

1 FEDERAL SUBSISTENCE BOARD  
2  
3 PUBLIC REGULATORY MEETING

4  
5 VOLUME I

6  
7 EGAN CONVENTION CENTER  
8 ANCHORAGE, ALASKA

9  
10 DECEMBER 11, 2007  
11 8:30 o'clock a.m.

12  
13 MEMBERS PRESENT:

14  
15 Mike Fleagle, Chair  
16 Thomas Melius, U.S. Fish and Wildlife Service  
17 Thomas Lonnie, Bureau of Land Management  
18 Marsha Blaszak, National Park Service  
19 Denny Bschor, U.S. Forest Service  
20 Niles Cesar, Bureau of Indian Affairs  
21  
22 Ralph Lohse - Southcentral RAC  
23 Randy Alvarez - Bristol Bay RAC  
24 Bertrand Adams - Southeast RAC  
25 Sue Entsminger - Eastern Interior RAC  
26 Victor Karmun - Northwest Arctic RAC  
27 Robert Aloysius - Yukon-Kuskokwim Delta RAC  
28  
29 Commissioner Denby Lloyd, State of Alaska  
30 Representative  
31  
32 Keith Goltz, Solicitor's Office

33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44 Recorded and transcribed by:

45  
46 Computer Matrix Court Reporters, LLC  
47 700 West 2nd Avenue  
48 Anchorage, AK 99501  
49 907-243-0668  
50 jpk@gci.net/sahile@gci.net

1 P R O C E E D I N G S

2  
3 (Anchorage, Alaska - 12/11/2007)

4  
5 (On record)

6  
7 CHAIRMAN FLEAGLE: Good morning. I'd  
8 like to call this meeting to order, the Federal  
9 Subsistence Board, December Fisheries meeting. And  
10 we're going to start with introductions, first I'll  
11 introduce myself. I'm the Chairman, Mike Fleagle. I  
12 live here in Anchorage. And I'd like to start with  
13 Board members starting on my right.

14  
15 MR. MELIUS: Mr. Chairman, good  
16 morning. Ladies and gentlemen, my name is Tom Melius.  
17 I'm the Regional Director for the U.S. Fish and  
18 Wildlife Service here in Anchorage.

19  
20 MR. BSCHOR: Good morning everyone. My  
21 name is Denny Bschor. I'm the Regional Forester for  
22 the U.S. Forest Service. I'm stationed out of Juneau.

23  
24 COMMISSIONER LLOYD: Good morning, Mr.  
25 Chairman. Denby Lloyd representing the Alaska  
26 Department of Fish and Game.

27  
28 CHAIRMAN FLEAGLE: Starting to my left  
29 with the attorney.

30  
31 MR. GOLTZ: Keith Goltz, Solicitor's  
32 office.

33  
34 MR. CESAR: Niles Cesar, Bureau of  
35 Indian Affairs.

36  
37 MS. BLASZAK: Good morning, Mr.  
38 Chairman. I'm Marsha Blaszak, National Park Service,  
39 Regional Director stationed here in Anchorage.

40  
41 MR. LONNIE: Good morning. I'm Tom  
42 Lonnie, State Director for the BLM here in Anchorage.

43  
44 CHAIRMAN FLEAGLE: Pete.

45  
46 MR. PROBASCO: Thank you, Mr. Chair.  
47 I'm Pete Probasco. I'm the Assistant Regional Director  
48 for the Office of Subsistence Management.

49  
50 CHAIRMAN FLEAGLE: And would you go

1 ahead and introduce your Staff that are present,  
2 please.

3  
4 MR. PROBASCO: Well, I've got a bunch  
5 of them. I have Larry Buklis who's my deputy sitting  
6 in front. And then in the audience, Gary Goldberg.  
7 Then Steve Klein. Michelle Chivers. Raise your hands  
8 so they know you. Don Rivard. Tom Kron. And then  
9 over here we have Rod Campbell. Diane Ray. Theo  
10 Matuskowitz. Helen Armstrong. Cliff Edenshaw.  
11 Maureen Clark. I think that's it. I probably missed  
12 some, Mr. Chair, but.....

13  
14 CHAIRMAN FLEAGLE: As they are before  
15 the Board we'll make sure they get recognized for the  
16 Board. I'd like to go ahead and recognize the  
17 assistants, or the Staff helpers behind. If you'd  
18 stand up and speak your names loudly please.

19  
20 MR. KESSLER: Good morning. Steve  
21 Kessler with the Forest Service.

22  
23 MR. BERG: Good morning. Jerry Berg  
24 with U.S. Fish and Wildlife Service.

25  
26 MR. JACK: Carl Jack, Office of  
27 Subsistence Management.

28  
29 MS. SWANTON: Nancy Swanton, National  
30 Park Service.

31  
32 DR. CHEN: Glenn Chen, Bureau of Indian  
33 Affairs.

34  
35 MR. ARDIZZONE: Chuck Ardizzone with  
36 the Bureau of Land Management.

