MEMBERS PRESENT:

MIKE FLEAGLE, CHAIR
JUDY GOTTlieb, Acting Chair, National Park Service
NILES CESAR, Bureau of Indian Affairs
GEORGE OVIATT, Bureau of Land Management
STEVE KESSLER, U.S. Forest Service
GARY EDWARDS, U.S. Fish and Wildlife Service
WAYNE REGELIN, State of Alaska Representative
KEITH GOLTZ, Solicitor's Office
KEN LORD, Solicitor's Office

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CHAIRMAN FLEAGLE: Good afternoon. I'd like to welcome everybody to my first official meeting of the Federal Subsistence Board. My name is Mike Fleagle, recently appointed as Chairman of the Board by the Secretary of the Interior on his visit up here. And I've been jokingly told that I'm going through my first meeting as a trial by -- or baptism by fire and we'll see.

Anyways, before we get started on the agenda I would like to give an opportunity, especially for my sake, but for other people in the room, if we wouldn't mind just going around the table and introduce ourselves and then I'd also like to extend that to the members of the audience present.

MR. PROBASCO: Thank you, Mr. Chair. My name's Pete Probasco. I'm from the Office of Subsistence Management currently acting as the assistant regional director.

MR. BUKLIS: Larry Buklis, Office of Subsistence Management.

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

MR. LORD: Ken Lord, Solicitor's Office.


MR. SIMMONS: Rod Simmons, Fish and Wildlife Service representing Jerry Berg who normally performs functions for fisheries for Fish and Wildlife.

MR. OVIATT: George Oviatt, Bureau of Land Management's representative on the Board.

MR. TOL: I'm Dennis Tol, Bureau of Land Management and I'm standing in for Chuck Ardizzone from BLM.

MR. MCBRIDE: Doug McBride, OSM Staff
MR. REGELIN: Wayne Regelin, Alaska Department of Fish and Game.

MR. KESSLER: Steve Kessler, U.S. Forest Service. I'm acting for Denny Bschor, the Forest Service's Board member for the Federal Subsistence Board.

DR. CHEN: Glenn Chen with the Bureau of Indian Affairs.

MR. CESAR: I'm Niles Cesar, Regional Director for the Bureau of Indian Affairs.

MS. GOTTLEIB: Judy Gottlieb, National Park Service, Board member.

MR. JACK: Carl Jack, OSM.

CHAIRMAN FLEAGLE: Thank you. And I wonder if we could just start over here and just work our way around until we get to the other end.

MS. ARMSTRONG: I'm Helen Armstrong. I'm the cultural anthropologist assigned to the Southcentral Council.

MS. WILLIAMS: Liz Williams, Fish and Wildlife Service, anthropologist.

MS. ORZECHOWSKI: Kathy Orzechowski with the Fisheries Information Services Division.

MR. RABINOWITCH: Sandy Rabinowitch, National Park Service, Staff Committee to the Federal Board.

MS. WILKINSON: Ann Wilkinson, OSM. I oversee the Regional Council system.

MR. HILSINGER: John Hilsinger with the Department of Fish and Game. I'm a member of the liaison team.

MR. KLEIN: Steve Klein with OSM. I'm the Chief of Fisheries Information Services.

MR. MCCOY: Ron McCoy, Department of the Interior.
MS. MCKINLEY: Diane McKinley, National Park Service.

UNIDENTIFIED VOICE: (Away from microphone) BLM.

MR. BELL: Larry Bell, Assistant Regional Director, External Affairs, United States Fish and Wildlife Service.

MR. OLSON: Warren Olson here representing the AOC, Alaska Outdoor Council.

MR. VANIA: Tom Vania, Alaska Department of Fish and Game, Division of Sportfish.

MS. CLARK: Maureen Clark, Office of Subsistence Management.

UNIDENTIFIED VOICE: (Away from microphone) Anchorage Daily News.

MR. CAMPBELL: Rod Campbell, OSM.

MR. DOUGHERTY: Steven Dougherty, Department of Law, State of Alaska.

MR. LINGNAU: Tracy Lingnau, Fish and Game, Commercial Fisheries.

MR. CANNON: Richard Cannon, OSM.

MR. MIKE: Donald Mike, Regional Coordinator, OSM.

MR. SCHLEUSNER: Cliff Schleusner, OSM, FIS Staff member.

MR. WILLIAMS: Darrel Williams, Ninilchik Traditional Council.

MS. CROAS: Carmen Croas, OSM, FIS Staff member.

MR. RAINEY: Ron Rainey, I'm Chairman of the Kenai River Sportfishing.

MR. BUCY: Rik Bucy, I'm a Board member, Kenai River Sportfishing.
MR. CASE: I'm Dave Case, I'm attorney for the Ninilchik Traditional Council.

MR. STARKEY: Sky Starkey, attorney for Ninilchik.

MR. ENCELEWSKI: I'm Greg Encelewski and I'm with Ninilchik Tribe and I also serve on the Southcentral Regional Advisory Board but I'm here for the tribe right now.

MR. ENCELEWSKI: Ivan Encelewski, Ninilchik Traditional Council.

MS. PETRIVELLI: Pat Petrivelli, anthropologist for the Bureau of Indian Affairs.

MR. BOS: Greg Bos, Fish and Wildlife Service, Staff Committee member.

MR. RIVARD: Don Rivard, one of the Division Chiefs here at OSM.

CHAIRMAN FLEAGLE: Thank you. Okay, well, I appreciate that. It helps to know who we have present at the meeting.

MR. PROBASCO: Do we have anybody on line?

CHAIRMAN FLEAGLE: Pardon?

MR. PROBASCO: Do we have anybody on line?

CHAIRMAN FLEAGLE: Oh, do we have anybody on line, that's a good question. Anybody phone in?

MR. USTASIEWSKI: This is Jim Ustasiewski with the U.S. Department of Agriculture, Office of the General Counsel.

MR. KRON: Mr. Chair, Tom Carpenter, Vice Chair Southcentral Regional Council.

CHAIRMAN FLEAGLE: Okay, thanks, welcome.


CHAIRMAN FLEAGLE: Is there anybody else?

(No comments)

CHAIRMAN FLEAGLE: All right, thank you. It looks like we have a full compliment of Board members so is roll call necessary for a work session?

(No comments)

CHAIRMAN FLEAGLE: Okay, no, we'll just go ahead and move on.

First, before we start into the agenda I wanted to get a feel from members that are present for the meeting today, if there's any interest in having testimony on this subject that the Board might hear?

Judy.

MS. GOTTLIEB: Mr. Chair. I think that would be very valuable.

CHAIRMAN FLEAGLE: Thank you. I'm trying to find out if members of the public want to testify. Does anybody here want to have a chance to speak before the Board on the issues?

(Nods affirmatively from audience)

CHAIRMAN FLEAGLE: Well, we'll go ahead and pass a sign up sheet and when we get to that point on the agenda, if there's names on the sign up sheet we'll call you up, and we'll set a three minute time limit, one testimony per person, and that will happen at about the third item.

MR. STARKEY: Mr. Chairman. As the proponent of the action request, Ninilchik would only volunteer to be here to answer any questions the Board members might have. We're prepared to stand on what we've submitted, and if people do testify and raise questions we would appreciate an opportunity to answer any questions or respond. That would be our only request.
CHAIRMAN FLEAGLE: Okay, I'll take your request into consideration. Obviously I'm not sure of the protocol, we've got our legal counsel present that can advise us to whether they have the chance to rebut testimony and we'll raise that up if the situation arises, I'll just keep that in mind for possible consideration.

Okay, so we have a sign up sheet going around if people do want to have a chance to testify. And you folks on the telephone, I guess we'll just have to do it by voice.

All right, we have the agenda before us and obviously the main action today is Board action on FSA06-01 submitted by the Ninilchik Traditional Council and the other agenda item, the Board direction on process for draft petition on license fee requirement. And at this time I'm open to any information exchange, how does this go?

Board members.

(No comments)

CHAIRMAN FLEAGLE: All right, hearing none, then we'll go ahead and move on to the first item -- or the second item on the agenda, the Board action on FSA06-01 and first I'd like to turn it over to legal counsel, Ken Lord, for clarification on what is before the Board, please.

MR. LORD: This is a temporary special action that was submitted by Ninilchik Traditional Council. We have two types of special actions in our regulations. One is an emergency special action under Subpart 19(D) which can only extend for 60 days; and then the other is a temporary special action, which is what this is, which can extend no longer than the end of the calendar year.

The process requirements for a temporary special action are that the Board is required to consult with the State and the affected Regional Advisory Council, and that there be notice and a public hearing, which is what we're doing today.

The Board has to make a determination that the proposed action will not interfere with the conservation of healthy fish and wildlife populations;
that's one requirement. The second is, is that it will not be detrimental to the long-term subsistence uses. And the third is, that it is not an unnecessary restriction on subsistence uses. If the Board makes the determination that it meets all three of those criteria then it may choose to adopt the special action.

I can answer any further questions later on as we get into this. We just thought we'd start off with that to help clarify the process.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. If I may, could I ask Larry Buklis to just, for the record, to go through what's in our packets so everybody's aware of what's in there.

CHAIRMAN FLEAGLE: Great idea, please do Larry.

MR. BUKLIS: Thank you, Mr. Chairman.

The folders are organized. On the left side is your meeting agenda, followed by the request for special action from Ninilchik Traditional Council dated August 2nd, supplemented by an August 17 letter from the Council through their attorneys. And then the back of the left side is the other agenda item, the Southeast Council's interest in license petition.

On the right side of the folders are supporting materials for the main agenda item, the Staff analysis on the request for special action, followed by a corrections statement. There's an editorial change in a word in the analysis that's been amended here this morning. Followed by the recommendation of the Southcentral Alaska Regional Subsistence Advisory Council. Followed by the InterAgency Staff Committee recommendation on the request. Followed by two letters from the State of Alaska, one dated September 1st and attached to it, all in one packet, is the initial letter dated August 8th. Following that is an affidavit by Robert J. Wolfe, followed by a letter from the Kenai Peninsula Borough, Mayor John Williams. And finally a letter from the Kenai River Sportfishing Association.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Mr. Buklis. Appreciate having all the information in addition to the
stuff that you've sent by email. I did have quite a bit
of studying to do, quite a bit of homework in pretty
short order.

Are there any questions for Larry Buklis
on the information.

Wayne Regelin.

MR. REGELIN: Yeah, I had a question, and
maybe there's different kinds of special action requests.
But I thought that for the Board to take up a special
action request there had to be new information presented
that wasn't available before or there had to be some kind
of a real crises that needs -- that subsistence needs
were going to be met, am I mistaken there? I guess
that's a question for Ken.

CHAIRMAN FLEAGLE: Ken Lord.

MR. LORD: Under our special action
regulations there is a requirement for extenuating
circumstances, that's the phrase that's used, that
necessitates a change before the next regulatory cycle.
Then that's a Board decision as far as what constitutes
an extenuating circumstance, there's some flexibility in
the regulation there.

To my way of thinking, the Board could
make that decision in this case based on the fact that
there is no -- currently any subsistence use on public
lands in this area. But the Board would need to explain
why it's not -- so the Board, if it's not going to take
up this action would need to explain why it's not meeting
its charge under Title VIII, and there might be reasons
for that, but it would be the Board's obligation to
explain that.

I hope that answered your question.

CHAIRMAN FLEAGLE: Dr. Regelin.

MR. REGELIN: Well, I guess I -- if the
law says, extenuating circumstances, I guess is pretty
vague and broad. But I would say that -- I wouldn't say
that there's no subsistence use on this river, I think
that there's educational fisheries, and there's personal
use fisheries that people take a lot of fish, there is no
Federal subsistence fishery.
MR. LORD: I'd suggest you discuss that with the Board and see where, you know, how the decision goes. That's not a decision I make, of course.

CHAIRMAN FLEAGLE: Okay, thank you.

Other questions for the information passed out by Larry Buklis.

(No comments)

CHAIRMAN FLEAGLE: Okay, I lost my agenda. All right, we're going to go ahead and call on Doug McBride to give the Staff analysis on the request.

MR. MCBRIDE: Mr. Chairman. Members of the Board. Thank you. Just for the record, again, my name is Doug McBride, I'm with the Fisheries Information Services within the Office of Subsistence Management and as such my primary duty is to oversee the Fisheries Resource Monitoring Program and administer that program in the Southcentral and Southeast regions of the state. Also one of my duties is to be part of the regulatory team, so I've certainly had experience commenting and helping with analysis in the past, however, I don't know whether it was the short straw or not, but I was assigned to take the lead on this analysis. So, Mr. Chairman, with your indulgence I'll go through what I hope is a brief presentation but there is a lot of material to cover here and I think we'd be better off to error on being more complete than less.

