FEDERAL SUBSISTENCE BOARD

PUBLIC REGULATORY MEETING

VOLUME III

INTERNATIONAL COAST INN

ANCHORAGE, ALASKA

MAY 10, 2007

1:30 o'clock p.m.

MEMBERS PRESENT:

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

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CHAIRMAN FLEAGLE: Good afternoon. Federal Subsistence Board is back on record. It's the afternoon of May 11th. No, 10th. May 10th. And I think we're out of Ground Hog Day.

MR. PROBASCO: We hope.

CHAIRMAN FLEAGLE: We hope. Okay. Denny Bschor is participating telephonically, and also on line, Pete, would you go ahead and announce on the record who is all on line, please.

MR. PROBASCO: Thank you, Mr. Chair. On line we have Vince Mathews, who's the Council coordinator for Eastern Interior and Western Interior. We have Dave Johnson from the Tongass Forest for the Forest Service. And we have Alex Nick, Council Coordinator for the Yukon-Kuskokwim Delta Regional Advisory Council. And then on line we have two Chairs, Bert Adams, Southeast Regional Advisory Council, and Lester Wilde from Y-K (Hooper Bay) Regional Advisory Council. And has anybody else signed up. Okay.

That's all we have on line at this time, Mr. Chair.

CHAIRMAN FLEAGLE: Okay. Thank you. And there will be opportunity for public comment. If you'd like to participate and comment before the Board, please fill out a yellow slip with Staff and turn it in, and we can get those comments read into the record -- well, we can hear your comments.

And first off, we're going to start out with a Staff briefing on the issue. And Ann Wilkinson, are you prepared to do that?

MS. WILKINSON: (No audible answer)

CHAIRMAN FLEAGLE: Thank you, Ann.

Welcome.

MS. WILKINSON: Mr. Chair. Members of the Board. My name is Ann Wilkinson, and I serve as the
FACA coordinator. My primary responsibility is oversight of the Regional Advisory Council system.

The Regional Advisory Councils are the cornerstone of the Federal Subsistence Management Program. Today you will examine the composition of that stone to ensure that it remains strong and able to support the building.

A court order last summer enjoined us from using the 70/30 system of structuring representation on the councils. We were given a reprieve through the calendar year of 2006. Now, to proceed any further with this year's selection of Council members, you need to take action today.

I was assigned to summarize and prepare an analysis of the written public comments and the Council's recommendations regarding Council composition. A copy of that report was distributed to you prior to this meeting and you should have a copy of it before you now.

In the appendix of that report, you will find summaries of the written public comments and of the Council recommendations. Complete copies of the written public comments are available on the public information table out in the hall, and on the Board tables. Council Chairs also received copies.

The Council recommendations were compiled or in conjunction with the Regional coordinators.

In the fall of 2006 the Office of Subsistence Management solicited public comments regarding Council composition through the Federal Register and at the Regional Advisory Council meetings. The Board received written comments from the Alaska Department of Fish and Game, two tribal agencies, one native organization, one sport fishing and hunting organization, and seven private citizens.

The Regional Advisory Councils were briefed on this subject at their fall 2006 meetings and again at the spring 2007 meetings. All 10 Councils discussed the topic and offered comments. Nine of the Council offered formal recommendations to the Board.

Specific recommendations by the public and the Councils regarding Council composition are listed
in the report on Pages 4 through 7. Their recommendations addressed a percentage quota, membership balance, Council member criteria and the member appointment process. Excuse me. Many of the particular recommendations require changes in the laws and the charters. And if you note in the report, when that is the case, I put it in parens.

The comments and recommendations offered by the public and the Subsistence Regional Advisory Councils present two basic options regarding Council composition.

Option 1 would seat individuals who have a comprehensive knowledge of the subsistence, commercial and sport uses within their respective regions. In combination, that is the public and the Councils, the majority of the commenters and Councils prefer this option. Those who do prefer this option believe it is assures diverse representation, and more accurately reflects Alaska's resource users than does a single interest form of representation. Most past and current Council members participate in multiple resource uses and are therefore able to represent such multiple viewpoints within their regions. Each -- excuse me. Such members offer a comprehensive perspective which a single use participant cannot.

Option 2 would maintain the goal of seating a specific percentage of commercial and sport use representatives on the Subsistence Regional Advisory Councils. This option would clearly show that commercial and sport uses are represented on the Councils. Councils and public commenters would have the Board consider that some regions have little or no commercial or sport use; therefore, the percentage ratio should remain a goal rather than to establish designated seats. If no qualified commercial or sport use representatives apply in any given year, seats could be filled by subsistence use representatives, and the percentage ratio goal would be sought with the next year's appointments. Excuse me. Among Councils and commenters that favor this option, the minimum percentage ratio acceptable is 70 percent subsistence users to 30 percent commercial and sport users.

Some things that you may like to consider when you're working on this today. FACA requires the membership of advisory committees to be fairly balanced in terms of the points of view represented on the
committee and the functions to be performed by the committee. These are the only two factors that have to balance.

Other factors, such as demographics, may be considered when developing a balanced membership; however, the essential consideration is the member's ability to perform the committee's functions.

Title VIII and the implementing regulations describe the Councils' authorities or the functions as they're referred to in FACA. In summary, the Councils' function is to provide an open forum for the public regarding subsistence matters, and to provide recommendations to the Board that will accommodate subsistence uses and needs. A full list of the Councils' authorities is on Page 2 of the appendix.

The criteria for Council membership are determined by Title VIII and its implementing regulations. All Council members, whether they represent subsistence, commercial or sport users, must meet all the criteria. The criteria are that each member must be a resident of the region he or she would serve. They must have knowledge of the region and the region's subsistence uses, which include customs and traditions. They must have knowledge of the region's commercial and sport uses, and must have demonstrated leadership and communication skills.

Today you're called upon to develop a method for balancing the points of view represented on the Council with the Council's functions. Points of view reflecting commercial and sport uses in addition to the view of the subsistence users should be included on the Councils; however, these additional points of view by law must not be allowed to overwhelm or otherwise hinder or prevent the Councils from fulfilling their purpose.

That concludes my overview of the report and I'm ready to answer any questions you may have.

CHAIRMAN FLEAGLE: Thank you, Ann.

Questions. Denny, any questions from online?

MR. BSCHOR: No.

CHAIRMAN FLEAGLE: Okay. Thank you. All
right. Thank you, Ann. Appreciate the overview.

At this time we're going to hear public testimony. And we have a number of cards. Pete, would you go ahead and let us know who's up.

MR. PROBASCO: Thank you, Mr. Chair.

First up is Anna Seidman.

CHAIRMAN FLEAGLE: Good afternoon.

Welcome, Anna.

MS. SEIDMAN: I'm not technological, so I apologize. Good afternoon. My name is Anna Seidman, and I'm chief litigation counsel for Safari Club International.

I appreciate the opportunity to offer testimony today on behalf of Safari Club International, Safari Club International Foundation, and SCI's two chapters here in Alaska.

Safari Club International has already submitted written comments to the Federal Subsistence Board that support the 70/30 membership balance. However, upon reading the Federal Subsistence Board's Staff Committee's analysis of the two alternatives proposed for Federal Advisory Committee Act compliance, we found it necessary to supplement our written comments with our testimony today.

The Staff Committee's analysis suggests to the Board that FACA compliance can be met through seating, quote, members who have a comprehensive knowledge of the subsistence, commercial and sport uses within their regions, unquote. We disagree with the Staff that this option would fulfill the Board's FACA obligations. The focal point of FACA's, quote, fairly balanced membership requirement, unquote, is representation, not knowledge.

As Judge Holland stated in his memorandum opinion dated August 7th, 2006, quote, although FACA does not require that all possible interest groups be represented on advisory committees, the court has already held that a fairly balanced Regional Advisory Council must include consumptive users of fish and wildlife on public lands other than subsistence users, because those users are directly affected by the subsistence priority. Judge Holland did not say that a fairly balanced Council
must include individuals who are knowledgeable about uses
other than subsistence uses. He said that, quote, a
fairly balanced council must include consumptive users of
fish and wildlife other than subsistence users, unquote.

One cannot represent a community of users
simply because he or she is knowledgeable about those
uses. Take me as an example. As chief litigation
council for Safari Club International, I have acquired a
great deal of knowledge about the workings and rationales
of the animal rights organizations that SCI often opposes
in litigation. I doubt, however, that the Humane Society
of the United States would pick me to represent them in a
forum about animal welfare. Knowledge simply isn't
enough.

The true Litmus Test for whether the,
quote, knowledgeable about uses, unquote, alternative
would constitute fair representation would be to turn the
tables. If circumstances were reversed, would
representatives of the subsistence practicing communities
be satisfied being represented by non-subsistence users
who claim to be knowledgeable about subsistence
practices.

FACA requires a membership fairly
balanced in terms of points of view represented. But how
can it be determined whether an individual actually
represents a particular point of view? The key to
representation is the community being represented. An
individual doesn't represent any particular community
simply because he or she designates himself to be
affiliated with that community.

The way that the Board should determine
whether an individual represents a community is to ask
that community. The Board should never rely on an
individual's self-designation or even on the statement of
the hand-picked references supplied by the applicant.
Instead, the Board needs to compile a list of
organizations that support each user group and the Board
should consult those organizations about each applicant
who states that he or she intends to represent that user
group.

For example, for those who seek to
represent the recreational consumptive users, the Board
should seek an endorsement for the applicant from groups
such as SCI's chapters, the Alaska Outdoors Council, the
Alaska Professional Hunters Association, and other groups
in addition to the State of Alaska. That applicant should not be nominated to represent that user group's point of view unless a majority of those organizations that share that point of view can verify that their community agrees that the applicant can truly represent them in RAC business.

Representation is the key to the outside of the box thinking that Judge Holland emphasized. Representation doesn't require, quote/unquote, single interest membership. In fact, single interest really is a misnomer. No one represents any single interest at any given time. An individual can represent his or her family, religion, community, occupation, et cetera. It is certainly not impossible for an individual RAC member to represent more than one user group, but there is reason to question whether one individual can adequately represent two or more competing, if not sometimes antagonistic groups to the satisfaction of each group. The true test for someone who indicates that he or she can represent multiple groups should be whether each of those groups agrees that it can be adequately represented by that one individual.

It is true that fairly balanced representation is tied to the function of the RACs, and for that reason, an individual who represents any particular user group should be prepared to act as that group's advocate to raise difficult issues, ask difficult questions, and at times to make a recommendation to the Board that conflicts with the recommendation of the majority. The ability to craft a minority report is an essential part of fairly balanced representation.

When the FSB Staff first analyzed SCI's written comments, they labeled our recommendation of the minority report as irrelevant to the question of balanced representation, but in so doing, the Staff missed the whole point of fairly balanced representation. The minority report was a specific component of the membership balance analysis that the Department of the Interior Solicitor's Office provided to the Federal Subsistence Board back in 2002. As stated by the Department of the Interior Assistant Solicitor Paul Smythe in his June 17th, 2002 letter to former Federal Subsistence Board Chairman Mitch Demientieff, the minority interest on the Council must be given the, quote, opportunity to craft a minority report, unquote, on the recommendation submitted to the Federal Subsistence Board. It is through this type of access to
the Federal Subsistence Board that the RACs, both majority and minority, both subsistence and non-
subsistence have the requisite FACA representation in terms of points of view.

Most likely the Board Staff has pointed the Board toward the alternative that would seat members based on their knowledge of their region's uses, because of their interpretation of a single fleeting reference that Judge Holland made in his August 7th memorandum opinion. When discussing an option rejected by the Board that would seat knowledgeable individuals who participate in a variety of uses, Judge Holland mentioned that this was another way in which, quote, compliance with FACA could be established, unquote. In choosing this alternative over the 70/30 split, the Staff likely assumes that this alternative, if adequately explained, would be approved by Judge Holland. But this assumption fails to note that Judge Holland used the term could, not would when describing whether this alternative would meet FACA compliance standards. There is nothing in Judge Holland's opinion that guarantees that this alternative would be acceptable.

On the other hand, Judge Holland in his memorandum opinion of August 7th, 2006, made clear that the 70/30 plan and/or the single interest representation alternative would comply with the Federal Advisory Committee Act. In fact, he stated that, quote, the 70/30 rule is not contrary to law. It simply has not been adequately justified at this point, unquote. Judge Holland did not prefer that alternative, but according to his own memorandum opinions, he is obligated to accept that alternative if he finds that the Board has adequately considered other alternatives, and has provided adequate explanation of their reasons for picking the 70/30 rule over other alternatives.

