FEDERAL SUBSISTENCE BOARD
PUBLIC REGULATORY MEETING
VOLUME II
EGAN CONVENTION CENTER
ANCHORAGE, ALASKA
MAY 4, 2005
8:30 o'clock a.m.

BOARD MEMBERS:
Mitch Demientieff, Chairman
Judy Gottlieb, National Park Service
Paul Roehl, BIA
George Oviatt, Bureau of Land Management
Wini Kessler, Forest Service
Todd Logan, U.S. Fish and Wildlife Service
Wayne Regelin, Alaska Department of Fish and Game
Keith Goltz, Solicitor

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CHAIRMAN DEMIENTIEFF: We'll go ahead and call the meeting to order. Everybody was up early this morning. There was conspiracies going on all around everywhere you looked. No, I think it's just all the wonderful weather we've been having, everybody has just been enjoying taking a few minutes to visit with each other and I think that's probably one of the benefits of these kind of meetings, that we can take a few minutes and socialize before we put on the gloves and come out fighting.

We're going to go into Proposal No. 01. Oh, yeah. Tom was impressed with the way the Southeast Regional Council dealt with this proposal. I think I mentioned it. So before we get into the Staff analysis, he's going to discuss that approach and that's probably the most efficient approach that we can work with in dealing with this issue. So, Tom, if you'd go ahead and open this up.

MR. BOYD: Thank you, Mr. Chair. I'll just say that I wasn't at the Southeast meeting. I was told this is the way Mr. Littlefield handled it and I'm always impressed watching Mr. Littlefield run a meeting. If I get it wrong, I'll ask Mr. Littlefield to help me.

As we proceed through this, we have two proposals that deal with the same issue, Proposal 05-01 and 05-03 and there's some overlap between these two proposals in that they address aspects of the same issue. So what I would suggest in terms of the format for dealing with this is that we deal with both proposals together, particularly in the presentations and in the comments from the various folks from Staff and State and others. Then, as we get to Board deliberations, that we break it apart again and deal initially with Proposal 01 because that's the more expansive of the two. I think once we deal with Proposal 01, we may not need to deal with Proposal 03, but we may. Nevertheless, deal with Proposal 01 initially.

In dealing with Proposal 01, I would further suggest that you break it out into three different parts and deal with those separately, Mr.
Chair. The first being what would be under the -- in the regulations, the numeric annotation 25(a), which deals with the definitions of handicrafts and then the definition of skin, hide, pelt and fur. And then annotations 25(j)(6) and (7), which deal generally with what can be included in handicrafts made from brown bear and black bears that are sold. And the third items, which would be annotated 25(j)(8)(A), (B) and (C), which deals with commercial aspects of sales of handicrafts made of the claws of black and brown bear. So, if you separate those out, I think it would help you deal with it more efficiently, Mr. Chair.

That's all I have.

CHAIRMAN DEMIENTIEFF: Thank you very much. With that we'll go to Staff analysis.

MS. WHEELER: Mr. Chair, Federal Subsistence Board members, thank you. For the record, my name is Polly Wheeler and I'm an anthropologist with the Office of Subsistence Management. I did the analysis on the first proposal. Dennis Chester, to my right here, did the analysis on Proposal 03. That's why we're both sitting up here together.

Before I begin I'm going to kind of reiterate some of what Mr. Boyd just said. I need to explain that this proposal is a statewide proposal dealing with several issues surrounding handicrafts that incorporate brown and black bear claws. Another proposal, Proposal 03, addresses many of the same issues covered in Proposal 01; however, as Mr. Boyd said, that proposal is specific to Southeast.

The Southeast Regional Advisory Council recommended incorporating some changes to Proposal 01, the statewide proposal, based on elements of the proposal that was specific to Southeast, Proposal 03. Many of these changes are reflected in the recommendation of the Interagency Staff Committee. Because of this, I'm going to present the analysis for Proposal 01, the statewide proposal, which will be immediately followed by a presentation on Proposal 03, the Southeast proposal. Again, Mr. Chester will present that analysis.

Once he is finished, you can proceed with the process for making your decision on Proposal 01. As Mr. Boyd said, for the purposes of clarity, it's probably best to separate out those three sections that he just
mentioned. We think that after you take action on Proposal 01 there will be no need to have further discussion on Proposal 03.

Again, we're proceeding this way because some of the elements of the Southeast proposal have been incorporated into the Interagency Staff recommendation on a statewide proposal and it was thought that it would be more informative and less confusing this way. With that, Mr. Chair, I hope that you and your fellow Board members are clear on how we're going to proceed. If so, I will begin.

The analysis for this proposal can be found on Pages 212 to 246 in your books. I recognize that it looks somewhat lengthy. The analysis itself is actually only about 15 pages, but there are several appendices to that analysis, which I think adds some clarity.

This Proposal 01 was submitted by the Fish and Wildlife Service regional office to address the need for clearer definitions and regulatory language regarding the inclusion of claws in handicrafts to be sold that are made from bear fur. In a sentence, the proposal is really a housekeeping proposal in that it changes regulatory language to more clearly describe the previous decision by the Board to allow the sale of bear fur handicrafts that include claws. It does not provide for any additional subsistence harvest opportunity.

Specifically, the proponent requests that the definitions of handicraft and of skin, hide, pelt or fur be changed to clarify the Federal Subsistence Board's stated intent to allow the sale of handicrafts made by rural Alaskans from bear fur and claws. The proponent also requests that commercial sales of such handicrafts be disallowed.

As a reminder, this proposal affects all regions in the state because it clarifies a definition, but it does not change the current allowance for the sale of handicraft articles made from the fur or claws of black bear statewide and brown bear in Southeast, Southcentral and Eastern Interior Regions. The existing regulation can be found on Page 212 in your book and the proposed regulation can be found right below that on Pages 212 and 213 in your books.

The regulatory history can also be found
on Pages 213 to 215 in your books. I'm not going to go through the entire regulatory history here as you've dealt with that in the previous several meetings, but a few key points are worth mentioning. In 2002, as you know, the Federal Subsistence Board approved the sale of handicrafts made from black bear fur. In 2004, the Board considered a proposal to allow the sale of handicraft items made from the fur of brown bear. At that time, the Board approved the sale of handicrafts made from brown bear fur in Southeast, Bristol Bay and Eastern Interior Regions. The Board also clarified that the Federal regulation includes claws; that is, claws can be used in handicrafts for sale. The Board's decision was subsequently appealed by the State, which does not allow the sale of handicrafts made with bear claws, although the Board did not accept the State's request for reconsideration. Instead, the Board maintained its regulation to allow the sale of handicrafts that include bear claws for black bears statewide and brown bears in Southeast, Bristol Bay and Eastern Interior Regions.

Several discussions were brought up by law enforcement, the State and others during these discussions. Questions like what qualifies as a handicraft, does a single claw qualify as a handicraft, can the handicraft be sold in urban gift shops or just by rural residents, can the handicrafts be manufactured outside of Alaska, can handicrafts be made from the skin or just the hair and what's the difference between skin, hide, pelt or fur.

Office of Subsistence Management Staff addressed these questions with a question and answer sheet, which the Board reviewed last summer, as you might remember, and that question and answer sheet is on Pages 245 and 246 in your books. It's actually the last part of the analysis for this proposal just to remind you.

The modified proposal intends to address these questions with regulatory language. It does several specific things. The modified language provides a more complete definition of handicrafts and includes several additional methods. It also includes the phrase that the design can be traditional or contemporary. It clarifies that handicrafts must be made by rural Alaskans. It fixes the definition of skin, hide, pelt and fur.

It states in regulatory language, and again as Mr. Boyd had mentioned, in 25(j)(6) and
25(j)(7), that black bear claws statewide and brown bear claws in Southeast, Eastern Interior and Bristol Bay, can be used in handicrafts for sale. It also adds that in Units 1, 2, 3, 4 and 5 bear bones, teeth, sinew and skulls can also be used in handicrafts. And it states clearly that sales of such handicrafts are not intended to be a significant commercial enterprise. It basically takes the information that was provided in the question and answer sheet and adds the extra provisions for Southeast and puts it into regulatory language.

The cultural history section, which can be found on Pages 215 to 218 in your books, is included solely as a means of providing additional information on cultural practices with regard to bear claws and other parts that has not previously been provided as part of consideration of this issue. I'm not going to go into much detail here, but as you can see from reviewing this section, Alaska Native groups all over the state had a rich history of using bear claws and teeth and fur in all kinds of ways, from Tlingit headdresses to fishing lures, to incorporating them into all kinds of jewelry and regalia.

In summary, Mr. Chair and Board members, this proposal adds some clarity to the definition of handicrafts, which is intended to assist rural Alaskan artists in understanding regulations and providing for allowable uses. It adds teeth, bones, skulls and sinew to the list of materials that can be included in handicrafts for sale for black and brown bears taken in Southeast and it would disallow sales constituting a significant commercial enterprise. It's important to note that adoption of the proposed regulatory language does not provide any additional opportunity for subsistence harvest. Rather, it only provides clarification of previous Board decisions to allow the use of claws in handicrafts for sale.

Mr. Chair, that concludes my presentation, but I'm available to answer questions.
through 5, and it would also modify existing regulations
to allow the sale of handicrafts made from brown and/or
black bear fur, claws, bones, teeth and skulls in Units 1
through 5. That's the basic proposal that was submitted
by the Southeast Regional Advisory Council.

As mentioned, the Council incorporated
most of their issues in Proposal 03 into Proposal 01, so
what I'm doing here is I'm just trying to present some
information from the analysis for that proposal that was
not included in Polly's analysis and that begins on Page
259, but most of the information I'll actually be
discussing is on Pages 285 through 288.

The available data pretty much shows that
brown and black bear populations in Southeast Region are
secure. They're generally monitored indirectly by
measuring age, sex and size characteristics of harvested
bears when they're brought in for sealing. The ADF&G
reports that black bear harvests are meeting their
objectives for these measures and that they consider the
populations to be stable. There are, however, a few
local areas of concern, but black bear harvests are
generally thought to be well below the level that would
cause any population level effects. Similarly, region-
wide brown bear populations are considered stable in
Units 1 and 5 and slightly increasing in Unit 4. Brown
bears do not occur in Units 2 and 3. The estimated
population increase in Unit 4 is based on actual research
data as opposed to sealing data.

We do not expect any increase in Federal
subsistence harvest. This proposal does not increase
harvest limits or lengthened seasons. It seeks to allow
more complete utilization of bears harvested under the
Federal subsistence regulations. To comply with this
regulation, bear meat must be salvaged for personal
consumption. One concern is that except for Unit 5 we
cannot accurately determine how many bears are taken
under Federal subsistence regulations. The best we can
do is determine how many were taken by hunters with
positive Federal customary and traditional
determinations. In reality, we feel that very few brown
bears are harvested under Federal regulations.

Brown and black bears are both listed
under Appendix 2 of the Convention for International
Trade and Endangered Species of wildlife fauna and flora,
commonly known as CITES. For black bears, this listing
came about not because of conservation needs or status of
the black bear itself, but because of its similarity in appearance to endangered bear species. For brown bears, this listing is designed to protect threatened populations elsewhere in North America, but the brown bear population and status in Alaska is secure, as previously described. Thus, the CITES listing is not an indication of conservation concern for these species in the state of Alaska.

Due to their low reproductive rate and, therefore, lower acceptable harvest rate, brown bear harvests are considered closer to the Alaska Department of Fish and Game's maximum allowable harvest. However, I wanted to emphasize that current harvests are considered to be below the allowable harvest rates. Overall, brown bear harvest rates are increasing, but harvest by qualified Federal subsistence users is a small percentage of the total harvest. The ADF&G monitors harvests closely and that gives us the opportunity to adjust harvest levels if necessary.

Some concerns have been voiced that this proposal would lead to increased illegal activity. However, I think we all know that illegal activity already exists and will continue to exist. I think it's speculative to assume that this proposal would increase illegal activity and I have received no evidence from Forest Service law enforcement to suggest that this type of illegal activity has happened so far since the changes in regulations.

That concludes my remarks.

CHAIRMAN DEMIENTIEFF: Thank you very much. Go ahead, Todd.

MR. LOGAN: Thank you, Mr. Chairman. I appreciate the Staff's summary of the proposal and I guess I would like to just make one important clarification here. I think it was pretty well represented by Ms. Wheeler, but some of the wording in these documents I think does not fully represent our proposal. If you look on Page 197, the general description of the proposal, which was submitted by the Fish and Wildlife Service, it states the general description is to clarify the definition of handicrafts and prevent the commercialization of bear handicrafts. Actually, I think this proposal is to clarify the Board's intent to prohibit the commercialization, so I think both aspects are a clarification, not that we're trying to
prevent something that is currently allowed. I believe that's best reflected in the Q's and A's that the Board's intent in 2002 and 2003 actions was not to allow the commercialization. So we are just seeking language to clarify that.

CHAIRMAN DEMIENTIEFF: Thank you. Any further questions. Of course, Staff will be available for the rest of the deliberations. With that, maybe a summary of written comments.

MR. O'HARA: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Dan.

MR. O'HARA: U.S. Fish and Wildlife here, corner. On Page 197, the second paragraph down, skin, hide, pelt or fur means any tanned or untanned external covering of an animal's body; however, for bear, the skin -- what bear are you talking about, black or brown bear or bears in general?

MR. LOGAN: We mean black and brown bear.

MR. O'HARA: Okay. Skin, hide, pelt -- do you see where I'm reading there -- or fur means the external covering with claws attached. What do you mean by claws attached?

MR. LOGAN: The intent is to clarify that claws are a part of what's being discussed here in this paragraph because there's an ongoing issue of whether we do or don't include claws as part of skin, hide, pelts.

MR. O'HARA: That's a big issue. That's why we made this proposal the way we made it to begin with until the Staff decided to fiddle with it and rearrange it. You know, I told Mitch Congress and the Senate passes a bill, then when the Staff gets done with it you don't recognize the bill and that's what's happening here. If we want to disattach the claws, we'll disattach the claws for subsistence reasons or whatever. So you're making it say that we can't disengage the claws, is that right?

MR. LOGAN: No, that's not the intent here.

MR. O'HARA: It isn't?
MR. LOGAN: No.

MR. O'HARA: Then why does it say claws are attached to the fur then?

CHAIRMAN DEMIENTIEFF: If I can just ask people to indulge us and let us go through the reporting process, we will have, I guarantee you, ample opportunity to discuss the specific points before we get to a Board motion. If we would just allow the process to go ahead, I would appreciate it.

MR. O'HARA: I apologize. You asked for questions and I jumped in, so we will hold off on that.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yeah, we will have ample opportunity. John.

MR. LITTLEFIELD: Thank you, Mr. Chair. I have a question for both Staff members, Dr. Wheeler and Mr. Chester. Although I saw it on the screen where it said one of the key points is no conservation concern, I believe it's important for the record for both of them to state whether there are any conservation concerns with either Proposal 01 or Proposal 03.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Who would handle that? Polly.

MS. WHEELER: Thank you, Mr. Chair. The key of this proposal is that the bears have to be taken for subsistence purposes, which means for personal or family consumption, then after that the claws or whatever else can be made into handicrafts. So, no, there's no conservation concern because the bears have to be taken for subsistence purposes.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Summary of written public comments.

MR. EDENSHAW: Thank you, Mr. Chair and Board members. My name is Cliff Edenshaw. I'm the Regional Council coordinator for Bristol Bay. The written public comments are located on Page 211 of the
Board book. We received seven written public comments.

The first one here is submitted by the AHTNA Subsistence Committee. We support Proposal WP05-01 to clarify the definition of handicrafts and prevent the commercialization of bear handicrafts. We support rural subsistence users being able to make handicrafts out of the skin, hide, pelt (including claws) for black and brown bears; we support efforts to prohibit commercialization of the skin, hide, pelt, or fur of a black or brown bear (including claws).

The Wrangell-St. Elias SRC unanimously supports the proposal as modified in the Staff analysis. Commission members expressed concern about the potential commercialization of bear handicrafts and feel that this proposal addresses those concerns.

Both the Aniakchak SRC and the Lake Clark SRC supports clarification of regulations allowing local subsistence users to make and sell handicrafts made from bear pelts including claws.

There was two written comments that oppose. One also said oppose or modify. The one by Don Quarberg of Delta Junction opposes or modify to exclude the claws. Including claws is only encouraging poaching in which the claws are quickly removed and the carcass left to rot in the field. The claws are the most economically desirable part for handcraft.

And the Alaska State Troopers, Department of Public Safety, opposes the proposal. We believe that allowing the sale of bear parts will increase illegal take and waste of bears, will exasperate the black market issues, will go against a North American trend that is more restrictive concerning sale and is not consistent with customary and traditional practices.

Lastly, the Denali SRC took no action on the proposal. The SRC felt that if excessive bears were harvested in the Denali area in the future, then the Commission would want to take action to protect the population.

That's all the written public comments, Mr. Chair and Board members.

CHAIRMAN DEMIENTIEFF: Thank you very much. We have no additional requests for public
1 testimony at this time. I don't know who put these
2 together, but there are, of course, multiple Regional
3 Council recommendations and I'll just call on them as
4 they're listed in our book. Southeast.
5
6 MR. LITTLEFIELD: I'd like to first thank
7 Mr. Boyd for his kind comments on how we were running
8 things. He's correct in that when we considered this, we
9 thought it was expansive enough that by paragraph is what
10 I would recommend that the Federal Board do because each
11 paragraph is distinct enough on its own that you can
12 debate it separately.
13
14 The Southeast Alaska Region
15 recommendations starts on Page 200. It's about four and
16 a half pages and I think I need to cover most of it.
17 However, I refer you to Page 200 for the actual language.
18 The Regional Advisory Council supported the modifications
19 after we had debated each paragraph separately and made
20 changes. We supported the final motion 11 to 1.
21
22 The language begins on the top and I
23 don't want to read that because we're going to go over
24 that several more times again, but the top of 200 is the
25 language that was approved. You'll note that (j(8) was
26 completely stricken from our recommendation.
27
28 The rationale. The Council heard the
29 Staff presentations on 01 and 03 that were just presented
30 to you in kind of a condensed form by Dr. Wheeler and Mr.
31 Chester. We heard the expanded form in Southeast and
32 they were good presentations and if you've got time to
33 read through these, there's quite a bit of information,
34 especially in 03, that we need to make sure is included
35 in 01.
36
37 The Council is on record supporting
38 regulations that allow full utilization of bears taken
39 for subsistence purposes, use of bear parts in
40 traditional regalia and craft items, and appropriate
41 handicraft sale of items made from bear parts. It's
42 important to note that this use predates contact with
43 Europeans, it predates America, it predates territory and
44 it predates the State. We've been doing this since time
45 immemorial and the sale has taken place that long because
46 it was traditional in Southeast to purchase these items
47 of regalia by a member of the opposite clan and that's
48 discussed somewhat in Proposal 03.
49
50 There's a statement also in Proposal 03
that's printed on the bottom of Page 200 and the top of
Page 201. It listed the concerns that we had with the Q&A and
the request for reconsideration. I'll just touch on the
last paragraph. It says the Council believes that
subsistence bear harvesters should be permitted to make
full use of the bear that they take under Federal
subsistence regulation, including the sale of handicrafts
that incorporate bear parts. Further, the Council
supports the continued use of bear parts in traditional
Tlingit, Haida, Tsimshian regalia that are incorporated
in cultural and religious ceremonies. The repair of old
regalia and the creation and consecration of new regalia
requires the sale and purchase. So these are something
that's a continuing activity and we continue that to this
day.

Our recommendation clearly states our
intentions and the Council appreciates the analysis by
the Staff anthropologist and Forest Service biologist.

