FEDERAL SUBSISTENCE BOARD

EGAN CONVENTION CENTER
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PUBLIC MEETING
PROCEEDINGS

(Anchorage, Alaska - 12/10/2003)

CHAIRMAN DEMIENTIEFF: We'll call the meeting to order. I know our agenda says that we are taking up Bristol Bay at 8:30. We don't have the reps from Bristol Bay here so we're going to actually move on to Cook Inlet so if we can get our Staff arranged for that. It's a pretty sensitive proposal that we have for Bristol Bay and we do need those RAC people to be here but they're, of course, otherwise involved. I know they're in town, I've seen them, but they're involved with the Board of Fish meeting and what not, too, so we'll just try and accommodate them the best way that we can.

Just let me know when you're ready to go with Cook Inlet. Sorry for the change but we do need -- are you ready?

MS. PETRIVELLI: Yes, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: I'm sorry, before we get started, I just want to note and thank Martin Moore who was actually working on testimony for Yukon-Kuskokwim issues yesterday at the time we were deliberating the Yukon-Kuskokwim. You know, sometimes our schedule doesn't -- we go at different paces, but he has a written transcript of his testimony and for the record I would like to thank Martin for his diligence and we will enter his testimony into the record.

So I just wanted to let you know, Martin, thank you very for your hard work.

MR. MOORE: Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Okay.

MR. MOORE: I'll disseminate copies to all of your members.

CHAIRMAN DEMIENTIEFF: Right.

MR. MOORE: If somebody wants to read it, I got 25 copies.

CHAIRMAN DEMIENTIEFF: Thank you. Ralph.
MR. LOHSE: Mr. Chair, with the Chair's permission, could I address the Board for just a second?

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. LOHSE: I'd like to, first of all, thank you guys for taking on those hard issues yesterday and not deferring them and doing like Gerald said, at least make a decision one way or the other. And I'd like to thank you and I think Gerald would probably thank you for that, too.

And second of all, I'd like to apologize for getting quite so emotional when we dealt with the issue of the illegal gear and trying to make other people have to match illegal gear legal. I know that you all recognize the allocative measures of all of the decisions that you make, but, as somebody who actually makes a living from natural resources, I'd like to reiterate that every time that you decide to give somebody more time, more gear or more area or something like that, you do take away something from somebody else, especially on something like the Yukon-Kuskokwim where you have people up stream. And any time that you increase somebody's efficiency, somebody's going to make use of it.

The Tuckers pointed out yesterday that on the Yukon fish also means gas and snowmachines and all of the rest of the things. We all live in the same kind of world today. I don't know about the rest of you but most of us never have quite enough and so maybe we stay up at night and sand wooden spoons, maybe we work for Fish and Wildlife Service and we work for Home Depot on the weekends or something like that, and the same thing goes true for subsistence fishermen especially now that we have the ability to sell fish. It's like Mr. Huntington was pointing out, by giving them that kind of opportunity, they have access to people in Galena who have finances.

My first Yukon king this winter, I hate to tell you where I ate it, I ate it at a friend's house in McCarthy. He bought it in Fairbanks for 1.25 a pound this summer, caught above the Tanana River mouth.

We have people in Cordova that we know that are retired or that have businesses, that because you can now sell subsistence caught halibut got their subsistence halibut permits this summer.
You have to throw that into the matrix every time you do anything allocative. Like Mr. Huntington said, maybe subsistence users can only eat so much and fill their smokehouse so much but if there's other people available with cash to buy it, there is a market for it.

And so take those things into consideration like you have and make those hard decisions like Gerald asks you to do because each decision affects somebody up stream.

And I thank you for that, and I thank you for the decisions you made yesterday.

CHAIRMAN DEMIENTIEFF: Well, I totally disagree with you. I don't think at all you were emotional about it and I think what we're counting on in making our decisions is getting the best information possible and sometimes, you know, sometimes people's comments are heartfelt but we appreciate that and take that along with, you know, with everything else that goes on.

Personally, my skin is about thick, you know, and I do welcome those kind of comments because you know you're getting the people who are contributing and I don't care who they're representing, if they're the Council, if they're Board members, Staff, State, you know, public testimony, we just need to have that. And at times that's what it takes to help us get the information we need.

In case you hadn't noticed, I have my adjournment cap on and I'm going to keep this moving on to fair consideration of everything and if we're here tomorrow all day so be it, but, you know, I am going to try to keep things moving to the best of my ability.

Cook Inlet, please.

MS. PETRIVELLI: Mr. Chairman. My name is Pat Petrivelli, and I'm the anthropologist for the Cook Inlet -- or the Southcentral region, and I'll be presenting the Staff analysis for Fish Proposal 04-18 and the analysis begins on Page 185.

Proposal 04-18 was submitted by the Cooper Landing Fish and Game Advisory Committee. They're requesting that customary trade for subsistence harvested
fish, their parts or their eggs taken from the Kenai Peninsula be prohibited. The area affected by this proposal includes the Federal public waters on the Kenai Peninsula, Federal jurisdiction includes all navigable and non-navigable waters within the exterior boundaries and inland waters adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and the Chugach National Forest.

The current Federal fisheries regulations provide a positive customary and traditional use determination for rural residents of the Cook Inlet area for all fish except salmon, dolly varden, trout, char, grayling and burbot. There are no determinations for salmon -- or there are no determination for these species. In 2001 the Board deferred making determinations for these species until more information is available from an ongoing OSM Fisheries Resource Monitoring Program Study and a review draft of this study will be submitted to this office at the end of December 2003.

Grayling and burbot may not be taken for subsistence purposes, therefore, all rural residents are eligible for the remaining species, salmon, dolly varden, trout and char.

Title VIII of ANILCA specifically identifies customary trade as a legitimate subsistence use clarifying regulations on Page 189 and 190 were adopted in January 2003. These regulations, while allowing the exchange of subsistence harvested fish for cash place some restrictions on the exchange between rural residents and others and prohibit the sale to any individual, business or fisheries organization required to be licensed as a fisheries business.

The proposed regulations on Page 190 would prohibit any customary trade of fish on the Kenai Peninsula by extending the prohibition to transactions between rural residents that are contained in Sections in 11 and -- in rural residents and others, provisions allowed for in Section C12 of the regulations.

From 1952 through 2000 subsistence fisheries have been prohibited in the freshwater streams of the Kenai Peninsula. The first subsistence fishing season allowed under Federal regulations occurred in 2002. Current Federal Subsistence fishing on the Kenai Peninsula occurs within provisions that parallel
sportfishing regulations. A subsistence fishing permit is required to harvest salmon, dolly varden, trout and char for subsistence purposes. This reestablishment of subsistence fishing on the Kenai Peninsula has raised concerns among other users of the resources. The proponent cited potential for abuse as a major concern when submitting this proposal.

Under Federal regulations, while the exchange of subsistence harvested fish for cash is allowed, if fish are processed, State health regulations require that the processing meets government food health standards. The customary trade regulations do not exempt those involved from complying with regulations for the processing of foods. It would be rare, but technically possible for a subsistence user to meet the government food health standards and hold the necessary processing permits and yet not be a licensed fishery business. As noted license fishery businesses are prohibited in customary trade.

In the 2002 season, two Federal Subsistence permits were issued and 36 salmon were harvested. This figure represents significantly less than one percent of the fish harvested on the Kenai Peninsula.

This proposal would prohibit the activity of customary trade without evidence of the need of a prohibition. The proponent just expressed concern about the potential or abuse. As a practical matter, Federal customary trade regulations essentially apply only to the exchange of fresh fish. Admittedly Federal public waters do occur in the midst of an area of high density use by non-subsistence fishers, however, sufficient information does not exist which would support the proponent’s claim relating to the difficulty in enforcing and the potential for abuse.

These claims are not supported by current regulations which parallels sportfish harvests. This situation allows enforcement officials the ability to readily determine whether or not subsistence users are within the allowable limits substantially curtailing the potential for abuse. Enforcement officials would also be aided by the harvest record keeping requirements for Federal permits in the Federal subsistence fishery.

That concludes my analysis.
CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Regional Council coordinator. There were two written public comments.

One's from Kenaitze Indian Tribe opposing the proposal. The Kenaitze people today still practice their subsistence lifestyle as much as possible living on fish and game harvest on the Kenai Peninsula. Customary trade has been practiced by the Kenaitze Indian Tribe since time and immemorial. In 1981, the Alaska Board of Fisheries adopted the premise that subsistence uses, customary and traditional uses of wild and renewal resources continue to exist in Cook Inlet and noted specifically that this includes a use pattern in which the effort and catch are distributed on a community and family basis, including trade, barter, and sharing and gift-giving.

In the Federal Register the National Marine Fisheries Service acknowledges that subsistence halibut may be used in customary trade because customary trade is customary and traditional use of halibut.

The Cooper Landing Fish and Game Advisory committee is in support of the proposal. The Cooper Landing is at the center of the most accessible and productive Federal waters within the Kenai Wildlife Refuge, the Chugach National Forest and upper Kenai River water shed. Also it is the only road community in the Kenai River water shed. Customary trade will have a very direct impact on the community. Our desire is to stop unnecessary trade which has not been customary for more than 50 years before it starts. Section AA03 does not require that all subsistence uses be provided, Section .802 provides for non-wasteful subsistence uses. The sale of subsistence fish to tourists might be considered a wasteful use.

That concludes the written public comments, Mr. Chair. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, very much. We have no request for public testimony at this time. Regional Council recommendation, Ralph.

MR. LOHSE: Our Regional Council was opposed to this proposal. And I'd just like to read you
a couple of comments on it that we had at the Council to put it in perspective why we were opposed to it.

We heard a lot of testimony about abuse on the Kenai, most of it related to the sportfishermen or to out-of-state fishermen loading up with fish taking them out of the state, all activities which were currently illegal under State law. And using those as a jumping point, it was then applied to subsistence fisheries.

Our comment was, basically show us some abuses in the subsistence fisheries and we'll be very happy to direct laws to them.

My comment was, I guess, that after 10 years I'm tired of trying to figure out what someone might do wrong in the future and I'd rather do -- deal with what people are currently doing.

We have a tendency in our culture to penalize people who are doing what's legal. And that's because of the abuses that other people are doing. And it's easier to make a law that applies to people who want to abide by the law than it is to make a law that applies to people who are currently involved in illegal activities, because people involved in illegal activities won't abide by the law anyway. So why should we make a law against the subsistence at this point in time when there's no documentation that any subsistence fishermen has even sold a fish. When at the same time we have lots of documentation that sportfishermen and people from out of state have been taking the resource and using it for sale; let's use our authority to go after them first.

And that was basically the whole feeling of the Council. Like Mr. Churchill said, this is way too broad minded -- not broad minded, broad-scoped. It covers people who aren't doing anything wrong. And so from that standpoint we were opposed to this proposal.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Staff Committee.

MR. GERHARD: Yes, for the record my name is Bob Gerhard.

The Staff Committee concurs with the Southcentral Regional Advisory Council recommendation to reject the proposal.
There's no legal basis for a blanket prohibition of the sale of subsistence harvested fish due to the proponent's concern about the potential for abuse. Permit record keeping requirements for the Federal Subsistence fishery provides law enforcement with sufficient documentation potential abuses.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. SEE: Thank you, Mr. Chair. Good morning. My name's Marianne See.

The Department recommends that the Board defer this proposal, and I'll explain more about the specific reason for that in a minute.

We do continue to have the same concerns about customary trade of fish in general that were raised during the last regulatory meeting cycle and in the request for reconsideration to the Federal Subsistence Board.

In general we do not believe that the administrative record supports the implied finding that the levels of customary trade allowed under current regulations are customary or traditional. While maintaining and preserving these objections, we also offer specific comments about this proposal.

We previously noted that Federal regulatory provisions should account for documented characteristics of regional customary trade practices, and we really are emphasizing the documentation, knowing what is customary and traditional. As stated in the Federal Staff analysis, subsistence fishing in these waters was closed between 1952 until 2002. The analysis provides no information about customary trade practices prior to the closure for these stocks. Absent any information about the history of customary trade we believe that regulations allowing such practices need to be carefully crafted.

Although the analysis correctly points out the very low harvest of fish currently occurring under the Federal Subsistence regulations, this could rapidly change if regulations are changed to liberalize especially in an area like this on the road system,
without the self-limiting mechanisms that are found in more remote and traditional communities.

The Department recommends that information about the customary trade practices in this area be obtained prior to regulatory action.

The State currently does not have a customary trade provision for the Kenai Peninsula nor has this been requested through the Alaska Board of Fish.

Thank you.

CHAIRMAN DEMIENTIEFF: I'm sorry, but before we go on I just wanted to -- thank you very much, I was listening, contrary to popular opinion. But I was basically trying to figure out our schedule. And I'll just notify you right now we do have people that want to testify on Bristol Bay and Southcentral issues. So if they're not here at that time we shall -- and like I said, there's Board of Fish, there's things going on, that people are just pulled different ways. We know they're in town because we seen them. So I'm just letting you know ahead of time that we will -- if they're not here, we're going to do our best to accommodate them and we'll start on some of the Southeast proposals after this if they're still not here yet.

And that's basically why I was running around the room here trying to figure out what we're going to do next. Just trying to do our best to accommodate people. So that's a head's up and we're prepared to go. There's two Southeast proposals, which, of course, are scheduled for 1:00 p.m., when we'll have the Deputy Commission of Fish and Game that was going to help us with two of the proposals and he won't get here until 1:00 o'clock so we won't go any farther than that. And if they don't show up, you know, and we complete the rest of the Southeast proposals, I will feel like we've done our best to accommodate them and we'll just go ahead and move forward with those.

MR. TONY: Mr. Chairman, I believe the Deputy Commissioner for Fish and Game is here now.

CHAIRMAN DEMIENTIEFF: No, but.....

MR. TONY: Oh, David Bedford, okay.

CHAIRMAN DEMIENTIEFF: No, no, yeah, but
anyway, thank you very much. Regional Council comments.
Yes, sir, John.

MR. LITTLEFIELD: Mr. Chair. Not commenting on the proposal, obviously we would support Cook Inlet on that.

But I'd like to refer your attention to the bottom of Page 191. And it's the last three sentences on there where they talk about how we deal with fish in Southeast. And I just wanted to bring this to the attention of the Board, headed, frozen, dried, salted, smoked, canned, et cetera, that's normally what we do to our fish. In Southeast, we rarely would deal with a fish that was unprocessed except for eulachon. So if you read the regulations, the only thing we could trade would be a bucket of eulachon.

I just wanted to bring your attention to that, that is still a burning issue in Southeast. That statement on the bottom of Page 191 and part of the next page. That's something that I would hope that the Federal Subsistence Board would clarify for Southeast at this meeting, is, what that really means, customary trade and whether we can do it or whether we can't.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Any other Regional Council comment.

Grace.

MS. CROSS: Thank you. I was just going to relate an experience that I had this summer since we hardly have any fish up north where I'm from we're getting a little accustomed to trading for fish for other things that we have in abundance.

I came here in Anchorage, last, I think June or July and I was talking to an individual that my daughter knew and say, gee, I wish I could go to Kenai and fish so I could have some fish to bring back. She said I know of somebody who could sell you Kenai fish and it turned out she drove me to a place in Anchorage and I bought fish that was -- I started talking to this guy because I was curious, are they selling subsistence caught fish, no, sports caught fish. So it's not -- I agree with Ralph, sometimes, you know, you're not solving the problem at all by looking at a small group of people,
you have to look at the large picture, and regardless of how much the large picture has in terms of money, you have to act upon that.

And believe me I'm not making this up and I was really, and I said I can't believe this happened to me, but I did buy fish from a sports person and I don't know how -- he went and opened his freezer and I was like, whoa, that's a lot of fish, I had my pick of fish. And I didn't want -- you know, I had hesitations about buying and I said, well, there's fish here, but what am I going to do, call somebody and see if anything happens, heck no. I probably got tempted in calling somebody but what's going to happen, I haven't seen anybody, a sports fisherman cited for any violation of that kind so what difference did it make at that time.

But anyway, maybe I'm making myself look bad but this is the truth.

Thank you.

CHAIRMAN DEMIENTIEFF: Any other Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: Board discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I have a question for Pat. Pat, correct me if I'm wrong but currently for subsistence take on the Kenai has to be consistent with sportfish regulations, is that not correct, which would mean that these 36 salmon that were caught would have been caught under current and existing sportfish, both methods of takes as well as limits?

MS. PETRIVELLI: Yes. Yes. For the take of fish, the user has to follow whatever it says in the State sportfishing regulations.

MR. EDWARDS: Right. So I mean, I guess, one could argue that these, as well as being subsistence caught and identified under a subsistence permit, they were also really sportfish caught under sportfish regulation?
MS. PETRIVELLI: The subsistence users don't have to obtain a State fishing license.

MR. EDWARDS: Right.

MS. PETRIVELLI: They get a Federal subsistence permit.

MR. EDWARDS: So that would be the only difference other than would be the licensing?

MS. PETRIVELLI: Yes.

MR. EDWARDS: Okay. Then I have one question for Ralph. Given that there's not a lot of communities down on the Kenai that have been determined as rural, how does the Council handle when one of those, Cooper Landing, is supportive of this, how do you take in their views in reaching your -- given that you're representing them as well as you're representing Ninilchik and the other communities? How do you weigh that in coming to the conclusion to oppose the recommendation?

MR. LOHSE: Well, I guess what I'd say is we consider their views just like we consider anybody else's views, but we're trying to apply them to what we interpret ANILCA to say. And from that standpoint what they presented.

I mean the fact that somebody asks for something, just like we've had things that you've rejected today, the fact that somebody asks for something, whether they're a subsistence users or whether they're classes of rural residents or not doesn't not necessarily mean that it's in the best interest of the community at large.

And in this case here, as a Council, we looked at this and like Bob Churchill said, this is too broad-scoped, like I felt, it was applying to a problem that wasn't there. It's a problem that's not documented. It's a problem that hasn't existed. And the problems that were used for examples were from another whole part of the community that wasn't involved in subsistence. So we felt that at that point in time, like we told them and I'll quote what we said, if you have a problem bring us a problem, but don't bring us a potential problem. But if you have a problem, bring us a problem and then we'll work on it, and that was our feeling at this point in
It's awful hard to address a problem when it's not there.

Thank you.

CHAIRMAN DEMIENTIEFF: Other discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: Board action.

MR. EDWARDS: Ready for a motion?

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Mr. Chairman, I move that we reject the proposal consistent with the recommendation of the Southcentral Regional Advisory Council. As was pointed out, there doesn't seem to be any legal basis for this, and particularly given that these fish were taken under sportfish regulations and there's really no need at this point to provide this kind of a blanket regulation.

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: Yeah, I'd like to speak in favor of the motion. I haven't heard anything that would be a compelling justification to not reject it.

CHAIRMAN DEMIENTIEFF: I, also intend to vote for the motion. And I want to, again, commend the Regional Council for doing the diligence and bringing us a recommendation. Somebody disagrees, was that a shout I heard -- but, you know, it -- again, it's just another example of us counting on our people that we have to go out and do that work and to bring us the best recommendation possible. So just would want to commend the Council. But I do intend to vote for it.

Is there other discussion.
MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Since this is a provision that is provided for in ANILCA, I, likewise, would see no reason to prohibit customary trade. And likewise, I think we would have faith in the Council to provide a regional recommendation if they did see a real problem.

Thank you.

CHAIRMAN DEMIENTIEFF: Other discussion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Okay. I still don't see the parties that we're looking for so we'll go ahead and move into Southeastern. And, again, as we do this let's be advised that at least with regard to Bristol Bay, we will adjust the agenda, we may stop to do that. The other Southcentral one is not that time sensitive so if we see the Bristol Bay people show up then we will stop the Southeastern consideration and take that up.

Okay, so with that we'll begin with FP04-28. Analysis.

MR. SCHROEDER: Mr. Chairman, just to clarify, our Staff analysis for Proposal 28 and 29, we analyzed those proposals together and we will be taking up Proposal 29 at 1:00 p.m. today. We could proceed with 28 and have Board action on 28 at this time or we could hold until 1:00 o'clock, at the pleasure of the Chair.

CHAIRMAN DEMIENTIEFF: Yeah, 29 and 40 were requested time specific to 1:00 o'clock so we will accommodate that, that's our intention.
MR. LITTLEFIELD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LITTLEFIELD: Mr. Chair, I concur with Dr. Schroeder's comments, and my comments are addressing 28 and 29 together because that's the way the Staff analysis was presented to us at the Southeast Council. So some of my comments overlap in 28 and 29, and I think it would be appropriate to include 28, 29 and 40 in the 1:00 o'clock discussion.

CHAIRMAN DEMIENTIEFF: Thank you. We'll adhere to that and we'll go with 32 then.

MR. CASIPIT: Thank you, Mr. Chairman. Members of the Board. For the record my name is Cal Casipit. I'm the subsistence fisheries biologist for the Forest Service based in Juneau. I'll be presenting FP04-32. If you will notice your executive summary for 32 starts on Page 325 of your book. I'll be briefly going over 32. Now, the Staff analysis that appears, actually combines 31 and 32 together, but I'll only be discussing the specifics of Proposal 32.

Proposal 32 was submitted by Jim Beard of Thorne Bay and he requests that monthly permitting and reporting of harvest be required for the Federal subsistence steelhead fishery on Prince of Wales Island. The proponent of 32 believes that the existing Federal subsistence fishery for steelhead on Prince of Wales Island should require more frequent reporting for in-season management to ensure that island-wide harvest cap is not exceeded and that small stocks are not overharvested.

The proposed Federal regulation appears on Page 330 of your book for FP04-32. I would note that this, and I'm making this orally, but I would note that the last sentence of the bolded paragraph, the first paragraph thee of the proposed regulation I'll read it:

Failure to comply with the terms of returning your permit will make you ineligible to receive a future permit for any Federal subsistence fishery.

I wanted to note that legal counsel has told me that this is a violation of an individual's right to due process and that no matter what the action of the
The extent of Federal public lands and waters or Federally-managed waters of the Tongass National Forest, excluding marine waters on Prince of Wales Island, you'll see a map on Page 331 of Prince of Wales.

I think the Board is pretty familiar with the regulatory history of steelhead on Prince of Wales Island. This has come before the Board on many occasions, since the beginning of our implementation of the fisheries -- of this Federal Subsistence Fisheries Program, so I'll dispense with any of that and I think I'll just talk about the existing subsistence -- the subsistence harvest that occurred in the only fisheries so far, the spring 2003 fishery.

Like I said, the only fishery under this regulation to occur to this date is the spring 2003 Federal Subsistence season. In that season 76 permits were issued to Federally-qualified users. At this point 74 permits have been returned resulting in a total reported harvest of 26 steelhead from the Prince of Wales Island systems. All of the reported harvest came from the three largest producing road accessible systems, the Thorne River, the Klawock River and Staney Creek. No harvest was reported from small road accessible or small non-road accessible systems.

We do have a concern for discrepancy between the recent 2003 permit harvest report of 26 and the Subsistence Division's community harvest surveys of estimate of approximately 600 from Federal waters that came from the household surveys in the 1990s. We're unsure of this discrepancy but an existing FIS study 01-105 would hopefully shed a little more light on the two estimates.

A little on the effect of the proposal. Monthly permitting would be one of the things required by 32. That the proposal implies the need for additional reporting of harvest to the Federal in-season manager so that he can efficiently control harvest to stay under the island-wide harvest cap and ensure small streams are protected. The harvest levels reported from the spring 2003 fishery do not support this need. Few steelhead were harvested representing only a small proportion of the harvest cap. In addition all of the reported harvest...
came from the three largest road accessible steelhead producing systems on Prince of Wales Island.

With that I'll be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Written public comments.

MR. SCHROEDER: Mr. Chairman, we've received no written public comments for this proposal.

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

MR. LITTLEFIELD: Thank you, Mr. Chair. The Regional Advisory Council opposed both Proposals 31 and 32, which were very similar. We saw this as an undue restriction being put on subsistence users, given that the very small harvest of 26 fish when we had a 600 fish cap was basically insignificant. And the land manager has the authority now to close that season if he sees anything going wrong with it and we're sure that information -- we felt sure that information would get to him if there was a high take.

So for those reasons we opposed the proposals, both of them.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. SEE: Thank you, Mr. Chairman. My name is Marianne See. We should note also that we had looked at the two proposals, 31 and 32 together because they'd contained provisions looking at reporting and how that would potentially be different than it is currently with this newer activity for steelhead fishing.

These streams are primarily, or many of them are systems that have small runs of fish so the Department maintains a concern about that. We feel that monthly harvest reporting is a good idea. We think it's necessary to adequately monitor steelhead harvest and ensure that harvests are not excessive on an individual stream basis. And that's important to distinguish. We're talking about the individual streams which may have very low populations of fish.
We do recommend that permits be issued and made valid for one month to facilitate harvest reporting. Considering the harvest level reported for 2003 and the low numbers of permits issued for State subsistence fisheries in the Situk and Ahrnklin Rivers, we do not think a weekly reporting requirement is necessary, which is why we were able to join with others on the consent agenda item for 31, which was a more stringent reporting.

The adoption of this proposal would provide a means to standardize harvest reporting requirements between the State and the Federal steelhead fisheries. We would support such provisions for all Federal steelhead fisheries by either regulatory or permit provisions. If a monthly permit and harvest reporting requirement is implemented in steelhead -- Federal steelhead fisheries, the State permit provisions would be correspondingly modified as well.

Thank you.

CHAIRMAN DEMENTIEFF: Thank you. I just note that I inadvertently passed over the Staff Committee recommendation, but I'll invite, of course, the Regional Council and the State, both, will be a part of the Board discussion if there's additional comments after hearing the Staff Committee recommendation.

MR. KESSLER: Good morning. Mr. Chair. Board members. Regional Advisory Council Chairs. ADF&G representatives. And others. I'm Steve Kessler with the Forest Service and a member of the Inter-Agency Staff Committee. I've replaced long time member Ken Thompson, who recently retired.

The Inter-Agency Staff Committee recommends rejecting Proposal FP04-32 as recommended by the Southeast Alaska Subsistence Regional Advisory Council. This proposal would require monthly reporting and monthly permitting for Prince of Wales Island steelhead subsistence fisheries.

Following is our justification for this recommendation.

The 2003 season is the first year that Federally-qualified subsistence users have been able to legally harvest fish under Federal permits. So far we've experienced only the spring 2003 fishery and in that
fishery, 76 Federal permits were issued, resulting in a reported harvest of 26 fish. Inter-Agency Staff Committee does not believe that regulatory changes are needed at this time. Regulatory changes are not needed for conservation purposes. Participation in steelhead harvest in the permitted fishery have been low and more burdensome harvest reporting is not needed.

The current regulations allow the Federal in-season manager to establish permit requirements calling for more frequent reporting as needed for conservation purposes. The Inter-Agency Staff Committee believes that this authority is appropriately left with that in-season manager and that these reporting requirements should not be in regulation.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Are there any other comments, other Regional Council members.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, we'll advance this to Board discussion.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I recall quite a bit of discussion on steelhead last year and I really wanted to commend both the Forest Service and Fish and Game for providing that in-season monitoring and communication that did take place this past year.

My thoughts on this proposal is that it would be an undue burden on subsistence users.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BSCHOR: Mr. Chair. Also in that discussion and deliberation last year we agreed to give us a two year trial. I believe we ought to continue to do that.

I, too, feel that there's not any particular conservation purpose at this point relative to subsistence noting the figures that we've seen already as far as our monitoring that would require moving forward
with this proposal.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Gary, you had comment.

MR. EDWARDS: Mr. Chairman, I have a couple questions. I guess one for the Forest Service. How often, given there's not very many permit holders, are there frequent contacts made with those individuals, even though the reportings only at the end of the season?

MR. CASIPIT: Thank you, Mr. Edwards. Chair. Members of the Board. Jeff Reeves is actually the representative of the local in-season manager and I was in contact with him throughout the season. He was calling every permit holder every -- on a two week basis. And he was contacting anywhere between 75 to 85 percent of the permit holders every other week asking them where they were harvesting, how many fish they caught. So he was tracking pretty closely throughout the whole spring season about existing harvest, where the locations of the harvest was happening and that sort of thing.

If Jeff cares to elaborate he can come forward and speak.

MR. REEVES: Thank you, Mr. Chairman. For the record, my name is Jeff Reeves. As Cal did mention I was contacting permit holders throughout the course of the fishery about every two weeks. The general trend that I found when I'd contacted these folks, they were very open with me and usually on average about two-thirds to three-quarters hadn't even fished. Why, I don't know. A lot of them said time constraints.

It was time that I wished I could have been out on the systems, but for being the first year of the fishery I thought it was more relevant that I sit behind my desk and contact. It was basically the best way to do it was to contact them in the afternoon, and those I couldn't do I could at least try the next day.

I did a lot of, also a lot of on site visits. As permits were issued, the permittee was handed a sheet and it just asked, you know, where might you fish and based on the responses of those, I tried to hit all those systems at least once, twice during the peak of the run and I -- myself, I never even bumped into a
subsistence user. Our law enforcement did, I think on six occasions out of, was it, 35 individual contacts. So that's pretty much it.

If you want some brief statistics on these permit holders, over the total fishery, 76 percent of the permits never even fished. We had 18 permits that did fish, of those, six fished but never harvested, so roughly eight percent, and 12 permits reported success.

So if you have any further questions.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Paul.

MR. TONY: What percentage of the total users, Federal subsistence users represent?

MR. REEVES: Mr. Chairman. Mr. Tony. On the 12 successful permits, if this answers your question, it roughly averaged about two fish per permit, but we did have two of the 12 permits that actually harvested their complete limit of five fish. So we had 26 fish, 10 of which were harvested by two permit holders and the fish basically, just about half of them came out of the Klawock River. Ten came out of the Thorne River. And one permit holder harvested two out of Staney Creek. If that answers your question.

MR. TONY: What I was trying to get at, I was curious about what the sport take was and what percentage the subsistence take was of the total.

MR. REEVES: For the sport harvest, I don't have any numbers, that's derived from the statewide harvest survey. When compared to the most recent sportfish harvest numbers that I have, which was back in the year 2000, that harvest was 12, that was estimated by the statewide harvest survey. So if that's representative, then we had just over twice the amount harvested under subsistence.

MR. TONY: Are the State numbers derived on a monthly reporting basis or a weekly reporting basis, the State sport numbers?

MR. REEVES: The State numbers are derived from their statewide harvest survey which is a --
it's a large booklet that's sent out towards the wintertime to, I believe, randomly selected license holders, and folks basically have to record where they fished in their household and what they caught and what they released over -- they have to basically try to remember that over a course of a year and then you mail that back in.

MR. TONY: So the State does not have any mandatory reporting requirement for sport fishermen, they just want to impose it on subsistence fishermen?

MR. REEVES: That's probably a question more for ADF&G.