The 70/30 plan, whether or not it involves single interest representation or provides -- I'm sorry, can provide a reasonable means of FACA compliance, if it is based on consultation with each interest group being represented, and if it involves access to the tool of minority recommendations to the Federal Subsistence Board. This type of enhanced 70/30 plan is just the type of out-of-the-box thinking that Judge Holland has directed the Board to conduct.

Once again I thank you for the opportunity to appear before you here today. I will be
submitting a written copy of this testimony to supplement our previous written comments.

CHAIRMAN PLEAGLE: Thank you, Anna, appreciate the comments.

Questions, Board members. Gary.

MR. EDWARDS: Just one quick question.

Even under the 70/30, particularly some of our northern RACs, we've had difficulty just because, you know, the interest up there and the affected folks are primarily made up of subsistence users. How would you apply your sort of out-of-box thinking to trying to address those, which would certainly be different than trying to address let's say the Southcentral RAC.

MS. SEIDMAN: Understood. And we recognize that there are certain regions that have a much smaller percentage, if any percentage, of commercial/recreational uses. But at this point that's never been solidly substantiated in any of the alternatives. So presumably if that is -- if there's data to support it other than anecdotal references in the representations of different members of the RACs, then it would be appropriate to have a balance in those Councils that reflects the regional balance of membership and uses. And that could certainly be incorporated. My understanding is the 70/30 rule as it was adopted previously indicated that it was a goal, not a mandate. That's not necessarily my preference for some of the regions where there is a significant percentage of recreational and commercial users, but it would potentially work for areas where there isn't the same balance.

MR. EDWARDS: One other question. It seems that you were saying that that's sort of the Litmus Test for -- let me back up. I mean, based upon your discussions, it seems like representation and advocacy are really one and the same. And so then the Litmus Test for that, if that representative was truly an advocate for their interests, then you would basically -- they would have to go through some Litmus Test of organizations or whatever determining that.

MS. SEIDMAN: Well, let me clarify. First of all, that, yes, there is a level of advocacy in my definition of representation, but that does not mean that an individual who represents any particular user
group should be -- should assume or should be required to
vote the party line shall we say, to vote the same way,
to vote for his user group in every situation if he or
she is -- interprets the evidence that's presented and
finds that the opinion wouldn't necessarily go along with
his general user groups' opinion should be followed.

However, representation is the -- the way
that a person would represent a group is if they're
presented with testimony, that they ask questions of the
individual, that they not simply assume that what that
person is saying is correct, and they ask the difficult
questions. They ask the questions that the user group
that they represent would ask if they were there. And
similarly, that if they don't agree with the position
that they prepare a minority report that represents the
user group that they represent, their position.

And I think that the only way that you
can get individuals to take that role would be to make
sure that the groups that they represent agree that they
can fulfill that role. And that goes for either side,
and that's why I used the example of a Litmus Test, that
if the tables were turned, and if individuals who are
part of the subsistence community, would they feel
comfortable being represented by commercial or
recreational users who say that they have knowledge of
subsistence uses. That's not the -- knowledge is not the
same as the ability to represent. Knowledge is not the
same as being able to share a point of view. And that's
why I think there has to be something more than knowledge
of all kinds of uses.

CHAIRMAN FLEAGLE: Other questions.
Hearing none, thank you for the testimony. Oh, Dan
O'Hara.

MR. O'HARA: Hi. My name is Dan O'Hara, sir. Is Judge Holland a State judge or a Federal Judge?

MS. SEIDMAN: Judge Holland is a Federal District Court judge.

MR. O'HARA: He's handed down some interesting things for a Federal judge.

MS. SEIDMAN: Absolutely. I would agree with you.

MR. O'HARA: Thank you.
CHAIRMAN FLEAGLE: Ralph.

MR. LOHSE: May I ask a question?

MS. SEIDMAN: Yes, sir.

MR. LOHSE: I had a couple questions that I came up with listening to you. You used two different words. You used represent and participate in. Do you consider participating in something as being sufficient to give a person not just the knowledge in that area, but an interest in continuing to participate in that area?

MS. SEIDMAN: No, I don't necessarily think that they are parallel. An individual can participate in an activity without being qualified to represent. For example, in many of the Regional Advisory Council transcripts that I've reviewed that were talking about this decision, a number of the Council members said, well, I have a commercial fishing license, does that make me qualified to represent the commercial community. Some thought they were, some thought they didn't. They were not. Many people I'm sure participate in what they consider to be a recreational opportunity and yet that doesn't necessarily qualify them to say, I know what the people from the recreational community would ask if they had this witness in front of you -- in front of us.

MR. LOHSE: Thank you. The other thing I was very pleased to hear is when you talked about the fact if you represent something, you're an advocate for it, but you don't have to, if presented with other information, vote the hard party line. And I know that in a lot of things that I've worked in, I've always said that if either side goes away happy, somebody did something wrong. You have the -- you know, usually what ends up happening, after you've listened to everything, you have to make decisions that basically aren't everything that you want as a representative, but are the best that you can come up with as a group. And is that kind of what you were talking about right there?

MS. SEIDMAN: Absolutely. And quite frankly again in the Regional Advisory Council transcripts, and I can't quote a particular one at the moment, but what a lot of the Councils mentioned is having the different, distinctly different points of view improve their conversations, improve their discussions, improve their opinions. And without having very distinct
points of view to offer Ideas that would not otherwise
come up, to offer questions that would otherwise -- would
not otherwise come up. The decisions that are being made
are not necessarily the best decisions to be made.

MR. LOHSE: One final question. You
mentioned a minority report a number of times. One of
the things that we were doing as a Council for a long
time was allowing the people who vote against to state
their reasons on the record why they voted against it.
Is that equivalent to a minority report or do you mean
that you'd need an official minority report on every
motion?

MS. SEIDMAN: Well, I would say the
latter and I don't think it necessarily has to be on
every motion, but I think that should be the decision of
the Council members. The reason that I suggest it as an
official report as opposed to just the individual
statements of Council members is that the report is the
official document that the Federal Subsistence Board uses
to make its determination, and therefore they review what
is, quote/unquote, the recommendation of the Regional
Advisory Council, but that may not always be the
recommendation of all of the Regional Advisory Council.
And I think that there is a component being left out when
there is not a minority recommendation when certain
Council -- when the Council members feel it's
appropriate.

MR. LOHSE: Thank you. Thank you, Mr.
Chair.

CHAIRMAN FLEAGLE: Other comments or I
mean questions. Denny, on line?

MR. BSCHOR: No, I don't have any,
thanks.

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

MS. SEIDMAN: Thank you.

CHAIRMAN FLEAGLE: And once again, if
anybody in the audience wishes to speak on the issue,
fill out a yellow card. We're still taking cards.

Pete.
MR. PROBASCO: Thank you, Mr. Chairman.
And I apologize for not doing this the first time. Next up will be Gloria Stickwan, followed by Linda Tyone, and then Timothy Andrew. Gloria Stickwan.

CHAIRMAN FLEAGLE: Good afternoon, Gloria. Welcome. And the other mic is turned on. Would you reach over and turn it off, please. Thanks.

MS. STICKWAN: My name is Gloria Stickwan. I'm here to represent myself.

We as a -- well, the Ahtna Subsistence Committee opposed the 70/30 percent rule membership. And they thought it could be improved upon without having -- differentiating subsistence use or personal use or sports use or commercial use, that these people that are picked should have experience, user experience of and to be knowledgeable about all uses that are picked on to be on these RACs. They should know the issues of the different user groups, understand the regional subsistence uses and areas, and they should know the rules of order, and they should also upkeep the ANILCA mandates and protect subsistence users. They also thought that two tribal members should serve on the RACs. And they thought this way that it could conform to FACA rules I guess.

I also wanted to say I serve on the Southcentral Regional Advisory Council. And I also support the RACs position that we voted on, and I'm sure you'll hear about that from our Chairperson.

And about this Litmus Test, I don't know what to think about that. Are we all going to have to go through tests now to be on RACs or -- I didn't understand that part at all. Are we going to have to ask questions about our user knowledge, or just what is that? I guess I'm not supposed to ask questions to the Board, but that's -- I just think people that serve on there should have knowledge of all uses, and they should protect subsistence. We're there to uphold ANILCA and that is our primary responsibilities, and to oversee the conservation of fish and wildlife, and uses and to protect subsistence uses. That's how I see it.

CHAIRMAN FLEAGLE: Okay. Thank you, Gloria.
Questions, Board members. Charlie.
MR. BUNCH: Gloria, you said two tribal members was your recommendation. Did you mean tribal members or tribal council members?

MS. STICKWAN: Two tribal members. It could be council members who really, you know, are knowledgeable about the subsistence uses.

MR. BUNCH: Thank you.

CHAIRMAN FLEAGLE: Other questions.

MR. EDWARDS: Gloria, thank you for your testimony. Have you given any thought to how you would go about accomplishing that kind of representation that you've described?

MS. STICKWAN: Well, I think that, you know, they should be knowledgeable of other uses, there should be involvement, attending meetings, Federal and State meetings. They should -- at these Federal and State meetings you learn a lot, just another lesson, you learn a lot by talking to people, to the recreation users, you hear their public testimony. And during the meetings, you are able to talk to the commercial users. During the Board of Game -- I mean Board of Fisheries they put us into little groups, so we're able to understand and have a discussion among our different concerns. So we do have a lot of knowledge and we know what their concerns are. And, you know, I see that as we -- as long as we understand what all the issues are, you know, I think that that's the most important thing of serving on this RAC. It's not whether you're a commercial user or a subsistence user or a sport user, but that you understand and that you protect ANILCA. Protecting ANILCA is the most important thing I think.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: On line?

(No comments)

CHAIRMAN FLEAGLE: All right. Hearing none, thank you, Gloria.

Pete.
MR. PROBASCO: Next is Linda Tyone, followed by Timothy Andrew, and then Heather Kendall.

CHAIRMAN FLEAGLE: Good afternoon, Linda. Welcome. You need to turn the microphone on. There you go. Thank you.

MS. TYONE: Thank you for the opportunity to allowing me to testify on the Regional Advisory Councils. I'm here today on behalf of the Ahtna Subsistence Committee. I'm the current chair of the committee.

And we oppose the 70/30 split. We think this would be unfair to the subsistence users, because I don't think we would get a fair representation from the commercial and sports users. We would be outvoted and that wouldn't be protection of subsistence. There are mandates under ANILCA that need to be followed. So I don't think -- we should have the direct knowledge and interest on people that apply for these seats.

And the Regional Councils are advisory members, so it's not like their recommendation's going to go forward.

So I think that you need to have direct knowledge, because the people that have direct knowledge of the region knows about how the game populations are in different years, and their history has been given from generation to generation by the families in different regions, villages. I think that's very important, because families do pass on history from generation to generation on how, you know, they used to hunt years ago in the Copper River area, and that's all documented. So, you know, you have to have the knowledge of your area.

I don't have any knowledge about areas up in the north, because that's not my home region. My home region is in the Copper River area. And, you know, that's where we grow up and know the knowledge of things that goes on there. So I think you need to consider the background, experience.

And that's all I have to say.

CHAIRMAN FLEAGLE: Thank you, Linda.

Questions.
(No comments)

CHAIRMAN FLEAGLE: All right. Appreciate the testimony.

MS. TYONE: Thank you.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Next is Timothy Andrew, followed by Heather Kendall, and then Art Ivanoff.

CHAIRMAN FLEAGLE: Good afternoon, Tim.

MR. ANDREW: Good afternoon, Mr. Chairman. Members of the Board. Thank you for the opportunity to testify before you today. My name is Timothy Andrew. I'm the director of Wildlife Resources for the Association of Village Council Presidents, based in Bethel, Alaska, and I am here to testify to you about the composition of our Regional Advisory Councils.

Over the past several years there's been a lot of discussion by not only our RACs, but also people within the area about the potential impacts of this 70/30 split if it were to occur on our Regional Advisory Councils. We oppose this action.