CHAIRMAN FLEAGLE: Excuse me, Doug.

MR. MCBRIDE: Sure.

CHAIRMAN FLEAGLE: Will you be following the written report that we have in the packet?

MR. MCBRIDE: Mr. Chairman, yes, I will. And then trying to clarify, you know, trying to add to some of that. But, yes, I will be following that material in the packet.

CHAIRMAN FLEAGLE: Okay, thank you.

Board members, the packet provided has the analysis that he'll be following if you want to read along or follow along.

MR. MCBRIDE: Thank you, Mr. Chairman. I think -- well, in the packet is the letter dated August
17th, which is the final special action request and as I'm sure you're aware there are two parts to this request.

One is for a winter gill net fishery, that is not addressed at this time, that will be addressed at a later time.

But obviously of immediate concern is the request for the coho dip net fishery that is the subject of this analysis and what we'll go through here today.

In presentation, Mr. Chairman, I'd like to do three things. One, is to just briefly summarize what is in the request for the coho fishery. Second of all then to go through the background and analysis that is contained in your document here. And then I will end with going through point by point the proposed regulations, and I think by going through it in that manner you can see where the points of the regulations come from and at least the rationale for why they're there.

Speaking to the original request dated in the August 17th letter and a summary of which is also in the middle of Page 1 immediately under the subtitle discussion. The Ninilchik Traditional Council requested a temporary dip net fishery for coho salmon this fall. In their request they requested several specifics that really addressed sustainability issues with the fishery. As part of their request they suggested a harvest guideline of 500 coho salmon, family permits, a permit limit of 20, non-lethal gear, i.e., dip nets, and the reason for that gear type was to address the release of species for which there were management concerns, notably late run chinook and steelhead.

You'll also notice in that letter there are some other specifics, for instance, like permits being issued on specific days and only being good for a day that are not addressed in the analysis nor in the proposed regulations, and the reason for that is that Staff did meet with NTC Staff on August 10th, and the point of that meeting was to clarify this request so some of those issues were addressed at that time and the proposal that you see in front of you contains the results of that interchange of information.

The first thing then I'd like to do in following with the analysis is to clarify the Federal
waters at question for this proposal. So if you go in
your analysis to the map, which is the second to the last
page, that's a map of a portion of the upper part of the
Kasilof River drainage. The Federal waters in this
drainage for purposes of this proposal include Tustumena
Lake and the drainages of Tustumena Lake and the upper
part of the Kasilof River approximately seven miles down
to a location called Hongkong Bend. And so you can see
on your map where the Kasilof River takes off out of
Tustumena Lake, it goes down for a distance of about
seven miles, it makes that sharp bend, that's Hongkong
Bend, and that is the lower boundary of the Refuge. So
Federal waters, for purpose of this analysis are from
Hongkong Bend up river on the mainstem Kasilof and then
the Tustumena Lake and it's drainages.

Now.....

MR. EDWARDS: Mr. Chairman, if I could
ask one question on that. Doug, does that include just
the waters and the shoreline on the Refuge side or does
it include the water and shoreline on both sides?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
It's my understand that it includes the waters of the
river and the uplands on the north side for the north, I
guess north and east side of the Kasilof, but on the
south side it does not include the uplands on that side.
And if I'm incorrect on that, Robin's on line and I'm
sure can correct me.

(No comments)

CHAIRMAN FLEAGLE: Seeing no objection.
Doug, how about that section of river that dips out to
the west of the boundary there before it gets down to
Hongkong Bend, would that -- that obviously wouldn't be
included?

MR. MCBRIDE: Mr. Chairman, that is
correct. There is a.....

REPORTER: Your mike's not on.

MR. MCBRIDE: Sorry. Mr. Chairman, that
is correct. There is a bend of that river that is not
included so the Refuge boundary would go down about seven
miles, then there'd be a small section of river that's
not in the Refuge and then the boundary would be below
that. For practical purposes just above this bend is a
place called Silver Salmon Rapids, and the practical
boundary for the considerations here today would be
Silver Salmon Rapids, and, in fact, again, based on the
discussion on August 10th, the location of the fishery
would just be the upper Kasilof River, it would not
include Tustumena Lake and it's drainages. So for
practical purposes it would be the outlet of the lake,
down river about seven miles to Silver Salmon Rapids, is
what's under consideration for the fishery today.

The next thing that I'd like to summarize
for you is the regulatory history, and that actually
starts on Page 3, excuse me it starts on Page 4.

I'm going to very briefly talk about the
first two sections there being the pre-statehood, early
statehood and contemporary State fisheries. And the
reason for that is they are already very well documented
in a report that's referred to throughout this analysis
as Fall, et al., 2004. This is a report by the Alaska
Department of Fish and Game, Division of Subsistence.
Dr. Jim Fall is a member of their staff. And I'll speak
more to this report later but this report was requested
by the Board and commissioned through the Fisheries
Resource Monitoring Program, specifically to provide
community and area specific harvest pattern information
for Cook Inlet.

The key points of those two sections, I
think, are that first of all dating back to 1952 so a
little in excess of 50 years, there have been no legal
subsistence fisheries in the fresh waters of the Kenai
Peninsula.

The second point is that there are
subsistence fisheries in -- State subsistence fisheries
in the Cook Inlet area, however, they are in other parts
of Cook Inlet from the area that we're considering here.
They're in non-roaded accessible areas, such as across
the Inlet in Tyonek and they really have no bearing on
the matters here.

The third point is there are existing
State personal use and educational fisheries. Again,
they're documented in this report. They're summarized
here in this analysis. I think the major point, though,
is all of those fisheries occur either in marine waters
or in the lower intertidal portions of the, for instance,
the Kasilof River and well outside of any Federal waters
for our purposes here.
The next thing I'd like to then summarize are the Federal subsistence fisheries. That section is on Page 5 of your analysis. And I think that provides an important, the regulatory backdrop for this request. And probably the best way to get through this information is the Federal regulatory history really is in three timeframes. The first one would be from 1999 to 2001, so the first two years of the program for which the Board had dealt with subsistence fisheries. And during that timeframe, what was largely going on was that subsistence fishery regulations were being adopted from existing State regulations. But in the case of Cook Inlet you've got to remember that there were no subsistence fisheries so there was nothing to adopt. So during this timeframe all that was done was that there was no customary and traditional use determination for salmon and what I would term, the other major species, for this area, so salmon fishing, coho salmon fishing was available to all rural residents since there was no determination. However, since there was no fishery, there were no harvest regulations in place during that timeframe.

Then the next timeframe would be from 2002 to 2005. In 2002, the Board did receive regulatory proposals for customary and traditional use determinations and harvest regulations. And the Board, at that time, recognized that there were unique challenges presented by the Kenai Peninsula for this program, and that taking action would require community and area specific harvest use information and, hence, the report I referred to earlier, the report, Fall, et al., is entitled Cook Inlet Customary and Traditional Subsistence Fisheries Assessment. Staff received direction from the Board to, I'm going to use the word, contract, but it wasn't a contract, it was a cooperative agreement, basically contract to have this work completed, so we worked with Alaska Department of Fish and Game Subsistence Division to collect this information and create this report, and it took a period of several years. And as you can see from the size of the report and you've been through the analysis, the report, there's a lot of information here. And the reason that the Board did that, those unique challenges, again, are summarized in the analysis here, and they are that this area is very different than any other of the state that the Board deals with and the Board recognized that and those differences include that the rural communities of this area are relatively small and dispersed amongst much broader non-rural communities and that the Federal lands in this area are not the predominate feature of land.
ownership and, are, in fact, confined to the upper parts
of the drainages, again, very different than any other
area of the state, and the third reason being what we
said earlier, there were no existing State subsistence
fisheries, at least, within the Kenai Peninsula. And so
for those three reasons they needed this information and
actually deferred all the proposals that were before them
at that time until completion of this information.

That brings us to the third time period,
which is this calendar year, 2006. And in January of
2006, the Fall, et al., report was completed and
analyzed. At the January Board meeting, the Board took
action on customary and traditional use determinations,
those determinations are summarized at the top of Page 4,
I believe, yes, at the top of Page 4, and there were no
active proposals at the time to consider harvest
regulations for take.

I forgot one really important thing
during the previous time period, during the 2002 through
2005 time period, while the Board was waiting for that
information, they created a subsistence fishery in Cook
Inlet where the regulations mirrored State sportfishing
regulations. That was done as an interim measure pending
collection of this information.

So since there were no additional active
proposals in place in January, what was in place then and
what is in place as we speak today for subsistence
opportunity is a subsistence fishery where the
regulations mirror harvest regulations as listed out
under the State sportfishery. In the case of the Federal
waters for Tustumena for coho that is two fish per day
and in possession.

Mr. Chairman.

CHAIRMAN FLEAGLE: Excuse me, Judy, you
have a question.

MS. GOTTLIEB: Yes, thank you, Mr. Chair.
Doug, I mean didn't we have proposals but we had just
decided to defer them for seasons and bag limits for
2006, if you could just clarify please, thank you.

MR. MCBRIDE: Mr. Chairman. Ms.
Gottlieb. Yes, that is correct, I'm sorry if I was
unclear about that.
MS. GOTTLIEB: Thank you.

MR. MCBRIDE: Mr. Chairman. What I'd now like to do, that concludes the summary of the regulatory history, what I'd now like to do is summarize the biological background and harvest history.

And you can really -- when you look at the fish species that are available, there's sockeye, then there's everything else. And the reason that I say that is because pretty much without question, sockeye are the most abundant species, the State has a very good program on estimating their abundance, we know how many fish there are, we know what sustainable levels look like, there is an escapement goal. For those of you who are not familiar, there's a sonar counter just above the Kaslof Highway bridge that counts sockeyes into the system throughout the season, and so our information on that species is very, very good. However, for the other species, obviously we have far less information. In fact, there's little information on abundance, particularly in Federal waters for most other species. However, there is a harvest history, a sport harvest history in the Tustumena Lake area that Federal Staff think can be used as, at least, a very rough approximation of a sustainable level of harvest, and I'm going to explain that in more detail in just a moment.

What I'd like to do now is go through, for coho salmon, and the other two species of interest, those being late run chinook and steelhead, what we know and what we don't know about those species and how Federal Staff reached the conclusions that they did, so that you can see then in the proposed regulations at least the rationale behind those.

The section on coho salmon begins on Page 6. And what we primarily know about coho salmon is some information about the harvest of those fish, and what I'm going to do is I'm going to start sort of distant from the area we're talking about in large picture and then move in to exactly where we're talking about.

Coho salmon are harvested commercially in Cook Inlet, there's a large harvest of coho salmon. It is generally -- it obviously varies year by year, but it generally is on the order of hundreds of thousands of fish, and Kaslof River coho salmon contribute to that harvest. There is no program to estimate their contribution to that fishery and so we don't know how
many Kasilof coho are harvested there. I would add that
there's really little reason to think that the Kasilof is
a major contributor to the mixed stock coho harvest of
Cook Inlet.

Next, as you start moving in now to the
Kasilof River there are personal use fisheries that occur
there. There's a gill net fishery that happens early in
the season, early being June. I would be -- I don't
believe any coho salmon are harvested in that fishery.
There's also a dip net fishery that happens in July. And
while that fishery is targeted sockeye salmon there is
some incidental harvest of coho and that is generally
numbers in the hundreds of fish.

As you now move into the Kasilof River
drainage itself, there are two sportfisheries that occur.
There's a sportfishery that occurs in the mainstem of the
Kasilof River largely below the Sterling Highway bridge,
and that fishery varies year by year but harvest on the
order of single thousands of fish. And then there is a
very small sportfishery in the Tustumena Lake drainage
that harvests hundreds of fish and there's a table of
those harvest, that's the tables in your analysis and
we're going to talk about that in just a minute.

So looking at those sport harvests, you
need to put those in context of what's actually -- what
we know and what we don't know about spawning
distribution and abundance. We know that Crooked Creek,
which is a tributary to the Kasilof River is a major
spawning location for coho in the drainage. If you look
at your map, Coho Creek [sic] is down river from the
Federal waters, and only a tiny portion of the headwaters
are within the boundaries of the Refuge. So for all
practical purposes Crooked Creek is not in Federal waters
and certainly the fish that return to Crooked Creek are
not available for harvest on Federal waters. There is
some recent assessment of those fish, and there is good
reason to think that they are a significant contributor
to the mainstem sportfishery that occurs in the mainstem
of the Kasilof River.