(Laughter)

CHAIRMAN DEMIENTIEFF: Would the State like to respond.

MS. SEE: Yes, this is Marianne See. Our main information comes from the statewide harvest survey as he indicated, and the numbers have been reported as very low in those surveys.

Thank you.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: I guess I'd like to ask the State, I mean I concur with your analysis that we have to be very careful with harvest of steelhead, be it sportfish or be it subsistence, given the numbers. But it always -- I'm still concerned why the State seems reluctant to look at what the by-catch is occurring on steelhead. No data has been gathered since 1990. I notice in looking at previous records in 1986, over 11,000 steelhead were taken in the by-catch, and it seems to me if we could address the by-catch issue it would benefit not only subsistence users but sportfishing users as well.

CHAIRMAN DEMIENTIEFF: Response.

MS. SEE: Even though it's not related directly to this proposal, we could certainly comment about that. There are some data on this although it has not been recently collected. And this is obviously a
Rod, do you have additional comments you want to offer.

MR. CAMPBELL: Yes. Mr. Chairman, for the record Rod Campbell, Division of Commercial Fisheries. Yes, Mr. Edwards, as you probably realize we did have some regulation changes a few years ago, commercial fisheries did prohibit the sale of steelhead caught in the seine fisheries. Felt that that has certainly reduced any incidental catches of steelhead, and you're right we do not require that on the commercial fishery ticket, they're not recorded. But felt that those Board of Fish regulatory changes have gone a long way in reducing that catch.

MR. EDWARDS: But even though you can't sell them, isn't there a significant amount of mortality as a result of by-catch?

MR. CAMPBELL: Mr. Chairman. Mr. Edwards. I don't have any studies or numbers on that that I could present.

MR. EDWARDS: What would you, in your personal view, what would you assume, that there is or isn't?

MR. CAMPBELL: Mr. Chairman. Mr. Edwards. I don't have enough time in with the State to go out on a limb to give my personal view on the steelhead fishery in Southeast so I will defer that question.

MR. EDWARDS: I appreciate your concern.

MR. BISSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BISSON: I have a question for ADF&G. You expressed a concern for monitoring the take of steelhead on the small river systems. Is there any concern about the take that occurred this year on the three rivers where there was reported take or are you concerned about other rivers where there was no take?

MS. SEE: Through the Chair. That's
certainly a reasonable question.

(Loud Buzzing noise)

MS. SEE: Okay, Mr. Chair, that's quite the buzzer you have.

(Laughter)

MR. BISSON: We thought you pushed it.

MS. SEE: Now, I'm trying to remember what the question was.

(Laughter)

MR. BISSON: The question was are you concerned about the take that did occur on the three rivers where there was reported take?

MS. SEE: Yes, and as I started to say this is a new provision that based on the harvest information that we've seen, we are not concerned to date. I think what we've -- and what I said in our comments, too, was that by either regulatory permit provisions, we do want to see some kind of monitoring as users are in these small streams because they're small and the populations are small. And we want to assess -- and want to cooperatively with the Federal program assess the usage in those streams. We don't have a lot of data for these areas.

Thank you.

MR. BISSON: The question I have for the Forest Service is I'm assuming that you kept records of all the contacts that you made on your bi-weekly calls, you know, what stream they fished or didn't fish and how many fish they caught. Have you provided that data to ADF&G?

MR. REEVES: Mr. Chairman, Mr. Bisson. Yeah, as I contacted folks I did try to keep record as they reported fish. And at the end of the season we did have a summary of permit data, that's processed out of Petersburg. I don't know if a direct copy of that did get passed on to them, but what I do have in front of me though, for Prince of Wales systems, there was seven systems that were reported to be fished and out of -- in the early part of the fishery when we implemented a size
restriction and a lower bag limit on 21 of the road side
systems, only one of those systems wound up being
reported as being fished with no harvest.

MR. BISSON: Mr. Chairman, I guess for
the record, you know, last year we had a very
significant, fairly emotional discussion about this issue
and I recall, as Mr. Bschor does, is we said we'd try
this for a couple of years and see where we stand.

I think that, you know, given that the
Forest Service, and I'm assuming they'll continue this
year making bi-weekly phone calls, perhaps what we could
do is provide that information more timely to Game and
Fish as a way of getting the data. But I am going to
vote to oppose this particular recommendation.

CHAIRMAN DEMIENTIEFF: Is that in a form
of a motion.

MR. BISSON: It could be, if you're
looking for a motion.

MR. BSCHOR: I'm prepared to make a
motion.

CHAIRMAN DEMIENTIEFF: Okay, that's fine.

MR. BSCHOR: Do you want me to do so now?

CHAIRMAN DEMIENTIEFF: Go.

MR. BSCHOR: I move to reject Proposal
FP04-32, as in line as recommended by the Southeast
Alaska Subsistence Regional Advisory Council.

CHAIRMAN DEMIENTIEFF: Is there a second
to that motion.

MR. BISSON: I second it.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. BSCHOR: And I would like to say the
reason I'm suggesting this is we have not seen a
conservation reason to go along with the proposal and
we've not -- the proposal would also be burdensome to the
subsistence users. And I also want to, for the record,
say that we really need to know what's happening with
these sports fisheries and commercial fisheries relative
00174 1 to steelhead before we can have some reasonable
2 discussions in the future.
3
4 Thank you.
5
6 CHAIRMAN DEMIENTIEFF: Yes, I, too,
7 intend to support the motion. We did diligence, I mean
8 we labored very long and hard over making the decision
9 and my observation is so far so good. I see no reason
10 for us to take this up.
11
12 Did you have comment, go ahead.
13
14 MR. TONY: Thank you, Mr. Chairman.
15 Yeah, I agree with the maker of the motion. It seems
16 disingenuous to require monthly reporting in this arena
17 when you do not have monitoring of the commercial and the
18 sport fishery. You can't really say with a straight face
19 that you're really concerned about the overall numbers
20 unless you monitor all areas of the harvest.
21
22 CHAIRMAN DEMIENTIEFF: Any further
23 discussion.
24
25 MS. GOTTLIEB: Mr. Chair.
26
27 CHAIRMAN DEMIENTIEFF: Yes.
28
29 MS. GOTTLIEB: Again, I guess, now I'd
30 like to thank Jeff personally for doing the diligence on
31 the ground. We set up this system last year but you and
32 others are truly the ones who have to implement it. So
33 thank you for your hard work.
34
35 CHAIRMAN DEMIENTIEFF: Any further
36 discussion.
37
38 (No comments)
39
40 CHAIRMAN DEMIENTIEFF: Hearing none. All
41 those in favor of the motion, please signify by saying
42 aye.
43
44 IN UNISON: Aye.
45
46 CHAIRMAN DEMIENTIEFF: Those opposed,
47 same sign.
48
49 (No opposing votes)
CHAIRMAN DEMIENTIEFF: Motion carries.

Just for people's comfort levels, they were working on the security system upstairs and it obviously works.

Proposal 33.

MR. REEVES: Thank you, Mr. Chairman. Again, for the record my name is Jeff Reeves. I'm the subsistence fisheries biologist for Prince of Wales Island and Ketchikan areas.

Proposal 33 submitted by Council member Mike Douville of Craig requests the addition of Kosciusko Island to the language of the current regulation for the Prince of Wales Island subsistence steelhead fishery.

The proponent -- oh, I'm sorry, excuse me here. The executive summary can be found on Page 337 and the analysis begins on 341. I kind of jumped the gun there, sorry.

The proponent is concerned that the current regulation does not allow subsistence harvest of steelhead on Kosciusko and that it's restrictive to the residents of Edna Bay as they must first fly or boat to Prince of Wales Island in order to legally harvest a steelhead under Federal regulation. A map of Kosciusko Island can be found on Page 343 in your notebook.

Kosciusko Island is located along the northwest side of Prince of Wales Island. The steelhead are known to be present in four systems on Kosciusko, with only spring run fish being documented. Actual population numbers are unknown for these drainages. A total of 49 people reside in the 19 households of Edna Bay. Of the 76 permits issued during the 2003 spring subsistence steelhead season two permits were issued to residents of Edna Bay. Of the 26 reported steelhead harvested during the spring fishery, no steelhead were reported from Kosciusko waters or reported harvested by Edna Bay residents.

Household harvest surveys in 1998 showed no steelhead harvest but did show a small harvest of cutthroat and rainbow trout from Trout Creek by residents of Edna Bay. It is unknown if any of those rainbow trout were steelhead.

Sport harvest is unknown from Kosciusko Island. With the small number of responses to the
A statewide harvest survey. Along with the remoteness of Kosciusko, the assumption can be made that sport harvest is minimal.

Cabin use surveys have resulted in one response for Shipley Lake. This survey estimated a catch of two and the harvest of one steelhead from Shipley Creek.

The proposal would provide additional subsistence harvest opportunity on four steelhead systems on Kosciusko Island resulting in some harvest of steelhead. Harvest levels of steelhead on Kosciusko drainages should not increase dramatically due to the small population of Edna Bay along with the remoteness of Kosciusko Island to the other Prince of Wales communities.

I'm open to answer any questions now.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MR. SCHROEDER: Mr. Chairman, we have no public comments for this proposal.

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

MR. BOYD: Staff Committee.

CHAIRMAN DEMIENTIEFF: No, Regional Advisory Council recommendation and then Staff Committee.

MR. LITTLEFIELD: Okay, thank you, Mr. Chair. The Regional Advisory Council supports this proposal. It's fairly insignificant. It does provide some additional opportunity for the residents of the area. There is a very small take there but it does provide that opportunity. And it is also included under the guideline harvest level that is existing. So, in effect, you know, if they were to take more fish there it would make less -- you know, as we don't go over that guideline harvest level of 600 fish it just shouldn't matter to anybody where they come from.

So we did support the proposal.

CHAIRMAN DEMIENTIEFF: Thank you, very
much. Staff Committee.

MR. KESSLER: Thank you, Mr. Chair. I'm Steve Kessler with the Forest Service.

The Inter-Agency Staff Committee recommends adopting the proposal as recommended by the Southeast Alaska Subsistence Regional Advisory Council. This regulation, if adopted, would add the words, and Kosciusko Island into the current language of the regulations for steelhead harvest on Prince of Wales Island as shown on Page 338 of the Board book.

The following is our justification. Kosciusko Island is immediately adjacent to Prince of Wales Island and likely connected at lower tides. As a matter of fact, I'd like to call your attention, if you might have seen the map that was previous on the screens, and maybe they could put it back up again, you'll see that Prince of Wales and Kosciusko are just -- in that map right there on the screen -- Kosciusko Island is the island that's sort of midway in the map on the left side surrounded in blue on that, and so it's very, very close and almost connected to Prince of Wales.

There are a number of steelhead streams on Kosciusko Island which, according to Prince of Wales Island area residents are occasionally utilized by local subsistence fishers. Implementation of this proposal would allow these residents to fish under Federal steelhead regulations. Harvest levels of steelhead should not be very large due to the small population of people on Kosciusko and the remoteness of Kosciusko Island to other Prince of Wales communities.

Any steelhead harvested from these systems would be included in the harvest cap for the Prince of Wales subsistence fishery and the system can be subject to in-season management actions by the local in-season manager in consultation with ADF&G should the need arise.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Department.

MR. VINCENT-LANG: Thank you, Mr. Chair. My name's Doug Vincent-Lang for the record. The Department does not support this proposal. We have a
First, given the lack of stock status information and the slim potential for future stock assessment projects on the island, the high degree of uncertainty would be associated, in our opinion, with any management decision applied to these fisheries. Steelhead have been observed or reported in only four island streams, all of which are small systems with spawning population at a likely number, fewer than 100 fish each.

Given that the number of streams, stream size and spawning populations they support are all small. We are concerned that there is a limited capacity to support a continued and sustained harvest.

It appears the proposal could substantially increase harvest potential for a number of Federally eligible users, thus, we consider that this proposal puts these four small stocks at significant risk of over exploitation.

Second, steelhead on the island have not been found to be customarily and traditionally taken for steelhead based on surveys on permit returns.

Finally, the adoption of this proposal would cause further divergence without a sound management basis between State and Federal subsistence fisheries.

We'd also like to add that we have heard that one of the reasons to substantiate this -- or make this recommendation come forward is that these fish will be covered under the GHL. Well, the GHL is 600 fish. If all 600 fish were to come out of these small streams, I can guarantee you that that would raise a conservation issue. The GHL does put a limit on the amount of fish that will be taken from Prince of Wales Island streams, however, in our opinion it still does not offer adequate protection to these small stocks given that there is no upper cap or size limit on these upper stock fish.

Thank you.
like I said last year for Dan O'Hara, subsistence people only take two or three percent out of a hundred percent. And what is not counted here, is we're trying to restrict subsistence people while you let sport people go full-throttle. And you State people have to control that because they're taking more than 97, 98 percent and we're just restricting the little people?

CHAIRMAN DEMIENTIEFF: Yes. Ralph, I think -- I'm not sure who was first, go ahead, Ralph, then John.

MR. LOHSE: If there are steelhead on, I don't know how to pronounce that island, Kosciusko Island or whatever you said, if there are steelhead on there and there are people living on there, the only reason there's steelhead on there is because the people that are living on there haven't taken them all.

I am willing to bet that the people that are living on there have, if there are steelhead there, have eaten steelhead in the past and probably continue to eat it at this point in time. We don't know any numbers for how many steelhead are there, we have no stream surveys, we have no nothing. This would be one way to get an idea of what the take of steelhead on that island is. If you have a subsistence permit and from what we've heard from the people from the Forest Service we've had very good reporting, very good cooperation by the subsistence users.

And, again, it's another -- it's another case, in my way of looking at it, of saying, what if, what if, what if, what if, you know. I know steelhead are a very precious fish. Everybody thinks that they're extremely important, but they're only there because the people that are living there haven't taken them all and I don't think that you're going to -- I don't think you're going to stop isolated rural residents from taking an occasional fish by not -- and, again, I don't like to make something -- say somebody's doing something illegal but by not making it legal, it's going to happen, so why not get a record of it. Why not find out what's going on.

I mean basically what we've seen out of this thing here is, you put a cap of 600 on because that's what the survey showed but when you get right down to actual facts, what do people actually use we come up with 26.
How many are actually going to be used on Kosciusko Island? One way to find out is to allow a permit there. And I don't know, I don't see where -- if it's an isolated stream and you don't have any sportfishing pressure it's not something that attracts somebody, it's that small, nobody's going to go in there and take them all and if they do this is a good way to find it out and close it.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Before we -- I'm sorry, go ahead, Doug.

MR. VINCENT-LANG: Thank you, Mr. Chair. I'd like to respond to a couple of those different comments that I heard.

First.....

CHAIRMAN DEMIENTIEFF: If you don't -- I will give you ample opportunity.

MR. VINCENT-LANG: Okay.

CHAIRMAN DEMIENTIEFF: But I did get a late request for public testimony and I'd just like to allow that, you know, in case there's some things that you wish to respond to.

MR. VINCENT-LANG: Thank you.

CHAIRMAN DEMIENTIEFF: But I'll make sure I get right back to you, Doug. Okay, Lisa Lang, I think that's it. Go ahead.

MS. LANG: Good morning. My name is Lisa Lang and I'm from the village of Hydaburg on Prince of Wales Island. And I just wanted to note for the record that there was no written public comment on this proposal and the gentleman made a remark from the State point of view that it was taken from a survey.

And I would like to offer a point of view living in the village and being from Hydaburg, I never had the opportunity to see that survey or have any experience with that survey and I can tell you, from personal experience, that it is an isolated village and we don't have a lot of tourism, we don't have the big war with sports fishermen and I would like to support this
proposal as a village person and telling you firsthand, that this is a way for us to try and use the system by making a count for us.

These gentlemen here are advocating on behalf of my island to say, let's figure out a way to make this work. If we don't do this we're going to get it taken from us anyway. So we're asking how can we step up to the plate, do the job and I think I need to hear a little bigger voice from the village. It upsets me, personally, and I'm only speaking for myself. My son is a fisherman, my family are fishermen, I come from fishing people and I think that it needs to be a little bit more noted in your record about what the people it affects, who it affects and who it doesn't affect. And this is a way to do it. I think it's an awesome way to do it.

I don't like to put people down and so I know the gentleman that referred to -- I don't even know his name, I apologize, but he speaks to a survey and he speaks to his view of the world through a survey. My view is firsthand living there. I'm very, very passionate about this and I don't know the best way to make this system work for our people in the village.

So please take my comments to heart. That's what I'm asking you to do and support this proposal.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Doug.

MR. VINCENT-LANG: Thank you, Mr. Chair. Let me make it clear, the State does not want to unnecessarily restrict subsistence users from taking the fish they so badly need and have traditionally taken, rather, all we're saying is that these stocks are small and there's a significant risk of over exploiting these stocks.

To say that sport is unregulated is simply not true. There is a 36-inch minimum size limit and an annual limit. That 36-inch minimum size limit goes a long ways in our minds towards providing for a sustainable fishery. If, in fact, the Board were to adopt the 36-inch size limit, many of our concerns would disappear with respect to these stocks.
We think that the current regulations on the island of which people may be taking fish and we're assuming that they're taking them legally is sustainable as it is a 36-inch size limit and that's why that 36-inch size limit was put in place on those stocks. So, if in fact over time -- you got to remember, 10/15 years ago, these stocks were severely decimated and the 36-inch size limit was a way to rebuild those stocks.

Finally, I guess, occasionally, I do believe that the surveys that we have may not be completely comprehensive, however, they are the best available information that you as a Board have in front of you. As a matter of fact, it's kind of interesting that the recent survey conducted by the Fish and Wildlife Service showed 26 fish taken where, in fact, the surveys that the Department conducted in the past where you based your GHL on was much higher than that. So I'm not sure what the true number is. But, again, 600 fish, it's kind of a Catch-22. We heard last year that the 600 fish were to protect stocks and we needed to provide opportunity on small stocks and large stocks but the information that's available to the Board from the survey that was conducted last year clearly shows that most of the fish is being taken from large streams.

So, again, I guess given that, and that's where the information is suggesting it goes, why not protect small stocks with some additional measure of protection, either on a stream by stream quota that doesn't allow over exploitation of those stocks or some kind of minimum size limit.

Again, in summary, we're not opposed to providing opportunity for subsistence users on steelhead, we're simply concerned that those opportunities are built in a regulatory manner that allows those opportunities to be sustained over time for the subsistence user.

Thank you.

MR. NICHOLIA: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Gerald.

MR. NICHOLIA: Thank you. I know you're not opposed Doug, I know the State more or less wants to control, control the resource and the users, but look at the Yukon. You guys been having that -- you've been having control for the last 50 years on the Yukon River
and your information is coming from the book and surveys
that you look at. That lady's information is coming from
the heart and your information is not the best
information that's sitting here.

Thank you.

CHAIRMAN DEMIENTIEFF: Yes. John.

MR. LITTLEFIELD: Thank you, Mr. Chair.
Again, we're talking about 36-inch fish that we debated
thoroughly last year that just don't exist in any numbers
that anybody can catch. So what we're doing here is
providing an opportunity for those people on a limited
system. And I think we should be quite clear that Mr.
Reeves said that he checks with these people all the time
in the previous motion, he's going to keep track of,
you're going to get some numbers from there.

And as Ralph alluded to, probably are
some fish coming out of there now, I wouldn't be
surprised. It would be better for us to know those
numbers. And the land manager has the ability to close
these areas and has, I think if you could explain maybe
on restrictions that are in place on small streams now
what's been done. I mean it's not a blind eye or deaf
ear that the land manager has turned to the ADF&G. If
they have concerns, the land manager will address them.
And I feel confident that they've been doing that.

So if maybe Mr. Reeves could comment on
some of the steps that he's taken to make sure that the
smaller streams are protected.

CHAIRMAN DEMIENTIEFF: Are you prepared
36 to respond to that?

MR. REEVES: Yes, Mr. Chairman. With
Prince of Wales Island going into this fishery, probably
the largest issue that would affect, in a sense the small
streams, is the extensive road system throughout the
northern two-thirds of Prince of Wales Island.

Depending what the weather does for the
outlying remote locations, it's hard to say whether
people could get there on a consistent basis. But with
vehicles and an improvement in the road, particularly the
main line between most of the communities that parallel
many systems, we elected, from a standpoint that our
major concern going into the first fishery was the road
access to some of these small systems, which then
resulted in 21 systems having a 36-inch minimum size
limit and two fish annual limit placed on it. And to get
into that, too, all those locations where the roads
butted up to fishing holes, they were -- on those 21
systems, signs were hung, letters were sent, so folks
knew about it.

CHAIRMAN DEMIENTIEFF: Okay. With that,
I guess we'll advance to Board discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I'd like to ask the State a
question. In recognizing, I'm sure the 36-inch size
limit does help with harvest but my understanding is you
still have a catch and release down there which I think
we can assume that there is some level of mortality
associated with that, and I guess I would ask you
intuitively, would you think that that level of mortality
would maybe even exceed the 26 fish that were reported
being taken by subsistence anglers?

MR. VINCENT-LANG: Not on the small
streams, no. That's where we did not -- where we failed
to reach consensus with the Forest Service is on adequate
measures of protection in the small streams.

We agreed on where the road accessible
streams should be protected, but we disagreed on non-road
accessible streams. And in those areas the effort is
lower, but, again, under a Federal subsistence permit
it's not limited. You could easily -- on a stream that
supports 50 steelhead, especially fall run stocks, you
know, you could easily take the exploitable biomass from
that stream in one single outing at that stream.

No, I don't think the catch and release
is on the small streams. I think most of the
sportfishery is occurring on those large streams which
can support it.

CHAIRMAN DEMIENTIEFF: Additional Board
discussion.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Oh, I'm sorry,
MR. CASIPIT: Thank you, Mr. Chair. Members of the Board. I would like to read from a letter that was sent from Mr. Bschor to Mr. Kevin Duffey, the Commissioner of Alaska Department of Fish and Game back in April of 2003 where we discussed the issue of consensus or non -- or not coming to consensus on these small non-roaded accessible systems if -- I'll ask the Board to be a little liberal with me as I read this into the record.

I also note that Federal and State Staff did not reach consensus as to whether further protection was warranted during 2003 for non-road accessible systems, systems for which there are little or no harvest stock assessment data. These issues were discussed again during the February 25th meeting, although it does not appear that any additional information was provided. It is my assessment that meaningful consultation did occur and those consultations include legitimate disagreement over assessment of risk in the face of uncertainty. I would also note that the purpose of the March 11th meeting was to coordinate Federal and State management for the 2003 fisheries and that the subsistence fishery for steelhead on Prince of Wales Island was already under way at that time.

I guess that short -- it's a three page letter and I didn't want to read the whole thing into the record, that particular paragraph does discuss the several meetings we had with Fish and Game before the season and during the season to address concerns about small systems. As Jeff stated we did protect the road accessible systems by a 36-inch minimum size limit, two fish annual limit and the prohibition of spears. However, we disagreed over management of the non-road accessible systems. I can safely say as Federal Staff we probably felt that the risk of a whole bunch of people showing up to these non-roaded accessible systems at this time of the year was very unlikely and that we probably wouldn't have a whole lot of harvest from any small system, and in fact that's what happened. All the harvest came from the three largest systems on the island, road accessible systems on the island.

CHAIRMAN DEMIENTIEFF: Other discussion.

MR. TONY: Mr. Chairman.
CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: I had a question for the State on whether the small streams are closed to all sportfishing and also if they -- you had mentioned in your comments that that fishery was decimated, I think to use your own words, and what was the cause of that decimation of the fishery?

MR. VINCENT-LANG: Well, probably at the time we didn't regulate it as much as we should have and there were probably a variety of different reasons that we really probably don't comprehensively understand anymore. But since then we've adopted a regulatory package that's conservative in nature that has allowed the stocks to rebuild and sustain, in all practical purposes, on these small streams a catch and release fishery.

Is the sportfishery closed, no. I have asked the Southeast Staff to consider closing the directed fishery on these stocks, directed sportfishery on these stocks, and that will probably be decided next time the Southeast Board meeting comes open which is, I think a year and a half from now. This all kind of converged at last year's Federal Subsistence Board meeting at which time the proposal deadline was already past for that cycle. So we are considering with the actions that this Board took being more conservative in the recreational fishery and actually closing the directed harvest of those stocks.

I think catch and release mortality with the way we have that fishery regulated, unbaited, single-hook, artificial lure is very low. So that does not raise a conservation issue in my mind. But, yes, there is some degree of mortality associated with it, but, again, I think it's very small and I think most of the sportfishery occurs in the larger stocks.

MR. TONY: So do you have any hard evidence that it was Federal Subsistence Board users who decimated that fishery?

MR. VINCENT-LANG: I don't think we clearly understand what happened with that fishery back 15 years ago. I think there was probably some degree of by-catch that was associated with it in commercial fisheries, I think there was some degree of over harvest by sportfishermen, and probably some accounted degree of
harvest by other and local users that was unreported at
the time. But since that time we've basically learned
more about steelhead, we learned what's sustainable and
we learned that these stocks are very vulnerable to over
exploitation and over harvest, and once over harvested
take many, many years to recover.

MR. BSCHOR: Mr. Chairman, I have a couple
comments. First of all I appreciate the sensitivity of
this issue and the past and present ability for all of us
to work together to find some solutions. And as I hear
what's being said today, it seems to me we don't know
much about the fishery unless we get out there and find
out about it. And the more I hear the discussion, the
more I'm coming around to the point that we need to at
least have some authorized ability to have some use out
there.

Now, once again we have ability to issue
a permit or not on specific streams even if it comes down
to it, if that's the big concern. Until we start finding
out whether there's even a demand to fish those streams
we don't know anything. So that's kind of where I am on
the issue.

I am prepared to provide a motion if
we're ready for that.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BSCHOR: I move that we adopt the
proposal recommended by the Southeast Alaska Regional
Advisory Council.

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: It's been moved
and seconded. Discussion.

Judy.

MS. GOTTlieB: Mr. Chair. A couple of
comments. First of all I wanted to commend the RAC for
being willing to share. Sometimes we see either when
there's limited resources and often when there's not
limited resources groups not wanting to share in the
resources. So I think that was a positive showing.

And I want to thank Lisa for testifying.

I imagine the RAC might be offering you some applications
to apply for future openings that there might be because we certainly welcome your enthusiasm and passion.

I guess my comment, as well, on the proposal, that if passed, I hope we might once again ask the Forest Service and in-season manager to do a little bit of an educational program at Edna Bay as to what the permit requirements are and how they go about it and expectations on reporting and that will help us to gather the needed information.

Thank you.

MR. EDWARDS: Mr. Chairman, I guess I concur that we ought to be concerned with these streams regardless who the user might be, be it sportfishermen or be it subsistence users. Certainly they are fragile and they certainly could be over harvested.

This really is unfortunate that we don't have more data in which to try to make, you know, some of these tougher decisions. But it doesn't look, at least, to date, based upon what has occurred in one area and based upon that data that certainly 600 fish are probably not going to be harvested, some number is and I think I would agree with Ralph, regardless of what we do here today or not do, some fish are going to be harvested, my guess is that the Forest Service doesn't have a lot of enforcement people out there looking at that and certainly the way the State's going with their enforcement program, you're probably going to have even less capability to do that. So that will occur regardless.

So I think there is some level of risk. I don't think the data supports that that risk is very high.

And I guess the one question, maybe, Denny, you could clarify, is that, under these regulations if your data or your following up on phone calls would show that there is harvest coming from a particular stream you do have the authority to close it immediately?

MR. BSCHOR: Yes, that's correct. That's according to our past actions and our agreements.

MR. EDWARDS: Well, you know, that being the case and the Forest Service certainly seems to be
doing a lot of diligence as, I think, Judy pointed out, in trying to keep track of these, I do think there are ample safeguards in place that would allow us to take those kinds of immediate action. And I guess I would hope that the State would continue to try to monitor, too, and maybe there is or there isn't any sportfishing occurring on some of these very smaller streams, but if there is we need to certainly know that and I think you would like to know that, too, and that information needs to be shared. So all those can be weighed into any decisions to take some specific action.

CHAIRMAN DEMIENTIEFF: Further discussion on the motion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

35, 36, 37, I think we'll try to work our way through these last Southeast -- or this last Southeast group of proposals that are together before, and then we'll take a short break after that because the other ones are time specific at 1:00 o'clock.

Go ahead.

MR. REEVES: Thank you, Mr. Chairman.

Proposals 35, 36 and 37 were combined into one analysis. The executive summary can be found on Page 357 and the analysis beginning on Page 363.

Proposal 35 was submitted by Gary Souza of Ketchikan requesting a 36-inch minimum size limit and a two fish annual harvest limit placed on all fall steelhead systems for the Federal subsistence steelhead fishery on Prince of Wales Island.

Proposal 36 also submitted by Mr. Souza requests that a 36-inch minimum size limit and a two fish
Annual harvest limit be placed on steelhead systems with estimated populations of less than 100 adults or no estimate at all for the Prince of Wales steelhead fishery.

Both proposals would also prohibit the use of the spear.

Proposal 37 submitted by William Welton of Thorne Bay requests that a 36-inch minimum size limit and a two fish annual harvest limit be placed on the entire Prince of Wales Island steelhead fishery. His proposal indicated no restriction to gear types.

The proponents of these proposals were concerned that the existing Federal subsistence regulation may be too much for steelhead populations to handle. The proponents also felt that the Federal Subsistence Board decision from last year was based more on emotion rather than biology. They all request a change back to a minimum size restriction of 36-inches along with the two fish annual harvest limit.

Based on further clarification from the proponent of FP04-35, the size limit and bag limit reduction and spear prohibition on the fall steelhead systems would also apply during the spring fishery.

Lastly, both proponents felt that steelhead had not been an important subsistence resource since other salmon are available in larger numbers to fulfill subsistence user needs.

On Prince of Wales Island steelhead are present in 74 drainages. Peak numbers of steelhead are present in April and May and are represented by two stocks of steelhead, the fall run and spring run. Spring stocks are dominate on the island and fall run steelhead have only been documented in 13 drainages.

Available information for Prince of Wales steelhead is limited. Since 1994, both ADF&G and the US Forest Service have initiated index snorkel surveys for some of the Prince of Wales systems. How well these counts indicate trends is unknown as very little data has been collected to relate these peak counts to the actual escapement. Actual population numbers are unknown. The tentative escapements for some Prince of Wales systems were estimated in the 1980s. No predictive models have been developed to determine the harvestable surplus. The
Karluk model has suggested that harvest could range between 9.8 and 28.9 percent. Prince of Wales potential sustainable exploitation is most likely near the lower end of this model at approximately 10 percent.

The length data for Prince of Wales Island is also lacking. Table 2 on Page 370 shows that from a sample of 1,031 Karta River steelhead, only six-tenths of a percent were larger than 36-inches. Since these lengths were derived from only one system, the actual length composition for Prince of Wales Island may not be fully representative.

