it.
The original proposal, as submitted, we mainly had a lot of problems with the wording, because as submitted it only affect rural residents originally. And then the first revised one says customary trade would be prohibited during chinook runs, and then on Page 39 it's rewritten again to where it's not species specific, it's only salmon and it's only customary trade.

And those are the biggest things, the problems that we had with it because customary trade is more than just one fish, it's more than just chinook salmon. And there's many types of salmon. I mean I've sold a set of moose antlers for $750 before and that paid for my two drums of gas to go moose hunting; that's customary trade. I sold it to my neighbor to tack to his cabin and that was our biggest problem that we had with some of those.

And we went through, we tried to amend some of the wording and a lot of it -- like some of it says, fully satisfy subsistence harvest needs; well, Fort Yukon hasn't met their subsistence harvest needs in years so that would just make this permanent, and that's another thing that we had problems with. And we did get some good wording in there with a few other folks that are here in the room that tried very hard and diligently to get it going.

The wording we came up with that I kind of like, was:

> In any given year in the Yukon River Fisheries Management Area, the normal chinook salmon subsistence fishing schedule is reduced in any portion customary trade of chinook salmon will be prohibited for the entire drainage for that season.

That was the wording that we approved. However, when we went to vote on the motion, as amended, we split with six no, two yes, and one absent. And we had a lot of concerns with a lot of this proposal and we did defer -- we had a motion to request a subcommittee including members of Eastern Interior, Western Interior and the YK-Delta RACs to work on these issues. And we have three Council members identified to represent the Council on such a subcommittee.

As written, though, the non-species
customary trade practices within the -- excuse me -- as
written, the non-species specific proposal has the
potential to affect all customary and traditional
practices if the chinook run is poor. And it's just --
it's strange that -- we realize that there needs to be
conservation measures. There were just -- I mean I think
we sat in there for six hours and went over this one
proposal and we didn't come up with much, other than that
wording. But we weren't able to confirm on that.

Our biggest thing, though, is this will
negatively impact subsistence users that, you know, like
our elders that can't fish for themselves. As she stated
earlier, you know, what if somebody is helping other
families and we do see a need for conservation, however,
we weren't able to come to a specific conclusion.

And I'd also like to go back to what Mr.
Wilde question posed to Fred Bue about, has there been
commercial fishing while restrictions are in place and I
think the answer to that is, yes, there's Alaska
commercial fishing going on in the Bering Sea, Aleutian
Islands, Area M, Bristol Bay salmon fisheries that are
catching the same chinook salmon that we're fishing for.
And I know that may be a little off topic but those are
where we need to focus our energies at. And also the
other reason the answer to that question is yes is
because last summer, as you guys know, there was a
restriction on the chinook commercial fishery on the
river, however, there was an opening on the chum salmon
fishery and they had a bycatch of chinook salmon of close
to 10,000 salmon. And the border escapement goal last
year was missed by 10,000 chinook salmon. However, the
 genetic analysis of that data shows that only two, maybe
3,000 of those salmon were Canadian bound stocks.

But the Council did oppose this proposal
but we would like to defer it to a working group and we
would like to do it in a compressed timeframe as we can't
wait for another cycle to go through and several years,
we need something to be done quicker than waiting for
another cycle.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Firmin.
Any questions from the Board.
(No comments)
CHAIRMAN TOWARAK: Thank you. That concludes that portion of the Regional Advisory Council recommendations.

In light of all of the discussions of forming a tri-party negotiating committee with the three RACs on the Yukon River, or is it four.

MR. PROBASCO: Three.

CHAIRMAN TOWARAK: Is it three?

MR. PROBASCO: Mr. Chair. There's four Councils that weigh in on the Yukon, but Mr. Peter Buck representing Seward Peninsula read the Seward Peninsula's Council recommendation and they specifically identified three affected Councils, excluding themselves.

CHAIRMAN TOWARAK: Okay. I would like to give the floor to Board Member Haskett.

MR. PROBASCO: Wait, wait, you still need to go through Fish and Game, InterAgency.....

CHAIRMAN TOWARAK: Okay. All right, Mr. Haskett, we're going to wait until we hear from some of the other people on the list of -- organizations. It's noon.

(Laughter)

CHAIRMAN TOWARAK: Do you want to continue or what?

MR. HASKETT: I'd like to work through this proposal. Let's finish this one.

MR. PROBASCO: Mr. Chair. I would -- and, of course, it's up to you, but I would recommend that at a minimum we get through the comments so that if we do break for lunch, we come back, that the proposal's before the Board or elect to grind through it and get this proposal out of the way.

CHAIRMAN TOWARAK: What's the wishes of the Board. To continue?

MR. HASKETT: I'd like to work through this one to the end.
CHAIRMAN TOWARAK: Work this one right to the end.
Is there any objections from the rest of the Board on that?

(No objections)

CHAIRMAN TOWARAK: If not, then we will continue.
We will next go to the Alaska Department of -- no, the -- yes, the Alaska Department....

MR. PROBASCO: Andrew has a clarification.

CHAIRMAN TOWARAK: Mr. Firmin.

MR. FIRMIN: I just had one more comment that we had a little bit of a discussion and a problem on, that was some of the deals with these, like living --
I'm assuming this, I've never been that far down the Yukon yet, but some of the places where the Pilot Station Sonar, they would determine whether it's a poor run or not, some of those people that live around Pilot Station, given the way some of this is worded, that they would already have their subsistence needs met and they could possibly have already sold as much fish. I'm not saying nobody does that, but that is one problem that we also had with this, is that, somebody -- before we even get to wet our nets in the water, that there is potential for that type of abuse, but I've never heard or seen any of it, but that was one position that was raised at our meeting last time.

I just forgot to mention that earlier.

Thank you.

CHAIRMAN TOWARAK: Thank you. Okay, so.....

MR. PROBASCO: Fish and Game.

CHAIRMAN TOWARAK: We will proceed then with the Department of Fish and Game comments.
MR. SWANTON: Thank you, Mr. Chairman.
I'd defer to Jennifer Yuhas.

MS. YUHAS: Thank you, Mr. Chairman.
Members of the Board. RAC Chairs. And all the users who have come to testify today. For Proposal No. 8, this proposal was submitted to prohibit customary trade of chinook salmon harvested in the Yukon River Fisheries Management Area during years of insufficient chinook salmon returns.

State regulation expressly prohibit sale of subsistence harvested fish while Federal regulation allow for cash sales.

Under current State regulations at 18 AAC 34.005, all fish processed for commerce must be processed at a facility approved by Alaska Department of Environmental Conservation.

Sale of subsistence harvested fish, both processed and whole, is occurring in both urban and rural communities in Alaska, contrary to existing state and federal regulations. A US Fish and Wildlife Service law enforcement officer provided information at the November 2010 Federal Subsistence Board meeting regarding a federal investigation. Discrepancies in state and federal regulations and state requirements regarding processing of fish to protect health and safety of the public may leave some people vulnerable to citation under state and federal regulations. This is a significant issue for state resources managers, law enforcement agencies, and federal agencies that provide for the subsistence priority on federal lands and those waters where federal subsistence jurisdiction is claimed. In considering this proposal and 09, the Federal Subsistence Board has the opportunity to adopt enforceable customary trade regulations for the Yukon region that are based on history and patterns of this use for this region of the state.

This proposal may reduce harvest of chinook salmon for cash sale of Chinook salmon. It is not possible, however, to accurately predict how this proposal will affect changes in subsistence harvest patterns because federal agencies lack information and data regarding existing levels of harvest and actual sales of subsistence harvested chinook salmon. Because state and Federal regulations differ subsistence fishermen are vulnerable to prosecution when selling
subsistence harvested salmon on lands and waters outside the boundaries where federal subsistence jurisdiction is claimed. Adoption of limitations on cash sale of subsistence harvested salmon that define significant commercial enterprise, specify fish weight or number limits, clarify where subsistence harvested fish may be sold under federal regulations, and establish the reporting requirements for cash sales of subsistence harvested salmon would clarify federal subsistence law, facilitate enforcement against unlawful sales of subsistence harvested salmon, and reduce the risk of citation of law-abiding subsistence fishermen in the Yukon River drainage.

The department supports subsistence harvest and use of salmon consistent with the existing state laws and regulations including customary trade of this resource. However, 5 AAC 10-010 [sic] prohibits the sale of subsistence caught fish, their parts, or their eggs unless otherwise specified in state regulation. Currently, there are only two exceptions listed in Chapter 5 of state regulations: Norton Sound-Port Clarence Area for salmon and Sitka Sound herring roe on kelp in Southeast Alaska.

Conservation issues include that the Yukon River Chinook salmon stock is currently classified as a stock of yield concern. Since 2001, subsistence fishing time in the Yukon Area has been limited by a windows schedule, which was further restricted in 2008 and 2009 because of conservation concerns for chinook salmon. Subsistence harvest levels for chinook salmon have been within the amounts reasonably necessary for subsistence, ANS ranges, since 2001, except for 2002, 2008, and 2009. A majority of the Yukon River drainage escapement goals have been met or exceeded since 2000, including the Chena and Salcha rivers, which are the largest producers of chinook salmon in the United States portion of the drainage. The escapement objective for the Canadian mainstem was met every year from 2001 through 2006, with 2001, 2003, and 2005 being the three highest spawning escapement estimates on record. The escapement objective for the Canadian mainstem was not met in 2007 or 2008.

While standing on state and private lands, including state-owned submerged lands and shorelands, persons must comply with state laws and regulations and cannot sell subsistence harvested fish with two exceptions as specified above. Federal
subsistence regulations, particularly customary trade regulations, pertain only to fishing on and use of fish harvested on federal public lands and those waters where federal subsistence jurisdiction is claimed. Sale of subsistence fish harvested on all lands and waters, federal, state, or private, is limited by state regulations except to the extent superseded by federal law on federal lands. The State of Alaska maintains jurisdiction of food safety and food processing regulations, regardless of where fish are harvested.

The Alaska Department of Fish and Game supports adoption of enforceable federal customary trade regulations that specify limits on numbers of fish sold and cash sales and establish reporting requirements. However, restrictions or regulations that specify limits and reporting requirements should be applied drainage-wide.

Violation of existing federal customary trade and state fish processing regulations is an enforcement problem that has significant implications for subsistence users and the public. More clarity and education on state and federal regulations and an enforceable definition on what constitutes a significant commercial enterprise are needed.

With the permission of the Chair, Captain Burke Waldron with the Alaska State Fish and Wildlife Troopers is present and he has additive testimony regarding enforcement issues.

CHAIRMAN TOWARAK: You have the floor.

CAPTAIN WALDRON: Thank you, Mr. Chair. Board Members, and everyone else. For the record my name is Captain Burke Waldron. I'm the operations commander for the Department of Public Safety, Division of Alaska Wildlife Troopers. I do have some comments that relate to enforceability of not just this proposal, but several proposals that are before you this week.

I think as most, if not all of you have heard from some testimony from a US Fish and Wildlife law enforcement officer, I believe it was last fall, there is an ongoing investigation into some unlawful sale and abuse of the customary trade of chinook -- specifically chinook strips, I believe.

The dual management system that is
currently in effect creates a lot of difficulty and
struggles for enforcement, river-wide.

As we all know the fish are no different,
whether they're caught in State or Federal waters in
terms of their appearance or anything like that so it's
very difficult, if, in many cases, impossible, for us to
show where a fish was caught and then subsequently how
that fish can be used after that point in time so that
creates a difficult atmosphere for us to work in,
investigation-wise, and prosecutorially after the fact.
And the enforcement problems just go from there. Any
time there is a vagueness in a regulation it increases
the difficulty for us to enforce and, therefore, it opens
the door for abuse, and abuse is the problem. It's not
that we have issue with the sale, it's the abuse of the
regulations that are in effect that allow the sale.

With that being said, what tools would
best help us do our job that Ms. Yuhas has already spoken
to, to at least some extent, are river-wide, drainage-
wide, regulations that include specifying limits of sale,
hopefully, and also marking a fish would also be very
helpful for us so that we don't have intermingling of
commercial and subsistence caught fish.

I'm just reviewing some of my notes here.

The definition of significant commercial
enterprise is one of those vague terms I referred to
earlier that is problematic for us. What is significant
to one household may not be significant to another
household. What's significant to one region on the river
may not be significant to another region on the river.
And it creates, as I said, vagueness in the regulation
that is difficult and it creates disparity between people
and how people are treated in terms of law enforcement,
which is never good for community relations between law
enforcement and the community or often times between the
communities themselves.

Again, the law enforcement struggles we
have aren't related specifically to this proposal.
They're related to many of the proposals that you have
before you this coming week and I encourage any questions
to be directed towards myself, my agency or the US Fish
and Wildlife Service, as we're the two agencies that are
primarily tasked with the enforcement on the river and we
hope we can come to a resolution. Any further meetings
that would follow up from this meeting, some discussion's
been made of the tri-RAC meeting, I would also encourage that at the appropriate time that we be included in those meetings so we can also express our concerns and potentially interact with the RACs themselves in terms of possible proposals that might come out of those meetings and enforcement struggles or difficulties or hopefully helping create language that would reduce those difficulties would certainly be appreciated as well.

Obviously I didn't have anything prepared here today and my primarily role, I think, here, is to answer any questions that either the Board or the RAC Council members, or Council leaders would have, or anybody else for that matter.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Waldron [sic] and Ms. Yuhas.

MS. YUHAS: With the Chair's permission I'll conclude with our recommendation.

CHAIRMAN TOWARAK: Sure.

MR. YUHAS: The Department supports with modification. The department supports the modifications recommended by Yukon Kuskokwim-Delta Regional Advisory Council to establish a $750 limit of sales between federally qualified and others and to require a permit and reporting of this customary trade between Federally-qualified and others as a first step. The department recommends that limits be established by numbers of salmon.

The department also supports the proposed joint meeting of the Regional Councils in the Yukon River drainage and supports the Western and Eastern Interior Councils' recommendation to form a subcommittee or a workgroup to address all three proposals regarding customary trade of salmon in the Yukon River drainage.

I do realize one has been withdrawn but the remaining two.

We support the Eastern Interior Regional Advisory Council request that the subcommittee and workgroup meet in Fairbanks on March 1 and 2 in 2011 in advance of the regularly scheduled winter Council meeting. The department urges that this workgroup and
joint Regional Advisory Council meeting process, including final action by the Federal Subsistence Board, be completed prior to the 2011 salmon season.

Thank you. Mr. Chairman.

*****************************************
STATE OFFICIAL WRITTEN COMMENTS
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Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fisheries Proposal FP11-08: Prohibit customary trade of Chinook salmon harvested in the Yukon River Fisheries Management Area during years of insufficient Chinook salmon returns.

Introduction: The Yukon-Delta Regional Advisory Council submitted this proposal to prohibit customary trade of Chinook salmon harvested in federal subsistence fisheries on the Yukon River during years when returns are insufficient to satisfy subsistence user needs and subsistence fishing restrictions are implemented. The intent was to curb sales of subsistence harvested Chinook salmon made into strips while other subsistence fisheries were closed due to insufficient returns. State regulations expressly prohibit sale of subsistence harvested fish while federal regulations allow for cash sales. Under current state regulations at 18 AAC 34.005, all fish processed for commerce must be processed at a facility approved by Alaska Department of Environmental Conservation.

Sale of subsistence harvested fish, both processed and whole, is occurring in both urban and rural communities in Alaska, contrary to existing state and federal regulations. A US Fish and Wildlife Service law enforcement officer provided information at the November 2010 Federal Subsistence Board meeting regarding a federal investigation. Discrepancies in state and federal regulations and state requirements regarding processing of fish to protect health and safety of the public may leave some people vulnerable to citation under state and federal regulations. This is a significant issue for state resources managers, law enforcement agencies, and federal agencies that provide for the subsistence priority on federal lands and those waters where federal subsistence jurisdiction is claimed. In considering FP11-05, FP11-08, and FP11-09, the Federal
Subsistence Board has the opportunity to adopt enforceable customary trade regulations for the Yukon region that are based on the history and patterns of this use for this region of the state.

Impact on Subsistence Users: This proposal may reduce harvest of Chinook salmon for cash sale of Chinook salmon. It is not possible, however, to accurately predict how this proposal will affect changes in subsistence harvest patterns because federal agencies lack information and data regarding existing levels of harvest and actual sales of subsistence harvested Chinook salmon. Existing federal customary trade is limited to whole fish, unless processed fish are produced in compliance with Alaska Department of Environmental Conservation food safety rules. Because state and federal regulations differ, subsistence fishermen are vulnerable to prosecution when selling subsistence harvested salmon on lands and waters outside the boundaries where federal subsistence jurisdiction is claimed. Adoption of limitations on cash sale of subsistence harvested salmon that define significant commercial enterprise, specify fish weight or number limits, clarify where subsistence harvested fish may be sold under federal regulations, and establish reporting requirements for cash sales of subsistence harvested salmon would clarify federal subsistence law, facilitate enforcement against unlawful sales of subsistence harvested salmon, and reduce the risk of citation of law-abiding subsistence fishermen in the Yukon River drainage.

Opportunity Provided by State: The department supports subsistence harvest and use of salmon consistent with existing state laws and regulations including customary trade of this resource. However, 5 AAC 01.010 prohibits sale of subsistence caught fish, their parts, or their eggs unless otherwise specified in state regulation. Currently, there are only two exceptions listed in Chapter 5 of state regulations: Norton Sound-Port Clarence Area for salmon and Sitka Sound herring roe on kelp in Southeast Alaska.