Now, as you move up into the Federal
waters up in the Tustumena Lake drainage, there is a
sportfishery that occurs there. And as stated earlier,
Federal Staff feel that we can use this harvest history
as, at least, a rough approximation for a sustainable
harvest level. And so let me just take a moment, if you
will and I'll explain what we're looking at and why we
If you look at Table 1, which is in your analysis, what this is are annual estimates of harvest by species for the Tustumena Lake drainage. These data come from the Alaska Department of Fish and Game from what they call the statewide harvest survey or a postal survey. That's a survey of licensed sportfishing anglers. They contact and survey a fraction of the total licensed anglers across the state and then they use that information to expand the total and get estimates of harvest. I would also add that there's been an incredible amount of work, and I can speak with some knowledge of this because I used to do this in a previous life, but there's been a lot of work that has gone on looking at on-site krill surveys comparing them to these estimates of these harvest and with very, very few exceptions, they've been shown to be very accurate. Now, in this particular case when you look at the data for the Tustumena Lake drainage you see two things. You see the estimates of harvest by species and you see the angler days, the column on the far left. Angler days are estimates of effort. What all of this speaks to is a very small fishery by any standards, certainly by the standards of Cook Inlet. A sportfishery on the order of one to 2,000 angler days, very small fishery, harvest in the hundreds, very small fisheries. Looking at the coho harvest data, the way we interpret this and certainly the way I would interpret this, is that there's a small harvest, order of magnitude of hundreds of fish. When you get these very small fisheries like this and when you're surveying a fraction of licensed anglers, it isn't important, for instance, like the 2004 harvest of 248, I mean that is the best estimate of harvest, but the important thing there is that the harvest was in the hundreds of fish. And what you see is a 20-plus year history of harvest that bounces around hundreds of fish and there's no particular pattern to it, it's not increasing, it's not decreasing, it's just kind of bouncing around. The way I would interpret this, both in my current job and in my former job, which was as the manager of this fishery, is that this is a small fishery and that this has proven to be sustainable. Harvest in the hundreds for 20-plus years has been sustainable, even without specific information about distribution and abundance of those fish.

Given that, it's our recommendation that without additional information, harvests in the hundreds of fish are sustainable and we're within sustainable
guidelines. So that's why in the analysis you see the
concluding statement for coho salmon, which is on Page 7,
that based on the sportfishery performance in Tustumena
Lake, a sustainable harvest level for coho salmon in
Federal waters is likely in the hundreds of fish. That's
the basis for that statement.

Mr. Chairman, what I'd like to now do is
summarize the companion information for the other two
species and you'll see how we reach very different
conclusions about late run chinook and about steelhead.

CHAIRMAN FLEAGLE: Before we go there,
are there any questions on the material we've just
covered.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, go
ahead.

MR. MCBRIDE: Thank you, Mr. Chairman.
The late run chinook section is on Page 7 and I think the
first major point that we make about late run chinook is
late run chinook are a rare event, if you will, for
chinook salmon. Certainly in Cook Inlet the vast
majority of the chinook salmon returns are what are
called early run, that means they return in late May, in
June, primarily. Late run fish only occur in two places
in Cook Inlet, one's the Kenai River, which I'm sure
you've all heard about and the other one is here, in the
Kasilof River.

Kasilof River late run chinook largely
return to the area under consideration for this fishery,
that being the upper part of the Kasilof River and the
outlet of Tustumena Lake so they will be present in terms
of both time and space when a lot of this fishery would
occur that's under consideration.

We don't know the abundance of late run
chinook salmon in the Kasilof. The Alaska Department of
Fish and Game Sportfish Division is attempting to
estimate the abundance of the spawning fish through a
tagging study. They tried it for the first time last
year, it was not successful. It's my understanding that
an attempt is being made this year but it's way too early
to say whether it will be successful or not.

About harvest, we really do not have any
estimates of harvest that are specific to late run Kasilof River chinook salmon. Some fish are, most likely, harvested commercially incidental to the sockeye commercial fisheries of Cook Inlet, but they are co-mixed with Kenai River late run chinook and there is no program to differentiate between the two. I would also add that there is little reason to think that Kasilof is the driving force behind those chinook harvest in the commercial fishery.

As you move into the mainstem of the Kasilof River, again, there is a mainstem sportfishery in the Kasilof River below the Sterling Highway bridge, however, that fishery is largely targeted on early run chinook which contain a very significant stocked component, hatchery fish that are added to that fishery. And those fish are, again, all bound for Crooked Creek, so kind of a similar story to what we just talked about for coho salmon.

After July 1, above the Sterling Highway bridge, then there is no legal sportfishing opportunity for chinook salmon above the Sterling Highway bridge in July or after July for chinook salmon, so that means there is no sportfishery in Federal waters for chinook salmon.

So when you take all of that in combination, that we don't know the abundance of the spawning fish and we have no estimates of harvest anywhere that are specific to late run chinook salmon, we really don't know much of anything. We don't know their abundance. We don't know how many are harvested. And that's the reason why at the bottom of Page 7 you see the statement, the Staff assessment, without any estimates of spawning abundance or sport harvest specific to the late run, there is insufficient information to make a recommendation for sustainable harvest level for late run chinook salmon.

MR. CESAR: Doug, there is a targeted sportfish for late run chinook below the Sterling Highway bridge?

CHAIRMAN FLEAGLE: You need to turn on your microphone Niles.
MR. CESAR: Oh, that's what that is.

CHAIRMAN FLEAGLE: Thanks.

(Laughter)

MR. CESAR: Doug, is there a targeted sportfishery for late run chinook below the Sterling Highway bridge?

MR. MCBRIDE: Mr. Chairman. Mr. Cesar. Yes, there is. However, there are not estimates of harvest specific to the late run component of that. Again, speaking from memory and past experience, there is a huge program in the Kenai River to differentiate between the early run chinook harvest and late run chinook harvest and that has consisted of not only of this postal survey but an on-site krill survey to verify all that. For the Kasilof, there are estimates of mainstem sport harvest, however, it's not specific to early run and late run, and the early run fishery I think, first, without question, is the larger of the two by lots, so there's just no way to tease out the late run harvest out of that fishery.

MR. CESAR: Thank you.

MR. EDWARDS: Mr. Chairman, I have a question. Doug, I'm assuming that given that there is a coho sportfishery, the full length of the river and including the upper river, even though it might be a limited one, there would be some incidental catching of chinook that would be spawning at that time in that area even though it might be small, I'm assuming that occasionally people fishing for sockeye -- I mean fishing for coho would catch either spawning chinook or spawning sockeye?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. I think that's a reasonable presumption, but I don't know specifically. I mean I would guess the answer to that is yes.

Mr. Chairman. I'd like to just briefly summarize then the information for steelhead, the other species with some management concern. And steelhead, I think I can summarize pretty quickly. It's, in a lot of respects, a similar story to what we just went through for late run chinook.
In this case there is some information about abundance. Steelhead are known to spawn in two places in the Kasilof drainage, one is in Crooked Creek, again, and there are some recent estimates of abundance there and the other location is Nikolai Creek, which is a tributary to Tustumena Lake and, again, there are some estimates -- recent estimates of abundance there. Both of those spawning stocks are very finite, and by that I mean we're talking about populations in the hundreds of fish in total, so these are very finite populations of fish. As far as -- and there is no, for all practical purposes any fisheries out of marine waters that have any estimates of harvest for steelhead. And even within the Tustumena Lake drainage, if you go back to Table 1, you'll see there for steelhead, it's just a column of zeros for both harvest and for catch. And it is legal to fish for steelhead in the drainage but the way I would interpret that is that the fishery for steelhead there is so small that the harvest is so close to zero that this program can't tell the difference between whatever it is and zero. Whatever the harvest of steelhead is there, it's small and it's so small that this program simply can't pick it up.

So, again, when you look at all of that information where we have some recent estimates of abundance but it's very finite and no documented history of harvest that is shown to be sustainable, that's why you see the statement on Page 8 that says there's insufficient information to make a recommendation for sustainable harvest level for steelhead.

Mr. Chairman. What I'd like to do now is go into the last part.......

MR. EDWARDS: I just have one question. Doug, you indicated that there wasn't any estimate of harvest in the commercial fishery but I'm assuming that there are some steelhead that are caught in the commercial fisheries that are headed for the drainages in Tustumena Lake and if so, if you do catch one while you're commercial fishing are you allowed to keep that or do you have to release it or what takes place?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. There are certainly State Staff here that are much better qualified to answer that than I but I'll just take a shot at it and I am sure they will correct me if I'm wrong. But it's legal to retain, you don't have to release. But I'm not aware of ever seeing an estimate of their
harvest, I mean whatever it is, is very, very small, there are not many steelhead in upper Cook Inlet. In fact, I believe, in Kasilof River would be probably be the northern most stock of steelhead that I'm aware of in upper Cook Inlet. There are steelhead in Anchor, Deep and Ninilchik but like I say the fishery is largely occurring there and points north.

Mr. Chairman. The part of the analysis I'm referring to now starts at the bottom of Page 2, the proposed Federal regulation and it also -- when I switch over to Page 3 then there's a corrected page in your packet. The proposed regulation maintains the existing subsistence fishery that mirrors State sportfishing regulations but then would say, additionally, in the Kasilof River. And then this Subpart (A) lays out where the fishery would occur, which, again, is the upper mainstem of the Kasilof River from the lake outlet of Tustumena Lake down to Silver Salmon Rapids. It lays out the legal gear type and it says only dip nets may be used at the bottom of Page 2. And then it lays out the annual harvest quota as recommended in the original request, which is a total harvest quota of 500 coho salmon.

Then you get into more specifics of the fishery, Subpart 1, it lays out a season; you may take coho salmon from September to December 31st. This is in keeping with a temporary special action which limits it to the calendar year. And I think for all practical purposes, this fishery will end about November 1, with the usual onset of ice up, however, we just made it for the calendar year in case we have a goofy winter where ice-up happens substantially later which does, on occasion, happen.

Then it lays out that each household member on the permit, these would be household permits remember, may operate the gear. The correction is the word, daily. It should read, the harvest limit is 20 coho salmon per household. And there was a little bit of confusion over the original request and where we ended up here. If you go back to the original request, what you see is a request for daily permits, permits were to be issued only for specific days of the week and they were only good for a day and as discussed at the meeting on August 10th and the information exchange, as far as Federal Staff are concerned, having a permit is obviously mandatory, having accurate reporting is mandatory, having the total quota is mandatory, but we were trying to interpret what was originally requested and where we
ended up. So having a permit limit of 20 seemed like the best place to land on that and so that correction was just found here recently.

CHAIRMAN FLEAGLE: Okay. Doug, I think you got another one, too. In your extent of Federal public waters, based on the discussion we just had earlier, you'd want to replace Hongkong Bend with Silver Salmon Rapids, correct?

MR. MCBRIDE: Mr. Chairman. I would defer that question to Robin West, who's the Refuge manager. I'll leave it at that.

MR. WEST: Do you want me to speak now?

CHAIRMAN FLEAGLE: Sure. Go ahead, please.

MR. WEST: I think that would be a logical choice, is to make Silver Salmon Rapids rather than Hongkong Bend more identifiable and you don't stray out of the Federal waters as you go down stream for that last little bit. So that's a good recommendation in my opinion.

CHAIRMAN FLEAGLE: Thank you.

MR. MCBRIDE: Mr. Chairman. Going on to Subpart (A)(2). It says incidentally fish may be retained except for chinook salmon and rainbow trout/steelhead, which must be released. And, again, I think you can see based on the information we presented before how that's in keeping with Staff assessment of what's sustainable for those species.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: If I can ask you, Doug, because we have that exception, where you just read it, why was it deleted from the very beginning where it's talking about Cook Inlet in general?

MR. MCBRIDE: Thank you. Judy, what you're referring to is on the previous page, on Page 2, and if you go to the very first part of the proposed Federal regulation, you'll see crossed out; if you take rainbow/steelhead incidentally in other subsistence net
fisheries, you may retain them for subsistence purposes.