The household subsistence harvest surveys had estimated harvest by Prince of Wales communities at roughly 600 steelhead each year, mostly taken by rod and reel. As mentioned earlier, during the course of the spring season 76 permits were issued to island residents, which resulted in the reported harvest of 26 steelhead.

Federal permits issued and harvest by communities can be found in Table 3 on Page 372. Any fall steelhead harvest will not be known until completion of this winter fishery which began on December 1st.

Liberal sport regulations up until 1991 resulted in large sport harvest of steelhead on Prince of Wales Island. Harvest numbers can be found on Table 4 which is on Page 374. Sport harvest peaked in 1987 at 1,950 steelhead. Since 1994 estimated sport harvest have ranged from a low of zero to a high of 114.

The limited number of mortality studies have suggested a two to three percent of catch and release mortality. Managers to be conservative will commonly assume five percent. Bait mortalities tend to be three to nine times higher than that of artificial lures.

The commercial fishing by-catch can also be found on Table 4 has ranged from 533 to 11,540 prior to the 1994 regulation changes with the majority of the by-catch occurring in the gillnet fisheries. Since 1997 fewer than 50 reported landings have occurred yearly in the trawl fishery. There is uncertainty with these recent estimates as net caught steelhead are not documented.

All of these proposals will restrict subsistence harvest of steelhead Prince of Wales Island
and reverse the Federal Subsistence Board decision established in the current regulation.

Reimplementation of a minimum size restriction could increase catch and release mortality beyond current levels, does not meet the needs of subsistence users as indicated through community harvest surveys, RAC testimony, et cetera.

Household harvest surveys indicate a harvest level of seven steelhead per household for households that reported using steelhead. And the 600 fish total for Prince of Wales Island. The Board's action in 2002 was designed to accommodate the harvest as documented. An annual household harvest limit of two fish is unnecessary to remain under the 600 fish historical harvest level, does not meet subsistence users documented use of seven steelhead per households reporting the use of steelhead and would be an unnecessary restriction to subsistence users.

Thank you.

CHAIRMAN DEMIENTIEFF: Written public comments.

MR. SCHROEDER: Mr. Chairman, we have no written public comments for these proposals.

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

MR. LITTLEFIELD: Mr. Chair. We opposed all three of these proposals. And basically for the reasons given before, it's a new program, we see no conservation concerns at the present time, the land manager's doing a good job keeping track of what's going on. This is detrimental to the subsistence users.

And so for those reasons we opposed it. All three of them.

CHAIRMAN DEMIENTIEFF: Thank you, sir.

Staff Committee.

MR. KESSLER: Thank you, Mr. Chair. I'm Steve Kessler with the Forest Service. The Inter-Agency Staff Committee recommends rejecting the proposals, 35, 36 and 37 as recommended by the Southeast Subsistence
Regional Advisory Council.

The following is the justification for that. The 2003 season is the first year that Federally-qualified subsistence users have been able to legally harvest fish under Federal permits. So far we’ve only experienced the spring 2003 fishery in which 76 Federal permits were issued and the harvest of 26 steelhead from the three largest system, the Thorne River, the Klawock River, the Staney Creek, and that harvest was well below 10 percent annual exploitation rate. The overall harvest cap established by regulation for Prince of Wales Island and is considered sustainable 600 fish with up to 100 of those fish harvested during the winter season.

The concern over fall run stocks was addressed between State and Federal Staff prior to previous action by the Board to provide harvest opportunities while protecting fall steelhead from excessive harvest, an annual harvest cap of 100 fish was placed on the winter season fishery with the winter harvest being included in the cap for both seasons.

Perhaps the largest issue facing the steelhead fishery on Prince of Wales is the potential for large numbers of Federally-qualified fishers to have easy road access to small systems. We discussed that earlier. The issue was addressed with ADF&G by implementing the two fish annual limit and 36-inch minimum size limit and prohibiting the use of spears on the 21 road side drainages during the spring season fishery.

Direction was given by the Board that after two years to report back to both the Council and the Board so any modifications, permit requirements, season, bag limits, harvest caps or other regulations concerning the fisheries could be addressed. We recommend that the Board hold to the two year period giving sufficient time to assess the affect of the Federal Subsistence regulations.

So based on current participation and harvest of the fishery, there is no immediate conservation concern and all three proposals are recommended for rejection.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. VINCENT-LANG: Thank you, Mr. Chair.
Board members. As you can probably guess, the Department supports these three proposals in concept.

Our primary concern with the steelhead fishery in Prince of Wales Island is the risk to small stocks in fall run steelhead created by the 2003 Federal regulations. The Federal Subsistence Board action in December 2002 expanded harvest opportunity for steelhead on Prince of Wales Island and provided the authority to protect specific systems via permit conditions to the Federal fishery manager in consultation with Fish and Game.

Permit conditions that resulted in 2003, in our opinion, adequately protected the 21 road accessible small stocks, however, the 2003 regulations and permit conditions which we did not agree with, did not protect small run stocks and we believe could potentially lead to over harvest of some small stocks accessible by roads, fall run stocks that support less than 100 fish and small stocks accessible by trail or boat but not by road.

As such, we support, in concept the additional protection offered by Proposals 35, 36 and 37. These proposals provide an opinion the needed protection for small stocks and fall run steelhead. The Department recommends that the small streams listed in our written comments be afforded the same protection as the streams listed on the 2003 permits. This would afford protection to a total of 47 of the 66 freshwater streams known to support steelhead on Prince of Wales Island.

We would also not, based on the 2003 information, unnecessarily restrict subsistence users since not any fish are being harvested from those streams.

Additional subsistence harvest opportunity provided by the Federal Subsistence Board in 2002 would continue to be provided on 19 systems, nine of which are accessible by road while protecting stocks generally thought to average 100 adults or less.

We continue to support a two fish annual limit coupled with a 36-inch size limit as a means to afford the additional protection in these streams. We also would consider having stream by stream limits which we discussed last year in front of the Board.
We also recommend that additional protection be afforded the remaining fall run systems listed and identified in Appendix A and B by adopting the regulations proposed in FP-35 for the fall fishery.

If you choose to either adopt Proposals 35 and 36 we would be neutral on 37, however, if you don't choose to move forward on 35 and 36, then we would be supportive of offering the kinds of protections offered in 37.

Finally, we note that the FIS projects that the Board approved yesterday in their deliberations did not include any kind of assessment on fall run steelhead on Prince of Wales Island or in Southeast Alaska. Given the sensitivity of this fishery and the conservation nature and issues that we have raised to the Board we strongly ask that you consider funding some steelhead stock assessment program on Prince of Wales Island during the next cycle.

Thank you.

MR. NICHOLIA: Thank you, Mr. Chair. It seems like you guys want control of every little stream and every -- all the users. It seems like the little guy's getting picked on here. You know, they're stationary, they're controlled, you can control them, they're next to the resource. But what's uncontrollable, what you guys can't control, is this bay here, and all these planes and all these boats come out of here, you guys can't control that, you don't know where they go from here. And all these -- you're putting restrictions on the little guy, why not put the restrictions on the big guy who you can control, man, why pick on the little guy when you're letting the big guy go.

-- oh, go ahead, Doug, you want to respond.

MR. VINCENT-LANG: Again, I feel I need to respond to that, Gerald. Again, the sportfishery is not unregulated. And we're not, again, trying to unnecessarily restrict subsistence uses on this island. As a matter of fact, if you offered some level of protection onto the stocks we think that you could provide for subsistence harvest opportunities as well as
conserving these stocks for future generations.

To us the issue is not one of totally eliminating uses by subsistence it's rather allowing, or assuring that those uses are sustained over time.

And as I said earlier we are looking at putting a proposal together to actually close the directed harvest of steelhead on these small run stocks for the next Board cycle on Prince of Wales Island for the sportfishery.

But, again, I think the question is is not unnecessarily picking on the small guy, all we're looking at is sustaining a fishery that provides for a variety of uses on that island, including the subsistence uses.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICHOLIA: You know, both the Federal Board and the Board of Fish are mandated to some kind of subsistence escapement, subsistence, and every other word I hear you say is sport, so to me like you're putting sport over subsistence uses, and I can't stand for that.

CHAIRMAN DEMIENTIEFF: Any other Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, we'll advance to Board discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I have one question for Doug. You know, I certainly agree that there needs to be some studies down there and I guess it was unfortunate that there wasn't any -- did the State propose any studies under the Monitoring Program that could have been funded down there?

MR. VINCENT-LANG: We discussed it and I think given the reality of our previous three proposals coming forward on that, we didn't think it was worthwhile submitting one this time. We thought it would probably be more appropriate for the Federal managers to try to
forward it on and see if there was success was there.

We will submit one again next one.

MR. EDWARDS: So you've submitted them in the past and they've not been accepted?

MR. VINCENT-LANG: That's true.

MR. EDWARDS: Okay.

CHAIRMAN DEMIENTIEFF: Other Board discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: If none, is there anybody prepared to offer a motion.

MR. BSCHOR: I am. But before I do I just want to say a couple of things. I, too, am concerned that our level of knowledge of what's really happening there so I think you'll find us cooperative as far as trying to figure out together, you know, what the total situation is rather than just zeroing in on the subsistence side of this.

Also I do want to mention that it's my understanding that we've increased our law enforcement efforts down there, at least, during this last period. Is there anything you guys want to say about that, anything that would help the Board out relative to that?

MR. CASIPIT: If Marty Meyers is in the audience, I'd invite him to come up and share the mike with me. But it's my understanding -- oh, he is here, thanks.

MR. MEYERS: Good morning, Chair and Board. My name is Marty Meyers and I'm the Assistant Special Agent in charge of the Forest Service Law Enforcement Program.

And this steelhead situation on Prince of Wales is very important to us and our folks have concentrated their efforts on not only seeing what the overall activity is between sport and subsistence fishing but also helping to monitor the activity and educate the folks in the field. We had three to four officers during the season, the peak season this steelhead fishery, and
paid quite a bit of attention to what was going on, made
contacts with everyone that they saw. And as you noticed
in the book, that there was approximately 70 people
contacted, individually, and about 35 patrol days in that
area where the fishing was concentrated. And so I think
in looking at that there's quite a bit of effort put into
seeing exactly what's going on.

As last year with the information we had
was based on surveys and what people have said over the
phone but nobody really knew on the ground what was
actually happening. But I think we have a pretty good
idea and basically I don't think the use is so
significant that it shows that it's a real problem.

There is a question in my mind, I don't
know what the difference between -- currently, what the
difference between what subsistence take is and the
violations are very small, minute basically, compared to
what the take of the sport fish or the violations of the
sportfish take are. And I think that's something that
may be considered.

But we've also been working cooperatively
with the State on this fishery as well and as far as our
folks go out with the Troopers to monitor these streams
and they essentially monitor the regulations under their
jurisdiction and we assist and monitor the regulations
under our jurisdiction. But I think, overall, it's been
a very positive process and we got a lot of good feedback
from the folks out there and we addressed the real
problems out there, but, there were very -- what very few
there was, but for the most part it was very cooperative.

But I do think we have a good perspective
on what's going on on the ground and, again, I think it
is very positive for the subsistence users.

MR. BSCHOR: Thank you. With that said
and with the expectation that we have another year to
work together on this experiment, I'm prepared to make a
motion.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BSCHOR: And I move to adopt the
Regional Council's recommendations for FP04-35, 36 and
37.

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

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: It seems that Staff has been very diligent in reviewing this proposal and I would support the motion.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MR. BISSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BISSON: I guess what I would like to express is like ADF&G a concern about the small systems and I would encourage them to come back with a proposal to fund some studies, some monitoring work so we can get more biological data in hand to help make these decisions. I think we're all kind of struggling a bit because we really don't know what the correct information is about the numbers of fish that are in the individual streams. And it seems to me that a 36-inch limit, when there are very few 36-inch fish is something that would be difficult to accept for the subsistence users.

CHAIRMAN DEMIENTIEFF: Yes. I would certainly agree and encourage the State, I think, that, you know, while we can't pre-decide something in terms of where we're going to go with our resources, just certainly the amount of time that the Board has taken on this, you know, and I think there's a concern. So like I said, we can't pre-decide, but I'm sure there's significant interest, anyway, in being able to get the data.

Other discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none. All those in favor of the motion, please signify by saying aye.
IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Okay, so now we're going to break, but before we do I just want to go over. We've been informed by Bristol Bay that they're tied up with the Board of Fish meeting and are not going to come over. However, we've had very good exchanges with the Regional Council and we just were on the phone -- or actually went over there and met with them personally. I sent a Staffer over there and they're very comfortable with us going ahead with us. We will take up our normal agenda right after the break, which will be Bristol Bay and then Proposal 21 and then like I said, the Southeast ones.

I checked with Gary, who wanted to move the Staff Committee discussion to -- if we get done with the other ones, move it to the morning session, and then we'll just try to adjust and leave the plate ready for the 28, 29 and 40 at 1:00 o'clock.

It just looks like to me like we are going to get done probably mid-afternoon, my guess at this time, just so we all know where we're going with the meeting, and you can adjust your -- don't trust my word on it, though, because we never know what's going to happen, we've been known to get hung up.

So let's go ahead and take a brief break, and it's going to be brief.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: I'll call the meeting back to order. We're moving forward now with Bristol Bay Proposal 04-16. Analysis.

MR. BUKLIS: Thank you, Mr. Chairman. My name is Larry Buklis. I'm a fishery biologist with the Office of Subsistence Management. The Staff analysis can be found on Page 171 in your Board book for Proposal 04-16. I'll highlight some key points from the analysis.
This proposal for the Bristol Bay area was submitted by the Bristol Bay Council. It requests regional modifications to the customary trade regulations. The proposed regulation changes are intended to allow enforcement personnel to better monitor customary trade for potential abuses. Household dollar limits would be imposed on the amounts of salmon that may be exchanged. A $400 limit on exchanges with those who are not rural residents, and a $500 limit on exchanges with rural residents. When conducting customary trade of salmon with persons other than rural residents, the transaction would need to be recorded on the subsistence fishing permit form.

Under Federal regulations, exchange of subsistence caught fish for cash is allowed. However, these regulations do not exempt a person from complying with State health regulations on the processing of foods. Records are not available on the amounts of salmon exchanged in customary trade in Bristol Bay, the amounts of cash involved, or the extent of processing. However, a study has been proposed to the Fisheries Resource Monitoring Program that would gather such information about customary trade practices in Bristol Bay, and I note that that project was approved yesterday.

In reviewing this regulatory proposal, we note the following.

The proposed language using the phrase barter is not needed since barter does not involve cash exchanges. Proposed language dealing with fish not entering commerce is also not needed since that concern is addressed already in the existing regulations. The remainder of the proposed changes deal with dollar value limits and a recording requirement.

The requirement to use the subsistence fishing permit to record exchanges of salmon with those other than rural residents is expected to create the need for a Federal harvest permit since the State does not allow customary trade of salmon. Up to this point in time subsistence salmon fishing permits have been issued under a unified system in Bristol Bay. And I would note that that system is well established now and has a very high rate of reporting.

Only fish harvested in Federal jurisdiction may be exchanged. In the Bristol Bay area we estimate that less than 20 percent of the subsistence
salmon harvest is being taken in Federal jurisdiction. The dollar value limits are intended to prevent exchanges which could be perceived as an abuse of the opportunity. Establishing dollar limits and a reporting requirement implies additional control. However, it is likely that only a small portion of the overall customary trade practice in Bristol Bay complies with existing customary trade and health regulations. This is because only fish harvested in Federal jurisdiction may be involved. Users are not exempted from food processing regulations, few to no subsistence users hold the required health permits and fresh fish are any fish into transport and subject to rapid spoilage as compared to process products.

State and Federal programs provide parallel opportunities for subsistence salmon fishing in Bristol Bay except that the Federal program is limited to areas of Federal jurisdiction and it allows for customary trade.

State fishing permits are valid throughout the area and, although, customary trade is not allowed by State regulation, this is not being actively enforced for small scale exchanges. Given this, there is some question as to whether users will participate in the Federal recording system, limit customary trade to specified dollar amounts and only trade salmon in Federal jurisdiction. Obtaining health permits for processing fish is another related issue.

There could easily be further confusion among users as to what is expected of them with implementation of the proposed new regulation. If adopted, an outreach effort is advised to inform the public.

Mr. Chairman, that concludes my overview.

Written public comments.

MR. EDENSHAW: Thank you, Mr. Chair and Board members. There was one written public comment and that was received from the Aniakchak National Park Service, the SRC.

The SRC supports establishing limits of the total cash value of subsistence caught fish to discourage the development of commercial enterprises under the guise of customary trade or barter.
That concludes the written public comments, Mr. Chair.

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

(No comments)

CHAIRMAN DEMIENTIEFF: Maybe, Cliff, if I could just ask you to read it into the record, do you have it in front of you?

MR. EDENSHAW: Yes, I do, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Okay.

MR. EDENSHAW: The Bristol Bay Council's recommendation is support with modification. The Bristol Bay Council voted 6-0 with one absent to support the proposal with modification for FP04-16.

The modification includes:

1. Deleting the references to barter as related to proposed limits on cash exchanges;

2. Deleting the proposed clause regarding fish not entering commerce;

3. Clarifying the intent of the recording requirement; and

4. Emphasizing limitation to Federal jurisdiction.

The Council notes that this action provides accountability to customary trade practices. The Council's recommendation would legally allow for the customary trade of salmon by rural residents up to a certain dollar amount.

Reporting requirements would help prevent future abuses of selling subsistence caught salmon under customary trade.

And under Sections 27(c), No. 11 and No. 12, in the bold, you can see the Council's initial proposal was:
11. In the Bristol Bay fisheries management area, the total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay and exchanged in customary trade to rural residents may not exceed $500 annually.

12. In the Bristol Bay fisheries management area, this is between rural residents and others, the total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay area and exchanged in customary trade between rural residents and individuals, other than rural residents may not exceed $400 annually. These customary trade sales must be recorded on the customary trade a record keeping form included on the back of the subsistence fishing permit.

And, Mr. Chair, that concluded the Council's recommendations.

Chairman Demientieff: Thank you. Staff Committee. I'm sorry, John.

Mr. Littlefield: Thank you, Mr. Chair. I had a question for Staff, and as we know the customary trade regulations, whether they're between residents or non-residents -- or rural residents, all have the wording, legally taken under the regulations in this part, in other words, that was the protection that you couldn't take fish illegal. And I'm wondering -- I'm not familiar with the Bristol Bay regulations, I'm wondering how many fish can you legally take under the regulations in this part? In other words, in Southeast, I know we can take 20 cohos that we could sell and we could sell 10 dolly vardens and stuff. So could you just give me that as information?

Chairman Demientieff: I think we'll go ahead, if it's okay with you, John, we're going to complete the process and you can have -- you will have the opportunity and we'll get back to that question so Staff can prepare it. But we do need to get the reports out so everybody has all the information out, so we will get -- Staff has advised we'll get an answer for that once we complete this process.
Let me see, Staff Committee.

MR. CHEN: Thank you, Mr. Chair. Members of the Council and the Board. My name is Glenn Chen. I'm with the Bureau of Indian Affairs and I'm a member of the Inter-Agency Staff Committee. Our recommendation can be found on Page 173 of your Board book.

Our recommendation is to adopt the proposal as modified by the Bristol Bay Council. The language that Cliff read would be part of the recommended adoption here. I won't go through that, but it's summarized on Page 173.

Our justification is as follows:

The Staff Committee recognizes the Council's concerns regarding potential abuses of the new customary trade regulations. We support their desire to place a dollar limit on such sales and to also include a reporting requirement for transactions that occur between rural and non-rural residents.

There are some administrative considerations, though, regarding the implementation of the recording requirement for this proposed regulation. And the Staff Committee developed a couple of options for the Board to consider with regards to implementing this recording requirement.

Option A is as follows: Option A would require the use of a Federal form to record these customary trade sales to non-rural residents. And under this option, customary trade sales of subsistence caught fish to non-rural residents will be reported on a separate Federal record keeping form. And the users would then also continue to report their subsistence harvest on the State issued reporting forms as is the current practice.

Option B is as follows: Option B would require the use of a single Federal form to report both Federal subsistence harvest and customary trade sales to non-rural residents. Under this option, users would be required to report both their Federal subsistence harvest and customary trade sales to non-rural residents on the same Federal permit or record keeping form. And then under this option users would no longer record their -- use a State form to report their Federal subsistence harvest.
Consideration of these options, there's some factors here. Option A would allow Federal users again to continue reporting their subsistence harvest on the State forms. It also would require that users obtain a separate Federal record keeping form and to report their customary trade sales to non-rural residents on this separate form. This option would help to ensure that there is continuity in subsistence harvest data set currently available from the State permit reports so that an accurate assessment of harvest by Bristol Bay users can be obtained.

Option B would enable users to record both their Federal Subsistence Board harvest and non-rural residents customary trade sales on a new Federal form. If this option is implemented, there's a possibility that a discontinuity in the State's long-term subsistence harvest data set would occur as Federal users would no longer report their harvest on the State issued forms. Confusion about Federal waters in the Bristol Bay region would add to the complications of a separate Federal reporting system.

Both of these options would require that users obtain a separate permit and/or record keeping form and we would suggest that to make these more available to the users in the region and maybe helpful with increased network of organizations that would be able to issue these forms, places such as Native organizations, village governments, city offices, or other designated facilities might be a way to increase the availability of these forms and would be a particular benefit to users who live in the more remote portions of the Bristol Bay region.

That concludes my presentation.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. SEE: Thank you, Mr. Chairman. This is Marianne See with Fish and Game.

On this proposal, the Department recommends that the Board defer this and I will read into the record the paragraph that I've read before here about our general concerns but then I'll proceed to specific ones, so if you'll bear with me for a minute I just want to put this on the record.

We continue to have the same concerns
with customary trade that we’ve raised in the last regulatory meeting cycle and in the request for reconsideration to the Federal Subsistence Board.

In general we do not believe that the administrative record supports the implied finding that the levels of customary trade allowed under the current regulations are customary or traditional. While maintaining and preserving these objections, the Department also offers the following comments.

There are three main issues about this specific proposal. The proposal recommends an approach for the Bristol Bay area to define the limits of customary trade with a dollar amount, and although that concept has merit, at this time there are no records that address the extent of cash sales associated with customary trade in this area. A study proposed to Fisheries Resource Monitoring Program for this next year would be gathering information about this practice and could provide useful information for future regulatory provisions.

The Federal record form needed for this proposed approach also raises a key concern. The existing harvest data collection system is very effective, extremely effective and it could easily be compromised by the complication and possible confusion with a second record keeping system. Because the State currently does not have a customary trade provision in this area, this geographic area, the separate Federal form would be necessary under the proposed Federal customary trade rules in this proposal.

As the Federal analysis notes, a number of substantive questions for users would also need to be addressed prior to putting such a system in place.

At this time we don’t recommend passing this proposal because of the potential problems it will create for subsistence users. This proposed form that would be needed adds a record keeping burden for subsistence fishers that is at present unnecessary. Even if the form is specifically designed to collect data on customary trade, it is highly likely that it will be confused with the present subsistence permit issued by Fish and Game.

We are very concerned that this is going to lead either to a loss of harvest data or a creation of
duplicate records. We feel that subsistence users are poorly served when new rules would result in a diminished quality of subsistence harvest data.

In sum we conclude that the proposal would serve users more effectively if concerns and provisions could be more fully addressed before the next regulatory cycle. If relevant information about the extent of customary trade in this area becomes available the Department would reassess this proposal.

With specific reference to the options that were presented in the Staff Committee recommendation, neither one of them meet the concerns that we've raised at this time. We feel this issue needs additional time to work it out.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Now, okay, we had a question raised from Mr. Littlefield, are you prepared to respond to that now, Larry?

MR. BUKLIS: Yes, Mr. Chairman, thank you. The question was regarding fish legally taken in this part of the regulations. And by that we mean fish taken by Federally-qualified users in Federal jurisdiction with the designated methods and means and harvest limits. In this case the methods and means would be gillnet, and in the case of the Togiak River, spear is allowed for subsistence take of salmon. And there aren't harvest limits by the State or Federal systems in the Bristol Bay area. There is a subsistence harvest fishing permit form required, but there aren't harvest limits in place.

CHAIRMAN DEMIENTIEFF: Any other Regional Council, go ahead, John, follow up.

MR. LITTLEFIELD: Yes, follow up on that. The reason I'd asked that is because I don't know if the OSM or whoever is doing a good job of defining what the existing customary trade regulations are. I know in Southeast, legally taken under the regulations in this part is very confining, and there's no way you could make $500 off the amount of fish that you could take in Southeast legally. So I'm just wondering if that is not made clear to all the regions, that they know what they're talking about when the regulations say legally
taken under this part. If they were to look at that and
say well there's no way possible you could even make a
couple hundred dollars with the amount of fish we have
legally taken, and, so therefore why do we need a $400 or
$500 limit.

I'm just saying it as information. I
don't want to speak to this proposal at all. This is
strictly in the Bristol Bay RAC. It was a matter of
information for me. I can't understand what legally
taken is unless I see a list that says these are the
amount that you can legally take, therefore, these are
what you can sell. Not the ones that you can catch
sportfishing, or, you know, we're getting the blame for
State fish and sport caught fish that are being sold and
they're saying that the subsistence regulations are
enabling this because you can do it for cash. Well, my
response is that legally taken that if you can only take
10 fish you can't sell more than 10 fish in a year. So
that was my request, was, just for information, not to
oppose this or anything.

CHAIRMAN DEMIENTIEFF: Any other Regional
Council comment. Gerald.

MR. NICHOLIA: Yeah, thank you. I spoke
with Dan O'Hara a little bit last night and I think, to
his proposal, why they put 500 and $400, is they wanted
to have some opportunity for the subsistence users but
they wanted to limit, like commercial enterprise or
whatever, they wanted to limit that.

CHAIRMAN DEMIENTIEFF: Thank you. Other
Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: We'll advance to
Board discussion.

MR. EDWARDS: Mr. Chairman, I have
several questions. Before I do I'd like to ask Steve
Oberhoster (ph) from our law enforcement division to come
forward and discuss this proposal from a law enforcement
standpoint.

Steve, specifically would you discuss any
problems that you see with enforcing these regulations as
recommended by the Council.
MR. OBERHOSTER: Good morning, Mr. Chair. Members of the Board. My name is Steve Oberhoster, I'm the assistant special agent in charge for the US Fish and Wildlife Service in Alaska.

I've read through the proposal and I believe that it could be enforced if a few additions or modifications were made to it. And the specific enforcement problem would be that we cannot charge or write tickets to households. What we would need to make this work and to support it through enforcement would be to have a record keeping requirement that's linked to an individual, the seller, and to have some time limit for creating that record, and immediately recording it would be best for us. The language we could work with whoever, the Staff, to come up with language, but what we would need and, once, again, would be to have an immediate record keeping requirement and to have that requirement to be linked to an individual and not to a household. The household limits could remain in place but an individual would have to be responsible.

CHAIRMAN DEMIENTIEFF: Follow up.

MR. EDWARDS: Well, yeah, I just want to thank you, Steve, for saying that. And, you know, I'm operating under the assumption that the Council by recommending this that their intention was to have it to be able to be enforced, and so I don't know whether at this time, I don't think we necessarily have to tweak it, but I'm assuming that there could be some follow up among Staff to get whatever the correct language is.

So my other questions are for others so thank you, Steve, unless anybody else has a question of him.

(No comments)

MR. EDWARDS: Mr. Chairman, I had several questions that I wanted to address to the Council and it's unfortunate they're not here but maybe either Larry or Cliff might be able to do that.

One of my questions was, is where did the particular amounts come from, the 500 and the 400. I know the 400 seems to be very similar to what the Fishery Management Council allowed for halibut but I'm just curious as to what was the genesis of those two numbers? Was that due to some kind of an evaluation of a
historical use or what, and then why are the numbers
different? And I have several other follow up questions.

MR. BUKLIS: Mr. Chairman, thank you. My
understanding from the Council meeting is that the intent
of the dollar limits is to protect subsistence uses and
to avoid abuse of the opportunity. As you said the $400
limit was taken from the example of the North Pacific
Fishery Management Council, and the $400 limit they
applied to customary trade of halibut. Robin Samuelsen,
vice chair of the Bristol Bay Council had worked on that
issue and was familiar with that information.

The $500 limit, which was put in place by
the Council in their proposal was intended to allow
additional opportunity for sales among rural residents.

I think in both cases, the information --
the proposal isn't tied to a sound information base as we
have noted and the State has commented. I think the
Council would view it as a starting point. They're aware
that regulations are reviewed annually and I think they
felt that it was important to put a limit in place. They
viewed this as a reasonable starting point subject to
revision in the future.

MR. EDWARDS: Okay, thank you. Then my
next question is, when they use the term household, did
they mean that and understand that to mean if you had six
people in your household, a husband and wife and four
children, that not each one of those could sell 400, but
in fact within the six of them, individually, their
collective total could not exceed 400, whereas if one of
the son's lived next door then that individual could do
-- I just wanted to make sure that they understood that
by using the term, household, it becomes more
restrictive?

MR. BUKLIS: Mr. Chairman. Mr. Edwards.
This Council was very involved in the task force process
on the customary trade issue and I think they are very
alert to the details of this issue. And I think they are
fully aware that they mean the household of people, in
total, subjected to these limits, not per person.

MR. EDWARDS: And then one last question
is, given that this is going to be significantly
different from all the other regions and it's going to
affect people throughout this particular region, do you
feel that the Council did a good outreach in kind of
surveying their constituency to, and feel comfortable that this has kind of regional support?

MR. EDENSHAW: Thank you, Mr. Chair and Board members. When the Bristol Bay Council addressed customary trade, when the Board adopted the initial customary trade regulations we had Staff people come out and provide the presentations and we have Peter Abraham who is a Council member from Togiak where the majority of the Federal lands are in the Bristol Bay region, at least, from his comments at that meeting, agreed with the Council's recommendation in terms of initiating dollar amounts.

The meeting where the proposal came about, they had numerous testimony, there was individuals from Naknek and King Salmon who also attended the meeting, and certainly they put forth some dollar limits themselves but in the end they pretty much agreed with -- went along with what the Council had proposed.

And just to add some initial comments to Larry's questions that you had, the first one you had, when the Council put down dollar limits, they provided some past case examples that were brought before the State of Alaska and Mr. Samuelsen's initial comments on record were that excessive hadn't been defined legally so they wanted to use the 400 and $500 as a starting point, and they recognized that the Board could come back and another proposal could be submitted if others felt that the dollar limits should be increased.

So the short answer is, yes, that there was widespread -- information spread to the other residents in the region in terms of the proposal to put in place dollar amounts for customary trade.