Conservation Issues: The Yukon River Chinook salmon stock is currently classified as a stock of yield concern. Since 2001, subsistence fishing time in the Yukon Area has been limited by a windows schedule, which was further restricted in 2008 and 2009 because of conservation concerns for Chinook salmon. Subsistence harvest levels for Chinook salmon have been within the
amts reasonably necessary for subsistence (ANS) ranges
of the Yukon River drainage escapement goals have been
met or exceeded since 2000, including the Chena and
Salcha rivers, which are the largest producers of Chinook
salmon in the United States portion of the drainage. The
escapement objective for the Canadian mainstem was met
every year from 2001 through 2006, with 2001, 2003, and
2005 being the three highest spawning escapement
estimates on record. The escapement objective for the
Canadian mainstem was not met in 2007 and 2008.
Exploitation rate on Canadian-origin stock by Alaskan
fishermen decreased from an average of about 55%
(1989 1998) to an average of about 44% from 2004 through
2008 (Howard et al. 2009). Although the subsistence
harvest continues to remain stable at nearly 50,000
Chinook salmon annually, commercial harvests have
decreased over 60%, from an average of 100,000 annually
(1989 1998) to the recent five-year average (2005 2009)
of nearly 23,000 fish. Considering all salmon species
together, the overall total subsistence salmon harvest in
the Yukon Area has declined by approximately 30% since
1990 (Fall et al. 2009:39). Specifically, fall chum
salmon harvests have fallen within ANS ranges only three
times since 2001 (Fall et al. 2009:43).

Jurisdiction Issues: While standing on
state and private lands (including state-owned submerged
lands and shorelands), persons must comply with state
laws and regulations and cannot sell subsistence
harvested fish, with two exceptions as specified above.
Federal subsistence regulations, particularly customary
trade regulations, pertain only to fishing on and use of
fish harvested on federal public lands and those waters
where federal subsistence jurisdiction is claimed. Sale
of subsistence fish harvested on all lands and waters
(federal, state, or private) is limited by state
regulations except to the extent superseded by federal
law on federal lands. The State of Alaska maintains
jurisdiction of food safety and food processing
regulations, regardless of where fish are harvested.

Other issues: The Alaska Department of
Fish and Game supports adoption of enforceable federal
customary trade regulations that specify limits on
numbers of fish sold and cash sales and establish
reporting requirements. However, restrictions or
regulations that specify limits and reporting
requirements should be applied drainage-wide.
Violation of existing federal customary trade and state fish processing regulations is an enforcement problem that has significant implications for subsistence users and the public. More clarity and education on state and federal regulations and an enforceable definition on what constitutes a significant commercial enterprise are needed.

Recommendation: Support with modification. The department supports the modification recommended by Yukon Kuskokwim Delta Regional Advisory Council to establish a $750 limit of sales between federally qualified and others and to require a permit and reporting of this customary trade between federally qualified and others as a first step. The department recommends that limits be established by numbers of salmon.

The department also supports the proposed joint meeting of the regional councils in the Yukon River drainage and supports the Western and Eastern Interior councils recommendation to form a subcommittee/workgroup to address all three proposals regarding customary trade of salmon in the Yukon River drainage. We support the Eastern Interior Regional Advisory Council request that the subcommittee/workgroup meet in Fairbanks on March 1 and 2, 2011, in advance of the regularly scheduled winter council meeting. The department urges that this workgroup and joint Regional Advisory Council meeting process, including final action by the Federal Subsistence Board, be completed prior to the 2011 salmon season.

Cited References:


CHAIRMAN TOWARAK: Thank you. Are there any questions of the Board or other -- the other RAC Chairs.
Mr. Firmin.

MR. FIRMIN: I just have a quick comment. And I was going to say that if we had a multiple RAC meeting I'd like to see yourself and maybe Fish and Wildlife managers or enforcement present so when we do come up with some type of wording that it's not for nothing, that it is enforceable and, you know, so we do have confirmation that we're not back to square one when we're done with it.

Thank you.

CHAIRMAN TOWARAK: Thank you. Mr. Reakoff, go ahead.

MR. REAKOFF: Western Interior Regional Council meets March 1 and 2, that's a conflicting date. I would like to see the solicitor's office in attendance of that meeting to assure the proper language, and also if a question is sent out to the communities that the legalities are answered in that question.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Mr. Chairman, if I may, and slap me if I get out of bounds here.

But the point of order is that we need to go through our process and get all our comments on the table and then we get to the proposal and discuss various options which you could take action on the proposal, there's discussion of forming a subcommittee, et cetera, but we need to get through our comments first before we get to the discussions, where we're going now.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Okay, if that's the case we will wait until the end of our deliberation -- or during the deliberations to discuss options. Are there any questions of the State from anyone.

(No comments)

CHAIRMAN TOWARAK: If that's the case, thank you very much for your input into this discussion or deliberations.
The next item on our -- in the process is the Board discussion with Council.....

MR. PROBASCO: Mr. Chair, excuse me, InterAgency Staff.....

CHAIRMAN TOWARAK: Oh, I'm sorry, InterAgency Staff Committee comments.

DR. WHEELER: Thank you, Mr. Chair. The InterAgency Staff Committee comments can be found on the bottom of Page 39, continuing over to Page 40 in your books. I'll go through them fairly quickly.

The InterAgency Staff Committee found the staff analysis to be a complete and accurate evaluation of the proposal. Discussions at recent Regional Advisory Council meetings clearly recognize both the importance of customary trade to subsistence users along the Yukon River, as well as the need for achieving river-wide resolution to address this complex and controversial issue.

Without further discussion by all three Councils, the InterAgency Staff Committee feels that it is premature to establish limits on customary trade by defining what constitutes a significant commercial enterprise and is supportive of the request from two of the Regional Advisory Councils to have representatives of all three Regional Advisory Councils meet to discuss and develop possible solutions to this ongoing issue.

The InterAgency Staff Committee suggests that the Federal Board could either oppose the proposal or it could defer the proposal until a mutually agreed upon solution is offered by the three Councils.

This proposal requests that customary trade be prohibited only when the chinook salmon run is not sufficient to meet subsistence needs and the harvest is restricted, thus suggesting that if a conservation concern exists, the Board could eliminate a specific subsistence use.

Customary trade is a subsistence use identified in ANILCA and eliminating that particular use rather than prioritizing among Federally qualified subsistence users to address a conservation concern would represent a departure from both Board practice and ANILCA.
Section .804 of ANILCA provides a subsistence priority for the taking of fish and wildlife on Federally administered lands and waters. Whenever it is necessary to restrict the subsistence uses of populations of fish and wildlife on these lands, in order to protect the continued viability of fish and wildlife populations, or to continue the use of these populations, such a priority will be implemented through appropriate limitations.

These limitations are based on the application of three criteria, including customary and direct dependence upon the populations as a mainstay of livelihood, local residency or proximity to the resource, and availability of alternative resources.

Mr. Chair, again that's Section .804 of ANILCA. That concludes the InterAgency Staff Committee comments. Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Dr. Wheeler. Are there any questions of the InterAgency Staff from the Board or the RAC chairs. Mr. Sampson.

MR. SAMPSON: Thank you for the information. In the event there is a problem in regards to the source not being able to make it all the way up, is there emergency closure processes in place and what the timeframes are for such?

DR. WHEELER: Through the Chair. Mr. Sampson. Under Federal regulations we have what we call special actions, temporary special actions or emergency special actions. So there are mechanisms available to the Board through the delegated manager to enact closures should it become necessary for conservation concerns.

Mr. Chair.

CHAIRMAN TOWARAK: Did you have a comment.

MR. PROBASCO: Thank you, Mr. Chair. To add to Dr. Wheeler's, if you're speaking specifically to customary trade.....

MR. SAMPSON: Yes.

MR. PROBASCO: .....that authority we don't have. Customary trade, as was described, is one of
the subsistence uses recognized by ANILCA and they're all protected. So our in-season managers cannot limit customary trade through their special action process, only the Board can.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there further questions? If not, thank you very much for your analysis. The next item in the process is a Board discussion with Council Chairs and State liaison. I would like to make this as free as possible so that rather than -- I will just recognize with the nod of my head for anyone to make a statement at this point.

MR. GOLTZ: Are attorneys included in that?

CHAIRMAN TOWARAK: Yes.

MR. GOLTZ: After listening to this discussion, I'd like to issue a couple reminders and I'd like them to go both to the Board and to the RACs. The statute lists a whole series of things that are called subsistence uses. Among those are domestic consumption, food, and customary trade, exchange of wild resources for money.

I believe the court is going to presume that since there's no mechanism for weighing those that they're all equal. Now I think we probably can overcome that presumption, but we have to do it on the record. It may seem obvious to us that food resources are the highest in that priority, but we have to explain that.

I see Heather Kendall-Miller is in the courtroom and I think -- or in the room.....

(Laughter)

MR. GOLTZ: ......and I think she'll agree with me that the courts don't always get it and if we have to explain it as attorneys we can only do it based on the record. To fix that in your mind, my friend Gerald and Beverly have expressed eloquently a point of view on this issue and I think as we address this we have to be sure to keep those speeches in mind and deal with them somehow. Because where we are right now I believe is that all of those uses are going to be treated equally by the court.
The second thing I'd like to point out is the language. As Jack points out, our language is very important as we build the record. We have to be careful that our concerns with tribal consultation don't cloud our language and we have to remember that what we are administering is a rural preference. I notice some of the language shifting during our discussion. Our statutory authority is limited to rural Alaska residents. That's all I have.

CHAIRMAN TOWARAK: Thank you. Are there any questions of our legal team. Pete, did you have a comment?

MR. PROBASCO: I'll wait until after questions and then I have one more thing to help our newer Board members at this point in the meeting.

CHAIRMAN TOWARAK: Not hearing any questions, thank you for your explanation, Keith.

MR. PROBASCO: Okay, Board members, just a reminder. We're now at our point in the meeting where we have our discussion with the Regional Advisory Councils and the State liaison. That's an opportunity to answer questions, raise concerns, et cetera. I want to remind you once a motion is made the liaisons may be invited to participate in Board deliberations or may be recognized by the Chair when they want to ask questions, provide additional information or clarification. In other words, once a motion is made that is now the Board's time to act on a proposal, but if there's further clarification, it's either through a Board member's request to the Chair or the Chair recognizing that. Thank you, Mr. Chair.

CHAIRMAN TOWARAK: The floor is open for discussions with the Council Chairs or the State liaison. I pulled a muscle in my back and every once in a while it makes me mispronounce my speech, but I apologize. The floor is open for discussion.

MR. LOHSE: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead.

MR. LOHSE: I'd like to apologize for my comments before I realized I was out of turn. That was time for the other Councils to speak and I should have saved those comments until now. I'll stand by those
comments, but I'll apologize for making them when I did.

CHAIRMAN TOWARAK: That was a negligible error in my book.

(Laughter)

CHAIRMAN TOWARAK: Your comments were worth the discussions at the point. Any other discussion. Any questions. Please feel free to -- Mr. Sampson.

MR. SAMPSON: So we can make our comments based on what we heard and what our thoughts are from here?

CHAIRMAN TOWARAK: Yes.

MR. SAMPSON: Thank you, Mr. Chairman.

First of all, I want to thank the Federal Board for involving us through a process of a good dialogue. This is a good exchange of information between the Board, the RAC, as well as the public. To me, the proposal that will be discussed certainly it's coming clear that there is certainly an issue here.

I think having heard what's been said and what ought to occur, I would like to suggest that the Board, when you come to take an action on the proposal, that you either defer or table the proposal and ask the proposers to convene with two or three other regional Councils that would also be impacted by this very proposal. Along with that the recommendation to making sure there is clarity in regards to addressing the issues that was explained by your solicitor in regards to what those are and those be made clear to all the Regional Advisory Councils.

Are you addressing just the customary trade or other areas that is identified? I think along with that you've got folks that are in the enforcement division that also should participate to make sure that they understand exactly what the Regional Advisory Councils are trying to do.

As an outlet, which I call myself an outlet because I sit as an Advisory Council to the clientele within the region, then we're the mouthpiece. If we should sit in that capacity, certainly I want to hear from those communities that are impacted by those
proposals that will be acted on at the Federal level. So based on that I would encourage the Board to either defer or table the proposal with those provisions that I explained.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Sampson. Mr. Reakoff.

MR. REAKOFF: I've made most of my comments out of turn. However, they may have been conveyed. But I would prefer that the Board defer the proposal. That keeps the proposal on the table. I would like to see the working group formed and with consultation with the tribal entities prior to the working group.

Thank you.

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: Mr. Chairman. I apologize. I know the Board is aware of this, but you are working on a proposal that requests that customary trade be prohibited when the chinook salmon run is not sufficient to meet the subsistence needs and when subsistence harvest is restricted. That is the proposal, Mr. Chairman. From what I've heard and what we practice in our Council is that we work on the proposal itself. The proposal is not mentioning any of the other concerns that are being brought forth by the rest of the people. The proposal is that we request that customary trade be prohibited only when the chinook salmon run is not sufficient for subsistence use.

That's my comment, Mr. Chairman.

CHAIRMAN TOWARAK: Mr. Sampson.

MR. SAMPSON: Thank you very much. Thank you very much, Mr. Wilde. But we also need to understand if there's issues in regards to that very proposal that you're referring to, if the other Regional Councils have some amendments they'd like to place at that point in time, then that ought to be taken into consideration.

CHAIRMAN TOWARAK: Is that possible?

DR. WHEELER: Sure.
MR. L. WILDE: That proposal also states the Yukon Management area. This proposal only is directed towards the Yukon management area. As instructed, I feel that is the proposal that the Board should be concerned with at this time.

Thank you, Mr. Chairman.

MR. REAKOFF: Mr. Chair. I want to clarify the Western Interior's position. We take exception that during a time of subsistence restrictions that customary trade is not a part of practice, but we feel customary trade is applicable every year even when there's subsistence restrictions. We disagree with the amounts set. So those are the points that we feel that the proposal is addressing when subsistence restrictions are put in place that customary trade would be set at a certain limit. We want a working group to designate what those limitations are.

CHAIRMAN TOWARAK: Could I ask our Council are we restricted on an assignment of this sort to one specific issue or is it an open-ended process?

MR. GOLTZ: I think it's a matter for the Board's discretion. What you're essentially doing is delegating the question to a working committee and the scope of that committee would depend on the breadth of the delegation. Do you want to hand over the whole issue or do you want to hand over a specific segment of that issue? I think that's within the purview of the Board. Could be done either way.

CHAIRMAN TOWARAK: Thank you. Mr. Sampson.

MR. SAMPSON: One other issue I'd like to get Mr. Wilde to clarify. When you say the Yukon, are you talking right from the mouth all the way to the end of the Yukon River?

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: If I may, Mr. Chairman. Yes, that's exactly what we're talking about.

CHAIRMAN TOWARAK: Mr. Firmin.

MR. FIRMIN: I pretty much said everything I have to say and I would like to mirror
Jack's last comment there, that we would like to see this
go to a working group because the YK Delta RAC has
rewritten their own proposal three times here in this
book and we came up with our own wording. I believe the
Western Interior came up with something very similar.

Thank you.

CHAIRMAN TOWARAK: Any further
discussion.

MS. AHTUANGARUAK: I also oppose this
process going forward as it is. I agree that we should
have a working group discuss this further. I'm very
concerned on the precedence this may set on customary
trade issues. It is very important throughout our state
and it's not something we can take one region's
recommendations when it may affect other proposals.

CHAIRMAN TOWARAK: My understanding, and
correct me if I'm wrong, is that this proposal affects
only Yukon salmon and in some ways it's more specific to
chinook salmon. But the discussion, I assume will just
be on Yukon salmon. Go ahead.

MS. K'EIT: Mr. Chair, thank you. As a
Board member listening to the public comments, the
testimony and comments from our RACs and Fish and Game
and the analysis, a couple things keep coming back in my
mind. One of them is that at this point in time we have
a willingness of the three major RACs involved to meet
together to come to a consensus agreement that works best
for their regions and for the river and the resource. I
think my preference is that we definitely latch onto that
while it's here knowing that this has been a difficult
issue for decades.

Then the other thing is concerning this
question of customary trade versus subsistence gathering
for only food use of a single household. I share the
concern that Rosemary brought up, that this could set a
precedent for other similar customary trade issues around
the state. I'm thinking of a couple in particular.
Because -- and we've heard here today that oftentimes
customary trade is a necessity for subsistence users to
be able to go harvest other subsistence resources and so
I think it's very important that we keep that in mind as
well.

Thank you.
CHAIRMAN TOWARAK: Thank you. Any other comments or questions. Even from attorneys.

MR. GOLTZ: Okay. I have one. As I was advising people to be careful of their language, it appears I wasn't careful of my own. Ken has pointed out that there are certain restrictions under FACA. I called it a working group. I should have called it a subcommittee. It's a subcommittee of the RACs that we're thinking about setting up. The scope of that committee and their work is up to the Board, but they will report back to the RACs, who will report to the Board.

CHAIRMAN TOWARAK: Is that clear?

MR. SAMPSON: That makes it a little bit clearer. I think that's even much better than referring it to the RAC itself.

CHAIRMAN TOWARAK: Mr. Adams.

MR. ADAMS: Thank you, Mr. Chairman. I'm just curious. The subcommittee, is it going to comprise of members from each of the three or four Regional Councils or are you going to direct who's going to be on the committee and so forth. I'm kind of curious how that process will work.

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Mr. Chair. We are getting off a little bit, but Mr. Adams' question is fair. Usually in the past -- and, Mr. Adams, your Council has dealt with subcommittees before -- the Council identifies their membership to that subcommittee and then also requests other involvement, which is included advisory committees, Fish and Game, enforcement from both sides, et cetera.