During our recent Y-K Delta Regional Advisory Council meeting in Hooper Bay during the month of March, many of our members expressed their concerns about the potential dilution of the RACs by non-subsistence interests. And this process is currently already occurring on the Federal Subsistence Board with the inclusion of the non-voting participation by the State of Alaska.

The State has always been extremely -- or not always been, but has become more and more hostile to people in the rural areas. And this is done through primarily their administrative and legislative actions. And they choose to fight their very own people, us, with money that they have derived from the resources that are right in our back door. They are motivated by organizations that generate the most money, while ignoring our social, cultural, economic and subsistence needs of our people. I cannot ever recall the State of Alaska ever suing on behalf of subsistence, but they will always get up and sue for the other people.
Additionally, others on our Council expressed their support for provision supported by the Yukon River Drainage Fishermen's Association, which include the following:

RACs should be exempt from FACA, and we should seek Congressional changes to exempt the RACs.

(2) RACs are already fairly balanced, and this is expressed on Page 6 of the appendix. And the Y-K Delta Regional Advisory Council, many who sit on the RACs serve as municipal council members, tribal councils, and they sit on regional non-profit boards, village corporation board, regional corporations and local school boards. Additionally CDQ boards and other interests that they may serve within the villages. So these people are pretty well balanced as far as their knowledge of people in their communities. And they are -- and we believe that they serve as people that adds flavor to the discussion while they deliberate on some of the regulatory proposals. And if you are to review the biographies of the people serving on our RACs, you will definitely find that to be true, that they are varied in their local and regional interests.

The other thing that I'd like to point out is in the Y-K Council there have been a person of other interests, one of the commercial services providers within the region that was appointed to the Regional Advisory Council. That individual never did show for the meeting.

We only have two or three commercial service providers within our area, and they're primarily based in Bethel. The villages basically have none. We have 6500 people in the Community of Bethel. The other 14 or 10,000 more people are based -- are in our villages, which have populations from 80 people to the biggest village, Beth -- I mean, Hooper Bay, of 1200 people.

Mr. Chairman and members of the Board, ANILCA was adopted because the Federal and State agencies were not fulfilling their obligations in protecting our subsistence way of life. Intentionally diluting the RACs with outside interests is slowly eroding our subsistence way of life. Forcing our RACs to a 70/30 split would inherently weaken the subsistence mission and lead to the destruction of our way of life. And I know that's not the intention of the Federal Subsistence Board.
Contained in AVCP Resolution 070502 are segments directly quoted from the record of decisions in the adoption of ANILCA that relate to our position. The first, on the sixth whereas, or sixth whereas clause from Page 10, of ANILCA 805 was created to provide subsistence users the opportunity to participate effectively in the management and regulation of subsistence resources. There was no mention of sport or commercial interests participating in our decisions or regulatory processes that affect our subsistence way of life.

Another issue raised in the resolution is the consultative process our Board desires. Since the inception of the Federal Subsistence Management System, the participation of our tribal governments has always been continuously overlooked. As stated in the second be it further resolved clause, our Board wants our subsistence management system to consult with our tribes and our tribal organizations in the implementation of Title VIII of ANILCA. This is including the current issue of the RAC composition. We have a total of 56 tribes out of the 226 in the State of Alaska. We have over 20,000 people that reside in our area, most are in very small villages that I had indicated earlier.

And we have the highest per capita consumption of wild food of 664 per capita as stated in the 2004 ISER report. A huge percentage of that is our fishery resources, but other wild food that we consume is just as important. And we believe to further dilute our RACs would place our subsistence way of life in peril, and would defeat the purposes of ANILCA, and the subsistence management in Alaska.

Thank you, Mr. Chair. That concludes my testimony.

CHAIRMAN FLEAGLE: Thank you, Timothy.

Questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Hearing none, thank you for the testimony.

Pete.

MR. PROBASCO: Thank you, Mr. Chair. Our
last three is Heather Kendall is next, followed by Art Ivanoff, and then Rod Arno.

CHAIRMAN PLEAGLE: Good afternoon, Heather. Welcome.

MS. KENDALL-MILLER: Good afternoon. Thank you. I'm Heather Kendall. I work for the Native American Rights Fund, and I actually am also representing the Native Village of Venetie, and Gideon James, and Ninilchik in this case.

We came into this case quite a number of years ago. It's been around for a while, probably about five or six years ago now I think. Eight. Eight years ago. We intervened in the case to defend the challenge against the Federal Subsistence Board. If you remember Safari Club brought a very broad challenge against basically all of the regulations that had been passed to date by the Regional Advisory Councils on the basis that they were not consistent with FACA's fair balance requirement. And Judge Holland actually rejected that. He rejected the invitation to go back and revisit all of those and hold all those previous decisions to be inconsistent with FACA.

However, he felt it important that you as a body take this issue up through the proper rulemaking process and allow the public and the RACs to have opportunity to weigh in and give you their views as to whether or not they believe that a 70/30 allocation fairly does satisfy FACA and represent the views of all participants.

I am here primarily to encourage you to adopt option number 1. I think that Judge Holland would probably find that you have actually done what he's asked now, that you have gone through the rulemaking process. You have vetted the issue. You have put it out to the public. You have allowed the Councils, the Regional Advisory Councils to give their views on this. And while Judge Holland has also ruled that you don't have to defer to the RACs on this particular question, because it's not a question that involves fish and wildlife management, it nonetheless would be great if you did.

And the reason why is because the RACs are your partners. They're the ones that are out there doing what ANILCA directs them to do. They are the ones that are dealing most directly with the public on all of
these issues. And as you know from reading the comments that were given to you, the practical reality is that almost all RACs representatives have vast experience, not just in the area of subsistence uses, but in commercial and in sports and others.

When we were looking through the record at the initial go round, it was very interesting to read, and I think this is very true, of course, in Southeast, where oftentimes the RAC members who have sat on the RACs are likewise commercial fishing captains. Oftentimes the RAC members up in the Interior Regions will also be guides during the hunting seasons. They have vast, vast experiences.

And by making the RACs have to identify as a single interest representation, and as my colleague here would suggest, even go further than that, have specific organizations, have them show -- give a Litmus Test, you're inviting not necessarily representation by those with knowledge, which is the intent of ANILCA, you're inviting organizational representation to have a right to sit at the table. And that has never been what ANILCA is about. It is about being able to have people with the most knowledge, have a meaningful representation or say in how subsistence regulations get developed.

I think option 1 best does that. I think as the Staff have pointed out, in combination the majority of commenters and Councils prefer this option. So I would urge you to defer to the public on this. The public has said that this is the better option to go for. It more adequately represents interests of -- and the reality of the fact that most RAC members have vast knowledge of all uses, not just subsistence.

So I'll leave it at that. Thank you.

CHAIRMAN FLEAGLE: Thank you, Heather.

Questions, Board members. Gary.

MR. EDWARDS: Heather, I guess one question. Kind of using the RACs, isn't is somewhat like a catch 22, because before you could use the RACs, wouldn't you have to ensure that the RACs are balanced and fully representative so they could actually address representation? I mean, what comes first? I mean, you would need it seems to me a balanced RAC, that somebody had determined that, to weigh in on the issue of how a
RAC ought to be balanced. You couldn't have an unbalanced RAC. It wouldn't seem to me an issue and say how we should be organized to objectivity in their response.

MS. KENDALL-MILLER: If I follow that questions, and I'm not sure I do actually, but I think that the way that you can assure balance is not by having any kind of Litmus Test, but by having as this -- the nominations process now does, have questionnaires that ask people about the nature of their experience, and look to see whether or not it includes a wide array of experiences, not just one. If people want to attach a letter of recommendation from a particular native organization or Safari Club or something like that, that's certainly can, you know, give assistance for whether or not that person, you know, has experience or whatever. But I don't think that there need be an rigid criteria to be able to show that a balance is being met.

And I don't think that's what Judge Holland expected either. What he expected is that this Board would look hard at the issue and come up with a reasonable solution for providing balance. And as I said, that could be based upon, you know, knowledge of all the resources.

MR. EDWARDS: But, you know, in general it's not unusual on FACA committees to have -- ask various organizations to identify an individual who they think they could -- to represent them, and on a lot of non-FACA things here even that we deal with, Fish and Wildlife Service, we have all kinds of groups, including native organizations, coming forward and saying, you know, we would like to be the ones that identify, you know, who sits in, or who goes to this meeting, or who represents us. I mean, that's not all that unusual.

MS. KENDALL-MILLER: Unusual. I think what you have to do is look at context though. In the case law that's looked at this, they look at what are the functions. What are the functions. And if you have a function that your committee is carrying out that has a broad mandate, then certainly, you know, it's been allowed to have specific identified representation. But the courts have also been very specific in saying that, you know, that doesn't mean single interest representation is necessary or even good. In fact, that's where that term came from is the cases that have
threw out challenge -- thrown out challenges by those that would insist upon single interest representation, because that was really what FACA was passed to prevent. It was passed to allow inclusive views, not single interest representation.

So I think -- and, Gary, I am aware of the fact that some Federal committees are set up that way. But there are plenty that aren't as well. And that based -- you know, that really turns upon the function. And as you all know, the function of the RACs primarily is to deal with subsistence-related issues. So, again, if they have experience and knowledge about commercial, sports, great, but it shouldn't be a rigid requirement.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Thanks, Heather for your testimony and I think I remember you testifying last summer. That might be why we're here today, which is fine.

I guess my question for you on option 1, so it -- I don't hear a concern from you that there's a risk or a chance that subsistence users may not be the majority if you will of the members?

MS. KENDALL-MILLER: I don't read this option as suggesting that. I read this option as not setting any kind of a formula that would require a set number of one group over other groups. I see this as being a little bit similar to what was originally in place, but was not really specific in that it acknowledges that most people who are subsistence users are likewise tend to be people with great knowledge of other uses. When you look at specific regions, I mean, that's kind of self-evident in many places with people that have great knowledge of the land and the resources that they use, they're also going to be aware of other uses that take place in that area.

And I see this as more kind of an evolution in the sense that it's become recognized that the RACs should include views, a fair representation of views by others, non-subsistence users. And where we have always felt strongly about is that the RACs should not be set up to be a group that -- where it is political, where people with different agendas can come
to the table and air their various agendas. That's not
the work of the RACs.

You know, the work of the RACs is to
think about subsistence-related issues. And, of course,
if it impacts upon commercial and sports, then, sure.
But it's not a place for people with specific agendas to
come and argue about those agendas. And we think that a
formula that allows for single-interest representation
does exactly that. It comes with the expectations that
those individuals are there to represent those
constituencies.

CHAIRMAN FLEAGLE: Other questions.

Gary.

MR. EDWARDS: This is a question kind of
in responding to kind of the first testimony we heard
about the difference between knowledge and understanding
and representation. Do you see a difference between
those two? I mean -- go ahead.

MS. KENDALL-MILLER: Well, I think there
is a difference between those two. And kind of mixing
apples and oranges a little bit. The knowledge is really
something that is mandated under ANILCA itself. It's one
of the requirements of the regulations and stuff that a
person has knowledge of the region, come from that region
and such. And the views is the FACA requirement. And as
we know now, based upon the court's hold that the RACs
apparently, you know, have to comply with FACA while
carrying out the mandate of ANILCA.

But that again doesn't suggest that the
two are mutually exclusive. I do believe that, you know,
of course the knowledge base has to be satisfied, and
that is enhanced by a person's experience. And, again,
looking at the comments and stuff, what you see is that
as a practical reality, most people have vast experience.
And I reiterate that it's possible to be able to
establish that kind of experience through the nomination
process by being able to ask the kind of questions that
are now being asked. Well, you know, what is the basis
for your experience? You know, how many years have you
practiced in this area? All that can be done in that
fashion without going to a more rigid application of
formula.

CHAIRMAN FLEAGLE: Thank you. Other
questions.
CHAIRMAN FLEAGLE: All right. Heather, thank you for the testimony.

MS. KENDALL-MILLER: Thank you.

CHAIRMAN FLEAGLE: Pete.

MR. PROBASCO: Next is Art Ivanoff, and the last testifier will be Rod Arno.

CHAIRMAN FLEAGLE: Good afternoon, Art. Welcome.

MR. IVANOFF: Good afternoon, Mr. Chair. My name is Art Ivanoff. I'm the resource advocate for AVCP out of Bethel. AVCP is a tribal consortium of 56 Federally-recognized tribes in western Alaska, as you're aware.

