FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING
VOLUME III
SHERATON HOTEL
ANCHORAGE, ALASKA
MAY 2, 2007
8:30 o'clock a.m.
MEMBERS PRESENT:
Mike Fleagle, Chair
Gary Edwards, U.S. Fish and Wildlife Service
George Oviatt, Bureau of Land Management
Judy Gottlieb, National Park Service
Steve Kessler, U.S. Forest Service
Niles Cesar, Bureau of Indian Affairs
Bertrand Adams - Southeast RAC
Ralph Lohse - Southcentral RAC
Speridon Simeonoff - Kodiak/Aleutians RAC
Randy Alvarez - Bristol Bay RAC
Lester Wilde - Yukon-Kuskokwim Delta RAC
Jack Reakoff - Western Interior RAC
Mike Quinn - Seward Peninsula RAC
Victor Karman - Northwest Arctic RAC
Sue Entsminger - Eastern Interior RAC
Harry Brower - North Slope RAC
Denby Lloyd, State of Alaska Representative
Keith Goltz, Solicitor's Office

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CHAIRMAN FLEAGLE: Good morning. The Federal Subsistence Board will resume. Today is May 5th -- I mean May 2nd, 05/02. And we're proceeding with our agenda items. And are there any announcements before we start, Pete?

MR. PROBASCO: If I may, Mr. Chair. The Chairman and I were discussing prior to going on the record, and we thought it would be best to see how this morning goes. We have 14 proposals left on the docket as well as an RFR and a consensus agenda. And we'll see how this morning goes and make a determination so that if we need to go tomorrow, we can work with the Chairs to extend their reservations, if so desired, and identify those agenda items that we will do tomorrow. So we'll make that decision right after lunch.

Mr. Chair.


MR. EDWARDS: The RFR today, right?

CHAIRMAN FLEAGLE: That's the plan I think.

MR. EDWARDS: I'm not here tomorrow.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: We have told the public that the RFR would not be brought up any sooner than 10:00 o'clock this morning, so if the Board wants to make a determination that they indeed will take that RFR up today, then I would recommend that we pick a time that we're going to address that today.

Mr. Chair.

MR. EDWARDS: Mr. Chair. I will not be here tomorrow, so I would need to -- I would like to do it sometime today.

MR OVIATT: Mr. Chairman.
CHAIRMAN FLEAGLE: George.

MR. OVIATT: I would suggest that maybe we take that up right after lunch.

CHAIRMAN FLEAGLE: Good suggestion, George. I was thinking that, too. Why don't we go ahead and tentatively plan for that, Pete. All right. That will make sure that everybody that's here for that fisheries RFR will be able to participate.

Public comment period on non-agenda items. Do we have any interest in commenting this morning.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, public comment period on consensus agenda items.

(No comments)

CHAIRMAN FLEAGLE: All right. Hearing none, we will now proceed with the Bristol Bay Region proposals. Proposal 24. And we have Laura and Cliff back at the table. Good morning.

MS. GREFFENIUS: Good morning, Mr. Chair. Members of the Board. For the record my name is Laura Greffenius, and I'm on the Staff with OSM.

So we'll go ahead and start. The Staff analysis begins on Page 291 of your Board book.

Proposal WP07-24 was submitted by Mr. Elliott Lind of Chignik Lake, Alaska. And the proponent requests that the winter moose hunting season in Unit 9E be extended one month to February 20th. And Mr. Lind states that warmer early winter weather has made it unsafe to travel on frozen rivers and lakes. And a longer season would provide subsistence users better access to their traditional hunting areas. In my discussions with Mr. Lind, he stated that the best winter hunting period is from mid January to mid February.

The Federal subsistence moose hunting regulations for Unit 9E have included a winter season since 1990 when the dates were during December only. And in 1999 the Federal Subsistence Board extended the winter season until January 20 to provide additional subsistence
opportunity, primarily for local residents.

Also relevant to establishing the winter season dates are seasonal changes in moose biology. The bulls tend to shed their antlers in December and usually do not begin to regrow their antlers until late March. And depending on visibility, it may be difficult to distinguish bulls from cows during this time period. This seasonal pattern must be taken into consideration when managing the open seasons.

One of the issues of concern in this area is knowing the current population in that lower portion of Unit 9E, and during discussions at the February 2006 meeting the Bristol Bay Subsistence Regional Advisory Council requested that ADF&G and the Alaska Peninsula National Wildlife Refuge Staff conduct an aerial survey in the lower peninsula near and around the Chigniks so an updated estimate could be made of how many moose are in the lower portion of Unit 9E. Refuge and State biologists are making an effort to get information in response to the Council’s concerns.

Based on trend survey data between 2001 and 2005, the calf/cow ratios averaged 17 calves to 100 cows and the bull/cow ratio has averaged 43 bulls to 100 cows. Overall in Unit 9E the estimated counts and composition ratios indicate the population in 9E is relatively stable and meets ADF&G management objectives. However, the observed calf/cow -- the observed calf ratio of 17 calves to 100 cows is low and indicates that moose numbers would have a hard time recovering if mismanagement occurs.

As far as the harvest history in Unit 9E, the majority of reported moose harvest each year occurs during the fall season, and from 1999 to 2004 an average of 95 percent of the reported moose harvest was in September. During this same period the combined December and January reported moose harvest ranged between zero to seven animals harvested each winter season. Most hunters harvesting moose in the winter season were from Unit 9E villages or were King Salmon residents.

During the 15 year time period from 1990 to 2004, an average of 90 moose was harvested -- was reported harvested annually in Unit 9E. The overall harvest level has remained relatively stable with sustainable levels over the last 15 to 20 years, and current harvest rates have not reduced bull/cow ratios.
The effects of this proposal are, if adopted, the proposed one-month extension of the winter season would provide Unit 9E village residents more opportunity to hunt in traditional subsistence harvest areas under what may be more favorable winter conditions. As indicated in the analysis, the observed average calf ratio of 17 calves to 100 cows is low, and indicates that moose numbers would have a hard time recovering from potential over-harvest in easily accessible areas. Since the proposed extended season is during a period when the bulls are antlerless, managers would need to monitor the population to ensure healthy composition ratios are maintained.

The OSM preliminary conclusion is on Page 294 in your Board book. The preliminary conclusion is to support the Proposal WP07-24 with modification. And that is for the winter season, to change that, instead of one bull, to make it one antlered bull, and instead of extending the season one month, it would be an additional 11 days from December 1 to January 31.

The proposed winter season extension as it was originally proposed could possibly result in an unintended harvest of cows, which, if continued, would affect the population status. In the modified proposed regulation, a winter season extended for 11 days specifically for antlered bulls only would provide subsistence users a longer winter season and alleviate resource managers' concerns regarding the inadvertent harvest of cows during the extended season.

That concludes my overview of WP07-24.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you. Questions.

MR. EDWARDS: Mr. Chairman. Do we have any idea what the expected harvest might be during that 11 days, you know, give that it's an antlered only hunt or do we have any history of -- in that late time period what kind of harvest occurred?

MS. GREFFENIUS: That would be really speculative. Right now the reported harvest as I mentioned is between zero and seven animals for the winter season as it is right now, December and January. So just an extra 11 days, it's not considered that will
be a great amount of additional harvest.

That's reported harvest, and I will mention, I didn't go over it, there are studies of the survey, the household surveys of the actual harvest. And that information was from the 1990s, the early 1990s, and we don't have any current information of the reported harvest compared to the household survey assessments. So the ADF&G folks that we talked to recognize that there's a need to get some more current information. And that would help to know some of the more actual numbers of the winter harvest.

So that's the best I can answer at this point.

CHAIRMAN FLEAGLE: Okay. Thank you.

Summary of written public comments. Cliff.

MR. EDENSHAW: Thank you, Mr. Chair and Board members. The Aniakchak SRC submitted a written comment, and they support Proposal WP07-24 with modification. The SRC supports the intent of this proposal, but it is concerned about the potential for increasing the take of cows during a period when many moose are without antlers. To address this concern, the SRC suggests amending the proposal to specify that during the proposed December 1 through February 20 season, only moose with antlers may be taken.

And that concludes the written public comments. Mr. Chair and Board members.

CHAIRMAN FLEAGLE: Thank you, Cliff.

Public testimony. Pete.

MR. PROBASCO: Mr. Chair. We have no one signed up for this agenda item.

CHAIRMAN FLEAGLE: Thank you. Regional Council recommendation. Randy Alvarez.

MR. ALVAREZ: Thank you, Mr. Chair. The Bristol Bay Subsistence RAC supports the proposal, but we recommend a modification that would be an antlerless or antlered bull hunt and we recommend also adding just 11 days to the hunt instead of until the 20th of February. And we feel that that would make it -- give them a little bit more time to do their -- justification,
the Council said, adding an additional 11 days would still provide subsistence hunting opportunity for the subsistence hunter.

The Council was concerned about the low calf/cow ratio. If the hunt were to remain as one bull harvest during the winter season, and if cows were unintentionally harvested, it would have an impact on the moose population in Unit 9E. Making the winter hunt an antlered bull hunt would eliminate the potential for harvesting cows, therefore the population could still maintain or increase calf recruitment and maintain a stable moose population. Or it may increase as a result of not harvesting cows.

And going over to our reasoning for that, and Mr. Edwards had asked Staff about what kind of impact that would make in adding the 11 additional days, and if you turn over to Page 293, harvest history, in 9E the majority of reported moose harvest each year occurs during the fall season. From 1999 until 2004, an average of 95 percent of reported moose were harvested in September. So that indicates that five percent of the harvest takes place in the winter season. So if only five percent of the harvest takes place in the winter season, it shouldn't impact very much adding an extra 11 days in our opinion since most of the harvest is in the fall.

The population, on the biological background on 292, the last paragraph, the second sentence down, there appears to be a stable moose population and adequate bull/cow ratios. The extrapolation from 1983 density estimate and trend surveys conducted in 1998 indicate an estimated population of 2500 animals. But this is all of 9E. And as the Staff had mentioned that, you know, they're in the process of trying to get a better estimation of the moose right down in this area that is being asked for the extra hunt.

And the bulls, it seems to be -- the bull ratio seems to be pretty high. It's the calves that seem to be on the low side, so having an antlered bull hunt would seem to take care of that.

And, if I may, I'd like to comment on yesterday's proposal. We appreciate the Board's action yesterday, especially the, you know, letter to the Board of Game asking that the bulls be protected. And we -- or
me, and I’m pretty sure most of the other RAC members, did not know the extent of the problem that we’re faced with the low large bull numbers, and when I get back, I’m going to inform the rest of the people or the members and the public that we need to refrain from shooting, harvesting bull caribou during our season to help alleviate the problem.

And I guess yesterday I was distracted from the Board of Game’s decision, and I didn’t follow the protocol for our recommendation, and I didn’t go over our recommendation and justification as I should have, and I was notified by our coordinator, which is his job.

And I'd also like to apologize if I came on kind of strong to ADF&G Staff. You know, it was the Board of Game actions that I was dissatisfied with, and we had supported the ADF&G proposal. And that proposal that they had submitted to the Board of Game was to not have any non-resident hunting in 17B and 19B, which we felt is where most of the big game harvesting is taking place. So I just wanted to get that out.

Thank you.

Questions.

(No comments)

CHAIRMAN FLEAGLE: Thank you, Randy. Questions.

CHAIRMAN FLEAGLE: Alaska Department of Fish and Game comments. Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman. Long winter hunts with liberal bag limits and favorable travel conditions often result in excessive numbers of moose being harvested. This proposal would add one month to the winter moose season in Unit 9E after bulls have dropped their antlers and are difficult to distinguish from cows. Half or more of the moose taken during indiscriminate winter hunts are cows.

Trend data indicate the presence in Unit 9E of a stable moose population with average calf/cow ratios. The observed calf ratios are low and suggest that moose would be vulnerable to over-harvest if the season was extended.

Harvest success rates by local residents in Unit 9E are among the highest in the state, 29 percent
in the 1990s, and an average of 34 percent since 2000,
and have changed little in the past 15 years, although we
do have, as is noted in the Staff analysis, perhaps as
much as half the harvest is going unreported.

The Department opposes this proposal and
the shorter 11-day season extension proposed by the
Bristol Bay Regional Council and Federal Staff, but we do
support limiting harvest to antlered bulls during the
winter season, and we may recommend that the Board of
Game institute this restriction in State regulation when
it next considers proposals for this region.

We believe the current State and Federal
seasons provide ample moose hunting opportunity in Unit
9E. And I would add that with the antlered bull
restriction, we certainly think that will limit the
additional harvest that will take place, and it will
serve to protect the cow population.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Terry.

Steve Kessler.

MR. KESSLER: Thank you, Mr. Chairman.

Terry. The Staff analysis indicates that the bull/cow
ratio is relatively high at 43 bulls to 100 cows, and
that that's above the management goals. When I look at
the Staff analysis, it seems like that there's sort of a
harvestable surplus of bulls, that there's more bulls out
there than are needed. I wonder if you could comment on
that, because it seems like it would be logical that more
of them could be taken.

MR. HAYNES: Mr. Chairman. I'd defer to
Ken Taylor.

CHAIRMAN FLEAGLE: Ken.

MR. TAYLOR: Thank you, Mr. Chairman.
Since we worked late last night, Terry and I haven't had
a chance to catch up on these proposals. And I think
most of the comments that we put together were put
together on the original proposal rather than the
modified proposal. And we really didn't do, I don't
think, a thorough job in the little time we had to
address the modified proposal.

Certainly limiting it to antlered bulls
only is going to make a vast difference in how we do this proposal. And frankly it's a good idea that I think we will probably request the Board of Game to consider as well for some of their winter seasons. Typically the bulls that are antlered in the January time frame are either the yearlings or the two year olds. The larger bulls lose their antlers earlier.

And I think Steve is correct that we don't have a bull/cow ratio problem out there. When you're down to the 35 to 40 bulls per 100 cows, typically in the areas where you have low densities, and Unit 9E is an area that doesn't have the densities that it did 10 or 20 years ago, we don't like the bull/cow ratio to get much lower than that.

I would say we -- as modified, this proposal is certainly much better than the one that was submitted.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Ken. Gary.

MR. EDWARDS: Mr. Chairman, I think Ken's kind of answered the question that I was going to ask, and that was that given that it appears that the majority of the harvest does occur in the fall, and given that this will be an antlered hunt, I mean, do we really -- you know, would the State expect that there would be a significant increase in the harvest. And you didn't answer that directly, but I think you implied that it probably would not result in a significant harvest.

Thank you.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

Okay. We now move to the InterAgency Staff Committee comments. Larry.

MR. BUKLIS: Thank you, Mr. Chairman. The Staff Committee comments on Proposal 24 can be found on Page 296 of the Board book. I'll highlight the key points.

During the winter season many of the mature bulls have shed their antlers, making it difficult
to distinguish between bulls with no antlers and cows.
However, there will still be a percentage of younger
bulls that will retain their antlers throughout this
proposed season that will be available for harvest. This
is a more conservative approach than the original
proposal and provides additional opportunity for
subsistence users, and would eliminate the potential for
harvesting cows. The Council's recommendation would
alleviate resource managers concerns regarding
inadvertent harvest of cows which would have adverse
effects on the moose population in Unit 9E.

Thank you, Mr. Chairman.

Questions.

(No comments)

CHAIRMAN FLEAGLE: Board discussion.

Gary.

MR. EDWARDS: Mr. Chairman. To avoid
staying here until to 9:00 o'clock again tonight, I'm
going to make a motion.

CHAIRMAN FLEAGLE: You bet.

MR. EDWARDS: Mr. Chairman. I move that
we adopt the recommendation of the Bristol Bay
Subsistence Regional Advisory Council on Proposal 07-24
with their modification that would only extend the winter
moose season an additional 11 with the requirement that
it would be an antlered bull hunt.

MS. GOTTLIEB: I'll second.

CHAIRMAN FLEAGLE: Okay. We have a
motion and a second. Do you want to add supporting
comments there, Gary.

MR. EDWARDS: Mr. Chairman. I think we
heard from all sides that this additional 11 days and the
requirement of an antlered bull hunt would probably not
have a significant impact on the population, and
additionally given that the majority of the harvest seems
to occur in the fall. And I think there's not a
conservation issue here. And it would provide an
additional opportunity for the subsistence user.
CHAIRMAN FLEAGLE: Further discussion.

MS. GOTTLEIB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLEIB: I just want to thank the Bristol Bay RAC for picking up on the suggestion from the Aniakchak SRC for the antlered bull idea.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Question.

CHAIRMAN FLEAGLE: The question's called. Pete, on the proposal, please poll the Board.

MR. PROBASCO: Final action, Mr. Chair, on Proposal WP07-24, adopt with modification as recommended by the Bristol Bay Subsistence Regional Advisory Council to extend the winter moose hunt an additional 11 days, and make it an antlered bull hunt.

Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: And Ms. Gottlieb.

MS. GOTTLEIB: Aye.

MR. PROBASCO: Mr. Chair. Motion carries, six/zero.
CHAIRMAN FLEAGLE: Thank you, Pete. That concludes the Bristol Bay Region proposals. Thank you.

And let's take about five minutes to let the Staff change up, get another cup of coffee.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good morning. We're back on record, new Staff at the table with a new region. And we're starting out with Proposal 26 for Unit 18 moose. And, Helen, are you going to start this out for us?

MS. H. ARMSTRONG: I am.

CHAIRMAN FLEAGLE: Good morning.

MS. H. ARMSTRONG: Good morning. Thank you, Mr. Chair. Members of the Board. My name is Helen Armstrong. I'm with the OSM office. Analysis for Proposal WP07-26 begins on Page 311 of your books.

This proposal was submitted by Peter Martin from Stebbins. Peter Martin, Sr. from Stebbins. Stebbins is in the Seward Peninsula Region, in Unit 22.

At the Seward Peninsula Regional Council meeting last fall, the proponent said that Stebbins and St. Michael today are hunting in the vicinity of the Pastolik River, which is in the northwest portion of Unit 18, and you can see that portion on Map 2 on Page 313. Stebbins and St. Michael also already have a customary and traditional use determination in Unit 18 for black bear and caribou, and they would like to add moose to that C&T determination.

The existing C&T for moose in Unit 18 remainder is all rural residents of Unit 18 an Upper Kalskag. The current C&T determination for moose in Unit 18 was adopted in 1990 from the State of Alaska, and this Board has never revisited that determination.

We have one subsistence use study that was conducted on the Village of St. Michael in 1980 by Dr. Robert Wolfe. I'm sorry, in Stebbins, but none have been conducted in St. Michael. These two communities are only eight miles apart and we assume that because of
their close proximity and their interrelationship that their uses would be comparable. And as we've done in many parts of the State where we don't have information on one community, we then hypothesize what the uses would be like based on what the community closes to it is like. In this case, they're very, very closely interrelated.

I'm not going to go through all of the eight factors since we're on a time crunch, but I'd just focus you on some of the issue. And I think it's pretty clear that moose is a customary and traditionally harvested resource and that they fulfill the eight factors. The question before you today is where do they harvest them.

The harvest database is notoriously under-reported -- or the data in the harvest database in this region is notoriously under-reported. We know from some research that ADF&G has done that probably only about 41 percent or so of the harvests are actually reported. So we don't have a really good database for the harvest of moose in either one of these communities.

We do have some work that ADF&G did in 2003 on Stebbins where they found that there were 2 moose taken that year in Unit 18, and 18 moose taken in Unit 22. And Unit 22 is the primary place for these communities to harvest their resources, and that's where they're closest to. Most of their harvest occurs in the Pikmitkalik River, which is in Unit 22A.

When Wolfe did his research, he also found that Stebbins residents would make hunting trips by snow machine south into Andreafsky Mountains in search of moose, and that they had fish camps in the Pastolik River. These are both in Unit 18.

The proponent also said when he made this proposal, he specifically noted that people are hunting in the vicinity of the Pastolik River.

Without the information from the Yukon-Kuskokwim Delta Refuge -- I mean, Council, they met after the Seward Peninsula Council had met. So we didn't have the information from people down there when the Seward Peninsula Council met.

At the Seward Peninsula Council we had made this map on Page 2 where we had drawn a smaller area of Unit 18, and I checked with Mr. Martin who is on the
Council, and said, you know, is this okay? Do you think people go farther out? And he thought it was fine. I do know that they got more information from the Yukon-Kuskokwim Council saying that the area should be larger than that, and I think there will be some discussion about that later on with some comments from the Council.

The preliminary OSM conclusion was to support the proposal with modification to have a positive customary and traditional use determination in the Pastolik, Andreafsky, and Pastoliak River drainages. And the justification being that they fulfilled all of the eight factors.

Thank you, Mr. Chair. That concludes my presentation.

CHAIRMAN FLEAGLE: Thank you, Helen.

Questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Appreciate that. Summary of written public comments. Alex Nick.

MR. NICK: Mr. Chair. For the record my name is Alex Nick. I'm the Council coordinator for Yukon-Kuskokwim Delta Regional Advisory Council.

There were no written public comments.

CHAIRMAN FLEAGLE: Thank you. Public testimony.

MR. PROBASCO: Mr. Chair. We have one person that signed up for this agenda item. Mr. Tim Andrew.

CHAIRMAN FLEAGLE: Timothy Andrew. I don't think he's here.

(No comments)

CHAIRMAN FLEAGLE: Okay. All right.

Regional Council recommendation. Lester Wilde.

MR. WILDE: Mr. Chairman. Pardon me.

The Yukon-Kuskokwim Delta Subsistence Regional Advisory Council supports a positive customary and traditional use determination for Stebbins and St. Michael residents for
moose in all of Unit 18 remainder. Keeping it simple, we felt that since we have -- that area is interrelated in that area, and we always have shared with Stebbins and St. Michael, and St. Michael and that has always shared in the lower area. So that was one of the reasons that we supported this.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Lester.

Questions. Gary.

MR. EDWARDS: Mr. Chairman. Lester, did you say all of 18? Because I thought that the Council modified the.....

MR. WILDE: All of Unit 18 remainder. On the map, you can see where the remainder is.

MR. EDWARDS: All right. Thank you.

CHAIRMAN FLEAGLE: Thank you. Seward Peninsula. Mike Quinn.

MR. QUINN: Yeah. We obviously supported that proposal. As Lester said, there's really strong ties between these villages, whether it's Alukanuk, Emmonak, or Kotlik, Stebbins, St. Michael. There's really strong family ties between those.

Personally, I don't think the modification by OSM to only do the three drainages is in the best interest of the people I represent, since there is such strong ties with the rest of the Unit 18 remainder, and I would think they should have C&T for Unit 18 remainder.

Thank you.

CHAIRMAN FLEAGLE: But your RAC's position was to support the amended portion, right?

MR. QUINN: Yeah, I guess we did support the amended position.

CHAIRMAN FLEAGLE: Thank you, Mike.

Questions.

(No comments)
CHAIRMAN FLEAGLE: Jack for the Western Interior?

MR. REAKOFF: The Western Interior took no action on this proposal and deferred it to the home region.

CHAIRMAN FLEAGLE: Thank you. Alaska Department of Fish and Game comments. Terry Haynes.

MR. HAYNES: Mr. Chairman. I'll summarize our longer written comments.

Information presented in the Staff analysis indicates some incidental use of moose in Unit 18, but does not provide substantial evidence that St. Michael and Stebbins have a long-term, consistent pattern of use of moose in the remainder of Unit 18. Some evidence is presented describing moose hunting by these two villages in the Pastolik, Andreafsky and Pastoliak River drainages, but the Department questions whether this evidence is sufficient to support making the proposed customary and traditional use determination.

The Department opposes the original proposal and concludes that the Federal Staff analysis presents insufficient information on the eight factors to support the proposal as modified by the Seward Peninsula Regional Council and Federal Staff. The Department would only support the modified proposal if substantial evidence is presented to the Federal Board demonstrating that the residents of Stebbins and St. Michael generally meet the eight factors established in Federal regulation for making C&T determinations in the modified area.

The best approach would be for the Federal Board to defer this proposal to allow time for additional evidence to be developed and submitted by the proponents.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Terry. Questions.

(No comments)

CHAIRMAN FLEAGLE: InterAgency Staff Committee comments. Larry.
MR. BUKLIS: Mr. Chairman. The Staff Committee comments can be found on Page 319, and I'll summarize the key point.

The Staff Committee felt that factors articulated in the Staff analysis and supported by the Seward Peninsula Council should be considered by the Federal Subsistence Board to be more reflective of the hunting pattern of the proponent. And just as a reminder, that position was to support the proposal with modification to limit the area to the three river drainages.

Thank you, Mr. Chairman.

Questions.

CHAIRMAN FLEAGLE: Thank you, Larry.

(No comments)

CHAIRMAN FLEAGLE: Board discussion.

Judy.

MS. GOTTLIEB: Mr. Chair. Perhaps a question for Lester. To extend to the remainder of Unit 18, quite a few villages are involved in that area, and I didn't have a chance to look over the transcript of your meeting, but was there extensive discussion about that?

MR. WILDE: Yes, ma'am, there was. Did you want me to elaborate on....

MS. GOTTLIEB: A little bit, please.

MR. WILDE: Yeah. That we had -- it took a while before we were able to come down with the decision that we made, but there was a lot of discussion, because of the relationship that we've always had with Stebbins and with St. Michael.

And, you know, prior to the time that we've had this -- just to get off the subject a little bit, but during the time that we had good -- we were able to get the fishing in the Lower Yukon was real good, we had a lot of people from that upper area come down, and we established our relationship down there. Not only that, I, being from Hooper Bay, am related to some of those people. And there's a lot of those people on the Board that have been related to those -- that are related to those people, and they're used to being able to share
and barter whatever they caught within that area.

CHAIRMAN FLEAGLE: Other discussion.

Gary.

MR. EDWARDS: Mr. Chairman. We have Mike Rearden here today who is the Refuge manager for the Yukon Delta, and if you would, I would like to maybe let Mike elaborate on what his view is of the pattern of use out there. And also, if we were to allow this additional customary and traditional use to occur, what kind of -- would that have any consequences as far as increased harvest, and if so, if there's any significance to that.

CHAIRMAN FLEAGLE: Mike Rearden.

Mr. Rearden, manager of the Yukon Delta National Wildlife Refuge.

My personal observations are that both of these villages have customary and traditional uses in the lower portions of the Yukon. Thirty-five years ago is the first time that I saw people from that region hunting moose in that area. They were illegally taking moose, however there were moose taken in the lower Yukon during that time.

So it just seems that it would be legitimate to include them in the entire lower Yukon area for their customary and traditional use.

As far as the consequences, I would not think that they would be problematical at all.

CHAIRMAN FLEAGLE: Thank you, Mike.

Steve Kessler.

Mr. KESSLER: Thank you, Mr. Chairman.

Mr. Rearden, if -- I'm must looking at the map on Page 312 which shows the Unit 18 remainder which goes way south, as far as Goodnews Bay and Platinum. So if we were to adopt the recommendation of the Yukon-Kuskokwim RAC, it would include areas all the way down that far. And so Stebbins and St. Michael would customary and traditional use all the way down to those area. I know you talked about the lower Yukon. As I understand it, this would include the Kuskokwim and associated areas also. And is it your feeling or
understanding that that use actually extends for all of Unit 18 remainder.

Thank you.

MR. REARDEN: Mr. Kessler. Mr. Chair.

That map is drawn in error. If you look on Page 325, it shows what the proper map should be. Remainder is the area away from the Lower Yukon River, and the area we're talking about is north and west of the dotted line that's put on the Lower portion of the area. I think that they just forgot to put the remainder boundary on this map on Page 312.

So the area I'm familiar with where I have seen people from St. Michael and Stebbins is within the area on Map 325 that shows pretty much the lower Yukon region.

CHAIRMAN FLEAGLE: Dan LaPlant.

MR. LAPLANT: Yes, Mr. Chairman. Let me see if I can help clarify a little bit here.

There is a bit of confusion about the label of Unit 18 remainder. Unit 18 is described one way for C&T determination purposes and it's described another way or divided up another way for the hunt areas.

So the C&T area, Unit 18 remainder is correctly displayed in the proposal, but the Unit 18 remainder for the hunt area, as Mr. Rearden said, is on -- was it Page 325? So whether the proponent intended to be asking for Unit 18 remainder hunt area or Unit 18 remainder as it's divided up for C&T purposes, that probably needs to be clarified. But the map in the proposal is correct.

Thank you.

CHAIRMAN FLEAGLE: Helen Armstrong.

MS. H. ARMSTRONG: Mr. Chair. Maybe I can clarify what the proponent asked for. Actually when this came up, he was asking where the boundaries were just to know if he was legal by hunting in Pastolik River drainage, so then he presented to us, I want to hunt in the Pastolik River drainage. What does that mean, and then we helped craft the proposal. So that was where we came from the Unit 18 remainder, because that was the
area he wanted to hunt in.

CHAIRMAN FLEAGLE: Lester Wilde.

MR. WILDE: Mr. Chairman. When we were discussing this proposal, the remainder that we were discussing is the remainder as described by Mike, all that lower area that extends from Cape Romanzof over to Mountain Village and down below. Is that the line that we're -- yeah, that's the line.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Now I'm totally confused. But does that then basically address the area that is in the requested modification by Seward Pen, basically to those three drainages? So essentially we might not really have a modification, that they're basically -- the proposals coming out of both Councils are theoretically identical, so to speak?

CHAIRMAN FLEAGLE: Dan LaPlant.

MR. LAPLANT: Mr. Chairman, I guess I would agree with Mr. Edwards, that there are slight differences there, but I don't think they're significant. And if the Board chooses to recognize C&T for the Yukon River drainage portion of Unit 18, we can -- we'll redescribe, of course, the unit for C&T purposes accordingly and accommodate that decision. The map would look different then next year, but, yeah, we'll accommodate that.

CHAIRMAN FLEAGLE: Is that crystal clear to you now, Gary?

MR. EDWARDS: No, but I think I know what my motion might be.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Well, for me, I'm getting more and more confused, because if I look at the map on Page 325, and if I understand what the Y-K RAC was recommending, it was the area to the north and west of the dotted line. And the Seward Peninsula Regional Advisory Council is recommending an area to the east of the dotted line, and that's what the Staff recommendation
was also for the three drainages to the east of the
dotted line. And it seems to me that these are mutually
exclusive, not inclusive of each other. Am I incorrect
here?

CHAIRMAN FLEAGLE: I think Helen has the
best description of what the request is. And would you
repeat what the proponent is actually requesting?

MS. H. ARMSTRONG: The proponent wanted
to be able to hunt in the Pastolik River drainage
legally. And then we came up with the language that
would accommodate that. Then when I did my further
research on it, I found that people were also hunting in
the Andreafsky River drainage, so we made that area.

I will say we also had confusion with the
maps, and the map that went before the Yukon-Kuskokwim
Council was not the map currently on Page 312, but was
the map on Page 325, because we got confused with the C&T
-- or the Unit 18 remainder for the hunt areas and then
the Unit 18 remainder for the C&T area were not the same,
and we also were confused. So we're trying to resolve
that confusion.

CHAIRMAN FLEAGLE: Would it be prudent
for us to just table this proposal while Staff works that
out and move on with other proposals instead of trying to
figure this out on record? Because I think there is
quite a bit of clarification needed.

PETE.

MR. PROBASCO: Mr. Chair, that would be
probably a good strategy and have Staff sit down with the
three Council Chairs, or the two Council Chairs that
weighed in on this and clarify the map.

CHAIRMAN FLEAGLE: All right. Is there
any objection to just tabling this proposal temporarily?

(No comments)

CHAIRMAN FLEAGLE: All right. Hearing
none, that will be the action of the Board.

Let's go ahead and move on to the next
proposal, and that will be on Number 32. Good morning.
We have Don Rivard.
MR. RIVARD: Good morning, Mr. Chair.

Members of the Board and the Regional Council representatives. My name is Don Rivard. I'm one of the division chiefs in the Office of Subsistence Management.

The analysis for Proposal WP07-32 begins on Page 323 of your book.

Proposal WP07-32, submitted by Henry S. Powers III of Bethel, requests the elimination of the Federal regulatory closure restriction for the September 1st through 30th moose season in Unit 18 remainder. And if you'll go to your map there on Page 325, we just kind of had that discussion. We're talking about -- the proposal area is for that remainder area. It's kind of the hourglass shaped area in the middle of the map there.

This is a resubmittal of Proposal WP06-30 which was deferred last year by your Board.

The current size and continued growth of the Yukon River moose population in Unit 18 has motivated local residents to propose a variety of liberalizations of the existing Federal moose regulations for the effected area this year. Unit 18 remainder proposals are those 27 through 31 and 64 which are on your consent agenda, and then Proposals 29 and 30 which are for that lower portion of the Yukon.

The proponent feels that the Federal closure regulations for the Unit 18 remainder area should be changed to allow other hunters from outside Unit 18 the opportunity to utilize Federal public lands to hunt moose. The proponent stated that the closure regulations for Unit 18 remainder are no longer justifiable biologically.

The closure was originally established by the Federal Subsistence Board in the 1991/1992 Federal subsistence management regulations to ensure that subsistence needs and rights received first priority. This was especially important given the low moose numbers at the time. The closure has been in the regulations since that time. And since the 1991/92 regulatory year season dates continue to vary among years along the lower Yukon River in Unit 18, but bag limits were constant at one bull.

Proposal WP06-30 was submitted during 2006 regulatory cycle to remove the closure for the Unit
remainder fall moose season, again September 1st through the 30th. The biological information presented in the analysis for that proposal, No. 06-30, supported removal of the closure for not only the Unit 18 remainder, but also that portion of Unit 18 downstream from Mountain Village. The Yukon-Kuskokwim Delta Regional Council, however, opposed the proposal because of local concerns.

At your May 2006 meeting you deferred action on the proposal for one year with a commitment to revisit the proposal regulations this year. The Board's intent at the time was to allow for Refuge Staff, Yukon Delta Refuge Staff to conduct information outreach in communities before making your decision.

Again this Proposal 06-30 was resubmitted as the one in front of you now.

In December 2006 Mike Rearden and Alex Nick along with other Refuge Staff held public meetings in Emmonak and Mountain Village to explain the Federal Subsistence Board's reasoning to local moose hunters and provide them with an update on the health of the moose population in the Yukon Delta area. At these meetings, some local residents from Kotlik, Emmonak, Alakanuk and Nunam Iqua expressed concerns of not meeting their large animal subsistence needs through moose harvest. Other concerns voiced by local residents included warmer than normal fall temperatures, poor snow conditions during the winter season, and high fuel prices that have hampered hunter success. Local residents also voiced opposition to allowing non-Federally-qualified users access to Federal public lands in Unit 18 remainder during the fall season.

