MEMBERS PRESENT:

Mike Fleagle, Chair
Gary Edwards U.S. Fish and Wildlife Service
George Oviatt, Bureau of Land Management
Judy Gottlieb, National Park Service
Denny Bschor, U.S. Forest Service
Charles Bunch, Bureau of Indian Affairs
Ralph Lohse - Southcentral RAC
Daniel O'Hara - Bristol Bay RAC
Commissioner Denby Lloyd, State of Alaska Representative
Keith Goltz, Solicitor's Office

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CHAIRMAN FLEAGLE: We'll at-ease until we get a couple more Board members. I gavelled in a little too quickly.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good morning. The Federal Subsistence Board is back on record. Today is May 9th, and we're in Anchorage.

And before we resume deliberations on proposals, I'm going to open it up for announcements. Pete.

MR. PROBASCO: Thank you, Mr. Chair. I have two announcements. The first one is for the public. If you do plan on testifying, please see Theo over there in the corner. Unfortunately Di called in today ill, so our desk out in the hall won't be manned today.

And the other item is Ken Lord and I were talking yesterday, and this is for the Board members. When we get to the end of our proposals, we will need to have a discussion onto the intent of when these -- this action that you have made and will be making will be in effect. Our understanding is that the intent is to have these regulations in effect for this coming season, and we will need to be on the record to clarify that intent when we get done. So I'll remind you at the end of that.

Mr. Chair, that's it.

CHAIRMAN FLEAGLE: Thank you, Peter.

Other announcements. Board members.

(No comments)

CHAIRMAN FLEAGLE: Staff.

(No comments)
CHAIRMAN FLEAGLE: Okay. We now move on to the Kasilof River resident species proposals. And we heard the analysis, and we're down to Board discussion with Council Chairs and State liaison. We went through the whole process of summary, public comments, testimony, recommendations and comments yesterday on the whole Kasilof River drainage as a whole, so at this time it's open for discussion on resident species for the Kasilof River.

Do we need a little recap maybe of what we're dealing with.

(No comments)

CHAIRMAN FLEAGLE: No. Ready for action, discussion, Board members. Okay. Pete says Page 73 is the Council's recommendation if people want to turn there for a starting point.

MR. BUNCH: Mr. Chairman.

CHAIRMAN FLEAGLE: Good morning, Charles.

MR. BUNCH: Good morning. I move that we accept the Southcentral Regional Council proposal for the resident species.

MS. GOTTLIEB: I'll second it.

CHAIRMAN FLEAGLE: Great. We've got a motion to accept the Council recommendation and a second.

I'd also like to welcome John Hilsinger for the State Department of Fish and Game at the table. Good morning, John.

Discussion on the proposal. Would you like to give some supporting statements for your motion there, Charles.

MR. BUNCH: Yes, I would, Mr. Chairman.

This recommendation seems to be a well balanced proposal that has conservation measures in it, and as we were speaking yesterday, it seems to have some control aspects to it, provides a meaningful subsistence opportunity.

CHAIRMAN FLEAGLE: Pete.
MR. PROBASCO: Thank you, Mr. Chair. Mr. Bunch, Charlie, in your motion I'm assuming, and I'd like you to clarify, that you're referencing Proposal FP07-27d and 30 with modification.

MR. BUNCH: That is correct.

MR. PROBASCO: Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I mean, I see in this recommendation from the Regional Council, once again we have a permit requirement and a reporting harvest requirement within 72 hours as well as the marking requirement. And I also assume from what we heard yesterday that Fish and Wildlife Service will be out on the river and be monitoring the activities. So I'd be prepared to support this motion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN FLEAGLE: Go ahead, Gary.

MR. EDWARDS: Just for -- I'm trying to understand what -- with regard to steelhead, how does this differ from 07-10? What does it allow for steelhead that 07-10 -- or what does 07-10 allow for steelhead that this doesn't.

CHAIRMAN FLEAGLE: Doug McBride.

MR. MCBRIDE: Thank you, Mr. Chairman. Doug McBride, OSM.

Mr. Chairman. Mr. Edwards. 07-10 is about steelhead, and what the means functionally here is rainbow trout/steelhead, 20 inches or larger. Or longer. So 27d and 30 has two parts to it. One is the winter fishery which is identical to the temporary fishery that was just completed this last year. And then part b which starts at the bottom of Page 24 is the rod and reel fishery, and that addresses three species, lake trout, Dolly Varden, and rainbow trout less than 20 inches. So this is about rainbow -- the rod and reel part of this is rainbow less than 20 inches. Proposal 10, or the steelhead section, which is yet to come, is rainbow/steelhead 20 inches or longer.
Mr Chairman.

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Are you ready for the question. All right. Ready for the question on Proposal 27d and 30. Pete.

MR. PROBASCO: Final action on Proposal FP07-27d and 30, to support the Southcentral Regional Advisory Council's recommendation to support Proposal FP07-27d and 30 with modification.

Mr. Fleagle.

CHAIRMAN FLEAGLE: Yes.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: And Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Chairman. The motion carries six/zero.

CHAIRMAN FLEAGLE: Thank you, Pete.

A motion would now be in order to take no action on FP07-11, 12 and 13 because of the action just taken by the Board.

MS. GOTTLIEB: So moved.
MR. BSCHOR: Second.

CHAIRMAN FLEAGLE: Any objection.

(No comments)

CHAIRMAN FLEAGLE: Hearing none, that action carries.

We now move to Proposal FP07-10 for steelhead for the Kasilof River drainage. Discussion with Council Chairs and ADF&G for discussion. Gary.

MR. EDWARDS: Mr. Chairman. I guess I'd like to ask Ralph, it's my understanding that at our meeting the Ninilchik Traditional Council, who was the proponents for this proposal, suggested modifications which would have basically eliminated the steelhead fisheries, but yet the Council in their infinite wisdom I guess decided to go forward with the proposal despite the proponent suggesting that maybe it shouldn't. Could you kind of elaborate on that for us?

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: Mr. Edwards. Mr. Chairman. I guess I'd like to ask Ralph, it's my understanding that at our meeting the Ninilchik Traditional Council, who was the proponents for this proposal, suggested modifications which would have basically eliminated the steelhead fisheries, but yet the Council in their infinite wisdom I guess decided to go forward with the proposal despite the proponent suggesting that maybe it shouldn't. Could you kind of elaborate on that for us?

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: Mr. Edwards. Mr. Chair.

Mr. Edwards through the Chair. I don't quite remember it exactly that way, but I know that there was a lot of talk about the fact that -- the problem is again the loss of opportunity in the future. And while Ninilchik as a Council was willing, and I think they could correct me if I'm wrong on this, but while they were willing to drop it if it was necessary to get the rest of their package. They still expressed the desire that they would like to have it.

And the Council looked at this and other than the fact that they're allowed to use treble hooks and bait, we didn't see any increase in impact with this proposal. I mean, it's open to, if I remember right, two steelhead a day -- a year under State regulations, which means that every Ninilchik resident could take two steelhead a year there now if they wanted to.

And while I recognize that the fishery is -- you know, that the majority of the people that fish on that fishery fish on it in a catch and release fishery. And I recognize that part of it. And still you have a half a million people that talk about going down on the Kenai that would partake in it and keep two fish a year,
or could catch and release, and if that many people
could catch and release, which they're not going to, you'd
have definitely more mortality than is going to happen
out of the Ninilchik steelhead fishery.

And the Council, and I don't like -- and
I know that you were just putting a little humor in when
you said in our infinite wisdom We don't have infinite
wisdom and we recognize that. But we just felt that
there was no need to take it out, because we didn't see
-- at this point in time we didn't see any impact. It
doesn't allow anything that's not currently allowed,
except the use of bait and treble hooks as some of us
that have -- did a little research last night, found out
the whole subject of treble hooks is another whole
subject that is just as controversial as whether there's
mortality on catch and release. I mean, there's people
on both sides on that issue and studies on both sides on
that issue, that some say they do less damage, and others
say they do more, so, you know.

From our standpoint, we didn't see where
we were actually doing anything except what we were
called on to do, not give an opportunity, but to give a
priority. And that's what we looked at. This
established a priority for the subsistence community
should things be necessary to change down the road. And
at this time, it has in our way of looking at it, it has
no impact. Now, whether it has impact or not, we're
going to find out through our reports, through our
reporting, through our permits and things like that. In
fact, we'll find out faster what kind of impact we're
having on this fishery than the State will find out what
kind of impact the publicity that this has given to
Crooked Creek and Nikolai Creek, is going to have on
their fishery.

MR. EDWARDS: Thank you, Ralph.

Mr. Chair. You know, yesterday I think
we did talk about, you know, the conservation concerns
for this very small, I don't want to call it a remnant
population, but obviously a very small population, and
maybe even expressed some concerns as to why are we even
having, you know, a sport fishery on this stock, even
though it's a catch and release. Maybe in response to
Ralph's question, we probably could ask our folks from
the Refuge, Robin West and Gary Sonnevil from our
Fisheries Assistance Office to come up and talk about
what they see as some of the conservation concerns, and
maybe also address, you know, Ralph's question is that if in fact under sport fish a subsistence user with a sport fishing license, which is what I heard you say, could go there and take fish, then what would be the difference whether we allow somebody to do it with a subsistence permit as opposed to a sport fishing license.

CHAIRMAN FLEAGLE: Robin. Good morning.

MR. WEST: Good morning, Mr. Chair and Mr. Edwards. Robin West, Kenai National Wildlife Refuge, and Gary Sonnevil joining me from Kenai Field Station.

I guess in general one of the things that we've discussed as this proposal came forward is that we recognize that it's a small population and which we're only learning a little bit about. Some of us who have been in the business for a long time have kind of looked globally on management of salmon and steelhead issues, see some warning signs here in this population just compared to the way we've had concerns in the Pacific Northwest and as Mr. Edwards spoke yesterday, with the listing package and so forth.

And we've been relatively immune from that, but we're talking apparently a few hundred fish. Maybe the most northern population in the State. Certainly other influences on the health and well being of the population in terms of potential intercept fishing from commercial activities and other things some what beyond our control.

And with those warning signs, personally as the manager of the Refuge, we've been very careful in terms of how we've allowed use of this under our control, recognizing that through the State process and the Board of Fish the actual seasons and bag limits have been set up over the years. And I say that in that the last dozen years occasionally we've had guides come into the office looking for permits to target this fishery as a condition of their special use permit for commercial operations, and we've always denied it, recognizing we didn't want to draw attention to it.

And I guess in general while it's obvious that there are no secret spot and no secret fisheries on the Kenai Peninsula, up until recently this came as close as there was. And I say that because just in the last few months somewhat I suppose because of the publicity that this proposal has got, I've answered more questions
from the public about, you know, where can we catch steelhead, how many fish, when are they there.

So the issue's in front of us now. And whether that means that the Board of Fish will have to take it up, because of conservation concerns in the near future or not I guess is one question.

But what we saw as a package of proposals came forward in the subsistence process, looking at all fish species, and in realization that this is something we're going to be doing in the long term, managing fish, that we weren't too excited about throwing a subsistence fishery in the mix for the optics of it, if you will, for the conservation concerns that may exist, administrative costs. I think, Gary, correct me if I'm wrong, but it costs about $10,000 a year just to put a weir in on Nikolai Creek, to enumerate the escapement there for very little return in terms of actual benefits to the user.

And so I was very pleased when Ninilchik came forward in the RAC process, and on Page 90 in your package you can see that their modified proposal was to remove steelhead from the initial request. That's not saying it couldn't come up again when we now more about it, but, you know, I kind of look at this right now as it's being portrayed as like who's going to give first, the State or the Federal process. I mean, who gets preference.

This population really doesn't need to be targeted by anyone in my opinion. And so, you sort of go slow approach I think is desirable. Thank you.

MR. EDWARDS: Mr. Chairman. Robin or Gary, just kind of a follow up. You know, again kind of address Ralph's point, that -- so, you know, we vote this down, and -- but folks in Ninilchik say, well, heck, you know, I'll just get my sport fish license, and I'll still go and I'll get my subsistence steelhead. I mean, that's the reality, right?

MR. WEST: It is. I mean, people could still catch fish. I guess one thing I would point out I guess, the way it looks like the subsistence proposal is worded is actually even a little bit more restrictive than the Sate regulation, so I'm not sure what kind of preference that gives. I mean, the way I read it, it's a household limit rather than an individual limit, so actually the subsistence rule as proposed in my opinion
is more restrictive.

But that be it as it may, the bottom line is, yes, folks can go out and target fish. But I think as was pointed out historically by the State yesterday, no one really has up until this point in time. To my knowledge, people going into Nikolai Creek and targeting them and taking them and eating them is basically nonexistent. And I can't say that that will always be that way given the publicity and the interest that has been generated.

MR. EDWARDS: Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I guess since we've been talking about in-season management strategy, I wondered if I could ask the Department, what do you usually do on the Kasilof to monitor the activities.

CHAIRMAN FLEAGLE: George.

MR. PAPPAS: Yes. Through the Chair. The in-season activities we have on the Kasilof for management would be the early run creel survey, and angler exit interviews to determine the difference between -- to determine how many wild fish versus hatchery-raised fish are harvested. And that all takes place below the bridge, because that's a large fishery.

MS. GOTTLIEB: And does that address the steelhead issue.

MR. PAPPAS: No, it would not address a steelhead sport fishery above the bridge.

MS. GOTTLIEB: And, Mr. Chair, if I might. I mean, we were talking earlier about in-season actions that could be taken by the Federal manager. Do you have, you know, conditions that you would set on your current fishery to shut it down if need be?

MR. PAPPAS: Clarification. For the steelhead fishery above the bridge, do we have? No, at this time I would say we don't have immediate in-season. We do have a normal emergency order process that can go into effect immediately if we do sense that there's a
situation going on.

CHAIRMAN PLEAGLE: John.

MR. HILSINGER: Thank you, Mr. Chairman. There are some differences here, and that bait issue I think is significant and something to take into consideration. And normally when you introduce bait into a fishery, you substantially increase the harvest rate. And in a lot of our fisheries, we estimate that when you take bait out of the fishery, you cut the harvest rate about in half. And so I think we would expect if people did use bait, they would be substantially more effective than without bait.

The other thing Mr. West brought up, the commercial interception. And so if there's questions about that, I would be happy to answer those. Thank you.

MR. EDWARDS: Mr. Chairman. Just a quick response, but the reference to bait, the State allows bait up to September 15th, and it's my understanding that there are steelhead by that time that are up there. So under your own regs you can allow people to use bait.

And with regard to the commercial, one of your folks I guess did explain to me is that as it applies to steelhead on this commercial fishery, is that generally that commercial fishery is probably over with before those steelhead start entering the river. Is that correct?

MR. HILSINGER: Mr. Chairman. Mr. Edwards. Yeah, the commercial fishery in Cook Inlet is probably the single fishery in the world that is most constrained specifically to harvest sockeye salmon. And so it's -- and the late run Kenai and Kasilof sockeye. And so it's not open early in the season, it's not open late in the season during most of the coho run. So the chances of a steelhead being caught in that fishery are extremely small.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN PLEAGLE: Okay. I'll get right to you. I just had a comment to throw in about the bait issue.

While I know it's not targeting steelhead, but we did through a previous action
yesterday, we are allowing bait on the Kasilof through 31 October now, and so the opportunity to catch steelhead incidently with bait increases by a month and a half. So I just needed to add that into the mix.

Judy.

MS. GOTTLIEB: Well, and along the lines of bait, I mean, my recollection of the Kasilof is it's pretty turbulent, and so having bait, yeah, would increase the chances of catch, but that's what this is about, too, is to provide people that opportunity through our process to have a meaningful priority and catch the fish. And if we're keeping careful track of that catch, I'm not seeing the difficulty here.

MR. EDWARDS: Mr. Chair.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: I guess I personally think it kind of comes down to what Robin touched on. I mean, I think that we have a conservation issue here, or potentially one that both Boards should be addressing, both I think this Board as well as the Board of Fish. And it is as Robin says, it's kind of who blinks first. And I'm not sure that necessarily, you know, two wrongs make a right.

I find myself somewhat similar to where I was recently on the caribou issue down out of Cold Bay where I felt we had a conservation issue and we needed to restrict the subsistence harvest, but Keith pointed out to me that given the sport harvest that was going on, that would be very difficult to expect the subsistence users to bear the burden of that. Fortunately, the Board of Game also saw the conservation concern and recently took action to I think significantly affect that sport harvest down there which then I think allows us to continue to go again on a herd that probably has some serious conservation concerns.

But so now here we find ourselves I think in the same position where I feel that we shouldn't be allowing any more harvest on those as well as I don't think the State should take action. But now all of a sudden we're asking the subsistence user to kind of bear the burden while, you know -- and one could argue that the sport fisherman is getting sort of a free ride.
I do think it's a little different here, because certainly the Council has proposed this, but the proponent of it basically, as you can see on Page 90, more or less, I won't use the word withdrew, but their modification basically would eliminate that. So I think we can certainly be responsive to the proponent wants, and then hopefully our action might provide some motivation to the Board of Fish to take some follow-up action.

My sense is that if we don't -- if we do pass and start harvesting, that might force them to do something anyway for conservation, but, you know, I don't think that's the way we would like. I think that our goal is to try to get -- where we have opportunities is to get both Boards to recognize when there's an issue an try to bring our collective authority to address those. I mean, I guess Robin certainly has the authority to shut down the sport fishery if he wants to, if he feels that there's a problem. I know that that's not something that he wants to do, and that's certainly something that the State doesn't want -- wouldn't want us to do, and that's not something we want to do.

But I guess we do have a conservation issue, and I don't think we ought to necessarily be adding to it, or at least appear to be adding to that, and I guess maybe sometimes when one sets the examples, others would be willing to follow.

CHAIRMAN FLEAGLE: Thank you. Before I go further on discussion, we do have a request for Ninilchik's representative to speak. And public testimony is closed on this issue, but if anybody on the Board, you mentioned earlier talking about the proponent's desires and wishes about withdrawal. He's available to speak if somebody wishes. I just want to put that out. I'm not going to open it back up to public testimony, but the representative for the proponents is available to address that.

Keith Goltz.

MR. GOLTZ: I want to follow Gary's comments as quickly as I can, and assure everybody that under ANILCA conservation comes first. Always.

MR. LOHSE: Mr. Chair.

CHAIRMAN FLEAGLE: Ralph.
MR. LOHSE: I'd like to address a couple of the things that Gary brought up, and one of that he kind of pointed towards me, but asked Robin about just before. And that's what the difference is. And the difference is in a recognized priority. To me, it's -- I agree with Gary, and we have as -- in the Federal program, we have the ability to shut the Federal program down immediately if we recognize a problem. Currently from Fish and Game records, they figure we take about 28 steelhead every year on the average for the last six years. If we all of a sudden see a sudden increase through the Federal program, we have the ability to shut ours down. They don't.

But the idea is that if there is a population capable of being, I'll use the word exploited, the priority on Federal lands should be for the subsistence user. And if that in turn then brings this conservation concern to a higher level so that both parties address it, the -- as you can see by Ninilchik's willingness to withdraw, with the things that the Council has one in the past, there will be no objection from the subsistence community if for the sake of the fish, the fishery's closed, but it's hard for the subsistence community to sit and look at a sport fishery taking place on a stock of concern, if it is a stock of concern, or it becomes a stock of concern, and them not being allowed to do it. Now, they can do it underneath -- you can say they can do it underneath the sport fishery, and most of us do our stuff under the sport fishery.

But the difference is from the Federal standpoint, you are supposed to be giving a subsistence priority. Not an opportunity, but a priority. Or preference I guess is a better word to put for it.

So that would be my way of looking at it. And it would accomplish -- and, Gary, maybe it would accomplish exactly what you said. Maybe it would cause both parties to look at that small stock of steelhead even closer than they're looking at it today.

CHAIRMAN FLEAGLE: Other discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for a motion.

Let's go fishing. Council recommendation on Page 90.

(No comments)
CHAIRMAN FLEAGLE: Hearing no motion, we're moving on. Charlie.

MR. BUNCH: Mr. Chairman. I move that we accept the Southcentral Subsistence Regional Advisory recommendation to support Proposal FP07-10 with modifications.

MS. GOTTLIEB: I'll second.

CHAIRMAN FLEAGLE: All right. You may now speak to your motion, Mr. Bunch.

MR. BUNCH: I think it's a well-balanced proposal based upon the factors that Ralph just enumerated. It does give a subsistence preference, and there is more than adequate checks and balances on it in case the conservation of the stock becomes an issue. It seems to me to be a well-balanced proposal.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. I'm going to vote against the motion. I think we've heard from both the land management agency and our in-season fishery manager, that they have concerns with this fishery from a conservation standpoint. And while I said earlier that, you know, it -- I guess it troubles me to sort of place this, burden is probably an overstatement, but this responsibility on the back of the subsistence user, because I do agree with Ralph that they do need to come first. But I think when we do have a conservation concern, somebody needs to be willing to basically stand up and say that, and say that we should not be potentially adding to that. And again hopefully, you know, the State will recognize that also and maybe take the appropriate action. But I'm going to -- I'll vote against the motion, Mr. Chairman.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Thank you, Mr. Chairman. I, too, believe we have a conservation reason, and I think that rather than add to the situation, it would be in our best benefit to not move forward at this time, and hope that the State will follow suit and consider this in their process. And I will be watching that closely. So I just feel that there's been enough -- that enough concern from our in-season managers, and to add to this would not be in the best interest of the small steelhead.
Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Denny.

MR. BSCHOR: Yeah, Mr. Chairman. I have several points to make here. Once again the steelhead issue, once again we really don't have a real clear idea of what's going on, but we know there's a problem. And having worked in the Pacific Northwest with steelhead and other salmon species that were -- some of which were listed as specific runs, we don't want to get to that point. And while I really commend the Advisory Council and the Ninilchik Tribal Council for everything they've done to really recognize that there's a concern there also. The proposal's very good. The proposal is what I think we ought to be looking at honestly from the State, monitoring so we know what we have. If it's really a concern, let's find out. I don't think we should put that on the backs of the subsistence user either.

That said, I'm convinced, especially with the comments about the tenuousness of this run, that I would have to vote against this proposal.

CHAIRMAN FLEAGLE: John Hilsinger.

MR. HILSINGER: Thank you, Mr. Chairman. I just wanted to address I guess the preference issue, and the concern about steelhead.

And one of the things about the steelhead stock, and virtually all these steelhead stocks, is that there really is very little information. And I know that there's knowledgeable fishermen who believe that there are only steelhead in the Kasilof River, that there is no true rainbow trout population there. And that -- and we don't really know. And so basically you're talking about, you know, rainbow/steelhead trout less than 20 inches and greater than 20 inches. And so there is a harvest of these fish that has a preference in the salmon fishery. And so this adds kind of a second preference on what may turn out to be the same stock, and an additional harvest.

And so I think it's important to remember that we may be talking about the same animals here being caught in both these fisheries.

Thank you.
MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Just to follow up on John's comment, I mean, we've heard -- we've been discussing this for a while, and we've heard that there isn't a lot of information, but we've also heard I thought that the Department was collecting data on this particularly. I think we heard it back in November or so. So we're still real anxious to know when is that data going to be available for all of us to look over.

CHAIRMAN FLEAGLE: Thank you, Judy.

I'm going to weigh in on my comments. I see a chain of events, and I really appreciate where Gary's concerns on the conservation side of the coin are coming from, and I tend to agree with that.

But in this situation we have found that this stock has a customary and traditional use determination for Ninilchik. And the proposal here only allows what is being currently allowed under the State regulations. In fact, as it was pointed out, maybe even slightly more restrictive because of the household issue versus the individual issue.

And so by passing this proposal, we'll have a Federal regulation that essentially mirrors the State regulation, and I don't see where that is adding any potential harvest or effort, because they could still do it already. So why not have the regulation since we've already found a positive C&T for the community on the river. And that's the tracking that -- I mean, the thought process that I'm going to use, and I'm going to support the proposal.

Anybody.

MR. EDWARDS: Yes, Mr. Chairman.

CHAIRMAN FLEAGLE: Gary, go ahead.

MR. EDWARDS: I guess just two things in response, and I kind of want to echo what Denny said. The proposal, the original proposal and then the proposal that came before the Council, and I think there's no question that's a very modest proposal, and it really tried to look at the conservation as most of these
proposals that we are -- we have already looked at, and
that we are going to look at.

I guess, and I agree that the reality is
that there's probably nothing different, but I mean if
you think you have a conservation issue, I think at some
point you have a responsibility to stand up and
demonstrate that you think that. Because otherwise, if
you don't, it seems to me that you're just sort of kind
of going along because it doesn't make a difference. And
maybe it's more a matter of principle than it is
substance, because in reality the vote one way or the
other really isn't going to change the potential harvest.
I think it's just -- I think it's in my mind this Board
standing up and saying, you know, we shouldn't be
harvesting this fishery, whether it's under sport regs or
under subsistence regs, and that's what -- where we need
to be. And I think we need to be accountable for that,
and wiling to say that.

MR. BUNCH:

CHAIRMAN FLEAGLE: Charles.

MR. BUNCH: I agree with Gary. We should
be responsible, and I think that this proposal is
responsible. I seems to place a more restrictive catch
limit than what's allowed by the State, and the in-season
manager has a method to monitor it and know the status of
it.

As I understand the State regulation, all
you do is put it on the back of your license that you've
catched two of the things, and then, you know, unless
someone looks at your license, they never know how many
you've caught. So I think that this proposal is far
superior, and it does monitor the status and still gives
a reasonable opportunity for residents of Ninilchik.

CHAIRMAN FLEAGLE: It sounds like we're
ready for the question. It sounds like we're pretty
determined how we're going to vote, and we're trying to
convince everybody else that's how we're going to vote,
so maybe we should just do it.

UNIDENTIFIED VOICE: Question.

CHAIRMAN FLEAGLE: The question's
recognized on the proposal. Pete, please poll the Board.
MR. PROBASCO: Excuse me. Mr. Chair.

Final action on FP07-10, to adopt with modification as recommended by the Southcentral Alaska Subsistence Regional Advisory Council.

Mr. Edwards.

MR. EDWARDS: Nay.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Nay.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Nay.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: And Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Motion fails, three/three.

CHAIRMAN FLEAGLE: Thank you. That concludes our discussions on the Kasilof drainage. And we're ready to move into the Kenai River drainage issues.

Oh, Pete, go ahead.

MR. PROBASCO: Thank you, Mr. Chair.

Just to remind the public, now what we're moving into the Kenai, if you want to testify, please see Theo and fill out a yellow slip. Thank you.

CHAIRMAN FLEAGLE: And while we switch gears, why don't we take a brief at ease, get another cup of coffee.

(Off record)

(On record)
CHAIRMAN FLEAGLE: Good morning. We're back on record.

And, Judy Gottlieb, you had a question.

MS. GOTTLIEB: Thank you, Mr. Chair.

Doug, I thought maybe just as a recap if you wouldn't mind, could you explain now -- I guess we're -- by this last action, we have now mirrored what the State regulations say. And so my understanding of that is what we passed is more liberal than what was proposed by the RAC, and maybe you could just go through the aspects of it, please.

CHAIRMAN FLEAGLE: On Proposal 10, the steelhead issue, correct?

MS. GOTTLIEB: Thank you. Yes.

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Okay. Mr. Chairman. Ms. Gottlieb. Thank you. Doug McBride, OSM.

Ms. Gottlieb, you are correct. If you look back at Page 98, okay, that was the Council recommendation. As Staff understand the action, what was on the table was everything in bold. So it starts with additionally for Federally-managed waters of the Kenai River -- or, excuse me, the Kasilof River, and everything below that. That's what just failed.

