December 11, 2001
8:30 o'clock a.m.
PUBLIC MEETING

MEMBERS PRESENT:

Mitch Demientieff, Chairman
Gary Edwards, U.S. Fish and Wildlife Service
Niles Cesar, Bureau of Indian Affairs
Taylor Brelsford, Bureau of Land Management
Judy Gottlieb, National Park Service
Jim Caplan, U.S. Forest Service

Solicitor: Keith Goltz
CHAIRMAN DEMIENTIEFF: We'll call the Federal Subsistence Board meeting to order. I'd like to welcome everybody here. And let me just note a couple things that are going to happen. First, those of you that want to testify you need to fill out one of the blue testimony forms and it's right outside this door here and it's staffed all the time. Make sure you put your request to testify there. Also as we go through the agenda, we do have some request for some people who were still en route and we'll try to accommodate those requests as best we can and I will be advising you as we get to those particular regions. We have two different requests of people who are on their way right now that have filed proposals so we will do our best to accommodate those people. And so if there are changes we'll note them at the time in the region when we get there.

Now, at this point what we're going to want to do is go around the table and introduce the people at the table, and Terry if you could just introduce yourself and your affiliation, we'd sure appreciate it. Just start and we'll go right around the table.

MR. HAYNES: Terry Haines, Department of Fish and Game, Subsistence Division.

MR. VINCENT-LANG: Doug Vincent-Lang, Alaska Department of Fish and Game, Sportfish Division, and we'll have Dan Berkstrom here with our Commercial Fisheries Division.

MR. GREGORY: (In Native) My name is Mary Gregory. I am the vice chair of the YK-Regional RAC.

MR. WILDE: Harry Wilde, Chair of Yukon-Kuskokwim Delta.

MR. ABRAHAM: Pete Abraham, RAC from Bristol Bay.

MR. LOHSE: Ralph Lohse, Chair of Southcentral.
MR. THOMAS: Bill Thomas, Chair, Southeast.

MR. BRELSFORD: Good morning. I'm Taylor Brelsford and I will be serving on behalf of Fran Cherry, the BLM Board member for the duration of this meeting.

MR. SIMMONS: I'm Rod Simmons, Fish and Wildlife Service, Interagency Staff Committee.

MR. EDWARDS: Good morning. I'm Gary Edwards, Deputy Regional Director, Fish and Wildlife Service, representing the Service on the Board.

MR. GOLTZ: Keith Goltz, Office of the Solicitor.

MR. JENNINGS: Good morning. Tim Jennings. I'm the Acting Deputy for the Office of Subsistence Management.

MR. BOYD: Tom Boyd, Assistant Regional Director, Office of Subsistence Management.

CHAIRMAN DEMIENTIEFF: I didn't even introduce myself when I called the meeting to order but I'm Mitch Demientieff. I'm from Nenana, Alaska and the Chairman of the Federal Subsistence Board.

MR. JACK: Carl Jack, Native Liaison, OSM.

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

MR. CAPLAN: I'm Jim Caplan, Federal Subsistence Board member and Deputy Regional Forester for the Forest Service.

MR. GERHARD: Good morning. I'm Bob Gerhard with the National Park Service, Staff Committee member.

MS. GOTTLIEB: Judy Gottlieb, Associate Regional Director, National Park Service, Federal Board member.

MR. CESAR: I'm Niles Cesar, Regional Director of Bureau of Indian Affairs.
MS. HILDEBRAND: Ida Hildebrand, BIA Staff Committee member.

MS. CROSS: Grace Cross, Chair of Seward Penn.

MR. SAM: Ron Sam, Chair, Western Interior. Thank you.

MS. TRUMBLE: Della Trumble, Chair of Kodiak/Aleutians.

MR. BROWER: Harry Brower, Chairman of the North Slope Regional Advisory Council.

MS. WILKINSON: Ann Wilkinson. I'm the coordinator for the Southcentral and Seward Peninsula regions.

MR. BUCKLIS: Larry Bucklis, Office of Subsistence Management, fishery biologist for Southcentral and Bristol Bay regions.

MS. PETRIVELLI: Pat Petrivelli, Office of Subsistence Management and anthropologist for the Southcentral and Kodiak/Aleutians region.

CHAIRMAN DEMIENTIEFF: Okay, thank you very much. Those of you that haven't been here before this will be the public testimony table when it gets time to testify on these proposals. Are there any corrections or additions to the agenda? Terry.

MR. HAINES: Mr. Chairman, if I could just take a moment. I wanted to introduce Marianne See, who's recently been hired as the new assistant director for the Division of Subsistence and she'll be heading up the State's liaison team with the Federal Subsistence Program. And Marianne, do you want to just stand up. She's here to observe and she's off the hot seat this week so we look forward to having Marianne on board and she'll be getting to know all of you better over the next few months.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MR. THOMAS: Mr. Chairman, I'm Bill Thomas from Southeast. Most of you know by now that our coordinator Fred Clark is moving to a different assignment. And for those of you who thought we were going to lose our continuity, you're wrong, because I'm really happy to introduce Bob Schroeder, if you'd stand Bob, he's our new coordinator. We're glad to have him aboard. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you very much. We have no request for non-agenda items for public testimony at this time so we'll move on to the 2002/2003 Subpart C and D fisheries regulation proposals. The first item we have up is the adoption of the consent agenda items. The following proposals have been included on the consent agenda. These are proposals for which there is unanimous agreement among Federal Staff Committee, Federal Subsistence Regional Advisory Councils and the Alaska Department of Fish and Game concerning recommendations for Board action. Anyone disputing the recommended action on these proposals may request the Board to remove the proposal from the consent agenda and place it on the regular agenda. The Board retains final authority for the removal of proposals from the consent agenda. The Board will take final action on the consent agenda on the last day of the Board meeting. Which means that people will have ample opportunity to make that request if they so desire. The proposals that are on the consent agenda are listed on the last page, Page 4 of the agenda, and we have copies of that also on that table out here if you need to get a hold of that.

Okay, with that we'll move into the Southcentral Regional proposals. They have Proposals 11 through 22. Now, we have a request to bypass Proposals 11a through 14a and 11b and 14b. And so we will schedule those, we'll try to accommodate them after lunch depending on how quickly we move along here. The proposal makers, I indicated at the beginning of the meeting are traveling en route to the meeting right now. So given that we will now look at Proposal No. 15.

MS. PETRIVELLI: Proposal 15 was submitted by the Subsistence Resource Commission for the Wrangell-St. Elias National Park and Preserve. And this proposal requests a positive C&T determination for the use of freshwater fish in the Copper River Drainage above Haley Creek for the resident zone communities of the Wrangell-St. Elias National Park and Preserve and also Cantwell, a resident zone community in the Denali
National Park and Preserve. The current determination -- there is no current determination so all rural residents are eligible.

In the communities involved, the traditions of subsistence use are based in the Ahtna traditions, the upper Tanana and then the mining homesteading communities that have been settled in the past century or so. The level of use of freshwater fish resources is affected by the nearness to the Copper River in the level of use of salmon. It ranges from eight percent to 58 percent of the per capita use resources. It's significance in some of those communities are supplemental but others quite significant where there's less salmon resources available. The pattern of use of freshwater fish is general in two patterns and that's in the local lakes, creeks and rivers near to the community or the other pattern is in conjunction with other activities in relation such as hunting and berry picking.

That's the analysis.

CHAIRMAN DEMIENTIEFF: Thank you. Larry, you have comment? You don't, just Pat, okay. Summary of written public comments.

MS. WILKINSON: Mr. Chairman, we did not receive any written comments for this proposal.

CHAIRMAN DEMIENTIEFF: Department comments.

MR. HAYNES: Thank you, Mr. Chairman. The Department recommends deleting Cantwell from the list of communities proposed to have customary and traditional uses of freshwater fish in the Copper River drainage upstream from Haley Creek. Evidence is very limited in the Staff analysis demonstrating that Cantwell residents have a history of subsistence salmon fishing in this area. The Department also supports the minority Staff Committee recommendation that Paxson and Lake Louise, two communities located in the Copper River basin be evaluated for inclusion in the proposed customary and traditional use determination. There may also be other Copper River basin residents living outside of the established communities who also should be included in the C&T use determination. The Department's community profile data base and Division of Subsistence technical papers includes some information on subsistence use
patterns of Paxson, Lake Louise and other residents of
the Copper River basin that were not included in this
proposal analysis. We request that these sources of
information be consulted.

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

MS. STICKWAN: My name's Gloria Stickwan
and I work for Copper River Native Association. We
support the Staff recommendation. We want Cantwell
Village to be a part of the communities because they are
part of the Ahtna people. They are people, they have,
through family members come down and use fish in the
Copper River. They do have customary and traditional use
of fish on the Copper River. They do fish down on the
Copper River, they use our fishwheels.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Regional Council recommendation.

MR. LOHSE: Mr. Chair, the Regional
Council supports Proposal 15 as written. We recognize
that in some ways it's not written the same way as
they've been written in the past. But the resident zone
communities included, we figured it kind of covered the
people that were between them also so we support it as
written.

CHAIRMAN DEMIENTIEFF: Thank you. At
this time we'll advance it for Board deliberation. As is
customary, we also allow other Regional Council -- oh,
Staff Committee recommendation, I'm sorry. We'll get
this worked out. Staff Committee recommendation.

MR. GERHARD: Mr. Chair, the Staff
Committee did not reach a consensus on a recommendation.
The majority of the members would adopt the
recommendation of the Southcentral Alaska Subsistence
Regional Advisory Council which supported the proposal
for the reasons stated in the justification below.

The Eastern Interior Subsistence Regional
Advisory Council deferred to the home region of
Southcentral.

A minority viewpoint favors modification
to include Paxson and Lake Louise to similarly situated communities. The justification as just stated is to adopt the proposal.

The proposed regulation would read, for the Copper River drainage upstream from Haley Creek, freshwater fish, including but not limited to Arctic grayling, burbot, whitefish of various species, Dolly Varden and sucker, the residents of the communities of Chisana, Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gakona Junction, Glennallen, Gulkana, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Slana, Tazlina, Tok, Tonsina, Tetlin, Dot Lake, Northway, Tanacross, Healy Lake, along the Tok cutoff from Tok to Mentasta Pass and along the Nabesna Road.

Further justification for the majority viewpoint is the data from the ADF&G Subsistence Division household surveys and NPS community studies show that freshwater fish is a significant resource for these communities. While the level of use is uneven between communities, the use of freshwater fish is present as a subsistence resource. The data supports the recommendation from the Wrangell-St. Elias National Park Subsistence Resource Commission to recognize the customary and traditional use of freshwater fish in the Copper River drainage by the proposed communities. The omission of Paxson and Lake Louise will not work a hardship to these two communities. Residents of those communities are encouraged to testify at this or future Board meetings.

The justification for the minority viewpoint is it is not unreasonable to include the communities of Paxson and Lake Louise, two similarly situated communities, which, if the majority viewpoint were adopted would be excluded from the customary and traditional use determination for freshwater fish for the Copper River drainage upstream from Haley Creek. Due to their proximity to the drainage it is reasonable to deduce that freshwater fish is also a significant resource for these two communities.

Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Okay, thank you Bob. At this time we'll go ahead and advance this for Board deliberation and other Regional Council comments. Is there any discussion on it. Bill.
MR. THOMAS: Thank you, Mr. Chairman. I think the recommendation by the Regional Advisory Council is more consistent with the provisions of Title VIII. While these other considerations are as important, I don't think we need to have a cumbersome obstruction in this decision. So the Advisory Council are the grassroots information center on these proposals and in this process. So I would speak in favor of supporting the Regional Advisory Council's recommendation.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Thank you. I'm sorry if I missed an opportunity to ask Gloria from CRNA but I wondered how CRNA felt about Lake Louise and Paxson, I know you did mention Cantwell which was helpful. I'm sorry, Gloria, I'm not sure if you heard my question but I wondered how CRNA feels about Lake Louise and Paxson being included in this C&T.

MS. STICKWAN: That's fine. At our last meeting we decided to just include all communities.

MS. GOTTLIEB: I'm sorry, could you say that again, please?

MS. STICKWAN: At the last meeting they said it was okay to include all communities.

MS. GOTTLIEB: Well, Mr. Chairman, I think this is a good proposal and it more accurately defines the usage of non-salmon species in the area. Right now it's open to all rural residents so I think doing a C&T is important. I guess I have a little bit of hesitation on including a couple communities that we don't have thorough information about and that would be Paxson and Lake Louise.

So I'd like to make a motion that we adopt the Staff Committee majority recommendation which I believe the Southcentral Council does support and that would establish positive C&T use finding for freshwater species in the Copper River drainage upstream from Haley Creek for Wrangell-St. Elias National Park and Preserve.
resident zone communities except for Yakutat.

CHAIRMAN DEMIENTIEFF: We have a motion on the floor, is there a second?

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: And that's the original proposal, without amendment?

MS. GOTTLIEB: It's the Staff Committee majority recommendation, Page 54 in our book. So it does include Cantwell.

CHAIRMAN DEMIENTIEFF: Good. Okay. Any other discussion. Ralph, you had something?

MR. LOHSE: Mr. Chair. As in the past, our Council has tried to be more inclusive instead of exclusive and sometimes what happens is we look at proposals as they're put before us and we handle them as they're put before us. In this case Paxson and Lake Louise were not part of the proposal and we never considered them. But that doesn't mean that we'd have found any objection to them, because like Gloria said, they are a community that's on the Copper River drainage and they are communities that use freshwater fish. It's just that in this case that we did not consider them.

Thank you.

CHAIRMAN DEMIENTIEFF: Any other discussion. Yes, Dave. Gary, I'm sorry.

MR. EDWARDS: That's all right. Mr. Chairman, you know, I'm prepared to vote in favor of the motion, however, I guess I would sort of like to echo what Ralph said. You know, in that, as we look at this process in the future where we had a tendency, apparently in this case, to simply look at what was proposed as opposed to maybe taking a more comprehensive approach because my assumption is that if, in fact, those two communities had been identified then the motion would have included them and now what it's going to require for them to come back individually or collectively and request this whereas we could have probably handled it all at one time if we would have taken a more comprehensive look.

CHAIRMAN DEMIENTIEFF: Ralph.
MR. LOHSE: Mr. Chair, it's probably pretty evident that those two communities wouldn't have been left out because both of them are on major freshwater systems in the Copper River basin and participate in major freshwater fisheries, both up at Paxson and the lake systems up there in the Gulkana River and on Lake Louise. So the intention to leave them out was -- leaving them out was not intentional, it was an oversight.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Taylor.

MR. BRELSFORD: I intend to vote in favor of the motion. I'd like to offer two points of justification. On the question of Cantwell, I think it is quite persuasive, the fact that there are close cultural affiliations and kinship relationships between the village of Cantwell and the communities in the Copper River proper. In addition, Cantwell has been recognized as a resident zone community for the park. And finally the use patterns extend to other species, that is to say, Cantwell harvests other species in the Copper River basin. So I believe the pattern of resource use in the Copper basin itself is conclusive for the community of Cantwell.

CHAIRMAN DEMIENTIEFF: Yes, I also note for the record that particularly the Native people of Cantwell in the early days in the land claims fight more for travel convenience reasons Cantwell was included within the Tanana Chiefs region. And then as people began to get around a little bit better they went back to their natural affiliation and made the request and the
request was honored that they be included with their own
people. So I do know, you know, that that would -- and
that was the same reason that that request was made at
that time so there is -- they are closely affiliated with
the Copper River.

With regard to Lake Louise and Paxson, as
you're driving through that area you can't distinguish
from the other communities. They definitely are very
similarly situated. And I know I've been through there
many times. So I intend to support the motion as well.

Wait, I'm a little bit confused here, the
majority opinion excludes Paxson and Lake Louise; is that
correct?

MR. BOYD: Yes, that's correct.

CHAIRMAN DEMIENTIEFF: Okay. Well,
Ralph, maybe that's something the Council wants to take a
look at and come back.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: At this time probably the
best thing that would happen would be if Paxson and Lake
Louise would put in a proposal to be included in the
future. To get the Council together at this point in
time to consider it while this meeting is going on is
almost impossible. Like I said, I don't see where any
members of the Council would have any objections to them
being included. I can't speak for the Council in that
case but we all know that both of those places do use
freshwater fish and are situated on freshwater systems in
the Copper basin and probably use as much or more than a
lot of the other communities in the Copper River basin.
There exclusion was strictly an oversight it wasn't part
of the proposal and the solution is for them to submit a
proposal in the future to be included and I'm sure there
would be no objection to it.

Thank you.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: I certainly do not have any
problem with what Ralph's suggesting. I guess I would
suggest if we're going to do that as opposed to putting
the burden on those two communities, certainly, I think
OSM could take, could they not, Tom, take the lead and
actually make that proposal?

MR. BOYD: Yes.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

With that we'll move to Proposal 16. Analysis.

MS. PETRIVELLI: Proposal 16 was
submitted by the Subsistence Resource Commission for the
Wrangell-St. Elias National Park and it requests a
positive customary and traditional use determination for
salmon in the Chitina subdistrict of the Upper Copper
River district for the communities of Chisana, Dot Lake,
Gakona Junction, Glenallen, Healy Lake, Kenny Lake, Lower
Tonsina, McCarthy, Nabesna, Northway, Slana, Tanacross,
Tetlin, Tok, Tonsina and those individuals that live
along the Tok cutoff from Tok to Mentasta Pass and along
the Nabesna Road. The Chitina subdistrict is a 10 mile
stretch and it was the -- last year at the Board meeting,
the Board made determinations for eight communities and
this is a revision to that customary and traditional
determination.

The level of use of salmon in the Chitina
subdistrict is determined by the nearness to the Copper
River and it ranges from one percent to 70 percent of the
annual use of per capita resources in the region. So
salmon is a part of the subsistence resources but is the
volume of its -- or the significance just depends upon
how close it is to the Copper River. Participation in
the Chitina subdistrict is affected by the high level of
use by non-basin residents and then the restriction to
dipnets. Since 1984 the Chitina subdistrict has been a
dipnet only. Gear has had a dipnet only gear net
restrictions with a few exceptions. The most recent
change in the Chitina subdistrict was that it was
declared a subsistence -- it was changed from subsistence
to personal use by the State of Alaska. But it was found
in the analysis that all the communities requested have
used salmon in one way or another and participated in the
dipnet fisheries on and off since the records were kept
so they have participated in the Chitina subdistrict.

CHAIRMAN DEMIENTIEFF: Thank you.

Summary of written public comments.

MS. WILKINSON: Mr. Chairman, we received
one comment from Nat Good in Delta Junction. He wrote
that Delta has not been considered for customary and
traditional use of the Chitina subdistrict. The
Richardson Highway once the Valdez trail has connected
Delta with this area for almost 100 years. He repeatedly
stressed salmon connections for this area with the Copper
River rather than the Yukon-Tanana drainage, he suggests
amending the proposal to include Delta Junction and to
make the proposal as complete as possible regarding those
who have traditional and subsistence recognition of this
area.

And that's all, sir.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. HAYNES: Thank you, Mr. Chairman.
The evidence supporting inclusion of the Upper Tanana
communities in this customary and traditional use
determination for salmon in the Chitina subdistrict is
very limited. The Department agrees that the Upper
Tanana communities do have a history of harvesting salmon
for subsistence purposes in the Copper River basin but
we're not persuaded by the evidence presented that this
customary use extends as far south as the Chitina
subdistrict. A more accurate customary and traditional
use finding for the Upper Tanana communities could more
appropriately be modeled after findings made for some
wildlife species in the Copper River basin whereby the
eligibility of Upper Tanana communities extends only to
the northern part of the basin.

CHAIRMAN DEMIENTIEFF: Thank you. At
this time I'll open the floor to public testimony, Gloria
Stickwan.

MS. STICKWAN: We support C&T for salmon
in the Chitina subdistrict of the Upper Copper River district for residents of the 15 additional villages and individuals that live along the Tok cutoff from Tok to Mentasta Pass and along the Nabesna Road.

CHAIRMAN DEMIENTIEFF: Thank you.

Regional Council comment.

MR. LOHSE: The Regional Council supported this proposal as written. We felt that there was fairly strong evidence that the kinship ties tied the Upper Tanana in enough to put them into the Chitina district and the local people or the local Copper River basin was no problem. We looked at this as a possibility for in the future when if there was a shortage of salmon it would make a priority for the local residents for the salmon there.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Yes, Mr. Chairman, the Staff Committee recommendation for Proposal 16 is to adopt the proposal as recommended by the Southcentral Alaska Subsistence Regional Advisory Council. The Eastern Interior Subsistence Regional Advisory Council deferred to the home region, Southcentral.

The proposed regulation would read, for Prince William Sound, for the Chitina subdistrict of the Upper Copper River district for salmon, residents of the communities of Chisana, Chitina, Cantwell, Chistochina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glenallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nakesna, Northway, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina and those individuals that live along the Tok cutoff from Tok to Mentasta Pass and along the Nabesna Road.

The justification for this recommendation is that the communities proposed for edition to the customary and traditional use determination are already recognized resident zone communities for the Wrangell-St. Elias National Park. Data from the ADF&G Subsistence Division household surveys and community studies show that salmon is a significant resource for these communities. While permit data fail to document a similar level of significance, they do document consistent participation in the State permitted fishery. The data supports the recommendation from the Wrangell-
Mr. Chair, that ends the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you. At this time we'll advance this to Board deliberation and other Regional Council participation.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I do want to thank the Subsistence Resource Commission for bringing this forward and I think it's a really good proposal and want to note that there was not objection from the eight Ahtna villages that already have C&T for this area. So I'd like to make a motion for Proposal 16, that we adopt the Staff Committee recommendation which is supported by the Regional Advisory Council to expand the positive C&T use finding for salmon to include all the Wrangell-St. Elias National Park and Preserve resident zone communities with the exception of Yakutat in the Chitina subdistrict.

CHAIRMAN DEMIENTIEFF: Thank you. Other discussion.

MR. LOHSE: Mr. Chair. Can I ask Judy a question, does that proposal as you put it, does that -- when we included these communities like Chitina and McCarthy and Kenny Lake, we just took for granted that the people that were on the road systems between these communities were part of the communities or were included in it. And when you say the resident zone communities, does that include the individuals that are outside of the communities but between the communities also?

MS. GOTTLIEB: Excuse me just a second, Ralph.

(Pause)

MS. GOTTLIEB: Yes, it does. Sorry it took so long.

MR. LOHSE: Thank you.
MR. EDWARDS: I'll second that motion, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Okay. We've got a motion made and seconded. Is there any other discussion.

MS. GOTTLEB: Mr. Chairman, not to confuse the issue but we had a request to look at Delta Junction and so I might suggest that after we vote on this, again, OSM or others might look into eligibility for Delta Junction for next year.

CHAIRMAN DEMIENTIEFF: Who would that be, would that be Eastern Interior Regional Council?

MR. BOYD: Yes.

CHAIRMAN DEMIENTIEFF: Maybe we'll bring that there too, as well, so we can have a look at Delta Junction. Okay, further discussion. Yes, Taylor.

MR. BRELSFORD: Mr. Chairman, thank you. I'm prepared to vote in favor of the motion. I think the State has raised a concern regarding use patterns and, in particular, posed the question of whether the Upper Tanana villages use patterns extend far enough south to be included in the Chitina subdistrict. I believe the evidence is persuasive on this point and that consistency in the resident zone communities urges us to adopt the motion put before us so I will vote in favor.

Thank you.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

MS. PETRIVELLI: Mr. Chairman, Proposal 17 was submitted by the Wrangell-St. Elias National Park
Subsistence Resource Commission. And the original proposal mainly dealt with the idea of opening up a season in the Chitina subdistrict. And in the provisions they requested, they requested that all the residents eligible to fish in the Chitina subdistrict also be eligible to fish in the Glenallen subdistrict. And what that meant was there were two communities that have C&T determinations with the determination made last year when Cantwell was given a positive C&T and then with the adoption of Proposal 16, Chisana ended up with a positive customary and traditional use determination in Chitina but they did not have a positive customary and traditional determination for Glenallen subdistrict so then they would not be eligible to also fish in Glenallen.

The Glenallen subdistrict customary and traditional use determinations were adopted based upon the first one with the broad one of all the residents of the Prince William Sound management area and then last year the Board added Upper Tanana communities. And so we broke the proposal into an A and B portion. In A dealing with the issues of Chisana and Cantwell and then B dealing with the seasons, harvests and bag limits that Larry will cover later.

Customary and traditional use determinations for -- or looking at Chisana and Cantwell, is much the same -- has the same factors as we looked at in the last proposal. And of course, the nearness to the Copper River affects the level of use and Cantwell is very far away and Chisana's close, is only 75 miles away from the Copper River but it's access is restricted by a lack of direct road access so in a sense it's remote from the Copper River. But despite this remoteness they have had a level of use of salmon in their subsistence resources. Six percent of the household resources -- or subsistence resources used on a per capita basis by Cantwell is salmon and three percent in Chisana is salmon. And of course, in this documented use of the Copper River salmon is through -- either through traveling -- well, Cantwell has evidence of traveling to the Copper River area to obtain salmon and use fishwheels through kinship ties and others. And then Chisana's level of use, the documentation I found was sharing, that one researcher found that every household in Chisana had salmon from the Copper River that had been either gifted or traded so they have shown a customary and traditional use of salmon in the Glenallen subdistrict of the Copper River area.
CHAIRMAN DEMIENTIEFF: Thank you.

Summary of written public comments.

MS. WILKINSON: Mr. Chairman, we received four comments for Proposal 17. Cordova District Fishermen United wrote that conservation concerns could be exacerbated, not only due to enforcement issues relating to establishing the identity of Federally-qualified users but also by increased exposure to harvest by the earlier opening date of May 15th. Adding an additional gear type exacerbates potential gear conflicts and enforcement issues.

The State established two distinctly different subdistricts to manage up river harvest. Unless Federally-qualified subsistence users in the Glenallen subdistrict are not currently having their subsistence needs met, manageability and successful enforcement are still compelling goals and should be considered prior to any such regulation change.

The Copper River/Prince William Sound Advisory Committee believes that restructuring both the gear type and users would unnecessarily compound already existing enforcement problems in this area. Reclassifying all up river users as local would also necessarily add an enforcement burden as the season opening would be two weeks earlier than the current season.

Mr. Stan Blume of Chitina Dipnetters Association wrote that in the 1970s the State told all the Natives who fished below the bridge that they had to move upstream to subsistence fish and has cheated them out of their traditional area. He made the following recommendations. Allow a Federal subsistence fishery in the Chitina subdistrict, limit the commercial fishery to outside the Barrier Islands during May, increase the allocation of subsistence fish 325,000 sockeye and 10,000 chinook, require Federal subsistence users to have a State subsistence permit and allow fishing in either the Glenallen or Chitina subdistrict.

The Outdoor Council expressed opposition for the following reasons. The proposed liberalization of harvest would subject salmon stocks to potential harm. Earlier openings and continuous seasons conflict with conservation measures established by the Board of Fisheries. Different State and Federal regulations would create public confusion. Subsistence users are generally...
satisfied with their harvest under State regulations and
the proposal extends ANILCA mandated discrimination.
They wrote that their greatest concern is that the State
fishery may eventually be closed because it interferes
with customary and traditional subsistence use by rural
residents.

And that is all, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Department comments.

MR. HAYNES: Thank you, Mr. Chairman.
The Department supports the inclusion of Chisana in the
customary and traditional use determination for salmon in
the Glenallen subdistrict. However, we still are not
persuaded that the evidence presented in the Staff
analysis supports the inclusion of Cantwell in its
finding. And I guess the main point is that we're not
persuaded that it's a community pattern of use. We
recognize that there are some people in Cantwell who have
these ties with the Copper basin and we just are not
certain that that represents an overall community pattern
of use.