I think it's also important to keep in mind that we do have a proposal before us and the options before the Board is they can table, they can defer, they can support, they can oppose or amend, and then your action after the proposal, you could then look at if that's the Board's wishes, go down the path of subcommittee. I think that keeps the record clear on how we're dealing with this proposal and there's no confusion.

Thank you, Mr. Chair.
CHAIRMAN TOWARAK: Board Member Haskett.

MR. HASKETT: So you need to help me here a little bit because it seems to me we're now asking questions that are getting to what the proposal itself will be and if we're there, I'm prepared to make a proposal that may tie this together, so I'm willing to make a motion if people will let me do that.

CHAIRMAN TOWARAK: Are we ready for a motion.

(No comments)

CHAIRMAN TOWARAK: Not hearing any objections, then we will move to Item 8, our Federal Subsistence Board deliberation and action.

MR. HASKETT: Okay. As you all know the motion has to be made in an affirmative manner, so my motion is to adopt the proposal, but my plan is to provide justification as to why I plan to vote to defer the motion, but offer an alternative that will be based upon the original recommendation by the Western and Eastern Interior Councils, but somewhat revised by the discussion we've heard today. So if I get a second to that, I can give the information what I'd like to propose.

MS. COOPER: I second.

CHAIRMAN TOWARAK: The second is by Ms. Cooper.

MR. HASKETT: Okay, so this has been a pretty amazing morning. We spent all morning, a good part of the early afternoon on this one proposal. As I mentioned earlier, there's going to be two proposals. One of two, this is the same kind of issue that's going to be dealt with where we're looking at customary trade on the Yukon River as a drainage, it's the entire system. I think it's clear from the comments we heard today how important this issue is to everyone and how important it is to get it right in terms of how we move forward.

I'd like to just give a little background. On Page 39 of the book it lays out where the different Councils are. I'm not going to try to go over what each one is, but there's a lot of common issues from everything I've heard both from the public here and each
of the RACs. From the YK Delta, one of the things I heard in common is that this is a riverwide issue and it's up to the people to conserve the salmon and I think what that has in common with both the Western and Eastern proposals is that they all called for a recommendation to establish a subcommittee to further address this customary trade issue, so the issue is specific to customary trade on the river itself.

We had one RAC that voted to take no action, but also supported the idea of a working group. I'm going to make that subcommittee as opposed to a working group when I'm talking about it. That includes representatives from all the three affected Regional Advisory Councils.

So my actual recommendation is that we need to address this through a subcommittee consisting of members from the three affected Councils. I'm suggesting that we support this subcommittee effort so they can sit down together and come up with an entire drainage-wide solution. The YK Delta Council did put a proposed solution out there with a dollar limit. I'm not proposing that, but I believe that's an area that can be used as a starting point for discussions as part of what this committee looks at.

I also heard when the State made recommendations specific to including -- I'm not going to require this, but we asked the group to do this to make sure we get it right when it gets back to the Board to include law enforcement from both the Fish and Wildlife Service and Fish and Game and a representative from the Solicitor's Office and leave that up to this group to decide whether they want to do that, but I strongly encourage that so that we get wording that actually will be something we can utilize.

One other thing that was mentioned by a number of different people, this needs to happen fairly quickly and the subcommittee should actually do this work -- I'm not going to do specific dates, but as soon as possible so that the Federal Subsistence Board can actually complete this prior to the 2011 salmon season.

I tried to keep that as simple as possible, but the bottom line is putting a subcommittee together with encouragement to utilize folks from both law enforcement and the Solicitor's Office to make a recommendation to this group for us to take further
action as to where we go from here. I hope I was semi-clear on that

CHAIRMAN TOWARAK: Are there any questions. Pete.

MR. PROBASCO: Mr. Chair. Mr. Haskett. Since I get to keep the record, your motion was to adopt the proposal, which was seconded by Deb Cooper. That's an independent action. Then after that action, depending upon what the Board does, your intent then is to have a discussion of forming a subcommittee.

MR. HASKETT: Yes, but I laid out -- I'll try and do it again if I have to, but I laid out the justification for that second part.

MR. PROBASCO: Mr. Chair. I would like to hold my comments on the subcommittee until after the Board acts on Mr. Haskett's motion.

CHAIRMAN TOWARAK: Are there any objections to that process from the Board.

(No comments)

CHAIRMAN TOWARAK: If not, then we are ready for final action.

MR. PROBASCO: Mr. Chair. If I may, you're requesting final action on the proposal by Mr. Haskett to adopt. I think we need to have a little bit more discussion by each Board member on their intent to the motion. We've heard from Mr. Haskett. This is important just to establish that record.

Mr. Chair.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: I'm sorry. Just some clarification because my folks are making sure that I don't sound like nonsense what I'm saying here. So the proposal is to be acted on first on whether we adopt or not and I think I made it clear that my intent is to vote against that and then the next recommendation from me, assuming we get to that point, would be to defer along with the recommendation for the subcommittee.

MR. PROBASCO: Thank you, Mr. Chair. Mr.
Haskett. If you take action, you wouldn't need to defer the proposal. You would just take final action on that proposal and then the Board could request the formation of a subcommittee to address the issue. Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Is that clear? Go ahead, Kristin.

MS. K'EIT: Thank you, Mr. Chair. I'm trying to understand. Right now the way the motion is on the floor that's been seconded is to adopt the proposal on Page 31 and then we would be having - the Board members would have to discuss whether or not we agree or reject, accept or reject the motion to adopt the proposed regulation change, and have a justification under .805(c) of why if we don't accept.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So I think we need clarification from our attorneys on what the difference is between if we defer or we reject because I'm hearing it makes a big difference and we're better off deferring, so I'd like to hear from the attorneys on this.

MR. GOLTZ: Right. I think to get to where you want to go you're going to need an amendment to defer and then vote on that amendment.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: Okay. I move to amend my original motion to defer. My amendment is to defer. Help me with the rest of this too.

MS. K'EIT: That's it.

MR. HASKETT: Is that good?

MS. K'EIT: Second.

CHAIRMAN TOWARAK: You've heard the motion and the second. Is there any discussion on the motion to amend the main motion.

(No comments)

CHAIRMAN TOWARAK: Are we ready for action on that motion.
MR. PROBASCO: Thank you, Mr. Chair. The action at this point would be the amendment to defer this proposal. Final action on the amendment. Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: Yes.

MR. PROBASCO: Ms. Cooper.

MS. COOPER: Yes.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: Yes.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

MR. PROBASCO: And Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Mr. Chairman. The amendment carries and now you have the motion before you as amended to defer the proposal.

CHAIRMAN TOWARAK: Just to make sure that we all understand the main motion has been amended, please verbalize the main motion.

MR. PROBASCO: The main motion is to defer action on Proposal FP11-08.

CHAIRMAN TOWARAK: Are there any questions or discussion on that motion? Board Member K'eit.

MS. K'EIT: I have a question. So to follow Robert's Rules of Order, do we have to amend the now existing motion to direct the subcommittee or do we do that after we've voted on the deferral of the proposal?

MR. GOLTZ: After.

CHAIRMAN TOWARAK: So is that clear with
everyone. Is there a call for the question.

MR. HASKETT: Call for the question.

CHAIRMAN TOWARAK: Final action, please.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on Proposal FP11-08 as amended. Mr. Cribley.

MR. CRIBLEY: I want to do this right now. Is this where I'm supposed to build the record so to speak or is this just an affirmative or negative. Come on. Help me here.

MR. PROBASCO: Mr. Chair. Mr. Cribley. The question was called, so this is final action and we're asking for your vote. The opportunity to -- to defer.

MR. CRIBLEY: Yes, I agree to defer.

MR. PROBASCO: Ms. Cooper.

MS. COOPER: Yes.

Mr. PROBASCO: Ms. Pendleton.

MS. PENDLETON: Yes.

Mr. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

Mr. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

Mr. PROBASCO: And Ms. K'eit.

MS. K'EIT: Yes.

CHAIRMAN TOWARAK: Mr. Chairman. The amended motion FP11-08 carries 6/0.

CHAIRMAN TOWARAK: Thank you. The next item on the agenda I think is.....

MR. PROBASCO: Whoa, we've got to talk about subcommittees.
CHAIRMAN TOWARAK: Oh, okay. The second part. I'm not anxious.

(Laughter)

CHAIRMAN TOWARAK: The floor is open for discussion on the motion and the intent of the Board's deliberation. Mr. Haskett.

MR. HASKETT: Can I ask one more question about part of what I intended, including the motion to make sure it's possible?

CHAIRMAN TOWARAK: Yes.

MR. HASKETT: So I had put some dates in there when we needed to get this done by. I'd like to hear from the folks that actually will be responsible for making sure this happens. Whether or not those are reasonable dates. If they're not, I need to know what they would be.

MR. PROBASCO: Mr. Chair. I'll start and then Dr. Wheeler can fill in the holes if I miss something. Mr. Haskett, what you originally spoke to was to ask the RACs to form a subcommittee and meet as soon as possible and have it completed prior to the 2011 season.

That would be very difficult to do because the Councils have to meet to appoint their subcommittee members. Only one Council has identified that. Also, any of the subcommittee work would then have to come back to the RAC to address and act upon and then report back to the Board. So to do this prior to the 2011 season and still encompass our winter meetings I don't think is possible at this point. We could probably have it in place and ready to go for the fall Council meetings, which would put a regulation in effect for the 2012 season. Mr. Chair.

CHAIRMAN TOWARAK: Is that clear?

MR. HASKETT: Yes.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So should I try again on the new proposal?
CHAIRMAN TOWARAK: Does it have to be in the form of a motion?

MR. PROBASCO: Mr. Goltz, correct me, but I think it would be wise to have it in the form of a motion.

MR. GOLTZ: I think it would be wise to be in the form of a motion, but you're not directing the Councils to do anything. You're asking them.

MR. HASKETT: That's right.

CHAIRMAN TOWARAK: Mr. Haskett. You're in the hot seat.

MR. HASKETT: Okay. My motion then is to address this issue through a subcommittee. We'll request the three affected RACs to be part of the subcommittee and I suggest this effort for them to sit down to try and come up with a drainage-wide solution and that they take at least as one of the things that they talk about is the dollar limit proposed by the YK Delta and that I'm not putting timeframes into it but would request that we move this forward as expeditiously as possible, recognizing there is some urgency to it. And further I would request the subcommittee to include advisors from both law enforcement from Fish and Game and the Fish and Wildlife Service and a representative from the Solicitor's Office to help them in the final language that they will bring back to this Board.

CHAIRMAN TOWARAK: Is that clear?

(Board nods affirmatively)

CHAIRMAN TOWARAK: Is there a second to the motion.

MS. COOPER: I'll second that.

CHAIRMAN TOWARAK: The motion has been made and seconded. Is there discussion, even including attorneys.

MR. GOLTZ: Thank you. Is your motion focused on just the proposal that's in front of us or are you talking wider scope of discussion?

MR. HASKETT: I'm talking about what's in
front of us here. Not that there couldn't be additional
discussions if they choose to do that, but the request is
for the specific discussion we've had here.

MR. GOLTZ: The proposal in front of us
is very specific. Do you want the subcommittees to
address just that Proposal 08 or do you want them to take
a broader look at the problem?

MR. HASKETT: Thank you for helping me
get the language right. We would like a broader look at
the problem.

CHAIRMAN TOWARAK: In defining a broader
look, does that include all species? Board Member K'eit.

MS. K'EIT: Mr. Chair. If Mr. Haskett
and Ms. Cooper are in agreement, I can propose a friendly
amendment that the subcommittee would develop a
definition for significant commercial enterprise
regarding customary trade of Yukon River salmon including
cash sales between rural residents and cash sales between
rural and nonrural residents and the definition would
apply to harvest by Federally qualified users and it
would be -- that would be the end. It's just discussion.

CHAIRMAN TOWARAK: It's only a
suggestion. Other discussion. Yes, Ms. Cooper.

MS. COOPER: Yeah, Mr. Chair. I would
support that friendly amendment as long as it read
customary trade of Yukon River chinook rather than Yukon
River salmon.

CHAIRMAN TOWARAK: Any objections to
that?

(No comments)

CHAIRMAN TOWARAK: Not hearing any. Any
further discussion.

MS. K'EIT: Mr. Chair. I think we would
have -- would we have discussion after the amendment is
seconded?

CHAIRMAN TOWARAK: Yes.

MS. K'EIT: I mean not to make things
more complicated, but I would like to hear discussion
from the RAC chairs what their ideas would be concerning Yukon River chinook versus Yukon River salmon. In other words, I would prefer not to change my proposed amendment.

CHAIRMAN TOWARAK: Quickly -- go ahead.

MR. PROBASCO: Procedural, Mr. Chairman.

Ms. K'eit, you've now asked for an amendment on the issue and so we need a second for that amendment to go to discussion.

CHAIRMAN TOWARAK: And you declared it as a motion?

MS. K'EIT: I so move.

CHAIRMAN TOWARAK: The motion has been made. Is there a second to the motion.

MR. PROBASCO: The amendment.

MR. HASKETT: Second.

CHAIRMAN TOWARAK: The motion has been seconded. Any discussion.

MS. COOPER: Yeah, Mr. Chair. On advice from the Staff Committee, it occurs to us that once we defer a proposal and ask that representatives from the Western Interior, Eastern Interior and Yukon Kuskokwim Delta RACs meet, they can bring forward whatever proposal back to the Board as they see fit, so I'm starting to wonder -- I mean certainly they can bring back what we've requested of them, but I don't know that we need to get too much into the details of exactly how it would read because even without either of these motions any RAC can bring forward a proposal that they've vetted.

CHAIRMAN TOWARAK: Pete, do you have some comments.

MR. PROBASCO: Thank you, Mr. Chair. Ms. Cooper, you are correct. I also think though it's helpful that the Board, even though this is a request to form a subcommittee, that at least the Board clarifies at a minimum what they would like to have the subcommittee to address and then go beyond that. Thank you,
Mr. Chair.

MS. K'EIT: So this would be a good time for the RACs, especially the three main ones affected, to give me any clarify on looking at the difference between limitations or -- sorry, some definition on significant commercial enterprise and would it be best to apply only to chinook or is it more appropriate for all salmon and then this, you know, maybe takes care of things for a while. What do you think?

CHAIRMAN TOWARAK: If we could, we'd like to restrict it to the three Councils that are affected or we'll be in a discussion. Mr. Reakoff.

MR. REAKOFF: Through the Chair. To answer the question, Kristin, I feel the chinook issue is the most important one. At this time we haven't identified any other problem with the sale of customary trade of chum or other salmon, so to expedite this as Board Member Haskett would like to have happen, we would be best off addressing the chinook issue first. That will put us into another regulatory cycle and we can address addition. If those come forward with other salmon species, those could be addressed in the future. Thank you.

CHAIRMAN TOWARAK: Mr. Wilde.

MR. L. WILDE: I concur with Mr. Reakoff that this subject be restricted to chinook because that's a species of concern. One request I would like to have in forming the committee is that those committee members or subcommittee members be long time users of the product or the resource and not members that are transient.

CHAIRMAN TOWARAK: You mean legal users?

MR. L. WILDE: If you get the gist of my -- the meaning of what I'm saying, Mr. Chairman.

CHAIRMAN TOWARAK: I think we could leave that to the discretion of the RACs. Mr. Firmin.

MR. FIRMIN: I think the Eastern Interior we would like to keep it strictly with chinook. Also we already did form a subcommittee with three members identified and we also requested that we have our respected RAC meetings, like say in Anchorage or Fairbanks, in a hub place, so that the subcommittee could
meet right before our respected meetings and then as soon
as the subcommittee moves on, we go right into our RACs
and vote on our own.

But I was also under the impression like
Ms. Cooper was saying that if we were already voted to be
on a subcommittee that we are already the voices for our
RACs. That was why we wanted all the RACs to meet in the
same hotel so we can all go to our respected corners and
vote on them as soon as we're done. I just didn't see
that in the FSB book here. It doesn't have it down under
the Eastern Interior, but we do have subcommittee members
chosen already. It's in our minutes.

Thank you.

MR. REAKOFF: One clarification. The
Western Interior has designated users of the resource on
the Yukon as our subcommittee. I've called
teleconferences of my Council together before meetings,
so the YK Delta could call a teleconference and select
members for the subcommittee previous to their RAC
meeting. That's an opportunity.

CHAIRMAN TOWARAK: Does the Staff see any
problems with logistics?

MR. PROBASCO: Mr. Chair. Logistics are
always challenging with our program, but I think we can
work through it, particularly under the theme that Mr.
Firmin -- but keep in mind the Councils first have to
meet to select their membership. Some have, some
haven't.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Mr. Wilde.

MR. L. WILDE: One more comment, Mr.
Chairman. We've accomplished what we wanted to do. We
wanted to bring this to the forefront. As you know and
as you see, this is going to cause -- it causes a lot of
controversy. It's going to take some time for us to
agree as Council members and as Tri-Council it's going to
make it worse, but we've always wanted to sit down and
make sure that we all come to an agreement on customary
trade. I want to thank you for taking this deliberation
and coming to the conclusion that you did, that we do
have the Tri-Council meeting and I'm glad the discussion
went as long as it did because you know as well as I do
that customary trade is not an easy matter to come up
with and answers to that customary trade.

Thank you very much, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. And I duly
noted that you stated that you wanted to sit down, you're
not going to be standing up and negotiating.

(laughter)

CHAIRMAN TOWARAK: Thank you. We have an
amendment on the floor, right?

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

CHAIRMAN TOWARAK: Is there any further
discussion on the amendment.

