FISH AND WILDLIFE SERVICE FEDERAL SUBSISTENCE BOARD
MARRIOTT HOTEL, ANCHORAGE, ALASKA

VOLUME I

DECEMBER 5, 2000
8:30 o'clock a.m.
PUBLIC MEETING

BOARD MEMBERS PRESENT:

Mitch Demientieff, Chairman
Gary Edwards, U.S. Fish and Wildlife Service
Tony Urvina, Bureau of Indian Affairs
Curt Wilson, Bureau of Land Management
Judy Gottlieb, National Park Service
Dr. Winnie Kessler, U.S. Forest Service
Keith Goltz, Solicitor
PROCEDINGS

(On record)

CHAIRMAN DEMIENTIEFF: I'm going to call
the meeting to order. This is the meeting of the Federal
Subsistence Board. And briefly, we'll go around the table
for introductions. My name is Mitch Demientieff, I'm the
Chairman of the Federal Subsistence Board. And we'll just
go right around the table and have the rest of the panel
introduce themselves and their affiliation.

MR. JACK: My name is Carl Jack, Native
Liaison, Fish and Wildlife Service.

DR. KESSLER: I'm Winnie Kessler, I'm
representing the Forest Service.

MR. THOMPSON: Ken Thompson, Staff
Committee, Forest Service.

MS. GOTTLIEB: Judy Gottlieb, National Park
Service.

MR. GERHART: Bob Gerhart, National Park
Service Staff Committee.

MR. URVINA: Tony Urvina, Bureau of Indian
Affairs representing Niles Cesar.

MS. HILDEBRAND: Ida Hildebrand, BIA Staff
Committee member.

MR. SAM: Ron Sam, Chairman, Western
Interior.

MR. WILDE: Harry Wilde, Yukon Kuskokwim,
Chairman.

MR. CASIPIT: Cal Casipit, Subsistence
Staff Biologist, Forest Service Juneau.

MR. CLARK: Fred Clark, Forest Service.

MS. WHEELER: Polly Wheeler, Alaska
Department of Fish and Game.

MS. TRUMBLE: Della Trumble, Chair,
Kodiak/Aleutians.
MR. REXFORD: Fenton Rexford, North Slope Chair.

MR. GOODWIN: Willie Goodwin, Chair of Northwest Arctic.

MR. GOLTZ: Keith Goltz, Solicitor's Office.

MR. WILSON: Curt Wilson, Staff Committee BLM representing Fran Cherry.

MR. SIMMONS: Rod Simmons, Fish and Wildlife Service Staff Committee.


MS. FOX: Peggy Fox, Office of Subsistence Management, Fish and Wildlife Service.


CHAIRMAN DEMIENTIEFF: Thank you very much. By way of corrections and additions to the agenda, unfortunately our representative from the Eastern Interior RAC was called home due to a funeral so we are going to try to provide an opportunity to him and we checked with all the other Council members and none were available to come and testify for their proposals, so in an effort to try to accommodate Eastern Interior, we're going to try to move them up to give Mr. Nicholai the opportunity to testify with regard to their region's proposals tomorrow morning. So we'll be setting that up and we'll be making that change to try to accommodate a difficult situation.

With that, are there any other corrections or additions to the agenda?

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: If I realized I couldn't be more inconspicuous, I would have got here earlier, sorry about that.

CHAIRMAN DEMIENTIEFF: I couldn't hear you Bill?
MR. THOMAS: If I could have got in without being so noticed, you know, I came down the middle of the carpet to get here.

CHAIRMAN DEMIENTIEFF: I thought you were making a grand entrance. We're just standing down a second, I have a question on one of the testifiers that we're trying to accommodate. It will just be a minute. We have no request for public comment with regard to non-agenda items at this time. Of course, public comments will be accepted as we deliberate the various proposals. So with that, before we move on into consideration of the subpart C and D proposals, I'll make reference to the consent agenda.

We have on the consent agenda, Proposals 21 which is to reject. 24, defer. 26, adopt with modification. 28, adopt with modification. 29, adopt with modification. 34, adopt with modification. 40, reject. And then Southcentral, we have Proposals 14, to reject. 15, to adopt. Proposal 16, to adopt with modification. Kodiak, we have Proposal 41, which is withdrawn. 42, which is to reject. 44, which is also withdrawn. Bristol Bay, Proposal 12 is to adopt with modification. Yukon-Kuskokwim, Proposal 6 is to adopt. Northwestern Arctic, Proposal 38, adopt. Eastern Interior, Proposals 8 and 9, both of those are to adopt.

So those are the consent agenda items. For those of you that are unfamiliar with that, basically the world is lined up in support of the recommendation, however, we'll still take testimony on those and the principal parties, if there are concerns can, Regional Council, Board members, you know, can go ahead and request those items to be pulled off the consent agenda at which time they will be deliberated fully as the other proposals will be. So we will adopt the consent agenda items at the conclusion of the deliberation of our regulatory proposals, so there will still be opportunity for the public to testify with regard to those proposals and opportunity for anyone who may want to have those consent agenda items pulled for deliberation. So that will be done at the conclusion of the meeting.

With that, I guess we're ready to move into Region 1.

MR. BOYD: Region 1, right.

CHAIRMAN DEMIENTIEFF: Proposal 22A and B,
Southeast Alaska. Who's going to do this one?

MR. CLARK: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Fred.

MR. CLARK: Members of the Board, Council Chairs, members of the public, my name is Fred Clark. I’m the Regional Advisory Council coordinator as well as the staff anthropologist for the Southeast region. Before we get into specific proposals to change the regulations, what I'd like to do is go through briefly the general written public comments that apply to all of the proposals that have come in from Southeast.

There were six sets of written public comments that came in that had comments that were applicable across the proposals. They were from the Southeast Alaska Fisherman's Alliance, the United Fishermen of Alaska, Southeast Alaska Seiners, Petersburg Vessel Owner's Association, United Southeast Alaska Gillnetter's Association and Chris Negenbickler of Wrangell. So five out of the six are from commercial fisheries organizations, who have a great deal of interest in Southeast.

It struck me as I read these written comments that there's a large recognition of the importance of subsistence uses of fish. And a great support, even from the commercial organizations for subsistence users. Some of the items, the topics that came up were the item of customary trade. These organizations appear to be very concerned about the sale of subsistence resources under customary trade. There are some C&T issues that people felt should be approached regionally. There are a number of comments that had to do with jurisdictional issues between State waters and Federal waters and how much the Federal government may extend jurisdiction into areas that are customarily managed by the state of Alaska.

There were a number of comments that were more general, in some ways and specific in others, for instance, the United Fishermen of Alaska commented that the Subsistence Board should seek review by the Small Business Administration for their finding of no significant impact on a significant number of small businesses. So there are some administrative concerns that people expressed as well.

There was a call for additional studies to determine the potential impacts on species and on people throughout Southeast. I would just point out that these
Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Carry forward.

MR. CLARK: Now, we would like to get into the proposals specifically one by one. I will be presenting the first part of Proposal 22 and 22A, which is the customary and traditional use determination and then Cal Casipit will be doing the presentations on the rest of the proposals.

Proposal 22A is a customary and traditional use determination submitted by Bruce Eagle of Wrangell. It requests a customary and traditional use determination for cutthroat trout, rainbow trout and dolly varden char to extend to include all rural residents of Southeast Alaska. So that's the first part of what you see on the screen here now, is to establish C&T for southeastern area residents cutthroat trout, rainbow trout and dolly varden and char.

The existing situation that we have now in the Federal regulations is that the customary and traditional use determinations were rolled over from the State's customary and traditional use determinations prior to the McDowell Decision. In your booklet on Page 13, 14 and 15, you'll see the existing customary and traditional use determinations. They're very specific in terms of what areas are included within the customary and traditional use determinations. Almost all of the species are salmon, dolly varden, trout, smelt and hooligan. There's only one that refers to halibut and bottom fish. So essentially all of the fish that are important for subsistence uses, those fish that are anadromous fish or freshwater fish were included in that list. What the proposal wanted to do was to provide a general customary and traditional use determination for Southeast.

As we went through the proposal and looked at the available information, it was clear that the determinations were very specific to communities that at the time the original customary and traditional use determinations were made were Native communities. We see Saxman, Kassan, Hydaburg, Klawock, Kake, Angoon, Sitka and Moona listed. And we see very specific references to Native corporate lands around some of those communities. What is not included are a lot of other communities in Southeast who have customarily and traditionally used these
species. Every community in Southeast has used all of these fish species customarily and traditionally. To get to that point of specificity in analysis is going to take a concerted effort, and we hope to do that within the next year to look at that more carefully. However, the analysis revealed that there was some gaps that would be beneficial to fill in the customary and traditional use determinations. Communities such as Wrangell and Petersburg and Haines, these are important subsistence communities and all the smaller communities, Thorne Bay, there are just a number of them that were not listed in the customary and traditional use determinations as they are now.

Before we go into too much additional detail, I'd like to see if there are any particular questions that the Board or the Chairs might have in regards to this particular proposal.

CHAIRMAN DEMIENTIEFF: Any questions for Fred. Move on.

MR. CLARK: What I'd like to do then, Mr. Chairman, is to present the written public comments that are specific to this proposal and there were only two, one in support and one in opposition.

The Edna Bay Fish and Game Advisory Committee voted six to zero in favor of the proposal saying that they were in general agreement with the rationale. The Eastern Prince of Wales Fish and Game Advisory Committee voted to oppose the proposal.

If there are no additional questions, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Pardon?

MR. CLARK: If there are no additional questions, Mr. Chairman, we can move on.

CHAIRMAN DEMIENTIEFF: Okay, thank you.

Before we move on to the Department comments, I was amiss in reporting that if you wish to testify, members of the public wish to testify on any one of these proposals, you need to fill out the blue cards. They're available on the table right outside the door. If you wish to testify on these proposals, go ahead and fill these out and the Staff will get them up here so we can call on you during the deliberation of that proposal.
With that, we'll call on the Department for comments.

MS. WHEELER: Thank you, Mr. Chair. I would refer you to Appendix A where the State comments are provided. And basically I do have Staff here if there are specific questions about these and other proposals, Staff here that can answer them. Basically the State supports the Federal Inter-Agency Staff recommendation.

CHAIRMAN DEMIENTIEFF: Where is it?

MS. WHEELER: It's way in back.

CHAIRMAN DEMIENTIEFF: Thank you very much. Are there any other questions or comments for the State? Hearing none, we'll go ahead and move on. We have no request at this time for public testimony with regard to Proposal 22. Regional Council recommendation, Bill.

MR. THOMAS: Thank you, Mr. Chairman. The recommendation from the Council is to adopt with modification. The modification is that with regard to the Yakutat area, to include, I'll just say trout and hooligan, rather than going through all those other names. And the same thing applies to the rest of Southeast. The modified proposal provides Federal subsistence fishing opportunities for rainbow trout, cutthroat trout, dolly varden, so to adopt -- recommendation to adopt.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee recommendation.

MR. THOMPSON: Mr. Chairman, the Staff Committee's recommendation is to modify this proposal to add smelt and ulycon, however, reject that portion of the proposal to expand C&T for all of Southeast Alaska area. Instead maintain the existing customary and traditional determinations and modify the proposal to add remainder areas for Yakutat and the Southeast areas. We recommend this because we feel there is a lack of substantial evidence to show that the communities in the region have customarily and traditionally harvested and use all stocks of cutthroat, rainbow and dollsies in Southeast Alaska area.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Bill, have the Regional Council had a chance to look at the Staff Committee recommendation?
MR. THOMAS: Not as a Council, no.

CHAIRMAN DEMIENTIEFF: Go ahead, Tom.

MR. BOYD: We have essentially two kinds of proposals wrapped up into one in 22. We have 22A and B. 22A deals with C&T and B deals with seasons, limits and -- I'm sorry, methods and means and harvest limits. So I'm not sure where we are in terms of the process. Ken, you only responded to the C&T portion. So Mr. Chair, I would suggest to you that maybe you deal with these separately and maybe avoid a little confusion in the process.

MR. THOMPSON: I believe that is consistent with what Fred has presented as well.

CHAIRMAN DEMIENTIEFF: So it'd be 22A and 22B, is that what you're suggesting?

MR. THOMPSON: Right.

MR. BOYD: And I think we're on 22A right now.

CHAIRMAN DEMIENTIEFF: Right, okay, 22A. Is there any discussion with regard to Proposal 22A?

MR. EDWARDS: Mr. Chairman, under the Staff Committee's recommendation, their modification of Proposal, who gets left out in that process? What areas then are -- the way I read it, you included some but not all of the requests; is that correct?

MR. THOMPSON: Yes. In the Staff Committee recommendation, we've adopted the Council recommendation for part, but we modified the Council's recommendation in another part. We're getting into the area of this proposal that gets pretty complicated. I'd defer to Staff on the specifics.

MR. EDWARDS: Do you want me to restate my question?

MR. CLARK: No, I think I understand your question. Mr. Chairman, Mr. Edwards, the Staff Committee's recommendation essentially doesn't leave anybody out, what it does is plugs the hole that exists now. Because right now there are no customary and traditional use determinations for a number of the communities. As you can see on the screen right now, Skagway, Haines, Gustavus,
Elfin Cove, Sunnyside, you know, you can go down the whole list, there is no customary and traditional use determination for those communities at present. So that means that anyone, any rural resident of the state of Alaska can go to Southeast Alaska to harvest fish under the Federal Subsistence regulations. What this does is kind of restricts that down to residents of Southeast Alaska. So all residents of Southeast Alaska would then have a positive customary and traditional use determination for those communities that are not otherwise specified in the existing regulations.

So if you have a community like Hydaburg, for instance, they have a very specific C&T determination. So nobody else has a positive customary and traditional use determination in that area. That won't change under the Staff Committee recommendation. However, a community like Gustavus, under the Staff Committee recommendation will have a positive customary and traditional use determination for those areas that do not have the specific C&Ts in the regulations.

MR. EDWARDS: And then what's being asked for in the proposal is that there wouldn't be that specificity, that it would be kind of a blanket for all communities?

MR. CLARK: Right. For trout and hooligan and char and smelt.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Sorry, Fred, this may be the same question. So when you're saying remainder, you're talking about all those areas that were not specifically listed in our regs?

MR. CLARK: That's correct.

MS. GOTTLIEB: And was the approach discussed about naming those communities and giving C&T for those communities with the same specificity that are in our regs for the other communities?

MR. CLARK: Yes. Mr. Chairman, Judy, the work that it's going to take to get to that specificity is large. I mean it's a large volume of work. And we've discussed an approach to get to that, but it couldn't be
done this year at that level of specificity. That's why as an interim sort of deal, it was felt that it was best to, at least, provide an additional level of customary and traditional use determination for those areas that are not listed.

So, yes -- the answer to your question is, yes, we did talk about dealing with those communities on a community by community basis and we'll have to do that on a species by species basis for each community. So if you put that in a matrix you can see that's a lot of determinations to do, and we're headed in that direction.

MR. GOODWIN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. GOODWIN: I'd like to bring out a point here. The question you asked Bill, that if the RAC had a chance to review the Staff recommendation. You know, in one of our proposals also, when we deliberated in our RAC meeting the proposal, every agency had an opportunity to speak its peace and present any problems them might have or recommendations they might have at that time. And yet, when they come back to the Staff Committee level we see drastic changes in the intent of the proposal we proposed. I have a problem with that because we -- the RACs don't get a chance to deliberate on these serious problems that we may have with the proposal. And yet we're asked to come to a meeting, bring people down if we have to or can and then sometimes we can't to object to provisions of a Staff recommendation. I think there should be something done about that system so we don't get blind-sided at the RAC level.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Was it simply a timing thing, Ken, that the Staff Committee just simply didn't complete its work to get a recommendation until after the RAC meeting in this case or what?

MR. BOYD: Well, the duration of the program since 1990, our process has been roughly we receive a proposal, analyze the proposal, present it to the Regional Advisory Councils, obtain a Council recommendation, and then we have all that information prior to the Board meeting -- you know, the Staff Committee meets and develops a recommendation to the Board. That's done in a fairly tight time frame. Generally, I think we met, what
MS. FOX: Two weeks ago.

MR. BOYD: Two weeks ago to develop the recommendation to the Board, so that's what you see before you now. But what you have before you, essentially is all of the information, including the Staff recommendation. The Chairs are here to deliberate those.

You know, this is an example of one where there was a lot of thought and discussion put into on how to proceed on this. We've taken into consideration all of the information that's before us, including the Regional Advisory Council recommendation. This is a particular difficult one. Usually they're a little more simple than this and there wouldn't be this large of a perceived deviation from the recommendation from the RACs as normal. But because this one is such a broad expansive proposal and recommendation, I think there was some concern expressed, and that's what you're hearing from the Staff.

So I don't know if you want to add anything to that Peggy, but that's the process and we've routinely done that.

MS. FOX: Ken wants to say something.

CHAIRMAN DEMIENTIEFF: Go ahead, Ken.

MR. THOMPSON: Yeah, Mr. Chair, I might add. That we find the information that does surface during the Regional Council meetings to be particular valuable to the Staff Committee in its deliberations. So I think what we're talking about, Willie, and your concern, would be to have to come back then again to the Council after we've had a chance to consider this additional information you've provided us.

MR. GOODWIN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. GOODWIN: When we get to Proposal 39, I will give you a real specific example of what I'm talking about. It's very disturbing in a sense that it disrupts activities of the subsistence user at home. That's what I'm talking about. The seriousness of some of these things. Maybe a lot of them like this one are no problem
with some areas, you know, but I use that as an example of what is happening and taking place with the system right now.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Mr. Chairman, this is a very awkward point that we're at and it doesn't need to be. In our deliberations at the Council level, we take into consideration some of the concerns that's demonstrated in the justification of the Staff Committee. If we recognized or anticipated a negative impact by expanding this, we would never bring forth such a recommendation. And recognizing the justification from the Staff Committee is one of extreme caution. I don't think that's necessary.

All this would do would be to recognize activity that is occurring now. And so it doesn't need to be this cumbersome. I think we're learning something new since we have moved into this area. But the Southeast, the Council recommendation is a good one and it really takes into the consideration, all those concerns from the Staff Committee. However, it would be nice if we could review each others rationale and determinations before we get here.

But we do support to adopt. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. I guess just speaking with what my own feelings are with regard to this, and that is, you know, primarily I heard that we do have a lack of data and I also heard a commitment from Staff to go and get that information; is that correct? Those things are in the works, where we don't have the specific information that we need to base a good decision on as far as from our perspective. So while it does differ slightly from the Regional Council recommendation, I'm at least comfortable that we have the commitment to go out and get the information we need and to get that information also to the Regional Council.

Fred.

MR. CLARK: Mr. Chairman, thank you. I'd also like to point out that a Staff Committee recommendation essentially does the same thing as the Regional Advisory recommendation. The effect is almost identical. The Staff Committee recommendation allows us to put a regulation in that leaves everything intact in the
way that people are familiar with currently. It's been in the books, well, essentially since 1989. So people are familiar with those C&T determinations.

What the Staff Committee recommendation does is recognizes the concerns and the approach taken by the Regional Advisory Council and just does it in a fairly simple way.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'm glad you brought up the point about acquiring the information. I think we do realize and it is because we are in a new system here, struggling to find C&T for various areas, it's a huge commitment of time, and I think to help insure consistency by the Board, we may want to think about putting some guidelines together. But this is a broad first step here, and I look forward to seeing the information, by whatever time we decide on, for more specificity just so it's clear to everybody.

CHAIRMAN DEMIENTIEFF: Thank you. Any other Board discussion on Proposal 22A. Any final comments, Bill, Regional Council comments?

MR. THOMAS: Mr. Chairman, with regards to Judy's statement, I don't know if there's enough time for me to get anything as clear as we want to.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Any other Regional Council comment. Hearing none, the Chair's ready to entertain a motion on 22A. Yes.

DR. KESSLER: I move the Board adopt Proposal 22A as modified and recommended by the Staff Committee.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion. 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.

MR. CASIPIT: Thank you, Mr. Chairman, Federal Subsistence Board members, Regional Council Chairs. My name is Calvin Casipit. I man the subsistence staff biologist for the Forest Service in Juneau. I'm the Southeast Region's fisheries biologist.

As Fred mentioned, Proposal 22 was submitted by Bruce Eagle of Wrangell. He asks for a harvest limit of six cutthroat, six rainbow and six dolly varden trout per day with no size limit. He species the method of take would be rod and reel with any bait or lure.

Current harvest of these three species in Southeast Alaska are done under State sportfish regulations. Currently the general regulation for dolly varden is 10 dolly varden char with no size restrictions. In areas of high use on larger community road systems however the harvest limit for dolly varden is reduced to two per day and for cutthroats and rainbow trout is two fish in combination between 11 and 22 inches. And again, in high use areas that minimum size limit is increased to 14 inches. What information is available on cutthroat populations in lakes are displayed on Table 1 of the Staff analysis on Page 25. And existing harvest information for the past three years is displayed in Table 2. You can see harvest and catch rates for cutthroat and rainbow and dolly varden char.

At this point I'd like to ask if there's any questions that the Board or Council Chairs may have on the Staff analysis, I'd be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Are there any questions? Gary.

MR. EDWARDS: As far as I understand it, the current slot limit on trout and cutthroat is 11 to 22 inches?

MR. CASIPIT: Correct.
MR. EDWARDS: That's what's in existence?

MR. CASIPIT: Right, two fish per day. I forgot to mention as well, there is a bait restriction. There is no use of bait in the sport regs as well, it's only artificial lures.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comments.

MR. CLARK: Yes, Mr. Chairman. Again, there were the two public comments, written public comments, and I think they applied to both Part A and Part B of the proposal. I'll just go through them again.

The Edna Bay Fish and Game Advisory Committee was in favor of the proposal, they were in general agreement with the rationale. The Eastern Prince of Wales Fish and Game Advisory Committee was in opposition to the proposal because it goes against what ADF&G recommends for maintaining population levels taking size limit and taking of cutthroat and rainbow trout.

That concludes the written public comments, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The recommendation supports the Federal Inter-Agency Staff recommendation to modify the Regional Council's recommendations as to method, harvest limit and size limit as is outlined in the proposal there.

CHAIRMAN DEMIENTIEFF: Thank you. We have no request for additional public testimony at this time. Regional Council recommendation.

MR. THOMAS: Mr. Chairman, to not be repetitive with the comments I already made, the Regional Advisory Council's recommendation was to support the proposal with modification. To provide a Federal subsistence fishing permit for taking of rainbow trout, cutthroat trout, dolly varden char in the Southeast Alaska fisheries management area.