CHAIRMAN DEMIENTIEFF: Thank you. We
have two requests for public testimony at this time.

MS. STICKWAN: CRNA supports Proposal 17a
and Proposal 17b for residents of Chisana, Cantwell,
Chistochina, Chitina, Copper Center, Gakona, Gakona
Junction, Glenallen, Gulkana, Kenny Lake, Lower Tonsina,
McCarthy, Mentasta Lake, Nabesna, Slana, Tazlina, Tok,
Tonsina, Tetlin, Dot Lake, Northway, Tanacross, Healy,
along the Tok cutoff from Tok to Mentasta Pass and along
the Nabesna Road. To have a separate permit for both
subdistricts in the Upper Copper River to use rod reel,
fishwheel and dipnets and to have a seasonal harvest
limits to be consistent with Glenallen subdistrict.

CHAIRMAN DEMIENTIEFF: Thank you. We're
not going to take a break, we're going to stand at
case for just a moment. We've got kind of a conflicting
request for testimony, two requests from the same person
so Tom's going to check it out. Again, it's not a break
so don't go nowhere.

(Pause)
MR. CESAR: I would like to be excused for awhile. I'm going to have Charlie Bunch, our field rep from Anchorage take my place. I'm going to go over and see if I can get us on the Internet today.

CHAIRMAN DEMIENTIEFF: Okay, good.

CHAIRMAN DEMIENTIEFF: Okay, again, I just wanted to clarify with the person wishing to testify. We checked with him and he does not want to testify on this particular issue and he's going to identify the specific proposals that he wishes to testify on. So with that, we'll go to Regional Council recommendation.

MR. LOHSE: Mr. Chair, Southcentral Regional Council felt that evidence supported the inclusion of Chisana and Cantwell. We felt that it addressed subsistence concerns for the two communities due to the kinship ties and the location that they had. And we supported it as written.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Yes, Mr. Chair, the Staff recommendation for Proposal 17a is to adopt the proposal as recommended by the Southcentral Alaska Subsistence Regional Advisory Council. The Eastern Interior Subsistence Regional Advisory Council deferred to the home region which is Southcentral.

The proposed regulation would read, for Prince William Sound area, for the Glenallen subdistrict of the Upper Copper River district for salmon -- I'm not going to read the list of communities again, but note the purpose of this proposal was to add Chisana and Cantwell. And the regulatory language would read for the same communities as previously read for Proposals 15 and 16. As you can see the Council and also the Wrangell-St. Elias Subsistence Resource Commission, which submitted this proposal, were striving for some consistency in the C&T determinations in the region.

The justification is brief. The data from ADF&G Subsistence Division household surveys and community studies show that salmon is a subsistence resource used by these two communities. Permit data
provide documentation of participation in the State permitted fishery for Copper River salmon.

Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Okay, thank you. At this time I'll open it up for Board deliberations and/or other Regional Council representatives.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: I would like maybe the Subsistence Staff to, and maybe even the Council to address, you know, the issue that the State raised with regards to Cantwell based upon, you know, the available information. Is it sufficient enough to, you know, justify what's being proposed.

CHAIRMAN DEMIENTIEFF: Do you have information, Pat?

MS. PETRIVELLI: ADF&G studies, it shows that they do use salmon, of course, the level of use is only six percent but it is a subsistence use of that community. And then there is descriptions in the studies that they did travel long distances to get salmon because there's not salmon in that area and there has been notable kinship ties through past C&T determinations. It's been recognized the connection between Cantwell and the other region -- or between Cantwell and the Copper River basin region through kinship ties. And Cantwell is included in the wildlife C&T determinations and also they've been included in the Chitina subdistrict, we just included them in the freshwater fish determinations and the recognition -- that the Council has recognized Cantwell participation in the Copper River basin.

CHAIRMAN DEMIENTIEFF: Thank you. Any other discussion, Ralph.

MR. LOHSE: Mr. Chair, one of the things on our make up of our Councils is we have a broad a representation as we can get. And we make use of the information, the personal history information and the person information that different individuals know on the Council, that, a lot of times has much weight as written information and information from the Staff. In this case
we have one member of our Council who is from Cantwell and the personal information that he has shared has been instrumental in leading our Council to include Cantwell, along with the information that comes from the Staff and the information that we've gotten from the ADF&G. And that's kind of how the Council works. And like I've said before, as a Council, we have always tried to operate on the basis of inclusion, not exclusion. And if the evidence points towards including somebody, it has to be pretty strong evidence to exclude somebody. And in this case that's how we feel about Cantwell.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'd like to make a motion for Proposal 17a, that we adopt the Staff Committee recommendation which is supported by the Regional Advisory Council and the SRC to make a positive customary and traditional use finding for salmon for the communities of Cantwell and Chisana in the Glenallen subdistrict. I believe the surveys do show that salmon is a subsistence resource for these two communities, either through harvest or through barter.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. We have a motion.

MR. BUNCH: I'll second the motion.

CHAIRMAN DEMIENTIEFF: Okay, thank you.

Further discussion on the motion, Taylor.

MR. BRELSFORD: Thank you, Mr. Chairman. I'm prepared to vote in favor of the motion. I would like to address the question of the threshold of a use pattern that constitutes a community pattern. And I believe there are uses that would be so low as to fall below the proper threshold, those might be idiosyncratic use patterns, but I believe in this case for the community of Cantwell, what we are actually faced with is a pattern of fairly significant cultural affiliation and breadth of harvest patterns bringing people from Cantwell into the Copper River basin. So I believe that this easily meets an appropriate threshold as representing a
meaningful portion of the community and therefore, we'll support the motion.

Thank you.

MS. GREGORY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GREGORY: I don't think we should exclude people who are using it already. Like if you have people using a resource, you shouldn't exclude them from it because me being a subsistence food user, if I don't eat, then I don't -- I'm not myself. I mean not complete. So that's my concern. Just because it's a small amount of percentage of people who use it you don't tell them not to.

CHAIRMAN DEMIENTIEFF: Thank you. Does the information available include the utilization of the resource during potlatches, those kind of things?

MS. PETRIVELLI: The percentage that I cited was from one study in 1984 and -- well, so that percentage is just looking at one year's use. But the testimony of kinship ties and intermarriage has been consistent throughout the whole program that Cantwell has. And the potlatch issue usually comes up in -- but it has been testified to many times about participation in potlatch activities and there's a lot of evidence in the record about potlatch participation with Cantwell residents.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(NO opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

MR. BUCKLIS: Mr. Chairman, Larry Bucklis, Office of Subsistence Management. The analysis
This proposal requests that a Federal Subsistence fishing season for salmon in the Chitina subdistrict be established that is identical to the Federal season in the Glenallen subdistrict. Secondly, that the method of harvest would be dipnets, fishwheels and rod and reel. More than one gear type could be specified on the permit. Third, that separate permits would be issued for the Chitina subdistrict and the Glenallen subdistrict. However, those whom are Federally-qualified users for both subdistricts would be able to obtain a permit for each subdistrict in the same year. Finally, the combined seasonal harvest limit for permits issued for the Upper Copper River district would be the permit limit presently established for the Glenallen subdistrict.

Given the scope of changes being proposed here and in Proposal No. 22, which we will take up later, registration of fishwheels with Alaska Department of Fish and Game might not continue for Federal users. Fishwheel gear registration is addressed in the analysis for Proposal No. 22.

Mr. Chairman, Proposal 17b is a fairly complex proposal with many feature and so my review is going to take a little bit longer than might be typical.

I will point out a few features on the map but as I turn away the microphone will -- my voice will fade away. So I'm going to point out the Chitina subdistrict, which is approximately 10 miles in length. The Glenallen subdistrict which is about 100 miles in length and then the Batzulnetas fishery, which is located near the confluence of Tanada Creek and the Copper River.

The subsistence salmon fisheries in the Upper Copper River are primarily targeted at sockeye salmon although smaller numbers of chinook and coho salmon are also taken. Current State regulations provide for a subsistence salmon fishery in the Glenallen subdistrict using fishwheels or dipnets. And in the Chitina subdistrict using dipnets only. Under State regulations Alaska residents may take salmon for subsistence purposes in only one of these two subdistricts in any one year.

Regulatory actions have had an affect on the record of fishwheel use. Although historical fishwheel use was primarily clustered in locations at and
above the Chitina bridge in what is now the Glenallen subdistrict, fishwheels have also been used, to a lesser extent, in what is now the Chitina subdistrict. The combined effect of the regulatory changes being proposed here would be to expand subsistence opportunity and provide more flexibility to Federally-qualified users in terms of choosing the subdistrict and the gear with which to fish, both of which could be changed within the same year. Total subsistence take by Federally-qualified users would not be expected to increase substantially since the Federally-qualified users for the Chitina subdistrict would essentially be only a subset of those already qualified to fish in the Glenallen subdistrict. However, it is uncertain to what extent effort may shift from the Glenallen subdistrict down river to the Chitina subdistrict, but it is unlikely to be substantial since local users in the Glenallen subdistrict primarily use fishwheels and already have established sites.

As proposed there would be some lack of clarity in the regulations regarding the operation of multiple units of gear at any one time. Enforcement of harvest limits could be compromised if households are issued permits for both subdistricts as there is no requirement to have both permits in your possession. Modification of the proposal is warranted to address these deficiencies.

Also, current regulatory language lacks clarity that the annual harvest limit -- that the annual limit is a harvest limit rather than a possession limit. So these are features that would be recommended to be addressed.

The Chitina subdistrict is already a heavily utilized State, subsistence dipnet fishery. Access to effective sites for fishwheel operation may be especially limited. The potential exists for conflict among and between gear operators. Under the proposed regulations for the Chitina subdistrict, the season opening date would be two weeks earlier for the Federal season than for the State season, harvest limits would differ and Federal regulations would allow the use of fishwheel and rod and reel for subsistence take in addition to the dipnets. Federal regulations would allow retention of up to five chinook salmon taken by dipnet in the Chitina subdistrict as we currently allow both Federal and State regulations in the Glenallen subdistrict. However, State regulations allow retention of only one chinook by dipnet in the Chitina subdistrict.
The State only allows subsistence fishing in the Chitina subdistrict during periods set by field emergency orders. Within the framework of a Board of Fisheries sanctioned Fisheries Management Plan.

At least in the first year and beyond, if necessary, it would be advisable for the Federal Subsistence fishery in the subdistrict to be opened on a periodic basis by the in-season manager consistent with the State fishing schedule. The closed periods, especially early in the run allow passage of fish for spawning escapements and upriver uses. This approach also provides for conservation of Chitina River drainage salmon which are not susceptible to harvest upriver in the Glenallen subdistrict or the Batzulnetas fishery. The coordinated fishing schedule would contribute to management efforts to spread harvest throughout the run for conservation and upriver use considerations and it would ease potential enforcement problems. While applying this precautionary approach, an evaluation could be made of Federal user effort and harvest in the Chitina subdistrict in order to better adapt management in later years.

Two additional modifications could be made that would provide more consistency with the State regulations thereby reducing the potential for conflict and enhancing enforcement capability. Although these modifications would reduce Federal subsistence opportunity. Those modifications would be to not allow the use of fishwheels in the Chitina subdistrict or limit the take by dipnet in the Chitina subdistrict to the harvest limits of the State subsistence fishery, which is a lower harvest limit, but then allow Federal users to take the remainder of their total upriver in the Glenallen subdistrict.

Again, those are two modifications you could consider to reduce differences between proposed Federal regulations and current State regulations.

A couple of final points, the superintendent of Wrangell-St. Elias National Park and Preserve is the Federal delegated in-season manager for the Upper Copper River subsistence salmon fisheries. The scope of changes included in this proposal will likely require the Park Service to administer the issuance of Federal subsistence fishing permits for the Upper Copper River district. Presently, the State is continuing to issue permits to both Federal and State users.
The proposal does not address the issue of access to Ahtna Corporation lands. Under the current State system, a permit fee is collected and a portion is paid to the Ahtna Corporation for access to their lands. The new proposed Federal permit would not have any fee and would not address the issue of access to Ahtna lands. Individuals or communities would be responsible for making their own arrangements with the Ahtna Corporation for access.

Mr. Chairman, that concludes my review.

CHAIRMAN DEMIENTIEFF: Thank you.

Summary of written public comments.

MS. WILKINSON: Mr. Chairman, the comments that we received on Proposal 17 were directed toward the entire proposal, not as written A and B parts. So the comments that I read earlier apply here as well. If you would like to review any part of that I'd be glad to do so.

CHAIRMAN DEMIENTIEFF: Thank you very much. We'll go ahead and move on. State comments.

MR. VINCENT-LANG: Mr. Chairman, the Department has several concerns regarding the Staff Committee recommendation for this proposal. First, the earlier opening date for the Chitina subdistrict and larger harvest limits for king salmon raise concerns for early run king and sockeye salmon stocks in the Copper River basin, including Batzulnetas stocks. We believe these early run stocks would be susceptible to increased harvest during the early part of the season. Additionally, king salmon will be much more vulnerable to fishwheels in the Chitina subdistrict because of the single deep channel morphology of the Copper River in this area. This could lead to larger harvest and conservation issues for these early run stocks.

Second, because of the allowance of differential gear, we believe there is a serious potential for conflict between Federally-qualified and State-qualified subsistence users in this area. We do not believe sufficient consideration has been given to options that could reduce such conflict, such as gear separation zones.

Third, we are concerned about the issue of access to Ahtna Corporation lands in this area.
Currently, the State collects as part of its permit a land access fee that is transferred to the Ahtna Corporation. Under the proposed Federal permit no such fee would be collected. The proposed system collects fees from State, but not Federally-qualified users. The Department does not believe that sufficient consideration was given to the issue of land access in this area.

Finally, while the Staff Committee recommends that the State management plan and associated fishing schedule for this fishery be followed, we are concerned that differing fishing schedules could occur because the intent of this is not adopted in regulation.

And let me close by stating that we have a couple of members from our Staff here that manage this fishery available to you if you have any questions regarding to it. I have Mack Menard, Charlie Swanton, Tom Talbe, the area managers. And each of you were handed out a synopsis of our management plan and management actions for the Copper River district subsistence fisheries that are managed by the State.

Thank you.

CHAIRMAN DEMIENITIEFF: Questions or comments to State. If not, we'll open up to public testimony, Gloria Stickwan.

MS. STICKWAN: CRNA supports Proposals 17a and B, but we think that for Chitina they ought to make an arrangement for fees for land for Chitina -- Native Corporations, some kind of agreement should be in place. And that the Glenallen subdistrict be consistent with the -- all three districts be consistent and that we have different -- separate permits for both the subdistricts in the Copper River.

CHAIRMAN DEMIENITIEFF: Gloria, I think to the best of my knowledge and the Solicitor can correct me if I'm wrong, but we only have jurisdiction over Federal lands. We have no jurisdiction over State or Native lands at all, it's just over Federal lands. Is that correct, Keith?

MR. GOLTZ: That's correct.

CHAIRMAN DEMIENITIEFF: So there's no way we can put a fee application on our -- within our jurisdiction because we don't have jurisdiction over
Native lands or State lands. So that's why we can't accommodate the fee request because we don't have -- we just simply do not have jurisdiction.

MS. STICKWAN: But I think some kind of agreement could be in place where there's -- that you acknowledge that they are the land owners or something. Somehow the State has worked this out so that they do have an agreement in place between Chitina and the State of Alaska. And I'm sure something like that can be worked out somehow between agency and Chitina Native Corporation.

CHAIRMAN DEMIENTIEFF: Keith, do you know if that's something that's possible that we could do?

MR. GOLTZ: Not that I'm aware of. The State has jurisdiction over State and private lands and we're confined in our program to define Federal lands. I'd be happy to talk about it with anybody who can suggest a different idea. But we are limited in our jurisdiction.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes, go ahead -- Gloria, that's the best we know right now but I'd encourage you to follow up with Keith or have whoever follow up with Keith to the different land owners out there and we'll see if there's anything that is possible with regard to that. But it's certainly not something possible right now. That would take some time to put something like that together, if it was legal.

MS. STICKWAN: I would like Ahtna to be involved in this, too, since they're the land managers for -- and the corporation as well.

CHAIRMAN DEMIENTIEFF: Do you have a question specifically to Gloria?

MR. LOHSE: I have a question for Gloria and Keith, both, if I may ask it.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. LOHSE: This would just be a question as far as the permit that's issued, the Federal permit that's issued, would it be reasonable or proper to include a notice on that permit that the lands being
crossed are private lands and it's up to the individual
involved that holds the permit to make a private contact
with Ahtna and pay the fee and that if they haven't then
the permit, that's their responsibility?

MR. GOLTZ: I think the answer to your
question is yes. In fact, I think we've done that in
other cases.

MS. GOTTLIEB: Mr. Chairman.

(Pause)

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: I'm sorry.

MS. GOTTLIEB: One more comment for
Gloria and for Ralph, that the National Park Service, if
we are the ones to issue the permit would certainly want
to work with CRNA and Ahtna to work out prescribed
wording for a permit.

CHAIRMAN DEMIENTIEFF: Okay, thank you.
Thank you, Gloria. Regional Council recommendation.

MR. LOHSE: The Regional Council
supported this proposal with modification. We recognize
that there were some problems that could evolve from this
so we would like to stipulate that only one unit of gear
may be operated at a time and that if a household is
issued permits for both subdistricts, you must have both
permits in possession when fishing or transporting
subsistence caught fish. In other words, if you're
fishing in the Chitina subdistrict but you have a permit
for the Glenallen subdistrict, you need to have your
Glenallen permit along. We also feel that this would
provide subsistence opportunity but we recognize that it
does have the potential for impacts on Chitina River fish
and on other fishers. And so we would think that this
would need to be tracked and provisions made to mediate
or limit this as much as possible so that we wouldn't
have adverse impacts.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Staff
Committee.

MR. GERHARD: Yes, Mr. Chairman, Staff
Committee recommendation for Proposal 17 is also a little bit lengthy so bear with me but I think it's important to remember that the reason this proposal is here is because.....

CHAIRMAN DEMIENTIEFF: Bob, could I get you to hold on here a minute, I overlooked one person requesting public testimony.

MR. GERHARD: Of course.

CHAIRMAN DEMIENTIEFF: She might want to -- Sue Aspelund.

MS. ASPELUND: Thank you for this opportunity. My name is Sue Aspelund, I'm executive director of Cordova District Fishermen United and we represent the commercial fishing fleets of the Copper River and Prince William Sound. I'd like to clarify that the comments that Ann read into the record earlier referenced 17b at the time written. Comment was solicited in June, the proposal was not yet split into 17a and B so those comments were relative to this portion of the discussion.

We're extremely concerned about divergent State and Federal regulations especially in the Chitina subdistrict where there can be as many as 10,000 non-Federally-qualified users accessing the resource. We're anecdotally aware of past and present violations of existing State bag limits by non-Federally-qualified users and we're very concerned over enforcement of divergent State and Federal regs. In your deliberations today, we sincerely hope that you will question Federal managers as to their plans and their ability to monitor the fishery and the regulations for protection of the resource.

Further ADF&G has described to you a fairly complex abundance spaced management plan for the Copper River that has evolved over time in order to sustain the Copper River resource and the people dependent upon its fisheries resources. We're very concerned at the lack of a written Federal management plan that acknowledges the intense pressure on this resource. Further, we urge you to require a written in-season management plan for Federal fisheries in the Chitina subdistrict as well as a review of enforcement capabilities prior to passage of 17b in order to protect both the resource and the residents that live along the
Chairman Demientieff: Thank you. Any questions. Thank you. Staff Committee now, sorry, about that Bob but I just overlooked it.

MR. GERHARD: Yes, Mr. Chair, as I was saying this is a fairly complex proposal but it starts from a simple premise and that's the existing regulation that we have now that says you may not take salmon in the Chitina subdistrict. That regulation was adopted from the State subsistence regulation when we adopted our regulations in 1999. Of course, that was before the State dipnet fishery was a subsistence fishery. So the whole premise is to correct that statement.

The Staff Committee recommendation is to adopt with the modifications as recommended by the Southcentral Alaska Subsistence Regional Advisory Council. And again, the Eastern Interior Subsistence Regional Advisory Council deferred to the home region.

The modifications stipulate that only one unit of gear may be operated at any one time and that if a household is issued permits for both subdistricts, he must have both permits in possession when fishing or transporting subsistence caught fish in either subdistrict. Also to identify the permit as being a Federal subsistence salmon fishing permit and clarify that the annual limit is a harvest limit rather than a possession limit.

And the modified proposed regulations would read, for Section 27(i)(11)II, you may take salmon in the Upper Copper River district only as follows: In the Glenallen and Chitina subdistricts from May 15th to September 30th. IX, in the Glenallen and the Chitina subdistricts, you may take salmon only by fishwheels, rod and reel or dipnets. Subsection XIV, only one Federal subsistence fishing permit per subdistrict will be issued to each household per year. If a household has been issued permits for both subdistricts in the same year, both permits must be in your possession and readily available for inspection while fishing or transporting subsistence taken fish in either subdistrict. Subsection XV, the following apply to Upper Copper River district Federal subsistence salmon fishing permits. Multiple types of gear may be specified on a permit although only

Copper River that are dependent upon it.

Thank you.
one unit of gear may be operated at any one time.

The total annual harvest limit for Federal subsistence salmon fishing permits in combination for the Glenallen subdistrict and the Chitina subdistrict is as follows: For a household with one person 30 salmon of which no more than five may be chinook salmon if taken by dipnet. For a household with two persons, 60 salmon of which no more than five may be chinook salmon if taken by dipnet plus 10 salmon for each additional person in a household over two persons except that the households limit for chinook salmon taken by dipnet does not increase. Upon request, permits for additional salmon will be issued for no more than a total of 200 salmon for a permit issued to a household with one person of which no more than five may be chinook salmon if taken by dipnet or no more than a total of 500 salmon for a permit issued to a household with two or more persons of which no more than five may be chinook salmon if taken by dipnet.

The justification for this recommendation is that the proposal would establish a Federal subsistence fishing season and methods and means for salmon in the Chitina subdistrict identical to the Federal season and methods and means currently in place for the Glenallen subdistrict. The combined seasonal harvest limit for permits issued for the Upper Copper River district which includes the Glenallen and Chitina subdistricts would be the limit presently established for the Glenallen subdistrict alone. Total subsistence take by Federally-qualified users would not be expected to increase substantially since the Federally-qualified users for the Chitina subdistrict fishery would essentially be only a subset of those already qualified for the ongoing and geographically larger Glenallen subdistrict fishery. While it is uncertain to what extent effort may shift from the Glenallen subdistrict to the Chitina subdistrict, it is unlikely to be substantial since local users in the Glenallen subdistrict primarily use fishwheels and already have established sites.

Although the current State subsistence salmon fishery in the Chitina subdistrict allows only the use of dipnets, information regarding historical use of fishwheels provides sufficient justification for inclusion of fishwheels as allowable gear in the Federal subsistence fishery and rod and reel is allowed statewide.
The modifications to the proposal provide clarity prohibiting the operation of multiple units of gear at any one time and aid in the enforcement of harvest limits by requiring possession of both permits when fishing or transporting subsistence caught fish in either subdistrict for those households issued permits for both subdistricts in the same year. It is advised that at least for the first year and beyond, if necessary, the Federal subsistence fishery in the Chitina subdistrict be scheduled consistent with the State fishery schedule.

Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you. Board deliberation.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: This particular proposal enables Federal subsistence users to more easily meet their subsistence needs for sockeye salmon. Now, while we manage for subsistence opportunity we, of course, need to keep in mind resource management and recognized principles of fish, fisheries conservation as paramount. I think these are some major changes we're talking about and the effect of these changes won't really be known until after and if we implement these. But we expect minimal increase in use. Resource conservation does remain our highest management priority. We have to be careful not to move too quickly and evaluate the effects of each of these actions.

I'm going to move to adopt Proposal 17b as the Staff Committee recommended. I think it would be really important as we've discussed here, not only to continue our discussions with the State, with the Regional Advisory Councils, perhaps even to have public meetings before the 2002 season begins. I'd also suggest that the management of the Chitina subdistrict continue to be abundance based as determined by salmon that pass through the Miles Lake sonar. And that the determination of the opening date and in-season openings and closings be determined very carefully in consultation between Federal subsistence users and State managers and although this is dual management, we still continue to insure that Federal subsistence priority can occur in this subdistrict.
Thank you.

MR. EDWARDS: Mr. Chairman, I'd like to ask the State based upon the suggested modification to the proposal and I guess the understanding that it would be open by special action and I guess I'm assuming that, at least, in the interim consistent kind of with the State management plan, you know, does that ease some of your concerns? And secondly, could you elaborate a little more on the access issue, I'm not sure I fully understand that.

CHAIRMAN DEMIENTIEFF: Excuse me, if we can hold off here in a second, we need a second.

MR. EDWARDS: I'll second the motion.

CHAIRMAN DEMIENTIEFF: Okay, go ahead.

MR. VINCENT-LANG: The first question addresses our final point which is consistency with the State management plan. Clearly we are concerned that we would have differing fishing schedules out there as a result of adoption of this proposal. The Board's intent to clarify that, at least, initially and hopefully longer than that in our estimation, having a fishing schedule that is identical to the State management plan would be preferable and that would be ease some of our concerns with that one.

Regarding the second issue, the land access issue, that is kind of an issue that's been ongoing now for several years. We're looking carefully at our land access issues in the Chitina subdistrict right now. We have some new information to us and we'll probably be renegotiating with the Ahtna Corporation. But clearly we are concerned that there would be a system out there in place where State users would have to pay an access fee and Federal users would not have to pay an access fee and we don't think that'd be fair to the users. But we're looking at it right now and we'll be talking on and I think that's an issue that will be ongoing as we go through time on that one.

MR. EDWARDS: Okay, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.
MR. EDWARDS: With that response I guess I would like to ask Judy then if the motion does include the understanding that the fishery would be open by special action and strive to be consistent with the State management plan?

MS. GOTTLIEB: I'm not sure I can answer the special action part but the understanding or perhaps the direction of this Board for the first year of this regulation is that we act in concert and coordination with the State and keep those openings as consistent as possible.

MR. EDWARDS: But again, I'm still trying to clarify on the special action. It's my understanding if the State opens, based upon emergency, then to be consistent would we not have to do it by special action?

MS. GOTTLIEB: Yes, that's correct.


MR. GOLTZ: Yeah, I'd just like to clarify a little about Doug's last statement. I don't think there's anything in this regulation and I hope there's nothing in anything that I said that would lead people to conclude that subsistence access includes a right to trespass. We have a question of private lands here; I'm not sure that our present motion resolves it. I like very much Ralph's suggestion that there be some notification that there is an access problem in this area. These are private lands held by Ahtna Corporation. I don't know that this Board has any direct jurisdiction over them. I can't find a way to get from this Board to those lands but perhaps we could work through the land manager in that area, the Park Service, and work something out. But we're not intending here to create a hole that would create further conflict over land use, private land use.

CHAIRMAN DEMIENTIEFF: Discussion, Ralph.

MR. LOHSE: Yes, I'd just like to add a couple of comments. One of the things was that our Council recognized that this could create some problems and we, as a Council, said that we would track these fisheries to see what the impact was on the resource and on the fishers involved. I would like to personally recommend that the Federal Board or Federal managers
become very, very familiar with the Copper River management plan. This plan has been worked out by the various users and Fish and Game in the Copper basin. It's one of the reasons that the Copper River has sustained a fishery that has provided fish for the subsistence users, for the State personal use fishermen or today subsistence users and for the Copper River basin community of Cordova, which is based on commercial fishing. And I think it's very, very important that we don't throw the baby out with the bathwater, that we recognize that this has provided that kind of consistency and see how we can work within that kind of consistency.