After reviewing the proposal, the proposed 70/30 split, AVCP calls on further efforts to develop and implement sport and commercial interests in the RAC process to cease based on the adverse effects, and on further erosion of Title VIII of ANILCA.

We've provided with your office a copy of Resolution 070502 adopted by AVCP Board of Directors.

We feel a key element and an important link missing from the inception of the Federal Subsistence Program is the consultation process with the Federally-recognized tribes. The U.S. Government holds a political relationship with the Alaska native peoples. Congress found there was a need to protect the cultural integrity of the Alaska native people's hunting, fishing and trapping way of life. And it's based on this political relationship with the Federally-recognized tribes that ANILCA was conceived. The intent of Title VIII of ANILCA is to protect the subsistence way of life of the Alaska native peoples and other rural Alaskans.

ANILCA Section 805 was created to provide subsistence users the opportunity to participate effectively in the management and regulation of subsistence resources on Federal public lands. Section 805 of ANILCA does not reference other users in the process.
We call on the immediate withdrawal of diluting the Federal Subsistence Regional Advisory Councils. In addition, we call on the Office of Subsistence Management and the Federal Subsistence Board to develop and implement a tribal consultation process in the implementation of Title VIII of ANILCA.

That concludes my testimony. Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Art.

Questions, Board members.

(No comments)

CHAIRMAN FLEAGLE: Thanks for the testimony.

Pete.

MR. PROBASCO: This is the last public testimony, Mr. Chair, and it's Rod Arno.

CHAIRMAN FLEAGLE: Good afternoon, Rod.

Welcome.

MR. ARNO: Good afternoon. Chairman Fleagle, Board members. Thanks for the opportunity to allow the Outdoor Council to testify.

The Outdoor Council supports option 2 with the 70/30 split, that clearly that the Federal Advisory Committee Act talks about fairly balanced, and asking for a 70/30 seems to be a fair balance. When it's only the people that I'm representing on the Outdoor Council, the majority of them would just be in that 30, mostly recreational users.

The function, you know, clearly under FACA is subsistence uses. That's the only thing that the Federal Subsistence Board can allocate, and that's subsistence use. But the Outdoor Council feels that by having that representation, that it will just open up that dialogue between those Alaskans who do qualify under the Federal program and the majority of Alaskans who don't.

And clearly under option 2, having it that if no qualified others apply, you know, there's numerous region where, you know, subsistence isn't much
of a problem as we saw in the rural/non-rural
determinations that were just made by this Board this
last year. Bristol Bay and the Yukon-Kuskokwim Delta and
Western Interior, Seward Peninsula, Northwest Arctic,
you’re going to be hard pressed to find someone there.
Of course, everyone who lives in those regions in order
to qualify would also be qualifying for subsistence.

And it's, you know, the problems that we
continue to see and we had here on the Kenai is just like
in the Southcentral RAC where you have a large population
of Alaskan residents who don't qualify under the Federal
rural qualifications that to have 30 percent
representation I think would be in Alaska's best
interest.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Rod.

Questions. Gary.

MR. EDWARDS: Rod, one question. I mean,
if you look at option 1, and where it talks about having
comprehensive knowledge of use, but if you also said of
use and view, and if you actually could find 10 or 13
people in a region that would fit that description,
wouldn't that actually be a lot more balanced Regional
Advisory Council representing all interests as opposed to
ones that's 70/30 that only seems to be that -- where you
might only have 30 percent of that group trying to
represent the views of, in this case, commercial and
sport, whereas in the other one, if you could accomplish
what's asked there, you would have 13 people collectively
representing all those views.

MR. ARNO: Through the Chair. Mr.
Edwards. I certainly don't see that that's occurred,
that, you know, clearly that when we have had
representatives who were on the RAC here in Southcentral
from Anchorage, and was not qualified, you know, his
voice wasn't any -- you know, there wasn't any better
representation, that he, you know, clearly wasn't able to
do anything more than just say that, you know, to try to
get out some of the conservation issues on it.

But I think specifically if in areas like
Southcentral Alaska where there's a large population of
recreational users who aren't represented, I think just
by having that dialogue and having them here I think
would be better and far better than option 1.

MR. EDWARDS: I guess just a follow up, you know, in some cases, you know, we haven't been overly successful in getting a lot of interest for representation in these groups. One could argue that that's a different issue and we need to maybe be looking at how we're trying to get candidates, but, you know, you can -- it has not been that necessarily easy. When we ask for, you know, people to look at, we don't have this gigantic slate that's overwhelming, you know, that you have so many applicants that you just -- and good applicants, that you don't know what to do.

MR. ARNO: Yeah. Through the Chair. Mr. Edwards. Clearly, and, you know, that's always going to be a problem. Why would you want to participate on a board that was allocating for something that you would get no allocation of. It's only -- the only advantage of having that 30 percent would be to have, and if there were people that were, you know, represented a large spectrum of recreational users, they could come and say, well, I just don't want to lose that much more. So it's always going to be a problem because of the way ANILCA's written, that you're only representing one user group. So the best that we could ask is for those who aren't represented to at least have a say at the table.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: All right. Thank you, Rod. Appreciate the testimony.

That concludes public testimony. The Board will stand down for 10 minutes.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon. The Federal Subsistence Board resumes discussions.

And just checking to make sure we've got everybody still with us on line. Denny are you back with us?

MR. BSCHOR: Yes, Mr. Chair, I am.
CHAIRMAN FLEAGLE: Okay. Thank you.

And during the break, Vince did let me know, Vince Mathews, the Regional Coordinator, let me know that he has been given the authority to represent the Western Interior and the Eastern Interior RACs on comments. So we'll just let that be known in the record.

Our next item is Council recommendations. And let me see. We've got two Councils present, and then we have one, two, three, four represented by telephone. And I guess just simply I'll take the two that are here present in person first, and then call for additional comments telephonically when we get there.

And from the table that's present, preference to who goes first? Dan O'Hara.

MR. O'HARA: Yes, Mr. Chairman. Dan O'Hara, Bristol Bay Advisory Council.

The 70/30 thing is working well for us. Picking up someone like Randy Alvarez who does -- truly a subsistence user all of his life, a life-long commercial fisherman, sport interest, is the Chair of our Council. Nanci Morris, a professional sport fishing guide, just an exceptional Council member. And Dan Dunaway, a retired biologist. I mean, he knows every stream in the region. It has done nothing but enhance, you know, the Council even better. And so I don't see where.....

And the gentleman from the Outdoor Council I believe made an interesting comment, that, you know, you get 45 million fish coming back this year, subsistence is -- and get one percent of that for subsistence, it's hardly an issue to deal with. Rainbow trout, we had a little fight, and how we've got that, we got it taken care of.

But I think maybe just listening to some of the testimony today, that perhaps maybe the interviewing process of Council members, a little more in-depth to the region, whether it be tribal or village councils or local governments, whatever it might be. You know, you don't want to open Pandora's box and start something that you don't have any control over, but I could write to the village, you know, health corporation and native corporation, the BBEDC, Kadamidella (ph) Corporation -- Association, and get all kinds of
recommendations to be on your Board. I can do that politically.

So I think maybe when the Feds and the State, if the State is involved in the interviewing of Council members, maybe we should go a little deeper into that system and see if perhaps maybe some of our true cultural subsistence people who don't deal with the Federal Government or the State might be a little more involved in what Council member represents them on their ability to transfer knowledge and make decisions, and get into a good scrap with you guys. We do.

So that's my comments, Mr. Chairman.

Thank you.

CHAIRMAN FLEAGLE: Appreciate those, Dan.

Board members, questions.

(No comments)

CHAIRMAN FLEAGLE: All right. I'll go to Ralph Lohse next. Ralph.

MR. LOHSE: Thank you. Thank you, Mr. Chair. I'll start off by giving our official Southcentral Alaska Subsistence Regional Advisory Council's recommendations so that it's on the record, and then I have a few things that I would like to add to it if I can.

The Southcentral Council recommends that given the purpose of the Regional Advisory Councils, these Councils should be made up primarily of subsistence users or people who have a strong background or knowledge of subsistence uses, who are well-rounded, who are familiar with local needs, and who represent a broad cross section of consumptive uses of the area. Non-rural members need to have a basic understanding of the subsistence way of life and subsistence needs. All Council members need to support and protect ANILCA. The Council holds that the needs of non-subsistence users, while not directly represented, would be represented by people who can see both sides of all issues and vote and look at issues in a rational way.

Setting any percentage for membership could be counterproductive.
Council discussions included the following subjects:

In order for the designated seats to balance, all members must attend the meetings.

While it is important for members to have a broad knowledge of all activities, this is a subsistence Council, and that subsistence representatives should be the primary members on the Councils.

That the Councils are local residents who advise professionals who don't live the subsistence way of life.

That Councils can't have non-consumptive users, because by the very nature subsistence is consumptive.

That OSM has done a good job of getting people who have a broad understanding, are open-minded and willing to learn.

And we feel that single interest representation is too narrow for the work of the Councils.

That's the official position of the Southcentral Regional Advisory Council.

As the Chair, I'd like to speak to just couple of things that I have seen and that have been brought so far in this meeting, if that's okay with the Chair.

CHAIRMAN FLEAGLE: Go ahead, Ralph.

MR. LOHSE: I was looking at your options for consideration. And on option number 1 where it says comprehensive knowledge, I have to agree with the lady lawyer that was here from the Sierra Club. I don't think just knowledge is enough. I think it has to be comprehensive knowledge and a significant participation in those areas, because I think the significant participation is what gives the person the actual interest in maintaining that type of activity.

I mean, an example would be if I would decide to represent commercial fishing, but I was a retired commercial fisherman, that would be different
than if my livelihood depended on commercial fishing, and
I was also a subsistence user, and I was representing as
a commercial fisherman. And so consequently, I think the
significant participation is very important.

I have a little problem with the Litmus
Test thing, simply because, and I'll have to use an
example that kind of illustrates that, but the Litmus
Test problem is how do we pick which organizations get to
make the Litmus Test and what kind of Litmus Test do we
give those organizations, and do those organizations have
to be local so that they represent those kind of people
that are involved in that local area and then what is
local. And I'm going to go back and use the same kind of
illustration again.

As you know I'm also a commercial
fisherman. If I would get CDFU, which is Cordova
Fisherman's United to say that I was a good commercial
fishermen representation, but Cook Inlet fishermen who
are also part of our area said, no, we can't accept him
and AFA says, no, he doesn't represent the commercial
point of view, would I be a good commercial fisherman
representation or not. Which one of those organizations
would hold the weight.

And so that's where I think that your
process, like Dan was saying, of looking at the
candidates, and one of the things they have to do is they
have to put down people that you can go to to see what
does this person really represent and organizations, and
you're going to have to make that kind of decision. But
you could still represent in a way, not a specific
organization, but a philosophical viewpoint.

I mean we've had -- if you take a look at
some of the things we've had people on our Council who
had a broad knowledge of subsistence but were very
directed to other areas, they were listened to, they
actually changed opinions on some of the things, their
information was welcome, but they also need to attend.
You can't accomplish something if they decide -- you
know, I can't accomplish anything here because this thing
comes out for ANILCA every time and I'm against ANILCA
basically. And so they give up and they go home. You
have to attend the meeting and bring the information to
the Council.

And from that standpoint, I --
personally, myself, I think that your goal should be to
have a broad representation but the knowledge and the participation is a lot more important.

Thank you.

CHAIRMAN FLEAGLE: Appreciate the comments, Ralph. And just for correction, that's Safari Club, not Sierra Club, a little bit of difference there.

(Laughter)

MR. LOHSE: I didn't realize that I said Sierra Club and I'm sorry if I did because I didn't mean that, that's for sure.

(Laughter)

CHAIRMAN FLEAGLE: That's okay. I'm just correcting on the record. Gary.

MR. EDWARDS: I have just a couple of questions. It didn't appear from the Council's position whether you took -- sort of a position on the 70/30 or not. It was more or less kind of describing what you think the representation should be and the qualifications of the individuals that should represent and then what you talked on on participation; is that correct?

MR. LOHSE: That's pretty much what I would think. I don't think that -- I know there's a lot of people in our area that don't like the idea of a specific 70/30 split meaning that this represents this, you know, because we, as a Council, have had broad discussions and included all the viewpoints and so what we want is we want people that understanding the guiding industry or participate in it but also understand subsistence so that they can bring their information into the discussion. And we didn't see where a rigid 70/30 would meet the qualifications of ANILCA, which is a broad representation, and, yet, support ANILCA.