MS. K'EIT: I just need some
clarification on Robert's Rules. So we could do one of
two things. One, I can withdraw my amendment and then
either resubmit it or resubmit it with a change from
salmon to chinook or we could vote on the amendment and
let it get shot down and then resubmit it.

MR. PROBASCO: Mr. Chair. To help, I
think Ms. K'eit's amendment has some very good
clarifications in it that we need to retain. She could
ask with concurrence by the second to just change that
part that specifically says salmon and just focus it on
chinook and then we could vote on that amendment, capture
the clarifications and then vote on the final motion.

MS. K'EIT: Mr. Chair. What I would like
to do is amend my amendment to say -- not amend. No.

MR. PROBASCO: Ask your second, which is
Mr. Haskett, if he would.....

MS. K'EIT: Accept that change.

MR. PROBASCO: Yes.

MS. K'EIT: Mr. Haskett, would you accept
the change in my amendment from Yukon River salmon to
Yukon River chinook?

MR. HASKETT: I do. Seconded.
MR. HASKETT: Or forever hold my peace.

CHAIRMAN TOWARAK: Okay. Now we have an amended amendment. Is there any question on that amendment, any discussion. The amendment will clearly pinpoint Yukon chinook. Is there a call for the question. The question has been called for. Final action on the amendment.

MR. PROBASCO: Mr. Chair. On the amendment first, Ms. Cooper.

MS. COOPER: Just to clarify, the friendly amendment was already amended and that's what we're voting on?

MR. PROBASCO: Correct.

MS. COOPER: Yes.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: Yes.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

MR. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: Yes.

MR. PROBASCO: The main motion is before you as amended.

CHAIRMAN TOWARAK: I think that concludes action on.....

MR. PROBASCO: No, final action.
CHAIRMAN TOWARAK: Oh, final action. We have the final motion on the floor. Any further discussion.

MS. K'EIT: Question.

MR. PROBASCO: Thank you, Mr. Chair. Final action on the motion as amended and we do have transcripts that we can refer back to, but essentially it asks for the formation of a subcommittee to the three affected RACs, which are the YK, Eastern and Western that are going to focus on a drainage-wide solution as it pertains to customary trade and move their work forward as soon as possible with the goal of having something before the Councils at the fall 2011 meetings and then there was clarification through the amendment to work towards a definition for significant commercial enterprise as it pertains to customary trade of chinook salmon between rural to rural, rural to nonrural as it pertains to harvest of Federally-qualified users.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: I think the only thing you missed was the original motion also asked for -- didn't require, but asked for the subcommittee to involve the State and the Feds, law enforcement folks and Solicitor's Office before they come with their final recommendation.

MR. PROBASCO: Thank you, Mr. Haskett. And I do have that in my notes. Thank you. Final action on the motion before us to ask the Councils to form a subcommittee. Ms. Pendleton.

MS. PENDLETON: Yes.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

MR. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.
MR. CRIBLEY: Yes.

MR. PROBASCO: Ms. Cooper.

MS. COOPER: Yes.

MR. PROBASCO: Motion carries 6/0.

CHAIRMAN TOWARAK: I assume that concludes our deliberation on 11-08 proposal.

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

CHAIRMAN TOWARAK: If that's the case, then we will take a lunch break. It's 10 after 1:00, 1:15. Should we be back at 2:30? We will reconvene at 2:30 then.

(Off record)

(On record)

CHAIRMAN TOWARAK: Call the meeting back to order. To begin this afternoon we had a request from an individual to testify on a non-agenda item.

MR. PROBASCO: Thank you, Mr. Chair. It's our normal practice to do that in the morning, but this individual signed up after the start of the meeting, so would Mr. Paul Beans please come forward. He'd like to speak on Unit 18 moose hunting.

MR. BEANS: I'm Paul Beans. I'm from Mountain Village. Thanks for the opportunity to speak on Unit 18 sport hunting. I got this report from my brother. I won't say his name. I'll go ahead and read it. Me and my family were hunting moose inside of 30 Mile on September 20, 2010 at Horseshoe Lake around 30 Mile below Mountain Village. This is in Unit 18 hunting area. While inside Horseshoe Lake hunting moose and other game we saw a DeHavilland Beaver landing. We went to go see it and there was two men inside the plane. The plane was a charter, which we later found out he's stationed in Bethel. The area is Federal land. We found that out later too.

We knew there was a big bull moose in the area. We think the plane had spotted a moose and landed there to hunt it. So it becomes that we must compete with sport hunters from another part of the state or
Lower 48. The Federal government must stop these sport hunters from encroaching in our subsistence hunting area.

I told them this area is our hunting area and we, the local people, have hunted this area for many years. This area has been hunted by the residents of Mountain Village, Emmonak, Alakanuk, Sheldon Point, Kotlik, St. Mary's, Pilot Station and Marshall. So this area has become a traditional hunting area for the Native people that live along the Yukon River.

I told the two people that they were on trespass status and do not belong in that part of the country. They in turn said to my family that we are on trespass in that hunting area. We the local people in this area have voluntarily allowed a five-year moratorium on moose hunting to rebuild the moose population. That's the area below Mountain Village.

If sport hunting is allowed on Federal or State land, they must not be allowed to use planes to hunt or spotting game. They must use the same gear as we do and hunt from our village and go up by boat only. Sport hunters should not be allowed to camp anywhere in Unit 18 area. We do not want our precious land to be destroyed or littered with trash from outside sport hunters.

So the request would be to prohibit sport hunters in certain traditional areas, like below Mountain Village or like around the village, not only Mountain Village. Another thing would be to consult with tribe before allowing outside hunters to enter. Thank you.

CHAIRMAN TOWARAK: Thank you for your testimony. Do we have a response?

MR. PROBASCO: Thank you, Mr. Chair. Also, as far as your testimony and your concerns, I believe you're also aware that you can voice your concerns to your Regional Advisory Council, but you can also submit proposals dealing with your issues so that the Federal Board can act upon them in the future, which we're going to be working on through this winter Council meetings.

MR. BEANS: Thank you.

MR. PROBASCO: And I can have a Staff member sit down with you during a break and explain that
to you.

MR. BEANS: Thank you very much.

CHAIRMAN TOWARAK: Thank you, Mr. Beans. Ready to return to proposal process. We did 11-08 this morning. We're ready for 11-09.

MR. PROBASCO: Mr. Chair. If I may suggest, I believe a Board member has informed me that they would like to act accordingly. Based on the action that the Board took on FP11-08, to defer that proposal and request the formation of a subcommittee, the Board does have the option at this time to take no action on Proposal FP11-09. I believe Board Member Haskett is ready to speak to that.

Mr. Chair.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: So I'd like to make a motion to take no action on Proposal 09 due to the action we took on Proposal 08 earlier today. This will allow the three Councils to address the customary trade issue as we discussed earlier this morning. The two proposals are very very similar and can be conducted the same way.

CHAIRMAN TOWARAK: Is there a second to the motion.

MS. PENDLETON: I'll second it.

CHAIRMAN TOWARAK: It's been moved and seconded that 11-09 be handled along with 11-08 and be referred to the subcommittee. Any discussion. Go ahead.

MR. PROBASCO: Thank you, Mr. Chair. The action on FP11-09 is to take no action because it's discussing very similar issues as presented in FP11-08 and the Board's action by deferring will encompass any future action in 11-09.

CHAIRMAN TOWARAK: Any question or discussion by the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Not hearing any. Is there a call for the question.
MR. HASKETT: I'll call for the question.

CHAIRMAN TOWARAK: The question has been called for. Final action.

MR. PROBASCO: Thank you, Mr. Chair. Final action to take no action in FP11-09. Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

MR. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: Yes.

MR. PROBASCO: Ms. Masica.

MS. MASICA: Yes.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: Yes.

MR. PROBASCO: Motion carries 6/0.

CHAIRMAN TOWARAK: Thank you. We have a full contingent of our Board with Sue coming in this afternoon and we welcome you to our Board meeting. We also have the Chair of the Kodiak Advisory Council, Mitch Simeonoff, Sr. Welcome to the meeting.

We afforded the Chairs of the other RACs to make a statement with regards to the proposals and I'm asking if you have any comments.

MR. SIMEONOFF: Thank you, Mr. Chairman. I don't have any comments at this time. I was out of the loop for a little bit, so I'm just kind of playing catch-up right now.

CHAIRMAN TOWARAK: Thank you. We will then -- Sue, do you have any statements?
MS. MASICA: (Shakes head negatively)

CHAIRMAN TOWARAK: We will continue on with our proposal review. We're going back to 11-01.

MR. PROBASCO: Yes, thank you, Mr. Chair. We had a change in Staff that will take us through FP11-01. We still have our coordinator Donald Mike. We have Rich Cannon, fishery biologist, and our division chief, Larry Buklis. Gentlemen.

CHAIRMAN TOWARAK: Proceed. You have the floor.

MR. CANNON: Thank you, Mr. Chairman. Good afternoon, Board Members. My name is Richard Cannon. I am the Yukon River Office of Subsistence Management fisheries biologist. I will be presenting the analysis for Proposal 11-01. This analysis can be found in your Board books on Pages 63 through 83.

Board members will note that the analysis addresses a second proposal to reduce net depth. That was Proposal 11-06, which was on your consent agenda and which you've already dealt with.

Proposal 11-01 was submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council. It requests that all gillnets, both subsistence and commercial, with greater than 6-inch stretch mesh be restricted to not more than 35 meshes in depth in Federal public waters of the Yukon River drainage.

This proposal specifically addresses regular change that the Eastern Interior Council felt would enhance the quality of escapement for chinook salmon. The proposal is based on the concern that the average length and weight of returning adult chinook salmon has been declining and because of the belief that the existing allowable gillnets that are deeper than 35 meshes disproportionately harvest larger size female chinook salmon over males.

This proposal would be applied to all gillnet fisheries occurring in Federal public waters. The analysis indicates that reducing depth of gillnets would likely result in reducing fishing efficiency of gear for commercial and subsistence fishermen. However, there is no way to quantify reliably if a reduction of net depth would be more effective in reducing harvest.
numbers than reducing fishing time, which managers
routinely do in order to reduce harvest levels.

In addition, there are no quantifiable
data available to predict what effect reduction would
have on the harvest of the larger aged female
chinook salmon available for us to look at. No new
information supporting decreasing size, selectivity of
gillnets by reducing net depth has been identified since
the Board last considered and rejected a similar
proposal.

Key information used in the analysis
summarized for you and published in studies were examined
and they examined the spatial distribution of migrating
salmon in specifically rivers. This research suggests
that migrating salmon generally swim near the river
bottom to avoid current. Larger fish swim farther
offshore in deeper water to avoid surface water drag.

Evidence for Yukon River chinook salmon
from a large archival tag project suggests that Yukon
River chinook swim along the bottom following submerged
river channels at depths ranging from less than a few
feet to over 90 feet. This information can be found on
Page 70 where it's discussed and is summarized in Figure
1 on Page 71.

In addition, test fishing with gillnets
at the Pilot Station sonar site did not show any
difference in size of fish between shallower inshore
catches and deeper offshore catches. Sonar traces show
that fish do disperse rapidly to avoid fishing activity
however. The Pilot Station data is summarized in Table
1 on Page 72. This is really the extent of the
information that we have at this time to look at this
question.

If adopted, this proposal would pose an
additional burden on affected users since they would have
to modify existing gillnets. If addition, adoption of the
proposal would expand the differences between Federal and
State subsistence regulations while increasing regulatory
complexity and enforcement concerns. Commercial and
subsistence users fishing in State-managed waters under
State regulations would still be permitted to use deeper
gillnets.

The OSM conclusion is to oppose the
CHAIRMAN TOWARAK: Thank you. Are there any questions from the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Thank you for that report. We will next go to the summary of written public comments by the Regional Council coordinator.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Regional Council coordinator. Nine written comments were received and we received additional comments from the Fort Yukon tribal and community members and was signed by 85 individual tribal community members opposing FP11-01. Written comments are on Pages 80 to 82 and 323. Additional written comments from the Ruby Advisory Committee can be found in your packet.

Three commentors wrote in support of FP11-01 stating that limiting the depth of nets is the next logical step in the effort to take pressure off the largest chinook salmon and to prevent fishermen from targeting the next large group of kings. The proposal is sensible because it is a conservation measure.

Six commentors wrote in opposition to FP11-01 commenting that it is cost prohibitive to purchase new gillnets and the new mesh size will affect the catch for some subsistence fishers. Others commented that it is more work and places additional hardship on the subsistence fishermen. That concludes the written summary of public comments, Mr. Chair. Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Mike.

Are there any questions.

(No comments)

CHAIRMAN TOWARAK: If not, we will continue on with the open floor to public testimony.

MR. PROBASCO: Thank you, Mr. Chair. The first person up to testify on Proposal FP11-01 is Mr. Gene Sandone.

MR. SANDONE: Good afternoon, Mr. Chairman. Board members, RAC representatives and Chairs. My name is Gene Sandone. I'm representing Kwik'pak Fisheries. Kwik'pak Fisheries recommendation is to agree with the OSM conclusion and the State of Alaska's
recommendation to oppose the proposal. I want to note
that recent changes to the maximum mesh size throughout
the whole Yukon River went from unrestricted to 7.5 and
most people I believe with the unrestricted they use
somewhere between 8 and 8.5-inch webbing.

The reduction in the mesh size
effectively changed the depth of the net. In the Lower
Yukon, the mesh size for commercial is 45 meshes and in
the Upper Yukon it's 60 meshes. So going to 7.5-inch
mesh compared to an 8.5-inch mesh you'd lose about 12
percent of the depth in the Lower Yukon and about 20
percent of the depth in the Upper Yukon from the maximum.

If this proposal was to be enacted, it
would result in a further depth reduction. Take, for
example, the 8.5-inch mesh going to the 7.5 at 35 meshes.
It would reduce the depth of the net in Lower Yukon by 31
percent and nearly 50 percent in the Upper Yukon.

Before considering additional changes to
the efficiency of the gillnet gear, we should determine
the effect of the recent regulation that was passed both
by the Board of Fish and the Federal Subsistence Board
before going any further. I believe that this change to
7.5 inch maximum mesh size is going to save a lot of the
largest and oldest fish and allow them to escape to the
spawning grounds.

Just for your information, under Proposal
11-04, in the document that I provided you, there's a
real good graphic there about length frequency sampled in
different fisheries and test fisheries and the green line
on that is the Mountain Village test fishery which has
used 7.5-inch mesh last year and it varies considerable
from the setnets that were used in the Upper Yukon. The
catch anyway. Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Mr.
Sandone. Are there any questions from the Board or the
RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Thank you, Mr.
Sandone.

MR. PROBASCO: Mr. Chair. The last
person signed up to testify is Mr. John Andrew. Mr. John
Andrew. Mr. Chair, apparently Mr. Andrew is not here, so we will proceed.

CHAIRMAN TOWARAK: Are there other people that signed up?

MR. PROBASCO: That's it for this proposal. Mr. Chair.

CHAIRMAN TOWARAK: Thank you. We are ready to continue to No. 4, Regional Council recommendations.

MR. REAKOFF: Mr. Chair. Western Interior Regional Advisory Council opposes the proposal and has opposed the same similar type proposal.

MR. BUCK: Seward Peninsula talked about this proposal and made a motion to pass it and it failed zero to seven.

MR. FIRMIN: The Eastern Interior Council submitted this proposal I believe in '07 or '06, I'm not quite sure when, but it was -- the recommendation is to defer this proposal until that date that the results of a relevant National Marine Fisheries Service study is completed in 2011 and presented to the Council for further action. Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Firmin.

Mr. Wilde.

MR. L. WILDE: Mr. Chairman. The Lower Yukon opposed this unanimously.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. We'll then move on to Item No. 5, which is Department of Fish and Game comments.

MR. PAPPAS: Thank you, Mr. Chair.

George Pappas, Department of Fish and Game. It's good to see everybody. Especially good to see the RAC Chairs and representatives.

Our written comments are found on Page 77. I'll be summarizing just the FP11-01 portion of those comments.
Proposal FP11-01 was submitted to limit all gillnets (State commercial, State subsistence, and Federal subsistence fisheries gear types) with a stretched mesh size greater than six inches to a maximum of 35 meshes deep in the Yukon River where Federal subsistence regulations apply.

If FP11-01 is adopted, harvest of chinook and other salmon species in Federally-regulated subsistence fisheries on the Yukon River could be negatively impacted. These fishermen would potentially need to fish longer hours to harvest the same number of fish with less efficient nets. Modification of existing nets or purchase of new nets might be necessary in order to comply with gear type regulation that differ between the Federal and State fisheries. If Federal regulations regarding allowable gear types are not the same as State regulations, it will create a conflicting patchwork of waters under differing State and Federal regulations and might be difficult for subsistence users to know the boundaries of each.

The Yukon River chinook salmon stock is currently classified as a stock of yield concern. The Federal Subsistence Board does not have authority to apply gear restrictions, such as gillnet mesh size and depth regulations, to State-regulated commercial and subsistence fisheries.

The Department opposes this proposal.

Thank you, Mr. Chair.

STATE OFFICIAL WRITTEN COMMENTS

Alaska Department of Fish and Game

Comments to the Federal Subsistence Board

Introduction: The Eastern Interior Regional Advisory Council submitted proposal FP11-01 to limit all gillnets (state commercial, state subsistence, and federal subsistence fisheries gear) with a stretched mesh size greater than six inches to a maximum of 35 meshes in depth in the Yukon River where federal subsistence regulations apply. The Mountain Village Working Group submitted proposal FP11-06 to limit gillnets with a stretched mesh size of 7.5 inches to a maximum depth of 20 meshes for federal subsistence
fishing in districts 4 and 5 of the Yukon River. The proponents are concerned that deeper gillnets select for older and larger Chinook salmon, which are believed to migrate in deep water. Proposal FP11-06 was also submitted to allow more salmon to escape to the spawning grounds and did not differentiate between species or sizes of salmon.