Thank you.

CHAIRMAN DEMIETIEFF: Thank you. Other discussion.

MR. EDWARDS: Mr. Chairman, again, I guess I just want to make sure that the motion actually embraces what, you know, Ralph said and what we seem to all acknowledge. And if somebody can assure me that it does that then I'm certainly willing to support it.

MS. GOTTLIEB: Yes, Gary, I believe the motion does embrace that, that we will work in coordination and consultation with the State of Alaska on the openings and closings.

CHAIRMAN DEMIETIEFF: Taylor, you had a comment. Bill.

MR. THOMAS: Thank you, Mr. Chairman. Who did you recognize?

CHAIRMAN DEMIETIEFF: I did already.

MR. BRELSFORD: Go ahead.

MR. THOMAS: Okay, thank you, Mr. Chairman. I'm really appreciating the dialogue that's happening around this particular proposal. It's demonstrating to me the awareness, the commitment and the concerns of everybody that's effected. With regard to the concerns, I think the concerns are very valid, however, they're bringing out some historic reflections to me and that is historically when it comes to subsistence access to resources, it doesn't come without significant negative speculation. And a lot of that is occurring now and it has a reason for that, there is a
mention of conflicts and conservation. Historically,
there's nothing to support those concerns, historically.
In the language of the recommendation by the Southcentral
Regional Advisory Council, they've listed some real
supporting rationale for their position. Also I want to
point out that subsistence, if you look at the records of
harvest we had earlier, you could see the differences in
the level of harvest by different user groups. And so
that's a solid demonstration of the focus and the harvest
ethics between the subsistence users and other user
groups.

And having said all that, I speak to
support the Staff Committee recommendation. Thank you,
Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Charlie.

MR. BUNCH: Thank you, Mr. Chair. I just
wanted to bring out the point that in addition to a lot
of Ahtna land in these two subdistricts, there's a lot of
private land that are Native allotments and we would
certainly like to minimize the trespass on those lands,
too, because that's quite a problem during the dipnetting
season.

CHAIRMAN DEMIENTIEFF: Thank you.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

We're going to take a little break right now and when we
come back I'll note that since the next two proposals
actually deal with the same issue on different species,
we're going to take up 21 first and then go back and do
18 when we come back.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We're going to
call the meeting back to order. Again, as I mentioned,
we're going to take Proposal 21 first in the Southcentral Region and then we'll go back to 18. Analysis, please.

MR. BUCKLIS: Mr. Chairman, Larry Bucklis, Office of Subsistence Management. The Staff analysis for Proposal No. 21 is found on Page 152 in your Board book, 152. This proposal for the Upper Copper River district was submitted by the Copper River Native Association. The proposal requests the removal of both lobes of the caudal or tail fin from subsistence caught salmon no longer be required. The current requirement is seen as a burden unnecessary and not something that was customary and traditionally done.

The initial proposal as submitted would have retained the requirement for salmon taken by fishers from urban areas. Since non-rural users are not qualified to fish under Federal subsistence fishing regulations, the urban user aspect of the proposal can't be incorporated into the Federal regulations. That would be a matter for State regulatory consideration.

For reference there is a diagram shown on the screen of a salmon with the fins indicated and I'll point out for reference the caudal or tail fin, and recall that that is a current marking requirement, the proposal is for no marking requirement. And I'll just reference now, we'll cover it a little later in the analysis, alternative for removal of the anal or ventral fin.

The existing requirement to remove both lobes of the caudal fin was incorporated from existing State regulations. Marking of subsistence caught salmon is required in Federal regulations for other area areas as well, such as in Yakutat, Southeast Alaska, coho salmon in the Togiak district of Bristol Bay and chinook salmon in the Lower Yukon River. Being required to immediately remove both lobes of the caudal fin from subsistence caught salmon may be perceived negatively by subsistence fishers, however, it does protect and promote current subsistence harvest and uses by assisting in the enforcement of regulations regarding sale of subsistence caught fish and the separation of subsistence harvest limits from sportfish bag limits. Discontinuation of the requirement in Federal regulations would compromise enforcement of State regulations, which is already an area of concern for the proponent.

Road system access to the Upper Copper
River district allows ready transport of fish to markets which this regulation would continue to protect against.

Removal of the anal or ventral fin may be a more workable marking requirement than removal of both lobes of the caudal fin based upon info we received at the Southcentral Council meeting in fall 2001. It is recommended that the marking requirement for subsistence caught salmon be changed to removal of the anal fin, instead of the current requirement to remove both lobes of the caudal fin. In addition to being more acceptable to users, this would also distinguish salmon taken by Federally-qualified users from those taken by State qualified users. I'd just make a comment here as well, the Staff Committee for Proposal 18, which we will be taking up a little later recommends that subsistence caught rainbow or steelhead trout that are legally retained from fishwheels also be marked by removal of the anal fin so as to be consistent with the recommendation here. Consistency in the regulations as to how fish are to be marked would mean less potential for confusion among users.

Mr. Chairman, that concludes the review.

Summary of written public comments.

MS. WILKINSON: Mr. Chairman, we received three written comments on this proposal. Cordova District Fishermen United wrote, that this proposal would make enforcement difficult if not impossible. While they appreciate that cutting the caudal fins may not be customary and traditional, the increased use of salmon in the Upper Copper River requires some mechanism to provide for enforcement. They disagree with the proponents that different markings for State and Federal subsistence users will aid in enforcement.

Mr. Don Quarberg of Delta Junction opposes this proposal. He wrote that if clipping caudal fins overharvest by dipnetters it's only logical to assume that it will have the same effect for fishwheel operators.

The Copper River/Prince William Sound Advisory Committee wrote that this is a needless divergence from existing enforcement and enumeration practices in the fishery. While they acknowledge local practices, the overwhelming increase and various user
groups on the Copper River dictates the need for as much enforcement as possible.

And that is all the written comment.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR.?: Thank you, Mr. Chairman. The Department supports the Staff Committee recommendation to adopt this proposal as modified. We request the Federal Subsistence Board standardize the mark in when changing the marking requirements in an area such as in Proposals 18 and 21. Failure to do so will result in confusion and enforcement difficulties. So again, the Department supports the anal or ventral fin marking requirement.

CHAIRMAN DEMIENTIEFF: Thank you. We have two requests for public testimony, Gloria Stickwan.

MS. STICKWAN: CRNA supports the proposal that we cut off the ventral fin after immediately removing it from the fishwheel site. That would be our position, thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Linda Goodlataw.

MS. GOODLATAW: My name is Linda Goodlataw and I am from the village of Tazlina. I serve on the Migratory Bird Committee for the Native Village of Tazlina. I am here to give public testimony on Proposal 21.

The regulation currently states that the qualified subsistence users must immediately remove both lobes of the caudal fin from the subsistence caught salmon in the Upper Copper River district. I am opposed to this regulation. This is cumbersome and burdensome to the qualified subsistence users in the Ahtna region. We have never customarily and traditionally cut both lobes of the caudal fins. The qualified subsistence users do not need to have this regulation placed upon them. It is not likely that the qualified subsistence users would take their fish to sell to the fish processing plants. They may take fish to relatives in the Anchorage or Fairbanks areas, however, they probably would share the fish and not sell it to relatives.

This regulation was written for and is
geared to the urban people who primarily use dipnets and come from Anchorage and Fairbanks to fish in the Chitina subdistrict. We consider it regulatory, for them to comply with this regulation under the State regulations. They take fish from the Copper River area to urban areas where the fish is fresh and frozen. They need to have a State regulation that just applies to them. A new regulation should be passed by the Federal Subsistence Board which states that the ventral fin is to be cut off after immediately removing the fish from the fishwheel or fishing site for the Federally-qualified subsistence users.

Thank you for listening to me.

CHAIRMAN DEMIENTIEFF: Thank you. That completes our public testimony at this time. Regional Council recommendation.

MR. LOHSE: Mr. Chair, the Regional Council supports this proposal with the modification that the person would have the option to take one lobe of caudal fin or the ventral fin immediately removed from the salmon in the Upper Copper River district. I'll give you some of our thinking behind it.

As a Council we have always tried to work with the people in a way that is more culturally acceptable to them as we did with the moose. We recognized that records need to be kept or that there needs to be some distinguishing mark for enforcement purposes. Those of you that have taken care of salmon know the difference between how easy it is with a knife to cut off the ventral fin or to cut off the caudal fin. Most subsistence users in the Upper Copper River do not pack scissors with them so it's not that easy to cut the caudal fin lobes off, you have to chop them off, but the ventral fin comes of very easy with a knife. We think that this will satisfy both the customary and traditional practices and the need for marking for enforcement.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Yes, Mr. Chairman, the Staff Committee recommends that this proposal be adopted with modification to replace the requirement to remove both lobes of the caudal or tail fin with a requirement
to remove the anal or ventral fin. The Staff Committee recommendation agrees in part with the recommendation of the Southcentral Council which recommends the caudal or ventral fin. Again, the Eastern Interior Council deferred to the home region Southcentral.

The modified proposed regulation would read, you may not possess salmon taken under the authority of an Upper Copper River district subsistence fishing permit unless the anal or ventral fin has been immediately removed from the salmon. The justification for this recommendation is that the requirement to remove both lobes of the caudal fin in the Upper Copper River district was incorporated from existing State regulations into the initial Federal regulations that took effect on October 1st, 1999. Similarly, marking of subsistence caught salmon by removal of a specified fin immediately upon capture is required in the Federal regulations for other areas, such as Yakutat, Southeast Alaska, coho salmon in the Togiak district of Bristol Bay and chinook salmon in the Lower Yukon River. Removal of the anal or ventral fin may be a more workable marking requirement in the Upper Copper River district than removal of both lobes of the caudal fin based upon input of the Southcentral Council meeting last fall. It is recommended that the marking requirement for subsistence caught salmon be changed to removal of the anal fin instead of the current requirement to remove both lobes of the caudal fin.

In addition to being more acceptable to users, this would allow -- this would also distinguish salmon taken by Federally-qualified users from those taken by State-qualified users. And allowing Federally-qualified users to mark subsistence caught salmon by choosing to either remove one lobe of the caudal fin or the anal fin is not recommended.

First, two different marking options may lead to confusion and secondly, since removal of both lobes of the caudal fin is well established, users may not stop at the removal of one lobe of the caudal fin under such a new regulation.

Mr. Chair, that ends the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you. We're ready to go to Board deliberation. Is there any discussion.
MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I just wanted to ask the State, is there some advantages to actually having a different marking for Federally taken subsistence taken fish as opposed to the non-subsistence taking?

(CHECK) MR.?: We feel that this could be advantageous in the future, depending on, you know, other regulation changes and so that it's probably not a bad thing to have a separate marking requirement. And the other thing that Staff brought up is that actually doing the ventral fin is helpful in sampling fish because we measure the length of the fish to the end of the tail there and so cutting there actually is kind of -- you know, affects our sampling, so the ventral fin is not a bad thing.

MS. GREGORY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GREGORY: For your information, the tail part of the -- the tail fin and all the fins on the fish are good sources of iron and if you -- the bones in the fish heads are good sources of calcium and that's how we keep ourselves healthy. Because a lot of Native people don't drink milk and they're allergic to the lactose in milk, anyway.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: This proposal has been of considerable discussion both at the Subsistence Resource Commission and then at the Regional Advisory Council meeting as well. I would move that we adopt Proposal 21 as it's been modified by the Staff Committee. The Council presented the Staff Committee and the Board with two choices to mark the subsistence caught fish, but I believe we should be following the Staff Committee recommendation that's to mark subsistence salmon by removal of the ventral or the anal fin.

I think as has been stated, the fin removal would be really an important tool for separating subsistence fish from commercially caught fish and also
for information and recordkeeping.

MR. BUNCH: Second.

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

MR. EDWARDS: Mr. Chairman, I am prepared to vote in favor of the motion. I guess I would suggest that in our regulation booklet we include an illustration of what we have in mind. I notice that's absent for the lobes and quite frankly I wasn't sure exactly what constituted a lobe and what didn't, so I think we should do that and put that in the book.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair, in that light I'd like to make another suggestion because the anal or ventral fin sometimes seems to even cause confusion in our language. I would suggest that the Ahtna word for that fin would also be included in the regulation booklet.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: Thank you, Sir. Just a comment, first of all I intend to support this motion. In addition, I just wanted to thank everyone of the people who got involved with the issue and have worked so hard to resolve it. This is the kind of inclusive problemsolving that I think really produces effective proposals for the Board's consideration so thanks to everyone who did that.

That's all I have, sir.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Thank you, Mr. Chairman. If you knew I was blind and heard this discussion I would think that we're trying to capture a man-eating monster out there, you know, and trying to figure out a way to identify one that's coming after you. Markings like this are very recent. Subsistence or personal use fish, the only cuttings we've ever done on them was cutting the head off and taking the guts out, that's plenty for marking fish. The proposal, without modification in my
estimation is the best solution to whatever dilemma people are experiencing. The reasons for markings that have been expressed so far have never -- I mean without this provision in the regulation would in no way hinder a management of the subsistence caught fish that we're talking about. Every fin on a fish is left intact for a reason, depending on how you're going to prepare it. It keeps the flesh from tearing. It gives you a way to hang it. It gives you better opportunity for drying.

And so I mean I see this as a real insult to people that are only catching fish to eat. And if there's problems with other users, I say have the other users mark -- let's have the commercial people mark their fish so that we can tell that they're not subsistence. So I think without modification the proposal that's submitted is your best way to go however I'll yield to whichever the Board chooses.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair, in due deference to Bill on this one here, Mr. Thomas, one of the things that was mentioned and the reason that, as a Council, we went with the ventral fin is some of the testimony that was given us was that the Ahtna people do immediately remove the ventral fin from the fish before they process the fish and so that was considered an acceptable way to go and that was the reason that, as a Council, we moved in that direction.

Thank you.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. THOMAS: I resent that remark, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Like it or not he made it. I tend to support the proposal as modified for all the wrong reasons. I remember when Fish and Game slammed that stuff down our throats up on the Tanana River. I thought and still think it's a stupid thing to do. But unfortunately I can't think of any better way, since then, to keep subsistence fish out of the commercial market. So I'll vote for it for all the wrong reasons.
Any other discussion. Hearing none, all those in favor of the motion please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 18.

MR. BUCKLIS: Mr. Chairman, Larry Bucklis, Office of Subsistence Management. The Staff Committee for Proposal No. 18 is found on Page 130 in the 18 Board book, 130. This proposal for the Upper Copper River district was submitted by the Subsistence Resource Commission for Wrangell-St. Elias National Park and Preserve. It requests that regulations be corrected regarding retention of rainbow, steelhead trout caught in fishwheels and dipnets and that those legally retained from a fishwheel have the dorsal fin removed immediately.

Here we have a diagram of -- an illustration of a trout and again I will point out a couple of fins for reference. This analysis will discuss the dorsal fin and the alternative of the anal or ventral fin.

Current regulations prohibit retention of rainbow, steelhead trout taken incidentally by a fishwheel. However, these fish are typically dead or incapable of survival after release. The regulation is not being enforced. Regulations allow retention of rainbow, steelhead trout taken incidentally in subsistence net fisheries targeting other fish species. The rationale for this is that fish captured in gillnet fisheries are either dead or incapable of surviving after release. But a dipnet fishery is also a net fishery. Fish captured by dipnet should be able to survive after release. State regulation for the subsistence dipnet fishery in the Chitina subdistrict requires immediate release of rainbow, steelhead trout without further harm. This is not required for the Glenallen subdistrict although the proponent notes that many dipnetters voluntarily release trout unharmed to the water.

Steelhead trout are the anadromous form of rainbow trout. Rainbow and steelhead trout inhabiting the Upper Copper
River drainage are considered among the northern most wild stocks of this species in North America. The rainbow, steelhead trout populations of the area are thought to be relatively small and unproductive. Harvest of wild rainbow trout in sportfisheries of the Copper River drainage during the 1990s averaged 994 fish annually, while harvest of steelhead trout averaged 18 fish annually. Unpublished subsistence permit data indicate that incidental fishwheel harvest of steelhead may range from 14 to 114 fish per year. The proposed regulatory changes would recognize current practice by allowing retention of trout taken incidentally by fishwheel. As proposed removal of the dorsal fin would be required immediately so as to remove potential trophy value of these rainbow and steelhead trout. However, current regulations regarding marking of subsistence caught salmon require removal of both lobes of the caudal or tail fin and as you've acted on Proposal 21, this proposal for salmon would now require, instead, removal of the anal or ventral fin.

Consistency in the regulations as to how fish are to be marked would mean less potential for confusion amongst users. For this reason it is recommended that the marking requirement for rainbow and steelhead trout be modified to removal of the anal or ventral fin. In the interest of conservation it would be required that rainbow and steelhead trout caught by dipnet in the Upper Copper River district by Federal users be released unharmed immediately.

Mr. Chairman, that concludes the review.

Chairman Demientieff: Thank you.

Summary of written public comments.

Ms. Wilkinson: Mr. Chairman, we received one written comment from Cordova District Fishermen United. And they took no formal action on this proposal at their meeting but they do suggest that if conservation becomes a concern during periods of fishwheel use that the Board require the use of live boxes during that time.

Chairman Demientieff: Thank you.

Department comments.

Mr.?: Yes, Mr. Chairman, the Department supports the Staff Committee and Southcentral Regional Council recommendation to adopt this proposal. We recommend the Board standardize the mark when changing
the marking requirements such as in Proposal 21 and that
will make it less confusing to the public so the
Department supports the anal, ventral fin marking
requirement for this species, too.

CHAIRMAN DEMIENTIEFF: Public testimony,
Gloria Stickwan.

MS. STICKWAN: We support the ventral fin
being removed and that rainbow trout be taken from
fishwheels only and dipnetters have to return fish.
Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Linda
Goodlataw, Linda, did you want to testify? Linda, going
once, Linda going twice -- you don't want to testify --
Linda doesn't want to testify. Regional Council.

MR. LOHSE: Mr. Chair, the Regional
Council supported this proposal without modification.
Some of the things we considered and I apologize if my
pronunciation isn't right, but one of the things we
considered when we considered the retention of steelhead
in a fishwheel was the cultural idea among the Ahtna's
that it's agee or it's tabu to waste something and your
older subsistence users will not throw back a dead
rainbow because that would be a larger crime to them than
retain it and risk the wrath of the ADF&G. But the
Council did recognize the need to have clear enforcement
tools. And we never gave any thought to the
inconsistency between the dorsal fin and the ventral fin,
we looked at it as it would destroy the trophy value of
the rainbow, however the ventral fin would do the same
thing. The Council did ask that enforcement use wisdom
and discretion when applying this regulation to some of
the older subsistence users who take part in the early
part of the season when they may catch a rainbow.

One of the things that was brought up was
that the marking really requires that this fish be marked
before it's taken out of the fishwheel and taken to
shore. And most of the people don't do that. Most of
the older users especially, take their fish to shore to
clean them on shore and they'll do the marking there.
Technically speaking as they take them off the fishwheel
and take them to shore they're not in compliance with
this regulation. They asked that there be wisdom
and discretion in application. In other words, use the
intent of this proposal and not the letter of the law
when dealing with these kind of people.
Thank you.

MR. NICHOLIA: We never discussed this but we talked about this in the Eastern Interior and it looks to me it would better off being a sports user or a personal use fishery on all these resources instead of a subsistence that way you wouldn't be too overregulated.

CHAIRMAN DEMIENTIEFF: Staff Committee recommendation.

MR. GERHARD: Yes, Mr. Chairman, the Staff Committee recommendation for Proposal 18 is to adopt the proposal consistent with the recommendation of the Southcentral Council. The Eastern Interior Council deferred to the home region. I won't read the proposed regulatory language, you can find it at Page 131 of your booklet but it suffices to say that the regulatory language would state that the dorsal fin would have to be removed from those fish that are retained. It would also correct the -- or make it so that those fish taken by dipnet would have to be released by those taken by fishwheel could be retained instead of the other way around, which the current regulation is. And Larry covered much of the justification for this recommendation and I won't repeat that. But just note again that the current practice by subsistence fishers is to retain rainbow, steelhead that are captured incidentally by fishwheel since these are dead or incapable of survival after release.

The proposed regulation would make legal the current practice. Removal of the dorsal fin would be required immediately so as to remove the potential trophy value of the rainbow, steelhead trout. And in the interest of conservation it would be required that rainbow, steelhead caught by dipnet be released unharmed immediately since these fish should be in good condition and able to survive. The current practice by many dipnetters already is to voluntarily release rainbow, steelhead trout even though it's not required by current regulation.

The proposed regulation is for the Upper Copper River district. As such, it would apply to incidental capture by fishwheel and dipnet in the existing Federal subsistence salmon fishery in the Glenallen subdistrict as well as the fishery in the Chitina subdistrict which the Board just adopted in Proposal 17b.
Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: At this time we'll go on to Board discussion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I would move that Proposal 18 be adopted consistent with the recommendations of the Southcentral Advisory Council and the Staff Committee. This proposal would conserve rainbow, steelhead trout taken by dipnet in the Upper Copper River district. These fish would have to be released. Rainbow, steelhead trout taken in fishwheels in the Copper River could be retained since most of them are dead. However, I would request that the Board discuss this marking requirement as we just did on Proposal 21 as well. This one asks for the dorsal fin, I suggest that we, again, require the ventral or anal fin be removed. This would then be consistent and it would, again, separate Federally taken fish and it would also mean that markings for rainbow and trout and steelhead would be marked identically to the salmon. This makes it consistent, easier to remember and, I think, again, differentiate amongst those taken provides us with needed information.

And then on Ralph's comment on, I think there can be or should be some discretion to what immediately means, in that, if a person's taking a fish out of a fishwheel, immediately removing the fin, I would think could provide a little bit of time for getting it to shore and doing that.

CHAIRMAN DEMIENTIEFF: Is there a second?

MR. BUNCH: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I just want to make sure, what I understood, Judy, is that you said you supported the proposal but, in fact, were supporting all the language except which fin?
MS. GOTTLIEB: That's correct. I believe we should require removal of the ventral fin in this proposal as well and not the dorsal fin.

MR. EDWARDS: Okay.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair, while I can't speak for the Council, I can speak for what their intentions were and that was that they recognized a need for marking for protection was in order. And I'm sure that they would go along with CRNA's recommendation that it be consistent and be the ventral fin. I doubt if they would have any objections to it at all. Personally I would have no objections to it.

Thank you.

CHAIRMAN DEMIENTIEFF: Were you proposing an amendment then?

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: I think that I was going along consistent with the motion that Judy put on the table which was to support it as the Southcentral Regional Council had supported it with the modification to make it the ventral fin instead of the dorsal fin.

MS. GOTTLIEB: That's correct, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Okay.

MR. LOHSE: Thank you.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: Thank you, sir. I'm a little concerned about the language that refers to immediately, even though in making the motion Judy's indicated that that would be that immediately include the idea that people could remove the fish to the nearby
shore and remove the ventral fin there. My sense of it
is that we probably ought to, that's probably ought to be
what we say and therefore perhaps consider a change in
that language that would say immediately or, you know,
soon after once the fish reaches land. And I don't know
if Judy would entertain a friendly amendment to add that
language?

MS. GOTTLIEB: I think that would be
perfectly fine to be more specific about our intention
there and hopefully Mr. Knauer can take care of that for
us.

MR. CAPLAN: Okay. Then I would propose
an amendment to the motion that would change the language
to include stating immediately or soon after on a nearby
shore.

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

MS. GOTTLIEB: I'll second that.

CHAIRMAN DEMIENTIEFF: Okay. Go ahead,
Gary.

MR. EDWARDS: Mr. Chairman, one option,
it's my understanding that, and the State can correct me
if I'm wrong, but the intent of the enforcement is
usually when the fish are transported away from the site
from where they're taken. So if we could have language,
before being transported, might be a little more clearer
than soon thereafter or what was suggested.

MR. VINCENT-LANG: We define immediately
when it becomes into your possession and we find that to
be the most easy recommendation for enforcement of that
regulation. Because what happens if someone -- if you
say closest proximity to land, what happens if someone
gets in a boat and travels 40 miles downstream, is that
closest proximity to the land? Many of these fishwheels
don't have live boxes so they're being dropped on land.
We just define it as when it becomes in your possession
and, you know, we understand the concern and I guess the
wrath of the Department will not come flying down on you,
we'll certainly work with you to assure that the intent
here is when you get it into your possession. If you
need to get on land we'll work with you.

CHAIRMAN DEMIENTIEFF: Ralph.
MR. LOHSE: Our comments weren't to suggest a modification to the regulations. Like we said, we would expect that wisdom and discretion would be applied in applying this regulation recognizing the fact that, you know, somebody's that's 30 that's standing on a fishwheel, it's not so hard for them to cut the ventral off. If it's somebody that's 65 or 70 or 75, they might like to get on a more stable platform like shore before they do it. And I really -- I have confidence in enforcement that they would apply this discretion, however, there have been incidences up in the Copper River basin where this discretion has not been applied and it has caused some hard feelings and it has caused some concern among some of the residents. And I would hope that this kind of thing would not happen in the future.

CHAIRMAN DEMIENTIEFF: Keith.

MR. GOLTZ: Law enforcement always should be tempered with common sense and if law enforcement fails in that regard, it's the job of the prosecutor to insert that common sense and if both of those fail, my experience is that the juries will insert common sense. If we try to sharpen our pencil too fine we're going to write ourselves into some terrible holes and I would caution against trying to write every possible circumstance into a broad and general regulation. Always a general regulation has to be applied specifically and inevitably there's some equity involved in the application of that rule.

CHAIRMAN DEMIENTIEFF: Doug.

MR. VINCENT-LANG: Yeah, Mr. Chairman, our intent is clearly to not -- or prevent the transport of these fish into the commercial market so we will not go out and just try to cite somebody that's having difficulty marking those fish in a fishwheel. We'll work with our enforcement staff to make sure that that does not happen, that they have a stable platform to mark on.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: Thank you, sir. In light of the comments from Counsel and others, ADF&G, and other folks interested in this, I would propose to withdraw my amendment on the grounds that the current language is
probably sufficient given the understanding now on the
record.

CHAIRMAN DEMIENTIEFF: Consent of the
second?

MS. GOTTLEB: Yes, that's fine, thank
you.

CHAIRMAN DEMIENTIEFF: Okay, the
amendment's withdrawn. We now have the main motion in
front of us. Any further discussion on that. Hearing
none, all those in favor of the motion please signify by
saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
Proposal 22.

MR. BUCKLIS: Mr. Chairman, Proposal 22,
the Staff Committee is on Page 163. This proposal for
the Upper Copper River district was submitted by the
Copper River Native Association. The proposal requests
that fishwheel owners and permit holders no longer be
required to display their names and addresses on
fishwheels. Only the fishwheel registration number would
need to be displayed.

The proponent states that signs with
names and addresses on fishwheels was not a customary and
traditional practice and that this is an unnecessary
regulation. Fishwheel registration information includes
a list of subsistence fishing permit holders authorized
to use fishwheels. The proponent feels that this
provides management agencies with sufficient information
and that people on the river knows who owns the
fishwheels. Given the scope of changes being proposed
here and back in Proposal 17b, the Chitina subsistence
fishery, registration of fishwheels with Alaska
Department of Fish and Game might not continue for
Federal users. That part of the Federal regulations is
included in this Staff analysis.

The requirement in Federal regulation to
post names and addresses on fishwheels in the Copper River was incorporated from State regulations. Regulations also have general statewide provisions requiring names and addresses to be posted on unattended fishing gear. Fishwheels used in other areas of the state such as in the Yukon and Kuskokwim Rivers are required to have names and addresses displayed. Enforcement officers may obtain a current listing of fishwheel owners and associated permit holders from agency staff before going out on patrol of the fishery. While signs displaying names and addresses do aid enforcement, there are local concerns as expressed in the Southcentral Council meeting in the fall, with lack of privacy. Fishwheel owner and permit holder names and addresses should be readily available to enforcement personnel cross-referenced to fishwheel gear and permit registration numbers.