MR. EDWARDS: And then let me follow up, like Bristol Bay, your Council has been operating under this kind of 70/30 and I think some of your membership has come about maybe because of it. I mean Dan spoke, you know, very highly of sort of the folks that have come on to their Council under that, I mean would you echo that for your Council or has it been problematic or good or bad or indifferent?
MR. LOHSE: I think that, as a Council, we have been very blessed with the kind of people that we have had come to represent these different viewpoints. I mean they've been strong advocates of different -- other than straight subsistence viewpoints and yet had a strong knowledge of subsistence and subsistence uses in the area and subsistence users.

Actually the truth of the matter is they were part of the community and that even includes the representative that we had from Anchorage, he was still part of the community. He had lived with the kind of people that do subsistence enough that he had that kind of understanding and yet he could bring a strong viewpoint of, I'll say, sportfishing, and represent it well and even change opinions and minds with it, but at the same time you have to recognize that he's probably going to get outvoted when it comes down to a subsistence versus sport issue if it looks like the sport would impact the subsistence because everybody on the Council feels that the thing is to look for a subsistence priority.

CHAIRMAN FLEAGLE: Other questions, Board members. Dan.

MR. O'HARA: I just didn't want to leave Thomas Hedland out, who is a guide on our Council, born and raised up at Knudsen Bay area and lifelong Native Alaskan subsistence user, commercial fisherman and a guide, so there you are. And just a good contribution. He'll be coming on new with us is my understanding.

Thank you.

CHAIRMAN FLEAGLE: All right, thanks, Dan. Appreciate your comments, Ralph. And I'm going to turn to the other RAC Chairmen that we have present and first I'm going to call on Lester Wilde, Yukon -- no.

MR. PROBASCO: Yukon-Kuskokwim.

MR. WILDE: Thank you, Mr. Chairman. Our RAC feels that we don't have too much of a problem with the 70/30 split, although we would like to insist that all of our members be primarily subsistence users, which they are, except for one person that was appointed to our RAC who did not attend any of our meetings and happened to be the author of Proposal 32 that was passed at your last Board meeting. And the only -- we haven't had any
1 problem in that 70/30 split because all the members that
2 are on there are primary users of the resource.

Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, Lester.
Questions, Board members.

(No comments)

CHAIRMAN FLEAGLE: All right, appreciate
the comments. Bert Adams.

MR. ADAMS: Thank you, Mr. Chairman and
Members of the Board. Appreciate the opportunity to be
able to make some comments in regards to the SERAC's
position on this 70/30 rule.

Let me see here, on November 27th, 2006 I
wrote the Chair a letter indicating to you, Mr. Chairman,
that I submitted some personal comments concerning the
subsistence management regulations for public lands in
Alaska and it also regarded the Federal Subsistence
Regional Advisory Council membership. That was submitted
before we had a Council meeting and so I submitted that
on a personal note using the word, I.

On November 21st, 2006 the Council had a
teleconference meeting and they reviewed my proposal and
then voted to submit these comments as Council comments.
So the letter that you have is, of course, adopted by the
Regional Advisory Council. Let me say that our Council
vehemently opposes the changes in Regional Advisory
Council selection procedures and the composition.

We wish to provide comments concerning --
I'm going to make some comments in regards to the
structure of the Council.

We acknowledge the Democratic intent of
the Federal Advisory Committee Act and would point out
that it is primarily an open government law intended to
have important decisions that's subject to public review.
You know ANILCA was developed to provide a process where
the public can participate in issues that pertain to
subsistence and the Regional Advisory Councils are the
avenue in which they are able to accomplish that.

On that letter that I submitted to you,
Mr. Chairman, it was on October 18th, 2006, on Page 2 of
5, it gives an appendix to the subpart A and B, of which you all have and so I'm not going to go through that at all. I'm just going to take some highlights of that letter and kind of emphasize on them a little bit.

It says here that FACA requires that agencies have a plan by the agency sets quotas for committee membership. So the Council believes that the program is in compliance with the 70/30 rule. I personally feel that way, I think -- I feel strongly that before this 70/30 rule came upon us that our Council, particularly, was well balanced in all of these user groups. On the bottom of that page and on Page 3 of 5 you will see the names of the members of the Council who you will notice, you know, are involved in commercial, sport and subsistence. I, for one, can give you a for instance. I am a subsistence user. I'm also a commercial fisherman. And I also am a charter boat captain. And when I sit in our Southeast Regional Advisory Council meetings, I can use that knowledge that I have in all of these user groups to make, I believe, you know, I would (ph) say a wise or proper decision, in regards to the subsistence issues that are before us. The main idea is that we deal with the subsistence issues and make our recommendations based on that with the knowledge that we do have with the commercial industry as well as the sport.

The Council believes that, as I said earlier, was in compliance with the 70/30 rule and if the program was, in fact, in compliance during the 1993 and 2000 time period then Regional Council recommendations and Federal Subsistence actions based on those recommendations would be really questionable and we don't believe that it would be unsupportable at that.

The Council also believes that membership can be balanced without trying to program to an artificial quota designated seats. Now, we live in the real world, and Alaskans are not neatly divided into subsistence, sport, guide or commercial users. In my experience, almost all seated Council members are strong participants in most of these interest categories. And I gave you an example of myself for instance.

The following table shows the interests represented by 13 Regional Advisory Councils [sic] and, you know, you can look at those, you know, at your own leisure, you have probably already done that anyhow.
Subsistence fishermen frequently hold commercial fishing licenses. Commercial fishing may be a part of sportfishermen or hunters. Sport hunters may have personal use fishing permits while hunting guides may also hold sportfishing licenses. In almost all cases, however, an individual usually holds certain convictions and beliefs that would cause him or her to represent one of his or her interests more strongly than other interests when making recommendations on potential regulations or policies that would impact his or her use of that resource.

RACs are supposed to be strong advocates for subsistence use of fish and wildlife. And if this highly subjective method of categorizing applicants, mainly self-identification, is flawed because so many Alaskans represent multiple interests then the 70/30 rule approach of designated seats is not really supportable.

ANILCA does not provide for quotas on RAC seats and so we recommend dropping the quota system for Council seats. We would propose that we meet the guidelines through expanded outreach, and I'm referring to guidelines of 41 CFR 102-3.61 (ph), through expanded outreach to encourage diverse applicants to apply by revising applicant evaluation criteria to encourage the desired diversity and requiring designated Federal officials or other FACA officials to report on how balance has been achieved on their Councils.

We would also note that balance should consider age, gender, ethnicity, income, education, geographic residence and other factors that are important in terms of the points of view represented and the functions to be performed. I believe that this approach would meet FACA's fairly balance requirements by insuring that a diversity of interests are represented on each Regional Advisory Council.

Finally, I request that the plan for meeting the FACA representational guidelines in the above -- above this letter here be subject to rulemaking, and I think that process is already being done at this point. The rulemaking should include public hearings in affected communities and consultation with tribal governments. I think that we really need to include tribal governments in the process here. I've tried to, in this area, you know, keep our tribal government informed on all of the things that we are doing in the Southeast and they really appreciate that and we've had a lot of tribal people, you
know, attend our meeting and testify and I think that process is really healthy for us because we are then representing, you know, people that are really affected by the issues that are before us in the ways that we are recommending subsistence regulations be changed or adopted. Formal rulemaking is required to insure that a full range of alternatives is considered and to develop a strong administrative record required for what may be controversial regulations.

And, Mr. Chairman, I would be open for some questions at this point. I said I have this rule, you know, don't make them too hard and then I'd like to make some comments after that, if I may.


MR. EDWARDS: Hey, Bert, this is Gary Edwards. As part of your testimony you had indicated that you felt that the Council was well balanced before the 70/30 split. Now, that that has been in place, do you feel that the Council's no longer well balanced?

MR. ADAMS: I feel that the people that we have on the Council right now are truly representative of -- and, yes, we are balanced. I believe that we still maintain our balance.

MR. EDWARDS: Thank you.

CHAIRMAN FLEAGLE: Other questions, Board members.

(No comments)

CHAIRMAN FLEAGLE: That's it for questions. Bert, you want to go ahead and wrap up.

MR. ADAMS: Sure, I'll wrap up, Mr. Chairman, thank you. I've got to find my notes here, excuse me.

Title VIII, as I said earlier, opens a forum for public to participate in the subsistence issue. And through that forum is, of course, the Regional Advisory Councils. And to meet requirements to sit on a RAC you have to be a resident of that area. You have to have knowledge of the subsistence in your region and you also to have some knowledge of the sport and commercial fishing industry.
I was interested in the comments that the lady from the Safari Club made in regards to representation and knowledge. It's my understanding that all we needed to have was representation but no knowledge. I have found myself in a very bad situation on many, many occasions when I was trying to represent a group and I didn't have the knowledge. That's how come I have the rule, you know, don't ask any hard questions of me, if I don't have any knowledge of the subsistence issues, the sportfishing or the commercial fishing issues, then I am not representing my constituents very well. And so I just wanted to make that comment.

There was also a comment made on consumptive users. You know, if you come into my home, you will find that about 90 percent of my home is gathered with subsistence foods. Right now I have a smokehouse outside that is filled with king salmon. You look into my freezer and there is moose meat from last fall and there's some deer meat and there's other, you know, subsistence meats and fishes, you know, that we are still using. And first of all I am a subsistence user and then I am a commercial fisherman and I'm also a sport person. But like ANILCA I have a priority over subsistence over anything else. And so I am somewhat concerned on the fact that something was made about advocating for their interests, that if we get a very powerful person that is on the commercial -- and I have seen this happen, you know, even on our RAC, or the on the sportfishing side, that things could change very easily and I'm afraid of this kind of dilution in the RAC as we see it now.

So ANILCA species that the RACs are to address issues pertaining to subsistence and as I mentioned our Council is very well balanced on that. We have commercial fishers, we have sportfishers and guides and, you know, they use that knowledge and information that they have of these various users and I think, you know, that they make wise and good decisions as a result of that knowledge.

I'd also like to say that deference should be made, and I think I've said this before, you might have heard me repeating myself again, should be given to the Regional Councils. They are the ones who do all of the leg work and the research and they, you know, seriously look over the proposals that are before us and then we put our stamp of approval on it and it goes to you and we hope and pray, you know, that through your
efforts that they will become regulations. But I think, you know, the idea that we work from the bottom up should be emphasized more and more as we deliberate.

Another thing that I'd like to say, you know, and I don't think I've emphasized this or said it, you know, very strongly before, is that if the State of Alaska would only come in compliance with ANILCA, all the problems and issues that are before us right now would go away. And I'm very concerned, you know, that we're still going to have this tug-of-war between our way of managing resources and their way. We both believe that we do a better job but, you know, it's something that's nagging on me all the time, that all the State needs to do is come in compliance with ANILCA and then they could take over the subsistence management of the resources in the state of Alaska.

I'd also like to make reference, Mr. Chairman, if I might. The letter that was written to -- I believe it was to the Secretary of Interior on October 22nd, 2001, and it was signed by Senator Rick Halford and Representative Brian Porter, the Legislative Speaker of the House, Senator Halford was the president of the Senate at that time. I'm very curious about who they were representing on this issue. I remember reading the letter but I don't remember it being stamped by the state of Alaska Legislature or the state of Alaska in general, were they representing themselves or were they actually representing the views of the state of Alaska and I have a real problem with that and maybe somebody can answer that question for me. It doesn't have to be now but sometime down the line.

You know the State has not been effective in developing steps needed to bring the State in compliance with ANILCA and we are going to continue to have this tug-of-war between us if nothing is done in that area.

I'm just challenging, you know, the State that this is the problem that we are having right now with dual management and it really shouldn't be that way because if they would come in compliance with ANILCA then subsistence would be a priority and as long as they don't do that then the next step is to follow the Federal law, which is ANILCA.

Thank you, Mr. Chairman. And I wish I could have been up there with you today to be personally
there to testify but, you know, your budget, as you said, was not able to afford that. I realize that with the cuts that the Federal government has to make with the war in Iraq and Afghanistan and other parts of the world, that it probably is necessary but I feel kind of left out when, you know, it has to be with, for instance, you know, Regional Advisory Council Chairs not being able to come to a meeting and testify in a forum like this. I think it's really important that we be present rather than trying to communicate our issues, you know, over the telephone.