The Federal Subsistence Board previously reviewed similar proposals to restrict gillnet depth in the Yukon River fisheries (FP05-03, FP06-04, FP09-13) and took no action or opposed those proposals. The Alaska Board of Fisheries unanimously opposed a proposal to restrict subsistence and commercial gillnets to 35 meshes in depth in the Yukon Area during its meeting January 26, 2010, after thorough review in an open public process that included numerous oral and written reports. The Alaska Board of Fisheries adopted a maximum mesh size of 7.5 inches for subsistence and commercial gillnets effective in 2011 in the Yukon Area. The Federal Subsistence Board took no action on deferred proposal FP09-13 to limit mesh depth at the April 13, 2010, meeting after adopting deferred proposal FP09-12, which paralleled the Alaska Board restriction of a maximum mesh size of 7.5 inches. The change in mesh size effectively reduces the maximum depth of commercial gillnets in districts 1-3 by approximately three feet compared to the depth of an 8.5-inch mesh gillnet (commensurate with the current gillnet commercial fishery). Most subsistence fishermen will likely use their commercial gillnets for commercial fishing.

Data from a recent radio-tagging project on Yukon River Chinook salmon indicate that Chinook salmon utilize the entire depth of the water column during migration. (John Eiler, National Marine Fisheries Service Auke Bay Laboratory, Juneau; personal comm. 2009). Even if net depth restrictions could alter harvest in a specific location, fishermen could compensate for a reduced net depth by fishing in shallower locations, where a shallower net would not impede harvest of larger and more valuable Chinook salmon. There are insufficient data to demonstrate that gillnet depth restrictions would effectively alter size and age composition of the harvest.

Impact on Subsistence Users: If FP11-01 and FP11-06 are adopted, harvest of Chinook and other salmon species in federally-regulated subsistence fisheries on the Yukon River could be negatively
impacted. These fishermen would potentially need to fish longer hours to harvest the same number of fish with less efficient nets. Modification of existing nets or purchase of new nets might be necessary in order to comply with gear type restrictions that differ between the federal and state fisheries. If federal regulations regarding allowable gear types are not the same as state regulations, it will create a conflicting patchwork of waters under differing state and federal regulations and might be difficult for subsistence users to know the boundaries for each.

Conservation Issues: The Yukon River Chinook salmon stock is currently classified as a stock of yield concern. Since 2001, subsistence harvest levels have reached the amounts reasonably necessary for subsistence use within state regulations, except for 2002, 2008, and 2009. A majority of the Yukon River drainage escapement goals have been met or exceeded since 2000, including the Chena and Salcha rivers, which are the largest producers of Chinook salmon in the United States portion of the drainage. The agreed-to escapement objective for the Canadian mainstem was met every year from 2001 through 2006, with 2001, 2003, and 2005 being the three highest spawning escapement estimates on record. However, the escapement objective for the Canadian mainstem was not met in 2007 and 2008. Exploitation rate on the Canadian-origin stock by Alaskan fishermen has decreased from an average of about 55% (1989-1998) to an average of about 44% from 2004-2008 (Howard et al. 2009). Although the subsistence harvest remains stable at nearly 50,000 Chinook salmon annually, commercial harvests have decreased over 60% from an average of 100,000 annually (1989-1998) to the recent 5-year average (2005-2009) of nearly 23,000 fish. It is not possible to determine if size-selective harvests, variations in environment, or a combination of factors are causing a decrease in harvest of age-7 fish or decreasing size trends of older fish (JTC SSS 2006). Decreasing size of Chinook salmon has been anecdotally noted across much of the state in recent years. However, increasing the number of larger and older Chinook salmon in spawning escapements through mesh size regulations should provide better future production potential.

Opportunity Provided by State: Salmon may be harvested under state regulations throughout the majority of the Yukon River watershed, including a liberal subsistence fishery. Gear types allowed are gillnets, beach seines, hook and line attached to a rod.
2. or pole, hand lines, and fish wheels. Although all gear types are not used or allowed in all portions of the Yukon River drainage, drift and set gillnets and fish wheels harvest the majority of fish taken for subsistence uses. Under state regulations, subsistence is the priority consumptive use. Therefore, state subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs. When the Yukon River Chinook salmon run is below average, state subsistence fishing periods may be conducted based on a schedule implemented chronologically throughout the Alaska portion of the drainage, which is consistent with migratory timing as the salmon run progresses upstream. Federal regulations under Special Actions to restrict federally-eligible users have been rare and mirrored in-state, in-season actions necessary to meet escapement goals, except where state and federal regulations differ in subdistricts 4-B and 4-C. Amounts reasonably necessary for subsistence Chinook salmon (5AAC 01.236 (b)), as determined by the Alaska Board of Fisheries, were met in the Yukon River drainage for six of the last nine years.

Jurisdictional Issues: The Federal Subsistence Board does not have authority to apply gear restrictions, such as gillnet mesh size and depth regulations, to state-regulated commercial and subsistence fisheries.

A large percentage of the lands along the Yukon River are state or private lands on which subsistence users must use gear types consistent with state regulations. Detailed maps are needed that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply, so that fishermen can know whether they are on state or private lands (including state-owned submerged lands and shorelands) where they must comply with state laws and regulations.

Recommendation: Oppose proposals FP11-01 and FP11-06.

Cited References:

Howard, K. G., S. J. Hayes, and D. F. Evenson. 2009. Yukon River Chinook salmon stock status and action plan 2010; a report to the Alaska Board of Fisheries. Alaska Department of Fish and Game, Special Publication No. 09-26, Anchorage. JTC SSS (Joint
CHAIRMAN TOWARAK: Thank you. Are there any questions from the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Not seeing any, thank you for your comments. We next go to the InterAgency Staff Committee comments.

DR. WHEELER: Thank you, Mr. Chair. The InterAgency Staff Committee found the Staff analysis to be a complete and accurate evaluation of the proposal and the recommendations of all four Regional Advisory Councils to be supported by substantial evidence consistent with recognized principals of conservation and appropriate allow for the continuation of subsistence uses.

Mr. Chair.

CHAIRMAN TOWARAK: Any questions from the Board or the Chairs of Councils.

(No comments)

CHAIRMAN TOWARAK: Not seeing any, thank you. Board discussion with Council Chairs and the State liaison. The floor is open for discussion.

MR. REAKOFF: Mr. Chair. Western Interior is opposed to this proposal. The archival data shows that these fish swim at various levels. The windier the weather, the higher in the water column they'll swim, so depth of net doesn't really affect. You can catch very large fish on top of the water if it's windy, so they move up and down the water column. So the objective when we have these windowed openings is to catch fish for subsistence. So making it hard to catch fish, if it's calm weather, then people will be way less effective catching fish.

Our opinion, my opinion in particular, is the 7.5 inch regulation addresses a lot of the large
harvest of salmon, the larger salmon. We feel that this proposal would put an unreasonable burden on subsistence users and expense to achieve hypothesis that you would save a lot of larger fish. So that would be our position.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Any further discussion.

(No comments)

CHAIRMAN TOWARAK: If not, are we ready to do the final action on the proposal. Mr. Haskett.

MR. HASKETT: I'll make a motion to adopt the proposal, but I'll provide justification why I plan to vote in opposition consistent with the recommendations of the YK Delta, Western Interior and Seward Peninsula Regional Councils if I get a second to the motion.

MS. PENDLETON: I'll second that.

CHAIRMAN TOWARAK: The motion has been seconded. Proceed.

MR. HASKETT: So the justification for why I will oppose is that reducing the depth of gillnets would reduce gear efficiency and it's not clear that it would help with conservation of chinook salmon. Adopting this proposal would also most likely be detrimental to subsistence users by requiring people to fish harder to meet their needs with unknown benefits.

Rejecting this proposal would be consistent with the recommendations of the YK Delta, Western Interior and Seward Peninsula Regional Councils. All the Councils and the State opposed the recommendation as well as the InterAgency Staff and OSM Staff. The Eastern Interior Council recommended deferring the proposal.

So I believe if new information becomes available, if it does become available ever, it shows that this action will be beneficial and a new proposal could be submitted to re-adjust this issue at a later time.

CHAIRMAN TOWARAK: Thank you. Any other
questions or comments.

(No comments)

CHAIRMAN TOWARAK: I'm not hearing any. Is there a call for the question.

MS. K'EIT: Mr. Chair.

CHAIRMAN TOWARAK: Go ahead.

MS. K'EIT: I intend to vote against the motion on the floor based on a lack of substantial evidence. I think we have enough -- we don't have enough information to justify this cause for change for the users.

Thank you.

CHAIRMAN TOWARAK: Sue, have you got comments.

MS. MASICA: Mr. Chair. I think Mr. Haskett spelled out the concerns with the proposal as submitted and I intend to oppose it.

CHAIRMAN TOWARAK: Beth.

MS. PENDLETON: Likewise, I intend to oppose and I think that if new information does come available, that certainly a new proposal could be introduced subsequently.

CHAIRMAN TOWARAK: Mr. Cribley.

MR. CRIBLEY: I haven't heard any discussion of support for this proposal either from a scientific basis or any and with no support from the Councils I intend to oppose it also.

CHAIRMAN TOWARAK: I agree with all the comments. I, too, would oppose the proposal based on especially the RACs recommendations. Is there a call for the question.

MR. HASKETT: I call for the question.

MS. MASICA: Question.

CHAIRMAN TOWARAK: The question has been
called for. Final action, please.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on FP11-01 motion to adopt. Mr. Haskett.

MR. HASKETT: No.

MR. PROBASCO: Ms. K'eat.

MS. K'eat: No.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: No.

MR. PROBASCO: Ms. Masica.

MS. MASICA: No.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: No.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: No.

MR. PROBASCO: Motion fails 0/6.

CHAIRMAN TOWARAK: The next item on our agenda is discussions on fish proposal 11-02, Yukon River chinook salmon conservation plan. The analysis by the lead author, please.

MR. CANNON: Thank you, Mr. Chairman.

The analysis for Proposal 11-02 begins on Page 84 of your Board books. This proposal was submitted by Jack Reakoff from Wiseman. It requests that Federal Public waters of the Yukon River be closed to subsistence and commercial fishing from the river mouth to the Canadian border during the first pulse of chinook salmon or second if the first is missed. These rolling closures would be intended to conserve Canadian-bound chinook salmon and would continue for at least 12 years or until such time as this stock’s abundance and escapement quality is restored to a level that provides sustained yields to support historic levels in commercial and subsistence fisheries.

The proponent submitted this proposal to
address longstanding concerns expressed by Yukon River
fishers and Regional Advisory Councils regarding
diminished quality of escapement for Yukon River chinook
salmon that spawn in Canada.

In order for the State and Federal
programs to cooperatively address this issue, the
existing State chinook salmon management plan would have
to be revised to establish an optimum escapement
objective rather than a maximum sustained yield approach
currently in place. This issue is discussed on Page 87
under the existing State regulations subheading of the
analysis.

The biological background, which begins
on Page 92 of the analysis, updates the chinook salmon
stock status information recently provided the Federal
Board when it considered mesh size changes and
specifically addresses measures of quality of escapement
and managing for escapement goals in Alaska.

In addition, the analysis provides
information on the run timing of Canadian origin stocks
provided by a study of radio-tagged chinook salmon. This
information is summarized in Figure 7 on Page 98.
Discussion of this information is found on Page 97.
Although a high proportion of the Yukon River Canadian
origin stock group enters the river during the first
pulses, individual Canadian chinook stocks actually enter
the Yukon over a more protracted period of time.

Since the Council meeting, some new
information relevant to this proposal has become
available but does not change the OSM conclusion. An
addendum to the analysis has been included, found on
Pages 106 and 108, which provides stock timing and
composition data for the 2009 fishing season obtained
from genetic stock assessment sampling at Pilot Station.

Figure 1 of the addendum found on Page
107 illustrates changes in stock of composition through
four time intervals in 2009, the year when pulse
protection was thought to be very effective for
conserving Canadian stocks. This information further
demonstrates that stock, run timing and composition is
very complex. Canadian stocks are highly overlapped
through time with other stocks throughout the run
requiring considerable management flexibility to
effectively conserve stocks while allowing subsistence
fishing to occur.
The OSM conclusion to oppose the proposal is based largely on the Canadian stock run timing information that suggests that simply closing the fishery during the first pulse may not be an effective means to conserve all Canadian origin stocks. Rather reducing exploitation over the run by reducing fishing time when necessary may be a more effective conservation measure.

This could be accomplished during years with poor runs by pulling period during scheduled windows subsistence openings early in the run or until such time that in-season assessment of the run determined that the run was large enough to allow additional fishing opportunity.

Individual stocks comprising the Middle River, which is mainly an Alaska stock group, and Upper River, which is the Canadian stock group, enter the river in a very compressed time period with time being highly overlapped. That's why it's so difficult.

Differences in timing among these stocks really do not appear to offer a useful means to conserve or target individual stocks or even between these two stock groups in fisheries. However there may be sufficient difference in migratory timing of the Lower River stocks to allow managers to use these differences to effectively target or conserve this particular stock group.

The OSM conclusion is to oppose this proposal.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Are there any questions on the Staff analysis.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, we will continue with the summary of public comments by the Regional Council Coordinator.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Regional Council Coordinator. Mr. Chair, nine written comments were received. Written comments begin on Page 118 to 119. Additional written comments also can be found on Page 323. Additional written comments can be found in your packet received from Ruby Advisory
Committee and from the Fort Yukon tribal community members.

Two comments received in support of the proposal. One commentor wrote in support of the proposal stating that the windows have been effective, but is not an effective tool when the stock declines and increasing inefficiency by fishermen to harvest salmon. The proposal would be solid foundation for future Yukon River chinook stock to be rebuilt.

The Ruby Advisory Committee supports the proposal with an amendment to be in effect for one complete life cycle to protect the larger chinook.

Seven comments opposed the proposal saying that a full closure on the first or second pulse may hurt fishing families. A partial pulse protection during expected low returns is a good tool for managers to use when the chinook salmon return is expected to be low.

That concludes the written public comments, Mr. Chair.

Thank you.

CHAIRMAN TOWARAK: Thank you. Are there any questions.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, thank you for that report. We will continue on and open the floor to public testimony.

MR. PROBASCO: Thank you, Mr. Chair. The first person up is Mr. John Andrew. Mr. John Andrew.

(No comments)

MR. PROBASCO: Mr. Andrew apparently is not here. The next person signed up to comment on Proposal 02 is Lynette Moreno Hinz.

MS. MORENO HINZ: My name is Lynette Moreno Hinz and I am Alaska Native Tlingit and the chairwoman for our fish and game committee. Well, I came here today for my public comment, was that after hearing
some of the things that I just heard, 12 years is a long

time. Four years is a long time. Twelve months is a

long time. Four minutes is a long time. Twelve seconds

is a long time for people that need food, that need to be

able to have the food readily available for them.

With the mouth of the Yukon there is

three villages right there at the mouth and I understand

that the Yukon Kuskokwim fisheries that in the past it

has taken fish, all kinds of fish, from this river. What

my question is, are they held accountable? But also there

is other villages up and down that Yukon River and the

other rivers in Alaska, the Kuskokwim, everywhere,

Southeastern, everywhere, and so it looks to me like when

you take fish and overharvest it causes a great strain on

the fish runs, but people have to eat.

So when you vote, please consider they do

not go to the grocery stores. Even the children that did

the drawings right behind you, there's no grocery stores

with packages of fish in those drawings. So please

consider what you do and always consider the people and

the families first. Thank you very much.

CHAIRMAN TOWARAK: Thank you, Ms. Hinz.

Are there any questions of her testimony.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, thank

you for your testimony.

MR. PROBASCO: Thank you, Mr. Chair.

Next person is Mr. Timothy Andrew.

MR. ANDREW: Thank you, Mr. Chairman.

Members of the Board, members of the Regional Advisory

Committee and guests. My name is Timothy Andrew. I'm

the director of natural resources for AVCP.

AVCP opposes this proposal, although

within this last year and the year before we had

supported this proposal as a management tool just as long

as the restriction from unrestricted gear did not go down

to 7.5 inch. Last year this body and also the Alaska

Board of Fisheries also adopted the 7.5 inch proposal, so

our support for this as a management tool has basically

gone out the door.

One thing I'd like to reference is the
statement that I made earlier, is that on the Lower Yukon
we have that limited window of opportunity to actually
dry fish due to the weather conditions we face during the
month of July. If we don't get that opportunity to dry
the fish within that limited amount of time, the rainy
season comes. This is really confirmed by the Nome
Weather Service office if you look at the data they have
online. Normally right about the middle part of July
inclement weather comes in, we get storms, we get a lot
of misty conditions and it's just not a good time to dry
fish. Without this opportunity, people would be
extremely disenfranchised on the lower part of the river.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there
any questions from the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Not hearing any.

Thank you, Mr. Andrew.

MR. PROBASCO: Thank you, Mr. Chair. The
last person to testify is Mr. Gene Sandone.

MS. SANDONE: Good afternoon, Mr.
Chairman. Members of the Board, RAC Chairs and
representatives. Again, I'll be taking my comments from
the document that was distributed earlier for a report to
the Board from Kwik'pak and I'm representing Kwik'pak.