If a fishwheel is operated by both Federally-qualified and State-qualified permit holders, a sign requirement would aid enforcement if the fishery was ever restricted to only Federally-qualified users so long as a permit number can be used as a positive identifier then a sign with permit number only would meet this need for identification. The way in which State regulations were incorporated into Federal regulation introduced some lack of clarity regarding sign requirements for fishwheel owners and permit holders. Also the stipulation that the fishwheel owner is responsible for the fishwheel when it is in the water was left out of the Federal regulations.

Given the scope of changes proposed here and in Proposal 17b, ADF&G might not be willing or able to continue registering fishwheels for Federal users in which case the Federal program would need to register fishwheel gear independently. The merits of a unified gear registration system would need to be considered in balance with the changes requested to these Federal regulations.

Mr. Chairman, that concludes my review.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MS. WILKINSON: For Proposal 22 we received the following two comments. Cordova District Fishermen United stated that adoption of this proposal will confine enforcement. Removing names and addresses of fishwheel owners and operators will not provide
necessary information as to whether or not the owner or operator is entitled to the fishwheel use. Registration numbers access that information only during ADF&G weekday working hours also requiring operator names and addresses provides the owner with some protection from liability should the current operator be using the wheel illegally.

The Copper River/Prince William Sound Advisory Committee wrote that this is an unnecessary confining of existing enforcement procedures. Having actual names on wheels gives immediate notice of user presence, aids in-season enforcement without referral to lists or computers and protects users from illegal use of the wheel by others.

That concludes the summary.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. VINCENT-LANG: Thank you, Mr. Chair.

The Department does not support the Staff Committee recommendation to adopt this proposal. Instead, we suggest that action be deferred pending further discussions between the State, Federal agencies and the public. This proposal does not affect subsistence fishing opportunity. We believe there are too many implementation issues associated with this proposal at this time. For example, who would be responsible for registering the fishwheels of Federally-qualified users if this proposal were to be adopted? Currently, the State does this but we would no longer be able to register fishwheels with differential marking requirements. Will the Federal program assume responsibility for fishwheel registration, if so, how would the program be coordinated with the State program to ensure reasonable enforcement? Finally, differential identification of fishwheel marking between systems -- marking systems between State and Federal programs likely will result in further user confusion and enforcement difficulties.

We believe a better approach would be to work with the State and users to develop standardized marking and registration requirements for fishwheels in the Copper River subsistence fisheries. This would hopefully address enforcement and public confusion issues as well as issues associated with confidentiality.

Thank you, Mr. Chair.
CHAIRMAN DEMIENTIEFF: Thank you. Let me see, we have two requests for public testimony, Gloria Stickwan.

MS. STICKWAN: We support the registration number for all Federally-qualified subsistence users and that the fishwheel owner is responsible for the fishwheel if he's letting somebody else using his fishwheel. The number has to be on there.


MR. LOHSE: Mr. Chair, the Regional Council supported this recommendation with a modification. We didn't deal with the whole part that the Staff has talked about, the difference between Federal permits and State permits. What we were dealing with was the issue that was before us, was to delete the requirement for fishwheel users to display name and address and that we went with only the permit numbers. Our modification was to modify that the current operator's permit number must be posted with the owner's registration number. In other words, basically what we're saying is numbers only. The Council believed that this is a privacy issue.

I'd like to challenge anybody to come up with any other private piece of property, whether it's a car, whether it's a commercial vessel, whether it's a commercial buoy, whether it's a hunting license or anything like that that's publicly displayed, where you post the address of the person who owns it. Especially in this day and age when people have differences of opinion, some very strongly, to post the person's address which gives the person who is objecting to them access to where they live doesn't seem to make much sense to me or to the rest of the Council. Currently we require numbers on cars, boats and everything else as a form of registration. We live in an age of cell phones and computers and access to information. I don't think we need -- or the Council didn't feel like we needed to post the whole name and address of the people who owned them.

With that in mind, our modification is that the permit number of the current person using the fishwheel has to be posted on it and the owner's registration number has to be posted on it, both of which can be checked.
Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Yes, Mr. Chair, the Staff Committee recommendation for Proposal 22 is to adopt the recommendation as just stated by the Southcentral Council. The Eastern Interior Council deferred again to the Southcentral Council.

Adopt with modification to require a sign displaying the permit number of the permit operator if other than the fishwheel owner who is identifiable from the fishwheel registration number. Also this would clarify the existing regulations and make explicit the responsibility of the fishwheel owner. I won't read through the entire proposed regulatory language, you can find that on Page 164 of your Board book. The justification for this recommendation is that the fishwheel owner and permit holder names and addresses should be readily available to enforcement personnel cross-referenced to fishwheel gear registration and permit numbers. If a fishwheel is operated by both Federally-qualified and State-qualified permit holders, a sign requirement would aid in enforcement if the fishery was restricted to only Federally-qualified users. So long as a permit number can be used as a positive identifier, this need for identification can be met with permit numbers on signs.

Current Federal regulation regarding identification and operation of fishwheels in the Copper River was adopted from State regulation. The way in which the regulatory language was compiled from multiple elements and State regulations into one paragraph in Federal regulation introduced a lack of clarity. In addition, current Federal regulation does not state that the fishwheel owner is responsible for the fishwheel when the fishwheel is in the water.

Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Board deliberation. Discussion.

MS. GOTTLIEB: Mr. Chairman.

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

Chairman Demientieff: Oh, I'm sorry.

MR. Brelsford: I wondered if I could pose a question to Gloria Stickwan from CRNA to help us clarify the circumstances that led to this proposal? Good morning, Gloria. Everybody agrees on the need to identify the gear by some form, numbers or numbers, names and addresses and in some other parts of the state numbers, names and addresses are used on fishwheels without seeming to raise a lot of trouble. So I was interested in understanding, maybe by an example, the kind of problems that may have come up in the Copper River basin over the fact that a name and an address is included on the fishwheel. Could you maybe help us understand a little more specifically what the privacy concerns might be?

MS. Stickwan: One is nobody wanted their names and addresses, that was a concern on the fishwheel. They were concerned about that being made to -- anybody could come down and see what their name and address is. The other thing is it was brought up by an elder that a proposal should be submitted because it was hard for the elders to write their names and addresses on their own on a 12 by 12 inch board. They have difficulty writing. A number would be easier -- they objected to the number but, you know, finally agreed that, you know, it'd be okay just to have a number and not your names and address. This was brought up by an elder and everybody agreed that it was hard for them, difficult for them.

MR. Brelsford: I guess I found myself wondering since the Copper basin is road-connected where the Yukon and Kuskokwim, I was curious about whether there are actually some incidents where people drive down to fishwheel sites, find a number and address and go back to the fishwheel permittee and ask for a chance to use his wheel or for anything of that sort. Are you aware of that as an issue here?

MS. Stickwan: I'm not aware of the users. I just know about the Ahtna people. The Ahtna people always give permission to the other people to use their wheels. That probably occurs in Chitina or, you know, among the non-Natives. I can't speak for them because I don't know of that.

MR. Brelsford: Thank you, Mr. Chair.
MR. NICHOLIA: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICHOLIA: I live on the Yukon River on Tanana and a lot of people are, even though the Alaska State Department requires it, a lot of people are taking their names and addresses off because they receive too much adverse responses, too much evasion to their own private property, too much -- they don't like to deal with people that they don't want to deal with. They'll just deal with the fish and the departments and the law and they don't have to have people coming up to them and say this or that or you should do this and you should do that. And it's just another thing of being overregulated and being an evasion of their privacy.

CHAIRMAN DEMIENTIEFF: Other discussion.

MR.?: Mr. Chairman, I had a question for the folks from ADF&G and that was, when it comes to the operation of traplines on land, are names and addresses required on traps for that purpose?

MR. VINCENT-LANG: I'm not sure. I'll have to start looking at some regulations because we're all fisheries biologists up here.

MR.?: Thank you. I do see the law enforcement folks from the Forest Service back there shaking their heads no and that's understandable. When we were a kid and we did that we were required to do it and I just wondered if we had that practice here in Alaska. Thank you.

CHAIRMAN DEMIENTIEFF: Judy, you had a comment.

MS. GOTTLIEB: Did you have an answer on that?

MR. VINCENT-LANG: We're not sure. We do require them on many of the fishing like buoys and ice-fishing, sets and a variety of other things but I'll look in the regulation book and I'll try to get an answer to you.

MS. GOTTLIEB: Thank you. Mr. Chairman, this morning we've looked at quite a few proposals relating to the Copper River and we've adopted seven, I
believe, that are going to really affect the fishing
patterns, the C&T use of the area, a lot of changes.
Administrative changes having to do with issuing permits.
The management of this fishery has just become much more
complex and is changing pretty rapidly here. So I would
like to make sure that we're not moving forward too
quickly on an idea which I think has merit but really
maybe a bit premature at this time. It kind of
complicates our systems and we need to be clear and
consistent in our message here. And as Gerald brings
out, since we know that fishwheels are used and marked in
other parts of the state, before we make a decision that
would have statewide precedence, I think we could use a
little bit more time to investigate how this system might
be able to work. If the proposal were adopted it would
certainly create again a dual fishwheel registration
system. I don't sense an urgency to adopt this proposal
because this is not going to decrease the number of
subsistence harvested fish or the number of subsistence
users.
I'd like us to give time to our managers,
the State and Federal managers and subsistence users to
all come to the table and determine not only the effects
of the actions we've taken today on the Copper River
fishery, but look at further merits and possible problems
associated with identifying fishwheels by number rather
than name and address.
So I would move to defer action on
Proposal 22 until this Board's next regulatory meeting in
December 2002 and hope that through our variety of
agreements with the State of Alaska we can work with you
on determining whether this would be a viable method, how
could we implement it.

Thank you.

CHAIRMAN DEMIENTIEFF: There is a motion
to defer, is there a second?

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the
motion to defer.

MR. EDWARDS: Mr. Chairman, you know, I
certainly appreciate the issue of privacy in this day and
age of increased junk mail and ready access on the
Internet. I think everybody, everywhere is becoming more
and more concerned about their privacy. But as Judy pointed out, I do think this is an opportunity where we should move forward slowly and deliberately given that while we're only talking about one area it does have much broader applications. It seems to me it has applications statewide and as the State pointed out, in addition to fishwheel, I believe all unattended fishing gear currently now requires a name or at least a first initial last name and address on there so Ralph, it is broader than just fishwheels. So it does have applications to all of these and I understand that the State is willing to sit down and kind of explore what our options are there because I think they also appreciate the whole issue of privacy. And it seems to me if there's a commitment to do that this is the more proven way to move forward and not that we won't, I think, come back and resolve this but we got to do it in a deliberate method.

Chairman Demientieff: Terry.

MR. HAYNES: Thank you, Mr. Chairman. Regarding some of the trapping requirements. There isn't a statewide requirement but in some areas you are required to mark your snares with name and address, but there are variations across the state. So this information, I think, would be useful to look at if there's further attention given to marking -- how fishwheels should be marked and we can provide this additional information on how traps and snares are marked.

Chairman Demientieff: Ralph.

MR. LOHSE: Mr. Chair, in answer to what he said, I recognize that unattended fishing gear under sportfishing regulations like burbot lines and that require a name and an address on them but there's no permit number that goes with them. I would imagine that probably on the Copper River flats where I fish there are more commercial fishing vessels than there are fishwheels in the entire state of Alaska. And our fishing vessels are all marked with a number, a plainly visible number that can be seen from the air or from anything else and that's true on just one small fishery and it's a very small fishery in the state, and that's sufficient for enforcement purposes.

I put the name of my boat on my buoy and I put my ADF&G number on my buoy. I don't put my name and my address on the buoy on the net that I have in the
Again, like Bill has pointed out, sometimes we seem to put more regulations on subsistence than we do on some of the other fisheries in the state and that is why from the standpoint of privacy that I supported the Council in this issue that has been brought before as a Council by the Ahtna people in the Copper basin time and time again. This is one of the things that they have objected. And this is one of the things that I can't find an objection to in this day and age when we do so much by numbers and cell phone and computer, that the amount of fishwheels involved seems to me insignificant in comparison with the other things that we regulate with just a permit number.

Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Under discussion, yes.

MS. GOTTLIEB: I certainly respect what Ralph's saying and the information that I heard at several of the meetings that I attended where Copper River Native Association and other Ahtna people testified about their privacy worries. And I think this proposal has merit, because of its statewide precedent setting potential, I think if we can direct Staff to work very closely with Fish and Game immediately, try to work out the system, I'd like to see us move ahead in that way.

CHAIRMAN DEMIENTIEFF: I intend to support the proposal. To me, if you have a working example as the work is going on, it's going to be a year before we can get it anyway and that will give us a season to see if it is going to cause that kind of conflict. It might actually wake the Department and the rest of the state up that we have jurisdiction over if it proves to be something that works. I think the issues have a lot of merit. You know, a years study to see if it is going to cause huge problems. It gives us some hard information as discussions begin with thee State. I think it's not going to cause that much trouble. I think it's going to improve the situation for all the reasons that Ralph is talking about.

Further discussion.

MR. BRELSFORD: Mr. Chairman, I recognize the significance of the issue as it arose among the
Copper River elders and as it's been brought to the attention of the Board by the Copper River Native Association. I think the principle of providing identification for gear is balanced with the equal principle of protecting the appropriate privacy of subsistence users. Where I am troubled by moving forward at the present time is on the question of kind of the practical effects and the cumulative effects of a number of significant changes in the management regime on the Copper River. I am heartened by the Department's undertaking that they are prepared to work directly with the subsistence users and with the Federal managers to identify a common solution to strengthen privacy protections in the Copper River basin. I think we need -- I believe the maker of the motion and the second, that they're really relying on this process to move forward so that the deferral is not a rejection in disguise. It is, in fact, an effort to move forward in the best and most constructive way possible. So for those reasons I will support the motion to defer.

Thank you very much.

CHAIRMAN DEMIENTIEFF: Further discussion. Hearing none, are we ready to vote? All those in favor say aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: I'm opposed. I forgot the motion was deferral. I think we've about had enough for one morning. We are going to take some testimony on customary trade from a gentleman who thought it was going to be today and he flew in to give testimony so I want to get him and make sure he can get back out even though it's out of sequence. Bob Merchant.

MR. MERCHANT: Thank you for allowing me to give my testimony out of order, Mr. Chairman. My name is Bob Merchant, I'm president of the United Cook Inlet Drift Association. Dear members of the State of Alaska Federal Subsistence Board. United Cook Inlet Drift Association represents approximately 580 commercial fishermen. We are permitted and licensed by the state of Alaska to sell salmon caught in the marine waters of Cook Inlet. We ask the Federal Subsistence Board to delay acting upon the recommendation submitted by the committee on customary trade until such time that the concerns we bring before you today are considered and the questions we have are addressed and answered.
The recommendation to allow the sale of subsistence caught salmon in the amount of $1,000 plus $1,000 for each household member is inconsistent with Alaska State law. Alaska law requires that anyone selling salmon caught in Alaska waters must have a limited entry permit.

It is our belief that laws, rules and regulations enacted within the borders of the Republic of the United States and all of its 50 independent states and territories must be in agreement and consistent with each and all, whether these laws originate from the state government or the Federal Congress. Should you enact the committee's recommendation, you will effectively be creating a second set of rules regulating the sale of salmon within the contiguous boundaries of the sovereign state of Alaska. Thus one part of our state population will follow State law while another part will follow Federal law and predictably a third part will follow both moving back and forth between the two laws as they see fit. This situation defines the reason Federal and State laws must agree with each other. It will prove impossible to maintain order and ensure that two sets of laws are obeyed consistently when the people so governed are allowed to take their pick.

We further believe that Alaska limited entry law was enacted for the best of reasons, most importantly the protection and conservation of Alaska salmon resources. Our sale of salmon is strictly regulated and those regulations are strictly enforced to ensure the protection of the resource. Should you accept the committee's recommendations, will you be able to guarantee that the sale of subsistence caught salmon will be strictly regulated and enforced?

We also ask the Board to consider an obvious question we have which begs an answer or further clarification or definition. At what point or in what amount does subsistence fishing, which results in an economic return become commercial fishing which has the same goal and economic return? Perhaps the answer to this question would be best addressed with the help of a historian or maybe an anthropologist or better, both, we do not believe that the committee spent enough time or gave adequate consideration to dealing with this important question.

Finally, it has been said in the news reports that this recommendation is effectively intended
We, who commercial drift fish in Cook Inlet have no objection to the continued practice of Alaska's traditions or to the cultural subsistence practiced by indigenous Alaskans. We wish to make this point very clear to the Board. We only ask the Board to give the matter of selling subsistence caught salmon more time and more consideration.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. With that, we'll adjourn until 1:00 o'clock -- or recess until 1:00 o'clock and come back and do the Kenai portion of the Southcentral area.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Okay, we'll call the meeting back to order. We're still in Southcentral. Proposals 11a through 14a.

MR. BOYD: Mr. Chair, if I may, prior to the Southcentral Regional Advisory Council taking up these proposals I provided a bit of an overview of the proposals and in an attempt to sort of, at least, present the larger picture of where we would be recommending going with these proposals, the proposals you have today specifically those FP02-11 through 14 will address subsistence regulations for the Cook Inlet area and specifically for the Kenai Peninsula. Three of these will address the Kenai Peninsula. The proposals request customary and traditional use determinations for the residents for the rural communities of this area and other proposals will request season and harvest limits and methods for certain fish species, principally salmon and trout.

The Staff recommendations that you'll hear and that are before you are fairly conservative approaches, for example, the Staff recommendations for
the seasons, harvest limits and methods would establish
subsistence seasons that are the same as sportfishing
seasons and methods.

Essentially what the Staff is proposing
is a go slow approach to fully develop acceptable fishing
regulations for the Kenai Peninsula and the Cook Inlet
area. This approach would establish conservative
regulations as a starting place and then following
additional data gathering, collaboration with affected
interests on the Kenai Peninsula, additional regulations
could follow.

The reasons for this approach, I think,
are threefold. First, the controversial nature of
establishing subsistence fishing regulations in this
area. We've just finished a couple of years where we've
dealt with the rural issue and that was quite a
controversial issue. Second, the fact that these
fisheries are already heavily used, I think that, in
itself requires us to be deliberative and thoughtful as
we go about this process and third, the lack of
information on subsistence needs and practices because
subsistence uses have been prohibited by regulations on
the Kenai Peninsula since 1952, almost 50 years, I want
to clearly state though that the goal here is to get to
new harvest -- subsistence harvest regulations for key
species and these would include salmon, Dolly Varden,
trout and char and these regulations would be for
subsistence in the Cook Inlet area.

Our Staff recommendations would start us
down this path, essentially establishing conservative
harvest regulations as well as customary and traditional
use determinations. So the considerations for the Board,
and possibly adopt them but another consideration is that
the Board might wish to defer on these proposals. But
even if these proposals or these recommendations are
defered, particularly with regard to the customary and
traditional use determinations, the Federal Subsistence
-- it really wouldn't change much because the Federal
subsistence regulations state that all rural residents,
statewide rural residents are eligible.

To get to these more specific and
appropriate harvest regulations after this first step, we
are proposing to you a longer term process and that would
include community and household surveys, community
meetings and roundtable discussions with the affected
interests on the Kenai Peninsula. We haven't fully fleshed out how we are going to get there. But those are the basic components. Following the gathering of information through surveys, then more appropriate harvest regulations could be developed and presented to you for final regulations. How long would this take? We think it could take as long as from two to four years. Obviously it would take some time to do these kinds of surveys but it's possible that some regulations could be developed in the interim as this process moves forward and information is gathered.

Again, we felt it important to present this overview of a longer term process as you deal with these proposals one by one. Again, there are four of them and now I'll turn it over to Larry and Pat.

CHAIRMAN DEMIENTIEFF: Go ahead.

MS. PETRIVELLI: Mr. Chairman, my name is Pat Petrivelli and I'll be doing the analysis of Proposals 11a through 14a. These proposals deal with C&T requests, various C&T requests -- or customary and traditional use determination requests in the Cook Inlet area. Of these four proposals, two were submitted in the last regulatory cycle. Proposal 11 was submitted by the Ninilchik Traditional Council, Fred Barr and Steven Vanick and they dealt with the Kenai Peninsula and the communities surrounding Cook Inlet. Proposal 12 was submitted by Henry Kroll and it dealt with Tuxedni Bay on the west side of Cook Inlet. In this regulatory cycle Proposal 13 was submitted by Steven Vanek and it dealt with Kenai Peninsula communities and Proposal 14 was submitted by Al Chong and it requested changes for the Kenai River. The scope of the changes requested in these four proposals deals with the use of a few species up to all fish and all shell fish. Due to the time constraints and other considerations, the analysis of shellfish was deferred until the next fisheries regulatory cycle.

My portion, the A portion deals with the customary and traditional use determinations and I looked at salmon and the other species. The current C&T determinations for the Cook Inlet area reads it's a positive customary and traditional use determination for residents of the Cook Inlet area for all fish except salmon, Dolly Varden, trout, char and grayling. So those are the species that are in the analysis of the C&T determinations. When I looked at the use of these species, I looked at two areas, one is the Kenai
Peninsula and the other is the west side of Cook Inlet so the analysis looked at the use of those requested species salmon, Dolly Varden, trout, char, grayling and burbot and then it looked at it in those two areas. The Kenai Peninsula and the west side because those two areas have distinct use patterns and they involve all the communities requested.

In the analysis that involved 19 community areas, 19 communities or various areas and those communities are listed in the analysis. Some are actual communities that are listed on Page 23 of the analysis section. Some are actual communities but others are areas that are called CDP, census designated places, where there are just identified areas for the purposes of counting people, like the Happy Valley CDP or a portion of Fritz Creek or the Northfork Road. But of those communities and areas, the use of their resources are based in four traditions, the Dena’ina traditional practices, Alutiiq traditional practices, homesteaders that have been on the Peninsula since the turn of the century and then the Russian old-believer communities that have been settled at this lower end of the Peninsula. In the chart on Page 23, has the time depth of the population of those communities.

The source of the data was from the State of Alaska community data base for the demographics in the community descriptions. And then for the use of fish and wildlife, data was obtained from Subsistence Division technical reports and household surveys conducted in 11 of those communities or areas and all of those surveys have been conducted since 1990 with the exception of Tyonek, their survey was conducted in 1983.

The key points from the analysis of the eight factors show that for the use of the requested species, archeological evidence shows the use of these fish well over the past thousand years. The current use of these resources in Federal waters has been greatly impacted by regulatory restrictions. Freshwater subsistence fishing in the Cook Inlet area has been prohibited since 1952. Another regulatory restriction is that the State of Alaska has declared the road-connected areas of the Kenai Peninsula a non-subsistence area. But some personal use fisheries have been conducted in limited areas at the mouth, such as the ones at the mouth of the Kasilof River and the mouth of the Kenai River. Generally, whatever subsistence fishing that had occurred in the Cook Inlet area since 1952 occurred in marine
waters. There are recognized subsistence fisheries by
the State and those are in Tyonek, Port Graham and
Koytolik and Seldovia Bay.

Despite these regulatory barriers salmon
is the number 1 resource in each community in the
subsistence surveys and households, except for in
Ninilchik, and household surveys show that salmon
represents from 26 to 72 percent of the subsistence foods
used per capita. For the other requested species, the
use of these resource represents from one to eight
percent of the per capita use. A use that reflects the
availability -- or the location of the species and the
availability near the community.

Where permitted, the harvest of salmon
occurs similar to the traditional methods and means used
in the areas recognized by the State. In other areas,
where there's regulatory restrictions, subsistence
harvest occurs by rod and reel, dipnet and then retention
from commercial catch. The two general use patterns for
freshwater fish are the use of lakes, creeks, rivers
close to the home community and the use of more remote
resources in conjunction with other subsistence
activities such as hunting or berry picking. This
pattern also applies to some salmon species such as a
combination of silver salmon fishing, with moose hunting
or clamming on the west side of Cook Inlet by the
communities of Seldovia and Ninilchik.

That concludes my analysis.
Mr. John Nelson of Soldotna said that Proposal 14, a portion of this, falls significantly short of fulfilling the Federal subsistence priority. Fishing and hunting should clearly maintain a subsistence priority and rural or local preference. This proposal weakens the Federal mandate to establish a subsistence priority by subsuming that priority into State management.

Mr. Richard Wooten of Beaverton, Oregon objects to the addition of the Kenai River being listed for C&T fishing. People in Alaska do not understand that they are part of the United States and the decisions you make have an impact on his resource as a citizen of this country.

That's the end of the summary for A portion.

CHAIRMAN DEMIENTIEFF: Department comments.

MR. HAYNES: Thank you, Mr. Chairman. The Department supports the minority Staff Committee recommendation to defer action on these customary and traditional use determination proposals for the reason that's stated in the minority justification and consistent with much of what Mr. Boyd presented to you earlier.

Adoption of Proposals of 11a through 14a would not enhance the opportunity of Cook Inlet residents to harvest freshwater fish next season. But it would complicate the conduct of a research project that has been designed by the Department at the request of the Office of Subsistence Management to collect more information on the Cook Inlet area fisheries. The Department proposes to begin work on Phase I of this study next summer and to collect information that can be applied to making informed customary and traditional use determinations for fish in Cook Inlet area communities.

CHAIRMAN DEMIENTIEFF: We have two requests for public testimony, Steve Vanek.

MR. VANEK: Thank you, Mr. Chairman. I'm actually here sort of wearing two hats that's why you have two requests there. And if you will allow me to do my personal testimony and then follow it with the testimony from the Kenai Peninsula Resource Management
Coalition then I would only sit here one time instead of going back and coming back if you will allow me to do that.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. VANEK: My name is Steve Vanek. I'm here today wearing two hats as I've said. I'll speak for myself first and then I'll speak for the Kenai Peninsula Resource Management Coalition and the second part, when I do speak will be directly towards what Mr. Boyd has requested here because that group is already working on subsistence as a community.

Speaking for myself, I submitted my proposals and some of those proposals are mine that you'll be looking at today. I submitted my proposals out of frustration with the State of Alaska and with the Federal government. I can only imagine what Native people's frustrations have been for so many, many years. Your regulations for the Kenai Peninsula say that all fish except salmon, Dolly Varden, Arctic char, trout, grayling and burbot could be used for subsistence. That's sort of left only flounders and Irish Lords in Ninilchik. So I submitted my proposals to correct that situation. The other reason I submitted my proposals is the following.

As a commercial fisherman I make my living by fishing. To me this is subsistence. I feed, clothe and shelter my family by fishing. That is my way of life and has been that way for 30-some years. The Constitution of Alaska was amended to allow for limited entry. This created a special class of people with special rights, namely, the limited entry permit holders. I am one of those special people. Now, the State of Alaska is violating that constitutional right to regulation by allocating the fish to non-residents and not allowing me to fish. I can no longer feed, clothe or shelter my family by fishing. However, I live in a Federal subsistence area and I am looking to you to protect my way of life. But you haven't allowed salmon or halibut to be a subsistence fish. I don't understand that.

Also I don't understand why in spite of the Katie John decision you do not allow subsistence where it has always been done, namely along the beaches of Cook Inlet and in the Federal waters of Cook Inlet. You have proposals here to have subsistence using a hook
and line with a bag limit the same as sportfishermen,
yet, the State of Alaska allows non-subsistence people to
use a dipnet in the Kenai River and catch 25 fish a day,
plus 10 for each member of the family. This makes it
really hard to understand what you people are doing. I
don't know what the law is but I believe we all will be
required to follow the law and if subsistence with
bartering, meaning selling is the law then that is what
will eventually happen no matter what you do here today
or what anybody else wants done. I believe the law will
prevail.