So I'll leave it at that. The rest of the discussion pretty well covered it. But we do move to support. Thank you.
Mr. Chairman, the Staff Committee recommends modifying the proposal to provide Federal subsistence fishing permits for rainbow trout, cutthroat, dollys in the Southeast Alaska area. And we recommend rejecting that portion concerning conditions of the permits relative to the annual harvest limits, size restrictions and use of bait or lures. Modify the proposal as to dolly varden in the Yakutat management area. Modify the proposal to require permits for subsistence fishing for cutthroat trout in Baranof Lake, Florence Lake, Hasselborg Lake and River, Mirror Lake, Virginia Lake and Wilson Lake. In all other waters, our regulations would mirror the State sportfishing regulations but require a Federal permit.

We believe this recommendation is important because of the proposed regulation for region-wide limit with no size limits and a year-round season would potentially cause excessive harvest and stop declines.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Deliberation by Federal Board members. Gary.

MR. EDWARDS: The way I read it, doesn't the Staff Committee recommendation increase the limit from two to six?

MR. CASIPIT: Mr. Edwards, Mr. Chairman, Federal Subsistence Board, Council Chairs, yes, that does. The harvest limit would be increased only in those list of waters that Mr. Thompson specified. But everywhere else it would be two fish, which is -- two cutthroat or rainbow trout which is the State sportfishing regulation. So we would only increase in those water bodies that were mentioned by Mr. Thompson. If you look at that table on Page 25, those waters had large populations of cutthroat trout that we felt could handle a six fish harvest.

CHAIRMAN DEMIENTIEFF: Additional discussion.

MR. THOMAS: Has there been a motion, Mr. Chair?

CHAIRMAN DEMIENTIEFF: No. Yes.
DR. KESSLER: Thank you, Mr. Chair. I move the Board adopt Proposal 22B as modified and recommended by Staff Committee.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Discussion. Bill, do you have any additional comments?

MR. THOMAS: Mr. Chairman, with all respect to the Staff Committee recommendation, we're falling back into the mold that we've lived with for more than 30 years, and that is to find ways of restrictions because of a possibility. You know, hypothetics is a poor mechanism for managing. When you increase limits allowed, doesn't necessary equate to increased harvests. That determination needs to be observed and it needs to see what happens. We've been confronted with this on other issues with wildlife.

So I just have problems in dealing with what might happen. In fact, I don't care to use the terms might, I'd like to see shall or will. When you use may, that's not a very good recommendation.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: I'd like to have Staff respond to the point, I think it's a very valid point.

MR. CASIPIT: Mr. Chairman, Federal Subsistence Board, Council Chairs, Mr. Thomas. Your point is a good one and Staff is well aware of the concerns of the Council on it, and particularly from you, Mr. Chairman. We're hoping that here in the near future we will be able to have more information to be able to react in a little more positive way to the subsistence users in this case. There are currently several projects in the FIS process that hopefully will help answer some questions and be able to increase harvest for these species, based on that information that should be coming in the next year or two with these FIS projects.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Bill.
MR. THOMAS: That was a valiant attempt but it was in futility, however. And I would like to stay with my first comments. This is going to happen from time to time, but we need to -- we don't need to caution on what we do in terms of data that we have, we need to be cautious that are following the intent of Title VIII. In other words, there's a lot of this stuff in here that isn't consistent with Title VIII, we need to watch that. We need to be careful of that. So from time to time, if it takes every three minutes for me to bring this back there, I'll do that. So I don't think we need anymore comment.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yeah, I tend to agree with you, given the Southeast Regional Council's long-term commitment to conservation. I think if you thought that this would cause a conservation problem, the Council would never have made the recommendation it did. Unlike the previous proposal, we don't have any information to base this decision on and I intend to vote against the motion based on that until we see something. We do have the ability to, if we see something going on, to move in rather quickly to close that off and would be prepared to do that. And I think if we saw something, locals would be letting us know, you know through the RAC.

So based on the fact that we don't have any information to adopt the Staff Committee recommendation, I intend to vote against the motion.

Any other discussion. Hearing none, are we ready for a -- oh, Ken, you had something?

MR. THOMPSON: Well, I hesitate to elaborate on this anymore. But the Staff Committee is cognizant of the fact that these populations are very fragile populations. Granted we don't have a good handle on what the fishing pressure would be on these stocks, we just know that there is likely to be, if we allow for the year-round season and the methods and means that are proposed, it would represent a substantial risk and, therefore, could be interpreted to be in violation of Title VIII and its requirements for sound management principles.

Granted, this is somewhat -- a little bit of speculation, but given the best information we had, that's the basis for having made that recommendation.

CHAIRMAN DEMIENTIEFF: Yes, Bill.
MR. THOMAS: You know, we're talking about an activity that wouldn't even qualify to reflect on a scale of harvest. The comments that you just heard, had they been applied to systems like the Yukon River and the major river drainages, they wouldn't be in the problem they are in now. And again, I say if we can't work with the terms in a positive committed nature of will, shall or shall not or will not, I think we need to give this a chance, we've had emergency closures in the past, emergency closures are a part of management. And as long as we have that option, I think we should give the opportunity to this proposal and act responsibly thereafter. Acting prior is not responsible.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Further discussion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: In trying to find some middle ground or waters here, perhaps there might be some appropriate modification of the motion that would help us out here. We do have a list here on Page 25 of waters that, as I understood it, that we do have information on those waters and it seems to be adequate information to be able to say there's not as much conservation concerns there.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

MR. WILSON: Mr. Chair, when I look at the table on Page 25, some of those lakes really don't seem to have very high populations in them. And I do have to express some concern about increasing the limit on lakes where the populations seem to be pretty low to me.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: Those lakes that appear to have low populations probably don't have any pressure. They're just identified in the region.

So, you know, my biggest cheer right now is to bring voting members of the Board into the real
environment of the proposal. You know, if anybody can recognize a population of anything, the user is generally the first to identify that and act responsibly. It's not like anything that happens here is going to be designed to give guidance to the user on how many they should have, how many they shouldn't have, what they should or should not use.

So I understand, if you've never had rain gear on and haven't been out in those waters, haven't passed the test of endurance getting to and from those areas, it's difficult and you're limited to what you can put in this folder.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead.

DR. KESSLER: Thank you, Mr. Chairman. Ms. Gottlieb has brought up a suggestion of how we might approach this. And I think to weigh wisdom of that, I'd like to hear from Mr. Casipit his perspectives on the suggestion of considering some lakes different than others, the biological aspects of that.

MR. CASIPIT: Thank you, Dr. Kessler, Federal Subsistence Board, Council Chairs. Yes, that table would appear, Table 1, that appears on Page 25 and 26 simply shows all the population information that is available to us for cutthroat lakes, rainbow trout lakes and dolly varden lakes in Southeast. What you see on that table is basically the information that was available to us, abundance estimates and the methods of determining those abundances.

The list that appears in the Staff Committee recommendation of waters there, I could read them again but they're there for you to read yourself. Those lakes, we felt could support a six fish per day harvest with monitoring that's specified in the Federal permit -- in the recommendation for the Federal permit. So we have agreed that six fish per day from those list of waters is okay, six cutthroat, rainbow trout from those waters is okay. I wouldn't want to try to have six fish per day from some of these other waters that are listed on this table for the same reasons that were mentioned a few minutes ago.

Does that answer the question?

DR. KESSLER: Thank you.
MR. EDWARDS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Mr. Thompson, as I read the justification for the person who proposed this, as I read it it came across like there would be significant increase in use. Part of the rationale that was given was that these waters were traditionally heavily fished and until the State changed and went to a slot limit and all and restrictions on bait, it really wasn't a problem, this was the traditional way. These trout were a traditional species that were used to teach our children how to fish and also it comes across, at least, when I read it, as an invitation that if all restrictions would be taken off, there would not be that -- there would be maybe a heavy use. I think from your permission, in many cases that would not be the case. I guess I'm somewhat curious as to what the State's view might be as it applies to what's the consequence? Because I don't think you can kind of do a half a loaf in this, I don't think you can ignore the slot limit and then still have a bait restriction. Because they all kind of work together.

So I guess I'd be curious as to what, you know, what the State's view would be, if, in fact, you basically take off all the restrictions.

CHAIRMAN DEMIENTIEFF: Do you have a response for that?

MS. WHEELER: Mr. Chair, if I could have Mr. Rocky Holmes to come up, please, and address that?

CHAIRMAN DEMIENTIEFF: Sure.

MS. WHEELER: Thank you.

MR. HOLMES: Mr. Chair, my name is Rocky Holmes. I'm the regional supervisor for the Division of Sportfish located in Juneau.

We have, in our review of cutthroat trout, I think it's important to remember that they're not the same as salmon. They are a resident species that has perhaps seven or eight different year classes making up this entire population. They don't go back and spawn and all die. They suffer annual natural mortality of 30 to 40 percent every year. So in our review of the literature and from our studies we determine that they can only support
Another problem is that they exist in thousands of lakes and streams in Southeast Alaska and we don't have any information on all those lakes and streams. So we determined for the sport fishery that the only way we could effectively manage them was with fairly restrictive regulations that applied on a general basis with a few exceptions on waters where we knew that the population was large enough to support a higher harvest. Our recommendation for the subsistence fishery, which we obviously know is different than a sport fishery was to do something different -- well, one of two options, either, if you're going to have a regional regulation it has to be restrictive enough to protect the majority of the lakes and streams out there. If you don't, there will be overharvest in some of those.

So we proposed that the regulations for the subsistence fishery and harvest oriented fishery be applied only on lakes with a sufficient population to support them.

CHAIRMAN DEMIENTIEFF: And what lakes are those in your guesstimation?

MR. HOLMES: We agreed with the list that the Federal Staff proposed.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: We're here dealing with a specific user group on an identified stock. The rationale that has been delivered by the subsistence people, the subsistence community is speaking only to those uses. While we object that we have allowances or regulations developed for the subsistence community based on the attitude of other user groups, we argue that we don't belong in the responsibility of negative impact on any of those populations.

I didn't realize this was going to be so difficult to stay within the terms of a positive nature, such as, will, shall. We get back into might, could; that's not management. Again, let's stay focused on the conditions of Title VIII.

Thank you, Mr. Chairman.
MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. CROSS: I have a question. On Page 25 on the years, that's when the fish counts were done because I note that the most recent is a year ago and the oldest count is 21 years ago.

MR. CASIPIT: Correct. The year that appears in that table is the year that that estimate was made, correct.

MS. CROSS: I just wonder how much credence we need to put on the year counts when some of them are 21 years old.

CHAIRMAN DEMIENTIEFF: Any further discussion. Hearing none, all those in favor of the motion signify by saying aye.

IN UNISON: Aye.


(Chairman Demientieff Opposes Vote)

CHAIRMAN DEMIENTIEFF: Proposal 23.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Council Chairs. Proposal 23 was submitted by Mr. Thomas A. George of Klawock. He wishes to establish a subsistence season and harvest limit for steelhead trout Southeast-wide. In his proposal he asks if not Southeast-wide, at least Prince of Wales Island. He requests the harvest limit of one fish per week with a slot size limit of 26 to 36 inches no greater than 40 inches.

Current harvest of steelhead in Southeast Alaska is done under State sportfish regulations. The current regulation is one fish per day, two per season, that is an annual limit. The fish needs to be greater than 36 inches and there's a no bait restriction. Also there is a harvest record required under State fishing permit where you have to keep track of your steelhead harvest in Southeast.

We do have some limited harvest history for
Prince of Wales Island and Southeast Alaska in general, that appears on Page 37 in the analysis. As far as biological, 331 identified steelhead populations in Southeast Alaska, most are believed to contain less than 200 spawning adults. Fisheries on the larger rivers such as Carla, Thorne Rivers, we believe that they support runs of up to a thousand spawning steelhead and the Situk River, which is the largest steelhead producer in the region supports returns of 3,000 to 9,000 steelhead.

At this point, I'd like to ask answer any questions the Board or Council Chairs may have before going on.

CHAIRMAN DEMIENITIEFF: Are there any questions? Written public comments.

MR. CLARK: Yes, Mr. Chairman. There were three public comments submitted. One in support, one in opposition and one to defer.

The Edna Bay Fish and Game Advisory Committee was in favor of the proposal. The Eastern Prince of Wales Fish and Game Advisory Committee was in opposition of the proposal because it goes against what ADF&G recommends for maintaining steelhead rainbow population levels, especially regarding size limit and take limit of steelhead rainbow trout. The United Fishermen of Alaska said that consumption data was needed to support the proposal which would interpret it to mean to defer.

That concludes the summary of public comments, Mr. Chairman.

CHAIRMAN DEMIENITIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation as modified.

CHAIRMAN DEMIENITIEFF: We have no additional request for public testimony at this time.

Regional Council recommendation.

MR. THOMAS: Mr. Chairman, the Southeast RAC recommends modifying the proposal to provide a Federal subsistence permit for the taking of steelhead trout from streams on Prince of Wales Island. The permit would delineate that any legal gear is allowed, there would be no
closed seasons, there would be a weekly harvest of one steelhead trout, and the size limit would be 26 to 36 inches no greater than 40 inches.

That's the Regional Advisory Council recommendation, Mr. Chair. Thank you.

CHAIRMAN DEMIENTIEFF: Staff Committee.

MR. THOMPSON: Yes, Mr. Chairman. The Staff Committee recommends modifying the proposal as to methods, means, harvest limit and size limit so that the regulation would read Prince of Wales Island area for steelhead, Federal subsistence fishing permit would be required for a year-round season with the following conditions, annual limit of two fish of 36 inches or greater, use of bait is not allowed and use of rod and reel or dipnet is allowed.

We believe the subsistence priority is afforded rural residents of the Prince of Wales area through establishing the Federal subsistence permit system along with the Federal subsistence season, harvest limit and methods and size restrictions. However, because of concerns about overharvest could cause population declines, the Staff Committee recommends limiting the geographic area to the Prince of Wales area rather than the requested region-wide area.

CHAIRMAN DEMIENTIEFF: Any comments from the Board.

MR. EDWARDS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: What is the realistic implications of staying with the, the way I understand the Staff Committee, two fish per season, the RAC's recommendation is one fish per week? Assuming that the slot limits and methods of take remain the same, what's the implications of the true difference between two fish in the season and one fish per week? I mean realistically what would the catch probably be.

MR. THOMPSON: That's a fair question, Gary, may I defer to Cal to comment on that, I don't know the details of implications that you're suggesting.

MR. CASIPIT: Well, again, based on the
limited information that we have as far as the population
sizes of some of these streams on Prince of Wales Island,
taking one fish per week out of some of these systems
probably would present a conservation concern over the
long-term.

MR. EDWARDS: But isn't the opportunity to
take steelhead a fairly limited window anyway, down there?

MR. CASIPIT: Well, yes, under sportfish
regulations, the State sportfish regulations, it's, you
know, similar to what Staff Committee is recommending.
Yeah, the season does last from about mid-March, probably
or even earlier than that in some situations to about June.

MR. THOMPSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMPSON: I don't know how two fish a
year could qualify as subsistence. I mean you got to be
pretty -- you got a pretty small appetite for that to
satisfy you, you know. The question was asked,
realistically, I think that's an excellent word to
consider. We should use that more in our thought and in
our deliberations. Two fish a year for a person that uses
steelhead is not realistic.

Again, these hypothetical conservation
concerns need to be identified as a population in distress.
If it's going to assist on the brink of distress without
any effort, there's nothing anybody can do about that,
that's a natural course. So one fish a week is more
realistic.

Let me give you an example with regard to
salmon. Okay, there was a time when everybody was allowed
six king salmon per day, 12 in possession. I never in my
life, other than commercial fishing had more than three
king salmon for the whole summer. Some people took more
than that. There's a lot of people out there that took my
share but they were non-residents of the state and they
weren't subsistence fishermen. So I don't think the Staff
Committee recommendation comes close to being realistic.

Mr. Chairman, thank you.

CHAIRMAN DEMIENTIEFF: Ken.

MR. THOMPSON: Yes, I might add something
which I didn't mention in the Staff Committee recommendation, is that, we did consider the availability of alternative resources in this case in these areas. And again, I'd emphasize the fragile or vulnerable nature of steelhead populations in streams in Federal waters. So that's sort of what lead us to that conclusion.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENIEFF: Go ahead, Bill.

MR. THOMAS: Okay, all of those concerns that are recognized in those populations are not because of the effort from subsistence users. Let's understand that right off the bat. So if that's not the problem, let's not use that to correct the problem. And as far as alternative resources, that's one thing that the subsistence community really objects to is by having people, even nice people, offer them alternatives. You know, they got a mind-set that if they don't want a steelhead, they'll get a walrus.

I mean, you know, let them make that determination for themselves.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENIEFF: Additional discussion. We're ready for a motion.

MR. EDWARDS: Yeah, could I......

CHAIRMAN DEMIENIEFF: Gary, I'm sorry.

MR. EDWARDS: In trying to look for a, you know, some level of compromise here, because again I think some of it's difficult -- I mean my personal view is you can't have slot limits and then not have some bait restrictions. But does modifying this to adopt a portion of the Council's recommendation as far as limits, is that -- is there any benefit to that and then maintaining the other portions of the recommendation?

MR. THOMAS: I don't know. The gear listed up there is really a new -- that's really a recent way of harvesting steelhead for the subsistence users. The subsistence user generally uses a homemade gaff or a spear.

And with regards to compromise, with all due respect, one of the things that the subsistence community is very leery of now, is compromising anything. Because we've compromised too much already. So we're very
careful when we look at the term compromise.

Thank you, Mr. Chairman.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

MR. EDWARDS: Just for my own clarification, I did notice in the Council's recommendation they also set a size restriction. And based upon our previous discussion, I guess that kind of brings the question, why is that felt to be necessary? Because on the previous one, basically, that we deliberated one, there wasn't any size restrictions. The way I read it there is a recommendation to continue to have a size restriction.

MR. THOMAS: Okay, my best recollection suggests to me that the size restriction prior to our meeting was between 36 and 40 inches; is that correct?

MR. EDWARDS: Well, the way I -- if it's correct here in the book, your recommendation was 26 to 36 inches no greater than 40 inches.

MR. THOMAS: Right.

MR. EDWARDS: And I was just curious as to why there was a limit.

MR. THOMAS: That's because the rationale behind that was if it had to be 36 inches long no greater than 40, who was going to throw back a 32 inch steelhead? See, so this size restriction is very reasonable, 26 is a good size fish.

I'm doing the best with my answers based on my understanding of the question.

MR. EDWARDS: From that, maybe you didn't understand my question. I guess I was just curious that the Council thought apparently it was necessary to have a size restriction as opposed to having no size restriction and also it felt that it was necessary to have a limit, in this case, one fish per week. I mean to me that would indicate some area of concern from a conservation standpoint. And I was just -- because the previous proposal, basically had no size restriction when we were talking about, I think, about rainbow trout. And it appears that there must have been something to the thought
Mr. Chairman. You're absolutely correct and I appreciate you clarifying that. In fact, your comments just now were just almost verbatim to our discussion for the same reason. There was a conservation concern in that deliberation that led to this recommendation. So you recognize it as perfect as anybody can.

Chairman Demientieff: Further discussion. If not we're ready for a motion. Yes.

Dr. Kessler: Thank you, Mr. Chairman. I move the Board adopt Proposal 23 as modified and recommended by the Southeast Regional Advisory Council with the further modifications pertaining to method, harvest and size limits as recommended by the Federal Inter-Agency Staff Committee.

Mr. Wilson: Second.

Chairman Demientieff: Motion made and seconded. Discussion. Hearing none, all those in favor of the motion signify by saying aye.

In unison: Aye.

Chairman Demientieff: Those opposed, same sign.

(No opposing votes)

Chairman Demientieff: Motion carries. We're going to take a short break here.

(Off record)

(On record)

Chairman Demientieff: Okay, if we could make our way back to our chairs we'll get ready to go again.

(Pause)

Chairman Demientieff: I'll call the meeting back to order and we'll begin with the analysis on Proposal 25. Cal.
MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Council Chairs. Proposal 25 was submitted by Mr. Lewis Hyatt. He would like to reduce the coho harvest limit to two fish per day for non-Federally qualified subsistence users on streams accessible by the road system on Prince of Wales Island.

Currently coho is a recognized subsistence species under the Federal regulations for these areas however there are no specific regulations for coho fishing. All existing coho fishing up to this point has occurred under sport harvest regulations. On Table 1 on Page 46 the Staff analysis shows the current customary and traditional use determinations for the area in question. Before we go on here, I do want to show a map and I want to apologize for the quality of it, we were trying to get copies in the Board book but it just didn't work out. But if you look at the map there, basically all the yellow highlighted areas on that map of Prince of Wales are coho systems within a quarter mile of the road system on Prince of Wales. The black lines indicate roads. So as you see there, there's quite an area of Prince of Wales that is accessible by road system by coho streams on Prince of Wales that is accessible by the road system. Again, the yellow highlighted areas are those streams within a quarter of a mile of the road.

A couple key points. The coho populations on Prince of Wales are healthy. The proponent did state that he saw user conflicts along the road accessible streams. His specific examples were Winnebagos with out of state licenses set up on various streams along the road system on Prince of Wales, you know, with canning operations, home canning operations, that sort of thing.

The total freshwater coho salmon harvest from Prince of Wales has averaged a little under 3,000 fish for the past 10 years. Again, we don't see any conservation concerns with coho on Prince of Wales at this time.

At this point I'd like to answer any questions the Board or Council Chairs may have.

CHAIRMAN DEMIENTIEFF: Do we have any other questions. Thank you very much. Written public comments.

MR. CLARK: Thank you, Mr. Chairman. The Southeast Alaska Fishermen's Alliance is opposed to the proposal. They say that no customary and traditional use
determination has been made. They also are in opposition
because it does not identify the need for a subsistence
fishery because it does not address the issue of the
subsistence needs not being met.

The Eastern Prince of Wales Fish and Game
Advisory Committee voted to oppose this proposal because
there does not appear to be conservation concern with coho
at this time. At least one member of the Advisory
Committee is a member of the Outfitter Guide Lodge -- he's
a outfitter, guide lodge owner and felt that this would
limit his customers too much, especially if there's no
conservation concern.

The Southeast Alaska Seiners took no
position on the proposal but suggested that the Federal
Subsistence Board should establish a criteria for
restricting State managed fisheries.

Mr. Chairman, as an aside, I would not that
the Southeast Alaska Fishermen's Alliance opposition on the
account of a lack of a customary and traditional finding
does not apply to the Federal program because there is a
C&T finding for coho.