MR. EDWARDS: Thank you for that. And I just have one last question for the State. You know, I understand the philosophical difference on the whole customary trade issue. But given that this particular Council has come forward with a very, almost, very restrictive approach to that and given that this dollar amount is similar, exactly the same as for the halibut, does the State have the same view on the subsistence sale of halibut and were they opposed to that also, at the $400 limit?

MS. SEE: Through the Chair, that's a fair question, and I don't have the information for you
on the basis of any discussion we may have had about the halibut determination so I can't address it now. I can certainly provide information at another time about that.

MR. EDWARDS: Thank you. I have no further questions, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Mr. Chair, just a point of information. I'm looking at the halibut subsistence management web page sheet and I'd like to read in here that it says the Council initiated new analysis for 2004 and number 3 said, they're considering revising the $400 customary trade limit to either $100 or no cash trade. So if you're using that as your example, that may go to zero next year. Just a point of information.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Let me just -- let me try to respond to that. I think as those things change, you know, the Council, I'm sure will take a look at those if, in fact, that does change, so the affected Council will have ample opportunity to look at that.

Go ahead.

MS. GOTTLIEB: Thank you. I guess I wanted to ask Cliff or those who perhaps attended the last Bristol Bay RAC meeting or maybe Staff Committee, Bristol Bay RAC, for a couple of years now has wanted these limits and I know they were pretty unhappy with this Board in January because we didn't go with their regional preference on this limit. But the details of the permits are really going to be the heart of how this would come about. So I was wondering if you had discussions at any of the meetings or with the RAC at the Staff Committee meeting on what their preference was for how to actually record this and how the statistics would be used.

MR. EDENSHAW: Thank you, Ms. Gottlieb, and Larry can probably add some additional comments. But, yes, the answer to your question is we did speak with Dan O'Hara and Robin Samuelsen, both the Chair and vice chair, not at the same time, but on different phone calls and Larry has also spoken with Dan yesterday, he conveyed to me.
But one comment from Dan was that just as Marianne See has said, the State has an excellent recording system for their subsistence fisheries and Dan's comment was that, at least, the residents out there know who's catching the fish because the majority of -- there's much more salmon caught in State waters versus Federal. Dan said he favored, whether it's on a separate recording requirement for customary trade or else for on Federal waters, you know, if they're going to have a permit and a reporting requirement on there for customary trade, he and the Council support some type of recording requirement so they were pretty much open to suggestions from the Staff Committee. At the time I faxed them both copies of their recommendation and their options, and Larry and I we explained those to them but they were pretty much open as long as some kind of recording requirement is implemented.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. EDWARDS: Mr. Chairman, I had one other question I forgot to ask.

CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

MR. EDWARDS: The fact that reporting is not required from rural to rural, I'm assuming the Council recognizes that that will probably make that very difficult to enforce, the $500 limit without having any records and I guess, Steve, you can correct me if I'm wrong, but I think that would be difficult for our folks to be able to enforce that limit without any basis on which to try to base that on.

MR. OBERHOSTER: No, I don't think any correction's needed, that's how I would see it.

MR. BISSON: Mr. Chairman, has the reporting form been drafted yet? Does anybody know what this thing looks like?

CHAIRMAN DEMIENTIEFF: Larry.

MR. BUKLIS: Mr. Chairman, no, we have not drafted a proposed reporting form. The proposal, as submitted, indicates reporting on the back of the subsistence fishing form. We have not developed a draft form that would either go on the back of a subsistence fishing form or stand-alone, in either case, we haven't
1 drafted a form, no.
2
3 MR. BISSON: The State does have a
4 reporting -- has a permit with a reporting requirement
5 but it wouldn't require the reporting of the dollars; is
6 that what we're talking about here? I mean the concern
7 is to collect information about how many dollars people
8 are selling their fish for?
9
10 MR. BUKLIS: Mr. Chairman. Yes, Mr.
11 Bisson. The State currently manages a subsistence
12 fishing harvest permit system on which is recorded the
13 household and the gear used and the fish caught and
14 that's a very effective system.
15
16 The proposal would require the recording
17 on the back of such a form or on an independent form, a
18 recording of customary trade exchanges with those who are
19 not rural residents.
20
21 MR. BISSON: And you raised your hand, go
22 ahead.
23
24 MS. SEE: Yes, through the Chair, as we
25 know because the State doesn't have a customary trade
26 provision in this geographic area it can't be on the back
27 of the State form it has to be a separate form.
28
29 MR. BISSON: And you would oppose
30 creation of a separate form?
31
32 MS. SEE: We're not opposed to creation
33 of a separate form but we think it's premature to set
34 this in motion before all the issues are worked out about
35 this because we don't want to jeopardize the data
36 collection that's very effective. It's one of the best
37 data collection systems in the state for getting this
38 kind of information. The users are very used to it,
39 they're very highly cooperative and we don't want to
40 damage that system before we work the bugs out.
41
42 CHAIRMAN DEMIENTIEFF: Go ahead.
43
44 MR. EDWARDS: Are you ready for a motion?
45
46 CHAIRMAN DEMIENTIEFF: Yeah.
47
48 MR. EDWARDS: Mr. Chairman, I propose
49 that -- or I move that we adopt the proposal as modified
50 by the Bristol Bay Regional Advisory Council, I guess
with the understanding or maybe the caveat that a separate form, I guess, different from what they envision would have to be developed by OSM and that would be used as the basis for gathering the data and that there is some flexibility for Staff to work with our law enforcement folks, and I'm sure probably double back to the Council with tweaking the language, whatever we feel is necessary, in fact, so that we could actually enforce the regulations that we're going to put into place.

CHAIRMAN DEMIENTIEFF: Thank you. There's a motion, is there a second.

MR. BISSON: I second it.

CHAIRMAN DEMIENTIEFF: Okay. All right, sorry, Gary, to take a little bit getting to you but I was rereading it. It does say recorded on a customary trade record keeping form. And I know it says, included on the back of the subsistence fishing report, but, you know, that may be -- I don't know what that means but it means.....

MR. EDWARDS: Yeah, I understand that I just wanted to make it clear that we were.....

CHAIRMAN DEMIENTIEFF: Right.

MR. EDWARDS: .....that what would come out of this would be a separate form.

CHAIRMAN DEMIENTIEFF: A stand-alone form.

MR. EDWARDS: Right.

CHAIRMAN DEMIENTIEFF: Right.

MR. EDWARDS: Right.

CHAIRMAN DEMIENTIEFF: Okay.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Could we also commit that these forms, as returned then can be copied and shared with the Department of Fish and Game so that everyone's database is enhanced or however we would share that
CHAIRMAN DEMIENTIEFF: Go ahead, Larry.

MR. BUKLIS: Mr. Chairman, this might help clarify. I think the section of the regulation, the proposed regulation you're referring to is on Page 175 and it's Item 12(i), and if you deleted the last several words in bold from that subsection it would be come clearer.

So the last sentence would read:

These customary trade sales must be recorded on the customary trade record keeping form.

And that would give us the flexibility to develop an independent form. And what Ms. Gottlieb was referring to was the sharing of information, the State would thereby maintain the independent unified harvest reporting system and we would share information with the State and others about customary trade data as appropriate.

MR. BOYD: I'm not sure if that was seconded.

CHAIRMAN DEMIENTIEFF: We did get that seconded?

MR. BISSON: (Nods affirmatively)

CHAIRMAN DEMIENTIEFF: Yeah, it was.

MR. BISSON: Yeah, we did.

CHAIRMAN DEMIENTIEFF: Okay.

MR. BISSON: I think that his suggestion is excellent and I guess we need to figure out how we amend the motion since it wasn't part of the original motion.

CHAIRMAN DEMIENTIEFF: Okay.

MR. BISSON: Perhaps I might ask Mr. Edwards if he's willing to make a friendly amendment to his motion.
MR. EDWARDS: I mean I'm certainly willing to do that. I thought what I had originally said is that I move that we support as modified, you know, with the understanding that we would have a stand-alone form, which I think this language would do as well as with the understanding that we would tweak the language. So maybe an amendment really isn't required.

CHAIRMAN DEMIENTIEFF: It doesn't appear to me either. Marianne, I'm sorry, you were trying to get my attention.

MS. SEE: Thank you, Mr. Chair. I just wanted to note that we do operate under an information management and sharing protocol between the State and the Federal organizations here. And in the spirit of that, we would appreciate some language that speaks to a cooperative development of this record keeping form with the State because we are extremely concerned that it be done in a manner that does not damage the current data collection system and is distinct and clear for the users. So we would appreciate that language.

Thank you.

CHAIRMAN DEMIENTIEFF: I really don't know that it would require an amendment to the motion. But I think if we just make it -- I certainly support all the information we could gather and I think if we, as a Board, just kind of instruct that this is going to be part of the process it will happen. I don't see -- Marianne, I don't see a need for this to go in a form of an amending motion or anything.

Go ahead, Tom.

MR. BOYD: So that I understand what's being suggested. As I understand that Ms. Gottlieb's concern is whether or not -- not whether or not, but that we require that this form be reported back to us for record keeping purposes; is that correct?

MS. GOTTLIEB: Mr. Chair. I mean my intent is, for whatever data comes out of these forms, I mean we're asking people to fill out these forms for a variety of a reasons, but most importantly for data collection information on the fisheries and on the amounts of customary trade so the extent that after protecting people's privacy information, that data can be shared amongst agencies and organizations, Bristol Bay...
Native Association may be interested as well, others. I believe we should be open in how we develop the forms and open in how we share the appropriate data.

CHAIRMAN DEMIENTIEFF: Tom.

MR. BOYD: I'd ask Staff if there was their understanding from the Council as to the requirement of the form, whether it was for purposes of data record keeping or for purposes of enforcement; if you understand what my question is or both?

MR. EDENSHAW: Tom, my perception is from the Council meetings, their request for a recording permit is for law enforcement, for potential abuses.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BOYD: Mr. Chair. The reason I bring this up is not in -- in previous discussions on customary trade, this idea of a record keeping form has been discussed in both veins, both as an enforcement tool and sort of as a way to gather information about customary trade. And there was actually fairly strong feelings on both sides of that discussion as I recall.

And I think if the Board wants to go into this I think they need to understand that there may be those that object to the idea of sharing that kind of information, and having them required to record it and keep it personally for enforcement purposes, in other words, if they're asked to provide it by an enforcement officer to ensure that they're staying within the limits is one thing, but asking them to turn that information in is quite another thing. And I'm not sure what -- that's why I asked the question, I wanted to be sure what the Council's intent was in providing for a form.

So just go in with your eyes open that I'm not exactly sure how the Council would feel about the idea of a record keeping form for purposes of gathering information.

CHAIRMAN DEMIENTIEFF: Well, my understanding of the motion as was made and seconded is to go with the Regional Council modifications. I would think that we would have ample opportunity at the spring Bristol Bay RAC meeting to go back to the RAC with that particular question. And if we're going to go with their recommendation as modified, get an intent from them and
whatever their intent is, I'm sure we could live with and still have time to get that out and ready for the 2004 fishing season.

So I guess that would be my recommendation on how we would handle that.

Let me just get my little statements in, too. You know, despite the RAC not being here, in our past experience with the Bristol Bay RAC, I mean I do intend to support the motion. You know, I do know that they were actively engaged in the whole process. And like I noted before, this is a conflict of meeting interest right now that prevent them from being here. And I do know, you know, that they have done diligence and it has been a major concern because of the diversified interests in the area. And, you know, it is conservation minded. And so I do know that this Council does that because of that diversification so I do fully intend to support the motion.

Judy, you had something.

MS. GOTTLIEB: Thank you, Mr. Chair. I guess I would try to add for clarification, after our decision today I would assume that OSM would work with all the affected managers and the RAC as soon as possible to start follow up on this, on the reporting.

MR. BISSON: Mr. Chairman, I assume that also, when you say and the managers, my assumption is that ADF&G will be asked to participate in the process of designing the form so that it doesn't conflict with -- and they have an opportunity to express their concerns about what the form looks like.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Mr. Chairman, our current regulations allows this Board to recognize these regional differences and define customary trade, you know, differently for separate regions and certainly in this case, you know, I think that the Bristol Bay Council has come forward with a request to do that. Certainly from all appearances have done a good job of making sure that this is supported throughout their region and as our regulations allow us to do, I'm planning on voting in favor of this motion.

CHAIRMAN DEMIENTIEFF: Any other
discussion on the motion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
With that, we're going to move into Prince William Sound.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: I'd like to request that
Proposal 04-19 and 04-20 be pulled from the consent
agenda and added in with 21.

CHAIRMAN DEMIENTIEFF: So noted. We will
begin numerically. And I'll note also for the record
that we did have a request from Gloria Stickwan to
testify to make that request but since it's already been
pulled -- if that's all right with you, Gloria, we'll
just move on and start considering these proposals.

MS. STICKWAN: (Nods affirmatively)

CHAIRMAN DEMIENTIEFF: Okay. She
indicates that it is fine and does have a request to
testify on 19, 20 and 21 as they come up. So we will
begin with Proposal FP04-19.

MS. PETRIVELLI: Mr. Chairman, my name is
Pat Petrivelli and I'm the anthropologist for the
Southcentral region and I'll be presenting the Staff
analysis for FP04-19 and the Staff analysis begins on
Page 202.

This proposal was submitted by the Paxson
Fish and Game Advisory Committee and it requests a
customary and traditional use determination for salmon in
the upper Copper River districts for residents of the
Paxson area.

Paxson is located in the Prince William Sound management area so it's already included in the Glennallen subdistrict so it has a positive customary and traditional use determination for salmon but it is not included in the Chitina subdistrict. The Federal waters of the Copper River includes all waters within the exterior boundaries of the Wrangell-St. Elias National Park and Preserve and the Chugach National Forest and the waters adjacent to these exterior boundaries. And this analysis will just focus strictly on the Chitina subdistrict.

And on October 1, 1999, when Federal Subsistence Management began regulations were adopted from relevant sections of the State Fisheries Regulations. At that time the Upper Copper River district, the State recognized that Glennallen subdistrict is a subsistence fishery and classified Chitina as a personal use. And there's been a number of changes to the C&T determinations for Chitina since then. The most recent action last year at the December Board meeting, the Board rejected proposals to add residents of Lake Louise and Delta Junction and that was mainly because the proposal got expanded to look at all users of the Glennallen and Chitina subdistrict and so it was felt that it was too broad and there was a lack of substantial evidence for such broad additions.

So since then Paxson submitted its recommendation just to address the residents of the Paxson area. The data used in the analysis for use by Paxson residents included two ADF&G Division of Subsistence household surveys from the Copper River Basin area, and these studies were done in 1982 and 1987. In 1982 the household surveys included an area that included both Paxson and Sourdough households, and then in 1987 those areas were separated into two distinct areas. The community characteristics throughout the analysis, the use information by Paxson were compared with other uses that have C&T, and then I guess the -- oh, the other data sources for Copper Basin were the C&T customary and traditional use sheets prepared by the State and then in 1996, Simeone and Fall comprehensive study of the upper Copper River and then two 1983 reports by Holly Reckord for the Park Service.

Many of these sources describe Copper Basin -- or use by residents of the Copper Basin as a
whole and so since the studies included Paxson residents
-- or Paxson/Sourdough residents, the information were
included in each of the factors and where distinct
information for Paxson residents was available, that data
was used. And the main information where there is
distinct Paxson data is available by the household
surveys.

The table -- there's two tables on Page
209 and 210 and the household survey information is in
Table 2 and then the permit data is on Page 210.

The household surveys show that Paxson,
there is an estimated household use, that 64 percent of
the households in Paxson use salmon, 1,730 pounds of
salmon is estimated at a community level and a 45 pounds
on a per capita basis. This level of use reflects levels
by other communities with a positive customary and
traditional use determination. Of course the communities
that are closer to the Copper River have a higher level
and those that are farther away have a lower and Paxson
use levels are right in the middle.

The data available from permits shows the
same level of use. Their level of use with permits
issued is right in the middle also. Residents of Paxson
have been issued an average of three permits a year for
the years that we have data available.

And that's the only -- the permit data is
the -- the main sources show that actual use of the
Chitina district, the other mapping data that was done
shows that they did salmon harvesting in the Gulkana
River and also the studies showed that residents of
Paxson traveled to the Copper River to fish with
fishwheels mainly in the Tazlina and Copper Center area,
but the permit data does show that they have regularly
obtained at least one permit a year where data is
available so the Paxson residents have gotten one
residents -- and that fits in with the data -- permit
data for other residents that have a positive customary
and traditional use.

The data relating to the other factors
just show the general overall use of salmon, very much
similar to -- well, because they were included with the
Copper River Basin so their use of the -- is similar --
it is noted that -- oh, the methods and means and even
the use patterns, Holly Reckord did notice that in
subsistence uses of the study of the region that in the
...
development of the use patterns by non-Natives in the late 19th century and early 20th century, the new settlers first learned about local uses from Natives and then a lot of their use patterns were developed in conjunction and follow similar patterns.

No -- but -- and then the diversity of uses in factor eight, Paxson residents have a per capita annual harvest of 289 pounds, and the range for those communities that have a positive customary and traditional use go, the range goes from 95 to 342, they're -- the main number of resources used is -- has been estimated as 10 and that follows within the range of six to 16.6, main number of diversity of resources used.

As to the effect of this proposal, if no -- the -- let's see, I know I changed it, excuse me, there are currently C&T use determinations for salmon in the Chitina subdistrict for 25 communities and areas. Adoption of this proposal would recognize the residents of the Paxson area who have a history of fishing in both the Glennallen and Chitina subdistrict. Under Federal subsistence fishing regulations fishwheels may be used in both the Chitina and Glennallen subdistricts and Federal regulations allow more flexibility to subsistence users in the Chitina subdistrict, so Paxson residents would gain that greater flexibility in the Chitina subdistrict if they're granted a positive customary and traditional use.

And that concludes my analysis.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Regional Council coordinator. There were four written public comments received, three opposing the proposal and one in support of the proposal.

The Ahtna, Inc., opposes the proposal -- does not support Proposal 19 to include Paxson in the customary and traditional use determination for salmon in the Chitina and Glennallen subdistricts until a customary and traditional use salmon study is done for that community. The community of Paxson did not have a level of harvest of salmon in 2001. ADF&G data shows that one dipnet was issued and that the permit holder did not report any harvest. ADF&G records show that Paxson community harvest is only 61 sockeye salmon and seven
The Cordova District Fishermen United is in support of Proposal 19. The Cordova District Fishermen United supports traditionally dependent users of Alaska's fisheries resources having access to subsistence. The residents of Paxson that live on and use the salmon of the Copper River merit a positive finding.

The Chitina Native Corporation opposed the proposal. Paxson residents have an ample opportunity to harvest salmon through the State fisheries that are currently provided. The description of the community is different from that of traditional C&T users of the Copper River and we feel Paxson residents are better described as personal use fishermen of the Chitina subdistrict dipnet fishery.

The Wrangell-St. Elias Subsistence Resource Commission opposes the proposal. The residents of Paxson already have ample opportunity to harvest salmon in the Copper River.

That concludes the written public comments, Mr. Chair. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. We have one additional request for public testimony at this time, Gloria Stickwan.

MS. STICKWAN: My name is Gloria Stickwan and I'm here to testify on Proposal 19, 20 and 21. At a meeting on November 25th, the Ahtna people of the eight villages met and discussed these proposals and they were opposed to Proposal 19. They said that they did agree with having Paxson community having C&T for the Chitina subdistrict and they didn't approve of it when it was approved for the Glennallen subdistrict. They don't believe that they have C&T the same as the Ahtna people, that there are differences in the C&T use by the Ahtna people and the Paxson.

And if there is every shortage of salmon in the Copper River, these people in the community of Paxson would have C&T and they think only the Ahtna people should have C&T use in times of shortages. Right now they're able to use it but if there's ever a shortage it would be open to all 25 communities and they object to that.
CHAIRMAN DEMIENTIEFF: Thank you. Any questions.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: Had this meeting occurred earlier, a region wide meeting where people were aware of these proposals, would you have then taken another step and taken that information to the Regional Advisory Council for input into their process?

MS. STICKWAN: Yes, we would have. Our subsistence committee has been inactive for the past year and a half. But they formed a committee that's going to be start -- people will start coming to these meetings again.

They've asked me to be here and two other people, but they're not here.

CHAIRMAN DEMIENTIEFF: Any other questions.

(No comments)

CHAIRMAN DEMIENTIEFF: Regional Council recommendation.

MR. LOHSE: The Regional Council was in favor of -- or supported the addition of Paxson into the C&T.

If you wish me to wait and give reasons later, I can do that or if you want me to do it now I can do that.

CHAIRMAN DEMIENTIEFF: Yeah, with your recommendation, yeah, you can.

MR. LOHSE: Okay. The recommendation of the Regional Council was to support the proposal to include Paxson.

And with that I'll just make a little comment to start off with, that I definitely agree with Gloria, that the Paxson people don't have the same C&T as the Ahtna people in the Copper River Valley. But from all of our studies and from everything we looked at they
definitely were right in the middle of all of the other folks who also have C&T on the Copper River. And that's what we came up with when we were going through it.

I'm just going back through some of the testimony that was there, and the arguments that we had against it. Now, at that point in time we had never heard that there was a shortage of salmon on the Copper River, and that's the first that I've heard of that.

But we were looking at it and remembering that C&T isn't based on the resource, it's not based on access, and it's not based on opportunity. And those were the arguments that were presented to us, that Paxson had other opportunities. But it's based on whether the community does meet the criteria and does use the resource. And from all of those standpoints, from the information that we were given, Paxson was right in the middle. Paxson had a mean as far as the users were concerned, as far as the use patterns, and all of the rest of it.

So we voted in favor of recommending Paxson for C&T in these districts.

And if there's any other questions I'll be happy to answer or give you comments on it.

CHAIRMAN DEMIENTIEFF: Okay. Questions, if there are questions you're going to participate in the deliberations so we'll take them up then. Staff Committee.

MR. GERHARD: Yes, thank you. This is Bob Gerhard with the National Park Service.

The Staff Committee concurred with the Southcentral Council's recommendation to adopt the proposal. The regulation would be changed to add Paxson/Sourdough, you can see that on Page 199 of your Board book.

The justification for this recommendation is that data from the ADF&G Subsistence Division household surveys, community studies and permit data show that the salmon -- show that salmon is a resource used by residents of the Paxson/Sourdough area in the Chitina subdistrict at levels comparable to those communities with a positive customary and traditional use determination.
Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. SEE: Thank you, Mr. Chair. The Department concurs with this proposal based on the documentation.

The Federal Staff analysis that you just heard does adequately provide the documentation of data in support of the eight factors that are used to assess the extent of customary and traditional uses. In the summary that was provided, also indicated some of the key references used and some of the trends. But the detail in the analysis is quite thorough.

Care should be taken in drafting the regulation to define Paxson to include the Sourdough area because the supporting data include both communities which stretch along the Richardson Highway. The finding of customary and traditional use in roaded areas should not exclude people who are living in between the named communities.

Thank you.

CHAIRMAN DEMIENTIEFF: Any other Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: We'll move it to Board discussion.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: Yeah, I was just curious about reading through the back up analysis on the data that supports the proposed C&T determination, that included in the data is a table that represents the community characteristics, it's on Page 207 of my materials.

It indicates there that the 2000 population was 43 and that the percentage of Alaska Natives was .0 percent, so it would appear, you know, there are no Alaska Natives there, but throughout the C&T determination as support for the finding, there are
numerous discussions about the customary and traditional uses of Native people specifically, you know, the Ahtna/Athabascan people from that region. And I'm just kind of perplexed by why you would cite Native traditional uses in support of a community where there were no Natives living as a justification for a C&T determination.

I've got some other questions as well, but I don't know if you want me to reel them all off or go through them one by one.

CHAIRMAN DEMIENTIEFF: You want Staff Committee to respond to that question?

MR. TONY: Yes, please.

CHAIRMAN DEMIENTIEFF: Or Pat.

MS. PETRIVELLI: Mr. Chairman. Mr. Tony. The households or the studies that I have available to me, with the information specific to Paxson, I indicated were the household surveys and then some mapping and then the permit data, and then other surveys that were done, they were generalized and then they described hunting and fishing activities for the Copper Basin area. And generally they're based upon the most longstanding patterns, all those descriptions. Paxson residents were included in those studies. And then I noted that Holly Reckord had described how many of the residents of the area who are non-Native, when they move into that Copper Basin area base their use patterns upon the longstanding Ahtna traditions because they were the ones, as they learned how to do things.

So that was the reason for including whatever references there are for Ahtna hunting and fishing patterns, was that residents, the non-Native residents of the Copper Basin generally base their uses -- they learned how to hunt and fish resources from the Ahtna people.

So that's in the descriptions of customary and traditional uses and that's how they developed their use patterns.

MR. TONY: I guess that kind of raises a question in my mind in the criteria number 6 on Page 211 where it talks about a pattern of use, which includes the handing down of knowledge of fishing and hunting skills,
values and lore from generation to generation.

Now, just on the plain face of those words, what that implies to me is that, you know, people are handing it down, well, generation to generation and that it's not recent migrants getting it from peers, I mean it doesn't say that, you know, on the face of it. I'm just curious how, you know, the knowledge acquired from their peers would support a basis for this finding.

MS. PETRIVELLI: Mr. Chairman. Mr. Tony. I guess I may have been remiss, but part of the Paxson community has been there since 1906 and those generations that have resided in the area have passed on that knowledge. But I was remiss in not including testimony from John Chunnelmeyer (ph) who's the chairman of the Paxson Advisory Committee and his father is residing there. But he discussed the handing down of knowledge within the generations of the Paxson community -- or within the residents of the Paxson community.

And so there was evidence presented to the Council by Mr. Chunnelmeyer that addressed some of your concerns, and I just didn't update the analysis and I apologize for that. But Mr. Chunnelmeyer presented quite a bit of information specific to the residents of Paxson which, I guess, on second thought should have been included.

CHAIRMAN DEMIENTIEFF: I know this is somewhat discomb -- I mean, consideration of these, but we are committed to a 1:00 o'clock completing of Southeast. So with all due respect, I think we're just going to cut off discussion at this point because we are time sensitive. We are scheduled for 1:00 o'clock promptly, and so with that I'm just going to go ahead and recess right now and I urge everybody to get back here on time and then we will complete the Southcentral Proposals, 19, 20 and 21 as soon as we're done with the two Southeast proposals.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: I'll call the meeting to order. Okay. We do have Deputy Commissioner David Bedford with us. We're going to start on Proposals 28 and 29, Mr. Bedford, in case we do get bogged down, we're going to go ahead and allow your comments with
regard to 40 before you go. But they are kind of all, you know, related to each other so we'll just go ahead and start with 28, is that okay with you?

MR. BEDFORD: (Nods affirmatively)

CHAIRMAN DEMIENTIEFF: And then if it gets close, just signal me or let me know and we'll make sure you get your comments in and they will be taken in their full context. We have to probably allow a little bit of time for some questions, you know, so it won't be just like a straight testimony, we'd like it to be an exchange. So you might just want to factor that into whatever your schedule is.

So we will begin with Proposal 28. My understanding is we have 28 and 29 are -- in terms of the Staff analysis are tied together so there will be one analysis although they will be considered separately. So we'll open up with the Staff analysis it will be for both Proposals 28 and 29, so go ahead Mr. Schroeder.

MR. SCHROEDER: Mr. Chairman, I'm Bob Schroeder. I'm the regional anthropologist for Southeast Alaska with USDA Forest Service and I also fill the role as the coordinator for the Southeast Regional Advisory Council.

Before you are Proposals FP04-28 and 29. The executive summaries for these begin in your book on Page 291. These two proposals request a positive customary and traditional use determinations for salmon, dolly varden, trout, smelt and eulachon for the communities of Kake, Petersburg and Wrangell in District 6, 7 and 8. Kake has recognized subsistence use of these species in areas closer to Kake and portions of District 9 and 10.

Proposal FP04-28 submitted by Dick Stokes of Wrangell requests that a positive customary and traditional use determination be made for these species for Kake, Petersburg and Wrangell residents in waters flowing into Districts 6 and 7.

Proposal FP04-29 submitted by Council members Dick Stokes of Wrangell and Dr. Dolly Garza of Ketchikan request a positive customary and traditional use determination be made for these species for Kake, Petersburg residents in waters flowing into District 8, including the Stikine River and its delta.
A map on Page 300 shows the delineation of these fishing districts.

To date there have been no community specific customary and traditional use determinations for these fishing districts by the Federal Subsistence Board. At the present time all rural residents of Southeast Alaska and Yakutat areas are eligible for subsistence fishing for dolly varden, trout, smelt and eulachon in these districts. All rural residents of Alaska are eligible to subsistence fish for salmon in these districts.

The Staff analysis provides background covering the state of Alaska C&T determinations for these districts. And if there are questions we can provide detail on actions by the State Board of Fisheries.

So in this analysis we'll be looking at District 6, 7, and 8 and focusing on the use by residents of Kake, Petersburg and Wrangell. The small community of Meyers Chuck is the only other rural community that is proximate to these districts and this possible customary and traditional use needs to be considered as well.

Table 1 on Page 302 provides population data for these communities. Petersburg is the largest community of those under consideration with a population of about 3,200 people. Wrangell has a population of about 2,300 people. In the analysis there's detail on the background of these communities. It suffices to say that they've been in place for quite awhile and have strong subsistence orientations.

Most of the land area draining into District 6, 7, and 8 is managed by USDA Forest Service as part of the Tongass National Forest. Federal management of subsistence applies only to Forest Service lands and waters. Almost all of the marine waters in these districts are under State of Alaska jurisdiction for subsistence management purposes.

A look through the eight factors related to customary and traditional uses. The first factor talks about a long-term consistent pattern of use excluding interruptions beyond the control of the community or area. We're in good shape for information for this area, we have in-depth ethnographic studies, including subsistence harvest surveys for Kake, Petersburg and Wrangell. These were conducted in the
mid-80s by the Division of Subsistence under contract with USDA Forest Service. These studies provide a thorough description of subsistence use patterns for each of these communities.

The key studies document the strong subsistence involvement of residents of these three places in subsistence. More recent information has been summarized by the Department of Fish and Game in a report prepared in 2002, specifically aimed at compiling information for making customary and traditional use determinations.

Meyers Chuck is presently a very small place as the population table on Page 302 listed Meyers Chuck as having a population of 21. There was a household survey done to examine subsistence harvest patterns in Meyers Chuck in 1988 and the community had a strong subsistence orientation at that time.

The second factor we look at in considering customary and traditional use determinations has to do with pattern of use, recurring and specific seasons for many years. I've presented two seasonal round charts, one for Kake and one for Wrangell on Pages 306 and 307. These show typical seasonal round harvest patterns for Southeast Alaska for communities that do a lot of subsistence harvesting.