Special Action WSA06-04 was submitted by the Yukon-Kuskokwim Delta Regional Council in the fall of 2006 and approved by the Federal Subsistence Board in December 2006 that expanded the 2006/2007 harvest limit from one bull or one calf to one moose, and extended the winter season 10 days in the lower area of the Yukon River drainage in Unit 18 downstream of Mountain Village. And results of that winter hunt are on Page 328 in your book.

It should be noted that the majority of the harvest occurs during the fall season in Unit 18.

Both State and Federal wildlife managers
have expressed the need to increase the harvest of moose in the lower Yukon River area to avoid habitat damage which could occur if the population is not maintained within the carrying capacity. The affected moose population continues to exhibit a growth rate that would eventually lead to carrying capacity issues if left unchecked.

The effects of the proposal. If implemented as proposed to include only Unit 18 remainder, the action will not address the portion of Unit 18 downstream from Mountain Village where removal of the closure is also justified because of healthy moose population. Removal of the closure in Unit 18 remainder as well as the lower Yukon River area would have little biological effect on the moose population and minimal effect on subsistence opportunities. The increased harvest allowed is expected to be minor, on the order of 18 to 35 bull moose per year initially.

Additionally, due to the population status referred previously, there is no justification for maintaining a closure to non-Federally-qualified users during the winter season as well.

Adoption of this proposal would lead, or could lead to some user conflicts. However, State lands already opened are areas in general that are closer to the villages. The existing closure may be forcing non-Federally-qualified users to hunt closer to the villages. Adoption of this proposal may help spread out the hunters and would also more closely align Federal and State regulations.

With that, Mr. Chair, the OSM preliminary conclusion is found on Page 329. You can see it there.

The lower Yukon moose population is highly productive, continues to grow, and is capable of supporting an increased harvest by both Federally-qualified and non-Federally-qualified users. Therefore the closure to non-Federally-qualified users is no longer warranted in these portions of Unit 18.

And the preliminary conclusion is to support Proposal WP07-32 with modification to also lift the closure in the lower Yukon River area downstream of Mountain Village as well as Unit 18 remainder for both the fall and winter seasons.
Mr. Chair and members of the Board, it is worth mentioning that it is unlikely that the lower Yukon River moose population would even exist today if not for the voluntary actions taken by the lower Yukon residents. The lower Yukon residents proposed to establish the original moratorium on moose hunting in the lower Yukon and actively maintained the moratorium until the moose population was large enough to allow limited hunting. The impressive comeback of the affected moose population is due in large part to the lower Yukon residents who all worked to preserve cow moose and their reproductive potential. Without their sacrifice, the lower Yukon River drainage moose population would not have met or exceeded its management objectives.

And I would like to also add that Mike Rearden has some additional perspectives to share with the Board on this.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Thank you. Don, last year in your analysis on a similar proposal, you had a few points in there about minimum populations to be achieved, and, you know, a couple other points I guess from some of the planning efforts that have been in place for the last few years. So are we at a level where those goals have been achieved?

CHAIRMAN FLEAGLE: Go ahead.

MR. RIVARD: Mr. Chair. Ms. Gottlieb. Concerning this population on the lower Yukon, the management goals, the management objectives have been exceeded for this population, so we're past talking about minimum objectives at this point.

Thank you.

CHAIRMAN FLEAGLE: Other questions.

MR. EDWARDS: Yes, Mr. Chairman. You know, Mike Rearden is here and, you know, I can either utilize him during the deliberations, but if he has some additional information to add to the Staff report, maybe it would just be appropriate to do it at this point.

CHAIRMAN FLEAGLE: Mike, are you willing
to come up and add to the statements.

MR. REARDEN: Yes, Mr. Chairman. Thanks for the opportunity.

First, I think like Mr. Rivard said, we need to recognize the efforts taken by lower Yukon residents.

And this is actually a great opportunity to look at the advantage of having a regulation that people support and one they don't, because for the many years that there were regulations down there that prohibited the taking of cow moose and calf moose, and people didn't adhere to it or believe in it. The population stayed very stable, very, very low. Pretty much every moose that moved was taken.

When people kind of got behind the opportunity to grow the moose population and establish this moratorium, the population blossomed beyond our expectations. I would have never believed 10 years ago that I would be here talking about encouraging further harvest of animals down there. So I think there's a lesson to be learned in all of that. Once you get public support for a regulation, it can make an incredible difference.

I also recognize the concerns for the population that the Yukon residents have. During the meetings that Alex Nick and I had in December in Mountain Village and Emmonak and additional conversations I had with people in other lower Yukon River villages, people are very, very defensive and very protective of their moose population as well they should be. You know, they have virtually gone from not enough moose to count to moose in their backyards. It's a unique situation that they're very proud of and they really like.

And it's also clear to me that biologically a restriction allowing only local residents to hunt was originally a good idea. In 1992 there were so few moose that the few moose that were allowed to be taken should have been taken by local residents. But from my perspective, looking at the biology, I don't believe that that is any longer justifiable.

And I'd like to focus my comments, what I think will happen if you choose to support this proposal, and who's affected. There's a lot of concern by local
people that if you support this proposal that there will
be a huge influx of people into the region, and I think
one of the benefits that we have in our program here is
that if something happens that we are not expecting, we
have the opportunity to change it in future Board
meetings.

Ironically, one of the groups affected by
this current restrictions are, and these are the people
that call me the most, residents from the delta who live
elsewhere now. People who live in Anchorage, Fairbanks,
other areas that want to go home and hunt moose. And
they cannot hunt moose on Federal lands. They can hunt
on their village lands, but in some cases where the moose
are is on Federal lands and they cannot do it. In fact,
we've written a few citations on this, and the most
recent one was a resident of Anchorage, a native leader
that went out hunting who was unfamiliar with the
regulation and took a moose on Federal lands within a
couple miles of his village boundary. That's one group
that would benefit by supporting this.

Another group affected by the current
restriction are those residents of nearby villages, for
instance, Holy Cross, Aniak, St. Michael, Stebbins, those
areas can not longer hunt in Unit 18, and they did have
traditional hunting in those areas. I've heard from a
lot of residents in those villages that they don't
understand nor support the restriction that's in place
right now.

And I've also heard from local residents,
and this concerns me, the statement, well, if they won't
let us hunt in Unit 21E, then, by God, we're not going to
support them hunting in 18. I think we need to get rid
of those kinds of comments and beliefs. You know, I
realize that there are boundaries and sometimes people
get different opportunities, but when the opportunities
exist to share the resources, I think that we need to do
that.

Another group that's affected are all
other users, including Alaskans and non-residents.
Currently there are a few non-residents that hunt in this
area. Primarily though they're hunting on private lands.
A lot of the good lands for hunting are in the upper
portion of the region, and accessible, and they're
hunting on private lands oftentimes with residents of
villages in that area. This area is pretty remote and
currently we don't have a lot of outside hunters coming
into the region though yet.

Another group is, and, of course, this is
one that people have a lot of concern about, are guides
and transporters. And we don't issue any permits for any
guides in this area for moose hunting. In fact, there
are no guides between the Yukon and the Kuskokwim Rivers.
There's not even a guide unit that we've authorized, and
there are no intentions to do that, so guides are pretty
much out of the picture on this one at this time.

We do permit several transporters,
primarily out of Bethel, and there may be one out of
Aniak that would occasionally go out there, and I've
discussed this with them. If it became legal for them to
transport hunters, non-residents to this area, what their
intentions or desires would be. After talking to them,
their intent would be to transport less than 20 groups of
hunters into this region each season. And I've also
talked to them about restricting their access so that
they can hunt only in areas that are not accessible by
boat hunters, particularly in the lower portion of the
river, from Paimuit on down. They don't have any problem
with that. Most of them are trying to separate their
hunters from subsistence hunters anyway to avoid the
conflict.

So I believe with those restrictions that
there will not be a lot of direct conflict anyway between
hunters from outside of the region and local subsistence
hunters.

In summary, this is a clear allocation
issue I believe that tests the foundation of the Federal
subsistence program about when and when we should not
have restrictions for subsistence hunters. And it is a
difficult decision whenever you take something away from
people. And I understand that it is difficult to take
something away that's been in place for 15 years.

Those are my comments. If you have any
questions, I'd be glad to answer.


MR. EDWARDS: Mike, just one. I noticed
in the justification that the Council put together as
well as apparently what you heard when you went out to --
when you and Alex went out and conducted those meetings
that folks felt that their subsistence needs for moose
were not being met. Is there a response to that?

MR. REARDEN: I heard that, and that was one of the reasons, as some of you are aware, I really promoted the any moose season in the winter that we had down there. We had a month when people could shoot any moose.

I discussed it with the Fish and Game biologist there, and we said, well, you know, what should we limit it to if people really start killing moose, and we're keeping track of it, and people did a very good job of keeping track of how many moose were killed. The traditional councils in each village kept a list and sent it in to us every couple days. And we felt that if people -- they could easily kill up to 300 moose, the majority of them being cows, and we'd be in fine shape. They killed 70 moose approximately during the entire hunt, and not many of those were cows. There's still a reluctance to kill cows, and I think that's because people saw the effect of letting this population grow by not killing cows.

And I asked several people, particularly in villages that I visited in March why that was. Some people talked about high fuel prices. Some people talked about bad weather. And there were occasions where people couldn't get a license for a period of time in early January. But some people also said that our village killed a lot of moose in the fall and we don't need any more moose meat. I heard that from people I've known for a long time down there.

MR. EDWARDS: Thank you.

CHAIRMAN FLEAGLE: All right. Thanks.

Summary of written public comments. Alex.

MR. NICK: For the record my name is Alex Nick. I'm the Regional Council coordinator for the Yukon-Kuskokwim Delta.

Before I begin reading the summary of public comments, I would like to inform the Board and Staff that upon request of the people who submitted these summary of public comments, these summary of public comments were read into record at the Y-K Council meeting. I'll just with your permission, I'll just go ahead and highlight the public comments if I may.
We've received three public comments in opposition to the proposal. One from Algaaciq Tribal Council of St. Mary's. And their main points is that the unmet needs is due to the lower Yukon moose moratorium as referenced in the 2006/2007 Federal subsistence harvest regulations, because of this moratorium in the Kuskokwim area in Unit 18, subsistence needs of all Federally-qualified subsistence users in Unit 18 are not being met. Rural residents located in the affected area cannot actively subsist moose in that area. They must travel outside of the lower Kuskokwim moose moratorium boundaries to meet their needs.

And the second comment's from Ohogamiut Tribal Council, and their main points I believe are moose is the traditional protein source of residents of Unit 18, and they also talk about sport, recreation. If hunters would be allowed to have equal access to moose hunting on Federal public lands in Unit 18 September 1 to 30, all season. I won't get into too much of this, but they're in your books, and other main points are that local people prefer wild game over commercially sold beef and pork meat. And that impacts of trophy hunters in our region will have negative consequences. Local people must continue to safeguard fish and wildlife resources for the local native people.

The Ohogamiut Tribal Council also submitted a resolution to the Regional Advisory Council, and their main point I believe is for the continue health, safety and welfare of their people.

The third comment was received from Mr. John Lamont of Mountain Village. And I believe his main point is that we should implement a hunting moose season that allows local Unit 18 residents to be able to meet their moose harvest needs.

These are in your books, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you. Public testimony.

MR. PROBASCO: Mr. Chair. We have one person signed up. Mr. Tim Andrew.

CHAIRMAN FLEAGLE: Timothy Andrews or Andrew.

UNIDENTIFIED VOICE: He's not here.
CHAIRMAN FLEAGLE: He's still not here.

Regional Council recommendation. Let's see who we have. Lester Wilde. Sorry.

MR. WILDE: Mr. Chairman, if I may. The Yukon-Kuskokwim Delta Subsistence Regional Advisory Council opposed this proposal. You know, one thing that -- one of the things that came up -- I'll just go ahead and read this justification, then I'll add some points to it.

The justification reads, there is a concern about ADF&G ANS numbers for moose in Unit 18. The Council felt it is important to go slow with increased harvest. Weather and gas prices were factors in the harvest of this winter. And this is something that I'll cover a little bit further.

Subsistence needs for moose are not being met. And that statement sounds like it's not that -- the reason why they're not being met is because people are not going out there hunting, or not wanting to go out there hunting, but the problem is that there were a lot of people that wanted to go out hunting, but at the time that the season was open, the gas prices up on the coast are close to $6 a gallon, and the income of the people out in that area is not as great as the urban areas. As we know, when we're living in the urban area, whether we've lived in the rural area before or not, it's always a lot easier to see things to -- the way we feel is what we see on the surface. But if you go down below the surface, there are a lot of different reasons for some of the things that are being done.

And one of the -- I think the biggest, as Mike mentioned, we need to go out and encourage the people in Unit 18 to go out and not encourage other people from other areas to come in and take these resource in that area. And I've talked with a lot of people both on the Kuskokwim and on the Yukon and they oppose this due to the fact that last year in Hooper Bay, we live -- as you all know, we live on the southern tip of the Yukon Delta with Chevak. And at that time there was absolutely no harvest tickets that were available, and there was a lot of the people that curtained their hunting because the harvest tickets were not available. And just about the time that the people were able to go out, we got a cold snow for the remainder of the hunting
season, so it got to be pretty hard for a lot of people
to go out and hunt in that area.

And we felt that if we're going to
encourage anybody to go out and take those moose, I think
we should be able to -- we should encourage the people in
the local areas to go out and do their hunting for their
meat.

We were also concerned about the needs of
the lower Kuskokwim residents for their red meat, and
with the caribou -- the Mulchatna caribou being reduced,
we felt that there might -- there will be a lot of more
influx from the Kuskokwim villages going into the Yukon
areas to harvest their meat. And I've travelled from
Hooper Bay all the way over to the Three Step Mountains
on the Kuskokwim River to get my caribou when the need
for meat in my family. Whenever we're needing red meat,
I go out and get it wherever I can get it. I'm living in
the town of Hooper Bay. We totally -- I shouldn't use
the word totally, but we depend on our subsistence
resource about 80 or 90 percent of the time for our
ability to be able to live in that area.

And one thing that hasn't been brought
out is the fact that in the coastal regions whenever
there is adverse weather, namely south winds in the
summertime, we're unable to get any fish, and we have to
supplement our subsistence with meat from other areas.
And two years ago everybody in the State of Alaska was
getting their fish, and we were unable to get our fish in
Hooper Bay and Chevak area. There's approximately 2,000
people in Hooper Bay and Chevak combined, full-time
residents. And the ANS amounts for moose in Unit 18 180
moose. So figures don't necessarily give you the needs
of the people out in the areas that I live in, and the
people that depend on the resource in Unit 18.

And I think in this coming year, if we
were able to give this one more cycle to see an exact --
if we can get a good ANS number for moose in Unit 18 in
one more cycle, I think we might be able to make up our
minds to the positive of this proposal. On the positive
side. But at this time, and in this time of the global
warming and everything coming on, and the ability of the
people out in the coastal areas, not just in Hooper Bay
and Chevak and Scammon Bay, but there's Nunam Iqua,
Kotlik, Emmonak, Alukanuk, all those villages will be
probably -- if they were able to go out and get that
moose, those numbers would have -- the take of the moose
in that area would have been two to three times as much as it is recorded.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Appreciate those comments.

Seward Peninsula. Mike Quinn.

MR. QUINN: Thank you, Mr. Chair. Well, I guess I'm supposed to keep my official comments concerned with what our RAC did, so we support the proposal with the modification to also lift the closure on the area downstream of Mountain Village. We represent, you know, people who have traditional ties to that area and we want to see this closure lifted so that those people can do so. That's as far as our RAC went.

With your permission, I'd like to throw out some other stuff that I think are relevant to this.

CHAIRMAN FLEAGLE: Go ahead, Mike.

MR. QUINN: All right. Well, I'd ask the Board to turn back to that map on Page 325. I've hunted the area around Emmonak. My girlfriend is from there. But I'm also familiar with the commercial side of this. I own an airplane. I've used an airplane. I own boats, I've used boats. The ability -- there's no way a local person can hunt this -- a non-local person can hunt this area without either help from a local person or a transporter, or at least an air service to get them in there. The ability of transporters to economically operate in this area is really restricted because of the fuel prices, such as Lester pointed out for the local people. The fuel prices were preventing them from hunting. Bethel and Aniak are the only two places that an aircraft-based transporter can operate out of, and much of this area is too far away, such as the area on the delta there, Kotlik, Emmonak, for a guy to really economically operate. So there's not going to be a lot of influx of non-local people that way.

There will probably be -- from my experience, there will be people who will find out that they can get on a scheduled airline, they can get dropped off in a village such as Marshall, float down to Pilot
Station or St. Mary's and get off, get back on an airplane and leave the area. So there's going to be some stuff there. But even so those people are going to bring money to your region. And because of the lack of aircraft ability, transporters, the area is ripe with opportunity for local people to become transporters with their boats and really earn some real income to help them pay for this gas that's so expensive for them to do their hunting.

And additionally, when a non-local person becomes a transporter and comes into your area, he's mostly concerned with this bottom line, and he's not going to be concerned with the meat as much. Kotzebue's seen this problem very readily. But when local people become transporters, you can also have a big influence on what's done with the meat. So you not only can get money from these people, since they're mostly interested in trophy hunting, maybe capes, you're going to be able to get their meat, too. So there's really just a lot of opportunity here for local people to profit from lifting this closure as I see it. Anyway, that's enough for me.

CHAIRMAN FLEAGLE: Thank you, Mike.

MR. REAKOFF: Mr. Chairman. We took no action on this proposal and deferred it to the home region.

CHAIRMAN FLEAGLE: Thank you. We would call for a 10 minute break. Then we'll come back and do the rest of this proposal.

(Off record)

(On record)

CHAIRMAN FLEAGLE: All right. Resuming discussion on Proposal 32. We now move to the Alaska Department of Fish and Game for comments. Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman. The Department supports this proposal as modified to eliminate the closure to moose hunter by non-Federally-qualified subsistence users in the remainder of Unit 18, that is the lower Yukon area of Unit 18, and below
Mountain Village for both the fall and winter seasons as recommended by the Seward Peninsula Regional Council and Federal Staff.

The Staff analysis acknowledges that moose are abundant in this area. Given the size and productivity of the moose population, this closure of Federal public lands to non-Federally-qualified users is no longer necessary to insure continued subsistence use or for conservation purposes. The little additional hunting by non-local residents that might result from the closure being removed is not expected to impact subsistence uses by local residents or result in conservation issues. Additionally, lifting the closure will enable non-local residents who have relatives in Unit 18 villages to participate in this moose hunt.

I'd like to add that we join the others who have commended Unit 18 residents for supporting the moratorium, and who contributed to its success over the years. This was a real model of cooperation between Unit 18 residents, Department of Fish and Game, Yukon Delta Refuge Staff. So they've demonstrated what you can do by working together, and the remarkable turn around of the moose population in the lower Yukon portion of Unit 18 is a very significant and constructive management result.

I also would mention, too, in reference to the State amount necessary for subsistence finding for Unit 18, which is 80 to 100 moose, I can't recall all the details about what the basis was for establishing that particular range for an ANS. I'd have to go back through our records, but as I indicated at the InterAgency Staff Committee meeting a few weeks ago, if the public is interested in having that ANS finding reviewed, all it takes is submitting a proposal to the Board of Game to get that on the agenda. So that's always an option available to the public if they believe that ANS findings are not accurate.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Terry.

Questions for the State.

(No comments)

CHAIRMAN FLEAGLE: Okay. Thank you.

InterAgency Staff Committee comments. Larry.
MR. BUKLIS: Thank you, Mr. Chairman. The comments from the Staff Committee are found on Page 331. There are several points made. I'll highlight a few of the key ones.

There's insufficient evidence that Kuskokwim subsistence users have shifted their hunting effort to the lower Yukon for moose despite the moratorium in the lower to middle Kuskokwim River drainage for moose.

The Staff Committee also comments about the amounts necessary for subsistence as determined by the Department of Fish and Game need to be more reflective of actual use amounts.

And as has been said by others, the Staff Committee recognized the uneasiness of Unit 18 Federally-qualified subsistence users to recommend the removal of the closure and fully recognizes their successful past efforts to rebuild the moose populations of Unit 18. However, the bulk of the information articulated in the Staff analysis supports removal of the closure consistent with ANILCA Section .815(c).

Thank you, Mr. Chairman.

Questions.

CHAIRMAN FLEAGLE: Thank you, Larry.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Larry, on point number 4 here, I'm a little mixed up, or maybe I missed something here. The last part of the sentence says, while maintaining the closure for the winter season. But where we are now is lifting the entire.....

MR. BUKLIS: Mr. Chairman. Ms. Gottlieb. I didn't go over every point in the Staff Committee recommendations. Sorry, comments. That fourth point says the Staff Committee notes the differing Council recommendations and notes the proposed regulatory language would only apply to the fall season while maintaining the closure for the winter season. That's speaking to the proposal as submitted.

CHAIRMAN FLEAGLE: Thanks, Larry. Other
questions. Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman.

Just to correct something on the record in the InterAgency Staff Committee comments. On item number 3, amount necessary for subsistence, those determinations are made by the Board of Game and not by the Department.

MR. BUKLIS: Thank you. So noted.

CHAIRMAN PLEAGLE: Thank you. It appears that the public member that signed up for testimony is here. Pete, would you go ahead and call the name.

MR. PROBASCO: Thank you, Mr. Chair. Mr. Tim Andrew. And, Tim, this is dealing with Proposal No. 32.

MR. ANDREW: Thank you, Mr. Chair.

Members of the Board. My apology for being late this morning. I didn't anticipate that we would be moving this fast this morning.

(Laughter)

MR. ANDREW: As, you know, the process we had gone through yesterday.

In any case, my name is Timothy Andrew. I'm the director of Wildlife Resources for Association of Village Council Presidents.

We although -- about a year ago we had supported the deferral of this proposal for one year for the education of our villages. We are currently opposed to the opening of Unit 18 to non-Federally-qualified users.

And one of our villages, the Village of Ohogamiut wanted to testify today over the telephone, but unfortunately they are not able to participate in that manner, but I would like to extend their comments to the Board, and their opposition to this proposal.

They are afraid of the increased competition for not only the resource, but also for the hunting areas that they traditionally utilized to hunt moose. And moose is their primary source of food for their families and for the communities. And this has been going on for a number of years, since moose had
arrived in the area.

The State also indicated that their current ANS amounts are between 80 to 100 moose. Those are from 1983 or in the 1980s, and the data is approximately 20 years old. And at that time there was hardly any moose in the area in Unit 18, and people at that time normally had gone to Unit 19 or Unit 21 to fill their moose needs. And we believe that the current ANS amounts does not indicate the amounts needed for subsistence in the area. And we also believe that the current SUA, or subsistence use amounts, if they are dependent on the State's numbers is inherently wrong.

And current data also indicates that 200 moose were harvested in the fall and 71 in the winter. People this year and probably for future years are also faced with extremely high gas prices in the area. Some of the villages are paying up to $6, $7 a gallon for gasoline. And it makes it extremely hard for people to get out and participate in both the fall and the winter hunt. And this past winter the moose hunting season was challenged extremely by extremely cold weather conditions where temperatures were 35, 40 below, which created a challenge for people to go out and actually harvest moose. So, you know, the 71 moose that were harvested, or the reported moose harvest was probably extremely likely -- was probably really low. If weather conditions were favorable, I think that the participation would probably increase a lot more than the current reported numbers.

The thing that really reflects our opposition to this proposal is the Tier II situation that people are facing in Unit 19. The lower Kuskokwim villages that have positive C&T for that area are not able to participate fully in that hunt, given the limited of permits that are issued in the area, both Federal and State permits.

And also the current situation of the Mulchatna Caribou Herd also affects people's ability to actually go out and fill their big game or large mammal needs.

And as I had indicated yesterday, that people in the area are extremely dependent on all the resources, 664 pounds per capita of wild resources that are consumed in the area. We believe that the increased competition by non-resident hunting would severely affect
people's ability to meet their subsistence needs. And we also believe that the adoption of this proposal would adversely affect the current lower Kuskokwim moose moratorium. As indicated earlier by the State representatives, people in the lower Yukon area had sacrificed for years to build a moose population to where it is today. And in communication with some of the people in the villages, in voicing their opinions on this proposal indicate that, you know, why -- they posed this question. Why did we sacrifice all these years from harvesting this resource? I mean, is it just to allow for non-resident sport hunting to occur on our subsistence resources? And we are afraid that by adopting this proposal that that would happen in the lower Kuskokwim area where people are currently supporting the self-imposed moratorium to build their moose populations. And, you know, that question comes up in all the different meetings I attend, both in the villages and also regional meetings.

So we currently oppose this proposal, and we believe that it would lead to increased competition for our subsistence resources in close proximity to our villages, and it would also -- it would lead to increased competition to the hunting areas as well.

And that concludes my testimony. Mr. Chair.

Chair.

CHAIRMAN FLEAGLE: Thank you, Timothy.

Chairman.


MR. EDWARDS: Mr. Chairman. There did seem to be I guess some differences with regards to removing this closure for both the fall and the winter season. I guess it's my understanding that the proposal itself was just for the fall season. The Seward Pen's proposal includes the -- would include both seasons. I don't know. If Mike is still here, I don't know, could you speak, if you would, to the implications, if there's any difference for removing it for both of the seasons given that the proposal I believe was just for the fall season.
MR. REARDEN: Well, the original proposal was just for the fall season. And I think Staff Committee also included the winter season in the proposal they came up with. The original proposal came from a transporter whose interest was only in the fall. And my expectation would be that if it was also open in the winter that there'd be negligible harvest from residents from out of Unit 18, other than perhaps from some of the surrounding villages that cannot hunt at this time.

MR. EDWARDS: Thank you.

CHAIRMAN FLEAGLE: Don.

MR. RIVARD: Mr. Chair. Don Rivard. The original proposal, if you go to Page 325, the original proposal was for the fall season for the area known as the remainder. And the OSM Staff conclusion and the Seward Pen's recommendation is for that area and for the fall and winter season, but also the lower portion of the Yukon as well. The very lower portion. So it includes another area as well.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: And I apologize, Mike, if we need you back up here again, but I wonder what plans or what mechanisms the Refuge uses to monitor so that if you had to change it to antlered only or if you had to notify us that maybe the winter season needed to be closed, you'd be able to have that information.

CHAIRMAN FLEAGLE: Mike Rearden.

MR. REARDEN: Thank you. We had real good success this year in working with the traditional councils in the villages to monitor and keep track of the moose that were killed, and our intentions are to continue to do that so that we'll have a real good idea. Our concern was that we were going to go over 300 animals this year, and obviously we didn't get close to that, but they did an excellent job of giving us the composition of the harvest as well. And we continue to plan on doing that.

MS. GOTTLIEB: And, Mr. Chair, what would be the mechanism then for monitoring non-Federally-qualified users?
MR. REARDEN: That would probably -- you mean people from out of the region? That would probably be done by our law enforcement guys who are real active in the field. And if people from out of the region are out there, they'll know it. And I think that might give us a pretty good idea of what's going on.

CHAIRMAN FLEAGLE: Mike Quinn.

MR. QUINN: Well, the non-local people will be hunting under the State regs and have the harvest ticket which they're required to fill out and turn in. If a non-resident hunts, he's also got a harvest ticket and a form that he has to turn in. So the Refuge's ability to monitor the non-local harvest would come through the State's information on these harvest tickets I believe. And the State and Mike can comment on that.

MR. REARDEN: Mr. Chairman. However, that's not real time information, and that's what we need in this hunt, at least initially to get some idea of what the catch per unit effort is out there. And so we'll continue to try to monitor it in the field and in the villages anyway.

CHAIRMAN FLEAGLE: Further discussion. George.

MR. OVIATT: Maybe a question for the State. Does the State have any plan in place to monitor the hunt as it -- if it was opened up? If the closure was lifted, would they have any plans to actually have monitoring out in the field at least initially.

MR. HAYNES: Through the Chairman. Mr. Oviatt, no, we don't at this point. But we haven't -- you know, the area has not been open. We don't anticipate many people coming into the area. There has been a fairly low level of hunting effort in that area on lands regulated by the State in recent years. And because of the cost of getting out to that area, we don't anticipate a real influx of people. Certainly between the monitoring by Fish and Wildlife Service and eventual harvest ticket data, we would have -- be able to assess hunter interest in that area. And I think working closely with Fish and Wildlife Service and others, if steps needed to be taken to, you know, put the clamps on, that's the -- steps could be taken to do that. But at this point we see no -- there's no reason to monitor this hunt closely and assume that we're going to have over-
harvest. If that -- if the trend moves that way in a few years, then certainly steps might need to be taken.

MR. OVIATT: Thank you.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Thank you, Mr. Chairman. Another question for you, Mike. You know, there's the possibility, of course, that people who are living in the Kuskokwim drainage can move up into these areas sort of outside of the closure area, and hunt up in the Yukon both in the all and in the winter periods. What sort of evidence is there that people are actually doing that to meet their moose needs.

MR. REARDEN: Mr. Chairman. There are some people from the Kuskokwim who do go to the Yukon and hunt with local residents, and a few even have their own boats on the Yukon, and primarily they're hunting in the portion above, along the Russian Mission/Paimuit stretch up there where we have a high harvestable surplus of animals anyway.

During the winter hunt, I knew of about 8 or 10 people that went to the lower Yukon by snow machine to hunt, of which half or more were successful. They probably took six or eight moose that were not reported on that form you saw. So it's not a large group of people.

Now, if we opened the winter hunt above that, there probably would be more people from the Kuskokwim area going up there to hunt.

As far as the moratorium on the Kuskokwim, that one is -- we've got a year and a half to go before we make a decision on what to do. The population is growing rapidly. We've got 50 moose collared. Some of them within a couple miles of Bethel. Our expectation is that it's likely we'll open a bull -- or recommend opening a bull only harvest along the Kuskokwim River in the moratorium area in a short time. So at that point it would take pressure back away from the Yukon.

CHAIRMAN FLEAGLE: Lester Wilde.

MR. WILDE: Thank you, Mr. Chairman. What we would like to see is an opportunity for our
people in the villages to go out and get their red meat
that they need for their subsistence in that area, but
what we would like to request is that possibly to refrain
for another cycle to see what the true -- the effect on
the resource it would have if we did have a good winter
season to see what the amount of moose taken in that
area.

You know, I was on the fish and game advisory council at the time that the motion was made to
close the lower Yukon for the moose moratorium, and we
followed this through pretty well, but at the time that
we made the decision to have the moratorium on the lower
Yukon, we felt that if we were able to get a good growth
of moose on that lower Yukon, that we would be able to
seed the rest of the area in that area coming from the
lower Yukon down to Hooper Bay, Scammon Bay, Chevak.
We're all considered as lower Yukon in that area, but
that is starting to come around.

But the thing is the people in that area
that are totally dependent on sea mammals are not getting
the amount of sea mammals that they used to be able to at
one time, and in the seasons that they used to be able to
get them. Whenever you live in subsistence economy, then
what you do is we always take advantage of what like was
mentioned a couple days, our opportunistic, opportunities
to be able to harvest other resources. And as you know
with, as I mentioned, global warming earlier, on the
coast, around the Hooper Bay area, the mammals, the sea
mammals, we're always dependent on the sea mammals that
are coming down at this time of the year from up north.
And this year the ice is coming down as we speak, so the
people are able to go out and get some sea mammals from
that sea mammal harvest out there. But if we don't get
the fish in that area, we're going to see a lot of hungry
people out there. We've seen that for the last three or
four years, and that's the reason why you could see on
the records where people along the coast are starting to
come into the areas to hunt. It's not just the people
that have hunted from year to year, but other people that
are now going out to hunt in that area.

But what we'd like to do is we'd like to
be -- to make sure that our villages are able to get
their red meat, and be able to subsist on the whole year
without having to go hungry. I, myself, know what it
means to be hungry. I've been hungry. I don't think
that the hungry that most people describe as the term --
or the meaning of term hungry has ever been felt by any
of the -- or not a large percentage of the people here
attendance of this meeting.

So that is one of the reasons why -- one
of the biggest reasons why we felt that we should hold
off a little bit. You know, we're willing to just take a
look at it for another cycle, but we want to make sure
that the villages out there are getting their subsistence
needs filled.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Are we
ready of a motion. Gary.

MR. EDWARDS: Mr. Chairman. I move that
we support the recommendation of the Seward Peninsula
Regional Council, which is to modify Proposal 07-32, that
would lift the closure in the lower Yukon River area
downstream of Mountain Village as well as Unit 18
remainder, and this would be done both for the fall and
the winter moose season.

CHAIRMAN FLEAGLE: Is there a second.

MR. OVIATT: I'll second.

CHAIRMAN FLEAGLE: There's a second from
George.

Do you want to speak to your motion,
Gary.

MR. EDWARDS: Yes, Mr. Chairman. I can
elaborate some. I think we've heard today from both
Staff as well as the manager in the area that this moose
population has been growing rapidly, certainly thanks to
the effort of the -- and the commitment and the sacrifice
of the people in that area. And it has now reached the
point where putting on a closure on other users is no
longer necessary, you know, still recognizing that
apparently folks in that area still feel that their
subsistence needs are not being met. But what I heard is
that it's not being met so much that the moose are not
available, that there are other issues such as high price
of gas and all which are impacting those

It also doesn't appear that by opening
this that there's going to be a huge influx of other
users in there. It seems that most of those would be
other rural residents and that the use from outside, from
the sport hunting community, it looks like it's going to
be pretty limited just by the nature and the remoteness
of the area and the lack of transportation in there.

So I think it's clear for us under ANILCA
that we should not be restricting other users when
there's not reasons to do so, and in this case it does
appear that there is any real reason for us to justify
further continuing to close this area.

CHAIRMAN FLEAGLE: Board member.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I'll support the motion.

I do appreciate the concerns that we've heard, and I
would like to, as again we get to the specifics of we had
the wording in there that the Yukon Delta Refuge manager
may restrict the harvest to only antlered bulls after
consultation with the Alaska Department of Fish and Game,
I would like once again for us to add the wording, and
the RAC chair so that the RAC is fully involved in the
process as I expect you would be anyhow. And with some
close monitoring this year, maybe we'll have a better
feel for whether it needs to be changed again next year
or during the season.

Thank you.

CHAIRMAN FLEAGLE: Other Board members.

George.

MR. OVIATT: Mr. Chairman. I, too,
believe that we no longer have a conservation reason to
keep this closure in place. I hear the concerns and
there's always need for data, but I believe that
management in conjunction with the State and the local
RACs and the local people, and especially Fish and
Wildlife's effort to work with the locals has the proper
management control that will give us an indication if
this closure -- if lifting the closure is perhaps not
warranted. So I don't see a reason to continue with the
closure at this time.