Each paragraph was deliberated separately
as we said and I'll talk about 25(a)(1) now, which is in
the center of Page 201. We made several changes to that
that are shown on Page 200. First, an amendment was made
to strike the words in Alaska. The language that was
proposed by the Fish and Wildlife Service had in Alaska
in there and we were talking about situations that it's
quite common for people to travel and if they were
sitting in a hospital, like Virginia Mason in Seattle or
something like that with a sick relative, and sewing or
doing whatever, we felt that it was, first off,
enforceable to try to pick somebody up for that and it
serves no purpose. Now, subsistence is something that is
for the benefit of rural residents and if a rural
resident happens to be somewhere other than Alaska doing
this, we saw no inconsistency there.

The second part that we talked about was
the nonedible byproducts of fish and wildlife and we
struck the language that says which is composed wholly or
in some significant respect of natural materials. The
Council believed this wording was awkward and the meaning
was unclear and the language that we are recommending by
striking that is quite close to what's stated in ANILCA.

The next section, we added the word
drilling. Carving, drilling, etching -- and the section,
and incorporated into work of art, regalia, jewelry,
clothing or other creative expressions which can be
either traditional or contemporary in design. This was
to make sure that the word drilling was in there because we heard earlier from a member that drilling was not acceptable, although we know that at many times drilling is the major portion of work that's done to a piece of regalia.

The Council heard from Staff that there are markets in the world where the unaltered bear parts have more value, so what we did is we struck the part that said a handicraft must have substantially greater monetary and aesthetic values than the unaltered natural material. The situation could arise where if I was to make a piece of regalia, say a bear claw necklace or something like that, and scrimshawed something onto the bear claw, for a certain circumstance it may be possible to get more money for that on the black market if it had not been scrimshawed. So what you've done is put enforcement in the position of interpreting what the maximum value for a bear claw is or any other bear part and saying, well, we found a claw that went for $3,000, that would basically eliminate all the sales of handicrafts because none of the handicrafts I know go for anywhere near that. And there are people who are stupid enough to pay that kind of money for a part. Unfortunately there's not enough of them.

When you look at this, in Southeast in particular, you can take one bear every four regulatory years. If you divide that by four years and 20 claws, most bears have 20 claws, you would have five claws a year, and even if you were to make $100 a claw, that in no way is a significant commercial enterprise by anyone's imagination that I can think of. This particular language is not specified in ANILCA I'd like to note. It doesn't say anything in ANILCA as concerns customary trade. It just talks about customary trade. The only thing that's similar to that is under barter where they say of a limited commercial nature, but ANILCA does not talk about this at all.

On the top of Page 202 we talked about our description of (j)(6) and (j)(7), which we basically agreed with. Let me read through this. This would allow the Federally-qualified subsistence users in Units 1, 2, 3, 4 and 5 to sell the handicraft articles made from the skin, hide, pelt, fur, claws, bones, teeth, sinew or skulls of black bears and brown bears. Of course, the black bears is in (6) and the brown bears are in (7), taken in those units. So if we were to take a brown bear in that unit or a black bear, we could sell that. This
definition explicitly allows the use of claws, bones, teeth, sinew or skulls for handicrafts, which is in addition to the Fish and Wildlife Service one.

The Council reviewed the documentary evidence presented by Staff and heard Council testimony showing that the use of claws, bones, teeth, sinew or skulls for handicrafts, and since these bear parts have been or are used in handicrafts, including regalia and cultural items, their use needs to be allowed in Federal regulations. I would refer you to the cultural aspects as well as in WP-03 there's pictures of bear claws, teeth and everything used in those areas. Plus a pretty lengthy description from Steve Hendrickson of those items.

Under the next item, (j)(8), we struck this entirely. If you are a business defined under Alaska Statute 43.70.110(1), you may not purchase, receive or sell handicrafts made from the skin, hide, pelt, fur of a black or brown bear, including claws. The Council reviewed the provisions of the cited Alaska statute. Well, the intent of the proposal, 25(j)(8) language may be to prohibit only certain types of commercial sale and this is like we're talking about to Wal-Mart or Costco or some of these big chains. The effects of adopting this language would be to disallow many if not most of the sales of handicrafts and regalia.

Native and non-Native craftspeople sell things that they make at local and regional craft fairs, at booths at the Alaska Federation of Native conventions, at the celebrations that are held every two years in Southeast Alaska, at the Centennial Hall Christmas Fair in Juneau and many other venues. Artists and craftsmen that sell things they make in shops they own and run in Sitka, at artist cooperatives in Hoonah, Juneau and other locations, the transactions may use credit cards, local sales tax may apply and the crafts people are required to report their income to the Internal Revenue Service. Many or most of these people who are selling handicrafts in these selling situations may well be businesses as defined by the Alaska statute. The Council believes that many craftspeople license their own handicraft operations.

The unintentional effect in our opinion of incorporating (j)(8) into the regulation would be to disallow or severely limit the handicap provisions
provided in other sections of the regulation that we
talked about previously, which were (j)(6),(7) and 25(a).
The Council believes that this language is intended to
greatly restrain if not eliminate the sale of handicrafts
made from nonedible parts of bears that have been taken
for subsistence purposes. As such, this regulation is in
conflict with the spirit and perhaps the language of
ANILCA. Data was not presented showing which sales of
handicrafts would be affected. Reasoning to support such
a restriction was not developed.

Staff referred to the following ANILCA
provisions and I'd like to read this again because it's
referred to in several places. ANILCA Section 803. As
used in this Act, 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 of handicraft
articles out of nonedible by-products of fish and
wildlife resources taken for personal or family
consumption; for barter or for sharing, for personal or
family consumption; for customary trade. Each of those
things with a comma or a semicolon stands by themselves.
We're talking about customary trade here and the making
of handicraft articles.

The Council strongly supports regulations
that conserve species used for subsistence, conservation
of natural resources is not a new concept to the
subsistence community. As the previous chairman of
Southeast used to like to say, there's never been a
documented case of a subsistence depletion of stocks that
we know of. In other words, these are all caused by
concerns that are other than subsistence uses. For
instance, commercial and sport.

We do not believe that sale of
handicrafts that incorporate bear parts will result in
any adverse effects on the bear populations on which
subsistence hunters depend. This is reinforced by both
Staff that said there are no conservation concerns.
Should a demonstrable problem arise from the sale of
handicrafts incorporating the nonedible parts of bears,
our Council will certainly urge for action to protect the
bear resources. In the Council's reasoning, however, a
putative, possible speculative problem is not a
demonstrated resource problem and does not warrant the
excessive protections of this regulatory provision.
In Southeast, we routinely use four criteria to judge proposals by and I think the record is fairly clear in previous occasions. If you look at the bottom of Page 202, the paragraphs that have the bold are the four criteria that we used to consider a proposal.

In summary, the Southeast Alaska Regional Advisory Council supports the modified proposal. The proposed regulation will benefit subsistence users. That's our number one criteria. Because they will be allowed to make full use of the bears they may take for consumptive subsistence use. Of equal importance, the regulation will allow traditional use of bear parts used in regalia, ceremonial objects and traditional crafts to continue unfettered.

The proposal as modified has strong supporting data. Staff provided excellent summaries of harvest and use data, regulatory history and management issues. Very importantly, the Staff analysis provided documentation of traditional use of bear parts in handicrafts. Council testimony confirmed much of these Staff analyses. No data was presented showing that there were conservation concerns for black or brown bear at this time. As a matter of fact, it was just mentioned they're abundant and growing in our region. We're only talking about our region. Similarly, no data was presented showing that bear parts were not used for handicrafts, regalia or cultural items. Data were not presented that would support limiting handicraft sales to non-businesses.

The Council does not believe that there's an existing conservation concern and this is point number three that we always take. This is one of them that we consider to be the mandate of all of us, the conservation concerns. We do not believe there is an existing conservation concern for bears in our units that are affected by this regulation. Because the proposed change is not expected to change harvest patterns in any significant way, the Council does not believe that it raises a conservation concern. However, should an actual demonstrated conservation concern arise through the implementation of this regulation, the Southeast Council will support a special action by the Board in consultation with the Council and regulatory changes in future cycles that may be needed to address real problems if they develop, not conjecture.

The recommended modified proposal will
have minimal effect on non-Federally-qualified hunters.
This is the fourth point that we always consider because
we're not to have unnecessary effect on non-Federal
users. Black bears are abundant in Southeast Alaska.
Existing and potential subsistence harvests are low
relative to the harvest levels that may be maintained
over time. Brown bear harvests are very closely managed
and the subsistence component of this harvest has been
very low and is expected to remain at current levels.

If you take the time to look through the
book on Proposal 03, you'll find that there's
approximately 241 brown bears taken annually in Southeast
Alaska and I would challenge anybody to tell me that more
than five of those were subsistence taken and I
personally don't believe it's that high. The key to
remember, as Dr. Wheeler stated, is that these bears are
eaten. So when you find a bear carcass in the woods, the
chances are 99.99 percent that that was from a sport
hunter who does not have to take and salvage that meat
and these would be taken under State regulations. I know
they don't like the word sport, but I'll let them defend
that themselves. Any time you do not eat an animal, I'd
have to consider that a sport take in my opinion.

The Council believes that only a small
subset of Federally-qualified hunters taking bears will
use the nonedible parts for handicrafts and the Council
does not believe that this regulation will affect future
harvest levels significantly. It's important that if an
individual were to take a subsistence bear for any reason
and they were going to eat that, that they be allowed to
practice what is customary and traditional in the
Southeast area, and that is to use every part of an
animal that we take for subsistence. Our history is
clear with examples of that of all the things we use. It
just flies in the face of things to not use the claws and
we would like to make sure that that's allowed.

So, I guess with that, Mr. Chair, I'll be
willing to take any questions.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: I think we're just
going to hold off on questions. If people do have them,
just make a note of them and we'll go to those when we
get to Board and Regional Council discussion. With that,
I'm going to move on. I just want to get through the
process. There's so much interest in this issue that we
just need to get where we can talk freely with each other. Southcentral.

MR. LOHSE: Mr. Chair. Well, there's nothing like having Southeastern first to take the wind out of everybody's sails.

(Laughter)

MR. LOHSE: Needless to say, we can't quite give the presentation they did. We have to remember that different parts of the state do have different interests and different pressures on them. One thing at Southcentral we realize that we are on the road system and I know there's a lot of tourism in Southeastern. I saw it last summer. I was real shocked at it. But we're on the road system. We have access to so much more other economic people and everything that it does color the way we look at things.

And we support this with modification. Our modification would allow Federally-qualified users to sell handicrafts made from nonedible parts of a black bear except for the gallbladder. The Council also modified the section pertaining to businesses to add language to state that if a person has a business license as defined in Alaska statute, they may not resell handicrafts made from black bears. I'll talk on that issue in just a little while.

The Council specified that they did not want to allow commercialization of handicrafts made from nonedible bear parts. As you saw from the letter by AHTNA, that is also the attitude of the Native American people that live in Copper Valley. They do not want to see the commercialization of handicrafts made from nonedible bear parts. And we recognize that other parts of the state have different attitudes towards that.

We kept made in Alaska by rural Alaskan residents and one of the things that comes to my mind on that is I think if you take unaltered bear parts out of the state to work on them some place else, you may find yourself running into other State or Federal laws that prohibit your possession of them. So you might want to check into that before you drop the made in Alaska by rural Alaskan residents just to save some people from getting into trouble.

We pretty much stuck with everything else
on that part of it that the other groups did and we did
make sure and have the understanding that the bear hide
included the claws and it doesn't mean they have to be
attached, but that just meant that the bear hide was the
whole hide, including the claws, and that you could then
make parts out of the claws later.

I'll just get to the one crux of the
issue that we had that we worked on a little different.
That was on the idea of commercialization. We kept if
you are businesses defined under AS 43.70.110, but we
struck some words out of it. We felt that a person that
had that license shouldn't be limited from purchasing for
his own use handicrafts. He shouldn't be limited from
receiving them. Many of us who have business licenses
may have a friend that would give us something or sell us
something that we'd like to have for our own, but what we
did say is that he shouldn't be allowed to resell
handicrafts.

In other words, if you have a business
license, you can't make a business of reselling somebody
else's handicrafts. You can sell your own because that
would be covered by resell. You can receive them and you
can purchase them, but you can't buy them in bulk and
resell them. You can't buy them from other people and
resell them. We thought that that would be one way to
prevent them ending up in shops all over the place in
bulk in our area because we look at what goes on in our
area and we can see the potential.

We may not have the same population that
they have in other places, although we do feel like we
have a good bear population. We don't see any
conservation concern.

I have one comment and I'd like
clarification if I may on this because this came up quite
a bit in John's thing. In order to be sold under this
regulation, if my understanding is correct, a bear must
be taken under Federal subsistence regulations. It
cannot be taken under State sport hunting regulations.
So, in order to be sold, somebody has to have a Federal
subsistence -- not just be a Federally-qualified
subsistence user, but has to take it under a Federal
subsistence season and make use of the meat in order to
sell the handicraft. If I'm not correct in that, that
would change my attitude to some of the things in this
proposal and I'd like clarification on that.
CHAIRMAN DEMIENTIEFF: Polly.

MS. WHEELER: Thank you, Mr. Chair. Mr. Lohse, you're correct. Under these regulations the bear must be harvested for customary and traditional uses, must be a Federally-qualified user operating under Federal regulations. Bears cannot be harvested solely for raw parts to be made into handicrafts. They have to be harvested for subsistence purposes. The bear has to be eaten, so we're not expecting that there will be a drastic increase in the harvest.

Mr. Chair, thank you.

CHAIRMAN DEMIENTIEFF: Thank you. I'm going to go around to everybody. Let's just, again, try to get through the process and I assure you we will have ample opportunity to discuss any of the points that you wish to bring up. I want to get where we can be free to discuss it. If I could just ask again people's indulgence with regard to that, I would really appreciate it. Kodiak/Aleutians.

MR. TUTIAKOFF: Thank you, Mr. Chair. Kodiak/Aleutians Regional Advisory Council had a lengthy discussion regarding this issue. As you know, the Aleutians, some portions entail the peninsula and some of our subsistence users did have some concerns regarding the hunt for bear and use of parts. Dating back many years, they've used the parts, but over the past 40 to 50 years the encroachment of Western civilization has caused a lot of problems that economically have driven the use of the bear parts to no longer being used. They're trying to bring it back. They're trying to learn this culture.

The same issues were brought up in the Kodiak area. They have the same concerns. We appreciate the good work that Southeast is doing in regards to use of the brown bear and the black bear, the trade process that Kodiak has had for many, many years I'm sure has been involved with Southeast in travels, bartering, selling, exchanging.

After discussion, the Board was kind of mixed but did go with support with modification. The Council supported the proposed regulation with modification to exclude brown bear claws. That was one of the contentious issues but did pass. The Council felt that brown bear claws had the greatest potential for
abuse if sales were allowed for handicrafts made from
claws. We've heard that discussion from Southeast and
I'm sure we'll hear from other entities.

We kept all of the other modified
proposed regulations and (8) we kept as is. That's all I
have.

CHAIRMAN DEMIENTIEFF: Thank you very
much. Bristol Bay.

MR. O'HARA: Yeah, Dan, chair of Bristol
Bay. We would just like to leave the proposal as it was
brought to us earlier last year. In other words, just
don't fiddle with it. Leave it alone like it is. The
state troopers mentioned that because of the use of
handicrafts for the brown bear mainly -- we don't have
any black bear in Bristol Bay except up in the northeast
part of Lake Clark, in that area, they have an abundance
of black bear up there.

The state troopers said that if these
handicrafts were to be used, Mr. Chairman, that there
would be an abuse of the animal and that is so far-
fetching. That is just unrealistic. I'm just impressed
with an income people of $65-100,000 telling us who have
$11,000 in the villages that we're going to abuse a brown
bear. They will kill 235 brown bears this October, State
of Alaska, and let the animals lay there and rot. Then
they tell us because we take one brown bear maybe and use
its claws for each other, they don't even put it on the
market, they said we're going to abuse the animal.

I guess that's why I have this sign up
here, you know, I love my country but it's the government
I'm worried about. That's exactly what we have here. So
just leave it alone. They've got to take the animal out.
They've got to eat it, they've got to use it, the hide,
everything. The State of Alaska doesn't have to do that.
They just kill the animal and let it rot in the field.
235 bears will die and I fly to all those camps and look
at them. It just galls me that we have this process.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. WILDE: Mr. Chairman. Our Council
had just about the same support of modification as
Bristol Bay. You know back home the subsistence people in Yukon/Kuskokwim don't kill an animal any time. They don't. The only time they kill the animal is when they're going to use it. Some elders really love black bear. One elder told me that one time I set a whitefish net, I see a black bear. He had the old ADG gun and he was aiming at it and even his mouth the water is dripping down. Elders really love it. The only time we have a problem is back home in the fish camps. The bears tear up fish house and smoke house and sometimes bother the camps. People are told you should try to get a hold of enforcement or Fish and Wildlife and talk with them.

So our modification is the same thing like Bristol Bay. Mr. Chairman, we don't really, even our young people don't really sell anything that I know. However, when we catch mostly a black bear, we keep the skin and all the meat and some of our elders really love it because they can't go out and hunt. We supply some of that meat to them.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Western.

MR. REAKOFF: The Western Interior took no action on this proposal because there's cultural taboos regarding bears in our region and people feel very uncomfortable about even talking about this issue in public meetings. So we do not oppose other regions' use of bears and using them in customary trade, but in our region it's felt that we do not want to see that, so we took no action on this proposal.

CHAIRMAN DEMIENTIEFF: Knowing the region, I also understand that and it doesn't surprise me a bit. Thank you very much. Seward Pen.

MS. CROSS: Seward Pen deferred the proposal to the home regions. We felt we were not affected by this proposal at this time.

CHAIRMAN DEMIENTIEFF: Northwest.

MR. STONEY: Thank you, Mr. Chairman. On this proposal, we all know it's a statewide proposal and I'm speaking on behalf of Northwest Regional Council. I'll say this first, that I'm not against the regions supporting this proposal. However, in our region, I'll
give you an example. Eight years ago when the caribou antler was legalized for sale in entire Game Unit 23, we saw hundreds of dead caribou everywhere. It went out of control. That is why the Northwest Arctic opposed this proposal. The Council feels that if we support this proposal that it will definitely become the same as it did to the caribou eight years ago. We'll be seeing carcasses of black and brown bears everywhere.

So, Mr. Chairman, I'd like to say that there must be some way in Northwest Arctic that we can separate from other regions only to not support this proposal. Like I'm only speaking for Unit 23 only, so it's a benefit to other regions in the state. So there must be some way to write it to get some clarification for our region for not legalizing the sale of bear parts.

CHAIRMAN DEMIENTIEFF: Thank you very much. Eastern.

MS. ENTSMINGER: Thank you, Mr. Chairman. Sue Entsminger. I'm representing Eastern Interior. I'd like to say that Eastern Interior is quite diverse. We have the road system, people that live on the road system, and we have people that live on the river system. When the bear proposal first came to sell handicraft out of brown bear, there was mixed feeling within the people on the river system. I think it was more what Western had experienced. Some of the people had some cultural problems and they didn't even want to say the word bear. But out of respect of them there was other people that felt this is something that should be allowed and they brought up this proposal. You'll have to forgive me. My heart is pounding right now. This is kind of tough.

I'm just going to read to you that we supported with modification the proposal because it provides clarification of what a handicraft is as well as the use of bear parts and handicrafts that are for sale. The proposal, as modified by the Council, honors the Federal Subsistence Board's intent to prevent this becoming a commercial enterprise. The modification provides opportunity for handicraft makers with business licenses who are not a significant business but rural residents to be allowed to continue the craft allowed in ANILCA Section 803.

If you look at the language here, there is a sentence there to add and incorporated into a work of art, regalia, clothing or other creative expression
and could be either traditional or contemporary in design. The handicraft must have -- and then it goes on the same language.

And we separated out number (8) to (8)(a) and (8)(b) to try to clarify what everyone else is saying here today. I'm a skin sewer. I make things out of all fur and now I can make it out of bear. I have to have a business license legally in the state of Alaska to go to the shows and that's how I sell my stuff. Fur Rondy is where I really got into it and Christmas craft shows.