So what is left is the existing regulation, which is in italics above that, and so that's Sections 27(i)(10)(4), you may only take salmon, Dolly Varden, trout and char under authority of a Federal subsistence fishing permit. Seasons, harvests and possession limits, and methods and means for take are the same as or the taking of those species under Alaska sport fishing regulations.

So by the last action, that is what is still there. And so harvest opportunity for rainbow/steelhead, 20 inches or longer, is two fish annually under sport fishing regulations, and that's what existed prior to this Board meeting, and what still exists for subsistence fishery. And so they would need a harvest permit and those fish would be recorded on the harvest permit.
MS. GOTTLIEB: And that would be two fish per person versus two fish per household.

MR. MCBRIDE: Yeah. And -- yeah, in terms of looking at the proposal that was just voted down, yes, it would be two per person instead of per household. There would be no marking requirement, nor any in-season reporting requirement.

CHAIRMAN FLEAGLE: All right. Thank you. We're now ready to move into the Kenai River drainage harvest regulations proposals. And we're going to start out -- we'll do these the same way we did the Kasilof River. We'll take all of the comments, analysis, recommendations, et cetera, for the suite of proposals and save Board discussion down to Item 7 for individual proposals.

So we'll start out with the Staff analysis. Doug.

MR. MCBRIDE: Mr. Chairman. There will be three presentations. First, Dr. Steve Fried will make that presentation on Kenai River Salmon. That will be followed by presentation on Kenai River salmon. That will be followed by presentation by Mr. Richard Cannon on Kenai River resident species. And then third and finally, I'll give a very brief summary of all of that at the end.

Mr. Chairman.

CHAIRMAN FLEAGLE: You bet. Thanks. Good morning, Steve Fried.

DR. FRIED: Good morning, Mr. Chairman. Board members. Kenai River salmon proposals are FP07-27b and c and 29. And you can find the original proposals in your book on Pages 110 to 112. There's an NTC proposed suggested modifications to those on Pages 102 to 104. And the Southcentral Council recommendation on 104 to 106.

And just bring it to your attention, the map on the screen here is the portion of the Kenai River that would be Federally-managed waters under these proposals. As you can see it's the portion of the river right below Skilak Lake, and then, you know, above Skilak Lake, and the upper river. Part of it is on the Kenai National Wildlife Refuge, and also the Chugach National...
Currently the State fisheries that are existing on the Kenai include a personal use fishery, which is targeted on sockeye salmon. There's an educational fishery for chinook, sockeye and coho salmon. There's commercial set net and drift gillnet fisheries that are primarily targeted on sockeye, and there's also sport fisheries for chinook, sockeye and coho salmon. You can see some more information on that on Pages 116 to 117 in your book.

I'll provide a little bit of background on the biology and harvest for the sockeye, the chinook and the coho.

Sockeye information is on Pages 119 to 122. For sockeye salmon, there are escapement goals in place for both early and late components of the run, and these are assessed by sonar projects. The early run primarily spawns in the Russian River. Sustainable harvest level for this run is probably in the tens of thousands. There's some harvest information on Page 120 in Table 1.

The late run of sockeye spans throughout the drainage. It's a much larger run. Sustainable harvest level is usually greater than two million. There's harvest information on Table 2 on Page 121.

For chinook salmon, there's Pages 122 to 127 in your books. There are escapement goals in place both for the early and the late runs, and they're both assessed by sonar. The early run spawns mainly in tributaries. Sustainable harvest level is probably around 8,000. There's tables with data, Table 3 on Page 123 for the early run.

The late run chinook salmon spawn mostly in the main stem. It's a larger run. The sustainable harvest level is about 20 to 30,000. Table 5 has information on the harvest. It's on Page 125.

In Federally-managed waters, which are generally, you know, above Moose Meadows area, there's usually only a few hundred early run chinook that would be available. There have been some studies done that we're basing these numbers on, Table 4, Page 124.

In contrast to that, late run chinook
there's probably several thousand of these that spawn in Federally-managed waters within and above Skilak Lake. And the table that this is based on, the data is on Table 6, Page 126. So there's quite a bit more of the late run that would be available in Federally-managed waters than the early run.

Moving to coho salmon, it's pages 127, 129. There isn't an escapement goal for coho, but there is an assessment program that's currently in place. It's using mark/recapture techniques, but it's a very recent program. There's not a long series of data for that.

The run now appears to be in good condition, but it was rebuilt through harvest restrictions beginning in 1997. The sustainable harvest level is likely in the tens of thousands, but this is only as long as the run stays at about 130,000 or more. There's harvest data on Table 7 on Page 128.

Moving to the effects of the original proposals on Page 131, we had very similar concerns on these proposals as we did for the Kasilof salmon proposals. One, that it would not be possible to limit gillnet use to community fisheries. And since it wasn't possible, then widespread gillnet use doesn't lend itself to selective harvest of species or stocks. And the original proposals had no provisions for marking harvested fish or for in-season reporting.

Moving along to the analysis of the Regional Council recommendation, which is on Page 104 to 106, basically we support the Regional Council recommendation of FP07-27b and c with modification, and also support the recommendation to take no action then on Proposal FP07-29.

The effects of the Council recommendation, which you can find on Page 132, would be to create household dipnet, rod and reel fisheries at two sites in the Kenai River and one site in the Russian River. And it will allow harvest of sockeye salmon at all three sites, and it would allow harvest of late run chinook, coho and pink salmon only at the Kenai River sites, so not at the Russian River site. And I've got some maps following to help you visualize some of this.

The Russian River site, fishing would be from the Russian River Falls downstream to the upstream boundary of the current sport fishing area. And it's
only non-motorized access is permitted to get to this site. And there’s also probably some permit restrictions that would include, you know, people avoiding human/bear contacts.

And one thing to note here for the Russian River is that the proposal in your books talks about the site being from the base of the falls down river. And last Friday Forest Service personnel, OSM and Fish and Wildlife personnel went to take a look at the site, and they’ve got some suggested modifications for this site, to actually move it upriver a little bit. And I think there's going to be some suggestions on modified language to do this.

The next site would be the two Kenai River sites. One would be at the Moose Meadows area. And fishing would be allowed here approximately from river mile 29 downstream about 2 and a half to river mile 26.5. And here dipnet fishing would be only from a boat. And this is to avoid damaging some of the fragile riverbank habitat in this area.

The third site would be -- could you move back a couple? At the Killey River -- no, one more. There you go. -- which is right below Skilak Lake. And that would be fishing from about river mile 48 downstream about 2 and a half miles to river mile 45.5. And here it would allow dipnet fishing from a boat or standing in the river.

So those are the three proposed sites that this dipnet, rod and reel fishery would occur at.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Steve, could I just ask you on the Russian River Falls dipnet site, so I mean most people picture the Russian River, and people sport fishing shoulder to shoulder or worse. We're not talking about that area. In fact, we're probably not talking about an area where there would be any, or very many sport fishers?

DR. FRIED: That's correct. It's actually above the area where sport fishing is allowed. This actually separates the subsistence fishing from the sport fishing totally, unlike those other two Kenai River
areas where they have to co-exist.

MR. EDWARDS: Mr. Chairman. We're asking questions, and I'd like to -- so that fishery, what does it take to get into that fishery, and what's involved at that Russian River fishery?

DR. FRIED: There's a designated parking area, and then there's about -- I think it's about a 45 minute walk to the site. And then you'd have to, you know, get down a slope, some slopes to the river. So it will take a little bit of effort since there's no motorized access that's permitted, but it's very doable, you know, if somebody wanted to do it.

MR. EDWARDS: So given that during the height of the sockeye fishery it's -- getting into the Russian River campground is always difficult, and finding parking is even more difficult, will there be a designated reserved sites for subsistence users or.....

DR. FRIED: Not that I'm aware of.

MR. EDWARDS: .....will they have to park out on the road or what?

DR. FRIED: Well, they have to park in the parking lots within those -- you know, some place within the campground there.

MR. EDWARDS: But if they can't get in, then what do they do? I mean, oftentimes, you know, you wait for hours to try to get a parking space, and certainly to try to get a camp site if you haven't put in your registration the 280 some days in advance, you can't get in there.

DR. FRIED: People are pretty adaptable, and they could probably figure it out, but, I mean.....

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. I was on that recon in fact that went into the Russian River on Friday. It was OSM and Forest Service Staff.

That subject came up. We had a lot of Forest Service Staff there that are -- that directly manage that whole campground area. And the access to the falls, you could get to it two ways. The hard way would
be to go clear into the campground and go upriver. The much easier way is to go to the trailhead that goes up to Russian Lakes. And, I mean, there's definitely parking issues and issues with getting into the side. But the access into the trailhead area is less than getting into the campground area. But, you know, when it's all said and done, I mean, basically people have to get into the site and their -- subsistence users access into that site would be no different than anyone else's, and so, you know, if you tend to go on a weekday rather than a weekend, you get a lot quicker and those kinds of things.

Mr. Chairman.

MR. EDWARDS: I guess two questions. You still have to wait there at the main gate and go through that line in order -- don't you, in order then to get to the parking lot?

MR. MCBRIDE: Yes, there's only one way in and that's through the gate. Correct.

MR. EDWARDS: Have you ever tried to get in that gate during that early run?

MR. MCBRIDE: Mr. Chairman. Mr. Chairman. Mr. Chairman. Mr. Edwards. Yes, I have on several occasions, most recently last year we took videographers actually into the Russian River Falls. So we went during about the third or fourth week of June, which would be exactly when you'd want to dipnet. It was during the week. There was a line there, but it wasn't excessive. There was several open parking spots at the trailhead, and we walked in and did our work and came out.

Mr. Chairman.

MR. EDWARDS: Can you ride a bike into that area? I see it's non-motorized, but apparently you can ride a bike, a dipnet fisherman could ride a bike to it?

MR. MCBRIDE: Mr. Chairman. That's correct.

DR. FRIED: Okay. Some of the other effects of the Council recommendations. You know, there would be set seasons for the fisheries, annual harvest limits, household limits, and also it would allow the Ninilchik households to reach their household limits by
fishing, you know, in the Kenai and the Kasilof both. It doesn’t double their limit, but they can get their limit by fishing in both places.

It would allow the incidental take of rainbow and Dolly Varden less than 18 inches at only the Kenai River site, not the Russian River site.

And for the existing rod and reel fishery, it would increase the salmon bag limits, but it does retain the size restrictions that are currently in existence for all the species.

It would allow use of two baited, single or treble hooks for all rod and reel fishing. It also provides for permits, for in-season reporting, and for the marking of all harvested fish by removal of their dorsal fin.

And finally, it excludes provision for a community gillnet fishery.

The OSM preliminary conclusion, which you can find on Pages 133 to 135, is to support Proposals 27b and c with the modification as recommended by the Southcentral Alaska Regional Advisory Council, and to take no action on Proposal 29 as recommended by the Southcentral Council.

And the justification, which is on Pages 135 and 136, is that the Southcentral’s modified proposal does fulfill all the criteria in ANILCA 805(c), consistent with the available information. It does address conservation principles for the stocks and species that would be harvested and affected. It increases subsistence fishing opportunities, and does provide a priority for Federally-qualified users.

Thank you. I can take any more questions.

CHAIRMAN FLEAGLE: Thank you. Questions.

Gary.

MR. EDWARDS: Mr. Chairman. Just one question. On the site below Skilak, that starts above the upper Killey, right? So it goes from below the lake to the upper Killey, or what exactly -- or from the upper Killey down, or what?
DR. FRIED: The one right below Skilak?

MR. EDWARDS: Yes.

DR. FRIED: Yeah, we're avoiding -- one, there's that sensitive swan nesting area, so it starts below that. I mean, we tried to do it by river mile. I don't know if we need to go back to the map or not, but.....

MR. EDWARDS: Maybe Robin could be more specific, but you said the Killey. There's both an upper and a lower Killey, but the lower Killey is actually outside of the Refuge I believe.

DR. FRIED: Right. You can on the map in front of you where the Killey is, so it's basically above, you know, upstream of the Killey quite a ways.

MR. EDWARDS: All right. So basically it goes from upstream, a little bit upstream of the upper Killey to the Refuge boundary, right?

DR. FRIED: Well, it's upstream of the Killey and then it goes upstream until, you know, about river mile 48. So it's about two and a half miles of right.

MR. EDWARDS: Okay. Right.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I have a question for Steve or perhaps. Doug. My understanding is, I mean, there are a number of State restrictions on parts of the Kenai River having to do with motorized use, protection for spawning areas, swans, et cetera. So all of these proposed regulations are predicated and based on incorporating those regulations as well, is that correct? And maybe you could go through what a couple of them are so everybody understands.

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Mr. Chairman. Ms. Gottlieb. Yes, that's correct. There's nothing in the Council's recommendation that would supersede other regulations that you refer to. Probably the -- there's
probably three major ones that we're aware of. One is in sport fishing regulations. There is a spawning season closure for rainbow trout that goes from May 2nd I believe to June 10th. And what that does is it prohibits fishing for rainbow trout, which obviously precludes any retention of rainbow trout during that time frame. That regulation would clearly apply to subsistence fishing.

The other major ones have to do with motor restrictions. There's a motor restriction as part of the Kenai River Special Management Area that goes from the outlet of -- actually that map there that's on the screen. It goes from the outlet of Skilak Lake downstream three miles, and it goes from I believe March 15th to June 15th. So you can fish in that area, but you have to do it without a motor. And again, nothing in these proposals would supersede that.

And the other one again which is a motor restriction in sport fishing regulations, below Skilak Lake, you cannot fish from a motorized boat on Mondays during May, June and July except for Memorial Day. And that would also apply to -- there's nothing in these proposals that would supersede that as well.

Ms. Gottlieb.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Thanks. We'll go ahead and turn it over to Rich Cannon for the second report.

MR. CANNON: Thank you, Mr. Chairman. For the record my name is Richard Cannon.

I will be presenting the Staff analysis for Fisheries Proposals 11, 12, 13, 27d and 29 for Kenai resident species. The Staff analysis is presented on Pages 139 through 170 of your briefing books.

If the slides could catch up here. Mr. Chairman, we have a little technical difficulty with our projector. If you'd give us a few minutes, we probably can fix it, or I can wing it without it. But I think if you give us a few minutes, we can get it back on track.

CHAIRMAN FLEAGLE: Sure. We'll take a
brief at ease.

(Off record)

(On record)

MR. CANNON: Mr. Chairman. We've got our PowerPoint presentation I think back on track, and we're back on the record.

And I was going to point out the extent of Federal public waters is shown in a series of maps for the Kenai drainage. Maps 1 through 4, beginning on Page 147, detail the boundaries of the Kenai National Wildlife Refuge, Chugach National Forest, and Kenai Fjords National Park in relation to the Kenai River drainage.

Existing sport fisheries in the Kenai River drainage for Dolly Varden, Arctic char, rainbow, trout and lake trout are growing and are some of the largest in the state, supporting tens of thousands of angler days. While catches are in multiple thousands of fish annually, harvest rates are in the hundreds of fish. Current management of these fisheries is very complex and has been modified numerous times over the last two decades. Underpinning current management is the strategy of shifting harvest to smaller, younger fish, while retaining the larger brood stocks that carry more eggs via size limits that require catch and release of larger fish.

Data on abundance and distribution of species and stocks is incomplete, but more is known about relative abundance, distribution and stock structure than for most other systems in Cook Inlet.

There is convincing evidence, especially for rainbow trout and lake trout, that past management practices that allowed harvest of larger brood stock negatively affected the productivity and therefore the sustainability of these rapidly expanding fisheries. Current management for Dolly Varden, Arctic char restricts the harvest of larger fish.

Historic catch data is provided in Table 1, Page 153, and historic harvest in Table 2 on Page 154. From the catch and harvest records we obtained, it appears that most fishermen practice catch and release with only about 1 to 2 percent of the Dolly Varden caught are actually harvested above Skilak Lake, and about 10
percent harvested below Skilak.

Both Dolly Varden, which migrate to the ocean for a portion of their life history, and Arctic char, that remain in fresh water throughout their life, occur in the drainage. Arctic char have been identified in some lakes in the Kenai watershed, while Dolly Varden occur through flowing waters and the major lake systems, and are more abundant.

Based on tagging studies, Kenai River Dolly Varden are comprised of many small discrete spawning populations that exhibit complex seasonal migration patterns. Spawning occurs in the fall. Migration from the ocean occurs in late summer and fall. Although Dolly Varden will rear in most river and stream habitats through the summer and fall, higher concentrations have been identified between Kenai and Skilak Lakes and the main stem between Skilak and the Killey River. Dolly Varden will winter primarily in the large lake systems, and out-migration in the spring and early summer months.

Total abundance estimates are not available for Dolly Varden or for Arctic Char.

The history of the rainbow trout fishery in the Kenai River over the last two decades is helpful in focusing on the importance of fine scale management of species, stocks and size classes that form the basis of conservation plans for Kenai resident species.

Historic harvest and catch data for rainbow trout is provided in Tables 3 and 4, Pages 156 an 157. The shaded areas represent areas that include Federal public waters.

For many years management focused on harvest opportunity of larger fish. Rainbows became reproductively active as they each a length of about 14 inches at an age of three to five years. About 50 percent of rainbows appear to spawn when they reach 14 inches, 70 percent at 16 inches, and then over 90 percent when they are 20 inches or larger.

In 1984 and '85 anglers could harvest three fish greater than 20 inches. All of these were spawners. Bag limits were incrementally decreased through 1990 with anglers only being able to harvest one fish greater than 20 inches. Annual harvest during this
time frame ranged from about 250 to 1150 fish from the upper river and averaged 670 fish.

A tagging abundance estimate for the upper river index area was done in 1986 and '87. The 1987 estimate of abundance from the Russian River confluence to Jim's Landing was 3500 fish greater than 12 inches, and approximately one-half, or 1800 fish were greater than 16 inches. These numbers suggested a significant cropping of the spawning population. A summary of abundance estimates for rainbow can be found on Table 6 on Page 162.

Regulations became increasingly restrictive. In 1991 and '92 only one fish greater than 24 inches could be retained. From '93 through '96, only one fish greater than 30 inches was allowed. By 1997 the fishery was restricted to catch and release only.

In 2001 a second abundance estimate was made for this study area. Abundance of trout greater than 12 inches increased to nearly 7,000 fish, or double that observed in 1987. Biologists believe that the major factors exploiting this increased abundance were the size restrictions and reduced harvest of spawning fish.

Regarding what is known about the biology of rainbow in the Kenai watershed, two genetically distinct stocks of rainbow trout have been identified. However, both the upper stock group that inhabits primarily Kenai Lake downstream to the inlet of Skilak Lake, including major tributaries such as the Russian River, and the lower river stock group from Skilak Lake downstream basically down to Soldotna, both over-winter in Skilak Lake. Tagging studies have shown that by early December most tagged rainbows usually will take up residence in the lake.

Rainbows move out of the lakes in the spring to seek spawning sites in the main stem or tributary streams. The Russian River appears to be an important spawning area for rainbow trout.

Summer and fall distribution of stocks is closely related to the timing and location of spawning salmon, which provide a major food source for rearing rainbows.

The inlet of Kenai River in Skilak Lake appears to be an important staging area for rainbows in
the spring and in the fall.

Four estimates of rainbow trout abundance for selected index areas, as I mentioned, have been conducted in the upper Kenai since 1986. Again referring to Table 6 on Page 162, area biologists believe that an index area from the Russian River to Jim's Landing represents from one-third to one-half of the total upper river population. If that's so, a total population estimate for the upper river above Skilak Lake would be about 17,000 to 25,000 rainbow trout.

Age and size structure observed in lake trout stocks exhibit trends seen in other stocks in Alaska that have been over-exploited. The fishery occurs primarily during the fall and spring periods at the outlets of Kenai and Skilak Lakes, and in Hidden Lake during the winter ice fishing and the open water period.

Historically the bag and possession limits were liberal, allowing 10 fish per day. In 1997, due to concerns about the stocks, bag limits were reduced to two of any size in Hidden Lake, and two fish 20 inches or larger in the remainder of the drainage. For smaller fish, less than 20 inches, the limits are still 10 fish per day with 10 in possession.

Trends in harvest for Hidden Lake are provided in Figure 3 on Page 159. Table 5 on Page 160 provides harvest data for the drainage.

This information suggests that harvest in Hidden Lake has declined by nearly two-thirds from the historic mean of 1,076 to 383 over recent years. Harvest in Skilak and Kenai Lakes have remained more stable.

Very little is known about lake trout biology in the Kenai watershed. No abundance estimates have been made. Some size and age structure data has been collected for Hidden, Skilak and Kenai Lakes. What is known is that they are long-lived, slow growing species with high potential for over-exploitation. Given their relatively low reproductive potential, sustainable harvest rates should be less than probably 10 percent.

Proposal 27d creating a winter jig fishery could provide for species, stock and size selective management of resident species. However, Proposals 11, 12, 13, and 29, which would establish gillnet fisheries, are not considered feasible as species
and spawners of critical size would be subject to excessive exploitation. Adopting the requested gillnet regulations would provide for winter subsistence fisheries with gillnets in lakes under Federal jurisdiction, as well as allowing gillnetting for resident species in all Federal public waters during the open water season. Attempting to create species-specific fisheries with mesh restrictions as proposed in Proposal 29 we believe is not workable as species and spawners of critical size are commingled.

Extremely liberal limits that ignore size restrictions will have a deleterious effect on the current stock status. Abundance and composition of lake trout, Dolly Varden and rainbow trout have all been shown to be sensitive to excessive harvest.

As proposed, no provision for marking subsistence-caught fish would be provided in any of these proposals.

The Southcentral Regional Council recommendation, found on Pages 141 and 142 would support Proposal 27d with modification, and take no action on Proposals 11, 12, 13 and 29. Those are the gillnet proposals.

The effects of the Council recommendations begin on Page 166. The Council's recommendations would modify Proposal 27d by increasing the bag and possession limit for lake trout for the existing rod and reel fishery, including the winter jig fishery, to four per day, four in possession for lake trout 20 inches or longer, 15 per day and 15 in possession for lake trout smaller than 20 inches. In addition, the daily bag and possession limit for Hidden Lake would increase to four per day, four in possession for fish of any size. Marking for subsistence caught fish by removal of the dorsal fin would be required.

In addition an increased opportunity for incidental harvest of these resident species would be allowed in the salmon dipnet fishery that Steve Fried talked to you about.

Current rod and reel bag and possession limits for Dolly Varden, Arctic char and rainbow would be continued.

The OSM Staff supports the Regional
Council's recommendation basically to support Proposal 27d as modified by the Southcentral Alaska Regional Council, and then to take no action on Proposals 11, 12, 13 and 29.

Staff believes that the Council's recommendation fulfills all criteria under ANILCA. We believe it is consistent with available scientific evidence, and address conservation principles for affected stocks and species. We also believe that the recommendation increases subsistence fishing opportunity and provides a priority for Federally-qualified users.

That ends this part of the presentation.

Board members. Judy.

MS. GOTTLIEB: Mr. Chair. Thanks, Rich.

That was really helpful.

Do you have any statistics on mortality as a result of catch and release on these rainbow trout?

MR. CANNON: Ms. Gottlieb, there have been no studies done in the Kenai River. There have been studies done in other systems, and usually in cold water systems, the mortality is significantly less than in warmer water systems. So we think that probably in the Kenai with the colder temperatures that the mortality's probably, you know, relatively low on catch and release.

CHAIRMAN FLEAGLE: Other questions.

Gary.

MR. EDWARDS: I guess I want to bounce back. Could we go back to both the salmon also?

CHAIRMAN FLEAGLE: Sure.

MR. EDWARDS: What I was trying to understand on the resident species with regards to methods and means. What is allowed with regards to the use of bait, and to number of hooks, types of hooks and all. Where would I find that?

CHAIRMAN FLEAGLE: Doug McBride.

MR. MCBRIDE: Yeah. Mr. Chairman. Mr. Edwards. Actually probably the best way to understand
that would be to go through the summary presentation and look at Table 2 on Page 174, because that pulls all this information together so you can look at the salmon fisheries and the resident species fisheries and how they interact and what's allowed and not allowed.

So if I may, Mr. Chairman, I'll.....

MR. EDWARDS: I have one other question before you do that. On the coho fisheries, is it going -- does it end before the sport fishery ends or is the sport fishery for coho going to end on September 30th this year, because the last couple years it's extended into about August 15th or so I think.

MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

That answer is in two parts, because there's two fisheries for subsistence fisheries. There's a dipnet fishery and there's a rod and reel fishery. So looking at Table 2 on page 174, on the left-hand, the far left-hand portion of that table, you see the species.

So I'm going to coho salmon, which is roughly in the middle of the page. That upper left section there relates to the dipnet fishery. Okay. And coho salmon, there are three dipnet fisheries. There's two below Skilak Lake and one at the Russian River. The Russian River fishery is only sockeye salmon. There's no other incidental harvest of any other salmon or resident species in that Russian River dipnet fishery.

So for the two dipnet fisheries below Skilak Lake, the one at Moose Range Meadows, and the one at the Mile 48 site, you could harvest coho salmon in the dipnet fishery from 16 July to September 30, total harvest quota of 3,000, a household/dependent limit of 20 per head of household, and five for each dependent. That's consistent with the request from Proposal 27c.

In addition to that, if you move across the table, there is a rod and reel subsistence fishery. That would be open at all times and all places that the sport fishery is open, so that would not stop on September 30th, but it would stay open as long as the sport fishery was open. And everything would remain the same except in the subsistence fishery as recommended by the Council, there be a double bag and possession limit, so that would be four a day an four in possession, except at the Russian River where it would be two a day and two in possession.
And, Mr. Edwards, you asked about bait.
The Council recommendation includes for that rod and reel fishery the provision for up to two baited hooks below Skilak Lake January 1 to August 31. Above Skilak Lake there is no exception in the Council’s recommendation, so the terminal tackle would be -- above Skilak Lake would be completely consistent with sport fishing regulations, which would be artificials only, and fly fishing only in the Russian River.

Below Skilak Lake, it would be up to two baited hooks, January 1 to August 31. And that does differ from sport fishing regulations. And if you want me to, I'll get into it, but it gets down into the ends of the branches of the trees, because it's complicated.

MR. EDWARDS: And what about Skilak Lake itself, what's the terminal tackle restrictions, or are there?

MR. MCBRIDE: Mr. Chairman. I believe in Skilak Lake, because the terminal tackle regulations in the sport fishery are different between flowing waters and lakes. I believe it's just normal sport fishing gear year round, which is up -- allows up to two hooks and bait in Skilak Lake itself. The restrictions in the sport fishery I believe are for flowing waters, which would then be from the outlet down.

MR. EDWARDS: And that would apply on Kenai Lake as well, right?

MR. MCBRIDE: I believe so.

CHAIRMAN FLEAGLE: Other questions.
(No comments)

CHAIRMAN FLEAGLE: All right. Thanks.

And we'll go back to Doug for the summary.

MR. MCBRIDE: Thank you, Mr. Chairman.

Again looking at Table 1, like I say, this is an attempt to try to pull all these pieces back together in terms of how they would work. And we just went through the example for coho salmon. Let me just finish the summary for salmon.

So like I say, what you see there is there's a dipnet fishery and a rod and reel fishery.
Looking it by stock and by species, for early run chinook, there is no dipnetting opportunity. There's only a rod and reel opportunity. The reason for that is conservation-based.

If you'll remember back, there's two things going on with early run chinook as it relates to Federal waters. First, these are primarily tributary spawners and so they're primarily going to the Funny and Killey Rivers, and so most of these fish have peeled off, you will, before they get into the majority of Federal waters.