My comments on Proposal 11-02 is to agree
with the OSM's conclusion and the State of Alaska
recommendation to oppose the proposal. Harvest, both
commercial and subsistence, should be commensurate with
run size. Subsisting fishing opportunity is directly
linked to abundance and not restricted unless run size is
inadequate to meet escapement needs.

In most years subsistence fishing
restrictions are not necessary to achieve escapement
goals. Additionally, the new maximum mesh size gillnet
at 7.5 inch may play an important role in allowing more
larger and older-age fish to escape the fisheries and be
allowed to spawn in greater numbers. However, some form
of pulse protection may be necessary in some years to
protect the Canadian component when the segment of the
run is poor.
During most recent AYK Board of Fish meeting in January 2010, the Board of Fish adopted a regulation that gives ADF&G managers emergency order authority to sequentially close fisheries to allow pulses of chinook salmon to migrate upstream with little or no exploitation through all fisheries to their spawning grounds. Shifting too much of the harvest onto Alaskan stocks, however, can have detrimental consequences for those stocks. Harvest should be spread out over the entire chinook salmon run.

Since District 5, and District 5 is located from Tanana to the Canadian border, it's a very large district, and they harvest mostly those stocks bound to Canada, the Upper River stock, and you can see what each district harvests on the next page in Figure 1. It also has the greatest demand for chinook salmon for a fishing household and you can see the demand or the average harvest per fishing household for all the villages in Figure 2.

It may be prudent to reduce the harvest of the first pulse of chinook salmon within the mainstem, Districts 1, 2, and 3 and possibly 4. Those districts harvest chinook salmon from all Yukon stocks. A slight restriction in the first pulse, for example pulling one period, may provide enough fish for Upper River subsistence users and escapement into Canada. That may be used when the Canadian component is poor or is low.

The complete closure of the first pulse of chinook salmon for 12 or 4 years would unnecessarily cause hardship to all subsistence fishermen within the Alaska portion of the Yukon River drainage and in most years is totally unwarranted.

A majority of the Yukon River drainage escapement goals have been met or exceeded since 2000. The escapement objective for the Canadian mainstem was met in every year from 2001 to 2006. Additionally, a record escapement was observed in 2003. Escapements observed in 2005 and 2009 ranked third and fourth behind the 1996 escapement. However, the escapement objective for the Canadian mainstem was not met in 2007, 2008 and last year.

Mr. Chair, that concludes my testimony.

CHAIRMAN TOWARAK: Thank you, Mr. Sandone. Are there questions for Mr. Sandone from the
Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Not hearing any.

Thank you, Mr. Sandone. That concludes the public comment period. We will then proceed on to the Regional Council recommendations starting with Mr. Reakoff.

MR. REAKOFF: Mr. Chair. I'm the one who started this ball rolling. This is based on the joint Eastern and Western Interior Regional Advisory Council resolutions that were formulated and submitted to the Federal Subsistence Board with nearly as strong of language coming from the YK Delta Regional Advisory Council to protect the first pulse of chinook salmon. So after those meetings I decided to submit this as a proposal before the Federal Subsistence Board to get the issue on the table of trying rebuild the Yukon River chinook salmon. That's the objective of the proposal.

At that time we had concurrence of all the RACs on the Yukon River. When we deliberated the proposal, we took into account the displeasure of certain communities within our region that didn't want to be that strong. You see those in the written record. So the Western Interior Council amended our proposal to weaken the language, to not close the first pulse but to close or predominately close and protect the first pulse not for 12 years but for four years.

2009 there was a large contingent of YRDFA people and the RACs involvement and it was decided to protect the first pulse of chinook salmon and there was a significant and I felt a very good return into Canada. The main highlight of that was that because those fish had not encountered gear, it was a very high quality escapement. Numbers aren't everything. If the fish have been around a lot of nets, all the bigger fish have been taken out of it. So the fish that got into Canada in '09 were nice, healthy fish. Everybody talked about the nice quality of fish that met the spawning grounds and I saw those on the Jim River near where I live. That was the basis of this proposal.

Our Council did not have the addendum work DeCovich and Howard have produced this winter showing a more of a protracted. Our Councils worked off of beta sets that showed that 70 percent of the first pulse are Canadian-bound fish. That's where our Council
-- our Council was using the latest data. This data set shows more of a protracted return.

The question is still there, does -- the Federal Subsistence Board has to come up with some kind of a directive. If this proposal does not fail, the Federal Subsistence Board has to assure, give the Federal in-season manager the authority to supersede State management if it's looking like we're not going to meet these obligations and the quality of escapements.

I feel that shortening the windows, doing various management things that need to be done are imperative to rebuild the chinook salmon on the Yukon River. We're not looking at anything a lot different. We're just going to have 7.5 inch gear. We're going to have to shorten the windows down or something. The objective is meet escapements and we're not doing that.

So that's the reason this proposal was submitted. The Western Interior modified the proposal, but it's up to the Board to make the hard decisions. That's what you get paid the big bucks for.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Any questions of Mr. Reakoff from the Board.

(No comments)

CHAIRMAN TOWARAK: Thank you. We'll jump across to Mr. Wilde.

MR. L. WILDE: Thank you, Mr. Chairman. Our Council opposed this proposal. The vote was nine opposing, one abstention and two excused absence.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Any questions of Mr. Wilde.

(No comments)

CHAIRMAN TOWARAK: Not hearing any. Then we will go to Mr. Buck from the Seward Peninsula.

MR. BUCK: Yes, the Seward Peninsula discussed this proposal again and it was defeated zero to seven again.
CHAIRMAN TOWARAK: Thank you. Any questions for Mr. Buck.

(No comments)

CHAIRMAN TOWARAK: Thank you. Then to Mr. Firmin.

MR. FIRMIN: The Eastern Interior Council opposed this proposal. The Council felt that this proposal is too restrictive and they have concerns about the manager's ability to effectively execute this proposal. The Council also heard some anecdotal observations that the first pulse consists primarily of males, so the Council does not feel confident that implementation of the proposal would enhance passage of females.

There are also concerns that if this proposal was passed it could put undue pressure on other Yukon River stocks and there are additional concerns that it would only apply to Federally managed sections of the river and its overall effectiveness would be diluted while negatively impacting Federal subsistence fishing opportunities.

There's also concern that prescribed closures could restrict options for in-season managers who already have the tool of emergency closures when warranted.

Thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Firmin. That concludes the Regional Council recommendations. We will jump now to the Department of Fish and Game from State of Alaska.

MR. PAPPAS: Thank you, Mr. Chair. Our comments can be found on Page 115. I'll be summarizing from them. Establish a new Yukon River Chinook salmon fisheries management plan for all fisheries in order to protect the first pulse of returning salmon.

If adopted, Federal subsistence users would be required to forgo harvest of chinook salmon during the first or second pulse of chinook salmon returning to the Yukon River in waters claimed under Federal jurisdiction through the year 2022 unless stock status and conditions improve before that time. The
proponent anticipates Federal subsistence users who fish
in Federal-claimed waters will likely see a reduction in
harvest during enactment of this fisheries management
plan.

If Federal regulations differ from State
regulations, fishing for chinook salmon may be more
liberal in waters not claimed under Federal jurisdiction.
This
would increase the responsibility of subsistence users to
identify the applicability of differing subsistence laws
and regulations based on land ownership and claimed
Federal jurisdiction.

Federal regulations under Special Actions
to restrict Federally-eligible users have been rare and
mirrored the State in-season actions necessary to meet
escapement goals, except where State and Federal
regulations differ in subdistricts 4B and 4C.

The Yukon River chinook salmon stock is
currently classified as a stock of yield concern.

It is not possible to determine whether
size-selective harvests, variations in environment, or a
combination of factors are causing a decrease in harvest
of age seven fish or decreasing size trends of older
fish. Increasing the number of larger and older chinook
salmon in spawning escapements through mesh size
regulations should provide for better future production
potential. The Alaska Board of Fisheries and the Federal
Subsistence Board recently adopted a maximum mesh size of
7.5 inches for gillnets effective in 2011 in the Yukon
Area.

It is not necessary to prohibit harvest
of all chinook salmon during the first pulse by
regulation for a 12-year period if a harvestable surplus
is available. This proposal poses a hardship to
subsistence users and would likely increase exploitation
on stocks or other stock groupings. As part of preseason
planning with public involvement, this type of action can
be taken by managers through emergency order authority as
a conservation measure to meet escapement goals and Yukon
River Treaty commitments. However, managers and
fishermen need flexibility in order to adjust to this
management strategy. For example, given the variation in
stock specific run timing, it may be better biologically
to distribute subsistence closures over the first two
pulses rather than singling out the first pulse
throughout the river.

The Department opposes this proposal.

Thank you, Mr. Chair.

*******************************
STATE OFFICIAL WRITTEN COMMENTS
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Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fisheries Proposal FP11-02: Establish a new Yukon River Chinook salmon fisheries management plan for all fisheries in order to protect the first pulse of returning salmon.

Introduction: Jack Reakoff submitted this proposal to establish a 12-year management plan to prohibit harvest of Chinook salmon in sequentially rolling statistical area closures during the first pulse of returning salmon (or the second pulse if the first pulse does not materialize) in waters claimed under federal jurisdiction from the mouth of the Yukon River to the Canadian border. The proponent indicates this first pulse protection plan will provide greater protection of the Chinook salmon stocks without negatively impacting conservation of other stocks. The proposal requests the pulse protection plan be implemented for at least 12 years or until such time that Chinook salmon stock abundance and quality are restored to a level that provides sustained yields from normal commercial and subsistence fisheries. Note that approximately half of Yukon River Chinook salmon spawn in Alaska and do not migrate the full 1,900 miles of river.

Impact on Subsistence Users: If adopted, federal subsistence users would be required to forgo harvest of Chinook salmon during the first or second pulse of Chinook salmon returning to the Yukon River in waters claimed under federal jurisdiction through the year 2022 unless stock status and conditions improve before that time. The proponent anticipates federal subsistence users who fish in federal-claimed waters will likely see a reduction in harvest during enactment of this fisheries management plan. If federal regulations differ from state regulations, fishing for Chinook salmon may be more liberal in waters not claimed under federal jurisdiction. This would increase the responsibility of
subsistence users to identify the applicability of
differing subsistence laws and regulations based on land
ownership and claimed federal jurisdiction.

Opportunity Provided by State: Salmon
may be harvested under State of Alaska regulations
throughout the majority of the Yukon River watershed,
including in a liberal subsistence fishery. Gear types
allowed are gillnet, beach seine, hook and line attached
to a rod or pole, hand line, and fish wheel. Although
all gear types are not used or allowed in all portions of
the Yukon River drainage, drift and set gillnets and fish
wheels harvest the majority of fish taken for subsistence
uses. Under state regulations, subsistence is the
priority consumptive use. Therefore, state subsistence
fishing opportunity is directly linked to abundance and
is not restricted unless run size is inadequate to meet
escapement needs. When the Yukon River Chinook salmon
run is below average, the state subsistence fishing
periods may be conducted based on a schedule implemented
chronologically throughout the Alaska portion of the
drainage, which is consistent with migratory timing as
the salmon run progresses upstream. Federal regulations
under Special Actions to restrict federally-eligible
users have been rare and mirrored the state in-season
actions necessary to meet escapement goals, except where
state and federal regulations differ in subdistricts 4-B
and 4-C. Amounts reasonably necessary for subsistence
(ANS) for Chinook salmon (5AAC 01.236 (b)), as determined
by the Alaska Board of Fisheries, have been met in the
Yukon River drainage for six of the last nine years

Conservation Issues: The Yukon River
Chinook salmon stock is currently classified as a stock
of yield concern. Since 2001, subsistence fishing time
in the Yukon Area has been limited by a windows schedule,
which was further restricted in 2008 and 2009 because of
conservation concerns for Chinook salmon. Subsistence
harvest levels for Chinook salmon have been within the
amounts reasonably necessary for subsistence (ANS) ranges
of the Yukon River drainage escapement goals have been
met or exceeded since 2000, including the Chena and
Salcha rivers, which are the largest producers of Chinook
salmon in the United States portion of the drainage. The
escapement objective for the Canadian mainstem was met
every year from 2001 through 2006, with 2001, 2003, and
2005 being the three highest spawning escapement
estimates on record. The escapement objective for the
Canadian mainstem was not met in 2007 and 2008. Exploitation rate on Canadian-origin stock by Alaskan fishermen decreased from an average of about 55% (1989-1998) to an average of about 44% from 2004 through 2008 (Howard et al. 2009). Although the subsistence harvest continues to remain stable at nearly 50,000 Chinook salmon annually, commercial harvests have decreased over 60%, from an average of 100,000 annually (1989-1998) to the recent 5-year average (2005-2009) of nearly 23,000 fish. Considering all salmon species together, the overall total subsistence salmon harvest in the Yukon Area has declined by approximately 30% since 1990 (Fall et al. 2009:39). Specifically, fall chum salmon harvests have fallen within ANS ranges only three times since 2001 (Fall et al. 2009:43).

It is not possible to determine whether size-selective harvests, variations in environment, or a combination of factors are causing a decrease in harvest of age-7 fish or decreasing size trends of older fish (JTC SSS 2006). Decreasing size of Chinook salmon has been anecdotally noted across much of the state in recent years. However, increasing the number of larger and older Chinook salmon in spawning escapements through mesh size regulations should provide for better future production potential. The Alaska Board of Fisheries adopted a maximum mesh size of 7.5 inches for subsistence and commercial gillnets effective in 2011 in the Yukon Area. The Federal Subsistence Board took no action on deferred proposal FP09-13 to limit mesh depth at the April 13 14, 2010, meeting after adopting deferred proposal FP09-12 parallel to the Alaska Board restriction to a maximum net mesh size restriction of 7.5 inches.

Jurisdiction Issues: While standing on state and private lands (including state-owned submerged lands and shorelands), persons must comply with state laws and regulations regarding subsistence harvest. Because a large percentage of the lands along and under the Yukon River are not federal lands, federal administrators need to provide detailed maps that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply.

Other Issues: It is not necessary to prohibit harvest of all Chinook salmon during the first pulse by regulation for a 12-year period if a harvestable surplus is available. A management strategy of fisheries closures during the first pulse poses a hardship to subsistence users and would likely increase exploitation...
on other stocks or stock groupings. As part of preseason planning with public involvement, this type of action can be taken by managers through emergency order authority as a conservation measure to meet escapement goals and Yukon River Treaty commitments. However, managers and fishermen need flexibility in order to adjust this management strategy. For example, given the variation in stock specific run timing, it may be better biologically to distribute subsistence closures over the first two pulses rather than singling out the first pulse throughout the river.

Recommendation: Oppose.

Cited References:


CHAIRMAN TOWARAK: Thank you for your comments. Any questions of the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Not hearing any. Thank you. We will proceed then to the InterAgency Staff Committee comments. Dr. Wheeler.

DR. WHEELER: Thank you, Mr. Chair. The InterAgency Staff Committee appreciates the Western Interior Regional Advisory Council's concern over Yukon River chinook stocks, particularly those of Canadian origin. However, this proposal only addresses Federal public waters and if it were supported by the Federal Subsistence Board, State waters could potentially remain open to the harvest of Canadian-bound chinook salmon,
thus possibly reducing the intended benefits of the closures.

A better approach might be to have State and Federal managers continue to work with the users to develop a unified approach to chinook salmon management. Yukon salmon management meetings between the managers and users are scheduled to occur this winter and into the spring and will provide an opportunity to discuss management options, including closures, to the first pulse of chinook salmon during the 2011 season.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there any questions of the InterAgency Staff.

(No comments)

CHAIRMAN TOWARAK: Thank you for your input. Next on the agenda would be Board discussion with Council Chairs and State liaison.

MR. HASKETT: So, if I could, would it be possible to have Fred Bue come up and actually talk briefly about authorities we already have in terms of how we could do this on our own authorities?

CHAIRMAN TOWARAK: Yes. Is Mr. Bue available?

MR. HASKETT: Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Mr. Bue, do you understand the request?

MR. BUE: For the record, Fred Bue, Fish and Wildlife Service, Yukon River manager. It's a pretty wide open question, I guess, and Polly can help me, I hope, as we go through this. My basic authority is over time and area and we try to coordinate as best we can with the State of Alaska in managing these fisheries. It's been brought up, many of the people talked about it, is the disparity between State waters and Federal waters that are within my jurisdiction of authority.

So, yes, I do have authority to do this such action if you choose to direct me to do so by advancing this proposal. Right now I do have the authority to do it anyway over time and area and I can
protect the run as we go up the river. We have done in
the past in such a situation. I'm not sure if that gets
at your answer -- or question, but if you want to give us
direction, I think that's your ability.

CHAIRMAN TOWARAK: Mr. Haskett.

MR. HASKETT: Thank you, Fred. I wasn't
asking us to give you direction to do it. I just wanted
an explanation that you actually had the authority to
close the waters if we needed to and some explanation of
the coordination problems with the State if we chose to
do that.

CHAIRMAN TOWARAK: Go ahead, Mr. Bue.

MR. BUE: Yes, thank you. That helps.
Yes, as you know, management is year round. We work
directly with the State managers throughout the season.
We work with the public throughout the year. This fall
we've had our three RACs going to the communities,
communicating with them and talking about what management
options may work in their individual circumstances.
Every area has a different situation.

We had the Yukon River Panel meeting in
December and we discussed some needs. We see some needs
for conservation. It's a big deal as you can tell by the
discussions here. Next month we'll have a meeting at
Mountain Village. You know, there's other issues going
on there, but we're also going to meet with YRDFA there.
State and Federal managers meeting there with drainage-
wide fishermen, constituents, and then we'll have the
spring RAC meetings, three RAC meetings in communities,
regional hubs in the area. We'll also have a Yukon River
Panel meeting that's going to set some coordination with
our Canadian counterparts.