The reason we took that out is -- I guess two reasons. If we left it in and then said it was okay, I mean it becomes this kind of weird conundrum in regulation. But the other thing is, there are no other -- certainly this fall, there are no other net fisheries that Staff was aware of in Cook Inlet where this might even be the case. This would be the only net fishery in this area this fall so that's why we thought it made the most sense and the clearest to take that out and then put in the specifics in the only net fishery that would be in place.

MS. GOTTLIEB: Okay for now, maybe we'll talk about it again later. Thanks.

MR. MCBRIDE: Mr. Chairman. Subpart (A)(3). The permits would be issued by the Federal fisheries manager, which is Mr. Gary Sonneville, who's with the Fisheries Office in Kenai. As we stated earlier, they'd be good through the calendar year or unless the season would be closed by special action, through special notice.

Subpart (A)(4) states that all retained fish must be recorded and harvest reported within 24 hours so we would be working with the people that get the permits to report on a daily basis, and, again, this is very much in keeping with the original request.

And finally Subpart (A)(5), there is a provision that additional harvest above 500 may be allowed by the Federal fisheries manager after review of available information. Certainly our Staff assessment that the possibility of that are low, I mean you got to look at the information that we have available to us and that information is largely about harvest, so there would have to be some incredible harvest, not only in this fishery but likely in a whole series of other fisheries to indicate that there was just a monster coho return going on. So there is the provision for that but the chances of that I would certainly view is quite low.

Mr. Chairman, that concludes my presentation and I'm certainly available to take any questions. Thank you very much for your indulgence.

CHAIRMAN FLEAGLE: Thank you. We've got Gary Edwards.
MR. EDWARDS: Doug, with regards to (A)(2) on the incidental caught fish may be retained except; what would we anticipate would be the other species that might be caught and do we have any feel for how many that might be?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. The other species that are at least potentially available would be sockeye, there may be, you know, some other salmon, you know, like pinks available and then certainly some resident species are possible like lake trout and Dolly Varden. Without any experience of dip netting in this area, I don't know that we have any official estimates of what those harvests might be but I would certainly expect that it would be quite low.

MR. EDWARDS: So would we see any problem with that, you know, particularly, I mean are sockeye at the time that this fishery occur, is the spawning pretty much over with or would there be a potential to take sockeye that had yet spawned?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. Sockeye, I'm sure are available in that area and I'm also sure that they're spawning in that area. However, I mean there's no lack of abundance of sockeye, particularly this year in that area and so if they get picked up, if people don't want them, it's just simply a matter of dumping them back out of the gill net and they're going to be fine and if they retain a few of them it's certainly not jeopardizing any sustained yield that we're aware of.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Thank you. Just a couple of questions to follow up on that one. Section (A)(4) says all retained fish must be recorded so all of these incidentally caught fish would be recorded on the permit also or just coho we're talking about on (A)(4)?

MR. MCBRIDE: Mr. Chairman. Mr. Kessler. No, it would be all fish retained, including incidentally caught fish. So for instance if they retained a lake trout or a sockeye or whatever, anything but chinook or steelhead they would be recorded on the permit and there would be a place to do that.

MR. KESSLER: And may I continue?
MR. KESSLER: Also in (A)(4) it talks about recording on the permit, now, if I understand correctly you have to do that before leaving the fishing site, is that already in our regulations?

MR. MCBRIDE: Mr. Chairman. Mr. Kessler.

Yes, it is. I don't have the codified's in front of me but I mean you can go to the subsistence regulation book and on Page 16 there are general regulations for any subsistence fishing permit. And, for instance, it states in here you must complete and validate any harvest tickets, permits or other required documents before removing your fish from the harvest site. Before fishing you must get the permit and keep it in your possession and available for inspection. So there are some general background regulations that deal with any subsistence fishing permit that are in addition to these changes listed here.

MR. KESSLER: So, therefore, if somebody were to catch these fish and then continue to float down stream out of Federal waters and through the State waters, there would be a record of what fish were caught, where and so if somebody had these fish in their boat, they had their permit, it was all recorded on there, it would be clear that those were Federal subsistence fish?

MR. MCBRIDE: Mr. Chairman. Mr. Kessler.

Yes, that is correct.

MR. KESSLER: A couple other questions. One of the ones is we just had this discussion about Hongkong Bend and I don't think I see in these regulations, unless I'm missing something where it specifically says Hongkong Bend in the -- but to the extent of Federal public waters is not regulation, the section that says extent of Federal public waters is not regulation, the section that says, extent of Federal public waters, the regulation is where it says proposed Federal regulations and so we just -- you say in the Kasilof River and it's always assumed that that's just the Federal public waters part of it. If there's a concern that it should be just above, what did we call it, Silver Salmon Rapids, then I suppose that ought to be in regulation because that would be a closure of some Federal waters below there.

Is that true, I mean because it's not in...
MR. MCBRIDE: Mr. Chairman. And, again, I'd certainly ask Robin West to add to what I'm about to say but the fishery is to occur in the upper Kasilof River consistent with Federal waters. As a practical matter that's going to go down to Silver Salmon Rapids and as I understand how the permits -- how permits are already distributed in Cook Inlet, and certainly how these permits would be distributed, the permit would be accompanied with a map and an explanation of exactly where this place is. And then on the upper end it goes to the lake outlet. But, again, as a practical matter, I mean, you know, trying to drag a dip net through the open waters of Tustumena Lake is not likely to be terribly productive, so there's a practical upper boundary as well. So it would be within that area clarified with a map that accompanies the permit as well as an explanation from the Staff distributing the permit.

Mr. Chairman.

CHAIRMAN FLEAGLE: Go ahead.

MR. KESSLER: And one last question. The discussion was that the dates would be September through December 31st, which is probably plenty of time, but if I read the regulation under Section 19(E), it says a temporary opening or closure will not extend beyond the regulatory year for which it is promulgated so I think it's -- I think that's regulatory year, I don't know where it says calendar year in our regulations. So the December 31st would be a limitation, I think, on Subpart (E).

CHAIRMAN FLEAGLE: Keith Goltz.

MR. GOLTZ: That's correct.

CHAIRMAN FLEAGLE: And is the regulatory year the same as the fiscal year or is it like State's July 1 to June 30?

Go ahead, Larry.

MR. BUKLIS: Mr. Chairman. The regulatory year is April 1st through March 31st. So for the current issue the regulatory year would end March 31st, 2007.
CHAIRMAN FLEAGLE: Okay, thank you. Any other questions for the Staff analysis?

(No comments)

CHAIRMAN FLEAGLE: All right, we did get some interest in public testimony sign up and I didn't hear over the telephone whether there were interest in any of those. I think, Tom, were you going to speak on behalf of your Advisory Council when that time comes up?

MR. CARPENTER: Yes, Mr. Chair, I just would read the recommendation from the Southcentral Council into the record. And if I would at this time, and I don't know if it's pertinent or not, but one of the last lines in our recommendation is that these subsistence caught coho be somehow identified, either cut tail, cut adipose fin or something like that, and I don't know if the Federal Staff had taken that into consideration or not or if they were leaving that up to the Board.

CHAIRMAN FLEAGLE: Okay, I see a nod from the end of the table, go ahead, Doug.

MR. MCBRIDE: Mr. Chairman. Mr. Carpenter. We were certainly aware of that recommendation and Staff certainly wouldn't object to marking the fish but we didn't include it as a requirement because the marking of subsistence caught fish is largely to keep them out of the commercial -- or the potential of having them enter the commercial market. And for the fishery to occur basically now until the end of the calendar year, there is no practical commercial market in this area, so we didn't view it as anything necessary for this fishery. Again, we wouldn't object if that was the wishes of the Board but we didn't see it as a requirement for this fishery.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Wayne Regelin.

MR. REGELIN: Mr. Chairman. I think, you know, there's going to be a State sportfishery going on with a different bag limit at the same time if you adopt this regulation so I think it would probably be wise to mark the fish just so that there's not confusion and enforcement personnel can know who's catching what.
CHAIRMAN FLEAGLE: Thank you, Wayne.

All right, we have -- let me turn on my mike. We have four people signed up to testify and we'll take a 10 minute break and we'll return and allow those people to testify and we'll start working on the rest of the agenda.

This Board will stand down for 10 minutes.

(Off record)

(On record)

CHAIRMAN FLEAGLE: All right, we're back in session. And as promised we're going to pick up with public testimony and we've got the end microphone available. There's a push button on there that says microphone on and off, when I call you up, please come up and when I call on you state your name -- well, turn the microphone on and state your name for the record and we'll give you three minutes and we don't have a timing system but we'll keep an eye on it. Pete will nudge me when your time is up and I'll cut you off.

So first up we have John Sky Starkey.

MR. STARKEY: Thank you, Mr. Chairman. I just wanted to address a couple of the issues that have been raised. I wanted to definitely point out the affidavit of Robert Wolfe, Bob Wolfe, was submitted by the tribe to the Regional Council at their meeting.

I think if there are any questions as to whether or not personal use or sportsfisheries meet subsistence needs, customary and traditional subsistence needs, this affidavit by Bob Wolfe, who is widely acknowledged for his expertise in subsistence, would answer those questions quite in a definitive manner.

I'd just like to also point out that it's ironic that the State would argue that personal use fisheries would satisfy subsistence uses because I'm going to quote to you from the regulations. Personal use fisheries, Chapter 77, Alaska Administrative Code, 77.001 (4)(B), it says:

It is necessary to establish a personal use fishery because (c), since this use
is not a customary and traditional use, this fishery cannot be classified as a subsistence fishery.

So I mean the State's own regulations recognize the difference between customary and traditional use as a fishery and a State fishery, personal use fishery.

Finally, I would, you know, like to compliment the Staff and just highlight that in the Staff analysis it demonstrates that there are no personal use fisheries for coho salmon, and that something that perhaps was on the Regional Council record but you haven't had the opportunity to know is that for the Ninilchik Tribe coho is a -- coho and chinook are their primary, and always have been, their primary subsistence salmon species of use and they're essential fish for them.

So with that, Mr. Chairman, I would just like to thank you for taking this issue up and answer any questions if there are any.

CHAIRMAN FLEAGLE: Okay, thank you, appreciate the testimony, Mr. Starkey.

Questions Board members.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, thank you.

MR. STARKEY: Thank you.

CHAIRMAN FLEAGLE: Next we have Warren Olson.

MR. OLSON: Mr. Chairman. Members of the Committee. I'm a 46 year resident. I'm a plaintiff in a lawsuit right now with the Secretary of Interior. The Alaska Constitutional Legal Defense Conservation Fund versus Secretary of Interior Gale Norton filed in June of 2000. We have received decisions by the district court, also by the Ninth Circuit Court of Appeals as of August 22nd, and we have a 90 day window to file application on ANILCA, Title VIII and the Secretary of Interior the Supreme Court of the United States.
We object to this action creating discrimination among Alaskans. We have never veered from that course. And the Federal Subsistence Board action continues to violate the Alaska Constitution as well as decisions by the Supreme Court of Alaska.

So very briefly our plan is to be before the -- the application to be before the Supreme Court of the United States no later than mid-November.
provide a preference in the form of not having to buy a
State sportfishing license when you're fishing on Federal
lands. Nothing has changed since that time. There is no
extenu -- there are no extenuating circumstances.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you. Board
members, questions.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, thank
you. Up next is Ron Rainey.

MR. RAINEY: Mr. Chairman. Members of
the Committee. You have read what Kenai River
Sportfishing has submitted, and I won't go over that
since it would be redundant.

What we object to and what the Kenai
Peninsula Borough objects to is the process. The process
is flawed. This process has completely ignored the
Borough. It's completely ignored fishing organizations,
such as mine. Had no hearings on the Kenai Peninsula.
And it's very suspect that after a return of over 200,000
sockeye to the Kasilof someone now wants to target
silvers, that's just -- blows my mind.

And I'll end -- I'll be brief, I'll end
with a very personal note. I am the elder in my family
and by middle of August, I say, whoa, don't catch any
more fish, you can't bring any more to the freezer, we've
smoked all we can smoke and we've canned all we can can
and all we use is a fishing line and I don't even go dip
netting because we get too darn many fish. Now, for
somebody to say that their elders don't have the fish
this time of year is suspect. I just cannot buy into
that. They're fishing the wrong place then because
there's more fish right out in front of Ninilchik and
there's more fish in the dip net fishery in the Kasilof
River and more fish in the dip net fishery in the Kenai
River than you could possibly use. Why in the world
would you do this?

And so the process is flawed. The need
is flawed. And we object to it.