And then in addition to that, if you remember back to the early run chinook salmon management plan, the State regulation, part of the conservation definition in there, there's an escapement goal, but there's also the requirement to preserve the unique size of these fish. And that's where that slot limit comes from.

So the subsistence fishery, as recommended by the Council, would be by rod and reel only. And that slot limit is one of those sport fishing regulations that would remain in effect for the subsistence fishery.

For late run chinook, they're primarily tributary spawners. There's many more of them in Federal waters, so that's why you now see there's a dipnet harvest opportunity on that stock, as well as the rod and reel fishery.

The total harvest quota and household limits are as requested. And if you'll remember back to the discussion that we had about does this or does this not provide for subsistence priority, we're now looking back all the way back to the original request in the original proposals, and this 1,000 and the 10 and 2, that comes right out of the original request.

Sockeye salmon, same thing. There's a dipnet fishery with a harvest quota of 4,000, a household/dependent limit of 25 and 5, a season of June 15th to August 15th. That would be in all three dipnetting sites. In addition to that, there would be a rod and reel fishery with double bag limits.

We already went through coho salmon. Pink salmon follows along.
Now, for resident species.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN PLEAGLE: Judy.

MS. GOTTLIEB: Just one more question, Doug, about the salmon. And each one of those does have a marking requirement?

MR. MCBRIDE: Yes. For all of these, for everything, the Council recommendation includes the marking of these fish by cutting of the dorsal fin. And then as far as the reporting requirement, all this would be recorded on a permit and there would be an in-season reporting requirement for the dipnet fishery of 72 hours.

The resident species, probably the best way to explain this is where does it differ from what exist -- from sport fishing regulations. And it differs in two places.

If you look right in the middle of the table, you'll see other species as part -- it's right under the salmon. And this does not apply to the Russian River Falls area, but in the two dipnet fisheries below Skilak Lake, as recommended by the Council, in that fishery subsistence users could incidently harvest rainbow trout and Dolly Varden less than 18 inches. So only the incidental harvest of those two species less than 18 inches in the two dipnet fisheries below Skilak Lake. That's one place where the Council recommendation differs from existing sport fishing regulations.

The other place is if you go all the way to the bottom of the table and go clear to the right-hand side, you'll see for lake trout that there's a rod and reel fishery for lake trout with double the existing bag and possession limits.

There is a rod and reel fishing opportunity for subsistence fishery for both Dolly Varden and rainbow trout, but per the Council recommendation, that rod and reel fishery would be completely consistent with sport fishing regulations in terms of the annual limit for rainbow trout 20 inches or longer and the bag limits and the possession limits. That would all be as it is right now, consistent with sport fishing regulations for those two species.
Mr. Chairman. I think I probably already
have covered the question of does this provide for the
subsistence priority. Certainly the Staff assessment is
the Council recommendation does do that in that virtually
all of the annual harvest, total annual harvest quotas,
virtually all of the household limits and all the gear
types, except the widespread use of gillnets, are
provided for in their recommendation.

Mr. Chairman. Just one last point. At
the Council meeting, again there was discussion of
development of fishwheel fishery, and identical to what
we went through with the Kasilof River, there was a
request to staff to develop a proposal in the '08 cycle
to look at a temporary fishery for fishwheels in both the
Kenai and Kasilof Rivers. We did that. That proposal is
part of the package at least that will go to the Council
this fall.

And then there was one additional issue
that came up at the Council meeting and the stakeholder
meeting. There was a fair amount of interest in also
looking at development of a dipnet fishery at Hidden
Creek and the Council asked Staff to further flesh out
issues associated with that, and there's issues
associated with increasing the stocking into Hidden Lake
of sockeye salmon, and then development of infrastructure
at Hidden Creek parking lot, hardening of the banks,
those kinds of things, and Staff will be doing that this
summer and bringing that report to the Council in the
fall as well.

Mr. Chairman. That concludes all the
Staff presentations on this, and we'd be happy to answer
any questions.

MR. EDWARDS: Pete. Mr. Chairman.

CHAIRMAN FLEAGLE: Gary, go ahead.

MR. EDWARDS: Getting back to the
question on hooks and bait, so I guess I read the
regulation that between September 1st and December 31st,
you cannot use treble hooks and bait below Skilak?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards.
I believe below Skilak Lake, in a portion -- well, in the
portion that would relate to the Federal waters above
mile 45.5 during the period September 1 to December 31 in
sport fishing regulations, only unbaited single hook,
artificial lures. So one hook and no bait in the sport fishery in that section of the river.

MR. EDWARDS: Well, so the answer to my question, that was a yes?

MR. MCBRIDE: Yes.

MR. EDWARDS: But isn't there times those that the State on the coho fisheries does open it up to use of eggs? I think at times depending upon the run and all. Would that allow subsistence user to use eggs for coho or not? I guess, I mean, what happens, you know, when the State makes an in-season change on their sport regs. Certainly subsistence users with sport licenses could obviously utilize that, but what happens to the subsistence user. They wouldn't be able to follow suit on their subsistence permit.

MR. MCBRIDE: Mr. Chairman. Mr. Edwards. Right now, the existing subsistence fishery is a rod and reel fishery that mirrors sport regulations in every regard. So as the sport fishery changes, so does the subsistence fishery.

As recommended by the Council as far as bait and terminal tackle for below Skilak, the recommendation is to allow up to two baited hooks from January 1 to August 31. So if sport fishing regulations changed during that time frame, it would not change the subsistence fishery.

From September 1 to December 31, since there is -- since the Council recommendation only goes through August 31, then it goes back to the default of sport fishing regulations. So the existing sport fishing regulations are as I previously read. If they change them after September 1, that would change the subsistence fishery as well.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Thank you, guys, for the reports.

Summary of written public comments.

Donald Mike.
MR. MIKE: Thank you, Mr. Chair. The summary of written comments starts on Page 186 to 216. And I summarized the written public comments that covers both the Kenai and Kasilof Rivers. So if it is the wish of the Board, I can resummarize on record what I stated yesterday.

Mr. Chair.

CHAIRMAN FLEAGLE: Sure. Please do.

MR. MIKE: The Office of Subsistence Management received 33 written public comments. Comments were received from individuals, sport/commercial fish, or non-profit fisheries organizations, and local advisory committees.

One local advisory committee unanimously accepted and adopted the Federal Staff analysis on Pages 4 through 6 dated February 22, 2007 as their own.

Seventeen individuals are opposed to all the proposals in general.

And one individual wrote in support of the subsistence fisheries proposals for the Kenai and Kasilof Rivers.

Two of the commenters stated that the only viable solution for a subsistence fishery would be through a manned fishwheel.

And two commented in support of the subsistence dipnet fishery.

One commenter stated that they would support a jig fishery as long as the harvest limits are responsible and within biological limits.

Two commented that rod and reel will be an ineffective method and dipnet fisheries will also be an impossible method in clear shallow water.

The overall theme on the comments received opposed a gillnet fishery on the Kenai and Kasilof River drainages, citing conservation concerns and the economic impact it will have on the sport fishing industry, and that a gillnet fishery is an indiscriminate method of harvesting fish other than a targeted species.
Thank you. Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Donald.

Questions.

(No comments)

CHAIRMAN FLEAGLE: Appreciate the report. Pete, I understand we don't have anybody interested in testifying?

MR. PROBASCO: Oh, you wished. No, just kidding, Mr. Chair. Right now we have seven individuals signed up. And I have shuffled the deck here, and the first person up will be Andy Szczesny, followed by Les Palmer, and then Darrel Williams. Mr. Chair. Andy Szczesny.

CHAIRMAN FLEAGLE: Andy Szczesny. Good morning.

MR. SZCZESNY: Thank you, Mr. Chairman. My name is Andy Szczesny for the record.

I have just a few comments, and some concerns. One of them is in Cooper Landing. It has changed in the last 15 years, and a lot of the change that has occurred there has to do with the influx of Princess Lodge, cruise ships, and it's very -- it's grown in the last 15 years.

I have a concern with the access to the Russian River Falls fishing area. If I was a subsistence user, I would be very concerned about that. I fished up there for almost 30 years, and probably on an average of 120 days a year up there and below Skilak, so I'm familiar with the areas.

The area that's proposed for the dipnet fishery has basically in the last 10 years has turned into a bear viewing area. So if I was a subsistence user going down there. Since it hasn't been utilized as a sport fishery, because that's been a closed area, the bear have kind of moved in there, and they have that area to themselves. And so that's another concern that I would have on that area. And if I was a subsistence user, it would concern me.

A couple of other things is the baited hooks. Double baited hooks during the rainbow closure.
concerns me, especially when we have size restrictions on
you can only take a fish under 18 inches, but you're
using baited hooks. It kind of goes against the grain
for me as a fisherman.

One of the other concerns is, is that
tourism is one of the lifeblood of Cooper Landing.
Probably most of the residents of that area make their
livelihood on that. The influx of people fishing that
system in the last 50 years has grown. When I started
fishing that, there was nobody there after I would say
August. Now, the parking lots are completely full all
the way into the end of October.

Now, that -- I mean, it's really hard for
me to convey to you the high use of this area, and it's
going to be difficult for subsistence users to actually
have the access that they need. And I think it's going
to create problems for the managers. I mean, can you
imagine if a subsistence user goes up there, cannot get
into the park. I've seen the cars parked all the way out
to Gwen's Lodge, which is a half a mile down the road.

Mr. McBride said he went there during the
week. That's true, the week would be the best time to do
that, but that's not always true. And during the
weekend, forget it. I don't even fish there on the
weekends any more, it's so bad.

Below Skilak Lake, there is a high use of
sport fishing. And you have to utilize that system with
a power boat during the summer when you can after June
15th. To utilize that area before that with a drift boat
is very difficult, number 1. You have to go across the
lake a mile. You can't use a motor in that system, the
water's very low.

And what I'm trying to do is just convey
to you the difficulties of these fisheries for these
people. And I want everyone to be very aware of them,
because you're going to probably in the future hear of
some of these concerns from the subsistence users, since
they have a priority.

And I think that it's probably best any
time that you can to mirror State regulations, because
this system has been micromanaged for 20 years. and to
tell you the truth, I don't know all the regulations, and
there's times during the season I have to call the Fish
and Game office to get clarification, and most of the
time they don't know. And it's not their fault. I mean, these regulations completely keep changing every so many years, sometimes during the season.

So I would really hope that you guys, when you can, mirror the State regulations for enforcement purposes, and all of it.

But my biggest concerns are the double-baited hook in the areas where you have a spawning closure, but you have the system open for Dolly Varden. The Dolly Varden since I've been instrumental in a lot of the studies for Dolly Varden and rainbow trout with Fish and Wildlife and Fish and Game, I know a little bit about their movements. And the Dollies really don't get into the system, and they congregate at the mouths of the river following the salmon in early June.

So before that time, during the spawning closure, you still can fish for Dolly Varden, but they're really not prevalent in the area that's proposed. They're down below, out of the Refuge.

And that brings up another concern, is that there's fisheries occurring below the Refuge all the time, and we have closures and in-season, and I don't know how that's going to affect subsistence users.

The Russian River has distinct two runs of sockeye. The first run is a lot larger than the second run. And one of the reasons is, is that it's only fished by the sport fishermen. The second run is a smaller, distinct stock, and it's fished by sport fishermen, personal use fishermen and commercial fishermen. And in the last 20 years it has been closed twice with restrictions on the area of Cooper Landing. So I just have concerns how you are going to manage these closures with the subsistence users, with all the other groups into the mix.

And that's it. Thank you very much.

CHAIRMAN PLEAGLE: Okay. Appreciate the testimony.

Questions. Gary.

MR. EDWARDS: Mr. Chairman. You know, as a resident of Copper Landing, I guess, you are one of them.
1 MR. SZCZESNY: No, I lived in Cooper
2 Landing for 15 years, but I now reside in Soldotna.
3
4 MR. EDWARDS: So you're not one,
5 quote/unquote, of them. All right. I was just curious.
6 But what you said about I guess the Russian River, I
7 guess, I would concur based upon my numerous times down
8 there and seeing the cars parked all the way up literally
9 as far as you can walk almost. I mean, if you were going
10 to provide a fishery there on the Russian River, what
11 would you do?
12
13 MR. SZCZESNY: I wouldn't provide it
14 there, number 1. I would provide it -- during the
15 Southcentral RAC meeting, we discussed Hidden Lake.
16 Hidden Lake, there is absolutely no sports fishermen on
17 that Hidden Lake Creek. It would in my opinion be the
18 ideal place to put a subsistence user. They would not be
19 in conflict with any other sports fishermen. They would
20 have that fishery to themselves. That's where I would
21 put it.
22
23 And we've talked about enhancing Hidden
24 Lake again for that. Well, there's plenty of fish.
25 There's nobody really fishing Hidden Lake. There's
26 plenty of opportunity for subsistence users to take their
27 fish there. And if you hear the subsistence users say,
28 well, not very many people are going to prosecute this
29 fishery, then why not put it at Hidden Lake. It just
30 makes more sense to me.
31
32 And you can tell by the NTC, when we went
33 to the -- when we were at our Southcentral RAC meeting,
34 their proposals got amended I don't know how many times.
35 And it got very confusing. It got very confusing for the
36 members of the RAC, too, because, I mean, there was
37 comments, are we still talking about rainbow trout? I
38 mean, they didn't even know what was going on. And as a
39 person in the audience, I was very confused at times of
40 what was actually being proposed during that meeting.
41
42 And as it came out, they went from one
43 direction to very conservative. But I don't even know
44 what I'm talking about. I'm rambling.
45
46 MS. GOTTLIEB: Mr. Chairman.
47
48 CHAIRMAN FLEAGLE: Are you sure you want
49 to ask a question?
MS. GOTTLIEB: A different question.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Which I'm sure you'll know what you're talking about. You mentioned fishing for Dolly Varden, and you said some of it takes below the Refuge. And I just want to be clear whether you meant the area that's closed, or you meant the Kenai National Wildlife Refuge.

MR. SZCZESNY: When I was talking about Dolly Varden?

MS. GOTTLIEB: And the rainbow closure, times or areas.

MR. SZCZESNY: Yes, the rainbow closure is from May 1st to June 10th I guess. But there is fishery right now below Skilak Lake for Dolly Varden. The people who do prosecute that fishery right now use unbaited hooks and flies. So what I'm saying is, is you're putting in the mix double baited hooks in that time frame with spawning rainbow trout, and that probably goes against the grain of people, you know, dealing with conservation concerns on rainbow trout. That concerns me.

Most of the Dolly Varden are below the Refuge at that time frame is what I meant.

MS. GOTTLIEB: But what do you mean by Refuge?

MR. SZCZESNY: The boundary for the subsistence fishery.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: But, you know, in reality the fact that you can continue to fish for dollies during that closed period, you know, I can show you dozens of pictures of people holding large rainbows that they catch during that, and in many ways it's just euphemism for still catching, you know, rainbows. I mean, isn't that the reality?

MR. SZCZESNY: Yes. Yes, it is, but that area had been closed for 20 years, and there was a regulation change that opened it for the last two years.
This next go around with the Board of Fish, it will be closed again for no fishing in that area. I don't now where the boundaries are going to occur with the Department of Fish and Game, but I'll guarantee that area will be closed to fishing for spawning come next march.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Thank you for your testimony.

MR. SZCZESNY: Thank you.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Next up is Les Palmer, followed by Darrel Williams, and then Ron Rainey.

MR. PALMER: Mr. Chairman. Members of the Board. Thank you for this opportunity.

I'm a little more angry than Andy is. I'm a little outraged about this whole process. It's obviously poisoned. We have 150 bureaucrats and a handful of proponents and opponents sitting back here. I've been to a lot of meetings, a lot of Board of Game and Board of Fish meetings. I've never seen anything quite like this.

With that said, my main concerns -- I'm against all of these proposals. My concerns though is I haven't heard a word of concern on the part of the Board about impacts on the present users and uses of the Kenai River and the Kasilof River. There's just no reluctance on your part it seems to do this.

This morning Keith Goltz walked up to me, somebody I haven't talked to in about 10 years, and he started to talk, and I said, -- he said, do you -- I'm a writer. Anyway, Keith said, are you getting some good material? I said, you ought to be ashamed. He said, I am.

Well, I would hope that the Board members, if you keep doing what you're doing here, are ashamed.
I have a lot of concerns. Most of them have been in written comment which I didn't see in the public written comment book, and I hope you got those. I went to a lot of pains to put them into writing. I hope the Board members received those. I'm not going to go into them at this time.

CHAIRMAN FLEAGLE: Okay. I appreciate your comments.

Chair members, questions.

(No comments)

CHAIRMAN FLEAGLE: Thank you for your testimony.

Pete.

CHAIRMAN FLEAGLE: Thank you, Mr. Chair.

Next up is Darrel Williams, followed by Mr. Ron Rainey and then Mr. Rod Arno.

DR. WILLIAMS: Mr. Chairman. Members of the Board. My name is Darrel Williams. I work for Ninilchik Traditional Council. I'm an environmental scientist.

To start off, I think just maybe a little personal history, and this will work into the rest of what I have to say.

I'm originally from Piney River. I grew up there. I lived there, hunted, fished, trapped, all that good stuff. And when they lost their subsistence priorities, I was proactive and chose to move somewhere where I could do this. And it's been really interesting sitting here, watching these things happen again.

Some of my observations as a subsistence users, it has been really interesting the last few days. Mr. Goltz said earlier that conservation comes first. And I think what he really meant to say was that conservation comes first when there's a sport season and you can prove a conservation concern. When there's a sports fishing season and we're told we, collaboratively of a group of subsistence users, you can't fish, because the State allows you to fish. They have bag limits, they allow people to harvest these fish, but you can't, because it might be an inconvenience, is thin ice to be
walking on.

This is kind of a favorite thing that's come up here lately, too. Google semantics. When we're going to Google something, we have to be aware that 12 year olds publish things in the internet.

It appeared that subsistence was confused with a cost-of-living analysis that's done. It's a government rate similar to COLA. And to put that into perspective with subsistence, it makes it a much more difficult problem.

And I would like to suggest that maybe if we're going to use Google to try to figure out what we're looking at and how the proposals are crafted, maybe we should do searches like subsistence fishing, or all fish.

Semantics are a dangerous thing to have in this kind of environment. So is an opinion. And I hear a lot of opinions flying around out there with nothing to back them up.

At the Southcentral RAC meeting, we addressed a lot of things in depth. One of the examples, and I'm referring to examples to assume that these mistakes wouldn't be made again. One of the examples was the results from a terminal fishery. Board Member Blossom was kind enough to call during the RAC meeting and obtain those numbers. And we were all really stunned with what we found, and that is an important issue. That is something that needs to be addressed here. It's a matter of record, and the Board has a dynamic job. There's a lot of work to do. You have to keep up. I know there's been changes in people who sit at the Board and what not. I'm sorry. You still have to keep up.

Yesterday I asked the Board to consider the right questions. And my example was, what fishery will be reduced or eliminated in order to establish a subsistence fishery. And I'm still waiting for the right question.

The discussions that we've also heard that's come from the State of Alaska, they claim that they didn't have data to support their fisheries, but they have a fishing season. And the sustained harvest over years and years and years is data.
I'm also concerned from the expressions that came from CFR 50 of omission in delivery where I heard from the first factor of customary and traditional use was a long-term consistent pattern of use, quote/unquote. And to be delivered in context, it needs to be a long-term consistent pattern of use excluding interruptions beyond the control of the community or area.

You can't pick and choose out of the CFRs what you want to say. It's vexatious. To put that kind of bias into the process undermines the entire process.

When I was trying to make sense of all this, I did a little research, and I found the memorandum of agreement between the Federal Subsistence Board and the State of Alaska, the interim memorandum of agreement. And I also notice that there are very few Board members who are still here who had signed that agreement.

But there are some responsibilities of the State of Alaska as well in that agreement. And I've sat here and I've heard about providing maps and putting hatchmarks on maps. But in the going on three years during this whole process now, I haven't seen the State provide anything. That makes me very curious.

The memorandum of agreement also addresses the tribal issue. That may be something that needs to be looked at further also.

Another issue that we had addressed in depth at the RAC was about the mortality rates, evaluating the mortality rates that were from the Staff analysis. Again, that was an in-depth discussion that took a lot of time, and this process would be much more effective if we looked at those records, did our homework and presented the information here. I would rather not get into it for the sake of time. It's a matter of record.

The Board tends to be holding subsistence users to the higher standard than sports users. The joke at this point is maybe we all ought to move to Montana, we'll have more leniency in harvesting resources with a sports fishing license. We're having higher reporting requirements than sports users and claims to the State that they can't support a fishery, because they don't have the information.
This is the point of rhetoric. And at some point in time we need to start asking the right questions.

Ninilchik in the past has asked to participate telephonically with Federal Subsistence Board, and we were denied that request. So there's another additional burden put on the subsistence user. I have to come here. I have to come to the rural community. I had my vehicle vandalized and things stolen the last time I was up here. That's a cost to us. That's more value that's not part of any of the subsistence thing to have to come here.

The permitting requirements which we discussed before in depth. All these things we've discussed before. We have to go somewhere else. What does a hospital have to do with a rural community? A hospital that's not even in the rural community. It's kind of like what does it have to do with the price of tea in China. But it's the same thing. We have to leave our rural community and go to an urban center to get these permits. This has been discussed before.

The burden of trying to make these fisheries work are also on the subsistence user. We're sitting around trying to craft proposals that may or may not work, beyond conservatively, with what I'd like to call just a severe lack of experience.

Anyone who has put a net in the river knows you don't leave that net in there for days. You're lucky if it will be in there for 20 minutes, and that's really pushing it. And if you leave it in there longer than that, you're going to pull back strings. Because you can't hold it. There's logs, there's debris, and there's all kind of things that happen. It is a specific, targeted type practice, you know, and there's things that come along with that when we're talking about going an trying to effectively harvest stuff.

And we've got a really strong record. We spent days and days and days on that, and the same thing, I'd like for you guys to keep up. Please.

I know we had a meeting in Ninilchik, and we discussed this in depth, and I know there's been some changes and stuff in the system since then. But it might do everyone some good to go and review some of that information that we discussed. We spent a lot of time
and effort trying to make all this work.

I would like to make a note that when you read the written public comments, there's a lot of prejudice associated with that. That's turned into a big issue, and I appreciate the summarizing the comments into what they are. But when you read them for what they are and what they say, when it says, Alaska natives should not have subsistence, because they have health care. That is inappropriate. That is rhetoric, and it shouldn't be something that's in there.

An example of the Kenai River subsistence fishery that I'd like to point out, is in the Kasilof River most of the coho go up Crooked Creek, and by the time they reach spawning areas in Crooked Creek, they could be harvested and they may be targeted for harvest for roe and milk sacs and things like that. Providing a better opportunity may be a real effective way of being able to handle this with the Kenai.

There's a lot of concerns with the Hidden Creek suggestions that we've talked about. Some of these concerns are bear. There's a lot of bear there.

Some of the other concerns are what is the true cultural and traditional value of being escorted to an area by a Refuge officer, dipnetting your fish and being escorted back to your car. How do you do oral traditions. How do you teach your kids that. How do you? Again, please, ask the tough questions.

Micromanagement versus sound management. We've discussed this before. And if you were at the meeting in Ninilchik, everyone knows my opinion on that. Sound management practices are exactly that. At this point in time we have a lot of people who are very concerned. They're looking at these proposals that we've crafted, and it's gotten to the point where it's very hard to keep up with. People are confused, and it's going to take some work to make this all work. So making it more difficult isn't always the answer. And I'd like everybody to take some time and try to think about that, and try to give the subsistence preference to the users so these guys can go fishing.

That concludes what I have to say. Thank you.

CHAIRMAN FLEAGLE: Thank you, Darrel.
Questions.

(No comments)

CHAIRMAN FLEAGLE: Appreciate the testimony.

DR. WILLIAMS: Thank you very much.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Mr. Ron Rainey, followed by Mr. Rod Arno and then Ricky Gease.

CHAIRMAN FLEAGLE: Don't forget to turn -- yeah, turn the mic on. There you go. Thanks.

MR. RAINEY: Okay. Thank you very much.

CHAIRMAN FLEAGLE: Good morning.

MR. RAINEY: Mr. Chairman. Members of the Board. Thank you very much for listening to me again. And I will be more on the philosophical side of these arguments, and I'll leave Andy Szczesny and Ricky Gease to the technical part of these fisheries.

Mr. Lohse, I had -- I very interested in things that you said, and I agree with you that subsistence is a way of keeping us in the outdoors and part of the fishing and part of the hunting. But let me please remind you subsistence isn't the only way. There's a lot of organizations that work very hard to keep our outdoors open to all of us. Kenai River Sport Fishing does this every day of the year. And the Outdoor Council, Safari Club. There's a lot of us working for it. It's not just subsistence.

The other thing that I'd like to touch on is how we approach this process. Now, Les mentioned we have many, many bureaucrats here. And I don't mean that disrespectfully. You folks work for the government, and that's your job. But we have -- we're spending hundreds of thousands of dollars on very small issue, and we should, because I'm sure that people from Ninilchik are sincere in what they want.

But I come from the electric utility industry, and if you followed the Chugach elections
recently, most of you live here, a lot of you live here, the two people that got elected, the non-union people that got elected, they're entire campaign was the unions were negotiating from both sides of the table. And in this case, in the subsistence case, that that is very much true. We have, and I notice Keith raised his eyebrows, but we have commercial fishermen in Ninilchik that catch thousands of fish negotiating for a subsistence fishery in the upper Kenai River. And, you know, that kind of bothers me. And then we go to the Southcentral RAC and we have commercial fishermen, several of them, that literally influence a lot of what's happening there, are directing a fishery on sport fishing. And so is there some prejudice there? I think there is, but, you know, that's the say the game is played.

Also, you know, the last time I said this, I think Keith reminded me this is not a matter of calories. You know, there's so much easier, better ways to take fish than what's being proposed, and I think as Daniel would agree, there's not many people would do subsistence fishing for rainbows when there's chinook, red salmon, silver salmon there at the doorstep. You know, it almost has to be done as a sports fishery. And we welcome them -- them, welcome anybody to come up and fish for those fish as a sports fishery, because hat I don't want to see happen, and I don't make any money out of these industries, I don't want to impact a fully allocated sports fishery that provides hundreds and hundreds of jobs for the Kenai Peninsula and literally millions of dollars. Why would you jeopardize that when all the fish that anybody needs is available right there.

And I truly don't understand all the phases of subsistence, although I'll tell you a quick story and then I'll get out of here.

My great great grandfather was the Indian agent no the Sackenfox Tribe reservation in Oklahoma, and wouldn't it happen, his daughter married one of those, and I'm quoting from them, one of those half-breed Indians. And so I'm probably more native American than most people that are before you arguing for subsistence. So I agree with a lot of what they're doing, and I have empathy for it. But I think it's being done the wrong way on the wrong fishery.

Thank you. Any questions.
CHAIRMAN FLEAGLE: Thank you. Questions.

(No comments)

CHAIRMAN FLEAGLE: Okay. Thank you for your testimony.

Pete.

MR. PROBASCO: Thank you, Mr. Chair. Rod Arno, followed by Ricky Gease and then Sky Starkey.

CHAIRMAN FLEAGLE: Good morning, Rod.

MR. ARNO: Good morning, Mike. Thank you, Mr. Chairman, Board members, for the opportunity to testify. My name is Rod Arno. I'm executive director of the Alaska Outdoor Council, which represents 12,000 Alaskans.

It's clear I'm wasting my time before the Federal Subsistence Board, but I'm used to it. I've been doing it for a decade. I'll be brief and try not to waste yours.