Our third factor talks about methods and means. We're finding that these -- the methods and means for catching fish are fairly consistent throughout Southeast Alaska. We don't have anything special to note for this area or these communities.

The fourth factor looks at the harvest and use of fish and wildlife near or reasonably accessible for the community or area. I found that we had really excellent map data for this area. I looked at four sets of maps, some of which are reproduced on Pages 309 through 315 and summarized in a table on Page 316.

The four sets of data include maps prepared as part of the ethnographic studies I talked about that were conducted in Petersburg and Wrangell in the 1980s and those studies did map out where people went for their hunting and fishing and they did separate out salmon and other fish. The second set consists of historic work done in 1947 under taken by Walter Goldschmidt and Theodore Haas to document traditional
34 territories of Native groups. These provide excellent
35 maps for Wrangell and Kake. The third set of maps is a
36 series of intensity of use maps developed by the Division
37 of Subsistence. These were done in 1992 and cover data
38 from the 1988 Tongass Resource Use Cooperative Survey.
39 In this study, map biographies were collected from about
40 1,450 people in Southeast Alaska. These map biographies
41 were overlaid and these showed intensity of use. Salmon
42 and other fish were separate categories in this study.
43 And the final set of maps are sensitivity to --
44 subsistence sensitivity to disturbance maps that were
45 developed by the Division of Subsistence in 1996 as part
46 of an effort to look at the effects of the proposed
47 Tongass Land Management Plan Revision.
48
49 These maps are discussed at some extent
50 in the analysis. I'll present summary comments.
51
52 These four sources of map data document
53 the subsistence use of District 6, 7, and 8 including the
54 Stikine River drainage by the communities of Meyers
55 Chuck, Petersburg and Wrangell. So these are very strong
56 sources showing use of these areas -- these fishing
57 districts by these three communities.
58
59 In looking at the traditional Native
60 territories we find that these maps document the -- that
61 the Wrangell-Tlingit and the Tlingit-Kwaans presently
62 living in Petersburg use portions of this area. The
63 community studies in Petersburg and Wrangell confirm use
64 of these three districts.
65
66 Looking at the third source of -- excuse
67 me, looking at the intensity of use maps and the
68 subsistence sensitivity maps, these show a high intensity
69 of use, high intensity and major use of District 7 and 8
70 and a lesser use of District 6, again, by Petersburg,
71 Wrangell and Meyers Chuck. If we take these maps
72 together and consider what each of them show, these
73 document a long-term consistent pattern of use of
74 these three districts by residents of Meyers Chuck,
75 Petersburg and Wrangell. These same four data sources
76 show that Kake's subsistence use is concentrated
77 primarily in Districts 9 and 10. None of the data
78 sources provide documentation of Kake's use of District 7
79 and 8. The intensity of use map data and the sensitivity
80 to disturbance data show limited use of District 6 by
81 Kake. Taken together, these map data do not support
82 recognition of Kake's long-term consistent use of
83 District 6, 7, and 8. The analysis was open to hearing
The fifth factor asks us to consider methods and means of preparing, preserving and storing of fish. The ones used in this by these communities and in these districts are common to those used throughout Southeast Alaska.

Similarly with factor six, talking about inter-generational transmission of knowledge about fishing we also find these to follow the patterns that are common throughout our region which have different modalities for Natives and non-Natives, but there isn't anything particularly unique in these communities.

Factor seven talks about how subsistence foods are widely shared in family and community networks. The table provided on Page 318 presents data from recent community studies showing the percent of responding households who said they received or gave subsistence food. These rates are fairly high across communities, there may be some differences -- inter-community differences but there aren't strikingly different patterns.

Factor eight talks about a dependence on subsistence resources. We find that residents of Kake, Meyers Chuck, Petersburg and Wrangell were found to harvest significant quantities of fish and wildlife in comprehensive household surveys that were conducted in 1988 and again in the 1990s in Kake, Petersburg and Wrangell. The two sets of household survey data available for those communities basically are in pretty close agreement. Figure 3 on Page 319 and Figure 4 on Page 320 show estimated per capita subsistence harvest levels for all four communities based on these studies. The overall harvest levels range from a low of 161 pounds per capita in one community in 1998 to over 400 pounds per capita for the small community of Meyers Chuck in 1987.

In looking at the effects of the proposals, the regulations currently in effect allow for subsistence use of dolly varden, trout, and smelt -- smelt and eulachon by all rural residents of Southeast Alaska and Yakutat and subsistence use of salmon species by all rural residents in Alaska.

The considered customary and traditional
use determinations would limit subsistence use of these
species to residents of the four communities we've
considered. Residents of other communities in Southeast
Alaska and elsewhere in the state of Alaska would no
longer be able to fish under Federal subsistence
regulations in these districts were these to pass.

Mr. Chairman, that concludes my brief
summary of the Staff analysis and I'd be open for
questions at this time.

CHAIRMAN DEMIENTIEFF: Thank you. We
will now -- we are debating, of course, Proposal 28, but
that was our analysis for 28 and 29. I don't believe we
have Regional Council -- I mean any written public
comments with regard to this issue. Well, it lists on
here that there's none on the record, I'll just note that
for the record.

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

MR. LITTLEFIELD: Thank you, Mr. Chair.
We do have a Regional Council in this and so, again, my
comments are similar to Staff, they will address 28 and
29 together.

I'm sure that everyone on the Board
recognizes that we've been struggling with this issue
since at least 2000 on Proposal FP01-27, and then it was
brought up again by the Southeast wide coho Proposal 35.
The regulatory fight to get the TransBoundary Panel and
the Pacific Salmon Commission to recognize the
subsistence fishery on the Stikine River is mainly been
championed by SERAC Council persons Dick Stokes from
Wrangell and Dr. Dolly Garza from Ketchikan, and we
appreciate the offer of Andy McGregor, that he made at
Craig, for those two Council persons to attend the
meeting on 12/18 and we look forward to their
participation in that.

Also at the Craig meeting under
discussion of Proposals 28 and 29, Federal Staff as was
mentioned earlier presented us with the white paper,
intensity of use maps, Goldschmidt and Haas maps and
reports and sensitivity to disturbance maps, which, if
you looked at your book they basically will -- you'll
have more information than you need to make this
decision, and they support the subsistence use in
District 6, 7, and 8 including the Stikine River by the
communities of Petersburg, Wrangell and Meyers Chuck. The community of Kake subsistence use in District 7, and 8 was not fully supported and the Federal Staff recommendation was to support the communities of Petersburg, Wrangell, and further to add Meyers Chuck. They did not have enough information to support Kake, but left that up to SERAC to consider when we did our deliberations.

The ADF&G recommendation is to support both proposals, 28 and 29 as amended by the Council.

We had no testimony from any other agencies or tribal organizations. We had no written testimony and no oral testimony.

Under discussion of Proposal 28 concerning the waters of District 6 and 7, the SERAC, by amendment added the community of Meyers Chuck as an eligible community. They've been there for quite a while, they're obviously in a rural area and it could back up all of the C&T criteria for them so they were added.

Kake was included in the original proposal as one of the proponents had them included and several Council member spoke during the meeting in favor of their continued inclusion noting that they had historical use of the northern end of Prince of Wales Island for hand-trolling and others, and for myself I noted that the Kaathadi, which is a Tlingit Tribe had several areas within that area and those people are predominately living in Kake right now, so we included Kake.

All of the species listed in the original Proposal 28 were included in our final recommendation.

Proposal 29 was similar except it was only for the waters flowing into District 8.

Under discussion of Proposal 29, by amendment, SERAC deleted the communities of Petersburg, Kake and Meyers Chuck and they also deleted all of the listed species except salmon. The testimony of Council persons describing past regulatory roadblocks to develop the subsistence fishery on the Stikine carried the day with the Council. We supported the amended proposal, but because it was determined to be tailored to address the concerns of the TransBoundary Panel and the Pacific
Salmon Commission. It was our understanding that the
Commission had concerns about an unregulated, unlimited
rural residency subsistence fishery where everyone in the
state could participate.

Proposal 29 and Proposal 40, which we'll
talk about in a little bit, which sets the guideline
levels were the proponents efforts to address all of
those concerns, and they limited eligible users to the
community of Wrangell and they applied very conservative
guideline harvest limits. And the hope -- and they went
into this with their eyes wide open was to make this
palatable to the Pacific Salmon Commission.

The Pacific Salmon Commission and
TransBoundary Panel are also in the process of developing
an abundance-based fishery, and that will have some
allocative implications. SERAC specifically wants the
subsistence users to be in the allocation process right
now. We want to be a partner at the table so that we are
not left out in the future and hopefully that's going to
happen.

Also during discussion, SERAC discussed
whether to include Petersburg and other communities. It
was noted that no one from any other community asked to
be included in the proposal at this time. SERAC
specifically noted that Petersburg could apply next year
for inclusion as an eligible community for a positive C&T
and this, of course, applies to any community that feels
it deserves inclusion.

The recommendation we adopted had one
purpose and that was to gain a foothold in the
discussions and possible implementation of the
subsistence fishery in the Stikine River. That position
is still the official position of the SERAC.

I note that our position is supported by
both the Federal and State Staff as they stand right now.

The Inter-Agency Staff Committee as
written right now also supports that recommended action.

Subsequent to the Council meeting, I've
received at least six copies of letters or fax messages
and maybe you have as well and two personal phone calls
expressing desires from Petersburg Indian Association as
well as some residents of Petersburg and some of the
islands, they actually are in some areas outside of
Petersburg that wanted to be included in the eligible communities of C&T for this year.

Personally, I would support those communities inclusions, but not now. And the reason is, we had a purpose when we did this, if SERAC has received those letters at their meeting it's possible, and I only say possible that we may have come up with a different conclusion, but our conclusion was specifically to tailor this to meet the demands of the Commission.

And I can only tell you what we did and that's why we did it and we did not include Petersburg and I want that known and as far as I'm concerned I can only support what SERAC, the actions they took, and we knew why we left Petersburg out and I'm hoping that you would continue to do that. I know you're going to hear some other stuff and I'll talk about those later.

So thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. KESSLER: Good afternoon. I'm Steve Kessler with the Forest Service. First, Mr. Chair, I want to be clear whether I should just address 28 first and then 29 or.....

CHAIRMAN DEMIENTIEFF: We have to consider them separate so just do 28 and....

MR. KESSLER: Okay. So I'll just do 28 and then we'll do 29.

CHAIRMAN DEMIENTIEFF: Yeah, okay.

MR. KESSLER: Okay, thank you. The Inter-Agency Staff Committee recommends adopting this proposal as recommended by the Southeast Alaska Subsistence Regional Advisory Council. The following is our justification for this recommendation, again, this is for Proposal 28.

Studies of subsistence use in Meyers Chuck, Petersburg and Wrangell have documented a high level of participation in subsistence harvest and use activities and have recorded substantial overall per capita harvest levels. Examination of map data provided by ADF&G, Division of Subsistence documents the regular
subsistence use of these districts by these three communities.

The eight analysis criteria provide a guide for making customary and traditional determination and these were reviewed. Based on available information, these three communities recommended for a positive customary and traditional determination for fishing District 6 and 7.

Similar to Meyers Chuck, Petersburg and Wrangell, there's also a high level of participation in subsistence harvest and use activities in the community of Kake, however, there is some ambiguity surrounding Kake's historical use of fishing District 6 and 7. However, the Southeast Regional Advisory Council members provided information based on their personal knowledge and experience associated with the community of Kake at their fall meeting in Craig. Based on their information we agree with the Regional Advisory Council that Kake should also be included for positive customary and traditional determination for these fishing districts.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Ms. SEE: Thank you, Mr. Chair. My name is Marianne See.

This proposal has undergone some discussion as to which communities should be included or not and we've worked with the Council and others in addressing those issues. We concur with the proposal for Petersburg and Wrangell and we are neutral on the idea of having Kake in this at this time and we also have looked at the additional discussion about Meyers Chuck in which we feel there are some data that would justify inclusion.

There are substantial sources of information from the area studies as noted regarding the customary and traditional uses of fish and we note that with respect to Kake we feel that the surveys from the past 20 years show fairly clearly that Kake residents are using areas closer to their community, Districts 9 and 10, rather than areas of Districts 6 and 7 that were addressed in the proposal. So that is why we are not able to offer full support for including Kake at this point based on the data that we were using.
And at this point if you have questions about this, there may also be aspects of this that we bring up under 29, but that, as it stands now, we would align with Petersburg and Wrangell very conclusively and would be willing to accept inclusion of Meyers Chuck, but we really feel there are not data to include Kake at this time.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Additional Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: If not then we'll move into Board discussion. Go ahead.

MR. BSCHOR: I have a question for Marianne, did you say that you would include Meyers Chuck possibly.

MS. SEE: Through the Chair, we would not object to the inclusion of Meyers Chuck. We feel there is information about Meyers Chuck clearly showing subsistence patterns. Where the use occurs is somewhat in question because their data aren't that conclusive about all the use itself. But we have mapped it as occurring in the region covered by the proposal, so, even though the data are less conclusive than for the other communities we certainly feel that we would not object to the inclusion at this time.

CHAIRMAN DEMIENTIEFF: Other discussion.

MR. BSCHOR: I have a couple of more things I'd like to say. First of all, thanks to David Bedford for taking time out of your other meeting to be here with us today and for your agency's past work with us on all three of these proposals.

Also, the -- I think everyone should know that we received, I believe, at latest count, 10 letters from various individuals and community members, including one from the Petersburg Indian Association on this determination of which areas should be included. Nine of which were in support of a broader area because there were people living outside of specific towns that are still within that area that we need to deal with in some way.
One of which was just against any subsistence use.

So I just want everybody to know that information's available also.

I also want to say that, and I think most everyone will agree who's been working on this that there's substantial evidence that the subsistence use has occurred or that we've had that history. Both of these, as we talk about the other one also, we don't feel that it violates any principles of fish and wildlife conservation and that it does satisfy a subsistence need that has been long -- long in coming, I guess I should say.

So we think it fits within our parameters of providing subsistence use.

MR. TONY: Just a question about, is this a modified proposal, modified by the RAC?

MR. LITTLEFIELD: The proposal we've been discussing is by amendment we added Meyers Chuck. Kake was in the original language. It was al -- the proponents included them in the original language, we took at least several comments from Council members who spoke in support of Kake so we just left it in there, but we did add one amendment and that was to add Meyers Chuck.

MS. GOTTLIEB: Mr. Chair.

MS. GOTTLIEB: Well, again, I want to thank the RAC for being pretty deliberate as well as very responsive to the questions that have been asked in the discussions on the Stikine and I think this has been a good cooperative effort towards attaining those goals which we've all been working towards.
So thank you for doing that as well as for providing the background information regarding Kake. Some of the Board members stopped there a few years ago when we were traveling in Southeast and heard a good deal of information from residents of that community.

CHAIRMAN DEMIENTIEFF: Anybody else.

MR. BSCHOR: We are going to need to deal with maybe some more discussion on expansion of the area, but a way of dealing with those -- wording wise of dealing with those areas that aren't necessarily included in the towns of Petersburg, Kake, Wrangell and Meyers Chuck.

I would be prepared to propose a motion, initially, to approve -- to support with modification of Meyers Chuck, so that's the Southeast Council's recommendation but I would like to follow that with an amendment if I get a second.

CHAIRMAN DEMIENTIEFF: Is there a second to the motion to adopt the Southeast Regional Council recommendation as modified?

MR. BISSON: I second it.

CHAIRMAN DEMIENTIEFF: Okay. I know you've already stated that you want to modify and I'm just interested if the RAC, John, had the opportunity to consider.

MR. LITTLEFIELD: I just got a copy of it.

CHAIRMAN DEMIENTIEFF: You just now got a copy of it.

MR. BSCHOR: I'd like some discussion, I believe, first and then I'll see where we are on it. Because as we are right now we have a motion before us that, you know, if there's really negative reaction to this we could vote on the current motion.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: Can I ask what the effect of the amendment would be?
MR. BSCHOR: What I'm looking at is just striking the words of -- under determination, which includes the residents of Petersburg, Kake and Wrangell and Meyers Chuck and add some new language to that.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LITTLEFIELD: Thank you, Mr. Chairman. I believe in process you would you would be offering this substitute language. In other words you would like to substitute the language that's on this handout that we just got for what's on the table right now?

MR. BSCHOR: Yes, at this point we need to -- do you want me to just read that language and then we can discuss it; would that be appropriate?

I make a motion to substitute the following language for the determination part:

Residents of drainages flowing into Fishing District 6, north of the latitude of Point Alexander on Mitkof Island, residents of drainages flowing into Fishing District 7 and 8, including the communities of Petersburg, Wrangell and residents of the communities of Meyers Chuck and Kake.

MR. BISSON: Do we have any idea how many residents we're talking about?

CHAIRMAN DEMIENTIEFF: That's a motion to -- in the nature of a substitute, is there a second to that motion.

MS. GOTTLIEB: I'll second it.

CHAIRMAN DEMIENTIEFF: Bob, you have additional information for us or who?

MR. SCHROEDER: Mr. Chairman, the number of people who would be covered by this would be the people who are listed in the demography table that I presented in the Staff analysis, with some small number of people who live close to but outside these named communities.

I think Bob Larson could give us an idea
of how many folks we're talking about there.

CHAIRMAN DEMIENTIEFF: Go ahead, Bob.

MR. LARSON: Mr. Chairman, Bob Larson, Forest Service.

And outside of the named communities which you have population estimates for, there's approximately 40 people near Wrangell just outside the, you know, the corporate boundaries of the residents, and a few more than that in Petersburg, there's probably a 100 I suppose.

MR. EDWARDS: Maybe I could ask a question.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: So I think if I understand, what it would do would actually expand to some additional residents which could one argue that are actually more rural than the ones that are currently being included? Was that a fair assessment?

CHAIRMAN DEMIENTIEFF: Go ahead, Bob.

MR. SCHROEDER: Mr. Chairman. Mr. Edwards. I think that's basically a pretty good characterization. As you know, in Southeast, Alaska, while most people live in the named places, we do have a number of people who are living on homesteads or Native claims or other areas who generally are living very much a subsistence lifestyle.

CHAIRMAN DEMIENTIEFF: Yeah, I do note from, you know, personal experience when we did our subsistence zone for Nenana in the State system years back, we went outside the area for that very same reason. Those were people that were heavily dependent upon subsistence so it wasn't just Nenana proper, we did our best to -- and it actually came out really well and there were people that are included, that, you know, otherwise would have been disenfranchised.

So it's a fair motion in my estimation.

Any other discussion on the substitute
MR. LITTLEFIELD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LITTLEFIELD: My comments are, of course, you know what the RAC did, but this substitute motion does include all of the named communities that we named and it includes the left outs, if you want to put it that way, the people who were left out. Other than that I see no substantive change to what's happened here. Just it's picking up the loose ends.

CHAIRMAN DEMIENTIEFF: Any further discussion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. Proposal 28 as modified as been adopted. 29.

MR. TONY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. TONY: Is there a separate vote on the amendment required or.....

CHAIRMAN DEMIENTIEFF: The motion was in the nature of a substitute, yeah, so it substitutes the original motion so I don't believe it does. I don't see Tom hitting me or nobody else so it must be okay. No, it's in the nature of a substitute it just substitutes the previous motion.

Okay, we have had the analysis on 29. I see in the record there's no written public comment. I
have no request for additional public testimony at this time. I think Mr. Littlefield did his explanation for the Regional Council recommendation, but you better get the formal Regional Council recommendation for 29 on the record for this proposal.

MR. SCHROEDER: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Oh, I'm sorry.

MR. SCHROEDER: We do have some written public comments for Proposal 29.

CHAIRMAN DEMIENTIEFF: Oh, I'm sorry, my record says no, so, well, let's go through them. I'm sorry.

MR. SCHROEDER: Mr. Chairman. We do have written public comments and they did come in after the publication of the Board book so that's why they're not reflected there.

At last count we have 13 public comments on Proposal 29. The overall breakdown is that 10 comments favor inclusion of Petersburg. One comment suggests the inclusion of Petersburg and Kake. And one comment suggests that Metlekatla be included, or if it's not included that the Board take no action.

The general description of the comments would be that the people who favor Petersburg being included believe that it's unfair for Petersburg -- that it's an unfair discrimination for Petersburg to be left out, that both Petersburg and Wrangell qualify for subsistence use on this great river as our history shows.

That restricting -- limiting the Stikine River subsistence fishing to residents of Wrangell only is very unfair, noting that Mitkof Island, which Petersburg is on is closer to the Stikine than Wrangell, and while fewer Petersburg residents use the Stikine River than Wrangell residents, there's several residents of Petersburg that spend as much time up the river as any Wrangell residents do.

Let's see, this person personally went into the Stikine 33 times this year and would hate to think I would not qualify because I live on the wrong side of the tracks so to speak.
Excluding Petersburg from participating in anything going on on the Stikine is a political firebrand as well as seriously unfair.

My wife Mary and I believe that people who live on the Stikine as well as residents as Petersburg should have customary and traditional use for salmon on the Stikine River and its delta.

A letter from the Petersburg Indian Association along with conversations pointing to Petersburg, the community of Petersburg and Petersburg's Tlingits involvement with the Stikine River. They also support the inclusion of Kake.

Letter from a Native elder of Petersburg talking about subsistence use there, also supporting -- noting that Petersburg has always used this area.

Another Petersburg resident maintaining that Petersburg has every bit as much history of customary and traditional use of the resource on the river as Wrangell. It's unfortunate that Petersburg does not have a member on the Regional Advisory Council at the October meeting in Craig to enforce these facts. I'll note that we recently appointed a -- the Secretary of Interior appointed a member from Petersburg. We're not dealing with birds this session.

(Laughter)

CHAIRMAN DEMIENTIEFF: That's a direct line from the Secretary hotline.

(Laughter)

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. SCHROEDER: Another letter from a Petersburg resident, residents from Petersburg, Stikine River and Wrangell should be allowed to participate in all Federal subsistence fisheries on the Stikine River.

Let me see if I have anything different.

Letter from Metlekatla, which speaks of how people from Metlekatla who harvested eulachon several times on the Stikine River. This river with its spring run with eulachon was secondary only to the Unik River spring run of eulachon for these fishermen and was considered an emergency reserve. The proposal, as it reads now would
eradicate this traditional and customary reserve.
Although it was not used repeatedly it was used as an
alternative choice held always in fishing preparations.

Another letter from Petersburg referring
to other times when State regulators have had one
subsistence qualification for Wrangell in Petersburg and
their dissatisfaction with that and saying that this
should not occur again.

And Mr. Chairman, that concludes my brief
summary of the written public comments.

CHAIRMAN DEMIENTIEFF: Thank you. Let's
see, Regional Council recommendation, did we get that.

MR. LITTLEFIELD: Thank you, Mr. Chair.
The Regional Council recommendation was to modify to the
species to include only salmon and the determination to
include only the residents of Petersburg.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. LITTLEFIELD: Excuse me, Mr.
Chairman, only the residents of Wrangell.

(Laughter)

CHAIRMAN DEMIENTIEFF: Interesting day.

(Laughter)

CHAIRMAN DEMIENTIEFF: Staff Committee
recommendation.

MR. KESSLER: Thank you, Mr. Chair. I'm
Steve Kessler with the Forest Service. The Inter-Agency
Staff Committee recommends adopting this proposal for
salmon for the Stikine River as recommended by the
Southeast Alaska Subsistence Regional Advisory Council.

However, for the remainder of District 8, that's Fishing District 8, the Staff Committee recommends
adopting the original proposal with modification to add
the community of Meyers Chuck.

So the regulation would read:

For District 8, the Stikine River and its
delta for salmon, the determination would
be for residents of Wrangell;

For District 8, for waters flowing into the remainder for salmon, the determination would be for residents of Wrangell, Petersburg, Meyers Chuck and Kake.

Now, I'll describe the rationale for this recommendation but I'm going to also let you know that there is new information available since the Staff Committee considered this proposal.

I won't repeat all of the information found in the Staff analysis or all of the information found on Pages 294 and 295 of your Board book with the Staff Committee recommendation. Mostly I'll describe why the Inter-Agency Staff Committee recommendation is different than the Councils and elaborate on the new information.

The Regional Advisory Council recommendation concerning customary and traditional use in District 8 covered only salmon and only the community of Wrangell. The Inter-Agency Staff Committee was concerned that other communities subsistence use of portions of District 8 might be adversely affected if the Regional Advisory Council's recommendation was accepted and this is a concern in relation to Section .805(c) of ANILCA.

Based on this the Staff Committee decided to recommend making the different customary and traditional use determinations for the Stikine River and for the remainder of District 8 recognizing the Stikine River is part of District 8.

In reviewing available data and the transcript from the Regional Advisory meeting, the Staff Committee found that residents of Wrangell had made the greatest use of salmon in the Stikine River drainage. Because of Wrangell's residents particularly strong history of use of the Stikine River and their efforts to reestablish the traditional salmon fishery, the Inter-Agency Staff Committee recommends a customary and traditional use determination for the Stikine River only for Wrangell and only for the salmon species.

Companion Proposal 40 would establish harvest regulations for salmon for the Stikine River
subsistence fishery. The Inter-Agency Staff Committee recommends that a positive customary and traditional use determination also be made for the remainder of District 8 for salmon for the communities of Kake, Meyers Chuck, Petersburg and Wrangell. This positive determination is supported by the data presented in the Staff analysis, perhaps in retrospect for the community of Kake.

Again, these recommendations are made in consideration of Section .805(c) of ANILCA and consideration for the subsistence uses of other rural residents.

I would like the Board to know that subsequent to the Inter-Agency Staff Committee and the development of this recommendation new information became available. This new information came in the form of numerous letters that Bob just -- Mr. Schroeder just reviewed, describing historical use for residents of Petersburg and in the immediate vicinity of the Stikine River but not within the geographic boundaries of the city of Wrangell. Given this information, I would anticipate that the Staff Committee recommendation I just described may have been modified.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. SEE: Thank you, Mr. Chair. Some of that was new information for me so I'm digesting it a bit just the way you put it.

But we have been, as I mentioned in the previous proposal, looking at the different kinds of ways that this could be approached, and the ways in which the Regional Council and others were looking to craft a finding that would include communities and represent the uses as they are documented.

We note that the Board of Fisheries, State Board of Fisheries met last January in Sitka and made positive customary and traditional use findings for herring, herring roe, eulachon, bottom fish, halibut, salmon, dolly varden, char and steelhead trout in District 7 and 8. These findings, the point about this I want to make is that these findings were based on Department from the communities of Wrangell and Petersburg. So we felt that there was clearly a track
As I noted before, however, the data on Kake are less conclusive, especially for District 8. And that both District 7 and District 8, as well, as District 6 were addressed in the Federal Staff comments on Page 317 with which we concurred, that the data did not appear to substantiate the use by Kake from the data that were available to the Department and assessed as part of the Federal Staff analysis at least up to that point.

With regard to Meyers Chuck, District 8 is quite a ways from Meyers Chuck and we don't have data substantiating the connection of the use in that area, but we would be neutral over the inclusion of Meyers Chuck in this particular matter.

I would be happy to answer questions if you have them during discussion.

Thank you.

CHAIRMAN DEMIENTIEFF: Additional Regional Council comment.

Yes, John.

MR. LITTLEFIELD: Mr. Chair, I'd just like to note that the Council did acknowledge that Petersburg was an eligible community and if you'll look at the Goldschmidt and Haas report you could probably make a case that on Page 315 that there was some traditional use shared territory there, in other words Petersburg was not a traditional village, but the people who lived there, you know, inhabited Kake, and Wrangell and others as well.

However, I'm still hanging my hat on what we did. We did it with full knowledge of leaving Petersburg's out, so I just want to make sure that you knew we did consider those and we are not opposed to them in the future.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Well, I guess I have a question for Staff. I'm assuming that we look at this data in order to try to determine, you know, what the
past uses were that both our folks as well as the State folks are sort of looking at the same data, I'm assuming, and I guess I'm just trying to understand why we haven't kind of come to the same conclusions as it applies to Kake as far as is the data available or it not available?

MR. SCHROEDER: Mr. Chairman. Gary. I think the State and Federal Staff agree completely on the evaluation of the data for Kake. The new ingredient for talking about Kake's use of these districts is possibly came up at Regional Council deliberations, and through information that doesn't exist in the written record.

CHAIRMAN DEMIENTIEFF: Other discussion.

Yes.

MR. KESSLER: Mr. Chair. Steve Kessler. Just as far as the consideration of Kake by the Inter-Agency Staff Committee, when we were discussing this proposal our recommendation at the time and what I just described was to include Kake and I said that in retrospect we might not have done that and that is because after review of the Regional Council transcripts, that we determined really what the Regional Council was talking about and the members who testified there, was that they were talking about that Kake should have a positive -- be positive for customary and traditional for Districts 6 and 7 and not for 8. And so for 8, for Kake, as Mr. Schroeder discussed, I think we were consistent with what ADF&G recommends, but that's not where we were when the Committee met.

MR. BSCHOR: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BSCHOR: I want to ask one clarifying question of our Council Chair, Mr. Littlefield. Proposal as the Council has recommended was waters flowing into District 8, including Stikine River and its delta include just the species of salmon and include just the residents of Wrangell; is that correct or was it Wrangell and Petersburg?

MR. LITTLEFIELD: I think I may have missed some of that but it was salmon only and the residents of Wrangell, not Petersburg.

MR. BSCHOR: Wrangell, okay. With that
in mind I would propose a motion, and once again I will ask if -- well, I'll propose an amendment if I get a second on the motion.

I move to adopt to the Southeast Council's recommendation.

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

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

MR. BSCHOR: The only discussion that -- the only thing I would add is that we've heard that the other species are important also and also I've -- I have an amendment I'd like to propose to change from just salmon to dolly varden, trout, smelt, and eulachon, how do you pronounce -- yes, eulachon, and then I have some proposed language for the determination area and that would be -- can we have it on the screen.

CHAIRMAN DEMIENTIEFF: And everybody has it in front of them. If you want to offer that motion in the nature of a substitute like we did previously.

MR. BSCHOR: I do want to offer it in the nature of a substitute motion, thanks for the correction.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion.

MR. EDWARDS: Second.

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

(No comments)

CHAIRMAN DEMIENTIEFF: I guess, Mr. Littlefield, if the Council did have a real problem with this I imagine we'd be hearing from you pretty soon. Okay.

MR. LITTLEFIELD: Do you want to hear from me now?

CHAIRMAN DEMIENTIEFF: Go ahead.
MR. LITTLEFIELD: Thank you, Mr. Chair.

Again, I would reiterate that we took this under advisement. We knew full well what we were doing and it was tailored to meet the objections of the TransBoundary Panel and the Pacific Salmon Commission so I stand by our original motion. However, we have to remember that the State supported the action that we took, and now we're talking about throwing something new into the mix. I would want to get the State on record of what they think of this substitute motion, because I think that's critical to what we were trying to do.