Thank you.

CHAIRMAN FLEAGLE: Other discussion.
MR. PROBASCO: One second, Mr. Chair.

CHAIRMAN FLEAGLE: Well, I'm going to support the Y-K Delta RAC's position. Having been involved with the actions pertaining to these moose populations before I got onto this Board, I do recognize the statements that Lester laid out, and that there are other areas of the region that are having a very difficult time finding moose and now caribou, particularly the lower Kuskokwim with their ongoing moratorium to try to rebuild their moose population, the precipitous crash of the moose population in the middle Kuskokwim which the lower Kuskokwim residents used to harvest pretty heavily from. And I think I still want to proceed with caution. And I'm going to vote against the proposal.

Pete, do you have a procedural question here?

MR. PROBASCO: Yes, Mr. Chair. Ms. Gottlieb, I understand your intent. This is regulatory language, so if you wanted to specifically state what you just said, you need to put that forward as an amendment.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Okay. I would like to have an amendment then that at the end of the language there it would say, as written on Page 330, with my amendment, the Yukon Delta National Wildlife Refuge manager may restrict harvest to only antlered bulls after consultation with the Alaska Department of Fish and Game and Chairman of the Y-K RAC.

CHAIRMAN FLEAGLE: Is there a second for the amendment.

MR. EDWARDS: Mr. Chairman, I can support that.

CHAIRMAN FLEAGLE: Is that a second?

MR. EDWARDS: (No audible answer)

CHAIRMAN FLEAGLE: Okay. Discussion on the amendment.

(No comments)
CHAIRMAN FLEAGLE: None. Is there any objection to the amendment.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, the amendment carries.

Back to the main motion. Niles.

MR. CESAR: Yes, Mr. Chairman. I plan to vote in opposition of it also. I'm listening to Lester and I agree with the Chairman that we need to proceed with caution.

I think that these programs are really dependent upon the support of the local people. And I don't see the waiting another year will dramatically affect the moose population either way quite frankly.

What I am concerned about is that the people out there supported this, stuck with it, and they're building up, and I think that we should wait another regulatory cycle before we change. So I plan to vote in opposition.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Thank you, Mr. Chairman. There's a lot to weigh here, but I think that on balance I plan to vote for the motion, recognizing that Unit 18 residents in the lower Yukon have done an awful lot to rebuild these populations, and that moose is very important to them. But when I think about ANILCA and Section .815 and the closure related regulations, I don't see any conservation reason to maintain this closure. The part of 815 that one has to think about a little bit is for continuing subsistence uses, and on balance as I think about the continuing of subsistence uses, I think that the continuing of subsistence uses would be adequately met by lifting this closure. So as I said, I intend to support this motion.

CHAIRMAN FLEAGLE: Ready for the question. All right. The question is recognized on the proposal as amended. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on Proposal WP07-32 as amended:
Adopt with modification to also lift the
closure in the lower Yukon area
downstream of Mountain Village as well as
Unit 18 remainder for both the fall and
winter moose season. The Yukon Delta
Refuge manager may restrict the harvest
to antlered bulls only after consultation
with the Chair of the Y-K Council and
Alaska Department of Fish and Game.

Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Mr. Kessler.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: And Mr. Cesar.

MR. CESAR: No.

MR. PROBASCO: Mr. Chair. Motion carries
four/two.

CHAIRMAN FLEAGLE: Thank you, Pete.

Are we prepared to readdress the
remainder of Proposal 26 or did we want to move on to 29,
30 first.

MR. PROBASCO: We are ready.

CHAIRMAN FLEAGLE: We're ready for 26.

Okay. Let's se if we can get Helen back up to the table.
And there's Dan LaPlant. Do you want to take over. All
right. Go ahead, Dan.
MR. LAPLANT: Mr. Chairman. During the break we had a little mini conference with Mr. Wilde, the Chair of the Y-K Delta, and Mr. Quinn from the Seward Pen Council, and Mr. Rearden from the Refuge, and Helen, and we have language recommended here that we believe addresses the C&T decision for Stebbins and St. Michael.

If you look on the map on Page 325, this is the map that was before the Councils when they deliberated on this issue, so we'll use that as the reference. And the area that is being recommended is, if you look at that dashed line coming from Point Romanzof or Cape Romanzof, it would be the area north of that line from Cape Romanzof over to Mountain Village, and then all drainages north of the Yukon River upstream from Marshall. And I'll repeat that. It would be -- the line from Cape Romanzof to Mountain Village, the area north of that line, as well as all drainages north of the Yukon River downstream from Marshall. Did I say upstream before? I mean downstream from Marshall.

And that's the recommendation we came up with, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Dan.

MR. LAPLANT: If you'll give me a minute, I'll display that on the screen as well.

CHAIRMAN FLEAGLE: While we're waiting for that, we did have an interest in testimony on this proposal as well, right, from Timothy Andrew.

MR. PROBASCO: That's correct.

CHAIRMAN FLEAGLE: Timothy, we had tabled this proposal for a definition of the area that is being requested.

MR. ANDREW: Once again, thank you, Mr. Chair. Timothy Andrew with AVCP.

We support this proposal primarily based on the relationship that people in Stebbins and St. Michael have with our member village of Kotlik, Emmonak and Alakanuk, and electing these within the Unit 18 area.

People often invite the people from Stebbins and St. Michael to their potlatches, and to their other events that they may host in their villages,
and we believe that people from Stebbins and St. Michael are primary subsistence users, and would create no immediate conflict with people from our villages with the resource.

Thank you, M. Chair.

CHAIRMAN FLEAGLE: Thank you, Timothy.

Questions.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, back to Board discussion on the action before us. Steve.

MR. KESSLER: Thank you, Mr. Chairman. I guess a question just for clarification of the Council recommendations. Is the area that was just identified with sort of the new line drawn, is that the recommendation of the Yukon-Kuskokwim Delta Regional Advisory Council?

MR. WILDE: (Nods affirmatively)


MR. WILDE: (Nods affirmatively)

MR. KESSLER: Yes. Thank you.

MR. WILDE: For the record, Mr. Chairman, that is.

CHAIRMAN FLEAGLE: Thank you, Lester.

Further discussion.

(No comments)


MR. EDWARDS: I would -- somebody's put up the language there, because I certainly couldn't repeat what was said. I see that. Okay.

Okay. Mr. Chairman. I move that we adopt Proposal 07-26 with the modification, and that modification would include the area north of a line from Cape Romanzof -- why don't you read it for me, help me
here -- and the mountains, whatever they are, and
Mountain Village and all drainages north of the Yukon
River downstream from Marshall. I got most of them	right.

MR. KESSLER: I'll second.

CHAIRMAN FLEAGLE: All right. We have a
motion to find a positive customary and traditional use
for the residents of St. Michael and Stebbins for the
area that was just described. Discussion. Judy.

MS. GOTTLIEB: Mr. Chair. Thank you. I
want to thank both of the Regional Councils for working
on this and for making it a fuller and complete listing.
And I think the evidence that's been provided to us is
substantial for this decision.

CHAIRMAN FLEAGLE: Other discussion.

(No comments)

UNIDENTIFIED VOICE: Question.

CHAIRMAN FLEAGLE: The question's called
on the action. Pete, please poll the Board.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on WP07-26 with clarification from the
Seward Peninsula Council and the Y-K Delta Regional
Advisory Council:

To adopt with modification to include the
area north of a line from Cape Romanzof
to Kusilvak Mountain Village, and all
drainages north of the Yukon River
downstream from Marshall.

Mr. Kessler.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.
MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Yes.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: And Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Chair. Motion carries, six/zero.

CHAIRMAN FLEAGLE: All right. Thanks. That now moves us to Proposal 29, 30. And we have somebody coming to the table. Okay. We have Pete DeMatteo before us.

MR. DEMATTEO: Yes, sir. Pete DeMatteo. I'm a wildlife biologist for the Yukon-Kuskokwim Delta Region, and also the Interior Regions.

Mr. Chair, the analysis of Proposals 29 and 30 can be found in your books beginning on Page 352. Proposal WP07-29 was submitted by the Yukon-Kuskokwim Delta Regional Council who requested a change in the harvest limit for the December 20 through June 10 moose season -- or, I'm sorry, January 10 moose season, from one antlered bull to one moose for Unit 18 remainder. Proposal WP07-30 also submitted by the Council request a change from the existing September 1 through 30 and December 20 through June -- or January 10 moose season to September 1 through March 31 for Unit 18 remainder, and a change from the one antlered bull harvest limit to one bull.

Further discussion with the proponent revealed that the proposals for 29 and 30 actually would affect Unit 18, that portion north and west of a line from Cape Romanzof to Kusilvak Mountains to Mountain Village and excluding all Yukon River drainage upstream from Mountain Village rather than the Unit 18 remainder as is stated in the original proposal.

Also from additional discussion with the proponent, it was realized that Proposal 29 would extend the winter season from January 11 through the 20th and mirrors the Federal Board's action as it was taken on
Special Action WSA06-04. That was the special action that the Board adopted in December 2006 that extended the winter season through January 20th and changed the harvest limit to any moose. Because the Board's action on the special action was a temporary action, the expanded harvest limit and extended season was only good for the December and January season of this year.

The proponent submitted Proposal 29 requesting the Board place these changes in the permanent regulation.

The proposed regulations can be found in your book on Page 353.

Mr. Chair, no new information on the moose population in the lower Yukon River in Unit 18 exists since the last population survey that was conducted in November 2005. The moose population surveys for the affected area were scheduled for March of this year. The current population trend will eventually lead to over-browsing followed by population decline if this population is not put into check. It should be mentioned that extending the seasons and expanding the harvest limit would slow the growth rate of the population and prevent over-browsing of moose habitat in the proposal area.

Harvest results from the December 20 through January 20 season of this year totalled 38 bulls, 21 cows and 12 calves. And the point is the cow harvest was lower than anticipated.

Adoption of Proposal 29 season extension and harvest limit should not have negative impacts on the affected moose population. Adoption of Proposal 30 season extension would provide an additional 160 days of opportunity for Federally-qualified subsistence users to harvest moose from September 1 through March 31, an opportunity to harvest any bull.

The impacts on the affected moose population from the expanded harvest limit of any moose on the 10-day season extension requested in Proposal 29 should be evaluated before an additional 160-day season extension is considered as proposed in Proposal 30.

The additional 10 days and the opportunity to harvest any moose during the winter season should help to address this population's elevated calf.
component and provide qualified users with additional opportunity.

Mr. Chair, the OSM preliminary conclusions for the two proposals are as follows: For Proposal WP07-29, the preliminary conclusion is to support the proposal, and for WP07-30, the preliminary conclusion is to oppose the proposal.

Thank you.

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: Thank you. Summary of written public comments.

MR. NICK: Mr. Chair. There were no written comments for 29, 30. Mr. Chair.


MR. PROBASCO: Mr. Chair. Mr. Tim Andrew.

CHAIRMAN FLEAGLE: Tim.

MR. ANDREW: Thank you, Mr. Chair. Once again, Timothy Andrew with AVCP.

We currently support the Staff recommendation in support of these proposals, although we belief that the Staff recommendation totally misses the intent of some of the proponents of these proposals. The primary intent of the proponents were to try and decrease competition in the moose hunt and to allow people from the respective communities to harvest their moose needs prior to opening the season to the general hunt. But we believe that given the potential impacts of these proposals, allowing for an earlier season and -- or, excuse me, to extend the season and to also extend the winter season would enable people to harvest their moose needs in close proximity to their communities.

Thank you, Mr. Chair.

Questions.
CHAIRMAN FLEAGLE: Appreciate the testimony. We've got the Regional Council recommendation. Lester.

MR. WILDE: Thank you, Mr. Chairman. The Lower Yukon RAC supports Proposal 29 with modification to also open the fall season earlier. The modified regulation would read, Unit 18, that portion north and west of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village and excluding all Yukon River drainages upriver from Mountain Village, to one antlered bull. Unit 18, that portion north and west of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village and excluding all Yukon River drainages upriver from Mountain Village. The Yukon Delta National Wildlife Refuge manager may restrict the harvest of only antlered bulls after consultation with ADF&G.

The Yukon Delta Subsistence Regional Advisory Council believes that the moose population in the lower Yukon below Mountain Village is healthy and growing. The earlier August 10 season start would allow opportunity earlier for antlered bulls. The December 20 to January 20 any moose season will allow mid winter opportunity.

Our Council agreed to this, but, you know, if you have any problems with the proposal 30, you know, that the recommendations of the Staff is livable.

CHAIRMAN FLEAGLE: Okay. Thank you.

MR. REAKOFF: We took no action on this proposal either.

CHAIRMAN FLEAGLE: And I don't see it being addressed at all by the Seward -- okay. Thank you.

Alaska Department of Fish and Game comments. Terry Haynes.

MR. HAYNES: Mr. Chairman. The Department supports Proposal 07-29 as written. Extending the winter season from January 10th to January 20th is not expected to create conservation concerns at this time and will provide additional winter moose hunting opportunity to Federally-qualified subsistence users.
The Department opposes Proposal 07-30. It is premature and inconsistent with recognized principles of wildlife management to establish the long 150-day moose season in the affected area of Unit 18. And there's no substantial evidence that such a season is necessary to provide a meaningful preference for Federally-qualified subsistence users.

Thank you, Mr. Chair.

CHAIRMAN PLEAGLE: Thank you. Steve.

MR. KESSLER: Thank you, Mr. Chairman. Mr. Haynes, I'm a little confused on one issue, and looking at the State's comments, I don't see anything that discusses the Regional Advisory Council's proposed change from August 20th I believe it is to the August 10th date. And now the State supports the proposal as written, maybe it's from the September 1st date to the August 10th date. I'm just trying to make sure I'm clear here. What's that?

UNIDENTIFIED VOICE: It's a 20-day.

MR. KESSLER: It's a 20-day extension in the early extension. Is that a concern for the State? Thank you.

MR. HAYNES: Ken Taylor may have some comments, Mr. Chairman. But let me say this, that we think you need to exercise caution in starting to expand this season too rapidly. There's a lot of interest in hunting. There's a pretty high level of harvest taking place already during the fall season. Opening the moose seasons earlier in August when weather is typically warmer, certainly not as warm on the coast as it is in the Interior, but we thought an appropriate step is to extend that winter season a bit more, provide some additional opportunity, but to exercise a bit of caution for that fall season. Providing that long of an extension early in the season could be a bit much. We don't know for sure, but we'd just say, move cautiously with expanding these seasons.

CHAIRMAN PLEAGLE: Ken Taylor.

MR. TAYLOR: Thank you, Mr. Chairman. Very briefly, because of your action on opening this area to people that are not Federally-qualified subsistence users, you need to keep in mind that most of our moose
seasons do open September 1st, and those that -- there are very few that open August 10th, and you could funnel pressure into that area simply with that opening.

CHAIRMAN FLEAGLE: Thanks. Steve.

MR. KESSLER: Well, I guess I'm just thinking about those earlier dates there, that that would then provide a preference for the users that have a customary and traditional use determination for those earlier dates prior to the September 1 opening as I understand under State regulations, is that correct?

CHAIRMAN FLEAGLE: I read it the same way. This would be a Federal regulation that allows Federally-qualified subsistence users to hunt beginning August 10th, and the State regulation which would applied to the non-qualified subsistence users would regulate the green-card hunters which the State would probably still have as September 1.

Terry Haynes.

MR. HAYNES: Mr. Chairman. Expect for as has been noted, those residents of Unit 21E and 19, there are rural residents who might have an interest in the earlier seasons, and I believe they would be -- to the extent if they have -- if the customary and traditional use determination includes them, then they would have the opportunity to participate as well.

CHAIRMAN FLEAGLE: Further discussion, questions for the State's position. Steve.

MR. KESSLER: Thank you, Mr. Chairman. I think just a comment. If I understand the customary and traditional use determination, it's on Page 354, it's all rural residents of Unit 18, Upper Kalskag, and it's not residents of other areas, is that correct?

CHAIRMAN FLEAGLE: Well, we just added Stebbins and St. Michael, so that is incorrect to a small degree.

MR. KESSLER: And Stebbins and St. Michael. You're correct. But not the other areas I don't believe that Terry was mentioning.

CHAIRMAN FLEAGLE: I've got hands everywhere. Lester.
MR. WILDE: Thank you, Mr. Chairman. I forgot what I was going to state. I got so busy trying to get you to notice me that I forgot what I was going to state.

CHAIRMAN FLEAGLE: Okay. We can come back to you. Pete.

MR. DEMATTEO: Mr. Chair. Staff will just add that if it helps the discussion any, that the Y-K Council want the August 10 start date, because it would match the Unit 18 remainder start date. So it would simplify things there and the State went with that.

Thank you.

CHAIRMAN FLEAGLE: Appreciate it. Lester? That was it, your comment? Okay. All right.

We'll move on to the InterAgency Staff Committee comments. Larry.

MR. BUKLIS: Thank you, Mr. Chairman. The Staff Committee comments can be found on Page 360, and I'll highlight the main points.

The Staff Committee fully agrees with the preliminary OSM Staff conclusion that the scale of season liberalization in WP07-30 to March 31st is contrary to sound principles of wildlife management.

The Staff Committee considers the modification to 07-29 to have an earlier opening for the autumn season to be of little biological concern because of the limited effect it will have on harvest. The 10-day winter season extension requested in Proposal 29 and supported by the Y-K Council will potentially have a greater effect on controlling the burgeoning moose population, especially because it simultaneously liberalizes the harvest limit from one antlered bull or a calf moose to any moose. Because of the need for halting moose population growth though, the Staff Committee considered this incremental liberalization to be consistent with recognized principles of fish and wildlife management.

Thank you, Mr. Chairman.

Questions.

MR. EDWARDS: Mr. Chairman. I'll go ahead and move that we support the Yukon-Kuskokwim Delta Regional Advisory Council's modification to Proposal 07-29 which would also open the fall season earlier. And I would add one other modification to be consistent with what we have been previously doing, is in the requirement for consultation to include the Chair of the Regional Advisory Council.

MR. KESSLER: Second.

CHAIRMAN FLEAGLE: Okay. We've got a second. Discussion. Board members.

Gary, do you want to justify your motion.

MR. EDWARDS: Well, Mr. Chairman, I think as we've heard, you know, the moose population has grown rapidly, and could support this season extension and liberalization in the winter, and would provide an additional harvest opportunity to local subsistence users particularly.

CHAIRMAN FLEAGLE: Discussion. Judy.

MS. GOTTLIEB: Mr. Chair. Thank you. Appreciate the efforts of the RAC. It does look like they were going for some consistency in the general area. And I think this will work good and has nice checks and balances on it to keep monitoring how this year goes.

CHAIRMAN FLEAGLE: Other comments.

(No comments)

CHAIRMAN FLEAGLE: Ready for the question. It looks like we're ready for the question on Proposals 29/30. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

Final action WP07-29/30, Unit 18 moose.

Adopt with modification as recommended by the Yukon-Kuskokwim Delta Subsistence Regional Advisory Council to also open...
the fall season early, and further
modified to include the Refuge manager
after consultation with the Chair from
the Y-K Regional Advisory Council.

Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: And Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Motion carries, six/zero.

CHAIRMAN FLEAGLE: Thank you, Pete. And
that concludes our discussions on the Yukon-Kuskokwim
Delta Region. Moving into Western Interior, we'll give a
few moments for Staff to exchange positions. A five
minute stand down.

(Off record)

(On record)

CHAIRMAN FLEAGLE: All right. The
Federal Subsistence Board is back in session.

Moving into Western Interior Alaska
Region Proposals, and we're starting out with Proposal
34. And we have Pete at the table.

MR. DEMATTEO: Yes, sir. Pete DeMatteo,
Staff wildlife biologist for the Western Interior Region.
Mr. Chair. The analysis of Proposal 34 can be found in your books beginning on Page 378.

Proposal WP07-34 was submitted by Scott and Heidi Schoppenhorst of Wiseman who request that the Board change the Federal sheep season from August 20 through September 30 to August 10 through September 20 for Unit 24A, except that portion within the Gates of the Arctic National Park.

Unit 24A is the eastern most portion Unit 24 that essentially extends from Atigun Pass down to and including the Kanuti River drainage. This includes the Dalton Highway Corridor Management Area, except, again, for Gates of the Arctic National Park.

The proposed change would revert the Federal sheep season in the affected area back to the season dates that existed prior to the 2004/2005 regulatory year. The intent of this proposal would provide all users equal access to affected sheep population, before users hunting under the State regulations have disturbed the animals during the first 10 days of the State August 10 through September 20 season.

The proponent feels that realigning the Federal and State seasons would provide users with access to undisturbed sheep and a better chance for a successful hunt. As fall moose and sheep habitats generally do not overlap, the later Federal season was requested because hunters are preoccupied with moose hunting and this was originally requested by the Western Interior Regional Council in October of 2003.

The proposed regulations can be found on Pages 378 and 379 of your books.

Residents of Unit 24 residing north of the Arctic Circle, residents of Allakaket, Alatna, Hughes, Huslia and Anaktuvuk Pass have a positive C&T use determination for sheep in Unit 24.

At the March 2004 meeting of the Western Interior Regional Council it was stated by the Council that sheep were important to the subsistence needs of Anaktuvuk Pass and Wiseman residents only and are secondary to caribou for Anaktuvuk Pass and moose for Wiseman residents.
Analysis of results from 2002 through 2006 population surveys conducted in the eastern portion of the affected area and adjacent areas to the east reveal that the affected sheep population has recovered from low levels reported in the early 1990s, and is presently stable.

According to the Alaska Department of Fish and Game, reports from hunters and surveys indicate that large rams were fairly well represented in most of the eastern Brooks Range during the period of July 2001 through June 2004. The sheep population in the Dalton Highway Corridor Management Area is likely to have a better age structure due to the more restrictive harvest regime and significant lower level of hunting pressure.

Beginning in 1992 the BLM administered two Federal subsistence hunts within the Dalton Highway Corridor Management Area. Federal permit hunt number RS424 in Unit 24 was for residents of Unit 24 north of the Arctic Circle, and residents of Allakaket, Alatna, Hughes and Huslia. The second Federal subsistence hunt, RS699, was the Unit 26B portion of the Dalton Highway Corridor Management Area. Non-Federally-qualified hunters also were allowed to hunt in the management area under more restrictive State regulations.

The Federally-qualified user group within the management corridor is relatively small and this group averages 2.5 sheep harvested per year since 1995.

Most sheep hunting in the eastern Brooks Range occurs during August and early September when the weather is most favorable. An estimated 80 to 90 percent of the sheep harvest occurs prior to September 1st.

The number of hunters, both subsistence and non-subsistence, and the sheep harvest in the survey areas is difficult to determine with complete accuracy, because the harvest report information often doesn't identify the specific areas involved.

Mr. Chair, there is no biological reason to adopt the proposed change that would revert the existing season back to the prior season.

With that, Mr. Chair, the OSM preliminary conclusion is to oppose this proposal.

Thank you.
CHAIRMAN FLEAGLE: Thank you. Questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Summary of written public comments. Vince.

MR. MATHEWS: Yes, Mr. Chairman. They're found on Page 388 of your book there. There are two in opposition. You only see one listed there.

The Gates of the Arctic Subsistence Resource Commission met last week and they oppose this proposal. If you'd like further information on that, Jack Reakoff is a member of that commission and can share that. But basically they oppose this proposal.

The second written comment was from Thor Stacey of Wiseman. He opposes the proposal because it effects his hunting season drastically.

All three of the proposals, 55, 58 and 34 are rooted in user conflict and this user conflict is based on perception more than reality.

The intent of shifting the season from August 10 through September 20th to August 20th through October 1st was given to subsistence users access to sheep after the moose season. That's already been covered here, that it allows them to take advantage after their moose season to go sheep hunting. And he found that as advantageous for his opportunity.

The main factor keeping locals in during the early August seasons are weather, seasonal sheep distributions and finishing the short summer projects. The season of August 20 through October 1st best fits with maximizing opportunity, resource sustainability, and minimizing user conflict. If a change is made, I recommend an August 10 through October 1st. Please keep the sheep season as it stands now.

And that was from mr. Stacey of Wiseman.

That concludes the summary of written comments.

CHAIRMAN FLEAGLE: Thank you. Public testimony comments. Pete.
MR. PROBASCO: Mr. Chair. We have no one signed up for this agenda item.

CHAIRMAN PLEAGLE: Regional Council recommendation. Jack.

MR. REAKOFF: Mr. Chairman. This proposal was opposed by the Western Interior Regional Advisory Council.

The Gates of the Arctic Subsistence Resource Commission discussed this proposal, and also opposed the proposal.

Some points to keep in mind regarding this hunt here and reasonable opportunity for subsistence use of sheep in the Dalton Highway Corridor is the Gates of the Arctic National Park season opens on August 1st, and the Gates of the Arctic comes within a mile and a half of the Dalton Highway north of Wiseman, so if somebody wants to hunt early, they can go into the park.

The Unit 26B hunt starts on August 10th, and so there's -- and so some of the factors that are limiting is we normally have a lot of rain in early August and bad weather on the south slope, and if you want to hunt sheep, you can go over on the north side and hunt sheep, and that opens August 10th over there.

In the '04 proposal, 04-57, when this was proposed by the Western Interior Council, was to shift the season back a little bit to optimize opportunity. Originally the proposal was to have August 10 to September 30th. Under Board discussion I relented to an August 20th to September 30th. It's still advantageous. It gave us more opportunity to hunt, and the sheep hunting is, although a highly desired animal, because we like variance in repertoire of diet, we do -- it is a very important animal for people who live in the mountains. That's why Arctic Village is talking so much about sheep.

And so we, in discussion at the Western Interior Council on that 04-67 proposal, the data showed that there was no sheep harvested before August 20th by any of the subsistence users, and so the Board adopted that. Since that proposal, since that regulation has been in place, there has been several sheep, three or four or something, the data reflects three or four sheep have been harvested in the last two years on that
1 additional period. And I personally have taken sheep in
2 that overrun period when I'm too intense on hunting
3 moose. When I finally get a moose, get that put away,
4 then get a chance to rest a little bit after packing
5 moose meat, then start sheep hunting.
6
7 And so this regulation has been
8 beneficial to the subsistence users. I see that it's
9 primarily a perception and a misunderstanding in what the
10 regulation actually did. And so the person in our
11 village, I explained that they could use the overrun,
12 where they could hunt at the alternate times, they
13 actually regretted submitting the proposal.
14
15 And so that would be the synopsis of what
16 the Western Interior's position is.
17
18 CHAIRMAN FLEAGLE: Okay. Thank you.
19 Questions.
20 (No comments)
21
22 CHAIRMAN FLEAGLE: And I see we have
23 North Slope. Vince.
24
25 MR. MATHEWS: Mr. Chairman, I'll just
26 cover North Slope's real quickly since they're not
27 present here. Basically to defer the proposal. They
28 didn't want to take action until they heard from the
29 community of Anaktuvuk Pass.
30
31 Thank you, Mr. Chair.
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33 CHAIRMAN FLEAGLE: Mr. Chair.
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35 MS. GOTTLIEB: Mr. Chair.
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37 CHAIRMAN FLEAGLE: Judy.
38
39 MS. GOTTLIEB: And I might add that as a
40 follow up from our database, it does not look that
41 Anaktuvuk Pass people were harvesting in this area. And
42 we kind of verified that with our unit manager who lives
43 there.
44
45 MR. REAKOFF: Mr. Chairman.
46
47 CHAIRMAN FLEAGLE: Jack.
48
49 MR. REAKOFF: I also -- the
representative from Anaktuvuk Pass for Region 10 resigned and so they had no representation from Region 10 is why they were unsure about what was going on with the sheep thing. That's way up in the mountains, and so that's why they deferred.

CHAIRMAN FLEAGLE: Okay. Thank you.

Alaska Department of Fish and Game comments. Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman. I'll summarize our more detailed comments.

The Department supports the intent of the proposal to align the Federal and State sheep seasons in Unit 24A outside of the Gates of the Arctic National Park, which would reduce confusion among users and complexity for law enforcement officials.

The Federal registration permit currently allows Federally-qualified residents to harvest one ram with seven-eighth-curl or larger horn. State regulations are more restrictive and authorize non-Federally-qualified hunters to harvest one ram with full-curl or larger horn. The difference in horn size provides additional opportunity for Federally-qualified subsistence users beyond that provided by the State, because there are significantly more rams with less than full-curl horn.

You know, having said that, it appears that the current 42-day season, regardless of whether it's aligned with the State and adjoining Federal regulations were shifted as provided for by the Federal Board in 2004 does provide for continued subsistence opportunity.

Thank you.

Questions.

CHAIRMAN FLEAGLE: Thank you, Terry.

(No comments)

CHAIRMAN FLEAGLE: InterAgency Staff Committee comments. Larry.

MR. BUKLIS: Thank you, Mr. Chairman. Those can be found on Page 388.
The key points are that the Western Interior Council opposed the proposal, substantiating their position with testimony that emphasized how the current sheep season contributes to the continuation of customary subsistence practices.

The North Slope Council's recommendation to defer the proposal was because they wanted to hear from the Village of Anaktuvuk Pass. The Staff Committee noted that Anaktuvuk Pass is a long distance from the area addressed in this proposal. There is prime sheep habitat closer to the village, and the village already has an exclusive opportunity to harvest up to 60 sheep under a community harvest quota in the Gates of the Arctic National Park.

After further review of the Federal registration permit records for this hunt from 1994 to present, no sheep have been harvested under Federal subsistence regulations by residents of Anaktuvuk Pass in Unit 24A.

The Staff Committee noted that this information and the available evidence does not seem to warrant a deferral of this proposal.

Thank you, Mr. Chairman.

CHAIRMAN PLEAGLE: Thank you, Larry.

Board member, questions.

(No comments)

CHAIRMAN PLEAGLE: Discussion. Judy.

MS. GOTTLIEB: Mr. Chair, given that your preference is to move things in the positive for discussion purposes, I will then move that we adopt the proposed regulation that's listed on Page 376 that would change the dates to August 10 to September 20. However, after a second I will tell you why I oppose that.

MR. CESAR: I'll second.

CHAIRMAN PLEAGLE: Okay. You do have a second, Judy.

MS. GOTTLIEB: Thank you. Well, I will oppose this based on the justification provided by the Western Interior RAC as well as the information presented
to us today and in our documentation.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: I also will oppose this motion. There's no biological reason. I think we've learned that Anaktuvuk -- to wait until we hear from Anaktuvuk, Anaktuvuk has not used these areas, and in recommendation of the Western Interior Subsistence Regional Advisory Council, I support their reasons.

Thank you.

CHAIRMAN FLEAGLE: Other comments.

(No comments)

UNIDENTIFIED VOICE: Question.

CHAIRMAN FLEAGLE: The question's called.

Pete, on the proposal, please poll the Board.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on WP07-34:

Unit 24A sheep, to reject the proposal as recommended by the Western Interior Subsistence Regional Advisory Council.

CHAIRMAN FLEAGLE: Okay. Hang on.

MS. GOTTLIEB: Excuse me.

CHAIRMAN FLEAGLE: Let me clarify it. I'm sorry. I didn't -- Judy asked me about this on break, and I didn't mean to make it confusing. What I said was that the Board's past practice is to state the motion, including the recommendation from the RAC even though the motion is stated in a negative is fine by me. Other motions that do not include a RAC recommendation, I would prefer to have in the positive.

So this one could have been to accept, like Pete just read; however, Judy stated it the other way.

MR. PROBASCO: How would you like it, Mr. Chair.

MR. EDWARDS: The motion was to accept.
CHAIRMAN FLEAGLE: Yeah, the motion was to accept. So a negative vote in this case. And I'm sorry to have led to that confusion.

MS. GOTTLIEB: Could we remove that from the screen, please, because it is not accurate. Thank you.


MR. PROBASCO: Okay. So the motion is to support the Western Interior Regional Advisory -- no? Say it again. State it.

CHAIRMAN FLEAGLE: The motion is to adopt the proposal as presented, which is contrary to the.....

MR. PROBASCO: Okay. I've got you.

CHAIRMAN FLEAGLE: .....RAC's position. So if we vote in the negative, we will be supporting the RAC position. And again I apologize for -- maybe I should have just struck that motion down and made new ones. Over there. Okay. Pete.

MR. PROBASCO: I'm there. I'm not going to restate it though. Mr. Chair. As stated by yourself, final action on WP07-34, Unit 24A sheep.

Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: No.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: No.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: No.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: No.
MR. PROBASCO: And Mr. Edwards.

MR. EDWARDS: No.

MR. PROBASCO: Motion fails, zero/six.

CHAIRMAN FLEAGLE: So everybody's supporting the Western Interior RAC's position. So you win in a round about way there, Jack.

Anyway, we had a little bit of clean-up language on the last proposal. Pete, would you present that to us, please.

MR. PROBASCO: Yes, Mr. Chair. Just to clarify the record, prior to Proposal 34, we took action on Proposal 29, and I misstated it, saying 29/30. Actually the motion was on Proposal 29, and the action the Board took on Proposal 29 would result in no action on Proposal 30. So I just wanted to clarify the record.

Mr. Chair.

CHAIRMAN FLEAGLE: All right. Any objection. Any discussion.

(No comments)

CHAIRMAN FLEAGLE: Hearing none. Why don't we go ahead and break for lunch. 1:00 o'clock return, and then we will bring up the RFR when we return at one.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon. The Federal Subsistence Board is back in session. And as we promised this morning we are taking a break from our normal proposal schedule and bringing up the request for reconsideration brought by the State against the C&T determination for fish on the Kenai.

And before we get there, though, we wanted to talk about a little scheduling and we also mentioned this morning, earlier, that we're going to try to determine at about this time whether or not we need to extend into tomorrow. My thinking and I think Pete concurs, is that, we will be able to complete the
business that we have before us today if we put our minds
to doing so. And that may require another evening
session, if necessary. But having said that I think that
we will just plan on finishing today and not schedule a
follow up session for tomorrow.

With that I understand that there's a
tremendous amount of interest for this request for
reconsideration and I suppose there's quite a bit of
documentation being readied by the State and by the
Ninilchik Tribe for this issue. I'm going to ask that
everybody summarize the positions or statements in a
brief of timeframe as possible so that we can move
through this issue and get it back to the Board for
deliberation and continue on with the rest of our agenda.

Pete, do you have an announcement.

MR. PROBASCO: Yeah, Mr. Chair. And I
apologize for not being quicker. For you Board Chairs,
because the odds are we are going to go into the evening,
if you do need to extend, please do so, just let your
Council coordinator know that and they will take care of
that. So it's going to be your call as far as staying
into the evening, but if you desire to do so please make
those arrangements with your coordinator.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Any other
announcements. I'd like to welcome to the table
Commissioner Lloyd for the State Department of Fish and
Game.