These proposed regulations are not about protecting traditional subsistence uses or providing fish for those Federally-qualified rural residents who choose to participate in subsistence uses as their mainstay of livelihood. These proposed regulations are about giving a priority to Alaskans who live in a Federally-qualified rural area on the Kenai Peninsula. I could move there and I'd qualify. But 40 years of hunting and fishing in Alaska don't make me a subsistence user.

AOC opposes all subsistence fishery proposals for the Kenai drainage. AOC would recommend that the Board, if compelled by court rulings, does adopt proposals, then they should try to cause the least damage to Alaskans by minimizing divisiveness between Alaskans with the right zip code and the 4,700 other Alaskans who live in the Cook Inlet area who have the wrong zip code.

Again, as I said yesterday, that the Outdoor Council does not feel that the Kenai National Wildlife Refuge should be providing for subsistence uses regardless again of the court's interpretation on that. And if you are going to put in a subsistence fishery, do it on forest land. And if you're going to do that, Russian River's perfect whether you choose gillnets, fish
traps, wheels or gillnets on a stick, dipnets.

We do -- the Outdoor Council has major concerns with the reel fishery and different -- the use of different terminal gear and bate as it relates to enforcement, and also bag limits, that as long as Alaskans are going to be operating there under State regulations, and they have -- and they're shoulder to shoulder in their effort, and the one next to them is using treble hooks with bait on them and has a different bag limit, then there's going to be divisiveness without a doubt. And as many Alaskans are concerned about conservation and about following the regulations that provide for that, that they're going to be inclined to call the Alaska Wildlife Troopers. And the Alaska Wildlife Troopers then are going to have to come down and identify these people then who are the ones that have the right zip code and qualify. And in that case then there's going to be increased burden on the State enforcement on these, so I would ask that the Board, if they are going to do that, to find some way then of permanently identifying those 2,000 or fewer Alaskan residents on the Kenai who do qualify.

Thank you for your time.

CHAIRMAN FLEAGLE: Thank you, Rod.

Questions. Gary.

MR. EDWARDS: Yeah, I have one. I had I guess somewhat the same concerns that you did about the people fishing shoulder to shoulder, because I know a lot of people don't like to go down there and fish below the Russian. But I guess I haven't been here long enough not to still enjoy that, so I'm used to that. And I was wondering about that. But, for example, I get a proxy permit for the lady who lives next door that's handicapped and elderly. So when I'm fishing next to someone, I can take six fix, and which appears to them, you know, and I guess what's being offered is no more than allowing the subsistence fisherman to take six. So, I mean, you already have some of that dichotomy under State regulations.

MR. ARNO: Through the Chair. Mr. Edwards. Well, if you think that that justifies them being able to use treble hooks with bait, and it's not just a matter of bag limit, then it appears to be no problem.
CHRISTIAN FLEAGLE: Other questions.

(No comments)

CHRISTIAN FLEAGLE: Thanks for the testimony.

Pete.

MR. PROBASCO: Mr. Chair, the final two are Mr. Ricky Gease followed by Mr. Sky Starkey.

MR. GEASE: Good day. My name is Ricky Gease. I'm the executive director of Kenai River Sport Fishing Association, and I'm here -- my comments are on behalf of the Sport Fishing Association.

Yesterday you voted on our proposals, which indicated our preference to either have the Kenai Peninsula be looked at as an all rural or an all non-rural. We don't agree with the Swiss cheese approach where we're segmenting out rural and non-rural areas of the Kenai Peninsula.

Getting on to some of the stuff, we've had discussions between the State and the Federal Government here. I think it's a waste of money to have duplicate, dual management systems. People are asking here, what does the State pick up. The State's put in a tremendous amount of money to do the fishery conservation monitoring on these river systems, and they do a really good job of it.

That's why we feel that through the Board of Fisheries process where the State is very much engaged in it is the point where many of the fishery conservation concerns should be addressed. We think that the regulations and terms of the fish regulations should mirror whether it's single hook, treble hooks, where those are in State regulations, that's what you guys should follow. I see nothing here of evidence that shows that any agency here, like beyond what Fish and Game has done, Fish and Wildlife Service has done on the Kenai National Wildlife Refuge, is doing any fishery conservation monitoring of real depth.

And that's your number 1 thing here. So when you deviate away from State regulations, you should really think about what are the fishery conservation effects and discuss those in length. For example, we had
discussion earlier today about baited versus unbaited
hooks or what's going on in the area where there's a
rainbow closure, and, you know, that fishery right there
where you can still fish for Dollies was a loophole.
That will be fixed next year at the Board of Fisheries.
But that fishery is being done with unbaited hooks.
That's not being done with baited hooks.

There's a very significant difference of
doing -- if you're releasing rainbow trouts if you catch
them on bait than if you catch them without bait. And
that should just be a fundamental thing that should be
acknowledged and should be common knowledge as a fishery
conservation concern. The mortality rate with baited
hooks in that area during that time period is going to be
much higher than it would be under State regulations with
unbaited hooks.

And so when you get into the dual
management systems and we're pouring a bunch of money
into both these systems, it costs a lot to monitor fish.
And I think after you're done with this and you pass the
regulations and stuff, hopefully at some point you get
beyond the log jam between the State and the Federal
Government and you take it seriously, and you start
looking at ways to cooperate better between the State and
Federal Government to manage these systems with a single
vision instead of a dual system, because I think too many
things -- there's opportunity to fall between the cracks
within the dual management system.

And, you know, by the way as a taxpayer
in the State of Alaska, we're picking up the bill for
your fishery conservation management. That's not being
spread amongst all the tax payers across the whole state
-- I mean across the whole nation. So a lot of the bill,
a lot of people are bringing to the table is paying for
that. And a lot of that actually comes from your sport
fishing licenses. About $20 million goes into Sport Fish
to help run that division comes from people, the sport
fishermen, who are paying for those license fees. It's a
significant investment that we do to invest in fishery
conservation that shouldn't be ignored or pooh-poohed or
down-played.

Now, given that, I'm going to take off my
hat as the Kenai River Sport Fishing Association
director, and I'm going to put on my personal hat, and
say here's some things that I think you should think
about in terms of if you're going to create -- I have
some concerns about the Russian River dipnet fishery.

It is an area where you haven't had a fishery, underneath the falls. It is an area where you have bears. There are bear management concerns there that you need to be concerned about. There are also cultural resources there that you need to be concerned about. There's discussions about ATVs going back there at some point in the future that you need to be concerned about.

Parking is an issue that needs to be concerned about. One area across the road from the Russian River campground is the Kebeck (ph) interpretative site that has big parking lots, that if you're going to allow ATVs eventually to go back there, that I think with parking lots and with trailers, that that's a place that you should start designating parking areas if you're going to put a subsistence fishery on the Russian River. I don't necessarily agree that you should -- that's the location, the best location for a subsistence fishery.

I think the Hidden Lake one when we were on the subcommittee talking about different ideas, that had a lot more support than putting one on the Russian River Falls area.

Dual management. You're allowing bait to be used for the king salmon into August and basically through September. Where's the justification for that in terms of, there are reasons why we stop fishing on king salmon come July 31st, and you should understand what those reasons are and if you're going to be beyond those, you should put on the record why you think it's not a fishery conservation reason, why you're going beyond that. If you are going to go beyond that date, on the State regulations then you should justify it. And I think you should understand what the justification is from and why it is.

So in summary, putting my on my hat Kenai River Sportfishing, I think you should mirror as much as possible and get away from dual systems and stick with the singular vision. I think if you, you know, double the bag limits, I think that is a meaningful preference, specifically for king salmon we're limited to two king salmon per year, you can catch four king salmon per year on the Kenai River, that is a significant priority.
Thank you.

CHAIRMAN FLEAGLE: Okay, thank you.

Questions. Gary.

MR. EDWARDS: Well, Rick, let me ask you, I mean certainly once we pass whatever regulations we pass, you know, the regulations are there. But then it seems to me you sort of get down to the practicality of what is really going to result from these regulations, and you mentioned the stretch of the Refuge below Skilak that's going to be open. But, you know, the reality is that during that period of time which these regulations would allow bait, one, it's a drift only area, so there's not going to be much enthusiasm for people even to go up there. They can only catch and keep only two rainbows over 20 total and once they do that they're done, so, again, there's really not a lot of incentive. So what I'm kind of wrestling with is regardless of what the regs may or may not allow, what do you think is the practicality of utilization of some of these even materializing?

MR. GEASE: Well, what I've seen on the Kenai River is that you can -- when something gets discovered, it may take one, two, three, four years for it to get discovered and then, bam, something happens. And so we may not see something happen in the subsistence fisheries for one, two, three years, just like you may not see something in the sportfisheries and then they get really, really popular and then, you know, you may have pretty quick effects so how fast do you put in your adaptive management systems in-season reporting, that's something you need to think about. But I think over time, I think these will become more and more popular and, you know, to say that we're going to put regulations in effect that nobody's going to use, I don't think that's accurate for the Kenai River.

MR. EDWARDS: Well, let me just follow up then and I'll agree, you know, the area below Skilak the last few years has just become, quite frankly, almost a zoo like the lower river, which is -- and that's from the sportfishermen utilizing it, but I would argue that many of us down there are for a totally different motivation than somebody who is going to go down there for the purpose of getting fish for a subsistence purpose, so I'm not sure that the same phenomenon that occurs when Fish Alaska puts out an article about a place that was previously not fished then, you know, that you had been
fishing and the next time you go there, you know, everybody in your neighborhood is also there, I'm not sure that that same phenomenon is really going to occur with a subsistence fishery when it's a difficult fishery to fish just because of its very nature and the bag limit is basically so small, I mean why would you drive -- assuming you had a drift boat or a draft in Ninilchik, you know, drive all the way up there in the first of June and spend all that money in gas and go there to drift to only catch two rainbows. I mean I'm not sure that some of this is going to materialize like, I think, initially there was a lot of concern that it really was going to happen.

MR. GEASE: Everybody seems to be focused on Ninilchik, there's two other communities, Hope and Cooper Landing, and many people from Cooper Landing have drift boats and float the Upper Kenai and that lower section of the river there. So I'm not necessarily certain that the growth that you're thinking about is necessarily going to come from people from Ninilchik, most likely in my opinion it will come from people from Cooper Landing.

And so on that realm, I think, again, yesterday we didn't think that there -- the whole issue -- I support Ninilchik when at the Southcentral RAC, I think it was a wise decision on their part to withdraw -- I think a lot of the friction on this end is going to come from the resident species, okay, and I think that it's a -- the way that the rules and regulations and the sportfishery has evolved over time, the rainbow trout is not a harvest fishery. And what you're doing is you're crafting harvest, you're saying we're going to craft subsistence fisheries, which by definition, are harvest fisheries on these resident species, and I think around the state a lot of people have said that there are concerns about -- for rainbow trout, if they can withstand harvest pressures.

And that's something you need to seriously think about. I think there's surpluses on the salmon and where there are conservation concerns on the salmon then you need to be really aware of those, like on the early run king salmon and in certain areas and certain timeframes on the coho. We've had coho conservation measures in the past decade for Kenai River coho. We have conservation measures for early run kings. But where there are surpluses, specifically on salmon and they're designated and directed as harvest fisheries, I
think you should focus that effort for those surpluses. For example, in your regulations that are coming up on the dipnet fishery, you have -- one of the reasons why I saw mirror them up so that they make sense is that you have 25 per head of household on your sockeye, yet only five for each additional member of your household. That should be matched up with the State, it should be 25 and 10. So if a person from a family of four from Cooper Landing wants to go dipping at the Russian River Falls and they have a family of four they would have the opportunity to catch 55 reds if they go down to the mouth of the Kenai, yet, you're restricting them to 40 reds, so there's a leftover -- we talk about, you know, not accumulating bag limits, they got to -- you're forcing them to go down and catch their remaining 15 fish down at the mouth of the Kenai, why would you do that, why are there the discrepancies between these two systems.

So if you're going to allow that opportunity on the upper river it should be, you know, similar to the ones on the lower river. Similarly, if we're going to -- it comes down to meaningful preference. If it's going to be a harvest fishery double the bag limits so that people can harvest those fish on the harvest -- on those fisheries that we designate as harvest fisheries. And I don't think as a society we've designated rainbow, you know, rainbows in these areas as what's come out of -- evolved out of them, through time, is that they can't withstand being harvest fisheries.

CHAIRMAN FLEAGLE: Ralph Lohse.

MR. LOHSE: Mr. Chair. Can I ask Andy a question through you.

CHAIRMAN FLEAGLE: Andy? Ricky.

MR. LOHSE: Ricky, my fault.

CHAIRMAN FLEAGLE: For Ricky, yeah, go ahead.

MR. LOHSE: Sorry. Ricky we've talked before and you were at our meeting and I really appreciated what you brought forward there. And we've gone over the idea of harvest fisheries versus sportfisheries quite a few times in the past and I know it's one thing that's been brought up, I've sat in meetings and it's been brought up from all the way up on the Kuskokwim and the Yukon down to Southeastern, and
it's the concern of the subsistence community, and that's
there -- a non-harvest fishery can actually have a bigger
impact on the fish than a harvest fishery. If you have
-- you know if the ratio of people using it is so much
greater, the non-harvest fishery, like the impact of a
thousand people releasing all of their fish can be bigger
than the impact of a couple of people going up and
keeping a couple fish. And one of the things that was
brought up before is, you know, we don't have any
specifics, I was looking through all the information here
and we have everything from a .3 to a 4 percent hook and
release mortality in the book.

CHAIRMAN PLEAGLE: Ralph, excuse me, you
were going to ask a question, I don't think that we
should have debate.

MR. LOHSE: I was going to ask him, on
this fishery that we have here, do you see that these
harvest fisheries, how do we put a harvest fishery in a
non-harvest fishery and still have less impact without
going to smaller limits?

MR. GEASE: So for the resident species,
I think, the State regulations, a lot of thought has been
put into those State regulations in terms of where those
-- there's the harvestable surplus on the non-breeding
portions of those populations, and that's where I think
that should be targeted is on the non-breeding portions
of those populations because that, over time, has been
shown. A lot of effort has been put into the Wild Trout
Policy, and I think, you know, that accumulated
knowledge, I think should be recognized, and I think
Ninilchik recognized that in trying to remove their
proposals for harvest both on the steelhead on the
Kasilof and for the other regulations for the resident
species, they get that, and hopefully the Board gets it.
And I think that pulling back on those non-harvest
fisheries and the sportfishery -- just a point of
clarification is not just a catch and release, but it's
also a harvest fishery -- it's a tool for harvesting
also. And so a lot of knowledge has been built up over
time on what populations can withstand the harvest
pressure and what populations don't. And that's what I'm
saying, is that, that knowledge is reflected in the State
regulations.

So where there's a harvestable surplus,
specifically on the salmon, or on the non-breeding
populations of the resident species, target those, double
the bag limits. Figure out, you know, what's the necessary amounts, that's what you're supposed to do. But on those fisheries where there's -- you know, we found out that it's non-harvestable surpluses or not -- or they can't withstand harvest pressures but they can still withstand some non-harvest fishing techniques to, you know, for sportfishing there, specifically with the trout, then recognize that. And focus the harvest on those species that can withstand those harvest pressure. Because otherwise you're just going to get into the situation where we're going to get down into, you know, trout being listed as endangered on the Kasilof, the northern most, and nobody's going to benefit from that publicity or for that area of engagement, you know, it's just not going to be beneficial and nobody wants to see that.

I don't see a bunch of -- you know, Ninilchik's not arguing for that and neither are we so.....

CHAIRMAN PLEAGLE: Dan.

MR. O'HARA: Thank you, Mr. Chairman. My name is Dan O'Hara and Ricky I would like to ask you a question but I need to give him a little bit of information before, and it has to do with the survival rate of a hook and release thing which is pretty important, apparently in your river.

On the Kvichak, the people in the area, who are basically all subsistence users closed down rainbow trout fishing from June until October, they don't take any of them home, not even to eat, and of course they can have their subsistence if they do want to have it in October, in wintertime, you know, which doesn't take -- they usually leave the river so they're not there anywhere. And in Naknek they have a hook and release and I think -- I've never sportsfished and so I need to ask you the question, the guides in the Naknek River right now are concerned about the number of fish that are swimming by. You can go out to the Naknek River, the dock, at the end of the dock and stand there and watch a rainbow trout swim by and their faces are all pulled apart and the guides are really worried about the hook and release, hook and release, hook and release, it sounded to me like you got more of a problem with the mortality rate from sportfishermen than you do from some guy who eats a fish now and then; what are your thoughts?
MR. GEASE: I think on the catch and release fisheries, through this -- the catch and release fisheries, the current regulations that are on the Kenai for catch and release fisheries, I don't think that it has been shown that that has posed a fishery conservation concern for that population of the sustainability of it, neither has the harvest of the fish under 16 inches above Skilak Lake or fish below 18 inches below Skilak Lake. I think we've reached a happy medium there. And I think for those resident species, if people want to harvest those -- you know if you want to do something double the bag limits on the fish under 18 inches that you can take, you know, catch four, catch six, catch eight, you know, but on those breeding populations I think that's where the fishery conservation concern is. Now, yes, the mouths of fish, I've seen fish that caught and released and, you know, catch and release and their mouths may not look pretty but they can still get it on.

(Laughter)

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: But, Ricky, but is it not correct that on rainbows, the bag limit and the possession limit being recommended here is identical to what it is for under sportfish regs, so I mean there isn't any difference.

MR. GEASE: That's correct.

MR. EDWARDS: So I don't understand then, where would the issue be. I mean the reality, again, getting back to the reality, if we actually at the end of the year, the end of the season, if we could actually have 100 percent data, my guess is we would have found that more rainbows over 28 were -- on the Kenai were kept by sport anglers than were going to be kept by subsistence anglers, would you disagree with that?

MR. GEASE: I don't know, we'll see. But I think when you talk about the use of bait, that's the portion in that -- specifically in those rainbow closure areas, if you're going to allow the use of bait, that's a big difference between unbaited fishing and baited fishing. So that's a variation, not necessarily on the size but on the technique that's used.

CHAIRMAN FLEAGLE: Other questions.

Charles.
MR. BUNCH: Well, Ricky, then I would go back to the point that Ralph brought up. I mean I haven't been down there fishing for some time and I understand that the area below Skilak is pretty crowded this time of year so if you're catching and releasing trout there's going to be some mortality, you can argue over the figure, but if you're catching them with bait and keeping them, once you've caught them you're out of there and you're only talking about a relatively small amount of people who are catching and keeping as compared to the amount of people who are catch and release and upping the mortality rate that way.

CHAIRMAN FLEAGLE: Okay, hold off on that Ricky, I don't see the value in debating the testifier. We can do this among ourselves when we get to the proposals.

Any other questions for his expert opinion or his personal opinion, which may not be.....

MR. GEASE: Expert.

(Laughter)

(No comments)

CHAIRMAN FLEAGLE: Thank you, Ricky.

MR. GEASE: Thank you, very much.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. Our last person that signed up for public testimony is Mr. Sky Starkey.

MR. STARKEY: Mr. Chairman. I have a couple of things that I'd like to put before the Board. May I approach to hand them out or how would you do it.

CHAIRMAN FLEAGLE: (Nods affirmatively)

MR. STARKEY: And I will try to be brief, Mr. Chairman. And this time I'll try to be briefer than Ricky and my challenge is to the State to try to be as brief as I'm going to be.

(Laughter)
MR. STARKEY: First of all, just sort of on a side note, this room is all too familiar to many of us who have been involved in fish battles in the past and sitting in the audience I certainly understand the passion that many people have come to you before and I just want to express my appreciation that you are able to listen to it and deflect some of it.

I've handed out two things, one of them is relevant to the Dolly Varden issue for customary and traditional use in the proposals before you. And one of them is the regulation for subsistence fishing in Cook Inlet.

Before I get into that, though, I do want to raise one specific issue with regards to the salmon fishery. This was something that was not discussed, to my recollection during any RAC meeting, and Doug is absolutely accurate in saying that the way things are written, there would be a prohibition on using boats on Mondays in the Moose Range Meadows Areas for dipnetting. It was Ninilchik's hope that the dipnet in Moose Range Meadows would turn into a real fishery, we'll see how good it is, there's a lot of question among people as to whether dipnets will be effective because the water is clearer, the fish may see them and they may not -- it just may not be a good fishery.

We were hoping that we would also be able to fish on shore. I think it's probably all right to fish on shore, it's hard for me to believe that a sportsfisherman has the right to fish on shore and subsistence doesn't but we didn't make a big point of it, so we're limited to fishing by boat for subsistence so it would seem reasonable that we would be able to fish every day by boats and Monday wouldn't be a sacred day. I've talked to the Refuge manager about this and Staff, my understanding is there's some conservation aspect to it but it's primarily a sportsfishing opportunity for drift boats, so we would hope that you would take that into consideration and allow that opportunity for boats at all times in the Moose Range Meadows dipnet fishery.

The other thing I want to sort of talk about before I get into some specifics, is the spirit and the practicality for which Ninilchik approached developing these proposals. It was very clear when the Board agreed with the customary and traditional use determinations that there was the hope and the expectation that the users would work together to try to
figure out, at least, a beginning step for these fisheries. During the RAC meeting is really when a lot of the work came together. And there was an effort to try to accommodate the concerns of some of the other users and I will tell you that the proposal for rod and reel fisheries on the Kenai for resident species rainbow trout, Dolly Varden and the other species, the proposal in order to allow a greater subsistence opportunity was to double the sport bags so you would be able to catch four rainbow, et cetera, and we felt, from Ninilchik's standpoint that both from the standpoint of conservation and from the standpoint of trying to be realistic to be reflective of the pattern of use for Ninilchik, that mirroring the State regulations was sufficient and there wasn't any reason to upset that system. So it was with that spirit that the resident species regulations were developed and adopted at the RAC meeting. And there was a lot of interaction between the user groups there.

Likewise the incidental take accommodations in the dipnet fishery, and as far as I know there was a consensus about that among the user groups at the RAC. The reason is because these 18 inch size limit, because I think people all agreed that there were enough smaller Dolly Varden and rainbow trout in the system so it wouldn't be a conservation issue, the main issue is with the larger rainbow trout who are the, as I understand it, the fertile and primary spawners and the concern was with the conservation for those species. So that's the spirit in which that was developed.

I know that we're potentially heading to a place where there may be some conflict among the Board in terms of resident species and how to work out their differing opinions and the tie vote, et cetera, and I suggest to you that consistent with our position, the customary and traditional use finding is one that's neither required nor allowed by ANILCA and we would not agree with not implementing a subsistence fishery there but consistent with other species and other areas in the state and other practices, there are ways, even if you don't agree that there's specific customary and traditional use for Ninilchik for resident species, that you can accommodate in some of their proposals.

For example, the first thing that I gave you was the State's subsistence regulations for Cook Inlet. I've highlighted what I thought were the relevant areas. The customary and traditional use findings for Cook Inlet are not -- do not include a customary and
traditional use for rainbow trout. But -- and they're specific. But they do include an opportunity to harvest rainbow trout and steelhead taken incidentally in other subsistence fish -- net fisheries and through the ice.

I believe that the State of Alaska, and this is a very common regulatory scheme for the State of Alaska. Now, the State of Alaska would be correct to say that this only applies in non-subsistence use areas but my feeling is that's sort of irrelevant since public lands are a subsistence use area and that's what we're talking about. I think the reason this regulation is in there is because there's a recognition that part of the subsistence pattern of use that everyone probably recognizes is that when subsistence users are net fishing for salmon they keep what's incidentally taken. They use it and share it, they don't waste, and especially if a fish is injured or otherwise, it would violate the cultural and customs and traditions of many people to waste and throw back. And certainly in all the customary and traditional use criteria and in yours and the State's and others, the beliefs and the handing down of beliefs and the cultural aspects, that cultural aspect of subsistence is well recognized. So it seems to me that it would be consistent with allowing the salmon fishery to proceed, to also allow the incidental take of whatever other -- the regulation that's before you, essentially, which would be the incidental take of Dollys and rainbows under 18 inches, and regardless of how you feel about whether or not there's customary and traditional use of those species for other uses.

I would also just point out that in terms of -- I understand the rainbow trout dialogue, the two species, the upper and the lower and their genetic differences and they don't range, et cetera, and how people could make certain arguments based on rainbow trout but for Dolly Varden, I really don't think that applies and no one's really talked about it. But for Dolly Varden, the handout that I've given you by Ken Tarbach who used to work extensively on the Kenai Peninsula for the State of Alaska points out that Dolly Varden, there's anadromous runs of Dolly Varden. People fishing off the beach in Ninilchik and the personal use fisheries on the Kenai for salmon and other places would take Dolly Varden as an incidental take anyway, and that the Dolly Varden, you know, I think, you know, a very relevant part is that on the second page of Tarbach's paper where he talks about the number of Dolly Varden that migrate past River -- Mile 19, and that are caught
in the ADF&G fishwheel, well, it's my understanding that
would be pretty much right where the dipnet fishery in
Moose Range Meadows is and so that demonstrates that
there’s anadromous fish incidentally caught while the
fishwheel's flipping for salmon, too. So in terms of
Dolly Varden, it would seem to be -- regardless of how
you felt about whether there were customary and
traditional uses of rainbow trout because there's
different stocks that don't range outside the Kenai, the
same argument could not be made for Dolly Varden.

Finally, Mr. Chairman. On the directed
fishery issue, Ninilchik's pattern of use for resident
species on the Kenai's -- we tried to reflect that in the
regulations and it's a use of when you are hunting, you
know, the Board's agreed that people hunt there, when
people are ice fishing, when they're traveling, it's a
use that allows people to catch a couple of fish through
the ice or with a rod and reel and cook them and eat
them, and so it's very modest. It reflects the pattern
of use. It would seem that you could agree that since
you've made customary and traditional use determinations
for moose, et cetera, that you would also agree that
while people are hunting, they would have some
possibility to take these fish within that customary and
traditional use finding as well. So I believe there are
ways that you can accommodate this kind of a use in a
pattern of use without getting tangled in your
three/three vote.

Finally, on the baited hook issue that
Ricky talked about. He came before you yesterday and
this is no personal criticism, but it's only a matter of
fact that he was concerned about the treble hook issue
yesterday and it got some debate, and I've checked with
fisheries biologists and I've done some research there's
no evidence that a treble hook is any more or less
effective or ineffective in terms of catch and release
fisheries. The scientific literature is for and against,
but there's no conclusion, it's an opinion, but there's
not scientific back up for it. The same is true as to
whether you either bait it or unbait it in terms of that
mortality for catch and release anyway. It's probably
true that a baited fishery would be more effective for
harvesting meat and that a treble wouldn't (ph) be more
effective for harvesting meat, but one could check with
the other experts here and confirm that in terms of
baited or unbaited in catch and release there's really
nothing conclusive one way or the other.
Finally, just on Page 153 of your books, it does show that in the area that we would be talking about for an incidental take of Dolly Varden in the dipnet fishery, there's a harvest in that area, not in the precise area but in that stretch of river, a mean harvest from the years 1996 through 2002, Moose River to Skilak Outlet, there's about 19,000 fish, Dolly Varden that are harvested in that stretch each year so it doesn't seem like it would be much to accommodate some incidental take.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Sky. Board members, questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Thanks for the testimony. We'll stand down for lunch and resume at 1:00 p.m.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon. The Federal Subsistence Board is back on record, May 9th. And we're now going to the Regional Advisory Council recommendation. Ralph Lohse, please.

MR. LOHSE: Mr. Chair, thank you. I'm going to keep this about as short as I can keep it.

The Regional Council supports their modified proposals on all of these -- for all of these proposals for the Kenai Peninsula, you can find those modified proposals in your book. Other than that, there isn't too much that -- I don't think that they have an inclination to change. We feel like we put a lot of time into it and we also feel like they're very conservative proposals.