I've gone to the Juneau show that Southeast has spoken of. I had to fly to Juneau. I could not drive from Tok down to Juneau through Canada without an incredible amount of permits. The amount of stuff I had in my car I had to have it all documented. If I sold something, I had to turn around and redo all this permitting process just for fur, not to mention bear, so there is problems through Canada that you have to go through.

But we, as a group, wanted to protect the skin sewer, both Native and non-Native, that would be making things out of bear and bear parts and we had no problem dealing with the claws. We felt the claws should be allowed to be sold but not to be a commercial enterprise. And allow the skin sewer to make some things, a necklace or whatever, to add to what they're doing. Not just skin sewers but people who are making handicrafts. I hope I've covered it all.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Our representative from North Slope is not here, but I understand Barbara is ready to give their report.

MS. B. ARMSTRONG: Thank you, Mr. Chair. North Slope Regional Council deferred the proposal to the home regions, the regions that would be affected by this regulation change.

Thank you, sir.

CHAIRMAN DEMIENTIEFF: Thank you. I think with that, since basically every region was involved in that, we're going to take a short break and we'll come back with Staff Committee and then the State and we'll continue our deliberations.

(Off record)
(On record)

CHAIRMAN DEMIENTIEFF: I'll call the
meeting back to order. Staff Committee.

MR. PROBASCO: Thank you, Mr. Chair. The
Interagency Staff Committee recommendations can be found
on Page 208, 209 and 210. I will note right off the
start that the Staff Committee did not reach a consensus
on this but they were close. If you carefully review
both the majority and the minority of recommendations,
they're pretty close with the exception as we move into
specifics dealing with commercialization.

The majority opinion recommends support
with modification. The Staff Committee considered the
recommendations and incorporated many of the recommended
modifications provided by all 10 of the Regional Advisory
Councils. The majority of the Interagency Staff
Committee recommends the following modifications: They
concur with removing the phrase made in Alaska from the
definition of handicrafts consistent with recommendations
of the Southeast Regional Advisory Council.

They also add the language that allows
the sale of handicrafts made from bones, teeth, sinew or
skulls of black or brown bear taken in Southeast Alaska
only. Again, consistent with the Southeast Regional
Advisory Council.

Changes in the language of paragraph (8)
to limit the restrictions on the sale and purchase of
handicrafts by businesses to just claws, excluding the
Southeast area. In other words, this commercialization
topic will be much more narrowly focused to claws only.
As we discuss this regulation with the State, you will
find out that the State has recently taken actions
regarding fur.

Then add a restriction in paragraph
(8)(c) to prohibit such sales that constitute a
significant commercial enterprise. That term significant
commercial enterprise coming back to us again if you
recall what we did with fisheries.

The one thing I want to note, Mr. Chair,
as Mr. Littlefield pointed out, that the Staff
Committee's recommendation, when we developed it, we
omitted the term drilling and our intent was to include
The justification for these recommendations is the modified proposal provides a clarification of definition of handicraft and these claws and handicrafts for sale. The proposed definition of handicraft includes components offered by the proponent of Proposal 03 and provides additional clarification. The Interagency Staff Committee majority recommends retaining language referring to greater monetary and aesthetic value as this has been part of the existing State and Federal definition. Given the controversial history of regulation and litigation over handicrafts, the majority believes the continuity in the language helps to build familiarity and reduces confusion about the regulations.

New language in 25(j)(8) prevents large-scale commercialization of handicrafts made with bear claws by prohibiting sales to and purchases by businesses. Small sales from craft producers, some of whom have business licenses, to consumers are authorized while sales to businesses are not.

In sum, the proposal provides clarity and definition to implement the Board's previous action authorizing sale of handicraft made with bear fur including claws. The proposal does not provide for additional harvest opportunity for subsistence users that could potentially impact bear populations. The proposal assists law enforcement efforts by clarifying in regulation the Board's intent to restrict the commercial sale or purchase by business and require the products made by rural Alaskan residents.

The minority opinion was to support with modification and they did follow in line with much of the majority opinion with the additional modification to remove the last sentence as the Southeast RAC recommends. That sentence reads the handicraft must have substantial greater monetary and aesthetic value than the unaltered natural material alone. They are pretty much in line with the justification that Mr. Littlefield shared with you earlier.

The reasons for deleting the last sentence are as follows. There was agreement with Southeast RAC where the Council noted that selling
unaltered bear parts in Alaska is illegal, therefore the
last sentence in the definition is unclear, unenforceable
and arbitrary and, for those reasons, unnecessary. In
addition to the obvious redundancy of requiring that a
handicraft is not an item in an unaltered state, this
 provision calls for subjective considerations on the part
of law enforcement officials relating to the monetary and
aesthetic value of the handicraft.

In light of these concerns, it was felt
that keeping the sentence in the definition of handicraft
does not contribute to clarity but, in fact, creates
subjectivity. So the minority and majority opinions only
differ in that one sentence.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you very
much. Department comments.

MR. HAYNES: Thank you, Mr. Chairman.
I'll read our comments on Proposal 01 and Proposal 03 and
then the Department of Law will have some additional
comments.

On Proposal WP05-01 the Department does
not support the proposal. Our primary concerns are that
any regulations
authorizing the sale of handicrafts made from claws of
brown and black bears must reflect well-documented
subsistence practices, include enforceable provisions to
protect any such practice,
and minimize the potential for exploitation and adverse
conservation impacts to bear populations.

Extending well beyond Alaska to national
and international contexts, the sale of bear claws and
other parts has generated a market enticing those who are
far removed from subsistence traditions. Because brown
bear populations reproduce at notably low rates, the
Department must carefully evaluate any potential
regulatory changes that could lead to adverse effects and
conservation concerns.

This current proposal provides neither
the evidence nor
regulatory provisions to address the department s
concerns, which were previously raised in a Request for
Reconsideration submitted to the Federal Board last year
concerning the new Federal regulation authorizing the
sale of handicraft items made from the fur and claws of brown and black bears. In the current proposal, the regulatory language has been modified but still would not address potential conservation concerns associated with the sale of handicrafts made from bear fur and claws. And I might add other bear parts as proposed in this proposal now.

For example, the proposal lacks a tracking system that documents number and locations of bears harvested for the purpose of making handicraft items for sale. For similar reasons, the Department also does not support the substantive additional modifications proposed by the Southeast and Southcentral regional councils, and supported by a majority of the Interagency Staff Committee members, that would expand the scope of this regulation by authorizing the use of other body parts of black and brown bears in making handicrafts for sale.

The Department also does not support Proposal WP05-03. As noted in our comments on proposal WP05-01, this proposal does not address concerns raised by the Department in our Request for Reconsideration last year. It is unclear how the proposed changes in this proposal would address conservation concerns associated with the sale of handicrafts made from bear fur, claws, and other body parts, in the absence of a tracking system that documents how many bears are being harvested for the purpose of making handicraft items for sale.

As is noted on Page 288 of the Staff analysis, It is not known whether these regulations have resulted in the selling of handicrafts to date. The Department also does not support modifications proposed by the Southeast Regional Advisory Council that would expand the scope of this regulation by authorizing the use of other body parts of black and brown bears in making handicrafts for sale.

I'll pass the mike to Lance Nelson, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. NELSON: Thank you, Mr. Chairman. If we had some enforceable way to limit the sale of bear claws to handicraft items made by rural Alaska subsistence users, we'd have no major enforcement
concerns. The existing regulations and the proposed ones contain no mechanism to effectively limit sales to those users. There's no tracking system with any kind of reporting or recording requirements. When we find someone with claws that we think might have been illegally purchased and sold, they don't have any burden to show the source as a qualified Federal subsistence user. The burden is on us as the government to prove that their source and sale was illegal. Without a tracking system in place, that's literally going to be impossible in most cases for us to do that.

We also have conservation concerns because it's logical to expect an increase in Federal subsistence harvest when you create a new motivation for harvest. An opportunity for sale of claws could make bear harvest more viable and attractive to subsistence users who otherwise had decided not to harvest bears in the past. The establishment of a Federal subsistence system without a tracking requirement more importantly creates an opportunity and motivation for non-Federal hunters and poachers to take additional bears because it can't be tracked, resulting in a very likely increase in harvest over time because of the legal market and its masking of illegal activities.

Our conclusion is that we recommend the Federal Subsistence Board create some kind of tracking system that will allow us to prevent abuses and/or limit the sale to other Federally-qualified subsistence users. That would meet the customary and traditional nature of the activities proposed and allowed and would give us a chance at preventing the abuses that I've described.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. As we begin discussion, I just want to open up the discussion with I'm pretty disappointed. You people are not used to me sounding negative. I always try to be real happy, but I'm a little disappointed in our approach with regard to this issue. Even though there's not a motion on the table, I don't intend to support either 01 or 03. As we look through management styles, neither the State or Federal system, wherever you're from in other parts of the state, your hunting regulations don't look nothing like mine that I live with. Your fishing regulations are tailored to your area and it works. For anybody to say that that is unenforceable or
unworkable, it's just nonsense.

Last year when we adopted this regulation, if we go back through the records, I said that I wanted to have these regulations tailored to the region. We have effective Regional Councils that can create regulations for their area consistent with the practices in that area. Why are bears any different? I challenge you to say that they are not any different.

How I expected to deal with this issue this year was to let our Regional Councils do the work and come up with regulations for their region. It works in all other areas of fish and game management and it can work in the management of bears consistent with the practices and the desires of the local people.

I also said that we would be willing to take the time to look at that. I don't really mean to be heavy-handed, but every now and then I get frustrated and I have to vent, I guess. I trust our councils to build regulation for their area and I trust our ability to manage that, just like we manage every other resource consistent with the practices in that area.

So, having vented, I guess I can let everybody else talk now. Sorry.

MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Grace.

MS. CROSS: When this issue first came out, our region decided that it would be better if it was handled regional specifically because some of our communities cultural values conflicted with the selling of bear products. I was really surprised to see it come up again because I thought that was it. I thought it was going to be regional specific.

This is my personal opinion. This is total disrespect for certain cultural values of Alaska Native people. It shouldn't have ever come up. It's kind of like we're going to impose this on you and this is the way it's going to be done. It should be handled regional specific because there are certain cultures out there that have strong opposition to this. Out of respect for those individuals, our little region decided that we were not even going to address it. Out of respect for those cultures that find it acceptable, we
decided just to defer the issue. At the rate this is going, I don't think we're going to do that next time. I think that we'll have to end up having to have a stand in this and stating our reasons why.

I think if statewide proposals are going to come up, especially if they do not come from the regions, that people should really think about the impact it's going to have on Alaska. In particular, our various cultures.

Thank you.

CHAIRMAN DEMIENTIEFF: One thing I forgot to mention is that we have heard testimony that there are no conservation issues out there. In the year that the regulation has been on the books, I believe it can stand for another year while people do their work. I don't think we're going to create any conservation concerns at all. I just forgot to mention that in my opening remarks. Other remarks, please.

John.

MR. LITTLEFIELD: Thank you, Mr. Chair. I'd like to echo the comments of the previous speaker. We were concerned and have been on record in the Southeast Region of having things coming from the top down. We clearly have stated that ANILCA was meant to enable a process where rural residents had a meaningful part of it and these proposals are supposed to come from the rural residents who are out there and in their own specific regions bringing these forward.

I'd also like to note, Mr. Chair, that you said you wouldn't support 03 either. What we did, 03 was submitted by the RAC, but it incorporated many of the things that 01 did with the exception of the commercialization, which we never talked about at all on 03. So we felt it was appropriate just to address the statewide one, but our comments are specific. We recognize the taboos in the other areas. The recommendations we made were for Units 1 through 5. We did not include the others, the 9-C, the 20, we didn't even talk about them. It's not our place to decide what is correct for others. We believe that 01 as modified by the Southeast Region affects the Southeast Region only.

I guess I could go either way. The position of the Council is to support 01 as modified. We
were adamantly opposed to the (j)(8) inclusion.

but I thought we were going to talk about the State first
and I had a couple comments about some of the things they
said. There was no tracking system. Well, in Southeast
Alaska in particular, under the Federal regs in Sitka
we're allowed one bear every four regulatory years. Now,
to take that bear under the Federal system, we're
required to have a State registration permit. That's
tracking. In other words, you can look on a permit and
see that I've taken one bear every four years and if I've
got 120 claws, I'm a bad boy, shouldn't have done that.
It's trackable. There are five permits per year that are
allowed for educational permits and that's under a
Federal permit, also a tracking mechanism. These bear
are trackable.

I guess that's all I have for now, Mr.
Chair. I did want to respond to some of what the State
said and I'm going to have a lot more to say about this
before we're done. And 03 was actually a proposal from
the bottom up. It came from us. We thought these were
appropriate.

So we are opposed to Proposal 01 concept,
how it came downhill, and we're opposed to sending it out
to all the other regions who the year before told us that
they didn't want these things to apply to them. These
regulations on brown bear do not apply to them because of
cultural taboos and to send it to them, as Ms. Cross
said, is kind of an affront on a statewide motion, but we
tried to make the best out of it as we could and they
certainly have the right to comment. We respect all of
that. It is a statewide proposal because it deals with
handicrafts, but we need to respect the cultural taboos
in those regions where they said they don't want to
participate in this. I think we should honor that.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Tom
has a comment quickly.

MR. BOYD: Mr. Chair. And I make this
with all due respect to the comments that have preceded
me. In terms of the concerns about whether this proposal
is top down or bottom up, I think it's important to keep
in mind that the proposal was intended to clarify what
done. There wasn't an intent to try to recreate the
wheel here, but to provide clearer language in the
regulations about what the Board's intent was. As the
administrating agency, I think it's very important as we
run into problems in administering the Board's
regulations that have come about through very intensive
deliberation with the Councils that we bring our concerns
to the table as well. And that's what I think we've done
here.

The intent of the Board, in terms of
clarifying the definition of what's meant by a
handicraft, in terms of clarifying the definition about
what is meant by skin, hide, pelt, in terms of clarifying
the intent to prevent commercialization of something that
is customary and traditional, so that is why we brought
it back to the table and I think it's very important that
we do that. If we wait for this to come from the bottom
up, we may not have clarity. We're the ones that have to
explain this to the public and we need clear definition
in our regulation in order to be able to do that.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Anybody else. Keith.

MR. GOLTZ: There is some tension between
bureaucratic requirements and the major themes of ANILCA
and we're probably in one of those melancholy situations
now. I think it's clear that the statements by the
Chairman and by Grace and by John are constant with the
major theme of ANILCA. It's meant to start from the
bottom up. Sometimes we stumble, but that is clearly the
engine that drives what we're doing here.

Before we get too far away and I don't
know where this is going, but there are some record gaps
I think and I'd like to ask the State for a couple
clarifications. One I think is central and that is the
recent changes in the State regulations. I don't see
them in my handy dandy and I think if we're going to
cooperate in this area we have to know what those changes
are. Could you tell us, if anything, what the State
Board of Game did
and if they didn't, tell us what the requirements are
under State law for sale and use of handicrafts.

MR. HAYNES: Mr. Chairman, I'm going to
derer to Department of Law to respond to that.
MR. DOUGHERTY: Thank you, Mr. Chairman. This is Steve Dougherty from the Department of Law. The State regulations regarding sale of game meat, furs and hides are found at 5AAC92.220. Those regulations do allow the sale of fur in handicrafts of bear, but they do not allow the sale of the claws or other nonedible parts of the bear.

MR. GOLTZ: Is there a salvage requirement and, if so, what is it?

MR. DOUGHERTY: Yes, I believe that there is a salvage requirement. It's kind of convoluted here, so I'll have to track it out. I think it's under Section D.

MR. HAYNES: Mr. Chairman, there is a salvage requirement of bear meat in some instances. It's not a statewide requirement for all bears that are harvested. Mr. Regelin may want to add something.

MR. REGELIN: Mr. Chairman. For brown bear and grizzly bear, under general hunting rules for residents or non-residents, to salvage the hide and the skull, which includes the claws, you're not required to salvage the meat, but we have several areas throughout Alaska, mostly in Western and Interior Alaska where we have subsistence bear hunting areas and in those areas it's a requirement to salvage the meat and it's up to the person if they want to salvage the hide then.

CHAIRMAN DEMIENTIEFF: So I guess the bottom line is that the State regulations are also tailored to specific areas, if I'm understanding the both of you gentlemen. I guess that's the point I opened up with. It works. Do you have enforcement problems that you're aware of?

MR. REGELIN: I'd like to make a general comment and then talk about your specific question. I agree with Dr. Wheeler that passing these proposals is not going to increase legitimate subsistence harvest. It's small and it's not going to change the people that take a brown bear for the meat or other purposes, subsistence purposes. However, we all know that when people have the opportunity to make significant amounts of money through illegal activity and there's very little chance of them getting caught or punished, there's going to be a small number of people that are going to take advantage of that system. That's what we're worried about.
about. We know that claws from brown bears can be sold for significant money, up to about $1,500 per brown bear for just the claws from the front and rear paws.

So we see a need to minimize the commercial sale of bear claws for brown bears at least while allowing the use and trade of claws for cultural purposes and regalia. We've never objected to that. I have a high degree of concern with the wide-open sales and, to me, that's a major leap when you move from sale among rural Alaskans for cultural purposes and move it into tourist shops across Alaska and I think that's a big thing. I don't mind the idea that someone has a small business and handles a few claws a year that he or she has taken themselves, but having it wide open in tourist shops that really bothers me.

When a person out there in the woods has a bear, has the claws, you're right, we can track that through our registration system, but once those claws enter into commerce, we don't have a way to track where they came from, whether they were from Kodiak or Southeast Alaska unless we put in some kind of requirement that the people who buy these claws have to keep records of where they purchased them and there's no regulation on that right now.

We know there is a market out there and people can make significant amounts of money. So I guess what we were trying to do is make sure that we meet the subsistence needs and the cultural needs for using bear claws and regalia and the trade and everybody can use them and have them, but to keep it out of the full-blown sale of these claws to anybody that wants to buy them. I guess that's what we've been trying to tell people and what we're trying to do here. So that is all I had to say.

CHAIRMAN DEMIENTIEFF: I have one more comment. Dan, if you can indulge me for a moment. There's really good money in the sale of moose and caribou horns right now. Doggone good money, but I simply do not see people going out purposely to shoot more moose or caribou just to get those horns to sell. That's not what really goes on with those. But I think everybody here knows that there's good money in the sale and utilization of those antlers for all kinds of things. You see them everywhere. Dan.

MR. O'HARA: Mr. Chairman. One of the
things that we did in the Bristol Bay region when it came
to the sale of subsistence food among each other was to
have a paper trail to follow it up. When this Board met,
the law enforcement department, hands in the air, saying
we can't follow that thing. That's too bad, you know.
Bristol Bay says there will be a paper trail on
subsistence food sold to one another and the same should
be on the brown bear, black bear, anything. There needs
to be a paper trail on that. We're not asking just an
open sale on these items. There needs to be a permit.

Every fish is named and numbered, all the
animals are accounted for. You're going to have five
cops in those tents and lodges and bear camps on the
Alaska Peninsula, you'll have five law enforcement
officers every day looking for phone number, Social
Security number, address, where you're from and write
down your permit number. They're everywhere. It's an
enforceable thing that can be done.

However, I think that the only salvation
we have here today is to table this thing. I believe the
State of Alaska has an excellent point. If we are going
to do this for sale, then there needs to be a paper trail
to follow it up. If it's illegal, go to jail like the
next guy. Some of us need time off anyway.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Thank you, Mr. Chair.

I also have a question for Mr. Dougherty, department of
law. I refer you to Page 197 in the proposed regulation
that the Fish and Wildlife submitted and it has to do
with 25 (j)(8) in bold. You just read the regulations
that you referred to under the state sale of handicraft
articles and what I'd like you to do is just look at this
and strike including claws. Just strike that out and
tell me whether that's allowable under State law or not.
In other words, it's my interpretation that if we were to
enact (j)(8), we would be more restrictive than what you
just read out of the book. If you could comment on that,
please.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Thank you, Mr. Chair. I
guess, as we predicted, this is going to be complicated
and a lot of things to go through. I wanted to go back.
Polly, if you can remind us, how many years the black bear allowance for making and selling handicrafts has been on our Board books. I know we did brown bear most recently, but that's been a statewide allowance.