That concludes the summary of public
comments, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The
State supports the Federal Inter-Agency Staff
recommendation. We do not believe that there is sufficient
justification that restrictions to sport fishing are needed
at this time for conservation or subsistence reasons.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We have
no additional request for public testimony at this time.
Regional Council recommendation.

MR. THOMAS: Mr. Chairman, before I get
into this, I would like to share an observation. Earlier
in Board action, a part of a proposal was rejected without
identifying any of the three criteria required to do so.
Before the record is closed on this, I would hope that one
of those three criteria be associated with the rejection of
that portion of the proposal. Thank you, Mr. Chairman.
With regard to recommendations on Proposal 25, you'll see a marked difference in language. The Southeast Regional Advisory Council supported the proposal to restrict to two fish per day harvest of coho salmon by a non-Federally qualified subsistence users on streams accessible by the road system on Prince of Wales Island. Justification, the Council's rationale was increasing subsistence harvest limits as recommended in Proposal 34 would result in increased harvest on those systems. So this restriction on non-subsistence users would be a conservative action. They also felt that non-Federally qualified users could still obtain six fish per day in saltwater so their opportunity would not be significantly reduced.

Now, that's the language coming from us.

Now, the Federal Inter-Agency Staff Committee justification, listen to this. The season is open year-round with a limit of six fish per day, 12 in possession. Studies may be warranted, may, again, due to reports of user conflicts along the streams and abuse of sport fisheries.

You know, again, there could be better articulation in justifying supporting or not supporting of a proposal.

So the Southeast Regional Advisory Council supports this proposal. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Bill.

Staff Committee recommendation.

MR. THOMPSON: Yes, Mr. Chairman. The Staff Committee recommends rejecting the proposal for the reasons that Bill just stated. And that is, again, there's been no demonstrated conservation reasons to restrict the sport fishery. Coho populations are generally healthy on Prince of Wales Island, season is open year-round with a limit of six fish daily, 12 in possession.

CHAIRMAN DEMIENTIEFF: Board deliberations.

Bill.

MR. THOMAS: Mr. Chairman, again, with the recommendation to reject, I don't see it accompanied by one of the three criteria in order to do so. Shouldn't that be the case whenever you take action to reject, shouldn't that be accompanied by the listed three in Title VIII? Thank
you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Could we address that, please. Bill just raised a question. Could you repeat the question, Bill, I don't think Keith got the question, maybe you could just ask him again?

MR. THOMAS: Oh, okay. With Staff Committee rejection, a recommendation to reject the proposal contrary to the recommendation of the Regional Advisory Council, and I don't see it accompanied by one of the identified three criteria in Title VIII in order to do so. And so without that, I see that as a violation of following the guidelines of Title VIII.

MR. GOLTZ: I was looking for a copy of ANILCA. Does anyone have one in the room?

(Laughter)

MR. GOLTZ: Very good. I'd use your copy but it's smudged. There are a couple of basic ways to reject a Council proposal, one is 805(c), no, 805(3). And there are three standards for rejecting a Council proposal.

One is contrary to recognized principles of fish and wildlife management -- I'm not reading this right, I can't see this. But it's recognized principles of conservation management, lack of substantial evidence or.....

MS. FOX: Here's a bigger print.

MR. GOLTZ: Okay, big print. The Secretary -- not to follow any recommendation which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of subsistence needs. That's the basic template.

And every time a Council proposal is rejected, even in whole or in part, that template should show up in the materials in front of the Board. It should also be acknowledged in Board discussion. And ANILCA also requires that a letter be sent to the Regional Council after the action has been taken. And the thrust of that proposal is to make the Regional Councils the engine that drives this system.

There is, however, one other part of ANILCA
that's relevant here and I think it's probably the one we want to be referring to in this case. And that's Section 815(3). Now I'm where I want to be. It says nothing in this title shall be construed as authorizing the restriction on the taking of fish and wildlife for non-subistence uses on public lands unless necessary for the conservation of healthy populations and so on and so on for the reasons set out in Section 816.

So I think what ANILCA is saying is that we have a template for subsistence management, we use that when we're judging the engines that drive this system, but it's a subsistence program and there are other legitimate uses of wildlife resources which should not be impeded unless they're necessary for the implementation of Title VIII.

CHAIRMAN DEMIENTIEFF: Fred.

MR. CLARK: Thank you, Mr. Chairman. Mr. Goltz is exactly right in bringing that up but I would point out that we are now under the Staff Committee recommendation rather than Board recommendation. And it would be -- you know, you have to make certain that you consider those under the Board recommendation, I'm not so sure -- I would ask Keith, if you have to consider them as part of the Staff motion?

MR. GOLTZ: No, but it would make it easier for all of us if the Staff did put that in their recommendation. Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Having listened to Chairman Thomas' on a few previous proposals here, some of the wording here and the recommendation about studies may be warranted. So my question is, are some studies that would help answer user conflict questions, are they in progress or within the line up in our resource monitoring program so that we can get some of these answers?

CHAIRMAN DEMIENTIEFF: Cal.

MR. CASIPIT: Mr. Chairman, Federal Subsistence Board, Council Chairs, Ms. Gottlieb. There are some harvest patterns in these type projects as well as some stock status projects that could help to answer this
CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

MR. EDWARDS: As part of the discussion, as I read the Council's recommendation, part of the rationale is based upon potential outcome of Proposal 34, which I've read several times and am totally confused by, but would it be helpful to -- isn't that correct, Mr. Thomas?

MR. THOMAS: Would you repeat that please?

MR. EDWARDS: The way I read the Council's recommendation on this particular proposal, it's also based upon Proposal 34?

MR. THOMAS: That's correct.

MR. EDWARDS: And would it not be helpful to maybe discuss it.....

MR. THOMAS: In conjunction?

MR. EDWARDS: .....in conjunction? Thank you. Well, it still seems to me that if that's part of the rationale for why the Council made the recommendation, we need to, I guess, fully understand it.

MR. THOMAS: Mr. Chairman, we used to be a pretty Plain Jane Operation. But since we got to know you folks much better we started acting like you and that's the language we have in our summaries.

Thank you, Mr. Chairman.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I appreciate the information about future studies that, I guess, are going to be done but if this is a user conflict situation, and I guess I would like some verification that my perception of that is correct, if it is, I think we have some very excellent models in the wildlife arena where we've established or the Councils or others or agencies have established working groups or cooperative agreements so that plans can be developed. Certainly excellent examples, relating to muskox and moose and caribou where that's being done, could
something like that be established or help in this situation?

CHAIRMAN DEMIENTIEFF: Discussion.

MR. THOMPSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMPSON: Yes, could we have Staff comment on Ms. Gottlieb's question?

CHAIRMAN DEMIENTIEFF: Staff.

MR. CASIPIT: Thank you. Mr. Chairman, Ms. Gottlieb, Federal Subsistence Board, Regional Council Chairs. As far as your perception, Ms. Gottlieb, that this proposal came out of a user conflict -- concern over user conflicts, I think that's a safe assumption. If you read the proposal from Mr. Hyatt, he does go into great detail about, you know, non-Federally qualified out of state users coming to Prince of Wales with their Winnebagos and campers or whatever and setting up shop along these rivers and, you know, canning their fish to take back. I guess from Staff, both from the Staff from Fish and Game and Staff from the Forest Service on the island have noted activities such as that occurring. As far as quantifying the level of that occurring, and how many people are doing it and where they're doing it, I guess we don't have that detailed of information. But I think your assumption that it is occurring is probably, you know, a good one. The level of that conflict, I guess would be up to discussion.

As far as putting together a task force to try to discuss these things and try to hammer out something on the island, I think that is a good suggestion and probably something that our agency should try to undertake. This could prove to be beneficial for more than just the coho issue. There are plenty of sockeye issues on the island to deal with as well as well as the steelhead and cutthroat issues that we just went through. So I think your suggestion is a good one and, you know, I don't want to presume to tell the Board what to do but I think that is a good idea.

MR. THOMAS: Mr. Chairman.

MR. CASIPIT: Would you like to add to that, Fred?
MR. THOMAS: Oh, boy, I think we dropped some oil in the water here. In addressing the proposal, when the Regional Advisory Councils come together, their focus is on access and harvest of resource with the ability to sustain their way of life, to sustain their needs. And for us to enter into an expanded study of conflicts between user groups, I don't think is warranted, I don't think it warrants an added expenditure in an already budget-burdened process.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill, is the Council, in their discussions and deliberations of this proposal aware of any biological concerns that maybe Staff isn't aware of?

MR. THOMAS: Well, Cal, very timidly touched part of that by mentioning the activities of the imported species coming in with their modern technology of harvesting, preserving and taking, and that is going without monitoring. And with enough of that activity there, there is a significant possibility for a conservation concern. The people that live there that utilize that resource in a subsistence designed fashion, with the restrictions, they're restricted by only what they can use. That doesn't expose any conservation concerns on its own merit. Subsistence use does not generate any conservation concerns.

There are other user groups that need to be taken a look at but I don't know that it should be the Federal Subsistence program that does that. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Was there any discussion at the Council level with regard to pointing out people, subsistence users who were unable to meet their needs given reasonable effort?

MR. THOMAS: Thank you, Mr. Chairman. I don't -- that may have happened, but I don't recall whether I heard that or not. Sorry, about that.

MR. CLARK: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Fred.
MR. CASIPIT: Mr. Chairman, Federal Subsistence Board, Regional Council Chairs, Mr. Thomas. I guess I would have to say that the question that was just presented is a difficult question because there really is no established subsistence season at this time in Southeast Alaska for cohos. All existing harvest is done under the sport fish regulations which is six fish per day, 12 in possession, rod and reel methodology of sport harvest.

Now, 34 that we'll be talking about here in a few minutes asks to establish a subsistence season on Prince of Wales Island, so the question of whether or not subsistence users are getting their coho that they need, that's a difficult question because there really is no subsistence season. All the existing harvest is under sport regs and it's anybody's guess as to whether or not people are -- subsistence users are getting the coho they need because they are limited by the existing sport regulations.

Does that -- I might have really confused the issue more by that answer but I'd be -- if I wasn't clear on that, let me know.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Bill.

MR. THOMAS: Mr. Casipit is doing an outstanding job. He's got very limited resources to work with. I'm not sure how he was able to muster up as much information as he did. But the stuff he's giving you, he presented at the Regional Advisory Council meeting as well and I would hope that as everybody else is listening to him, could find some way to assist him in arriving at a proper response because he doesn't have one right now.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Fred.

MR. CLARK: Thank you, Mr. Chairman. I would just add that the Council at the Regional Advisory Council meeting did struggle with these types of questions including how to or if to take a coordinated approach with the State on this type of thing. And they came back to exactly what Bill said, is that, the Federal Subsistence Program deals with subsistence. I think that kind of gets to one of the questions.

The other thing that I'd like to bring up is that the Council also struggled with the same type of
thing that Mr. Edwards brought up about the interaction
between Proposal 34 and this proposal. And they
essentially dealt with 34 at the same time as this one.
And a lot of the particulars that people seem to be leading
up to in this discussion are better handled under that
proposal. So my suggestion would be perhaps we address it
as Mr. Edwards proposed or was suggesting, is to get some
more particulars through Proposal 34.

CHAIRMAN DEMIENTIEFF: Proposal 34 is on
the consent agenda item. We're not going to bring it off
the consent agenda unless requested by either Mr. Thomas or
a Board member.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: I request Proposal 34 be
removed from the consent agenda in order that it enable us
to work in conjunction by combining the methodologies and
the similar thoughts used in both of them.

CHAIRMAN DEMIENTIEFF: So procedurally,
since we don't have a motion on the table with regard to
Proposal 25 and we do have a request from the Regional
Council Chairman to consider Proposal 34 and take it off
the consent agenda, I will just -- we will just set aside
the debate on Proposal 25 and start over and we'll start
with 34 and come back to 25 after we've gone through 34.
So we'll do that.

There are some things that we need to
discuss here and it's becoming clear, once this issue
becomes the property of the Board, once we advance an issue
to Board deliberations, we need to keep in mind that that's
the property of the Regional Council Chairs as well as the
Board. Staff should be reminded not to try to initiate any
kind of initiation whatsoever, just the same way we do
things on the game side. And I think part of that has to
do with the newness and maybe a little bit of the
nervousness of this being our first regulatory meeting, but
it is important for us to be consistent. What did I just
finish saying Tom?

MR. THOMAS: If you'd rather, Mr. Chairman,
I have a chair here that Mr. Boyd can sit on.

CHAIRMAN DEMIENTIEFF: So we will set aside
discussion on 25 and like I said, there is some -- one of
the things that we're not doing, we have a request and I'm
going to go back even though we're not going to reconsider
23, the Forest Service had a request in and I forgot before
we took up 25 and just because of the newness we're not
really explaining some of the things that we should, and I
think Forest Service wanted to explain maybe the reasons
for making the motion with regard to 23.

DR. KESSLER: Thank you, Mr. Chair. I'm
quite new at this and this is my first meeting so I'm
learning a lot of how people do things. And I think I
passed up the opportunity to share with you the reasoning
that I used in making the motions that I did and in voting
the way I did. And I think this generality of principle
that I'm going to share with you extends across those three
motions.

So I recognize that wherever possible we
certainly want to uphold the recommendations of the Board,
but we do have three kinds of situations in which we have
the basis for either rejecting those recommendations or
offering modifications. The particular item that pertained
in my decision was the one having to do with contrary to
principles of fish and wildlife conservation.

And what drove my thinking there was the
precautionary principle, which is one of the fundamental
principles of fish and wildlife conservation. The
precautionary principle compels us that when we don't have
the information we would like to have, the quality of
information that we'd like to have, that we err on the side
of precaution, if you will. And so having listened
thoughtfully to all of the testimony given and including
that pertaining to the biological information and recognize
that it's certainly not perfect, there's much room for
improvement, but given that, the state of that information
as well as the precautionary principle, I acted on that
basis and again, my basic reasoning was having to do with
principles of wildlife and fish conservation.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. The
Chair of the Regional Council from Region 1, Mr. Thomas,
has requested that Proposal No. 34 be taken off of the
consent agenda, is there a motion to do so?

MR. WILSON: So moved.

CHAIRMAN DEMIENTIEFF: Is there a second?
MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: Moved and seconded.

Discussion. Again, the reasons are is because the points are tied to Proposal 26 and we need to have that information for us to properly consider -- I mean 25.

MR. THOMAS: We know what you mean.

CHAIRMAN DEMIENTIEFF: Okay, good, as long as somebody does. All those in favor of the motion signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(NO opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. At this time, using the discretion of the Chair, I'm going to go ahead and move Proposal 34 ahead since it is tied to Proposal 25 and ask the Staff to give the analysis.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Council Chairs. The Staff analysis for Proposal 34 appears in your notebook on Page 53 and I will briefly go through that with you. Proposal 34 was submitted by Mr. Michael Douville of Craig Alaska. He's a Regional Advisory Council member. He requests Federal subsistence permits to take coho salmon be issued for subdistrict 3(B) and 3(C). Those are basically waters of northwest and west central Prince of Wales Island. At the time of the proposal he did not specify a season harvest limit or methods and means.

Later in the proposal analysis process, Mr. Douville was contacted. He clarified the intent of his proposal suggesting an annual harvest limit of 20 fish and allowable gear to include rod and reel and spears. He said that bait should be allowed but only during the peak of the run in September.

Currently our Federal regulations prohibit the issuance of permits to take coho salmon and chinook salmon for subsistence uses even though there is positive customary and traditional use determinations for that species. Removal of the prohibition for coho salmon that appears in our regulations at paragraph 26(i)(13)(b), we
would have to remove the prohibition against taking coho salmon for this fishery to occur.

Like I mentioned for Proposal 25, current harvest on Prince of Wales Island for coho salmon are done under the State sportfish regulations. The current regulation for Prince of Wales is six coho per day, 12 in possession.

A few concerns here that we wanted to bring out with this one, we did feel that the Federal permit should have harvest reporting associated with it and we did look at the use of bait. Currently under the sportfish regulations bait is allowed between September 15th and November 15th, and the use of bait makes rod and reel fishing more efficient.

I guess at this point I'd be happy to answer any questions from the Board.

CHAIRMAN DEMIENTIEFF: Any questions. Cal, I know you're kind of new to the process, so also I'll point out that we still, the Board members, you know, we'll still ask questions if there are follow up as we develop the issue.

MR. CASIPIT: Okay.

CHAIRMAN DEMIENTIEFF: Okay, summary of written public comments.

MR. CLARK: Thank you, Mr. Chairman. The Southeast Alaska Fishermen's Alliance, they say that prior to acting on the proposal the Federal Subsistence Board must make a C&T determination for coho then identify the need for subsistence fishery and determine whether subsistence needs are being met. They suggest approaching this on a regional basis instead of a piecemeal basis.

The United Fishermen of Alaska supported the proposal with modification. They support it to the extent that it helps align Federal and State management.

The Eastern Prince of Wales Fish and Game Advisory Committee is in opposition to the proposal. Because it supports the believe that coho should not be targeted for subsistence harvest in freshwater but only be incidental take during low water coho would be easily susceptible to overharvest.
That concludes the written public comments, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We have no written request for public testimony at this time.

MR. CLARK: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CLARK: It just came to my attention that the Alaska Trollers [sic] submitted written public comments yesterday but they have not arrived here. I just wanted to make sure that was on the record.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Who did that come from?

MR. CLARK: That was the Alaska Troller [sic].

CHAIRMAN DEMIENTIEFF: Okay. Mr. Thomas.

MR. THOMAS: Yeah, Mr. Chairman, I'm a troller and I think it's safe to assume that the trollers fully endorse RAC recommendation.

(Laughter)

CHAIRMAN DEMIENTIEFF: Regional Council recommendation.

MS. CROSS: Mr. Chair, I have a question, another question regarding this. On Page 55 under concerns, what study did.....

CHAIRMAN DEMIENTIEFF: Grace, if I could, you will get the opportunity to ask questions, but we need to go through with the Regional Council recommendation, Staff Committee recommendation and then you'll get an opportunity to require.
MS. CROSS: Okay, thank you.

CHAIRMAN DEMIENTIEFF: You'll have plenty of opportunity. Regional Council recommendation.

MR. THOMAS: Thank you, Mr. Chairman. The Advisory Council recommends to support the proposal with modification. We recommend removing the regulation 26(i)(13)(b) which prohibits the issuance of permits for cohos and chinook salmon. We further recommend providing a Federal subsistence fishing permit for coho salmon for subdistrict 3A, 3B and 3C. Provisions on the permit would include the daily harvest limit of up to 20 coho per household with no closed season. Method and means would be rod and reel, spear, dipnets, mortar, dynamite. Bait would be allowed from September 15th to November 15th. The Council recommended the permit should require a reporting at least the date of harvest, stream, gear used and the number of fish caught daily. The Council further recommended increased monitoring of coho escapement harvest on Prince of Wales Island which would be accomplished cooperatively by the Forest Service and the Department and the local affected users.

So the recommendation wasn't without some provisions of monitoring. This is a very responsible recommendation. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee recommendation.

MR. THOMPSON: Yes, Mr. Chairman, the Staff Committee recommends modifying the proposal as recommended, I believe, in part, by the Southeast Council. I'm not sure we would add dynamite and mortars to that but as originally recommended by the Council. Coho salmon has been customarily and traditionally used throughout Southeast Alaska and by implementing a Federal permit the Federal Subsistence Board could better track the subsistence use of coho.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. We'll now advance this to Board deliberation. Towards that end, since I so rudely interrupted you Grace, we're going to allow you to go first.

MS. CROSS: Well, I was just going to ask a question on Page 55, there is a statement that says,
however, without restriction and gear type, overharvest would occur which would reduce coho returns and cause future restrictions. I just wanted to know if that was based on a study or is that just speculation?

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: That's listed under concern, so it doesn't have either with regard to information.

CHAIRMAN DEMIENTIEFF: Yes, I read that. Who authored this? Cal, is this some concern that you pointed out?

MR. CASIPIT: Yes, Mr. Chairman, Federal Subsistence Board, Regional Council Chairs. This was a concern that was brought out to us that having a daily limit without having a season harvest limit as a backstop for -- that harvest would increase more -- beyond -- without having that, it could cause a problem for small coho systems on Prince of Wales if there wasn't some sort of seasonal limit, over the long-term it could cause conservation concerns. But you have to balance that off with the existing sportfish season, the sportfish harvest which are basically six fish a day, 12 in possession. The possession being if fish have not been canned, salted, frozen, smoked, dried or otherwise preserved. So there is that element in that that the Board is going to have to look at, is, you know, the sportfishing occurs, six fish a day, 12 in possession, the possession limit being, you know, as long as you've canned it or salted it, you can go back and get another 12 possession limit basically.

There is no seasonal backstop on sportfishing. The flip side of it being a subsistence limit as Bill -- as Mr. Thomas talked about it being a daily limit also with no season limit, without having a backstop either. So I mean that's something -- you know, I don't want to presume to tell the Board what to do but, you know, that is how the recommendation did come from the Council and, you know, they suggested a daily harvest limit for coho.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Mr. Chairman, it's obvious
that Mr. Casipit hasn't been subject to my orientation in
our region but we'll take care of that pretty soon. But we
do have a backstop in a subsistence community. Our
backstop is if we can't eat what we get we don't harvest
anymore. That's a backstop and that's a good one.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Is there
any other discussion by Board members -- Gary.

MR. EDWARDS: I'm a little confused now
what -- the Council was recommending a daily bag limit and
what the Staff Committee is recommending is an annual
household limit; is that correct?

MS. FOX: We supported the Council
recommendation.

MR. EDWARDS: Peggy we supported it but the
way I read it, the Council recommended up to 20 -- daily
harvest limit up to 20 coho per household and the Staff
Committees recommending an annual harvest limit of 20 fish
per household. That's a fairly significant difference.

CHAIRMAN DEMIENTIEFF: That's the way it
reads, you're correct in that.

MR. WILSON: Mr. Chair, I'm wondering if
there was some sort of data entry problem here because this
thing was on the consent agenda and given the wording of
the two proposals now, it shouldn't have been.

MR. EDWARDS: That was going to be my next
question, why did we put it on the consent agreement if
there's that significant difference.

MR. THOMAS: Yeah.

CHAIRMAN DEMIENTIEFF: Who would have done
that? Ken, is that you that would have.....

MR. THOMPSON: Would I have entered the
data, well, I'm partially responsible, but no, I didn't.
It does appear there is a data entry problem here and I'd
urge the Board to consider the Staff Committee
recommendation as stated in the book, not fully consistent
with the Council recommendation.

CHAIRMAN DEMIENTIEFF: In your
deliberations with the Staff Committee, do you recall debating that particular issue? I mean if it's just a......