I want to maintain my way of life. I
want my son to maintain his way of life which is what he
grew up doing. He supports his family by fishing also.
Whether I do it through Federal subsistence and selling
my fish to maintain my life or through a lawsuit against
the State of Alaska for denying me the use of my limited
entry permit, I will fight for my way of life. I hope
you people will look to see what the law is and then
follow it. You are required to follow the law when you
make your decisions.

And that's the end of my testimony.

CHAIRMAN DEMIENTIEFF: Okay, you want to
go ahead.

MR. VANEK: Now, I'll speak for the Kenai
Peninsula Management Coalition which is a group of people
and we've become incorporated under the non-profit laws
of the State of Alaska so we're a non-profit corporation
made up of commercial fishermen, sportfishermen, Native
peoples on the Kenai Peninsula, the Kenaitzes and
Salamanof Natives who are part of this, business people
are part of this and sportfishermen are part of this.
They're all members of this resource management
coalition. And this was put together probably two years
ago already and the idea was to work together as a
community to deal with managing the resources on the
Kenai Peninsula.

I'll read you the mission statement but
before I do that I would hope that this organization will
be fully involved with what Mr. Boyd was talking about
earlier in terms of meeting on the Peninsula with the
local people.

The Kenai Peninsula Resource Management
Coalition, this is the mission statement, supports only
historical traditional cultural and spiritual use of fish
and wildlife resources here on the Kenai Peninsula.
Management for all users shall be in the order of this
priority, subsistence commercial fishing and
recreational. The primary mission for this organization
is to ensure that the needs of those residents of the
Kenai Peninsula who have historically, traditionally,
culturally and spiritually depended on the resources of
the Kenai Peninsula are met. To fulfill this mission it
is imperative that we protect the habitat, the land and
the resources that live, spawn, breed and die on the
Kenai Peninsula. This is not limited to all species,
salmon, halibut, shellfish and wild game but includes all
floral and fauna. Our primary goal is to support and
promote only maximum sustained yield management that
shall be accomplished by supporting and promoting only
sound biological management which utilizes the best
scientific data available. One of our goals is to create
and maintain harmony among all people who live and make
their home on the Kenai Peninsula.

The people and organizations that support
this mission statement are ready and more than willing to
work with the State of Alaska or the United States
Federal government in order to accomplish the goals of
the Kenai Peninsula Resource Management Coalition.

That's the mission statement. I'd like
to just read the conclusion because we feel that this
could certainly be a model for the rest of the state and
would certainly, perhaps, help solve the whole
subsistence issue in the state.

In the conclusion, all users are granted
more than a reasonable opportunity to harvest the State
of Alaska's wild resources on the Kenai Peninsula,
because that was one of the objectives of the Coalition
when they set out, was to give everybody an opportunity,
whether they're subsistence, sport, commercial or
whatever, an opportunity to harvest. This satisfies the
common use clause of the Alaska Constitution as well as
ANILCA and the Constitution of the United States. This
plan shall satisfy management of the fisheries resources
on Federal lands and waters as well as State controlled
lands and waters. The users involved with development of
this land are trying to solve all resource allocations
for both State and Federal lands and waters. If all
local areas will follow this lead we shall save both
governments money and do away with troublesome boards and
political influences regarding the management of the wild
And in order to give everybody a shot at the resources, the coalition has come up with seasons and bag limits and in my Proposal No. 14a I listed the seasons. The subsistence season would go from April 15th to June -- or April 1st to June 15th, then the fish would be managed primarily for commercial fishing between June 20th and August 15th. After August 15th it would revert back to managing for subsistence use. And the sport use would be all year long so that situation is covered and that gives everybody an opportunity and it allows for a commercial fishery and also for a subsistence fishery with seasons, guaranteed.

And I didn't realize until I came here today and was looking through your analysis that subsistence fisheries in the freshwater have been denied for 50 years on the Kenai Peninsula and I hope it's not 50 years that I have to wait to be able to maintain my way of life as making my living from fishing.

Anyways, that's -- I will -- supposedly you've been contacted or the Federal Subsistence Board has been sent this mission statement and we've been in contact with Senator Murkowski and some of the other government officials on this but we would hope that this would be a model that might be workable throughout the state where you have local people deciding what the seasons should be and what the subsistence and recreational fishing should be with the caveat that there's an opportunity available for everybody and that would be the requirement. And then let the local people decide how they want to give that opportunity to everybody. That's the basic concept behind the coalition.

Thank you for your time. If there's any questions I'd be happy to answer them.

MR. THOMAS: I really appreciate your remarks and your mission statement is really well written. It's very responsible and it gives good direction and it does provide opportunity. I thank you for that. The only thing I wanted to mention to you with regards to local people involved in the decisionmaking process, that's why we're here now. Because the Regional Advisory Councils are made up of local people from
various communities in different regions. We have 10
regions in the state. And so I just wanted to point that
out in case that wasn't understood by members of your
coalition. But I'm really encouraged by the comments
you've made here today. Thank you very much.

Thank you, Mr. Chairman.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Jim.

MR. CAPLAN: Thank you, sir. I wonder if
you could be more specific in telling me who all the
members of the coalition were. I heard you say it, you
passed over it a little bit quickly, could you tell me
who all is a member of the coalition? Thank you.

MR. VANEK: Well, I don't have a list of
the people but the organization, some of the
organizations I can list. There are representatives from
the Kenaitzes Native Association and from the Salamanof
Native Association. There were representatives from
United Fishermen -- or United Cook Inlet Drift
Association. From Cook Inlet Fishermen Fund. From the
Cook Inlet Aquaculture Association. And then there were
business people there, too, but I don't know particularly
what their businesses were necessarily. And then there
were private individuals who were allowed to be members
also representing either sportsfish interests or personal
use interests and we attempted to get guides involved but
they refused to be part of this at the time. But we're
still working on that.

MR. CAPLAN: Thank you.

CHAIRMAN DEMIENTIEFF: Yeah, I want to
also compliment you on your work. I know you guys have a
long ways to go but that kind of consensus building is
going to be real useful, I think, could be useful in a
lot of areas and particularly in the Kenai. I've
certainly been down there for six years or seven years,
been thrown to the wolves more than once. I'm glad to
see this kind of stuff happening because early on what I
seen was decisiveness and this kind of consensus building
is needed, I think, in a lot of areas.

If you would, if you'd check with the
girls out here, we'd like to make sure we have a copy of
your testimony. I think they have copying capacity here
but thank you very much, if there's no other questions.
Thank you. Fred Bahr.

MR. BAHR: Hi, my name is Fred Bahr. I'm
an Alaskan Eskimo, subsistence whaler, subsistence
hunter. I'm also a paralegal in Federal Indian law.
I've lived 20 years in -- I've lived all my life in
Alaska minus a year of school, college.

First I'd like to thank you, Mr.
Chairman, Mitch Demientieff, I appreciate you guys being
here, Tom Boyd, Tim Jennings, Keith Goltz, I see the
State's here, I'm glad to see them here. I'd really like
to beat up on them but I'm not going to. But basically
what I'm here to do is talk about some of the -- well,
it's taken my three years from the time that I put my
proposal in to get here so it's three years of not being
able to feed my family, support them and clothe them and
now since that the Katie John issue has been adjudicated,
I have a couple of questions. One, in the Katie John
lawsuit, was subsistence sportsfishing where -- or if
you're in the Yukon Delta or in Selawik or if you're in
the North Slope or if you're Southeast, is subsistence by
the Natives considered two fish a day with a hook and
line?

CHAIRMAN DEMIENTIEFF: I think maybe if
you want to, Fred, you could talk with them a little bit
later. If you have testimony.....

MR. BAHR: Yeah, I do have testimony
because I'm trying to get that straightened out because
subsistence is a way of life. It is not going fishing on
the weekend. And that's one of the basic differences I
have in my testimony to you, to the Natives on the Board
that live subsistence and I see quite a few here that do
where we're not having to fight a billion dollar
infrastructure built off this salmon in Cook Inlet, while
the Natives, you know, were totally banned from fishing
other than sportfishing. So it's a major battle here in
Cook Inlet.

The other issue that I have with this
Board that maybe a lot of you from around the state,
especially you Natives don't understand, is that we have
a depleted fishery in Cook Inlet. The Governor made a
declaration for the commercial fishery, that it was an
economic disaster. Actually, the commercial fishermen on
the whole and it's their way of life, too, they've been
at it for 40 years, I have a lot of friends that are
commercial fishermen, that actually didn't even make
expenses this year. And yet what I have found in
Ninilchik and I have been there, I see these $180,000
motorhomes come in and they're canning salmon and they're
going dipping and they're going fishing and they're
canning it and taking it outside and selling it at flea
markets. And I see a ton of them. I also see and
there's been a lot of complaints on the dipnet fishery
although that's the closest thing we, as Native, come to
getting the fish that we need, is where there's no
oversight by Fish and Game.

But on the other issue here, the one that
really bites me is that in 1986 the court did come down
with subsistence as a way of life in an aboriginal
individual right. What that means is that I can't give
it away unless you ask me and I give it away. What
happened, for example, in Kenaitzes, they were under the
auspices that the Katie John court case was a class
action suit and so those folks in Kenaitzes that was
running Kenaitzes went and tried to make agreements with
the consensus building, that I'm all for, but to not have
subsistence as a way of life and to feed and clothe your
family but is to have two fish a day and that's what they
-- when they come down with the definition of
subsistence, it's back to sportfishery as a weekend or a,
you know, a one night thing. And that's not what we, as
Natives, and the reason why you're here is because we're
here.

If there weren't any Alaska Natives in
Alaska you wouldn't have a subsistence issue, would you?

If we didn't have, for example, let's
look at halibut, what happened to the halibut? You know
that even the limited entry was disengaged, 70 percent of
the Native fishermen in the whole state. We didn't play
with paper, we didn't use paper, we didn't fill them out
correctly, we were banned or we were in school and
therefore we didn't fish for three years before 1972, we
weren't allowed to get a permit, but the State gave the
Russians who had just got here 40 permits.

And so I'm looking at it and it's been a
real -- you folks from the rural Alaska, here in Cook
Inlet, it was not advantageous to be Native and want to
go fishing for over -- since we became a statehood and
they fought us so well for so long and now with this
infrastructure in place, what are we going to do when
there -- when we know, you know, I know, everybody knows
there's not enough fish? And yet you won't declare
depleted so that we can rebuild the stocks and work
together to where there would be enough fish for the
Kuskokwim, for example or for Cook Inlet.

You know a friend of mine told me and it
really blew me away that this State of Alaska, Department
of Fish and Game depleted a major fishery in 40 years
without building one dam. Think of it. It took Columbia
River 250 years to wipe out their fishery but we did it
through special interest management, and that's what I
hear from all the folks down there, and I'm still facing
it and I hope I don't face it here because now we have
earned the right -- or supposed to be recognized as
aboriginal Natives of Alaska that we have a right to live
off the land and subsist. And it is -- and I really want
to make that clear, that is not a sportfishery.

I look at how we can work together and I
wish that you guys would come down to Ninilchik and meet
the fishermen and the local residents that want to fish
and I disagree with this one here that says salmon,
number 1 resource in each community except Ninilchik, we
got a cannery down there, a salmon cannery. And when you
look at the history of Ninilchik, they caught massive
amounts of fish with their fish traps and stuff, so I
disagree with that. But when you look at -- when we look
at what needs to be done, we, as Natives, and when you
look at Cook Inlet and you look at Kenaitzes, there's
4,000 Natives in Cook Inlet and when you look at the
demographics or the geographics of it, we are the highest
unemployed, the highest on welfare, the highest drop out,
the highest drug and alcohol abuse, the highest in jail
and when you take away the resource and ability to feed
and clothe your family, if we took it from you how would
you react to that? Well, you'd go to drinking and drugs
or you end up working at $8 an hour jobs. So the effect
of this has been really hard on the Natives of Cook
Inlet.

Now, the other issue that comes up to me
when I talk to you is that not only were we not allowed
to fish we were thrown in jail for trying to fish. So we
don't have boats now.

CHAIRMAN DEMIENTIEFF: Fred, if you would
please summarize we're going to have to move on here.

MR. BAHR: What I would like you to do is
come down to Ninilchik, meet with our folks down there
and the tribe and I would like you to put the subsistence
fishery where it belongs after 50 years of abuse and put
it where it belongs first. Not wait until it is depleted
although I would recommend you classify this fishery
depleted. If we don't get what the court said was ours,
then we have to go back to court because if you guys
don't give the Natives what's their due and work with us
and we work for a consensus then we have to go back to
backroad justice and you know what that turns out to be.
And with that, I hope you've taken my comments seriously.

I hope you'll come down to Ninilchik and
I hope you'll help our Native people pull ourselves off
of welfare, out of jail and back to where we feel
responsible, proud and we can feed our families and
clothe them and send them to school so we can be real
Americans, the slaughter is over. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, Fred.
It's only been a few years since we were down there on
the C&T issue and I personally remember carrying a
hearing right in the Ninilchik Tribal Hall. It's only
been a few years but I think there's a point that Bill
Thomas talked about earlier and that is that to keep in
mind that we have a Regional Council that works in that
area and I strongly suggest that you tie in with that
Regional Council that was -- the point he was trying to
make earlier, so keep in mind there are avenues that are
there and it does work. And all the progress that has
been made on the Kenai has been made mostly because of
the hard work of the Regional Council and so that's what
I strongly encourage you to do.

That concludes our public testimony at
this time. Regional Council recommendation.

MR. LOHSE: Mr. Chair, the Regional
Council supported, we're looking at 11a right here,
supported this proposal with the following modification
and it's the request for C&T for all fish and shellfish
in various Cook Inlet area waters. We supported it with
the modification to delete grayling and burbot from the
list of species. I'll go into the reason why later. And
we supported it to refer to all rural residents of the
Cook Inlet district rather than the west side Cook Inlet
and Kenai Peninsula residents.

Our Council recognizes the historical C&T
use of fish by rural residents of this area, however, we
wanted to modify it to delete grayling and burbot from
the list of species because of the fact that grayling and
burbot were not indigenous to most of Cook Inlet area and
a lot of the people in Cook Inlet area haven't had the
opportunity to use them and so we couldn't apply them to
the whole Kenai Peninsula/Cook Inlet area. And the
reason that we included -- we called it Cook Inlet rural
-- residents of the Cook Inlet district rather than take
the west side of Cook Inlet and the Kenai is that we
prefer to be inclusive and include as much instead of
exclude as much as we can. And rather than try to break
apart people who move back and forth for years have had
access to powerboats and everything else and have gone
pretty much where they wanted to with the road system, we
recognize them as a unit the same as we recognized the
whole Kenai Peninsula as being rural to start off with as
a Council.
So we prefer not to divide users by
regulation if we don't have to but we did drop the burbot
and the grayling.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Staff
Committee.

MR. O'HARA: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Oh, sorry.

MR. O'HARA: Yeah, you probably noticed
in your books -- this is Dan O'Hara, Chair of Bristol
Bay, on Page 52, that the Bristol Bay Advisory Council
voted 6-0 and one abstention to oppose this section of
this proposal that gives C&T finding to Mr. Henry Kroll,
positive customary and traditional use in Tuxedni Bay.
And the reason we opposed this was because the Regional
Council stated that there was insufficient data presented
in the Staff analysis that would justify providing
customary and traditional use determination for the
residents of Tuxedni Bay on the west side. So the
council is also requesting that additional data for the
eight factors be collected and presented in analysis and
the Board needs to take this into consideration when you
deal with this part of the proposal. And we want to make
it very clear that we're only meaning on the left side,
okay.

Thank you.
CHAIRMAN DEMIENTIEFF: Thank you, Dan.

Staff recommendation.

MR. GERHARD: Thank you, Mr. Chair. I seem to have another fairly lengthy Staff Committee recommendation so if you'll bear with me but I think it's important to go through this in a bit of detail because the Staff Committee did not reach consensus on this recommendation.

The majority of the members would modify the proposal to exclude burbot as recommended by the Southcentral Council. However, the majority Staff Committee would reject that portion of the Southcentral Council's recommendation which supported a positive C&T determination for all residents of the Cook Inlet area, instead to modify the proposal recognizing two districts with modifications of the C&T determinations as stated in the justification below.

A minority viewpoint favors deferring the C&T determination for fish in the Cook Inlet area until additional information on Kenai Peninsula rural community use area and customary and traditional use is obtained. This viewpoint is consistent with the recommendation of the Bristol Bay Council which feels that there is insufficient data collected and written in the analysis that could justify a positive C&T determination for residents of Tuxedni Bay for the west side Cook Inlet district.

This recommendation is found on Page 3 of Tab A in your booklet and I won't read the proposed regulatory language completely but I will point out that the recommendation of the majority would have C&T finding for the west side Cook Inlet district for fish other than grayling and burbot for residents of the west side Cook Inlet district and Ninilchik and Seldovia.

And for the Kenai Peninsula district, again, for fish other than grayling and burbot, the C&T finding would be for residents of the Kenai Peninsula district except for Halibut Cove, Jakolof Bay, Nanwalek and Port Graham and for both there would be no subsistence priority for grayling and burbot.

The justification for the majority viewpoint, the data for the ADF&G household surveys have shown a consistent level of use for salmon, Dolly Varden and Rainbow trout and char by rural residents of the
named communities and areas. The Staff Committee
majority recognizes that the Regional Council did not
recommend separate determinations for the Kenai Peninsula
and western Cook Inlet districts. The two separate use
areas represented as districts were recommended based on
the data available showing where the use of these species
occurred. Although data shows household use of these
species in Port Graham and Nanwalek, there is no
documentation or direct testimony about their use of
Federal waters in either district. Documentation of the
use of these species or the locations of their use is not
available for the residents of Halibut Cove and Jakolof
Bay.

Now, moving to the minority viewpoint,
justification is that Staff and Southcentral Council
recommendation to recognize that most of rural Kenai
Peninsula communities have customary and traditional use
of all freshwater fish species except for grayling and
burbot. Burbot throughout the Kenai Peninsula area is
overly broad. The information available for the analysis
is not specific enough to establish that each of the
freshwater fish species has been customarily and
traditionally used in all portions of the Peninsula by
each of the included communities. More likely there are
use patterns that are more localized by drainages in
proximity to the communities and which may differ between
communities as to the species customarily and
traditionally used. The pending community survey effort
to obtain more specific information on the locations,
species, methods and timing of freshwater fishing by
rural residents of the Kenai Peninsula for the purpose of
establishing appropriate regulations for seasons, harvest
limits and methods will also provide information useful
for determinations of customary and traditional uses.
The C&T determinations by the Board for this area should
be deferred until this additional information is
available.

Deferral of the C&T determinations at
this time will not adversely affect rural subsistence
users on the Kenai Peninsula. Under existing
regulations, these rural residents will be able to
subsistence fish under whatever subpart D regulations
seasons, harvest limits and methods that the Board
adopts. The opportunities for Kenai Peninsula rural
residents to fish under Federal subsistence regulations
will be identical for the included communities whether
the Board makes a C&T determination or defers.
Mr. Chair, that concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I have a question both for Staff and for the State and if you both could maybe further elaborate on the availability of data on subsistence use patterns of specific rural communities for salmon and trout on Federal lands on the Peninsula. Pat, in your presentation you covered it in some detail with a lot of data supporting the use of various fish species by those various communities but I didn't hear a whole lot about the amount of use by communities that occurred on either the Kenai National Wildlife Refuge or the National Forest on the Peninsula.

MS. PETRIVELLI: The data that was used to document the use of the resources was from the ADF&G household surveys. And then as far as locations goes, the most recent survey available -- well, a recent survey was recently completed in 1998 of the lower Peninsula communities and they did -- they surveyed people about where they fished and what that use covered was the year 1998 and it showed a limited use of Federal lands or Federal waters on the Kenai Peninsula. And that limited use is because subsistence fishing wasn't permitted. It has not been permitted. So the main areas where they fished were the personal use fisheries at the mouths of the rivers and then the second main area -- obtaining fish was rod and reel and the tables in the Fish and Game studies showed that there was very limited use of Federal lands for that. So they probably did fish closer to their home.

MR. EDWARDS: What about any historical data prior to 1950?

MS. PETRIVELLI: I don't think there's any data available that shows location of use. I think the data shows that people fished for salmon and fished for other fish. There is archeological evidence and then there's -- with interviews, with oral histories of the Kenaitzes and the Ninilchik people. There were fish camps along the Kenai Peninsula in the freshwater locations and people used those areas upland but then the
regulatory restrictions after that is just the oral histories and the traditions of pre-1952.

MR. EDWARDS: Terry, I also wanted to direct that question to the State.

MR. HAYNES: Mr. Chairman, another piece of data that we did not have time to investigate for the same study that Pat refers to in 1998, there was another set of maps developed that showed areas used for the past 10 years by the five communities that were studied and we just didn't have time to look at that information. There is also another report that includes some information for Hope and Cooper landing in a draft technical report that includes maps that have been provided to the Office of Subsistence Management and I didn't have access to that yesterday to review that information. So we agreed that the available information doesn't show extensive use of waters under Federal jurisdiction by these communities.

We also would point out that when we look back to what the Kenai Peninsula looked like in the 1950s, it was a very different place. Some of the rural communities currently present weren't there in the 1950s. Some of the communities have changed dramatically because the Kenai Peninsula was developing as an industrial area and so it was becoming a very different type of place. We don't know exactly what effects the closure of some of the uses in the 1950s really had on the fisheries. We believe there is a need to try and better understand what kind of transitions have taken place in those fisheries. And the idea of getting more information to compliment what we already have, I think, would help us answer some questions that are on the table right now.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Question also for Terry. I guess I'm not clear on how -- I thought you said earlier, if we adopt the C&T determination it complicates the information gathering. I wonder if you could explain that a little bit more, please.

MR. HAYNES: In my observation over the years in how C&T determinations are made. If the Board makes determinations today and we proceed with a study to evaluate what constitute customary and traditional uses
and that information comes up with some different conclusions it can be difficult to change the existing determinations and I guess the point is, does the Board feel comfortable with the information available to make changes to the C&T determinations today and if so, does it make sense for us to go ahead and do another study that's been recommended as being something that is going to be useful for this purpose. So we're concerned about proceeding with a new study if the Board makes changes to C&T determinations today because there is a reluctance unless you have -- go through a long process of changing those determinations once they've been made.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I have a question for Ralph. And Ralph, to some extent I think you may have already answered this but as the Council discussed and debated this issue, I mean did you feel that you had adequate information available to look kind of at each community involved and try to judge it based upon its use pattern and I guess as you've sort of indicated and maybe in lack of that data you sort of fell back on your view of trying to be inclusive as opposed to exclusive.

MR. LOHSE: Mr. Chair, one thing like I've pointed out before, our Council is made up of rural residents from different areas in the Southcentral. We have a tendency to rely on people who live in the area that were under discussion. A question that I have that kind of points out why we look at this more as a unit is how many years has the Kenai Peninsula had commercial fishing vessels and powerboats? How many years has it been a commercial fishery down there? How many years has it been a commercial fishery down there? How many years has it had roads? The people in the Kenai Peninsula haven't been static for a long time. And as one of our Councilmembers pointed out, that while he lives on the Kenai Peninsula, as a commercial fisherman when he had his own powerboat he took subsistence fish on the west side of Cook Inlet when he was over there commercial fishing. If anybody comes from an area that has commercial fishing where the communities live by commercial fishing, you know that the majority of their subsistence salmon take for lack -- or even halibut, comes right out of the commercial fishery. People take it out of the same fish that they catch for sale and they take a portion of it for their own subsistence use.

And the Kenai Peninsula has had a commercial fishery going on it for a long time and people
from all the different communities have taken part in that commercial fishery. And people from all those different communities have taken salmon all over Cook Inlet and those salmon that ended up back in their own homes. And that was the reason that we, as a Council looked at it as an inclusive thing instead of an exclusive thing, then we take a look at the freshwater, we take a look at the road system, the Kenai has been one of the areas that's had a road system for longer than any place in the state. The Kenai is one of the longest settled areas of the state and so mobility has always been a part of the communities on the Kenai. Does that answer some of your questions.

MR. EDWARDS: I appreciate that. I guess part of the question, though, then to expand on it, you know, as it applies, let's say, to Federal waters up on the Refuge or on the forest. You know, I guess my assumption would be that those commercial fishermen had that mobility that you suggested but would that extend, you know, further up the Peninsula?

MR. LOHSE: It probably wouldn't extend up into the forests where you're talking about. There's where you're going to have to look at the impact of the road system and the mobility of the community since the road system has been in. We talk about customary and traditional and we've discussed it as a Council. And customary and traditional doesn't necessarily have to be thousands of years old. It's nice if it is. But customary and traditional sometimes means a much shorter time period, at least we've used that term to apply to a much shorter time period. And I guess, like I said, the feeling of our Council has been and from the members who have lived down there, the feeling of the Council has been that subsistence is an opportunistic activity. If you're someplace doing something else you have a tendency to take what's available where you are. If you're commercial fishing on the west side of Cook Inlet and you have the opportunity to take a king salmon home, you do. If you're up moose hunting up in Skilak and you have an opportunity to take some rainbow trout home, you do. And that's part and parcel being subsistence.

Thank you.

MS. HILDEBRAND: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MS. HILDEBRAND: Mr. Chairman, Ida Hildebrand, BIA Staff Committee member. I am concerned that there's such a great emphasis stating that we need more data to prove that these people even use these resources. These Kenai people were the first people in this area since there were people in this area. There was no great amount of study done when they took away their rights in 1952 and to give them back their rights in 2002, it, in my opinion, goes beyond the pale.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I guess what's confusing to me is we approach C&T in two different ways. Earlier today we had discussions starting with the small group of communities that had C&T and due to information that was brought forward by the Councils and others we added some communities. My understanding with this current regulation, fishing for these resources C&T right now is for all rural residents. And so I believe the request is, in a sense, a restriction to the residents who have more of a history of C&T in the region. Just add that for discussion.

MS. GREGORY: Mr. Chairman, can you explain C&T for those of us who don't know?

CHAIRMAN DEMIENTIEFF: Wait a minute. What I want to talk about is -- and I think we have a record of doing that, in particular, on the Kenai and particularly when we were going through the areas to make C&T findings six and a half years ago or whenever it was. So your point is a very valid point in this case, Judy. And most all the Board at that time participated in those discussions and it's a very valid discussion. How far did they go for what species? So it's just a very valid point and I just wanted to point that out. Now, with regard to your question, I think we'll have some discussion on that later in this meeting. Any other discussion.

MR. CAPLAN: Mr. Chairman, just a question and this is for Staff Committee, were you aware of -- since we have already given rural users a priority for the Kenai, are you aware of rural users from subsistence from other parts of the state significantly interfering with or offsetting the take by people already living on the Kenai?
MR. GERHARD: I'm not sure if that's a question to Staff Committee or Staff but I'll give it a shot from the Staff Committee, I don't know of any cases.

MR. CAPLAN: How about ADF&G, have you heard of any of those instances where subsistence users from the Kenai are struggling to get the resources they need as a result of others from other parts of the state coming down?

MR. HAYNES: Mr. Chairman, we haven't heard of any instances like that.

MR. CAPLAN: How about any of the folks who testified earlier, any question as to whether or not I realize that people are concerned that there is a scarcity of resource but this is a question about competition for resource.

MS. HILDEBRAND: Mr. Caplan, if I may.

MR. CAPLAN: Thank you.