From my own personal standpoint, I'd like to remind you that when you look at these proposals, make sure that if you don't take action on the modified proposal, that you don't leave on the table something that is less conservative, with less checks and balances than what the Council has already suggested, like we did on the steelhead on the last one.
The other thing I'd like to point out is
from a subsistence user's standpoint, as we've heard in
meetings all over the state, there is no such thing as a
non-harvest fishery, all fisheries have a harvest,
whether it's catch and release or whether they take the
fish home to eat it. In fact, as I've heard in a lot of
meetings, a lot of the subsistence user's feel that some
of our non-harvest fisheries kill more fish than our
harvest fisheries and I think you need to take that into
account.

CHAIRMAN FLEAGLE: Thank you. Questions.

(No comments)

CHAIRMAN FLEAGLE: All right, appreciate
those comments. ADF&G comments. Hilsinger or Pappas.

MR. PAPPAS: Thank you, Chair. Speaking
to Proposal 07-27b and c and 29, the Kenai River salmon,
the Department opposes the proposal.

The modified proposal recommended by the
Southcentral RAC to create a boat only dipnet and rod and
reel fishery may have serious consequences on the
population of Kenai River main stem late run chinook
salmon that only spawn in the river beds within the
boundaries of the Moose Range Meadows area. With a
potential harvest of a thousand late run king salmon
sought by this proposal, it is likely that the majority
of the dipnet and rod and reel harvest being proposed
will take place in the small stretch of the Kenai River.

The Department agrees with the
recommendation to eliminate the harvest of resident
species over 18 inches in length in the waters of the
Kenai River below Skilak Lake this removed direct
exploitation of the largest contributors to the spawning
capacity of those stocks within the Kenai River
watershed. However, the separate provision to allow rod
and reel subsistence anglers to use up to two treble
hooks with bait within the areas and during the time
period when rainbow trout spawn negate -- excuse me, are
spawning negates the conservation benefits of size
limitations and other aspects of the proposal.

The Department requests that the Federal
Subsistence Board address these concerns about the
proposed chinook salmon fishery and hook and release
mortality of large spawning rainbow trout during the May
2nd through June 10th spawning closure for the fish in
the Kenai River below Skilak Lake caused by anglers using
multiple treble hooks and bait in the proposed rod and
reel subsistence fishery.

The Department also would like
clarification of the terms, sportfish method, means and
seasons. If this section is closed by the State of
Alaska next year, during the *butter fish process, will
it also be closed by the Federal Subsistence Board.

And that would conclude -- and let's see,
one last point, for this proposal, the Department opposes
this proposal because there was no evidence to support
the Board's customary and traditional determination for
the Kenai River area on Federal lands and the Board must
balance beneficial uses.

Going to the next proposal series, that'd
be FP07-11, 12, 13, 27d and 29 addressing Kenai River
resident species. The Department opposes the proposals.

The Department recognizes merit in the
intent of the combined recommendations which are
constructed to mirror the State of Alaska sportfishing
regulations with the exception of lake trout. The State
disagrees with the Federal recommendation to increase bag
and possession limits for lake trout over those in State
regulations and requests that this aspect of the Federal
Staff recommendation be revised. A case in point, the
Department has submitted a proposal to the Alaska Board
of Fisheries to reduce the daily bag limit to one fish
per day in Hidden Lake in the Hidden Lake lake trout
sportfishery for the 2008 meetings. The recommendation
to reduce the annual limits of rainbow and steelhead
tROUT and Dolly Varden over 20 inches in length harvested
in the freshwaters of the Kenai Peninsula from four per
species down to two per species in waters that allow for
the harvest of fish over 20 inches in length is a
conservation based decision and will give the more adult
fish of the stocks a higher probability of spawning
success.

Several of the modifications recommended
by the Southcentral RAC and the Federal Staff improve the
sustainability of the fishery with regards to rainbow and
steelhead trout and Dolly Varden. The State, however,
still has the same concerns about the proposed harvest of
lake trout.
One of the ongoing conservation issues with regards to this proposal is accumulative harvest of multiple fisheries. As previously discussed, this proposal -- the proposed use of multiple treble hooks and bait in the Kenai salmon fisheries will likely result in the catch of incidental mortality of large highly productive rainbow, steelhead and Dolly Varden.

One last point, the Department opposes this proposal because there was no evidence to support the Board's customary and traditional determination for the Kenai River area on Federal lands and the Board must balance beneficial uses.

MS. CUNNING: As an additional comment. Within the Kenai River drainage area including the Skilak and Kenai Lakes, the Department is especially concerned with Federal assertions of jurisdiction over waters bordered in many areas by private and State owned lands, often times for several river or lake miles on both sides of the water body, and this is pretty clearly demonstrated on the maps that are on the back wall back here, as described and shown by maps at Pages 107 through 108, 112 through 115, and 146 through 150 of the meeting materials, this assertion encompasses many miles of private or State owned strips of land for miles on both sides of the Kenai River and Kenai Lake. This is especially the case in the areas of Cooper Landing and Moose Meadows, specifically included within harvest proposal areas being recommended by Federal Staff and the Southcentral Regional Advisory Council.

Any assertion of Federal subsistence jurisdiction over such non-pertinent waters is especially tenuous and weak. We repeat our request of yesterday that the Federal Staff correct the maps and clearly show land ownership and areas of where Federal regulations apply for the benefit of the public and for our Federal and State land managers and law enforcement personnel.

And Mr. Hilsinger has some additional comments.

CHAIRMAN FLEAGLE: John.

MR. HILSINGER: Thank you, Mr. Chairman. You're kind of getting three for the price of one here.

(Laughter)
MR. HILSINGER: Several issues have come up during the discussion of these proposals and during the public testimony.

The first one had to do with the harvest limit of a thousand late run kings in the Kenai salmon proposal, and I believe that one of the comments from the Federal Staff was that this limit was consistent with the original proposal. But our memory of the original proposal was that it was for a thousand kings total between the Kenai and Kasilof River, and would break down 500 in each river, and that 500 then for the Kenai was subsequently increased to a thousand. And so the State would recommend that that thousand number be reduced back to the 500 that were originally asked for by the proponent.

The second issue is on the fishing and particularly with bait during the May 2nd to June 10th spawning closure for Kenai River rainbows, we recognize that under the resident species proposal, people could not retain rainbow trout but they would during that time period be able to fish for Dolly Varden trout and be able to fish for salmon with bait. And the justification for allowing the use of bait from January 1st in that period through June was to allow the harvest of early run chinook salmon that may be in that area. But it's doubtful that there would be any early run chinook salmon in that area January, February, March, April. They probably would not reach that area until sometime in June. And so we believe that a closure during the May 2nd to June 10th period would not affect the harvest of early run Kenai kings to any degree and it would provide important protections for rainbow trout. And we certainly also wonder at the need to use bait during the January through April months when there would not be any early run king salmon available there.

We've had a little discussion of the catch and release mortality, and I think everyone recognizes that there is some catch and release mortality, but with a single hook artificial lure, the rates are quite low. In our survey of the literature we saw rates ranging from two to eight percent, I believe in the Federal Staff analysis they found rates ranging from one to three percent.

When you introduce bait into the fishery that mortality rate goes up dramatically. And you find mortality rates of 20 to 40 percent and some of the most
recognized studies show that it averages around 30 percent, so you've got a mortality rate that increases by five to 10 times utilizing bait.

This also is that time period during the rainbow trout spawning when rainbow trout are most susceptible to mortality.

To really sort of understand the fishery and the effect of the catch and release mortality and why that's really not a problem for the stock, you have to realize that the mortality of rainbow trout, natural mortality which occurs mainly during spawning is something like 45 percent. So a two or three percent mortality from catch and release is really dwarfed by that spawning mortality and some of those fish, you know, approximately half of them might die in spawning anyway.

But I think, you know, we really would recommend that we reduce that mortality associated with the use of bait, and particularly during that spawning time. And so, again, we would recommend that you consider a closure during May 2nd through June 10th.

Finally, a couple points that came up with respect to Dolly Varden. We have also reviewed the literature on Dolly Varden and we find that in the Kenai system, the pattern for the Dolly Varden as a whole is that they do not leave the system. They migrate around within the system but in general they stay within the system and that's believed to be because the Kenai system is large and rich enough that they can live and prosper within the system without having to go out to the ocean.

And, finally, on the State subsistence regs, we find that there really is not applicable what the State regs are in different areas in fisheries that take place primarily with different gear and so we wouldn't -- I guess we just believe that those regs are not really applicable to the situation that you're faced with in these proposals.

So, thank you, Mr. Chairman.
MR. EDWARDS: I just want to follow up on this period of time below Skilak, when this spawning occurs, you know, again it makes it a little difficult, given my perspective given that while you have a closure on rainbows, you do have a fishery for Dolly Varden and as we heard in testimony quite frankly the majority of people that are fishing down there are not fishing for Dollys, they're fishing for rainbows and I can show you some pictures from people who caught some very nice rainbows here in the last few days, and so -- they didn't keep but they released them and as people do when they're catching these very large rainbows, they're holding them up getting their picture taken and they're putting them back in and, you know, that's not doing that fishery any good either. And I know that the Board of Fish is planning on taking action but, again, it puts us, it seems to me, in an awkward position, even though we might agree in principle, you know, to try to take action when we have these things in the State.

I do think that when it comes to outside of that period, because that would be kind of a catch and release, but outside of it, it's going to be a catch and keep so there's not going to be a lot of high hooking mortality because people, as Charlie pointed out, are going to keep that first fish over 20 inches so they're not going to be releasing fish and catching fish, so.....

CHAIRMAN FLEAGLE: John.

MR. HILSINGER: Thank you, Mr. Chairman.

The Department now has an emergency order that is in effect in that area that prevents people during this spawning closure from removing rainbow trout from the water. The other.....

MR. EDWARDS: That's not a rainbow.

(Laughter)

MR. HILSINGER: Well, that would have started May 2nd, I guess, so either they can't read or they got in just under the wire.

But that, actually, in a lot of catch and release rainbow fisheries around the state, there are requirements that you not take the fish out of the water.

And my impression on the -- I guess one of my concerns is that that's an area where large fish
congregate and my understanding was that we had the --

you could keep a fish under 16 inches or under 18 inches

and so my concern would be that, you know, they may catch

a very large number of 30, 35 inch rainbows looking for

the fish that they could keep. And that is an area where

large rainbows are quite common.

I think we're sort of fortunate to have

that problem, I don't think you'd find very many places

in the world, on a road system next to a community next

to three or 400,000 people where we're sitting around

worrying about harvest of 35 inch rainbow trout, and I

think the reason we have that problem is because the

Department, over the last 50 years of management, has

been pretty conservative and we've tried pretty hard to

think about those things, even though sometimes they

don't seem like they might be problems or the stock might

be able to withstand it.

I think, you know, that's one of the

reasons we feel strongly about this.

Thank you.

CHAIRMAN FLEAGLE: Other questions.

Judy.

MS. GOTTLIEB: Mr. Chair. I wondered

whether Doug could come up, please, and clarify about the

thousand number of fish on the chinook.

CHAIRMAN FLEAGLE: Doug McBride.

MR. MCBRIDE: Doug McBride from OSM.

Just to clarify about the thousand total annual harvest

quota for chinook salmon in the Kenai?

MS. GOTTLIEB: Exactly.

MR. MCBRIDE: Okay. I believe John is --

he's certainly correct in terms of the original request.

The original request from whatever it was, 27b, was for a

thousand king salmon between the Kenai and Kasilof

Rivers, that was the proposal from the Ninilchik

Traditional Council.

As we went through the analysis of these

proposals, though, we had to do a little bit of

translation and by that I mean when the regulations are

done they have to be applicable to all eligible rural
residents. In the case of the Kenai, that is the three communities of Hope, Cooper Landing and Ninilchik. And the request was from Ninilchik and when you read the request and they testified on it, multiple times, they were clearly talking about Ninilchik, they weren't talking about Hope and Cooper Landing. And so when we did the analysis we split it -- you know, we obviously split it between the Kenai and Kasilof. The recommendation was to provide for 500 chinook, late run chinook in Kasilof for all the reasons we talked about yesterday and so then when we got to the Kenai, I mean one of the options as a matter of analysis, I suppose, well, we could have just said the other 500 come from here, but again you have to go back to the other communities, and so that was simply a choice, to be quite frank, that we made as a recommendation, as a matter of analysis to provide for the thousand in the Kenai recognizing the other two communities.

Mr. Chairman.

MS. GOTTLIEB: Mr. Chair. And so, Doug, in coming up with that number of a thousand, you and others and the RAC also took into consideration conservation principles.

MR. MCBRIDE: Mr. Chairman. Ms. Gottlieb. Absolutely. When we looked at that, you look between the two drainage,s in the Kasilof all we had was the history of harvest of late run chinook in the lower river sportfishery, that was all we had to base -- that's why we didn't provide for the full thousand in the Kasilof. In the Kenai, obviously a lot more is known, there's a sonar at Mile Seven, they count chinook into the river, then they do a krill survey on the sportfishery, they subtract that harvest out, they know what the escapement is. And so, I guess, from a numbers standpoint, if you will, providing for the thousand chinook in the Kenai is certainly within typical run sizes for late run chinook in the Kenai.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. I guess while I'm trying to understand I know we sort of got into this yesterday and maybe you said it and I didn't fully understand it, but for the residents of Ninilchik because of their C&T and harvest limit of chinook on Kasilof, isn't their total 500 between the two?
MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

MR. EDWARDS: Well, I only mention it to you because it says that salmon taken in the Kenai River system, dipnet, rod and reel fisheries will be included as part of each household annual limit for the Kasilof, household. So they are restricted that way, right?

MR. MCBRIDE: Could you repeat the question, I'm.....

MR. EDWARDS: Well, again, I'm just trying to reconcile this statement that on the household's annual limits for the two systems, they're dictated by whatever the household number is, which is 25 plus -- no, that's for sockeye, so for chinook salmon the annual household limit is only 10 and two for each additional, and whether those are taken in the Kenai or the Kasilof, the total can't exceed that number, right?

MR. MCBRIDE: Now, I understand, I'm sorry, Mr. Edwards. Yes, you're correct, you're talking about the household dependent limit and that is not per drainage, that's across the two drainages.

MR. EDWARDS: Right.

MR. MCBRIDE: So, yeah, the household dependent limit would be 10 chinook plus two for each dependent and they could take them all in one drainage or some combination thereof, but, again, they can't stack those limits, they're not additive.

MR. EDWARDS: But I mean you could argue that those fish can be taken in Kasilof, that takes pressure off of the fishery by those people in the Kenai, right, because they wouldn't be able to -- allowed to go over there and fish because they've already caught their household limit, right?

MR. MCBRIDE: Yes, that's correct.

MR. EDWARDS: Okay.

CHAIRMAN FLEAGLE: Ralph Lohse.

MR. LOHSE: I have one question and one comment to Gary. If all of the households took their household limit, that would be somewhere around four or
5,000 fish. And basically what we did is we put a limit on each system so that each system couldn't exceed that much. That's not sufficient to give all of the households their household limit. It's smaller than the combined household limits.

So the question I -- I had a question for John, if I may ask him, because I'm trying to get a handle on something here. Did you mean that the mortality on resident rainbows spawning is between 40 and 45 percent, did I understand that correctly.

MR. HILSINGER: Mr. Chairman. My understanding is that the annual natural mortality on rainbow trout is around 45 percent and that the biggest proportion of that, and particularly in adult fish is, occurs during the spawning period.

MR. LOHSE: Okay, so that's the natural mortality for the whole year and that's of all rainbows, not just mature rainbows?

MR. HILSINGER: That's correct.

MR. LOHSE: Okay. Okay, because I was trying to figure out if the spawning mortality was 40 to 45 percent and the hook and release mortality is between -- we've had everything from .3 percent to eight percent depending on frequency of catch and that didn't matter because it went in the 45 percent, then the amount that the subsistence fishery would have taken would've been insignificant in comparison with that, too. But I was also trying to figure out how you got 35 inch rainbows if they started spawning at 16 inches and 45 percent of them died every year. I just couldn't get a handle on that, so, okay.

So that would include the little ones that got eaten by cormorants and herons and everything going on on them, so you have like a 45 percent turnover in the population every year.

MR. HILSINGER: Right. That's everything. And I think what that tells you is that, you know, there are a lot of little rainbows when you have that kind of mortality rate, the fact that you still do have good healthy populations of large fish indicates that the harvest rates are extremely low, and I think that's what we see when we look at the -- that even if you do add the catch and release mortality along with the
actual harvest, those rates are extremely low and that's one reason that population has rebuilt the way it has.

MR. LOHSE: Thank you, muchly, John. Yeah, that really cleared it up for me because I was under the impression from what I was hearing that that was a spawning mortality and spawning mortality only takes place in adult mature fish.

Now, that's pretty close to the spawning mortality, though, in sea run steelhead, isn't it, somewhere in the neighborhood of 40 to 60 percent of them don't return to the ocean for a second spawn.

MR. HILSINGER: Mr. Chairman. Mr. Lohse. My understanding is that it depends on the individual river system and there are systems where you primarily -- the steelhead spawn only once and then there's other river systems where you see larger percentages of fish that spawn two, three times.

CHAIRMAN FLEAGLE: Other questions, Board members, for the State.

MR. EDWARDS: I guess this is more for Staff or.....

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: .....who can answer it, when we use the terminology, bait, in here, what are we referring to, is there a limitation on that, on the definition of bait or it's whatever you want to put on your hook that's -- I'm assuming that it can be an artificial bait, it can be a live bait, big bait, small bait, what -- what can you use, donuts, can you put donuts on there, I mean I don't.....

UNIDENTIFIED VOICE: You can Gary.

(Laughter)

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: I see people looking at the Federal regulations and I don't have them right in front of me, but bait I know is defined in State regulation and I mean I'm presuming it's any kind of an attracter like commonly used is salmon roe and herring and anything else that would provide a scent in the water.
CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: Larry Buklis for the
InterAgency Staff Committee comments, please.

MR. BUKLIS: Mr. Chairman. The
InterAgency Staff Committee comments can be found on Page
286 for Kenai River salmon and Kenai River resident fish.
The comment are brief.

The Staff Committee found the Staff
analysis for Kenai River salmon and for Kenai River
resident fish species to be complete and accurate
evaluations of the proposals and the recommendations of
the Council to be consistent with ANILCA, Section
.805(c).

Thank you, Mr. Chairman.

Questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Now, first
up we'll be dealing with the salmon proposals, 27b and c
and 29, and we'll hold Board discussion with Council
Chairs and State liaison as appropriate for each
individual section. And starting out with the
Southcentral Regional Advisory Committee Council's
recommendation on Page 104 would be our starting document
for this next discussion.

Board members, discussion.

Denny.

MR. BSCHOR: Yeah, Mr. Chair, perhaps I
could suggest a few things here that we could consider.
It seems to me that with both the salmon and the resident
fish proposals, that it might be best to approach these
by separating out the communities, Hope and Cooper
Landing first, and then looking at Ninilchik's needs.
And I'm prepared to do that thinking that that will help
us through some of the complications we have with where
it's clear there's C&T for Hope and Cooper Landing where
we had the tie vote on the situation with the C&T for
Ninilchik. But by looking at the implementation of the
proposals here I think we could talk through some of that in a way that might help clarify some things.

The thing that will help us do that is to maybe deal with the ones that -- the communities, first of all Hope and Cooper Landing, get through that, and that we will -- I know our normal practice is to make these types of division solely based on customary and traditional use determinations or when necessary using the criteria found in .804 ANILCA, but it just seems to me it would help us work through this in a more effective way.

And then I would propose for resident fish do the same thing.

I would propose -- let me say what I would propose as far as a motion first and see if it fits with the Board and as far as where you want to head, but the -- let me make a motion, I'll just do that, we'll just start off and we'll see where we go with this.

I move to adopt the recommendation of Southcentral Alaska Regional Advisory Council for salmon for Hope and Cooper Landing, which would allow for fishing for salmon in the Kenai River drainage and is a modification of Proposals FP07-27b and 27c, there'd be no action taken on FP07-29. Following a second I could provide my rationale.

MR. OVIATT: I'll second that.

CHAIRMAN FLEAGLE: Okay, we have a second. And I do find the motion to be in order, Denny, I think that it's a good rationale for separating out the decisions that we can find some clarity on the previous issues, so, go ahead, rationale, please.

MR. BSCHOR: Okay. I'm going to pretty much read some rationale here that I've got written out if you'll indulge me, so I make sure I get everything correctly as far as numbers and page numbers and things like that, these proposals are very complicated as we all have heard for the last day and a half.

My rationale for adopting the recommendation of the Southcentral Council can be found in justifications -- the justification page on Page 135 of our Board book, which is the Staff's recommendation, as well as on Page 104, which is the Council's
Staff modified their recommendation after the Council meeting to be the same as the Council's. The recommendations are supported by substantial evidence, do not violate recognized principles fish conservation and are not detrimental to the satisfaction of subsistence needs. We have the benefit of a very detailed Staff analysis, detailed comments by ADF&G and the response of those comments by the Office of Subsistence Management Staff.

Now, some may disagree with the conclusion, but -- both on the part of fish conservation and satisfaction of subsistence needs, but I view the Council's recommendation as a starting point. Let's try this set of regulations to see if the fish conservation concerns result and whether subsistence needs are satisfied.

Already, I think we know that the aspects of the Kenai fisheries next year, including the potential for a fishwheel that's been proposed starting on Page 178 and a sockeye salmon fishery on Hidden Creek as described on Page 182, I fully anticipate that we'll need to make some minor changes to other parts of this fishery in the future and also considering the State's comments here that Mr. Hilsinger made, that there are some other concerns and some tweaking that will need to be done, I'm sure that will need to be done in this case and others.

But if any conservation concerns arise in-season, we have our in-season manager that has the authority to deal with those situations.

I also don't want to tinker with the Council's recommendation. I will be making one amendment to this motion for the proposed Russian River dipnet fishery but it's not substantive. It does not change the recommendation in a significant way, except to modify the regulation to clarify where individuals can fish and how the river will be marked. We've heard testimony about how complicated that situation is and I appreciate the testimony of at least a couple of the people in the audience, the testifiers who brought it to our attention that it's a complicated situation. We have one area on the National Forest that we can contribute towards this fishery and that's the place, now, will that work, will that work well, how impacted will it be, we don't know all that yet, but we're willing to give it a try.
And I might add to that that our law enforcement officer from the Forest Service work in hand with and in cooperation with the State Troopers through memorandums of understanding so we have authorities to deal with situations to help out with that.

Let's see, I think that pretty well covers my reasons. Like I say if we get -- I would like to make a motion to amend that Russian River Falls as it's appropriate according to protocol here. Do you need any discussion on what I just said or should I just make my amendment.

CHAIRMAN FLEAGLE: I'll accept your amendment, Denny, and then we can come back to the main motion for further discussion and further action.

MR. BSCHOR: Okay, let me be more specific about the amendment as far as the new language then.

And the language would say, on the Russian River Falls site, dipnetting will be allowed from a Federal regulatory marker near the up stream end of the fish ladder at the Russian River Falls down stream to a regulatory marker about 600 yards below Russian River Falls.

Residents using rod and reel gear at this fishery site may not fish with bait at any time.

And after a second, I will provide my rationale for the amendment.

MS. GOTTLIEB: I'll second.

CHAIRMAN FLEAGLE: Okay, go ahead.

MR. BSCHOR: As you know the Staff, many of our Staff visited the Russian River Falls site last Friday and they concluded that it would make sense to change this regulations in a couple of ways. As I said I don't believe these are significant and they would benefit the subsistence users and simplify the administration as much as it can be simplified on the site.

And after I get done concluding my
rationale I would like to also, if it's in order, to ask Chairman Lohse, at that time whether the modified regulation will meet the intent of the Advisory Council's recommendation because I don't want to get out of line with that.

First, the language says that the dipnetting would be open down stream of the Russian River Falls. Based on the Staff's field review and some photos we sent around it was determined that some of the best dipnetting sites would be within the falls themselves. The falls extend about 500 to 100 lateral yards with a series of pools and small falls. Salmon concentrate in these pools and are accessible for dipnetting from the bank. Also for your information there's a fish ladder that goes through the mountain on the Refuge side of the river. The ladder is only used during extreme high flows when fish would otherwise be unable to swim the falls.

Second, I would like to simplify the language associated with regulatory markers, which, I think that language did I just read. The number in the current recommendation is excessive. The river isn't very wide, as you can see from the pictures, and the marker is not needed on both sides of the river.

Finally, I want the intent of this language to be clear that fishing in the falls and down stream of the falls would be permitted under this regulation. Our regulations prohibit fishing within 300 feet of that fish ladder unless there is an exception written into our regulations. With this proposed regulation it would be clear that fishing within and down stream of the falls, though, within 300 feet of the fish ladder is permissible.

Thank you, Mr. Chair. And, Mr. Chairman, if Chairman Lohse has anything to say I'd appreciate him to have an opportunity to respond, you know, how this is in line with the proposed regulation that I'm supporting, if he wants to, but that's up to you.

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: Mr. Chair. Any clarification of a location, the location wasn't as important as the priority and the place. And I would not expect our Council to have any objection to modifying the location for clearer identification and for better fishing.
CHAIRMAN FLEAGLE: Discussion on the amendment. Didn't Judy second it.

MR. PROBASCO: Did you second it, Judy, I didn't hear you.

MS. GOTTLIEB: (Nods affirmatively)

CHAIRMAN FLEAGLE: Yes. Discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for the question on the amendment, the amendment to change the location of the Russian River Falls dipnetting site. Pete, please poll the Board on the amendment.

MR. PROBASCO: Thank you, Mr. Chair. On the amendment to the motion on the Russian River Falls site:

Dipnetting will be allowed from Federal regulatory marker near the up stream end of the fish ladder at the Russian River Falls down stream to a Federal regulatory marker about 600 yards below Russian River Falls.

Residents using rod and reel gear at this fishery site may not fish with bait at any time.

Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Fleagle.
CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: And Mr. Edwards.

MR. EDWARDS: Aye.

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

CHAIRMAN FLEAGLE: Thank you. Now, the language on the screen now is the wording for the main motion, and since that one portion was dealt with in the amendment, I wonder if we wouldn't have any objection to removing that little piece about with the additional modification to clarify the location of the Russian River Falls fishing site, out of that main motion.

Any objection.

(No objections)

CHAIRMAN FLEAGLE: Hearing none. So -- there you go, that will simplify it. Since we've already done the other part by the amendment.

Further discussion on the main motion, now, to adopt the Council's recommendation to allow this fishery for the communities of Hope and Cooper Landing.

Gary.

MR. EDWARDS: Mr. Chairman. Maybe Doug can answer this question. For the salmon, the residents of those two communities and the dipnet fishery would be able to keep resident species; is that correct?

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

Yes, that's correct.

MR. EDWARDS: And then what can they do under the rod and reel fishery with regard to resident species?

MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

There would be two harvest opportunities for resident species.

The first is in the two dipnet fisheries
below Skilak Lake, Moose Range Meadows and the Mile 48 site. They would be allowed to retain incidentally harvested rainbow trout and Dolly Varden for both species, up to 200 of those fish, less than 18 inches. So if they were 18 inches or longer, there'd be mandatory release in that fishery.

In addition to that, well, actually in this -- all you're dealing with the salmon portion so that's all that's there for resident species and what is on the table right now.

Mr. Chairman.

MR. EDWARDS: But there is a hook and line fishery for salmon, correct, in addition to the dipnet fishery?

MR. MCBRIDE: Correct, oh, yeah, for salmon, I thought you were asking.....

MR. EDWARDS: Right.