CHAIRMAN FLEAGLE: Thank you, Ron. Board
members.
CHAIRMAN FLEAGLE: All right, thank you. That concludes testimony from everybody that's signed up. We'll now turn it over to the State of Alaska, our rep on the Board for comments on the proposed action. Wayne.

MR. REGELIN: Thank you, Mr. Chairman. We -- the State has filed -- sent a letter into the Office of Subsistence Management and I think it's gone to all of the Board members expressing our concerns about the process and the need for going ahead and doing this at this time and in a rather rapid order. We just don't feel like there's any kind of an emergency or a special need right now. And there certainly isn't any crises for a lack of opportunity to take fish. So we would urge you to slow down and take this up in a normal cycle and give it a lot of thought, and that would give you time to figure out to act on our request for reconsideration on the customary and traditional finding, which we still think needs to be have another look taken at it -- you should take another look at that finding.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Wayne Regelin. Board members questions for Wayne.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, we'll move on to the next, we'll want to hear from the Staff Committee for comments, and who is doing that?

MR. PROBASCO: Dr. Chen.

CHAIRMAN FLEAGLE: Dr. Chen.

DR. CHEN: Thank you, Mr. Chair. My name is Glenn Chen from the Bureau of Indian Affairs. The InterAgency Staff Committee came to a consensus recommendation on this proposal and we supported the position of the Southcentral Regional Advisory Council to support this special action request. Our justification is as follows: The Board provided a customary and traditional use determination for
Ninilchik in the Kasilof River drainage in January 2006. This proposal provides a subsistence dip net fishery for coho salmon, which is consistent with sustainable harvest guidelines recommended by the Federal Staff. The 2006 coho salmon return to the Kasilof River appears to be healthy and able to sustain this proposed fishery.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Dr. Chen. questions Board members.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, we'll now move on to the Regional Advisory Council representative comments. Tom.

MR. CARPENTER: Thank you, Mr. Chair.

Tom Carpenter, Vice Chair of the Southcentral Regional Council. I'll just read our recommendation into the record.

The Southcentral RAC unanimously supported the Ninilchik Traditional Council's request for a special action for a coho salmon fishery for the Kasilof River. There appears to be no conservation issues for the fishery and this RSA will provide for subsistence harvest of coho salmon.

The Council supported the coho dip net fishery and took no action on the request for a subsistence gill net fishery for lake trout in Tustumena Lake.

The Council stated that it will address and develop recommendations on Tustumena Lake fishery at the fall October '06 meeting.

The Council listened to stock, status briefing on coho in the Kasilof drainage, no potential concerns related to the fish in that area.
Currently there is no biological concern for coho population in the Kasilof drainage and the coho salmon fishery should not have an adverse impact on other users.

The Council commented that any subsistence harvest of coho should be marked and identified them as subsistence harvest salmon under this special provision.

That is the recommendation, Mr. Chairman. Just a couple of comments.

One that I brought up earlier about the coho salmon being marked. One of the concerns -- well, it's kind of a Catch-22, but there was some concern from potential subsistence users, that there would be a problem, potentially, with law enforcement with identifying or differentiating between sport caught fish and subsistence caught fish, and we just thought that it would be a reasonable idea to mark the subsistence caught fish at the time of harvest so that there wasn't any confusion.

We also recognized that, while dip nets are not a warranted fishery everywhere, they do fit the proposed fishery for coho while safeguarding the late run chinook and the steelhead.

So that's all the comments we have at this time.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Tom. Board members, discussion, questions for Tom Carpenter.

(No comments)

CHAIRMAN FLEAGLE: Okay, hearing none, we'll prepare to move into deliberations. Before we do that, you know, a reminder for motions that may come out of this meeting, as you make a motion, the motion should address the Regional Advisory Council recommendation. A motion may be made to adopt, reject or modify a Council's recommendation and your motion should be clear and understandable.
If you move to reject a Council's recommendation, you must support your motion with rationale that addresses at least one of the three criteria from Section .805(c). You may reject the Council's recommendation when it is:

1. Not supported by substantial evidence;

2. Violates recognized principles of fish and wildlife conservation; or

3. Would be detrimental to the satisfaction of subsistence needs.

Section .815 authorizes restrictions or closures to non-subsistence uses only when necessary for the conservation of healthy populations of fish and wildlife or to continue subsistence uses of other populations.

With that, we're ready to move into Board deliberations. I open the floor for discussion. Board members.

Niles Cesar.

MR. CESAR: Yes, in order to get this on the table for discussion, I move that we support the Regional Advisory Council recommendation to accept the proposal. And I make that motion and I'll reserve my comments until it's either seconded or we get -- when we get time.

CHAIRMAN FLEAGLE: Thank you, Niles. We have a motion on the floor to accept the recommendation by the Advisory Council.

Steve Kessler.

MR. KESSLER: I'll second it.

CHAIRMAN FLEAGLE: All right, we do have a second.

Discussion. Niles, do you want to go ahead and give your position.

MR. CESAR: Yes, I've listened very
carefully to the testimony by the proponents and the opponents, and looking back over the history of our program since 1990 and incidentally I'm a 65 year resident of this state, not that in my mind that is a controlling factor, but it is true that I am, I think that unless the recommendation goes against those three principles and I didn't hear anything go against that, I think that Ninilchik has been forthright. They have wanted this. They have wanted some action from us since 1999. And, I think, in fact, it was only just recently that we've come to some consensus, both by the proponents as well as the agencies, looking at how we would address this, and so I think the timing is good to do it.

I think that if we reject this we are, in fact, impeding subsistence on the Kasilof, and I don't think that that is what we should be doing.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Mr. Cesar.

Other comments, Board members.

Gary Edwards.

MR. EDWARDS: Mr. Chairman. I would agree that this proposal that we have before us, I think, is a very thoughtful proposal, I think it's a very modest proposal, and I certainly don't feel that, you know, as the land management agency that we see any conservation concerns associated with it, and I also think as far as implementing it, we can certainly implement it in such a way that we would address many of the issues that the State raised about reporting and that type of thing, and I'm very confident that our folks will be able to do that.

But saying all of that, I'll go back at our January meeting when we addressed the issue of customary and traditional use on the Kenai. For those of you who were there, that was a very long and in some way taxing meeting. And out of that meeting came a motion that was also very long and complicated and, I think, to some folks a very confusing motion. But in making that motion, since I was the maker of it, I can somewhat maybe speak to it. There was recognition that starting a subsistence fishery on the Kenai Peninsula was going to be a very -- could be a very challenging and a difficult decision to make. And part of that motion included the motion that we would defer making any decisions on
regulations with regards to subsistence fishing until such time as we could have a stakeholder's group formed under our existing RAC, and that would be the process.

And I think one of the things -- and I think we made that motion because we've recognized that stakeholder's groups have served us very well in the past. We've used them in many other areas within the state. Our former Chairman was very supportive of those because I think he felt they worked and I think we felt that -- the one interesting thing that's different between the Kenai and the other ones, we usually formed the stakeholder process after we were marred in controversy and couldn't work out and we felt that in the Kenai we had a real opportunity here to basically start anew and not having to use it to maybe get us out of a problem, but to help us solve a problem, and that's why, you know, the language that we were going to defer proposals until such time as a stakeholder group, you know, took place.

Well, I think folks that have been following this know that our Regional Advisory Council didn't kind of agree with, I guess, the assignment that we gave them and basically said that they felt that they could do that. As a result of that, we have gone forward with the idea of actually establishing a new Regional Advisory Council that would maybe represent the Kenai Peninsula and it would provide mechanisms under which, in turn that, you know, we could involve kind of the folks that were going to be directly impacted in that, and the outcome of that is still in question.

But we did make that decision that, like I said, that we were going to defer these, and I guess one could argue, well, your stakeholder's group never got formed so deferring it is somewhat null and void, I don't know how that falls within Robert's Rules or as motions go, but certainly that's the background behind this.

So now here, from my perspective, we're faced with the situation that we've been trying to avoid in January and that is to go forward without, maybe, fully involving all of the folks who are affected on the Peninsula, you know, in this decision-making process. And so, you know, sort of where we -- and why are we doing this, I guess I have to ask myself. We do know that we have had other proposals that we have made the decision to continue on and have them go through the regulatory cycle as would be set, whether it will be with
the existing Council or with a new Council, I think is
yet to be decided, but, you know, that was the decision
we -- so I guess I'm having difficulty understanding why
we would take this proposal at this time.

I recognize that this has been a long
time coming, and, again, the proposal itself, I think is
an excellent proposal, and I said I think it's a very
modest proposal and I think it would be a good start to
provide a fishery that certainly I think this Board has
agreed is long overdue, but I don't feel that there are,
you know, extenuating circumstances out there that would
say that we have to do this at this time.

The letter that we received from the
Mayor from the Peninsula, you know, did not take a
position on whether the proposal was a good proposal or
not but really kind of questioned the process that we're
going through to do this. You know, his kind of comment
is that -- and I think we would all agree that this is
not the process that we would prefer because it has moved
very quickly. It came in, it went quickly through the
RAC and now, you know, we're hearing the -- we made the
decision last week that we were going to take this up,
you know, the day after a three day holiday, really, I
don't think has provided the public an adequate
opportunity to address this issue.

And in saying that, you know, I don't
feel that there are, you know, the extenuating
circumstances; one might question our recent action that
we did on Red Sheep Creek, where we kind of made the same
decision, and that's kind of interesting on the State's
behalf because they kind of made the same argument why we
should do that as opposed to why we shouldn't do that at
this time, but that's beside the point. In my mind that
was a different issue when the Board took up Red Sheep
Creek. We had concerns that we had not had any recent
surveys done on the population and there was concern with
conservation. At that time the commitment was made by
the Board that once these surveys would be done, then we
would look at that information and then revisit this
issue, and that did occur and then the Board took it up
and opened that hunt to both subsistence and non-
subsistence users. So in my mind those are two different
things.

But I guess based upon that, Mr.
Chairman, I'm going to vote against the motion.
CHAIRMAN FLEAGLE: Thank you, Gary.
Other Board members, comments, discussion.

George.

MR. OVIATT: Mr. Chairman. I, too, believe this is a very modest proposal and I'm not having a real problem with the proposal. But when I began to see the Kenai Borough and other letters come in just of late, it makes me wonder if we are doing due process with this and if we're not -- by speeding this up, circumventing the opportunity for the communities to speak to this issue giving us the time to do what I think we started or tried to begin the process of doing back in January and that is to have these decisions, these tough decisions on the Kenai come from the grassroots, from -- and getting the full community's involved.

And I attended the Southcentral Board meeting, and I listened to all of the deliberation and all of the comments, but I think since that meeting we are seeing the communities in the Kenai express concern that we are moving too fast with this process.

I don't believe -- I'm not sure that we have circumstances here that meets the threshold of a special consideration. You know there's testimony pro and con as to whether people are getting the fish that they need or whether they're not. Should this be based upon need, I don't know. But I just really believe that this is -- this is asking us to slow down and go through the normal process. We have four other proposals that we have put off in this area and going through the normal process with them and I think they are just as important as this one.

So unless there's something that changes my mind I, too, will probably oppose this proposal.

CHAIRMAN FLEAGLE: Thank you, Mr. Oviatt.
Do we have other Board member comments.

Judy Gottlieb.

MS. GOTTLIEB: Mr. Chair, thank you.
Well, I guess by nature this type of request is one that we do relatively quickly and we actually received this request months and months ago as part of the request for reconsideration and, therefore, it was kind of widely distributed at that time and since that time it's been
refined and put into this modest proposal.

I guess I wanted to make a few comments relating to the public work that the Board has done. When the Board traveled to the Kenai Peninsula we had a press release and advertised that we're having public meetings in Cooper Landing as well as in Ninilchik and attendance was low in numbers at both of those meetings but that was an ample opportunity for interested parties to express a variety of their concerns and interests.

I also wanted to mention in terms of extenuating circumstances. As Ken said, there isn't a current Federal subsistence use in this particular area and that it says that things we couldn't reasonably have anticipated. Well, maybe we couldn't anticipate that per testimony, per the affidavit that we have for a community that prefers to take coho and they haven't been able to have that opportunity through the Federal program, have that priority guaranteed by ANILCA, that that has been to the detriment of subsistence users, and so through this special action, which has been worked on very carefully so that it would hopefully not be controversial, hopefully not be something that negatively impacts the coho or other populations, I think as we've all said it's been well crafted and done with consultation and communication; this isn't a large fishery. And the fact that the sport or educational, the personal use fishery does not provide either adequate number for traditional practices that the community of Ninilchik, since we've given a C&T determination to, deserves to have.