MR. THOMPSON: Well, other Staff Committee members may help me, but as I recall we did deliberate that point and we did make a conscious decision to make it an annual harvest limit in our recommendation.

CHAIRMAN DEMIENTIEFF: Of 20 fish?

MR. THOMPSON: Yes.

CHAIRMAN DEMIENTIEFF: So let me see since this is related to Proposal 25, somehow the Staff Committee is limiting subsistence users to 20 fish a day while allowing sport fishers up to 700 and some odd fish a day, 800 fish, whatever, a day, two fish a day?

MR. THOMPSON: Again, I believe the Staff Committee recommendation should have been an annual harvest limit of 20 fish per household, which is not consistent with what the -- apparently with what the Council recommended.

CHAIRMAN DEMIENTIEFF: Is the full Staff Committee here?

MR. BOYD: Yes.

CHAIRMAN DEMIENTIEFF: I'm going to call a recess until 1:00 o'clock, and immediately upon this recess I want the Staff Committee to sit down and sort this out so the Staff Committee convenes right now and we'll go ahead and stand down until 1:00 o'clock.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We'll go ahead and call back the Federal Subsistence Board back to order. Right before lunch, of course, we had a little glitch with our Proposal No. 34. I asked the Staff Committee to review it, we could have kept working but what the heck we had a long lunch break out of it, it didn't take them but 30 seconds to resolve it. So with that, I'll go ahead and call on the Chair of the Staff Committee, Peggy Fox, to explain the glitch.

MS. FOX: Thank you, Mr. Chair. The error
was in transporting the wrong recommendation into the Staff Committee recommendation and in fact it is intended that the Staff Committee recommends full support of the Council's recommendation and that it is and continues to be a consent agenda proposal.

CHAIRMAN DEMIENTIEFF: Okay. With that, we'll go ahead and move on to Board deliberation. And towards that end, I'm glad that we did go back to review that, it helps to clear up a lot of the issues as far as Proposal 25 goes. You know, I'm intending to support the proposal and am prepared to move on as soon as we're done with any comments that anybody might have.

MR. EDWARDS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Let me try and recap for my own information. Prior to what's recommended in 34, the subsistence harvest of coho was under the guise or umbrella of sportfish plus incidental take. With the passage of 34, it will create a new venue for subsistence fishing of which it's 20 fish per day per household; is that correct so far?

MR. THOMAS: Uh-huh.

MR. EDWARDS: And then given that, based upon the Council's recommendations, because their view was that 34 would create an increased harvest of coho by subsistence users, therefore, they were basing their position on 25 from a conservation standpoint that they felt that that would result in an increase in the coho harvest and therefore restrictions needed to be in place. Is that a correct analysis?

MR. CLARK: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Fred.

MR. CLARK: Yes, Mr. Edwards, I believe that's a good synopsis.

MR. EDWARDS: So then my last question, the Staff Committee's position is given all of that, they don't feel that even if this does result in an increased harvest by subsistence users that it will have any kind of a conservation impact on cohos?

MR. THOMAS: Mr. Chairman.
CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: No it won't have. It won't have. For further clarification, if I may, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. THOMAS: A lot of times when we're trying to establish something at our Region 1 meetings we spend a lot of time focused on .801 and that says to provide continued access for subsistence use. Well, up to now there is no subsistence access in Southeast for coho. Coho has been used as long as any animal or fish has been used. Again, we're dealing with language that nobody really understands, and that's English. And we keep getting tangled up in that. It's like trying to walk through a gillnet without tripping. And in many cases, 20 coho a year would satisfy most households. But the limit they ask for now is to make sure that their opportunity to satisfy their need would be a legal recognized adopted provision. It's not to say just because we have those guides as benchmarks, it's not to suggest by any stretch of the imagine everybody's going to go out and get 20 cohos.

So just some clarification on the intent of the proposal. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Any further discussion. The Chair would entertain a motion for action on Proposal 34.

DR. KESSLER: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

DR. KESSLER: Thank you, Mr. Chairman. I move the Board adopt Proposal 34 as modified and recommended by the Southeast Regional Advisory Council.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MR. WILSON: Second.

CHAIRMAN DEMIENTIEFF: Discussion. Hearing none, all those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.
CHAIRMAN DEMIENTIEFF: Those opposed, same
sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Now, we go back to Proposal 25 where we are at Board
deliberations with regard to 25. Any further discussion
with regard to Proposal 25.

Based on my further understanding and
having been through 34, based on the fact that there is no
clear conservation concern although it will be a situation
that will continue to be monitored, I intend to support the
Staff Committee recommendation. Is there any further
discussion on 25. Yes.

DR. KESSLER: Yes, I'd just like to make a
few comments before I offer a motion on 25. I was
privileged to be present at the Southeast Council's meeting
and to hear about the firsthand accounts of the level of
activity of harvest that's going on and certainly that's a
cause to be concerned and I would feel that it would be
very important to go forward with the monitoring and to be
sure and put in place means to measure and follow up on our
understanding of those developments on the island so that
we have a clear picture of the extent to which pressures
may be building.

With that said, I think our situation is,
at this time, that we do not have evidence to suggest that
there is a conservation concern that would warrant
restricting non-subsistence use. So I'll offer a motion
with that in mind.

CHAIRMAN DEMIENTIEFF: Go ahead.

DR. KESSLER: Okay, thank you, Mr. Chair.
I move that the Board reject Proposal 25 as recommended by
the Staff Committee.

CHAIRMAN DEMIENTIEFF: There's a motion, is
there a second?

MS. GOTTLIEB: I'll second it.

CHAIRMAN DEMIENTIEFF: It's been moved and
seconded. Discussion. Hearing none, all those in favor of
the motion, please signify by saying aye.
IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 27.

MR. CLARK: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Fred.

MR. CLARK: The further public comments from the Alaska Trawlers Association regarding Proposal 27 and Proposal 34 have arrived, that's the public comment I referred to earlier. I'd asked the Chair's direction at what point you would like those public comments on the record for 34 since you're already done with 34. We can handle Proposal 27 as we deal with that one but I would like some guidance on the other one.

CHAIRMAN DEMIENTIEFF: We'll stand done briefly.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Apparently we got a little correction here, we're going by area and I was going numerically with the proposals. But continuing on with the Prince of Wales, we'll go to Proposal 35 next.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: Begging your indulgence, I would ask that we have a suspension of the rules to revisit the last action on the last proposal, just for clarification.

CHAIRMAN DEMIENTIEFF: Proposal 25?

MR. THOMAS: Yes.

CHAIRMAN DEMIENTIEFF: Was rejected per the Staff Committee recommendation.
MR. THOMAS: What was the justification?
Taken from Title .805, which one of those three components did you use?

DR. KESSLER: The basis was there wasn't sufficient evidence to demonstrate that there was a need to restrict non-subsistence uses.

CHAIRMAN DEMIENTIEFF: Okay, let's go on and move on to Proposal 35 now.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Advisory Council Chairs. The Staff analysis for this proposal appears on Page 69 so I'll quickly, briefly go through that. Proposal 35 was submitted by Michael Douville of Craig. He is a current Regional Advisory Council member. He suggests to close the Sarkar Lake system above the bridge to the use of nets for subsistence fishing.

The map there, as you can see, basically the Sarkar system is in the very northwest corner of the Prince of Wales Island. I don't know if you can see it from there. The proposal was submitted out of concern that the use of nets does not allow enough salmon escapement into the Sarkar system. The proponent indicated that nets have never been used traditionally above saltwater and he contents that the road access provided -- while the road access has been available since the late 60s and that with this user access, that there is conservation concern with the use of nets in that system.

As you will notice, Sarkar Lake system is in Subdistrict 3C within the Tongass National Forest. I can briefly go over the regulatory history from that system. That system is managed by the State as a subsistence fishery. Currently for sockeye salmon, the season lasts from June 1st to July 31st, with a possession limit of 10 fish per individual and 20 fish per household. For pink salmon, the season is July 1st through September 30th, possession limit for pink salmon is a hundred fish per individual and a hundred fish per household. Chum salmon season is from July 1st to October 31st, with a possession limit for chum salmon for 20 fish per individual and 25 fish per household. There are no annual limits under the State permitting system.

Communities which have harvested fish from the Sarkar system include Deweyville, Machanex, Whale Pass, Thorne Bay, Craig, Klawock, these are all small island
communities that are largely dependent on subsistence and
natural resource utilization.

A couple key points that I wanted to
mention here at this time was, first of all, under the
State permitting system, beach seines and dipnets are
allowed and they have been traditionally used in the
system. And we do not have any harvest concerns at this
time.

CHAIRMAN DEMIENTIEFF: Written public
comments.

MR. CLARK: Thank you, Mr. Chairman. The
Southeast Alaska Fishermen's Alliance says that Alaska
Department of Fish and Game does not have any evidence that
there are conservation concerns in this system and at most,
the harvest has occurred in marine waters outside of
Federal jurisdiction. For that reason, they're opposed to
the proposal.

The Edna Bay Fish and Game Advisory
Committee voted in favor of the proposal.

The Eastern Prince of Wales Fish and Game
Advisory Committee voted to support the proposal. The
Eastern Prince of Wales Fish and Game Advisory Committee is
concerned with the current level of sockeye take from
Sarkar and views the system as being overharvested. In
spring of 2000, the committee proposed to the State Board
of Fisheries to limit the subsistence take at Sarkar and
was opposed.

That concludes the public comments.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The
State supports the Federal Inter-Agency Staff
recommendation amended to prohibit gillnets for subsistence
fish on the Sarkar River above the bridge. Thank you.

CHAIRMAN DEMIENTIEFF: There is no
additional request for public testimony at this time.

Regional Council recommendation.

MR. THOMAS: Mr. Chairman, the Regional
Advisory Council recommendation is to support the proposal.
This is a system that I am very familiar with. If you want
00055
to talk about a fragile system, Sarkar is fragile. And the
Federal Inter-Agency Staff recommendation is not
responsible in any stretch of the imagination.

To help alleviate is not going to offer any
conservation protections that this system needs. There's a
road that goes by there and it's like dipnetting fish in a
five and dime store when you go to buy a guppy. They dip
in, they get the fish they want and that's how easy it is.
And to allow fishing only in saltwater, that would be a
responsible conservation means of harvest and sustaining
some resemblance of strength to that system.

So the proposal is very appropriate. It's
long overdue. It's obvious that management did not exist
on that system prior to this proposal being here. It may
have been watched but it hasn't been managed. So we
support the proposal as it's worded. Thank you, Mr.
Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff
Committee.

MR. THOMPSON: Mr. Chairman, Staff
Committee recommends the proposal be rejected, however, the
regulation should be modified to prohibit the use of
gillnets for subsistence fishing on the Sarkar River above
the bridge. There's lack of substantial evidence, in our
minds, that a conservation problem exists in the Sarkar
River system. Because gillnets cause a high mortality of
fish that are netted, prohibition of the use of gillnets
for subsistence fishing on the Sarkar River system above
the bridge would help to alleviate concerns about
overharvest of salmon. Eliminating the use of gillnets and
beach seines, however, would pose an unnecessary
restriction on the subsistence users. Since those methods
do not have the same mortality associated with them that
gillnets do.

CHAIRMAN DEMIENTIEFF: Board deliberations.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I just have a question on
location either for Staff or for Mr. Thomas, please, can
you just give me a sense of how long the river is? I mean
where the bridge is in relation to the mouth of that river.
MR. THOMAS: The river is probably a half a mile long and comes from a small lake.

(TURNS MICROPHONE ON)

MR. THOMAS: I know what I'm doing.

(LAUGHTER)

MR. THOMAS: It comes from a very small lake. The river itself is accessible by a road now that it's got a bridge over it, that's relatively new. And the water in the river, because of the nature of the landscape is not one that has deep water, it's all very shallow water, so the fish are -- their backs are always on the surface getting from saltwater to freshwater. And, in fact, I don't know why gillnets are even allowed on Prince of Wales, especially on the west side of Prince of Wales. In any case, I was surprised to find out that they're even allowing them to use those there.

But it's a small system, it's a fragile system, believe me. Thank you.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Bill, let me ask you if the recommendation of the Council would be upheld, then how would subsistence users be able to take sockeye, only with rod and reel?

MR. THOMAS: Embracing the English language, typically it's done with a beach seine in saltwater.

MR. EDWARDS: So there would be no subsistence harvest above the bridge?

MR. THOMAS: Correct.

MR. EDWARDS: Under your recommendation?

MR. THOMAS: Yes. This really should be a no-brainer. It's sensitive, believe me. I mean there's some eggs that have a harder shell than others, this has a pretty thin shell. Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MS. GOTTLIEB: My understanding is that the State regulations do allow the use of nets above the bridge, so I wonder if we could have a clarification on that because I'd hate to restrict all users if the State is allowing this practice.

MR. THOMAS: Mr. Chairman, that's why we're here.

MR. EDWARDS: Mr. Chairman, I guess then to add, maybe to Judy's, I guess I'm a little concerned with our recommendation given that the subsistence users want to restrict themselves, why would we not?

MR. THOMAS: Mr. Chairman. This is a demonstration of subsistence users using conservation measures to maintain the health of a stock.

CHAIRMAN DEMIENTIEFF: Did we ever get an answer to your question about whether the State regulations allow -- does anybody know in your delegation, Polly?

MS. WHEELER: We're checking on it, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Okay.

MR. CASIPIT: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Cal.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Advisory Council Chairs. To answer Ms. Gottlieb's question, under the State permitting system they allow beach seines and dipnets in the Sarkar system.

MS. GOTTLIEB: And Mr. Chair, if I may, is that both -- is that above the bridge or both sides of the bridge or.....

MR. CASIPIT: Right, that's above the bridge, in the entire system.

MS. GOTTLIEB: Thanks.

CHAIRMAN DEMIENTIEFF: Further discussion. Under what authority is that, is that a sport fishing regulation or something that they can harvest with beach seines and dipnets?
MR. CASIPIT: Thank you. Mr. Chair, Federal Subsistence Board, Regional Advisory Council Chairs. Yes, Mr. Chairman, that is under State subsistence regulations, that particular system.

MS. WHEELER: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Polly.

MS. WHEELER: Thank you, Mr. Chair. If I could have Mr. Douglas Lane speak to specifics.

MR. VINCENT-LANG: In Southeast Alaska, we set the stipulations and regulations regarding our fisheries by permit. They're not in our regulation package. So that requirement in Southeast Alaska is set by our permit regulations, which is done annually. So we have a restriction and we allow allowable gear in that fishery for beach seines and dipnet gear only, we don't allow gillnets in that area.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: If I could ask Mr. Thomas again then, to understand what you're saying that you're request to this Board is for the conservation purposes above the bridge and that subsistence users see that as necessary, do you think you or anyone on the Council or any of the subsistence users might then go to the State and ask them to change their regulations to be consistent with, for example, your Regional Advisory Council recommendations?

MR. THOMAS: No. No. This is so irresponsible, I can't -- I can't say that enough. It's a small -- it's an old established system. Many generations, villages, abandoned villages that have been on that site in saltwater for a hundred years. And that system has provided adequate high risk for the people that chose to use that system, always in saltwater. The idea of fishing in freshwater, I don't know how long that's been, but if anybody can tell me how using nets of any kind above the bridge in that lake is a good management practice, I'd really like to have them elaborate on that. It's not.

I've never seen so much problems with a no-brainer.

MR. EDWARDS: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Given that the Council Chair has convinced me that this is a no-brainer, I make a motion that we support the proposal by the Council and reject the proposal from the Staff Committee.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MR. URVINA: Second.

CHAIRMAN DEMIENTIEFF: Let me just say that I tend to support the motion and it's not quite the no-brainer that Mr. Thomas would like to represent it is. We do have conflicting regulations and I encourage the Regional Council to express those concerns to the State in the next regulatory cycle, you know, if there is truly a conservation problem because it doesn't prohibit people from, even rural subsistence users can simply go get a State permit and continue to use nets under the State regulatory system. So it really doesn't address all of the conservation concerns, so I encourage the Council in many of these cases where we have conflicting regulations to go ahead and work with the State as far as that goes.

MR. BOYD: May I address that?

CHAIRMAN DEMIENTIEFF: Yes.

MR. BOYD: I'm not sure, I think I would ask Fred or Cal a question, we're talking about the entire system being within the National Forest unit?

MR. CASIPIT: (Nods affirmatively)

MR. BOYD: So all of the system is Federal jurisdiction?

MR. CASIPIT: Correct.

MR. BOYD: So it would seem that any more restrictive regulations that we impose would trump the State regulations. So while we would have a conflict on paper, I'm not sure that we have a conflict in practice because it would also restrict -- it would restrict from a subsistence user standpoint use as to Federal regulations, what those regulations prescribe. And you may be right concerning other State regulations, unless we specifically state -- I'm not sure how all this works but I'm looking
for Keith for some help here, I think we trump.

MR. GOLTZ: I think we do trump, but you'll want to close it probably to other uses; is there a personal use fishery or anything other than a subsistence fishery on that net fishery?

MS. WHEELER: No.

MR. GOLTZ: No?

MS. WHEELER: No.

MR. GOLTZ: No, okay. So I think -- the State tells me no, there are no other fisheries on there, net fisheries. So I think we would trump, yes.

MR. VINCENT-LANG: Mr. Chair, there's a subsistence and a sport fishery.

MR. GOLTZ: Is the sport fishery.....

MR. VINCENT-LANG: Yes.

MR. GOLTZ: .....rod and reel or is it.....

MR. VINCENT-LANG: Yes.

MS. WHEELER: Yes.

MR. VINCENT-LANG: Non-net, though.

CHAIRMAN DEMIENTIEFF: Bill, you had additional comment.

MR. THOMAS: In response to further restricting, you will not get any objection from the subsistence community on that kind of action. We're here to represent those people. Those people are the ones that brought this information to us. I don't have the flexibility or the latitude or the desire to, on my own, make it look like anything else. It's a workable system, it's a good system.

With regards to us approaching the State, I don't know how appropriate that is. If we were to approach their advisory committee, that might be one thing. But if we're to approach administration, it would seem to me like that should be an administration to an administration dialogue.
Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Further discussion on the motion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'm sorry, I guess I got lost in our net discussion here. So Gary, perhaps could you be clear then on your motion.

MR. EDWARDS: My motion was to support the recommendation by the Council, which I understand would prohibit the use of nets in the system but would continue to allow hook and line, rod and reel fishing. And, therefore, that would be opposed to what the Staff Committee was recommending which was to not to have such a restriction.

CHAIRMAN DEMIENTIEFF: Ken.

MR. THOMPSON: Mr. Chair, I may have missed some of the side discussion here but I believe unless the language in the regulation we adopt specifically closes Federal public waters to non-subsistence fishing, that it would remain open under State regulations and people could still use nets in the system under the motion that's being proposed.

CHAIRMAN DEMIENTIEFF: Keith.

MR. GOLTZ: I'd like to hear from the State. It's my understanding there are no existing net fisheries above the bridge; is that correct? Either dipnet or gillnet or beach seine?

MR. VINCENT-LANG: Yes, beach seines and dipnets are allowed for subsistence. Now, I think there's a real question as to how much fishing occurs above the bridge. In our opinion, not very much. But most of it occurs down in the marine areas where, I think most of the fishing occurs. But right now, under State regulations you could use those gear types above the bridge for subsistence. And the way I understand the proposal that you're discussing would be to eliminate those gear types above the bridge, not in the drainage.

MR. THOMAS: Mr. Chair.
MR. GOLTZ: That's correct. It seems to me we may have gotten into part of the problem here because we're second-guessing the Council. And the Council has only asked for a limited restriction on subsistence uses. And I wouldn't, myself, want to go beyond what the Council's asking for. So yes it would be open to rod and reel above the bridge.

MR. BOYD: A question to Counsel, Keith, a question to you, if the State continues to allow the use of beach seines and dipnets above the bridge in their regulations, unless we specifically restrict other uses, and I'm trying to read into what the State regulations say, the State regulations don't discriminate between rural and non-rural uses, but even those residents in the area could still harvest, legally harvest using beach seines and dipnets unless we specifically restricted or eliminated other uses, non-Federal uses, I guess, basically saying that the State regulations don't -- unless we specifically state, we override the State regulations in some fashion, that's what I'm trying to say. I mean isn't that the case, don't we need to also make the provision in the motion to restrict other -- restrict the State regulations in some fashion and I don't know what the words are, but I'm looking for them.

MR. GOLTZ: Well, Mr. Thomas has convinced me that English is a very clumsy tool for doing this and the fact that we've had this amount of discussion over this small point indicates that it probably would be a good idea. The two corrections I would have is to number one, if you've got a proposal from the Council that works, don't try to second-guess them and do it better. Listen to their language. And the second point is, that generally speaking, and it may not work very well in this particular case but generally speaking, a more restrictive Federal regulation would trump a more expansive State regulation.

Now, having said all that, I think it probably is a good idea to lay it out in this particular case.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: I'm really struggling with us finding a need to feel like we're walking over coals in our bare feet. We're here because of Title VIII. Our job is to address the subsistence activity of these resources. Okay, we've spent 10 years defining what public Federal lands are and who has jurisdiction over those lands. The
people at this table, from here on up have that. You are mandated by Congress to exercise your authority in that. Anybody that would have jurisdiction over that would do just that, they would exercise their authority in their area of ownership.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Further discussion on the motion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Could I please hear the motion again?

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Well, based upon what Keith said, it seems to me like we probably need to modify it a little bit but I'm not sure of the exact words so maybe you can help me out.

MR. GOLTZ: Yeah, I've been consulting with my Staff and here is what Bill recommends, Federal public lands in the Sarkar system above the bridge are closed to the use of nets by Federal or non-Federal subsistence users.

MR. EDWARDS: That is my motion.

MR. GOLTZ: I'm getting some negative headshakes from the State, so let's find out.

MR. THOMAS: Well, that has to be expected.

CHAIRMAN DEMIENTIEFF: We need to have a consent from the second on the modification to the motion. Who seconded it?

MR. URVINA: I did, and yeah, that's just exactly what I was thinking.

CHAIRMAN DEMIENTIEFF: Okay. Okay, we have clarification on the motion and consent of the second.

MR. THOMAS: Don't compromise the proposal.
CHAIRMAN DEMIENTIEFF: It's questionable from the State's perspective, as I understand it, that there's very little, if any, net effort above the bridge, is that -- I heard that, right?

MS. WHEELER: Yes, Mr. Chair, that's correct.

CHAIRMAN DEMIENTIEFF: Pardon?

MS. WHEELER: Yes, Mr. Chair, that's correct.