37  
38 CHAIRMAN FLEAGLE: Good morning. Now,  
39 I'd like to start with our Council Chairman, starting  
40 over on my left, please.

41  
42 MR. KARMUN: Victor Karmun, Northwest  
43 Arctic.

44  
45 MS. ENTSMINGER: Sue Entsminger,  
46 Eastern Interior.

47  
48 MR. ALOYSIUS: Bob Aloysius, Yukon-  
49 Kuskokwim Delta RAC sitting in for Lester Wilde.

50

1 MR. ALVAREZ: Randy Alvarez, Bristol  
2 Bay.  
3  
4 MR. LOHSE: Ralph Lohse, Southcentral.  
5  
6 MR. ADAMS: Yeah, good morning. Bert  
7 Adams, Sr., Southeast Regional Advisory Council.  
8  
9 CHAIRMAN FLEAGLE: Good morning. And  
10 we have a couple of State assistants at the table,  
11 please introduce yourself.  
12  
13 MS. CUNNING: Tina Cunning.  
14  
15 MR. PAPPAS: George Pappas.  
16  
17 CHAIRMAN FLEAGLE: Okay, Good morning  
18 everyone. Thanks for coming out in this freezing rain  
19 we have going on here in Anchorage, risking life and  
20 property just walking down the sidewalk from the  
21 parking area, if it was anything like mine. I almost  
22 skidded out into the street.  
23  
24 At this time we're going to go ahead  
25 and move forward with the agenda. Corrections,  
26 additions to the agenda. Pete.  
27  
28 MR. PROBASCO: Mr. Chair, the only  
29 corrections that I would note as we move through, and  
30 I'll remind the Board, is Proposal 10, Proposal 10,  
31 based on your actions that you took in September 13th,  
32 that proposal becomes moot. And then when we get to  
33 the Yukon, we would like to take Proposal 14 first,  
34 instead of Proposal 13. We think that will help with  
35 understanding the issue and working through the issue.  
36  
37 So those are the corrections, Mr.  
38 Chair.  
39  
40 CHAIRMAN FLEAGLE: Thank you.  
41 Additional topics of discussion on the agenda, Board  
42 members.  
43  
44 (No comments)  
45  
46 CHAIRMAN FLEAGLE: I'd like to take the  
47 opportunity to welcome three new members to the table  
48 here. The Board members that are joining us, Tom,  
49 Marsha and Tom. And I was asked to remind everybody,  
50 and I think everybody's got the hang of it already

1 before I even had to do it, is to make sure that you  
2 push your microphone on before you speak so that the  
3 court recorder can get our comments on the record. And  
4 I'd like to maybe give an opportunity for the new Board  
5 members, if they'd like, to have a few words. Nobody's  
6 asked me to do this but there's an opportunity, if  
7 you'd like to speak, briefly, before we start the  
8 meeting.

9

10 Thomas.

11

12 MR. LONNIE: Yeah, I'd just like to say  
13 that I'm happy to be here and look forward to the next  
14 three days of proceedings.

15

16 Thank you, Mr. Chairman.

17

18 MS. BLASZAK: Mr. Chairman. I really  
19 appreciate this opportunity as well and I've, you know,  
20 certainly been, I think, heavily involved with my Staff  
21 working through these issues many years, and to  
22 personally participate is going to be even more  
23 rewarding.

24

25 Thank you.

26

27 MR. MELIUS: Mr. Chairman. Like,  
28 Marsha, I have also, having been up here now a little  
29 over a year and a half, going almost towards two years,  
30 I've been pretty involved with issues. The Service has  
31 been represented here by my Deputy so I've been very  
32 involved with issues as they move forward and look  
33 forward to my participation in the Board.

34

35 CHAIRMAN FLEAGLE: Thank you. And I  
36 guess not to exclude other Board members, any other  
37 opening comments.

38

39 Niles Cesar.

40

41 MR. CESAR: I'm not that thrilled to be  
42 here but this is.....

43

44 (Laughter)

45

46 MR. CESAR: .....my 18th year so I'm  
47 looking forward to the day, momentarily, where we can  
48 retire from this.

49

50 Thank you.

1 MR. BSCHOR: Mr. Chair. I've only been  
2 here six years so I'm still thrilled.

3  
4 (Laughter)

5  
6 CHAIRMAN FLEAGLE: Thank you, Denny.  
7 As I. I'd like to offer the opportunity for  
8 Commissioner Lloyd, who is the State's liaison to the  
9 Board, to have a few comments. Commissioner.

10  
11 COMMISSIONER LLOYD: Thank you, Mr.  
12 Chairman. I wanted to welcome the new Federal members  
13 to the operations of the Subsistence Board. And out of  
14 regard, respect and deference to them, I'm happy to  
15 occupy the seat, at least, for a portion of your  
16 meeting this week. As you're aware, normally, we have  
17 Ken Taylor or David Bedford, Deputy Commissioner level  
18 people join you for these meetings. But I thought that  
19 the introduction of the Regional Directors directly to  
20 this process warranted our considered attention. And  
21 I'm happy to see the higher level of Federal attention  
22 and scrutiny to this process.