After that, we're going to take that
information that we received throughout this winter and
we have a meeting that's going to be facilitated by YRDFA
and we're going to bring people from throughout the
drainage together and again talk about how we're going to
manage this coming season.

One of the big options that we're looking
at is protecting a pulse of fish, a segment of the fish
run as it goes upriver, but that's not set in stone. We
still have a lot of public input to listen to, but it is
something that we've seen in the past. We've gotten a
lot of support from the public to do that. I anticipate that we'll hear that again. We have heard it and I think that's going to be one of the elements we're going to look forward to or consider in our management this coming season.

CHAIRMAN TOWARAK: Did that answer your question?

MR. HASKETT: Yes, thank you.

CHAIRMAN TOWARAK: Thank you, Mr. Bue. Any other discussion with either the Council Chairs or the State liaison.

(No comments)

CHAIRMAN TOWARAK: Mr. Reakoff.

MR. REAKOFF: Mr. Chairman. One thing that hasn't been discussed is the directed chum fishery for the Yukon River. The bycatch this season of approximately 9,800 chinook salmon in the directed chum fishery was thought to have a 25 percent composition of Canadian bound -- Canadian origin chinook.

The new graph is a double-edged sword here. The DeCovich/Howard 2010 analysis showing more of a protracted run, it wasn't just 25 percent, it was actually more than that. So the reality is there was a higher impact to the directed chum fishery, to the Canadian bound chinook salmon.

This is something that has to be looked at if we're barely making escapements. Moving those directed chum fisheries even further back in the run would have more benefit.

This proposal just gets this issue on the table. The conservation issue on the table. I see that the proposal is floundering, but I do feel that it's within the purview of the Federal Subsistence Board to give direction to the Federal managers and working through the current MOU with the State, conveying that conservation is very necessary. There are some real issues here to try to achieve these escapement goals and this is the opportunity for the Board to do that.

Thank you.
CHAIRMAN TOWARAK: Thank you, Mr. Reakoff. Further discussion. Mr. Firmin.

MR. FIRMIN: Thank you, Mr. Chair. I don't have our Eastern Interior meeting minutes in front of us right here, the detailed ones, but I know that there was some -- although the Council as a whole did oppose this, there was some support and some discussion on this and there was some options prescribed for this as the Eastern Interior Council is for conservation measures.

Thank you.

CHAIRMAN TOWARAK: Thank you. If there aren't any other discussions -- Mr. Wilde, did you have a comment.

MR. L. WILDE: Yes, Mr. Chairman. Our Council voted on this with nine opposing, one abstaining and two being absent.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. If there aren't any other discussions with the Council Chairs or the State liaison, we will proceed then to the Board action. Mr. Haskett.

MR. HASKETT: So I would make the motion to adopt the proposal, but I'll be providing justification as to why I plan to vote in opposition to the motion.

CHAIRMAN TOWARAK: Is there a second to the motion.

MR. CRIBLEY: I second.

CHAIRMAN TOWARAK: The motion has been moved and seconded. Discussion.

MR. HASKETT: So I think this is a difficult discussion we're having and I guess I'd like to thank Jack for submitting this proposal and keeping the issue in front of us. I recognize it's an issue that is not a popular one, but the reason it's difficult is that I completely hear it when people say that shutting down for even a minute of time -- I mean that was very eloquent when that was presented in terms of the problems
it causes people right now, but the thing about
conservation is you need to be thinking about a
subsistence board meeting 20 or 30 years from now and
you've got to hope that any decisions we're making today
aren't ones that make an even worse situation, far worse
situation in the future for future subsistence users. So
I mean I think it's a very difficult issue to bring up
and I just really respect you for doing it and I think we
need to continue to talk about these kinds of things.

It appears that management action is
needed to help chinook salmon runs improve to meet our
obligations to Canada as part of the Yukon Treaty, but
again, just for conservation reasons for how we'll deal
with these kinds of issues in the future. Having said
that, I don't think today is the day that we need to
determine here that this Board needs to make a decision
to close Federal waters to chinook harvest during the
first pulse for 12 years certainly, for four years or any
other period of time.

I do think we need to keep talking about
this and having these kind of discussions. I think we
need to recognize that both State and Federal managers
already have the authority to take action like this and
we're prepared to do it if we need to. There's clearly
some difficulty sometimes in coordination on that and
people don't always agree and it's a very tough decision
sometimes to get to. One of the reasons I wanted Fred to
be able to talk to the group is to make it clear that
authority is there and that's part of the reason why I'm
going to pose this at this point.

We're talking about meetings this winter
with managers and fishermen along the river and hopefully
some of these discussions will take place during those
meetings. It appears to me that protection of the first
pulse would be a good course of action, but I don't want
to decide those discussions here. I think we need to
make sure those discussions are ongoing.

A primary aspect of any action is that we
get as many people to agree on how we move forward as we
possible can, again recognizing that will be very
difficult on this one. We need public participation
supporting these actions to make them work, so I think
it's going to be helpful if the Board continues to review
this issue again during our meetings in the future.

Again, my intent is to oppose it, but I
do really want to thank Jack for keeping it in front of us and I think we need to keep talking about it.

CHAIRMAN TOWARAK: Thank you.

Anybody else. Sue.

MS. MASICA: Mr. Chairman. I'll just echo what Geoff said. It is a very difficult issue and I think keeping our eyes on the conservation needs is very important. I was persuaded by the argument that the tools already exist. I think the challenge is do we use the tools that we have and I think the dialogue that was talked about and the need to keep the many users discussing this is absolutely important.

If we need to use the tools, we shouldn't be hesitant to use them at the appropriate time. If the escapement goals are not being met, we need to keep our eyes on that objective also. They have not been met in the most recent years despite some of the history in the earlier part of the preceding decade. The last couple of years we have not been able to meet those goals.

I think not locking us in at this point is the appropriate course of action and I too will oppose the adoption of the proposal, but I think the conversation will be an ongoing one.

CHAIRMAN TOWARAK: I was a little curious, Mr. Wilde, on the reversal of the Yukon Kuskokwim RAC originally supported it and the most recent -- the latest indication shows that they did oppose it with nine people voting for it and two against it, was it?

MR. L. WILDE: That was nine people opposing it and two that were excused absent with one abstaining. The first proposal that was brought in, the first time that we did support that in hopes that we might be able to help conserve the salmon that were going up, but with this second proposal that came in, after hearing all the testimony and everything that was said pertaining to this particular proposal, we opposed it.

Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. I have the same concern. It is somewhat of a confusing management proposal. I too was persuaded that it's a possibility
that exists as it is right now and I feel that perhaps
with maybe a little refining this proposal in a
difference sense, and I'm not sure how that would be, it
would be something worth looking at again in the future.

Any other comments by Board members.

Kristin.

MS. K'EIT: Mr. Chair, thank you. To
document for the record that I will be opposing the
proposal, but not without a lot of angst over it just
because I think we're really being pulled in two very
important directions of meeting the needs of our
subsistence users and I think this would be detrimental
in one specific group of users, but then on the other
hand, knowing that if we're not taking steps to conserve
the resource to ensure that it's going to return in
future years, no one will have it eventually. This would
just be too detrimental for users to support.

Thank you.

CHAIRMAN TOWARAK: Thank you. Any other
deliberations. Mr. Cribley.

MR. CRIBLEY: I take the same position as
the other Board members as far as intending to vote to
oppose this proposal. I think Mr. Reakoff has done an
excellent job of keeping the issue in front of us and
bringing to a point the importance of some type of action
taking place as far as conserving the salmon fisheries in
this drainage and watershed.

I haven't heard compelling arguments in
the discussions here or in the analysis that what has
been proposed is the right tool to do that. Then also
not hearing the support from any of the other Councils or
any of the Councils for this proposal puts me in a
position that I can't support it, but I do recognize or
is becoming very apparent to me, being new to this
situation and this resource, that there is an
overwhelming problem here that needs to be dealt with.

There are opportunities in front of us
right now with the subcommittee that will be addressing
aspects of this and the opportunities for those Councils
to take it even farther based on the importance to those
Councils of these fisheries and it behooves them to
address this and hopefully they will address this issue
and come up with some recommendations that will help with
the conservation of the resource.

The other thing that concerns me is even if we were to move forward with this, the subsistence users are the ones carrying the burden of the conservation initiative and this is more than just the subsistence users that are impacting this fishery. It's a bigger problem and it has to be done in a coordinated manner, not only with subsistence users, but also with the State. We can't do it all by ourselves.

So there's a lot of work in front of everybody and we can have so much discussion on it, but we can't just keep talking about it, we have to come to conclusions and develop actions. The managers have tools in their tool box so to speak to deal with this, but I think it's something that maybe we need even more or larger agreements in place to move forward with the conservation of this resource.

CHAIRMAN TOWARAK: Thank you. Are we ready to call for the question.

MR. HASKETT: Call for the question.

CHAIRMAN TOWARAK: The question has been called for. Final action, please.

MR. PROBASCO: Thank you, Mr. Chair.


MS. K'EIT: No.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: No.

MR. PROBASCO: Ms. Masica.

MS. MASICA: No.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: No.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: No.

MR. PROBASCO: Mr. Haskett.
MR. HASKETT: No.

MR. PROBASCO: Motion fails 0/6.

CHAIRMAN TOWARAK: We took a different turn here after the first proposal and it seems like it's been a little intense here in the last round. I'd like to take about a 15-minute break and we will reconvene.

(Off record)

(On record)

CHAIRMAN TOWARAK: Could we get back in session and reconvene the meeting. What I'd like to do is maybe take a look at the rest of the proposals and, Dr. Wheeler, if you would walk us through that. There are some we have taken care of and some that have been withdrawn, so I'd like to make a note of what all we have left to do. We've got as much time as we need tonight, but we've also got all day tomorrow. If there's a certain cut-off space that we could agree on, I'd like to do that and not carry on too long today. Would you, starting with 11-03.

DR. WHEELER: Certainly, Mr. Chair. You just wrapped up with 11-02, so now you're on 11-03. This morning the Board voted to withdraw 11-07 and 11-04. So remaining on the agenda is 11-10, 11-11, 11-13, 11-16 and 17, which are analyzed together, 11-18 and then 09-05 and 09-15, both of which are deferred proposals from the previous cycle. I would note that the proponent of 09-05, which is Sitka Tribe of Alaska, has also asked for further deferral of that proposal and the Southeast Regional Advisory Council had concurred with that deferral.

So, Mr. Chair, by my count, once you finish -- assuming you finish with Proposal 11-03, there's seven more analyses to take action on.

Mr. Chair.

CHAIRMAN TOWARAK: Okay. What I'd like to do then is perhaps take care of 11-03 and then adjourn for the evening and restart at 8:30 in the morning to take care of the balance of the seven. Is that agreeable to the Board and the RACs. Go ahead.

MR. PROBASCO: Mr. Chair. Ms. Chythlook,
did you have a conflict in the morning or is that still
there or what's the status on that?

MS. CHYTHLOOK: Yeah, I do have a
conflict between 9:00 and noon tomorrow morning, but I'll
be here afternoon. Thank you.

CHAIRMAN TOWARAK: Are there any
proposals do you see on the list that we might cover
between 9:00 and 2:00, I would say maybe 10, 11, 12, 13
or 16 or 17. Are any from your region?

MS. CHYTHLOOK: Mr. Chair. It's just
that Chignik Bay. I think it's 11-10.

MR. PROBASCO: Mr. Chair. You have two
options. You could start recognizing that Ms. Chythlook
will have to leave at 9:00, but you could start with 10,
get the Council's comments ahead of time and then proceed
or you could wait and make a time certain to take it at
2:00 o'clock. It would be something you two could work
out.

CHAIRMAN TOWARAK: Do you have a
preference?

MS. CHYTHLOOK: No, I don't. I guess I
can have a preference. Two o'clock would probably work
better tomorrow afternoon. I don't know -- there was a
couple guys who were going to testify, but 2:00 o'clock
would probably be better for me unless the guys are here.

CHAIRMAN TOWARAK: Is there anyone in the
public that would be disaffected by switching it to 2:00
o'clock in the afternoon?

MR. PROBASCO: Mr. Chair. We have some
of the Chignik Lake people and I'm looking at Johnny Lind
and he's got a thumbs up, saying 2:00 o'clock is okay.

CHAIRMAN TOWARAK: Okay. If there's no
objection, then we will switch the proposal 11-11 to 2:00
p.m. 11-10? Okay. That will be time certain, either
2:00 o'clock or when you get back. The rest we will stay
on schedule. Thank you for that review.

We will then proceed with 11-03 with a
Staff analysis, please.

MR. CANNON: Thank you, Mr. Chairman.
The analysis for Proposal 11-03 begins on Page 120 of your Board books. It was submitted by Andrew Firmin from Fort Yukon, requests that Federal public waters of Yukon River Subdistrict 5D be further subdivided into three subdistricts to provide managers additional flexibility to more precisely regulate harvest while conserving the chinook salmon run that spawns in the Upper Yukon River.

This proposal as submitted appears to change existing State regulations. If the Board were to adopt the proposal as Federal regulations and redefine the subdistricts boundaries, State and Federal regulations would not be aligned and could result in some confusion for fishermen.

The intent of the proposal is to provide managers enhanced capability to manage subsistence fisheries in Subdistrict 5D, thereby conserving upriver chinook salmon spawning stocks.

Map 2 found on Page 123 and Table 1 on Page 127 provide a summary of the relevant information associated with this proposal. This subdistrict is very long, requiring over a week for migrating fish to travel through it. Therefore, the intent of the proposal makes a lot of sense and should be supported. However, other options are already available to address the positive intent of this proposal without placing State and Federal regulations potentially in conflict.

In the short term, both State and Federal managers could agree with the benefit of modifying existing boundaries of subdistrict 5D. This has already occurred. During the 2009 fishery season, managers used emergency order and special action authority to divide the subdistrict into an upper and lower subdistrict during the management of the fall chum salmon fishery. This could potentially be done for the chinook salmon fishery as well.

A longer term option would be for the proponent to submit the proposal to the Alaska Board of Fisheries during its 2013 meeting cycle. If adopted as State regulation, existing Federal regulations would automatically adjust so that the State and Federal regulations were consistent so that the State and Federal regulations were consistent since the State boundaries are by reference in Federal regulation.

For these reasons, the OSM conclusion is
to oppose this proposal.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Any
questions from the Board or RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Thank you for that
analysis. Number two, summary of public comments by the
Regional Council coordinator, Mr. Mike.

MR. MIKE: Thank you, Mr. Chair. Donald
Mike, Regional Council coordinator. Three written
comments were received. Written comments are on Pages
136 and 324. Additional written comments from the Ruby
Advisory Committee can be found in your packet. The
Council of Athabaskan Tribal Government wrote in support
of FP11-03 citing that it will allow better fishing
schedules so village residents can meet their subsistence
needs in a fishing district that is too large to monitor
properly.

Kwik'pak Fisheries opposed the proposal,
supporting OSM's preliminary conclusion. The Ruby
Advisory Committee took no action. The advisory
committee commented that they do not have enough
knowledge of the issue. It is a housekeeping issue and
should be addressed by the affected users.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there
any questions.

(No comments)

CHAIRMAN TOWARAK: If not, then we will
open the floor to public testimony.

MR. PROBASCO: Thank you, Mr. Chair.
First person up is Mr. Gene Sandone.

MR. SANDONE: Good afternoon, Mr. Chair.
Members of the Board, RAC representatives and Chairs. We
agree with OSM's conclusion and State of Alaska
recommendation to oppose the proposal. This may be a
good idea, but should be submitted to the Alaska Board of
Fisheries first because of jurisdictional issues. The
length of Subdistrict 5D, the inefficiency of the fishing
gear, the relatively small catches per unit area and the
commercial allocation needs to be considered when
submitting a proposal to split Subdistrict 5D into more
manageable units.

That concludes my testimony.

Thank you.

CHAIRMAN TOWARAK: Thank you. Any
questions of Mr. Sandone.

(No comments)

CHAIRMAN TOWARAK: Thank you for your
comments.

MR. PROBASCO: Mr. Chair, the next person
is Mr. Timothy Andrew.

MR. ANDREW: Thank you, Mr. Chair.
Timothy Andrew with AVCP. Mine is going to also be brief
and short. This is an area that I really don't know too
much about. As one of these Staff analysis indicates,
this proposal would put the Federal regulation in
conflict with State regulation in defining boundaries and
we'd like to perhaps wait on this proposal to coordinate
with the State regulators as well.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Any
questions of Mr. Andrew.

(No comments)

CHAIRMAN TOWARAK: Not hearing any.
Thank you for your comments.

MR. PROBASCO: Mr. Chair. The last
person that we have signed up is Mr. John Andrew. Mr.
John Andrew.

(No comments)

MR. PROBASCO: I believe Mr. Andrew has
left. That concludes public testimony, Mr. Chair.

CHAIRMAN TOWARAK: Thank you. We will
now have Regional Council recommendations. Begin with Mr. Wilde.

Mr. Wilde: Thank you, Mr. Chairman. Our council, the YK Delta, voted with nine opposing, one abstention and two excused absent.

Thank you, Mr. Chairman.

Chairman Twarak: Thank you. The Western Interior Regional Council.

Mr. Reakoff: Thank you, Mr. Chair. The Western Interior deliberated the proposal for quite a while and decided that it has lots of merits but we decided to defer it to the region since we didn't know enough about the various positions and whether there was community input into where those were. So we decided to defer it and we felt it had merit, but we didn't feel that we could make an informed decision about it.