MR. LLOYD: Thank you, Mr. Chairman. As
I'm new to your arena I'll rely on your guidance and
indulgence on any procedural matters and thanks, again,
for having me here.

CHAIRMAN FLEAGLE: You bet, thank you.
We have a process to follow and it's on the front page of
the agenda under Item 6. There are six letters A, B, C,
D, E, F to follow, and we're going to start off with the
Staff analysis. And, Helen, are you going to lead off.

Okay, let me just state real quick before
you start, if there is any public interest in testifying
you need to fill out a yellow card. You can get it from
the table out in the hallway there.
Go ahead, Helen.

MS. H. ARMSTRONG: Thank you, Mr. Chair. Members of the Board. My name's Helen Armstrong. I'm an anthropologist with the OSM. I am presenting to you today the Staff analysis for Fisheries Request for Reconsideration 06-09 that was submitted by the State of Alaska. This FRFR requests that the Board reconsider and rescind its decision of November 17th, 2006 on FRFR06-02/03/08 that provided the community of Ninilchik with a customary and traditional use determination for all fish in the Kenai River area.

So if the Board were to reverse its decision today it would go back to the earlier decision from January 2006 that gave Hope and Cooper Landing a positive customary and traditional use determination for all fish for the Kenai River area and to Ninilchik for the Kasilof River drainage. In the RFR the State maintains that reconsideration is required because the Board's interpretation of information, applicable law or regulation was in error or contrary to existing law. The Board accepted one claim from the RFR, a threshold analysis was done and the Board met to review that. The claim that they accepted was criterion two, the existing information used by the Board is incorrect.

Claim 2.1. The Board did not require any evidence as to any species to support its incorrect assumption that fish stocks harvested by Ninilchik households in waters located outside of and far away from the C&T areas where the same specific fish stocks as those fish located within the C&T areas.

The State claims the Board made an overly broad incorrect determination creating a preference for Ninilchik for all salmon, Dolly Varden, rainbow trout, lake trout, steelhead, Arctic char, grayling and burbot wherever found within the Kenai River area, although no customary and traditional harvest by that community of the fish stocks within those areas had been shown.

The State is correct that during the Board meeting on November 17th, 2006 on member of the Board, the Chair, made reference to, I quote, "several different systems that could be defined as the same fish stock" as justification for supporting a positive customary and traditional use determination for Ninilchik.
for all fish in the Kenai River area. The Chair did not elaborate on what he meant by fish stocks, thus the Board has decided to reconsider its decision on FRFR06-02/03/08 in order to clarify for the record the reference to stocks, and either the Board members who used stock as part of their rationale can provide a different rationale for their decision or change their decision.

However, it should be noted that three of the five Board members who voted for the motion provided rationale for their votes without reference to fish stocks, which means that for at least those three the Chair's comments about fish stocks were not the deciding factor for their votes.

There was undue emphasis on this one aspect of Board deliberations from November 17th, 2006, in which stock considerations arose. Perspectives may be lost on the body of information brought to bear on the larger question of a C&T determination.

In the Federal Subsistence Management Program if a community demonstrates that it has harvested salmon and non-salmon in an area, there does not need to be information regarding the eight factors, including harvest of every stream, every lake, every drainage. Evidence of fishing activities by a community, even in the absence of specific information regarding the species taken could be sufficient to support a customary and traditional use determination for the community for different commonly used stocks. This is because, as was discussed Monday and Tuesday of this week, subsistence users are necessarily opportunistic by nature. They may target one fish species but will certainly retain and use another if caught.

Since the Board has decided that it will revisit its decision on Ninilchik's use of the Kenai River area, I am providing a summary, and a brief summary of Ninilchik uses only of the Kenai River area. This information was provided to the Board in January 2006 in FP06-09 and, again, November 16 and 17th, 2006 in RFR06-02/03/08, and in addition the Board has heard extensive testimony from the public in both meetings and from two anthropologists, Drs. Jim Fall and Robert Wolfe.

So I'll refresh your memory from those previous analysis, if that's acceptable, unless you want me to stop there. But I've got some just points on where fish have been harvested, if that's acceptable.
CHAIRMAN FLEAGLE: Yeah, that's okay, Helen.

MS. H. ARMSTRONG: Okay. Since you've heard a lot about Ninilchik on Monday and Tuesday, and Ms. Williams provided a lot of information on the history of the Ninilchik people and the community, I don't need to go over that or talk even about the interrelationship with the Kenaizte and the Insupiat (ph). What I'd like to focus on is where we have information of where fish have been taken, what we know.

When making a customary and traditional use determination one of the factors considered by the Board is the long-term consistent pattern of use excluding interpretations beyond the control of the community or area. This point is important because subsistence fishing in the freshwaters of the Kenai Peninsula was prohibited from 1952 until the Federal Subsistence Board created a subsistence fishery in 2002, which mirrored the State sportfishing regulations.

Second, since Statehood legal availability of fishery resources in Federal public waters has been defined by State sportfishing regulations and these regulations do not provide for harvest of all species or harvest by traditional methods and means.

Given that we do have some information on what has happened. In freshwater, we know this from some of the literature sources, gillnets and seines were used in the Kenai, Skilak and Tustumena Lakes to harvest lake trout, grayling, whitefish and char. Trappers in the Upper Kenai River area maintain gillnets in the Upper Kenai and caught salmon and trout. Coho salmon were harvested through the ice in the winter and steelhead from below Skilak Lake in the late 1940s and early 1950s. From the Ninilchik subsistence surveys, and, again, Ms. Williams talked about those surveys so I won't go into detail about how they were done and how many people were interviewed, there is some documentation on the use of waters in the Kenai Refuge before 1952 from the 1994 subsistence survey Ninilchik did. These maps showed use areas for salmon and non-salmon that covered the entire Kenai Peninsula and represented use in the respondent's lifetime. Respondent's marked areas used during their lifetime for particular subsistence resources. These maps were combined to create a map with all of the use areas in one polygon. I do have those maps here, too, if anybody wants to refer to them, but they do show use of
the entire Peninsula.

I wanted to note that the technique of combining all of non-salmon species together into one map is not something that Ninilchik does and did alone, that this is also done by the ADF&G Subsistence Division. When they've done mapping, they've often, not always, but often lumped the non-salmon species in one map, so you wouldn't have a map for steelhead, for rainbow trout, for lake trout, you would just have a map for non-salmon species.

Last November you also heard about the lifetime use data from the Kenai River area that Dr. Fall compiled that was not included in his 2004 report. And those findings are on Table 1 on Page 14 of the analysis. There wasn't any information gathered when that question was asked on which species or how often each year they were taken. And the question actually in the survey was have you ever harvested fish and then they had a whole series of questions, whether they were done with sportfishing, personal use, commercial fish. From that information they then coded them and lumped them into groups of areas. 28 percent of all Ninilchik households, which equated to 162 households had fished in their lifetimes in portions of the Kenai River drainage or the Swanson River area in the outer boundaries of the Kenai Refuge or the Chugach National Forest. This was all done from sportfishing or ice fishing. These waters included the Upper Kenai River, Skilak Canyon, Russian River, Kenai Lake, Kenai Lake streams and Kenai Mountain streams. Of these households 17 percent, of all Ninilchik households, sorry, had fished about every year from Federal public waters in the Kenai and Swanson River area, and 21 percent of Ninilchik households who had fished in their lifetime in Federal waters of the Kenai River, 13 percent had frequent use which was about every year and four percent intermittent use.

The other source of information from Dr. Falls 2002/2003 study indicated that the majority of Ninilchik's harvest occurred outside of Federal public lands of the Kenai Peninsula. Of freshwater fish harvested, Ninilchik harvested Dolly Varden, rainbow trout, pike and lake trout. Ninilchik households were not reported to have harvested grayling, whitefish, steelhead and burbot in the 2002/2003 study but this was only one year of data. We also had information from a meeting between BIA and the Ninilchik Traditional Council that noted that the use of grayling in Cooper Lake and
the Chugach National Forest is occurring today. Burbot has only a limited presence in Juneau Lake near Cooper Landing. Dr. Falls' study from 1998 did not document whether the fish harvest occurred on Federal public waters, it was done by Game Management Unit. And the Ninilchik Traditional Council also had a study that they did documenting use between 1995 and 1999 and they have maps of where individual harvest areas were for various species, again, non-salmon were lumped together as one and I have those maps here as well.

I don't know that we'd get into that but I do have them.

In Dr. Falls' 1998 study an estimated two percent of households, Ninilchik households harvested salmon and wildlife in Unit 15A on the Kenai Refuge, three percent in Unit 15B, and two percent in Unit 7. These findings were not specific to drainages, but rather specific to game management units. These 1998 findings were consistent with the findings from Falls' 2002/2003 report. In 2002/2003 four percent of Ninilchik households harvested sockeye salmon in the Russian River. An estimated one percent harvested rainbow trout and lake trout in Kenai Lake or the Kenai Mountain streams on the Kenai Refuge.

In the 1999 Ninilchik Traditional Council study of the surveyed households, the Upper Kenai River, Kenai Lakes were used by 32 percent of those surveyed to harvest salmon, 28 percent to harvest non-salmon and 16 percent to harvest chinook salmon. Skilak Lake and other were used by 20 percent to harvest salmon, 16 percent to harvest non-salmon and eight percent to harvest chinook salmon.

There also was information from the Ninilchik Traditional Council at the Southcentral Council meeting in October 2005 that indicated that Ninilchik tribal members harvest char and trout from Federal public waters, specific drainages and levels of use were not provided. Public testimony at the Southcentral Council meeting also noted that fishing occurred in Skilak and Tustumena Lakes and the Swanson River lake system, trout was specifically mentioned also in the testimony.

When BIA met with NTC in September of 2005 they elicited information indicated that fish were harvested in Russian, Summit and Hidden Lakes, Swanson and Kenai Rivers, in the Kenai Refuge and trout fishing.
through the ice were also noted. At the Southcentral Council meeting in Homer that was last fall, I believe, they noted that the Kenai River was preferred, this was at Council discussion, noted that the Kenai River was preferred over the Kasilof River prior to the prohibition of subsistence fishing in 1952 because the Kenai River is slower moving than the Kasilof and therefore easier to pull up.

If we look at Falls research, NTC's research, public testimony combined with the lifetime use data from Falls' 2006 analysis, they all indicate some level of use by Ninilchik residents for harvesting fish in the Kenai River area. The data do not indicate that the Kenai River area has been a primary fishing location, but only that the Kenai River area has been used by Ninilchik residents, both in the past and currently.

Ninilchik's fish harvest in the Kenai River area are less than in other areas closer to their community but as Mr. Goltz mentioned on Monday there are no unimportant uses in subsistence.

I won't go through the remainder of the eight factors in the interest of time, but information on all of the eight factors can be found in the analysis.

The effect of this proposal is that if the Board were to reverse its November decision, would be to remove Ninilchik from the list of communities eligible to fish under Federal Subsistence Management regulations in the Federal public waters of the Kenai River area.

The OSM preliminary conclusion is to oppose this FRFR06-09.

Thank you, Mr. Chair. That concludes my presentation.


MS. GOTTLIEB: Mr. Chairman. Thanks, Helen, for a really thorough, and I know wasn't a lot of time to put together the analysis. I think, you know, sort of the more we do all these proposals and do this process we do tend a little bit to short-hand, so I note as you have written on Page 14, while you're calling the Kenai River area, that as you've defined it, is a
pretty broad area that does include the Refuge and the
National Forest and so on and so forth and freshwater
lakes as well as rivers, am I reading your footnote one
on 14 correctly there?

MS. H. ARMSTRONG: That's correct. It's
actually on Page 4, it says, the -- under the extent of
Federal public waters in the second paragraph at the end
it says:

The phrase Kenai River area means both
waters north of and including the Kenai
River drainage in the Kenai Peninsula
district.

And that's defined in the paragraph above
as the Federal public waters north of and
including the Kenai River drainage in the
Kenai Peninsula district within the Kenai
National Wildlife Refuge and the Chugach
National Forest.

MS. GOTTLIEB: Thanks. And I guess if I
might, Mr. Chairman, just another quick comment. That,
again, we sort of maybe abbreviate our discussions to say
well where were people harvesting but my understanding of
looking at a customary and traditional use determination
is establishing, was there a connection between the
people and the resource, and so in this case Ninilchik
and fish and so I think you've done a good job in
establishing that connection.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. A couple
times you referred to Kenai Mountain streams, are we
talking all streams that are draining into the Kenai
River or are those just all streams on the Peninsula?

MS. H. ARMSTRONG: That was a reference
in Dr. Falls' study and I'd have to -- maybe that would
be a better question for Dr. Fall exactly what that
means or I can look in the book, I'm not a 100 percent
sure.

MR. EDWARDS: You also alluded to, and I
guess there was conversations between BIA and the tribal
council with regards to the use of grayling in Cooper
Lake and also on burbot in Juneau Lake, can you
elaborate, I mean is that just a conversation, is that
documented data or not, because none of the survey
information, you know, would at least demonstrated, you
know, the use of those two species and this is kind of
new information from my perspective.

MS. H. ARMSTRONG: Well, the survey is a
year, we have two different years that ADF&G Subsistence
Division did the studies and it's always possible that
something can be missed in a year, I mean it's a
possibility. The information, it was Dr. Chen who went
down to talk to a group of people at the Ninilchik
Traditional Council and I suppose it -- I'm not sure if
he's even here but I think Pat Pet -- oh, there he is, if
you wanted to have more specific information as to what
they talked about then it might be better to actually
have Dr. Chen talk about it. But there was a memo
written up and this was in the analysis from January of
'06 as well.

MR. EDWARDS: Yeah, that sounds good to
me, I'd like to hear from him.

CHAIRMAN FLEAGLE: Glenn Chen.

DR. CHEN: Thank you, Mr. Chairman.

Glenn Chen from the Bureau of Indian Affairs. We had
arranged a meeting with folks from Ninilchik to talk
about some information pertaining to their use of fish
and fish resources on the Kenai Peninsula and this took
place in September of 2005. We originally envisioned
bringing down some of the OSM Staff people to participate
in this discussion, too, but they weren't able to attend.

We had a number of folks from Ninilchik
and the surrounding area, people from the Tribal Council
and long-term residents, and we spent probably three or
four hours at the NTC office and they provided some
specific information about the locations where they had
harvested fish before, patterns of harvest, how the
harvest took place, the types of gear they used and
locations of harvest and timeframes associated with these
harvest patterns as well.

MR. EDWARDS: Can you elaborate
specifically with regards to Cooper Lake and to Juneau
Lake, you know, what were the conditions, were those
frequently, was that associated with other trips, I mean
I'm just trying to understand how that came up in the
conversation and what the responses were.
DR. CHEN: Basically we had a round-robin discussion and so everybody in the room had an opportunity to speak to me and I recorded on my laptop the conversations that they had with me and so as we went around the room some of the people spoke about, for example, Bruce Oskolkoff, for example, he spoke about how his family used to harvest sockeye salmon from Kenai Lake. How they would actually use nets to herd these fish towards the shore and catch them, they would also go down to the area of the Russian River Falls and harvest fish in those locations. So some people, like Mr. Oskolkoff provided some very specific information.

My recollection of the information about the lakes and so forth was they were not so specific but they did mention the specific lakes and the specific fish that they took from those lakes.

MR. EDWARDS: Thank you.

CHAIRMAN FLEAGLE: All right, thank you. Up next we have public testimony. Pete.

MR. PROBASCO: Thank you, Mr. Chair. And I believe this is a panel from Ninilchik Tribal Council, Ivan Encelewski, Kenny Odman, Darrel Williams, Anna Grant, Sky Starkey and Greg Encelewski.

CHAIRMAN FLEAGLE: Okay, thank you. And as you guys are preparing to sit down and make statements, I want to just remind everybody that the issue that we're trying to get to the heart of here is whether or not the definition of stocks included all species of fish and not just salmon. There seemed to be a confusion there. And, secondly, whether or not that even -- what was the other part of it, outside and far away of normal uses, I guess, was the other argument. But the Board only found reason for reconsideration on the definition of stock discussion.

In other words, we don't need to rehash the entire situation, the entire proposal.

MR. ENCELEWSKI: Thank you, Mr. Chairman. Members of the Board. My name is Ivan Encelewski, I'm the executive director of the Ninilchik Traditional Council, subsistence user. We have Dr. Darrel Williams, he works with us at the tribe, environmental scientist. Anna Grant is director with NTC, board director. Kenny Odman is another director for the Ninilchik Traditional
Council. Unfortunately Greg Encelewski is unavailable, he was not going to be available until 3:00 so I have a few quick comments I'll read into the record for him. And Mr. Sky Starkey, legal counsel for Ninilchik Traditional Council.

First I'll just read a quick statement here from our chairman.

Thank you for the opportunity to appear before the Board today once again to demonstrate the Tribe's commitment to maintaining and protecting its subsistence way of life.

NTC, at great expense, has provided more than substantial evidence of its C&T use fish, including rainbow trout, lake trout, Dolly Varden and other resident species that are the focus of this proceeding. Numerous Ninilchik residents have appeared before this Board and the Southcentral RAC over the course of many meetings these bodies have held during the last several years while they deliberated over C&T use of fish for Ninilchik. Many of the people sitting on this panel have told this Board and the Southcentral RAC about their own personal subsistence patterns and those of their families. NTC’s Exhibits 1 and 2 includes some of this testimony. Additionally, NTC conducted two surveys in 1994 and ’99 to demonstrate the C&T use of the resident species throughout the Kenai area. The survey, as presented to the Board, is included in NTC Exhibit 3. Also included in Exhibit 3 is an assessment of the surveys by Dr. Wolfe, which validates the survey techniques and underscores its value in understanding Ninilchik's C&T uses.

NTC stands on the record before the Board for C&T use of resident species throughout the Kenai area.

In summary the record shows that Ninilchik subsistence users as in other rural communities where the tribe is a vital part of the community harvest a wide variety of resources, are optimistic and keep and thankful for what we catch. We live a tribal subsistence way of life, a customary and traditional way. We catch what we are offered where and when we need it or desire it, where it is available, where it is biggest or best, where it is easier to catch. This pattern includes resident species in the Kenai River drainage and waters
to the north. Sometimes this catch is called incidental, while we are mostly focused on salmon. Sometimes it is directed. Some people like these fish more than others. Some like it for a variety in their diet. Sometimes catching resident species is part of a hunting trip. In the past it was food source while trapping and traveling and other reasons. We also catch Dolly Varden in our commercial setnet fisheries and has been our practice to keep fish caught in our commercial fisheries since our subsistence fisheries have been outlawed for many years.

This C&T use process puts many subsistence users in our community and others in a difficult position. Our way of life has been outlawed but we surveyed and our choice was often not in strict compliance with the fishing laws and regulations. How much, where, what, when, questions about our way of life. Now we must answer and document to survive, before we had to hide and keep no records but our stories to survive. The process is severely flawed. However, we are here and will answer your questions about how we, and our community use resident species, if we can and we sincerely hope that the Board sticks by its decision and this will end this very long and painful C&T process.

With that I would go ahead and allow some of these to make some comments.

CHAIRMAN PLEAGLE: 30 seconds Sky.

(Laughter)

MR. STARKEY: Thank you, and I know you'll vote the right way.

(Laughter)

MR. STARKEY: While the Council and members are here to answer any specific questions that you might have to fill in the record. Ninilchik did submit a few documents to you, and primarily it's hard to know when you practice here what the Board members have in front of them in terms of record and particularly for the Chairman who wasn't here in January of 2006 when the major record was developed here, so we did put into the record several -- the testimony of several people from Ninilchik, both in the October 2005 RAC meeting and the January 2006 meeting, which are directly relevant to resident species on the Kenai. Also included are the comments of the RAC members, both the rationale for
recommending customary and traditional use, and their own personal observations about fishing for fish on the Kenai, including all species of fish.

Also in that packet of exhibits, Exhibit No. 3, would be the study that is being talked about that Ninilchik did in 1994 and 1999, part of that study was directly relevant to resident species in that subsistence users were asked over their lifetime to draw maps for non-salmon species and those maps reflect use for the -- for many of the maps reflected use of the entire area that we're talking about.

Also attached to that exhibit is a paper by Dr. Wolfe endorsing the methodology used in the Ninilchik surveys and their particular relevance for the kind of examination that you're doing today as one of the best kinds of study to demonstrate a long-term pattern of use of an area.

Also I put in today for your review another paper by Dr. Wolfe called Subsistence Fish Harvest Patterns in Rural Alaska Communities. The importance of this document is to avoid the numbers game again, the numbers game which doesn't make any sense. Dr. Wolfe's paper basically outlines the fact that in rural Alaskan subsistence communities, when you look at a resource like resident species, rainbow trout, Dolly Varden, grayling, et cetera, nowhere in Alaska -- well, I shouldn't say nowhere, in the majority of rural Alaskan communities you will find, because they are not a staple resource, you will find a low per capita harvest, you will find a relatively low effort, annual -- if you're going to take annual surveys because people are opportunistically harvesting them when they need them and when they use them and when they're out and about as part of their subsistence way of life. So you will not find the same sorts of effort and number that you'll find for salmon or moose or something else. So when you're looking at a pattern of use in your customary and traditional use determinations that's the pattern of use that fits within a subsistence lifestyle and it's not the pattern of measuring numbers in a couple of years and making a determination on that.

The eighth criteria, in fact, for the subsistence criteria that reflects the subsistence way of life is a dependency on a wide variety of resources in an area. And so subsistence users open up their refrigerator and take things at different times.
Also we turned in an evaluation by Kent Tarbachs who worked on the Kenai Peninsula for many, many years for ADF&G, the purpose of this evaluation is to demonstrate that Dolly Varden roam as a stock for up to 150 kilometers from where they were tagged in the Kenai Lake overwintering, that they're anadromous so you catch Dolly Vardens even in drift gillnet and setnet and personal use fisheries, and that the idea that they're somehow managed as four distinct stocks is not consistent with at least the reality that Mr. Tarbachs is familiar with. And the rainbow trout, although they can be classified as distinct populations due to their genetics are not managed as distinct populations by ADF&G and that they're not managed for separate bag limits. Their harvests are not kept separately or any of that.

Finally there's nine letters, again, this is primarily for the Chairman who was not privy to all this information, from people in Ninilchik documenting their use of Dolly Varden trout and other species in Skilak Lake and other places.

Ninilchik would very much rest on all the factual presentations that it's presented, it believes that there's overwhelming, not only substantial but overwhelming evidence that they have fished in the Kenai area that is under discussion for subsistence and taken fish there, including all the resident species in a pattern that's consistent with taking those species throughout the state of Alaska.

But if there are questions and you need the record supplemented then these people are here to do that.

Very briefly I would like to just provide our opinion as to what the law is here and the arguments that the State is making.

Essentially to boil it down to where we think the issue is and consistent with what the Chair just said, here's the deal, it's clear that salmon are mixed. They're all mixed up in Cook Inlet, they run by, you're going to catch them in a long stretch of water, they're the same stock.

Resident species -- the State's argument basically boils down to you can't catch a Kenai rainbow trout expect if you're in Kenai so therefore you need to show that you're fishing in Kenai and that you have that
pattern of use in order to have customary and traditional
use of a rainbow trout in Kenai. Well, it goes farther
than that, really, it goes -- the State's argument, as I
understand it, is that you not only need to show that you
use rainbow trout in the area that we're talking about,
which would be the Kenai and the upper area, you need to
show to some degree use of rainbow trout in the upper and
the lower, you might need to show, you know, that each
distinct population that's in a lake, you know, the
degree of minuteness that you might need to go is only
limited by how far you're willing to be pushed, I think.

Our feeling about this in studying the
law is that the definition of stock at this Board has to
employ is really very much broadly -- a very broad
definition of stock is very consistent with this Board's
duty and its discretion. The narrow definition of stock
that the State is arguing for, that it has to be genetic
or that it has to be managed the same way that the State
is, managing for when it comes to conservation or some
other issue is just not supported anywhere in the law and
is not consistent with what the State does. I also
handed you 1 AAC from the State and the reason I chose
this, and it's 5 AAC 133.345, it's actually 133.6, it's
the C&T use determination from the State made by the
State when they were administering the rural priority,
the same law as you are, and it's for Bristol Bay and I
chose Bristol Bay because I think we all know that, you
know, Bristol Bay is also an amazing place for
sportfishing for rainbow trout and there are many vibrant
and valuable rainbow trout species throughout Bristol
Bay. And the customary and traditional use finding that
the State of Alaska made for Bristol Bay is simply --
finds that the following fish stocks are customary and
traditionally taken for use for subsistence use in
Bristol Bay, all fin fish. You know that's not even
breaking it down to salmon and rainbow trout. So it's,
you know, for the State to come in and argue that you
need to apply a standard that they don't is simply not
supported and the only law, if you look at what the State
submitted, which is voluminous, I mean there was the RFR,
there was the supplemental RFR and then yesterday there
was 30 pages. Okay, if you look at that, you will not
find one case or any law or any Legislative history or
any purpose of ANILCA that the State even cites that
supports their reading that a stock has to be so narrowly
defined that you have to prove the specific stock on the
specific water according to the lowest manageable portion
of that stock. The only thing that the State cites are
your regulations and a workbook.
Now, the workbook, I have yet to see a court make a decision based on a workbook. I'm sorry, you know, I wish mightily that they would but they don't do it. And your regulation, the courts will, you know, decide you're the ones who get to interpret your own regulations. So when the Chairman made his declaration about stocks, our feeling is he was finally bringing some common sense into this customary and traditional use determination process and that defining a stock broadly is well within your discretion and there is absolutely not reason to reconsider this decision based on the law.

On the other hand, a narrow definition of stock, a narrow definition of stock, one like is suggested by the State is contrary and squarely contrary to several cases that have been decided, not only by Federal courts but by State courts. A fact that the State studiously avoids. Madison, the very first case, subsistence case, 1985.

Please bear with me, a little bit on this case, because I think it's really important.

1978 subsistence law only read customary and traditional uses, there was no rural priority. It was customary and traditional uses shall have a priority. It's where the customary and traditional use standard came from and it was copied out of Federal law.

1978 Federal was the Native (ph) priority. The State adopts the law and immediately we're back on the Kenai Peninsula. There was a huge influx of people that wanted to fish for salmon on the Kenai Peninsula. So the State's Board solution to that, which, at least their position has been consistent through all these years, was to try to come down and restrict the number of people that could harvest fish on the Kenai and so they developed the 10 criteria at a meeting on the Kenai Peninsula. The 10 criteria are very similar to the eight. If you read Madison and any of the history, the 10 criteria were developed to define, not stocks that were customary and traditionally used, not populations, not sub-stocks, but what a subsistence community looked like. they were to try to define what customary and traditional subsistence use by community was and the State's scheme back then was to say you could either define a community, a group or an individual but here are the characteristics to look for for subsistence uses for a community.
Now, we've taken -- we're in a situation where those criteria, which were developed for that purpose are being suggested to be used to look at a population as small as rainbow trout in a lake. How does the eighth criteria, reliance on a wide diversity of resources fit in with looking at individual stocks, it's just nonsensical.

Madison said -- the court in Madison said absolutely not, customary and traditional use was defined, use is not users, in the Morey case, which followed after the McDowell case, the Supreme Court was specifically asked to look at customary and traditional use as defining an area of use and the Supreme Court said absolutely not, it defines uses not users. Flawbe (ph) decision says you can't -- you know, because moose is important you can't deny people use of other resources.

There are a long list of cases which your Solicitor's have recited to you in the past on this issue that all essentially stand for the proposal that ANILCA is to protect a subsistence way of life, that the regulations are supposed to be the least restrictive possible on subsistence users and that the statute is to be implemented for those reasons.

One final argument on customary and traditional use. The Regional Council system. You all and your Solicitor struggle mightily about should you give deference to a customary and traditional use determination. You rely in cases and your rationale for customary and traditional use on the expertise of the RACs in their local areas to understand what these uses are and to provide you guidance. ANILCA's clear that those people were supposed to be involved in these regulatory decisions that were important to their lives but ANILCA talks about deference in terms of takings. Congress and ANILCA never intended for their to be a hurdle of customary and traditional use that the RAC -- before the RAC even had their deference. I mean the whole structure of the statute doesn't make any sense if you're going to use this customary and traditional use determination as a barrier to subsistence uses.

So, you know, our reading of the law is that you're well within your scope to define it broadly. If you define it narrowly you're acting contrary to case law and the intent of ANILCA, and by the way you would be acting completely contrary to the United States defense of your action in Chistochina. And it bears mentioning
that the latest submission by the State is arguing the
Chistochina case to this Board and asking this Board to
take a position contrary to what its lawyers are arguing
in Chistochina. I was actually, frankly surprised that
they were explicit as they were about the argument.

So with that we'll conclude our
presentation and we believe that the record is completely
clear on any grounds that you want to decide it on. The
most clear ground would be to stand your ground and say
we believe that when you show use of rainbow trout in an
area, you show use of fish in an area, that that's the
stock.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Questions,
Board members.

(No comments)

CHAIRMAN FLEAGLE: Thanks. Your
microphone's still on Sky -- thank you.
Council comments. Ralph Lohse.

MR. LOHSE: Thank you, Mr. Chair.
Members of the Council -- I mean members of the Board,
excuse me.

As you know the Southcentral Regional
Advisory Council is made up of citizens who probably
don't have the legal ability to judge this case on its
legal merits or to decide whether or not all of the I's
have been dotted and the T's have been crossed, but,
instead is made up of citizens who either have
participated in the past in the subsistence lifestyle,
currently participate in the subsistence lifestyle or
have knowledge of the subsistence lifestyle, and we're
looked on as advisors to the Board. And from that
standpoint we're going to look at it from the standpoint
of a subsistence issue.

And while I can't speak for the Council
directly to this RFR, we haven't discussed this in a
Council meeting, I can tell what the history of our
Council has been in the past. And I really seriously do
thank Sky for his illustration of the State's decision in
Bristol Bay because that's how our Council has always
looked at the Kenai and the fish stocks on the Kenai
Peninsula. We've looked at it as if we were subsistence
users and if we used rainbow trout, we used rainbow
tROUT, we didn't have to say that we used rainbow trout
in this stream or that stream and we didn't have to say
we used it yesterday and the day before and last month,
and, so consequently we looked at it from a broader
scale. The one thing I can be sure of from our Council
is if this issue comes before our Council again as it's
come before our Council many times in the past, I'm
pretty sure that the Council will give the same decision
that it's given in the past a number of times and that
was to grant C&T to Ninilchik.

We've always wondered why it keeps coming
back to us and coming back to us. From that standpoint I
can't speak for the Council and say that that's their
decision but I can ask you to look at past history and
see the history of the decisions we've made on Ninilchik
and their request for C&T and you could probably be
convinced that we will probably make the same decisions
in the future.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Ralph.

Alaska Department of Fish and Game comments. Who's
taking this, Tina?

MS. CUNNING: Yes, I get the short straw.

CHAIRMAN FLEAGLE: Microphone.

MS. CUNNING: Microphone.

CHAIRMAN FLEAGLE: Thanks.

MS. CUNNING: Consistent with how we've
been handling things the last couple of days, we're going
to provide just a synopsis of our key points and remind
you that we have more thorough comments that we have
submitted in writing for your deliberations today. So
the first part of this will be a little more detailed and
then we'll be skipping large chunks as we go.

Okay, on April 13, 2007 the Federal
Subsistence Board informed the Department of the Board's
partial acceptance of the State's request for
reconsideration dated January 16, 2007 designated FRFR06-
09. The Department provides the following comments in
response to the Board's action, including the Board's
April 12, 2007 threshold analysis, Office of Subsistence Management's Staff analysis posted April 26th, 2007, and the InterAgency Staff Committee's comments posted late on April 27. The Board is respectfully requested to consider these State comments in conjunction with its threshold action and its scheduled reconsideration of FRFR06-09 together with the other materials already on record. The State requests that these comments and materials also be considered in conjunction with Board consideration of Fisheries Proposal FP07-28, which addresses similar issues.

The Board's threshold action contains a number of significant procedural and factual errors.

First, in its January 16, 2007 RFR the State requested that the Board reconsider its decision of November 17, 2006 providing to the community of Ninilchik and Happy Valley a customary and traditional use determination for all fish in the waters north of and including the Kenai River drainage, within Kenai National Wildlife Refuge and Chugach National Forest in the Kenai Peninsula district also referred to as the Kenai River area. However, that RFR also included an explanation of how the Board and Federal Staff previously only addressed the Ninilchik Traditional Council's May 30, 2006 request designated FRFR06-08 and how the Board and Federal Staff effectively ignored the State's two May 5, 2006 RFRs designated FRFR06-02 and FRFR06-03. Those two State RFRs requested the Board's prior C&T determinations in January 2006 for Ninilchik and Happy Valley to fish -- to all fish in the Kasilof River drainage and for Hope and Cooper Landing to all fish in the Kenai River area be reconsidered and rescinded.

The State's January 16, 2007 RFR requested that the Board address FRFR's 06-02 and 06-03 on the merits. In its March 8th, 2007 supplemental, the State emphasized that its January 16, 2007 RFR requested that the Board reconsider and rescind its actions taken on the proposals designated by Federal Staff as FRFR06-02, FRFR06-03 and FRFR06-08. Despite the State's specific request, the Board's April 13, 2007 letter and threshold analysis contained no mention of these FRFRs and the threshold analysis incorrectly concludes, quote:

"Only the portion of the Board's decision affecting the Kenai River area is included in this FRFR."
The State requests that the Board rectify this error and address those two FRFRs submitted May 5, 2006 as part of its further reconsideration of FRFR06-09.

Second, the threshold analysis, as the first of three criteria under which the Board evaluates a request for reconsideration incorrectly concludes, without explanation, quote:

"There were no claims by the state of Alaska that there is new information that was not previously considered by the Board."

In its RFR, the State clearly claimed that the Board at the very last minute in its deliberations introduced and improperly relied on speculation as to fish stocks in several different and distant river drainages to support that C&T determination despite no evidence having been presented that could support that speculation. This was new information which the State could not possibly have addressed for two reasons.

1. Because of the issue of stocks had never before been raised by Federal Staff or the Board as a basis for the Board's determination, and;

2. Because the State, just minutes before it was raised had been silenced by the Board Chair.

This point of error also was addressed in the January 16 RFR and the March 8 supplemental submittal.

Contrary to the representation contained in the Board's threshold analysis, the State clearly presented specific information in its January RFR and its March 8th supplement previously not considered by the Board precisely on the incorrect, last minute "fish stock" theories on which the Board had improperly speculated and relied. That new information is all contrary to the Board's unsupported conclusions on the subject which resulted in the Board's C&T determination. Thus, the Board is also requested to acknowledge and consider that new information, some of which came from
its own biologist's Staff, but only after the C&T
determinations were made and to correct this error in its
further considerations.