23  
24 I would like to take the opportunity to  
25 specifically indicate State of Alaska recognizes  
26 subsistence as a priority under State law. And we find  
27 ourselves in a conundrum here in many cases where we  
28 have overlapping jurisdictions and we're dealing with  
29 similar scientific issues with separate scientific  
30 staffs and I think ideally we would all come to similar  
31 conclusions and support the various constituencies in  
32 similar ways, however, it's human nature in some  
33 regards to not always come to those agreements.

34  
35 But I would like the Federal Board  
36 members to recognize that it is the State's  
37 responsibility to provide conservation for fish and  
38 wildlife resources in the State of Alaska and we would  
39 ask that there's an ongoing deference given to the  
40 State's role in providing science and the conservation  
41 -- the science that would help provide the conservation  
42 for those resources.

43  
44 We're also concerned at some levels of  
45 the deference given to some advisory bodies and you've  
46 heard that concern expressed before. We're looking  
47 forward to the Federal Board responding to earlier  
48 requests from the State on the nature of deference  
49 given to, say, for example, the Regional Advisory  
50 Councils, and, you know, we're looking forward to

1 further conversations in that regard.

2

3                   One last point. I would suggest at  
4 least, scrutiny, if not caution, in asserting from this  
5 body regulatory authority outside of the gambit of  
6 Federally-qualified subsistence users. There are a  
7 number of proposals that you will face that will ask  
8 for possible incursion into State managed fisheries and  
9 we do urge you to be cautious in that regard because we  
10 would rather not run afoul of competing interests in  
11 conservation, competing interests in regulating some of  
12 these uses.

13

14                   Thank you, Mr. Chair.

15

16                   CHAIRMAN FLEAGLE: Thank you,  
17 Commissioner, for those comments. At this time we're  
18 going to go ahead and move ahead with the agenda, and  
19 the first order of business today is the Council Chairs  
20 discussion of topics with the -- well, anyway, I'm  
21 going to read some points.

22

23                   The Federal Subsistence Board and the  
24 Council Chairs have had a longstanding practice to meet  
25 to discuss regional and statewide administrative  
26 matters. For several years these meetings were held in  
27 closed session just prior to Board meetings, however,  
28 in 2002 the draft agenda for the Chair's December  
29 meeting included discussion items focused on resource  
30 management concerns. The Board considered that the  
31 Councils are subject to the Federal Advisory Committee  
32 Act and concluded that any resource management  
33 discussions must be held in an open, public meeting.  
34 Therefore, beginning in 2002, the Council Chairs, Board  
35 discussion was included as a part of the regular Board  
36 meeting agenda and most often as the final agenda item.  
37 Sometimes this has resulted in hurried and limited  
38 discussion with all Council representatives not  
39 represented.

40

41                   In an effort to make the Council Chairs  
42 and Board discussion more effective we are now moving  
43 it to the beginning of the meeting. I encourage open  
44 discussion among Council Chairs and between Council  
45 Chairs and Board members. These discussions are part  
46 of an open public meeting. Council representatives are  
47 free to introduce administrative and resource oriented  
48 matters for discussion. However, we ask you to please  
49 keep in mind that the Council Chairs and Board members  
50 should refrain from discussing matters that will be

1 addressed later in the meeting and, that, particular,  
2 to the items before us in the form of proposals. All  
3 interested parties will have an opportunity to address  
4 those items as they are listed on the agenda.

5  
6 And also I'd like to remind that  
7 anybody wishing to participate in the discussion should  
8 still be recognized by the Chair before starting in  
9 their discussions.

10  
11 And, with that, I would like to open it  
12 up to the Council Chairs.

13  
14 First, I want to welcome you all for  
15 coming and agreeing to spend three days with us again,  
16 once again, in Anchorage, to address matters that are  
17 of utmost importance to your subsistence lifestyles and  
18 appreciate you taking the times out of your lives to  
19 participate in the process and to bring your wealth of  
20 knowledge to us.

21  
22 And, with that, I'd like to just open  
23 it up to whoever'd like to lead off, comments.

24  
25 Good morning, Randy.

26  
27 MR. ALVAREZ: Thank you, Mr. Chairman.  
28 I appreciate being here to take part in this, you know,  
29 and express our comments for our region. And our  
30 region is kind of a little bit of turmoil the last year  
31 or two because of the amount of resources that we have,  
32 some people don't feel that it's adequate enough for  
33 everyone. And, you know, we have proposals in and  
34 they'll be coming this meeting and especially game, the  
35 next spring meeting, I believe, May, I think it is.

36  
37 And we're concerned that our  
38 populations, our moose and caribou have dropped to low  
39 levels, and the subsistence users are having a  
40 difficult time to achieve what they normally have been  
41 getting all these years, you know, and we understand  
42 that our number 1 priority for the resource is for  
43 subsistence. It's always been that way. That's all  
44 they've had.