Thank you.

MS. WHEELER: Mr. Chair, Ms. Gottlieb.

The Federal Board passed the black bear regulations in 2002.

MS. GOTTLIEB: If I could just ask a follow-up. So have we found difficulties from that as a result of that?

MS. WHEELER: Mr. Chair, Ms. Gottlieb.

Not to my knowledge, no.

CHAIRMAN DEMIENTIEFF: John did ask a question of the State. Are we prepared to answer that?

MR. DARBEY: Through the Chair. Where the sale is legal, there is no restriction under State law as to whether it can be sold by a business.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Other discussion.

MR. WILDE: Mr. Chairman. A lot of our people back home they don't believe in selling a part of subsistence what they catch. We can't even make our own regulation that we want to because we have too many regulation already. We have to carry two regulations to go out hunting. People scared all the time seems to me try to go subsistence. Like what you guys say and understand that we try to make a regulation for ourselves, like a no fly zone area. They say well you have to go to some other organization, like State or Federal. That's the problem we have out there.

You ask what did you do with the claws of the bear. I'll tell you what they do with them. Usually the people, elders and some young people, dancing out their Eskimo dance, they've got some in their belt. They don't sell them. I never hear anybody that sells them. They don't like to sell a part of the subsistence, but you can see them. They use them for traditional. The elders are teaching the young people not to forget their
traditional way of life.

CHAIRMAN DEMIENTIEFF: Thank you.
Anybody else.

MR. BSCHOR: Mr. Chair. A clarifying
question for Mr. Littlefield. Is it the intent of the
Southeast Council to allow handicrafts of bears to be
taken in those units to be sold just in those units or is
it your intent they be sold statewide?

MR. LITTLEFIELD: Thank you, Mr. Bschor,
through the Chair. Our intent is to sell them wherever
you feel like it. The criteria was taken in Southeast.
That's what we talked about. If you took the bear in
Southeast, it was to be legal to sell those claws.

CHAIRMAN DEMIENTIEFF: And you have
tribal members all over the state. As I understand, the
opposite clan that the Tlingits operate under -- I mean
your people are not all just living in those units.
They're everywhere, is that correct? I just want to get
that on the record.

MR. LITTLEFIELD: Yes, Mr. Chair, we're
everywhere. The SEAlaska Corporation holds meetings
routinely. I think they had three meetings this year in
the Lower 48. In recognition of that, Tlingit and Haida
held a convention in San Francisco. The Tlingit, Haida
and Tsimshean are well distributed up and down the coast.

If I can talk a little bit about our
culture, which comes back to your point, Mr. Chair,
region specific. In our culture, what happens in a
potlatch, a (in Tlingit), if a big man was giving a
party, he would ask for something that he wanted to be
made to be made by the opposite clan. In other words,
you don't have your own clansman make this. You
commission someone, your brother-in-law, they call them
(in Tlingit), you commission them to make something for
you. When the party occurs, you bring this out and it
becomes at the party what's called (in Tlingit), a
masterless thing, something that's owned by the clan. It
no longer becomes yours. It's brought out. At that
point it's not sold anymore. When that happens, it's
taboo to sell that after its been made into a piece of
(in Tlingit). But before you do that you have to buy it
because at the same (in Tlingit) potlatch, the big man
that asked for that piece to be made will pay out of the
money that's collected at the party, in public will pay
that person for the duties that they did. If they were
to take a claw and make a claw headdress and it was to
become part of the bear clan (in Tlingit), they would
then pay that person in public and it could be what you
may call significant. We usually try to pay our debts
and make sure people are well-compensated for things that
we ask them to do. This has happened forever, since time
immemorial.

Like I said, I agree that the sale of (in
Tlingit) is not allowed. That's something that's against
tradition. But to make the (in Tlingit) in the first
place commonly required you to use money. In the old
days, it could have been blankets or pelts or bear hides
or something. That was the money at that time, but now
we use cash. So we've been doing this forever.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion. Todd.

MR. LOGAN: Thank you, Mr. Chairman.
I've enjoyed and found this conversation very helpful.
However, I feel a little stymied only in that there are
so many issues involved here and we've heard a lot of
good comments on all of them. I think Tom Boyd this
morning talked about the possibility of us working
sequentially through this issue, the three main elements,
and I guess it would be helpful to me at some point to
get there and, therefore, I would have some thoughts and
some things I would be willing and able to propose but
only if we can focus along those lines.

Thank you.

CHAIRMAN DEMIENTIEFF: Yes.

MR. ROEHL: Thank you, Mr. Chairman.
I've been struck by the testimony I've heard yesterday
and today and during some of the testimony I can't help
but be reminded of the Chicken Little story. I'd like to
remind you that the sky is not falling. It seems like
we're trying to take these cookie cutter approaches and
apply them to all areas of the state. We've got cultural	
"taboos against any kind of bear utilization in some
areas, but in other areas, like Bristol Bay, it's kill
whatever is there. These animals are taken for
subsistence purposes. They're not taken for just the
claws only or the hide or the skulls. Every part of the animal is typically used. I would wager that most of the animal use in the state, whether it be fish or wildlife, is taken by game hunters and sports fishermen and not subsistence users. We need to look at how much of the pie is used by what.

But I agree with you, Mr. Chairman, there should be a regional approach to bear use. You can't have a statewide policy. I don't think it will work.

CHAIRMAN DEMIENTIEFF: Thank you. Todd, I should have pointed out, depending on what the motion is, we do the three-part approach to it at that time. This is just general discussion. People have things they want to say and that's what we're looking for right now. Anybody else. Sue.

MS. ENTSINGER: If it's okay, I'd like to ask a few questions of the State to bring out some things that I think maybe they're not thinking about. We got into this questioning at our Regional Council meeting. Right now, currently, both black and brown bears can be sold as a handicraft without claws in the state of Alaska. What tracking system do you have or do you have any concerns on brown bears in Southeast Alaska?

MR. HAYNES: Through the Chair, Sue. The issue in this case, the selling of fur, is the issue of claws. State regulations do not define claws as being part of the fur. Federal regulations do. Claws are the items that have, in some cases, substantial economic value. Because State law and State regulations do not allow the sale of bear claws, we don't have that same concern.

MS. ENTSINGER: Yes, thank you. I'd like to continue. Wayne, you might want to get into this. What I'm trying to say is like we look at the Federal law, I understand you're looking at claws being the problem, but you're bringing out points of concern about the resource and I could bring out points of concern about the resource where you're not -- in a subsistence situation, you have to bring out the meat and you have to eat it, but in the State, most of it you do not. So I can see that if you guys are bringing out these points that there's this huge concern. Why aren't we looking at the same concern, particularly in brown bears, as Southeast?
I had brown bear guides contact me and big concerns. Sue, what did you do? This is terrible. They're concerned that there's going to be -- even with the State law they were upset about it and they're concerned that it might have an impact in the future of the brown bear in Southeast. I guess I just want to bring it up because I believe that you're bringing up concerns that are legitimate, but I believe that you need to think about it on the State side too.

CHAIRMAN DEMIENTIEFF: Pete.

MR. PROBASCO: Yes, Mr. Chair. I've been sitting here listening to the discussion of how bears are utilized under the Federal subsistence program and I think there may be some misunderstanding, but I just want to make it very clear that under the Federal system the bear cannot be harvested only for handicrafts. It has to be harvested for consumption. You have to eat the bear. It can't be targeted for just handicrafts. I think that's important to understand under the Federal subsistence program.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Raymond.

MR. STONEY: Thank you, Mr. Chairman. I've got a question to the State about the proposal on this booklet Federal regulations. It's on Page 15. It says you may sell bear parts in Game Units 1, 2, 3, 4, 5, 9-A, B, C and E, 12, 17, 20 and 25. I'm speaking on behalf of Northwest Arctic Regional Council and our area because I represent 11 villages. Game Unit 23 is not listed in this booklet, so is it listed in the State regulations for selling bear parts?

MR. HAYNES: Mr. Chairman. The State regulations allow the sale of bear hides statewide in all units. The Federal regulation that was adopted last year I'll let one of the Federal Staff clarify to you the Federal regulation, but basically last year the Federal Board adopted a regulation that allows the sale of bear hides with claws attached to be used in the making of handicrafts for sale in three parts of the state, not including Unit 23. Brown bears specifically. Federal Staff may want to provide additional information about the Federal provisions, but that's my understanding of how this works.
MR. STONEY: The reason why I ask this question is because it's very confusing for our area up there. You know, they've got eight different land managers, so depending on where you get the bears, sometimes you're just within 10, 15 feet away. Evidently, if somebody did harvest a brown bear in State land or Federal land, what's the difference. That's what people are very concerned about in our area. I have to explain to our people when I get home about the State regulation of selling bear parts.

Thank you, sir.

CHAIRMAN DEMIENTIEFF: Paul.

MR. ROEHL: Thank you, Mitch. I was just thinking, some people may have taken my last comments a little bit too literally. For the record, I'm from Dan O'Hara's region, too. Being Alaska Native, we don't waste our resources, so my characterizing Dan as being a shoot anything that moves kind of person really doesn't apply.

Secondly, in regards to which regulation you pass, you'll have scofflaws no matter where you go. I mean just think of all the poor moose in Kincaid Park that are running around with arrows sticking out of their behinds. You've got bad eggs no matter what you do.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead.

MR. BSCHOR: Mr. Chairman. Just a couple thoughts and comments first. We do have a regulation that currently exists, so what we're talking about here is trying to make an attempt at clarifying that reg. I think it's important to look at those sorts of things if we can make them better. I also think that hearing the conversation this morning about the restrictions that the State has on selling materials being more restrictive than what we have -- or we're more restrictive than -- that takes care of the problem basically is what I'm trying to say. I'm not too sure I'm real clear on that, but would be interesting hearing more, but that's new to me.

I think there should be language that we come up with as a Board demonstrating our support or
rejection of the proposals made by the Regional Advisory
Councils. I think the intent of the Board, if I'm not
mistaken, is to disallow significant commercial
enterprises associated with the sale handicrafts. If I'm
wrong, please correct me.

I also understand and have heard that the
conservation problem -- we've only had one year of
implementing our current regulation. Apparently, at this
point in time, it doesn't appear to be a problem. I'm
not sure that I hear that there's a conservation problem.
I hear a lot of speculation about a law enforcement
problem as far as chain of custody of materials and we
have that no matter whether it's subsistence or regular
taking of bears. In fact, subsistence is much tighter, I
think, as far as that chain of custody even at current
levels.

The only difference we're talking about
between the regulations at this point is the use of bear
claws and I do have a question of the State. Does your
regulations specifically say that bear claws from black
bears or brown bears can't be sold or is it just
inferred?

CHAIRMAN DEMIENTIEFF: Wayne.

MR. REGELIN: Mr. Chair. While they're
looking that up and then I can read you the law, but I
wanted to clarify something. State law doesn't allow the
sale of black or brown bear hides in the raw. What it
does allow is a person that's harvested a brown bear to
make that into a handicraft or for someone who has a bear
hide to give it to someone to make it into a handicraft
and then they can sell that handicraft. We, since
Statehood, have not allowed the sale of raw bear hides
like we do fur and it is specific, it prohibits the sale
of claws.

CHAIRMAN DEMIENTIEFF: If we're done with
general discussion, we can move on to the format that
we've laid out. We're ready to proceed.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: We've had a lot of discussion
on what the State actually allows and doesn't allow.
It's kind of interesting because it is in the handy dandy
in case a person wants to look on Page 22 and Page 27.

Handicraft, a finished product in which the shape or appearance of the natural material has been substantially changed with skillful use of hands such as sewing, carving, etching, scrimshawing, painting or other means and they added and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

As to whether it can be sold any place, it says you cannot sell any part of any bear except an article of handicraft made from the fur of bear. There are no restrictions on where you can sell it, who you can sell it to, what kind of business you can sell it with. And skin, hide and pelt are all the same and mean any untanned external covering of any game animal's body but do not include a handicraft or other finished product. Skin, hide or pelt of a bear means the entire external covering with claws attached and they don't have the definition for fur in here, but fur did not include claws.

So, basically, the State allows any sale of the fur made into any handicraft any place. The only thing different is the claws. So, technically speaking, your question, Denny, the regulation that we have in front of us is more restrictive on everything except claws.

CHAIRMAN DEMIENTIEFF: Thank you. Pete.

MR. PROBASCO: Mr. Chairman. In response to Mr. Bschor's questions, the Staff Committee also wrestled with the issue of State regulations and Federal regulations. If you look at the Staff Committee's recommendation as a whole, taking away that one sentence on 25(a), you'll see under 25(j)(8)(A) and (B), the regulations specifically addresses claws only. So all other legal parts, fur, would fall under the same umbrella and be utilized in the same manner as State regulations.

Then to address the Board's concern of commercialization, they inserted 25(j)(8)(C) as far as a significant commercial enterprise. So, to keep our regulations so they weren't more restrictive, the Staff Committee went into 25 and addressed it to only claws and then the Staff Committee also agreed with the Southeast Regional Advisory Council's recommendations in their
Mr. Chair.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Thank you, Mr. Chair.

This brings up another point. The Southeast Regional Advisory Council has discussed before and had displeasure with the Interagency Staff Committee rewriting a proposal and then bringing it to you at this Board. What went out statewide was the proposal \((j)(8)\) in the book. That went out for all the regions to look at under Page 197. Somehow the Staff Committee recommendation has morphed into something else, which there was no debate on by the Regional Councils that were affected. This is part of an ongoing complaint that we have, is that we object to the Interagency Staff Committee coming up with some new regulations or suggested regulations that haven't been vetted by the Council. The proper place to do this, if they truly believe that \((j)(8)\) should be split into (A), (B) and (C), then that's what should have went out in the field. There was no mention of (C) anywhere in the original proposal and it has not been reviewed by the Regional Councils. Again, this has been a sore point with us and why we took action on all of \((j)(8)\). We did not know about (A), (B) and (C) at our meeting and I don't believe the other Councils did either.

CHAIRMAN DEMIENTIEFF: Dan.

MR. O'HARA: I think in lieu of that, since we have not as a Council had the opportunity to look at what Staff has done, we probably should table this.

Thank you.

CHAIRMAN DEMIENTIEFF: I think we probably shared the general information. We do have a conflict. We are going to take a pretty long lunch break today and come back and do the procedure that was laid out after lunch. As I pointed out at the beginning of the meeting, we have a couple of employees that are up for some pretty prestigious Federal employee honors and there's a big luncheon that we have over at the Hilton. So I think we're just going to take a break now and we'll come back about 1:30. Does anybody have any real serious conflicts with that time frame.
MR. O'HARA: Do you think we'll be nicer after lunch?

CHAIRMAN DEMIENTIEFF: It worked yesterday. No, we just want to give it the time it needs, but also some of us feel the need to get over to that luncheon. Ralph.

MR. LOHSE: Mr. Chair, I just have one comment and one question that my neighbor brought up. One comment in response to Dan. I feel like I have to kind of stick up for the Staff and that shows one of the problems we have when we try one of these one shoe fits all type things. All of our different Councils gave the Staff different ideas and I think what the Staff tried to do is synthesize those ideas into something that tried to fit this one size fits all, which we can't do, and I think that's what's come out of this meeting, one size doesn't fit all. So I can't be too down on the Staff for coming up with wording that tries to take all of our ideas together and I'll stick up for them there -- this time.

The other question my neighbor asked, are we invited to the luncheon?

CHAIRMAN DEMIENTIEFF: I'll let the Federal employee honoree answer that. I don't know what the arrangements are.

MR. BOYD: Thank you very much. I'm not sure, frankly. I know you had to make arrangements in advance. Oh, there will be tickets at the door at the Hilton Hotel is what I'm being told.

MR. PROBASCO: Yes, there are tickets at the door, but, as you know, they go first come, first serve, so you do run that risk, but the intent was to have some tickets at the door.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We will recess until 1:30. Please, everybody, enjoy your lunch and we're all going to be touchy-feeling when we get back.

(Off record)

(On record)
CHAIRMAN DEMIENTIEFF: We'll call the meeting back to order. One of the things I need to note is that we did not have any requests for public comments on non-agenda items. So, having said that, we're done with that since we didn't get any requests. I hope everybody had a great lunch. I had a great time. I'm usually a recluse when I get to these regulatory meetings, but I enjoyed today, Tom's nomination for his award. Tom didn't, of course, win the big award, but he did win an award over there in addition to the certificate he got for being nominated. This is a personal note from a friend of his. We do get a little personal once in a while. The note reads, Tom, Vic said when we described the award, Tom doesn't need that fancy award, he has his wife, Sheila. We don't all get here alone. We all have somebody backing us up. We're most proud that -- I didn't realize it, but we all do a lot of tremendous volunteer work in different areas, but Helen Armstrong won her category in recognition of her 35 years of volunteer work. Community service award is what it was. So we just appreciate the fact that people who do volunteer sometimes actually get appreciated. So congratulations, Helen, for winning the award.

(Applause)

CHAIRMAN DEMIENTIEFF: With that, we're going to go back to discussion with regard to Proposal No. 01 and we'll just open it up at this time for further discussion. We haven't advanced to a Board vote and I think we have three different levels that we're going to take up and I'll let Tom introduce the first level and we'll discuss that and go to the second. We are not preparing for a Board vote at this time. We're just going to discuss the three different categories that were so successful in working out a solution in Southeast. Go ahead, Tom.

MR. BOYD: Mr. Chair. The first item, as I had outlined it, would have been under Section 25(a), which are the definitions of handicraft and the definition of skin, hide, pelt and fur. Do you want me to read those, Mr. Chair?

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BOYD: Under the proposed regulation, that would be 25(a), handicraft means a finished product made in Alaska by a rural Alaskan from nonedible byproducts of fish or wildlife which is composed wholly
or in some significant respect of natural materials in
which the shape and appearance of the natural material
has been substantially changed by the skillful use of
do hands by sewing, weaving, lacing, beading, carving,
etching, scrimshawing, painting or other means and which
has substantially greater monetary and aesthetic value
than the unaltered natural material alone.

The second definition would be skin, hide, pelt or fur means any tanned or untanned external
covering of an animal's body; however, for bear, the
skin, hide, pelt or fur means the external covering with
claws attached.

Now, there are variations on those as
provided by some of the Councils as well as by the Staff
Committee.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. I'm
just going to have him introduce all three of the areas
and as you're preparing your remarks, if you could let us
know which area you're going to address. Judy.

MS. GOTTLIEB: Mr. Chair, thanks. One
clarification from my notes. I believe only Southeast
RAC made any wording changes in that section.

MR. BOYD: That's correct, Ms. Gottlieb.

CHAIRMAN DEMIENTIEFF: Let's just get
them all out, Tom.

MR. BOYD: The second category would deal
with the selling and purchasing by businesses and that's
found under 25(j)(6) and (7). 25(j)(6) in the proposal
reads if you are a Federally-qualified subsistence user
you may sell handicraft articles made from the skin,
hide, pelt or fur of a black bear, including claws. And
under 25(j)(7) it says if you are a Federally-qualified
subsistence user, you may sell handicraft articles made
from the skin, hide, pelt or fur of a brown bear,
including claws, taken from Units 1 through 5, which is
in Southeast, 9-A through C, 9-E, which are in the
Bristol Bay Region and 12, 17, 20 and 25, which are in
the Eastern Interior Region.

And then item number three is the portion
of the regulations dealing with selling and purchasing
from businesses. I may have turned those around. Item
two dealt with selling of handicrafts made from
bears. The third category is selling and purchasing from
businesses. That's found in 25(j)(8). If you are a
business, as defined under AS 43.70.110(1), you may not
purchase, receive or sell handicrafts made from the skin,
hide, pelt or fur of a black bear or brown bear,
including claws.