MS. HILDEBRAND: It isn't a matter of rural subsistence users from other parts of the state impacting subsistence users on the Kenai Peninsula, it's State subsistence users who are impacting the rural subsistence users on the Kenai Peninsula.

CHAIRMAN DEMIENTIEFF: Bill, did you have something?

MR. THOMAS: Yeah, Mr. Chairman. I was trying to think of an appropriate place to express a concern. I spotted a new red flag today and that has to do with the minority opinion and majority opinion. Now, I don't know what process is used at Staff Committee level but if they're using adopted parliamentary procedures, the prevailing vote is greater than 50 percent of those present, that is what is to be considered. Those that were in part of that group that didn't prevail, then turns their support to the majority. By bringing it to this level advertising the majority and minority could have some real negative results at this level and with the public. And so I was wondering what brought this to illustrate the minority and majority opinions as Staff Committee level?

CHAIRMAN DEMIENTIEFF: It's merely the way the Staff Committee operates. The Staff Committee is
not a policymaking body. The Staff Committee's work is
to go out and gather information. You, at the Regional
Council levels and we at the Board level, in our system,
are the policymakers, and that's where your up or down
vote would come in. But then their job is to bring the
information to the policymakers, okay, and that's exactly
what they did was their job.

MR. THOMAS: Okay.

CHAIRMAN DEMIENTIEFF: Other discussion.

Dan.

MR. O'HARA: When Mr. Bahr, I believe was
his name, was giving his testimony, he said some things I
think that probably -- I thought it was kind of funny
when he said that he's glad to see all these Natives on
the Federal Board and that probably is not quite true, is
it, there's only one Native on the Federal Board. Anyway
-- well, that's a big improvement, yeah, oh, two, where
is he? I'm sorry, I apologize. I humbly apologize.

But anyway, he took a pretty good shot at
State of Alaska. And sometimes we have to sit here and
just take the punishment along with all these things but
I think in probably fairness, the Kvichak has completely
been failing for years and no one even knows why. The
State of Alaska, the Feds, or the local people or
anything. Last year there wasn't a net in the water in
the Kvichak from Toyko, Japan all the way to Graveyard
Point where the marker is at, Mr. Chairman, and the it
just never did come back. So sometimes we just don't
know. In fairness, I think, to all parties, these things
happen sometimes.

Thank you.

MS. GREGORY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GREGORY: I may be out of line but we
have a solicitor here that can keep us in line, but I
wanted to say before Mr. Bahr brought it up that I wanted
to remind the Staff Committee the reason why you're
working is because of my benefit as a Native person to
protect my way of life and don't you forget that.

MS. CROSS: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Yes, Grace.

MS. CROSS: Somebody was questioning how come certain areas where they have all rural residents with C&T and they were wondering do we ever go backwards. In my region we have C&T for all residents of 22, which is very overly inclusive in many respects because each of the communities that we have and we have very few communities in 22, each one of us has our own hunting areas, we have our own fishing areas, it's just that when the State of Alaska came and started making C&T for us without consulting with us they made it overly exclusive and now we're trying to go back to where our hunting grounds are and return them to their rightful owners and we're having a difficult time. Say, for example, the communities that are very close like Elim and Golovin, both of them have different hunting areas mainly because there is mountains in between them. Even communities as close as Teller and Brevig Mission, they both have their hunting -- both of them have their hunting and fishing, traditional hunting and fishing areas and it has a lot to do with what your barriers are.

So if there are groups of people that are trying to get their hunting rights back you got to kind of remember, we were not involved in the decisioning process when C&T determinations were made. We are now trying to get what is back to us, we're not trying to turn away people we're just trying to get our own traditional hunting rights be recognized.

Thank you.

CHAIRMAN DEMIENTIEFF: Yeah, it's a good point. I mean if a region were to bring an area to us that would refine, based on local knowledge, if a Regional Council did that, certainly there's nothing to prevent the Board, you know, from refining that down. Now, let me ask another question, between Northwest and Western, they still haven't resolved black bear C&T, have we; not that I recall?

MR. SAM: I thought we did, Mr. Chairman, but it's been quite a while since we really discussed it.

CHAIRMAN DEMIENTIEFF: The Councils were trying to work on it and just about that time is when Koyukuk River moose heated up and I just don't know that we have. But that was part of the problem that we had there. That certainly there was use across the Regional
1 Council boundary use but such a huge area in some areas.
2 But as I recall, that was part of the thing that hung it
3 up was the fact that I think it involved Eastern, Western
4 and Northwest and I just don't think we completed the
5 work, I may be wrong. But I think that's what held it up
6 because it's such a huge area.
7
8 So we've gone on and been doing other
9 things since then and I just don't think that we've
10 resolved that yet. Bert, do you know anything about
11 that?
12
13 MR. GRIEST: No, it's been awhile back.
14
15 MR. COLLINS: Mr. Chairman.
16
17 CHAIRMAN DEMIENTIEFF: Yes.
18
19 MR. COLLINS: I know we were discussing
20 some of that on the Lower Kuskokwim at one point and when
21 the Western Interior was looking at that we purposely
22 chose -- recommended against finding a C&T because black
23 bear you can hunt year-round with a very liberal bag
24 limit and so there wasn't any need to do it. It seems to
25 be that some of those earlier determinations were made
26 because the resource was more plentiful and doesn't need
27 to be restricted and when it does you need to go back and
28 revisit it, why should you close off a subsistence
29 opportunity if there's no need. I mean people are pretty
30 generous with allowing their neighbors to come in and
31 share resources except when they become strained, you
32 know, in shortage. So that's kind of a principle, I
33 think, will have to be followed in some of these things
34 on the C&T, you can be more generous if there's an
35 abundance but when there's a shortage you have to look at
36 it more closely.
37
38 Just a general comment.
39
40 CHAIRMAN DEMIENTIEFF: I recall you
41 worked on that as well, Ray. I don't think we've ever
42 resolved that totally. Because it's such a broad area
43 and because we didn't have real good use. We know there
44 is use at certain border areas but it's been limited to
45 certain border areas, we just haven't been able to
46 complete that work and I think it's been five or six
47 years.
48
49 MR. CESAR: Mr. Chairman.
CHAIRMAN DEMIENTIEFF: Niles.

MR. CESAR: Could we have a five minute break before we go so far afield we can't get back?

CHAIRMAN DEMIENTIEFF: Yes.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Let's get on with our work here. We'll call the meeting back to order. I really apologize but at least talk to my Board about where we're going in terms of this discussion. And the fact of the matter is that we have two regions with different recommendations, we have the Southcentral Regional Council who is definitely impacted and we have Bristol Bay who definitely has an impact. So there are issues that need to be resolved and the fact is that there's work that needs to be done. And I know I crossed over into the game side but we have more of a history and we've done that in the past. We've waited longer than three years that this proposal's been on the table and it's still not done. It's been on the table ever since I think I've been on the Board. So it's not that uncommon, it's just something that has to be done because there are more than one regional interest in here. And for that reason, I'm tending to support the motion and get on with the work that needs to be done. Oh, we didn't get a motion. Well, as soon as somebody makes a motion.....

MR. EDWARDS: Mr. Chairman, not really knowing which.....

CHAIRMAN DEMIENTIEFF: Depending on what he says.

MR. EDWARDS: .....way you may or may not vote, I'm still going to make my motion. I certainly think that the Kenai presents a lot of unique characteristics and issues as it applies to trying to address the issue of C&T. As pointed out it has a very broad distribution of rural communities through a large area which also has a large population of non-rural communities. As was pointed out, it has been an area with a high rate and an easy access for the residents for many, many years and it also is further complicated by the fact that for over 50 years or at least 50 years there's been a lot of restrictions which
may or may not have dictated how people would or would
have not used the waters available. And while I agree
with Ralph, I'm sure that from time to time because of
the easy mobility people did travel distances and
incidentally when they were hunting moose threw a rod and
reel in or a net or whatever and took advantage of the
fisheries. I think the question remains, does that
constitute the level of the community use that would
warrant, you know, kind of a broad approach to issuing
C&T, and certainly as a Board we want to try to ensure
that individuals that do have a tie to the resources in a
particular location have the opportunity to do that and
we should try to move forward as expeditiously as
possible.

But saying that then, Mr. Chairman, I
would move that for Proposal 11a through 14a, that we
would move to defer and remind back to the councils until
a community survey has been proposed and suggested are
completed and a more complete examination of historical
use of Federal waters such as the fresh waters on both
the National Wildlife Refuge and the National Forest can
be made.

MR. CAPLAN: Mr. Chairman, I'd second
that motion.

CHAIRMAN DEMIENTIEFF: Okay. Again, I'll
just note now that we have a motion that we do have two
different Regional Council recommendations, they're both
impacted. And for that reason until those differences --
solutions can be resolved between the two regions, I
intend to support the motion to defer. That's the main
reason. Yes.

MR. NICHOLIA: I'd like to suggest to you
and the Board, that those two Regional Councils sit down
together and hash out this deal.

CHAIRMAN DEMIENTIEFF: Yeah, that's
usually what we do.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'd just note for the
record we are also talking about Lake Clark National Park
to be included in the discussions.
CHAIRMAN DEMIENTIEFF: Right. Right.

Any other discussion.

MR. BRELSFORD: Mr. Chairman, thank you.

I'm prepared to support the motion to defer. I believe that Tom Boyd referred to the big picture here that we need to proceed cautiously and systematically towards providing the subsistence opportunities on the Kenai Peninsula. I believe the BLM has learned in the last several years that an incomplete analytic basis and a dramatic change in Board actions has far-reaching consequences and it is much better to avoid a temporary solution and instead to work forthrightly for a solution that will endure. So I think that community surveys that would allow us to address use areas and harvest levels concurrently in the next year would be a far better solution.

Thank you.

CHAIRMAN DEMIENTIEFF: Yes. Are we ready to vote -- all those in favor of the motion signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

MR. BUCKLIS: Mr. Chairman, Larry Bucklis, Office of Subsistence Management. The Staff analysis for 11b through 14b can be found on Page 45 of your Board book. These four proposals address related aspects of harvest regulations for the Cook Inlet area. Pat highlighted what is requested in each of these proposals and presented the C&T portion of the analysis. Consistent with the C&T analysis, shellfish is being deferred until the next regulatory cycle. I'm presenting the harvest regulation portion of the analysis. Proposal 11b is the broadest of these four proposals. The analysis addresses 11b and the related aspects of the other three proposals.

The proposed regulatory changes in context with the C&T analysis would allow the take of
salmon, Dolly Varden, trout and char for subsistence purposes at any time by qualified Federal users without specific harvest limits or methods and means restrictions.

Looking at a map of the Cook Inlet area I'll point out in a moment the primary Federal public lands involved where these regulations would be applied. It would include the Kenai National Wildlife Refuge, portions of the Chugach National Forest, a portion of Lake Clark National Park and Preserve, a portion of Denali National Park and Preserve and a very small piece of the Alaska Maritime National Wildlife Refuge, specifically Tuxedni Bay. So I'll point those areas out now.

Current State regulations allow the take of salmon for subsistence purposes in limited marine water locations in Cook Inlet and Dolly Varden in the freshwater systems of the Port Graham subdistrict. Subsistence fishing has not been allowed for decades in the freshwater areas now also under Federal subsistence fisheries management jurisdiction. Current Federal regulations do not allow the take of salmon, Dolly Varden, trout, grayling, char and burbot for subsistence purposes in the Cook Inlet area.

The C&T analysis recommended a positive finding for salmon, Dolly Varden, trout and char but a no subsistence determination for grayling and burbot. Most of these fish stocks are heavily utilized in existing fisheries. The regulatory changes as proposed in Proposal 11b do not provide sufficient harvest controls for stock conservation. The existing fisheries provide opportunity to take fish for home use. However, the commercial, sport and personal use fisheries do not have the priority use designation of the subsistence fishery.

An interim step is warranted to allow limited subsistence opportunity while needed information gathering and further analysis continues. Such an interim step would be to allow the take of salmon, Dolly Varden, trout and char under the authority of a Federal subsistence fishing permit. But with seasons, harvest and possession limits and methods and means, the same as for the taking of fish under the State of Alaska sportfishing regulations. This approach would open subsistence opportunity but likely will not result in additional overall take since users have been able to
obtain these levels of harvest through the existing
fisheries. A State of Alaska sportfishing license would
not be required to take fish under these Federal
subsistence regulations. Subsistence permits would be
required to monitor harvest and participation and for
purposes of enforcement.

Tom Boyd, earlier described the next
steps approach in information gathering that is needed in
support of further regulatory development. And I would
comment that Proposal 11b through 14b, which we now have
in hand provide a range and scope of potential regulatory
change regarding subsistence fishing season dates and
harvest limits and methods and means within which such
regulations could be developed.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Written public comments.

MS. WILKINSON: Mr. Chairman, there were
three. Ms. Nancy Hilstrand wrote that Proposal 11 does
not consider biological integrity, sustainability or
reproductive strategy of the fish. State and Federal
management have made major mistakes by not taking into
consideration the biological priorities of each species.
The subsistence take of wild fish cannot be sustained
without thoughtful consideration of individual species,
their habits and interrelationships throughout the life
cycle.

The United Fishermen of Alaska do not
concur with the proposal for unlimited fish and shellfish
harvest and recommend that seasonal harvest limits be
established to reflect legitimate needs.

The Cooper Landing Fish and Game Advisory
Committee wrote that the present regulations provide
ample opportunity for harvest. For fisheries
conservation reasons, the Cooper Landing Advisory
Committee opposes any rural subsistence harvest in their
area at this time.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. HAYNES: Mr. Chairman, before Doug
reads our comments into the record, I do have a question, given the Board deferred action on Proposals 11a through 14a, given that the current customary and traditional determinations for the Cook Inlet area exclude salmon, Dolly Varden, trout, char, grayling and burbot, I'm trying to sort out which species, if any of the species that are listed as being eligible for harvest in Proposals 11b through 14b, if all of those species currently have a customary and traditional use determination so we're trying to sort out if, given the action was deferred on the customary and traditional use portion of the proposal, if there needs to be some modification made to the season and bag limit portion before us now.

The current customary and traditional determination for the Cook Inlet area, all fish, other than salmon, Dolly Varden, trout, char, grayling and burbot, residents of the Cook Inlet area, so it sounds as though, at least, some of the species listed in this proposal, there is no Federal customary and traditional use determination so the question is could there be a season and bag limit established for those species. I don't know if I'm making my point clear but there's something....

CHAIRMAN DEMIENTIEFF: Tom, go ahead.

MR. BOYD: I'm looking over my shoulder at Bill Knauer, our regulations specialist for a cue here, but in the absence of a determination we have what we call no determinations and the Federal regulations then allow for all rural residents to participate when there are no determinations. So that's sort of a long way of saying yes, you can establish seasons and harvest limits for all rural residents.

CHAIRMAN DEMIENTIEFF: If we had a proposal to do so?

MR. BOYD: Yes.

CHAIRMAN DEMIENTIEFF: Which we don't have on the table.

MR. BOYD: Yes, we do, that's what's on the table, Mr. Chair.

MR. VINCENT-LANG: I'll read the Department comments. The Department is neutral with
respect to using sportfishing regulations as a temporary baseline for Cook Inlet Federal subsistence fisheries.

We believe that long-term regulations for this and other areas should include a determination in the amounts necessary for subsistence uses of each stock for subsistence users in this area. We support the Staff Committee recommendation that a Federal subsistence permit be required for these fisheries if you adopt this proposal. The harvest and effort information that would be collected is necessary for conservation and responsible management of these fully utilized fisheries.

We do have several implementation questions regarding the Staff Committee recommendation. The Board of Fisheries is currently or will be reviewing the sportfishing regulations for the Cook Inlet basin this winter and may make changes to the current regulation. Is it in the intent of the Federal Subsistence Board, if it adopts these proposals, to use last years or next years regulations as the baseline for the Federal subsistence regulations. Also the maps depicted in Staff analysis that depict waters under Federal jurisdiction do not clearly indicate which waters of the Kenai River are under Federal jurisdiction.

CHAIRMAN DEMIENTIEFF: The Board hasn't met yet to do that?

MR. VINCENT-LANG: No, they'll be meeting in February.

CHAIRMAN DEMIENTIEFF: We'll take that up again under discussion here. We have no request for public testimony at this time. Regional Council recommendation, Ralph.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: Our Regional Council supported this proposal with modification to accept the Staff recommendation that seasons, harvests, methods and means be consistent with the State's sportfishing season. The Council is not satisfied with putting subsistence fisheries under the sportfish regulations, however, they see this as the first step of setting subsistence regulations appropriate to customary and traditional use. And the Council appreciates this initial step and thinks it will provide a subsistence priority if further...
restrictions become necessary.

I do have a question myself in line with the same question that was being asked by the State and that's, I was under the impression that with No. 11a, we were doing two things that we were deciding who had a C&T and what fish qualified for -- what we were talking about for a C&T. In other words, what fish were part of the subsistence catch. Because I was under the impression that salmon, Dolly Varden, trout and char were not classed as a subsistence fish under current Federal regulations. And I may be wrong on that but that was what my understanding was and if they're not classed as a subsistence fish under current Federal regulations then to set a season for them didn't make sense to me either. But maybe I have a misunderstanding there.

Thank you.

Chairman Demientieff: Ralph, you can bring that question back in a minute. I think Staff Committee recommendation have been advised to address some of those issues so let's go ahead and go to that right now.

Mr. Lohse: Thank you.

Mr. Gerhard: Yes, thank you, Mr. Chair. The Staff Committee recommendation is to adopt the recommendation of the Southcentral Council which supported the proposal with the following modifications which would allow the take of salmon, Dolly Varden, trout and char under authority of a subsistence fishing permit. Seasons harvest and possession limits and methods and means would be the same as for the taking of fish under State of Alaska sportfishing regulations.

The proposed regulatory language is found on Page 6 of your Board book and it follows, in a way, Proposal 11a, in that, it only -- well, it doesn't add grayling and burbot as subsistence species. The proposed regulatory language would say that you may not take those two species for subsistence purposes so it does follow that. And the regulatory language dealing with State regulations doesn't enumerate those regulations but simply says that the Federal regulations would be the same as for the taking of fish under State of Alaska sportfishing regulations. So I hate to speak for the whole Staff Committee but I believe that would mean that if the State regulations would change, the Federal
regulation would also change to be consistent.

The modification of the proposal is warranted as an interim step to allow subsistence opportunity while needed information gathering and further analysis continues on aspects of these proposals that have not yet been sufficiently addressed. As Larry mentioned in his presentation, the modification opens subsistence opportunity but likely will not result in additional overall take, but subsistence permits would provide for monitoring and participation and enumeration of harvest and for purposes of enforcement.

Mr. Chair, this completes the Staff Committee recommendation for this proposal. It also completes my assignment as presenter of the Staff Committee recommendations, which I gladly pass on to my next colleague as we move to the next region. Thank you.

CHAIRMAN DEMIENTIEFF: In the past we've just dealt with the State regulation that's on the book and that's certainly what I'd do. I mean we've struggled for years with some issues trying to line State and Federal regulations, nothing new. So if we adopt this recommendation then we would be operating with regulation -- the State regulation as it exists today.

Any other discussion. Larry.

MR. BUCKLIS: Mr. Chairman, I would just like to comment that the State regulations for the Cook Inlet area include a lot of different regulations, it's a very complex fishery management regime, that's why they're not all listed item by item but they're included by reference. And so my understanding is that if those regulations changed, then by reference those are the new regulations we would be managing under. It's whatever is currently in place in State regulations at the time the fishing event is occurring. That is the regulation regime the fisher would operate under.

I don't think it was meant to be by reference to this date and time.

CHAIRMAN DEMIENTIEFF: For the taking of fish under the State of Alaska sportfishing regulations is as they exist at this time, we are not going to defer the authority -- at least I'm not going to let -- I'll do everything to fight us deferring authority to the State to make our regulations, although they would pretty well
love to do that, but that's not -- we have a job to do, if we adopt the recommendation. Yes.

MR. GERHARD: Yeah, Mr. Chairman, if I might and I hope Mr. Knauer can back me up on this but we currently have in our regulations a statement that State regulations do apply unless they're inconsistent with the regulations that we have enumerated. Therefore, as the State regulations changed, that brings those regulations into our book. And that this statement was intended to be the same thing, that in this first year we would adopt whatever State regulations there happen to be so that if State regulations changed, this section would not have to change but those regulations would be implemented.

Thank you.

CHAIRMAN DEMIENTIEFF: Keith.

MR. GOLTZ: In certain circumstances, we can have concurrent regulations. But in the areas in which we manage the subsistence regulations we have a responsibility to do the managing and if all we do is key off whatever the State does then we've handed that management over to the State and I would say that we are permitted to do that under Federal law.

CHAIRMAN DEMIENTIEFF: That's funny, we've had that discussion before, actually, you've brought that recommendation to the Board on other issues. Terry.

MR. HAYNES: Thank you, Mr. Chairman. I think there have been some instances in the wildlife side where the interest in the Board and particular Regional Councils was to line up the State and Federal regulations as closely as possible and if there was a change during the interim period to the State regulations then there was a possibility of the Federal Board addressing the special action request before the season actually started to bring those regulations into sync if that was the desire of the Federal Board. That might work in this case, too.

CHAIRMAN DEMIENTIEFF: We've done that in the past. Any other discussion. Ralph.

MR. LOHSE: After listening to the proposal as read I see that the species of fish were mentioned both in Proposal 11a and 11b, so that takes
care of the question as to which fish this applies to and
so I thank you for that. Again, like I said before, as a
Council we don't really like the idea of the fact that
we're adopting State regulations but we do see this as
setting up a priority. And if, in the future, there
would be a shortage of fish, what we've done is we've
taken initial steps to state that subsistence have the
priority, even if it was under the same regulation.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I just wanted to ask,
Ralph, on behalf of the Council, I assume you did discuss
the permit requirement, hopefully that was acceptable to
the Councilmembers?

MR. LOHSE: To the best of my
recollection that was acceptable because the idea was
that there would not have to be a State license, there
would be a Federal permit.

CHAIRMAN DEMIENTIEFF: Anybody else.

MR. EDWARDS: Mr. Chairman, are you ready
for a motion?

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Mr. Chairman, I move to
adopt Proposals 11 b through 14 b to establish seasons,
harvest limits and methods and means as recommended both
by the Southcentral Regional Advisory Council and the
Interagency Staff Committee.

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

MS. GOTTLIEB: I'll second it.

CHAIRMAN DEMIENTIEFF: Additional
discussion. Yes.

MR. NICHOLIA: You know that these people
have been impacted for so long by the Russians and now by
the Americans and stuff, how are they going to establish
C&T, you know? They've been impacted by commercial
fisheries, the Russians, everything, how are they going
to establish it?
CHAIRMAN DEMIENTIEFF: We just discussed we got a lot of work to do, we'll get it done. Terry.

MR. HAYNES: Mr. Chairman, I just want to make sure I understand. One of the problems we're having with the wording of the current customary and traditional use determination in the regulation book and somebody will probably be able to clear this up fairly quickly, the current finding reads all fish other than salmon, Dolly Varden, trout, char, grayling and burbot, residents of the Cook Inlet area, for all other fish the implication is that it would sound as though other -- there was no C&T -- no positive C&T determination for other fish. I think the intent is that no -- there should be another line here that just reads that no determination has been made for other species but I think that's -- I notice that is the case for a number of other areas where you could read this and assume that there's a negative determination for other fish when, in fact, the Board hasn't made a determination. So it says, Mr. Boyd stated earlier that all rural residents are eligible for the species that aren't listed here. Did I say it correct?

CHAIRMAN DEMIENTIEFF: That's correct.

MR. HAYNES: I think the phraseology here is just a little bit confusing.

CHAIRMAN DEMIENTIEFF: Okay, where are we at here, any more discussion. Any other discussion on the motion?

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: What is the motion that's on the table?

CHAIRMAN DEMIENTIEFF: To adopt the recommendation of -- the Regional Council recommendation and Interagency Staff.

MR. EDWARDS: And I'm assuming based upon what you said that would include the permit requirement.

MR. LOHSE: And that would include salmon, Dolly Varden, trout and char?
MR. EDWARDS: Yes.

MR. LOHSE: Thank you.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Let's see, we're moving on to Eastern Interior and we have one proposal, Proposal No. 7. We have one item that we need to discuss and that'd be FP02-07.

MR. KRON: Mr. Chairman, members of the Board, Tom Kron from OSM. First of all, I would like to thank Gerald Nicholia, the Fairbanks FRO, ADF&G Staff, Fred Anderson of the National Park Service, Ingrid McSweeny from BLM and Staff from the Yukon Flats National Wildlife Refuge for their help with this analysis.

FP02-07 submitted by YRDFA requests that Federal subsistence regulations for Beaver Creek be aligned with State regulations and that increased opportunity be provided for subsistence users. Beaver Creek is within the White Mountains National Recreation Area and the Yukon Flats National Wildlife Refuge. Subsistence fishing in Beaver Creek was closed in the 1970s in order to protect fish stocks from the potential influx of subsistence fishermen when access was improved with the Dalton Highway. Non-subsistence fisheries continued on Beaver Creek. The Board of Fisheries made the following changes last January based on a proposal from CATG and the Yukon Flats Advisory Committee. First of all they removed Beaver Creek from the waters closed to subsistence fishing and second they specified that gillnet mesh size may not exceed three inches in the Lower Beaver Creek to protect spawning salmon.

Placer mining has been occurring in the headwaters of Beaver Creek over the past 100 years. BLM's work on rechannelization, revegetation and restoration of the stream bank habitat along Nome Creek and in Upper Beaver Creek drainage is helping to restore
the biological productivity of this area and its fish populations. I'd ask you to note some of the pictures on the screen. These headwater areas are important spawning areas for freshwater fish species. A conservative fishery management approach in Upper Beaver Creek is appropriate to help facilitate this restoration effort.

Rural residents subsistence fished in Beaver Creek prior to the subsistence closure in the 1970s and would like to be able to subsistence fish there again. Users most likely to benefit from the increased subsistence opportunity provided by this proposal reside in the communities of Birch Creek and Beaver. The actual subsistence harvest in Beaver Creek is likely to be small based on one, the remoteness of much of the water shed; two, the effects of decades and closure on subsistence use patterns and; three, the relatively low current human population in this area. Subsistence fishing in Upper Beaver Creek is expected to be very limited.

This proposal seeks to provide for a subsistence opportunity for freshwater species while providing for conservation and rebuilding of salmon resources. A year-round gillnet mesh size restriction was put in place by the Alaska Board of Fisheries to protect spawning salmon. The same purpose can be accomplished by simply applying this restriction to the time period when adult chinook and chum salmon are actually present in Beaver Creek. This approach is consistent with salmon conservation principles and provides increased opportunity to subsistence users while protecting salmon stocks.

This concludes my analysis. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Written public comments.

MR. MIKE: Mr. Chair, there were no written public comments. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Department recommendation.

MR. BERGSTROM: Yes, Mr. Chairman, the Department does not support the Staff Committee recommendation to insert dates for when gillnets of three inch mesh size may be used on a portion of Beaver Creek. Proposal 7, 8 and 9 were submitted by YRDFA after the
January 2001 Alaska Board of Fisheries meeting in order to align State and Federal regulations as much as possible. The insertion of dates conflicts with the new State regulations which allows only three inch or smaller mesh size year-round in Beaver Creek. The Alaska Board of Fisheries has not received any agenda change request or petitions from the public to change the new regulation, nor has the Department received any comments from the public about changing this regulation.

The Department suggests that the three inch or smaller mesh size gillnets be required year-round, the same as recommended by the Staff Committee for Proposal 8. This will provide consistency between the State and Federal regulations and between two nearby creeks, the other creek being Birch Creek. The Department supports the remainder of the Staff Committee recommendation as it applies to the Federal regulations in the State and non-subsistence area.