CHAIRMAN DEMIENTIEFF: Okay.

(Pause)

CHAIRMAN DEMIENTIEFF: Do you have additional information for us, Keith, is that what you're......

MR. GOLTZ: I think we're okay. I think the confusion is that we don't have any interest at this time in closing that rod and reel use on the upper system.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: But it's not a net use.

MR. GOLTZ: Right.

CHAIRMAN DEMIENTIEFF: So that's still available.

MR. GOLTZ: Which seems a little odd, we're restricting the subsistence users but not the rod and reel sport fishers.

CHAIRMAN DEMIENTIEFF: Well, I still intend to support the motion but I see a major policy issue as we get into fisheries. Practically, on the ground, in this particular instance, it's negligible, but it is a policy issue that we, both us and the State are going to have to take a closer look at. In different applications, it could be very, very thorny.

MR. GOLTZ: Yes.

CHAIRMAN DEMIENTIEFF: But on the ground,
in this case, it's not that big of an issue if there's nobody using it. But in an area, other areas where, you know, we could have a bigger user conflict, it's a major policy issue and it's something we need to take a look at, and that's the point. So I still intend to support the motion but I'm just citing this as something that we're really going to have to take a close look at.

Bill.

MR. THOMAS: Thank you, Mr. Chairman. I read on Page 56, the Southeast Regional Council recommendation. It's less than a dozen words long. Support the proposal. Close the Sarkar system above the bridge to the use of nets for subsistence fishing, period. It doesn't say anything about other users. How we got to where we're at is beyond me. There's just a few words and I agree with what you said, at some point there's going to be systems that's going to warrant more deliberate attention. But enjoy this one because you're not going to see another one like it. Thank you, Mr. Chairman.

(Laughter)

CHAIRMAN DEMIENTIEFF: I just point that out, though, like I said, I do intend to support the proposal. On the ground it's not a problem but it does raise major issues I think that could become really complicated in other systems. So for a no-brainer it sure made us think lots. I'm going to really be suspicious though, Bill, the next time you bring another no-brainer here.

Any further discussion on the motion. Hearing none, all -- oh, go ahead.

DR. KESSLER: Thank you, Mr. Chair. I'm a bit confused. We had a motion moved by Mr. Edwards and it was duly seconded and then we had sort of an informal suggestion for a revised motion that Mr. Knauer suggested and there seemed to be some support for that and I'm kind of confused right now exactly what the motion words are.

MR. EDWARDS: I changed my original motion to go along with what Keith read and I believe that that's what was seconded.

DR. KESSLER: So we do have an amended motion now, and that was the one that Mr. Knauer suggested?
MR. EDWARDS: That's correct.

DR. KESSLER: Okay, thank you.

CHAIRMAN DEMIENTIEFF: Corrected motion, not amended. We didn't go through an amendment process.

Further discussion on the motion as corrected. Hearing none, all those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 35 has been adopted per the recommendation of the Southeast Regional Council. 26 is a consent agenda item. 28, 29 are consent agenda. Which now brings us to Proposal 27. Cal.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Advisory Council Chairs. Proposal 27 was submitted by Richard Stokes of Wrangell, he's a current Regional Advisory Council member. He asks to establish a Federal subsistence season and annual harvest limits for sockeye, coho and king salmon on the Stikene River as follows: For chinook salmon, the season harvest limit would be five with a season of June 1st to August 1st. For sockeye salmon, a season harvest limit of 40 fish with a season of June 15 to September 1. For coho salmon, a season harvest limit of 20 with a season from July 15 to October 1.

This proposal was submitted to recognize customary and traditional harvest methods and means by rural subsistence users in the Wrangell area. The proponent states that Canadians at Telegraph Creek upstream of the border harvest large amounts of these species and that Klukwan and Haines have similar regulations allowing them use of the Chilkat River salmon stocks.

In the process of preparing the Staff analysis, the proponent was contacted. He clarified that his intention of the proposal was to allow subsistence fishing in both the main Stikene River and in tributary streams under Federal jurisdiction. And he mentioned that
traditional fish camps and smokehouses were located at the
mouths of tributary streams such as Andrew Creek, Goat
Creek, North Arm Creek and Shake Slough, with the largest
camp on Andrew Creek. Mr. Stokes also suggested that
people completing these Staff analysis observe the
traditional and commercial fisheries occurring on the
Canadian portion of the Stikene River.

Federal waters involved are those of the
tongass National Forest excluding marine waters, however
the mouth of the Stikene River is located about a mile from
Wrangell.

At this time -- well, before your action on
22 this morning, there was no specific C&T determination
for this particular district, this district includes the
Stikene River.

Let's see, regulatory history, currently
there is a personal use salmon fishery for sockeye on the
Stikene River. The season for that extends from July 1 to
July 15th with a daily and annual possession limit of 25
sockeye for an individual or for a household. And there is
a -- currently there is a State-managed sport fishery for
coho but there is no, either, subsistence, personal use or
sport fishery for chinook salmon on the Stikene River at
this time.

I wanted to bring out a couple key points
here before going on, first of all, the Pacific Salmon
Treaty with Canada, based on that treaty, there may be
agreements that need to be made with the Canadians before
this fishery can proceed. We didn't feel that gear type or
bait restrictions were necessary. But we do believe that
harvest reporting would aid in fishery management.

CHAIRMAN DEMIENTIEFF: Written public
comments.

MR. CLARK: Yes, Mr. Chairman. In your
booklet it shows five public comments, and since this
morning we've received an additional one.

The Southeast Alaska Fishermen's Alliance
says that there's a sockeye subsistence fishery in the
Stikene that no one has participated in. The Federal
subsistence must consider the implications of an increased
harvest of salmon on the Stikene, what that would have and
how this would affect the Pacific Salmon Treaty. They need
to consider that the proposal does not specify the waters
it is referring to and so the Federal Subsistence Board may not have jurisdiction to grant the proposal. And that the proposal does not show that subsistence needs are not being met.

The Southeast Alaska Seiners are also neutral on the proposal. But oppose the suggestion that the Federal agencies exercise extra-territorial jurisdiction in closed State management commercial fisheries should there be insufficient surpluses to satisfy the allocation requested in the proposal.

The United Southeast Alaska Gillnetters Association offered no position, so they're neutral. They said that most salmon stocks on the Stikene River spawn in Canada and that there are limited terminal harvest opportunities on the Alaska side which could result in a higher cost of harvesting these fish.

There was one comment in support of the proposal, that was from the United Fishermen of Alaska. They concur with the season harvest limit if the area qualified as a subsistence fishery. They state that those communities eligible to participate need to be identified.

Two comments were in opposition. First was Petersburg Vessel Owner's Association who say that they are opposed to the proposal as written and request a clarification. They oppose extension of Federal authority into marine waters of Southeast Alaska.

And finally, the last written public comment comes from the Alaska Trawler's Association which we received today. They're opposed to the proposal. This proposal would allow for new subsistence fisheries in the Stikene River and may not even be possible under the U.S./Canada Pacific Salmon Treaty signed in 1985 and which does not allow new or redirected fisheries. We note that the Federal Inter-Agency Staff recommendation also references this proposal as problematic under the Pacific Salmon Treaty. The proposal does not place any limit on the form of gear which makes it difficult to make definitive comments. However, placing nets in the river would overturn the deliberate management decisions made by the Board of Fish to conserve salmon stocks. Overturning this regulation could increase terminal harvest and threaten sustained yield management of chinook, coho and sockeye salmon. The Pacific Salmon Treaty places an annual quota on chinook salmon in Southeast. It is important that actions are not taken which could cause Alaska to exceed
the quota. This may be difficult to gauge as it is unclear how many users are expected to participate. If nets were allowed in-river, it is crucial they be tended at all times to avoid exceeding the yearly, that means October 1st, through September 31st, limit and insure that conservation needs are addressed.

That concludes the written public comments, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation to defer this proposal and to request that the U.S. Delegation to the Pacific Salmon Treaty be asked for permission to create a new subsistence fishery for coho, sockeye and chinook salmon on the Stikine River. The existing Treaty prohibits the creation of new fisheries without bilateral agreement. And I do have, if there are further questions, I have Mr. Bruce, Deputy Director of Commercial Fisheries, who is prepared to speak to the Pacific Salmon Treaty if there is other questions, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you very much. Public testimony, David Bedford.

MR. BEDFORD: Mr. Chairman, members of the Board, Chairman of the Advisory Councils, Staff. My name is David Bedford. I am the Executive Director of Southeast Alaska Seiners and I also serve with United Fishermen of Alaska as the lead person on subsistence; in my capacity, both with Southeast Alaska Seiners and with United Fishermen of Alaska. We have helped to put together policies that indicate our support for providing for subsistence and a recognition that there are other important uses of the resource and it is possible to satisfy subsistence while also putting in place regulatory structures that minimize any collateral consequences to other uses of the resource.

I've been very actively engaged in really trying to put you folks out of a job. I mean we have worked very hard on trying to get the State of Alaska to come into compliance with ANILCA and do the good work that you people are currently doing. We have been unsuccessful up to now but we continue in those efforts.
Speaking to Proposal No. 27, I wanted to add also that I served on the northern panel of the Pacific Salmon Commission. I was one of the industry representatives on there and did serve for one year as the Chair of that particular body. That is the Alaskan section of the panel process, not the decision-making process, we were, I suppose, somewhat similar to the Regional Advisory Councils as opposed to the Federal Subsistence Board.

I wanted to emphasize the comments made by the Trawler's Association and by the State. The Pacific Salmon Treaty has provisions which govern salmon fisheries from Cape Falcon in Oregon all the way to Cape Suckling in Alaska. And this treaty was reached after a long and contentious negotiations. There are a number of very serious irritants that remain between Canada and the United States. And so we find ourselves kind of the, illogical position of saying that there's a provision in the Salmon Treaty that says we cannot have new and redirected fisheries while at the same time we're talking about the fish camps that have existed at the mouth of Andrew Creek and so on. Nonetheless, when dealing with Canada on this, what Canada views as being a new fishery is one that they have not yet acknowledged as being something that is under the purview of the treaty. And so therefore, I would urge you to do as the Staff recommends on this, and that is to put off consideration of this until we've had an opportunity to bring this to the Alaska Delegation and give them an opportunity to carry forward the sort of request that you have into those negotiations. I believe that action in front of doing that, were you to act and then to create this fishery and then make that sort of a fait accompli which went to the Alaska Delegation, I believe that would put us in a bad negotiating position with Canada.

So again, I urge you to accept the Staff Committee recommendation on this proposal, not, you understand that I'm suggesting that anything in Mr. Stokes' proposal is unreasonable, I'm just suggesting that perhaps the best way to get to that is to put it off for a year and put it through the Salmon Commission negotiations first.

I have nothing further.

CHAIRMAN DEMIENTIEFF: I want to thank you and UFA for maybe not trying to put us out of work but at least allow us to move on and get on with the rest of our lives and do other things. But I think right after we took over, I think the very first group we met with was UFA as I
recall up in Wasilla. And so we just appreciate the fine work you've done in trying to get the State back into compliance, and also thank you for your excellent public testimony. I think it sheds some light, you know, you can see from watching us today that we're just learning how we're going to deal with it and we're trying to make our approach as consistent as we have been on the game side. And you know, we've got a little bit of a learning curve here and so I just appreciate the public testimony, thank you.

Any other questions for Mr. Bedford. Thank you.

MR. BEDFORD: Thank you, Mr. Chairman. I would say that I would take my name off the list for speaking on Proposal 31 as well.

CHAIRMAN DEMIENTIEFF: Okay.

MR. BEDFORD: Thank you.

CHAIRMAN DEMIENTIEFF: Regional Council recommendation.

MR. THOMAS: Thank you, Mr. Chairman. Once again, I'm going to indulge on your patience and ask you to think again. With regards to the Stikene River, does anybody know how old that river is? It's an old river. That's where the tribes in Southeastern Alaska originated. There's documentation that there's been tribal inhabitants in that area in excess of 10,000 years ago. That's quite a while. And while they spent time on the Stikene River, they harvested salmon before the U.S. and Canada, because of Canada's inability to have any foresight to manage their fisheries in a prudent manner are wanting Alaska to bale them out. That's the Treaty effort.

So to call that a new fishery on the Stikene River is as far from being appropriate as you can get. That is not a new fishery. So I guess what I'm doing -- I'm asking the Staff Committee, when they consider language to be considered at this level of discussion and decision-making, that they give credence to areas such as I'm pointing out now.

Okay, having said that, again, I'll reiterate, the justification says on Federal Inter-Agency Staff Committee, the Pacific Salmon Treaty specifies that no new fisheries for the Stikene River salmon. There is no
new fisheries. That fishery has been there for a long time. And the Regional Advisory Council supports the proposal as it's written.

Thank you, Mr. Chairman.

MR. GOODWIN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Willie.

MR. GOODWIN: I just got a question of Bill. Bill, I notice up there those dates that they show on the board and what they read off, these are more restrictive, is that another one of your conservation efforts?

MR. THOMAS: Yes, it is and it's also to make us look responsible. However, the truth of the matter is it's the only time the fish are there.

(Laughter)

CHAIRMAN DEMIENTIEFF: Go ahead, Ken.

MR. THOMPSON: Yes, Mr. Chairman, members of the Board and Council. The Staff Committee recognizes the Treaty implications of this proposal and recommends that the proposal be deferred until Staff has the opportunity to obtain additional information and work on a process on how to incorporate this regulation under the provisions of the Treaty.

CHAIRMAN DEMIENTIEFF: Are there people fishing in the river now, Bill?

MR. THOMAS: Say again?

CHAIRMAN DEMIENTIEFF: Are there people fishing in the river now, the Stikene?

MR. THOMAS: They do during the course of the season, but at this point in time, no.

CHAIRMAN DEMIENTIEFF: Well, yeah, during the season that's what I'm talking about.

(Laughter)

CHAIRMAN DEMIENTIEFF: So any fishing, as I understand it from the State's point of view, it's the
State permit that's our vehicle right now for allowing people to fish during -- when the fish are there; is that correct?

MS. WHEELER: That's correct.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: So I'm -- if I could just follow up?

MS. GOTTLIEB: Yes.

CHAIRMAN DEMIENTIEFF: I'm struggling here, if there's fishing going on now under State and Federal regulation, what's the difference? I mean.....

MS. WHEELER: Mr. Chair, if I could have Mr. Lane come up.

MR. VINCENT-LANG: Mr. Chairman, it's occurring under a personal use fishery, and personal use fishing is recognized in the Treaty right now. Right now, subsistence fisheries aren't recognized. And it's our understanding based on a reading of the Pacific Salmon Treaty that we would have to go back and get bilateral recognition for those new fisheries prior to creating them. But they could continue to create under the recognized personal use fisheries as is occurring right now.

CHAIRMAN DEMIENTIEFF: I guess -- Bill, go ahead.

MR. THOMAS: Thank you, Mr. Chairman. I think that's one of the ambitions of the Regional Advisory Council for Region 1, because it's the only region in the state that does not have provisions that are labeled as subsistence, it's personal use. And, again, going back to the English language and to become a part of the rest of the world of Alaska, we'd like to participate in a recognized subsistence activity. And that's not the case right now. So that's the argument in support.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Thank you, Mr. Chairman. These meetings are always educational and today is one of the more educational days so if I could ask the State a few more questions about the Treaty itself. And I appreciate that you did bring your expert along, I know the Staff...
Committee did have several questions. So I guess I just had two based on what I've heard so far and that is, who is the Alaska Delegation to this Treaty as well as something that was said about, well, that we need to get this to the Delegation, well is there a certain time or what's the process for getting a recommendation to the Delegation? Thank you.

MR. BRUCE: My name is Jerry Bruce. I'm the Director for the Division of Commercial Fisheries. And there is -- the Pacific Salmon Commission is made up of several commissioners, Alaska has one as does the Federal government, the State of Washington and the tribes also have one. And there is a regular meeting cycle that the Commission engages in which they entertain discussions for changes that govern the various fisheries in those regions covered by the Treaty, which would be British Columbia, Alaska and Northwest, Washington. So that's -- and the Deputy Commissioner for the Department of Fish and Game, Kevin Duffy is the Alaskan Commissioner. And so the State would be willing to work closely with the Federal Subsistence Board and the Regional Advisory Councils in bringing this issue in front of the Commission for consideration.

I think that what is a contextual issue to consider is while the fish may not be concerned about their nation of origin, the users and the national folks involved are very concerned and the Canadians especially are very sensitive to fisheries in Alaska which harvest salmon bound for Canada. And in the case of the Stikene you have a mix, as you heard earlier, of fish that may be harvested within the river but the majority of them, of all species, would be bound for Canada. So there are some sensitive issues there which I believe could be worked out but they would be much, more easily worked out if it was a joint process undertaken within the Commission rather than the United States taking a unilateral action in going to Canada where we have done this, how do you like it.

MS. GOTTLIEB: And Mr. Chairman, could I ask who the Federal member is and then what is the timing? I mean if we make any sort of recommendation today, even specially contingent upon acceptance by the Commission, what would be the timing for submitting any sort of communication from us to the Commission?

MR. BRUCE: I don't have the name of the Federal Commissioner on the top of my head. I mean I could get that for you today if you wanted, but I don't have it
off the top of my head.

CHAIRMAN DEMIENTIEFF: And the question of timing?

MR. BRUCE: The exact timing, their meeting cycle begins in winter and runs basically into the spring. I'm not sure when the next meeting would be scheduled. But again, I could get that information to you.

CHAIRMAN DEMIENTIEFF: Okay. Forest Service, just for the record, this is all Forest Service land; is that correct, on the Stikene? Is that correct, Ken?

MR. THOMPSON: Yes.

MR. THOMAS: Forest Service is Tlinget land.

CHAIRMAN DEMIENTIEFF: Yeah. In terms of the actual people who are in the personal use harvest, if this were to be adopted, would the fishermen change? I mean what we call it would change, they'd go from State personal use fishers to Federal subsistence fishers, but would the actual on the ground fishermen, fisherwomen change, likely?

MR. BRUCE: Mr. Chairman, first there is only a personal use fishery authorized under State regulations for sockeye salmon, so there is no personal use fishery for chinook salmon or for coho salmon in the Stikene River.

Secondly, from our records, we don't have any catch recorded for the sockeye fishery. So while the opportunity is there, at least according to the records that we have, there's nobody taking part -- participating in it currently. So I think in answering your question, while the State has a personal use opportunity for sockeye salmon in the Stikene River, our information indicates that it's not active at this time, people are not participating in it.

So I don't know -- I guess I would have to say that there are no -- from our information there are no personal use fishers in the Stikene River right now. And so it wouldn't be the same people because we don't believe there are any people there participating now.
CHAIRMAN DEMIENTIEFF: During the season there are actually, though, Tlinget fishers on the ground; is that what you're saying, Bill?

MR. THOMAS: Like he was saying, the reason they're not harvesting sockeye in the Stikene now is because there aren't any. They're having to go to Prince of Wales, Red Bay, Salmon Bay, places like that to harvest. But what they're wanting to do is that should that system on the Stikene recover to a point that they could utilize it, they want to have that in place. But due to the superb management there aren't any there right now. So that's our purpose for supporting that written proposal.

Thank you.

CHAIRMAN DEMIENTIEFF: Then, of course, as such because of biological concerns it's been established a lot of history in terms of that, if there is a biological reason where harvest is interrupted for biological purposes it still doesn't disrupt the -- it disrupts the use but it still doesn't disrupt any determinations of whether or not that is a legitimate use.

MR. THOMAS: That's correct, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Okay. I guess the point I'm getting at here and where I'm wanting to go with this. It's clear to me based on testimony of Mr. Thomas and maybe I'll just ask our own Staff, do we have knowledge in the back, the Staff Committee, did we look at the uses of the Stikene by Tlingets in Southeast or other subsistence users in Southeast?

Fred.

MR. CLARK: Yes, Mr. Chairman. There is some very good documentation on the traditional uses of the huge variety of fish species on the Stikene River by people, especially for Wrangell and Petersburg. People are now in Wrangell and Petersburg, the Wrangell Tlingets, the Goldschmidt and Haas report, especially is good about delineating where the fish camps were, what fish they were getting and what season, who was taking them. You know, a lot of very, very detailed information there about those fisheries.

CHAIRMAN DEMIENTIEFF: And I guess where I'm going with all this is, and not trying to jeopardize the process and having worked through many of these things
on the Yukon River, I know how sticky they can be in terms
of dealing with Canada, but where I'm going with all this
and I'm going to suggest that we do establish a season and
defer the harvest until next year. So that basically, it
acknowledges that under existing law, prior to our coming
in, the Feds coming in and this Federal property and
managing, that the way to do it would be with State
regulation, okay. But realistically that should be handled
by the Federal program.

And that's why I'm suggesting that we
follow the Regional Council recommendation to the point of
establishing the seasons and then deferring any bag limits
until next year. It would seem to me a more logical
approach.

Now, tell me, in dealing with the
Commission, do you think that's going to send up any kind
of detrimental signals to the Canadians? I mean we're
faced with our mandate here, okay, we have a
Congressionally mandated mandate to provide for this very
legitimate use by subsistence users in that area, so we
still have a job to do. And a part of that job is to
acknowledge that, yes, this is a legitimate subsistence
fishery. There's no resource there right now and there's
these other problems with Canada, but, you know, we do need
to establish that this, the management scheme is changing,
per the factors beyond the control of us in the room here
and that's why I'm suggesting this approach.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: I, for one, support and
respect your approach to this and agree with the rationale
that you put forth. If the players in the Treaty were as
diligent as we are we'd have had a treaty a long time ago.
And I don't think we need to follow their lead, we need to
follow a lead that gets things done.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary, you had
something?

MR. EDWARDS: Well, I guess it seems to me
to some extent we may be running into waters that we don't
really know. I mean I guess my first reaction would be
that the setting of seasons would be viewed as opening a
fisheries, whether a bag limit would be set or not. And I
guess then the other broader issue, does the Treaty, which
we are a signature to at sort of the highest level of the
land, does that really trump any authority that we might
have.

MR. GOLTZ: I think it probably does but
I'd like to hear from the State, too.

CHAIRMAN DEMIENTIEFF: The bottom line is
we still have a job to do. And based on the information
that's put forth to us, it's clear that this is a
subsistence fishery and it's clear that for a little over a
year now it's been our responsibility to take care of this.
I mean it's something that we need to move forward to, and
that's a way, in my estimation, to let Canada know
basically that rules of the land have changed and that
we're trying to work through the issues and a way to do it
is to recognize that, yes, we do have subsistence fisheries
here but no, we're going to defer any consideration of
harvest until we're allowed to go through the process.