But anyhow thank you, Mr. Chairman, for allowing me to share my views with you and talk on behalf of the Southeast Regional Advisory Council.

Gunalcheesh.

CHAIRMAN FLEAGLE: Thank you, Bert. And your concerns about the budget and travel are noted. Thank you. I'm going to turn over to Vince Mathews, on line, for comments from the Western and Eastern Interior RACs. Vince.

MR. MATHEWS: Thank you, Mr. Chairman.

Can you hear me?

MR. PROBASCO: We got you loud and clear, Vince.

CHAIRMAN FLEAGLE: Go ahead.

MR. MATHEWS: Okay. Thank you for allowing the newly elected Chair, Jack Reakoff, who would have loved to have been involved with this discussion but his travels with the Gates of the Arctic Subsistence Resource Commission, but last week's Board meeting affected his normal subsistence pattern of harvesting caribou so right now he's out trying to find a caribou.

For the Chair of Eastern Interior, she also wanted to be involved, but she's also called away to be working on her garden as well as possibly a bear hunt.

So with that, Mr. Chairman, the comments and recommendations for Western Interior are found on Page 8 of your packet there and I'm just going to do the highlights of it.

But basically the Western Interior
Council recommends that the composition should never be below 70/30. They talked extensively during their discussion on this about it worked with having commercial/sport interests on their Council and how they've benefitted from that. But in light of that and in light of their make up for their region, they felt that demographics should be considered for each Council and for the Western Interior region, which should be 80/20, always favoring the subsistence priority.

And the basis of their direction on that is from ANILCA, that the advisory structure should be that it enables rural residents to have a meaningful forum to review and dialogue on subsistence issues.

They also acknowledged there may be regions or areas that have no commercial interests and, again, that reinforced their recommendation for demographics but they concluded on that that it should never go below 70 percent for subsistence issues.

Eastern Interior is found on Page 9 of your book, again, I'll just get the highlights of it.

They did not recommend any hard and fast rule on percentages. They would rather have the application process determine the make up of the interests of people applying. Similar to basically how the State runs their Advisory Committees. So the applicant interview process should determine the percentage of interests and the various fish and wildlife uses for each applicant and those would be combined to get to a balance to meet the FACA requirements.

That Council, when they brought up this issue discussed at length about the concerns about when people declare that they are subsistence but may be viewed as commercial or may actually be commercial. So they discussed at length but took no official action on possible ethics disclosures for the benefit of the Board, but again they did not take any action on that.

That concludes the discussion of recommendations for Western and Eastern Interior.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Vince. Questions, Board members.
CHAIRMAN FLEAGLE: All right, appreciate those comments. I'm going to turn it over to Barbara Armstrong. Do you have any comments for your Advisory RACs, please.

MS. B. ARMSTRONG: Yes, Mr. Chair. I have one for North Slope Subsistence Regional Advisory Council who unanimously recommended to oppose the rationale for using the 70/30 Council composition plan. The Council opposes any mandatory requirement to have commercial, sport representation on the Council and is satisfied with Council composition that consists solely of subsistence users.

The Council acknowledges that the North Slope region does not have commercial users that reside on the North Slope.

And Seward Penn did not make a formal recommendation but this is a Council where they had no problems working with the 70/30 split. They've meshed in real well. And currently Seward Penn is being Chair'd by a comm/sport, probably the only one statewide.

Thank you, sir.

Questions.

CHAIRMAN FLEAGLE: Thank you, Barbara.

MS. CHIVERS: Thank you, Mr. Chair. The Kodiak/Aleutians Council recommends that the current system be left in place. The Council believes that the current nominations process allows for a diverse Council make up and they urge the Board not to get locked into a hard numbers formula.

As for the Northwest Arctic Council, they did not make a formal recommendation, however, members did offer comments during the Council's winter meeting. The Council agreed that the 70/30 balance of membership is satisfactory with one condition. If there is not enough qualified commercial or sport use representatives to fill the 30 percent of the seats, those seats will
continue to be filled by qualified subsistence use
representatives. Members noted that few commercial
operators live in the region but that the Council will
welcome them provided that they live in the region year
round. A member stated that it seems that we are
heading towards a system that leads people to support the
Federal system in the first place and caution that the
Board needs to make sure the Councils remain within the
intent of ANILCA.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Michelle.

Questions.

(No comments)

CHAIRMAN FLEAGLE: I think that concludes
all of the Regional Advisory Councils.

MR. PROBASCO: That's correct, Mr. Chair.

CHAIRMAN FLEAGLE: All right. We now
move to the Alaska Department of Fish and Game for
comments. And who's taking this, Tina -- Tina Cunning.

MS. CUNNING: Thank you, Mr. Chairman.

The Department is concerned, both with the way the
background for this discussion was presented to the Board
and with the way the State of Alaska's comments were
interpreted and summarized by the Federal Staff in the
report.

First regarding the background section.
It ignores Judge Holland's January 16, 2004 summary
court order which found that the Regional Advisory
Councils are subject to FACA's "fairly balanced
requirement" and that "Councils which exclude the
viewpoints of non-subsistence users" do not meet this
requirement. Thus the Staff's compilation of Option 1 is
not a valid option for consideration because the Court
expressly stated "in light of the national policies of
ANILCA and the functions served by Regional Advisory
Councils, a Council composed of only subsistence users is
not fairly balanced."

In our letter to the Board we noted that
the balance required under FACA is particularly important
because the Federal Board defers to the Regional Advisory
Council recommendations on many issues and is often
reluctant to exercise its responsibilities or use its
authorities under Sections .805 and .815 of ANILCA to
reject recommendations even when the recommendations are
not supported by substantial evidence, violate recognized
principles of fish and wildlife conservation, would be
detrimental to the satisfaction of subsistence needs or
would unnecessarily restrict non-subsistence uses. Thus
balanced RACs are needed to insure that the competing
purposes of ANILCA, as recognized by the Ninth Circuit
Court in the Ninilchik Traditional Council versus United
States 2000 Decision are considered by the RACs as well
as the Board.

Second I want to clarify our comments
that were not fully represented in the Staff's report.
The Department wants to make it clear that it sees the 30
percent non-Federal subsistence representation as an
absolute minimum necessary for meeting the FACA's "fairly
balanced" requirement unless major modifications are made
to the way RAC membership is determined and even then 30
percent should serve as a minimum for, except in rare
circumstances where primary purpose representatives of
other user groups are not available in the region, in
which case flexibility could be considered.

In most areas of the state regional
representation targets should be higher and it should be
possible to find representatives who are willing to
primarily represent non-Federal subsistence users if you
modify your selection process, which I'll explain later.

In order to achieve the balance it is
important to maintain a requirement that the RACs must
include membership that represents other uses, i.e.,
sport, personal use, commercial, and State subsistence
uses. And also that the RACs continue to allow
membership from Alaskans in non-rural areas in the
region. The current regulatory requirement for all
members to be knowledgeable about the subsistence uses of
the public lands in the region should be eliminated as an
individual who is not primarily representing subsistence
uses may have limited knowledge of subsistence uses but
still be knowledgeable about other uses of fish and
wildlife in the region. Since decisions by the Federal
Board affect all Alaskans, including representatives from
non-rural areas on the RACs, in those regions that
include large population centers will achieve a more
balanced approach representative of the entire region.
And we note that ANILCA .805 specifically established the
RACs to provide, quote, the provision of a forum for the
expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region.

The Department urges the Board to implement major modification of the way the RAC membership is determined.

The current process of appointment based on Federal Staff recommendations has serious flaws. This is not representative as a problem in all of the RACs but one of these flaws is the lack of consultation with the State in the selection which is inappropriate and contrary to the requirements of ANILCA Section .805(a), which provides that the "Secretary in consultation with the State shall establish a Regional Advisory Council in each subsistence resource region." To date the State has not been consulted on the membership in any official or formal way.

We urge the Board to consider modifying the RAC selection process to use the National Park Service Resource Commission approach so that the RACs are comprised of local people from the region, some members nominated by the State, some members nominated by the Federal Board and some members nominated by local Fish and Game Advisory Committees. The fairly balanced requirement could be met by requiring each nominating entity to nominate at least one individual who actively participates in these various uses and has various interests and also actively participates in Federal subsistence hunting or fishing. All nominated members would then be appointed by the Secretary. This approach could result in a balanced RAC, foster increased communication between the Fish and Game Advisory Committees and Federal RACs and insure that members appointed are local residents who are users of the resource and representative of their communities.

Regardless of the model that's selected we think there's some clear procedural things that need to be resolved. And one thing I want to mention here is people may not be aware that in the early years of ANILCA implementation the State run Regional Advisory Councils were comprised of the Chairs of the local elected Fish and Game Advisory Committees in their region. In this manner the Councils comprised persons who were elected by the residents of the region and we suggest that the Board consider establishing a few seats on each Federal Council to be nominated from the local Fish and Game Advisory
Committees, not necessarily the Chairs. In this manner
the Board would be assured that elected representatives
who are most interested in the fish and game uses in
their region are also among those selected to serve on
each Council. These nominations could be selected to
fill both the subsistence and non-subsistence user group
seats on the Council.

Irregardless of these models we'd like to see some very clear process changes. And one of those is
we need to require, as several RACs have mentioned,
active participation for representation. Each nominating
authority should be required to nominate representatives
from various users groups. And there needs to be
representation of the State subsistence users, not just
the Federal subsistence users. Secretarial rejection of
State Advisory Committee nominations should only occur
for cause. But there needs to be a provision for
procedures for removal of RAC members for cause at the
request of the local Advisory Committees or the
nominating appointing authorities. There needs to be a
provision for dissenting recommendations to reach the
Board where a RAC is not unanimous in its recommendation.
And elimination of the requirement to be knowledgeable of
subsistence uses as the statute only requires that they
be a resident of the region.

As I stated, we have a serious problem
with the current selection process. As Mr. Edwards
suggested, people in some parts of the state are not
going to apply to serve on a Federal committee and
particularly where they don't feel that their viewpoint
is welcome by a majority. But if elected by the local
Fish and Game Advisory Committee or their hunting or
fishing club or some other entity they might be willing
to serve.

Second. The selections are currently
done by Federal employees who then make the
recommendations based on their own philosophy or agency
policy out of the public eye, not necessarily based on
the interest of the local area.

Then, third, because some are selected to
represent minority views, those individuals have no
mechanism to provide their interest in other uses, the
impacts on other uses, and other interests for the Board
to hear in their deliberations.

The Board has a charge to consider other
beneficial uses and balance competing uses. But the
current RACs, regardless of the model of their
composition, do not provide views to the Board of those
that are not in the majority. The Board, then, does not
have the benefit of the local users various interests,
other use data and the Board is taking action, gives
deference to the RACs but only the majority view, as
selected by the Federal officials who nominated them.
Judge Holland made it very clear that the RACs must be
fairly balanced and include the viewpoints of many users.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Tina.
Questions, Board members. Gary.

MR. EDWARDS: Tina. You were suggesting
kind of a formal nomination process, but there seems to
me that there's never been anything that would prevent,
let's say, the State for example, everything there is a
call that goes out for a membership to identify people
who you think would be good representatives and
encouraging them to apply and if they did write letters
of support for them. My sense is that that would take a
lot of weight and carry a lot of weight because I'm
assuming you would be identifying good people. So I mean
it's the same process it's just not a formal process. I
haven't seen any of that, in fact I've seen very few
groups, you know, kind of step up and try and encourage
people to be members and then write letters in support on
their behalf.


MR. HILSINGER: Thank you, Mr. Chairman.
I think that's a good idea and I think that's maybe
something that would be really good for the Federal
Subsistence Board to develop more of an outreach plan
for. I don't think most groups realize that they would
have the opportunity to nominate people and have those
nominations well considered. So I think that's an
excellent idea and I think the outreach on that aspect
would be good.

I think many people here have mentioned
the problem of getting representatives of those other
user groups to apply and to continue to participate and,
you know, we have had some feedback from people that it
can be fairly difficult to be one of the minority people
out of a group of 10 and it's often contentious. And so
I think that's another area where some outreach could really maybe help encourage those people not only to apply but also to continue to participate.