And I also wanted to note that this concept of meeting with the proponent is not something unusual, I mean we do that on many, many proposals, so I just wanted people in the audience to be aware of that.

I guess lastly we hear a lot about moving too quickly but I think we've also heard a lot over the years about moving way too slowly, so both ways to look at it.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Steve.

MR. KESSLER: Thank you. First, I guess, maybe a question for our attorneys about the requirements of .19 Part (C) versus the .805 requirement, sort of follow the direction of the Regional Advisory Councils.
unless one of three criteria are met, and I'm just trying
to weigh in my own mind how these balance. And whether,
as Judy well pointed out, even in Part (C) of the
regulations that, in fact, there may be extenuating
circumstances that would allow us to take action under
this section right now.

So I don't know, can you provide any
advice on how we deal with those two parts, what's in the
Act itself versus what's in our regulations and how
extenuating circumstances would play into this?

CHAIRMAN FLEAGLE: Keith Goltz.

MR. GOLTZ: Thank you. I thought I could
get through this meeting without speaking.....
(Laughter)

MR. GOLTZ: .....but that didn't happen.
And I want to thank our friends at the Department of
Agriculture for that.

I always love this number game. I've
only been here 38 years so I can't out-pioneer Warren
Olson and I'm only 64, so I can't out-pioneer Niles. I
guess I don't have any personal authority, you'll have to
go with the strength of my weak words.

The answer to your first question is we
have a Council proposal and the statute sets out three
criteria for dealing with that proposal, they're well
known to the Board members and I think to everybody in
the room so I needn't dwell on that.

The fact that it's brought before us in
the context of a special action makes no legal difference
that I can discern.

So when the Board acts it's going to have
to act according to those criteria.

As to this extenuating circumstances, I
think we're really talking about quids and quillets of
lawyers. If you read 19(C) and apply it to the entire
Section 19, which it seems to say you should do, then you
do need to find extenuating circumstances. However,
there's another interpretation and one I tend to favor
and that's that Section 19(C) deals only with permanent
changes in regulations, whereas Section (E) refers only
to temporary changes. That's something that I think can
be best left to lawyers when they talk in the back room
with their green eye shades on. It's probably best to
take a step back and look at what this whole process is
all about.

We've got an annual regulatory cycle that
is intended to make the process orderly and to maximize
public participation. We also have another section
dealing with special actions which is intended to allow
the Board to operate in the context, the practical
context where action is required, and I would suggest
that that's where we are today.

We have a proposal, a modest proposal, as
I think everybody has said, that addresses the
conservation concerns. That's brand new. We didn't have
that in January. We have a harvest window that's going
to close, probably October 30th. If we don't take that
opportunity it's going to be gone forever. And we have a
statutory mandate that requires us to provide a
meaningful use preference on the Federal lands. And I
think the confluence of those factors would be enough to
satisfy a court that is reviewing this for extenuating
circumstances.

So in short it's not a great moment to me
whether the lawyers, they land on (C) or they land (E), I
think you've got sufficient facts in front of you to act
if you want to.

The other point, I think that needs to be
addressed, is something that keeps popping up and that's
the standards of Title VIII. And although I think
everybody in the room has heard this, it doesn't seem to
soak in, maybe because people are too busy reloading and
they're not listening, but I'm going to try it again.

Need is not the standard. The standard
is customary and traditional use of wild, renewable
resources. If we were talking about need, if we were
talking only about calorie count we could satisfy it with
sides of beef, but we're talking much, much more and this
was addressed by the Ninth Circuit in the Quinhagak case,
very similar set of facts to what we have in front of us
now, and in that case the proponents, in that case, the
Village of Quinhagak presented evidence that the Federal
and State regulations interfered with their way of life
and their cultural identity. And the court said, simply,
they need prove nothing more. So it's just another way
of saying that need is not the standard, the standard is
customary and traditional use of wild resources.

CHAIRMAN FLEAGLE: Thank you, Keith. You
want to continue Steve.

MR. KESSLER: Well, thanks, Keith, I got
a lot more than I bargained for with that answer.

(Laughter)

MR. KESSLER: But I certainly appreciate
it.

In my opinion, Ninilchik has been waiting
for a long time for this. I think that Niles and Judy
said it quite well. And that it is time for action by
the Federal Board to provide for a fishery that meets
customary and traditional uses.

And I do plan on voting favorably for
this motion.

One of the things I do want to cover,
though, is in our regulations in Part 19(E), and it says
that the Board -- let's see, in addition, a temporary
change may be made only after the Board determines that
the proposed temporary change will not interfere with the
conservation of healthy fish and wildlife populations. I
believe that that case has been made, that there will be
no interference with the conservation of healthy fish
populations in the Kasilof River.

Will not be detrimental to the long-term
subsistence use of fish or wildlife resources. I think
that case has also been made.

And is not an unnecessary restriction on
non-subsistence users, and I don't believe this is an
unnecessary restriction on non-subsistence users, in
that, we don't plan to limit the ability of non-
subsistence users to harvest.

So I think that the requirements in Part
(E) then are covered.

Thank you.

CHAIRMAN FLEAGLE: Thank you.
MR. USTASIEWSKI: Mr. Chair. This is Jim Ustasiewski with the Department of Agriculture, could I have a brief moment.

CHAIRMAN FLEAGLE: Jim Ustasiewski, go ahead, Jim.

MR. USTASIEWSKI: Thank you. Just maybe for the record, if there is one, I would defer to what Keith Goltz had said previously about the regulation, actually all that Keith said. And deferring just because I'm only 43.

(Laughter)

MR. USTASIEWSKI: Alaskan for a mere 17 years. But also because I think the wisdom of what he said was really self-evident.

Maybe just to amplify something, I think that there is a reading that doesn't require a showing of extenuating circumstances. (E) could be read on its own, separate from (C), which could be read to apply to (A) and (B), and this is in Section 19, that I'm talking about, special actions. And I think that that's a reasonable interpretation. It's a legal question, if the Board members, some of them have already addressed the issue of extenuating circumstances, I think that's okay because if those other sections do apply then there's no reason not to address it. But I think as Keith outlined it, there is an alternative reading.

Thank you.

CHAIRMAN FLEAGLE: Okay, thank you. I guess before I open it back up to further round table discussion from Board members, I'd like to go ahead and weigh in as a Board member and traditionally in my other roles as Chairs, I do hold off on calling on myself until pretty much everybody has had the opportunity to speak so it does put the Chair in an unfavorable position of being perhaps the deciding vote, but if the vote were taken before discussion that vote would come out however it may, irregardless of the position of people speaking.

With that said, I -- first of all, I like what Gary said about the intent of the proposed action to open this subsistence fishery on the Kasilof, I don't have a problem with that at all. I think that that's a great move given the new customary and traditional
finding for Ninilchik. But, I, too, have a problem with
process, and this is probably a carryover from my State
Board of Game days, in just being a real -- trying to be
real fair to as many affected user groups as possible, to
stick to an established process that the public knows and
is aware of and is used to for promulgating regulations.

And, again, maybe another throwback to my
Board of Game days, we, in that arena often found that we
-- well, actually we had it written in policy that we
found emergencies to rarely exist just so that people are
encouraged to use the regulatory process as laid out.

With that my intent is to not support the
request and I know I'm going against the deference of the
Regional Advisory Council, but my objection is not
against the request as written, but the timeliness and
the process, and what I would prefer to do as it does
spell out further in 19, paragraph (C), that the Board
could defer this proposal to its regular regulatory
cycle, and that would be my preference. It would allow
the process to work. I know that we have argument that
we do have an extenuating circumstance that the tribe did
not know that they would be given a positive C&T, that
this fisheries would not be available to them for this
year and I recognize that argument. But on the other
hand we do have a history of no subsistence fishery on
the Kenai Peninsula since 1952 and we've only been
managing fisheries on the Federal level since 1999 and
that's when the tribe has been trying to get a
subsistence season open, so we have a long history of not
having this fishery. I personally don't see the harm in
foregoing one more regulatory opportunity, one more year
to allow an established process to work.

I think that it's incumbent on us to have
a process that is recognizable and fair. I like the idea
of the stakeholder group, hopefully we can pull that back
together, whether it's the form of the 11th RAC or not, I
think that it's important that there be some stakeholder
input. And like I say if this comes back to us in the
next regulatory session with the concerns that have been
raised, addressed, I'm likely to support the request.
But at this time just a process problem, and that's my
position.

Niles Cesar.

MR. CESAR: Yes, Mr. Chairman, I would
like to, for the record, remind the Chair that this is a
Federal program, and that's what we're dealing with.
We're not dealing with my past history as a
sportfisherman, my past history as anything, we are
dealing with this as our charge to enforce a Federal law.
And so I would hope that this is the last time that I
have to hear about anybody's past performance about being
on other boards that are not relevant to the situation
we're dealing in.

I believe that this is clear, we should
support this and we are in the state of analysis
paralysis as we speak and I think that's a major mistake.

CHAIRMAN FLEAGLE: Thank you, Mr. Cesar.
Objection's duly noted. I shall not bring up my past
anymore.

George.

MR. OVIATT: Mr. Chairman. You know, our
annual cycle maximizes public participation, and I really
believe we've heard enough from the public. It is
telling us that they would like to have that opportunity,
defer to that opportunity. And we're not denying this
proposal. All I am suggesting is that we not deal with
it in a special circumstance, but that we do this under
an annual regulatory process.

That's all I have, thank you, Mr.
Chairman.

CHAIRMAN FLEAGLE: Thank you, George. We
have Steve Kessler -- and, Wayne, your mike is still on,
would you reach up and turn it off, please. Thanks.

MR. KESSLER: I guess just a comment
about following the regulatory process. We are following
the regulatory process. The regulatory process allows us
to take emergency action, temporary special actions, this
is part of what we do. So if proposals come forward, we
look at them, give them full analysis and according to
our regulations we follow a public process, in this case
we've consulted with the State, we consulted with the
appropriate Regional Advisory Councils, we give adequate
notice and public hearing, and the Board has the
authority to make these sort of changes without awaiting
for another regulatory cycle. So I think that this is
part of the regulatory cycle that we're in.

MS. GOTTLIEB: Mr. Chair.
CHAIRMAN FLEAGLE: Judy Gottlieb.

MS. GOTTLIEB: Thank you. I guess a couple of comments also. I mean I really appreciate what Ken and Keith and Jim have told us, and I would think that would go a long way to assuring all of those who are unsure about whether we're following the process or not.

I mean I think you've made some really good strong statements that we have circumstances here where we would be fine to take action. It's not -- and I know you're getting used to the new terms, et cetera, this is not an emergency action so it is a little bit different. And as Steve has just said, we followed our regulatory process. And I also heard comments about being fair to other user groups or having them involved in the process, and as Keith has said to us every time, our job is to provide a meaningful preference for subsistence uses while not unnecessarily restricting other uses. We haven't heard any testimony how this would be impacting or restricting other uses or users, nor have we heard that there's any conservation problem. So we're talking about a really short time fishery that would provide that customary and traditional use of resources. And I just have a sense that by deferring this people lose a season of fishing.

CHAIRMAN FLEAGLE: Thank you, Judy. I got -- Gary before I go to you, I got a request from Dr. Regelin to speak and I know that Wayne has a seat at the table in a non-voting capacity and so I'm going to recognize him for matter of adding something to the discussion.

Wayne.

MR. REGELIN: Thank you, Mr. Chairman. You know it's been said by several people that this is a very modest proposal, only 500 fish, and I certainly agree. But the other thing you have to realize is the harvest in this stretch of river has been a very modest harvest, as the data show, it's been a sportfishery that's taken a few hundred fish a year for the past 20 years. And most of those fish have already been taken by the sportsfishermen this year. And now to, you know, to double -- or to take another 500 on top of that, or potentially take them, if they did, I'm not sure what would happen, what impact that might be on the population. We know that there are a lot of cohos that come up the Kasilof, and we know a lot of them are
caught, but most of them are caught in the lower river around Crooked Creek and then they go up Crooked Creek to spawn. And I think we have a very small coho run that goes on up that river and to say that we aren't concerned about that, I think is not true, we are concerned about it. I would think that the State would very likely have to close that season in that seven miles of stream just to make sure that the harvest would stay about the same as it has because it's a small fishery, we don't have all of the information we do about other fisheries where we have, you know, lots and lots more information and can separate things.