Again, there have been modifications
supported by some of the Councils and the Staff
Committee.

CHAIRMAN DEMIENTIEFF: Thank you. Having
discussed, if there's a motion, I'd like to entertain
that at this time unless there's somebody who feels the
need for additional discussion. Yes.

MR. LOGAN: Mr. Chair. This is strictly
speaking to Section 25(a). We're breaking these into
three pieces. I'd like to move to adopt the
recommendation of the Eastern Interior Regional Advisory
Council with some modifications that were recommended by
other Councils and the Interagency Staff Committee.
Specifically what I'm moving to do, if you'll turn to
Page 208, this is the wording as laid out by the Staff
Committee, but it's an adoption of a number of elements
from the different Advisory Councils. So what I'm moving
to do is accepting the wording as laid out on Page 208,
the two sections labeled 25(a) with the addition of the
word drilling after the word painting. That's the only
omission.

So that is what I move, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Is
there a second to that motion.

MR. OVIATT: I'll second.

CHAIRMAN DEMIENTIEFF: It's been moved
and seconded. Discussion on the motion. Yes.

MR. ROEHL: It's a pretty good motion.
The only thing that bothers me about it is the inclusion
of the references to value, both monetary and aesthetic.
Value, in anybody's frame of mind, is highly subjective.
One man's trash is another man's treasure. We've all
heard that phrase. You can buy Elvis's half-eaten
sandwich for $25,000. I wouldn't pay a dime for it. So
any reference to value I don't like.

CHAIRMAN DEMIENTIEFF: I have a slight problem with moving ahead with that. To tell you the truth, I've been all over the place on this all day because there's been so much information gathered. But I guess the thing that I'm struck with is that of all the RAC representatives, we hear of sales only in Southeast and that's a one-time sale from one clan to another clan for ceremonial purposes and they're not resold. Chairman Littlefield was real eloquent in explaining that to us and I appreciate it. I still have a problem going forward. From the other RACs we heard of no sales by subsistence users. We've heard of utilization, but we haven't heard of sales. That's kind of where I have the problem. I still think it needs more work whether or not we adopt regulations today. We are going to have to still tailor regulations to the each region on how they want these things to be done and dealt with. So regardless, in our process we have very many issues that we've had to work on for several years before we got it right. This may be one of those instances. Go ahead. Other Board members. Todd.

MR. LOGAN: Thank you. Obviously, since I made the motion, it's obvious we support the language. We do think it's a significant improvement over where we are today. While it might not be perfect, I think it helps quite a bit. Specifically, Paul asked a question about the last sentence of the first paragraph, the statement the handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone. I agree. I think it sets the right tone and the intent. I don't know if it's problematic or not, but it is an interesting issue. I do believe I heard correctly this morning, and maybe this is a question for our State colleagues, that this is identical wording, at least in part, to the State definition of handicraft. If, for no other reason, unless it's truly problematic, I think whenever possible we try to mirror the State language as well, but please correct me if I'm mistaken on that.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Two comments. First, I did think I heard from some of the RAC members that they are, in fact, making and selling handicrafts. Secondly, the current regulation does have that last part of the sentence in there. It's on Page 212, is that right,
Polly? So this is not actually a change. This is identical to what we have right now. If there's a sentence that needs to be changed, then, yes, I would agree that needs to go back to the RACs for those who haven't addressed that part. Everybody, except Southeast, had no comment on that part.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion. Yes.

MR. LOGAN: If I may. I think there's many good reasons to have as clear definitions as possible with the permission of the Chair, Special Agent Stan Pruzenski with the U.S. Fish and Wildlife Service is here today and I think he could spend just a moment talking about why this definition largely will help in the enforcement angle, which I know is just one element of the reason to have clear regulations.

CHAIRMAN DEMIENTIEFF: Yes. Go ahead.

It is a privilege of Board members, as I said yesterday, that they can call on anybody even though we have a motion on the table.

MR. LOGAN: Thank you, Mr. Chair.

MR. PRUZENSKI: Thank you, Mr. Chair.

Again, my name is Stan Pruzenski. I'm the special agent in charge for the U.S. Fish and Wildlife Services Office of Law Enforcement here in Alaska. As Mr. Logan mentioned, I do agree that this, taken as a whole, significantly increases the enforceability of the definition of handicraft. There has been some discussion by folks today that there are still problems with it. It still gives enforcement officers some discretion to make the calls in the field and I think that's probably almost always going to be the case when we deal with something like this. I think it's incumbent upon everybody to be able to realize or to narrow it down as best we can.

I just have a couple comments here that I'd like to read if I may. Customary trade regulations are intended to allow qualified subsistence users to sell handicrafts fashioned from bear fur, hides, claws. If the definition of handicraft does not accurately reflect the Board's intent to allow the making and selling of bona fide handicrafts, then potentially every hunter becomes an artist or craftsman and can sell the nonedible byproducts of the bears.
We all recognize that there truly is a market for handicraft wildlife items, but we have also witnessed an ever-increasing market for raw parts. Many people will buy necklaces, key chains, clothing and general artwork fashioned from wildlife parts, but many are in the market for raw parts, be it the skull, teeth, claws or hide made into a rug.

One of the most frequently asked questions of our enforcement officers regarding the sale of handicrafts centers around the extent of alteration. One of the questions is what is the least amount of work that I have to do to make a wildlife item into a handicraft. Or the other is, if I do this such and such, will that make this into a handicraft.

As you all can imagine, the questions do not generally come from artisans or craftsmen, but from harvesters who are attempting to profit from their harvest. The incorporation of drilling as a method of alteration would lead to the conclusion that one would simply have to drill a hole in a tooth, a claw or other part to make it a handicraft.

This would clearly not be the case with the provision -- and I think that this is very important. It's not a change, but we need to all understand that this is a very important part of this definition. This clearly would not be the case with the provision that the item must be substantially changed. Some of us had talked about substantially greater monetary and aesthetic value that unaltered natural materials alone have. As Mr. Logan said, this kind of sets the tone. Clearly, our officers are not art critics or handicraft appraisers, but this language gives both users and regulators a sense of what is intended to be done to wildlife parts to convert them to handicrafts.

CHAIRMAN DEMIENTIEFF: Thank you. Paul.

MR. ROEHL: Thank you, Mr. Chairman. I guess it's the use of the terms substantially and aesthetic because those are two highly subjective terms. Who's to decide what a substantial increase in value is and whether or not something looks better natural or fixed somehow. It all depends on the user. Beauty is in the eye of the beholder. Todd also mentioned that this language pretty much mirrors the State's language, but we shouldn't be trying to fit our square pegs into the round holes. This is a Federal program. On the same token,
their definition of bear pelt is different than the
Federal definition. So it should be a two-way street if
we're going to try to make regulations match each other.

Mr. Chairman, I was wondering if I could
get a second on a motion to amend Todd's motion by
striking the last sentence relating to monetary and
aesthetic value of animal products.

CHAIRMAN DEMIENTIEFF: There is a motion.

MR. BSCHOR: I'm going to second that
motion just to get the discussion on the table a little
bit more.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Mr. Chair. I think I
didn't give Polly enough of a chance to answer my
question, so if I could ask her to speak now, please.

MS. WHEELER: Thank you, Mr. Chair,
Member Gottlieb. I think I wasn't clear earlier when I
spoke. The current definition of handicraft, which is
not the definition in front of you, the existing
definition in regulatory language mirrors State
regulation regulatory language and that was adopted by
the Federal program in 2002. So the existing regulation
is actually what's up there, but in the italics, not in
the bolded language, if that makes any sense.

So the modified language, which is on
Page 208, includes language to add additional
clarification, but that sentence Member Roehl had just
suggested be removed, that actually is in current
regulation, which was adopted by the Federal program in
2002 from the State language. And I would also add that
that language was taken from the Marine Mammal Protection
Act language of handicraft. So it actually, indirectly,
was a Federal thing.

The other thing is is that the definition
of handicraft applies to all handicrafts statewide.
Those that include bear claws, those that include muskrat
fur, so it's all handicrafts, not just bear claw
handicrafts. So hopefully that clarified some things
that weren't clear earlier.
Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion.

MR. ROEHL: Yes. I'm not sure which way I'm going to vote on the second to be honest because of the fact it was in there before. I just am still concerned that it may look like it's clearer and more specific for law enforcement officers, but, to me, I have a feeling that the judge is going to tell us whether we're right or wrong on whatever we come up with if we follow through with that because of the ambiguity of the wording. I'm prepared to hear other arguments, I guess.

CHAIRMAN DEMIENTIEFF: Anybody else.

Discussion.

MS. GOTTLIEB: Mr. Chair. Well, I guess our dilemma, as we were discussion before, is this is a statewide proposal, however we have comments carefully etched by the Southeast RAC that want this portion out and the other RACs did not make that comment. So I'm not sure if we want to start fine-tuning as we did previously with respect to brown bears and just say which region this would apply to or regions it wouldn't apply to.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion on the amending motion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none. All those in favor of the amendment, which is to strike the last sentence, please signify by saying aye.

IN UNISON: (Two votes)

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

IN UNISON: (Three opposing votes)

CHAIRMAN DEMIENTIEFF: The amendment fails. We now have the main motion before us.

MS. GOTTLIEB: Mr. Chair. I would like to discuss whether we could look at striking that language for only Southeast Alaska. I would like to make a motion that that last sentence be struck or that we...
have some language in there that that last sentence would
not apply to Units 1 through 5.

CHAIRMAN DEMIENTIEFF: We have a motion
to amend. Is there a second.

MR. ROEHL: Second.

MS. GOTTLIEB: Mr. Chair. I guess for
those who were also at the RAC meeting, my understanding
was this was carefully discussed at all the Regional
Advisory Council meetings and it was only the Southeast
RAC that specifically asked for this last sentence to be
struck.

CHAIRMAN DEMIENTIEFF: Thank you. Is
there any further discussion on that amendment. Todd.

MR. LOGAN: I certainly appreciate the
thought behind what appears to be going on here, which is
to try to accommodate individual councils wherever
possible, but I am concerned about the idea of a
definition, a statewide definition to start modifying
that region by region. I think there's a lot of logic to
talk about customized regional regulations associated
with take and things like that, but a definition of what
is or isn't a handicraft, to start slicing, dicing that
across the regions, I think is rather problematic, so I
guess I'd have a hard time supporting the motion for that
reason, even though I do greatly respect the need to pay
attention to what the regional advisory councils
individually bring in and what their individual needs
are.

CHAIRMAN DEMIENTIEFF: Thank you. Is
there any further discussion. I intend to support the
amendment because I think even though there's not much
snow left we'd have our head in the snow to not realize
that we are going to have to tailor these regulations to
the regions. There's just so many different diverse
utilization of this particular resource. Actually, I
like the amendment as far as that's a start in the
progress. I think it also sends a strong message to the
other Regional Councils that if there are specific things
to tailor, regulations to a specific region, to be able
to bring them forward. I, quite frankly, can't see that
problem as far as what I spoke about earlier this morning
in terms of tailoring to a specific area. Go ahead.

MR. OVIATT: Mr. Chair. I'd like to ask
Keith a question. Does the Southeast RAC's recommendation regarding this definition have deference under Section 805?

MR. GOLTZ: If it's construed as a taking regulation, I think the answer is yes, it does. I'm concerned about putting different definitions into different regions. I'm very much an advocate of each individual region being able to craft regulations that make sense to them, but what we're talking about here is crafting difference language that applies to different regions and I think instead of adding clarity we're adding anything but. I think we're making it very difficult for people to understand the regulations and even more difficult for enforcement to apply them. So although I can't say it's absolutely illegal to have different regulations, I'd certainly strongly advise against it.

To achieve the end of having tailored regulations, I would recommend that we look for other avenues rather than the definition. If you want to do that now, I can huddle with Bill and maybe we can craft a practical solution. If you want to do it later, defer this and give it back to the Councils, that's another option, too. But this particular method of achieving diversity I think is very problematic.

CHAIRMAN DEMIENTIEFF: Any further discussion on the amendment.

MR. BSCHOR: Yeah, I just want to say, Mr. Chair, that while I have concerns about the enforceability of the language, I have to agree on definitions we ought to be as close as possible so there's not a lot of confusion on the definition no matter where you are.

CHAIRMAN DEMIENTIEFF: Further discussion on the amendment. The motion to amend is to take out the last sentence with regard to Units 1 through 5, I believe. So that is the motion to amend at this time. All those in favor of that motion please signify by saying aye.

IN UNISON: (Three votes)

CHAIRMAN DEMIENTIEFF: Those opposed same sign.
IN UNISON: (Three opposing votes)

CHAIRMAN DEMIENTIEFF: Motion fails three to three. We now have the main motion in front of us as presented. Is there any further discussion on the main motion.

MR. BOYD: Mr. Chair. The main motion is as recorded on Page 208. What's shown on the screen is not complete. It also includes the definition of skin, hide, pelt and fur, which also appears under the annotation 25(a) on Page 208. I'll just read it.

Handicraft means a finished product made by a rural Alaska resident from nonedible byproducts of fish or wildlife which is composed wholly or in some significant respect of natural materials. The shape and appearance of the natural material must be substantially changed by the skillful use of hands by sewing, weaving, lacing, beading, carving, etching, scrimshawing, painting, drilling or other means and incorporated into a work of art, regalia, clothing or other creative expression and can be either traditional or contemporary in design. The handicraft must have substantially greater monetary and aesthetic value than the unaltered natural material alone.

And then skin, hide, pelt or fur means any tanned or untanned external covering of an animal's body; however, for bear, the skin, hide, pelt or fur means the external covering with claws attached.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. That is the main motion before us. Is there any further discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: I think we're going to go ahead and just do a roll call vote.

MR. BOYD: Mr. Chair. I'll start with roll call. Mr. Bschor.

MR. BSCHOR: Aye.

MR. BOYD: Mr. Oviatt.
MR. OVIATT: Aye.

MR. BOYD: Mr. Roehl.

MR. ROEHL: Aye.

MR. BOYD: Ms. Gottlieb.

MS. GOTTLEB: Aye.

MR. BOYD: Mr. Logan.

MR. LOGAN: Aye.

MR. BOYD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Nay. Motion carries. Second issue. I would just remind people I think these need more work and that's the only reason. I think it needs to go back to the RACs one more time and I really stand by that. That's why I voted contrary. Tom, go ahead.

MR. BOYD: Mr. Chair. Just briefly, item two included Sections 25(j)(6) and (7), which deal generally with the selling of handicrafts from bears.

CHAIRMAN DEMIENTIEFF: Thank you. Is there somebody prepared to make a motion.

MR. BSCHOR: Mr. Chair, I'm prepared to make a motion. I move to adopt the language proposed by Southeast Alaska Regional Advisory Council on Page 200 in Proposal WP05-03. This is one of these areas where I think if we want to regionalize the regs, we should do it. The language provides a special exception for Units 1 through 5 as recommended by Southeast Advisory Council and does not affect the other areas where Councils did not request a change. I do not believe that any conservation concern will result from this modified regulation since I don't expect any additional bears will be harvested.

The Southcentral Regional Advisory Council recommended modifying 25(j)(6) to allow handicrafts to be made of all nonedible parts of the black bear, excluding the gall bladder. The way this recommendation is presented it would apply statewide. In
order to apply statewide, I believe that this proposal would need to be proposed in a future regulatory cycle.

The Kodiak/Aleutians Regional Advisory Council proposed no longer allowing the use of claws to be used in handicraft articles made from the fur of a brown bear in Units 1 through 5, 9-A through C, 9-E, 12, 17, 20 and 25. The Kodiak/Aleutians area does not include any of these units and no proposal was made by the Regional Advisory Councils associated with these units to eliminate the use of brown bear claws in their handicrafts. Therefore, I believe that their recommendation is outside the scope of this regulatory proposal and if they want to make this change outside of their own area, this should be proposed in a future regulatory cycle.

CHAIRMAN DEMIENTIEFF: So we do have a motion. Is there a second.

MR. ROEHL: I'll second that, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Okay. Discussion.

MS. GOTTLIEB: Mr. Chair. Could I please suggested amendments.

MR. GOLTZ: I'm having a lot of trouble understanding our clarity on this and the others. I'm not sure I followed the motion, frankly.

MR. BSCHOR: The motion is to adopt the language proposed by the Southeast Alaska Regional Advisory Council on Page 200. It's also in WP05-03. That's for Sections 25(j)(6) and 25(j)(7).

MR. GOLTZ: It seems clear to me now that I see the text.

CHAIRMAN DEMIENTIEFF: Further discussion. Yes, Todd.

MR. LOGAN: Mr. Chairman. I have struggled and I've looked at these and given this a lot of thought and I feel, if nothing else, in an effort of full information or disclosure, I would, if it suits you, Mr. Chairman, to have Stan Pruzenski once again talk just a little bit about some of the possible law enforcement
issues with this approach.

CHAIRMAN DEMIENTIEFF: Sure. That's fine.

MR. PRUZENSKI: Thank you, Mr. Chair.

Stan Pruzenski again, special agent in charge of Fish and Wildlife Service. I understand the Board's intent to make Region or Game Management Unit-specific regulations, but for enforceability I think that may raise some concerns. Regional or Game Management Unit-specific regulations are very effective when they are incorporated to meet a specific conservation goal and deal with limits, methods and means and other harvest restrictions. They generally concern take of the animal and not with its utilization. Take regulations are enforced in the field when and where the fish or wildlife is taken.

Regulations dealing with wildlife utilization on the other hand usually have no connection to the field either in time, place or harvester. An officer contacting a successful subsistence user in the field generally knows or can easily determine, one, who the hunter is; that is, he or she is a Federally-qualified subsistence user. Two, when the animal was taken; that is, during the open season. Where it was taken; that is, in an area opened to hunting. And if the harvest was legal.

The trend toward creating region-specific regulations concerning wildlife utilization on the other hand makes enforcement nearly impossible. The current proposals dealing with sales of handicraft fashioned from parts taken from bears harvested in a specific Game Management Unit is an example. An enforcement officer encountering bear parts out of the field, for example at a residence or handicraft items for sale at a business, a crafts fair or on display for sale over the internet has no way of knowing when, where or by whom the original animal was taken.

Black or brown bear parts taken from Southeast have the same characteristics as those taken in Southcentral or the Interior of Alaska. To be enforceable, regulations concerning utilization in our view must cover species statewide.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.
Further discussion.

MR. ROEHL: I have a friendly amendment to the motion on the table. It seems that you can't hunt both black bear and brown bear in Units 1, 2, 3, 4 and 5. It appears that some may be harvested in some units and the other species may be harvested in the other. So I'd like to make a friendly amendment whereby the bears may be harvested in the units where allowed or where permitted or appropriate or something to that nature. I haven't had a chance to wordsmith it yet. It appears that black bear may be taken in Units 1, 2, 3 and 5, but not 4. And brown bear and parts from brown bear may be taken in Units 1, 4 and 5. So they don't have the same universal coverage in all five units.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion to amend.

MS. GOTTLIEB: I'll second. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Can I ask a question of Pete or Polly. Not to derail that we're talking about handicrafts, but we went through a pretty long process on customary trade where we also talked about some exchange, trade, sales and did we not come up with some regional specific regulations?

MR. PROBASCO: Yes, we did. Mr. Chair, Ms. Gottlieb. I'm just trying to remember which specific areas. I wish I had the regulation in front of me, but we did have some specific. Bristol Bay comes to mind, but I know that's not all inclusive there.

CHAIRMAN DEMIENTIEFF: I think you basically answered the question as far as I can see, so that's on the record. Go ahead, Pete.

MR. PROBASCO: Mr. Chair. Just to talk to Mr. Roehl's motion there, Mr. Bshor's motion came from Page 200, not the Staff Committee proposal and it does include Units 1, 2, 3, 4 and 5 for black bear.

MR. ROEHL: I'm sorry. I was given bad advice.