45  
46 So I just wanted to comment that, you  
47 know, we need to protect the number 1 user for the  
48 resource, and I'd like to end there.

49  
50 Thank you.



1 CHAIRMAN FLEAGLE: Thank you, Randy.  
2 Anybody like to respond to those comments.

3  
4 (No comments)

5  
6 CHAIRMAN FLEAGLE: Hearing none,  
7 appreciate that. Other comments. Sue.

8  
9 MS. ENTSMINGER: Thank you, Mr. Chair.  
10 I guess I thought you were going to go around and we  
11 could be real prepared for our comments here.

12  
13 But I would like to speak probably as a  
14 -- I think I need to go back in history. I've been  
15 following the Federal thing since the Antiquities Act,  
16 and then it initially became ANILCA, and saw how  
17 regulations changed for the people in rural Alaska from  
18 the on set and then when this Board took over, how you  
19 had to stay involved if you wanted to be part of this  
20 system and protect your hunting rights. And I just  
21 became the Chair just a year ago, or maybe this would  
22 have been my second meeting, and what I wanted to --  
23 this is going to be really hard for me to bring out.

24  
25 My concerns that I'd like to express at  
26 this meeting are that when you're -- you're the user  
27 out there and you're trying to decide what you can and  
28 can't do, and in game you have these two books, and  
29 then you wonder, where's the land status, and you're  
30 concerned about where the land status is and it's not  
31 that easy to figure out as a user out there.

32  
33 One of our Council members a few years  
34 back, Jeep, was his nickname, pretty short guy, some of  
35 you might remember him, he said we need to have two  
36 canoes, one to go out fishing and the other to carry  
37 all the books so we can figure out what we can do. And  
38 I mean in our area we laugh, too, we think we need a  
39 land surveyor and an attorney and what not to be able  
40 to figure out what we can do out there. And I was just  
41 asking enough questions and I was trying to figure out,  
42 like on the Yukon, fish, and I have to go back and say  
43 that the Eastern Interior is two regions, basically,  
44 it's the Interior -- or the road system and the river  
45 system, and we're uniquely different. And, me, being  
46 the Chair, I have a lot to learn about the Yukon River.  
47 And so I asked a lot of questions, I was saying how  
48 many books do you have to have as a commercial  
49 fisherman. There is one book as a commercial  
50 fisherman. How about personal use, you have another

1 book. And this is the State side. And then you have  
2 this subsistence book for the Federal side. And one of  
3 our members is Amy Wright, she grew up on the Yukon,  
4 she has a lot of relatives on the Yukon, and she said  
5 somehow or another they are figuring out when they can  
6 put their nets in the water and when they can't.

7  
8 But it just comes to me that some of  
9 the issues before us at this meeting is from our  
10 Council, and I'd like to express me, looking at things  
11 in a big picture, that I share some of the concerns  
12 that the State Commissioner has just expressed. If it  
13 keeps getting more diverse, this isn't something we  
14 talked at our Council meeting about, but as I left the  
15 meeting thinking about how we voted on two of the  
16 proposals, I started wondering about the ramifications  
17 of those two proposals. And I don't feel at the  
18 meeting we had that clearly -- we're, you know,  
19 volunteers, so we can't read every bloody book that  
20 comes out there and we're not attorneys so it appears  
21 to me that I feel like we should work really hard to  
22 make life simpler for all of us. And I don't -- you  
23 know, I feel like we're getting too diverse right now  
24 and it's moving on.

25  
26 And I just wanted to express those  
27 concerns to you.

28  
29 Thank you.

30  
31 CHAIRMAN FLEAGLE: Thank you, Sue.  
32 Appreciate those comments. Anybody like to respond,  
33 address.

34  
35 (No comments)

36  
37 CHAIRMAN FLEAGLE: All right, next, we  
38 have Ralph. Good morning, Ralph.

39  
40 MR. LOHSE: Good morning, Mr. Chair and  
41 Board members.

42  
43 It's kind of interesting Denby Lloyd  
44 expressed a concern this morning, that's the same  
45 concern our Council expressed, the only thing it's on  
46 the opposite side of the spectrum which just shows us  
47 our diversity or division or whatever we want to call  
48 it.

49  
50 And I'm going to bring two concerns

1 before the Board that we, as a Council, have mentioned.  
2 And one of them is exactly what Denby was talking about  
3 is due deference to the RAC. And I think due deference  
4 to the RAC, under ANILCA is pretty well defined as to  
5 when the RAC shouldn't be given deference and it's  
6 pretty narrow, it's a pretty narrow definition, pretty  
7 narrow boundaries that the Board has the ability not to  
8 give deference to the RAC. And it's kind of  
9 interesting because there's not very many Councils and  
10 systems that are set up where the actual users, the  
11 actual people that are out in the field, the actual  
12 people who are the consumers of the resource and live  
13 with the resource are given that kind of deference as  
14 has happened in this Federal Subsistence Program. And  
15 I know from talking to a lot of people on our Council  
16 and listening to other Councils, one of the greatest  
17 concerns is that that deference will go away. It's the  
18 only thing that's made this program, what we feel like,  
19 as subsistence users, work, is the fact that  
20 subsistence users actually have a voice in the process.  
21 And so as a Council we've requested that any time due  
22 deference is not given to a RAC's opinion, or advice or  
23 whatever you'd like to call it, that we receive in  
24 writing the reasons why, specifically spelled out, so  
25 that we know what we need to address in the future, and  
26 so we know that the Board has addressed the points that  
27 are in ANILCA that give them the ability not to give  
28 deference to the RAC's recommendations.