MR. MCBRIDE: .....about resident species. Yes.

MR. EDWARDS: So there is -- so what happens, while you elect to fish hook and line subsistence fish for early run or late run chinook, what happens if you catch a resident species, if you just simply had the salmon regulations and not the resident fish regulations, would you have to release it?

MR. MCBRIDE: Okay. Mr. Chairman. Mr. Edwards. Right, if -- if this was all that was ultimately approved by the Board, then for the resident species, you'd revert back to sportfishing regulations for the Federal Subsistence Board fishery. So in the rod and reel fishery, which would all that would be available, other than this incidental harvest, then the -- all -- everything, the seasons, methods, means, terminal tackle, and limits would all be per State of Alaska sportfishing regulations.

MR. EDWARDS: I guess what I'm trying to get at and I don't know exactly where I am on this, I sill also have concern about this area below Skilak, the May 1st through June 2nd or 13th or whatever it is, and under the salmon regulations we wouldn't probably expect much -- we wouldn't expect any salmon fishing,
subsistence rod and reel occurring at that time, right, because the dipnet fishery doesn't actually start until like June something. So I mean the reality is that if you strictly only had the salmon, you wouldn't really expect any fishing to be occurring during that spawning period; is that correct?

MR. MCBRIDE: Mr. Edwards, that's correct.

MR. EDWARDS: Okay, thank you.

MR. MCBRIDE: We would not anticipate any meaningful numbers of salmon in that portion of the drainage until about June 15th.

MR. EDWARDS: All right, thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Go ahead, Judy.

MS. GOTTLIEB: On 105, the top of 105(a), about in the middle of the paragraph, does it not talk about incidentally caught fish may be retained for subsistence uses.

CHAIRMAN FLEAGLE: Right, that's the net fishery.

MS. GOTTLIEB: Okay.

CHAIRMAN FLEAGLE: The other one was the hook and line.

MS. GOTTLIEB: Okay.

CHAIRMAN FLEAGLE: Which they are not allowed to. Other questions.

(No comments)

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Your concerns are okay with the dates and I know there was also some concern we heard in testimony that might be worthy of addressing here as well as what we did on the Kasilof and that's the
treble hook issue and bait.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Well, I believe that this motion, this proposal does take in mind all the needed conservation measures is consistent with the recommendations of the RAC and is mindful of, you know, minimal impact, if any, to other users, and it certainly does meet subsistence priority preference.

CHAIRMAN FLEAGLE: Further discussion.

John.

MR. HILSINGER: Mr. Chairman, thank you. I'm a little bit confused. I think Staff mentioned that there was a 200 fish limit on the resident species and I think that was for the dipnet, but I don't see the 200 number in the proposed regulation, so I'm wondering if we could clarify that.

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Yeah, Mr. Chairman, my apologies. That was for the Kasilof, Mr. Hilsinger is correct. For the Kenai, what is proposed is incidental harvest of rainbow trout and Dolly Varden in the dipnet fishery under 18 inches. If they're 18 inches or larger they would have to be released. The 200 was just my mistake from the Kasilof.

CHAIRMAN FLEAGLE: Thank you, Doug.

Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for the question.

MR. EDWARDS: Can I ask just one more question.

CHAIRMAN FLEAGLE: You bet.

MR. EDWARDS: I'm still wrestling on this bait. What does -- and maybe the State can -- what does, for salmon, or chinook and coho or particularly chinook, what does the State allow with regards to terminal tackle
with regards to hooks, numbers of hooks and the use of
bait?

CHAIRMAN FLEAGLE: John.

MR. HILSINGER: Mr. Chairman. If I
might, I'd like to have George Pappas address that.

CHAIRMAN FLEAGLE: Sure.

MR. HILSINGER: Thanks.

CHAIRMAN FLEAGLE: George.

MR. PAPPAS: Yeah, Mr. Chairman. For
king salmon it's single hook artificial lure only until
August -- or excuse me, until July 1st unless the early
run gets liberalized, early run sportfishery for king
salmon gets liberalized by the Department figuring out
exactly -- determining that we will exceed the goals, and
it's a single hook with bait allowed at that time and
then it does go to multiple hooks later on in the
summertime for -- it gets a little confusing, below the
Killey River to a certain time, above the Killey River to
a certain time. I can go through those for you if you
want me to.

MR. EDWARDS: So I mean I guess what
we're proposing here with regards to the use of treble
hooks and bait for the, that would be below Skilak only
for chinook, although somewhat more liberal than the
State, isn't totally more liberal than the State, right,
given the time that -- so I guess that would also allow
for Moose Meadows, right, too, but that fishery doesn't
start until when, the 16th of July, but you could have
rod and reel before that, which then you could be using
treble and baited hooks. But the State regs kick in
there, as you also indicated, or could kick in even
earlier if that run was a stronger run. So at least
where I sit there's not a huge significant difference
between what's being proposed here and what you actually
can do under State regs, sport regs. I know that's a lot
to actually try and weed through that, so I guess I -- I
mean I feel somewhat, I guess, okay, comfortable with
this at least at this point, as far as treble hooks and
bait. I'm not sure I feel necessarily the same way under
the resident species but for the salmon, I think I'm
okay, I think.

CHAIRMAN FLEAGLE: John Hilsinger.
MR. HILSINGER: Thank you, Mr. Chairman.

I think the issue is that the normal State regulation allowing bait would not kick into effect until July 1 and by July 1 then you've got the early run chinook up in that area and you've got the late run chinook starting into the river, and through July then they would be heading up into that area so that period before July 1, and particularly May and June is really the problem. And the problem with that is that there are virtually no salmon available during that time period and so you're not really providing much of a salmon opportunity within the salmon regulations. And certainly from January 1 up until May 2nd, you're also allowed to use bait and the only salmon that you would probably find in that area during that time period would be coho salmon that came in the August before and are probably not a prime target for a subsistence fishery by the time that following spring rolls around.

So I think it is a substantially different, you know, the net effect of that regulation is substantially different because of those time periods than what the State has currently, which is targeted specifically to the chinook runs.

Thank you.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: One more question. But I mean, again, the reality is on the chinook fishery, if a subsistence person is using treble hooks and bait, they're not going to be doing catch and release, and they can only take a total of four fish anyway, total, that once they catch their four fish they're done and my guess is they're going to take every -- they're not going to release any fish so you don't have that mortality, you just have an efficient harvest of four fish as opposed to a more less, inefficient harvest.

CHAIRMAN FLEAGLE: John.

MR. HILSINGER: Mr. Chairman. Mr. Edwards. Once those chinook are there, that's probably true, but a person could fish in that area using bait prior to the time when any chinook arrive and they would be harvesting rainbow trout and we would have -- and large rainbow trout, 35 inch rainbow trout and an attendant (ph) mortality rate that, you know, could be around 30 percent on those large fish. So certainly at
the time when they're targeting chinook use of bait is aeal commonly accepted management tool, but during that
time when chinook are not there, I think is when we would
have concerns.

MR. EDWARDS: Not to continue this as a
debate, but it would seem to me that subsistence users
are not, under this reg, allowed to keep resident
species, I doubt if they would be there to fish for
something that they couldn't keep, otherwise they would
be called sportfishermen.

CHAIRMAN FLEAGLE: Which begs the
question then why do we have an allowance for that to
occur from January 1, if there's no fish there, no salmon
there, why open the season the 1st of January.

MR. EDWARDS: I could live with that
or.....

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Can we go back to the RAC
or to Doug to fill us in on that part, please.

CHAIRMAN FLEAGLE: Sure. And it's
probably because it was all intended to be part and
parcel of resident and salmon but -- Ralph.

MR. LOHSE: Mr. Chair. I think you kind
of hit the nail on the head right there because we looked
at it as a complete package. I think the discussion is
correct that under what's here, as long as you're just
considering it for salmon, the treble hook and bait's not
going to have any affect on the rainbow trout right below
Skilak Lake because it won't be taking place at that
period in time. Because if you look at it, you see that
the fishing seasons are, oh, the 16th of July to 30th of
September, June 15th through August 15th, you know, so --
for salmon that was.

The dipnetting, we didn't put a 200 fish
limit on it because, well, I was just going through some
numbers on Page 164 and 2004, in just the lower river
alone the catch was like 45,000 rainbows, the harvest was
1,800 rainbows, if you put a one percent mortality on it,
that kicks it over 2,000 rainbows conservatively were
killed and we didn't see where -- you know, we didn't
think we would take 200 rainbows in that fishery and that would be less than 10 percent of what's currently being taken so we didn't see any real issue with it, didn't see any need to put it in.

Am I missing something that -- I was thinking of something else when you asked me and I know that the whole thing was is that we looked at it as a package.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I guess just from a little bit of, you know, research we did in terms of checking about the amount of time that it takes to catch a king salmon among sports users with rod and reel, it's something like 27 hours, so even if a baited hook, let's say, cuts that time in half, it's still quite a bit of an intense effort and so I'm assuming people are only going to go and do this when they think they have the best chance of accomplishing their goal of taking a king salmon.

CHAIRMAN FLEAGLE: Further discussion.

George.

MR. OVIATT: I agree. I mean if that's true, why have this on the books then for the king salmon part, the extended fishery, I mean if they're there to fish for salmon.

MR. EDWARDS: Mr. Chairman. Maybe, Bill [sic], I don't know if you were making a suggestion or what, or pointing out something but, you know, maybe adding on to what George said, I mean I have concern, personal concern about the area below Skilak. I think some of the fears, I think there's just some self-protecting things in there that some of the things we think are going to happen probably aren't going to really happen. But nevertheless and I don't think this -- and we can discuss it, but I guess I would amend it then to only allow bait and treble hooks beginning June 15th through August 31st as opposed to starting at January 1. I think that would insure that we wouldn't be having bait and treble hooks during that period we're concerned of, I think it starts enough that then people then could use -- to continue to fish for chinook and I don't think the end results of that are going to have any kind of negative
impact so that's what I would recommend.

CHAIRMAN FLEAGLE: That was an amendment.

MR. EDWARDS: That was -- yes, sir.

CHAIRMAN FLEAGLE: Is there a second.

MR. OVIATT: I'll second it.

CHAIRMAN FLEAGLE: We do have a second.

Further discussion. I think we had -- oh, Judy, go ahead.

MS. GOTTLIEB: Well, I just wanted to be clear on how that still provides a meaningful preference for people.

MR. EDWARDS: Well, I guess -- well, I think what we heard is that the reality is that this proposal deals with salmon and that folks are not going to be up there at that time fishing for salmon anyway because they're really not going to be in there so that would allow -- that's when the dipnet fishery starts, I believe that's when the first dipnet fishery starts and I think that's when you're going to see the activity and I mean if nobody is -- can catch -- really if there's no fish there to catch, there's really not a meaningful preference to provide so I don't think that we are restricting or not providing a meaningful preference and I think we would still continue to do so, again, unless I'm missing something.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. Mr. Edwards. And Mr. McBride. Your amendment focuses on Page 106.

MR. EDWARDS: B1.

MR. PROBASCO: B1. And that would change the language from January 1 through 31st of August to June 15th to 31st of August, Doug, does that change affect anything else in this Council's recommendations as we proceed through the Kenai River regulations?

CHAIRMAN FLEAGLE: Doug.

MR. MCBRIDE: Well, yes, it changes the Council's recommendation. The Council's recommendation
was.....

MR. PROBASCO: What I'm looking for is we're starting to make changes, amendments to this, does it have a domino effect on some other issues that are going to be coming up before the Board that they need to be made aware of?

MR. MCBRIDE: Mr. Probasco, I don't think so. And the reason I'm saying that is I am fairly certain, and I'm sure something's going to get bounced off the back of my head if I misspeak here, but I'm fairly certain that the proponents, when they proposed the use of bait, they were focused on salmon, primarily kings and cohos and so I don't think that it would -- I mean I don't think it poses any serious domino effects elsewhere as we get into resident species, to my knowledge.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Maybe a clarification from John or others, is the State season not open at January 1, that's what I have in my notes, that the State season is open between January 1, July 31st for chinook.

MR. PAPPAS: That is correct, yes, single.....

CHAIRMAN FLEAGLE: George.

MR. PAPPAS: .....hook artificial lure -- single hook, artificial lure only.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: So my comment would be we ought to be careful about restricting when the State season's open anyhow, I'm not talking about the bait, I'm just talking about the season here.

MR. EDWARDS: Again, I guess, the reality of it is we're probably not restricting because there's really not fish there to catch and you can't catch what's not there, so -- and I think it's true with the State regs, the reality is that they may have a season but you're not -- last I looked, you know, this February you didn't have a harvest of chinook did you, so.....
CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Doug, I was just handed this as a question. We also speak to times that bait can be used in a dipnet fishery, is that relevant to this issue?

CHAIRMAN FLEAGLE: You've never baited a net before?

(Laughter)

MR. PROBASCO: You have a dipnet fishery and you allow baited hooks....

UNIDENTIFIED VOICE: It's dipnet and rod and reel.

MR. PROBASCO: Correct. But in the dipnet, rod and reel fishery you also address two baited single or treble hooks from January 1 through 31 August. This amendment focuses on b, Section 1, A1 and A1(ii).

CHAIRMAN FLEAGLE:

MR. MCBRIDE: Right. If you're going to change the date -- if you're going to change the date to June 15th, then I think it's an administrative matter you'd just change those dates as well.

MR. PROBASCO: But I wanted to clarify that we do have two different types of fisheries here and in both areas they both speak to January 1 through 31 August and this change that Mr. Edwards put forward only focused on B1, do we need to include A1(i) and -- so -- Gary, is that your intent?

MR. EDWARDS: Yes.

MR. PROBASCO: Okay.

MR. EDWARDS: Yeah, I would agree with it, it would be just an administrative thing, you would just look at to where those dates would come up within the proposal and change them accordingly.

CHAIRMAN FLEAGLE: And I can still bait my net.
(Laughter)

CHAIRMAN FLEAGLE: With that clarification, that amendment will apply not only to the dates for baited treble hooks in Section b but also apply in Section a where it's listed. Any further discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for the question on the amendment. Question is called on the amendment. Pete.

MR. PROBASCO: Okay, Mr. Chair, amendment to FP07 -- second amendment to FP07-27b and c dealing with bait and treble hooks:

Will be allowed from June 16th to August 31st, and it'd be addressed in both sections a and b.

Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: No.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: And Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Amendment carries, five/one.

CHAIRMAN FLEAGLE: We now have the main motion before us, twice amended. Further discussion.
CHAIRMAN FLEAGLE: Ready for the question.

CHAIRMAN FLEAGLE: It looks like we are. Pete, on the main motion as amended twice, please poll the Board.

MR. PROBASCO: Thank you, Mr. Chair. Final action, FP07-27b and c as amended twice.

Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Fleagle.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: And Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Motion carries six/zero.

CHAIRMAN FLEAGLE: Let's step down for a 10 minute break.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon we're back on record. And we're ready to move into salmon for Ninilchik on the Kenai.
Excuse me, in the back, we're back in session.

(Pause)

CHAIRMAN FLEAGLE: So we'll start out with Board discussion on that component. Board discussion with the Council Chairs and the State liaison. Discussion.

Denny.

MR. BSCHOR: Mr. Chair. I'm prepared to propose a motion.

I move to adopt the recommendation of the Southcentral Alaska Regional Council for salmon for Ninilchik, which would allow for fishing for salmon in the Kenai River drainage and is a modification of Proposals PP07-27b and 27c. Once again no action would be taken on PP07-29.

However, unlike the recommendation of the Southcentral Regional Advisory Council, my motion includes a modification to not allow the incidental harvest of resident fish while taking salmon. Now, this question of the incidental harvest of resident fish will be taken up in an amendment I plan to offer if I get a second.

CHAIRMAN FLEAGLE: Do we have a second.

MR. BUNCH: I second.

CHAIRMAN FLEAGLE: There it is. Denny.

MR. BSCHOR: Okay. First of all I'll say a little bit about my rationale and it's similar to the last issue we deliberated on so I won't go through all that again, it's on the record.

But since I know that some Board members have concerns about our customary and traditional use determination for resident fish in the Kenai, I believe that this motion will allow for consideration of the question of harvest of resident fish directly and so I amend my motion -- is it okay to amend it now?
MR. BSCHOR: I move to amend my motion to allow for the incidental harvest of resident fish while taking salmon.

If the main motion and this amendment were to pass it would be consistent with the recommendations of the Southcentral Alaska Regional Advisory Council. Following a second I will provide my rationale.

MR. BUNCH: I second it.

second.

MR. BSCHOR: Okay. Although we are not addressing the customary and traditional use determination for Ninilchik to harvest resident fish, that is indirectly what we are doing. If we do not provide a harvest opportunity that would be like not providing a customary and traditional use determination.

Rather than use the arguments I made for customary and traditional use determination, I would like to address how subsistence users fish. And this amendment solely addresses the question of whether the incidental harvest of resident fish should be allowed while targeting salmon. And I obviously believe that, yes, clearly it should, and so when -- you know, it's been mentioned several times here this week that when subsistence harvesters go fishing for food they're not selective. They may be targeting one species such as coho, however, if they catch a different fish such as a resident fish, they prefer to take that fish, especially if that fish is going to be lost to death.

And, once again, if Chairman Lohse would like to address sometime during deliberations this issue I would welcome that also.

So I think that's -- I think that's all I've got.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. Just to keep the record clear. Mr. Bschor, when you say resident fish, you're meaning trout and char, correct?

MR. BSCHOR: Yes.
MR. PROBASCO: Thank you.

MR. BUNCH: Mr. Chair.

CHAIRMAN FLEAGLE: Go ahead, Charles.

MR. BUNCH: Denny, you said just rainbow and trout but there's a lot of resident fish within the Kenai that.....

MR. BSCHOR: Yeah, let me ask what the definition of resident fish is because, you know, I believe that would be my intent is -- and if it's more than char and trout then I answered that last question incorrectly, if somebody would want to clarify that for me that would be fine.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. Mr. Bschor. My question was related to where the fishery was taking place, but if you go to our proposals, resident fish include lake trout, rainbow trout and Dolly Varden/Arctic char. Is that your intent then?

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: If the original motion, if I heard it correctly, was to support the Regional Council's recommendation, so that would be on 105, applying only to Ninilchik and then you made an amendment.

MR. BSCHOR: Made a modification.

MS. GOTTLIEB: Made a modification, which removed incidentally caught non-salmon fish; is that what you mean?

MR. BSCHOR: Resident fish while taking salmon.

CHAIRMAN FLEAGLE: Would you turn your mic on.

MR. BSCHOR: Resident fish while taking salmon.
MS. GOTTLIEB: So could we show that
either on the screen or read it based on what's on
105/106.

CHAIRMAN FLEAGLE: I guess we -- yeah, we
all need a little clarification because the proposal, as
stated, already does allow for the take of resident fish
so your amendment would be.....

MR. BSCHOR: To not allow -- the
amendment is to allow it, the modification of the -- in
the motion was to not allow it, the amendment would allow
it, put it back in. I'm looking for a vote on the
resident fish issue.

CHAIRMAN FLEAGLE: I understand. Gary.

MR. EDWARDS: On the question on the
resident fish, I thought when we -- back in November when
we did this C&T it was for all fish, right, so where do
grayling, burbot, for example, where do they fall out at,
either in the motion or I guess even in the proposal
itself?

CHAIRMAN FLEAGLE: Excuse me, I was
talking when I should have been listening.

MR. EDWARDS: Well, I'm just trying to
understand because I thought when we did the C&T, you
know, the big debate was, was it all fish or was it just
salmon and then we sort of, kind of reconfirmed, I guess,
last week and also yesterday, I thought then we were
talking about all fish, so that would include salmon plus
all other resident species, and we have such things as
burbot and grayling that are down there that are part of
these waters, and I guess my question, would Denny's
amendment include the take of those species and maybe
it's immaterial when it comes to the salmon issue so
maybe it's a non-issue as it applies to salmon and we
don't necessarily have to worry about what we mean by
resident species.

I don't know, somebody help me.

MR. BUNCH: Well, Mr. Chair.

CHAIRMAN FLEAGLE: Charles.

MR. BUNCH: My concern on that was, was
that if you caught any kind of species incidentally, that
if there was a question of mortality, I mean it doesn't make any sense to throw a dead fish back regardless of make or model.

MS. GOTTLIEB: Mr. Chairman.

MR. BSCHOR: Mr. Chair.

CHAIRMAN FLEAGLE: I'll get right to you Judy. Denny.

MR. BSCHOR: I was just going to say that was my intent, too. That's one of the basics behind doing this.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Well, I was going to suggest maybe the opposite, can we just use the wording we have here in the proposed -- in the RAC's recommendation and change it -- you know, it specifically means Dolly Varden, rainbow trout so that if inadvertently someone catches a whitefish do we mean we're -- anyhow, I think it'd just be easier to work with wording we have, however we want to adjust it, but not be as broad as resident fish.

CHAIRMAN FLEAGLE: We need a brief at ease here.

(Off record)

(On record)

CHAIRMAN FLEAGLE: After a little bit of thought and consultation on that, I'm going to rule that amendment and motion out of order. To have a motion on a proposal that states a positive action and then to make the motion that would accept that proposal except a small piece of it, first of all, doesn't fly right with me and then to have an amendment that puts that small piece back in doesn't sound appropriate.

I think a cleaner way to do that, if the intent is to further divide this proposal into pieces, as we just did by communities, the best way would be to take separate motions. And I think understand Denny's intent is to just get a vote on the table as to whether or not the Board intends to support the incidental harvest of other species of fish that we hadn't found a positive C&T
for, that is not clear that we found a positive C&T for, I should say.

As we remember from the discussion yesterday there's three Board members here that are on record as opposing the positive C&T for resident species for Ninilchik in the Kenai and we haven't been able to find a way to get the vote back to where we can accurately reflect that. So it sounds like the intent is to try to adopt these regulations with that in mind. And with the philosophical issues that at least three Board members have about the non--I keep wanting to call it a non-resident, but the resident fish, the entire proposal stands a chance of failing and Ninilchik will not get their right to harvest salmon based on that philosophical disagreement with three Board members that they have a right to those other species. And that's the danger in proceeding with the proposal as it is.

So I think what I'm going to propose is that we take these up in separate motions. We take up the proposal for Ninilchik now as we are without the discussion of incidental caught, other species, and then we can take that up as a separate motion afterward, just like we separated out Cooper Landing and Hope and then Ninilchik.

One other thing is that there was several amendments made to the proposal when we were dealing with the Cooper Landing and Hope issues that would either need to be referenced or redone when we do this here, if it's the Board's intent to apply those equally.

So I'm going to -- again, I rule both motion and amendment out of order, so they're gone and we're starting with a clean slate.

Denny.

MR. BSCHOR: Thank you, Mr. Chair. You have described my intent correctly. Sorry I caused so much confusion in the process, but maybe we needed to get through that to talk it through. So what I'm hearing the Chair say is a motion relative to adopting the Southcentral Council's proposal and.....

CHAIRMAN FLEAGLE: As it pertains to salmon only, not addressing the incidental harvest of other species.
MR. EDWARDS: Could we get it on the screen.

CHAIRMAN FLEAGLE: For Ninilchik, correct, I hear the whispers back here, but, yes, that's the intent.

(Pause)

CHAIRMAN FLEAGLE: Okay, everybody's clear that we're talking about just the salmon at this time. That the discussion of incidental caught resident species will come in a subsequent motion.

All right. Denny, do we need any more discussion -- yeah, we do. Pete.

MR. PROBASCO: And I'm assuming based on your counsel, Mr. Chair, that this includes the previous two amendments that we dealt with, Hope and Cooper Landing?

CHAIRMAN FLEAGLE: I guess I should get a second first.

MR. BSCHOR: Do you want me to propose the motion or are you making the motion.

MR. BUNCH: Do we have a motion to second?

MR. BSCHOR: I don't think we do.

CHAIRMAN FLEAGLE: Okay.

MR. BSCHOR: I move to adopt the Southcentral Alaska Subsistence Regional Advisory Council's recommendation for salmon for Ninilchik, FP07-27b and c and take no action on FP07-29.

CHAIRMAN FLEAGLE: Now we have the motion.

MR. BUNCH: I second it.

CHAIRMAN FLEAGLE: Now we have the second. Further discussion.

MR. EDWARDS: 29 is what?
MR. PROBASCO: Gillnet.

MR. EDWARDS: Pardon?

MR. PROBASCO: Gillnet.

MR. EDWARDS: All right. So let me ask you, Mr. Chair, if this motion passes, what does it do in reference to -- if this motion passes and only this motion passes, what does it do in regards to resident species?

CHAIRMAN FLEAGLE: I have just suggested and Mr. Bschor, as the maker of the motion as agreed, to make the motion to apply only to salmon, that the resident species incidental caught -- resident species portion will be dealt with in another motion.

Pete.

MR. PROBASCO: Mr. Chair. There was three of us here that wanted that clarified, and I think you just clarified it, that it's salmon only, incidental fish will be dealt with in a subsequent motion.

MR. EDWARDS: So that would basically require, in the proposal from the Council, any reference to anything other than salmon would be struck from that; is that correct?

CHAIRMAN FLEAGLE: Yes.

MR. EDWARDS: And then the other thing that was pointed out, the amendments from the previous one, in reference to Hope and Cooper Landing would carry forward, having to do with the timeframe of the use of bait as well as the boundary for the Russian River.

All right.

CHAIRMAN FLEAGLE: If there's no objection, that would be the intent to carry those amendments forward as well.

(No objections)

CHAIRMAN FLEAGLE: No objection. Further discussion.

MR. BUNCH: Mr. President.
MR. BUNCH: Oh, excuse me, Mr. Chairman, sorry.

MR. BUNCH: I didn't want to follow the president's shoes here exactly. I have some questions about, you know, I know that our previous discussion was on Hope and Cooper Landing, but I don't know whether, you know, Ninilchik is going to participate in this early fishery out of Skilak or not, and would it be possible to find out from Ninilchik if they're planning on participating in that early fishery?

CHAIRMAN FLEAGLE: Any objection.

(No objections)

CHAIRMAN FLEAGLE: Somebody back there can answer that question. Sky.

MR. STARKEY: Thank you, Mr. Chairman. The question is would Ninilchik be participating in the June 15th fishery?

MR. BUNCH: Right now for Ninilchik -- I mean for Hope and Cooper Landing we've closed off that fishery and I'm assuming that Ninilchik wouldn't have any objection to that closure, but I would want to get your input on that.

MR. STARKEY: Mr. Chairman, Mr. Bunch, we would have no objection to the season that reflects the June 15th date because the intent is to go after the salmon when they're there. So according to everything we know at this point in time that would address an opportunity when the fish are there.

And thank you for asking.

MR. BUNCH: Thank you.

CHAIRMAN FLEAGLE: Further discussion.

(No comments)

CHAIRMAN FLEAGLE: All right. Just to clarify where we're at. Basically we've got Proposal 27b
and c as presented on Page 104 that we amended to change the Russian River Falls location, we further amended to reduce the availability of using baited and treble hooks down to May 15th to June 31 -- I mean August 31, and we also.....

MR. PROBASCO: June 15th.

CHAIRMAN FLEAGLE: June 15th.

MR. PROBASCO: To August 31.

CHAIRMAN FLEAGLE: I'm glad somebody clarified that for me.

Okay, and basically what is not being considered here is on Page 105, paragraph A, about in the center of that paragraph that read:

For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence purposes or uses, excuse me, except for early run chinook salmon unless otherwise provided for, rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released.

For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses except for early and late run chinook salmon, coho salmon, rainbow trout, Dolly Varden, which must be released.

That piece of this proposal will be dealt with subsequently and is not being considered now.

George.

MR. OVIATT: That'd be for Ninilchik only.