CHAIRMAN DEMIENTIEFF: Go ahead.
MR. ROEHL: So, Mr. Chair, I'll withdraw my motion to amend. It was a friendly amendment.

CHAIRMAN DEMIENTIEFF: With consent of the second?

MS. GOTTLIEB: Yes.

CHAIRMAN DEMIENTIEFF: Okay. The motion to amend is withdrawn. Terry.

MR. HAYNES: Just a point of clarification. I was following Mr. Roehl's amendment. If I'm not mistaken, there is no Federal season for black bear in Unit 4 and I think the same holds true for brown bear seasons in Units 2 and 3, so I was thinking he was addressing that aspect.

CHAIRMAN DEMIENTIEFF: Pete.

MR. PROBASCO: Mr. Chair. I think it's just an attempt, if I may, for Mr. Bschor to define the Southeast area. That's not to say in the future you may not have seasons in 4 or those other areas, but it just encompasses Units 1 through 5.

Mr. Chair, Mr. Knauer is just clarifying that the number of black bears or brown bears in those respected units are very few if any. There's differences of opinion if there's bears in those units or not. However, either including it or omitting it does not change the intent of the definition as far as it applies to the handicraft articles for the Southeast area.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: If there's no further discussion, all those in favor of the motion please signify by saying aye.

IN UNISON: (Two votes)

CHAIRMAN DEMIENTIEFF: Those opposed same sign.
IN UNISON: (Three votes)

CHAIRMAN DEMIENTIEEFF: Roll call vote.

MR. BOYD: Mr. Chair. A roll call vote on the main motion. Mr. Bschor.

MR. BSCHOR: Oh, this is the main motion. I thought we were dealing with the amendment.

CHAIRMAN DEMIENTIEEFF: No. The amendment was withdrawn.

MR. BSCHOR: Oh, I'm sorry.

CHAIRMAN DEMIENTIEEFF: It's the main motion. Everybody clear now where we are? This is the main motion.

MR. BSCHOR: Aye.

MR. BOYD: Mr. Oviatt.

MR. OVIATT: Aye.

MR. BOYD: Mr. Roehl.

MR. ROEHL: Aye, aye, aye.

MR. BOYD: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. BOYD: Mr. Logan.

MR. LOGAN: Nay.

MR. BOYD: Mr. Chair.

CHAIRMAN DEMIENTIEEFF: Nay. Motion carries. Third issue. Just a brief summary again so everybody knows where we're at.

MR. BOYD: Mr. Chair. The third item deals with the commercial aspects of the sales of handicrafts made from the claws of black and brown bear and it can be found under 25(j)(8).

Mr. Chair.
CHAIRMAN DEMIENTIEFF: We'll have the material on the screen here shortly. Is somebody prepared to offer a motion. Yes.

MR. LOGAN: Thank you, Mr. Chairman. I move to adopt the recommendation of the Eastern Interior Regional Advisory Council with modifications, including some of the wording recommended by Southeast Regional Advisory Council and other Councils as well as the Interagency Staff Committee. Specifically, I move to adopt the language as identified on Page 209, Sections 25(j)(8)(A), (8)(B) and (8)(C), as shown on the top of Page 209.

CHAIRMAN DEMIENTIEFF: Thank you. We have a motion. Is there a second.

MR. OVIATT: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion. Judy.

MS. GOTTLIEB: Yes. I was going to ask about the last part, significant commercial enterprise. Again, this is something we really struggled with when we were doing the customary trade regulations and my understanding of ANILCA is this aspect doesn't come into it, doesn't play into it and it applies more towards customary trade. If we could get some comments or clarification on that.

CHAIRMAN DEMIENTIEFF: Pete.

MR. PROBASCO: Ms. Gottlieb, I believe you're focusing strictly on (8)(C) and the intent of that language was to get at trying to find a significant commercial enterprise which is larger than small businesses, allowing that to occur. Granted, there are problems with that language, but that's where the Staff Committee landed with that language.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion.

MS. GOTTLIEB: Mr. Chair. I guess I'm reflecting on some of the comments we heard before. The Regional Advisory Councils had not seen this language, so this portion might be one that might be good to have either more discussion on here or at the next round of
CHAIRMAN DEMIENTIEFF: We have heard testimony that people into crafts have to have a business license. We may need a tabling action just to get it back for a little bit more work. We've heard lots of testimony that they have to have a business license. I think your point is well taken, Judy.

MR. LOGAN: Mr. Chairman, I apologize. I think I've helped kind of muck this up just a little bit. There are obviously multiple copies with multiple wordings of these different things in here and I'd like to either retract or modify the original motion I made because the wording I pointed to was not my intent. So I guess with permission if I can either start over or retract or correct or whatever, but I did make a mistake in that I referenced some wording, which was not my intent.

CHAIRMAN DEMIENTIEFF: So you're withdrawing your motion, is that what I'm hearing?

MR. LOGAN: Yes. If I can do that, that would be the cleanest way to restart this if I can withdraw my motion.

CHAIRMAN DEMIENTIEFF: Consent of the second.

MR. OVIATT: Yes.

CHAIRMAN DEMIENTIEFF: It is withdrawn, so if you want to rephrase it.

MR. LOGAN: Thank you. Like I said, I do apologize but there is a lot of material here and multiple versions within the book. What I'd like to do instead, if I may then, is to send around the language that I would like to move and this is language specifically with reference to the Sections 25(j)(8)(A), (8)(B) and (8)(C) and specifically the language deals with excluding the business transactions and includes an addition of the language associated with significant commercial enterprise. So please ignore the page except for the last three paragraphs as what we're specifically addressing at this time.

CHAIRMAN DEMIENTIEFF: We're going to take a short break to review this. Let's not go
anywhere.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Okay. Judy.

MS. GOTTLIEB: Thank you, Mr. Chair and....

MR. BOYD: We have a motion on the table.

CHAIRMAN DEMIENTIEFF: Oh, I'm sorry. Yeah, we do have a motion on the table.

MR. BOYD: I don't think it's been seconded.

CHAIRMAN DEMIENTIEFF: No, we didn't. I don't think we got a second, so we'll just rule that motion as failed for lack of a second. Go ahead, Judy.

MS. GOTTLIEB: Thanks, Mr. Chair, and thank you, Todd, for handing out this language. However, I think we probably all need a lot more time to look it over and evaluate what the impacts or effects could be or maybe how to make some improvements. I think it would benefit from a greater range of discussion. So I would move that this Board postpone discussion on Section (j)(8) until next year's wildlife regulatory meeting.

MR. OVIATT: Mr. Chair.

CHAIRMAN DEMIENTIEFF: There's a motion on the floor.

MR. OVIATT: Point of order. I don't believe we ever called for a second on the earlier motion.

CHAIRMAN DEMIENTIEFF: I did right before I ruled it. I looked around. We noted we didn't have a second.

MR. OVIATT: I would have seconded it.

CHAIRMAN DEMIENTIEFF: Yeah, I understand, but I did notify that we don't have a second for it and that would have been your opportunity to do
1 it. You don't actually call for a second like that. I
2 mean you have the opportunity to do it though. I'm
3 sorry. I don't mean to make you feel disenfranchised.
4
5 MR. OVIATT: My mistake then. I missed
6 the opportunity.
7
8 CHAIRMAN DEMIENTIEFF: Okay. Is there a
9 second on Judy's motion.
10
11 MR. ROEHL: Mr. Chair, I'll second.
12
13 CHAIRMAN DEMIENTIEFF: Discussion on the
14 motion to postpone.
15
16 MR. BSCHOR: What specifically does that
17 mean?
18
19 CHAIRMAN DEMIENTIEFF: That means it
20 comes back next May.
21
22 MR. BSCHOR: It's whatever language and
23 discussion that's been held so far would be considered in
24 further deliberation of this until next May?
25
26 CHAIRMAN DEMIENTIEFF: Right. All the
27 substitute language, the original proposal, all that
28 stuff will go back out for review on that section. Go
29 ahead.
30
31 MR. BOYD: Mr. Chair, excuse me. I have
32 a point of order. I think to postpone to a time certain
33 you need a motion on the table. The motion to postpone
34 is a subsidiary motion to a main motion. When you
35 consider a motion to postpone, you're basically putting
36 off or delaying action on a decision. At that point, all
37 you're discussing is the time of the postponement and
38 that discussion and a majority vote is required to adopt
39 a motion to postpone, but you need a main motion to
40 postpone.
41
42 Mr. Chair.
43
44 CHAIRMAN DEMIENTIEFF: Who bought you
45 that book anyway? Okay. If we're going to get
46 technical, I know that the other part of the situation is
47 that people want to go forward with the bulk of it except
48 for the one clause. Given that, I don't know with the
49 maker or the second, otherwise we're discussing a motion
50 to postpone (j)(8).
MR. OVIATT: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. OVIATT: I would propose a motion that we adopt Staff Committee's recommendations for 25(j)(8)(A), (B) and (C).

CHAIRMAN DEMIENTIEFF: We do have a motion on the table.

MS. GOTTLIEB: Mr. Chair. It sounds like I jumped ahead on wanting to postpone something we didn't quite have here, so I'll withdraw my motion to postpone.

CHAIRMAN DEMIENTIEFF: Consent of the second.

MR. ROEHL: I'll consent to her speedy motion.

MR. OVIATT: Mr. Chair. I'll propose a motion that we adopt the Staff Committee's recommendations for 25(j)(8)(A), (B) and (C) as outlined on Page 209 of our book.

CHAIRMAN DEMIENTIEFF: Okay. We have a motion. Is there a second.

MR. BSCHOR: Second.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I still believe that the discussions we've had all day today have shown that there's probably many more discussions that can and should take place amongst the RACs and I would like to postpone this discussion, this motion on (j)(8) until we meet again next year on the regulatory wildlife cycle.

CHAIRMAN DEMIENTIEFF: There is a motion. Is there a second.

MR. BSCHOR: Second.
CHAIRMAN DEMIENTIEFF: Discussion on the motion to postpone this until next year.

MR. BSCHOR: Mr. Chair. I would like to reiterate that I think there is much concern about the future in the process of not only vetting this language and having an opportunity to do that, but also I think there's a lot of, in my opinion, that there's common ground in the intent to not commercialize the sale of handicrafts. I think some work on this particular section (j)(8) is needed. I just want to be sure that we've all got an opportunity to participate in that. So that's why I gave the second.

CHAIRMAN DEMIENTIEFF: Keith, do you have something.

MR. GOLTZ: If the Board acts on this, they should do it with the awareness that failure to enact this or something similar will leave the area unregulated for the next year.

CHAIRMAN DEMIENTIEFF: But basically it has been unregulated, is that correct?

MR. GOLTZ: That's correct.

CHAIRMAN DEMIENTIEFF: So the bottom line being, as I pointed out, there is not a conservation issue. There are serious concerns that have been raised with regard to working on this and a serious commitment. Given the fact that there's not a conservation issue but there could be other severe implications and what I'm hearing from Board members and others is that people are willing to continue to work on (j)(8) without trying to disenfranchise people. So it's basically a work in progress as far as I can see. As long as there's not a conservation problem that anybody is aware of, we can work on it. Pete.

MR. PROBASCO: Mr. Chair. I'm not sure how this vote will come out, but if it does come out where a postponement does occur, then my understanding administratively that this would be a Board-generated proposal to appear in the booklet for 25(j)(8)(A), (8)(B) and (8)(C) for the next wildlife cycle.

Mr. Chair.

MR. BOYD: Mr. Chair. I believe where
Mr. Probasco is going is that we needed a vehicle for ensuring that this language that the Board has put on the table is in front of the Councils for discussion and the public for discussion. So that vehicle that we normally use is the proposal booklet, so he was suggesting that that be a Board-generated proposal if you will. We would just list it as a Federal Subsistence Board proposal in the proposal booklet so it's out there for discussion. We could do it otherwise, but that's normally the mechanism that we choose.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair. I'm going to say something right now. Maybe I'm out of line, but we heard from a lot of RACs that they didn't even want to look at this again, that this has been before them, this wasn't part of anything that they wanted to discuss. We've gone over it, we've presented our things, we gave it to you to make a decision on. The fact that you're going to basically put it back in our laps again so we have to discuss something that's repugnant to part of the RACs and controversial to some of the others, I am going to say as a RAC chair that I don't feel like you're doing your job and I'm just going to leave it at that.

CHAIRMAN DEMIENTIEFF: The one thing I will note is that I do know that Southeast has some real concerns about this proposal. Basically we have to go through the notification process that we put it as a Board proposal and Regional Councils have the option themselves whether or not they want to revisit this. But I do know that Southeast has very serious concerns about the language and there may be others. I don't know. The proposal books that go out, we don't all have to look at them. If Southcentral is done with it, so be it. There is a very valid argument that there are some very serious concerns out there and I think the Board is trying to accommodate that. I do know that Southeast will look at this very closely and will work on it with due diligence. Again, there's not a conservation problem. A year is not going to -- but then if people do want to look at it and comment, then that option will be open. If you don't, fine. We're not damaging any resource or anything at this point in time by postponing. Further discussion.

MR. LOGAN: Thank you, Mr. Chairman. I guess my only concern about deferring or tailing this, I certainly agree that I'm not sure we've spent any time at
this meeting having -- or I think there's certainly
opportunity for more debate and see whether or not we can
get a resolution. But I think it isn't just a Southeast
issue. You know, whether we do or don't approve a
commercial exemption for the Southeast, that has impacts
across the entire state. So, for us to say, well, let's
just talk to Southeast some more and see if we can work
something out, I'm not convinced that is the right
approach because I think it's a much bigger issue than
that. Certainly I'm willing to spend another couple
hours to try to work through it if that's the pleasure of
the rest of the Board and the Chairman.

MR. OVIATT: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. OVIATT: I too am concerned. This is
a Staff Committee recommendation based upon the
recommendations of all of our Councils and I too am
concerned that we're going to table this. I'd be willing
to sit and work if we need to try to come to some
conclusion.

Thank you.

CHAIRMAN DEMIENTIEFF: Fine. Further
discussion.

MS. GOTTLIEB: Mr. Chair. I guess if we
could have the information one more time about how many
years our regulations have been on the books and how many
years the State regs have been on the books. Again, I
know we're all worried about potential consequences, but
I don't think we've heard a lot of examples of real
consequences.

CHAIRMAN DEMIENTIEFF: We'll go with
Polly first, then the State after.

MS. WHEELER: Thank you, Mr. Chair. In
your books, on the last page of the analysis for WP05-01,
the last paragraph before the preliminary conclusion, and
I'll just read this. It should be noted.....

UNIDENTIFIED SPEAKER: What page is it
on?

CHAIRMAN DEMIENTIEFF: Page 220.
MS. WHEELER: Thank you. Page 220. I'll just read it. It should be noted that the use of black bear fur for handicrafts has been legal under State regulations for six years. While the Alaska Department of Fish and Game has not collected data to assess the effects of this regulation, no problems have been reported. Similarly, little to no information exists regarding the legal sale of handicrafts made from byproducts of fish and wildlife harvested on lands and waters under National Park Service jurisdiction. Again, no issues have been reported.

In the paragraph prior to that we talk about the recent commercialization of handicrafts made from bear fur and claws could lead to an increase in demand in harvest of some bear populations. Managers should be aware of this and carefully monitor harvests. Many portions of Interior Alaska have naturally low but stable brown bear populations. Brown bear population numbers are much smaller than black bear and are carefully managed with low harvest rates and strict reporting requirements. The sustainable yield of brown bear is low except under special circumstances in limited areas. Regulations should continue to be conservative to avoid overexploitation.

Mr. Chair, thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion on the postponement of the motion.

(No comments)

CHAIRMAN DEMIENTIEFF: We'd better do a roll call, I believe.

MR. BOYD: Mr. Chair. Roll call vote on the motion to postpone to a certain time. Mr. Bschor.

MR. BSCHOR: Aye.

MR. BOYD: Mr. Oviatt.

MR. OVIATT: No.

MR. BOYD: Mr. Roehl.

MR. ROEHL: Aye.

MR. BOYD: Ms. Gottlieb.
MS. GOTTLIEB: Aye.

MR. BOYD: Mr. Logan.

MR. LOGAN: No.

MR. BOYD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Aye. Motion carries. We do have Proposal No. 03 before us. We've already had the discussion with regard to that. At this time the Chair would entertain a motion.

MS GOTTLEB: Mr. Chair. I believe Proposal No. 03 was covered in our discussions on No. 01, so at this point I would move to reject Proposal No. 03.

CHAIRMAN DEMIENTIEFF: Is there a second.

MR. ROEHL: I'll second it, Mr. Chair.

CHAIRMAN DEMIENTIEFF: I've had a private discussion with Chairman Littlefield, but if I could just call upon him to see if there's a level of comfort with the motion to reject.

MR. LITTLEFIELD: Thank you, Mr. Chair. I'm not comfortable with it. What we've asked you to do at the Southeast Alaska Regional Advisory Council is to take no action because of the action on Proposal No. 01. We did not ask you to reject or even discuss Proposal 01. We were the originators of Proposal 03 and, therefore, we are asking your permission to pull it from the table, so to speak, pull it from discussion. By that, we're looking for a motion to take no action on it. It was not an outright rejection of those things because many of those things are covered in Proposal 01.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Mr. Chair. If I can either withdraw my motion or amend it to say consistent with -- okay, I'll withdraw my motion and start again.

CHAIRMAN DEMIENTIEFF: Consent of the second.

MR. ROEHL: I'll consent. Thank you.
MS. GOTTLIEB: If I can make a motion consistent with the Regional Advisory Council's recommendation from Southeast Alaska to take no action on Proposal 03.

CHAIRMAN DEMIENTIEFF: Is there a second.

MR. LOGAN: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none. All those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. Again, I want to thank everybody for all their hard work. It's a very complicated issue. Everybody has obviously put a lot of time and thought into the issue. So, at this time the Chair would entertain a motion to adopt the consent agenda. John.

MR. LITTLEFIELD: With your indulgence, Mr. Chair, before we get off the bear issue, I did break down and buy some presents and I'd like to distribute those. We never say pass out in Southeast. We get fined. So I would like to distribute those with your indulgence. They're grizzly bear claws made of chocolate.

(Laughter)

(Applause)

CHAIRMAN DEMIENTIEFF: Well, I'm going to enjoy one right now. We'll get to them after we're done with our business here. Again, the Chair would entertain a motion to adopt the consent agenda items as originally presented and also with the addition of Proposal 20. Is there such a motion.
MR. ROEHL: Mr. Chair. I so move.

CHAIRMAN DEMIENTIEFF: Is there a second.

MR. LOGAN: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none. All those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

MS. GOTTLIEB: Mr. Chair.

MS. GOTTLIEB: If I might. I know a lot of work always goes into getting these proposals on the consent agenda and, as always, we appreciate everyone's effort. As you mentioned earlier, Unit 2 deer was not up for deliberations for us and we know that took a lot of work and cooperation to get there.

I just wanted to say a few words about Jack Reakoff. Unfortunately he had to leave early today for another teleconference. It should be obvious that Jack cares very deeply about subsistence and you've had the opportunity to see him explain and defend positions from his council. He's also equally active and effective member of the National Park Service Subsistence Resource Commission and the Koyukuk Advisory Committee. It's largely because of committed volunteers like Jack that our system is able to function effectively.

Being that I'm with National Park Service and have long been able to see Jack through the Subsistence Resource Commission in that arena I wanted to say a special thanks for him, particularly relating to Proposal 12. Jack had felt pressure and strain from that effort and I suspect he's probably been tired and
frustrated at times as we've heard from others on a
variety of other things, but he has steadfastly kept his
hand on the wheel of the proposal and associated issues
and kept them moving through the SRC to the Western
Interior RAC and then to this Board.

So I really want to thank him for his
efforts and grateful that he is a member not only of our
SRC but of our Regional Advisory Council and we'll get
him a copy of this note as well. But I did want to give
special mention.

CHAIRMAN DEMIENTIEFF: Thank you. Who
was going to do the Unit 2 deer update? Is that Bob?