29  
30                                   And I really think that that's  
31 important.

32  
33                                   Now, not being an antagonist to the  
34 State and not being anything of that kind, I do  
35 recognize that the biggest fear of the subsistence  
36 users out in the field is that what will happen is a  
37 bunch of number crunchers, sorry, or people sitting in  
38 offices someplace will make the decisions that affect  
39 their life.

40  
41                                   And they really appreciate the fact  
42 that they have an avenue to give the kind of Council  
43 that comes from people that are in the field, and I  
44 know that that Council does not always agree with what  
45 comes across from the State and sometimes doesn't even  
46 agree with what comes across from the recommendations  
47 from the OSM. And so as a Council member and I've been  
48 in this, I guess I've been in this from the start, I  
49 hate to say it, I was appointed on the first go around  
50 and I haven't had the guts to quit yet.

1

2

(Laughter)

3

4

MR. LOHSE: One of these days I'm going to have to. But in the meantime, I've actually -- and my opinion on it has changed. I've actually probably come half circle, I haven't come all the way around, but I have seen the benefits to the little guy that lives out in rural Alaska of the Federal Subsistence Program. And the little guy that lives out in rural Alaska doesn't have much clout in comparison with the changing Alaska that we live in today, the urban Alaska that's growing up around us. The urban Alaska that most of you on the Board live in, or I'll probably say, that all of you on the Board live in. It's really, really hard to understand people who have made choices that, at the same time, looks like it gives them certain benefits when it comes to resource use but those choices also cost them an awful lot of the benefits that the urban user has as far as security, as far as health care, as far as all of those kinds of things, but they've chosen it because they've picked a lifestyle, and to me, the thing that I've come full circle in, is, I recognize that what Congress was trying to do in ANILCA was to protect a lifestyle so that everybody, because it says rural Alaskans, Native and non-Native, could have the dream, the kid in town or out of town could have the dream that they could go and live a rural Alaska lifestyle. Now, we all see that changing, we see the pressure's on it, we see the impacts of access, we see the impacts of economy, we see the impacts of just sheer numbers on that resource, but Congress said that that rural Alaska lifestyle was so important that the game and the fish on Federal land's first priority should be to allow that rural Alaskan lifestyle to continue.

37

38

And it wasn't to continue for 10 years. It wasn't to continue for 15 years. It wasn't to continue until the State became an urban state. It wasn't to continue until the road system got better. It was to continue.

43

44

And that is why, to me, deference to the RAC's recommendations, unless there are concrete reasons, is a very important foundation of this whole system. And that's why, as a Council, we've asked, if you do not give the RAC deference that you provide us specifically, in writing, the reasons why you did not give deference to our recommendations.

1                   And I know that that's -- I know at the  
2 same time that that's just the opposite fear that the  
3 State system has, and that is the fact that you're  
4 taking a bunch of, I'll use myself for an example, no  
5 college degree, rural residents and you're saying that  
6 we should listen to them, and maybe they do know a  
7 little bit about the game and the fish in their area  
8 and maybe as they realize things, they -- when I look  
9 at game and fish, I look at it not for me, I'm 65 plus,  
10 I'm not going to worry about whether I go out and, you  
11 know, kill the biggest moose or the biggest caribou,  
12 but I've got sons and I hope I have grandsons and I  
13 hope I have great-grandsons, and I'm looking at looking  
14 at the resource, how do you have the resource four  
15 years from now, how do you have it 14 years from now,  
16 how do you have it 21 years from now. And most of the  
17 subsistence users that I know have exactly the same  
18 attitude.

19  
20                   I talked to the old people up in Copper  
21 Center, and Gakona and places like that, they're not  
22 worried about it for themselves, they're trying to say,  
23 how do we make this lifestyle available to our  
24 grandchildren, to our great-grandchildren. And in  
25 order to do that you have to have a voice in the  
26 process. And that's where, in ANILCA, the deference to  
27 the RAC's recommendations come in.

28  
29                   And from that standpoint, I'm going to  
30 have to, like I said, take the opposite side of Denby  
31 there, and it's, you know, it's no antagonism, it's  
32 just that I'm looking at it from a totally different  
33 angle. I'm not looking at it as somebody who has a  
34 job, who lives in urban Alaska, who looks at the whole  
35 population, I'm looking at rural residents who live in  
36 rural Alaska and who have made the choices to live  
37 there, some, not for the reasons that they should maybe  
38 but some just because they would prefer to do that than  
39 to have all the security in the world.