Thanks.

MR. EDWARDS: You know I've been on the minority a lot of times and I continue to participate.

(Laughter)

MR. LOHSE: Mr. Chair.

CHAIRMAN FLEAGLE: Other Board members, questions.

(No comments)


MR. LOHSE: Mr. Chair. I really appreciate what John just said there and it's really something that's been evident in Southeast and Southcentral. I know that a couple of people that are on our RAC were directly nominated by a local Fish and Game Advisory Board which chose to take part in this Advisory Program. I also know other Advisory Board in our Southcentral region, that the only thing they've done is come to our meeting and tell us that we shouldn't be here at the meeting and now some of them have now chosen to start participating in this process but you can't force people to participate in the process. You can't force Advisory Committees to recommend somebody to the Council, if they want to choose the actions of the Council, by nature, are not within what they consider legality, but we have also had other Councils that have chosen to participate and members on our Board have been nominated by those councils and are sitting on our council -- or Advisory Committees, my fault, I keep mixing Councils and Committees up but Fish and Game Advisory Committees that have chosen to participate and have recommended members and those members sit on our Council.

CHAIRMAN FLEAGLE: Other questions.

(No comments)

CHAIRMAN FLEAGLE: All right. We don't have any Staff Committee comments. We'll go right into
Board deliberation. Board members discussion.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I just make a general comment on this question of attendance. From some of the RAC meetings I've gone to, I mean attendance is sometimes difficult for all the members, whether it's weather logistics or connections or commitments that conflict, so I know we focused a lot about attendance by sport and commercial representatives but I think that also affects subsistence users. So I think it's something that the coordinators continue to struggle with to encourage everybody's participation and work on those logistics to make sure that everybody gets there.

CHAIRMAN FLEAGLE: Other Board members. I'd like to remind the public and the Board that we do have Denny Bchor participating telephonically. Just pipe up if you want to be recognized, Denny.

Gary.

MR. EDWARDS: Well, I think it's interesting if you listened to all the testimony and listened to the RACs, if you sort through it all I'm not sure it's -- in a lot of ways the messages were kind of the same in all, I mean it seems to be general agreement by all that -- for most of all, that the Councils should be balanced, should have this broad representation with people are willing to participate and who do participate, and certainly the Council meetings that I have been to, you know, obviously there is a degree of participation, you have some Council members that basically don't say a thing at the meeting and it's pretty clear that they didn't do a whole lot of coordinating within their own community let alone with a neighbor community and other Council members it's obvious that they've put a lot of time and effort into this and we salute those. So I think everybody sort of wants to get the same and I guess it comes down to the devil's in the details and how do you go about doing that.

I guess in my mind there is nothing necessarily magical about the 70/30. I mean intuitively if you carry out Option 1 and do it right and get the right balance you'd probably come out with something close to 70/30 or 60/40 or in some communities obviously
I don't have a lot of commercial sport it would be higher
so, you know, I'm not sure -- I guess I'm somewhat maybe
ambivalent about both of those but I agree with the basic
premise of the kind of people that we're looking for to
be on these Councils and what I think is required by
FACA.

I guess maybe the more important question
is how do we go about getting what we really think
everybody seems to want.

CHAIRMAN FLEAGLE: Charles.

MR. BUNCH: Mr. Chair. It's my
understanding of the law that you have to look at the law
in whole and it seems to me that if all we had to do was
follow ANILCA then that would be a fairly easy hurdle to
clear, however when we get FACA in here that requires us
to get the fairly balanced, it seems to me like if we do
the job right, what Gary was saying, that Option 1 should
do that. That may require, like the State is talking
about, a greater outreach or some modification of the way
that we do the process, but it looks like it could be
done.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Well, one thing that
struck me from the testimony in our application process,
and I believe that people have been very thorough and
diligent, we do have criteria in that process so I think
we've been fair and done a good job on our selections.
It sounds like, and I'm sure it is, hard for a person to
self-declare, maybe one category because as many people
have stated many of our RAC members most likely fulfill
two, if not all three of those categories. And perhaps
in broadening those categories we can also insure that
broad participation that's absolutely necessary in the
RAC and representation and fulfill both ANILCA and FACA
requirements.

That may be able to give us even a more
diverse group.

MR. BSCHOR: This is Denny.

CHAIRMAN FLEAGLE: Go ahead, Denny.
MR. BSCHOR: Excuse me, if I remember correctly when I first got on the Board we were operating under an Option 1 kind of situation and then we went to 70/30 and that was a goal, I want to remind everybody of that, that wasn't set in concrete, had to be 70/30, it was try to show that we're trying to get more diversity on the RACs.

But after listening to the testimony, it seems like maybe, you know, the 70/30 is putting this into the too hard box, as long as we meet the intent of ANILCA and of FACA, it seems like I could live with either one. I mean I'm not stuck. But it seems like the 70/30 seems to line up people on positions, at least, that we really don't need to be arguing over as long as we can show as a Board that if we go with Option 1, you know, that we can show that we're meeting the intent and doing everything possible to be fair and balanced, perhaps that's good enough.

That's all I have to say.

Thank you, Mr. Chair.

CHAIRMAN FLEAGLE: Thank you, Denny.

George.

MR. OVIATT: Thank you, Mr. Chair. Well, the 70/30 certainly guarantees that we would have a split, but we've had difficulty in reaching that 70/30 at times. It looks like to me or it appears to me that we can meet FACA and ANILCA simply by looking at our process and working at that process to guarantee that we have a good and fair representation across the Board.

So I'm not sure a 70/30 split is benefiting us the way that we -- if we really worked at our process and worked at our outreach that we could accomplish those tasks without it.

Thank you.

MR. BSCHOR: Mr. Chair. It's hard to hear Mr. Oviatt.

CHAIRMAN FLEAGLE: Okay, we'll have him speak up next time. Thanks, Denny.

Other comments.
MR. EDWARDS: Again, like I said.....

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: I guess I could kind of go either one. I think again intuitively when you finally get ready to make a recommendation to the Secretary, my guess is to try to insure balance we're going to probably do a head count of the people that we send in and so, you know, we'll probably still end up, even though we might not say it vocally, we'll probably still say, well, this looks like about 70/30 I think we've met our goal. So I'm not sure one way or the other.

I guess the one thing the 70/30 does, I guess, does send a clear signal that that's what our intent is. But, again, I'm not weighted to either one. And at least from what I heard from the RACs it doesn't seem to -- it certainly wasn't unanimous. You know I think we've heard from several RACs that 70/30's working fine with them and they've gotten good representation on it and they're very pleased and they feel that it's been value added. So I didn't hear anything that was overwhelming from the RACs that were necessarily opposed to the 70/30. I didn't necessarily hear anything that was over supportive of the 70/30 either.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: Well, I think we did hear both maybe in different ways. For some regions where the 70/30 composition couldn't be achieved because of scarcity of some of the 30 percent, let's say, that was one situation. For some of the other Councils where that representation was fully on the Councils, I think this Board has benefited tremendously from the input of the other user groups. I think going back to my earlier point that as we've heard from many people, most members do have a diverse background and I think that benefits this program tremendously and maybe as people are saying, instead of perhaps categorizing them as one -- as a certain type of representative let's let that full background come forward with recommendations to the Board consistent with ANILCA.

Thank you.

CHAIRMAN FLEAGLE: Gary.
MR. EDWARDS: Just one other question. I guess I'm a little unclear what, you know, our task is here. I mean ultimately we're going to select one of these options, and I guess I would ask Keith this, is that really what the Judge expects us to do, I thought there was a bigger expectation than for us to just pick one of two options. I mean isn't there -- I think he expects -- doesn't he expect more than that or are we just trying to get this on the record. So I'm unclear what we're really supposed to be doing.

CHAIRMAN FLEAGLE: Keith Goltz.

MR. GOLTZ: The Judge expects a complete administrative record. A rationalization of what you're doing and why you're doing it. The fact that there are two options are a function of Staff work. You can choose one or the other, create your administrative and either would be defensible as far as I can tell.

MR. EDWARDS: I mean is one of the options not to choose anything at this point and, you know, we've had several suggestions about doing the process and all a little bit different and that, and basically try to address some of those types of issues before we kind of make any final decision.

MR. GOLTZ: I think nothing is not an option. We have to comply with ANILCA, we have to comply with FACA. And we don't have the luxury of an Ivory Tower, we have to make things work.

CHAIRMAN FLEAGLE: All right. I'm going to call a break, a 10 minute break and we'll come back to this discussion.

(Off record)

(On record)

CHAIRMAN FLEAGLE: Good afternoon, we're back on record. And we have our telephonic participation turned back on. Denny Bschor is with us by telephone. And just like nature, bureaucracy abhors a vacuum and we got the room extended to 7:00 so that means we've got to fill it, right.

(Laughter)

CHAIRMAN FLEAGLE: Oh, I'm kidding.
MR. PROBASCO: It says right here.....

(Laughter)

CHAIRMAN FLEAGLE: It says right here.....

(Laughter)

CHAIRMAN FLEAGLE: Gary.

MR. EDWARDS: Mr. Chairman. I'll try to avoid that and maybe to get us moving forward, I guess I am prepared to make a motion.

You know as I look at both of these options, I guess I've indicated -- I guess my view is that really each one of them could work and I think each one of them are trying to get us to the same place and that is to follow what our responsibilities are under FACA and that is to have balanced Councils. And I guess I would argue even if FACA didn't require that, that I think that's something actually that we should seek for.

And while I think Option 1 would, I think, certainly would work I think in my mind it would be a challenge to make it work, I guess I feel that Option 2 does give us clarity to the whole process that we're supposed to try to achieve. We have been utilizing it. And I think as we heard today from the RACs it seems to actually have been working very well.

Dan O'Hara gave some really glowing testimonies to the people that the Bristol Bay have been able to bring on their RAC as a result of it and even in the Southeast, although they were opposed to it did indicate that since it's been implemented, that they still feel that they have a balanced Council as a result of it. I just think that it seems to be a good process, it seems to be working and, you know, like I said I think it does really add some clarity to the process and what we're trying to achieve.

I think we certainly need to recognize that in some of the communities, particularly the northern communities, it's not going to be that easy to achieve that. I'm not so sure that that's necessarily problematic. I do think also that we've heard some other good suggestions here on some other thing that we ought
to consider, but I think we can still go forward with this and still consider some of these other things and, particularly, how do we get better nominations and how the State or other groups or as well as some of the Native organizations, I think we all could probably do a better job of trying to identify good people out there and encouraging them to participate and apply them and endorsing them when they do apply.

CHAIRMAN FLEAGLE: Were you going to make a motion out of that somehow.

(Laughter)

MR. EDWARDS: Oh, I guess I didn't make the motion, I'm sorry.

(Laughter)

MR. EDWARDS: I got carried away I guess.

(Laughter)

MR. EDWARDS: Mr. Chairman. I would move that we would select Option 2, which was to stipulate a percentage of seats for commercial/sport use representation and that percentage would be 70 percent subsistence users and 30 percent commercial and sport users.

CHAIRMAN FLEAGLE: We have a motion, is there a second.

MR. OVIATT: I'll second that.

CHAIRMAN FLEAGLE: We have a second. You already laid out your rationale in support of that. Board members, discussion.

George.

MR. OVIATT: Could I ask Marianne to come forward and talk a bit about.....

MR. PROBASCO: Ann.

MR. OVIATT: Ann, I'm sorry. To come forward and talk about our outreach program, I'd like to know just a little bit more about that. Would that be appropriate or.....

Would you go ahead and ask the question, George.

MR. OVIATT: Yes. Ann, would you explain what outreach that we do at this time.

Thank you.

MS. WILKINSON: Yes. Beginning in the fall at the fall Council meetings it's announced that we will be accepting applications and nominations for the upcoming year. Then we send out applications, we have a general mailing and send out 1,300 in that general mailing to government agencies that would be involved, that's generally local government agencies, tribal agencies, hunting and fishing organizations, individuals, Fish and Game Advisory Committee officers as well. And then also we do at least 14 newspaper -- advertise in at least 14 newspapers statewide over a two month period. We run approximately seven advertisements in each one of those 14 newspapers within two months. We do paid radio ads and public service announcement ads during a two month period statewide. Often times we get lucky and they'll run them a lot for us and sometimes not as often, but I do hear feedback from people that those are heard statewide. And then also the Council coordinators will notify people in the region. The field Staff from the different Federal agencies notify people in the region that the opportunity is there for them to apply or to nominate people.