Due to the above errors, the Board,
through the threshold analysis identifies and evaluates
only eight claims in its April 13 notification letter and
threshold analysis and incorrectly accepts only claim two
of those eight claims for further analysis and
consideration. The following additional Department
comments address that claim first and then summarize the
others that were rejected by the Board.

In Claim 2.1 the fish stocks and
location, first the State Staff misstates the State
claim. The ensuing Staff discussion misses key points on
the claim perhaps in part because of the limitations and
misdirection placed on the claim by this Staff's
recharacterization of it. Furthermore, the 24 page
Federal Staff analysis posted on April 26th contains no
information regarding fish stocks and does not otherwise
directly address this claim, even as only partly
construed and discussed in the April 12 threshold
analysis. For an accurate understanding of what the
State actually claims the Board members must read the
State's actual January 16, 2007 RFR and the March 8, 2007
supplement to the RFR.

For ease of reference the State refers to
its claim restated claim 2.1 as the "fish stock" claim.
That claim is discussed in the RFR, in our March
supplement and attachments and contains the only factual
information which was submitted to the Board on fish
stocks.

The last minute basis of the Board's
decision shifted from location to fish stocks very late
in its deliberations on the C&T motion before it and
immediately after precluding the State from being further
heard improperly "speculated that the salmon, trout and
other fish stocks in the distant widespread drainages of
the Kenai National Wildlife Refuge and Chugach National
Forest under consideration, including the Kenai River,
Russian River, Swanson River, Summit Lake and
Resurrection Creek drainages are the same stock as the
fish in the areas much closer to and much more commonly
used by Ninilchik, such as, the Ninilchik River and Deep
Creek." Despite "no evidence, substantial or otherwise
having been presented that could support that
speculation."
As stated in our RFR the Board's speculation on that topic, which was decisive is incorrect, they are not one homogenous fish stock. Those statements in the RFR and March 8 supplement are clear, more specific and less transformable into different meanings than are the Federal Staff's restatement of them in the threshold analysis and avoidance of them in the Staff analysis posted April 26th.

The State believes it is important not to take the one statement out of context that was made. The threshold analysis refers to "it is important to understand the context of the discussion preceding the Chair's comments to fully understanding his statement." The State believes -- I got it backwards here -- the threshold analysis -- or during deliberations about the fish stocks, the motion to grant the C&T determination before Chairman Fleagle made those comments about fish stocks three Board members expressed their views that the relatively few instances and amounts of harvest of some fish by some residents of Ninilchik and Happy Valley in various waters of the Upper Kenai River area within the exterior boundaries of the State Refuge and Forest, many miles from their homes, nevertheless constituted sufficient evidence of a long-term, recurring customary and traditional use by those communities of those distant fish to warrant a C&T determination and Federal subsistence priority for the residents of those communities. Also before the Chair commented two other members of the voting members of the Board expressed contrary views questioning the sufficiency of use by those communities of the resource.

After some questions and discussions about patterns of use, legal Counsel, Mr. Goltz, essentially replied we're talking about population and stock. Immediately after that Mr. Fleagle commented "the regulation says fish stock, to me it's pretty clear that if you take that entire river system and even that entire area, if you include other river systems, other than the Kenai you got the Kasilof, you got the Ninilchik, you got Deep Creek, you got several different systems that could be defined as the same fish stock. I think it's overwhelmingly evident that you do have customary and traditional use and that's where I have to fall." That was sufficient for one of the Board members to be swayed and change his vote. The threshold analysis argues "the State's point is that all fish in the Kasilof River drainage and the Kenai River area are not from the same genetic stocks" that is indeed a point, and based on
the information from both State and Federal biologists submitted with the State's RFR and March 8 supplement an undeniable point, however, that is not the State's main point.

The comments made, based on Mr. Goltz' advice and Mr. Fleagle's comments dramatically shifted the focus at least for two of the Board members from location and extent of the harvest of types of fish from Federal lands to the identification and location of fish stocks in general wherever located. Without any supporting evidence or information whatsoever in the record that all fish of whatever type, species and stock within the entire Kenai River system and the entire area beyond including the Ninilchik River and Deep Creek systems much closer to and much more commonly and historically used by Ninilchik "could be defined as the same fish stock." The Board's decision was based on lack of evidence and incorrect speculation on fish stocks. A basic problem with that hypothesis is that there is no evidence in the record which supports it. To the contrary, even within the same river system there are different species, and recognized stocks of fish, both among salmon and resident species and certainly the different fish in the Ninilchik River or Deep Creek close to Ninilchik and Happy Valley are not the "same fish stock" as exists within or adjacent to Federal lands in the Upper half of the Kenai River many miles away.

As long as simple distinctions are being made between different species of fish, such as chinook and sockeye salmon, rainbow trout and Dolly Varden, some of which may have been customary and traditionally harvested by a particular community in a Federal area and some not then there should not be a problem. The problem arises when the Federal program tries to shift the focus to particular fish stocks and speculate as to their sameness. In an effort to bootstrap more frequent community harvest patterns close to home to infrequent or non-exist community harvest patterns on far away lands as is being sought in this instance.

Federal Staff for the Board asserted in the threshold analysis that the Board is not obliged to determine fish stocks in connection with making C&T determinations. That assertion is not true.

To the contrary, one of the Federal regulatory requirements for making customary and traditional use determinations is to determine and
"identify the specific communities or area's use of specific fish stocks and wildlife populations." Those regulations require that a specific community's "long-term, consistent pattern of use, recurring and specific seasons for many of specific fish stocks" must be shown for that community to qualify for a customary and traditional use determination making it eligible for a Federal subsistence priority.

In addition to the duty of determining a community's use of specific fish stocks, Federal subsistence policy guidelines and other Federal Staff analysis also support the State's position that where the harvest customarily and traditionally occurred does matter. That use must be consistent, long-term and recurring.

A history of harvesting salmon and some trout in the Ninilchik River should not lead to a community customary and traditional use determination for harvesting rainbow trout, Dolly Varden, char, lake trout, grayling and all types of salmon in other distant water bodies such as the Upper Kenai or Kasilof Rivers or their lakes or tributaries in surrounding waters. Neither should a history of harvesting one stock of rainbow trout in Ninilchik River or another stock in Deep Creek result in a customary and traditional use determination to harvest resident or artificially stocks of rainbow trout in Swanson or Kenai Rivers or in Skilak, Kenai or Summit Lakes without knowing if they're the same stock, it cannot simply be assumed that several different species of fish in the different river streams and lake systems emptying into Cook Inlet are the same fish stock for Federal subsistence priority purposes as the Board effectively did.

Lastly, the substantial evidence test is not met. The Administrative Procedures Act requires all Board factual determinations such as C&T determinations "to be supported by substantial evidence." Whereas those Federal analysis state that this standard "not high" neither is the standard inconsequential. Neither may the Board rely on just that part of the evidence it wishes to. In this case the Board clearly engaged in speculation regarding fish stocks to support the determinations of at least two of its members resulting in passage of at least the C&T determination for Ninilchik and Happy Valley to all fish in the Kenai River area. As set out in the State's RFR and its March 8th supplement, both through State and Federal sources
conclusively establishes that the Board's speculation regarding fish stocks on November 17, 2006 likely resulting in that C&T determination was incorrect. Fish stocks harvested by Ninilchik and Happy Valley in the vicinity of Ninilchik River and Deep Creek and nearby marine waters are not the same stocks as the fish found in the Kasilof River drainage, in the Upper Kenai River drainage or in the various different waters located north of those drainages situated within the Federal Refuge and Forest boundaries, including lakes.

Based on the available information, the conclusion is inescapable that different stocks of the same species of fish exist even in the same river system. The affidavit of Dr. Hasbrook (ph) attached to our supplement affirms that the various different species of anadromous and non-anadromous fish found in Ninilchik River are different stocks and populations of fish than are found in Deep Creek and "that those stocks are different stocks than the stocks found in other watersheds in the Kenai Peninsula including the Kasilof River and the Kenai River."

In conclusion, contrary to the misadvice and speculation relied on by the Board, the Board must use substantial evidence to determine if there were a customary and traditional uses of a particular stock or population of fish. Accordingly the C&T determination must be reconsidered, set aside and replaced with a negative C&T determination.

Regarding Claims 3.1 through 3.4 and prior C&T determinations, the State accepts the proposition that whether or not the harvest is "far removed from a community" although relevant is not determinative. Further it stands to reason that the farther the location of harvest is from the local community the less likely frequent and, quote, important that community's harvest will normally be as the evidence in this case solidly demonstrates. The overwhelming evidence is that when it comes to location of the harvest, few community residents, including those from Ninilchik strayed far from home and certainly not into all areas, and to all different fish covered by the Board's broad C&T determination. Similarly during the same or similar study years cited in the earlier evidence provided by the Staff, Ninilchik households reported catching the great bulk of their fish from the Ninilchik River and Deep Creek and adjacent Cook Inlet marine...
waters outside of any Federal lands and also Kachemak Bay.

The harvest information on Cooper Landing is similar showing relatively low numbers and amounts of fish and very local patterns of harvest centered on the Kenai River data. That data and the other fish harvest information set out in the State's RFRs and elsewhere in the record preceding those RFRs including Federal Staff papers show very low harvest numbers and amounts of fish. They also show that with the possible exception of Cooper Landing the lowest numbers and amounts of harvest are within locations distant from those local communities to which the challenged C&T determinations apply. Board members might ask how is C&T determination to all fish species and stocks of fish, including chinook salmon and rainbow trout within the Kenai River drainages, lakes is justified for Hope, based on Hope's demonstrated reliance on Resurrection Creek stocks of different species. Board members might also ponder, how a C&T determination for all fish species and stocks within that same drainage and lakes, including chinook and coho salmon and all resident species of fish is justified for Ninilchik based on Ninilchik’s demonstrated low harvest numbers for those fish and reliance on different fish species and stocks much closer to their home.

A question for the Board is whether that type of indefinite information is sufficient and substantial enough to support a C&T determination as to those different fish species, stocks and locations. A related question is whether the Board can legally ignore those substantive distinctions and simply grant those communities, including Ninilchik a C&T priority determination to all of those different categories of fish by lumping them together as "all fish" within those widespread areas based on the information before the Board. The State submits the Board cannot and should not.

In sum, the record in this case as to those communities may demonstrate that they target a particular species of fish but it does not demonstrate that they "will certainly retain and use another if it is caught." The evidence demonstrates otherwise. It does not at all support a "co-resident stock" theory or a Federal Staff suggestion that a community record of harvesting one species of stock -- one species or stock of fish in one area should translate into a priority subsistence right for that community to harvest all.
Regarding Claim 3.5. The Board is very familiar with our assertions of their failure to implement a pertinent C&T policy as directed by the Secretary. If such a policy were in place we probably wouldn't be having all these difficulties.

Under Claim 3.6. You are also familiar with our claim of the Board precluding State participation in the discussion which may have provided relevant information. Based on that the Board should reconsider its rejection of this claim, accept the claim instead and reconsider and set aside its C&T determination based on a material, procedural area.

On Claim 3.7. The Board is familiar with our claim that the Board's claim over waters affected by its C&T determinations is not resolved and we do need to have those locations identified for the public as well as the Federal and State agency managers.

In conclusion, as previously requested the Board should reconsider, rescind and repeal its C&T determinations for fish for Ninilchik, Happy Valley, Hope and Cooper Landing and replace those determinations with the negative C&T determination.

On April 23, 24 and 25 the State requested the Board consideration of this RFR be moved from the Board's April 30 through May 2 meeting agenda for state wildlife proposals to the May 8 through 10 meeting agenda when the rest of the Kenai Peninsula Federal subsistence issues are scheduled to be heard, including FP07-28, which is the related public proposal to repeal the C&T determinations. That request was denied for the reasons stated in that letter, including the importance of providing the opportunity for full public participation, the Board should act to move and conclude its considerations on this RFR at the May 8 through 10 public meeting devoted to Kenai Peninsula fish issues.

CHAIRMAN FLEAGLE: Thank you, Tina. Board members.

(No comments)

CHAIRMAN FLEAGLE: Okay. That was a pretty good presentation of the document presented by the
State, we'll resume with ISC comments after we step down for a 10 minute break.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon, we're back on record. And we just heard the State's presentation. We now turn to the InterAgency Staff Committee for comments. Larry Buklis.

MR. BUKLIS: The InterAgency Staff Committee comments on the Request for Reconsideration FRFR06-09 can be found on a separate piece of paper in your supplemental materials folder and it's dated April 27, 2007. I will read the comments, they're relatively short, and I note that in the first line there's a typographical error. It should read FRFR06-09 and it says 07-09, so with that correction.

One view of the InterAgency Staff Committee found the Staff analysis for FRFR06-09 to be a complete, thorough and evaluation of the request for reconsideration submitted by the State of Alaska consistent with the Board's customary and traditional C&T use determination process. The Southcentral Council did not specifically address this fishery RFR, however, for all similar customary and traditional use determinations for Ninilchik in this geographic area the Council has supported a positive determination consistent with ANILCA Section .805(c).

Another view of the InterAgency Staff Committee found the Staff analysis for FRFR06-09 to be a thorough evaluation of the regulatory history and customary and traditional use information that emphasizes Ninilchik's use patterns of fish in the Kenai Peninsula district consistent with past C&T use determinations. However, the Board may want to give further consideration to the general distribution of resident fish in the Kenai River drainage given the reference to fish stocks during Board deliberations on this issue in November 2006.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Appreciate it Larry.

Board members.

(No comments)
CHAIRMAN FLEAGLE: All right. We're ready to enter into discussion. And I guess I'll start out just basically the comments, since they're based -- the one finding that the Board did find for granting the request for reconsideration was based on the fish stock discussion and where it occurred, I -- I think that that does need clarification. Whether or not the Board feels that it's warranted to find the customary and traditional determination with or without that discussion on stocks is up to the Board. But I'd like to point out that when I made those statements about fish that occurred in other places on the Kenai Peninsula and on the river system that would warrant a customary and traditional use determination on the Upper Kenai, I was referring to salmon. I think that was pretty clear. And, again, whether that warrants a reconsideration of the entire C&T or just for the resident species or not I wanted to just make the statement, or the record clear that my discussion on stocks was referring to salmon.

George Oviatt.

MR. OVIATT: Thank you, Mr. Chairman. I, too, as I listened to Mr. Goltz when he talked about that we were talking of stock and populations and not location and then I heard you make the comment that you had made and I said that you had swayed me into agreeing. I, too, was thinking of salmon only. And my thought process that happened at that time was the fact that those salmon that could have accessed the Kenai River could have been caught by Ninilchik up and down that river, we know that they fish for those salmon in front of or in the mouth of the Kenai, too. And so based upon what Mr. Goltz had said and what you had said I based my decision but it was on salmon only, and I wanted to make that clear, that I was thinking of salmon, and not of any other species.

Thank you.

CHAIRMAN FLEAGLE: Thank you, George.

Other discussion. Gary.

MR. EDWARDS: Mr. Chairman. I guess I'd like to maybe address the issue of stocks but maybe in a broader context of kind of my overall views on the issue and I guess in some ways this is kind of almost feels like Groundhog Day, I think, as Ralph said and as the folks from Ninilchik said, you know, we keep waking up and we're back here talking about this same issue and maybe some day we won't be and whether it will be today
or not I guess we will find out.

As I've said on several occasions, at least for me personally, you know, there's never been a question about the use of fish or the importance of fish in the subsistence lifestyle of the folks in the Ninilchik community. There also has never been any question that, you know, throughout the history of that community that folks in that community didn't wander throughout the Peninsula for various reasons, be it trapping, be it somebody got in a fight with their wife and took off for three weeks or whatever, there's no doubt that folks went throughout that area. And I guess in my mind there's no question while they were out there doing whatever they were doing they essentially lived off the land as anybody would have done. If they were trapping in the winter along some of those small creeks, obviously they threw out gillnets and they took fish and so in my mind there is no, you know, question that they did that. The thing that I continue to wrestle with is trying to reconcile that use particular for resident species, you know, with our regulations.

And, you know, we've bantered the term of stocks and populations around and it's true that our regulation starting off on customary and traditional use says that the Board shall determine which fish stocks. But then it goes on to say that this determination shall identify the specific community or areas of use and specific fish stock. And the word, specific is an adjective in this case, and in my mind it doesn't say that all stocks are created equal. I, as we all do anymore, I Google'd, specific, I mean the word, specific, this morning, and one of the definitions for that among setting -- explicit or definitive was that specific relates to characterizing or distinguishing a species. So the fact that our regulations said specific stocks as opposed to stocks, at least in my mind, you know, defines that there are differences between stocks and not all stocks are created equal despite what maybe the State said about finfish in Bristol Bay. And so I do think that we have to look at that.

And then I've had the difficulty then of reconciling the evidence that has been provided to us, from our guidance about a long-term consistent pattern of use. Yesterday when we voted on the brown bear, the Chairman voted against brown bear because he felt that the use that was demonstrated was sporadic use, well, I guess I could equally argue that based upon the
information that was gathered and that's been presented to us, that the information on the use of resident species is equally sporadic.

Also yesterday when we talked about brown bear, we found that the folks in Ninilchik hunted brown bear as far away as Bethel and in Kodiak and in my assumption when they were up there they may also have fished while they were hunting bear but I'm not sure that we're looking at providing customary and traditional use for fish in Bethel.

And I guess as I've been wrestling with this personally I tried to put it in the most easiest terms that I could and that is to look at my own subsistence lifestyle. Now, my subsistence lifestyle, almost the majority of it, unfortunately occurs at the Fred Meyers store on Abbott Road. Now, I go to the Fred Meyers on Abbott Road as opposed to the Fred Meyers out in Eagle River and it's not because they have better products or the prices are better or that the people there are more friendly to deal with it, I go to it because it's the closest to my home, it's on the way home from work, it takes less gas and so if I was doing a survey and somebody asked, Gary, where do you shop at Fred Meyers and drew a big map, I would include a lot of places, including Eagle River because I have, on occasion, on the way up north I've stopped in Eagle River for my subsistence, be it a sandwich or whatever, but if somebody asked me where did I customary and traditionally shop or subsist in this case it would be at the Fred Meyers Abbott. So in my mind that's where my customary and traditional use is.

And I guess I believe in this case that that upper river for resident species, I don't feel that we have had sufficient evidence to show that that was where the customary and traditional places to fish were.

CHAIRMAN FLEAGLE: Other discussion.

Steve Kessler.

MR. KESSLER: Thank you, Mr. Chairman. I guess I was doing some thinking about this last night and what we would be addressing today and I wrote some of my thoughts down and I think I'm just going to sort of go through them because it sort of takes us maybe a little further into what ANILCA actually says.
I'd like to remind us of the definition of subsistence uses from ANILCA. The term subsistence uses means:

The customary and traditional uses by rural Alaska residents of wild renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation for the making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption, for barter or sharing, for personal or family consumption and for customary trade. Customary and traditional uses in the law modify a series of uses such as consumption as food, making and selling of handicraft articles and for customary trade.

I also want to be clear what ANILCA says about subsistence uses. Section .804 says:

The taking on public lands of fish and wildlife for non-wasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes.

So this is all pretty clear. Subsistence uses are the customary and traditional uses such as consumption for food, making and selling handicrafts, customary trade and the subsistence uses of fish and wildlife is accorded a priority over the taking on public lands of fish and wildlife for other purposes.

Well, that's ANILCA. It doesn't say anything about specific species, specific populations, specific stocks, just fish and wildlife in general.

And the only thing it says about areas are the public lands. So the complication is our regulations.

And in our it must be established which fish stocks and wildlife populations have been customarily and traditionally used for subsistence, that's in Section 16 of our regulations.
First it must be recognized that the origin of these regulations is from the State. We never thought we would be implementing subsistence as a Federal program 17 years after the McDowell Decision. We must take these legacy regulations and make them work in light of ANILCA. Determinations are made for specific communities or areas, use of specific fish stocks and wildlife populations based on generally exhibiting the eight factors.

So the question in my mind, which only came up because of the comments made at our November meeting is what do specific fish stocks mean and what does it mean in light of this clear language of ANILCA and how does all this fit in with the type of determinations we've been making for years all over the state, we, being the Federal Subsistence Board.

I cannot understand, given the broad direction of ANILCA, how it would be intended that specific stocks should be a narrow meaning. ANILCA says the taking for subsistence uses shall be accorded priority on the public lands over other uses. To me, this means that where there are subsistence uses they should be allowed to continue. Subsistence uses are taking of fish and wildlife for food and other uses. If a rural resident desires to take fish for food on the public lands they must be allowed to unless there are conservation concerns or some other narrow reasons not to allow it.

Therefore, I believe, that as we implement the specific stocks requirement, we are talking broadly of specific stocks. We're talking about specific stocks of areas, such as the Kenai Peninsula area versus Norton Sound area, or Prince William Sound versus the Yukon River. Each of these areas is very different from each other. We're talking broadly about the fish -- the stocks of fish people would use, both where they were domiciled and where they have often traveled. We need to err on the side of being more broad when making our customary and traditional use determinations rather than overly specific. That's how people used to function and how people generally function today. I believe that's consistent with ANILCA law.

The Southcentral Council has provided the Board with their customary and traditional use determination recommendations for the Kenai Peninsula a number of times. Each time they have recommended a broad
determination such as the entire Kenai Peninsula, not narrow. I think they're right. That is consistent with ANILCA and as consistent as we can be with our customary and traditional use regulations.

Elsewhere in the state we have very broad determinations such as for all residents for all resident fish in the Yukon northern area. That covers about a third of the state, maybe that's too broad, but it certainly isn't the kind of narrowing that would raise a red flag when considering the mandate of ANILCA.

At our November meeting the Forest Service Board member stated her thoughts on this customary and traditional use determination. I think her points are excellent and they will still stand. You can find them on Page 2 of the FRFR06-09 Staff analysis. I agree with the previous findings, that there was substantial evidence of use of all fish in the Kenai River area in the way subsistence harvesters use fish. Furthermore I agree that low use does not preclude a determination of customary and traditional use.

I would like to clarify that the determination makes sense based on the record and based on the concept of a specific stock being something on the order of the Kenai Peninsula or the northern half of the Kenai Peninsula as described previously. We don't need to specifically ask whether Ninilchik used one specific fish species or one run of one fish species in one stream or the upper one-third of that one stream, we need to make much broader determinations consistent with ANILCA but ones which still can be recognized as implementing our regulations.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Steve.

Other comments. Judy. Niles.

MR. CESAR: Thank you. I mean I agree with Steve, I think he hits the nail on the head and I think he interprets ANILCA the way I think it should be interpreted.

But I was concerned about Gary and his Fred Meyers business because if Fred Meyer doesn't have the specific type of bread that he likes then he's out of luck. Well, I believe in Carrs and I don't say the Carrs on 68th, I just say Carrs, so I have the ability to shop
around at the different Carrs, and, Gary, I think you're limiting yourself and that's certainly not our view of subsistence.

(Laughter)

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Well, I'll go back to November a little bit. I guess part of what we need to do today is clarify the record.

The motion in front of the Board at that time was for all fish, that's what I based my vote on. I felt there was and still is substantial evidence to support that vote for a positive C&T determination for Ninilchik. I think when people talk about sporadic use, well, that's part of a pattern of general use that has been demonstrated through, again, the testimony, the analysis, all the information that we have in front of us. The decision does not have to be on the amount of substantial use, it has to be based on substantial evidence. And none of my decision was based on speculation at that time, either.

Thank you.

CHAIRMAN FLEAGLE: Commissioner Lloyd.

COMMISSIONER LLOYD: Thank you, Mr. Chairman. In my introductory remarks I mentioned that I would rely on your guidance for procedure and protocol. I have a number of questions and I'll ask you in a second whether or not they are appropriate.

First I'd like to observe, though, that when the Ninilchik Tribal Council came forward and distributed some materials that we did not -- we were not provided access to those, I'm not sure why, along the table here, but I wasn't granted a copy or the Staff weren't, but just for the record, that omission was made.

I do maybe have a number of observations and is it appropriate for me to make those if I keep them short.

CHAIRMAN FLEAGLE: You bet, Commissioner, go ahead.
COMMISSIONER LLOYD: Thanks, Mr. Chairman. A lot of our concerns presented today and the
in the materials leading up to this meeting deal with the
nature of your process and deliberations within the
context of the regulations in front of you.

I tend to have quite a bit of agreement
with the description that Mr. Edwards from the Fish and
Wildlife Service put forward and I have some concerns
with the description of ANILCA and perhaps reinterpreting
your regulations that Mr. Kessler put forward.

I don't want to repeat Mr. Edwards'
arguments, but certainly in your regulations it does
discuss the notion of identifying specific community's
areas use of specific fish stocks and wildlife
populations. In one sentence the word, specific, is used
twice indicating, at least in my mind and I think from
the State's perspective, a duty imposed on the Board to
be very deliberate, specific and illustrative of the
information utilized in your decisions. I don't believe
that you're operating under a specific definition of
stock. There's been some mention of the State's
definition of stock. I'll put forward that the State
utilizes a definition of stock that allows for
aggregation of different populations. Often times that
aggregation is compounded based on the illustration of
Bristol Bay when there's really no purpose served by
getting down to very, very specific levels so the
definition of specific in that case is reflective of the
questions before you.

On the Kenai Peninsula that's not the
case. I think that the number of users, the number of
river systems, the fact that you have to keep revisiting
this issue, as you've pointed out, demands a level of
specificity that's much greater than in other areas of
the state where there are broad use patterns that are not
in controversy or not brought before you repeatedly.

Location in this regard is very, very
important. I would suggest that even in your
deliberations you're not saying because a person utilized
rainbow trout in the Ninilchik River, that that
necessarily provides for a customary and traditional
finding for rainbow trout in the Upper Susitna drainage,
let alone perhaps in the Kiseralik drainage in the
Kuskokwim even though people may have journeyed there.
We're also talking about perhaps a standard of
substantial evidence and it doesn't appear to me, at
least, in the proceedings today, let alone the
description that we've had of your proceedings in
November, that you had a detailed description,
discussion, or deliberation of what stock structure it is
that you're referring to.

And I'll just end my comments, Mr.
Chairman, going back to the regulations that
determinations shall identify the specific community or
areas use of specific stocks, and that's the question,
the major question under this item of reconsideration
that the State's bringing back before you.

Thank you.

CHAIRMAN FLEAGLE: You bet, thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Thank you. The way we do
customary and traditional use determinations is based on
direction from ANILCA and from our regulation that talks
to the process of C&T and so there we have the eight
factors that are generally discussed and evaluated by us.
When this question of what a stock means came up, we went
back into our records and asked people who actually
authored the regulations about this and Keith was there,
and I won't draw him in, I'll just say that as I
understand it from the authors it is meant in its most
general sense and our understanding is consistent with
the intention of those who wrote the regulations. There
was no intent to subdivide fishery populations into
individual stocks or to place regulatory restrictions or
make any Board decisions based on individual stocks.

The term, stocks and populations were
used interchangeably even in our own regulation so it
really was not meant to be or not planning on us being
any sort of geneticists up here, which we're kind of
grateful for.

Thank you.

MR. EDWARDS: Mr. Chairman. I guess my
only response to that then, if that was the intent then I
guess I would.....

CHAIRMAN FLEAGLE: Go ahead Gary.
MR. EDWARDS: Pardon -- oh -- if that was
the intent then I would argue that we selected the wrong
adjective because I think if you look at the definition
of specific, it doesn't give you the latitude to define
things as broadly as I think some are implying that we
should.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. For
the record to Commissioner Lloyd, I would apologize for
the materials, that's an oversight on our part and we'll
make sure that you get copies of these materials, Mr.
Lloyd.

COMMISSIONER LLOYD: Thank you.

CHAIRMAN FLEAGLE: All right, thank you,
Pete. Gary, do you want to continue -- I was just going
to start saying that maybe we should start finding some
resolution to this. We do have other agenda items to get
back to and I need to ask a procedural question now. In
normal Robert's Rules what the Board would have done is
somebody would have made a motion for our
reconsideration, it would have been seconded and voted on
and then the action stood before you as acted on prior to
the vote. Now, I think we already did that by accepting
this RFR on that basis by the State, correct, Pete?

MR. PROBASCO: Mr. Chair. And I will
yield to the Solicitor, too, for further clarification,
but the Board has found that Claim 2.1 has met the
criteria for further consideration by the Board. Now,
what the Board wants to do with Claim 2.1, from my
opinion, would require a motion to deal with the issue.

Mr. Chair.

CHAIRMAN FLEAGLE: I agree. Now, would
that motion be to reconsider the previous action or would
that motion be a new action because we did do a poll vote
finding that we found grounds for a reconsideration. Do
you see my question?

MR. PROBASCO: Yes. Ken, did you want to
interject.

CHAIRMAN FLEAGLE: Ken Lord.

MR. LORD: Well, starting off, first of
Mr. Chair, if there is no motion then the status quo stays. The decision of November stays in place. If there is a motion it would have to be an affirmative motion to change what the Board did in November, and I believe that motion would have to pass by a majority vote in order to become effective.

CHAIRMAN FLEAGLE: And should that motion fail then we'd remain with status quo with the previous decision as well?

MR. LORD: That's correct. Failed by the way of either a tie vote or less.

CHAIRMAN FLEAGLE: Correct, okay, that's clear. You know, people are pretty much saying what's been saying before. I think there's pretty clear understanding what the issue is. We need to gel it down. I think the whole point in my mind is going to fall on the discussion about the stock, so if somebody is ready to throw a motion out for discussion, then we can see where that goes and move on.

Gary.

MR. EDWARDS: Mr. Chairman. I'll go ahead and make a motion and then I could bring up my other points and maybe Ken can correct it if it's wrong, if the motion doesn't fit with what you just said.

But I guess I would move that we would, and consistent with what I'd previously said:

The existing C&T for the Kenai Peninsula district to provide Ninilchik with a C&T for salmon waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest.

So basically what that does would continue to provide a C&T for salmon but not for resident species.

MR. OVIATT: I'll second that.

CHAIRMAN FLEAGLE: For discussion, Gary, would you like to speak to your motion, please.

MR. EDWARDS: Well, I've covered some of
But, again, what I continue to wrestle with is this substantial evidence of this kind of consistent pattern of use. You know as I look at the studies that have been referenced and showing, you know, kind of a one percent of the residents of that community, in my mind that's not substantial evidence. I mean a good example, if you look at the use of Hope and Cooper Landing for resident species it's up in 17 percent and 16 percent. I don't think this Board would have, for example, thought or entertained of providing a C&T for Hope over on the Kasilof, even though they may have had, you know, I'm sure folks in Hope as well as Cooper Landing, you know, roamed around equally as much as folks in Ninilchik and probably fished over in that area, but I think that just demonstrates that the resident -- harvest of resident species were much closer to home and I just don't think, you know, kind of a one percent is a substantial evidence of use and a long-term customary pattern. And that's the reason for my motion.

CHAIRMAN FLEAGLE: Other discussion.

George.

MR. OVIATT: Mr. Chairman. You know I look at, you know, it does say specific spec -- or stocks and if we look at the wildlife we, you know, we talked about -- we didn't talk about bear, we talked about brown bear and then we discussed a C&T for black bear and so I do believe we are talking specific stocks. And, you know, to me when you look at what were they going out to subsist fish for, were they going out for salmon and to me there's a distinction between their customary and traditional use.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Thank you, Mr. Chairman. I guess I'm still thinking about the motion that Gary made and wondering if it's the right motion, maybe, I don't know maybe Ken thinks it's the right motion, I don't know.

But it seems to me that the -- I'm not sure how to get this exactly correctly but it seems to me that the State of Alaska was requesting that we sort of completely withdraw the customary and traditional use
determination for Ninilchik for all species in the Kenai Peninsula area and if that's the case it would seem to me that that's what the motion ought to be and then if we want to narrowing it to resident fish or non-resident or salmon or something like that then that would be done by amendment.

Now, maybe I don't understand exactly what the Department was asking for but if they were asking for turning this over and we're evaluating it and that's what we're looking at, that seems like what the main motion ought to be. So I guess I ask for help from the Solicitor.

CHAIRMAN FLEAGLE: Yeah, I think it's up to the Board as to what type of action they want to take here at this point. It's obvious the State wants to overturn the entire C&T determination but I think the Board is -- or at least some of us are only willing to overturn a part of it, and Gary's motion is consistent with that.

Ken.

MR. LORD: Yeah, I agree, Mr. Chair. The starting place is the Board's action in November not necessarily what the State is asking for.

CHAIRMAN FLEAGLE: Steve, you want to debate.

MR. KESSLER: No, I'm okay, if everybody's -- if people are comfortable with that that we're going to narrow it at the start through the motion, we can do that. But it does mean that the motion maker is sort of has just already decided that there's enough evidence associated with stocks associated with salmon. That's the way I interpret it anyway.

CHAIRMAN FLEAGLE: That's correct. Okay, we have Niles and then I'll add some comments. Go ahead, Niles.

MR. CESAR: Well, George made the comment that people went out fishing for salmon and they went out specifically for salmon. I mean to me I don't think that's how subsistence folks do it, you know, and of course I grew up in Juneau so what would I know.

(Laughter)
MR. CESAR: But you go out to fish and if you catch something then that's what you get, and if it's a steelhead or if it's a Dolly Varden, I mean that's what you get, so that's what you went -- and, you know, to me that's the difference between -- one of the differences between a sportfisherman and a subsistence fisherman. Is that a subsistence fisherman is opportunistic and goes after whatever is there and a sportfisherman generally is more specific and he wants a certain type usually, and that's fine, too. But I don't think that I can vote -- overturn what we did, I believe we did the right thing and that's how I'm going to vote.

CHAIRMAN FLEAGLE: Thank you, Niles. I'd like to add my comments and this is consistent with the brown bear decision the other day, I mean in my mind. I didn't see ample evidence that showed a long-term consistent pattern of use for all species and that's why the light bulb came on in my mind about, hey, wait a minute, these stocks do travel by -- we have -- we saw the harvest charts for salmon for Ninilchik residents in the lower river, out in the other areas before they got up to the Upper Kenai, and that made the decision for me easy on salmon.

I, unfortunately, wasn't thinking about separating the species at the time.

As for the rest of the species, I still don't find the long-term consistent pattern of use, it's opportunistic and sporadic, which in some people's minds maybe constitutes long-term and consistent, but I think I am being consistent as far as the brown bear decision. It's the same thing, you've got huge gaps in, you know, the availability or the harvest, and it's pretty clear.

I'm going to support the motion. That was my original intent back in November and I intend to vote for it.

We've got George Oviatt.