40  
41                   But with that comes the opportunity to  
42 participate in things that our Congress thought was  
43 important.

44  
45                   And with that I'll get off my sawhorse  
46 on that one right there and I'll get to another one  
47 that I would sure like to see this Board address  
48 because it comes up time and time again in our  
49 discussions. And this is in our letters and everything  
50 to you.

1                   But the other thing I would like to see  
2 is the Board set up a rulemaking or policy committee or  
3 something, somebody that sits down and kind of comes up  
4 with a definition of what long-term consistent use, or  
5 patterns of long-term consistent use means. Something  
6 that we can put into our, I guess, put into our cud and  
7 chew on, and use to come up with some of the decisions  
8 that we need to make. Now, I know you can't come up  
9 with something that is definitive to State of Alaska in  
10 order to get a resident hunting license, it's 12 months  
11 if I remember right, you have to be a resident in the  
12 state for 12 months if you -- if you go out of the  
13 state for over a certain amount of time you can lose  
14 that residence thing. I'm not looking for something  
15 like that, we're not looking for something like that,  
16 but we want something -- we want something that gives  
17 us a concrete -- well, concrete's the wrong word, gives  
18 us a definitive but not constricting guidelines to what  
19 long-term consistent use is. So that when we deal with  
20 a community that just appeared five years ago, does it  
21 have the same long-term consistent use as a community  
22 that was there 30 years ago, or a 100 years ago or a  
23 thousand years ago; how far do we have to go back for  
24 long-term consistent pattern of use.

25  
26                   And with that I'll open myself to any  
27 questions from any of the Board members, and turn it  
28 back to Mike. Thank you, Mike.

29  
30                   CHAIRMAN FLEAGLE: Thank you, Ralph. I  
31 want to thank you for so eloquently putting it out  
32 there as to what the Subsistence Program means to rural  
33 people because not having lived it, I think it's hard  
34 for some people to really grasp what it truly means and  
35 you stated it really well in the first part of your  
36 discussion.

37  
38                   With that, any comments or further  
39 discussion on Ralph's points.

40  
41                   Commissioner.

42  
43                   COMMISSIONER LLOYD: Mr. Chairman.  
44 Thank you, Ralph. You very well expressed a level of  
45 concern that the State of Alaska really does recognize,  
46 even though I think we're at odds over process. And I  
47 would hope in the future we can achieve a level of  
48 communication that I know you would like to achieve  
49 with us as well so that the State and the Federal  
50 system aren't so much at odds but that we continue to

1 provide the priority that is so valuable to rural  
2 Alaska residents.

3

4 CHAIRMAN FLEAGLE: Anybody else want to  
5 address those topics before we move on.

6

7 (No comments)

8

9 CHAIRMAN FLEAGLE: All right, thanks.  
10 Other Council Chairs who wish to speak. Bob.

11

12 MR. ALOYSIUS: First of all I give  
13 thanks to the Creator for giving us this day. I give  
14 thanks to my ancestors for their knowledge and wisdom  
15 that they have passed on to us. I give thanks to my  
16 grandparents for their teaching with love, patience,  
17 honesty and humor. I give thanks to my parents for  
18 giving me life so that I may learn through the  
19 teachings of my grandparents and apply the teachings  
20 and the life practiced and lived by my ancestors. I'll  
21 give thanks to myself, ourselves for our skills and  
22 abilities to utilize what we learned with our ears, our  
23 eyes, our heads, but most of all I'd like to give  
24 thanks to the youth who give us energy. Our children  
25 who give us visions and dreams. But most of all give  
26 thanks to the infants who give us our spirit and  
27 innocence because they are closest to the Creator.

28

29 We forget that cycle in our daily lives  
30 because we're so hung up on paper that we forget our  
31 roles in life to live, love, learn, understand,  
32 practice, appreciate our role in nature.

33

34 We are responsible for all of our  
35 relations. And I'm not only talking about our  
36 relations to our human, but most of all we are  
37 responsible to take care of the land and the water and  
38 the air where our brothers and sisters fly, roost,  
39 climb, walk, hop, crawl, slither, burrow, swim and grow  
40 on Mother Earth. We are responsible through the  
41 teachings of our ancestors and the practices that they  
42 did so we can assure that our children, and our  
43 children after them and their children after them have  
44 what we so ignorantly take for granted. We never give  
45 thanks. We're so hung up on paper that, you know, I'm  
46 overwhelmed this morning with bureaucracy. I just look  
47 around me and I see it, I mean I can feel it and it's  
48 overwhelming. You have to forgive me because I'm a  
49 very honest person and when I walked in here I was  
50 looking for Native people, not rural people, but people

1 who live out away from the rural areas [sic]. I only  
2 see two people that I know very dearly, that's Harry  
3 Wilde and Ray over there and a guy from Nunam'Iqua who  
4 was here earlier. You know, these are people who know  
5 how to live and have lived a subsistence way of life,  
6 not a lifestyle, but a way of life.