We were trying to tailor this to meet the TransBoundary concerns and if it doesn't do it anymore, we've added too much, well, then I'm violently objecting. I just can't support it at all.

MR. BSCHOR: I'm also interested in hearing that.

CHAIRMAN DEMIENTIEFF: Okay.

MR. BEDFORD: It would be helpful to me if you would repeat the motion, please?

MR. BSCHOR: The substitute language is to add an addition.....

CHAIRMAN DEMIENTIEFF: I think he's got the language in front of him.

MR. BSCHOR: Do you have it right there?

MR. BEDFORD: (Nods affirmatively)

CHAIRMAN DEMIENTIEFF: Yeah.

MR. BSCHOR: It's right there, yes, okay.

MR. BEDFORD: Yes, thank you. I guess that my counsel on this would be that the Federal Subsistence Board should establish the fishery that they believe is the appropriate fishery. And that -- I mean everything that I've seen so far, I mean if you're going to expand the group of people who would have a customary and traditional finding for this, if it's still the fishery that you've described in the motion that you have, I don't believe that that is going to be a really dispositive fact in how we deal with this with Canada.
CHAIRMAN DEMIENTIEFF: Any other discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none are we ready to vote on the motion, substitute motion.

MS. SEE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. SEE: Yeah, if I might just add to Deputy Commissioner Bedford's remarks. As I understand it, which is written on the sheet.....

MR. BSCHOR: Yes.

MS. SEE: Okay. That this includes portion of District 7 and 8 -- or sorry, District 7 and 8 and District 6 as noted, as specified in here with communities of Meyers Chuck, Petersburg, and Wrangell and persons living outside the named communities, it's a broader description, but, in fact, the data, as we understand them would be consistent with this broader approach, there wouldn't be an inconsistency between what we understand the data to represent at this point.

And given the way this is worded, Kake is not included, which would address the point that we raised earlier.

Thank you.

CHAIRMAN DEMIENTIEFF: So anyway, the basic response, I think, did you get the you wanted, John, the information you needed?

Yeah, go ahead.

MR. LITTLEFIELD: Mr. Chair. With that understanding, personally I wouldn't have any problem doing this with their assurances that this isn't going to be a deal-breaker, that we're still going to proceed with this.

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead, Steve.

MR. KESSLER: Yes, Mr. Chair. As we know
Proposal 29 and Proposal 40 work together. Proposal 40, when we get into it has a certain guideline harvest, that guideline harvest was established -- was calculated actually, not established, was calculated based on the communities of Kake, Wrangell and Petersburg already, so they were calculated on essentially the same population or even maybe slightly less of this substitute proposal at this point. So it shouldn't affect the calculations of Proposal 40 when we get there.

CHAIRMAN DEMIENTIEFF: Thank you, very much. Any other discussion on the substitute motion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 40. Who's going to do the analysis.

MR. LARSON: Mr. Chairman, Proposal 40, the executive summary is found on Page 399 of your blue Board book. The Staff analysis that I'm going to present is on 405. Again, my name is Bob Larson, I work for the Forest Service, I'm the zone fisheries.....

CHAIRMAN DEMIENTIEFF: Bob, if I may just interrupt you. Am I hearing that you're ready to go Mr. Bedford?

MR. BEDFORD: I apologize for interrupting the proceedings, Mr. Chairman, Members of the Board.

CHAIRMAN DEMIENTIEFF: We'd set it up earlier that we wanted to have the chance to have the exchange so we'll just go ahead and pick that up when you left, but it's important for your dialogue with the Board so we're going to allow that.

MR. BEDFORD: If I could, I just had a
1 few comments to make. I believe that the Staff will be
2 very able to handle most of the factors that you're going
3 to be looking at with this proposal, however, there's one
4 area where I may be able to provide a little bit of input
5 that would be useful.

6 Particularly that is, how we are going to
7 coordinate what it is now a three-layered discussion on
8 how to establish a subsistence fishery on the Stikine
9 River. I mean we have enough complexity with dual
10 management, however, in this particular instance we also
11 have the Pacific Salmon Treaty as being a part of the
12 discussion so we then have a three-level negotiation, as
13 it were.

14 I want to say first off that I recognize
15 that the Southeast Regional Advisory Council has been
16 working on this now for a few years, trying to get this
17 fishery established and I know that it's been very
18 frustrating to them.

19 First off when they discovered that there
20 was an impediment imposed by the Salmon Treaty to
21 progressing on this, and then discovering in their
22 efforts to try to work through that that there were some
23 concerns that were being raised by Canada that were then
24 forestalling progress on this.

25 With that said, I want to also say that I
26 really appreciate the work that's been done by the
27 Southeast Regional Advisory Council to try to be
28 responsive to the concerns that were raised by the
29 Canadians in the Salmon Treaty negotiations and I believe
30 that you guys have done a lot of very good work on the
31 proposal that you're advancing at this point.

32 Just as a general comment, with sort of a
33 global consideration in this, I would encourage you to
34 look at establishing the subsistence fishery authorizing
35 or requesting the kind of subsistence fishery that you
36 think really is the one that ought to be in place. And I
37 say that because, recall now that the concerns as raised
38 by the Canadians were, we're not sure what it is we're
39 buying. And so when I go in there I want to know what it
40 is that I'm -- pardon me, I mean this is perhaps a bit
41 crass, but I want to know what it is I'm selling, and I
42 know that it's been very frustrating to people to look at
43 a situation, in which you're talking about a longstanding
44 traditional fishery that within the context of the Salmon
45 Treaty discussion is a new fishery.
Okay, but if we're going to go ahead and negotiate this thing then it's going to be helpful to me to go in there and say this is the fishery that we need to establish in order to meet the kind of subsistence requirements that we have.

And from everything that I've seen in the proposal that I've developed here, I mean I just don't see anything that's really dramatically problematic. Now, that said, I mean where we are in the discussions right now is we still have a number of steps that we have to go through before we can actually -- that we can realize this.

I mean we did, at the first step in the negotiations for this year, we had the executive committee meeting and that's where we lay out for the agenda for the coming year's negotiations and in that meeting I told the Canadians and the folks in the US section that we intended to raise the subsistence fishery on the Stikine as being one of the things that we were going to be discussing in the negotiations this year. So there's step number 1, it is now on the agenda.

Step number 2 is that we will, in the US Section of the TransBoundary River Panel, look at the proposal that you guys are currently working on here and the folks who advise me, I mean it's kind of a two-level discussion within the US Section. That is, I serve as the commissioner which is vaguely similar to the Federal Subsistence Board role and then I have an advisory panel that I work with on this. So it will go first to the advisory panel, that meeting is going to occur the week of the 15th of December, so very shortly, and so we'll have an opportunity to look at it, the panel will have a chance to look at it and discuss it and so on and then we've invited some folks, both from the Office of Subsistence Management and from the Southeast Regional Advisory Council to come in and talk with us as well.

Now, at that point we'll try to develop the strategies that we'll use to present this to Canada. And then in January we'll have the first bilateral meeting with Canada, that will be a meeting at the panel level, the advisory panel level and there's a Canadian advisory panel that will then meet with our folks, and they'll start talking about this particular issue.

In general what the Commission does is put these issues in the hands of the panels and then hope
that the panels are able to drive this to some kind of a consensus resolution. Now, in many cases that's not possible. They may be able to make some progress, they may be able to identify areas where there's agreement, areas where there's disagreement, and then in the February bi-lateral meeting then those sorts of issues are moved up to the Commission level, and then it will be in my hands and I can tell you that I will certainly advance vigorously whatever the recommendations are that we're going to be carrying forward at that time.

I would say that there are some complexities still involved in this and it's very difficult for me to predict how these negotiations are going to play out as we go. And perhaps the greatest point of difficulty on this is, is that, this proposal, for a subsistence fishery is a part of a larger discussion on how we set up abundance-based fishery regimes in the transboundary rivers, and that larger question is going to be one that will have a lot of political context, and it's difficult, as I say at this point to really predict how that's going to work out.

But by the same token, you know, we certainly will advance as vigorously as we can.

If you have any questions I'd be happy to answer them.

CHAIRMAN DEMIENTIEFF: Well, I don't have a question so much as comment that I appreciate the Council's -- the RAC's perseverance to work through thorny issues and I appreciate all the help from our Federal managers as well as the State in trying to get something out there and try to jump through these hurdles. It's just another example of people -- players working together to try to come up with a resolve and I'm really glad it gets us on track.

That's just a comment.

I don't know if there's any other discussion from other Board members.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, we really appreciate you taking the time to get over here and we know you have other pressing business going on right now so we'll let you get on your way.
Thank you.

MR. BSCHOR: Mr. Chairman, I want to thank Mr. Bedford once again. And we're really looking forward to being able to get something in place.

Thank you.

CHAIRMAN DEMIENTIEFF: Mr. Littlefield.

MR. LITTLEFIELD: Thank you, Mr. Chair. Mr. Bedford. Appreciate you sharing your time with us today. We hope that this Proposal 40 and 29, that you can speak affirmatively for them, they're very conservative and they were meant and tailored specifically on directions by you with the one exception that we've added a few more people, but we haven't conservative guideline harvest levels so we really haven't changed that at all, we're still looking for 1,125 fish out of over hundreds of thousands of going up, 60,000 sockeye, a couple hundred thousand -- or 200,000, 60,000 chinooks, I mean we're talking big runs there with very conservative take.

So hopefully you can feel comfortable advancing our position.

Thank you.

MR. BEDFORD: Thank you, Mr. Littlefield. And, again, thank you to the Subsistence Board. I appreciate the opportunity to come in and talk with you today.

CHAIRMAN DEMIENTIEFF: Okay. I believe we're ready to continue on with the Staff analysis.

MR. LARSON: Mr. Chairman. My name is Bob Larson. I'll be presenting the Staff analysis for Proposal 04-40. I am the subsistence fisheries biologist for the Wrangell-Petersburg area. I work for the Forest Service. The executive summary for Proposal 04-40 begins on Page 399 of your blue book. The Staff analysis begins on Page 405. There are three issues involved in Proposal 40.

First, is that the proposal requests a salmon subsistence fishery for the Stikine River. The proposal species a fishery will be restricted to the main stem of the Stikine River, the open season is defined to
coincide with the peak of abundance of each species within the river. The harvest limits are the same as what would be anticipated by harvest of the residents of Kake, Wrangell and Petersburg, and the gear is restricted to that normally used by residents of local communities.

Unique in this proposal is the need for this fishery to be coordinated with the Pacific Salmon Commission in accordance with the Pacific Salmon Treaty.

For background in 2000, the Subsistence Board deliberated a similar proposal to establish a subsistence salmon fishery on the Stikine River. The Board deferred proposal -- deferred action on FP01-27 pending additional coordination with the TransBoundary River Panel and the Pacific Salmon Commission.

Existing Federal regulations close coho fishing on the Stikine River. There are no specific regulations that close other salmon fishing on the Stikine River, however, the subsistence fishing permits are not issued for the Stikine River so there has been no harvest on the Stikine River under the subsistence salmon fishing program.

As proposed, the regulation would provide fishing seasons, methods and harvest limits for chinook, salmon, sockeye salmon and coho salmon. The proposal does not restrict pink or chum salmon fishing, however, those species are not targeted and only small numbers are anticipated to be taken as incidental harvest.

Mr. Stokes and Ms. Garza recommended amending the original proposal to allow the chinook season earlier in the season. This change from the original proposal is now reflected in the recommended language and the Staff recommendation.

The Stikine River is a large transboundary river and it enters into the marine waters near Wrangell and flows from Canada approximately 25 miles up stream from the river's mouth. All portions of the US drainages are part of the Stikine/Leconti Wilderness area. As a transboundary river, salmon management on the Stikine is conducted in accordance with provisions of the Pacific Salmon Treaty. The TransBoundary River Panel is the group that approves the annual joint management plan for the enhancement and harvest of chinook, sockeyes and coho salmon populations. The Pacific Salmon Commission deliberates regulations
required to implement the treaty.

There is a sockeye harvest sharing plan in place that abundance based management plans are in development with a target date of May 1st, 2004. The timelines for abundance based plans will likely be extended due to extenuating technical issues.

The current Stikine River management plan allows that the United States harvest 50 percent of the total allowable catch of sockeyes. There's no new directed chinook fisheries without Canadian agreement and the United States fisheries will be managed to allow the Canadian fisheries to harvest up to 4,000 cohos.

The Canadian section of the TransBoundary Panel provided a formal response to Proposal 01-27, they expect four major concerns.

The first is, that Canada does not consent to a US subsistence fishery on Stikine chinook salmon until such time as abundance based management regimes have been developed and there's been a harvest sharing agreement.

The second is, that no new Stikine River coho fishery will be initiated before an appropriate abundance based regime is developed a new harvest sharing arrangement is negotiated.

The third is, Canada is not in favor of subsistence fishery on sockeyes due to conservation and management concerns. A new harvest sharing arrangement would be required to accommodate the proposed fishery. Canada would reconsider this proposal after stock recovery has occurred and the US/Canada management success has improved.

Finally, Canada has additional concerns about harvest rates, timely in-season, catch monitoring and sampling for stock identification.

The Forest Service and the Office of Subsistence Management prepared a briefing paper describing the potential scope of a Federal subsistence fishery on the Stikine, and that includes residents of Wrangell, Petersburg, and Kake. A subsistence fishery to that proposed in Proposal 01-29 would likely result in about 125 chinook salmon, 600 sockeyes and 400 coho salmon.
Now, there's been some regulatory actions that would be of interest to the Subsistence Board done by the State of Alaska. The State of Alaska, Board of Fisheries deliberated a similar proposal for a subsistence fishery on the Stikine River last winter. The Board of Fish voted unanimously against this proposal but expressed support for a fishery when it was allowed by the US/Canada Treaty Process. They also directed their staff to negotiate appropriate agreements with Canada that would allow Alaska subsistence fisheries on the Stikine River be implemented.

The Board also found a positive customary and traditional use for the Stikine River. Due to the Board of Fish actions, the definition of the State's personal use fishery was changed to a subsistence fishery and despite a very strong sockeye return on the Stikine River this summer, the fishery was not opened because it could be interpreted by the Canadians as a new fishery. However, if it would have been a personal use fishery as last year it would have been opened.

By way of biological background, the Stikine River supports significant numbers of all salmon. The average total return for sockeyes has been just less than 200,000 sockeyes. There's not total return estimates for cohos or chinook salmon however. We do have escapement estimates. In 2001 escapement of the chinook salmon was 66,000 fish. The spawning escapement for cohos is 42,000 fish. In 2003, we had excellent returns of all three of these species.

The Stikine River salmon are harvested in marine sportfishing, commercial fishing, subsistence and personal use fisheries and in fishing activities that occur in the US and Canadian sections of the river.

There's not a total return estimate for cohos or chinook salmon because it's been impossible to identify the Stikine River component for chinooks and cohos.

There is a Stikine River origin estimate for sockeyes, however, and the State undergoes a tremendous amount of effort in producing that. The catch estimate for the '92-2001 time period is over 75,000 sockeyes.
The effect of this proposal is to provide a regulatory framework conducting a subsistence salmon fishery on the Stikine River. The proposal addresses concerns addressed by the TransBoundary River Panel and builds upon the original proposal, 01-27. Additional management measures that you see before you now narrow the seasons to coincide with peak abundance of each species. The fishing gear is restricted to those types that are normally used by local residents, the fishery is restricted to the main stem of the Stikine River.

Several modifications were made in addition to the original proposal.

The additional provisions require -- or modifications provide for in-season monitoring, reporting of harvest, established guideline harvest levels to limit the scope of the fishery and it clearly accounts for all harvests.

Abundance based management plans as called for in the annexes to the Pacific Salmon Treaty are not yet available for chinook and coho salmon. The lack of abundance based management harvest plans should not be an issue with the TransBoundary River Panel due to the small size of the proposed fishery. The proposed subsistence fishery will harvest considerably less than one percent of the total return and will not cause a disruption of either existing US or Canadian fisheries nor will it cause a conservation concern.

If this proposal is adopted, there's a requirement for continued dialogue and continuation between the Federal Subsistence Management Program and the US/Canada Treaty Process. Communications with the treaty regulatory bodies, meaning the TransBoundary River Panel and the Pacific Salmon Commission may require further modifications to the proposed regulatory language prior to this fishery being implemented.

And that concludes my presentation.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments, were there any?

MR. SCHROEDER: Mr. Chairman, we have no written public comments on this proposal.
CHAIRMAN DEMIENTIEFF: Okay. We have no requests for additional public testimony. Regional Council recommendation.

MR. LITTLEFIELD: Thank you, Mr. Chair. The Regional Advisory Council recommendation is on Page 401, and that takes into account the modifications that were suggested to tighten this up a little bit as well as the reporting.

We supported that. And we support the Federal Subsistence Board adopting this with the implementation delayed until it can be coordinated with the TransBoundary River Panel and Pacific Salmon Commission.

Thank you.

CHAIRMAN DEMIENTIEFF: Other Regional Council discussion. Oh, no, I'm sorry, Staff Committee.

MR. KESSLER: Mr. Chair. I'm Steve Kessler with the Forest Service.

The Inter-Agency Staff Committee recommends adopting the proposal with the modification as recommended by the Southeast Alaska Subsistence Regional Advisory Council.

This is an extremely important proposal and the reestablishment of the Stikine subsistence fishery is vital to the residents of the area. This proposal compliments FP04-29, which provides the customary and traditional determination for the Stikine River area.

The way the regulation would read can be found on Page 401 of your Board book and details the species to be harvested, harvest methods, guideline harvest levels, timing of the harvest, required monitoring and permitting for the fishery. Harvest limits are described as guideline harvest levels and in total for the three salmon species would be approximately 1,125 fish.

Harvest guidelines for these fish are believed to meet current subsistence needs for the area of analysis which was Petersburg, Wrangell and Kake, and are conservative and at a level that would have no measurable effect on other users of these fish stocks or on the overall conservation of these fish runs.

The Inter-Agency Staff Committee recommends adoption of the proposed regulation but that it be held in abeyance until the TransBoundary River Panel and Pacific Salmon Commission concurrence occurs.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. SEE: Thank you, Mr. Chair. In sort of a postscript to Deputy Commissioner Bedford's remarks.

I note that the Department is not able to support the proposal at this time but I think it's fairly clear that that's really a protocol issue more than anything. Because of our international obligations we are not in a position to support establishing Federal subsistence fisheries in the waters of the Stikine River until such time the Canadian issues can be successfully negotiated through the Pacific Salmon Commission process as was noted by Deputy Commissioner Bedford.

I would ask, rather than having me read all our existing comments which have been distributed to you, if those would simply be incorporated into the transcript by reference.

I will highlight two other points, however, for purposes right now.

One is that the Department notes that the proposal, as it currently is stated does incorporate modifications related to season dates and fishing locations by species that reflect State concerns with the original Federal proposal and do address them. The fishing dates and fishing locations in the current proposal are appropriate for each species and we appreciate those improvements.

I also want to note that, as was mentioned in the Federal comments, it's an important point, I think, to note that the guideline harvest levels
that have been used throughout this proposal, do, in fact, encompass the harvest estimates that would be appropriate to the communities in areas that are now specified in Proposal 29 as adopted, modified and adopted by the Federal Subsistence Board here this afternoon.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Additional Regional Council comment. Yes, John.

MR. LITTLEFIELD: Mr. Chair. Again, we'd just like to note these are very conservative. When you look at the size of the runs on the Stikine River and compare these it's a very minute percentage, very conservative and we believe that you can adopt this and as soon as it's coordinated -- if it's adopted in two months by the TransBoundary Panel then we could just go with it, that's why we would recommend that you adopt it at this time.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Mr. Chairman, just for my own information, paragraph AF says, the way I read it, does that mean if you catch a sockeye on September 1st you can keep it but you have to report it and it goes against the total? Is that what that means?

MR. LARSON: Yes, that's exactly what it means.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: This looks like a really excellent example of cooperation that's taking place at all levels and I hope this will give Commissioner Bedford the information that he needs and ammunition he needs to truly advance it and we're glad he's willing to take that up.

CHAIRMAN DEMIENTIEFF: Additional comment?

(No comments)

CHAIRMAN DEMIENTIEFF: Ready to go.
(Council nods affirmatively)

CHAIRMAN DEMIENTIEFF: All those in favor of the motion, please signify.....

MR. BSCHOR: We haven't given a motion yet.

CHAIRMAN DEMIENTIEFF: Oh, Jesus, I'm sorry, I think we're going to need a break after this.

MR. BSCHOR: I am prepared to give a motion, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yeah, okay, let's go.

MR. BSCHOR: I move that we adopt the Southeast Regional Advisory Council's recommendations for FP04-40 and the associated modifications as indicated on Page 401. And realizing that the recommendation includes delaying implementation pending coordination with the TransBoundary River Panel and the Pacific Salmon Commission.

CHAIRMAN DEMIENTIEFF: Okay, is there a second.

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Yeah, I think I see a few bobbing heads and mine is obviously wandering in our post-lunch syndrome here, so I think we'll just take a brief break.
CHAIRMAN DEMIENTIEFF: Okay, it looks like we got everybody in the room. For the record, with regard to Proposal 40, I didn't rule that the motion carried, so we'll just get that in the record as we go, the motion did carry, unanimously.

And now we'll go back and complete our work on our non-consent agenda items including, I think, as we left off on Proposal 19 we were at Board discussion. I don't believe we had a motion on the table yet either, so, when we ran out of time. So if there's any more discussion on 19 I'd welcome it.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Yes, if I could add a little bit to the discussion. After hearing Gloria's comments, Gloria, the way I understood that was that the villages oppose this because of the belief that there's a difference in the way people in Paxson and Sourdough use the resources from the way Ahtna people use the resources, and that your concern certainly was that if there was a shortage, that everybody who had C&T would still be eligible, if you will, for the subsistence priority.

And luckily, not having a lot of experience with .804, but looking at the Section .804 of ANILCA, it does say that if we had to do some limitations, the limitations would be based on certain criteria, including the customary and direct dependence upon the populations as the mainstay of livelihood which, not presupposing any evaluation, but it would be my belief, certainly Ahtna or Copper River Valley people would probably have a much more direct dependence and local residency is another criteria that would be used.

So I hope that that would alleviate some of your concerns about this C&T determination which is made for eligibility in general.

Thank you.

CHAIRMAN DEMIENTIEFF: Any other
discussion. Go ahead.

MR. BISSON: Mr. Chairman, I'd like to make a motion.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BISSON: I guess I -- since both of these came off the consent agenda at the same time I would make a motion that we accept both the Regional Council and Staff Committee recommendations to make a C&T determination for Paxson/Sourdough.

CHAIRMAN DEMIENTIEFF: No, they're both separate proposals now so we just have to take action on each one, for Proposal 19.....

MR. BISSON: Okay.

CHAIRMAN DEMIENTIEFF: .....and then we'd have to go through the process for 20.

MR. BISSON: Okay, then for Proposal 19.....

CHAIRMAN DEMIENTIEFF: Okay.

MR. BISSON: .....I make that motion.

CHAIRMAN DEMIENTIEFF: Okay, there's a motion, is there a second.

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

MR. TONY: Aye.

CHAIRMAN DEMIENTIEFF: Motion carries. Okay, Proposal 20, analysis, please.
MS. PETRIVELLI: Mr. Chairman. My name is Pat Petrivelli and I'll be doing the analysis for Proposal 20.

This proposal was also submitted by the Paxson Fish and Game Advisory Committee and it requests a customary and traditional use determination for freshwater fish for residents of the Paxson area. The original proposal, we interpreted it as being for the Copper River drainage, upstream of Haley Creek, but after further talking with the proponent it was for the Gulkana Wild and Scenic River drainage only. And then also the original proposed language on Page 219 of your Board book has language that says Paxson and then residents that live along the Richardson Highway between Mile Post 190 and Mile Post 200. That information was included by the proponent for informational purposes. It wasn't meant to be separate. Because that's where they consider the boundaries of Paxson itself because they have a Paxson Community Association, they're not incorporated in any way, but they have a non-profit community association that they deal with the State. And those are the mile post markers along the Richardson Highway that they use as community boundaries. So -- but that language is -- so the language would just be Paxson/Sourdough.

Since we discussed the community characteristics section and data sources were the same for this proposal as was for Proposal 19, and then I'll just review the areas that are different for Proposal 20.

And they deal with tables showing use and on Page 224, there's a -- it shows the use from the household surveys, the use of non-salmon fish or non -- yeah, that's what it is, I always say non-fish, but I said it right that time, non-salmon fish.

And so for Paxson the data show that 78.6 percent of the households use non-salmon fish and they've harvested 2,432 pounds at the community level and 63 pounds on a per capita basis. This per capita harvest level is the highest level of freshwater fish for any of the Copper River Basin communities. And then this higher level of freshwater fish in Paxson was noted in the 1980 study write up and they highlighted the significance of freshwater fish in this area as parallel to the significance of salmon to the communities that live along the Copper River so the levels of uses are comparable.
So definitely the residents of Paxson and Paxson/Sourdough area use freshwater fish and at very high levels.

As to data relating to where they harvest the fish, and that table is on Page 226, and the mapping data shows that they harvest fish in the middle fork of the Gulkana River, the west fork of the Gulkana River, and then other Federal lands are the Tangle Lakes area and upper Tangle Lakes, but they're not on the Copper drainage. And then I've also showed where they harvest other -- and the mapping there it shows for State lands, but the mapping data does show that they have used the Gulkana River to harvest freshwater fish.

The patterns of use were found to be similar as the other Copper River communities in the two patterns of harvesting close to the local area and then also harvesting freshwater fish while hunting. But in discussing this with the proponent because some of their hunting areas did occur in the Wrangell-St. Elias Park, the proponents said that they described that use as incidental and occurred under State regulations so they were perfectly happy with the C&T use for the Gulkana River only.

So that concludes my analysis.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Council coordinator. There were two written public comments received, and both opposed the proposal.

The Ahtna, Inc., opposes the proposal and do not support making a customary and traditional use determination until such a study of freshwater fish is done for the community of Paxson and those residents between Mile Post 168 and Mile Post 200 along the Richardson Highway.

The Chitina Native Corporation opposes the proposal. Many residents of this area do not have a traditional or cultural tie to the resource and consideration and do not deserve a C&T classification. Once the C&T determination is given it is very hard to reverse. Please do not pass this proposal as it is an
injustice to the subsistence users that do meet the C&T determination criteria.

Thank you, Mr. Chair. That concludes written public comments.

CHAIRMAN DEMIENTIEFF: Thank you. We have one request for additional public testimony at this time, Gloria Stickwan.

MS. STICKWAN: The Ahtna people had a meeting November 25th and they opposed adding Paxson to the Gulkana Wild and Scenic River for freshwater fish.

And, again, the more people -- their concern mainly is adding more communities to be able to fish on the Copper River is their concern, and that's an impacted area, we all know that the Copper Basin area is impacted and that's a concern, you know, that more people using the river, more people taking fish, that's why they oppose this.

CHAIRMAN DEMIENTIEFF: Thank you.

Regional Council recommendation.

MR. LOHSE: The Regional Council moved to support Paxson, especially when they found out that the request was only for the Gulkana River. Paxson and Sourdough are the only two communities that are on the Gulkana River except for right down at the mouth.

And we recognize that there's -- you know, that there's some concern about it. I'd like to read you a little something that we read at the meeting that comes straight out of the Senate Report that goes with ANILCA, and basically what it says is, and it's talking about customary and traditional, and I think we sometimes get customary and traditional mixed up with shortage and opportunity, and customary and traditional doesn't really apply in shortage and opportunity like Judy said at that point in time we go into .804; but it says:

Customary and traditional is intended to place particular emphasis on the protection and continuation of the taking of fish, wildlife and other renewable resources in areas of and by persons, both Native and non-Native, resident in areas of Alaska in which such uses have
played a long established and important role in the economy and culture of the community, and in which such uses incorporate beliefs and customs which have been handed down by word of mouth or example from generation to generation.

And as we've seen in the report that was presented to us, and if we go back and look and we find that the Tangle Lakes area had people as far back as we can dig in our archeology have used it for the taking of fish. So that area has been long established use of fish, these people live right in that area, and they have learned from the people that were there before and from each generation that's been there now.

And so while that applies to customary and traditional, it doesn't apply to times of shortage.

And so that's why we felt that we had to give them customary and traditional in their own -- basically I'll say it, in their own backyard, right where they're living.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Thank you. Mr. Chair. Bob Gerhard with the National Park Service.

The Staff Committee recommendation is to adopt to the proposal as modified by the proponent. This is consistent with the recommendation of the Southcentral Council. The proposed regulation would add Paxson and Sourdough to a C&T finding for freshwater fish on the Gulkana Wild and Scenic River.

Justification for this recommendation is the data from the ADF&G Subsistence Division household surveys, show that freshwater fish is a significant resource for residents in the Paxson/Sourdough area. The 1982 and 1987 studies and 1984 mapping of resource use areas show that Paxson/Sourdough residents used the Federal public waters of the Gulkana Wild and Scenic River.

That concludes Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you.
Department comments.

MS. SEE: Thank you, Mr. Chair. This is Marianne See with the Department.

The Department concurs with this proposal based on the documentation available. The Federal Staff analysis adequately provides the documentation of data in support of the eight factors used to access the extent of customary and traditional uses. We note that the modification does address the concern we had previously raised about including the Sourdough area because the data supported that and also that the communities along the road -- or that those living outside communities along the Richardson Highway be included in the language because the findings should not -- along roaded areas should not exclude people who are living in between those named communities.

That concludes our comments.

CHAIRMAN DEMIENTIEFF: Thank you. Are there any other Regional Council comments.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, we'll advance it to Board discussion. Any discussion on the proposal. Go ahead.

MR. TONY: I guess, initially, you know, my concern was a process concern. There's mention in the written public comments opposing this that once a C&T determination is made it's very, very difficult, almost impossible to reverse and so knowing that there were several substantial groups in the region that wanted input in the process and also that there's going to be some new members on the Regional Advisory Council, you know, I struggled with whether there was a mechanism or not to give the Regional Council more time, you know, to revisit this, but I understand that there's not that mechanism.

So I just wanted to note, you know, for the record that that was one of my major concerns as well as, you know, how dated some of the information was and the lack of a complete administrative record here to support the substantial evidence finding.

CHAIRMAN DEMIENTIEFF: Any other
MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Perhaps I could ask Larry or others, I mean is there a conservation concern at this point about some of these freshwater fish in the Gulkana River?

MR. BUKLIS: Mr. Chairman. Larry Buklis. I think in the past there has been an interest in harvesting whitefish for subsistence use and I don't think there's any conservation concerns with those stocks. There are limited numbers of rainbow trout and steelhead in the Copper River drainage, I'm not sure about the Gulkana River stock specifically, but there are concerns about conservative management with those fish. But they wouldn't be a part of a freshwater fish permit allowance.