Chairman Twarak: Any questions.

(No comments)

Chairman Twarak: Thank you, Mr. Reakoff. Seward Peninsula. Noted that you took no action.

Mr. Buck: The Seward Peninsula took no action on this because it was -- there was hardly anything we can do about this outside of the region, so no action was taken by Seward Peninsula.

Chairman Twarak: Thank you, Mr. Buck.

(No comments)

Chairman Twarak: Eastern Interior Regional Council.

Mr. Firmin: Thank you, Mr. Chair. The Eastern Interior Council supports this action. The Council believes that this proposal would benefit conservation by targeting closures as needed more effectively than currently and benefits subsistence users by allowing fishing when fish are available.

It aligns with traditionally recognized regional boundaries, which will facilitate enforcement.
It is a positive stewardship measure that appears to enjoy the support of affected subsistence users. Part of this was in 2009 when they had the closures and they had the windows to protect the first pulse of the chinook salmon going up the river.

It's such a large district as you can see from your book. There's a better map on Page 157 that shows the entire state and the district and you could see it's probably the largest district on the river. On Page 122 and 123 it shows the existing and proposed.

Along those areas, when they did close it in 2009, they cut it in half and, in a sense, it allowed some people to fish and some people to completely miss the first pulse and that was where this proposal came about simply because of the length of the river and the time it takes for the salmon to travel through the river. There was people that were actually still fishing the first pulse and other people that missed the first pulse and part of the second pulse due to the window scheduling that the State Fish and Game imposed on this to protect the first pulse that year.

However it was noted before this was submitted that this should go to the State first. I decided to go ahead and put it in at the advice of others just simply to get dialogue open and to get it on the table so people could realize why this is needed. Currently, right now, this area is all Federal Yukon Flats National Wildlife Refuge and then it goes into the Park Service with a few exceptions and areas around Circle and Eagle. So basically these should be considered Federal waters. As you know, the State laws are enforced by Federal Park Service in the Yukon Charlie National Preserve.

Upon saying that, I think that's partially the reason why I also decided to submit it to the Federal Board instead of waiting until 2013 to submit it to the Board of Fisheries.

Thank you.

CHAIRMAN TOWARAK: Thank you. Are there any questions of the Regional Council Chairs.

(No comments)
CHAIRMAN TOWARAK: Thank you. That concludes the Regional Council recommendations. We'll move on to the State Department of Fish and Game.

MR. PAPPAS: Thank you, Mr. Chair. Our comments can be found on Page 133 and I'll be summarizing from those comments. This proposal is submitted to further subdivide Upper Yukon River Area Subdistrict 5D into three new subdistricts for the purpose of improving management efficiency of the Federal subsistence fishery.

The proponent indicates the size of Subdistrict 5D is too large to effectively manage if pulses of fish require protection. In 2008 and 2009, Subdistrict 5D was divided into two sections when subsistence fishing time was restricted in order to meet escapement goals.

Adoption of this proposal has the potential to more evenly distribute Federal subsistence harvest within Subdistrict 5D during salmon runs that require reduced exploitation for conservation purposes.

Under State regulations, subsistence is the priority consumptive use. Therefore, State subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs. When the Yukon River chinook salmon run is below average, the State subsistence fishing periods may be conducted based on a schedule implemented chronologically throughout the Alaska portion of the drainage, which is consistent with migratory timing as the salmon run progresses upstream.

The regulatory schedule for Subdistrict 5D allows subsistence fishing seven days per week. If the run is not large enough to meet escapement goals, Alaska Department of Fish and Game will restrict fishing time or close subsistence fishing.

The Federal Subsistence Board does not have authority to establish regulatory boundaries for State-regulated subsistence and commercial fisheries. If the Federal Subsistence Board adopts fisheries subdistrict boundaries that differ from existing boundaries authorized by the Alaska Board of Fisheries, subsistence users will be responsible for knowing where the different Federal regulations apply in areas of claimed Federal jurisdiction.
The Alaska Department of Fish and Game and the Federally designated officials already have delegated or regulatory authority to close and open fisheries by area as necessary, such as requested by this proposal. As long as the State managers and designated Federal officials continue the current cooperative consultation process for management, adoption of this proposal is not necessary to manage salmon runs through Subdistrict 5D. If State resource managers determine that subdistricts are needed on a reoccurring basis, a proposal to the Alaska Board of Fisheries to formalize further subdivision of Subdistrict 5D could be developed through the Fish and Game local advisory committee process.

The Department does oppose this proposal and Director Swanton has further comments.

******************************************************************************
STATE OFFICIAL WRITTEN COMMENTS
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Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

Fisheries Proposal FP11-03: Further subdivide Upper Yukon River Area Subdistrict 5-D.

Introduction: Andrew Firmin submitted this proposal to further subdivide Yukon River Area fisheries Subdistrict 5-D into three new subdistricts, 5-E, 5-F, and 5-G, for the purpose of improving management efficiency of the federal subsistence fishery. The proposal was also submitted as a proposal to the Alaska Board of Fisheries. The intent of the proposal is to give management a finer tool to more precisely regulate harvest while protecting portions of the salmon runs. The proponent indicates adoption of this proposal will enhance fisheries managers' abilities to manage a large stretch of the Yukon River for the benefit of fish populations as well as user groups during times when it is necessary to reduce subsistence fishing time for conservation purposes. The proponent indicates the size of Subdistrict 5-D (approximately 400 miles in length) is too large to effectively manage if pulses of fish require protection. In 2008 and 2009, Subdistrict 5-D was divided into two sections when subsistence fishing time was restricted in order to meet escapement goals. This proposal defines three new subdistricts as follows:
5AAC05.200 (e)(4)(i) Subdistrict 5E
consists of the Yukon River drainage from ADF&G regulatory markers located approximately two miles downstream from Waldron Creek upstream to the Hadweenzic River.

5AAC05.200 (e)(4)(ii) Subdistrict 5F
consists of the Yukon River drainage from Hadweenzic River upstream to 22 Mile Slough.

5AAC05.200 (e)(4)(iii) Subdistrict 5G
consists of the Yukon River drainage from 22 Mile Slough upstream to the United States Canada border.

Impact on Subsistence Users: The proposal would establish three new subdistricts in which the federal subsistence fisheries could be sequentially opened or closed for conservation purposes as pulses of salmon migrate through this section of the Yukon River. Federal subsistence users could benefit from sequential closures due to increased opportunities to harvest fish when salmon pulses are present. Federal subsistence users within the proposed subdistricts could benefit from more precise and succinct area closures. Adoption of this proposal has the potential to more evenly distribute federal subsistence harvest within Subdistrict 5-D during salmon runs that require reduced exploitation for conservation purposes.

Opportunity Provided by State: Salmon may be harvested under state regulations throughout the majority of the Yukon River watershed, including a liberal subsistence fishery. Gear types allowed are gillnet, beach seine, hook and line attached to a rod or pole, hand line, and fish wheel. Although all gear types are not used or allowed in all portions of the Yukon River drainage, drift and set gillnets, and fish wheels harvest the majority of fish taken for subsistence uses. Under state regulations, subsistence is the priority consumptive use. Therefore, state subsistence fishing opportunity is directly linked to abundance and is not restricted unless run size is inadequate to meet escapement needs. When the Yukon River Chinook salmon run is below average, the state subsistence fishing periods may be conducted based on a schedule implemented chronologically throughout the Alaska portion of the drainage, which is consistent with migratory timing as
the salmon run progresses upstream. The regulatory
schedule for Subdistrict 5-D allows subsistence fishing
seven days per week. If the run is not large enough to
meet escapement goals, Alaska Department of Fish and Game
will restrict fishing time or close subsistence fishing.
Amounts reasonably necessary for subsistence for Chinook
salmon (5AAC 01.236 (b)), as determined by the Alaska
Board of Fisheries, have been met in the Yukon River
drainage for six of the last nine years.

Conservation Issues: The Yukon River
Chinook salmon stock is currently classified as a stock
of yield concern. Since 2001, subsistence fishing time
in the Yukon Area has been limited by a windows schedule
which was further restricted in 2008 and 2009 because of
conservation concerns for Chinook salmon. Subsistence
harvest levels for Chinook salmon have been within the
amounts reasonably necessary for subsistence (ANS) ranges
of the Yukon River drainage escapement goals have been
met or exceeded since 2000, including the Chena and
Salcha rivers, which are the largest producers of Chinook
salmon in the United States portion of the drainage. The
escapement objective for the Canadian mainstem was met
every year from 2001 through 2006, with 2001, 2003, and
2005 being the three highest spawning escapement
estimates on record. The escapement objective for the
Canadian mainstem was not met in 2007 and 2008.
Exploitation rate on Canadian-origin stock by Alaskan
fishermen decreased from an average of about 55%
(1989 1998) to an average of about 44% from 2004 through
2008 (Howard et al. 2009). Although the subsistence
harvest continues to remain stable at nearly 50,000
Chinook salmon annually, commercial harvests have
decreased over 60% from an average of 100,000 annually
(1989 1998) to the recent 5-year average (2005 2009) of
nearly 23,000 fish. Considering all salmon species
together, the overall total subsistence salmon harvest in
the Yukon Area has declined by approximately 30% since

Jurisdiction Issues: The Federal
Subsistence Board does not have authority to establish
regulatory boundaries for state-regulated subsistence and
commercial fisheries. If the Federal Subsistence Board
adopts fisheries subdistrict boundaries that differ from
existing boundaries authorized by the Alaska Board of
Fisheries, subsistence users will be responsible for
knowing where the different federal regulations apply in
areas of claimed federal jurisdiction.
While standing on state and private lands (including state-owned submerged lands and shorelands), persons must comply with state laws and regulations regarding subsistence harvest. Because a large percentage of the lands along and under the Yukon River are not federal lands, federal administrators need to provide detailed maps that depict land ownership and specific boundaries of areas where federal regulations are claimed to apply.

Other Issues: The Alaska Department of Fish and Game and the federally designated officials already have delegated or regulatory authority to close and open fisheries by area as necessary; i.e., open and close fishing areas such as requested in this proposal. As long as the state managers and designated federal officials continue the current cooperative consultation process for management, adoption of this proposal is not necessary to manage salmon runs through Subdistrict 5-D. If state resource managers determine that subdistricts are needed on a re-occurring basis, a proposal to the Alaska Board of Fisheries to formalize further subdivision of Subdistrict 5-D could be developed through the Fish and Game local advisory committee process.

Recommendation: Oppose.

Cited References:


MR. SWANTON: Mr. Chairman. Harkening back to the previous proposal when Fred Bue was sitting up at the table and he catalogued the number of meetings that he was going to be attending between now and likely in May, I lost count, but I think it was well into double digits. I was kind of looking at it from the perspective I'm glad I'm not Fred.

Unfortunately, I realized also that State
Staff will be traveling with him and participating in a number of those meetings and I just wanted to echo that we have a very positive working relationship in terms of how we move forward in terms of struggling with these fisheries management issues and we will continue to do the same in concert and do our utmost best.

Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Any questions from the Board or the RAC Chairs.

(No comments)

CHAIRMAN TOWARAK: Thank you for your comments. The next item is the InterAgency Staff Committee comments. Dr. Wheeler.

DR. WHEELER: Thank you, Mr. Chair. The InterAgency Staff Committee believes that the idea of dividing public waters in the Yukon River District 5D into three separate subdistricts has merit, but that such a strategy would also benefit from increased discussion between managers and affected subsistence users. State and Federal managers already have the authority to do what is being requested, but placing such additional subdivisions into regulation could actually reduce management flexibility for the Federal in-season manager.

In addition, adoption of this proposal could lead to differing State and Federal subdistrict boundaries potentially increasing regulatory complexity and confusion. The Western Interior Regional Council's recommendation to defer action on this proposal would allow for more discussion of the issue. If the Federal Board decides to defer action on this proposal, it may also want to consider deferring until on or before the next fishery cycle.

Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Are there any questions.

MR. FIRMIN: Ms. Wheeler, through the Chair. When you said that it would take options away from management, in what way would you see that happening?

DR. WHEELER: Mr. Chair. I'm going to
defer to the Federal in-season manager, Mr. Bue. I think it's probably more appropriate for the manager to speak to management issues.

MR. BUE: Mr. Chairman. Fred Bue, Fish and Wildlife Service. Mr. Firmin. Yeah, it could tie our hands somewhat because if we're put into a stringent guideline. At this time we don't see there's that great -- we're not tied that much. Really, we still have authority over time and area, like I said in the previous proposal. We could treat all of 5D as one unit. We could treat it as three individual units. We could tailor it for whatever reason.

I guess by tying our hands, if there was a lot of debris coming down say out of the Forty Mile or something but yet there's clear water above it, we may want to change how we target our openings and closures depending on where the debris is entering the river and we may want to do things slightly different.

I think under our authority we still have the authority under time and area and so even though you have these boundaries in place we still can set up other boundaries depending on our needs that year and tailor or management to whatever conditions we're working around.

Mr. Chairman.

MR. FIRMIN: Thank you.

CHAIRMAN TOWARAK: Any further questions.

(No comments)

CHAIRMAN TOWARAK: We are completed with the InterAgency Staff Committee comments. We will move to Board discussion with Council Chairs and State liaison.

(No comments)

CHAIRMAN TOWARAK: I don't see any action or any hands being raised to speak so there doesn't seem to be any discussion that needs to take place here on this item. We will then move to the Federal Subsistence Board action.

MR. HASKETT: That would be me. So I'd like to make a motion to defer Proposal 03 as recommended
by the Western Interior Council. This motion will be to
defer until no later than our next fisheries regulatory
cycle and I'll provide my justification if I get a second
to the motion.

CHAIRMAN TOWARAK: Hearing the motion, is
there a second.

MR. CRIBLEY: I second.

CHAIRMAN TOWARAK: The motion has been
moved and seconded. Let's hear your rationale.

MR. HASKETT: I'd like to make it clear
that I think subdividing probably does make sense. This
is not meant to defer because we don't think it's
something that we need to do. We need to go into more
management areas, but as Fred mentioned, as he just
covered, our in-season manager has the authority to do
this as needed within the in-season. I think we need to
get more public input before we decide just how far we
should subdivide. Whether we should go into thirds or
half, what the size of the parcel should end up being or
the area should end up being. Then I'd like to get the
issue back before the Board and also get the same
proposal submitted to the Alaska Board of Fisheries.

I think we talk a lot about all the
problems caused by when you have different rules in the
different management areas, so the intent would be to
have this as a coordinated action in the same year so
that the Board and the Board of Fisheries would both be
looking at this and hopefully end up in the same place.

Staff in Yukon Flats Refuge is willing to
coordinate meetings in the area to identify boundaries.
The locals could agree prior to bringing the issue back
before the Board. So until then I believe our managers
can work together to make appropriate action as needed.

So, bottom line, I think the proposal
makes sense to go ahead and subdivide. I think the
authority we need right now, we need public input, we
need to coordinate better with the State in terms of how
we make our proposals and bring it back before both of
our Boards by next year. Sorry, next cycle. Thank you,
Pete. I'm tired. I don't know about anybody else.

CHAIRMAN TOWARAK: Board Member K'eit, do
you have any comments.
MS. K'EIT: Mr. Chair. No, I have no comments.

(Laughter)

CHAIRMAN TOWARAK: It's getting to be a long day here. The motion on the floor then is to defer. Do we have any Board members that would like to explain their vote.

MR. HASKETT: Geoff is right.

(Laughter)

CHAIRMAN TOWARAK: It sounds like we agree that Geoff is right.

(Laughter)

MR. HASKETT: On this one.

(Laughter)

CHAIRMAN TOWARAK: Pete.

MR. PROBASCO: Thank you, Mr. Chair. I think Mr. Haskett's explanation and what he stated is the Board's intent, which means that OSM will work with the three Councils. We recognize this is a deferral proposal to our next fisheries regulatory cycle. In combination with that we need to work with the State. They're on a three-year cycle for their regions and we'll see how they mesh. Depending upon what we find out between the RACs as well as the State, we may have to come back and report to the Board for further direction because I don't have everything in front of me now to see how they'll mesh, but we understand the intent and we'll work towards that.

Board members.

CHAIRMAN TOWARAK: Thank you. Is there a call for the question.

MS. MASICA: Call for question.

CHAIRMAN TOWARAK: The question has been called for. Final action, please.

MR. PROBASCO: Final action FP11-03 to defer. Ms. Masica.
MS. MASICA: Yes.

MR. PROBASCO: Ms. Pendleton.

MS. PENDLETON: Yes.

MR. PROBASCO: Mr. Towarak.

CHAIRMAN TOWARAK: Yes.

MR. PROBASCO: Mr. Haskett.

MR. HASKETT: Yes.

MR. PROBASCO: Ms. K'eit.

MS. K'EIT: Yes.

MR. PROBASCO: Mr. Cribley.

MR. CRIBLEY: Yes.

MR. PROBASCO: Motion to defer carries 6/0.

CHAIRMAN TOWARAK: Thank you. We have come fairly close to the end of the day and we have seven proposals remaining. We have this building all day tomorrow, so I will ask for a recess until 8:30 in the morning tomorrow. We will start with Fish Proposal 11-11.

MR. PROBASCO: Kodiak.

CHAIRMAN TOWARAK: For Kodiak.

(Off record)

(PROCEEDINGS TO BE CONTINUED)
CERTIFICATE

UNITED STATES OF AMERICA
STATE OF ALASKA

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

THAT the foregoing pages numbered 96 through 247 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically on the 19th day of January 2011, beginning at the hour of 8:30 a.m. at the Egan Convention Center, Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 4th day of February 2011.

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