7  
8                   How many of you have really lived a  
9 subsistence way of life, where you go out and you live  
10 with nature, not be close to, but live with nature in a  
11 fish camp from the first time the salmon hit until  
12 freeze-up; how many have you lived in a fall camp  
13 before freeze-up until after freeze-up; how many of you  
14 have lived in a winter camp all during the cold winter,  
15 hunting, fishing, trapping and gathering in the hardest  
16 time of the year; how many of you have lived in a  
17 spring camp where everything is rejuvenated, even your  
18 mind, heart and spirit is rejuvenated watching nature  
19 come back to life? You're not going to find that on  
20 paper. You're not going to find it in the movies.  
21 You're not going to find it in videos or DVDs. The  
22 only way you can experience it is to live it.

23  
24                   So I feel very fortunate that I have  
25 gone through that. And it always bothered me so much  
26 and I voice it -- and I get it over with I voice it, I  
27 say, you know, bureaucracy is killing our way of life.  
28 Whoever is the paper pushers don't understand how hard  
29 it is, in their mind, how hard it is to live out there.  
30 But living out there, it's our way of life and we just  
31 take it one day at a time, and we do it.

32  
33                   And being a person that has lived  
34 through this for the first 17 years of my life, I  
35 really am shocked sometimes when I hear people talk  
36 about subsistence, when they have no idea exactly what  
37 subsistence is.

38  
39                   And I have to say this again to  
40 Jennifer, and if Tim was here I would really commend  
41 them, on coming to our Regional meetings, our Council  
42 meetings and remind us that we are here for our people,  
43 the real subsistence users.

44  
45                   And so, you know, I could go on and on  
46 but, you know, the thing I would like to see is less  
47 bureaucracy and, you know, if I had my way there would  
48 be no non-Native people up there on the Board for  
49 subsistence. Really. Because if I had a Board to  
50 contend with, I want it to be a Board of elders and I



1 mean talking about real elders who have lived, loved  
2 and learned how to be a human being in Bush, Alaska,  
3 being able to hunt, fish, trap and gather in the  
4 natural way, not the paper way.

5  
6 Thank you.

7  
8 CHAIRMAN FLEAGLE: Thank you, Bob.  
9 Appreciate those comments. Anybody.

10  
11 (No comments)

12  
13 CHAIRMAN FLEAGLE: Thank you. Other  
14 Council Chairs. Bert, good morning.

15  
16 MR. ADAMS: Good morning. Thank you,  
17 Mr. Chairman. I'd also like to welcome Tom and Marsha  
18 and Tom to the table. I look forward to working with  
19 you and watching how you operate.

20  
21 I appreciated Mr. Aloysius' comments.  
22 When I first became a member of the RAC in '98 or  
23 somewhere around there our RAC meetings always  
24 coincided with the opening of the moose season in  
25 Yakutat so I wasn't able to go out and hunt like I had  
26 done in the past. I have five sons and taught them all  
27 how to hunt and so it was their job, their duty, their  
28 responsibility to go out and get our moose for us. I  
29 have a very large family so it would take two to three  
30 moose to satisfy our wants for the winter -- or for the  
31 year. And they learned, they learned how to bring home  
32 the game. Maybe there was a couple of years when they  
33 were not successful but here's the thing that I wanted  
34 to express to you, is they, they are now having their  
35 families, raising their children, some of them there's  
36 -- those grandchildren of mine are off to college and  
37 they're learning from their parents the things that my  
38 parents and my grandparents taught me how to live with  
39 nature as Mr. Aloysius referred to, and to hunt and  
40 fish and subsist off of the land.

41  
42 This last hunting season my two  
43 grandchildren got our moose for us. One was 21 years  
44 old and the other one was 16. And their parents took  
45 them out and allowed them to find the moose, to shoot  
46 it, shoot them and of course they helped them bring it  
47 in. But the story is a beautiful one because my son  
48 called it a gentlemen's hunt because he and his other  
49 brothers were out, you know, ahead of the others, you  
50 know, hunting for the moose and if they saw a moose

1 they would get excited and start talking about, well,  
2 who should shoot first and all that, you know. Well,  
3 my two grandsons had a conversation, and one of them  
4 was up on a tree and he looks over at some alder bushes  
5 and he sees four moose out there and he says there's  
6 two bulls and two cows, Steven, you want to come up  
7 here and shoot it and Steven says, no, you shoot it,  
8 you sure, you know, they're real close -- well, they  
9 weren't really close, but they were out there and  
10 Steven says, no, you shoot it, whereas, you know, with  
11 my sons, you know, they would have been, you know,  
12 bickering with one another who should be the first one  
13 to shoot so Jeremiah took his shot and he shot three,  
14 four times and my son and his brother were somewhere  
15 down river and they counted the shots and they were  
16 trying to figure out which one hit, you know, wow, it  
17 sounds like the third one hit so they got their moose.  
18 And then about 20 minutes later there was another shot,  
19 bang, and so they wondered what that was all about so  
20 they caught up, you know, to their boys and low and  
21 behold they approached them and they said they had two.  
22 The thing that was so ironic about this was my youngest  
23 son shot his moose from about 200 yards away with one  
24 shot, and I'm proud to say that he used my rifle that I  
25 helped him sight in.