So the stocks that would be targeted in a requested fishery that would be permitted are not a conservation concern.

CHAIRMAN DEMIENTIEFF: Further discussion. Oh, go ahead, I'm sorry, Doug.

MR. VINCENT-LANG: Yeah, I think I might just add a little bit to that, is that, right now the way the system is built for resident fish is that there are no limits set per se, it's set by the manager in consultation with the Fish and Game manager recognizing that the conservation issues associated with those resident fish in the drainage.

And by far and away, many of the fish that are in the Gulkana River, for instance, rainbow, are probably the most northern stock of rainbow in the world right now, so they're basically catch and release, off limits to sportfishermen right now. So I think the way you build conservation into this, is not into the C&T discussion but rather into the permit analysis of it.

CHAIRMAN DEMIENTIEFF: Thank you. Paul.

MR. TONY: I guess the one other thing, you know, that I had hoped would be considered was just the impact that adding, you know, a group is how it's
going to impact the existing users and whether or not the people in Paxson are already having their needs for freshwater fish met. You know, I think Summit Lake, Paxson Lake, Tangle Lakes are great sources of freshwater fish and probably the reason that those numbers that are reported here on their annual take or household use per capita is so high to begin with.

So you're, you know, giving a C&T determination to people that are already, you know, getting the most freshwater fish in the region and allowing them to come down and impact other subsistence users who are not getting as much per capita and I guess that's one reason that this, you know, gives me a little heartburn.

MR. EDWARDS: But in response to that, wouldn't you assume that if that fish were that available right next to your residence, why would you travel further distance to get additional fish?

CHAIRMAN DEMIENTIEFF: Go ahead, did you want to respond to that, or follow up?

MR. BISSON: No, I was just going to say.....

CHAIRMAN DEMIENTIEFF: Wait, go ahead, Paul.

MR. TONY: Yeah, I've driven past the Gulkana River to go fish up by Paxson, I know that.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BISSON: I was just going to say this doesn't take them further into the basin, I mean it's basically acknowledging what they're doing on the Gulkana River and Tangle Lakes.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: I'd like to just, you know, bring up one more factor from that Senate Report, because I think it's very applicable, because we end up getting into this discussion every time we deal with C&T and, that's, you know, is the resource in trouble, is there enough for everybody else and things like that. And right in the report it says:
The factors of local residency, economic dependence and availability of alternative resources have been included in Section .804, rather than in a definition of customary and traditional.

In other words, those factors don't apply on customary and traditional, they apply on .804. And we need to remember that when we get into these kind of discussions because we inevitably get on to, well, could they go someplace else, do they go someplace else, could they use something else, and that's not the point. The point is, do they use this, is this, you know, is this something that they're using, do they qualify for that as a C&T.

When it comes to .804, then if they have alternate resources or they've had less use of it or they don't have as much economic dependency or something like that, then that applies, but it doesn't when we're dealing with C&T.

CHAIRMAN DEMIENTIEFF: Thank you. Any more discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, is somebody prepared to offer a motion.

MR. BISSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BISSON: I move that we adopt the recommendation of the Regional Council to make a C&T determination for Paxson/Sourdough.

CHAIRMAN DEMIENTIEFF: Is there a second.

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none. All those in favor signify by saying aye.
Proposal FP04-21 was submitted by the Subsistence Resource Commission for Wrangell-St. Elias National Park. It requests a regulation change to allow those taking a season harvest limit of a fish species under Federal Subsistence regulations in the upper Copper River to also take a harvest limit of that species under sportfishing regulations.

There are no regulatory season harvest limits for freshwater fish under Federal Subsistence regulations in this area but there are for salmon.

The proposed regulation, therefore, is most relevant to chinook salmon.

The proponent states that the current Federal regulation is more restrictive than State regulations for these waters. The Federal regulation is said to be confusing and not well known leading to unintentional violations. By allowing the accumulation of subsistence and sport harvest limits in this area it should be understood that those participating in the subsistence or sport fishery would need to comply with the requirements for that fishery. For example, chinook harvest in the sportfishery requires holding a sportfishing license and a chinook stamp.

Those fishing under State regulations in the upper Copper River may take harvest limits in both the State managed subsistence fishery and the State managed sportfishery. The proposed Federal regulation would parallel this opportunity for those who participate in the Federal subsistence fishery.

The proposed regulation change should not pose an adverse impact to the fish stocks since the...
Mr. Chairman, that concludes my overview.

CHAIRMAN DEMIENTIEFF: Written public comments.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Council coordinator. There were four written public comments received. Three in support of the proposal and one in opposition.

The Ahtna, Inc., supports the proposal. This will allow Federal subsistence users to fish under the State of Alaska sportfishing regulations as well as the Federal fishing regulations and an opportunity to harvest more fish.

The Chitina Native Corporation supports the proposal. This proposal would increase opportunity for subsistence users to harvest available resources and increase the methods they may use.

The Wrangell-St. Elias Subsistence Resource Commission supports the proposal. This Commission supports this proposal as written.

The Cordova District Fishermen United opposes the proposal stating, while the harvest limits discussed in the proposal are of a magnitude to be a problem, we are gravely concerned about the precedent that allowing accumulative harvests sets for both fisheries and game in subsistence management. If additional resources are necessary to meet the needs of subsistence users, subsistence bag limits should be adjusted to reflect those needs rather than implement cumulative bag limits.

We have never heard of Federally-qualified subsistence users in the Copper Basin that their needs for salmon are not being met. If they are not, this proposal is not the appropriate solution.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We have one request for public testimony. Gloria Stickwan, please.

MS. STICKWAN: We supported the proposal
written by Wrangells to allow us to fish under sports
regulation as well as Federal regulations.

CHAIRMAN DEMIENTIEFF: Thank you.
Regional Council recommendation.

MR. LOHSE: The Regional Council like
Ahtna and Chitina and Wrangell-St. Elias Commission
support this proposal. We think it would give an
increased opportunity to subsistence users, and it would
line up the Federal with the more liberal State
regulations.

Thank you.

CHAIRMAN DEMIENTIEFF: Good. I'll just
read the Eastern, and basically Eastern already has on
the record that they simply recommend that they're going
to defer to the home region, so we'll just get that on
the record anyway. Staff Committee.

MR. GERHARD: Yes, thank you, Mr. Chair.
Bob Gerhard with the National Park Service. The Staff
Committee recommendation can be found on page 233 of your
Board book. The Staff Committee recommends that this
proposal be adopted as recommended by the South Central
Alaska Subsistence Regional Advisory Council. The
regulatory language can be found on that page, and I
direct you to the very last bolded section which states
you may accumulate harvest limits authorized for the
Copper River Drainage upstream from Haley Creek with
harvest limits authorized under State of Alaska sport
fishing regulations.

The justification for this recommendation
is that this proposed regulation would benefit
subsistence users by exempting households fishing under
Federal regulations in the Copper River from the general
provisions that prohibit accumulating subsistence and
sport harvest limits. Those taking a harvest limit under
State subsistence regulations in the upper Copper River
are allowed to also take a harvest limit for the fish
species under sport fishing regulations. This regulation
change would parallel that opportunity. It is not
expected to result in a change in harvest patterns or
amounts, and should not pose an adverse impact to the
fish stocks.

And with your indulgence, I'd like to
give you just a little be more information of some events
that took place after the Staff Committee meeting. At the Staff Committee meeting, it wasn't quite clear in our dialogue with the State as to what their concerns were, and the Park Service agreed to have another meeting with State representatives after the Staff Committee meeting. We had that meeting, and fairly quickly came to a consensus that this proposal had always been intended to apply to salmon, and that with the insertion of the word salmon in two places in the regulation I just read, so that it would apply to salmon harvest limits as opposed to fish limits, that that would alleviate those -- their concerns. We discussed this with Chairman Lohse, and I'm sure he'll -- he can report on that afterwards. And I've talked with all Staff Committee members. While we didn't change the Staff Committee recommendation, none of the Staff Committee members expressed an objection to that minor change. And that includes Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Department.

MR. VINCENT-LANG: Thank you, Mr. Chair. I guess we weren't able to, for a variety of reasons, express our concern about this proposal throughout the whole process, but at the end we were able to reach a consensus to it. Certainly we support what Bob just said in terms of modifying the recommended language to limit this to salmon. We think that this was initially focused on salmon. The proposal was written towards allowing accumulation of salmon harvest, as is allowed under State rules, and we certainly support aligning that. We do have some issues, however, with having it just be broad-based to include resident fish species as there may be some conservation issues associated with that. But in terms of limiting this to salmon, we're fully supportive of it.

CHAIRMAN DEMIENTIEFF: Thank you. Is there any other Regional Council comment.

(No comments)

CHAIRMAN DEMIENTIEFF: If not, we'll go to Board -- I'm sorry, what? Ralph, did you have some....

MR. LOHSE: As was pointed out, that most of our discussion centered around salmon, and I don't think there would be any problem. The only problem is when I read back through the transcript that we had, what
was recognized is if we went to fresh water fish in
general, we'd have to come up with some kind of a marking
program, like we have for salmon. And so that was
recognized as a problem. But I don't see where the
Council would have any problem at all limiting to just
the salmon when I read the discussion, because it all
related to salmon.

CHAIRMAN DEMIENTIEFF: Board discussion.

MS. GOTTLIEB: Mr. Chair. I appreciate
Ralph's comments there, because I think the point of
developing this proposal in the first place was that
subsistence users would not have any less opportunity
than sport users in this area, and that was the main
point, and yet as the discussions continued, it turned
out that there was a concern expressed for the
conservation of some of the resident species. And so
therefore I appreciate the recommendations that we've
heard here to take perhaps a more precautionary approach,
and focus on the chinook salmon, which was -- which is
where we started out with.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: I'll just read you one
comment by one member of our Board, and -- to show what
the feeling of the Council was. He says, I have a level
of empathy if we're talking about strictly chinook. I am
not confident this broad scope -- this broad scoped, I
can support this if it's on all fish. So there was some
concern among some of the Council members to begin with,
and that's why, like I said, I don't feel we'll have any
problem if we just apply it to salmon, because if there
is a concern, we can always bring it back to the Council
and extend it to other fresh water fish in a way that
covers them in a safe manner.

CHAIRMAN DEMIENTIEFF: Thank you. Any
other discussion.

MR. BSCHOR: Yes. First of all, I'm just
wondering, I think I'm correct in this assumption, that
this is -- would be the first place that we would have
accumulation relative to the Federal subsistence, is that
correct? And the first time we will, if we approve this?
CHAIRMAN DEMIENTIEFF: Larry.

MR. BUKLIS: Mr. Chairman, that's correct. Right now it's a general provision that you may not accumulate harvest limits, and this would be an exception in this case, yes.

MR. BSCHOR: And then could somebody help me with the statement that it won't add to harvest levels, because I'm not following that totally.

MR. VINCENT-LANG: We're guessing that many of the people that are currently taking a sport limit are probably local residents up there, and they'd be sort fishing anyway, so I don't think it's going to add significantly to it. And plus the fact it will be accounted for.

CHAIRMAN DEMIENTIEFF: Paul -- oh, I'm sorry.

MR. EDWARDS: So this -- still I'm trying to understand this. So what it really means, sort of on the ground, if you had a subsistence limit of 10 salmon and a year or season, and sport limit of ten, if you live in that area, you could actually have 20 fish, and you're okay; is that right?

MR. VINCENT-LANG: That's what the regulation will read as, yes.

CHAIRMAN DEMIENTIEFF: Paul.

MR. TONY: Thank you, Mr. Chairman. Yeah, I think also what it means is that it would put Federal subsistence users on an equal footing with State personal use and subsistence fisher people who can catch a limit under a personal use fishery, and then go on the sport fish side and catch, you know, the limit over there without being penalized.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MS. GOTTLIEB: Mr. Chair, I would like to move to adopt Proposal 21 as recommended by the South Central RAC, but I would offer one minor modification as we've discussed today, and that modification would be that this would apply only to salmon.
MR. BISSON: I second that.

CHAIRMAN DEMIENTIEFF: The motion's been made and seconded. Is there any discussion.

UNIDENTIFIED VOICE: Call for the question.

CHAIRMAN DEMIENTIEFF: The question's been.....

MR. BSCHOR: No, I get -- I have something to.....

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BSCHOR: .....just to add just for the record. I'm prepared to vote for this motion, but I do want to just offer for a concern of the precedent-setting nature of this, that for future deliberations, that we realize this could be a precedent.

CHAIRMAN DEMIENTIEFF: Thank you. If there's no other discussion.....

MS. GOTTLIEB: Well, Mr. Chairman.....

CHAIRMAN DEMIENTIEFF: Yes. Go ahead and comment.

MS. GOTTLIEB: I appreciate -- I appreciate your concern, Denny. I think we can point to the Copper River and the Gulkana system as a place where we have excellent coordination amongst the fisheries managers from start to finish, between the Department, between the several Federal agencies involved, and so my expectation is that that close communication/coordination will continue and -- on a daily or more frequent basis so that everyone keep a very close eye on what's going on.

CHAIRMAN DEMIENTIEFF: Further discussion.

(No comments)

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

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

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

That completes our non-consent agenda items.

I'm going to have Tom review what's left on the non-consent -- or on the consent agenda, and then after that, I'll entertain a motion to adopt the consent agenda items.

MR. BOYD: Mr. Chair, I'll read from the handout, the agenda handout dated 12/8/03. The consent agenda items remaining, and I'll just list the numbers, Proposals FP-04-04, FP-04-08, FP-04-09, FP-04-10, FP-04-11, FP-04-12, FP-04-15, FP-04-22, FP-04-23, 24, 25, 26 and 27, FP-04-31, FP-04-34, FP-04-38, FP-04-39.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Is there a motion. Judy.

MS. GOTTLIEB: I'll move for unanimous consent.

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: The motion's been made and asked for unanimous consent. If there's -- is there any objection?

(No objections)

CHAIRMAN DEMIENTIEFF: Without objection, so ordered. That's complete that as well.

It moves us on to the Staff Committee discussion. Okay. This is a discussion on the role of the Staff Committee. I think, Peggy, go ahead.

MS. FOX: Thank you, Mr. Chair. So that others may track with my talking points, I'd like to ask those of you that might have it, to pull this blue paper out of your grey packet, and those packets were available to the public as well, but every person at the table here should also have one. I will be referring to points in that.
Last May of 2003, during the Federal Subsistence Board meeting, the Board Chair entertained a discussion on the appropriate role of the Interagency Staff Committee in the decision-making process. He acknowledged Regional Advisory Council perceptions that the Staff Committee may have undue influence on the Board, the decision-making process, and the resulting rulemaking. The Board Chair directed a review be conducted of the Interagency Staff Committee's role in the regulatory process, focused on when the Board is considering Regional Council recommendations on the taking of fish and wildlife in compliance with Section 805.

The Board offered a series of proposed changes to the role of the Interagency Staff Committee and to the decision-making procedures at Board meetings for Council -- Regional Council consideration during the recent fall meetings. Four of the five changes, those are the ones that are numbered 1 through 4 in the handout, develop -- were developed to institutionalize more direct communication between the Interagency Staff Committee and the Regional Councils. On the handout, these are numbered 1 through 4.

Some of these measures have been taking place over time on a limited basis. Adopting these proposals would assure they become standard operating procedures.

The desired effect of these four procedural changes is to promote direct communication between the Regional Councils and the Interagency Staff Committee on proposals earlier in the decision-making process. Regional Council comments received were favorable to these changes.

The proposed changes in number 5 have to do with Board meeting procedures. These changes brought the greatest response and range of responses from the Regional Councils.

First, let's look at the response to 5.A., the proposal to eliminate the Interagency Staff Committee recommendation. The alternative to developing an Interagency Staff Committee recommendation is for the Interagency Staff Committee to provide Board members with an analysis of the issues inherent in a proposal. This analysis would be available to everyone in the Board book prior to meetings and would not require an oral
presentation at public meetings. The desired effect is to facilitate direct communication between the Board and the Council Chairs by eliminating a formal role for the Staff Committee in the decision-making process.

Regional Council comments varied with some strongly supporting eliminating the recommendation to others seeing value added from hearing the Interagency Staff Committee recommendation and rationale, especially when it supported a Regional Council recommendation. Likewise, the Staff Committee was divided on this proposal, and presents two options for Board consideration.

Option 1 is that there will be no formal role for the Staff Committee at the Board meetings that address regulatory proposals. The Interagency Staff Committee would provide comments resulting from discussions held with Council Chairs and the Department of Fish and Game at the Interagency Staff Committee meeting that precedes the Board meeting. The written analysis of a proposal to change a fish or wildlife regulation would be available to everyone in the Board book prior to the public meeting.

The second option identified by the Staff Committee was to continue with the status quo. That is, that the Interagency Staff Committee currently develops recommendations and presents them at Board meetings that address regulatory proposals. The recommendations reflect the conclusions reached by the Staff Committee in discussions involving affected Council Chairs and the Department of Fish and Game, often based on information not available or considered at the Council meetings. The recommendation is always available in the Board book.

A third option could be crafted by combining the two above. The Interagency Staff Committee could develop a written recommendation for the Board book. However, the Interagency Staff Committee members would no longer present it formally at the public meeting. This would provide the Regional Councils and the Board with the benefits of their analysis and conclusions without appearing to compete with Regional Council recommendations during deliberations.

The second proposed change under number 5, that is 5.B., is for the Board to begin deliberations on a proposal, that is, at the time the Board is ready to make a motion, by entertaining a motion based on a
Regional Council recommendation. This proposal focuses on the Regional Council's recommendation, emphasizes compliance with Section 805(c) of ANILCA, and responds to several of the Regional Councils' concerns when Interagency Staff Committee recommendations conflict with Regional Council recommendations.

Regional Council comments received on this proposed change to procedure were all very favorable. The Interagency Staff Committee also supports this change in procedure, and recommends the Board make this a standard operating procedure for when the Board considers regulatory proposals on the taking of fish and wildlife. This could be implemented regardless of how the Board decides to act on 5A., the specific role of the Interagency Staff Committee at public Board meetings.

In summary, the proposed changes received a favorable response from the Regional Councils, indicating they saw the changes as a step in the right direction. Having the Board begin deliberations with a motion based on a Regional Council recommendation received the greatest positive response.

The Interagency Staff Committee recommends adopting the changes proposed under 1, 2, 3, 4, and 5B. With regard to 5A., we offer these options for the Board to consider that reflect the range of Regional Council comments.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Well, I'll jump in on this. I guess this is -- for me, this is kind of somewhat of a dilemma, because I guess quite frankly I can probably support any of the options, and I may even offer a potential additional one.

In saying that, I don't think there's any question of the value that our Staff Committee plays. I know the State feels that it's a very important function, particularly the meetings that they have prior to our Board deliberations, and I know now that we've been including the Council Chairs. I think that has really been a good addition. And I think that discussion and what comes out of that both in the conclusions and some types -- times their modifications and all I think has
served us well.

And -- but also I know from our two people that represent the Fish and Wildlife Service on the Board, the counsel that I get from them and the involvement that I have with them on a one-to-one basis is also extremely important for me as a Board member in order to, you know, get prepared and come to this -- to come to this meeting.

But I guess I would also have to say I've always found the role of the Council -- or the Inter -- the Staff Committee at these meetings a little awkward given that the Staff Committee is made up of the same agencies that sit up on the Board. And one could argue it's almost like the Board making recommendations to itself and then turning around and acting upon those recommendations.

Now, that's not necessarily bad, but it just does seem a little awkward, because this Board, for example, in my mind, is considerably different than the Fish and Game Board let's say, or most game and fish commissions, because those are usually made up of individual entities, and the agency itself doesn't sit on the commission or upon the board, but in our case actually the agencies are the ones that sit on that. And they also have the same individuals that are a member of the Staff Committee. Or the same agencies represent the Staff Committee.

So I guess in conclusion, I could support that, and I guess I could even support something that would go along the lines that the Interagency Staff Committee would conduct discussions with the Council Chairs, and ADF&G at the Interagency Staff Committee meeting preceding the Board meeting, and then the findings and conclusions from these discussions would be conveyed to Board members by their respective Staff Committee members, which would basically say that neither would they present, orally present their conclusions and findings at this meeting, or wouldn't even provide them in writing, but would simply -- that discussion would occur between that individual Staff Committee member and their respective Board member.

But, again, saying that, I don't have any problem with how we've been doing it, or I guess I can also accept any of the other potential options. I think it's more maybe a matter of what the Regional Advisory
Councils think about it, quite frankly, than what I personally think about it.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. BISSON: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BISSON: I for one favor moving away from the status quo. Just as Gary has expressed, I think the status quo for me has worked fine, but I think it's more important to me to have some pre-work accomplished and to have the Staff recommendations or the Staff analysis along with the Regional Council recommendations in advance is what really helps me. I'm not sure that having a presentation here by the Staff contributes as much to the process as the advance work.

So I would be inclined to try to move to a different option than the status quo.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Option A, is that what it is?

MR. BISSON: Option 1, what is it?

CHAIRMAN DEMIENTIEFF: Option 1, yeah.

Okay. Got it.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Who's that -- yes.

MR. LOHSE: Speaking as a Council Chair, I like the work that you guys did on working on this. I like the idea of starting the discussion with the Council recommendation. But I would hate to see us lose the expertise and the work that goes into the Staff recommendations. I think it's very valuable. Like it was brought out, a lot of times they have access to information in between times that we didn't have.

I like the idea of them not making a recommendation, but giving options. To present it as an option instead of as -- instead of a recommendation, puts a different sense of authority on it. And from that
point of view, if you take the recommendations of the
Council as your starting point, options can be presented
to that, alternatives can be presented to that that we
can work with at the meeting right here to come up with
something that meets the needs of what we're trying to
accomplish, and yet at the same time not usurp authority.

But there are times that as a Council, I
-- we depend on some of the information that they dig up.
And we depend on the fact that they can write things in a
way that sometimes expresses what we want to say better
than we could.

Thank you.

CHAIRMAN DEMIENTIEFF: Yeah, they play a
very valuable role I think. You know, what the big
problem was that we were hearing from our RACs is we go
back, you know, is it appeared that the Staff Committee
was having a bigger role than the RACs, you know, which
was basically, yeah, I think an optical illusion, you
know, because that wasn't the case, you know, we said
over and over. But I think this clarifies it actually,
and just makes it -- hopefully makes that whole issue go
away.

Yeah, John.

MR. LITTLEFIELD: Thank you, Mr. Chair.

Obviously our Council believes that proposals should come
from the bottom up, and they should come first to the
Regional Advisory Council and then to the Federal
Subsistence Board. The Interagency Staff Committee can
exist if they want to be, but they should only be, like
Ralph says, making options, they should not be inventing
stuff, which they've been doing in the past, coming out
with totally new information that we have no access to.

The Regional Advisory Council meeting
with the -- in the Interagency Staff Committee has a very
limited role to play, the Council Chairs. I can't just
go and say, oh, yeah, that's a good idea, and I'll buy
off on it. That's not my role. The Council's already
acted, and they told me which way to act. And the
guidelines of FACA prohibit me from changing that with
getting together with a couple officers and saying, yeah,
we'll change that. I don't have that authority. We
can't do that. Everything we do is out in public. And
that's the way the system was designed, and I still stand
behind I would like all of the information that's debated
at this meeting to be presented to the Regional Advisory Council, your staff give you what -- you know, go ahead and give you the pointers of what you're supposed to do with it, and there's another year. There's six months down the road, here comes another meeting, a year down the road, here comes another meeting on wild -- the same wildlife. And that's normally how people -- if you miss the -- if you miss the deadline, you bring it in -- up at the next cycle. And I think that could work. But I've seen way too much information come out of the Interagency Staff Committee after the Reg -- it leaves the Regional Advisory Council.

But this, the steps you're taking here, they're positive. And I would say the status quo is unacceptable.

Thank you.

CHAIRMAN DEMIENTIEFF: Well, that's -- you're speaking in favor of option 1 then, I mean, I'm trying to understand.

MR. LITTLEFIELD: I would say, yes, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: I guess when you come right down to which option I would prefer, I would probably prefer option 3, because I do recognize the value of the Staff Committee's role.

Our only objection, like Tom (sic) pointed out, our only objection to anything the Staff has ever been done is for the Staff to bring forth proposals. We don't think that that's a position that the Staff should be in. We're a reactive Council. We react to things that people bring to us. There are proactive Councils. There are a lot of Councils that submit a lot of proposals on their own as a Council, but with the wide variety of people that we have in our area, we prefer to have them bring proposals to us, and we will act on their proposals, and we prefer not to have the Staff bring proposals forward for us to act on. And that would have been the only thing that I have had an objection to the Staff since we started, and I've been here since the beginning.

So I appreciate the Staff, and I like
CHAIRMAN DEMIENTIEFF: Well, I just wanted one quick response, too, I think that, you know, John, the only thing I think would be missing from Staff Committee getting information to the RACs would be late developing biological information coming in. You know, studies that maybe were -- would be out of sequence with the RAC meeting. I mean, you know, that's the only thing I could see that would, you know, if we -- when we go with this that could possibly. Although we could do our best to try to get that information out, if it -- you know, prior to the Board meeting.

MR. LITTLEFIELD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LITTLEFIELD: Let me say that that applies to everyone. The State, the Staff, everybody. We want that information at the Regional Advisory Council. It's our duty to review these and to make recommendations. See, that's our duty by ANILCA. And to do that, we need all the information. We need all the information you've got, all the information the State has. They may not have -- we can go round and round in this circle that I don't have this here, I'm waiting for this, and it's endless. You know, you're waiting for the next part to come up. And tome, I just say, bring that up in the next cycle. I mean, you've been here a long time already, and it's -- and just bring it up at the next cycle. That's what ever -- that's what the other boards do. That's what they tell us if we miss it, miss the deadline.

CHAIRMAN DEMIENTIEFF: Any more discussion or motion or.....

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Well, first of all I want to thank everybody who worked on this effort. This effort, this synopsis came about as a result of the conclusion I believe of our last meeting where we heard some voices of the Regional Advisory Council Chairs saying the Staff Committee seemed to wield too much
power, and I think this meeting, the last couple days, 
was a good example of some adjustments that have already 
been made, because we heard those concerns. And I think 
we focused much more in this meeting on the motions and 
of the recommendations of the Regional Advisory Councils, 
and not so much on the Staff Committee.

With respect to the Staff Committee, in 
my opinion, they truly support the Board, and they truly 
support the Regional Advisory Councils. They're good 
people who will continue to provide that advice and 
counsel, and so to me it seems a bit unproductive not to 
read their -- whether we call it maybe option or what 
we've called recommendation, because it's going to exist, 
and I think it is useful to us, because I'm a believer of 
more minds put together, that we may come up with 
different solutions that we hadn't seen before. And, in 
fact, on example is Ralph making the suggestion just now 
of an option 3.

So I would like to commit that the Park 
Service Staff Committee members will get to more of the 
RAC meetings to hear first hand and participate with you 
during your discussions, and maybe then continue to have 
that sense of what's going on in your area, and continue 
our education of what the issues are.

CHAIRMAN DEMIENTIEFF: Let's see, I 
think, Doug, you had a -- or Marianne -- I'm not sure 
who.

MS. SEE: Thank you, Mr. Chair. We 
recognize that primarily this discussion is about Federal 
program issues, but we'd like to offer some observations 
in the spirit of effective coordination that may enhance 
hopefully the discussion here.

We note that the recommended language in 
this document appears to change the role of Staff, and 
this has been something just discussed, from one in which 
they would be making -- or they currently make 
recommendations to one in which they're providing 
comments. What we consider that this -- this looks like 
a significant shift which would affect how recognized 
scientific principles as required in ANILCA, and that's 
the language in ANILCA, would be provided to assist in 
the deliberative process for rulemaking. The Staff 
analysis -- or Staff Committee analysis and 
recommendations currently help form a basis for 
addressing the recognized scientific principles required
by ANILCA, and we feel that they complement the additional information that comes forward from the Regional Councils' public process, public -- additional public testimony, public involvement, and Fish and Game as well as others contributing to the process. We question whether Federal Staff comments would fulfill this function and requirement as effectively as do recommendations. Thus, we consider that there are provisions in Option 2 of the briefing document that are really of merit, and we would support those.

We also note on the second point that we appreciate some of these proposed changes reflect Councils' needs to have the most current information at their meetings. We share this goal and know that this is inherently challenging, and frankly difficult due to the seasonal timing of the Council meetings. And we've certainly raised this point before, and it's a hard one to get around. As an example, much of the current year's fishery data is unavailable until after the September and October Council meetings. It's simply not possible to bring it to those meetings. Similarly, some of the key data for wildlife are unavailable until after the winter meetings of the Councils. Often it's available before the Federal Board meeting, but after the Council meetings, and that's really a problem.

We would welcome suggestions on ways to ensure that the Councils can have timely access to the best available information, but we need to recognize that some of the key data categories will continue to be out of sequence with the current Council meeting schedules. And we regret that this is the case. We wish we could change this, but on our end of it, with these schedules, it's nearly impossible. We believe it's critical that the deliberative process for developing subsistence regulations be based on the best available information at the time of the decisions, and we hear this from the Councils and all involved with this process.

We appreciate the opportunity to offer these comments, and would be glad to answer any questions that you may have.

CHAIRMAN DEMIENTIEFF: Thank you. John.

MR. LITTLEFIELD: I think that's kind of like Option 3 Ralph was talking about. I don't disagree with anything that was said by the State. My disagreement is the timing. I agree, all that
information is critical. You need it all, but we need it all. In other words, maybe the solution is to, like I suggested in one of them, is eliminate that Staff Committee meeting and move the times back where we meet, you know, just a month ahead of you guys or something like that, where everybody has the time to get that information to us at the Regional Advisory Committee. And then instead of meeting in October, we could have met in November and then came right to you, and we would have had the latest available information. We just -- I don't disagree with any of those. We just want the information at the Regional Advisory Council. However you can work that out.

CHAIRMAN DEMIENIEFF: Yeah, we'll take that as we go, but it would be a simple Staff nightmare to be preparing for this Board meeting, the volume of work, and to also in that same month be going out to Regional Council meetings. You know, it would be a logistical and a Staff nightmare. Grace.

MS. CROSS: Well, thank you, Mr. Chair. We didn't discuss this during our RAC meeting at any length at all, and I missed the meeting during the Staff Committee for personal reasons.

My feeling is that, this is my personal view, I think, you know, it's good that the role of the Staff Committee's being looked at, and I think from my experience with -- from coming to the Federal Subsistence Board meetings, sometimes Chairs from different regions, including myself, at times we submit a proposal, by the time it gets to the Board, it's changed a lot, and you get the feeling that it's stacked up against you already. What you discussed at the RAC meeting changed when it's presented by the Staff Committee. The rest of your RAC has no knowledge about it, and you're kind of sitting here at the Chair making decisions which makes you at times uncomfortable.