DR. SCHROEDER: Mr. Chair, are we ready
to go?

CHAIRMAN DEMIENTIEFF: Yes.

DR. SCHROEDER: Mr. Chairman. For the
record, I'm Bob Schroeder, the Coordinator for the
Southeast Regional Advisory Council and anthropologist
for the Regional Office in Forest Service in Juneau.
With me is Dave Johnson, the Tongass Subsistence
Coordinator and he'll be providing some discussion of
Unit 2 deer issues. We are distributing copies of a few
slides that we have to move us through this discussion
fairly quickly. You'll also find in your Board materials
a copy of a progress report to the Federal Subsistence
Board and that looks like this. That was developed after
the last deer subcommittee meeting, which was held April
19th and 20th in Ketchikan.

On the screen you can see a map of Unit
2. I'll attempt to be fairly brief with this. I realize
that the Board has been doing quite a bit of work today
and I want to make sure that there's sufficient time for
the Council Chairs to speak with the Board, so we'll try
to be as efficient as possible here.

Just by way of review, the reason why we
began a planning effort, a cooperative planning effort
with respect to deer in Prince of Wales obviously had to
do with management responsibilities of the Board and the
program, the Federal Subsistence Program and Forest
Service for managing subsistence hunting on Federal
public land in this area.

For quite a number of years the Board had
been receiving proposals, mainly from subsistence users, who maintain that their subsistence needs were not being met. In the 1996 to 2003 time period, the Board received something like 30 proposals on suggesting various changes to deer management in this unit. As those of you who were on the Board during those years recall these were highly contentious, very adversarial, intended to pit Alaska hunters against each other as they wished to maintain their own hunting patterns.

There also was controversy over the closure, over any closure of Federal public lands to non-Federally-qualified subsistence hunters to the non-rural hunters.

But we also noted in the analysis of these proposals that probably the controversy was not likely to go away on its own because habitat changes on Prince of Wales really look like we'll be facing a decrease in the deer abundance in the future.

The structure of the subcommittee, the subcommittee was formed as a subcommittee of the Regional Advisory Council. The Council requested formation of the subcommittee and this was approved by the Board. The subcommittee under FACA reports to the Council and through the Council to the Board itself. The structure of the subcommittee included 12 members. These were Council members from Craig, Ketchikan, Petersburg and Point Baker. The Petersburg member was an alternate member in case other Council members couldn't make it. There were three public members from Ketchikan. One from Wrangell. Tribal representatives from Craig and Hydaburg and agency members from USDA Forest Service and the Alaska Department of Fish and Game. The slide on your screen shows the people who did participate and volunteer their time for this process.

As you see we had a real diversity of Southeast stakeholders who were concerned with deer on Prince of Wales including registered guides, people who are active in the State Fish and Game Advisory Committee system, people who had close relationships with tribal interests on Prince of Wales.

The subcommittee had six meetings, including a formation meeting, which took place in May of 2004, and then subsequently set itself the task of having five meetings, almost one meeting a month from November through April of this year. The subcommittee had a work
plan that the Board reviewed, approved and provided 
advice on and basically it was marching through this work 
plan.

The subcommittee report will be completed 
this next month or so and circulated back to subcommittee 
members for a review and then it will be presented to the 
Council at its fall meeting in Wrangell at the end of 
September. So it would be after that Council meeting 
that recommendations or that report would be forwarded to 
the Board, subject Council action.

And finally, in terms of meetings the 
subcommittee will have at least one more meeting and then 
possibly continue its existence over time if needed. But 
it will have a meeting in February 2006, a little bit 
before the scheduled Southeast Regional Advisory Council 
meeting, which, I believe at the end of February.

The Board has been closely involved in 
this planning effort. In fact, it was during one of the 
more contentious sessions on Unit 2 deer that State of 
Alaska representatives and our Board Chairman recommended 
that citizens get together and try to come to the Board 
with solutions to problems rather than come to the Board 
simply with problems for the Board to resolve.

The Office of Subsistence Management has 
been a player in this action, providing logistics for 
Council member participation, it helped in developing a 
charge to the subcommittee and also it is presently 
engaged in working with other Staff on issues concerning 
the Unit 2 deer harvest report.

Forest Service, the Southeast Subsistence 
Team has provided main Staff leadership. Earlier on in 
the 2003 year, Forest Service provided funding and 
direction for a feasibility study, which was, I think all 
of us were a little gun shy this issue had been so heated 
we basically had questions on whether or not it was safe 
to get the stakeholders in the same room at the same 
time. Later on in this last year, Forest Service has 
provided funding for meeting facilitation, most of the 
meeting expenses, as well as manage the logistics. And 
that's been a heavy load on some of our Staff.

Forest Service has also provided Staff 
technical presentation and support on such things as 
timber history, timber alternatives to present timber 
management, deer habitat ecology, roads and access, et
cetera, et cetera.

The Craig Ranger served as a subcommittee member. And most recently Forest Service has committed to providing funding to implement the harvest report system.

Fish and Game has been a main player in the subcommittee work. And we really want to thank Fish and Game for its general Staff participation in subcommittee work. This was a major time demand on people. Fish and Game also provided Staff technical presentations and support, particularly presentations on reviewing what we know about the deer population on Prince of Wales and their ongoing research, primarily with deer, but also referred to the ongoing research program concerning predators on Prince of Wales. So that was really instrumental in attempting to give the subcommittee the full story of what we knew about deer and hunters and habitat in this ecozone.

The Department worked with Forest Service Staff and with subcommittee members in developing a harvest report form. The Division of Wildlife Conservation Southeast Regional Supervisor was a subcommittee member throughout this. And also it was extremely important that the Department facilitated communication with the Board of Game.

Well, what did we get out of this, what happens the most immediate return, I suppose, is that instead of spending a half a day on discussing Unit 2 deer issues, we, instead, have a consent agenda item, and I think this was exactly what Chairman Demientieff was hoping would happen when he asked us to do this somewhat risky planning endeavor three years ago, or perhaps it was four years ago.

I'd like to just have Dave Johnson explain a little bit about this harvest report. The harvest report serves as an alternative to two proposals that the Council had presented, one proposal, Proposal WP05-04, which is on the consent agenda. It requested that the Federal program would require a Federal registration permit for all hunters who took a deer in Prince of Wales on either Federal public land or other land on Prince of Wales Island. The Council had a companion proposal that it submitted to the Alaska Board of Game, which would have required all hunters to have a State registration permit if they wished to hunt deer on
Prince of Wales Island.

The harvest report turned out to be a more feasible and better solution that put less demands on hunters and was a much more workable system than the registration permit proposals that were before the Board of Game and before the Federal Subsistence Board.

The highlights of this harvest report idea is that it will produce uniform harvest reporting and that was the main Council concern, was that the Council, in future years, would get good data on what deer harvest, in fact, take place in Unit 2, and it also, with Board's action on the consent agenda items just passed, makes the Federal registration permit requirements that had been in force on Prince of Wales no longer necessary. In previous years anyone who wished to hunt in the subsistence only season, July 24th through April 15th on Federal public land had to have a separate permit, a Federal registration permit and there were complications with confusion with the public, a major demand on hunters to have both State permits and Federal permits, et cetera. Federally-qualified subsistence hunters also were required to have a permit if they wished to take a doe on Prince of Wales Island, and by your action on the consent agenda item, Proposal WP05-04 that requirement's no longer there.

I'd like to turn it over briefly to Dave Johnson to describe the process that got us from two very contentious proposals to consent agenda items.

Dave.

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead.

MR. JOHNSON: Thank you, Bob. Mr. Chairman. For the record, Dave Johnson for the Tongass Subsistence Coordinator.

The report you see on the screen represents 21 formal reviews of that document by Staff from both OSM, ADF&G, Forest Service and perhaps others, including the RAC members also that participated and the subcommittee as well, and there's two additional reviews that have occurred since that. And so we believe we have a very good first cut for this first year for implementing this joint system.
The plan is, and by the way on Pages 298 to 300 in your booklet provides some excellent background on how we got from a Federal registration permit proposal to a joint harvest reporting system between the two agencies.

I would just say one of the unspoken or unknown partners as we started into this that turned out to be an important partner is the U.S. Postal Service. We found a number of nuances in terms of how this information is sent back to both the State and Federal that became very critical in how this thing is formatted and returned.

I would just like to say a personal thanks to the Department, particularly for Doug Larson's role in facilitating on the State side many, many informal conversations that, without Doug's involvement, I don't believe we would be here today making this happen. And I personally want to express my appreciation.

Greg Killinger on the Forest Service side also was a key person that helped provide a lot of important information to the subcommittee's work.

The plan is that the contract will be in effect for three years, it's a $15,000 contract for this first year, there'll be a joint review by both the Forest Service and the Department, Wildlife Conservation Division, and with the plan of implementing it again in the second and third years. And at that time we will present a report to the Council to update them on with what the information provides with and what other proposals may come out of the planning process that may warrant additional considerations.

That concludes my remarks.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

DR. SCHROEDER: I'm not done, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Okay.

DR. SCHROEDER: We've proceeded through what's happened for this regulatory cycle, part of the other charge to the subcommittee was to look forward to
the future and to try to structure things so that we'd have good management of deer on Prince of Wales Island without unduly contentious proposals coming our way.

The main recommendations that the subcommittee is forwarding to the Council in September are to keep the current hunting regulations in effect for about the next three to five years in the next part. And the idea of three to five years is that the current system appears to be working well and three to five years will allow the various agencies and the Council to have better information for looking at deer on Prince of Wales.

The subcommittee is recommending a Council generated proposal to pare back the area that's closed to non-subsistence hunting on Prince of Wales during the beginning part of the season August 1 through August 15th. The subcommittee looked at the data closely and believes that that closure may not be necessary. We'll need a full Staff analysis to make sure whether that's the case.

A couple of other recommendations. The subcommittee really wanted to improve data and information. The three areas that they were concerned with was harvest data and they believe that that will be addressed through the harvest report system. They suggested work needs to be done on subsistence uses and needs. And that subsistence users were maintaining that needs were not being met. The subcommittee would like to look a little more closely at what uses and needs might be for deer and, in general, for subsistence in Southeast Alaska. And thirdly to examine deer population trends and the subcommittee spent a fair amount of time talking with scientists about different ways -- scientists and management Staff on different ways that that might be achieved.

The subcommittee had additional recommendations, mainly to land managers, those are shown on the screen. They had to do with basically doing things that increased the deer supply and manage habitat for wildlife values and to rehabilitate and restore areas that had been subject to commercial harvest.

I'd like to spend just a few minutes looking at what worked in this whole process and also what didn't work, and we'll be doing a little bit more of a review of this whole subcommittee approach over the

225
Some things that worked, one thing was that we broke through the -- well, we didn't break through but we were able to comply fully with the Federal Advisory Committee Act and have good stakeholder participation. And that was a little bit problematic when we were trying to figure out how we would do this.

Subcommittee members participated very actively and were extremely generous with their time. I figure that people spent maybe perhaps 15 or 20 days in meetings or travel, which is a really substantial contribution of people who have other lives as well.

Very importantly people started out as adversaries learned to listen to each other and basically respected each other. And that gave me some faith that if you do put people together on contentious issues that they can work on them.

And, finally, the subcommittee was able to operate on a consensus basis even though it did have provisions for voting, but people reached agreement.

Some other things worked very well. There was excellent technical reports by Fish and Game and Forest Service management and scientists. We used professional facilitation and we'd recommend that that be used in future actions of this sort.

And a couple of other things I'll highlight in the part that worked that the subcommittee supported study directions concerning subsistence uses and needs and deer population trends. This format, having meetings in six meetings in four or five different places provided really good public access and the subcommittee had evening sessions where it could hear from the public and these were basically pretty well attended.

We also received accurate and extensive press and media coverage and, again, thanks to OSM media specialist for helping making that happen.

Now, we did have a few things that were difficult.

This sort of thing in Alaska where people have to fly to meetings puts really large demands on
people, and we have commercial fishermen who missed very
lucrative commercial fishing openings so that they could
come and talk about how we should manage deer on Prince
of Wales Island. And also connected with that, all
members were not able to attend all meetings. So I think
we were pushing the envelope of how much we could have of
-- how much we could expect of volunteers.

This approach was pretty logistically
complex as I mentioned and we did spend a fair amount of
money at it.

And I do have conclusions and then I'll
be done, Mr. Chairman.

I believe that the subcommittee made --
had really substantial accomplishments and was overall
really successful. And let's say that at the onset its
success was not a sure thing but I think it worked out
quite well and I think we're way further along on coming
up with effective management of deer in Unit 2 than we
were before. And that includes the suggestions for non-
regulatory things that had to do with management aspects,
and land management aspects and dealing with access and
other issues.

We're way further along on improved
public education and public participation. And I see
that as an outgrowth of the good work that was done here.
And I do believe that the Board might consider using this
effort as something of a model for working toward
resolution of difficult management issues. And when I
refer to this as a model, the model would be constituting
subcommittees of Councils to address things that we can't
do quite as well through the regulatory process.

And finally, just as I mentioned, the
subcommittee wanted to continue its existence and will be
helping us out after this coming deer hunting season and
we'll meet in February 2006.

Mr. Chair, that concludes my report.

CHAIRMAN DEMIENTIEFF: Thank you very
much. Magic works.

(Laughter)

CHAIRMAN DEMIENTIEFF: And I just offer
my congratulations to everybody who participated in the
process. Just by bringing people together, I agree that
you can sometimes work out -- I don't know how many times
we went round and round on Unit 2 deer and you can work
things out, people find out that they're really not that
different. They're concerned about the issue at hand.
And I just congratulate everybody, and Tom and I are
going to be working together to author a personal letter
from me thanking the people who participated, so we'll
make sure that we're working with everybody to get all
the players that were involved in it.

I also want to thank the Board, we had at
every work session, you know, we did track the work of
the team so they actually have -- the Board members
actually have a lot of time that was spent and devoted to
the work and the progress of the team. So anyway we'll
follow up on our end.

I think John may have a closing comment
on that, do you?

MR. LITTLEFIELD: Yes, thank you, Mr.
Chair. Mine were similar. That was actually one of the
tings I was going to ask you to do is to recognize this
der committee and all of the players as well as the
State and the Federal participants. Because one of the
tings that some people don't recognize is that we are
serving for free but those committee members spent 15
to 20 days serving for free, members of the public as
well as committee members, and I think that's really
important. And if you can recognize them, Mr. Chair, I
think that would be a very good thing to do.

Thank you's go a long way, they're not
getting paid but it was a good process.

And in that point I want to thank OSM as
well as the Federal Board for making this process work.
Because when we brought it up earlier, as you said, we
didn't know if it was going to work and with your
encouragement it has done so and I do appreciate it and
tank you to the Board.

And a special thank you to Mr. Bschor.
As the land manager in Southeast Alaska, the Forest
Service has really stood behind us. And the Council, I
can speak for them and say they all appreciate the work
that the Forest Staff has been doing for us, support
Staff, as well as taking the lead on these issues and
putting their money up basically because it's -- you
know, the Federal Board made this direction but the land manager has to make this work. And I really appreciated how your Staff as well as yourself have acted.

So thanks to all of you. I guess we'll pat each other all on the back.

So thank you very much, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. If there's no other business, we're going to move on to Board discussion of Council topics with Chairs.

MR. REGELIN: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Pardon, oh, I'm sorry.

MR. REGELIN: Under other business I wanted to just say one thing about what happened at our November Board of Game meeting, just to inform everybody.

At that meeting the Board passed a regulation related to hunts that are conducted by registration permit. You know, we use registration permit hunts when we're concerned about overharvest, and so we keep real close track of that. In some cases we have in-season management and in other cases, in most of them, we just adjust at the end of the season. And for a long time our Board has been very concerned about the failure of some people, a small segment of the people to report that get these registration permits. And it's very important we have complete and accurate reporting while the people that do get a registration permit.

So they passed a regulation that requires it to be mandatory to turn in your permit report.

Now, it's always been mandatory. But what they've done now is -- until November, the Department had a lot of discretion in how we could enforce that and steps we took to collect data. But beginning next year, well, this fall, this season, if a person fails to report and after they've been repeatedly contacted and they continue to fail to report they will not get a permit next year and the Department won't have any discretion on that.

Now, the reason I'm bringing it up here is that it affects Federal subsistence users in several
places. There's 27 hunts where the Federal and State seasons are the same and the Federal permit -- Federal subsistence hunters are required to have a State permit, registration permit, in order to hunt. And what we'll do is try to make sure that everybody realizes that the consequences of not reporting are severe and we send letters out, I think, three times, but once that is exhausted then they will not get a permit next year, or the following year. And there are -- and as I said, there are 27 hunts where the Federal and State -- the Federal system uses a State registration permit.

These are 10 brown bear hunts, 11 moose hunts, four caribou hunts and three goat hunts.

And I guess that, I think what we all need to do is work together to get the word out and make sure that everyone knows that they have to -- why it's important to report and it's to everybody's benefit to have this data and we're developing an appeal process for people that for good reasons couldn't, you know, failed to report, where they can appeal and we can make an adjustment. But we are -- we're very limited on what we'll be able to do there.

And, thank you, Mr. Chairman. I thought I just should take this opportunity to let everybody know and that we'll be working with the Office of Subsistence Management to make sure we get the word out.

CHAIRMAN DEMIENTIEFF: Okay, thank you.

We'll be calling on the Regional Council reps that are here for discussion, general discussion with the Board. John made us switch the field around so he can talk last, but he was right, so we're going to start with amongst the ones I know that are here.

Eastern Interior, actually, Sue, if you have any issues you want to bring up with the Board at this time.

MS. ENSTMINGER: So I get to go first and don't learn what's going on.

(Laughter)

MS. ENSTMINGER: I was warned about this, so, thank you.

One of the things that I wanted to bring
up was at our Council meetings there's training of new
Council members and it took place at the last meeting and
it had before in the past during the two day period of
the meetings and it took away from our ability to meet as
a Council and all the stuff that meant a lot more to the
rest of us. And I feel that it's important, maybe that
doesn't need to be brought up here, but it was kind of
frustrating to deal with that.

One of the other Council members actually
said in his Council remarks at that meeting that he felt
like he had no way to let the public know what happens at
the meetings. And I feel that that's something that I,
too, you know, you live in these remote areas and even
though we're on the road system I can't go to Eagle to go
to an Advisory Committee meeting or I couldn't go to
Delta every time everybody's meeting but I get these
notices of all these different meetings and it's just
hard to stay informed and keep all these different State
Advisory who actually bring stuff to the Council, and
even the SRC meetings, and your region is so vast and big
you don't get a chance to really disseminate the
information like you think you should or you can
participate like you think you should be able to. We do
it as much as we can. But I felt for him when he had
mentioned that that was a problem there.

Also I wanted to thank you for the
opportunity to come here. This is the first one I've
been to since -- I was here one time when Mitch was brand
new at this and it's a lot different all those years ago.
I appreciate learning and seeing how it's changed over
the years.

Thank you. I was asked to come by our
Chair. I'm just the lonely secretary on the Council. So
he thought since it was more in our region that I guess
-- and he's in the National Guard and couldn't attend so
thank you guys.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. STONEY: Thank you, Mr. Chairman. I
know it's been a long day for all of you, but, you know,
like for yourself and the Board members, I surely want to
tank all of you, you know, for looking at us as the
Chairs from the RACs.

I see it this way, that all the Chairmans
of the RACs, it's your backbone, we give you recommendations like these proposals, and I sure want to thank, you know, recognize us as the backbone to our regions throughout Alaska.

Again, thank you very much for you Board members for listening to us and taking a lot of comments from us and you guys are doing a good job.

Thank you, very much, Mr. Chairman.

CHAIRMAN DEMIEN'TIEFF: Thank you. I see Grace had to leave it looks like. So the next one up would be Jack.

MR. REAKOFF: Thank you, Mr. Chair. I apologize for missing part of this afternoon. I was attending a teleconference for a formation of a Friend's Group for the Wildlife Refuges and I was at the Refuge Office.