So I think -- so this year, if you do this in the normal cycle then we would have time to close that fishery, if necessary for conservation purposes, with the -- before the harvest occurred, but we certainly can't do that this time. So I think that's something to consider and it should be considered.

And I guess -- well, that's all I'll say right now, thank you.

So I think -- so this year, if you do this in the normal cycle then we would have time to close that fishery, if necessary for conservation purposes, with the -- before the harvest occurred, but we certainly can't do that this time. So I think that's something to consider and it should be considered.

And I guess -- well, that's all I'll say right now, thank you.

CHAIRMAN FLEAGLE: Thank you, Wayne. We got Gary Edwards next.

MR. EDWARDS: Well, before I guess I'll say what I was going to say, I do think that if this proposal gets passed, it would not preclude our in-season manager of making decisions if for some reason that we would feel that it looked like this was a very, very successful harvest and for some reason if we felt that it needed to be capped at 300, I think we would have the mechanism to do that.

So I guess that's why I -- you know, I feel extremely comfortable that we could manage this fishery and manage it in a proper manner. And certainly, you know, I would like to think that if this goes forward we would get assistance from the State, and hoping to use your expertise and all in trying to do that, I mean whether that would happen or not, but I mean that would be my desire and that's what I would encourage our folks, both our Refuge manager and our fishery folks to, you know, use the expertise that also rests in the State in doing that. So I'm very comfortable with managing that. And, again, I don't think there's a conservation concern.

I kind of think it's the right proposal and the wrong decision, and I know that sounds
contradictory, but, you know, I think we've recognized
for some time that as we proceed down here it's important
and that, you know, we get folks together. And, you
know, despite our best efforts, you know, that hasn't
been successful. I am a little troubled, quite frankly,
as to if this comes up in the regulatory cycle whether
we're still going to be in that position or not. I mean
I think that's a real concern because I'm unclear, you
know, whether what's going to happen with the new RAC and
whether we will have it in place, that it could deal with
this or will the existing RAC have to, so in my mind, I
guess, that's a little troubling because I'm afraid in
December we're going to find ourself in the same position
and I don't want to be in that same position, you know, I
was hoping we weren't going to be in this. And I think
-- as I said earlier I think we have found ourself in a
position where we do not want to be.

So, you know, that -- so as far as the
regulatory process goes, I don't question, I do think we
did, I guess I wouldn't agree with Steve that we did it
in a timely, it's been done very quick and there has been
very short periods between each one of these steps in
order to, I think, this fully vetted among the public.
But I just think that as we start down this road and, you
know, this is the first step and sometimes how you take
that first step has a lot of -- you have a lot of
consequences for how the future steps are being taken,
and I just think that when we take this, that we need to
have -- my sense is we're not going to get buy in with
this, but on all sides, and there's going to be
disagreements as we go through it but at least we're --
we're, I think, step -- taking the steps with others sort
of kind of hopefully taking them with us, together, and
so I think that's very important from my perspective.

CHAIRMAN FLEAGLE: Niles Cesar.

MR. CESAR: I'd like to call for the
question, please.

CHAIRMAN FLEAGLE: Call for question is
heard but not recognized. Just a moment. Based on
everybody weighing in, it sounds like you don't have
enough votes to pass the proposal, and I just wanted to
provide an opportunity for the Board to discuss the
matter of deference, deferring the issue. I'd hate to
reject the proposal and have it disappear.

Judy.
MS. GOTTLIEB: Mr. Chair. I guess I'm not entirely clear of what you're asking in terms of deference. I don't think this Board has given deference to the Southcentral Council's recommendation. I don't think we've heard reasons why we would deny their recommendation.

CHAIRMAN FLEAGLE: I'm sorry, I probably used the word wrong. I was referring to the language in 100.19(C) that says that requests for special action that do not meet these conditions, and, again, I know that's subjective to the Board members because we've heard from the legal team that it would probably take a lot of argument to sort out which section of this is correct or not.

But basing it on Section (C), it says:

That requests for a special action that do not meet the conditions laid out above will be rejected, however, a rejected special action request will be deferred if appropriate to the next annual regulatory proposal cycle.

And that's where I was using the term deference, which is not appropriate here. But I think there should be some discussion as to the deferring of the proposal.

Niles Cesar.

MR. CESAR: Thank you, Mr. Chairman. I believe that we have deferred. We have been deferring these questions for at least seven years and I would have trouble supporting a motion to defer.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Niles. The question is now recognized. And this part of the process, do you poll the Board, Pete?

MR. PROBASCO: Yes, we do Mr. Chair.

CHAIRMAN FLEAGLE: Please poll the Board.

MR. PROBASCO: Okay. Thank you, Mr. Chair. I'll start from my left here. The motion on the table as motioned by Mr. Cesar and second by Mr. Kessler.
MR. EDWARDS: Nay.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Nay.

MR. PROBASCO: Mr. Kessler.

MR. KESSLER: Yes.

MR. PROBASCO: Mr. Cesar.

MR. CESAR: Yes.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Yes.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: The vote's 3-3, the motion does not carry.

CHAIRMAN FLEAGLE: Pete Probasco.

MR. PROBASCO: Mr. Chair. Based on the action that just took place on the proposal, or the request, Staff here will seek guidance on what to do with the Part II of the proposal, which was to establish a winter fishery on Tustumena Lake, which we purposely pulled out to deal with at a later date. So the Staff would seek guidance from the Board.

MR. Chair.

CHAIRMAN FLEAGLE: Thank you, Pete. Discussion Board members.

Gary.

MR. EDWARDS: Pete, I'm unclear what you're asking. I mean is that proposal in front of us?

MR. PROBASCO: Mr. Chair. Mr. Edwards. The proposal is not in front of us. The strategy that we were using that we felt because we had time, we did not
have to act as quickly on that proposal, would take some
time to put the information together and we were also
hoping to take that request before the Southcentral
Regional Advisory Council before the Board took action.
Now, based on the action that you just took here, do you
want us to proceed in that manner or do we hold off?

Mr. Chair.

MR. EDWARDS: Well, I guess I was just
assuming that it was automatically going through the
process with the other proposals, but apparently that was
the wrong assumption.

MR. PROBASCO: Mr. Chair. There's been
somewhat of a misunderstanding here. The call for
fishery proposals for the Kenai Peninsula is for the
winter cycle, which means we would not see those
proposals until your May meeting and the Councils would
not see those proposals until their February/March
meetings. So if, indeed, it is your wishes that along
with this proposals and the other half of the proposal
then we would add it to the winter call for proposals.

Mr. Chair.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN PLEAGLE: Judy.

MS. GOTTLIEB: Thank you. This request
for the winter fishery came as part of the request for
special action and I guess was divided up so we could
handle this first because it's a fall fishery and then
the second part later. Now as part of the comments
today, people said they wanted more public process, well,
we are going to have a RAC meeting, it's going to be on
the Kenai Peninsula, I guess I'd like to see us be a
little more responsive and not delay this to the next
regulatory cycle but work on it as expeditiously as
possible.

Thank you.

MR. EDWARDS: So does that mean we would
add it to the four that will go forward in front of the
RAC?

MR. PROBASCO: Mr. Chair. Mr. Edwards.
Ms. Gottlieb. Those four deferred proposals, along with
the call for proposals are all for the winter cycle of meetings. We will not see those proposals this fall, and you would not act on them in December. That would be for the following February/March Council meetings, and final action at the Board meeting in May.

CHAIRMAN FLEAGLE: Okay. So the intent here would be to not ignore that portion that was left out of the discussion here for the Tustumena Lake ice fishery but that that would be deferred, this is what you're trying to find out, is to get the intent of the Board, do we want to defer that for further action at the next cycle?

MR. PROBASCO: That would be one guidance, Mr. Chair.

MR. EDWARDS: Well, I guess, you know.....

CHAIRMAN FLEAGLE: Go ahead, Gary.

MR. EDWARDS:.....consistent with what we did or didn't do here today, it just seems to me that if we are taking those four why wouldn't we want to do the same? I guess the only maybe reason would be is that we could -- it would still allow a fishery this winter or by the time the actions take place, would it be too late to have a fishery as described in the proposal.

MR. PROBASCO: And I would call that option two. You could actually use your fall Council meeting as a public forum, if you will, and then take action after that Council meeting on the winter fishery.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Well, I think that would make sense to me, is to carry forth with the proposal from Ninilchik for this winter fishery because we just said we'd separate it out and make two different decisions, but we need to be on a shorter timeline for the one that we did, slightly longer for the lake fishery. I think that it should be vetted through the public process as part of the Regional Advisory Council as soon as possible. So in my mind we need to keep moving on this and hopefully by sometime this winter provide a subsistence fishery as requested, if it's appropriate from a conservation standpoint, et cetera, et cetera.
CHAIRMAN FLEAGLE: So we've heard a couple of options and the latest, as supported by Mr. Kessler, is to go with Plan B, to have that addressed in the meeting cycle as soon as we can and not in the long process cycle. Is there any objection to that approach.

(No comments)

CHAIRMAN FLEAGLE: No objection. Then that's what we'll....

MR. EDWARDS: Just one comment.

CHAIRMAN FLEAGLE: Go ahead, Gary.

MR. EDWARDS: And I guess I don't really object to it. I guess my fear is we're going to be right back sort of where we are today, and I guess I find that somewhat troubling to me personally, and I don't know how we try to avoid that. I mean the one thing it would do is certainly give us more opportunity for outreach and involvement between now and the RAC meeting, in between the RAC meeting and the Board meeting, so that would certainly give folks an opportunity to weigh in. That certainly is not going to provide the vehicle I was hoping we were going to have in place as we started down this road. So I guess I don't really oppose it, I'm just sort of wondering does it leave us in the same position we are today.

CHAIRMAN FLEAGLE: George Oviatt.

MR. OVIATT: Mr. Chairman. The fact that we're going to have a Southcentral fall RAC meeting and it's well publicized and I assume this could be a part or would be a part of that agenda, you know, I think the motion that we just worked on was fast-tracked without a lot of, perhaps public awareness, it was a special meeting called by the Southcentral Board, where they have well announced meeting times for their Southcentral RAC at the end of -- I believe it's the end of October, and I just think that we will provide the communities plenty of opportunity to testify and weigh into this and for the RAC to have a full compliment of that information. I think the circumstances are different for moving forward on this for this winter proposal.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Does that help you,
Gary.

MR. EDWARDS: (No response)

CHAIRMAN FLEAGLE: Judy Gottlieb.

MS. GOTTLIEB: Mr. Chair, thank you. I guess I would encourage those Board members who were concerned about the public process this time to be involved as we develop the scheduling for this next proposal and make sure your concerns are taken care of in advance of our meeting.

Thank you.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: I'd just like to summarize what I heard. My understanding is that the Board would like Staff to develop a Staff analysis that will be viewed by the leadership team as well as the InterAgency Committee. That Staff analysis will go forward to the Southcentral Council at their fall October meeting and after the fall October meeting, the Board will schedule a work session to take final action on that item, and we'll publish -- yep, we'll have the word out.

And just one other clarification, based on the action that was just taken on the coho fishery, that proposal, if you will, is -- we've taken final action and that one will not go forward. That's my understanding.

CHAIRMAN FLEAGLE: That was our understanding too.

MR. PROBASCO: Thank you.

CHAIRMAN FLEAGLE: All right, any objection to that approach.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, that will be the course of action that we recommend to you.

Thank you.

MR. PROBASCO: That's fine.
CHAIRMAN FLEAGLE: All right, next up on the agenda is Board direction on the process for draft petition on license fee requirement. Pete.

MR. PROBASCO: Thank you, Mr. Chair. I'm going to just briefly introduce this and then bounce the ball to Mr. Kessler. If I miss anything Steve, if not we'll just go forward.

We've received a request from the Southcentral [sic] Regional Advisory Council, they are going to petition the Secretary as far as the license requirement for hunting for subsistence users.

They use, paraphrasing, that this is an unnecessary burden for subsistence users to participate in hunting. They have requested that this letter/petition also be included on the other nine Regional Advisory Council’s agendas for their review, and if they so elect to take action, either support or not support.

We felt that this issue is -- or I felt that this is an issue that I needed guidance from the Board on how to proceed since it was going beyond just Southeast and was going to involve the other nine Councils.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Steve Kessler.

MR. KESSLER: Thank you, Mr. Chair. I'm
not sure I have much to add to that. I would request, though, to see if Mr. Bert Adams is on line now because I believe he was going to be on line representing the Regional Advisory Council, and he could provide perhaps a little bit more background and information to the Board.