One of the things that we do in our region, and I think the Staff Committee would surely agree with me, is we get proposals, and sometimes the proposals that are submitted to us, to the RAC by individuals who are not quite familiar with writing proposals, have problems with it, and we try go encourage the Staff Committee identify those ahead of time so they can work with the proposer, so it's something that the RAC can address, that it's correct to the point where it would not be sent off with a technicality. So I find the
Staff Committee very responsive to that. I hope that when you're talking about Staff Committee rules changing, one of the things would be to -- I can't -- they're always responsive, is to continue to encourage them to do that, that if they see a problem with the proposal, that they bring that up to the Council with a possible solution before -- even before it goes into discussion maybe. And make it so that we can address, because there's a problem -- legally there's a problem or something. But they have worked -- in my region, they have -- the Staff Committee has worked, has -- with individuals where we were able to address proposals that we couldn't possibly have we had not asked, is this correct.

But anyway, I guess in the long run is, my personal feeling is that I kind of like Option 1, but that's my personal opinion, and -- but they are -- I just wanted to say that Staff Committee, the information they provide our RAC is very helpful to us when we make the decisions, and we do ask a lot of questions. But sometimes like, you know, John said, a lot of times we have to make decisions without the proper numbers, because of the timing, and I don't know how in the world that could be solved, and I'm glad I'm not in the position to try to solve that. However, I just wanted to present that as my personal view.

I do appreciate the Staff Committee. In a way, I feel they do have too much role when it comes to the Board meetings. It's kind of like -- in some ways it -- and it's kind of hard for an individual to go up there and talk to your boss, put it that way. Your subordinate's sitting over here, talking to you and say, this is what we're recommending. It kind of makes you wonder as a RAC member how much influence did that boss have in this decision, the Staff Committee recommendation. Maybe that's something for you to think about.

Thank you.

CHAIRMAN DEMIENTIEFF: Well, let me just say this also, is that I think the package is a step forward, you know, and like all of the -- our regulations well, you know, this is not a regulation, but like all of our -- like our regular regulatory regulations, they, you know, can be brought back and tweaked, you know, those kind of things, but overall the package I think is moving in the right direction. John.
MR. LITTLEFIELD: Mr. Chair, so that there's no misconception, I would like to say that the Staff Committee at this particular meeting, I thought handled themselves very well, and I appreciated what came out. This is -- you've been evolving a little bit already, whether the option is there, and I -- and it was noticeable to me. The proposals I didn't see were rewritten totally, and that's my biggest fear there is, like Grace said, we -- our hands are tied. We can't come in here and bargain with the Staff Committee, we can't bargain with you guys. Our hands are tied. And so that's why we don't want to see chang -- too many changes. But I do appreciate their work. They've been doing a very good job at this meeting.

MR. BSCHOR: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BSCHOR: None of us can do our job without this Staff work, and there's a lot of work, and it isn't a perfect world, and we all realize that, so the timing issue's always going to be there to some extent. I guess I can live with -- what I'm hearing, the only change that I'm really hearing that's significant is whether there's -- it's either the perception or the reality that there's actual influence on the decision outside of -- you know, after all the work with the Councils, and I really appreciate that concern, because that's not the intent, I'm sure. But the real changes that -- whether they give a recommendation or not, and I can live without a recommendation in this meeting, but I certainly need the completed Staff work, the thorough analysis, and that sort of thing, and then summarized for this meeting so that I have time to read it, because I have to admit, and maybe none of the rest of you have this problem, but there's a lot of volume here, and I can't get through it all in the time that I have. I've got another job besides this, in fact many more aspects to my job besides this, and we all have -- we're all short of time, all of us. I'm not the only one in the room in that kind of situation, so I'm very -- for those who work for me, they can tell you that I expect very high quality staff work, timely staff work, and done in a way that's summarized there so that I can pick it up quickly. And I want to compliment my staff in front of everybody today, because they've done that. So that's the expectation I have, a recommendation, per se, if that's offensive, let's don't do that. As long as I have the analysis in front of my and there's a summary of the
pluses and minuses with alternatives that are available
to us. Just wanted to at least say those few things, and
compliment the staff that -- not just the Forest Service
staff, but the OSM staff, the -- and the other agency
staff that work to help us reach some decisions on some
very, very complex issues.

Thank you.

MR. EDWARDS: Mr. -- one thing I guess, I
don't know if I'm disagreeing with you or not, but I
wouldn't want to send the signal to anybody that the
input that at least I receive from our staff folks, which
I would also argue do an exceptional job, doesn't have
ultimately potentially some influence on my decision.
Now, I did today vote twice against what their
recommendation was, but it has influence just like we --
the influence that we get from the people in the public
who come up, that we get from the Council Chairs, and we
get from the State, so there is some influence there,
there's no question. The time that I spend with our
Staff representatives, you know, is very helpful to me to
get ready for this meeting, and I look to their opinions
and their views on things. I may or may not agree with
those, but I wouldn't want to send a message that somehow
there's no influence from that, because there certainly
is, as there's influence from everything you have around
you when you're trying to gather the right information in
order to make the right decision.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Mr. Chair, I think that
was the definition of a substantial evidence. I think
that we do the same thing. We weigh everything. It's
not -- I'm not trying to put them down. I'm just trying
to get the process here that gives more deference to
Title VIII, but I certainly appreciate their input, and
they're pretty smart. They're easy -- they're good to
deal with, so.....

MR. BSCHOR: I forgot one item, too, and
I do want to support the efforts in this package to get
the Staff work done at the Council level to help at that
level, work through the issues, work through the
proposals. I think that's absolutely key to success of
effective decision-making when it gets to this Board.

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

MS. GOTTLIEB: Along those lines, I think we often remember negative things that happen. If we look at the consent agenda today and the number of proposals on that consent agenda, that meant that the Staff Committee as diverse as it is, the Councils, the State, you all agreed. You all agreed at that gross rood, if you will, level, and I always think that's the major accomplishment of this system. So I want to thank you all for doing that, and I think that's a true value added to our system.

CHAIRMAN DEMIENTIEFF: Grace.

MS. CROSS: Thank you. Staff Committee, their analysis and the information they provide to the RACs is invaluable. I don't think there's some -- there are times that we would not have made a decision without the analysis and the Staff information that's -- the information that the Staff provide us.

I think part of the problem, in my personal opinion I'm talking now again, is that maybe part of the problem is that the Staff Committee that works with Seward Penn, I can call them up and somebody responds to me. I can refer them to somebody, they'll help that individual. We had teleconferences that were set up because we had these proposals that are so crazy we needed to figure out what to do with them. So by the time the RAC comes in, the person that is submitting the proposal has it where it's workable for the RAC. There's no decisions made, but that's the proposal that comes out.

I -- so I never did find that a problem with the Staff in terms of cooperating with the RAC, at least with Seward Penn.

I think the problem comes in is when, there are proposals that are submitted and they change so drastically by the time that they are presented here and there really wasn't any correspondence between the RAC and the Staff before that happens. The recommendation has changed so much from the original proposal that you're essentially kind of surprised in some ways and then I think there ought to be some more correspondence with that.

Thank you.
CHAIRMAN DEMIENTIEFF: I think we've pretty much exhausted the points here. Paul.

MR. TONY: Yeah, Mr. Chairman. I'm pretty new this whole process and this Board. But I think I would agree with what Grace said and I didn't really see any examples of that today, but I could imagine, you know, where the Regional Advisory Council recommendation and the Staff Committee recommendation differed and that the -- maybe the original proposal was slightly amended but it had the substantive change, you know, kind of puts the Advisory Council Chairs, I think, in a difficult position, because it's now something different than, you know, was discussed and went through the process that they're empowered to speak on when they come here as the Chair of that committee.

And so that maybe is the only -- but I do agree with everybody else's comments that the analysis and the Staff work is excellent and that it is invaluable to the process.

MR. BSCHOR: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BSCHOR: One last point and just to show how good my Staff is, they are willing to tell the emperor he has no clothes on.

The point is there has to be some Staff Committee recommendation at some point or else we would not have a consent agenda. So, you know, if -- I was a little strong on what I said as far as the recommendation. What I was saying is to speak out on a recommendation for those non-consent deals. Now, I don't know how we handle that but I just wanted to make sure I made that point.

Thank you.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Mr. Chair. If I could offer a suggestion perhaps.

I think the question of proposals changing due to Staff analysis, we have heard that and we have really made great strides in not letting that happen as maybe it did before. With the issue of changes post-
RAC meeting I think we have some agreement that Staff Committee and the Board has made some adjustments since the last Board meeting to be attentive to that but we're not all the way yet.

I guess I might suggest maybe we can keep this option paper a little bit longer, take into account the comments we did here today because as always the discussion's been valuable. And see if we might be able to develop some consensus viewpoint based on these discussions.

CHAIRMAN DEMIENTIEFF: So your recommending that we just take a little longer before we actually take an action.

MS. GOTTLIEB: Right.

MR. BOYD: If I could summarize a little bit.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BOYD: I heard -- just trying to go along with what Judy said. I heard a couple of key issues come out.

I think one was the perception of undue influence by the Staff Committee.

And the second one was the one that Mr. Littlefield raised about the -- and others have raised about the changing, sort of ground, that they're facing when they come to the meeting and some of the proposals have shifted, because of either new information or -- well, generally because of new information so those are the two key problems that I've heard.

I think we've worked real hard on the undue influence part of it or the perception part of it in a number of ways and I hope that's -- we're along -- well along towards satisfying that concern.

The other one's a bit harder and I don't -- I mean, Mitch kind of alluded to it, is in scheduling these things it's and the State's brought some information to the table. In scheduling these meeting and how we structure the process, often times we're faced with some proposals that just aren't well done yet, aren't completely done yet even at the Council level. I
understand that frustration that the Council's face. I
don't know how we're going to fix that, but that's the
challenge before us. And I guess I would hope that we
could get a little more time to look at that one. I'm
not going to say that it's easy to fix or it can be
fixed. I'll just say we can take a hard look at it.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Well, I think Tom hit the
nail on the head how we fix that. We put them off until
-- if a proposal's not ready to be addressed, if we don't
have all the information we put that off until the next
round so that it can be taken to the RAC and be
completed.

I'd just like to comment on what Gary
said before. I hope that you all are like Gary that way,
and you're willing to tell your Staff or the RAC or the
Fish and Game or somebody making testimony out there that
you disagree with them. And that you're willing to take
all the information that you get and you're willing to
make the best decision that you can with the information
that's presented to you. I don't expect you to agree
with us all the time. I don't expect you to agree with
Fish and Game. I don't expect you to agree with everybody
that testifies. But I do expect you to try to take the
information that's presented to you and use it to come up
with the best decision that you can come up with.

CHAIRMAN DEMIENTIEFF: Okay. Is that the
concurrence of the Board, that we go ahead and postpone a
decision pending a little bit more work.

(Board nods affirmatively)

CHAIRMAN DEMIENTIEFF: Okay. If there's
no disagreement with that, we'll move on to Regional
Council discussion items. I note that we only have four
of the 10 RAC chairs here so -- but there is one thing
you guys can know, and we will make the effort to get it
out to the other -- to get it out to the Regional Council
meetings, I don't know exactly how we do that so I'll
leave that to Tom.

I was hoping more of the RAC Chairs would
be here. The Board met last week and we decided that we
missed our RAC Board meetings. RAC Chair Board meetings.
We have several issues, we went over them. Having them
before the regulatory meeting sends the wrong message to
people who are on the outside, who aren't a RAC Chair.
So we're going to have those meetings at the conclusion
of the regulatory meeting. We are going to have them in
public, we don't really have anything to hide anyway, you
know. That gives also wrong impressions, the way we were
doing it before in executive session, you know, prior to
the regulatory, it just kind of made it look like we were
making wheels and deals behind closed doors, which wasn't
the case and we all knew that.

The other thing that we are going to
submit, we want agenda items submitted for review prior
to the meeting, and we'll set the timeframe out for that.
And basically that would be for legal counsel review so
that we're not inadvertently scheduling items that are
matters of litigation so that's -- we'll set a deadline
ahead of that and we'll have that out in time for the
RACs to take a look at that. But we realized, we talked
over many items and Board members and RACs, you know, can
nominate agenda items for that. We'll just have to
screen them and go through them, because it's a definite
function and we miss it. So we'll get more to you on
that and we'll get it out in time for your RAC review.

You guys have any other concerns. Yes
John.

MR. LITTLEFIELD: Mr. Chair, is today
the last day?

CHAIRMAN DEMIENTIEFF: Yes.

MR. LITTLEFIELD: Okay. Well, I have a
few concerns then, I guess I better bring them up. I'm
really disappointed, I thought we were going to have a
full Council Chairs here, but I'll just go ahead and
speak for our Council and say some of the things that
we've had problems with.

Of course one of them you heard this
afternoon, was Stikine, and let me tell you it hasn't
gone away. We didn't really -- if you listen to what was
said we really didn't get anything for sure but we think
it's much better then what it was. In other words I'm
certainly happy with what the Commissioner -- Deputy
Commissioner said and we expect good results out of that
meeting that's coming up. It's still a burning issue for
the Southeast Regional Council, is to get what they
believe is a thousands of years old fishery that predates
Canada and the United States recognized, there's nothing
new about it and they'll tell you that, and over and over they've told you it's not a new fishery.

The other thing is U2 deer. You're going to see 16 wildlife proposals next time we meet that have to do with deer in Units 1 through 5. Fourteen of those proposals specifically deal with U2 deer. And when we talked last year we were going to have some progress reports monthly, we were going to have a report from a contractor for the Forest Service of whether we could be like Rodney King and all get along, and I'd like to know where we are on that. U2 is not going away. We need to get the data that we've asked for.

We've asked specifically to get the State to require more mandatory reporting because our reports have been, according to Mr. Brainard, he usually does those, I believe, have been very good, we've had good reports, in the 90s and 100 percentile return. We need to get a good handle on deer, because it's not going to go away we can see that there's 16 proposals. So all the information that we can gather on U2 deer would be very good. So with that in mind we may or may not be submitting something to the Fish and Game on agenda change request to try and gather more information.

Gathering more information, that's another one I got problem with. We have -- at the Craig meeting came up with, I believe, two resolutions and three or four letters. Well, I haven't been able to sign a single one of them and send them out. That's because there's a moratorium on correspondence from the Regional Council Chairs. We've got to be able to do our job. The Regional Advisory Councils are here because if you read FACA to -- in their independent judgement, make recommendations to the Federal Board, the Secretary. And I emphasize the word independent. We can't have people who are not the Federal Board, in other words, if you read our charter, the charter says we report to the Federal -- to the Chair, Mitch and that's completely within bounds. If Mitch says I don't want you writing any letters and here's the rational for why it isn't done, then we won't write any more letters. But we don't have that, we have some Staff people who have told us we can't write any more letters. And so I want you guys to address this and I think the Board needs to address it.

I've got information gathering stuff on customary trade which I'll bring up here in a minute.
We want to make a statement to the North Pacific Management Council. We made an oral statement for those two items and Mr. Probasco carried those the next day to a North Pacific Fisheries Management Council meeting. They're on the transcripts, I mean you can't hide the transcripts, what we said. But when we tried to follow up -- follow that up with a letter explaining what we said, we can't do it and I think those issues need to be solved. We've been doing this, at least, as far I know, since I've been on here, and my understanding is this has always gone on. We're not going to write letters hopefully that would -- that would make the Secretary -- make me not the Chair tomorrow or maybe not sit on the Council.

I don't think we're going to do that. We have to be able to gather information though, that's part of our job. And one of the things that we talked about was the meetings, getting participation by others to attend. If we'd have had 12 letters from Petersburg, most likely we would have done that a little bit different, most likely. We had none and so I would like to see at least the Regional Chair have the ability to write letters to -- we're going to meet next time in Sitka. We should be talking to the Sitka Tribe, we should be talking to the Alaska Native Brotherhood, we should be talking to the Sitka Fish and Game Advisory Committee, and I should be writing them a letter saying we want you to gather up all your people, come to us with problems.

Now, that's our job, and if I can't write a letter to anybody or comment on anything, I don't think we can fulfill that job correctly.

That's my own personal perception. But I can tell you right now we're on a moratorium I'd like you to resolve that.

Two of those issues, since Craig have become moot, because what they took a resolution and action on is gone. In other words, it wouldn't make any difference if you said go ahead and sign them, it's moot. We can't wait around for months and months to get these done, I either have to have that authority within reasonable bounds. In other words we're not asking you to write goofy letters to the President and whatever something like that. We're just not going to do that and no one ever has. It's been past practice and hopefully if it's not broke you don't need to fix it, that's
Some other perceptions. I talked about customary trade we wanted to write a letter to Mitch asking for a definitive definition of customary trade. If you'll remember at the last Board meeting I complained about that little brochure that was laying on the table outside when I came in. That had in one column is it legal for me to sell fish, and it said yes and if you looked at the next column it said no. Then it had a bunch of gobulty-gook [sic] about different State regulations in there that have nothing to do with the Federal program. Can we do customary trade or not, that was our question to Mitch and the Board and we want that answered.

The other letter we were going to send was to the State of Alaska on the very same issue. On customary trade and say we don't like this statement that says we're going to let you get away with a little of breaking the law, but we're not -- we're only going to go after the big guys. I think that's wrong and I think we need to settle that. It was talked about a little earlier on breaking the law, Ralph brought that up on 35 mesh, these people break the laws. The law is there and meant to be enforced and right now we've got the State saying well we're not going to bust you unless you take too much.

I don't want to go with that, in other words if it's customary and traditional we want to do it; that's what the law says.

The Council was also concerned about the non-voting Federal Subsistence Board member and they took a position on that. I haven't heard it discussed. We support the record of decision that says the State liaison, which is one, not three, the State liaison, which is one, is on the same par as the Regional Council Chairs. In other words if you look at that in the record of decision it says that we will serve as liaisons to the Board as well as a liaison from the State. I think the State has got the good deal here we've had -- in the two meetings I've had there was two before, and I think that's great, we want that, but if we have on single liaison, what we want is that one single liaison to be the voice which is channeled through everything to us.

We're struggling with this U2 deer and every person that gets up and testifies from a Department
has a different story for us on where the deer are hiding in the bushes and all this other stuff. We want that to be funnelled through that liaison and hopefully we would get one voice speaking from the State. So that might be a good thing, it might be a good thing for all of us.

I guess I'm going on and on and on here. I expected to to do this Friday so I had some other things, probably, that I did not bring with me. I guess that's were I'm coming from and we'll leave it there. If you have any questions I'll answer them.

CHAIRMAN DEMIENTIEFF: Any other Regional Council comment.

MS. CROSS: I do. Thank you very much. I'm really surprised we're already done, and alarmed because there's so many fish proposals that the Board addressed and there's so many concerns about the number of fish there is out there. Maybe that's one reason we have so many fishes in the consent agenda. That alarms me.

But what I wanted to talk to you about is that I'm very disappointed with -- we had made a -- Seward Penn had made a request to the Board about increasing our RAC size from 10 to 13 because we felt that our villages were not adequately represented. We had a letter from the Board that said it would be addressed at '04. Unfortunately when I look at our charter it was already a done deal so I guess we will renew that next year. But I still wanted to bring that out, that letter, a request will still be coming to the Board requesting that our RAC be increased to 13.

Right now, currently, one of the regions that we have -- there's two villages from within one of our game units that do not have anybody representing them. So next closest game unit is trying to work with them so we can get some kind of representation. I realize that, you know, we do call and we do work with the IRA Councils and try to get representation from them but it would really be nice if -- you know, if our RAC number increased then we wouldn't have so many worries about that.

But anyway I wanted to tell you that I am disappointed in that and I think the RAC will be very disappointed also, that although we were told this was going to happen, at least, would be considered, it didn't
happen but I know that perhaps it wasn't within your control either. I would like to ask the Board to please make sure that any request, maybe we're the only one that made the request to go from 10 to 13. That those be taken into consideration next year and not have another delay because any delay means less representation from my communities up there.

I also wanted to thank the Federal Staff for helping us so much this year. We had a number of -- we have numerous game problems especially pertaining to moose. The Federal Staff has been very helpful throughout the year and have worked with us and we do like having -- not going in front of the Board to ask for special actions also, it really speed up the process. I think that was a really good step and I thank the Board for moving in that direction because it was one less meeting for me.

I find that working directly with the Federal Staff you can accomplish a lot more also in that respect.

So, well, thank you for the meeting and I hope my concerns about why this meeting is short is kind of unfounded but I don't think so. Thanks, bye.

Chairman DimentiEFF: Yeah, the consent agenda is real hard, I mean, you know, so many things on there that it makes it difficult for us to schedule the meetings. So we try to over schedule and if we get done soon then -- to allow us extra time. Sometimes we do we have been known to, John's already notified us that we are going to have an extra day in the spring meeting just to deal with Unit 2 deer.

(Laughter)

Chairman DimentiEFF: So, you know, I mean sometimes we do get hung up, but we do allow ourselves extra time in case that does happen. So that's why when we say we're going to meet this long it doesn't always work out like that.

Any other comment.

Mr. Littlefield: Mr. Chair, follow up.

Chairman DimentiEFF: Yes.
MR. LITTLEFIELD: On a positive note I forgot to mention this earlier. Doug McBride is he here, there's Doug in the back. Earlier we discussed -- we talked about six and a half million bucks, I think, that you guys are just kind of like sure, no problem. Well, there was a reason for that and because it was well thought out and the Technical Review Committee in Southeast responded to the information that we gave them in Anchorage about two years ago -- two, three years ago we told them what our priorities were. Our priorities were salmon, specifically sockeye and TEK projects, and high capacity for partnering.

I forgot to mention this, is when he presented those proposals that you voted on and accepted for Southeast Alaska, every one of them, I believe there was nine of them. Every single one of them had either a tribe or some other entity as a co-investigator, and that's because, I think, that Doug and his help has made this possible. And they've told those people if you want to get a project you're going to be -- you're going to have to get yourself a partner. I really want to commend him for that and we appreciate that in the Regional Council. I think it's quite a feather in his cap that every one of those projects were partnered as much as they were.

Because that's where I think that money should go.

Thanks, Doug.

MR. BOYD: Mr. Chair. If I might just address one of Mr. Littlefield's concerns regarding the matter of Council correspondence.

John and I did have a discussion about that -- a meeting about that, was it about three weeks ago or so, and when this came to my attention there were a number of issues that I think the Council wanted to correspond on that at least in my view fell outside the purview of both the Council and the Federal Subsistence Program. And that's not to say that no one had any ill intentions or any of that sort of thing.

The Councils have a lot of issues that come to them from the public that are of concern to the people in the region. They need to -- they're looking for a way to resolve those issues or at least bring them to the appropriate entity's attention. But there were
several of those issues that I -- as it can to my attention, I felt were problematic, from the standpoint of understanding the appropriate role and relationship of the Council within the context of the program and with the Board.

When I first became aware of them contacted the solicitor's office, we had a discussion and without saying a whole lot, I became concerned that we needed a fuller discussion about how Council correspondence should be handled. And to that end I've asked Staff to work on a protocol or a set of guidelines that we do intend to bring before the Federal Subsistence Board to address those concerns. We certainly want to be able to accommodate the concerns from the Council, but at the same time respect the authorities, roles and responsibilities in the relationships of the Council to the Board.

That's really all I'm after and I don't want to belabor this issue except to say that if you do have a letter that you want to write to the Board I think that's totally appropriate and you should bring your information to the Board. If there are other issues -- and I think we've tried to address some of the other issues through other means that you've raised to us. I know that a couple of those issues, the time lapsed on them and they became moot.

But I think for the future what we want to do is develop a set of guidelines that all the Councils can abide by that will keep everything appropriate within the context of the law and the role and relationships of the Councils and the Board.

MR. BROWER: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BROWER: Yes, thank you. I'd just like to thank the Board for giving me the opportunity to participate in these meetings. It's an ongoing learning process for me. I know I didn't have much to say all the time I've been here. It's just we don't have very much fisheries issues on the North Slope. Doesn't say that we don't have any problems, but it's just that we don't have the issues to bring out to the Federal Subsistence Board.

And I just wanted to take this time to thank you for giving me the opportunity to be here.
Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Are we ready to move on. Grace.

MS. CROSS: Harry, you can be grateful that the bowhead whale is not classified a fish.

(Laughter)

MR. BROWER: Thank you, Grace.

CHAIRMAN DEMIENTIEFF: Okay. We're going to move on. We got one more little matter that we need to take care of. Oh, I'm sorry, Ralph.

MR. LOHSE: All I was going to say was there's a book that says even a fool is considered wise when he keeps his mouth shut. I think I've blown that this meeting, so with that, I'll just thank you for the meeting and I will not bring up any concerns at this point in time.

CHAIRMAN DEMIENTIEFF: We got a couple more little resolutions that the Board has signed and Tom is going to go over them.

MR. BOYD: I'm going to read two resolutions and the occasion and the individuals that they're about are both in the room so I think they will be honored.

This is a resolution of the Federal Subsistence Board honoring Ms. Helga Christine Ekon on the occasion of her retirement.

Whereas, Ms. Helga Christine Ekon has honorably and capably served the Federal Subsistence Program for the past 10 years, from 1993 to the present. First as Regional Advisory Council coordinator for the Bristol Bay and Southcentral Regional Advisory Councils and subsequently as the Inter-Agency Coordinator, policy analyst in the Fish and Wildlife Service Office of Subsistence Management;

Whereas, Helga's support to the Regional Advisory Councils has set the high
standards in customer service for
organizing and coordinating numerous
Council meetings in rural Alaska,
ensuring her assigned Councils were well
informed and organized and that their
accommodations were so arranged that they
could affectively perform their roles;

Whereas; Helga's diligent service to the
Federal Subsistence Board and the Inter-
Agency Staff Committee over the last four
years has caused her to be known as a
master at managing a dynamic agenda
covering hundreds of issues, proposals
and briefings;

Whereas, Helga provided remarkable
support to the attorneys of the
Department of the Interiors Regional
Solicitors Office and the Department of
Justice in overseeing the development of
the administrative record and other
supporting materials in preparation for
the defense of the U.S.'s position in
three major legal challenges to the
program;

Whereas, Helga's staunch support and
advocacy for the purposes and principles
of the laws guiding the program and her
strong sense of ethics and morality has
engendered an atmosphere of fairness and
justice during many internal
deliberations on difficult and
contentions issues;

Whereas, Helga's good nature, positive
attitude and caring demeanor has endeared
her to her colleagues in the Office of
Subsistence Management, the five
participating Federal Agencies, The
Alaska Department of Fish and Game, the
Federal Subsistence Board and the
Regional Advisory Councils whom she has
served; and

Whereas, Helga if officially retiring
from Federal service after December 31,
2003;
Be it resolved that the Federal Subsistence Board praises and commends Ms. Helga Ekon to the fullest in achieving the highest standards of excellence in public service;

Be it further resolved on this date December 10, 2003 that the Federal Subsistence Board wishes Ms. Ekon a long and blessed retirement as she begins a new phase in her life as a respected elder and sharer of wisdom.

(Appraise)

And one more.

Resolution of the Federal Subsistence Board honoring Ms. Peggy J. Fox on the occasion of her retirement. It's a little while longer but this is a good occasion to do it.

Whereas, Ms. Peggy J. Fox has honorably and capably served the Federal Subsistence Board for 11 years, from 1991 to '94 as Division Chief for Inter-Agency Coordination Policy and Planning in the Fish and Wildlife Service, Office of Subsistence Management; from 1995 to '96 as the Bureau of Land Management Staff Committee Representative; and from 1996 to the present as the Deputy Assistant Regional Director in the Fish and Wildlife Service;

Whereas, Peggy's strong leadership as Chair of the Inter-Agency Staff Committee has enabled coordination and consistency in program implementation across the five participating Federal Agencies. Incisive analyses and recommendations to support the decision-making role of the Federal Subsistence Board. And collegial problem solving and resolution of many difficult issues facing the program;

Whereas, Peggy's organizational vision and ability to manage a multitude of detail has enabled the Office of
Subsistence Management, and hence the program to make remarkable progress since 1999 in both designing and implementing a strategy to take on the new and momentous role of managing Subsistence fisheries following with the Katie John decision;

Whereas, Peggy's unwavering commitment to excellence, inspirational leadership and unparallel managerial abilities has brought about improved production and efficiencies in business practices and processes resulting in significant improvement in the quality of Staff work and customer services provided by the Office of Subsistence Management;

Whereas, Peggy's compassion, ability to listen and relate to people and sense of humor has endeared her to her colleagues in the Office of Subsistence Management, the Five participating Federal Agencies, the Alaska Department of Fish and Game, and the Federal Subsistence Board and the Regional Advisory Councils; and

Whereas, Peggy is officially retiring from Federal service after January 30th, 2004;

Be it resolved that the Federal Subsistence Board praises and commends Ms. Peggy Fox to the fullest in achieving the highest standards of excellence in public service;

Be it further resolved on this date December 10, 2003 that the Federal Subsistence Board wishes Ms. Fox a long and blessed retirement as she begins this new phase in her life.

(Applause)

MR. BOYD: You still have a little time left.

(Laughter)

CHAIRMAN DEMIENTIEFF: I told you I was
worried about the program yesterday and Tom's ability to keep the program moving without those two. An indication of that is it took him all weekend long to write those two letters without their help, I mean resolutions.

Okay, thank you all for putting with my cold -- every time -- go ahead.

MR. LITTLEFIELD: Mr. Chair. I was informed this afternoon that Mr. Bill Thomas, a long time Regional Chair was in the hospital in Ketchikan with pneumonia and was doing very badly so I just wanted to hope that you would keep him in your thoughts and prayers if you wish, but he's in the hospital.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. I forgot what I was going to say, oh, I just wanted to thank everybody in closing for all their hard work and making this, I think, a very successful meeting and I feel good.

I mean to tell you there are meetings that I come out of that are so pressure packed, I just come out literally shaking from......

MR. LITTLEFIELD: U2 deer.

CHAIRMAN DEMIENTIEFF: Yeah, that would be one of them. You know when we get -- Tom and them always say I never show it when I'm conducting a meeting but we all release stress in different ways and that's mine. I don't release until the meeting is over, so if you see me rattling around if we're having a -- when we're done with a tough meeting that's just my stress coming out but I'm not going to have that problem this time because I think it's been a real good meeting.

I thank everybody, wish everybody a Merry Christmas and lets all go.

(END OF PROCEEDINGS)
CERTIFICATE

UNITED STATES OF AMERICA    )
STATE OF ALASKA            )

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

THAT the foregoing pages numbered 149 through 318 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically by Nathan Hile on the 10th day of December 2003, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 18th day of December 2003.

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