So we do have a pretty good thrust, I believe, for -- we are and the funding we have.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Ann.

George.

MR. OVIATT: Thank you, Ann. And I'm sorry for calling you Marianne.

That helped me because I was just a little unclear as to all of what we did do with our outreach. I think that, you know, we've heard from the RACs and for the most part the 70/30 is working. There's no doubt we can work on the process and we can better this process, we can work maybe even more on our outreach, although I think we're doing a pretty good job at that.
So, I, too, am going to support the 70/30, continuing the process that we have, I think it's facilitating the program fairly well and it does give us criteria.

Thank you, Mr. Chairman.

CHAIRMAN FLEAGLE: Thank you, George.

Charles.

MR. BUNCH: Mr. Chairman. I think that from the testimony that I've heard from the Board members, from the RAC, that they could live with the 70/30. I'm kind of hesitant to set 70/30 in concrete because as we've seen some areas just can't meet the 70/30 so rather than having that a hard and fast rule it would seem like a guideline would be a better tag to put on that rather than -- because if you can't make it then you've already failed right off the bat.

CHAIRMAN FLEAGLE: I think that Option 2 does speak to that. That if you can't achieve the 30 percent non-subsistence representation the seats would be filled by other subsistence users.

Is that correct, Pete?

MR. PROBASCO: Mr. Chair. Mr. Bunch. That is a goal, the 70/30, as stated in Option 2.

CHAIRMAN FLEAGLE: Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN FLEAGLE: Judy.

MS. GOTTLIEB: I think that this option would meet the FACA requirement that membership to be fairly balanced in terms of the point of view, which we talked a lot about but also as Ann had mentioned in the briefing, the functions to be performed and that's in Title VIII.

I think that Mr. Arno's question, I thought about it quite a bit, you know, why would people participate in this, and I'm hoping that maybe one of the answers is because in ANILCA and other laws we want to conserve healthy populations, and so hopefully that is a goal of all residents of the state of Alaska and certainly people who would want to serve on these
Councils.

I also think, as Ralph mentioned, as a member of a community, hopefully a person or a region would want to serve on these Councils.

And so maybe those are the kinds of things we can all encourage as we all, perhaps, seek membership here.

And, lastly, should this motion pass, I hope maybe we can change our way of referring to this from 70/30 split to 70/30 make up or membership, whatever we want to say but let's try not for this to be divisive. I think it has been shown in a lot of cases that it can make for stronger recommendations and maybe unify people, so let's aim for that.

CHAIRMAN FLEAGLE: Denny, do you have any comments you'd like to put in.

MR. BSCHOR: Yeah, I have a couple, Mr. Chair. I think the idea of making sure that this is a goal and not an absolute is important. That our intent, whenever we talk about this, is to achieve a balance of interests, recognizing that the basic charge is to have people who are knowledgeable and really interested in the subsistence issue. That we get that base -- the base of knowledge there is extremely important, I heard that today, very clearly.

I'm a little concerned about the motion says stipulate but I think if that means stipulate a goal or whatever, that I can live with that, too.

And I do think it does help, at least show that the Board is looking at diverse interests also, and that there meets FACA.

I think with that, Mr. Chair, those are my comments.

CHAIRMAN FLEAGLE: Thank you, Denny. Before I call on you, John, I'm going to go ahead and weigh in as a Board member myself on this.

I, too, find that the process being utilized -- that had been utilized by the Federal Subsistence Board in its selection of Council membership prior to the Judge's decision is adequate. I think we've
1 heard adequate response from Advisory Council representatives as to how it works. It brings good discussion. I think that in my history, anyway, in serving on public boards and other boards, I've been in the majority, I've been in the minority and I've even been on a board that was all majority and didn't have the minority view present, and I think that that situation of the three that I described was probably the worse because you don't have a fair and accurate discussion that considers all of the factors of the discussion and you open yourself up to litigation, to criticism, what not. I think that having a board that has a minority viewpoint included leads to better discussion, better decisions that are defensible. And you have the "other side" being heard and giving their part of the process.

And I don't see it as potentially diluting our RAC composition. I know that in some places they're going to struggle hard to find people to fill this 30 percent but we leave it open that if they don't they can continue to operate up to 100 percent pure subsistence users.

What gives me a lot of comfort in saying this is ANILCA, under Title VIII, 100.11.b states that RAC members must be knowledgeable about the region in which they are appointed and of the subsistence users of the public -- subsistence uses, I'm sorry, of the public lands within that region. So even if they are sport or commercial users, they still have to be knowledgeable of the subsistence uses, and I think that criteria has to be considered in reviewing the application process. So you're still going to have a full compliment of committee members that are speaking to the subsistence uses, and I think when you have that minority viewpoint present you have a better decision, more defensible.

With that, turn it over to John Hilsinger.

MR. HILSINGER: Thank you, Mr. Chairman. I agree with the Board that Option 1 is really not an option given this prior decision by the Court. And I think what the Court asked the Board to do was look at valid options, select one, explain why that one was selected but also why other options were not selected. And so I would recommend that as a part of this decision-making you do that. And then ideally go back out to rulemaking and explaining why the preferred option was selected and why the other options were not.
Thank you.

CHAIRMAN FLEAGLE: Appreciate the comments.

MR. ADAMS: Mr. Chairman.

CHAIRMAN FLEAGLE: Denny -- oh, wait a minute, who's calling, please.

MR. ADAMS: This is Bert.

CHAIRMAN FLEAGLE: Yeah, Bert, go ahead.

MR. ADAMS: Okay. I'd just like to clarify a statement that I made in answer, I think, to George's question, you know, does our RAC -- is our RAC balanced as it is right now, and it is, I admit that. But there was a time I, personally, really feared that we were going to have too much controversy in our Council because we did experience, you know, a couple of people who got appointed to the board who were strong commercial and sport advocates and, of course, they eventually got weeded out but I just caution you that there is a danger that that could happen in the future, you know, if we're not careful.

I think my closing thoughts here would be that when people submit their applications to serve on the RAC, that I hope that they are submitted and received within the framework of the true intent of ANILCA. You know there is always that danger out there that, you know, bad things could happen to RAC if we are not watchful, and it looks like you're trying to cover that, you know, through the application process. But just keep in mind there is that potential out there.

Thank you.

CHAIRMAN FLEAGLE: Thank you, Bert.

Gary.

MR. EDWARDS: Mr. Chairman. And maybe also in an effort to strengthen the record, you know, in my motion I included 70/30 as the split, but I do want -- in our Federal Register notice we do lay out why we picked that number as opposed to 60/40 or 80/20 and I think there's good rationale in there. And I just think that -- I guess I would refer to that Federal Register notice is the rationale for that 70/30 recommendation.
CHAIRMAN FLEAGLE: Thanks, Gary.

Additional comments.

(No comments)

CHAIRMAN FLEAGLE: Keith, I want to just ask you, given that this is a request from the Ninth Circuit Court, that this discussion be had, in your opinion you said earlier that both options could work if the Board gave an administrative record as to the purpose for that. We've selected -- tentatively selected Option 2, do you feel that the administrative record is adequate to support that or do we need more.

MR. GOLTZ: I think it's adequate. The District Court doesn't issue requests though, we're under a court order, and I'm comfortable with the record.

CHAIRMAN FLEAGLE: Thank you. And, Denny, are you still with us on line?

MR. BSCHOR: Yes, Mr. Chair, I am.

CHAIRMAN FLEAGLE: Okay, thanks. Board members, hearing no other discussion are we ready for the question.

MR. BUNCH: Question.

CHAIRMAN FLEAGLE: Question's called, Pete, on the motion, please poll the Board.

MR. PROBASCO: Final action on Council composition as stated by Mr. Gary Edwards, Option 2, the goal of 70/30 Council composition.

Mr. Bschor.

MR. BSCHOR: Aye.

MR. PROBASCO: Mr. Oviatt.

MR. OVIATT: Aye.

MR. PROBASCO: Mr. Bunch.

MR. BUNCH: Aye.

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

MR. PROBASCO: Mr. Fleagle.

CHAIRMAN FLEAGLE: Aye.

MR. PROBASCO: And Mr. Edwards.

MR. EDWARDS: Aye.

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

CHAIRMAN FLEAGLE: Thank you, Pete. That concludes action on that agenda item. I understand that, Judy, you had some issues that you wanted to raise before the Board before adjournment.

MS. GOTTLIEB: I'd appreciate that, yes, Mr. Chair. Thank you. Yesterday at the end of the day after end of two pretty rough days where I think most of us, including myself, were focused on the Kenai we had a discussion about Sixmile Lake, and I just wanted to bring back to the Board a little bit of our history so that when we deal with this again maybe we'll have a common recollection of events that took place. So if I could just do a quick summary of what had happened on that proposal so we're kind of all at the same starting place.

CHAIRMAN FLEAGLE: You mean the evolution from the inception to the final product.

MS. GOTTLIEB: But rapidly described.

(Laughter)

CHAIRMAN FLEAGLE: Okay.

MS. GOTTLIEB: Thank you. So Sixmile Lake. In the spring of 2006 the Lake Clark Subsistence Resource Commission developed a proposal that would allow beach seines in Lake Clark in the lake of a lake called Lake Clark. At the fall 2006 RAC meeting the RAC supported that proposal for Lake Clark and also stated no use of beach seines in tributaries. As was stated yesterday, some of the State Staff put that similar proposal in front of the Board of Fisheries who met before our Federal Board met and after the RAC met. So the State Board looked at that proposal and approved the use of beach seines, not only for Lake Clark, but also
Sixmile Lake. Consequently at our meeting and maybe not everybody was at that meeting, we, the Staff, our Staff suggested that we entertain the idea of also adding Sixmile Lake.

The motion to allow the use of beach seines less than 25 fathoms long on Lake Clark, excluding its tributaries passed six/zero. Regarding Sixmile Lake, the direction that was said and what was given, was, basically, I think what I heard by Board members, was that they don't have any objection to adding Sixmile Lake to this action, we just need to have the jurisdiction issue explained and then how to correctly bring this back to the Board. That's from our own transcripts.

So we agreed unanimously to defer until May 2007 to provide the chance for the SRC and the RAC to weigh in during their winter meetings. Now, unfortunately neither one of them did that at their winter meetings because, I think, they probably thought all that needed to be done was our clarification on jurisdiction. The Solicitor's office did work on this, the Federal jurisdiction exists for Sixmile Lake because the National Park boundary is adjacent to Sixmile Lake. To clarify that boundary description the Board had tasked and Park Service and OSM to clarify the actual boundary, that was done, a draft of that was sent to all the InterAgency Staff Committee members, to OSM and to the State. The comments were included on the map, I think, that was distributed yesterday, both maps that were on the maps distributed.

So that's where we were. We were only to be clarifying the jurisdiction issue and that's what we were attempting to do yesterday and then proceed with voting on the actual proposal for beach seines in Sixmile.

CHAIRMAN PLEAGLE: Thank you, Judy. Appreciate those comments.

All right, is there other business that needs to come before the Board before adjournment.

Pete.

MR. PROBASCO: Thank you, Mr. Chair. Just real quick, just a heads up, Board members, I will be sending each of you an email looking for a date in the very near future where we can discuss the options dealing
with the OSM budget for FY'07. It's something I need to
get resolution from the Board as soon as possible. So
we'll be trying to find a date with your busy schedules.

So, thank you.

CHAIRMAN FLEAGLE: Thank you. I want to
thank everybody who remained with us through the
termination of this meeting, for the participation from
the State, from the RACs, from the public, from other
agencies. I think that involvement, even if it's not
willingly or on the majority side is good involvement,
and I appreciate everybody's involvement and
participation.

With that, is there a motion for
adjournment.

MR. EDWARDS: So moved.

CHAIRMAN FLEAGLE: Got a motion from
Gary.

MR. OVIATT: Second.

CHAIRMAN FLEAGLE: Second by George.

Meeting's adjourned.

(Off record)

(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 293 through 356 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC REGULATORY MEETING, VOLUME III taken electronically by Nathan Hile on the 10th day of May 2007, beginning at the hour of 1:30 o'clock p.m. at the International Coastal Inn 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 14th day of May 2007.

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