Now, I'm going to go over here and then
I'll come back to you. Is this a follow up on the same
point of the discussion we're having right now?

MR. BRUCE: Yes, it is.

CHAIRMAN DEMIENTIEFF: Okay, go ahead, I'm
going to allow that.

MR. BRUCE: Mr. Chairman, and respectfully
I just would like to offer a possible suggestion for you to
consider that I think gets you where you want to go but
doesn't go as far as setting a season. Which would be for
the Board or whoever's appropriate to write this letter on
your behalf, write a letter to the Pacific Salmon
Commission expressing exactly what you've expressed, that
this has been a historic fishery participated in by Native
people in Alaska, it's well documented and it's the
intention of the Federal Subsistence Board to move forward,
you want to move forward to establish a subsistence fishery
in the river, you understand the Treaty is in place and ask
the Commission to work with you to achieve your goal.

I would suggest that that's a more cooper...
CHAIRMAN DEMIENTIEFF: What I'm saying here is we've got a certain deference we have to give to Regional Council recommendations. We have a Regional Council recommendation, okay. Now, the harvest limits, those things, there are genuine conservation concerns that we're all aware of. But the basic fact, if the Southcentral Regional Council [sic] would want to push the issue, there's no way we could hold it, you see. We can defer the harvest limit based on conservation concerns, that's unquestionable. But it's also unquestionable that this is a subsistence fishery on Federal lands and this is a mandate that our Board has. I mean we've got to live within the laws that we have to live with.

I'm sorry, I don't mean to dominate, Winnie, go ahead.

DR. KESSLER: Thank you, Mr. Chair. I'd like to share a number of thoughts with you about this. I think it's very clear that this all needs to go through the Treaty process, however, there's certain concerns about that. One would be the uncertainty about how long that might take, and of course it pretty much forgoes the opportunity -- potential opportunity to do something in 2001, the current year, so I'm thinking maybe there might be a different approach worth considering. Perhaps we might think about adopting the proposal but making it conditional, adding a statement of condition with respect to affirmation or recognition by the Treaty process. I think there's some advantages there.

One, if it's conditional it should give a clear message that we're not trying to preempt the Treaty process, we're definitely recognizing the need for that step. As well it would indicate to the Treaty process the individuals involved that, to the Commission, it might encourage them to focus attention on this, perhaps act on it, deal with it more swiftly. That would reduce some of the uncertainty and the delay.

So with that in mind, perhaps we might want to consider that type of an approach.

I'll also just mention that for the past seven years I've lived and worked in Canada, in British Columbia, and just to share my impressions with you there with respect to this issue, I found that the British Colombians, the Canadians generally are very sympathetic with respect to subsistence uses of the resource. I think if a proposal were to come along of this nature that was
commercial or even sport, they would be very negative. This is just my own personal impressions that with subsistence they would be more understanding and wanting to work with us on it.

Thank you.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: With regard to the U.S./Canada Salmon Treaty, I was the Chairman of a fisheries group in 1976. We got a copy of a treaty signed by the Secretary of State and his counterpart in Canada. And the content of that treaty mandated that every system in Alaska give up a majority of its portion of escapement or harvestable fish to continue the opportunity to pass through Canadian waters. In that same document, the Canadians had no provisions that interfered with their efforts of harvest. We were the first people to have access to that document, we read the first four pages of it, rejected it, took it back to the Department, they agreed with us and that's when they put this whole big Commission together. It was argued between two people that had nothing to do with fish the first time, but they signed off on a pretty voluminous document.

So I say that because I would hate for us to be subject to a time line dependent on activities of that Commission. And I think, like you said, we got a job to do, let's do it.

Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I certainly support the ideas put forward by the Forest Service about putting on some wording there that would say pending approval by the Commission and certainly hope that this Board would also, through you, make the offer as we've talked about here to make contact with or work closely with the Commission or do whatever we need to do to express the importance of subsistence to Alaska [sic] and see whatever we can do to get this fishery acknowledged through the Treaty.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: I don't blame you for a
reluctant yes, I understand. But I don't think we should
get into the mode of planting our own olive grove so that
we'll have a branch to present to everybody that might
disagree with us. You know, I think we have to operate on
our own merits. If they got a problem with them let them
come to us.

Thank you, Mr. Chairman.

MR. WILSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. WILSON: I think we all up here
understand what our primary responsibilities are, to
subsistence users. And this particular case, though, we're
kind of wrestling with a very complex issue. Keeping in
mind that the primary goal is to provide for subsistence
users, I think almost it seems to me like we're being
confronted here with a choice between more confrontational
or less confrontational. And it's my experience for
however long I've been alive, the confrontation usually is
not the best solution to a problem. And I think that the
Forest Service seems to -- I would like to hear their
specific motion, but they seem to be headed in a direction
that is trying to accomplish a shared goal with a minimum
of confrontation. And I think that's my thought.

CHAIRMAN DEMIENTIEFF: Further discussion.

DR. KESSLER: Thank you, Mr. Chair, I'm
prepared to make a motion. I move that we adopt Proposal
27 as recommended by the Southeast Alaska Regional Advisory
Council pending approval by the Pacific Salmon Treaty
process.

CHAIRMAN DEMIENTIEFF: There's a motion, is
there a second?

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the
motion.

MR. EDWARDS: I mean I think I can go along
with that, I guess I'm not convinced that that really
accomplishes anything, but I think I can go along with it.

CHAIRMAN DEMIENTIEFF: Yeah, I'm not going
to be able to. It's clear to me there's a fishery, whether or not there's a harvest there because of biological concerns, the same things that I outlined earlier, I just simply can't go along with the motion. I'll vote against it. However, if it does prevail, I will use the discussion that we have had with regard to this approach. Is it fair to say that -- you know, clearly it's a subsistence fishery. I mean, it's fair to me to say that on the Stikine River by Federal subsistence -- rural subsistence users under the current regime that we have right now. Under the current laws that we're operating right now. And that needs to be a key part of that, you know, if I get voted down, I'm assuming I'll be writing the letter and I'm going to tell you that's the approach I'm going to take because it's clear to me that that's what it is. It's a subsistence fishery. It's clear to me that we can't have harvest there right now because of conservation concerns. And I also understand the difficulties that we put our Commissioners in or what not. I understand all of that.

But it just occurs to me that we're not doing our job that we are mandated here to do, not -- we're just simply not going to do it.

Further discussion.

MR. GOODWIN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. GOODWIN: I just have a point to make. I just can't understand why the Federal Board should wait for somebody else to say it's okay to do this. You have a mandate to do it, there's a request by the Regional Advisory Council, now, you either vote it up or down instead of saying we'll wait for somebody to tell us it's okay to do it. I have a problem with that.

MR. EDWARDS: Mr. Chairman, I think there's a lot of precedent and maybe Keith can -- but in our recent negotiations under the Migratory Bird Treaty on subsistence, I mean that required an amendment of the Treaty before we could go forward regardless of what we thought was occurring. So I mean I think there is tons of precedent as it applies to treaties that countries enter into that have precedent over what other folks may think should or should not take place.

CHAIRMAN DEMIENTIEFF: Keith.
MR. GOLTZ: I think there is a responsibility under Title VIII, but that's a responsibility that's hedged by geography and by other laws. And no matter what you do in this particular case, it's probably going to be ineffective. Now, I say that somewhat blindly because I haven't read this particular treaty. But as a general matter, a treaty that's been implemented by the United States of America would take precedence over anything that we do here.

So the real question is what's the most effective way to work the Title VIII interests through this Commission. And instead of trying to second-guess the Commission as we tried to second-guess the Council a few minutes ago, I would recommend that we ask the people familiar with the Commission as to what would be the most effective approach, and I think we've been given that. If I was going to go into a court in Florida I wouldn't show up with bermuda shorts and green hair, I'd probably ask somebody what the standard of dress is down there. And I think the same principle applies to the Commission. We have adopted a certain protocol, whether we wanted to or not, and it has certain expectations for people who come before this Board. And the people who are affected before us are the ones who have learned then and respect it, and I think the same sorts of considerations probably are occurring on that Commission. And I'd want to know from people who had appeared before that Commission and who were part of that, as to what the most effective way to approach our Title VIII interest is.

MR. WILSON: Mr. Chairman, as I understood the Forest Service's proposal, they were recognizing the subsistence; is that correct?

DR. KESSLER: Yes. The proposal is to go forward with the subsistence recommendation, make it conditional on the recognition by the Pacific Salmon Treaty process. But the advantage would be -- we wish to go forward with this and the advantage would be, it gives us a jump start on the whole thing, this opportunity, if everything goes through, this opportunity would become available to subsistence users earlier than otherwise. There wouldn't be the unnecessary delay.

CHAIRMAN DEMIENTIEFF: Well, if that's the case, if, in fact, an international treaty does supersede our activities here, you know, takes precedent over our mandate...
MR. GOLTZ: The only reason that I can think of that it wouldn't is if there's some special exemption in the Treaty itself and I'm told that there's not.

MR. BRUCE: Mr. Chair, it's been a while since I've read the Treaty document, I don't recollect any. And there may be other folks here who have been -- who might be able to help us as well, but my recollection is there's no such provision.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Thank you, Mr. Chairman. With regards to language in the Treaty, it's like the ticker-tape on the stockmarket, it changes constantly. So nobody knows from one day to the next what language is in there. So I wouldn't use it for any kind of a crutch or a beacon. I'm surprised at the examples that we're attracting ourselves to to resolve some of our problems here.

We need to function as a unit autonomous from those other people that we're talking about. Let's try it, you know. We're a group here, we came here with a purpose. Let's try to serve that purpose. I'll bet you anything that the Salmon Treaty doesn't mention this Board or its activities once in their deliberations so let's move on.

With that, I got to go out and relieve some emotional distress, thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill, just real quickly, the only thing that the Regional Council is changing is the season, right?

MR. THOMAS: Right.

CHAIRMAN DEMIENTIEFF: Okay. Go ahead.

MR. BRUCE: Thank you, Mr. Chairman. Just a couple comments. One, remember that there is only a personal use fishery for sockeye, you'd have to establish one, the chinook fishery. But I particularly wanted to address the comments about saving time. You know, because I think, within the Staff discussions there, it focused on whether or not -- what is the best approach to getting concurrence or moving this through the Pacific Salmon Commission process, there wasn't a lot of discussion given to how you might actually shape the fishery. And as you
can see in some of the written comments, there are concerns
about the timing of the fishery, overlap with other
species, wastage, et cetera, I would offer to you that if
you were to pass the motion that the Forest Service
offered, it might be partially useful. I don't think it
would be -- I would add something more to it in the way of
a letter or communication from this Board, but it might
serve as a spur to get the Commission moving to address the
issue, but I'm not sure it's going to save you time because
I think you may need to come back and revisit the issue as
far as specific shaping of the fishery, especially if the
Canadians express some concerns that they want addressed.
And the point that was raised earlier in the oral
presentation by your Staff regarding harvest reporting,
harvest reporting is going to be truly important in this
fishery because these international agreements hinge on
sharing arrangements, and accounting for harvest by each
side is extremely important and extremely heavily
scrutinized by each party.

So I don't know if it would save you time,
but I do appreciate the spirit of your motion.

CHAIRMAN DEMIENTIEFF: I guess that's my
next point. Is it the intent of your motion that this be
adopted if we get a letter of concurrence that it's okay
with the Commission?

DR. KESSLER: That's correct.

CHAIRMAN DEMIENTIEFF: Well, then see,
there's biological concerns in here is what my concern is.
We're adopting harvest limits and I'm not, you know, the
reporting, that's fine for, you know, that, but there's
biological concerns in here that we haven't even
considered. I'm told there's no sockeye, yet we're
authorizing a season and sockeye limit of 40 sockeye and
there's none there. What few fish there may be, we stand
to be authorizing -- we're not doing our jobs in the
conservation mode, and that's the problem I have with this.
And you know, all of a sudden you get clearance and, now,
boom, people are authorized to go out there and go fish and
there's no fish.

MR. GOLTZ: I have one additional technical
legal point and if the Council's are the engine of this
program then Bill Knauer is the engine of our regulations
and this comes from him, and in my experience it's probably
correct. And that's that if we adopt the regulation it
conflicts with Federal law, especially one that's backed by
an international treaty, it probably will not survive
review in Washington. So probably will never make it to
our regulation book. So what we should be thinking of if
we do anything here is a statement that would be going to
the Commission and not into our regulations.

CHAIRMAN DEMIENTIEFF: So in my estimation
we do need a new motion. And how we get this thing
advanced, that's clearly the intent that we want to find a
way to advance this to its proper review, whether it be
beyond us or not. But if this leaves us with a season and
harvest limit, based on a receipt of a letter that this is
okay, then I've got serious problems with it. I can't
support the motion in that current form.

Yes.

DR. KESSLER: I'd just like to clarify.
That my assumption with this is that the biological
scrutiny would take place as part of the Treaty process.

CHAIRMAN DEMIENTIEFF: But if we receive
holy water, then you just said the intent of your motion
was that we would be in business. The fishery would be
there, we'd have this harvest limit, we'd have these
seasons and that's what's causing me the problem because we
haven't gone through the conservation concerns.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I know we did hear clearly
about the status of sockeye but could we either hear again
or could you fill me in, please, on coho and chinook, what
the biological status is in that stream.

CHAIRMAN DEMIENTIEFF: Judy, if we could,
if we could just clean the motion up to where -- I don't
want to go through all that stuff right now. We don't even
know if we're going to be in this business, I mean, you
know, there's other fish guards out there -- I mean fish
regulators, I mean there's other entities out there, that's
what I'm trying to say. There's other things that are
beyond our scope apparently we're told by Counsel, that
could possibly be beyond our scope. So you know that's the
problem. If we could clarify that we'd like to push ahead
with this and drop the portion of the -- amend to drop the
portion of the recommendation to defer seasons and harvest
limits then I could go forward.
MS. GOTTLEIB: Okay.

CHAIRMAN DEMIENTIEFF: Because I mean I think it's much more efficient to do it that way. so if we just have a motion to defer the part that has to do with harvest limits and seasons, you know, then we would have the fisheries on our books and then we could debate seasons and harvest limits after that.

MS. GOTTLEIB: Mr. Chair, I'd be glad to make that amendment and perhaps we need a few minutes to discuss this, after a break or something.

CHAIRMAN DEMIENTIEFF: Okay, there's a motion, is there a second to defer the portion that deals with harvest limits and seasons?

MR. WILSON: Second.

CHAIRMAN DEMIENTIEFF: Okay. Do you want to discuss it after the amendment, you want to break after the amendment? Right now, okay, we'll take a few minute break then.

MR. THOMAS: I had my break I'm ready to move on.

(Laughter)

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Can we find our way back to our chairs please.

(Pause)

CHAIRMAN DEMIENTIEFF: Before we continue on with this, I'm not going to, at this point, we've had a real novel approach to this issue over the break and since this is Forest Service land, Forest Service Counsel has graciously offered to review the Treaty so that we're dealing with specifics in terms of our responsibilities in this process. My understanding is that that could be ready as soon as tomorrow afternoon, depending on how long we spend debating -- he's got to be here for the last two no-brainers we've got in Southeast, 30 and 31.....

(Laughter)
CHAIRMAN DEMIENTIEFF: .....and then if he can get out of here, he'll start working on it today, otherwise by tomorrow afternoon, late. My suggestion is a motion to table until we get that legal review, legal analysis of the issue. Is there such a motion?

DR. KESSLER: I would so move.

CHAIRMAN DEMIENTIEFF: Is there a second?

MR. WILSON: Second.

CHAIRMAN DEMIENTIEFF: It's been moved and seconded, no discussion on a tabled motion, all those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Moving on, No. 30.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Advisory Council Chairs. Proposal 30 was submitted by the Organized Village of Kake, the recognized tribal government for Kake and the City of Kake. They ask that we restrict harvest of steelhead trout in Hamilton Bay River and Kadake Bay River to Federally qualified subsistence users only. This proposal was submitted out of a concern that sport fishermen are competing with customary and traditional users of the steelhead fishery for a limited supply of steelhead trout.

The Federal waters involved are those of the Tongass National Forest, excluding marine waters. As we talked about earlier today in previous proposals, there is no designated established subsistence seasons for steelhead in either of these river systems. The current sport fishing season is a year-round season with the harvest limit of one fish per day, an annual limit of two fish and a 36 inch minimum size limit. Also that residents of Kake and Kupreanof Island drainages emptying into Keku Strait have a positive customary and traditional use determination for trout, including steelhead trout in District 5, 9(A), 9(B) and 10.
We'll put that area up on the screen for you.

We do have some limited biological information on steelhead in Kadake Creek, that's displayed on Table 1 on Page 117. An area of caution here, these are red counts and an instantaneous foot count of adult steelhead and basically the counts of adults, you know, you shouldn't consider those as good as say weir numbers or some other stock assessment tools that give you better estimates.

As far as harvest in these systems, there are no specific harvest data from the ADF&G sportfish database. Perhaps, if you're really interested in this Fish and Game can inform you of how their sportfish harvest system work -- harvest monitoring system works, I'm not familiar enough with all the details to tell you how that works.

With that, I'll have Fred cover the public comments.

CHAIRMAN DEMIENTIEFF: Thank you, but I believe that's my job. Summary of public comments.

MR. CLARK: Thank you, Mr. Chairman, and Cal. The Southeast Alaska Fishermen's Alliance says they agree that escapement data is needed for these systems so they would like to see some more gathered.

That concludes the written public comments, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. We have no request for additional public comment at this -- oh, Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation to defer this proposal pending results of a new study. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Okay, we have no additional request for additional public comment at this time. Regional Council recommendation.

MR. THOMAS: Thank you, Mr. Chair. The Regional Council recommendation, Mr. Chairman, is to support the proposal. Restrict harvest of steelhead trout
in Hamilton Bay River, Kadake Bay River to Federally qualified subsistence users. Further as per Staff recommendation implement a stock and harvest assessment program.

The Council doesn't necessarily see a need for deferring while that assessment is underway. There's no time given as to when an assessment will occur. So again, I proudly represent the integrity and the responsible method of how the subsistence community regards the resources that are available to them. They do it in a responsible manner and they do it, in fact, if the agencies were as responsible as the subsistence users we wouldn't be in the shape we are in now with any of the runs. So the RAC does support the proposal.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Staff Committee recommendation.

MR. THOMPSON: Yes, Mr. Chairman, Staff Committee recommends deferring this proposal until next year. We feel deferral action on this proposal is justified because there is lack of substantial evidence to support a closure and it would be an unnecessary restriction to non-subistence uses at this time. This will be pending getting a stock assessment program developed and implemented and stock assessment studies perhaps conducted to provide guidance on escapement and harvest so that the subsistence needs can be met.

Thank you.

CHAIRMAN DEMIENTIEFF: If we could have Staff let us know is there a time frame for this additional research to be done?

MR. CASIPIT: Currently there's several -- there's one stock -- there's a stock assessment project for steelhead in both Kadake Bay River and Hamilton Bay River as well as TEK and harvest studies for harvest use patterns in Kake all scheduled in the current 2001 FIS package of projects. We may have some preliminary data by next year to be able to react to this proposal with some of that information that's being collected.

CHAIRMAN DEMIENTIEFF: Additional discussion, we're at the deliberation process here.
MR. WILSON: Question. Are those two or three year studies, what is the intended duration of those studies?

MR. CASIPIT: The stock and harvest assessment -- the harvest assessment and TEK work is one year scheduled work in the Kake area. The stock assessment projects for Hamilton Bay and Kadake Bay are -- they -- in the request there is a request for three years of funding. Although with our funding this year we could only fund one year at a time, I'm sure you're aware of that.

CHAIRMAN DEMIENTIEFF: Further discussion. Ken, you have something? Winnie? No. Any other discussion. Bill, you have any other comments other than what you've given?

MR. THOMAS: (Nods negatively)

CHAIRMAN DEMIENTIEFF: If there's no other discussion, we're ready for a Board action. Yes.

DR. KESSLER: Thank you, Mr. Chair. I'll just preface my thoughts by saying, that at this time we don't really have substantial evidence that would indicate a need for the restriction. The flip-side of that is we do have plans and a commitment to develop information that will clarify this situation for us starting next year. But I think the prudent thing to do now and I'll offer a motion, I move that the Board defer Proposal 30, as recommended by the Staff Committee.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MS. GOTTLIB: Second.

CHAIRMAN DEMIENTIEFF: Discussion. Gary.

MR. EDWARDS: Mr. Chairman, I guess one of the things that kind of bothers me is that you know, one could characterize this proposal kind of falling under the user conflict category. And I guess I have some problem that we're going to be addressing these on a case by case basis, and maybe that's the appropriate way to go but I guess my concern is that once we make the decision about one, then if another one follows it, it kind of -- I'm concerned we're going to kind of go back and forth. And I don't know what the answer is but I think it's a broader issue than just this particular proposal.
And one, that as we get more and more into this fisheries, particularly as it deals with resident species, I think is going to become increasingly before us. And I'm saying all that, I don't necessarily have a solution, I'm just expressing, I guess some concern now and wondering if there is a way, as we go down this road, that we can sort of get out in front of this issue.

CHAIRMAN DEMIENTIEFF: Any further discussion.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: I'm sorry to say that as we progress through this day addressing the issues that are brought before you, the one thing that I'm really thankful for is that the members of my Regional Advisory Council aren't here to witness these are being dealt with at this level.

In the course of their meetings, our job is to get the best knowledge, wisdom, historical, biological, conservation-minded information we can. We do that. That's incorporated in our recommendation. I am the first region on the docket of this session and if every proposal is going to be stymied or confronted like these proposals have been today, we'll be here through the New Year. And the deferring process offers no credence, it's an easy way out, it's a -- I guess it's just a way of demonstrating a lack of understanding. I'm not sure what it indicates. But to go on deferring and deferring and deferring, either adopt it or reject it.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary, I had time to think about your question and even though this is fish and we've been in the game business for 10 years, and there's been plenty of times where we've run into lack of biological data and in those cases, well, you know, a lot of cases, you know, we've banked on the system that we do have in place, which is local knowledge which comes to us through the Regional Council system. And you know, that's the other route that we have in the absence of biological data because that tells us on the ground what's going on by the users, I mean if they're having problems meeting their needs. They're the first to know, you know, and then we go about trying to fill those data gaps. So in the effort of
being consistent, I think if we're going to be consistent
Gary, that's where we ought to be. That's the information
that we do have.

Any other discussion.

MR. REXFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Fenton.