MR. OVIATT: Thank you, Mr. Chairman. I refer to other areas within Alaska and I know for a fact you'll have communities or folk that will go out to subsist fish for salmon and then they'll go out to subsist fish for whitefish, and to me they were going after a specific species in order to subsist off of, and I think that's where I come down on and I'm going to support the motion.
Thank you.

CHAIRMAN FLEAGLE: Further.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy, go ahead.

MS. GOTTLIEB: I'll be opposing the motion, because, not that I don't believe that Ninilchik deserves a C&T for salmon but because I believe they also should have it for resident species because it's not only what they're going after or have gone after, it's how they have used it, passed along the knowledge, shared the resource, the diversity of — all our factors and that's why I can't support such a narrow finding.

CHAIRMAN FLEAGLE: Steve.

MR. KESSLER: Thank you, Mr. Chair. I'll be voting against this motion. I think — and sort of what I went into as far as how looking at sort of the balance between what ANILCA says and what our regulations say about customary and traditional use determinations. You've got to take both of those in context and think about sort of the scale of what these decisions need to be. And as was noted in the November meeting by the testimony of the Forest Service Board member, as I said, was actually quoted in the Staff analysis, we did find substantial evidence for the decision that was made then and find that that rationale is still appropriate. And thinking about the sort of broader terms, it still seems to make sense to stay where we were, so as I said I will be voting against this motion.

Thank you.

CHAIRMAN FLEAGLE: It sounds like everybody's had an opportunity to speak, are we ready for the question. Question, Pete, please poll the Board.

MR. PROBASCO: Mr. Chair. Action on FRFR06-09.

Move to amend the existing C&T for the Kenai Peninsula district to provide the community of Ninilchik with C&T for salmon in waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach...
National Forest.

Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: No.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: No.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: No.

MR. PROBASCO: And Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Motion fails, three/three.

CHAIRMAN FLEAGLE: All right, thanks, Pete. Original decision of November stands. And let's stand down for 10 minutes and resume our normal meeting procedures.

(Off record)

(On record)

CHAIRMAN FLEAGLE: The Federal Subsistence Board is back in session and we're resuming deliberation on proposals having to do with the Western Interior. Up next is Proposal 36/37. We have Pete, again.

MR. DEMATTEO: Mr. Chair. The analysis of Proposals 36 and 37 can be found in your books beginning on Page 422.

Proposal WP07-36 was submitted by the Western Interior Regional Council who requested that the Board eliminate the Federal August 22 through 31 moose.
season and change the September 5 to 25 season to September 5 through October the 1st for Unit 21B, that part of the Nowitna River downstream from and including the Little Mud River drainage. The proposed change would also require a State registration permit during September 5 to 25 and a Federal permit from September 26 to October 1st.

Proposal WP07-37 also submitted by the Council requests the Board establish a March 1 through 5 moose season in Unit 21B in the same part of the Nowitna River. The proposed regulatory change would require a Federal registration permit that would be issued to heads of households only.

The proponents intent for these proposals is based on local reports of warmer than normal temperatures that have occurred during the Unit 21B fall moose seasons in the lower Nowitna River drainage. The proponent also claims that the proposed March 1 through 5 season would provide Federally-qualified users who did not harvest a fall moose during the fall season with opportunity to take one in the spring. The proponent feels that the warmer than normal fall temperatures have significantly affected the local fall moose harvest in Unit 21B for local residents.

Mr. Chair. You can see the proposed Federal regulations on Pages 422 and 423.

The Council also submitted Proposal WP06-34 which the Board took action on a year ago. The proposal requested a fall season extension to October 1st for Units 21A, 21B, portions of 21D and 21E and portions of Unit 24. The Council stated the proposal was submitted because of local reports of warmer than normal fall temperatures that caused harvest shortfalls.

Following the Council's request in the Alaska Board of Game's March 2006 action it adopted the August 22 through 31st season instead of the September 26th October 1st season that was requested. The Board adopted the earlier August season for Unit 21B at the request of the Council.

The Western Interior Council has recently submitted a Special Action request to provide for a March bull season in Unit 21D remainder and in Unit 21B, that part of the Nowitna River downstream from the Little Mud.
At a recent meeting of Ruby and Middle Yukon Fish and Game Advisory Committees, elders stated that identifying bull moose in March can be confusing and cows could inadvertently harvested as a result. Local residents also made statements in support of eliminating the new August 22 through 31 season because hunters prefer hunting during the September season.

Overall the lower Nowitna River moose population is considered stable at a low density population with good production and recruitment and moderate improvement in adult bull and cow numbers as observed in the 2006 population survey. This population can only remain stable at the current harvest levels, analysis of results comparison of Ruby resident's annual total need for moose versus their reported moose harvest for the last six years revealed that Ruby hunters have not fulfilled their large subsistence needs in recent years. Results from this comparative analysis support the proponent's claims that Ruby residents are not meeting their annual subsistence needs.

The traditional and contemporary harvest pattern for moose by residents of Ruby include the Nowitna, Yukon Rivers and Unit 21B remainder and the Ruby-Poorman Road and the Yukon River drainage in Unit 21D.

Mr. Chair. If Proposal 36 were adopted it would include the following effects. If Proposal 36 were adopted it would bring the Federal regulations out of alignment with the State. Federal and State regulations not in alignment would produced mixed blocks of Federal and non-Federal lands and would consequently add to the regulatory complexity making jurisdictional determinations difficult. Researchers and natural resource managers agree that extending the season further into the rut could have some negative effects on breeding behavior and breeding success for moose.

Analysis of results from studies revealed that the average breeding date for Alaska moose was October 5 with a range from September 28th through October 12th. Further analysis from the same studies also revealed that there was a very little difference among years and all studies suggesting that photo period, rather than ambient temperature influences rut timing. Therefore, adoption of the proposed change could lead to a decrease in breeding success and subsequent reduction in calf production.
The current State regulations provide for seasons for the affected area. Adoption of the season extension would provide a total of 37 days of opportunity between the Federal and State seasons in this part of Unit 21B. Adoption of the proposed regulations may create the need to establish a Federal permit system for the Federal only September 26th through October 1 season.

Adoption of the proposal would facilitate fewer problems with meat spoilage if temperatures were cooler during the proposed season extension. The proposed six day extension of this part of Unit 21B is not expected to have detrimental impacts on bull moose population. Total annual harvest for the affected area is not anticipated to change significantly as a result of adoption of this proposal.

Mr. Chair. If Proposal 37 were adopted it would bring, again, Federal regulations out of alignment with the State. Because the Federal subsistence wildlife regulations lack a definition of head of household, it would not be possible to determine who qualifies as the head of household. Instead, if a permit were to be issued it would have to be limited to one per household instead of head of household.

Adoption of the proposed March 1 through 5 season would provide Federally-qualified users who fail to harvest in the fall moose opportunity to take a bull moose during the proposed spring season and the affected portion of Unit 21B. Hunters that harvest the fall moose would be ineligible to harvest the bull during the proposed March season. However, from previous considerations of March moose seasons in Interior Alaska, the Federal Board has recognized the difficulty that hunters may have distinguishing between cows and bulls after antlers have been shed. As a result recognizing that cows will likely be harvested during the March season, March seasons are commonly authorized only when there is a harvest surplus of cows, and this is not the case for Unit 21B on the lower portion of the Nowitna River. Because the affected moose population has remained overall stable at its size and density since the late 1980s inadvertent harvest of cow moose during the proposed March season would lead to a less productivity and population decline.

With that, Mr. Chair, the OSM preliminary conclusions are as follows:
For Proposal WP07-36 is support with modification to require the upper half of the antler palm be forfeited. And this is because, Mr. Chair, this modification was added because during the State season that is the antler restriction that is required. It would make sense to follow that into the proposed extension into the Federal season.

For Proposal WP07-37 the preliminary conclusion is to oppose the proposal.

Thank you.

CHAIRMAN FLEAGLE: Questions.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Go ahead, Judy.

MS. GOTTLIEB: So then previously we haven't had anything in our regulation about destroying the antlers.

MR. DEMATTEO: We followed the State regulations that required it so at the checkstation at the mouth of the Nowitna River, if you were subsistence users hunting under the Federal regulation you would be required as well to forfeit those antlers.

CHAIRMAN FLEAGLE: Further questions.

(No comments)

CHAIRMAN FLEAGLE: Would the Fish and Game keep that checkstation open after their season closed?

MR. DEMATTEO: Mr. Chair. I've been working with the Staff at the Koyukuk Nowitna Refuge in Galena and it's their intention to keep the checkstation open past the 25th as they do run that checkstation through the entire season.

CHAIRMAN FLEAGLE: Understand, thank you.

Okay, what do we got next.

(Pause)

CHAIRMAN FLEAGLE: Summary of written comments, please. Vince Mathews.
MR. MATHEWS: Thank you, Mr. Chair.

They're found on Page 434 of your book there, they're both from the Ruby Fish and Game Advisory Committee.

They support Proposal 36. The Committee, during its November 2006 meeting took action to support the proposal. They felt that an early season, this would be in reference to the August season was not of much interest to the subsistence users and it would be better to have it replaced with an extension of the regular season later in the year. The warmer fall season and the lack of bull movements were the main reasons for supporting this proposal.

The same Committee took up Proposal 37 and they supported with modification. The Committee, again, during its November meeting took action to support with modification. The March 1 through 5 dates were opposed by the Committee because of the inability to differentiate between bulls and cows in March. The Committee supported the proposal with the modified dates of December 1 through the 10th.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Vince.

Public testimony, Pete.

MR. PROBASCO: Mr. Chair. No one has signed up for this agenda item.


MR. REAKOFF: Thank you, Mr. Chairman.

Federal Subsistence Board members.

The Western Interior Regional Advisory Council met in Ruby and there was quite a bit of concern by the Ruby residents because they had only caught 13 moose and they normally catch 30 or 40 moose there. They've been having special action requests wanting extension into the October 1 timeframe. The Western Interior has been dealing with this issue. The perception is that bull moose are breeding on time by photo period and that everything's cool and the subsistence users are crazy, well, that isn't the way it is at all. The warmer it gets, the bulls are breeding on time, they're just not moving in the corridors where subsistence hunters have access to them and their harvest
data reflects that, that they're not having access to these moose at the timeframes when it's warm, they're not moving near the rivers and it's warmer, there's more insects for one reason or another people aren't harvesting and it's hot and there's concern about meat spoilage. And there was lots of concern about the hot, an August season, they were talked into going for that and they were displeased with that August portion of their hunt. So we talked about going from September 25 to October 1 like we'd done up in Unit 24B and 24A and they were amicable to that, they wanted to see cooler weather harvest timeframe and they felt that a September 5 to October 1 would facilitate their harvest.

Western Interior Regional Advisory Council, at our Aniak meeting, discussed the proposal. In light of the Ruby Advisory Committee's comments on the timeframe for our winter hunts, we started looking at these proposals from their point of view, they had had time to discuss them. On Proposal 36 we discussed cutting the antler but the differentiation and trophy value destruction was formulated during the Koyukuk River Moose Planning sessions and that's because the pool of subsistence users under State regulations is everybody and we had a lot of problems with people shooting big moose on subsistence permits, that's where that came from. The Nowitna regulations are in concurrence with State -- coinciding with State hunts so the destruction of the trophy value has been implemented on the Federal hunt. We had quite a bit of discussion at our Council meeting about the value of the antler and being able to sell the antler to offset the high cost of gas and so we didn't specifically say one way or another whether, you know, if it came down to that cutting an antler palm off, if that's the deciding factor in your minds, we're amicable to that, but those antlers are worth something to the people for sale. They cut them off from the skull and they can sell those, and at five and six bucks a gallon you can buy a little bit of gas to go moose hunting, which you just authorized.

And so some of the reasons given was the warmer fall temperatures also allows the leaf to stay on the trees longer people have a harder time seeing moose, there's just all kinds of -- Member Collins felt that because of all that leaf on the trees that local transmissions were restricted and moose couldn't hear each other as well. There was various reasons, traditional ecological acknowledge bantered around of why the necessity for having these climatic changes, they're
concerns for people, the warmer springs and the longer falls and so to alleviate these problems I would have liked to have seen these proposals separated not just as one block, but on Proposal 36, has been implemented in the Unit 24B and this fall there was good success there, there was three or four moose harvested in the fall extension according to Ron Sam, Vice Chair of the -- or correction, past Chair of the Western Interior Council, and so that three or four moose doesn't sound like too much but if you're in the village where you're not catching too many moose that's a big deal, that's a lot of pounds of meat. And I went in Ruby's store there and meat prices were ranging between 8 and 15, $20 a pound, so that's a lot of value to the people there.

Proposal 37, we supported this proposal with modification to have a five day winter hunt and we modified the winter hunt date to be between December 1 and March 31. Member Honey on our Council, from Ruby, he was -- they were waffled on when they wanted to be able to hunt these moose. Moose bulls come out of rut in the first of December and the Koyukuk River Advisory Committee has been opposed to those early winter hunts but antler differential is a consideration and so we went for December 1 to March 31 modification with the consultation with the Refuge manager and the RAC. And there's lots of interest in having winter hunts return to people in the Middle Yukon and Koyukuk drainage. And so we did have winter hunts for bulls and so those two hunts, one occurred this spring, the Kanuti Wildlife Refuge provided a hunt on the Kanuti Wildlife Refuge. They mandated a bull harvest and there was lots of problems, there was no snow, the moose were away from the river, it was 40 and 50 below zero, there was no harvest. There was lots of people who turned out for the hunt, I think they issued 27 permits and 10 people hunted, and they spent about three and a half days hunting and at six bucks a gallon they roamed around a little bit and it was 50 below zero and nobody killed anything but there was a high interest in that bull harvest and the conditions were not -- the people were getting used to the idea that there are not enough cows around and are wanting some kind of a winter bull season.

In Huslia there's been three years of harvest there. In '05 they killed eight bulls and one cow and so there was a training on how to differentiate between bulls with shed antler and cow moose. And rural people in winter hunts would prefer to kill cows and especially dry cows, the next year they killed four cows.
In '07, this spring, they killed three bulls and two cows. They're allowed a 10 cow harvest there and they're personally restricting their cow harvest and taking some bulls. And so bulls can be determined in mid-winter, there is more or less a fallacy that you can't -- I can look at field glasses and I can look at a bull moose and you can see the pedestals and there'll be yearlings and two year olds around and so you'll see those also.

Those are the Western Interior's positions on these proposals. These are very necessary. We've identified these as need lacks and these two proposals are -- some form of these proposals are necessary. We would be amicable to winter -- Ruby is amicable to a winter bull hunt at some time and that could be in December for five days. And we also need a winter -- we need this winter hunt bad, we need this extension on the fall season.

And so those would be my comments, thank you.

CHAIRMAN FLEAGLE: Thank you, Jack.

Questions. Gary.

MR. EDWARDS: Jack. On destroying the trophy value of the antlers, I guess, well, I heard you say you don't feel that that -- while that might have been necessary at one time you don't feel it's necessary anymore.

MR. REAKOFF: This is in reference to this -- this goes beyond the State season, it goes into a Federal only hunt and so there's no reason, these are rural subsistence users participating, they're not trophy hunting, they're subsistence hunting and the value of the antlers, it's a devaluation of the antler. They cut one antler right through the middle of the palm and the Department or whoever it is retains that half of antler. A full antler is worth a lot more than half an antler, they're sold by the pound. But if you're concerned about people, rural residents trophy hunting on the subsistence hunt during the Federal extension, you can mandate the cutting of the antler if you would like.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Thanks. Well, just for
clarification, the reason I asked was that I think this Board needs to be careful that we not do anything to the detriment to subsistence uses of this animal so that's why I was questioning the need to destroy part of it.

CHAIRMAN FLEAGLE: Thank you.

MR. EDWARDS: One other question with the reference on Proposal 37, with this winter hunt, what's the potential that cows would be harvested during that and if so what's the impact of that?

MR. REAKOFF: The modified proposal that the Western Interior adopted was a December 1 to March 31 timeframe, five day season to be administered by the Refuge manager, that season could be set in December. Ruby has decided they will take a December hunt. They're concerned about differentiating between cows and bulls, and so that season could be in December. The issues are cold weather and the darkness and the freeze up timeframes, you know, there's problems with December hunts, you try to get enough ice, you have deep snow and lots of overflow and all the lakes and stuff and you got five days set, that's why we want a floating timeframe to where there's an agreement where conditions are -- we got in a bind on the Kanuti this year because it was really, really cold and so we want the Refuge manager to have the ability to float the season around, a five day season when the conditions are correct. And so if you get -- it's froze up, it looks like traveling's good, it's going to be good opportunity, the Refuge manager can allow the hunt in conjunction with the Ruby Advisory Committee and the Western Interior Council concurrence.

MR. EDWARDS: Mr. Chairman. I think we have some folks from the Refuge here. I don't know if they are prepared to maybe address kind of how they might be managing this five days but if that's okay.....

CHAIRMAN FLEAGLE: Sure.

MR. EDWARDS: .....because I'm trying to get a better understanding of the issue.

CHAIRMAN FLEAGLE: Can I get a name first, please.

MR. MOLLNOW: Thank you, Mr. Chairman. My name is Ryan Mollnow, I'm the deputy Refuge manager at Koyukuk/Nowitna Refuges.
We've worked with Ruby on this quite a bit and I guess from administering this type of a hunt I can offer just a few things.

I've got some notes here. Administering a hunt during the September timeframe will be much easier for us than administering a hunt later in the winter. One is, Jack, had mentioned, we do operate a hunter checkstation and so we'll already be out there in the field, and at the Nowitna River mouth to be able to help any subsistence users and things like that as far as giving out Federal permits and things.

Another thing, you know, just identifying a bull moose in September is going to be much easier than identifying one later on in a winter season. As Jack pointed out it is possible. We have done quite a bit of education with the villages on how to identify these moose, but there is still, you know, even within the villages, some reluctancy as far as being able to differentiate them. And with this population being such a low density, although it's a stable population, slightly increasing, you know, we want to try to avoid any cow harvest whatsoever.

Some other things that we have would be access, access to the Refuge during the September timeframe, most of the folks from the Ruby area are already out there on the Novi, it'd be the Nowitna River and are able to access many areas, you know, in the corridor of the Nowitna River, so boat access during the September timeframe and things would be much easier than a later winter hunt where you're having to try to enter the Refuge on Sno-Go, either up the river and things, so as far as gaining access to where the moose are going to be at, boat access would be an easier way to go. Another side of that is a safety aspect, like Jack had mentioned with the March hunts that transpired this last season, we had extreme cold weather during this certain timeframe and it was safety reasons that a lot of folks didn't get out and go. If there was a later hunt in September, you know, the weather would not be as big of an issue from a safety aspect.

But it will be easier for the Refuge to administer a September extension versus later on in a winter time season.

MR. REAKOFF: Mr. Chairman.
CHAIRMAN FLEAGLE: Okay, thank you, appreciate the comments.

MR. REAKOFF: Mr. Chairman.

CHAIRMAN FLEAGLE: Jack.

MR. REAKOFF: Our modified proposal is from December 1 to March 31, you can require antlered bull on that hunt, we're not saying that we're going -- we went for a modified proposal, not a March 1 to March 5, we went for a timeframe between December 1 and March 31, it's the Board's discretion as to when that timeframe may occur and require antlered bulls.

CHAIRMAN FLEAGLE: Thank you, Jack.

Gary.

MR. EDWARDS: Ryan, I know you haven't been there very long, so you might not be able to answer this question but maybe, Jack, you could, too, based upon your knowledge. I mean I guess it's my understanding that many of the communities there in the Koyukuk area, you know, have really not wanted a December hunt because of the condition of the bulls and all.

MR. REAKOFF: The people on the Koyukuk River and Huslia were highly opposed to that and up river, in the upper drainage of Koyukuk River they were highly opposed to that. The people down in Ruby, they've waffled back and forth and we've gotten mixed reviews, you know, they would prefer to kill a cow in March but they're concerned about this killing a cow illegally or differentiating between bulls and cows and so, Ruby, specifically, has been their -- their Advisory Committee, and I've witnessed their waffling is now their position is that they would prefer to hunt bull moose with antlers on, and so we modified our proposal to accommodate that.

And as far as administering the check, we talked about that at Ruby with some of the Staff, I talked with the Refuge manager and some of the Staff there, the vendor or the Ruby staff could administer permits from Ruby, the moose would be returned back to Ruby, checked in for identification and biological information and then the people could take them home. That would be a fairly easy way to administer that, you wouldn't have a checkstation over on the mouth of the Novi and so forth.
CHAIRMAN FLEAGLE: All right, thank you.

MR. EDWARDS: Thank you, Ryan, appreciate it.

CHAIRMAN FLEAGLE: Department of Fish and Game comments. Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman. I'll summarize our longer written comments.

The Department opposes these two proposals. The net effect of adopting 07-36 is to add six days to the end of the current moose season in a portion of Unit 21B. Although the proposal would eliminate 10 days at the start of the season, these 10 days would remain open in the State regulations and provide a total of 37 days of hunting opportunity for Federally-qualified hunters, hence, qualified rural residents would have gained 16 days of hunting opportunity in the State and Federal regulations combined as a result of action of the Federal Board and the Board of Game in 2006, if this proposal is adopted.

If WP07-36 is adopted, the September 26 to October 1 hunt administered by Federal registration permit must be closely monitored to see if it has the effect sought by the proponent.

The Department agrees that trophy destruction requirement proposed as a condition of the Federal permit is essential in order to provide consistency with the State registration permit hunt in this area.

The Department concurs with the justification presented in the Staff analysis for opposing 07-37. And I quote:

"Given the limited bull harvest that the current population can support and the potential for inadvertent harvest of cow moose during March 1 to 5, this population cannot support a spring harvest as part of the annual harvest regime by local residents.

Inadvertent harvest of cow moose during the proposed March season would lead to less productivity and population decline."
A considerable long-term increase in the harvest of bulls and cows would affect productivity and recruitment within the population and eventually cause restrictions in Federal and State regulations."

In summary, we believe the current State and Federal regulations provide a reasonable opportunity for harvesting moose and meeting subsistence needs in Unit 21B. The amended season dates adopted last year by the Board of Game and replicated by the Federal Board address the need for additional hunting opportunity in Unit 21B by adding 10 days, August 22 to 31. Implementation of the proposed extended late September season and/or the March season can be expected to increase harvest and conflict with population management strategies for Unit 21B and such action would be inconsistent with recognized principles of wildlife management and would be likely to interfere with the long-term satisfaction of subsistence needs.

Regarding the Proposal 37 as modified by the Western Interior Regional Council, we appreciate having a proposal with some flexibility for a winter season on the table and certainly if an antlered bull requirement was imposed that would remove some of our concerns, but I think we've seen over the last several years a lot of bouncing around, back and forth between what seasons people would like to have in that region and we would be concerned that adoption of a winter season, be it December or March, for an antlered bull might end up being liberalized the following year for any bull or for perhaps any moose and so we're reluctant to support any type of a winter season right now.

Thank you, Mr. Chairman.
Regarding Proposal No. 36, I'll highlight the key points again. Providing some additional harvest opportunity at the end of September when bull moose can be more easily located should enable subsistence hunters to take a few additional moose. However, it should be noted that with the low density moose population and low bull/cow ratios observed in the unit there is not a large harvestable surplus of bulls. If the proposal is adopted by the Board, the harvest should be closely monitored to determine if further adjustments to season timing might be needed.

Under the current Federal and State subsistence regulations destruction of the trophy value of the antlers is required as a disincentive for individuals seeking a trophy moose. A regulatory provision requiring the destruction of the trophy value of the antlers during the proposed season extension would make that requirement consistent for the entire season.

Regarding Proposal No. 37. The allowable harvest of bulls is not large. If a fall season extension is adopted by the Board the anticipated increase in harvest of bulls may reach the maximum sustainable level for the population. A winter season for bulls in addition to potentially increasing the harvest of bulls beyond sustainable levels could also result in inadvertent taking of cow moose. The Unit 21B moose population cannot support any harvest of cows at its current low density.

Although the Council recommendation conditions the winter season on its authorization by the Koyukuk/Nowitna Refuge manager it would create the expectation by local subsistence users that a season will be provided. It is likely that a winter season would be authorized with the current moose population demographics.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Questions.

(No comments)

CHAIRMAN FLEAGLE: Board discussion.

Gary.

MR. EDWARDS: Yes, Mr. Chairman, are we taking these one at a time or together or I guess
I'm......

CHAIRMAN FLEAGLE: Separate them. 36 first.

MR. EDWARDS: All right. I'm kind of prepared to address both but one sort of supports the other.

I guess as a general statement, going into both of these, whatever we kind of come out with, I feel confident that the Refuge folks have done a good job up there in trying to manage this and keep an eye on it and my sense is whatever we do they'll ensure that conservation is done.

But I guess what I would do on Proposal 36, I would move that we adopt the Western Interior Regional Council's recommendation on that proposal. With regards to the suggestion or modification on the trophy value of the antlers destroyed, I guess I'm somewhat ambivalent on that one way or the other. It seems like the Council doesn't have a problem one way or the other, either, so I guess at this point I heard enough that I could go without doing that. So I guess I essentially would just move to adopt their recommendation which would extend the fall season.

MR. PROBASCO: Without antler restriction?

MR. EDWARDS: Yeah, I'm not putting that in my motion.

CHAIRMAN FLEAGLE: Is there a second.

MR. OVIATT: I'll second that motion.

CHAIRMAN FLEAGLE: Okay, George. Do you want to speak further to your motion, Gary.

MR. EDWARDS: yeah, Mr. Chairman. I believe that, you know, by extending this season will provide some improved opportunity for the subsistence hunters to harvest bull moose during this period and I don't feel that it's going to result in the overharvest of the resource. Certainly as I indicated and I think the Refuge would agree, because of the low population, the low bull/cow ratio, certainly the Refuge is going to want to monitor this closely which, again, I'm sure they
will do so.

CHAIRMAN FLEAGLE: Further discussion.

Judy.

MS. GOTTLIEB: Mr. Chairman. Well, I think it's actually an interesting coincidence that this week in Washington, D.C., Deputy Secretary Scarlett has a group gathered to talk about climate change and how that's going to affect, in many different aspects, what the Department of Interior does. And one of the questions was, with respect to legal issues, meaning laws and regulations and the one, of course, that has come up is are we going to have to do sort of adaptive management on our subsistence regulations based on the effects that are being seen on the land and in the waters.

So I'm prepared to support the Regional Council's recommendation but I don't think it's necessary to have the trophy value destruction.

Thank you.

CHAIRMAN FLEAGLE: That's not part of it.

MS. GOTTLIEB: Okay.

CHAIRMAN FLEAGLE: As stated, it wouldn't be included.

Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for the question.

MR. CESAR: Question.


MR. PROBASCO: Thank you, Mr. Chair.

Final action on Proposal WP07-36.

Adopt with modification consistent with recommendation of the Western Interior Subsistence Regional Advisory Council to eliminate the August 22nd to 31st moose season and extend the fall season to end.
on October 1st.

Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: And Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Motion carries, six/zero.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. With regards to 37, I'm going to give my motion and maybe I'll do a little explanation that might help with a second or may not help with a second.

But on Proposal 37, I'm going to move, at least, at this point that we reject the recommendation. You know, I'd like to think that the action that we just took on 36 would provide some additional opportunity to harvest. It does seem to be that there is mixed feelings within that area about having a December hunt. I think there is some concerns, depending on when it would occur, of potentially harvesting cows. I guess I would encourage us to see what results from what we did in 36 and then we could come back later or the Council could resubmit a proposal similar to 37, you know, if we felt that we needed to do more.

CHAIRMAN FLEAGLE: Is there a second.
MR. OVIATT: I'll second.
CHAIRMAN FLEAGLE: Got it from George.
Okay, it sounds like the rationale was pretty laid out in
the statement with the motion. Discussion.
(No comments)
CHAIRMAN FLEAGLE: Ready for the
question. Okay, the question on the motion to oppose the
recommendation. Pete.
MR. PROBASCO: Thank you, Mr. Chair.
Final action on WP07-37 as you stated.
Mr. Cesar.
MR. CESAR: No.
MR. PROBASCO: Mr. Oviatt.
MR. OVIATT: Aye.
MR. PROBASCO: Mr. Kessler.
MR. KESSLER: Aye.
MR. PROBASCO: Mr. Edwards.
MR. EDWARDS: Aye.
MR. PROBASCO: Mr. Fleagle.
CHAIRMAN FLEAGLE: No.
MR. PROBASCO: And Ms. Gottlieb.
MS. GOTTLIEB: No.
MR. PROBASCO: Motion fails, three/three.
CHAIRMAN FLEAGLE: Yeah, that
three/three, that motion was to reject, so essentially no
action, right. That's the trouble with putting a
negative action out and an affirmative vote.
MR. PROBASCO: One second, Mr. Chair.
MS. GOTTLIEB: Mr. Chairman. Can we do
another motion on this proposal?
CHAIRMAN FLEAGLE: Sure.

MS. GOTTLIEB: I'd like to move as shown on Page 20 with slight modification to the Regional Advisory Council recommendation that would be talking about -- excuse me, let me start again.

I'd like to support the Regional Advisory Council's recommendation and include the word, antlered bull, on the winter season, five day potential hunt.

MR. CESAR: I'll second that.

CHAIRMAN FLEAGLE: Judy, would that be with the essentially the floating season.

MS. GOTTLIEB: Yes.

MR. PROBASCO: That's my understanding.

MS. GOTTLIEB: Yes, it would be.

CHAIRMAN FLEAGLE: All right. Would you want to speak more to your motion, please.

MS. GOTTLIEB: Well, I guess from the population data that we're seeing here it looks like the populations are stable or perhaps slightly growing and, again, given the discretion and the confidence that we have in the local managers, you know, if there's enough animals they can open a hunt, if there's not enough they won't open a hunt. It just gives that flexibility. And it sounded like there have been some outreach efforts and I'm sure those can continue to help distinguish, although if we use the word, antlered, that should help out quite a bit, too.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. While I would certainly agree, you know, going to an antlered hunt would be -- would certainly be advisable if we were going to allow this extension, I think I will probably vote against the motion. Again, I think that the actions that we took in 36 will provide some additional opportunity.

This certainly isn't a rapidly growing population and I do think we have some level of conservation concern. And I just think it would be more
prudent from a conservation standpoint to see what the
results are of our previous action before we extend a --
you know, further extend the season in this particular
unit.

CHAIRMAN FLEAGLE: Steve.

MR. KESSLER: Thank you, Mr. Chair. I
guess a comment. I think Judy's modification to make
this an antlered bull is a very important change. Gary
also did talk about sort of this -- or maybe it was in
the Staff Committee recommendation, I can't remember,
sort of an expectation if it's on the record, that -- I
mean if it's in our regulations there's sort of an
expectation that it would happen when, in fact, it
really, from the biological conservation sense may not
make sense. So I support the change and I question
whether we should have it in our regulations and I'll let
you know when I vote how I vote.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Thank you, Mr. Chairman. I,
too, feel that there's a conservation concern here and
letting us get some experience from our vote from the
previous proposal, I think, would be prudent, so I'm
probably going to vote against this motion.

Thank you.

CHAIRMAN FLEAGLE: I'm going to support
it. I know Interior winter hunts, they're not very
profitable. I don't see a conservation issue. Five day
season, you know, you just got the heartiest of people
out there looking for moose in some pretty rough country
full of snow. And if somebody wants to be out there
looking for one of these, I think this will provide an
opportunity for somebody that really, really, really,
really wants to try to get a moose.

When the State had the winter hunt up
there on the Nowitna that was just recently closed, it
was not utilized very well, if I recollect correctly, and
success rates were pretty low when it was utilized. I
don't fear that.

My problem with this, the reading of the
language, this just seems to really muddle up how it's
going to be authorized. It's authorized by the Refuge
manager after consultation with the ADF&G area biologist,
the Chair of the Western Interior Regional Advisory Council, the Chair of the Ruby Fish and Game Advisory Committee, and local villages. Does any one of those have veto power over this hunt, or I mean is this a routine type of language used in regulation.

Okay, Gary.

MR. EDWARDS: Speaking on behalf of the Fish and Wildlife Service, I think we would argue that our Refuge manager has the ultimate decision and that nobody would have a veto over him, except maybe me.

(Laughter)

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair, it's a good question. And consultation is meant to get everybody in the loop to understand that we're contemplating a season and to try to understand local conditions and concerns and take that into consideration and making the decision when that five day season will occur but the Refuge manager has the final say.

Mr. Chair.

CHAIRMAN FLEAGLE: All right. So if it's to add positive information then I can go along with it, if it was not meant to be a hinderance, that's fine.

I intend to support the motion.

Is there further discussion. Steve.

MR. KESSLER: (Shakes head negatively)


MR. PROBASCO: Okay, second motion on Proposal WP07-37, and it's on Page 421, and what has been changed, it's been from one bull to antlered bull and it is still a five day season to be announced. So the motion is on Page 421 with the modifications that Ms. Gottlieb provided in her motion.

Mr. Oviatt.
MR. OVIATT: No.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: No.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Yes.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Yes.

MR. PROBASCO: And Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: Motion carries, four/two.

Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Pete.

MR. HAYNES: Mr. Chairman.

CHAIRMAN FLEAGLE: Okay, who's yelling, oh, Terry Haynes.

MR. HAYNES: Just a point of clarification. On Page 421 the Regional Council recommendation talks about issuing permits to heads of household. In the presentation from Federal Staff there was a suggestion that that might not be a very workable term. I just wondered if the intent of the action was to have permits issued to heads of household.

CHAIRMAN FLEAGLE: Thank you, Terry, that was an oversight. You're right. Currently, I guess the only way it's done is one per household. And I don't know if we would need to revisit this language or if we could just make the intent match that of current practice.

Pete.

MR. PROBASCO: Mr. Chair. Let's just
have a discussion on the intent and then we could change
the regulatory language.

Mr. Chair.

CHAIRMAN FLEAGLE: Since George has his
microphone on maybe he can start.

(Laughter)

CHAIRMAN FLEAGLE: All right, discussion
on intent. Judy.

MS. GOTTLIEB: Mr. Chair. I guess with
our definition of household meaning that group of people
residing in the same residence, that's the intent.

CHAIRMAN FLEAGLE: One per household,
though, as opposed to what's here as head of household.

MS. GOTTLIEB: Right. Right.

CHAIRMAN FLEAGLE: Everybody in
concurrence.

(No comments)

CHAIRMAN FLEAGLE: No objection.

(No objections)

CHAIRMAN FLEAGLE: All right, that's the
intent, Pete.

MR. PROBASCO: Got it.

CHAIRMAN FLEAGLE: Moving on to Proposal
55. Tom Kron.