I feel privileged to appear before the Board and that my Council has confidence in me to appear here. And I feel that the Board is very diligent in working through proposals and looking at all aspects and I very much appreciate that. As a Council member, we have to have the same tearing and deliberation ourselves and so I can very much appreciate that.

Our annual report will highlight many issues that we have in our region. And we have some very concerning issues that are coming forward with the Senate Bill 85 and the Legislature moving all-terrain vehicles off the Dalton Highway. This will have a huge impact to Northern Alaska. And so I just wanted to bring that to the Board's attention. And that Bill has not gone away yet, that Bill is on hold, on pause. And so there's going to be huge funding concerns for that, for the planning and so forth.

But I do want to thank the other Council members that came to this meeting and I very much enjoy hearing their aspects of how they deal with their region and so that's a learning process for me at every meeting.

So thank you.

MS. GOTTLIEB: Chair.

CHAIRMAN DEMIEN'TIEFF: Yes.
MS. GOTTLIEB: If I might, I just wanted to tell Jack, maybe two things that you did miss. One is that Proposal 12 passed on the consent agenda.

And secondly we did want to express our gratitude to you for all the hard work you put in on that proposal and really for all your many years of service, not only at the Gates of the Arctic Subsistence Resource Commission, but also on your Regional Advisory Council.

So thank you, particularly, this year.

MR. REAKOFF: Thank you.

CHAIRMAN DEMIENTIEFF: Harry.

MR. WILDE: Yeah, Mr. Chairman. For the record my name is Harry Wilde, Chairman of the Yukon-Kuskokwim Regional Advisory Council.

The Yukon-Kuskokwim Delta Advisory Council appreciates the continued opportunity to participate on the Federal subsistence meeting.

Yukon-Kuskokwim Council also appreciate the continued support from the Federal Subsistence Board along with the support from the -- also the continued support from the Federal Subsistence Board Chair, Mr. Mitch Demientieff.

In its winter meeting in February 2005, February 24 and 25 in Toksook Bay, Yukon-Kuskokwim Delta Subsistence Regional Advisory Council considered topics to be presented to the Federal Subsistence Board in its regular meeting on May 3 and 4, 2005.

Topics were suggested that based on the past Yukon-Kuskokwim Delta Council concerns expressed by the Council in the present meeting and the topics that follow.

Proposed coal fired plant in the Yukon-Kuskokwim Delta, when the Council realized that proposed coal fire power plant within the Yukon-Kuskokwim Delta, it's still preliminary and planning stage. The Council opposes to the coal fire power plant in the Yukon-Kuskokwim Delta. Since the coal fire power plant is proposed as potential power supply within the Yukon-Kuskokwim Delta, it brought up a concern to the residents of the Yukon-Kuskokwim Delta.
Concern about the coal fire power plant is expressed because it brings with adverse affect in the fish and wildlife resource and the migratory birds including the elements of fish and wildlife habitat. For the above reasons and other unforeseen reasons the Council opposes coal fire power, opposes for it.

Senate Bill 40, this State Legislature which would be create Kuskokwim Port Authority in Bethel area and it's raised concern because it is also -- would have been proposed coal fire power plant in Donely Creek Mine near the village of Crooked Creek -- and the proposed Kuskokwim Authority present -- created by the Governor of Alaska, it's creates additional facility and add an increase in river traffic and it would have adverse impact on the fish and wildlife -- fish and game, migratory birds and environment which is fish and the wildlife habitat and the reason Council is opposing the Port Authority in Bethel area.

Council business on January 2005 through April 2005 since the Federal Subsistence Board meeting held in January 2005 at which Mary Gregory is the Secretary attend that representing the Yukon-Kuskokwim Delta Council Chair and the Council members participate in other fish and wildlife or related meeting. Bob Aloysius participate in that big ADF&G Interagency Kuskokwim River Fishery meeting on March 30/31, 2005 in Anchorage. Harry Wilde, me, that's me, participate in the Interagency Staff Committee meeting on April 12 and 14, 2005. James Charles participate in GMU 29 moose planning meeting in Shageluk in April 18, 20. Lester Wilde make village trips in the Yukon Delta RIT and he's traveled to Scammon Bay, Chevak and continue information and education for the subsistence program in the school and communities. He also conducted subsistence program in Hooper Bay. Joe Mike attending the Lower Yukon River Intertribal Council Watershed meeting in Kuskokwim in Kotlik.

And on behalf of the subsistence users and other groups in the Yukon-Kuskokwim Delta region, the Regional Council appreciates continued Federal Subsistence Board supporting -- Council also appreciates continued to support from the OSM Staff.

Thank you, Mr. Chairman, and the Federal Subsistence Board members for this opportunity to report Council concerns.
And, Mr. Chairman, I thank you, you let me speak English right now.

(Laughter)

CHAIRMAN DEMIENTIEFF: Thank you, Harry. It's obvious you spent a lot of time preparing for this and I appreciate you.

Vince.

MR. TUTIAKOFF: Thank you, Mr. Chair. Board members.

As many of you know Della Trumble was the past Chair of Kodiak/Aleutians moved into Anchorage and removed herself from the Council. She did a lot of work in working with other regions, primarily on fish issues. I'm hoping that this next year we'll continue to see those different RACs work together so that we don't get into controversial proposals that we have gone through in the past.

The Kodiak/Aleutians RAC had their meeting in Kodiak and Tom Boyd came down and we ran him through the coals but I think he got out of there pretty good.

(Laughter)

MR. TUTIAKOFF: We appreciate that he came down there and took the heat for some of the issues that were confusing for new members. We've got a road system and commercial and hunters and commercial fishermen now represented on our Board.

We hope that we'll be able to go to smaller communities. As you know the Aleutian Islands runs 2,400 miles west and there's very few sites that we can visit because of transportation costs, primarily. We'd like and we've proposed many times to go to the Pribilofs, to Unalaska, to Adak to other communities in Kodiak and we've kind of spent a lot of time in Cold Bay, King Cove and Sand Point, and the Kodiak community itself.

We appreciate the opportunity to do that but I think the concern from the Council members themselves is that we'd like to be able to sit and face the people that we represent in our communities. And I
know that the travel costs, especially to the Aleutians is very high. Just one way round-trip to Adak is close to $1,100 and that's where I live right now and commute back and forth to meet the meetings of the RAC.

But I'd like to thank the Council for the opportunity to again work with you. I have been past Chair of Kodiak/Aleutians for several years and took on another job which I could not do but appreciate the hard work the Council has done in the last two days. Today's been pretty interesting in regards to the bear claw issue and I'm going to take back these issues to my Council so that they can get more -- maybe more detailed and a response on this next go around because I think that becoming aware of the other Regional Councils having concerns about the bear, you know, as a scared item and a bear as a food and a bear as a clan, you know, we're starting to understand these issues and I know that this Council is trying to make it across the board, a state issue, but I'm hoping that we can come up with a proposal that the regions, if affected by this particular issue, will bring up a good proposal that all of us can agree to.

Appreciate the time and I know it's getting late and you guys are falling asleep up there so thanks a lot.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. LOHSE: Thank you, Mr. Chair. I was just looking at something on the ANILCA charter for the Councils. And it says that it recognizes the Council's authority to initiate, review and evaluate proposals for regulations, policies, management plans and other matters related to subsistence uses of fish and wildlife on public lands within the region, and to provide a forum for the expression of opinions and recommendations on any matter related to the subsistence uses of fish and wildlife on public lands within the region.

And as I brought up before, and especially this is aimed at the guy from the BLM and you all know that, we have a land management plan before us that affects subsistence users -- that has the potential to affect subsistence users very drastically in our area. And I just ask and reiterate that on the seven different options and recommendations and that they have that they seriously consider the impact on subsistence on every one
of them. And I'm asking all of the rest of you as land
managers to remind them that subsistence is a high
priority and the decisions that they make on those
recommendations can have a drastic affect on the
subsistence users in our area. And I think they
recognize that but I just wanted to put that on record.

And then on the record, Mr. Chair, I
would like to apologize to you for my little bit
outspoken comments before. I recognize that you're
dealing with complex and controversial issues and I know
that they come before you and I'm afraid that what I've
catched is a little hesitancy on the parts of members of
the Board to make a decision. And I know that part of
the reason is the decisions are hard to make. But
sometimes you have to make a decision whether it's right
or whether it's wrong, and then you can go back, and if
it turns out that it's wrong you can correct it. But the
decisions need to be made. Like my objection before was
not an objection to the motion that was on the table or
whether it passed or whether it failed and I had no
opinion one way or the other, but it was the fact that
the RACs had done a lot of work on that, the RACs had
presented you with the information. More than likely the
RACs would not change their information. And it just
felt kind of bad to see it being -- because of the issue
it is, being sent back to the RACs when most of them
probably aren't going to change their mind. And to me if
you want to give one RAC deference because it's very
important to one RAC then you need to honor the
preferences of all the RACs and take their
recommendations and make specific regional proposals for
it. If we're going to try to fit it into meet on RACs
thing, otherwise do like Mitch said, this is a complex
issue, aim it at regional proposals, take what all the
RACs have given you and give them a regional proposal for
that. But if you want to get a consensus on one of these
issues that you've got before you, while you're dealing
with those consensus, you've got the Chairmans of the
RACs sitting out here, we can work together with you
while you're doing that discussion trying to come up with
a consensus. You're dealing with one RAC member instead
of all of the RAC members.

When it's a controversial issue and
you're trying to make one shoe fit all, give everybody a
chance at that time to get right in the discussion and
come up with a consensus.

I think that the RAC Chair are mature
enough and have enough information at their hands that
they can help you come up with that consensus, otherwise
-- let me see what I put down here -- otherwise take what
we've said and make your decision on what we've said to
the best of your ability and if it turns out wrong, it
can always be changed. But rather than send the problem
back to us, take action on it. And take action one way
or the other.

I know for a fact I know what my
recommendation's going to be to my RAC when this comes
back to us again. We've worked on it. Has anybody
changed their mind on it, send you the same information
we gave you before. And I think that's going to be the
results of most of the RACs that are out there.

So with that, again, I apologize for
going so strong on it before but it really -- I felt
this time -- this is the first -- this is the most --
I'll say this is the most, I'll use the word,
frustrating, it's not really the right word, meeting that
I've attended because I've seen so much unwillingness to
make hard decisions. And maybe that's just my own, you
know, my own seeing it and maybe that's not really what
happened but I would have liked to have seen, you know,
less deference and more action, but that's personal.

And I thank you guys for the work that
you do and I'm glad I'm not sitting up there and I'm glad
I don't have to make the decisions and face the same
constituents that you have to make and the same bosses
that you have to make, but in the meantime that's where I
was at.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Ralph,
I always appreciate your comments. You don't have to
worry about insulting me, I got a one-inch callus all
over my body.

(Laughter)

CHAIRMAN DEMIENTIEFF: But, you know, you
always work hard and we just appreciate it. Everybody's
work.

John.

MR. LITTLEFIELD: Thank you, Mr.
Chairman, for letting me be last. I think that was a good idea that we rotate this and I hope you continue that, that you rotate, make number 2 or number 3 first at the next meeting and then number 4 and then just go ahead and rotate them through so there's no reason for Southeast to be one because they're Region 1. And I think it was a good idea and I do appreciate that.

I'd like to touch on -- actually, Mr. Chair, I have 11 pages here, single pages, I have nine double pages here and I don't even know but I got a lot and I'm not going to do that, we don't have time to do that and you'd rule me out of order anyway, so I'll try to cover a couple of these things.

And one is the marine jurisdiction issue that I brought up at the last meeting. That was my number 1 issue on here is that we did not have any response. But, however, at this meeting I was given three draft letters and I don't believe you've signed them yet and I think they're coming, they're forthcoming and I want to acknowledge that I appreciate the OSM working on these. Mr. Probasco gave me a couple as well as Mr. Knauer who both attended our meeting in Petersburg and we appreciate the briefings that they gave us and they brought this back and we are seeing positive results there on what was an oversight before and it's being taken care of as soon as we made it noticed, and I'd like to thank you for that.

We did write several letters at our meeting, one of them was on the hunting licenses and fishing license and that will be coming your way if you do not have it now, Mr. Chair. We sent that to you as well as the Chairman of the Board of Game and the Board of Fish. And when you look at what happened here recently some of our fears have been allayed because I think the hunting issue has gone away, as far as I know maybe I could be corrected on that. I think the hunting increase went away. But there was an increase on sportfish and if you look at the stated reason for it is for building hatcheries which we don't participate in as subsistence users, but it's only problematic there on the sportfishing because we do not have to have a sportfishing license to subsistence fish and I like that. I think that's really great.

What is lacking in our system is a similar requirement for deer, moose hunting licenses or meat. And we haven't had a frank discussion on that and
I really think that the Board, the Councils need to discuss this issue with the Board. I know we keep saying it's out of our purview but we need to have a frank discussion on that because if we don't need a sportfish license to take subsistence fish and I agree with that 100 percent, why do we need a hunting license, a State hunting license and deer tags and be tied to all these permits. Just like Mr. Regelin just brought up, now, it's possible that if one of our elders forgets, or even a youngster forgets to turn in their permit then they're going to be denied a permit the next year and I really have -- I take issue with tying our system so closely to them that we become slaves to what they pass.

In other words, they passed a proposal that you had to be 10 years old to get a hunting license. We have people who, you know, young widows and women who are unmarried who have children that can easily eat a dozen deer in a year and those kids are below 10 years old. And so when that regulation went into effect it had the unintended consequence of allowing us only to get six deer under the designated hunter permit for that woman and so everybody contributes, and there are other cases like that, where actions that are tied so closely to the State have consequences that I think we should debate. We should debate whether hunting license and tags are required and I hope that we can do that in the future.

To Ralph's comment on the BLM, the Southeast Alaska Regional Advisory Council did take a position on that, a letter was sent to the BLM as well as the OSM for review and we supported, I believe it was Alternative C and D on the BLM land issue.

So we've also sent a letter to the Chair, Mr. Demientieff, requesting that we consider the formation of a subcommittee for the subsistence use amounts. We were originally -- originally I was going to be Bill Thomas' replacement, Chairman Bill Thomas' replacement on the subsistence use amount committee and then the FACA concerns raised their head and I think we're being held hostage to FACA concerns because as we discussed earlier these Regional Councils are the backbone as one of the other members mentioned and they're where the proposals need to come from. The agencies need to quit sending proposals to us, to put it frankly, that's what needs to be done.

But we also need to be involved on these subsistence use amounts. What you have is a few people
in the back room, State and Federal, deciding what we need for subsistence use amounts and you're missing out on the people who can -- who are most informed and have their hands on what's happening and what's actually needed to determine the Federal agencies need the subsistence use needs, to be translated to need, we know what is needed to meet your subsistence use amounts. So if you could consider that as you did the deer subcommittee, we would like to see the formation of a subcommittee formed of several members of the Southeast Regional Advisory Council as well as members of the public and Southeast and we will come to you with subsistence use amounts. So that's a request that's coming forward to you in the form of a letter.

Some success stories that I'd like to thank the State of Alaska, especially Mr. Bedford and the Federal Subsistence Board for the actions on the Stikine River. We had really good results for subsistence fishing on the Stikine. We always took the position they were never new fisheries. The State has been very proactive in helping us and the Board and I'd like to express our appreciation for that. And I think we're going to go expand it, it looks like there might be some proposals to the State, under the State system to allow some other subsistence fishing in there and I think those are great.

The steelhead regulations. That was part of these numbers of nine double pages I have on steelhead regulations. We spent quite a bit of time and I appreciate the Forest Service asking me to participate in those meetings as well as Mr. Douville who is the representative that lives on Prince of Wales Island and we came up with some pretty good ideas, I think, for Southeast, and I don't think the sky is going to fall and I certainly hope it doesn't. I don't think there's been a -- there's only about 10 permits that have been issued in Sitka so far and I think it's going to be a non-issue and that's my hope, Mr. Chair.

Again, one final thing was to thank you all for your difficult decisions that you make. I have to disagree a little bit with my cohort and colleague over there, I think you guys have gone quite a ways from where you were when I first came here, my first meeting. I remember someone saying one time, why don't you guys grow a backbone, I remember that in a meeting here. And it is, the six of you are the Secretary and you do have to make hard decisions. Some of them you've made are
controversial, the State has been opposed to them and
you've made them nevertheless and I appreciate your
backing the Federal language of ANILCA that was promised
to us in ANILCA and also promised to us in the Statehood
Act under Article 12, Section 12.

So for those reasons I say I don't agree
with everything you do, that's for sure, but I do
appreciate what you're doing, and I'll leave it at that
and say thank you very much and I didn't see those bear
claws going around.

CHAIRMAN DEMIENTIEFF: They'll be going
around. Thank you, John. I share your concern about
permits. I actually got denied a permit one year because
I didn't do my paperwork, and it wasn't too long ago, but
I have a wife, so she applied and got the permit that
particular year.

Go ahead, Tom.

MR. BOYD: Mr. Chair. If I might just
speak to a couple of things that came out during this
discussion, just as briefly as I can and I don't want to
prolong this.

But I know that Sue brought up a couple
of things about the meetings, and certainly I'm going to
be looking into that. These are administrative items
that fall within my area and I do appreciate you bringing
those to our attention.

With regards to getting out to local
Advisory Committee meetings, we do that on a case by case
basis. I do provide support when there are issues
pending that we want to facilitate the cross
communication on. It's somewhat limited because my
budget's aren't what I'd like them to be but I think when
we have a big issue and it's elevated to us we try to get
the right people to the right meetings to make sure that
those things, that kind of communication occurs. And so
if you have those kind of issues, please, let us know or
work with your coordinator to let us know.

And we'll also work on the meeting format
in terms of the training to make sure that it doesn't
interfere with other work.

For Mr. Littlefield, I hope we're working
better together in terms of moving things along that the
Council wants. I'm certainly going to be more in tune to
some of those needs and try to make sure that we don't
allow some of those things to fall through the cracks
that have in the past.

With regard to SUAs, subsistence use
amounts. Based on what you said, I'm wondering if
there's not a misunderstanding about what the
State/Federal committee is doing, we're certainly not
making determinations of subsistence use amounts in that
committee. We're coming up with a protocol on how the
State and Federal programs can work together and it's not
going to -- that committee's not making determinations.
When that protocol is developed or drafted, a draft will
go out to the Councils to review before our Board ever
acts on it. So you will -- I mean I understand it's not
the same as being in the room but you will get a shot at
it and I know this Board will listen to what you have to
say. And so I just wanted to clarify, and it's probably
not satisfactory, totally satisfactory but I wanted to
make that point.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: I wanted to get my bear
claw down there. Thank you for that Tom. We're not in
there, we don't know what's going on. But nevertheless,
it is our charge to do the subsistence use amounts.
That's our charge as a Regional Advisory Council, and
we'd like to do that in this method and that's another
reason why we're submitting it. And we'd also like to be
involved with you, we think that's doable.

Thank you.

CHAIRMAN DEMIENTIEFF: Okay, we are
winding down here. I know I'm exhausted, I imagine
everybody else is too. We still got a beautiful
afternoon going on out there and I think we all better
get out in that weather, it will probably give us some
energy.

I want to thank everybody for all of
their hard work. And this meeting -- well, it goes for
any meeting that you might be involved in no matter what,
but these meetings that we have, we don't always agree
and that's okay. But we're brothers and sisters in a
sense that we have concerns about the issue. We are
concerned about the issue that we're meeting on and that
brings us together. And so when you leave the meeting,
we're all friends, leave the issues at the table, leave
the issues at the meeting, it's over. Whatever decision
is made, that's the way it is. So leave it there. Let's
just go out and have fun and be friends.

And with that little message I just want
to say, I'm to the favorite part of the meeting when the
old gavel drops. We are adjourned.

(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 145 through 244 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically by Nathan Hile on the 4th day of May 2005, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 11th day of May 2005.

__________________________
Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/08