MR. REXFORD: Yes, I have to speak up and
support my friend from Southeast on this, the effort to get
this subsistence fishery open. I know from reading this
information that there is sportfisheary and there must be an
assessment for that but deferring this for subsistence
users, I don't think it's right that the Board should not
consider opening it up for subsistence use because there's
already fisheries around that area and there must be
assessment for that. So if you're not going to open it up
for subsistence, you ought to close it -- make a proposal
to close the sportfishery that's going on until there is an
assessment for their fishery as well, and not defer it for
subsistence fisheries.

That's my comment, thank you.

CHAIRMAN DEMIENTIEFF: Further discussion.

MS. HILDEBRAND: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. HILDEBRAND: Mr. Chairman, I realize
you are in Board deliberation but I would like to express
concern. I've noticed in the discussion throughout the day
that when there is lack of data and biologists say we're
going to approach it in a conservation method, if you have
no data be conservative and limit or restrict. In this
instance it's the Regional Council who is saying there is
no data, therefore, limit or restrict and their concerns
for conservation don't seem to be given much credence. And
I'm just expressing that concern.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I guess I'm not sure that
that's what it says because I think the way I read it what
it says is to restrict harvest to subsistence only. Now,
looking at the current State regulations it would appear
that harvest by sportfish is very restrictive. I think
it's two fish per season. I guess I'm assuming that actually a majority of the sportfish that occurs is a catch and release fishery as opposed to a harvest fishery; is that.....

MR. CASIPIT: (Nods affirmatively)

MR. EDWARDS: I mean then if that is the case, then if there is not a significant harvest occurring, then why would we be restricting, I guess, because it's already open to subsistence fishing, I think, is it not?

CHAIRMAN DEMIENTIEFF: Cal, do you know that?

MR. CASIPIT: There is no established subsistence fishery for steelhead in Southeast Alaska. The harvest that occurs there at Kadake and Hamilton Bay, the harvest occurs under sport regulations.

MR. THOMAS: Mr. Chairman.

MR. EDWARDS: Well, then I'm really confused as to what we are doing. I thought we were -- so we're doing two things. We are authorizing the subsistence and denying a non-subsistence?

CHAIRMAN DEMIENTIEFF: Basically we'd be denying non-subsistence use and we're not authorizing, that I can see, a season for subsistence users. So we're basically.....

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Bill.

MR. THOMAS: These proposals that are before you reflect a lot of apprehension, bewilderment because of the lack of subsistence designations in Region 1. Unlike the rest of the state, Region 1 does not have the luxury of any subsistence activity. It's all under the guise of something else, personal use. As a result of that, there is a lot of abuse in harvest down there to protect.

We are here to protect the subsistence community and nobody else. I mean they got shields of their own, those user groups. We're not declaring war on them, we're trying to get some protection and some support for the subsistence community. Let's talk subsistence,
period.

Thank you.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Mr. Chairman, the way I read the proposal, it says that it would restrict all the uses except for Federal subsistence. And I guess my question is, if there is not an existing Federal subsistence then it would actually do what I said, it would restrict one use and allow another. Does that.....

CHAIRMAN DEMIENTIEFF: We do have a regulation on the book, on Page 116, one fish per day, an annual limit of two fish and a 36 inch minimum size. That regulation would stay on the books but the people who would be qualified for that would be per the proposal.

MS. GOTTLIEB: Mr. Chairman, this is getting as confusing as the other ones now. So in other words, we're being asked to set up a Federal subsistence fishery specific to this area instead of the general reg we have in the book as well as being asked to restrict it to qualified subsistence users. It's not -- Gary, mentioned earlier, it's not like it's -- it's not open under all regulations now it's open under State regulations now.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: Thank you, Mr. Chairman. The area that we're talking about geographically in the recent 20 years has been, for the most part, had all of its habitat destroyed through one industry or another. Their deer population, their subsistence harvest populations, they have to cross Chatham Straits and that's not a friendly piece of water, to go to Baranof to get their sockeye. This proposal here is a last ditch effort to try to slow that down in that area. I'm surprised they have anything left there to protect. And again, let's talk subsistence, because there's a lot of things in trouble around Kake that is no fault of the subsistence user.

Thank you.

CHAIRMAN DEMIENTIEFF: The proposal, the way it reads and that's what we're wrestling with right now, would delete the sport season. If we deleted a sports season, there would be no way for qualified subsistence users to harvest, it would be closed for everybody. Was
that the intent of the Council in this case, was to close
the season for everybody? Because there is no subsequent
or additional proposal to open a subsistence season, so we
just delete the season, it's gone.

MR. THOMAS: Mr. Chairman, I think the
ambition of this proposal was, again, like I said before,
there are no recognized practiced subsistence harvest in
Southeast. It's under the guise of something else.
They're looking to this body for support in having a
mechanism to protect what they do have there. I don't
think they're wanting to restrict themselves from that
activity. What they're asking for is for help. And we
have a language problem here, we have technical problems
that shouldn't be.

The bottom line is -- and not all the
subsistence users are familiar with Title VIII, but that's
where we come in. We have a responsibility to satisfy
.801, I don't care what color it is or where it's coming
from. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: I understand. I
understand that. But if the Council's position is that
there is a significant biological problem that can't
sustain the sport fishery, all I'm saying is that by
following the Regional Council recommendation there will be
no more steelhead fishing in that area until a proposal is
brought before the Board. It's half a proposal. What do
you want to replace sport fishing, where -- eliminate sport
fishing and then there's no way to harvest.

MR. THOMAS: My instinct then from that, if
that's what the proposal -- if that's how it's written and
that's the implication that it's serving, I would say let's
go with it and let's learn by it.

CHAIRMAN DEMIENTIEFF: Just wanting to do
diligence in terms of it. I'm looking at what little
meager population of steelheads that there are in the area,
you know, I can certainly support the Regional Council
recommendation but I'm just pointing out that the
subsequent action that there will be no way for qualified
rural residents, pending the development of another
proposal, steelhead fishing would be closed in the Federal
waters.

I don't have a problem taking, it's
something we've done. I mean if there's no significant
data but we do have locals pointing out that there is a
biological problem, pending the outcome of it, I have no problem supporting the proposal as long as they understand that they also will not be able to harvest.

MR. THOMAS: That's how we get good proposals.

CHAIRMAN DEMIENTIEFF: Further discussion.

Again, my feelings are I would support the Regional Council recommendation as opposed to one to defer. I mean there's always the possibility that one could come back. What we're hearing is that there is significant conservation concern with regard to steelhead in those areas.

MR. EDWARDS: Mr. Chairman, firstly, I say this with some intrepidation, I'm not convinced that that's what the folks that are asking for this want. You know, is that, well, this will teach them and they'll be more clear on what they want, I'm not sure, quite frankly, that that is really the best approach.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: I agree with Gary. My mission was accomplished. I said what I said to get that reaction. The recommendation to restrict harvest of steelhead, harvest of steelhead in Hamilton Bay River and Kadake River to Federally qualified subsistence users and I guess I'm having a problem being able to advance my thought process as to far as where yours is with regards to conservation. I think we're singing out of the same page but I'm soprano and you're alto. My shorts are too tight.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Given that we do have, I guess, a variety of opinions on the health of the resource and we do have some data that may be available to us by next year's meeting. Perhaps we -- my understanding of deferring would be that people could still fish through State regulations and by next year we'd have a little bit better information to perhaps, and the Council would have more information perhaps to help establish and show their desire for a Federal fishery in the area and set up a system so that we might get to the point where the Council is recommending right now.
CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: That's true. I don't know that the information will be coming to the Council or from the Council, it will probably be coming from your technical staff directly to the Board in their assessment program so that would be my guess and I have no problem with that.

Thank you.

CHAIRMAN DEMIENTIEFF: Further discussion. Does anybody have a motion?

DR. KESSLER: There's a motion on the table, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Pardon?

DR. KESSLER: I made the motion already to defer.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MR. WILSON: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion. Hearing none, all those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.


MR. THOMAS: Aye.

CHAIRMAN DEMIENTIEFF: 31.

MR. CASIPIT: Thank you. Mr. Chairman, Federal Subsistence Board, Regional Advisory Council members. Proposal 31 was submitted by the Organized Village of Kake and the City of Kake. They ask to restrict harvest of sockeye salmon at Falls Lake, Gut Bay and Pillar Bay to Federally qualified subsistence users and to eliminate possession limits at these systems. The proposal was submitted out of concern that subsistence users are being negatively impacted by other users and that escapement studies are needed for conservation.
Federal waters involved are those of the Tongass National Forest excluding marine waters. Falls Lake and Gut Bay are located along the eastern shoreline -- I'm sorry, the western shoreline of Baranof Island and Bay of Pillars is located along the western shoreline of Kuiu Island, all have some waters within Federal jurisdiction.

As far as regulatory history. The current subsistence seasons in subdistrict 109-20, which is Gut Bay and Falls Lake extends from June 1 to July 20th with the possession limit of 10 sockeyes per individual and household. The current subsistence season in subdistrict 109-52, that is Bay of Pillars, extends from June 1 to July 31st with an individual harvest limit of 15 sockeye and household possession limit of 25 sockeye. Residents of Kake and Kupreanof Island emptying into Keku Straits south of Point White and north of Portage Bay boat harbor have a positive customary and traditional determination to harvest salmon in the waters of 9(A) and 9(B), the areas in question here.

We present harvest information for Falls Lake and Gut Bay in some tables on Page 123 through 124. We also present harvest by community over the past five years, information from the Fish and Game Subsistence Division and those communities and the numbers of fish that they take are listed in those columns.

I just wanted to flash the map up there, you can see the location of Falls Lake, Gut Bay and Bay of Pillars in relation to Kake. As Mr. Thomas had said earlier in the previous proposal, if you notice there that folks in Kake do have to make quite a run through some pretty rough waters at times to get to their sockeye resources.

We do have some limited escapement information for these sockeye systems. We present that information on Pages 126 through 127.

Some key points I wanted to mention, we do feel the need for some local stock assessments in the area and we do have conservation concerns for sockeye in Falls Lake and Gut Lake systems. Last year before the State Board of Fish, there was a proposal that regarded Falls Lake sockeye conservation. The Fish and Game and the Federal Subsistence Program did initiate a stock assessment project at Falls Lake in the year 2000 in the FIS process. Gut Bay is included in stock assessment projects proposed for 2001 as well as harvest and TEK work in the Kake area.
covering these three areas.

That concludes my presentation.

CHAIRMAN DEMIENTIEFF: Thank you. Fred, summary of written public comments.

MR. CLARK: Thank you, Mr. Chairman. The United Fishermen of Alaska suggest that there should be a season limit on subsistence take. That rural residents recommended for access should be identified and that there is no justification provided in the proposal to close sport or personal use fisheries.

That's all, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation to reject the proposal. We note that most of the subsistence harvest at Falls Lake, Gut Bay and Bay of Pillars has been historically taken in marine waters ad that would be 99 percent, 100 percent and 96 percent for each system respectively in 1999. Passage of this proposal would only affect the harvest in freshwater that historically represents a very minor part of the total subsistence harvest, Mr. Chair.

CHAIRMAN DEMIENTIEFF: We have no additional request for additional public testimony at this time. Regional Council recommendation.

MR. THOMAS: Thank you, Mr. Chairman. It gets interesting by the minute. Our previous proposal I suggested that since we had jurisdiction in freshwater and streams, it was brought to my attention that wasn't necessarily so. But we get to marine waters and there's a definite ownership there. And I am not sure if we have no jurisdiction in marine waters, then I'm not sure how we can effectively bring these proposals before you.

But, however, in representing Region 1, Region 1 supports the proposal with modification. They want to close all streams draining into Falls Lake, Gut Bay, Pillar Bay to harvest sockeye salmon except by Federally qualified users. We do not support the proposal that would eliminate possession limits. Now, listen to the language in the justification. The Council's rationale was
that smaller systems like these should be protected for
subsistence and it's better to protect it for an allocation
issue. Dolly Garza summarized the Council's thinking when
she said, this is the kind of conservation we should be
practicing before we have the charter people dukiing it out
with subsistence people because once they start spending
money to go there, they're going to say that's what they've
done for time and immemorial and have rights, and they will
because it will take us five years to get around to it
again. They did not include removing the harvest limit
because they felt it would cause conservation concerns, if
the data collected by Kake, the State and the Forest
Service indicate a higher harvest is possible, it can be
changed then.

So that's the kind of justification that we
should use in any kind of recommendation that we make. Be
concise, elaborate on it and have it mean something.

Southeast Regional Advisory Council
supports the proposal with modification, we did not support
the part of the proposal that would eliminate possession
limits. Thank you, Mr. Chairman.

CHAIRMAN DEMIEN'TIEFF: Thank you. Staff
Committee recommendation.

MR. THOMPSON: Yes, Mr. Chairman, the Staff
Committee recommends rejecting this proposal. While
recognizing the importance of the three sockeye salmon
systems to local subsistence users, Staff Committee cannot
support recommended closure to sport fisheries as the sport
harvest constitutes such a small proportion of the total
harvest in Federal waters and the greater percentage of
sport fishing is done in marine waters.

Basically our concern is a lack of
substantial evidence to support a closure and that it would
be an unnecessary restriction at this time to non-
subsistence uses. Thank you.

CHAIRMAN DEMIEN'TIEFF: Discussion. No
discussion. Any other Regional Council comment.

MR. THOMAS: I quit.

CHAIRMAN DEMIEN'TIEFF: Is there a motion.
Yes.

DR. KESSLER: Yes, I'll make the motion. I
feel compelled to go along with the Federal Inter-Agency Staff recommendation because of the lack of evidence to support a closure and the fact that it would constitute what appears to be at this state of the knowledge, a non-necessary restriction and the observations that have been made about the impacts being elsewhere associated with the marine environment.

So my motion is to move that the Board reject Proposal 31 as recommended by the Southeast Regional Advisory Council [sic].

CHAIRMAN DEMIENTIEFF: I don't think they were recommending rejection.

DR. KESSLER: I'm sorry, the Federal Inter-Agency Staff. Sorry.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

MR. WILSON: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Again, I think I might have heard it both ways, do we have a conservation concern here, that would be for Staff, please?

CHAIRMAN DEMIENTIEFF: Cal.

MR. CASIPIT: Yes. There is a conservation concern in Falls Lake. We believe there is one at Gut Bay. We don't know at this point for Bay of Pillars yet. But for two of them we think there is.

CHAIRMAN DEMIENTIEFF: Did the Staff Committee have access to that information? I mean here we've got documented or Staff is saying that we have a conservation concern, it supports the position of the Council, and yet the Staff Committee recommendation, where this train is trying to go is to go contrary to that. There's no way I can support this recommendation or this motion. There were other cases, you know, I was willing to go with the Regional Council and in this case we have Staff saying we have biological conservation concerns and we're
still not willing to do it.

Yes.

MR. THOMPSON: Mr. Chairman, the Staff Committee did, indeed, have that information, however, we are persuaded by the probability there would be little effect by restricting non-subsistence uses in Federal public waters because of the very small percentage of that harvest is taking place in Federal public waters. The vast majority is taking place in marine waters and this proposal does not impact that.

CHAIRMAN DEMIENTIEFF: The last couple years at home and up on the Yukon, we've been down counting fish, one fish for you, one fish for me, you know. I mean what's very little impact? Can you quantify that?

MR. THOMAS: Mr. Chairman.

MR. CASIPIT: I'm sorry, Mr. Chairman, can you repeat that question again, I'm not sure I understood it?

CHAIRMAN DEMIENTIEFF: Well, I mean Ken is saying that there's very little impact, I don't know, can you quantify that, what very little impact is?

MR. CASIPIT: Well, our initial estimates was that sport fishing in Federal waters represented less than five percent of the harvest. We didn't know what exactly -- that was the information that was given to us. But again, that's based on some -- the way that the sport -- the way the State sport harvest system -- harvest monitoring system works is that it's a male survey and it's a sample of all the people that's purchased a fishing license in the state. It's rather, you know, it's kind of a -- they don't look at every license that was sold, they only sample a subsample of all those licenses, and the only time that they actually record a location of harvest is if 10 anglers have reported harvesting fish there. So in a lot of situations for these very small systems, the chances that the sample of all the licenses are going to pick up 10 individuals is very slim. So as a consequence for these really small systems, there is sport harvest there, we know that there is but as far as a quantification in a database, the harvest monitoring database, it just doesn't happen because of the way the sampling is done.

Now, I might have messed that up on the
part of the State, I don't presume to understand the State harvest monitoring system all that well, but perhaps the State would clarify that if I got something wrong.

MS. WHEELER: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Do you have any further clarification on the points that Cal made?

MR. BROOKOVER: Mr. Chair, Tom Brookover with Fish and Game Sportfish Division. I'm in Sitka. And Cal had the general idea, I think of one of the methods we use to estimate sport harvest correct -- and that method is a statewide harvest survey that is based on a mailout questionnaire sent to households with individuals that have purchased sport fishing licenses. That's our primary means for estimating sport harvest on a statewide, region-wide and large geographic area basis. It works well for large geographic areas, including the Sitka area, which would include the western half of Chichagoff Island and the Baranof Island area. For that contiguous area, sport harvest estimates of sockeye have ranged around the 3,000 mark each year. Where it breaks down is trying to estimate harvest for very small specific systems like Falls Lake because we don't get enough returns from people that have fished in that area to make an estimate for a system like that.

And we do have a second means to estimate harvest since 1998, and that is through charter vessel log books. Those have been required by the Board of Fisheries for any vessel that operates in saltwater, any guided vessel that operates in saltwater. And the information that we have reported on log books for Falls Lake, Gut Bay and the Pillar Bay areas is essentially zero sockeye harvest for 1998. And for those three areas in 1999 there were 32 fish reported on the charter vessel log books.

MR. EDWARDS: Mr. Chairman, I guess that being said, I guess then, realistically what is the implication either way? It seems to me if we -- what I hear you saying is that there was virtually no fish taken there anyway, so by supporting the Council, the only impact, I believe last year, 32 fish; is that correct?

CHAIRMAN DEMIENTIEFF: That's on charter boats.

MR. EDWARDS: Right. But your data also says in one of the lakes, 100 percent of the fish were
taken outside of the area in question. So doesn't that indicate that there were zero taken within the area?

        MR. BROOKOVER: Mr. Chairman, no, I don't believe we have the authority to say that zero fish were taken. It's feasible that fish were taken in that area but weren't picked up in the statewide mailout survey.

        MR. EDWARDS: So we assume with those percentages that had to be a pretty low number, wouldn't we?

        MR. BROOKOVER: Mr. Chair, that's our assumption, yes.

        CHAIRMAN DEMIENTIEFF: Again, as you point out, were taking outside of the area -- by residents outside of the area; is that the point you're making?

        MR. BROOKOVER: No. I guess my point I thought I was making that there is very little harvest that takes place within those waters so by restricting that, is it really eliminating really much use.

        Mr. Chair, Mr. Edwards, I think your assessment is on target. I think generally with little harvest taking place in those areas the affect in the overall scheme of things would be relatively low. I might also point out that the State subsistence fisheries were restricted this season, were shortened by, I believe, 10 days in 1999 and 2000, similarly to the sport fishery was restricted in both marine and freshwaters at Falls Lake by reducing bag limits from six to three. That included both the marine and freshwater portions.

        CHAIRMAN DEMIENTIEFF: Bill.

        MR. THOMAS: You know, Mr. Chairman, it looks to me like we're going to have to go back probably 12 years and have an orientation and see where in the hell we exactly are in terms of working with a common goal. Somehow it looks to me like we translated the language in Title VIII from subsistence to other user groups. And if all of our proposals are going to end up being deferred for very lame justifications and not consider the impact it has on the subsistence community.

        The justification on this particular proposal puts up a red flag saying it's time. This is the kind of conservation we should be practicing before we have
the charter people duking it out with the subsistence people, which is true. This is speaking from historical events. There's a lot of competition for these resources down there. Lots of competition.

Title VIII was put in place to protect subsistence. Why can't we do that?

It's simple. I mean they didn't send us here to consider other user groups. They didn't send us here to defer because of what it's going to do to somebody else. Take a look at .801, spend a little time on .801.

You know, up until now there was a lot of pride in being part of this process. We really thought it was a stroke of wisdom to use the knowledge or people that use the resource on a regular basis. People that know the history of the strength of systems. People that know the affects of pollution. People that know the affects of natural causes about the resources that have been solicited to bring these recommendations to this point. And if that doesn't suffice, I'm not sure what the RACs are going to do in the future from this. This makes me more than a little bit nervous.

Take a look at .801. Spend a little time on it. Ask yourself what you're going to do with it.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Bill. Any further discussion. Now we're ready to vote, all those in favor of the motion signify by saying aye.

DR. KESSLER: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Motion fails.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Do we have a subsequent motion? Yes.

MS. GOTTLIEB: Well, I was going to say, I thought again that this area may be part of some of the
fishery studies that we're planning on doing and so we look forward to getting that information and I hope per Bill's comment on the last discussion, I hope that information is transmitted to the Regional Advisory Council. I mean we know it will come to the Board but it needs to go to the Regional Advisory Council as I think it's part of our system that as information is gathered Regional Advisory Councils need to be amongst the first to get that information.

CHAIRMAN DEMIENTIEFF: Well, it's clear from testimony that we're not displacing very many people so it's not a huge impact but it is a step in an effort where we do have conservation concerns. And whatever little bit it helps is going to help. It's not going to change the subsistence users harvest and we're not displacing huge volumes of sport fishermen. But it is a little step that we can do to conserve stocks that are in trouble while we are getting the information necessary to build.

My recommendation is to adopt the recommendation of the Southeast Regional Advisory Council.

MR. WILSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. WILSON: I make a motion a motion to adopt the recommendation of the Southeast Council -- sorry Southeast Advisory Council reco -- I -- let me start over again. I make a motion that we accept the recommendation of the Southeast Regional Advisory Council.

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

MR. URVINA: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. EDWARDS: I'm going to go ahead and vote on it but I guess I still remain concerned that we're just jumping back and forth on all these and being very -- at least from my view, somewhat arbitrary as we debate each one.

CHAIRMAN DEMIENTIEFF: I think towards that effort in developing the record we did hear from Staff that, at least in two out of three of those systems within
the system that there are conservation concerns and that
being the exception.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I guess I'd also be
interested in some of our Staff finding out whether the
Board of Fish is going to be looking at this area, too,
because of conservation reasons. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Further
discussion on the motion. 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.
Okay, Proposal 34 got moved off the consent agenda and has
already been adopted. Pending the legal review, we will
come back with Proposal 27. Whenever we do get the legal
analysis, pursuant to our motion to table pending the
outcome of that legal analysis.