MR. KRON: Mr. Chair. Given the press of
the agenda, if you wish, I can shorten this presentation
for this particular analysis.

CHAIRMAN FLEAGLE: All in favor signify
by saying aye.

(Laughter)

CHAIRMAN FLEAGLE: You bet.
MR. KRON: Mr. Chair. The analysis is already included on the record in your Proposal book, Pages 438 to 445.

OSM's preliminary conclusion is to oppose the proposal.

Thank you, Mr. Chair, and I'd be happy to take any questions.

(Laughter)

CHAIRMAN FLEAGLE: Thank you, Tom.

MR. PROBASCO: Good job, Tom.

(Laughter)

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: Moving on to summary of written public comments. Vince.

MR. MATHEWS: Thank you, Mr. Chair. They're found on Page 448. Again, there are two in opposition. You will not see the Gates of the Arctic Subsistence Resource Commission on that page because they met last week. They did oppose it and if you'd like further information on that, Jack Reakoff is a member of that Commission.

The other written comment came in from Scott Schoppenhorst of Wiseman Village. He highly values the local fish and wildlife resources and has always hunted in the traditional ways when it's the best time to properly care for the meat. He suggests that if there's a safety issue involved with this proposal, which there is, then it would be good to have the bow hunters where blaze orange so they could warn other hunters. Hunting in the Dalton Highway Corridor is done by driving the highway and spending hours glassing for sheep. He has been able to, at different times, to locate other hunters and progress with a spotting scope and once hunters are spotted he looks for other areas. So basically they move their hunting activity to avoid conflict. In his opinion most bow hunters come to the Dalton Highway Corridor because of the lack of law enforcement and do not hunt specifies specific proven by the amount of
arrows found in the woods and in animals that he has
harvested.

Mr. Chairman, then the full text of his
letter, which is quite lengthy, is available if the
Board would like to see that.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Vince.

Public testimony, Pete.

MR. PROBASCO: Mr. Chair. We have no one
signed up for this agenda item.

CHAIRMAN FLEAGLE: Council
recommendation. Jack.

MR. REAKOFF: Mr. Chairman. Western
Interior Regional Advisory Council opposed this proposal.

This proposal was basically submitted by
a disgruntled hunter, and the proposal is craftily worded
to where he was in danger and it was not a public safety
issue at all. He had hunted this sheep for two different
days and one of our guys climbed the hill with his wife
and killed the sheep and he was annoyed with that. He
fabricated this aspect that he could have been in danger.

We specifically spot legal animals for harvest, we're
under a horn requirement on dall sheep then we
specifically target those sheep, we're not just randomly
shooting them in the legs, in any old place, they're
going to be spot in a specific place.

Typical ranges are not at long range,
they're usually between 10 yards to about 200 yards
maximum to 300 yards at the super maximum range.

And so it's not just blazing away up the
hillside and bow hunters are being right and left.
There's been -- I've personally never had conflict with
any bow hunter. If I come to a bow hunter and they're
hunting an animal I go somewhere else just like stated by
Mr. Schoppenhorst. And so we opposed this proposal.
There's the perception by the proponent was that we hunt
year-round and we can hunt at some other time of the
year, that's just a misperception, a common misperception
that subsistence hunters hunt at any old time of the
year.
There is a Federal subsistence priority and so we hunt with firearm as provided by the Federal Subsistence Board process for many, many years now. People have hunted with firearms from Wiseman -- Wiseman has a long and rich history of documentation and is an older community than Anchorage. And so Jacob Jonas that lived in Wiseman when I was a kid, he was in his early '90s Nunimuit Eskimo, he told my dad and I, while I was sitting there, that he got black powder rifles like up at Niglik at the coast in the late '1800s from whalers and they basically utilized those, they didn't use bow and arrow, they drove caribou into lakes and snaring enclosures and used black powder rifles from that timeframe on.

And so we're using customary and traditional methods and means for subsistence harvest and so the Western Interior and Gates of the Arctic Subsistence Resource Commissions have opposed this proposal.

CHAIRMAN FLEAGLE: Thank you. Department of Fish and Game.

MR. PROBASCO: Eastern Interior.

CHAIRMAN FLEAGLE: Oh, Eastern Interior, sorry, Sue.

MS. ENTSMINGER: I'll keep it short and say that the Eastern Interior opposed this, and they look at it as not harassing hunters but it's just competition between hunters in the field.


MR. MATHEWS: Yes, Mr. Chair. Real quickly, the North Slope deferred on this proposal and there's not a representative here so I'll cover that. They deferred because they wanted to hear from the affected community of Anaktuvuk Pass.

Thank you.

CHAIRMAN FLEAGLE: Department of Fish and Game comments. Tina Cunning.

MS. CUNNING: Thank you, Mr. Chairman.

We have comments that have been supplied, written
We would conclude that the Department supports this proposal. Hunting with firearms is illegal under State statute and regulations in many portions of the Dalton Highway Corridor Management Area. Beginning in the early 1990s the Department consistently opposed the Federal Board authorizing use of firearms for subsistence hunting on Federal lands in the Dalton Highway Corridor Management Area because it contradicts State statute.

Thank you.

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: Staff Committee comments. Larry.

MR. BUKLIS: Mr. Chairman. The Staff Committee comments are on Page 448 and they simply report that the Staff Committee found the analysis to be a thorough evaluation of the proposal and the Council recommendations to be consistent with ANILCA Section 805(c).

CHAIRMAN FLEAGLE: Board discussion.

George.

MR. OVIATT: Mr. Chairman, if I could -- I'm sorry, if I could ask a question of the State. Do you have any documented cases of use conflicts between bow hunters and the subsistence users other than the individual who submitted this proposal?

CHAIRMAN FLEAGLE: Tina.

MS. CUNNING: Mr. Chairman. Over a period of a number of years we receive complaints from both sides.

MR. OVIATT: Thank you.

CHAIRMAN FLEAGLE: Further discussion.

(No comments)
CHAIRMAN FLEAGLE: Ready for a motion.

MR. OVIATT: Mr. Chairman.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: I put forth the motion of the proposal as recommended -- to reject the proposal as recommended by the Western Interior and the Eastern Interior Alaska Subsistence Regional Advisory Council.

MR. CESAR: I'll second it.

CHAIRMAN FLEAGLE: Discussion.

MS. GOTTLIEB: No, go ahead.

MR. OVIATT: My reasons are that the proponent's belief as was stated earlier that subsistence hunters have access year-round is incorrect. That the two seasons -- or two hunts overlap. Subsistence sheep hunting with firearms has been in place for 15 years. The rural subsistence hunters are hunting to feed their families, they have a limited opportunity to purchase food and the cost of food is prohibitive. The use of bow and arrows is not an efficient way for subsistence hunters to put food on the table. A relatively small percentage of the hunters are Federally-qualified subsistence hunters. An Arctic National Wildlife Refuge patrol officer reported that subsistence hunters were probably less than 5 percent of the total hunting population along the Dalton Highway. And the percentage of archers and rifle hunters during this same time is not unique, that these two types of hunters utilize the same areas during the hunting season across most of Alaska.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Okay, George, thank you.

MS. GOTTLIEB: Thanks. Well, I certainly agree with what George offered as well as if we were to support the proponent, I believe that that would be
detrimental to subsistence uses.

CHAIRMAN FLEAGLE: Ready for the question. Question's recognized on the proposal. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

Final action WP07-55 to support the recommendation of the Western and Eastern Interior Regional Advisory Council to reject the proposal.

Mr. Kessler.

MR. KESSLER: Motion was to reject, right?

CHAIRMAN FLEAGLE: Affirm.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Yes.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Yes.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: And Mr. Oviatt.

MR. OVIATT: Yes.

MR. PROBASCO: Six/zero, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you. Now, this one ought to go as quickly as well. Tom Kron.

MR. KRON: Mr. Chairman. WP07-58 requests that Federally-qualified subsistence hunters use a bow and arrow to hunt moose in the Dalton Highway Corridor during the period of time when State of Alaska has an archery only hunting season.
The analysis for this proposal is already included on the record and it can be found in your Board books on Pages 452 to 461.

The OSM preliminary conclusion is to oppose this proposal.

Thank you, Mr. Chairman, I'd be happy to take any questions.

CHAIRMAN FLEAGLE: Thank you, Tom.

Written public comments.

MR. MATHEWS: Yes, Mr. Chairman. Again, they're found on Page 462. I won't repeat what Scott Schoppenhorst of Wiseman said, it was the same letter that was sent, so it was the same comments concerning this user conflict, blaze orange safety.

We also have the Gates of the Arctic Subsistence Resource Commission opposed it, again, additional information, if you need it is available through Mr. Reakoff.

The final written comment in opposition came from Thor Stacey of Wiseman. Again, the residents of Wiseman have been hunting animals in the MiddleFork Valley long before the Dalton Highway and bow hunting seasons were established. There has never been an accident related to hunting with rifles or otherwise, or a complaint that our traditional use has been threatening to personal safety. Safety is paramount and importance around -- when around firearms. He personally takes firearm safety seriously and he recommends that you do not pass this proposal as they have no merit and will make subsistence hunting of moose and sheep in the Corridor impossible for its established users.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Vince.

Public testimony, Pete.

MR. PROBASCO: Mr. Chair. No one has signed up for this agenda item.

CHAIRMAN FLEAGLE: Regional Council recommendation, we'll start with Jack.

MR. REAKOFF: Mr. Chairman. The Western
Interior Regional Council opposed the proposal for the same reasons as stated on Proposal 55.

We harvest wolves there, ungulates and other subsistence animals, predator harvest there offsets our ungulate harvest and benefits other users. We've never asked for an exclusive use of the area, we're willing to share the resources there and so I wanted to put that on the record, that we've never asked for an exclusive use or an exclusion of other users there.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Sue.

MS. ENTSINGER: Mr. Chair. We oppose for the same reasons.

CHAIRMAN FLEAGLE: Vince, for North Slope.

MR. MATHEWS: Yes, they oppose it also. And if you need further clarification on their justification, Barb's here because it -- they just opposed it based on their representative from Kaktovik.

CHAIRMAN FLEAGLE: Thank you. Alaska Department of Fish and Game comments. Tina.

MS. CUNNING: Mr. Chairman. Please see our comments for WP07-55, the same issues apply. The Department supports this proposal because it contradicts State statute.

CHAIRMAN FLEAGLE: Thank you for those comments. Staff Committee comments. Larry.

MR. BUKLIS: Mr. Chairman. The Staff Committee comments are found on Page 462 for Proposal No. 58 and they are the same as we stated for Proposal 55.

CHAIRMAN FLEAGLE: Thank you. Board discussion.

(No comments)

CHAIRMAN FLEAGLE: Motions.

MR. OVIATT: Mr. Chairman. I'd put a motion on the table to reject the proposal as recommended
by the Western Interior and the Eastern Interior Alaska Subsistence Regional Advisory Councils for similar reasons that I had stated before. That the Federal subsistence hunt has been in place for 15 years. Hunting with bow and arrow is not an efficient way to put food on the table. And there is no biological reason to adopt this proposal.

MR. CESAR: Second.

CHAIRMAN FLEAGLE: Got a second.

Discussion.

MS. CUNNING: Mr. Chairman.

CHAIRMAN FLEAGLE: Tina.

MS. CUNNING: Mr. Chairman, in my attempt to speed things up, I contradicted myself. The Department supports the proposal because the use of firearms contradicts State statute. I just needed to clarify that I had it the wrong way.

CHAIRMAN FLEAGLE: Thank you. I kind of figured the reason it wasn't on the consensus agenda was because the Department did not support it -- I mean support -- now, I did it, it's time to take a break but let's vote first.

The question is recognized on the proposal. Pete.

MR. PROBASCO: Mr. Chair. Final action WP07-58 reject the proposal as recommended by Western Interior, Eastern Interior and North Slope Subsistence Regional Advisory Council.

Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.
MR. CESAR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: And Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Six/zero, Mr. Chair.

Thank you, Pete. That wraps up Western Interior proposals. The next suite of proposals will be the Seward Peninsula ones that were deferred, correct.

MR. PROBASCO: Correct.

CHAIRMAN FLEAGLE: Okay, and that's out of cycle on the printed agenda so I just wanted to raise that up. And we'll step down for 10 minutes.

(Off record)

(On record)

CHAIRMAN FLEAGLE: The Federal Subsistence Board is back on record. Now, the intent of this next group of proposals that was requested to be brought off of the consensus agenda because they were rejected, opposed, in opposition to the proponent's desires was to bring them back before the Board so that they can be deferred so that the reasons for the opposition could be dealt with by the Regional Advisory Council and the proponent.

And so if there's a motion we can do this all in one fell swoop, do all three groupings to defer to the next cycle.

Is there a motion.

MS. GOTTLIEB: Mr. Chairman. Yes, I did ask that this be pulled off the consensus agenda but I think there was or maybe is the need for either more information, more communication or better understanding on what C&T is or what it isn't. And so I guess I would ask that the Board defer action on these proposals and return them to the Regional Council.

CHAIRMAN FLEAGLE: Is there a second.
MR. CESAR: I'll second that.

CHAIRMAN FLEAGLE: We got a second, Niles. Is there any objection.

(No objections)

CHAIRMAN FLEAGLE: Hearing none, Pete go ahead.

MR. PROBASCO: For the.....

MS. GOTTLIEB: Mr. Chair.

MR. PROBASCO: .....record, Mr. Chair, it's Proposals WP07-39 through 49.

Mr. Chair.

CHAIRMAN FLEAGLE: Judy, you were just going to clarify.

MS. GOTTLIEB: (Nods affirmatively)

CHAIRMAN FLEAGLE: All right. Any objection.

(No objections)

CHAIRMAN FLEAGLE: Hearing none, that action carries.

We now move to the Northwest Arctic region with Proposal 23 -- Unit 23, Proposal 50.

Greg Risdahl.

MR. RISDAHL: Mr. Chairman. Members of the Board. I believe you have a copy of a letter that was sent to -- actually it says it's addressed to you, the Chairman, from the proponent, Mr. Caleb Pungowiyi, asking for this proposal to be withdrawn. And I'm prepared to go through the proposal if you'd like or if the Board prefers to take some other action on it at this time.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I would like to move that
the Board not hear this action and withdraw it from our agenda.

CHAIRMAN FLEAGLE: Okay. Any objection.
(No objections)
MR. PROBASCO: You need a second.
CHAIRMAN FLEAGLE: Oh, we need a second.
MR. EDWARDS: Second.
MR. OVIATT: Second.
CHAIRMAN FLEAGLE: Yeah, we do have several, I'll take George's. Any objection.
(No objections)
CHAIRMAN FLEAGLE: That will be the action of the Board, this proposal is now dispensed with.
MR. RISDAHL: Thank you, Mr. Chairman.
Members of the Board.
CHAIRMAN FLEAGLE: Okay, we now move back to the Eastern Interior once again and we're resuming with Proposal 59 from that region.
MR. KESSLER: Excuse me, Mr. Chair.
CHAIRMAN FLEAGLE: Steve.
MR. KESSLER: You know, I know we just took pretty quick action to allow that one to be withdrawn but we didn't hear from the Council and the Council supported that proposal. And I'm just curious whether the Chair of the Council supports what we just did.
CHAIRMAN FLEAGLE: Okay. We can have that discussion. Victor.
MR. KARMAN: Yes. At the time it was presented to us we did approve it but after a little while, with a little bit more research we had the wrong information. Had we had the right information it never would have went. If you want Caleb Pungowiyi is here that submitted the proposal from Maniilaq Association, I
would defer to him, if you don't mind.

CHAIRMAN FLEAGLE: Steve, you just wanted
to find out if the Council was in concurrence with the
withdrawal.

MR. KESSLER: Yeah. It was my
understanding that the Council was but I thought it was
important to put that on the record and I don’t think we
need to address it any further unless someone else has a
different idea.

CHAIRMAN FLEAGLE: You bet, thank you.
All right, Proposal 59, and we have Don Rivard back with
us.

MR. RIVARD: Thank you, Mr. Chair. The
Staff analysis begins on Page 549 in your book.

This proposal, WP07-59 submitted by the
Eastern Interior Alaska Subsistence Regional Advisory
Council requests that the closing dates of the wolf
hunting seasons in Units 12, 20 and 25 be changed from
April 30th to May 31st. The proposed regulatory change
would provide an additional 31 days for Federally-
qualified subsistence users to harvest wolves.

An identical proposal, WP06-64 was
submitted last year by the same proponent and was
rejected by the Federal Subsistence Board in May 2006 due
to it was being contrary to sound wildlife management
principles. However, the proponent submitted this
proposal this year because of the believe that the affect
of an extended season would be expected to be minimal on
pups as the increase in wolf harvest would likely be
small. The harvest would most likely be of animals in
the pack other than the alpha female as those other
animals range out farther and would be moving about more
and more exposed to hunters than the alpha female.

Again in the fall of 2005 the proponent
submitted parallel proposals to the Federal Subsistence
Board and the Alaska Board of Game to allow wolf hunting
in Units 12, 20 and 25 during the proposed 31 day season
extension. The Alaska Board of Game adopted the 31 day
extension during its March 2006 meeting, explicitly for
the purpose of providing opportunity to reduce wolf
populations for the benefit of ungulates.

The Alaska Department of Fish and Game's
recommendation to the Alaska Board of Game on this proposal, and that was No. 120, was do not adopt because of the poor quality of the hides in May, the negative effects of hunting wolves when pups are in the den and because the extended season would not result in a significant reduction in the number of wolves and would have little effect on moose survival and recruitment.

However, the Alaska Board of Game approved the extended season after several Board members expressed their intent to facilitate the reduction of wolf populations to benefit moose and caribou populations.

The Federal Subsistence Board, aware of the State’s action rejected the Federal Proposal, WP06-64 during your May 2006 meeting, again, stating extending the hunting season for wolves into the time when wolves have pups in the den is contrary to sound wildlife management principles.

Wolves occur throughout the Eastern Interior region, in the three units, and populations are generally considered to be healthy and can likely support the additional harvest that may occur during the proposed season extension. However it should be noted that the wolf population is now at all time low in Yukon–Charley Rivers National Preserve and on the decline and you can see this in Table 1 on Page 554.

A harvested pelt during the proposed season extension would not generally be considered for use in the making of quality clothing and handicrafts as sub-prime pelts are generally not sought by hunters and trappers, however, the proponent state that the hides of wolves taken in May are suitable for making clothing and handicrafts and that the Eastern Interior Council members have used wolf hides taken in this time period. The proposed 31 day extension would occur at the end of spring when wolves become more difficult to track and see without adequate snow cover. While the harvest that might result from this proposed regulatory change would likely be small, it's adoption could cause the inadvertent harvest of adult wolves with pups, which could result in the abandonment of the young at the den site and subsequent additional mortality.

With that, Mr. Chair, the OSM preliminary conclusion is to oppose the proposal. As extending the hunting season for wolves in the time when wolves have
pups in the den is contrary to sound wildlife management principles.

Thank you.

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: All right, thank you.

Summary of written public comments. Vince.

MR. MATHEWS: Yes, Mr. Chair. They're found on Page 558. There were three written comments submitted, two in support and one in opposition.

The Denali National Park Subsistence Resource Commission supports the Staff analysis to oppose this proposal. There is no subsistence reasons to harvest wolves in those units during the month of May due to the fact that the fur is not at its prime in May and harvesting wolves at this time could decrease in the likelihood of pup survival.

The Wrangell-St. Elias National Park Subsistence Resource Commission supports this proposal. They support the proposal as written aligning State and Federal seasons reduces confusion and the Federal season should not be more restrictive than State season. Any harvest during this season extension is anticipated to be quite limited and such harvest is not anticipated to result in conservation concerns.

The AHTNA Tene Nene' Subsistence Commission also supported this proposal. They felt that their populations of wolves in the area needs to be reduced so they will not take too many calves of moose and caribou.

That's a summary of the comments.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Regional Council recommendation, we'll go to Sue.

MS. ENTSMINGER: Thank you, Mr. Chair. The Eastern Interior was in favor of their own proposal. I just wrote down a few highlights. I know you have in front of you a lot of this stuff that we already
mentioned. But mostly this would be incidental take, the only season that's open during the time is spring bear hunting so the actual take would be low. And the Council doesn't feel it's good to see the Federal season more restrictive than a State season, that makes subsistence more restrictive than, you know, other hunting.

And then it should be noted that in the Yukon-Charley where it's mentioned where the wolf population is low, there's a wolf control program there, I would imagine it would be low because of that. And that is intentional by the State for management.

And also I don't see this as a conservation concern because of the incidental take.

And then also as far as mention of waste because the hides aren't prime. Basically what happens to the wolf pelt in later is it's just losing its undermat, it hasn't lost its length of hair and so you can still make things out of it.

Thank you.

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: Western Interior.

MR. REAKOFF: Mr. Chairman. This proposal came before the Western Interior Council and we took no action on it in the '06 cycle and so we voted on the proposal, we had one vote in favor and the Council voted it down for no action and so there was a little slight division in the Council but we took no action on that proposal the year before and wanted to be consistent with our previous actions.

Thank you.

CHAIRMAN FLEAGLE: Thank you. And I note that the Southcentral Council who's rep has departed also took no action.

Department of Fish and Game comments.

Tina Cunning.

MS. CUNNING: Mr. Chairman. The written record that Mr. Taylor's comments at the beginning of the
1 meeting reflect our detailed comments. The Department is
2 neutral on the proposal.

3

CHAIRMAN FLEAGLE: Thank you. Staff
4 Committee comments. Larry.

5

MR. BUKLIS: Mr. Chairman. The Staff
6 Committee comments are on Page 558. I'll highlight the
7 main point. The extension of the wolf hunting season to
8 the end of May can reasonably be expected to result in
9 the take of adult wolves with pups resulting in the death
10 and waste of the pups. For this and some other reasons
11 detailed in the written Staff Committee comments the
12 Staff Committee found that the Council's recommendation
13 to support the proposal -- found it to be contrary to
14 sound principles of wildlife management and is contrary
15 to Title VIII's purpose of non-wasteful use of the
16 wildlife resources.

17 Thank you.

18

CHAIRMAN FLEAGLE: Board discussion.

19

MS. GOTTLIEB: Mr. Chairman.

20

CHAIRMAN FLEAGLE: Judy.

21

MS. GOTTLIEB: I guess to add to the
22 table, on Page 554, our information from spring 2007 in
23 Yukon-Charley is that the number of wolves seems to now
24 be 1.8 so I will have to oppose the Regional Council's
25 recommendation consistent with the reasons stated by
26 Staff and Staff Committee. I don't see a biological
27 reason to do this and we are consistent with what the
28 Board did last year.

29

CHAIRMAN FLEAGLE: I didn't hear a motion
30 yet. Judy.

31

MS. GOTTLIEB: I will move then to reject
32 the Regional Council's recommendation on Proposal WP07-
33 59.

34

CHAIRMAN FLEAGLE: Do we get a second.

35

MR. KESSLER: Second.

36

CHAIRMAN FLEAGLE: Discussion.

37

MR. EDWARDS: Mr. Chairman. I personally
don't have a fundamental problem with what's being requested however I do note that under the State regulations people can extend and hunt other than on the Park and I guess I'm kind of inclined to yield to the Park as the manager in this case as to what is best, you know, for their lands but I haven't totally decided yet.

CHAIRMAN FLEAGLE: Question, Judy. If this were to be passed, despite objections to the Park Service, the Park Service could simply close the Park to the take of wolves during May, couldn't they, wouldn't it just nullify this action onto Park lands?

MS. GOTTLIEB: We could close to subsistence users, would be a lot more difficult and disruptive to close to State users. I guess my point is the Board -- this Board does have a policy that does not support predator control, and some of the intent behind this from our history seems to be just that, and so I will not support this proposal for those reasons.

CHAIRMAN FLEAGLE: I understand. I'd like to make a statement. I was obviously involved with a lot of these issues in a past life, and where we find sometimes the discussions can be brought about as predator control, what I've found is that you have a harvestable surplus that is not being utilize and the State has found that in this area it is prudent to allow for that incidental take by opportunistic hunters who happen to be out in the field for bear to harvest wolves and I agree with that. I think that as long as the harvestable surplus exists. I see the avoidance of the predator control issue, I support the Interior -- Eastern Interior RAC's position. I intend to vote against the motion.

But, anyways, Gary.

MR. EDWARDS: I guess one point, and to maybe clarify Judy's statement. The reality is I don't think this Board has a position on predator control, at least from my perspective, not opposed or not in favor of it, we have just sort of said that we would yield to the land managing agency as to making those kinds of decisions.

CHAIRMAN FLEAGLE: Other discussion.

George.

MR. OVIATT: Yeah, the Bureau of Land
Management, at least, neither supports or opposes the predator control and taking of wolves.

I think I'm going to have a tendency -- I -- the Bureau of Land Management will try to support the managing agency but in this situation I'm not sure if I'm going to be able to support that. I think I'd listen to the Council and I may support them.

Thank you.

CHAIRMAN FLEAGLE: Sue.

MS. ENTSINGER: Thank you, Mr. Chair. I can assure you that our Council would probably be somewhat offended if you looked at this proposal as a predator control issue. They look at this proposal as an opportunity when they're out bear hunting to take a wolf, and that opportunity is going to be very limited because you're -- when you're bear hunting -- what's your likelihood to run into this female that's going to keep these pups alive, it's so remote and to run into any wolf is pretty remote actually, especially when there's a lack of wolves in an area. So I think they would be very offended that you would sit here and discuss that it was predator control.

I think you should discuss is it -- can we use that wolf for fur and is it part of what we're doing while we're out there. And also when you're on State land and you walk over onto Park land, now you have to have a different season and you have to think about that when you're in there and I don't think it's fair to the user. So making it parallel is important to the user.

CHAIRMAN FLEAGLE: Okay, I appreciate the additional comments. I will caution that we do have a motion on the table so.....

MR. EDWARDS: Well, I just want to.....

CHAIRMAN FLEAGLE: .....the debate should be the Board's. Gary, go ahead.

MR. EDWARDS: I'm not sure I'm debating.

CHAIRMAN FLEAGLE: No, no, the oth -- you're fine, I'm just saying, Sue.
MR. EDWARDS: All right. I think -- at least my understanding is that under State regulations, both Fish and Wildlife Service lands as well as BLM lands would be open during this extended period of time. When it comes right down to it the only lands that would be affected by this would be the Park Service lands, is that a correct analysis.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Within National Park Service units we have Preserves which are affected by State regulations and Parks and Monuments where the state -- this State particular hunting regulation would not apply. So I'm trying not to add to our Preserve here any more than we have to as -- it's part of our job of conserving healthy populations and looking at a density of 1.8 wolves for a thousand square kilometers and the Preserve is starting to get worried about that, or is worried about it.

MR. EDWARDS: That's all my question is. It's my understanding that the Preserve, even though the State has this extended season, it's not in effect on the Preserve, although it is in effect -- or, it is effect -- so what -- by us not supporting this motion, why would that change anything, wouldn't that still allow this extended hunt under State law to occur on the Preserve.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Yes, it would and I'm asking you not to add any additional hunt to it.

MR. EDWARDS: Then I'm really confused. Why would this be added to -- so people who would have wanted to hunt under this new subsistence reg, why wouldn't they just hunt under the State reg?

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Because there's a Federal reg. I don't know that everybody wants to -- you know, I guess people maybe or maybe don't declare themselves but you have a Federal regulation you can hunt under it and it's not a regulation that Park Service will support.

CHAIRMAN FLEAGLE: George.
MR. OVIATT: Mr. Chairman. I wonder if I wonder what impact would happen if we put forth an amendment to exclude the Yukon-Charley area from this proposal.

CHAIRMAN FLEAGLE: Sue.

MS. ENTSMINGER: You know, I appreciate that but it's just so incidental, I mean what would be -- and I guess, you know, Judy, I think if I read it correctly it would be Park, the Preserve might be open but the Park would be where the Federal subsistence user would have to revert back to this later season, so as a subsistence user, what we refer to, we call it Hard Park, you wouldn't be able to hunt, like say in the Wrangells, the Northern Wrangells, Unit 12, you wouldn't be able to hunt in, what we call the Hard Park, after the end of April. Is that -- that would be our understanding, you're saying no?

MS. GOTTLIEB: Actually I guess it's the opposite, if this regulation passes, yes, our Federal regulation would apply to Park land and that's including Wrangells and Denali and the State regulation only applies to the Preserve portions of those, Wrangells, Denali and Yukon-Charley, so this opens it up in Park, National Park lands -- opens it, yeah.

MS. ENTSMINGER: All lands.

CHAIRMAN FLEAGLE: Don Rivard.

MS. ENTSMINGER: Could I get a clarification.

CHAIRMAN FLEAGLE: I'm sorry, Sue, go ahead.

MS. ENTSMINGER: So that means, let's say it didn't pass, as a subsistence user of the Yukon-Charley, can you then hunt until the end of May under the State regs?

MS. GOTTLIEB: Under State regs, yes, but you could not in the Park portions of Denali or Wrangell-St. Elias.

MS. ENTSMINGER: That's what this Council was trying to protect, yes.
1 CHAIRMAN FLEAGLE: Don.

2 MR. RIVARD: Well, I just want --
3 basically it's a reiteration, but if you look on the top
4 of Page 556, that would be one of the effects of the
5 proposal if it were passed and so I'll just read it.

6 Currently rural residents may harvest
7 wolves during May on the affected Federal
8 public lands, including National Park
9 Preserve lands under State regulations.
10 This proposal, if adopted, would provide
11 this extended opportunity on National
12 Park managed Parks in Units 12 and 20.

13 MS. GOTTLIEB: Mr. Chair.

14 CHAIRMAN FLEAGLE: Judy, go ahead.

15 MS. GOTTLIEB: Thank you, Don, for
16 clarifying it. So right now, Gary, those Park areas in
17 Unit 12 and 20 are not open for State hunting. So this
18 does add whatever number of users there might be.

19 CHAIRMAN FLEAGLE: For the month of May.

20 MS. GOTTLIEB: Yes.

21 CHAIRMAN FLEAGLE: Sue.

22 MS. ENTSMINGER: But I just want to make
23 sure if it -- I hear opposition so I want to make sure
24 for the user, but, still, if I qualify for the Preserve I
25 can still hunt under that State -- I can still hunt so
26 your idea of pulling it doesn't do anything, correct,
27 yeah.

28 MR. EDWARDS: I understand.

29 CHAIRMAN FLEAGLE: Steve Kessler.

30 MR. KESSLER: Thank you, Mr. Chair. I
31 guess Page 552 of the analysis talks about what the Board
32 of Game did and I don't know specifically what the
33 proposal was last year from the Regional Advisory Council
34 to the Board of Game, but the Department recommended
35 against adopting this proposal because of poor hide
36 quality, negative effects of hunting wolves when pups are
37 in the den. And then the Alaska Board of Game, it says
38 on the bottom, did extend it with the expressed intent of
facilitating reduction of wolf populations to benefit
moose and caribou populations, i.e., predator control.

Now, as I say, I don't know what the
proposal was from Eastern Interior when they proposed it
to the Board of Game, if they talked about predator
control or not, but the effect and the Board of Game
considers this to be predator control.

Furthermore, I agree that it seems to be
contrary to sound principles of wildlife management and I
think that there are reasons under .805(c) to oppose the
recommendation of the Council and I'm concerned by the
numbers on Page 554 and with the continued downward trend
of the number of wolves per thousand square kilometers in
Yukon-Charley so I will be voting to reject the proposal.

CHAIRMAN FLEAGLE: Are we ready for the
question. The question is recognized on Proposal 59.
Pete.

MR. PROBASCO: Thank you, Mr. Chair.
Action on Proposal WP07-59, the motion is to reject the
proposal.

Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Nay.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: And Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Four/two, Mr. Chair, to
reject the proposal.

CHAIRMAN FLEAGLE: Okay, thank you. And
that concludes Eastern Interior proposals. We now move
to North Slope Proposal 63.

(Pause)

CHAIRMAN FLEAGLE: Your mic's still on
Steve.

(Pause)

CHAIRMAN FLEAGLE: All right, we have new
Staff at the table again, we've got Laura and Barbara.
Laura, good afternoon.

MS. GREFFENIUS: Good afternoon, we're
still not quite evening. For the record my name is Laura
Greffenus and I'm on the OSM Staff and with me at the
table is Barbara Armstrong who is the North Slope Council
coordinator.

I recognize we are in expediting mode
here but, yet, out of consideration for the concerns
expressed by the North Slope Council I want to -- I view
it as important to understand some of the more subtle
nuances on this particular issue for this proposal, so in
light of that I will go through -- I picked out just the
highlights from each section in this proposal and would
like to go through some of the more relevant parts of it.

So the Staff analysis begins on Page 586
in your Board book and WP07-63 was submitted by the
Office of Subsistence Management. This proposal requests
the removal of the closure of Federal public lands in
Unit 26B excluding the Canning River drainage to the
taking of moose except by Kaktovik residents. For a
visual reference I suggest you see Map 1 on Page 590 and
this map clearly delineates with hatch marks the to
remain closed area. Under this proposal, the closure of
Federal public lands in the Canning River drainage of
Unit 26B as well as 26C would still remain.

Last September in 2006 I presented to the
North Slope Regional Advisory Council the Federal
wildlife closure review for Units 26B and 26C moose
seasons. In that review, OSM Staff recommended that a
proposal should be initiated to modify or eliminate the
closure in that area. Due to low moose numbers in Unit
26C, the recommendation was to maintain the closure of Federal public lands in Unit 26C as their continues to be a conservation concern. OSM Staff recommended to modify the existing closure of Federal public lands to apply only to Unit 26C in the Canning River drainage portion of Unit 26B so that Federal public lands elsewhere in Unit 26B would be open to non-Federally-qualified subsistence users.

The current Federal subsistence regulations for Units 26B and 26C have been in effect since the 2004/2005 regulatory year when the Board adopted measures to close Federal public lands in Units 26B and 26C to the taking of moose except by Kaktovik residents.

Since 1996 there was no moose season in Unit 26B, but now current State regulations for Unit 26B, which are new for the 2006/2007 hunting season, which are new for that current season, in Unit 26B, excluding the Canning River drainage the Alaska Board of Game authorized a limited hunting season on non-Federal lands for 15 bull moose by drawing permit during the September 1st through the 14th season, that was last -- in 2006. Seven moose were harvested during that September season last year. Also the Board of Game authorized a winter hunt with dates that may be announced. A 14 day winter season was recently announced by ADF&G for April 2 through the 15th 2007 with a one bull harvest limit. And it's too soon to have any information back from that opening. In combination with the September season ADF&G aimed for a harvest quota of 15 bull moose during the 2006/2007 regulatory year.