That concludes my comments.

CHAIRMAN DEMIENTIEFF: Thank you. We did have one request on the blue card for somebody to testify on Proposal 7 and 8, but appears to have turned up missing overnight. Is there anyone here that's wishing to testify for Proposal 7 and 8?

MS. KLINE: Mr. Chairman, my name is Jill Kline and I work with the Yukon River Drainage Fisheries Association and I had submitted a blue card to testify but then I had withdrawn it.

CHAIRMAN DEMIENTIEFF: Okay.

MS. KLINE: Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. There are no requests for public testimony at this time. We'll move to the Regional Council recommendation.

MR. WILDE: Mr. Chairman, Yukon-Kuskokwim Delta Regional Council recommendation support with modification.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. NICHOLIA: Mr. Chairman, in our tri-meeting this last fall, three Regional Councils, Yukon-Kuskokwim, Western and Eastern Interior supported with
The reasons for supporting the proposal with modification because it would provide increased subsistence opportunity and protect adult chinook and chum salmon and supports restoration efforts up by Beaver Creek.

CHAIRMAN DEMIENTIEFF: Thank you. Ronny, do you have comment.

MR. SAM: Yes, we supported with modification. And again, it's just one of those glitches that we tend to overlook on the smaller streams. And the reason we supported it was to provide subsistence opportunities.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. SIMMONS: Thank you, Mr. Chair. Rod Simmons with Fish and Wildlife Service, Staff Committee. I'll be taking over for providing Interagency Staff Committee recommendations for the next several proposals. The Interagency Staff Committee was in parallel with the recommendation of the Yukon-Kuskokwim Delta, Western Interior and Eastern Interior Regional Advisory Councils to modify or adopt the original proposal.

Those modifications would be, one, to remove Beaver Creek from the section of the regulations dealing with areas closed to subsistence and place the wording in the portion of the regulations dealing with subsistence gear restrictions. Also it would provide a rod and reel only subsistence fishery in Beaver Creek upstream from the confluence of Moose Creek. Apply the three inch maximum stretch mesh gillnet restrictions downstream from the confluence of Moose Creek from June 15th to September 15th. Also provide a daily harvest and possession limit of five Arctic grayling from the mouth of Nome Creek down to the confluence of O'Brien Creek and 10 Arctic grayling from there down to the confluence of Moose Creek and finally maintain the subsistence closure for Home Creek.

For the record, the regulatory language changes are found in the middle of Page 2 under Tab C of the subsistence Board book. Justification from the Staff Committee is that it is appropriate to remove Beaver Creek from the section of the Federal regulations
addressing closed waters closed to subsistence. The
gillnet mesh size restrictions are to conserve adult
chinook and chum salmon during the time period when they
are present in Beaver Creek. Other types of legal
subsistence fishing gear would be allowed below the
confluence of Moose Creek from June 15th to September
15th. All other times of the year there would not be any
additional subsistence fishing gear restrictions below
the confluence of Moose Creek. The closure of the Nome
Creek drainage and the restriction to rod and reel
subsistence gear from the mouth of Nome Creek down to the
confluence of Moose Creek would support fish restoration
efforts in Upper Beaver Creek.

The proposed wording attempts to address
the biological concerns within the context of the
subsistence priority and is consistent with salmon
conservation principles. The approach is consistent with
the Yukon River Drainage Fishermen's Association original
request that increased opportunity be provided to
subsistence users to harvest non-salmon species while
protecting chinook salmon stocks.

That concludes Staff Committee comments.

CHAIRMAN DEMIENIEFF: Thank you. Board
discussion.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENIEFF: Yes.

MR. BRELSFORD: Thank you. I'd like to
ask a question of Staff, Tom, could you address the
concern that's been raised by the Department concerning
consistency or a lack of consistency in the actions
before us in Beaver and Birch Creek, that is Proposals
No. 7 and 8?

MR. KRON: Mr. Chairman, Taylor.

Basicly, we were relying very heavily on the input from
the Regional Councils at their tri-meeting this past
fall. In the case of Beaver Creek and Birch Creek, as
Mr. Bergstrom pointed out, the State Board had applied
the three inch mesh restriction year-round. At the same
time upon checking the records on that decision and the
subsequent follow-ups, the justification was to protect
spawning salmon. Well, in talking with Ingrid McSweeney
from BLM who's done a lot of work up there with salmon --
well, and I think people know in general that the salmon
spawning period is relatively limited, it's about a three-month period during the summer and one of our Staff there at OSM asked the question, in fact, Donald Mike asked the question, why are we restricting subsistence users to protect salmon 12 months a year if we only have salmon in the stream three months a year. So again, that generated the discussion, generated the approach that was taken on Beaver Creek and that you have before you now and was ultimately supported by the Regional Councils.

By contrast, at Birch Creek, when this approach was discussed there, the Regional Councils, a number of the Council members, specifically asked that in that particular case, that the regulations be aligned. That was a priority that they presented to us and consistent with that discussion, you know, that is what's before you, it was on the consent agenda that you discussed earlier today.

Thank you, Mr. Chairman.

MR. BRELSFORD: Mr. Chairman, a follow-up question, please?

CHAIRMAN DEMIENTIEFF: Yes.

MR. BRELSFORD: Will there be an opportunity in the near future to provide a more consistent management regime on these two rivers seeking some more suitable alignment between State and Federal regulations?

MR. KRON: Mr. Chairman, Mr. Brelsford, I would -- you know, again, it will depend on the proposals that come in over the next couple of years. On Proposal 10, for example, it was deferred with the intent that the Staff at OSM work with the Department and the various other agencies to work to address issues along that area. And another situation where waters have been closed with the construction of the Dalton Highway, and I guess I would hope that through that process we can begin to address some of these other similar situations that occurred about the same time, you know, with a focus on providing a subsistence priority in areas which, again, have been closed for decades but, again, we have other uses occurring.

Thank you.

CHAIRMAN DEMIENTIEFF: Further
discussion.

MR. BRELSFORD: Mr. Chairman, if we're ready for a motion.

CHAIRMAN DEMIENTIEFF: Yeah, I think we are, it appears to be.

MR. BRELSFORD: I would like to move to adopt the proposal with the modifications recommended by the Yukon-Kuskokwim, Western Interior and Eastern Interior Regional Councils as well as the Interagency Staff Committee. And this motion would be on the basis of the justification outlined in the Staff Committee recommendation.

Thank you.

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

MR. EDWARDS: Second.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. Okay, Seward Penn. That concludes our work there.

MS. McCLENAHAN: Thank you, Mr. Chairman. I'm Pat McClenahan, Staff anthropologist for the Seward Peninsula Region. I'd like to present Staff analysis FP02-044 and I refer you to Tab D.

Proposal FP02-044 submitted by Leonard Kobuk on behalf of St. Michael and Stebbins requests an exclusive positive customary and traditional use determination for the communities of St. Michael and Stebbin for salmon and for all freshwater fish species in the drainages and water bodies in Federal jurisdiction between Canal Point and Point Romanof known as the Pikmiktalik River Group.
Presently, the residents of the Norton Sound/Port Clarence area and residents of the Yukon River drainage have a positive customary and traditional use finding for all fish species for the Pikmiktalik River Group area. The proposed regulation is Norton Sound/Port Clarence area, Norton Sound/Port Clarence area excluding waters draining into Norton Sound between Point Romanof and Canal Point, all fish; residents of the Norton Sound/Port Clarence area, waters draining into Norton Sound between Point Romanof and Canal Point, all fish; residents of Stebbins and St. Michael only.

The current Federal customary and traditional use finding was adopted unmodified by the Federal subsistence program from the existing State finding without review at the time the Federal program began. 94 communities in the combined Norton Sound and Port Clarence and Yukon northern area presently have a positive customary and traditional use finding for salmon and freshwater fish for the Pikmiktalik River Group.

Aligning the Federal and State fisheries boundaries did not automatically exclude any of the subsistence users in the 94 communities, including those in the Yukon northern area. There is no current escapement information for salmon for the Pikmiktalik River Area. However, a 1992 escapement project took place on the Pikmiktalik and Kogak Rivers in response to local interest in having a commercial salmon fishery there. The results of the tests on the two streams clearly indicated that the fishery does not have sufficient salmon stocks to support a commercial harvest. The streams are very small and are susceptible to overharvest. A one year $20,000 feasibility study, FIS 02-020 for a weir site on the Pikmiktalik River has been forwarded by the technical review committee and the Councils for the 2002/2003 study year. This analysis reviews published subsistence use information for 24 communities within an approximately 150 mile radius of the Pikmiktalik River Group area.

Initial analysis shows that, while all of the communities listed in this analysis have longterm consistent reliance to greater or lesser degrees upon salmon and other freshwater fish, the residents of three communities of St. Michael, Stebbins and Kotlik are documented as consistently using the salmon and non-salmon fish species of the Pikmiktalik River Group. Historically and during modern times. Residents of St. Michael and Stebbins are documented as having established
permanent fish camps where they take and dry salmon and other fish for storage in the Pikmiktalik River Group area. Residents of St. Michael, Stebbins and Kotlik also fish to meet their immediate needs while they're in the area berry picking, hunting and carrying out other subsistence activities.

In a recent set of interviews of Kotlik residents Staff found that two Kotlik residents out of eight residents interviewed fish for salmon in the Pikmiktalik River area. Published sources have no information about use of the Pikmiktalik River Group area by the residents of other communities listed in this analysis.

Mr. Chairman, this concludes my comments.

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

MS. WILKINSON: Mr. Chairman, we have seven written comments. The Native Village of St. Michael wrote that the people of St. Michael used the rivers listed in Proposal 44 for subsistence and have done so from time immemorial. Their concern is to protect these rivers from overharvest. They support the proposal.

The St. Michael Native Corporation wrote to say that they support the proposal.

The Elders of St. Michael wrote that they have always fished at Pikmiktalik and rivers in that area for salmon and herring in summer and in winter months. They stated, "Our traditions are taught to us, handed down one generation to the next, everything we know we respectfully learned from our parents and grandparents. We would like to see the continuation of use of our traditional hunting and fishing grounds by our families of this generation and those yet to come. We realize the importance of subsistence and the protection and proper management of these resources, therefore, our support and obligation to take part in this important topic."

The Stebbins Native Corporation wrote that local residents are concerned that the subsistence resources within their local rivers that are now available to both villages cannot support other users from other villages and sportfishing. Past studies of the fish resources in the local rivers indicate that the
size of the returns are sufficient to support subsistence
needs of the two communities. They support Proposal 44.

At a duly convened meeting the Stebbins
Community Association IRA Council voted unanimously to
support Proposal 44. Harry Wilde of Kotlik wrote that
when he was 12 years old he moved to St. Michael with his
sister and brothers and lived for six years with his
grandma and grandpa, they lived at winter camp in the
Little Canal River area. It is traditionally a
subsistence fishing and hunting area used by residents of
Stebbins and St. Michael. He supports an exclusive
customary and traditional use determination as set out in
Proposal 44. I note that Mr. Wilde wrote us an
individual and not in any official capacity.

The Kotlik Yupik Corporation wrote in
opposition to Proposal 44. They said, "The Pikmiktalik
River Group has been a harvest area for fish and game
since time immemorial for the people residing in the
Yukon/Norton Sound area. Many of us that live along the
Yukon River have relatives or descendants of other groups
up and down the coast and river. With consistent south
winds, many Yukon bound salmon go to Norton Sound and
then follow the coastline back to the Yukon. They may
enter other rivers as they continue to feed. Fish are
not constrained by imaginary boundary lines. To limit
harvest to only two communities will, indeed, provide
hardship to some. And with today's regulatory crackdown
will make some people criminals in the U.S. judicial
system."

That's the end of the summaries. Thank
you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Department
comments.

MR. HAYNES: Thank you, Mr. Chairman.
The Department supports the majority Staff Committee
recommendation to modify the original proposal and find
that the communities of Kotlik, St. Michael and Stebbins
have a customary and traditional use of fish in the
waters draining into Norton Sound between Point Romanof
and Canal Point, an area referred to as the Pikmiktalik
River Group. The evidence does not support retaining a
positive finding for all communities currently included
in the customary and traditional use determinations for
salmon and other fish in this area. However, if
increasing fishing effort in this area is subjecting fish
stocks to overfishing, as has been suggested in this
proposal, then additional regulatory action such as
implementation of Section .804 of ANILCA may be required
to protect the stocks so important to local communities.

CHAIRMAN DEMIENTIEFF: Thank you. We
have no request for public testimony at this time. Let's
see, Regional Council recommendation.

MS. CROSS: Mr. Chairman Seward Peninsula
Regional Advisory Council supports this proposal.
Initially we thought it was going to be a no-brainer but
it's turning out to be a Formula 44, a little
complicated.

The other three RACs were well aware of
this and so were all the communities that were named in
the book and every -- I believe every IRA Council and
other different types of government were notified and
there was only one response and that was from the Village
of Kotlik. The three, Western Interior, Eastern Interior
and Yukon-Kuskokwim Councils discussed it at their
meetings and all of them did not oppose the proposal.

Stebbins and St. Michael have
traditionally been using these small rivers, they're
very, very small streams for I don't know how long but
they're saying time and immemorial and it wasn't until
the Yukon-Kuskokwim River started crashing did people
start seeing increase of use in those two rivers and they
became concerned because they were afraid that the two
rivers -- all the small rivers are going to eventually
crash so it's more of a stock concern. All the camps
that are on those rivers belong to Stebbins and St.
Michael residents. There were two families, as mentioned
in the Interagency Staff recommendation that fish the
Pikmiktalik River Groups, one of the families -- in fact,
both of the families are from Stebbins that were married
into Kotlik families. One family has, since this
proposal has started this fall, has moved back to
Stebbins. They had never given up their tribal
enrollment with Stebbins, they moved there simply because
there was a shortage of housing I've been told and they
have since moved back to Stebbins so they're no longer an
area of concern. The other family is a nephew of the
proposer, the person that submitted the proposal. He
lives there because he's married but his father had died
and has willed his fish camp to the son that now lives in
Kotlik and he'll be utilizing that and there's no
objection from the community in doing that because he is
I talked to various people in Stebbins, we had meetings over there with both Stebbins and St. Michael people and there just doesn't seem to be long range subsistence use of those rivers by other communities. There is incidental use. When other people from the Yukon River come up to those rivers and they're hunting for caribou or other sea mammals or land mammals, then they'll fish for immediate use but there was no long term subsistence fishing there until Yukon River started crashing. So as the Yukon River salmon started depleting more and more and the closure of those rivers become more common, those small streams would be open so people would come up by boats and set up tents and start using those small streams to fill in their subsistence fish that they could no longer get through the Yukon River, so therefore the people of Stebbins and St. Michael started getting concerned about it. And this started about maybe four, almost five years ago and this is when they started bringing in the concern. So this proposal we've been trying to work out within our own region has been ongoing for a number of years. It's finally got to the point where it's now before you.

Like Leonard Kobuk said, our main purpose is to protect the fish. Those rivers, those streams are very small and they only have so much fish. Now, the people in St. Michael and Stebbins do not object to other communities that their neighbors in fishing the ocean, they're just concerned about those small streams, a fish going into the small streams to spawn because of the larger number of people using them. They don't mind people setting out nets out in the ocean. They don't mind if people come to those river areas to hunt for caribou and do what they did before, take fish that they need to eat while they're out there hunting for other game. I don't think that they feel very good about having to do this but like Leonard Kobuk said, this is to protect the fish stocks and they're concerned about it.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Before we go into the Staff Committee recommendation, once the dam broke this afternoon, we're moving through real quickly. Unfortunately we don't have everybody here that we need. Obviously the customary and traditional task force, we're going to postpone because people are expecting that to be tomorrow. The Southeast biologists
are in the air now and they were planning on flying in
tomorrow but they'll be here in the morning. So we're
just going to do whatever we can today and we may get out
early, depending if we don't get hung up again. Okay,
Staff Committee recommendation. I'm sorry, do we have
other Regional Council recommendations.

MR. WILDE: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. WILDE: Yukon-Kuskokwim Regional
Council support Stebbins and St. Michael only. However,
just me, myself, I would like to see it include Kotlik.
I grew up in that area and also I was a reindeer herder
in that area. These people, they're working together
with each other and some of the people that move into
Kotlik, they are from St. Michael and Stebbins. In fact,
me and Joseph Mike, we grew up in that area and we had
one grandma and grandpa teaching us how to live by those
sloughs. Me, myself, personally, that I would support
the committee recommendation, however, Council, Yukon-
Delta Council they're only supporting this -- I would
like to bring this back to the Yukon-Kuskokwim Regional
Council and put it on their fall agenda and revisit it.
Because after we have been training from our elders and
our parents or the people that grew us up how to survive,
it bothers me to left them out even though they had the
right to include on this agenda -- on this proposal.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Western Interior.

MR. SAM: Thank you, Mr. Chairman. I
would like to go on record, get this on record that
traditionally we defer motions to adopt proposals to the
home regions. At this time we just happened to be
meeting together and you'll notice that we supported this
proposal in deference to the home regions. I would just
like to have that on record. And if they do want to
withdraw it and revisit it again we would defer to the
home region and follow what their wish is and preference
is.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Eastern.
MR. NICHOLIA: In respect to Harry Wilde's request we'll defer it the same as Ron.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. KRON: Thank you, Mr. Chair. The Staff Committee did not reach consensus on a recommendation. The majority would recommend adoption with modification to add the community of Kotlik. The minority viewpoint would support the recommendation of Seward Peninsula, Yukon-Kuskokwim Delta, Eastern Interior and Western Interior Regional Advisory Councils.

The majority viewpoint was to adopt the proposal with modification to add the community of Kotlik. This would provide a positive customary and traditional use finding exclusive to St. Michael, Stebbins and Kotlik for the waters draining into Norton Sound between Point Romanof and Canal Point. The justification is that Stebbins and St. Michael are neighboring communities, villages. The residents of both villages and of Kotlik are heavily reliant upon subsistence resources for their livelihoods. Stebbins and St. Michael are situated immediately at the north end of the Pikmiktalik River Group and Kotlik is situated near the southern end. The communities of St. Michael, Stebbins and Kotlik share the same salmon and freshwater fishing areas in the Pikmiktalik River Group just north of the Yukon River and are part of the same sharing and communications network. Residents of St. Michael and Kotlik provided information that they use the Pikmiktalik River Group for subsistence fishing and that their parents and grandparents did as well. For other communities considered in the analysis, currently there is insufficient data to determine if they have traditionally used the Pikmiktalik River Group area to take subsistence salmon or non-salmon fish.

For the record, the proposed changes to the regulations of the majority Staff Committee recommendation are found on Page 2 and 3 under Tab D.

For the minority viewpoint, would be to adopt the recommendations of the Councils, the Seward Peninsula, Yukon-Kuskokwim Delta, Eastern Interior and Western Interior Councils, to support the proposal as written. The Councils recognize that these streams are small and susceptible to overharvest and they cannot support widespread use. The villages of Stebbins and St.
Michael rely on these streams as a primary food source. They are the only streams available to them without the necessity of going over open water. The Councils considered Proposal 44 to be a conservation effort.

That concludes Staff Committee comments.

CHAIRMAN DEMIENTIEFF: Thank you. I think we're now ready for Board deliberation.

MR. EDWARDS: Mr. Chairman, I would like to ask the Subsistence Office Staff about data available on the use by Kotlik of these waters that are in question?

MS. McCLENAHAN: Yes, Mr. Chairman, we have additional information -- well, it was mentioned in the analysis. From 1981, Ron Thuma, staff with the Office of Subsistence Management did some surveys in that area and he made subsistence use are maps. They show very clearly that the Pikmiktalik area was used at that time by Kotlik for hunting caribou and moose and for berry picking and taking wood. It doesn't show that they had fish camps there, though, that they had salmon camps. In addition to that we have the recent survey that was done on another -- for another analysis of eight people, it was an informal survey. Two of those people indicated that they did fish salmon in that area, that was done this year. And that's about the extent of the information that I have for Kotlik.

CHAIRMAN DEMIENTIEFF: Other discussion.

MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. CROSS: When we had those meetings in Stebbins between the communities of St. Michael and Stebbins and then there was a resident from Unalakleet that was there, too, there was extensive talk about, you know, people being intermarried to different communities. Apparently they do a lot of -- those individuals do come back and fish at their home communities because they're more familiar with the rivers and there's no objection to that. Like I said, the only reason why both communities are extremely concerned about it is because of conservation. They're very, very small streams. And it's just that Kotlik, the community -- the people of Kotlik have traditionally used to go to Yukon River to
fish and more and more people are coming over to fish in
the Pikmiktalik River, it's just another salmon shortage,
I think. But like I said, the two people she's talking
about one family has moved back to Stebbins and will live
in Stebbins and the other family that lives in Kotlik
that has a camp there, that young man is from Stebbins,
he just happens to be married to a young lady from
Kotlik.

Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I did an informal survey
of the two people I know who have roots in Kotlik, one
present and one former Park Service staff person and they
both said that they do remember going there when they
were younger and one person said that currently his
brothers go over to that area to fish. And I don't know
if they do fish camp or if they just go for short periods
of time or if that's a distinction. I think it's
important in this proposal that we do look at, obviously
limiting the number of communities who currently have
C&T, that's the important part.

I also wanted to mention as Grace said,
she and people from OSM, Park Service and others went for
a meeting or maybe more than one meeting at the start of
the fishing season because of the village's worries about
conservation and I appreciate them spending the time to
do that to try to get the issues sorted out.

CHAIRMAN DEMIENTIEFF: Further
discussion.

MR. EDWARDS: Mr. Chairman, I guess as I
read this I'm somewhat, I guess troubled by it. You
know, certainly I appreciate the conservation concerns
and the fact that they have been raised. I guess I'm
concerned about using C&T maybe as a way to do this. And
I guess I'm also concerned sort of saying, you know, some
people from a village could continue to use it but others
could not. I don't know if there's any easy way through
this. But I guess my view is if we truly have a
conservation issue then maybe we should look at other
means to try to address that as opposed to using C&T as a
way to exclude people from using it.
MS. CROSS: Mr. Chair. Remember when I was talking earlier about over exclusiveness, this is one of those situations. Now, we're trying to rectify something that we didn't have any choice in accepting before. This is another issue where over exclusiveness has now gotten us to this point.

Thank you.

CHAIRMAN DEMIENTIEFF: The other thing you may do too is just think about deferring it and working on those specific streams. How many streams are there?

MS. CROSS: Could I call on Charlie Lean to come up and speak to you a little bit? Please, he's real familiar with them.

CHAIRMAN DEMIENTIEFF: Sure.

MS. CROSS: Thank you.

MR. LEAN: Hello, Mr. Chair, my name's Charlie Lean. There are a number of streams, the Pikmiktalik River is the primary stream that's being discussed and right next door is the Naokak River or Kogak on the maps and those are the two salmon producing streams that are south of the old boundary at Canal Point and north of the current boundary at Point Romanof.

CHAIRMAN DEMIENTIEFF: What's the pleasure of the Board here?

MR. EDWARDS: Well, Mr. Chairman, I guess it's supposedly up to me on this issue to make a proposal. I guess I would have to tell you I'm uncomfortable with making a proposal either way and I don't know what that means. But I just don't think this is the right way to try to solve this issue, personally, so if somebody else wants to make a proposal they can fill free to do so.

CHAIRMAN DEMIENTIEFF: The.....

MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. CROSS: Unfortunately, maybe it's going to be one of those situations that those poor
little rivers are going to be exactly like Nome River and the other rivers that are surrounding Nome where there is no more fish. This is the reason why we're bringing this up, is to -- there is overuse right now that is going to deplete the fish in those rivers and it's been ongoing for the past four years. The communities have already tried to resolve this. We had meetings, we had discussions, we had letters written, we tried to resolve this issue by ourselves and it has not resolved. It's just the number of communities that can utilize it right now are so huge it cannot handle it. In a time of fish shortage, those communities will be coming to those rivers and are coming to these rivers to utilize the very small fish stock there is there. There's just too many users.

Thank you.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICHOLIA: May I make this suggestion to the Board, is that, you adopt it without adding Kotlik and then the Yukon-Delta later, the next cycle could -- just for the conservation concern for the fish is that they could introduce that in the next cycle.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: I agree with Gary that we don't seem to have a good handle at this point on how best to protect the stocks. Normally we would do that -- perhaps C&T is part of the picture, but normally we would try and do that with bag limits or some other limits and we also have the .804 process to follow in terms of allocating the resource to the folks most dependent upon it. And I'm not sure, perhaps through you, sir, I could address a question to Grace as to whether those things were considered or not.

MS. CROSS: .804 was considered also. You remember that Pat, when we discussed it and we thought that perhaps this would be a better way to go about it. And I think part of the problem that we all had was the village of Kotlik. Because it's the closest community to those small rivers and there's a lot of intermarriage between those three villages. So that was part of our problem in trying to go for .804, so we decided to kind of leave it up to the Federal Board.
MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BRELSFORD: If I may, I'd like to offer the observation that all three Councils have made a very persuasive case about the conservation urgency at stake in this proposal. However, I think on the part of the Board, we're obliged to consider a different standard in looking at C&T proposals. And on that point, Grace has made the argument that a vastly over inclusive C&T determination was made for this region, 94 communities, when you do the math. And certainly, there is no evidence to support 94 communities having a historic use pattern in this region. What's on the table is a proposal to go from 94 down to two communities or 94 down to three. I think the difference for us in looking at two communities or three communities as having this historic pattern, we're actually very close to agreement on modifying the customary and traditional use determination.

I guess from where I stand, the representations from the community of Kotlik, including the comments that were submitted in the public comment portion suggest that there's a meaningful interest at stake for residents of the community of Kotlik. I would be a little troubled to look away from that at this point for the wrong reasons. I believe that that information about a community use pattern is important and the right reason for us to proceed to address conservation concerns, not in C&T but through an .804 or other regulatory relief. So I guess my appreciation of the issue before us is that we can right size the C&T determination down to the neighboring communities safely, that there's reasonable evidence for us to proceed in that fashion. I think we owe all of these Councils continuing vigilance on the conservation problem. We have in-season managers in the region, Charlie actually has some familiarity with the streams in this area. I think we ought to keep the conservation and regulatory issues separate from the C&T part and I believe we can actually achieve one step forward on the C&T at the present and commit ourselves to closer monitoring of these streams for the conservation purpose this upcoming season.

Thank you.

CHAIRMAN DEMIENTIEFF: Yes.
MR. THOMAS: Well, thank you, Mr. Chairman. I agree with a lot of what Taylor said. And with regards to conservation considerations, again -- again, this looks like another terrorist attack. Because you got to consider the amount of harvest we're looking at. You know, it sounds like somebody's going to go down to the river and eat up all the fish when they get to the banks and maybe that's the case, I don't know. I have to apologize for being naïve because I'm far removed from this part of the state, geographically. But like Taylor said, with regards to conservation and the C&Ts, we shouldn't be penalizing those that don't warrant it. With regards to .804, .804 is pretty clear on who is affected by the acts of .804 and it's going to happen in Alaska. You're going to have family in these places and that's just the nature of the beast. If you're going to take those into consideration, then you're turning your back on conservation responsibilities.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yeah.

MS. CROSS: I guess this is going to be my final comment. On Page 8, there are communities that are within 150 mile radius of the Pikmiktalik River Groups. There are six that are approximately 150 miles away, there's 13 that are approximately 100 miles and there's only three that are within the 50 mile radius, and that's St. Michael, Stebbins and Kotlik. The other communities that are 100 miles away, it is clear that they do not utilize those rivers. Like the residents of Unalakleet utilize Unalakleet. The residents of Nome we utilize the rivers that are close to us. I guess the fear that we have is that, at least, St. Michael and Stebbins has, as the rivers in Nome area started getting depleting -- depleting with fish, they'll start going over to the small rivers also or -- and they were also afraid that more users from other rivers of concern are also coming in and they are coming in.