CHAIRMAN FLEAGLE: Correct. Further discussion.

(No comments)

CHAIRMAN FLEAGLE: Ready for action.
MR. BSCHOR: Question.

CHAIRMAN FLEAGLE: Question's called.

Pete.

MR. PROBASCO: Thank you, Mr. Chair. And

I'll reference what you just stated on the record

pertaining to FP07-27b and c with modification as it

pertains to the community of Ninilchik for salmon only.

Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: And Mr. Bunch.

MR. BUNCH: Aye.

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

CHAIRMAN FLEAGLE: Thank you, Pete. And

just for further clarification the harvest limits that

are listed in the proposal are what the Board intended to

adopt, even though we separated the communities out which

would have meant these numbers might have been smaller,

now everybody's back included, the numbers accurately

reflect the Board's intent.

I just want to make that clarification on

the record as well.

So now the next motion would be to allow

Ninilchik residents to keep incidentally caught fish as
stated in the two sentences that I read previously.

Is there a motion.

MR. BSCHOR: So moved.

MS. GOTTLIEB: Second.

CHAIRMAN FLEAGLE: All right. Does somebody want to speak to the motion.

MR. EDWARDS: No, I didn't make it.

CHAIRMAN FLEAGLE: Denny.

MR. BSCHOR: Yes, I do, thank you. Once again this provides in my -- from my viewpoint the ability to harvest salmon but also if there's incidental take of these other species that it's in line with the guidelines in this paragraph as far as what you can or can't keep and it provides the full utilization of subsistence use in line with conservation needs.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I guess I'd like to add to that, too, the specific area that people seem to be the most worried about is those five or six miles down stream from Skilak Lake. So just as a reminder there is a rainbow closure between May 2 and June 10th, no one can take rainbows during that time to protect the spawning area. Meanwhile there's also a motorized boat closure that precedes that rainbow closure by about six weeks, and extends it by about four more days. So, again, I think it's kind of unlikely that people are going to be going up to Skilak Lake and then taking the motor off or drifting down through this area to be doing some of the salmon fishing, which isn't going to start -- the dipnet area isn't going to start until June 15th.

So I think we have plenty of safeguards and management schemes already in place that fully protect the Dolly Varden and the rainbow trout.

I guess also in taking a look at some of the amount of trout that have been caught by sport users, something like 138,000 have been caught with about 1,800 retained, and the mortality factor associated with that.
And then similarly, some of the numbers for Dolly Varden were 100,000 or so, and so are caught with a 5,800 or so retention, again, with a mortality rate there. So I do think the effect of incidental take would be very minimal, once again, we have management actions in place within the Federal program. I think we're worried about a worse case scenario in what, as the State has said, is currently now a healthy population.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Gary.

MR. EDWARDS: Mr. Chairman. I guess out of respect for the integrity of our process and because I believe that this Board failed to affirmative grant C&T to Ninilchik for resident species in the Kenai River area by a majority of vote, I certainly cannot in good conscious support a proposal that would allow methods and means and limits and take of resident species. Just based upon the actions that I don't think that C&T has been granted by our actions and, therefore, I can't see how I could support then allowing a harvest to take place.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Thank you, Mr. Chairman. I agree with Gary. And rather than repeat what he said, I believe I've gone on record as to my reasons that I supported salmon only. And I also believe that this Board never did support anything except for salmon, which we just voted on. So I am obligated to oppose this amendment, too.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Thank you, Mr. Chair. A lot of questions going on behind us here. On Page 105, you read the sentences that we're addressing in this motion, and your earlier motion dealt with all salmon. So as I was sitting here listening to you read these sentences, I felt that you, in those two sentences, you were only addressing those incidental caught fish other than salmon, even though you read salmon into that. So I'm taking by your previous action we've already dealt with salmon.
The concern is for the Russian River fishing site, if you take literally what you read as the motion then we would allow the retention of early and late run chinook salmon in this area.

Mr. Chair.

MR. EDWARDS: And coho.

MR. PROBASCO: And coho, yeah.

MR. EDWARDS: Yeah.

CHAIRMAN FLEAGLE: We're going to fight our way out of this box yet. Okay, let's think about that for a second.

MR. BUNCH: Mr. Chair.

CHAIRMAN FLEAGLE: Go ahead, Charles.

MR. BUNCH: As I read that, those species are specifically exempt from retention.

CHAIRMAN FLEAGLE: That's true.

MR. PROBASCO: Except for....

CHAIRMAN FLEAGLE: Let's take another at ease here.

(Off record)

(On record)

CHAIRMAN FLEAGLE: All right, Keith has made a good suggestion. Rather than us try to wordsmith the language how we want this to look, his comment is that we just make clear the intent and they'll write the regulation appropriately. And I think it's pretty clear that that's pretty easy to do.

Now, I'm going to go with Gary and George on this one and vote against the allowance of incidentally caught fish that we have not found a positive C&T for. In my mind, again, I agree with the statements that they've said, we do not have a clear record of a majority of this Board in support of a positive C&T. And there may be a way to fix that, we did have the vehicle to fix that earlier in the meeting with
Proposal 28 but we didn't. There may be a way to get an accurate vote on the record at some point in time but until there is we have this nebulous area where we have a C&T found that was based on erroneous assumptions and we don't have a clear majority of the Board in support of so I also am going to vote against this amendment based on those reasons and then we'll work on clarifying afterwards.

Are we ready for the question.

Charles.

MR. BUNCH: Mr. Chair. I have some problems with this, and going back to the infinite wisdom of the RAC and Mr. Lohse over there, I don't see anything that's come up in the three reasons that we have for overturning the RAC's recommendation, they're not apparent to me. But the thing that just bothers me about it, is that if you incidentally catch a fish and there's mortality involved, it just makes sense to me that you should be able to keep it and eat it rather than return it back to the Davy Jones Locker. I mean that goes against the very concept of ANILCA of non-wasteful subsistence.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: You know, Charlie, I guess I somewhat maybe agree in principle. But actually if you look at the proposal as written and as submitted, at least for that dipnet fishery for the Russian River, that's exactly what you would have to do because there's nothing in there that if you take these other species, be it late run chinook -- early or late run chinook, coho salmon, rainbow trout and Dolly Varden, it says they must be released, it doesn't say anything if they're dead that you get to keep them. So I mean the original proposal kind of flew in the face of exactly what you just said.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: But that's what the RAC ended up changing then so that's where we are now is the RAC recommendation. So anyhow it's probably time for the question.

CHAIRMAN FLEAGLE: All right. The
question is now recognized. Pete.

MR. PROBASCO: Mr. Chair. On the amendment to FP07-27b and c as it pertains to the community of Ninilchik. The intent is to deal with that portion which refers to incidentally caught fish other than salmon.

CHAIRMAN FLEAGLE: Correct. And it's not an amendment, it's a motion.

MR. PROBASCO: I'm sorry, motion, thank you, Mr. Chair. Mr. Fleagle.

CHAIRMAN FLEAGLE: Nay.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: Nay.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Nay.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: And Ms. Gottlieb.

MS. GOTTLIEB: No -- excuse me, what -- can we read it one more time, it sounded like -- aye. Gottlieb?

MR. PROBASCO: Aye, is that correct, Ms. Gottlieb?

MS. GOTTLIEB: Yes.

MR. PROBASCO: Okay. Motion fails, three/three.

CHAIRMAN FLEAGLE: Okay, thanks, Pete. Now, as far as the clarification issue, what is it that's unclear, what do we need to clarify.

(No comments)
CHAIRMAN FLEAGLE: I think we got it.
Everybody understands, we're just making an exception for
Ninilchik residents for those species that this Board has
not -- does not have a majority vote on for incidental
take, removing that from the proposal.

MR. BUNCH: Mr. President.

CHAIRMAN FLEAGLE: Charles.

MR. BUNCH: But doesn't the State allow
to keep incidentally caught fish under the subsistence
regs, so I mean I -- I apologize for being hung up on
this, but I just -- the thought of throwing dead fish
back just gives me as much problems as Gary has with the
keeping them.

CHAIRMAN FLEAGLE: John Hilsinger.

MR. HILSINGER: Thank you, Mr. Chairman.
This fishery you have gear types that are amenable to
releasing fish, you shouldn't have much incidental
mortality, if any, you've got rod and reel and you've got
dipnet, and both those types of gear are highly amenable
to releasing fish alive. In some other fisheries where
incidentally caught fish are allowed to be retained,
those are maybe gillnets, you know, where the fish would
mostly be dead.

The other issue that comes up and we do
face this is that a live fish because a dead fish in a
blink of an eye, if it's legal to keep it if it's dead
but it's not legal if it's alive, and so you see a lot of
fisheries where highly valued species are caught
incidently, like for instance halibut in the crab
fishery, and they cannot be retained live or dead because
all those live halibut that could be released, could
easily end up dead and then kept, and so that's the
experience the State's had and how we deal with it.

CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: Mr. Chair. I don't have to
say anything, John already just said it. I was going to
say that it's not without precedent in this case that you
have to throw dead fish back.

MR. EDWARDS: I guess the other response
is that there is another subsistence user down there and
it's got a lot of fur and all and would probably make
good subsistence use of that fish that didn't make it probably.

CHAIRMAN FLEAGLE: All right. We'll move on to the next set of proposals, 11, 12, 13, 27d and 29 for resident species and based on discussion prior to taking these issues up, we are going to entertain a motion for Cooper Landing and Hope for resident species first.

Is there a motion.

Denny.

MR. BSCHOR: Yes, Mr. Chair. I move to adopt the recommendation of the Southcentral Alaska Regional Advisory Council which would allow for fishing for Hope and Cooper Landing for resident fish in the Kenai River drainage and is a modification of Proposal FP07-27d.

No action is taken on Proposals FP07-11, 12, 13 and 29 as a result of action on 27d.

Following a second I'll provide my rationale.

CHAIRMAN FLEAGLE: The motion is about to die for a lack of a second.

MS. GOTTLIEB: Second.

Denny.

CHAIRMAN FLEAGLE: We got a second.

MR. BSCHOR: Once again I'm going to refer to our Board book in my rationale, that, adopting the recommendation of the Southcentral Council can be found in justifications on Page 168 of the Board book which is the Staff recommendation as well as on Page 141 which is the Council's recommendation.

In addition, as the last proposal, Staff modified the recommendation after the Council meeting to be the same as the Council's recommendation.

And I believe these recommendations are supported by substantial evidence, do not violate recognized principles of fish conservation and are not detrimental to the satisfaction of subsistence needs.
We have the benefit of a very detailed Staff analysis, detailed comments by ADF&G, and a response to those comments by the Office of Subsistence Management Staff. Some may disagree with this conclusion, both on the part of fish conservation and the satisfaction of subsistence needs. I view the Council's recommendation, again, as a starting point. Let's try this set of regulations and see if any fish conservation concerns result or come about, actually, and whether subsistence needs are satisfied.

Once again, I fully anticipate we'll need to make some minor changes to other parts of the fisheries in the future because of the complexity that we're dealing with here.

And, lastly, if any conservation concerns arise in-season our Kenai in-season manager has the authority to deal with those situations.

Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Denny. The language on the proposal should be changed to reflect that this applies only to the residents of Cooper Landing and Hope. Other discussion.

Gary.

MR. EDWARDS: I'm trying to get back to methods and means because in this proposal, harvest and possession limits and methods and means for take are the same as for the taking of these resident species under Alaska [sic] fishing regulations except for the following bag and possession limits. So the only thing that's addressed is bag and possession limits but, again, things such as bait and treble hooks is not addressed.

So does that mean -- although our previous action for Hope and Cooper Landing now allow that, at least, associated, or caught in conjunction sort of with the salmon fishery, so I'm a little unclear whether that comes over to this or, in fact, as written, this basically says that except for these additional bag limits, you cannot -- you have to follow State regs on terminal tackle.

CHAIRMAN FLEAGLE: Do we need Doug back to the table. Doug McBride.
MR. MCBRIDE: Mr. Chairman. Mr. Edwards.

You have to remember we split all this apart so that you
could kind of get your arms around, to some degree,
around each individual issue, but the same regulation is
being changed every -- every time we go through this,
it's Section 27(i)(10)(4), so when this is all done all
of this is going to get put back together under Section
27(i)(10)(4), so the reason I bring that up is because
under the salmon discussion you approved the use of up to
two baited hooks, I believe it was June 15 to August 31
below Skilak, that is in place.

MR. EDWARDS: Okay, so when we put
Humpty-Dumpty back together, part of him will say, as it
applies to resident species can use bait and treble hooks
beginning June 15th through August 31st below Skilak.

MR. MCBRIDE: Well, I'm not a regulations
specialist but I think it will just simply say you can
use up to two baited treble hooks below.....

MR. EDWARDS: Right. Right.

MR. MCBRIDE: .....Skilak Lake.....

MR. EDWARDS: So that would.....

MR. MCBRIDE: .....from June 15th to
August 31st.

MR. EDWARDS: All right. So that would
provide that protection that some of us are concerned
about in that spawning area for rainbows.

CHAIRMAN FLEAGLE: Other discussion.

(No comments)

CHAIRMAN FLEAGLE: Denny, your mic is
still on.

MS. BSCHOR: Sorry.

CHAIRMAN FLEAGLE: Question. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

The motion is to adopt FP07-27d with
modification as recommended by the
Southcentral Alaska Subsistence Regional
Advisory Council for residents of Hope and Cooper Landing and take no action on FP07-11, 12, 13 and 29 based on the action of 27d.

Mr. Edwards.

MR. EDWARDS: Aye.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: And Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

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

CHAIRMAN FLEAGLE: All right, thank you, Pete. That now moves us to the next and final piece of the puzzle, and that being resident species for residents of Ninilchik.

Is there a motion.

Denny.

MR. BSCHOR: Yes, Mr. Chair. I move to adopt the recommendation of the Southcentral Alaska Regional Advisory Council which would allow for fishing for Ninilchik for resident fish in the Kenai River drainage and is a modification of Proposal FP07-27d. No action is taken on Proposals FP07-11, 12, 13 and 29 as a result of the action on 27d.

Following a second I'll provide my
rationale.

CHAIRMAN FLEAGLE: Is there a second.

MS. GOTTLIEB: Second.

CHAIRMAN FLEAGLE: Okay, we got a second.

Denny.

MR. BSCHOR: Mr. Chair. If you'll indulge me, my rationale was the same as the last proposal, and it's on the record and so I don't know if I need to go through all that again, do I?

CHAIRMAN FLEAGLE: No, I think we can reference it, we know where you stand. Discussion.

MR. BSCHOR: Thank you, Mr. Chair.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I think that the Regional Council has met the three .805(c) criteria and we have no reason to reject their recommendation.

Thank you.

CHAIRMAN FLEAGLE: Thank you. Other discussion. Gary.

MR. EDWARDS: Mr. Chairman. As on the previous vote, again, out of respect for the integrity of our process, where I don't think that we do have granted C&T for resident species, I would not be able to support a motion that would allow the harvest of those species.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Mr. Chairman. I, for the same reasons of what Gary had just stated, I would not be able to support this either. I do not believe that this Board has given a positive C&T.

Thank you.

CHAIRMAN FLEAGLE: I concur with the previous two statements. Charlie -- Charles, excuse me.
MR. BUNCH: Charlie's fine. I thought that we did have a regulation on this, Mr. Chair, doesn't the regulation give them C&T?

CHAIRMAN FLEAGLE: The problem is that the request for reconsideration that the State brought before us at the last meeting resulted in a split vote when we were reconsidering the resident species, and the record was made clear by three Board members that they did not support the positive finding for C&T for resident species for the residents of Ninilchik.

However, the vote wasn't able to be tailored in such a way as to have a four Board members either voting for or against that C&T finding, so technically you're right, the C&T finding stands in regulation but it's not, in any of our minds that don't support it, it's not defensible at all, there's not a clear process that brought about that finding. In fact you have three Board members who have made it very public on record that they do not support that finding, so we don't have a majority of the Board that supports that finding, but we haven't figured out a way to repair it.

It would take somebody from the prevailing side of Proposal 28 -- we could fix it at this meeting if somebody on the prevailing side of the motion on Proposal 28, the very first action we took here would reconsider and change their votes and then we would have four votes that would pass that amended -- that would take that out, but barring that happening we're stuck. And this -- these actions by the Board that we're taking to take the non-resident -- I said it again, the resident species out of consideration for Ninilchik in these proposals, is based on these three Board member's rationale.

Are we ready for the question.

MR. BSCHOR: Question.

CHAIRMAN FLEAGLE: Question's now recognized. Pete.

MR. PROBASCO: Thank you, Mr. Chair.

Action on FP07-27d:

Adopt with modification as recommended by the Southcentral Alaska Subsistence Regional Advisory Council for residents
of Ninilchik.

Take no action on FP07-11, 12, 13 and 29 based on the action on 27d.

Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: No.

Mr. Bunch.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

Mr. Gottlieb.

MR. PROBASCO: Mr. Gottlieb.

MS. GOTTLIEB: Aye.

Mr. Fleagle.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: No.

Mr. Edwards.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: No.

Mr. Probasc: Motion fails, three/three.

CHAIRMAN FLEAGLE: Thank you, Pete. That concludes our regulatory proposals for the Kasilof and Kenai River drainage and before we move into the Bristol Bay area, Pete.

Well, we did have a little issue hanging, Pete had mentioned earlier that we need to discuss the timing of implementation and what standard, Pete.

MR. PROBASCO: Well, Mr. Chair, because we took these Kenai Peninsula regulations out of cycle, we run up against the problem of getting these published through the normal process and doing a Federal Register which would probably result in these regulations published sometime in mid- to late summer. So what we -- we can implement these regs by intent of the Board at the start of the salmon season but we have to have a formal action on the record to do so.
MR. EDWARDS: Well, maybe just a little bit of discussion trying to maybe understand if there's any kind of a magical date. It seemed to me, given some of the actions that we've taken in trying to look at where fish will be, maybe somewhere around June 15th, but I guess I'd like to hear some discussion if folks think by having it start at that time, would that -- does that have impact on, let's say the dipnet -- well, the dipnet -- when does the sockeye dipnet fishery start anyway -- July, so it seems to me that basically wouldn't have -- it wouldn't impact that fishery and so I guess that's -- I'm certainly -- unless anybody has any objection I guess I would suggest June 15th.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I mean I think we ought to do things as expeditiously as we can. I also think it's going to be really important in terms of how the permits are written, that we provide really clear information about, for example, on the Kenai, all the closures, etcetera, that are in place, and that would be part of our permits as well. And then certainly a good deal of public education, outreach, maybe signage, so that if people drive by Moose Meadows, or walk up to the Russian River Falls and see people dipnetting, there's some sort of explanation out there so people understand what's going on.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. I mean Judy brought up some good points and I know I really haven't discussed sort of with our Staff at some point maybe -- particularly maybe if we have some time later today, it might be helpful for maybe both the Forest Service and the Fish and Wildlife Service to just share with the Board, kind of what they have in mind, what they think the work load is going to be in order to try and get this done because we are going to be putting additional work load on several staffs that I'm sure they already have a totally full table and other priorities that they're going to have to deal with. But kind of like it or not they're going to have to deal with this one.

So I'd like to give them maybe an
opportunity to share with us what they have in mind and kind of the deadlines, but maybe before we leave today.

CHAIRMAN FLEAGLE: Thanks. So I'm hearing that it sounds like our intent is to expedite this and get it into regulation as quickly as possible and hopefully by June 15th. So is there any objection to that goal.

MR. EDWARDS: I do. Again, somebody pointed out to me, to make it consistent, the State season starts June 11th so why don't we just go with June 11th to make it consistent, it makes sense to do that.

CHAIRMAN FLEAGLE: Any objection.

(No objections)

CHAIRMAN FLEAGLE: All right. Does that clarify the intent, Pete.

MR. PROBASCO: That does it, Mr. Chair.

CHAIRMAN FLEAGLE: All right, thank you. That concludes the Kenai portion of the meeting. And we'll stand down and allow Staff a moment to change positions for the Bristol Bay area.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon. We're back on record and we're dealing with the deferred action -- deferred application of fisheries regulation to Sixmile Lake. Staff briefing would be Rod.

MR. PROBASCO: Rod Campbell.

CHAIRMAN FLEAGLE: Rod Campbell, thanks.

MR. CAMPBELL: Thank you, Mr. Chair.

Members of the Board. I'll be very brief on this. During your January 2007 meeting, the Board adopted FP07-07 with the modification to permit the use of beach seines not to exceed 25 fathoms in length in Lake Clark excluding its tributaries. However, the Board deferred action on the use of this gear type in Sixmile Lake to allow Staff the opportunity to research the jurisdiction issues and report back to you at this meeting.
The National Park Service Staff took the lead on this boundary issue, I appreciate all their help. They did provide a legal description and an associated map. The map is on Page 288 in your Board book. There's another map on Page 289, it shows a broader area of Sixmile Lake area, Sixmile Lake is outside the exterior boundaries of the Lake Clark National Park and Preserve but since a portion of the Park is adjacent to the lake, the lake is within the jurisdiction of the Federal Subsistence Management Program.

Also as I mentioned at the previous Board meeting, the Alaska Board of Fisheries adopted a similar regulation to permit the use of beach seines including allowing gillnets to be used as beach seines not to exceed 25 fathoms in length for Lake Clark, Sixmile, and Lake Iliamna. And whatever the Board decides to do with the Sixmile, it would allow Federal users to have the same gear type as available to State subsistence users and as we know the Federal-qualified users, there is the larger group of State subsistence users. Amending the Federal regulations to include Sixmile Lake would not result in any increased harvest or creating adverse impacts to the resource. As I mentioned this gear is already permitted under State regulations and we're not aware of any biological concerns.

Again, if amended, this would provide additional gear type, would probably reduce regulatory complexity and so I would leave it at that, whatever the Board decides to do.

Thank you, sir.

CHAIRMAN FLEAGLE: Thank you, Rod.

Questions.

(No comments)


MR. PROBASCO: Written.

CHAIRMAN FLEAGLE: Written.

MR. PROBASCO: Cliff, we have no public written testimony.

MR. EDENSHAW: No, Mr. Chair.
CHAIRMAN FLEAGLE: Thank you.

MR. PROBASCO: And I have no one signed up for this agenda item.


MR. O'HARA: Yes, thank you, Mr. Chairman. Randy asked me if I would come in and address this issue and there's about four things I'd like to mention to you on this 25 fathom beach seine thing.

First is that it's a good thing to have and I don't think we're interested in talking about spears or other things that might muddy the water and just talk about 25 fathoms. Next year if the Council wants to go into that a little more, they can go into that and do it, that would be fine.

I think it's important that you understand one of the things about beach seining is that they do know pretty much the number of fish they're going to want to get and that's a good thing, and so they'll let go what they don't want. And it's done usually with a skiff by rowing because as soon as you start up a motor it scares the fish away, it's done in shallow water. And Sixmile Lake has a lot of shallow water, has a lot of bars, and the fish lay there in clear water and they're developing their eggs to spawn. And the good thing is, is they know exactly the amount of fish they want and they let the rest of them go.

The other thing is they pretty much know the number of fish that they need, but for the last seven years the Kvichak has not had a very decent escapement and we haven't fished outside the rivers in seven years. This year the Fish Board has let us go outside the boundaries to our normal boundaries in Egegik, Ugashik, Naknek triangle, but not the Kvichak, so, still the Kvichak will not get any fish this year -- I mean they're expecting 28 million fish to come back to Bristol Bay and if the three million escapement comes in like it is then they'll open up the Kvichak under emergency order which is a pretty normal thing to do.

So I think one of the things that is favorable on this seine operation is that for the last seven years, Lake Clark has always gotten its escapement. These fish come up early, they're the first fish to come
into the bay, they come by Area M before they get into
the -- catch and intercept our fish down there, and then
all of the vessels in Bristol Bay have been inside the
river so they haven't been outside the boundary at all
and those early Lake Clark fish have gotten up there and
they've had a good healthy escapement. So you're not
going to hurt the resource. And not too many people have
25 fathoms of net anyway. And a lot of them -- actually
when I did it we did it in the late '40s and early '50s
my mom and I would put up 4,700 fish and we would beach
seine those reds and we used smaller mesh gear so we got
what we wanted and we did that for the dogs when we had
dog teams.

I think it's a pretty favorable thing and
there's plenty of green church around there to make sure,
you know, something doesn't go wrong, they're everywhere.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Questions.

MR. EDWARDS: Dan.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Maybe I'm wrong but it's my
over and above than what can currently be obtained under
the State regs, both with regards to harvest, so if
that's the case, I guess, what was the motivation to
submit a proposal.

MR. O'HARA: You know, I don't know that.
I wasn't at that meeting and I didn't see the proposal,
Gary. I mean I wasn't there to work with the Council on
it. But I think the reason behind it, in talking with
Randy, was one of the things that happens when you leave
a 10 fathom net out overnight, you could have as many as
three or 400 fish in that net that night and a beach
seine is limiting, you know, you know exactly what you're
going to get. And so I think that was one of the main
reasons that they wanted to beach seine.

I'm just sorry I didn't suggest the idea
myself because it's a good thing.

That's the best answer I can give you.

CHAIRMAN FLEAGLE: Remembering back to
January, this was one of those cases where the State Board acted proactively to proposals that were going to be addressed by the Federal Board and they beat us to the punch on several of the issues that we dealt with at that fisheries meeting and this was just one of the ones that wasn't resolved because of a boundary issue as I recall.

Other discussion -- questions, I mean.

(No comments)

CHAIRMAN FLEAGLE: ADF&G comments.

MS. CUNNING: Mr. Chairman. Rod was trying to get some further explanation on the record.

CHAIRMAN FLEAGLE: Rod, go ahead.

MR. CAMPBELL: Mr. Chairman. The original proposal, you referred to that, that was just for the Lake Clark area, the original proposal. And as Pete mentioned, the State Board acted before this Board and that's where they adopted it for Lake Clark and Sixmile Lake and Iliamna, and I believe that's probably what triggered the discussion on the Sixmile.

Thank you, sir.

CHAIRMAN FLEAGLE: Thanks. All right.

State John.

MR. HILSINGER: Mr. Chairman. Ms. Cunning is going to provide some background first.

CHAIRMAN FLEAGLE: Tina.

MS. CUNNING: Thank you, Mr. Chairman. As was earlier described the concerns regarding the Board's jurisdiction and boundaries arose in relation to the Sixmile Lake bordering the area around Nondalton.

During the Board's consideration of FP07-07 at its January 2007 meeting, as Board member Judy Gottlieb representing the National Park Service, pointed out at that time, only part of one side of Sixmile Lake is adjacent to the boundary of Lake Clark National Preserve and as she said "it hadn't been clear that Sixmile Lake was, if you will, within Federal jurisdiction and hasn't really been managed that way up until now." She also expressed concern that the
boundaries of any asserted jurisdiction were not clear. Other Board members and the State's liaison to the Board shared her concerns. Accordingly the Board deferred action on FP07-07 as to Sixmile Lake only with instructions to Staff to investigate these concerns and report back to the Board at the May 2007 meeting.

Although the Federal Staff acknowledges that Sixmile Lake is outside the exterior boundaries of Lake Clark National Park and Preserve as established by Congress, it concludes without further explanation that "since a portion of the Park and Preserve is adjacent to the lake, the lake is within the Federal Subsistence Management Program." It also becomes apparent from examining the two maps, by the way the larger map is the one that we provided using National Park Service's realty information, that the Federal Staff is recommending asserting Federal subsistence jurisdiction over the entire Sixmile Lake north of a line drawn by Staff all the way over to the lake's western shore abutting Nondalton and private lands far away from and outside of the Preserve boundary, and Federal Staff have confirmed this understanding with us personally.