Bert.

(No comments)

MR. KESSLER: Bob Schroeder, are you on line, is there any other information you could provide to the Board?

DR. SCHROEDER: Yeah, Steve, I did try to get in contact with Bert, he was doing a charter today and so he may not be in yet.

This issue has come before -- the Southeast Regional Advisory Council has raised this license issue a number of times over the last few years. It was brought up in the 2005 annual report to the Board, and the response to the annual report from the Board was that if the Council wished to submit a petition that Staff would provide technical support in preparing that petition. Staff did so. The petition was circulated to the Board, not for action, but for information at the last Board meeting by Dr. Dolly Garza, and she stated at that time that she wished that the other Councils would review this petition at their fall meetings.

The Board didn't take any particular action at that time, but did hear her request.

And that's about all I've got.

Discussion. Gary.

MR. EDWARDS: The request is for it to go forward?

MR. PROBASCO: The request is in two parts, Southeast Regional Advisory Council have requested to submit the petition to the Secretary, which they can do, and the second part is they have now requested that their letter/petition be included in the other nine Regional Advisory Council's agendas for their discussion, possible action.
So it goes from Southeast to a statewide issue.

CHAIRMAN FLEAGLE: Steve Kessler.

MR. KESSLER: Thank you, Mr. Chair. I think just to put this in the correct order, what the Southeast Regional Advisory Council would like to do is put this out to the other Regional Advisory Councils, have them review it, make some recommendations for changes in it, perhaps support or not support it, and then based on all that information that comes forward from the other Regional Advisory Councils, then they would bring all that information to a special Council meeting that would be proposed, a teleconference meeting, and then they would figure out, based on the input of all the different Councils how they want to go forward or perhaps not go forward, but I assume go forward to the Secretaries in a rulemaking.

So go out to the Councils, that's what this request is, is to have OSM put this into the agenda and packets for each of the different Council meetings around the state, and then have those Councils provide optional comments or not to the Southeast RAC before the Southeast RAC makes a final decision on how to move forward.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: The only thing I would add to that, what Mr. Kessler stated, is that, if we do include it in all 10 Regional Advisory Council booklets then I will have to have Staff prepared to discuss what the letter is, what the petition is, what are the hunt license fees, how are they utilized, et cetera, et cetera, so it's going to take some additional effort and this is -- we've already started producing Council booklets.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: I guess I'm kind of unclear of what the ultimate outcome will be, you know, we've discussed this before, I think on several occasions. Philosophically I'm in full agreement. I've always wondered why subsistence users are required to have a State hunting license, and the same reasons why I wonder
why we require them to have migratory bird hunting --
bird stamps for them to subsistence bird hunt. But on
the case of migratory bird stamps, our learned attorneys,
not these attorneys, but those in D.C. have said that we
have none -- you know that this is what the requirement
seems to be, you know, and it's very difficult to explain
to people why you don't have to have one for fishing but
you got to have one for hunting. I know it's not a
sporthunting license it's a hunting license and I guess
those little nuances make the difference. But I'm
unclear where ultimately sort of this is going to go and
what is the expectations. I mean I don't see either
Secretary sort of unilaterally agreeing or disagreeing
with this and I don't know if it comes back to the Board
and if that's the case, should the Board sort of weigh in
on this? I know we've had previous letters, I'm just
trying to understand what the outcome is and whether we
-- either the Secretaries or this Board, you can -- has
-- I guess we do have the authority to, I guess, do what
we want on our own weigh-ins, but I don't know, Keith, I
mean what do you see as the possible outcome of this if
you had to predict.

CHAIRMAN FLEAGLE: I think the request is
simply to involve other Councils. So the immediate
outcome is just to get input.

What happens then is a question of what
is forwarded to the Secretaries exactly. And I suppose
if the future is like the past the Secretaries will ask
us for advice at that time.

MR. KESSLER: So it will come back.

MR. GOLTZ: It will come back.

MR. EDWARDS: So if that's the case why
don't we short-circuit the system, and have it come to us
and us go ahead and make a recommendation to the
Secretary? I mean I can't believe that no RAC is going
to oppose it.

CHAIRMAN FLEAGLE: Niles.

MR. CESAR: Thank you, Mr. Chairman.

It's a strange world we live in. I think there could be
a RAC that said no. But I think regardless the more
information you bring to the table would support whatever
decision we make at the Board level and I think, you
know, for purposes of having an established record I
think it would be helpful to have some indication from
the Councils. I would agree with you that it'd be pretty
strange if one came forth and said, no, let us -- give us
another license, you know, I agree, but for the record.

CHAIRMAN FLEAGLE: All right. Pete.

MR. PROBASCO: I think what I've heard
from Board members is that they would like us to include
it in all Council books. I will work with Mr. Kessler
and we'll get it in the booklets, and I think probably
best we are speaking the same at each meeting we'll
probably develop some talking points as well so we will
include it.

CHAIRMAN FLEAGLE: All right, thank you.
That sums up discussion on that item, agenda item then.

Steve Kessler.

MR. KESSLER: Thank you, Mr. Chair. I
guess the one other thing I think it would be interesting
to hear from Alaska Department of Fish and Game also
because, of course, if this were to go through there
would probably be fewer hunting licenses that were
purchased and I'm not sure if the Department feels that
there should be some information that would be valuable
to also be provided to the Councils as the Councils take
this matter up.

CHAIRMAN FLEAGLE: Wayne Regelin.

MR. REGELIN: Thank you, Mr. Chair. I
guess that this is something that's of a lot of concern
to the State and I think I would disagree completely. I
think if we go and present the information that most of
the RACs are going to oppose this. There's a long
tradition of hunters supporting good wildlife management,
and I think most hunters know good wildlife management
costs money. And I think they know that -- I guess how a
RAC could say that requiring a hunting license is an
undue financial and regulatory burden on rural residents
amazes me. I don't know how you get there when you --
it's been a requirement since statehood, since before
statehood by the territorial government so it's not
something new.

But I think that you need to think about
how that money is used. We get about $15 million a year
that we spend on doing surveys for game species
throughout Alaska. Without regard to land ownership or
who harvests the game and I'd sure hate to see that
changed. We often do this work in cooperation with the
Federal agencies. And what you're going to do is not
just take away the hunting license fees, you'll take away
some of the match that the Federal agencies provide. You
know right now it's not too big of a financial burden,
it's $25, but if you are a low income individual, you can
buy a license for $5, and I think that that's essential
to regulate hunting and to do surveys, to know what's
harvested to have a license system, and it's a pretty
small investment in the future.

You know one of the things that the
petition that Southeast RAC complained about is that we
were using hunting fees to build viewing ramps and -- or
viewing platforms and watch for wildlife programs, and,
you know, that's not true, we don't -- that's other --
that's general funds that are used for that purpose and
special Federal funds, through a special Federal program,
it's not hunting license fees. But I bet you that most
people that are subsistence hunters like to watch
wildlife and participate in our education and our viewing
programs.

The other one was that they didn't want
to buy boat ramps -- or thought they shouldn't have to
pay for boat ramps. And boat ramps are built throughout
the state, again, with the Federal and State dollars and
sportfishing licenses, and anybody can use them whether
they're a personal use fishery or a sportfisherman or a
subsistence fisherman.

But I think that one of our bigger
concerns will be if you don't have to have a State
hunting license and then how are we going to regulate and
how are we going to enforce because a lot of the land
ownership is mixed, you know, throughout the state and it
would just be a regulatory -- or an enforcement, I should
say, not regulatory, enforcement nightmare to try to
figure out where we can do this and I certainly don't
think we need more obstacles for an effective regulatory
enforcement system.

So I think that we'll be at every RAC
explaining why we think that this would be a very bad
idea in spades if you do this and I'd urge you not to do
it. I think it's foolish.

CHAIRMAN FLEAGLE: Niles Cesar.
MR. CESAR: Well, I think we're putting the cart before the horse. What we're suggesting is we get some inputs from the RACs and that will tell us, you know, whether or not we should even consider this. But I think to be responsive to the Southeast RAC, I see no reason why we shouldn't make this public knowledge to the rest of the RACs. Let them comment on it. Obviously we're going to have a huge discussion when it comes down to actually doing something and I don't think anybody in this room thinks that we're just going to say let's vote for it and go for it. It's going to be contentious because of all the things that Mr. Regelin says, I mean I'm not disputing that at all, I'm just saying let's not jump to the conclusion before we get the information.

MR. EDWARDS: Mr. Chairman. We don't have to beat this but, Wayne, I think part of the reality is, is that we'll find that it probably won't have as much impact as you may think because I think a lot of, a big bulk of the subsistence hunters also hunt off of Federal lands and will do it. On the Kenai, for example, you can get a subsistence permit so you can fish without a license on the Kenai Peninsula. We gave away none this year. So nobody basically took advantage of that opportunity so that tells me that all the subsistence users still bought a sport fishing license because they probably fished other places. And I think the reality is probably with the hunting you would find, because that would not allow you to, you know, hunt on State lands so I think people would still -- and, you know, obviously one issue -- you could issue, you know, we could issue a subsistence license, that would be no charge, in other words it would serve as the same purpose for reporting in all those, so I mean I think there is a mechanism. I don't know, I just have always found it kind of difficult to understand that if you had a program that was designed to put food on the table and part of it was to do that because, you know, the cost and all and the opportunity, that why would you put -- you know, you'd have to pay to do something that you're sort of entitled to. Just in my mind it seems contradictory. And like I said, the migratory bird stamp, and I recognize that migratory bird stamps buys habitat and other things and that's important, although we don't get any of that up here, but, you know, there is some other value to it, but anyway.....

CHAIRMAN FLEAGLE: George.
MR. OVIATT: Mr. Chairman. I think Niles had a good idea and that's, let's let the process go forward. I think we'll all have plenty of opportunity to debate this issue. Let's find out what the RACs, what the communities want.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Is it short, Wayne?

MR. REGELIN: I wasn't going to say anything except Steve poked me and I.....

MR. KESSLER: Sorry. Well, I just want to make sure that the RACs can hear the two sides.

MR. REGELIN: Well, I decided the place to talk to is at the RACs because we're going to ask them what they think.

MR. PROBASCO: Mr. Chair.

CHAIRMAN FLEAGLE: Go ahead, Pete.

MR. PROBASCO: Probably the only Regional Advisory Council that won't get the benefit of this is Barrow, we leave tomorrow so that one might be difficult to get ready for.

CHAIRMAN FLEAGLE: All right, if we've exhausted discussion on that issue we'll look at item four, other business, Board members. Pete.

MR. PROBASCO: Judy and I actually have an item. Everybody on the 19th at noon we're going to have the potluck for Mitch. The 10th at noon. It will be here at OSM and it's a potluck, so that means everybody bring something. And Gary's working on a plaque, Judy's already purchased one gift. And I'm going to ask a Staff Committee member to work with Staff Committee to get donations. OSM will be doing the same. And we're just going to recognize Mitch on the 19th.

Judy.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: We do have a work session that day, too, and, yeah.....
MR. CESAR: It's in the morning, right?

MS. GOTTLIEB: Correct. And so I guess as each of the agencies, as you collect your contributions, you can give them to me or to Pete and we're going to get gift certificates for Mitch as well as for Kathleen once we have that. So I guess we'll need those donations by the Friday before maybe, would that work?

MR. PROBASCO: We'll have emails out and we'll get that.

MS. GOTTLIEB: Okay, thanks, Pete.

MR. PROBASCO: Okay.

CHAIRMAN FLEAGLE: So it sounds like we're going to have our work session done by noon on the 19th.

MR. PROBASCO: Have to.

CHAIRMAN FLEAGLE: Other items for discussion, Board members.

Are we ready for a motion for adjournment.

MR. OVIATT: Moved.

CHAIRMAN FLEAGLE: I heard a move, is there a second.

MR. CESAR: Second.

CHAIRMAN FLEAGLE: Any objection. (No objection)

CHAIRMAN FLEAGLE: Hearing none, the Board is adjourned.

(END OF PROCEEDINGS)
CERTIFICATE

UNITED STATES OF AMERICA

STATE OF ALASKA

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

THAT the foregoing pages numbered 2 through 66 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING taken electronically by Nathan Hile on the 5th day of September 2006, beginning at the hour of 1:30 o'clock p.m. at the Office of Subsistence Management in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 10th day of September 2006.

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Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/2008