Harvest in 26B under the new State regulations provide for discretionary permitting authority for this hunt area to accommodate new or changing circumstances. The harvest which occurs during the new September season under State regulations is intended to be limited and closely monitored.

Very briefly a few highlights from the biological background section. In Unit 26B there has been an increasing trend in moose numbers since 2003 and since there has been substantial recovery from a prior population decline in the 1990s and more growth is likely, ADF&G population objectives for this subunit are being achieved. Numbers of moose in the Canning River drainage have increased yet are not sufficient to allow a hunt, so this area continues to be closed under the new
State regulations.

A harvest history summary is on Page 589 in your book and Kaktovik is the only subsistence community in the area and residents took two to six moose annually prior to the season closure in 1996. During the past two regulatory years a total of four bulls have been harvested in Unit 26C, and as was previously noted under State regulations seven bull moose were harvested last September. At that time that was only on non-Federal public lands in -- on non-Federal lands in Unit 26B.

The effects of this proposal are as follows: If adopted the closure on Federal public lands in Unit 26B, excluding the Canning River drainage would be lifted and hunting would be open to other users. Federal public lands in this area would be open to non-Federally-qualified subsistence on a limited basis hunting under State regulations.

Unit 26B would also be open to all Federally-qualified subsistence users in this area. Presently Unit 26B is open only to Kaktovik residents.

Although there is a potential for increased harvest in Unit 26B remainder, depending on the number of State permits issued in future years and the number of Federally-qualified users who choose to hunt in this area, the harvest is not expected to exceed sustainable levels.

The OSM preliminary conclusion is to support Proposal WP07-63 with modification to identify a season and harvest limit for Unit 26B remainder that matches State regulations. The modified regulations are shown on Page 591 in your Board book. The modified language in the paragraphed section contains clarification in the wording in the text from what was originally proposed. It contains clarification in the wording of the text to identify specifically that the Federal regulations permit with a harvest quota of three moose for Kaktovik residents are applicable to Unit 26B only within the Canning River drainage and not for the remainder of Unit 26B. Also on the last line, the modification establishes a Federal season in Unit 26B remainder for one bull from September 1 to 14, which is concurrent with the State regulation.

The justification for supporting the proposal with modifications includes the following
In Unit 26B there has been an increasing trend in moose numbers since 2003. The population and percent of calves in spring surveys meet the ADF&G management objectives. Since the moose population in Unit 26B has increased and there are no longer significant conservation concerns the justification for the continued closure in Unit 26B excluding the Canning River drainage is no longer valid. The closure in the Canning River drainage of Unit 26B remains in effect for the continued subsistence use of Kaktovik residents.

That concludes my summary of WP07-62.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Laura.

Questions.

(No comments)

CHAIRMAN FLEAGLE: Summary of written public comments. Barbara.

MS. B. ARMSTRONG: There are no written public comments for this proposal. Mr. Chairman, thank you.

CHAIRMAN FLEAGLE: Thank you. Public testimony, Pete.

MR. PROBASCO: None.

CHAIRMAN FLEAGLE: None. Regional Council recommendations. Barbara.

MS. B. ARMSTRONG: Yes. The North Slope Subsistence Regional Advisory Council recommendation is to oppose the proposal WP07-63. The Council felt that they need to take care of their subsistence user's needs first before they open up this area.

The Council expressed concerns that the moose in Unit 26B and 26C are transient populations with movements between the two areas, so Unit 26B should not be opened up to non-Federally-qualified subsistence users. Kaktovik residents would like to be able to harvest more moose before allowing guides and sportsshunters to harvest on Federal public lands in Unit 26 B.
Thank you, sir.

CHAIRMAN FLEAGLE: Thank you. No other Advisory Councils weighed in on it -- okay. Alaska Department of Fish and Game. Tina.

MS. CUNNING: Mr. Chairman. Our detailed comments are in the written record and were reflected in Mr. Taylor's remarks at the beginning of this meeting.

Given the increasing trend in moose numbers there currently is no justification retaining a closure in the remaining portion of Unit 26B outside the Canning River drainage to moose hunting by non-Federally-qualified users -- subsistence users. The Department supports this proposal as modified and appreciates the Office of Subsistence Management proposing removal of an unnecessary closure of Federal lands in a portion of Unit 26B to moose hunting by non-Federally-qualified subsistence users.

CHAIRMAN FLEAGLE: Questions.

(No comments)

CHAIRMAN FLEAGLE: InterAgency Staff Committee comments. Larry.

MR. BUKLIS: Mr. Chairman. The Staff Committee comments on Proposal 63 are found on Page 593. I'll highlight the main points.

The moose population in Unit 26B west of the Canning River drainage has recovered from previously low levels and a closure to non-subsistence users is no longer necessary for the conservation of a healthy population of moose.

Federally-qualified subsistence users maintain a priority for the take of moose in Unit 26C and a portion of 26B with the cancellation of the closure. Only residents of Kaktovik may take moose in and east of the Canning River drainage from July 1 through March 31st. Under the Staff's preliminary conclusion, residents of Kaktovik along with all Federally-qualified subsistence users with a positive C&T may hunt in Unit 26B west of the Canning River drainage from September 1st to September 14th as well.

Unlike non-Federally-qualified
subsistence hunters, Federally-qualified subsistence hunters do not require a permit during that September season.

The Staff Committee notes that hunters using the area of Unit 26B west of the Canning River under State regulations may also get up to a 14 day hunting season between February 15 and April 15 that would be announced by emergency order if the moose population had a harvestable surplus. That opportunity is not mirrored in the proposed regulation.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Board discussion. Gary.

MR. EDWARDS: Mr. Chairman. I think that these modifications to the proposal that the Office of Subsistence Management are proposing, I think, in my mind it's sort of a win/win situation. It does what I think we should be doing when we don't have conservation concerns or concerns about impact to subsistence. We should not be having closures, yet at the same time some of the other things that are rectified in the modification does restore some of the harvest opportunities and a meaningful preference to the subsistence users.

So I think that their suggestion, recommendation is good and I guess I would be prepared to offer a motion that would support the modifications that are being recommended to Proposal 07-63.

That's the ones on Page 591.

CHAIRMAN FLEAGLE: Okay, did I hear you correctly that you did make the motion.

MR. EDWARDS: Yes, Mr. Chair. They couched it in terms that they were modifying the proposal, I guess we can couch it like that because the proposal was to reject -- or excuse me, the proposal from the Regional Advisory Council was to reject -- or the recommendation from the Regional Advisory Council was to reject the proposal. The Staff has kind of couched that as a modification to that proposal -- no, because it says, support with modification. The proposal is to lift the closure, so you support that proposal -- or you support the proposal, not the Regional Advisory Council's
CHAIRMAN FLEAGLE: Is there a second.

MR. OVIATT: I'll second the motion. I'm not.....

CHAIRMAN FLEAGLE: George seconds. And the motion would go against the Regional Advisory Council's recommendation.

You want to go ahead and speak to your motion, Gary.

MR. EDWARDS: Do we need some clarification before I maybe put my foot further in my mouth.

CHAIRMAN FLEAGLE: Go ahead, Laura.

MS. GREFFENIUS: Well, just to the -- the way that it was worded, originally, the proposed Federal regulation, it was pointed out by an astute Staff Committee member that just the way that it was worded it would have meant on 26B that Kaktovik residents would have been limited, it would have been part of their quota that is their three limit quota. So we've changed that wording and as I mentioned when I was giving the key points here, we changed the wording so it's on Page 591 so that it's specific, the quota for the Kaktovik residents is specific to -- in 26B is specific to the Canning River drainage only and not applicable to the rest of 26B. So that was the main wording change to make it more accurate and not restrictive.

And then also the addition of that very last line, Unit 26B remainder, one bull to have a season of September 1 to September 14th. That would be concurrent with the State. And if Dan LaPlant has an addition to what I've tried to explain accurately but maybe he could put it into different words.

Thank you.

CHAIRMAN FLEAGLE: Dan.

MR. LAPLANT: Mr. Chairman. Just maybe state it in another way. When we initially submitted the proposal it was to remove the Federal closure, we
overlooked the fact that we also have an .804 situation there where the Federal subsistence hunters or the Federal subsistence harvest is restricted only to Kaktovik residents. So the modification that you see is to provide -- also provide a season for other Federally-qualified subsistence users. That's that September 1 through 14 season, so that's the modification.

CHAIRMAN FLEAGLE: Steve.

MR. KESSLER: And I just want to clarify that this modification is what came before the Council, is that correct, not the original proposal, this modification?

MR. LAPLANT: That's correct.

CHAIRMAN FLEAGLE: All right. So just to clarify this, that portion within the Canning River drainage and 26C are only open to Kaktovik residents. The remainder of 26B under this proposed modification would be open to any qualified Federal subsistence user, right?

MR. LAPLANT: That's correct, Mr. Chairman, as well as removal of the closure would allow it open to other non-Federally-qualified users as well.

CHAIRMAN FLEAGLE: Which would be done by the State with a drawing hunt.

MR. LAPLANT: Correct.

CHAIRMAN FLEAGLE: I'm just curious, why is Kaktovik only limited to three moose, yeah, three moose in 26B -- hang on.

(Pause)

CHAIRMAN FLEAGLE: Anyway this wouldn't preclude residents from Kaktovik from hunting in the remainder of Unit 26B under the reopening -- okay.

MR. EDWARDS: Mr. Chairman, if I can just ask one other question. It's also my understanding that the folks from Kaktovik don't really get over west of the Canning River really that much in September, that's a pretty difficult trip, isn't it, that time of year so there's probably virtually very little, I guess would be a better way to say it, hunting in that area by folks
from Kaktovik. Is that a correct assumption?

MR. LAPLANT: Yes, Mr. Chairman. That's what we would expect, that the Kaktovik residents wouldn't be getting over to the Canning River drainage area until after there's adequate snow cover and they can get there by way of snowmachines.

MR. EDWARDS: Mr. Chairman, you asked me for some rationale and I guess I still, you know, obviously support my motion. As I said I think this is sort of a win/win situation. I think the moose population in 26B west of the Canning River, I think has recovered from its previous low levels to where now it can support both subsistence and non-subsistence users, you know, consistent with, you know, conservation and good moose management, and a closure to non-subsistence users is no longer necessary.

I think this will also provide additional expanded opportunities for the subsistence users and at the same time not further restricting others when it's no longer necessary.

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: I have one more question. If this moose population is expanding to where we can entertain lifting this restriction, why do we still have the restriction in the Canning River drainage of 26B and 26C of only three moose?

Laura.

MS. GREFFENIUS: From the information that we -- you know in consultation with the biologists in that area, both Arctic National Wildlife Refuge biologists and the State, the situation is that moose populations are still considered low in Unit 26C so there was not any moves by the State to try to open that up, they only were opening up a season in 26B, the one that started last September.

And the Canning River drainage, within that corridor, there was still showing low moose numbers and they wanted to keep that closed from the hunt -- the drawing permit hunt, it just didn't have -- there's some numbers in here, and just the way it was explained to me.
they just didn't feel comfortable opening that area up as well, so that was excluded in the new hunt that was established in September 2006 and they kept it as a drawing permit to limit it to just the 15.

CHAIRMAN FLEAGLE: I understand that component of the argument. I'm saying why is the community of Kaktovik only limited to three moose?

MS. GREFFENIUS: I didn't go into the details of the regulatory history but on Page 567 it goes into some of the background, I think this is one that Helen Armstrong had worked on as well. When they first requested to have the harvest there in Kaktovik, the quota, going and reading over the past information of the past proposals, they had wanted it to be higher than that quota, I don't recall exactly if it was four or five, but it was a compromise when they came up with a quota of three. So just because of the moose population and keeping it limited.

MR. EDWARDS: Mr. Chairman. I also think is that in 26B is where the population is doing better. I think in 26C it still's remaining low. And the view was that essentially all of the hunting in Kaktovik would take place in 26C because of the difficulty getting west of the Canning.

CHAIRMAN FLEAGLE: Terry Haynes.

MR. HAYNES: Thank you, Mr. Chairman. Mr. Edwards has kind of summarized what I was going to say.

The State season in 26C has been closed for a number of years because of low moose numbers in Unit 26C. And when -- I suspect it's summarized here in the Staff analysis how Kak -- season became reestablished for Kaktovik but it had to be very limited, given the low numbers of moose in Unit 26C. There was provision to allow one moose to be harvested in 26B because the moose in that western 26C were thought to move back and forth, as I recall from action the Federal Board has taken. Now, in the remainder of 26B the population has grown, the State established a drawing permit season there and that was only occurring on -- that can only occur off of Federal public lands as long as the closure remains in place and arguably that closure no longer needs to remain in place on Federal lands.
CHAIRMAN FLEAGLE: Well, but while people may have a hard time crossing that Canning River drainage, moose wouldn't, and when you have an increasing population just across the drainage, I mean moose dynamics in other places of the state, obviously, when the population expands they do start to expand into those lower populated areas. And I guess what I'm trying to get to is I can understand why the Advisory Council is opposed to this. There's an opportunity for moose to come back into their area and we're potentially going to allow them to be taken by non-qualified hunters before they get that chance, and I just want to put that on the record.

Other discussion.

Judy.

MS. GOTTLIEB: Mr. Chair. I mean you're certainly raising a good point and so maybe for the next round of RAC meetings there could be an analysis or an evaluation of whether the bag limit could be raised for Kaktovik considering some of these changes.

CHAIRMAN FLEAGLE: Well, that's a good suggestion. I mean a community capped at three when just not very far away we're opening it up to anybody just doesn't make sense to me.

Laura.

MS. GREFFENIUS: Just mention because it wasn't captivated in the comments from the North Slope recommendation, that that was part of the discussion and just wanted to -- what you're saying is that the Kaktovik folks -- yeah, it is captivated in here but there was a discussion at the Council meeting, that the Council was questioning the same thing, why should they be limited to three when it's going to be opened up nearby so that definitely came up.

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Are we ready for the
question.

(No comments)

CHAIRMAN FLEAGLE: It looks like we are.
The question's recognized on the proposal. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

Final action on WP07-63 to adopt the proposal as modified
and the modifications are found on Page 591.

Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: And Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Motion carries, five/one.

CHAIRMAN FLEAGLE: Thank you, Pete. That
apparently concludes our regulatory action.

MR. EDWARDS: Mr. Chairman. I'm going to
have to bid adieu but I'm going to turn my seat over to
Mr. Bos who, I'm sure, will be up to the occasion, he
might not quite be as witty but he'll be up to the
occasion.

(Laughter)

CHAIRMAN FLEAGLE: Or even maybe wittier,
thank you.
MR. EDWARDS: Could be.

(Laughter)

CHAIRMAN FLEAGLE: Thank you, Gary.

(Laughter)

CHAIRMAN FLEAGLE: We might as well just push on. Okay, that concludes Item B under 5 of the Board deliberation and action on non-consensus proposals and now leads us to the adoption of the consensus agenda.

Pete.

MR. PROBASCO: Yes, Mr. Chair. Normal practice on adopting the consensus agenda is for me to read the proposal numbers into the record, and, Larry, follow along with me in case I miss something, and then a motion to adopt that is appropriate.

CHAIRMAN FLEAGLE: Okay.

MR. PROBASCO: Mr. Chair. The consensus agenda proposals are WP07, and I will omit that from here on out, they are No. 8, No. 9, No. 10, No. 11, No. 12, 18, 19, 20, 25, 27/28/31/64, 33, 35, 51/54, 52/53, 57, 60 and 61/62, and 38.

Larry, is that....

MR. BUKLIS: Mr. Chairman, that's correct. And then the recommended actions are as shown on Pages 2 and 3 associated with each of those proposals on the agenda dated April 30th, 9:30 a.m.

MR. KESSLER: Mr. Chair.

CHAIRMAN FLEAGLE: Steve.

MR. KESSLER: Did you read No. 7 on there?

MR. PROBASCO: No.

MR. KESSLER: Okay, I thought I had heard seven, thank you.

CHAIRMAN FLEAGLE: No, he said 07 as the starting, you know, everyone of them is prefaced by 07 so
he did the first one, 07-08 and left the 07 off every time.

So we're ripe for a motion for adoption.

MR. KESSLER: Move to adopt the consensus agenda.

CHAIRMAN FLEAGLE: Thank you, Steve.

MR. BOS: Second.

CHAIRMAN FLEAGLE: We got a second from Greg. Discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for the vote, question. Pete, please, poll the Board.

MR. PROBASCO: Thank you, Mr. Chair.

Motion to adopt the consensus agenda as read into the record.

Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Aye.

MR. PROBASCO: Mr. Bos.

MR. BOS: Aye.

MR. PROBASCO: And Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Motion carries, six/zero.
CHAIRMAN FLEAGLE: Thank you. Other business.

MR. PROBASCO: Mr. Chair. I have nothing on my record and Larry do you have anything.

MR. BUKLIS: Only one thing, Mr. Chairman. We do have the Board books now available for next week's Board meeting. I have enough copies for Board members, the State liaison and Staff and the Council Chair for Southcentral, and we will have more books available for other interested parties if this isn't enough for them, as well.

CHAIRMAN FLEAGLE: Okay, thank you.

MR. PROBASCO: Pick one up before you go home.

(Laughter)

CHAIRMAN FLEAGLE: Other business.

No comments)

CHAIRMAN FLEAGLE: Okay, Board discussion of Council topics with Chairs. Council Chairpersons, any further discussions with the Board.

MR. REAKOFF: Mr. Chairman. I would like the Board to be aware of the expanding interest in harvest of caribou and in light of the Mulchatna Caribou Herd, I would like the Board to monitor the Western Arctic, Teshekpuk, and Central Arctic Porcupine Caribou Herds, and be aware that this -- I feel that there should be guidelines for a 40 bull per 100 cow and harvest ratios and planning and so I concur -- the Western Interior concurs with AVCP that there needs to be a plan for the Mulchatna Herd and that should have been done, we're behind the eight ball on that one. And I would encourage further planning with the Western Arctic Group and the whole Arctic Caribou Herd because these caribou herds are in the target now.

And so those would be my comments.

I really appreciate all of your work and deliberation, and congratulations on running the meeting very well, Mike.
I'd like to speak to that Northwest Arctic Caribou Herd issue. There is a Northwest Arctic Caribou Herd Working Group that is currently operated by the State Department of Fish and Game that includes a smattering of people in the area, mostly Northwest obviously. And with my prior service with the State, I did work with those guys and help them get their issues before the Board and was always involved, and we had some discussions up there at a recent Board of Game meeting, I think that was two falls ago, that pertained to user conflicts associated with that herd, I mean the same reason, people are flocking there from all over the country, all over the state and all over the country. The Board took a lot of actions to try to take care of most of those problems but there are still issues. So they're holding another meeting up there on the 11th of May which is next weekend and I've been invited and I have accepted on behalf of the Federal Program here to participate in that. So we do have at least one finger on the pulse, I know there's going to be State Staff there from the local agencies but I appreciate you raising that as an issue and it's one that I certainly share with you.

Thank you.

MR. REAKOFF: Thanks.

CHAIRMAN FLEAGLE: Other comments. Ken Taylor.

MR. TAYLOR: Thank you, Mr. Chairman. I would just like to say that the Western Arctic Herd Working Group is probably one of the finest examples of cooperation between State, Federal and local communities that I've seen in my tenure as a biologist up here. And while I'd like to be able to take full credit for the State, it's actually a very cooperative effort with the Fish and Wildlife Service, BLM, Park Service and about 30 different villages up there along with the North Slope Borough. So it isn't just a State effort.

Thank you.

CHAIRMAN FLEAGLE: But you do have a State person that pretty much heads it up, right?

MR. TAYLOR: Yes, Mr. Chairman, we do.

CHAIRMAN FLEAGLE: That's what I meant.
1 Sue.

2 MS. ENTSINGER: Thank you, Mr. Chairman.
3 I want to thank all of you for allowing us as, you know,
4 the public so to speak and the user to participate in
5 this process as you do. And I want to push as an
6 advocate for joining hands, I mean this discussion just
7 now taking place is what I really wanted to mention is
8 any place where we can work together with the user and
9 the State and the Federal and -- because sometimes I have
10 to think back in 1978 when the Antiquities Act passed and
11 then ANILCA passed, those two people right there, Terry
12 Haynes and Tina Cunning was joining hands with us to work
13 with the Federal agencies to try to make things better
14 for us and somehow or another it seems like it's switched
15 slightly for us, I feel like I'm at odds and I don't like
16 this feeling. And I'd like to see maybe ways of the
17 Councils and the Advisory Committees, a process that we
18 might figure out how, I know in the Federal system you
19 recognize the AC's and what they do and maybe the State
20 could recognize some RACs and make something of more of a
21 joining hands and working together. Because I feel like
22 we are in some of these incidenc -- I'm sorry, I can't
23 say, in some of these situations, but sometimes there's a
24 lot of work that needs to be done and I can see it at
25 this meeting, and I just wanted to bring that forth.
26
27 But at the same time I want to say that
28 it's just difficult working under two systems sometimes
29 and it makes it hard for us as the user.
30
31 Thank you.
32
33 CHAIRMAN FLEAGLE: And for everyone else
34 who is involved with the process. I agree with those
35 comments.
36
37 And, again, I'd like to point out that I
38 share those concerns as well. A couple of months ago, I
39 can't remember when we did our first, but we reached out
40 from the -- me, as the Chair, and OSM Director, Pete, to
41 the State and we started actually having some meetings
42 and just a small group of people trying to address some
43 of the major problems that we have within the programs
44 and just, number 1, the goal is to try to better
45 communications and the secondary goal would be to try to
46 better relations and start to coordinate better. And
47 we've had a couple of meetings that have been really
48 productive, unfortunately we just got -- both agencies
49 got really busy within the last month and a half or so
and we're still waiting to schedule our third meeting,
but the intent is to continue to try to work towards some
more coordinated effort between us. And by doing that
the intent certainly isn't to either buy into the State's
program or have them buy into ours or, you know, to sell
out basically, I know I've been accused of that since I
was first appointed to this position, the whole point is
is to just try to offer the olive branch, per se, and to
try to get us away from the loggerheads that we've been
involved with.

I think that it's going to take time, I
mean bureaucracies don't change instantly but I think
it's a good effort. Both, Pete and I and George has also
been involved with us from our side, and Tina and we lost
Sarah but the State is intending to replace her and a
couple of others from the State, but it's a start.

I appreciate those comments, too, Sue.

Bert Adams.

MR. ADAMS: Thank you, Mr. Chair. I,
too, would just like to express my gratitude and
thankfulness for being able to be a part of this process
to be able to see how you people work up there. I look
at each and every one of you and try to figure out, you
know, what's behind your mind, what are you thinking
about, and, you know, I'm not a psychologist or a mind
reader or anything like that but I do my best in trying
to figure out people.

I've been thumbing through, you know, the
last couple days, you know, the whole ANILCA law, and the
thing that keeps popping up as I thumb through it, is
that, the State and the Federal government and the public
need to cooperate and come together on issues that are
really important to us.

And a couple of comments have already
been made about how, you know, things have changed and I
felt that too. This is only my third meeting, you know,
with the Federal Subsistence Board as a Chair for the
SERAC, but I really strongly believe that the subsistence
issue is our number 1 priority, ANILCA says that, and,
you know, we need to have access to those resources.

And then it also says that, you know,
because of the population increases, you know, that is
happening now and becoming more prevalent, that we need a
1 forum such as this to be able to make sure that those
2 resources are available and that they are sustaining and
3 that we will be able to make regulations that will not
4 only benefit our generation but, you know, our
5 grandchildren and their grandchildren and their
6 grandchildren. Native Americans believe in looking
7 ahead, you know, seven generations, way into the future
8 and planning for that and I think that's a real good, you
9 know, concept that we all need to embrace.
10
11 And so, you know, I don't have any
12 answers in how we can, you know, avoid any conflicts or
13 disagreements, you know, between the way that the Feds
14 manage the resources or the way that the State does.
15 I've heard comments, you know, that both, on both sides,
16 well, we manage better and, you know, take that and put
17 what you can do the best, the best, and make it work for
18 the benefit of the people that you are serving.
19
20 Also listen to the RACs. The RACs are
21 the ones who do all of the leg work for you, we are an
22 Advisory Council. We do all of the research, we do all
23 of the necessary gathering of data and information that
24 you need in order to make wise and proper decisions.
25 Yesterday I talked about the natural laws and if we can
26 ever embrace that concept, I don't know whether I shared
27 with you or not, but when I went to college I took this
28 class in Indian education and our instructor was a Native
29 American, and when he came into our classroom he
30 introduced himself as Professor So and So and he drew
31 this circle on the chalkboard and he put inside that
32 circle the word, nature, and then he asked each and every
33 one of us, there was about maybe 35 or 40 of us in the
34 class to give him an interpretation of what we see there,
35 and of course we all had an opportunity to share our
36 thoughts. And then he went and he shared his, he said,
37 you know, a long, long time ago this is where we lived.
38 This is where we, as Native Americans lived, we lived
39 within this circle of nature. And because we lived with
40 nature we understood the laws of nature, and because we
41 understood the laws of nature we obeyed the laws of
42 nature and because we obeyed the laws of nature, nature
43 provided us with all of the things that we needed to
44 sustain our lives. The next thing that he did is he drew
45 arrows from the outside of the circle to the circle and
46 he says I'm going to give you five minutes to interpret
47 what you think that means to us and, of course, we had
48 that opportunity to do that. And the conclusion was that
49 those arrows represented the outside influences that were
50 eventually going to come and they were on the outside
looking in, and their purpose was to come in there and
conquer and when they eventually did it caused this
turmoil, this culture clash that we are still trying to
recover from today.

When this country was first formed, it
began to be populated, you know, the Pilgrims came over
here first and it was in the fall and we all know, you
know, what happened is that Native Americans assisted
them in surviving the winter, and each year, you know, we
celebrate that as Thanksgiving. And what those people
did is that they learned how to live with nature and for
nearly 200 years they lived in harmony with one another.

And so our instructor, you know, when he
got done with that class he said this is what we are
going to be studying this year, for this semester, how
can we go back to living within that circle of nature
again and when we do, when we do discover that, then we
have an obligation to share it with the world.

And I think that that's a challenge that
we are all striving to abide by right now. I agree that,
you know, there will be disagreements, that there will be
misinterpretations, there will be misunderstandings. One
of the philosophies that I have, you know, is that if we
want to make progress in this world, that we have to also
learn to understand as well as be understood, you know,
look at the other side, walk in another person's
moccasins once in awhile and try to figure out what it's
like to do that.

So, you know, getting off of that soap
box, Mr. Chairman, I'd just like to mention a few things
that I think is worth talking about at this point.

What ever happened to the Chair's
meetings prior to this meeting? I know that there was
some kind of decision that came down that had to do with
FACA and public meetings and all that. But I've learned
that, you know, from previous Chairs that this was a very
valuable meeting for the Chairs to get together and I
hope maybe some of the other Chairs will express their
views on this as well. From what I've understood it was
a very beneficial one and I think I'd like to maybe put
that on the table as a matter of resurrecting again.

I know that Keith isn't here, I don't
know where he went but when I walked into this room here
the first day, he came over to me and he apologized to me
because you remember last year when we were talking about
rural determination for Saxman and Sitka -- Ketchikan, I
made mention that we were probably going to do an RFR and
he came back and said that we probably couldn't, we
wouldn't be able to do that and immediately, you know, we
got back and did a little bit of research and some of
our Council members, you know, looked into it and they
saw evidences where RACs had done RFRs before and Keith
came and he apologized to me and acknowledged the fact
that we could. So I don't know how we are going to
handle the RFR we are planning, whether we want to work
with the communities who are affected by it or whether we
are going to do it ourselves. The intent was to assist
the communities in doing so.

I had another little thing here that I
was going to talk about, let me see, I'd like to remind,
you know, ANILCA addresses this as well, working from the
bottom up. You know I see little bits of evidence where
sometimes that it comes from the top down, maybe it's
justified but I would really caution, you know, the Board
to really consider, you know, what the RACs are saying.
I mentioned that earlier. I mentioned that they do the
footwork for you and, you know, being able to gather the
information and testimonies from communities and so forth
is really important, in our RAC, anyhow, and I think it's
the same with others as well and it's really important
that those issues that are presented by the Regional
Advisory Councils are taken, and I know you do that. And
sometimes we might be disappointed in what your decisions
are but I really think that it's important this concept,
you know, be carried forth.

I don't know what the problem is here but
I notice it in most all of these proposals, there is a
little comment there about the State not receiving the
information before publication of this book and I think,
you know, I don't know what the problem is there but I
think that's -- I think that's an issue that needs to be
worked on and taken care of so that information is shared
by all people so that we can all come to this meeting
prepared and so forth.

Again, I'd just like to reiterate the
fact that ANILCA keeps popping up the idea that State,
the Federal government and the public need to work in
cooperation with one another. And until I see this, you
know, happening consistently, you know, I'll probably
keep harping about it.
I think I'm about all talked out, Mr. Chairman. I hope I didn't disappoint Mr. Cesar so much because every time he says that a Tlingit starts talking, you know, you might time yourself for a long talk, but thank you for allowing me to share my views with you.

Mr. Chairman, gunalcheesh.

CHAIRMAN FLEAGLE: Thank you. Ken Taylor.

MR. TAYLOR: I just wanted to respond to one of Bert's points in the fact that our comments aren't in the book this time and I want to just simply apologize to you for that Bert, that was my fault because I've been in this position 30 days now and we had 65 proposals to try to absorb and comments that had come in in two different formats and I didn't want to put out anything that was going to be wrong, I'd rather be late than wrong.

(Laughter)

MR. TAYLOR: In the future we will do our very best to get our comments in on time but because I was new it just wasn't possible.

MR. CESAR: Mr. Chairman.

CHAIRMAN FLEAGLE: Niles. Go ahead, but your mic's off.

MR. CESAR: We've been doing this a long time and sometimes it's really helpful to take a historical kind of review of where we're at and where we were. And in 1990 when we first started doing this stuff, you know, it seemed like it was going to be a short period of time and the State would come into compliance and so life would go on and as we've seen over the years, that didn't happy for a variety of reasons, and we began to build the program. And I think it would be fair to say now, that as we look back on it, we've accomplished a hell of a lot, you know, we really have. And I think the rights of subsistence users has been protected and I think there is cooperation between the State and the Feds but it's a natural tension that you can't escape. The tension between the State and Feds and two different programs.

And I think that some of us, and I get
accused of being a pain in the ass like everybody else does, some of us are key on keeping that distinction and wanting to be able to look at one program and draw our line in the sand. And so that is not meant to denigrate anybody it's just that that's the way I view my job is to do that and, again, I think that looking back over the years I think we've all made progress on both sides, both the State and the Feds, and certainly, I think the inclusion of the RACs and their participation is key to this program and it is the major difference.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Niles.

Victor Karman.

MR. KARMAN: Thank you, Mr. Chairman. You said you had an invitation to go to Kotzebue and listen to the working group on the Western Arctic Caribou Herd, somehow I would like to coerce you to taking up on that invitation and listen, we do have a conflict of interest up there or whatever.

Just for example, last fall, can you picture 10,000 pounds plus of meat out on the tarmac spoiling, now this is what we're up against. We're looking for suggestions or recommendations or whatever to eliminate this conflict. Those of us that participate in organizations like this say there's enough renewable resources around there to go around, we think possibly it may not be managed right or we just don't have enough real estate to accommodate everybody. But personally what I'd like to do, I'd like to transfer 150,000 of our animals down to Mulchatna.

(Laughter)

MR. KARMAN: Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: And how about several thousand down to the Northern Alaska Peninsula Herd and some down to the Southern, anyway appreciate the comments.

Is there a motion for.....

(Laughter)

MS. GOTTLIEB: Mr. Chairman.
CHAIRMAN FLEAGLE: Bert.

MR. ADAMS: Okay, Ken, thanks for helping me understand, that goes along with that philosophy I have, you know, seek to understand as well as be understood, so I understand.

I just wanted to also mention that I was looking forward to, Mr. Chairman, coming to the meeting next week for one day when the Council composition issue was brought up and I guess, you know, I was told that it was not possible because of budget problems and so forth and that I could probably participate -- or that I would be able to participate under a teleconference. I, you know, just wanted to bring this up as a matter of consideration because I think it's important that, you know, some of us who want to testify on that issue, you know, it's better to be here personally, you know, rather than trying to communicate over the teleconference.

I took a note here from someone the other day that there was a misunderstanding because of the teleconference participation and I really think, you know, that for me, personally, I would be more effective in presenting, you know, our strong position on this issue if I were here personally. So I just wanted to address that to you and see what you thought.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Well, Pete needs to say something, maybe he can address that concern as well. Pete.

MR. PROBASCO: Thanks, Bert, that's a good lead in, I was going to bring that to everybody's attention, and I thank Steve for reminding me to let the Chair's know that we had to make a very tough decision. We did have these back to back Board meetings and because of our budget situation at the Office of Subsistence Management I've had to make some very serious decisions unfilled and I have a budget that doesn't support the program that we have grown accustomed to.

And what I'm saying is that these budget reductions, we're just starting to see the start of it. And when you get to where our financial situation is with the Office of Subsistence Management, there are tough decisions to make, and that was one of them, Mr. Adams,
1 and I hear you loud and clear, I can't argue against that
2 being here in person probably has an advantage but it
3 also, when you look at 10 Chairs and transportation, it
4 is an expensive item and we will have the opportunity to
5 teleconference on that item.

6 CHAIRMAN FLEAGLE: Thank you, Pete. Any
7 other closing comments. Judy.
8
9 MS. GOTTLIEB: Mr. Chairman. I did want
10 to thank everybody who participated or attended or made
11 this meeting happen, we've certainly had a tremendous
12 amount of work to do and thank you all for your help in
13 accomplishing that.
14
15 CHAIRMAN FLEAGLE: Ditto. Thank you. Is
16 there a motion for adjournment.
17
18 MR. CESAR: So moved.
19
20 MR. PROBASCO: Until next week.
21
22 CHAIRMAN FLEAGLE: Until next week, yeah,
23 we know.
24
25 (Laughter)
26
27 CHAIRMAN FLEAGLE: Can I get a second.
28
29 MR. OVIATT: Second.
30
31 CHAIRMAN FLEAGLE: All right, the
32 meeting's adjourned. Thank you, everyone.
33
34 (Off record)
35
36 (END OF PROCEEDINGS)
CERTIFICATE

UNITED STATES OF AMERICA

STATE OF ALASKA

I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and reporter for Computer Matrix Court Reporters, do hereby certify:

THAT the foregoing pages numbered 402 through 587 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME III taken electronically by Nathan Hile on the 2nd day of May 2007, beginning at the hour of 8:30 o'clock a.m. at the Sheraton Hotel in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 10th day of May 2007.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/2008