The Department objects to this expansion, in effect, of the Park and Preserve boundary from east of Sixmile Lake all the way across to the lake's west side at Nondalton as is being proposed. Such an expansion of Federal jurisdiction based on the mere notion that the Park and Preserve boundary abuts a portion of the east side of Sixmile Lake is especially tenuous.

It effectively results in expanding the Park and Preserve's jurisdiction by a little over 3,300 acres beyond a line drawn by Congress.

In addition, if that claim becomes accepted by the Board the Department requests that the Board direct Federal Staff to draw the boundary line of the Park and Preserve to the east side of Sixmile Lake more boldly and clearly and hatchmark that portion of the lake over which the Board asserts jurisdiction for purposes of clarification and enforcement similar to the concerns that we've raised related to the Kasilof and Kenai Rivers.

Now, in discussions on the issue here, the setnet authorizations that occur in Sixmile under the State's regulations as has been pointed out are -- note -- if the Federal Board authorized the additional setnet
operations in Sixmile Lake, we're not talking about increased harvest, and I do want Mr. Hilsinger to continue to discuss that aspect of this regulation.

CHAIRMAN FLEAGLE: John.

MR. HILSINGER: Thank you, Mr. Chairman. Because of the legal concerns and the fact that expanding Federal regulations into this area really wouldn't provide any advantages for Federally-qualified rural residents, the State recommends opposing this.

Right now Lake Clark, of course, has setnets, it was recently allowed beach seines, also spears, snagging, bow and arrow and hand capture in order to provide preference for Federally-qualified rural residents. And we believe that that availability of those gear types in Lake Clark fulfills that preference. In Sixmile Lake the State, as was noted, did expand the opportunities. People are allowed to use setnets and beach seines and we believe that that adequately provides that opportunity in Sixmile Lake.

And so for those reasons, the fact that there is a Federal preference in that area, this would not allow anything new that residents don't already have and it would cause jurisdictional issues and potentially legal problems, we would recommend that you oppose this.

CHAIRMAN FLEAGLE: Thank you, John and Tina. Questions.

(No comments)

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

MR. BUKLIS: Mr. Chairman. The Staff Committee did not develop a set of comments, specific comments on this issue, however, a number of the Staff Committee members contributed to the development of the briefing paper that Mr. Campbell reviewed and were involved in its review and development.

Thank you.

CHAIRMAN FLEAGLE: Board discussion.

MS. GOTTLIEB: Mr. Chairman.
CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Thanks. Well, as a follow up to our meeting last year we did as requested and quite a bit of consultation with the Federal Subsistence Management Program, within National Park Service, within the Solicitor's office and we determined the southern boundary of the Federal jurisdiction. We feel that the extent of Federal jurisdiction for this program is based on a portion of these waters being adjacent to NPS lands to the southern boundary and that's shown on the map we provided.

So I'd like to make a motion that we add to our current regulation, that you may also take salmon by beach seines in Lake Clark and Sixmile Lake, excluding their tributaries, and beach seines may not exceed 25 fathoms in length.

CHAIRMAN FLEAGLE: Is there a second.

MR. BUNCH: I second.

CHAIRMAN FLEAGLE: Would you like to speak further to the motion, Judy, please.

MS. GOTTLIEB: Thanks. Well, I guess this just kind of completes unfinished business we had at our last meeting and while I understand, again, that it seems similar to what the Board of Fisheries, of course, this, again is through our process and through the Regional Council that we would be providing the Federal subsistence preference.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. I guess I'm a little concerned -- or not concerned, but I guess unsure about, you know, the Park Service's, you know, view about adjacent to the lake, you know, with their lands. I'm not sure that we wouldn't maybe necessarily interpret it that way that it applies to our lands, I don't know that for a fact. I guess maybe a broader question is, do we have other examples throughout the program where we may have reached those conclusions, if anybody's aware of other places.

CHAIRMAN FLEAGLE: Judy.
MS. GOTTLIEB: I know I can think of one over at Wrangell-St. Elias. But I'm sure -- Ken was in on some of these discussions so maybe he can speak to this jurisdiction issue.

CHAIRMAN PLEAGLE: Ken Lord.

MR. LORD: Thank you, Mr. Chair. Of course the jurisdiction stems back to the Ninth Circuit's Katie John Decision in which the Ninth Circuit Court of Appeals said that for subsistence purposes the Federal program's jurisdiction extended into waters that are pertinent into Federal public lands. It said that without a lot of explanation and so we were left to try to determine which waters those were.

Now, one example that Judy mentioned is the Copper River adjacent to Wrangell-St. Elias where the Park boundary is on the eastern edge of the river but for subsistence purposes we exert jurisdiction to the western bank of the river. And the concept is the same here with Sixmile Lake where we've got a Park boundary on the edge of the lake and we were sort of left with the question of how far to extend Federal jurisdiction into the lake -- or actually the question was more where the lake itself ends because it flows into a river, so that was what we were trying to tackle over the last few months.

MR. EDWARDS: Mr. Chairman. But, Ken, I'm trying to recall but I know on issues on our Refuges where we had this issue of headland to headland, where you can measure across, I think -- hasn't it been our position been that we're not trying to exert jurisdiction just because it's headland to headland and we have Refuge lands that go out on both sides. I mean I thought -- just speaking for the Service, I think we have not kind of wanted to kind of go there and kind of stretch out our reach as to where we would have our authority.

MR. LORD: I'm not quite sure what examples you have in mind, Gary. The headland to headland language typically involves marine waters and where the marine waters end and freshwater begins and that's the way of delineating that. Here we've got, you know, a freshwater system, of course, and it's a little bit different circumstance because the Park is along the boundary -- the edge of the lake itself, not just as far as a, you know, an adjacent stream.

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

MS. GOTTLIEB: I guess just for clarification not exerting this jurisdiction on behalf of the Park Service by any means, this is a question of is this area part of the Federal program and would this regulation then logically extend to our Federal program.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: For clarification, so who manages the land on the west side, is that.....

CHAIRMAN FLEAGLE: Ken. Tina.

MS. CUNNING: You want me to answer the question.

CHAIRMAN FLEAGLE: (Nods affirmatively)

MS. CUNNING: The land on the west side of the lake is primarily private and Native corporation lands for a significant portion. Are you talking about the west -- east side of -- where are we, I lost the question, east side or west side?

MR. OVIATT: West side.

MS. CUNNING: West side. I'm not sure whose land that is. Is it Kejik's, it's corporation land also, so essentially the entire lake is surrounded by private lands. We had hoped not to get into the jurisdictional issues here with Sixmile Lake because we think that from the Board's perspective, and I don't want to put words in your mouth, but the concern is to be sure you're providing the Federal subsistence priority to the local users and we suggest that that priority is already being provided and applied with all of the various gear types and seasons and methods that are being allowed in Lake Clark, and it would be our preference that you not extend into the areas outside of the Park boundary because we don't really need to go there to provide your priority.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Yeah, I would -- I don't -- I don't necessarily believe we would want to get into a jurisdictional debate in this circumstance either. I'm -- I'm not sure because of that if I'm going to be able
to support this. I have to think about that. I'll
listen to more discussion.

Thank you, Mr. Chairman.

MR. EDWARDS: Yeah, I guess.....

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: .....Tina sort of said kind
of what my question to Dan was, I was trying to
understand that, you know, I thought part of our goal at
some point was to try to -- if the State was providing
this opportunity and it's identical to why we -- I'm
still unclear what the benefit of having this. Our good
Solicitor has often said that if the State would provide
all the subsistence needs then we wouldn't ever be
going any proposal because there wouldn't be any need
to get any proposals because it was being done so I'm not
sure what benefit this accomplishes other than for the
purpose of doing it.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: One benefit has to do with
who's eligible. And for areas affected by National Parks
it's resident zone residents only. And so I assume that
may not be the case with the State nets -- State
permitted nets.

MR. EDWARDS: I don't know the answer to
that but.....

MS. GOTTLIEB: I guess in addition, I
mean if you look at the Kasilof River, don't we have a
similar situation there and we just made seasons and bag
limits there.

MR. EDWARDS: Yeah, but we did that
because in order to provide opportunities that were
there, I mean that's what we did, I mean we provided a
dipnet fishery in an area where the State regulations
didn't provide it. We provided additional bag limits. I
mean in this case, at least from what I understand, and,
again, I'm not expert on the issue, it sounds like the
State regs is doing everything that we would -- that
wanted to be done and that this might not have been an
issue -- I don't know, maybe Dan can answer this but if
the State -- if the Board of Fish had already done this, would this even have been a proposal coming forward to us and I guess maybe the answer is probably no.

CHAIRMAN FLEAGLE: Danny.

MR. O'HARA: Mr. Chairman. I don't know the answer to that.

CHAIRMAN FLEAGLE: Keith.

MR. GOLTZ: I'd like to make a couple of points. First, the reason we do it is because the Council has asked us to do it. And if it meets the three criteria then it goes on our books. And to say anything nor suggest anything less than that leads us back to the duplicative regulation issue that we've talked about before.

We include appurtenant waters because that's what our regulations say and if I have to know what appurtenant waters are I talk to reality.

The State's concern is still alive and well and before the U.S. District Court. We don't know what that court is going to say. What we do know is that we have regulations that say appurtenant waters.

We should not be mixing Refuge jurisdiction or Park jurisdiction with the questions of subsistence jurisdiction, they're different. And the Refuge jurisdiction is less extensive than what we have claimed for subsistence.

One other thing and it relates to probably more what the State said yesterday, I didn't jump in, there is a difference on how we have claimed jurisdiction between fisheries and wildlife. On wildlife we do not claim Federal subsistence jurisdiction on non-Federal lands. That means that on corporation lands, State lands or private lands, Federal wildlife subsistence regulations do not apply. We have a different rule for waters. And all waters within or appurtenant to CSUs have a fishery jurisdiction. And if you'll go back -- subsistence fishery jurisdiction -- and if you go back and look at how we introduced that in our regulations you'll see that we did that for some very practical reasons. We didn't think that we could cut up fisheries as finely as we thought we could cut up wildlife. And that may be a matter of dispute. But as a
factual matter, that's simply the way we've done it.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: So let me see if I understand the circumstances right. The Council proposed this and then the State took action; is that right?

MS. GOTTLIEB: Can I clarify please?

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Actually this originated with the Lake Clark Subsistence Resource Commission, had several different proposals and then those went to the Regional Council who forwarded them to us.

MR. OVIATT: But the question I was asking, though, was -- and that all happened prior to the State taking action in these waters and I received a nod, that that is correct.

CHAIRMAN FLEAGLE: John Hilsinger.

MR. HILSINGER: Thank you, Mr. Chairman. It's a little more complicated than that. The Federal Subsistence Program did receive proposals for Lake Clark from the Lake Clark Subsistence Resource Commission. The State liaison team in the spirit of cooperation and trying to work together took it upon itself to make sure that those proposals also got into the Board of Fisheries process, they had not been proposed to the Board of Fisheries, the proponents had just not proposed them on the State side. So we were successful and with the help of the Iliamna Advisory Committee we got the State Board to take those up. And the State Board then, in the case of this beach seine proposal actually went more expansive than the original proposal, and included Sixmile Lake and Lake Iliamna. And I remember it pretty much the way Rod Campbell described it, that because then when we got to the Federal Subsistence Board meeting, we had the more expansive State regulations then that led to the idea of would it be possible for the Federal program to include Sixmile Lake.

Thank you.

CHAIRMAN FLEAGLE: Go ahead, George.

MR. OVIATT: Well, I guess I was just
wondering if we -- I'll throw out the idea of deferring this and let the Council go back and reconsider if they wanted to put this up for a proposal or if the State was satisfying their needs. Just a point of thought.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Well, I think with the clarification and how the whole discussion of Sixmile Lake being added to the Federal discussion, that it came about by action by the State, I'm not real compelled to go forward with action on this and poke a big stick in a hornet's hive about trying to figure out where jurisdiction's lie. The opportunity is being granted currently and the question was whether or not our system wanted to basically catch up, and I don't see that the jurisdiction issue is clear.

I don't support it.

Other discussion.

MR. BSCHOR: Mr. Chair.

CHAIRMAN FLEAGLE: Denny.

MR. BSCHOR: Just a question as far as the activity related to the impact on the Park land itself, are there impacts on the shore of the Park relative to this that need to be considered here, which can be handled either way if there is, either by cooperation or by actively participating in the subsistence -- providing subsistence -- specifics on that, please.

MS. GOTTLIEB: The Park completely supports this proposal. We do have people who are on the ground, on the water there all the time. They know who are local rural residents who are eligible for these kinds of fisheries and we see no challenges or problems in enforcement or in record keeping.

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. Before I kind of say my -- kind of one question, so by passing this we're actually being more restrictive on Federal subsistence users than the State because this then would only limit it to those residents there whereas under the State all Federal subsistence users would be eligible; is
that right?

CHAIRMAN FLEAGLE: Keith.

MR. GOLTZ: For somebody who wants to be invisible I sure seem to get in the center of things.

First jurisdiction is not clear.

Jurisdiction is a subject of dispute, it's in the Federal District Court. The Federal claim is resisted by the State. Our charge in that regard though is to apply our regulations.

The State regulations are not the same as the Federal regulations and I could go through some detail on that but in this case it's particularly true for customary trade. People who operate under our regulations can do different things, more things with those fish than they can under the State regulations and it's obvious to everybody that the pool of users is quite different, substantially larger in the State.

And lastly I'd like to bring up an issue I thought I'd put to rest, our job, is to respond to the Regional Advisory Councils. It's not to craft the best possible rule. It's to respond to the users in a very structured way which is laid out for us under Section 805. It's not our job to second guess them.

CHAIRMAN FLEAGLE: George.

MR. OVIATT: Well, I thought with my suggestion that that was where we were going and what I was suggesting is, is that we would defer this until the Council had the chance to reconsider and see if they really wanted to put a proposal in front of us and that was what I was suggesting. I was not suggesting that we craft something new or change what the Council had proposed. I was just giving them an opportunity to see if they wanted to accept what the State had done or come forward with a proposal again.

Thank you, Mr. Chairman.

MR. EDWARDS: Mr. Chairman. I'm going to.....

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: .....I think, concur with
you, I mean I guess -- maybe I'm rationalizing, but I
think we are being responsive to the users. It sounds
like the users have worked very hard collectively with
folks and with the State and all in order to try to get
this issue in front of the Board of Fish, which was
accomplished and I think what folks wanted out there are
being met and I think it'd be a disservice to the process
and those who worked on it to support it.

CHAIRMAN FLEAGLE: I'd like to make an
additional comment. I know your comments about it coming
-- you know our deference of the Regional Advisory
Council, I think those are good comments. But the issue
of Sixmile Lake did not come from the Regional Advisory
Council, it came from the State Board of Fisheries -- no,
am I misunderstood. I thought that the reason we're
trying to add Sixmile Lake here was because the State
did. We don't have the original proposal here but I
don't think it came from the RAC.

Rod.

MR. CAMPBELL: I have the original
proposal here if you want me to read it.

CHAIRMAN FLEAGLE: Does it include
Sixmile Lake?

MR. CAMPBELL: No, sir. This was from
your Board book last year, it just requests Lake Clark.

CHAIRMAN FLEAGLE: And the Board of
Fisheries acted on a companion proposal submitted to them
by the State's liaison team which added Sixmile Lake and
now the Federal Subsistence Board is considering whether
to add Sixmile Lake as well. This is not a RAC issue.
And I think -- I still stand that we don't have the
jurisdiction to do this here.

MR. GOLTZ: I stand corrected.

CHAIRMAN FLEAGLE: Or we don't know that
we have the jurisdiction.

George.

MR. OVIATT: Yeah, there's no reason for
me to put my suggestion on the table now with this
understanding and I agree with you and Gary.
CHAIRMAN FLEAGLE: Ready for the question.

(No comments)

CHAIRMAN FLEAGLE: It sounds like we are.
Pete, on the proposal, please poll the Board -- or on the action.

MR. PROBASCO: Mr. Chair. Motion dealing with the Sixmile Lake boundary, which would include the Sixmile Lake along with language for Lake Clark addressing beach seines not to exceed 25 fathoms in length.

Mr. Oviatt.

MR. OVIATT: No.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

MR. PROBASCO: Ms. Gottlieb.

MS. GOTTLIEB: Aye.

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: No.

MR. PROBASCO: Mr. Edwards.

MR. EDWARDS: No.

MR. PROBASCO: Mr. Bschor.

MR. BSCHOR: No.

MR. PROBASCO: Motion fails, two/four.

CHAIRMAN FLEAGLE: Thank you. Daniel.

MR. O’HARA: Yes, in lieu of the fact that that probably wasn’t a proposal, I think we need to -- this Council needs to come back and address it because our Counselor mentioned this afternoon, that the Federal
regulations deal with the subsistence users differently than the State does, obviously, and even different parts of the Federal program, such as the Refuges. However, I think in terms of the fact that that mine ever go you're going to have a huge problem on your hands on who's going to be user groups in that area, you're going to be changing a lot of things around, so the quicker the better.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you. Any final comments, Gary.

MR. EDWARDS: I don't know on this proposal, but I mentioned earlier, but I know our folks have stayed around from the Kenai and I'm sure they probably want to go back this evening so I know we don't have a lot of time but if we would kind of like to hear from kind of what their plans are to address these regulations that are going into place, probably now would be the time to do it, and I don't know if Denny's folks would also want to kind of talk about quickly about what they're thinking.

But I, personally, would like to know what we can expect and how they're going to do it.

CHAIRMAN FLEAGLE: Do we have Staff prepared to give us a brief summary of how this -- here they come -- ask and you will receive.

UNIDENTIFIED VOICE: Mr. Chair. Mr. Edwards. I'd be happy to start off. In some ways, you know, we've been preparing for quite some time in terms of implementation and there aren't any surprises so there is additional work load, clearly we've hired a new person in Kenai, Geoff, are you here -- Geoff Byersdorf is the new subsistence biologist at Kenai National Wildlife Refuge and will assist us greatly in working through a variety of things on implementation.

One of the first things we will be doing is briefing folks internally so that we can answer questions from the public and from the media and subsistence users in an accurate and consistent way.

Also our officers need to know the changes in the regulations and when they take effect, and so we'll be discussing that for the people in the field.
Additionally we have some boundary posting responsibilities to be consistent with the regs and fishing areas and as soon as we can get out and do that we will, when we get signs. One of the things -- since Tina is still here, one commitment that I've made on boundary issues is to review boundaries before we post certain areas and I guess I would ask Tina to provide to me any documentation concerns or whatever just as soon as you can so we can work on that and we'll try and resolve that the best we can before we get our signs up.

The actual administration of the fisheries permits will come through Gary Sonnevil so I'll let him speak to that.

MR. SONNEVIL: Well, we've had discussions with OSM on developing these permits, we're looking at a permit that would address the dipnet fishery and a separate permit for the rod and reel fishery. Following the Board's decisions I'm sure that we'll be generating those permits in the next couple of weeks or so and being prepared to issue them.

I also participated in the site visit at the Russian River Falls last Friday along with the Forest Service and we spoke with the Forest Service there, discussed the issue of signage, they will be taking on that responsibility for posting those signs as the Service will, the Refuge will be posting the signs below Skilak Lake, that section, and then also Moose Range Meadows.

We are having discussions on just how many sources of permit issue we will have. Right now the permits have just been issued solely out of my office. We've had some discussion with the Forest Service about the possibility of having a source up in the Cooper Landing area for permits. And we also possibly have the opportunity, we haven't discussed it internally yet, with the Refuge yet, about using the visitor contact station up there across from Jim's Landing as a Cooper Landing source for permits. Forest Service also expressed an interest in visiting -- holding an informal public meeting in both Hope and Cooper Landing to explain the program, eligibility requirements for the permits and answer questions.

I've had ongoing communications with Ninilchik Tribal Council. I'm sure I will be hearing more and more from them.
So that's really where it kind of stands right now. The next step, of course, will be to -- the signs have been ordered on the Refuge side, Forest Service is working on theirs, and we'll be getting these permits developed.

MR. EDWARDS: Gary, one question on like where we have a requirement on a 72 hour notification, is that going to be a sort of a separate number to call in or would that be a number that's just going to be manned from 8:00 to 5:00 and then go to a recording or how will that take place.

MR. SONNEVIL: Actually, Mr. Edwards, we have an 800 number at our office assigned to our office that I would suggest that possibly we could use and we have a telephone recording machine plus we are there 8:00 to 5:00 as well. And if -- we'll see just how many of these dipnet permits that we issue in the different communities and if it's a small number then we'll probably be contacting those permit holders directly as the season goes on just to see if they are participating or if they have questions.

CHAIRMAN FLEAGLE: Go ahead.

MR. ZEMKE: Steve Zemke, Chugach National Forest. A lot of what I was going to discuss has already been mentioned but obviously we would be talking with our Seward Ranger District Staff to kind of what the status of this meeting was. We actually have Kevin Lavus (ph), who's Fish and Wildlife Program Manager on the Seward Ranger District here and I think he took away a lot of valuable information. It's kind of his first meeting and so I think it was good to see the process.

Obviously we talk about the regulatory markers, we're looking at having at least three, kind of down -- at the Russian River Falls site, down stream, up stream at the extent of the fishway and then probably at another site where the trail reaches down the river and the -- there'd be uncertainty about whether or not you were in the boundary or not and we'd probably be putting signs there. We're also talking -- looking at trying to develop information and education signs, kind of describing what the subsistence fishery is, kind of who qualifies, how it came about and those would be probably posted at the trail head, at the viewing platform and possibly down stream, the extent of the fishery as people come up and see that sign and maybe see potential...
subsistence fishers at that area.

I think one of the things that was mentioned that Gary had concern about, the parking situation we certainly do see that as something that we are going to monitor significantly, particularly at the start of the season. I guess right now from indications it's probably not going to receive a lot of participation but we might be wrong, and I think working with Gary Sonnevil and whether or not we issue permits, we'll have a little bit better understanding about right at the start of the season whether it would be significant numbers of people coming up and then we are casting ideas around about how we would be able to provide, at least, some temporary parking situations and see how it plays out. There's potential for a small temporary parking by the falls trailhead. There's also potentially negotiations with Alaska Resource Management who's the concessionaire of the Russian River Falls campground to maybe buy back some of the spots there so that they wouldn't -- you know it would be consistent with the contract that we have with them currently. So those -- and then -- so that is kind of where we're at thinking about the parking situation.

Obviously we have a law enforcement officer, Jeff Bryden, he was here at the meeting and one of his primary responsibilities would be for monitoring both the subsistence fishery but also the sport uses and he would express it as one of his primary duties during that period of time June 15th, he's certainly going to be on site. We've also got Forest protection officers which are -- we'd be, in that internal briefing, be able to get information to them so they would also be a source of information and education for other folks as the subsistence fishery was prosecuted.

Obviously we'd be working with Gary Sonnevil to develop the subsistence fishing permit. We're looking at additional stipulations that would be required. One of the major concerns was bear/human interactions. There's an InterAgency Brown Bear Study Team, there's also a Russian River InterAgency coordinator so there's a lot of groups that are dealing with that right now. There really isn't a plan to close the sportfishery down as far as regulating time so it's 24/7 right now so we're looking at the subsistence fishery would at least start out that way, if things change, obviously we'd be working with the InterAgency team to be able to coordinate our efforts.
Gary mentioned, yeah, we're trying to set up a meeting, probably informally with Cooper Landing and Hope to describe what the regulations are, availability and maybe also being able to provide availability of the permit at those sites rather than require them to go down to Soldotna and pick up the permit.

Probably one of the other issues that's there, you know, it's a traditional fishing site from Dena'ina on up and there are some potential archeological sites -- on the initial site visit on Friday it looks like the sites would possibly be -- potentially fished are probably not ones that contain significant archeological resources, though, we're still going to have our folks go up and do a more comprehensive look at that before the start of the season and then if, indeed, there are areas that we want to keep people from entering and that we'll look at, not signage or our fences, but we'll be looking at maybe some passive methods to be able to steer people away from those areas to try to keep them out.

So currently that's kind of where we're at looking at the situation.

CHAIRMAN FLEAGLE: George, you have something to add.

MR. PAPPAS: Yes, the Department would be interested in a little bit of discussion on reporting to the Department of Fish and Game of catch, you know, Gary and I had a very good relationship down in Soldotna with the Federal subsistence user, we did it once a week, discussed who, what, when and where. It really was not a large catch at the time. This might change, we don't know. The fisheries in the Kenai River are managed on a day to day basis in July so I'm not sure what kind of participation there will be, I don't think anybody here can say but the recommendation as a former area manager would be something, you know, once a day, maybe three times a week until we get a good grip on what's going to happen with this fishery because, you know, plus or minus a thousand kings can close or impact a fish -- that'd be the sportfishery there -- excuse me, the personal use and the commercial fisheries also.

CHAIRMAN FLEAGLE: Can we meet that?
UNIDENTIFIED VOICE: We'll certainly do our best. We're situated physically within a block of the local Department of Fish and Game office and the new area manager is well known to me and we certainly will be coordinating.

We also, in previous years, we've submitted a weekly report to OSM on the subsistence activities that have occurred and obviously will be continuing that, it will be a little bigger than it has been in the past but we'll be -- communication will be the key on this. Between ourselves, the Alaska Department of Fish and Game, Forest Service, there's no question about that. I expect there'll be a bump or two in the road since this is brand new and kicking off but it will be an evolutionary process and we'll give it our best shot.

CHAIRMAN FLEAGLE: Thank you. Pete, if I could request, I'd like to see copies of those reports at least until we see how this starts working out, is there any other interest on the Board. Pete.

MR. PROBASCO: Mr. Chair. What Mr. Campbell does for the Board, once a week, is he gives a summary throughout the state of all the fisheries, he works very closely with the area biologist for the Federal program, and also the State provides information that we share with all Board members.


MS. GOTTLIEB: Thanks, Mr. Chair. Well, as we were saying before, I really think it is important as you're doing, to get the word out to the public and even maybe as a matter of what we've done just these last couple days, if there could be a short chart or summary, something that for whoever may show up tomorrow afternoon, that we could hand it out to, or make sure everybody's clear on all that was accomplished today. I think that would be very helpful, too.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Mr. Chair. Ms. Gottlieb, as far as something written, I'm going to not commit to that, but as far as something verbally we can get that all together and we'll do that tomorrow, whenever the Chair asks us.
MR. BUNCH: Mr. Chair. I'd like to take this opportunity to give my thanks to Ralph and the Southcentral Committee because it's apparent that they did a lot of work. I thought that that was some well-balanced proposal that they put forth. Although I was kind of disappointed to learn they don't have infinite wisdom.....

(Laughter)

MR. BUNCH: .....I still think he deserves a big hand.

(Applause)

MR. LOHSE: Yeah, well, we'll see how it works out in a year or two and maybe in a year or two you'll be throwing rocks instead of what you're throwing now. We'll see.

(Laughter)

CHAIRMAN FLEAGLE: Well, we do appreciate you taking a tough task and getting people together to talk about it, I know that was a first major step.

Thanks, Ralph.

Other comments.

(No comments)

CHAIRMAN FLEAGLE: All right. That concludes our business for the day. We don't have anything scheduled for tomorrow until 1:30 when we've got a time certain for the discussion on the RAC composition. So we're recessed until 1:30 tomorrow afternoon. Everybody enjoy your evening and your half a day tomorrow.

(Off record)

(PROCEEDINGS TO BE CONTINUED)
CERTIFICATE

UNITED STATES OF AMERICA  ss.

STATE OF ALASKA  ss.

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 141
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MEETING, VOLUME II taken electronically by Nathan Hile on
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THAT the transcript is a true and correct
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