(Pause)

CHAIRMAN DEMIENTIEFF: Okay, we're going to
move on into the Kodiak/Aleutians region. We'll give our
Staff a moment to get situated.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: On behalf of Region 1, I want
to thank the Board for their supporting comments; for their
diligent considerations and for the degree of effort and
thought they put into dealing with proposals from Region 1.
From Region 1, thank you very much.

CHAIRMAN DEMIENTIEFF: Thank you, Bill.

(Pause)
CHAIRMAN DEMIENTIEFF: Okay, we'll move into the Kodiak/Aleutians region. We have Proposals 41, 42 and 44 on the consent agenda, leaving us one proposal to consider and that would be Proposal No. 43. And Pat, I understand you're going to introduce the proposal.

MS. PETRIVELLI: Yes.

CHAIRMAN DEMIENTIEFF: Okay.

(Pause)

MS. PETRIVELLI: Mr. Chair, Federal Subsistence Board, Regional Advisory Council Chairs. My name is Pat Petrivelli and I'm presenting Proposal 43. Proposal 43 was submitted by Mark Olsen and Mark Olsen proposed to establish a gillnet restriction in the Kodiak area. The restriction he proposed was to require 150 foot separation between the operations of set gillnets. Currently there are no gillnet restrictions in the Kodiak area and these are, the map here shows the present Kodiak area. The Federal jurisdictions are on the freshwater areas of the Kodiak National Wildlife Refuge and in the marine waters of the Alaska Maritime Wildlife Refuge and that's a mile around Afognak Island, the waters of Chiniak Bay and then some areas off of Karluk, that triangle there, a thousand feet off of Karluk.

With the marine water fishing areas on Page 17 of the Kodiak Section 3, shows where the subsistence fishing permits for salmon are and the two heaviest use areas are within Federal marine waters and that's Chiniak which is located -- well, which is marine jurisdiction within Afognak which is part of marine jurisdiction.

Mr. Olsen proposes this to minimize user conflicts. And that's all.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comments.

MR. EDENSHAW: Thank you, Mr. Chair. The Kodiak Fish and Game Advisory Committee submitted comments regarding this proposal and the first point they said was that this proposal would reduce opportunity for catching fish by traditional and customary methods. And they went on to say that many locals will fish by overlapping their nets or only having a short distance between nets while fishing on the markers, particularly on a falling tide.
The local fish and game office has heard no complaints about people fishing too close together and the proposal, as written, would be unenforceable and create confusion for subsistence fishermen. And lastly, the Advisory Committee felt that there wasn't a problem and the proposal wouldn't work if approved.

That's all.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. WHEELER: Thank you, Mr. Chair. The State supports the Federal Inter-Agency Staff recommendation to defer action on this proposal given that State and Federal regulations would be out of alignment and user conflict would not necessarily be resolved. The State supports the recommendation to being a local planning effort to address user conflicts in this fishery and that proposals be developed to take to the Federal Subsistence Board and the Alaska Board of Fisheries, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We have no additional requests for public testimony on this issue at this time. We shall move on to Regional Council recommendation, Della.

MS. TRUMBLE: Thank you, Mr. Chair. I've got a couple of things. In our meeting, the Kodiak/Aleutian Regional Council recommendation was to modify. The Council modified the proposal to authorize, two gillnets can be tied together at the ends. They felt that setting of a minimum distance of 100 feet between set gillnets would create a more orderly fishery and could reduce potential conflicts and may increase success of the user.

I did talk, at great length with the proponent of this proposal, which is Mark Olsen, last night, and I also talked at great length with Al Cratty, who is also on the Kodiak/Aleutians Federal Subsistence Advisory Council, and is a committee member of the State on the fishery council.

We kind of decided at this point that we will withdraw this proposal. I am going to make a few statements, though, in regard to this whole process that was in this proposal. There seemed to be, coming from Mark some confusion as to the way the proposal was written by Staff, and I have some concerns with not seeing the
comments from Fish and Game until about five minutes ago. And I feel that in order for us to look at these and respond in a timely manner as Chairs that, I hope in the future, that we get the information that we need in a more timely manner.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. So there's a request to withdraw from the Regional Council. Staff Committee recommendation was to defer.

MS. FOX: Rod is prepared to give the Staff Committee recommendation, if you want to do it.

CHAIRMAN DEMIENTIEFF: Okay, I'm sorry, Rod.

MR. SIMMONS: Thank you, Mr. Chair. Yes, the Federal Inter-Agency Staff recommendation is to defer the proposal. The reason behind that is it would give the Regional Advisory Council an opportunity -- or the proponent an opportunity to submit a parallel proposal under the State Board of Fisheries, in that there's currently a State subsistence fishery occurring in the same waters and consequently, that the regulation -- the proposal, if adopted, would create a more limited restriction than under the State program.

CHAIRMAN DEMIENTIEFF: Moving on to Board deliberation. Della, do you know if you're going to pursue this through the State system as well?

MS. TRUMBLE: It's my understanding that they weren't, neither one of them. I think it may be a possibility that we'll take this back to the Council.

CHAIRMAN DEMIENTIEFF: So I guess in that case if that is going to happen, I don't know what the time schedule that would be under for next time the Kodiak stuff would come up on the Fish Board where this could get considered; do we have any idea? Nobody from the Board Staff?

MR. BEDFORD: It would be taken up next year.

CHAIRMAN DEMIENTIEFF: In that case, I know you said, withdraw, but I think in that case I probably support the recommendation of the Staff Committee just to
go ahead and defer and let this thing go. Would that be.....

MS. TRUMBLE: That's fine. I'll pass that on to the Council.

CHAIRMAN DEMIENTIEFF: Is there a motion to adopt the Staff Committee recommendation?

MR. EDWARDS: Mr. Chair, I move that we accept the Staff Committee recommendation to defer.

CHAIRMAN DEMIENTIEFF: Thank you. Is there a second?

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Seconded.

Discussion. 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.

Okay, with that we'll move on to Bristol Bay.

(Pause)

CHAIRMAN DEMIENTIEFF: With regard to Bristol Bay, their Proposal No. 12 is on the consent agenda. We have a request for reconsideration, No. 0003. With that, who's going to provide the -- okay, go ahead.

MS. McCLENAHAN: Thank you, Mr. Chairman. I'm Pat McElrath. Mr. Gary Carlos of Togiak, Alaska has requested your consideration of the May 3rd, 2000 Federal Subsistence Board action rejecting wildlife Proposal 00-61, which would have established a winter moose season in Unit 17(A), December 1st through 31st, one antlered bull.

I'm sorry, we're having a little trouble here.

(Pause)
This is a map of Federal lands in Unit 17(A) that shows Togiak National Wildlife Refuge in pink. This fall there was a temporary moose season for Unit 17(A) by special action. Current State regulations provide for an August 20th through September 15th season for Alaska residents, one bull by State registration permit. Wildlife Proposal 98-59, a proposal to create a permanent fall season Federal subsistence hunt will be considered during the upcoming round of wildlife proposals.

At a recent meeting the Federal Subsistence Board considered Mr. Carlos' claims and decided to accept Proposal 00-61 for reconsideration. This slide summarizes the claim made by Mr. Carlos.

I'd like to provide you with some biological information. First on aerial surveys, moose numbers in the unit have increased from less than 10 moose in the 1980s to 511 in 1999. Then there were 422 in March 2000. This is an apparent decline, however, survey conditions weren't optimal for the 2000 survey. An estimated 60 percent cows and 78 percent bulls are resident. The remainder are migratory. There appears to be some movement of the animals between subunits and between Units 17 and 18. Preliminary habitat analysis indicates that the carrying capacity of Unit 17(A) may be in the range of 1,100 to 750 moose based on an average of two to three moose per square mile as Unit 17(A) contains an estimated 560 square miles of primary moose winter habitat and 520 square miles of secondary winter habitat.

Accurate composition data are lacking. Incidental composition data gathered in 1998 and 1999 indicated between 83 and 105 bulls to 100 cows during fall surveys. This apparent high bull to cow ratio information was inadvertently not presented to the Federal Subsistence Board. The current estimate is 50 to 100 bulls to 100 cows.

A draft moose management plan has been written, and I believe has been passed out to you, however, there's a lack of consensus by local Togiak residents regarding population thresholds in the plan to allow a fall and winter hunt. Staff have conservation concerns about Proposal 61 as it was originally submitted. It raises concerns about the potential for overharvest.

During the winter moose have a tendency to congregate in small groups in areas where they can become readily accessible by snowmachine. This would be
especially true on the Togiak River. Thus, these congregations would be especially vulnerable to hunting pressure and overharvest. Deep snows during December could limit moose forage, create stress, make moose more vulnerable to hunters and predators and cause greater energy expenditure. Congregating animals in deep snows could lead to an overharvest of bulls which could significantly change the herd composition leading to the potential for decreasing herd productivity.

The absence of an aligned Federal/State regulatory season for a winter moose hunt would place a burden on hunters. During past winter surveys, moose had been concentrated within corridors, much of which is under State jurisdiction. Currently these lands are closed to hunting. However, based on the current apparent high bull to cow ratio, it appears that a proper managed limited winter hunt would not adversely impact the moose population in Unit 17(A).

That's all I have.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comment.

MR. EDENSHAW: Mr. Chair, there weren't any written public comments.

CHAIRMAN DEMIENTIEFF: Okay. Department comments.

MS. WHEELER: Mr. Chair, I have Dr. Haynes here to respond to -- or to provide the State comments, Mr. Chair.

MR. HAYNES: Thank you, Mr. Chairman. The Department of Fish and Game does not support this request for reconsideration to establish a winter moose season in Unit 17(A) at this time.

Most of the stakeholders who worked on this management plan, including the Bristol Bay Regional Advisory Council and Togiak Refuge Staff agreed that a winter season should not be established until the moose population in the area exceeds 600 animals. This threshold has not yet been reached. The collaborative planning effort promotes continued growth and expansion of the moose population while allowing for a limited fall harvest in an area that was closed to moose hunting altogether from 1981 to 1997. We don't believe a compelling case has been made
for the Federal Board to reject this provision of the management plan.

We concur with the discussion in the Staff analysis concerning the problem of having a Federal winter hunting season but not a corresponding State season in Unit 17(A). Federal public lands are located some distance from communities in Unit 17(A) and during the winter months, moose often are concentrated along the corridor in the more accessible State managed lands. Under certain winter weather conditions, in one winter moose could be subject to excessive mortality from human harvest and other sources, thereby further delaying achievement of the 600 moose threshold.

Finally, Mr. Chairman, the Department does not support the Staff recommendation to administer this winter hunt as it's spelled out in the proposed way the hunt would be administered and that is to have a registration hunt for 10 antlered moose with permits being available on a first come, first serve basis to Federally qualified subsistence users in Unit 17(A). This approach appears to assume that no more than 10 hunters would have an interest in this hunt among all the qualified users to where all rural residents of Unit 17 and residents of Goodnews Bay and Platinum. If a winter hunt is conducted, and we hope one is not, we believe such a hunt must be conducted consistent with the provisions of Section .804 of ANILCA.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. We have no requests for additional public testimony -- oh, yes, we do, Robert Heyano. Go ahead.

MR. HEYANO: Thank you, Mr. Chairman. My name is Robert Heyano, I reside in Dillingham, Alaska and I'm here representing myself as a Federally qualified subsistence user for moose in 17(A). I'm here to ask you people to reject the request and continue to support the moose management plan for 17(A), which I think is extremely important. It sets out some long-term objectives that's going to be beneficial to all the subsistence users for that moose population and also providing some opportunities for other resource users.

For whatever reason, we're present at a time when the moose population in 17(A) is increasing after a long history of almost no moose in that area and I think
we need to take advantage of the situation and try to increase that population so that there's at least some assurance that there's a viable population that can be harvested in the future.

There's been a lot of work that's gone into the plan by a lot of subsistence users and State and Federal agency people. And as a Federal subsistence user myself, you know, the existing hunting season in regulations in 17(A) really doesn't provide me, in my opinion, a reasonable opportunity. I have to fly to Togiak to get my permit, since aircraft access is denied, then I have to make the journey by boat and to me that's unreasonable to expect me to do that but I supported those regulations knowing full well that the intent behind them was, it was going to provide a limited opportunity for those folks in Togiak, in Twin Hills to harvest moose until we had a moose management plan drafted and adopted, and it was in that light that I supported those regulations.

And I think now that we have a moose management plan, in my opinion, it's more than a draft it's been adopted by all the agencies with the exception of one local advisory committee and that's not uncommon in our area. We have a Nushagak Caribou Peninsula management team that consists of a transplanted herd on Federal land and at that time we had one community who chose not to participate in that planning effort and in the last three or four years that community has sent a representative and at the last planning meeting they agreed to sign on to the plan. So I think that in this instance it takes time for everybody to sign on, but by far the majority of the people in the caribou planning team and this moose planning team have agreed with the plan.

So once again, I hope that you folks would reject the reconsideration and continue your support for the moose management plan. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. That's the only request we have for public testimony. Regional Council recommendation. Dan.

MR. O'HARA: Mr. Chairman, Dan O'Hara, Chair of Bristol Bay. I'd like to thank Robert Heyano for his testimony today. He came here representing himself in the public testimony but, Mr. Chairman, he is a member of the Bristol Bay Regional Council, very active, has been very instrumental in this management plan. In fact, we have come up with a lot of numbers from Robert on that and
we appreciate his work and efforts, and I'm glad to be able
to see him here today.

Just a few thoughts, Mr. Chairman, we, of
course, are not supporting the recommendation to allow this
limited moose hunt in the Togiak area of 10 bulls. I
believe that this is a conservation concern. And it's
pretty obvious from the paperwork you have in front of you,
Mr. Chairman, Staff Committee did not reach a consensus on
this recommendation so you're on pretty shaky ground to
start off with really.

I don't look at this as a social service
oriented-type recommendation that we're dealing with, we're
dealing with conservation of animals in Unit 17(A). This
is not a giveaway program on some social service program
that we're dealing with here, we're dealing with real
numbers that we want to reach before we can allow a harvest
in the area and you have a very reasonable, Mr. Chairman, a
good management plan before you.

The Federal Board should be concerned about
this. It should be a real concern to you that you would
deal with the RAC on this issue. The 600 numbers requested
by the RAC recommendation on this management plan deal with
more than 10 animals in the Togiak area. You have a
thousand to 1,200 people who live in Togiak and now you're
dealing with 10 animals to go with that many people, for 10
bulls to be taken this time of the year. This does not
make sense at all.

I mean we have Manokotak sitting there, you
have Twin Hills sitting there, you have -- you know, you
have people in Dillingham who haven't hunted in this area
and all these people who have made a contribution for years
on years to get these animals from a number of 90 up to 511
and they're rapidly expanding and then all of a sudden you
want to go out and take 10 people out of a thousand. This
doesn't make sense at all.

Another point you should take into
consideration Board members is that this is a very rapidly
expanding herd and they have very little in the way of
predators actually in the area. The wolves have not come
into the area. Now, the other day Dick Sellers was doing a
moose survey over on State land in Bristol Bay and in the
Naknek area, he saw 21 wolves in one pack. My son, with
the Park Service, was doing a moose count up in the Katmai
National Park and Preserve area, 25 wolves in one pack
eating up one caribou didn't last very long but there were
a few more caribou. There are very few predators where 
these moose have moved into this area and they're 
fLOURISHING.

And I would imagine by this time next year 
you may have a management plan in place, so I think you 
need to take into consideration there's other people 
involved as well as 10 permits coming out of Togiak. And I 
believe that there has been a great deal of success between 
all of the concerned people in 17(A). And I might just 
make mention as I close my comments, Mr. Chairman, that 
Nushagak Peninsula Herd which come off the Alaska 
Peninsula, which was a cooperative effort by the State of 
Alaska, the Feds and the communities, and all of them 
participated to make this caribou herd southeast of 
Dillingham, southeast of the Dillingham area which has 
grown considerably and had been good harvest for people, a 
combined effort. Now, this is something that this Board 
should be very proud of.

You should look in the same manner at this 
moose management plan and leave well enough alone until we 
reach our goal and give all the people -- I appreciate the 
State of Alaska's support on this, I think this is very 
reasonable. This is not unreasonable at all to ask you to 
hold the line on this management plan until we reach our 
numbers. We are very concerned and we'll have a resource 
in Bristol Bay and our RAC will regardless of what the 
difficult decisions and how tough they might be, but we 
absolutely must have numbers to go along, and we do have a 
conservation concern here.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Dan.

Staff Committee recommendation.

MS. FOX: Thank you, Mr. Chair. As Dan 
indicated the Staff Committee did not reach consensus on 
this recommendation. Therefore, I will be providing you 
with two different viewpoints and the rationale for each 
one.

First of all, some members supported the 
denial of the request for a winter season based on the 
position taken by the Bristol Bay Subsistence Regional 
Advisory Council on Proposal 61 last spring. A differing 
view expressed in the Staff Committee deliberation 
supported the Staff recommendation to modify the regulation 
proposed by the request for reconsideration to provide a
limited bull harvest during the December 15th to December 29th -- during a December 15th to December 29th season.

In support of the first viewpoint, establishing a winter moose harvest season at this time would be contrary to the draft Togiak Moose Management Plan adopted by the Bristol Bay Regional Advisory Council and supported by the Nushagak Fish and Game Advisory Committee, The Togiak National Wildlife Refuge and the Alaska Department of Fish and Game. Some residents of Togiak participated in public meetings leading to the final draft of the plan and the consensus on the principles, goals and objectives of the draft plan appeared to have been reached by those present at the meetings. However, Togiak Fish and Game Advisory Committee has expressed disagreement with the harvest thresholds in the draft plan therefore it is not clear what sentiment is representative of the village as a whole.

Development of an Inter-Agency management plan for the Togiak moose population with representation of all affected communities was endorsed by the Council and the Board as a way to develop appropriate management strategies for the population. Additional dialogue with local users satisfy with the provision of the draft plan should be undertaken to address concerns and, if appropriate, resolve outstanding issues through revisions to the draft plan.

In support of the second viewpoint, it is offered that there is no biological reason to reject the request for a limited winter hunt for bulls only. Further, the Regional Council recommendation should be rejected because a limited 15 day winter moose hunt for antlered bulls would not adversely impact the growing moose population in Unit 17(A) and because it is an unnecessary restriction on eligible subsistence users. With regard to biological considerations, the current bull to cow ratio indicates that a limited winter hunt of 15 days with a predetermined harvest limit of 10 antlered bulls would not adversely impact the moose population in Unit 17(A). Ten moose is the normal harvest during prior fall and winter hunts. A limited winter moose hunt would help provide for the subsistence needs of local subsistence users as mandated by Title VIII of ANILCA while addressing conservation concerns and maintaining a healthy moose population. Prior Regional Council recommendations were to allow for subsistence hunts when the population was over 300. An incomplete March 2000 survey indicated that the current population was 422, while the more complete 1999
survey showed the population to be 511. The concerns with Proposal 61, as originally submitted which requested a 31 day season with no harvest cap would be addressed with these limits. The primary concern with the 31 day season is the stress hunters with snowmachines may have on the moose population and conditions of deep snow and the high potential for overharvest. Therefore a predetermined harvest limit is recommended. In addition, a permit with reporting required would enable close monitoring of the harvest. Restricting the harvest to antlered bulls only would protect cows which is important for the maintenance of an adequate bull to cow ratio and the future growth of the herd. The final concern addresses hunting on adjacent State lands that have no parallel hunting season. Hunters will need information and education in order to locate Federal lands while hunting in the field.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Mr. Chair, while our biologists on the refuges would probably agree that from a strictly biological standpoint a limited hunt could be supported. I think they would also agree that the issue is much broader than that and has already been eloquently stated, a plan has been developed that has strong support to really achieve a much broader and larger goal. And at this point to go forward with a very limited hunt just because there happens to be a limited surplus that could be harvested would be very short-sighted. So when it comes to making a motion, my plan would be to make a motion to reject the request for reconsideration.

CHAIRMAN DEMIENTIEFF: Further discussion.

MS. GOTTlieb: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTlieb: I would agree with Fish and Wildlife Service. I do want to commend the RAC, as well as the people who are working on this plan to make this system work. The Board has supported the efforts of that plan and we're not at the allowable numbers for harvest right now in winter and the Board has supported subsistence hunts during the fall season. So I think the RAC has carefully considered the facts here and issues and certainly has long-term goals of subsistence users as well as resource
As far as my own personal views, how many times have we seen these kind of management plans work on different species, different areas. They do work. They do work because they involve everybody. If the Togiak Advisory Committee doesn't want to participate in that plan and there are other villages that are dependent upon -- or could benefit from a larger harvestable surplus, and given the chance that we need to have all this have a chance to work this and it's going in the right direction, but as Dan points out from observations, I guarantee you get a pack of 25 wolves in there and they're not going to eat just 10 moose a year and they're not going to discriminate on what they're going to eat. If you just get things going in the right direction and don't give yourself a chance to let this work then I can't see how I could support, you know, this limited hunt, even at this time.

I just congratulate everybody on their success and I hope we get that plan signed. I know it sounds like people are already working with it and I know the effort that goes into putting those things together. Again and again I've said, you know, how much we appreciate that because it makes our job, as a Board, that much easier when we have that much cooperation with each other. So congratulations. I hope you get this thing up to the Board here within the next year or so and I'm glad things are going in the right direction. But on the side of caution, I intend to support the position of the Regional Council.

Other discussion.

MR. EDWARDS: Mr. Chairman, I move that the Board reject the request for reconsideration.

CHAIRMAN DEMIENTIEFF: There's a motion, is there a second?

DR. KESSLER: Second.

CHAIRMAN DEMIENTIEFF: Further discussion. 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.

Okay, we're going to.....

MR. O'HARA: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. O'HARA: Thank you for that motion, I almost joined the dictator today but it didn't have to work out that way so Patriarch Bill is still, by himself a dictator. Thank you.

CHAIRMAN DEMIENTIEFF: We will continue in the morning at 8:30 with Yukon-Kuskokwim, Western Interior, Eastern Interior, Northwest Arctic. We've got Southcentral proposals, another RFR. In addition we'll come back to Proposal No. 27 from Southeast. So with that, we'll recess for today and reconvene at 8:30 in the morning.

Thank you.

(PROCEEDINGS TO BE CONTINUED)

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CERTIFICATE

UNITED STATES OF AMERICA

STATE OF ALASKA

I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and Owner of Computer Matrix, do hereby certify:

THAT the foregoing pages numbered 02 through 122 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically by Salena Hile on the 5th day of December 2000, beginning at the hour of 8:30 o'clock a.m. at the Marriott Hotel, Fairbanks Room, 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 14th day of December 2000.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 4/17/04