Thank you.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MS. GOTTLIEB: I would like to make a motion that supports the original request for an exclusive C&T determination for Stebbins and St. Michael, although it is my inclination to include Kotlik I don't want to at this point across the formal recommendations of the four Councils, but I do think it would be really important if we very closely look at information and try to seek out more information from Kotlik so that at our next Board meeting we could make a more informed decision on that.

Thank you.

MR. CESAR: I'll second.

CHAIRMAN DEMIENTIEFF: Moved and seconded. Read it again, I'm still -- there were a lot of things that came out in there that -- what was the actual motion?

MS. GOTTLIEB: The motion is to include Stebbins and St. Michael on the C&T. I would also like Kotlik to be further evaluated and studied so we could make a decision on that at the next Board meeting or sooner.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. EDWARDS: Mr. Chairman, I still remain uncomfortable with both options but often times when you have to vote on sometimes, you take the one that you have the least trouble with and I guess I would have to say that I'm less troubled by including all three than I am by excluding one and so for that reason I'm planning to vote nay on the motion.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: I intend to support this motion, somewhat reluctantly. And I would also tend to want to see down the road, additional discussions of conservation measures and I would want to make sure that the Board receives information regularly as appropriate about what conservation measures are going to be employed. Because that's been raised as a significant
issue here and I don't think we can let go of that.

Thank you, sir.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MR. CESAR: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CESAR: I think I had the same reluctance that everybody is having. But I do think that we've established St. Michael and Stebbins and with some work we could have an inclusion of Kotlik and for that reason I intend to vote for the motion.

CHAIRMAN DEMIENTIEFF: Okay. We've got a divided Board, let's go ahead and do roll call if we're ready. Niles.

MR. CESAR: Yes.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Yes.

CHAIRMAN DEMIENTIEFF: Cap.

MR. CAPLAN: Yes.

CHAIRMAN DEMIENTIEFF: Jim. Okay, who else we got there, Taylor.

MR. BRELSFORD: No.

CHAIRMAN DEMIENTIEFF: And Gary.

MR. EDWARDS: No.

CHAIRMAN DEMIENTIEFF: Okay, we got a no.

MR. BOYD: It's up to you.

CHAIRMAN DEMIENTIEFF: I think we'll take a break until tomorrow. Well, let me just say that in casting my vote, we have time until the next fishing season and this is going to be one that we're going to have to put on the front burner here in time to get a regulation on the books for the next season, and in
casting my vote I'm going to insist that that's what we do, and, therefore, I vote no. Now, that does not define my full view on this but it's obvious we have three conflicting Regional Councils, you know, with another one and we know we have a problem and it's just something that we have to address. So by saying -- by voting no, it doesn't mean that I'm -- that that's what my final view will be but we just need -- it's something we need to work on and we need to work on it fairly soon.

MR. EDWARDS: Mr. Chairman, would there be any value in submitting another motion? I have nods so, I, at this point, I am prepared to make a motion that we support the majority of the Staff Committee's recommendation which would include all three of the communities in question under the C&T determination.

CHAIRMAN DEMIENTIEFF: Correct. The motion failed because the first motion was three to three.

MR. EDWARDS: No, I made a second motion.

CHAIRMAN DEMIENTIEFF: Yeah, okay, run that by me again here.

MR. EDWARDS: Mr. Chairman, I make a motion to support the majority Staff Committee recommendation which, it's my understanding, that would include Kotlik along with the other two communities.

CHAIRMAN DEMIENTIEFF: There is a motion.

MR. BRELSFORD: I second that motion.

CHAIRMAN DEMIENTIEFF: Okay. Now, the understanding is is that we're willing to revisit this before next fishing season because we do not want to deprive people of it if they can get together and work out a solution. If that's the case I would be willing to support that motion. But still it's the same understanding, we have work to do out here.

MR. EDWARDS: Mr. Chairman, I also understand that we're also, in addition, seriously look at the conservation issues and see what solutions there are out there to address. Because I think we all recognize that those are real issues that need to be addressed.
CHAIRMAN DEMIENTIEFF: Discussion.

MR. CESAR: Mr. Chairman, I'm utterly confused, my normal state here, so I would like to have the Regional Councils input on this, the home Regional Council. I'm sorry, Grace, the motion is to include three villages, Kotlik, Stebbins and St. Michael.

MS. CROSS: I think that in my books that would be a positive move. I think that it would narrow down the battle, per se and address the local area concerns. There was no other response from any of the other communities that were written to regarding this. And the only response that came out of Kotlik, no other community in the Yukon, no other community in Norton Sound responded to it. In fact the Unalakleet IRA president was at the meeting and he supported the motion -- he supported what Stebbins and St. Michael were doing.

MR. CESAR: Thank you.

MS. CROSS: So the only community that responded to it is the community that's also within the 50mile limit to those rivers and that's Kotlik.

MR. CESAR: Thank you, Mr. Chairman. If I may, I knew that Judy had me confused, it really wasn't me. But now that I've had that cleared up I intend to support the motion.

CHAIRMAN DEMIENTIEFF: Again, the commitment doesn't change. We are going to take a look at what is requested on this end to look at the conservation issues and then take a further look with the rest of the Regional Councils. So that's not going to limit -- and we're going to do it in time to get a regulation on the books before next summer so nobody will be disenfranchised, Harry, but we're going to take another look at it again.

Okay. Further discussion.

MR. CESAR: Question.

CHAIRMAN DEMIENTIEFF: Been called for. All those in favor, signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Well, let's see now. Northwest. We've got Northwest Arctic as our next region.

(Pause)

CHAIRMAN DEMIENTIEFF: Are you ready?

MS. H. ARMSTRONG: Thank you, Mr. Chair, we're ready. The next proposal is Proposal 4 with the Northwest Arctic. Proposal 3 was withdrawn. That's in Tab E in your book. My name is Helen Armstrong, I'm a cultural anthropologist with the Fish and Wildlife Service, Office of Subsistence Management.

This issue was brought forward last year so most of you are probably familiar with it and I know it's been discussed at length with lots and lots of people over the past two years. Proposal 4 was submitted by the Northwest Arctic Regional Advisory Council and it requests that when taking whitefish or pike in the Kotzebue area the season be extended from June 30th to July 15th within the Kobuk River drainage and to October 31st in the Selawik River drainage. Additionally, the proposal requests an increase in the maximum length of gillnets from 60 to 100 feet. What had been proposed last year was asking for the ability to put nets completely across the streams and sloughs in that area and this was a customary and traditional use practice that had been done, you know, for many, many centuries, probably, and it was approved by the Board.

The proposal only affects the Kobuk and Selawik River drainages and the Federal lands are those portions of the Kobuk River within the Kobuk Valley National Park and the entire Selawik River, which is within the Selawik National Wildlife Refuge. The communities that are affected by this proposal as far as we know, there has been some mapping that was done for non-salmon subsistence uses, those communities that are in those areas that I just mentioned that have mapped non-salmon uses are Ambler, Selawik, Noorvik and Kiana. The communities of Shungnak, Kobuk and Buckland did not have mapped non-salmon use areas in Federal waters and we didn't have any mapping for Kotzebue. So those are the areas that were affected.
The proposal that came before you last year, Proposal 39, only had a limit of 60 feet and originally when we discussed it with the Council it was felt that that was probably enough. The primary practice is probably 10 to 30 feet but we had some discussions at the Council meeting and decided to up it to 60 feet because there were some people who had nets that were longer. However, at the Council meeting that was discussing this just prior to -- I actually -- no, the Council meeting where they were discussing it prior to the Board meeting last year, they had some discussion that there were some people who had nets as long as 100 feet, so they -- but they decided rather than at that sort of late date, adding the 100 feet in they would wait and make a new proposal this year.

In addition, there was a meeting of the Kobuk Lower Advisory Committee meeting in November of 2000, just before the Board meeting, and people at that meeting also discussed the season date changes and the length of feet and they felt that in Noorvik there were eight families who used nets up to -- that were much longer and they're actually in sloughs that are like 200 feet wide, so in Noorvik they felt they needed the longer nets. In Selawik, we knew there were a few families where people needed the longer nets, up to 100 feet, in the other communities people felt that 60 feet was plenty long enough. So there weren't a lot of people who needed the longer nets, just in those two communities of Noorvik and Selawik.

And in terms of the harvest dates, people at that Lower Advisory Committee meeting did feel that the dates needed to change, that the season dates that we'd come up with originally weren't quite adequate and that because sometimes the weather, the summer months might be a little bit warmer, sometimes they're colder, that they needed to have a larger window of time and so they were in support of extending it until July 15th on the Kobuk River and then on the Selawik River extending it from -- all the way to October 30th because sometimes freeze-up came later.

The effect of this proposal, since there are not a lot of families probably wouldn't be a huge impact but it would affect those families who are using the longer nets and they did need the longer seasons. We didn't feel like there would be any impact on salmon and sheefish because they're not in those small slow moving sloughs and creeks and streams and so there wouldn't be
an impact on that. That was something that the
biologists talked a lot about, was concerns about the
impacts on salmon and sheefish by putting the nets
completely across the stream. There was a real concern
from fisheries biologists, this is something that's just
not done, you just don't put nets completely across
streams, so we talked about it at length and we --
because there's not much information on whitefish to
begin with, it's our recommendation that if this proposal
passes there should be additional research done to
eliminate some of those concerns that fisheries
biologists have. We need to have information on
migratory behavior, harvest locations, number of fishers,
size and length of gillnets, seasons and influence of
this practice on other species. We're hoping that
perhaps in the next couple of years there could be some
data collected. At this point in time we don't have any
indication that there's a conservation concern for
whitefish or pike but we also don't have the data. But
just in terms of people who are out there fishing, there
hasn't been any evidence of that.

This is a customary and traditional
practice, it's been done a long time. And we tried
really hard to try to accommodate that practice and until
we get some further research, which, you know, we felt it
would be -- it probably would be okay to go forward with
this analysis.

I wanted to say that last week, because
of our shutdown of the Internet, Bert Griest had been
trying to email me because he did collect some additional
information which I only got yesterday and so because it
was so late when he gives his Regional Council
recommendation he's going to provide some additional
information to support some of this. And it's just
unfortunate we didn't get it any earlier but I'm really
grateful that he actually did do a little bit of
cultural/anthropological field work and collected some
data for us.

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

CHAIRMAN DEMIENTIEFF: Thank you.
Summary of written public comments.

MS. B. ARMSTRONG: There are no written
public comments, Mr. Chairman. Thank you.
CHAIRMAN DEMIENTIEFF: Thank you.
Department comments.

MR. VINCENT-LANG: Thank you, Mr. Chairman. I guess the Department is some of those biologists that have some biological concern with this. The Department does not support the Staff Committee recommendation for this proposal. Whitefish in this area migrate from wintering areas in Hotham Inlet in the Kobuk River to summer feeding areas often located in seasonally productive sloughs and lake complexes connected to the rivers by small channels and streams. In the fall whitefish migrate from summer feeding areas to the main river where sexually mature fish move to spawning areas. In mid summer, large numbers of whitefish are not available at channel openings because they are already in summer feeding areas. Mid summer, July and August, also is the time other fish, such as chum salmon are migrating upriver to spawn. These are the primary reasons why whitefish effort is concentrated during the spring and fall.

No justification is given for increasing the time the sloughs or creeks in the Selawik area can be completely blocked by nets to extend throughout the summer. In fact, several references in the Staff analysis suggest that this method of fishing occurs primarily during the spring and fall. Extending the season throughout the summer and increasing the length of gillnets opens the area to the potential overharvest of non-targeted species. The regulation passed last year increased the risk to local stocks of whitefish and poke and this regulation takes it one step further. Although there is some concern for non-targeted species in all fisheries, our main concern with this proposal is it's potential for short and long term impacts on local stocks of whitefish on which local residents have depended upon for generations.

Subsistence fishermen in the Kuskokwim River area have reported concerns about the stock status of local populations of whitefish which suggest that localized impacts may, in fact, occur.

Allowing whitefish nets to block more than one-half the width of a stream risks localized depletion of whitefish stocks and violates the principles of sound fisheries management. Increasing the length of the gillnets, allowed, compounds the biological risk. There is a real risk of serious long term depletion of
local whitefish populations that could adversely affect subsistence users now and into the future. Since locations near villages are most heavily fished, these areas would most likely be the most seriously impacted. There are also the areas that are most dependent upon by those who cannot easily travel long distances to satisfy their subsistence needs.

While adoption of this proposal might benefit some users in the short term, it violates principles of sound fisheries management and may place local stocks of whitefish at risk and may be detrimental to the satisfaction of subsistence needs in the long term.

Finally, it does not appear that there was any monitoring of the 2001 fishery to determine what the impacts of these new regulations may be. It is incumbent upon Federal agencies to monitor the harvest and health of the fish stocks where this fishing activity is allowed to determine if there are any adverse impacts.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Regional Council comments.

MR. GRIEST: Mr. Chairman, the Regional Council supported the motion with....

CHAIRMAN DEMIENTIEFF: Bert, could you hang on one second.

MR. GRIEST: Pardon?

CHAIRMAN DEMIENTIEFF: Could you hang on one second. I forgot to note for the record that there were no additional requests for public testimony. I'm sorry, go ahead.

MR. GRIEST: The Regional Council supported it with modification. First of all, while Selawik's got -- within the Selawik National Wildlife Refuge which includes part of the Kobuk Delta, the Fish and Wildlife Service did an aerial survey count of the lakes and they counted 97,000 lakes and more than half of them are in Selawik. And then you could go from lake to lake for a couple weeks and still not go to the same place, you know, over again. And all our families usually have dog team and we really use the fish. We
have -- my own family has four fish camps, depending on what species you're going after.

We've been fishing this way ever since I know. And when I was coming down, I surveyed 14 families and most of these people are large family fishing, they all have -- most of them have camps, fish camp, permanent summer fish camps. The oldest one I surveyed, she just stopped fishing last summer, she was born in 1925. Most of them were born in the 1930s, they're 50, 60 -- 60-year old people who go fishing in fish camps, they bring in their, you know, grandkids and showing them how to do the work and are working. And it's continuing. But there seems to me, less super amount of fishing that we used to do, like for our dog teams because we only got a couple of dog teams left in Selawik now. So when we go check our nets, usually you'll get two, three, four tubs, you know, just over night and we're always checking, they're pretty healthy.

Raymond Stoney made the motion to support this and I seconded the motion with the understanding that we can aggregate two nets equal to something like 200 feet. And so we did continue conversations or deliberations on the motion and it passed. However, after I thought about it I called for a clarification and when I did the survey with the major families that are so actively fishing, they average out to about four nets per family, they have 100 foot nets. And for Selawik, a 100 foot net is pretty standard, it's a standard, just right, that's what most of the families have anyway, 100 foot nets.

And so when I read the motion, it was kind of like confusing so what I'd like to do is ask for kind of like confusing so what I'd like to do is ask for and the language be made clearer and the language would read, you may use a gillnet at any one site that does not exceed 100 feet in length with mesh size of two and a half to four and a half inches. You must check your nets at least once in every 24 hours.

Chairman Demientieff: Thank you. Staff Committee.

Mr. Simmons: Thank you, Mr. Chair. The Interagency Staff Committee recommended adopting the recommendation of the Northwest Arctic Regional Advisory Council which modified the proposal to add the restriction of one net and prohibit the aggregation of 50 nets. For the record, the recommended changes to the

Justification of the Staff Committee recommendation is that the proposal should be supported with the modification of a limitation of one net, thus prohibiting stacking nets and potentially causing conservation concerns.

The proposed changes to the season would accommodate variations in the times when the ice goes out in the region or when freeze-up occurs. It is not anticipated that longer seasons would cause any biological impacts to whitefish or pike.

Approximately 10 to 12 families from Noorvik and Selawik use longer nets up to 100 feet, thus increasing the net size from 60 feet to 100 feet would accommodate their uses.

The proposed regulation would accommodate the traditional practices of local subsistence users. There is no information to indicate a conservation concern from this proposal, however, research is recommended on whitefish migratory behavior, harvest locations, number of fishers and influence of this practice on other species.

Thank you, Mr. Chair. That concludes Staff Committee comments.

CHAIRMAN DEMIENTIEFF: Board discussion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: I guess I'm trying to ascertain truly what the issue here is. Is the issue blocking streams or really is the issue the length of the nets? I guess I ask that from the standpoint is that next time will there be a request for 120 feet? You know, my experience is is that you can't fish a net any longer than its total length whereas you can fish it shorter. So if you have a slough that's 70 feet across, you can't fish a 60 foot net but you could fish a 100 foot net and cross it. So I'm trying to understand actually what are we trying to do? Are we trying to allow and permit the blocking of streams and sloughs or are we truly trying to get to some kind of an agreed upon
length of net? And then Bert, maybe the other question that you could answer for me, what, you know, traditionally when a net is fished where it does block, let's say a stream or a slough, usually for what kind of length or period of time does that occur?

MR. GRIEST: Most of the fishing that was done is mostly in spring and falltime. But you know what's so interesting is recently the weathers have really cooled down and the main reason we don't fish in the summer is it just gets too warm and the fish spoil. It's not because that they're not around. And so that's the reason why we don't fish in the summertime. But we've been having some very cool summers and most of the fishing has been done pretty much off and on all summer long. The Smith camp, the Mitchell camp, those are there the whole summer.

MR. EDWARDS: Bert, thank you for that. I guess what I want -- Helen, you want to add something?

MS. H. ARMSTRONG: I wanted to answer your question. The proposal is for extending the length of the net from 60 to 100 feet. Last year the Board approved blocking the stream totally so that's not an issue. I mean it is an issue, I know, for a lot of people but that's not what the proposal is, and so the proposal is for extending the length of the net and extending the season.

MR. EDWARDS: I guess by extension that would imply that you could block a stream 40 feet further than you could the year before? But anyway, nevermind that comment. Bert, my question I guess I was trying to get at, what is -- traditionally, how long would a net be left in a stream where it would totally block the stream as part of a normal sort of a fishing season? I mean would you expect that to occur for 30 days in a row or would it occur for five days or is there any kind of a set time frame?

MR. GRIEST: When we had our dog team, we used to do it for at least six weeks. Nowadays we can go out and get what we need in about two to three weeks, depending on when you have your net out and we check the net out every -- every 24 hours. If we need to go some other place, we're going to go hunting or whatever, we'll pull it out temporarily and put it back in when we're back.
CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Yeah, I thought we were beyond this type of a discussion. The answer that Bert gave you right now is an answer you can get from any subsistence fisherman any place. You're going out to fish for what you're going to consume. You know, we're not talking mid-water trawling, we're talking fish to eat. And so what if you block the stream, if there's a limit to what you can catch, what difference does it make how you catch them, you know. Let's be practical. I mean nobody's going to -- nobody wants to jeopardize themself to sound like a criminal every time something occurs in our discussion. But when you go out to provide for yourself to eat, you don't worry about anything else but getting that food to eat. Regulations -- subsistence, I've always maintained is one fisheries that regulates itself. And I'm really distressed at some of the suggestions and the characterizations that occur in responses and different analysis. So you know, if they want to block a stream for a day or two, I don't know how much fish that's going to involve, but you're going after a certain amount of fish and what difference does it make if he can catch it in 15 minutes or in two weeks.

Thank you, Mr. Chairman.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Thank you. As you recall, last year I was very worried about this proposal so I appreciate hearing that there have not been any conservation concerns identified with last years fishing season. Last year we were told nets greater than 60 feet were not common and I see Bert's done some research for us and it's really good information to know that the 100 foot is a common use and I do understand this is a customary and traditional practice. But we were also told last year that Fish and Game as well as the Refuge were going to collect some data and, as has been pointed out, this hasn't occurred so I would request that maybe we insist more strongly that this be done for next year so we have adequate information.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.
MS. GREGORY: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.


CHAIRMAN DEMIENTIEFF: Go ahead.

MS. GREGORY: I want to enlighten Mr. Vincent-Long that because he mentioned the decline of the whitefish in the Kuskokwim area was -- maybe he was indicating that it was due to overharvest. It's not due to overharvest it's because the beaver got abundant in our area and started damming those creeks and even lakes in our -- almost every lake had a beaver dam in it so I stand to correct your information.

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead.

MS. H. ARMSTRONG: It's hard when we both have the same last name. Terry Haynes can correct me if I'm wrong but in response to what Judy was saying, I just wanted to add that ADF&G is doing a harvest survey, I believe of whitefish, Susan Georgette's doing organized but they are proceeding in doing some research. And I think the Refuge also is planning on doing some research but it hasn't happened yet.

CHAIRMAN DEMIENTIEFF: Any other discussion. Is there a motion.

MR. EDWARDS: Mr. Chairman, I would move to adopt Proposal 4 as recommended by the Northwest Arctic Council and the Staff Committee, which would extend the seasons where waters may be obstructed within the Selawik drainage. It would extend the gillnets from 60 to 100 feet and we'll specify that nets cannot be stacked. And in my mind an interpretation of that would mean that nets could not be tied end to end so if you had four or five hundred food nets you could fish all four of them, you just couldn't tie them all together and fish 600 feet.

And I would also, I guess, agree with Judy that we do need to probably ensure that we do not have a conservation issue. I guess just reviewing what
the harvest is may not give us that kind of information
so I do think it's a commitment that ought to be made
that we would further look at that.

CHAIRMAN DEMIENTIEFF: We have a motion,
do we have a second?

MS. GOTTLIEB: Mr. Chairman, may I ask a
question on the motion for clarification and for Bert
also?

CHAIRMAN DEMIENTIEFF: Sure.

MS. GOTTLIEB: Did the Regional Advisory
Council say only one net per site?

MR. GRIEST: Yeah, we agreed that per
site. It's a per site -- one set net.

MS. GOTTLIEB: So if that's part of what
Gary said I would second that.

MR. EDWARDS: Yeah, I guess I'm not quite
understanding. My assumption is if you put a net across
a stream you're not going to put another one immediately
upstream of that but you could fish -- if you had several
nets and you wanted to fish in another area, I mean it
wouldn't be restrictive. My understanding was to prevent
the attaching of one net to the next.

MR. GRIEST: Right. No more than 100
foot per site.

CHAIRMAN DEMIENTIEFF: Further
discussion. All those in favor, please signify by saying
aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed,
same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
We've got one more quick item that we can take care of
today. WSA-01-13 and Dan's going to do that. Forest
Service has assured me that it's only going to take five
minutes. It's in your blue packet, this one here. Go
ahead.
Mr. LaPlante: Mr. Chairman, my name is Dan LaPlante, I'm with the Office of Subsistence Management and I'll be presenting the Staff analysis for a special action 13, this is for a temporary closure of a goat harvest in a portion of Unit 5A, it's an area near Yakutat. The analysis is, as you said, Mr. Chairman, not in your Board book, it's in the blue folder.

This action, if approved by the Board would extend the 60 day emergency closure that the Board approved back on October 16th. This issue is a conservation issue, it's about a goat population in the area between West Nunatak Glacier and the Hubbard Glacier. The harvest in this area has averaged about 2.2 goats in the early '90s, late 1980s and then in 1998 the harvest jumped up to 10 goats and then in 1999 it jumped up to 16 goats and then in the year 2000 after the harvest got to a harvest number of eight, this Board took action to close the season for the remainder of the year. So there's been a significant increase in the harvest in the past three years.

There was no systematic population surveys in the area prior to the year 2000, but since the harvest increased quite a bit, the Department of Fish and Game and the Forest Service in the area conducted a survey in July of 2000 and in that survey they counted 82 goats. The survey resulted in a population estimate of 160 goats approximately and they were using a sightability index of about 50 percent, therefore, the harvest of goats in the year 2000, the harvest of eight was about five percent of the population, assuming the sightability index was correct. The allowable harvest quota is standard of about five percent of the population so that was within some management guidelines.

Another survey was conducted in August of this year in which the biologists observed 53 goats and this was under ideal conditions therefore the assumption is that the population is quite a bit lower than the 160 goats that was assumed the year before so the population trend is down quite a bit. Because of this lower population, the State closed the season this year on October 12th and this Board followed the State action with a closure beginning on October 16th. And again, that closure is good for 60 days which expires on December 15th, the end of this week.

On November 8th a public meeting was held by the Forest Service in Yakutat and approximately eight
members of the public attended, the consensus at that public meeting was to extend the closure through the remainder of the current established season. And the current established season runs through January 31st of next year. There was one concern expressed at the public meeting and that was that this closure not exclude ceremonial harvest opportunities. Then on November 30th of this year, the local biologists conducted another survey and they found 48 goats so that kind of confirmed that the population is trending downward and this was under good observation conditions as well.

So Mr. Chairman, the effects of this closure, or extending this closure would be to provide protection to a declining goat population. Also prior to the closure in October only one permit had been issued so the hunters were able to make other arrangements to hunt in other areas. The remainder of Unit 5A is still open. Again, this closure only includes a small part of 5A between the Hubbard Glacier and the West Nunatak Glacier so there remains additional opportunity for subsistence users for goats in the area.

This proposal does not address the ceremonial harvest provisions that are found in the special provision section of the regulations. Mr. Chairman, I also might add that the Forest Service has recently submitted a proposal to establish a quota system for goats in this area during the current wildlife cycle that we've recently received the proposals for. So in the spring when you're addressing wildlife issues, you'll be receiving a more in-depth analysis of this issue by the local Forest Service biologists.

So Mr. Chairman, that concludes my presentation.

CHAIRMAN DEMIENTIEFF: Thank you.

Department, do you have commentary?

MR. HAYNES: Thank you, Mr. Chairman.

The Department supports this special action request. It's important in this case to keep the State and Federal seasons in regulations in synch.

CHAIRMAN DEMIENTIEFF: Regional Council.

MR. THOMAS: The Regional Council supports.
CHAIRMAN DEMIENTIEFF: Okay. With that we'll advance to Board deliberations. Oh, Staff Committee, I'm sorry.

MR. JENNINGS: Yes, Mr. Chair, Tim Jennings, I'll be giving the Staff Committee recommendation. And that is, to adopt the special action request as recommended by the Southeast Alaska Regional Advisory Council and that would be to extend the closure for that area in Unit 5A draining into Russell and Nunatak Fjords between Hubbard and West Nunatak Glaciers.

And the justification is, as Dan has mentioned in his Staff analysis that a resource conservation concern has been raised. Both Federal and State biologists have determined that the population in the proposed closure area is insufficient to support any further harvest at this time.

And as Dan noted, rural residents can still harvest goats in the remainder of Unit 5A which have higher population densities. Opportunity will remain for hunters in Yakutat to harvest goats within other parts of 5A until the close of the Federal season on January 31.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: I would make a motion at this point, sir, to support the Staff Committee recommendation with respect to area 5A goats, to extend the closure through January 31st, 2002. This motion is based on the need for conservation measures necessary to protect the goat populations.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion?

MR. CESAR: I'll second it, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: You better jump up Niles.
MR. CESAR: And call for the question.

CHAIRMAN DEMIENTIEFF: Bill was looking at you real hard. Question's been called for, all those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Now, I don't know what's going to happen tomorrow we'll just have to play it by ear but we will start at 8:30. We were cruising along real good, you never know when you're going to get hung up. 8:30.

(PROCEEDINGS TO BE CONTINUED)

* * * * *
CERTIFICATE

UNITED STATES OF AMERICA )
)ss.
STATE OF ALASKA )

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

THAT the foregoing pages numbered 2 through 145 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically by Nathan Hile on the 11th day of December 2001, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 19th day of December 2001.

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 4/17/00