26

27                   So, you know, in my area, in my family  
28 we teach, we hand down our hunting and fishing skills  
29 to our children and to our grandchildren and we're  
30 hoping that we can do as, Mr. Aloysius, says, you know,  
31 to keep that process going so that our grandchildren  
32 and their grandchildren and their grandchildren will be  
33 able to live the subsistence way of life, you know, for  
34 as long as the grass shall grow or whatever it is that  
35 phrase is.

36

37                   So I wanted to share that story with  
38 you.

39

40                   And I do have some comments that I  
41 would like to make. In fact, if you have all morning I  
42 could probably take it all up but I'll try to make it  
43 short.

44

45                   ANILCA very clearly states and I've  
46 mentioned this over and over again before in other  
47 meetings, that the State of Alaska and the Federal  
48 government has to work together on subsistence issues.  
49 They have to work together in managing those resources.  
50 Work in cooperation with one another. And over the

1 past few years, you know, I have not really seen that  
2 happening because of bucking heads with regulations,  
3 dueling and mirroring and all of that stuff.

4

5 Commissioner Lloyd has said that the  
6 State of Alaska recognizes subsistence as a priority  
7 and I'm happy to hear that coming from, you know, one  
8 of our higher officials in the State of Alaska, maybe  
9 they're changing their ways. But ANILCA also says that  
10 if the State of -- well, the State of Alaska, you know,  
11 has come out of compliance because it has refused to  
12 make subsistence a priority and now we hear a different  
13 story. The State of Alaska, if in compliance with  
14 ANILCA, ANILCA says that it will manage the hunting and  
15 fishing resources in the state of Alaska under Federal  
16 law, in other words, under the conditions that ANILCA  
17 has outlined in that law. So if that's the case then,  
18 you know, we shouldn't have any real problems about  
19 regulations and we really should be working together to  
20 make the regulations fair.

21

22 ANILCA also states that there'll be  
23 more people coming in. They recognized that the  
24 population of Alaska is going to increase and that more  
25 and more of those people will be moving out into the  
26 rural areas. And, you know, it was interesting to note  
27 that during our Chair's meeting, SRC Chair's meeting in  
28 October, I believe it was, Byron Mylot from First  
29 Institute came and was our keynote speaker and the  
30 First Institute had come out with a paper that  
31 addresses Native issues. And the thing that I thought  
32 -- he addressed a lot of things, but the thing that I  
33 thought was interesting about what they -- they did a  
34 survey and this was a result of the survey, and the  
35 thing that I thought was interesting about it, was  
36 that, because of the population increase in Alaska and  
37 more and more people moving out into the rural areas,  
38 that the Native population is going to become diluted.  
39 And I think that's a sad situation and I don't know  
40 whether I want to accept that or even believe it, but  
41 it might come to that, you know, maybe a hundred, 200,  
42 300 years from now. But I think it's a concern that a  
43 lot of Native people are concerned about and they're  
44 bringing it out on the table for us to consider.

45

46 I know that there is a movement to  
47 change ANILCA, to take rural out of it and make it  
48 Native only. I know that's going to be a hard one but  
49 I think that's somewhere in the works.

50

1 I'd like to address our rights here a  
2 little bit. If you look at the Declaration of  
3 Independence, I've always quoted the Constitution or  
4 the Declaration in my previous comments. I believe  
5 that I am pretty well versed, you know, on the  
6 Constitution, not as much as I'd like to, one of the  
7 things I found out is you don't have to be a lawyer to  
8 understand it. I don't think anyone, you know, will  
9 find it difficult to understand if you really sit down  
10 and take the time to study it.

11  
12 Alex DeToqoviel (ph) was a French  
13 economist and political scientist who came over to  
14 America in the mid-1800s and he was commissioned by his  
15 government, the French government to find out why  
16 America became such a powerful and successful nation in  
17 a very short order of time. And he found his answer  
18 when he went into the small communities and rural areas  
19 and the cities of America whereas in the schools the  
20 students were studying the Constitution, they were  
21 tearing it apart and analyzing it and putting it back  
22 together again. And the purpose of that was that if  
23 our Democracy or our Republic was ever threatened that  
24 they would be able to stand up and defend it without  
25 going to war, but it would be through conversation and  
26 reasoning. The founding fathers of this nation were  
27 very wise. And a lot of the principles that they  
28 embodied in the form of our government as it is today  
29 came from the Native Americans structure of government.  
30 Take for instance the Confederate Tribes of the Ariqua  
31 (ph) Nation, they copied that.

32  
33 And so in the Declaration of  
34 Independence it says that we're all created equal in  
35 the eyes of the Creator and that among these are the  
36 protection of our lives, our liberties and our pursuit  
37 of happiness. It also says that when government no  
38 longer does these things then it is our right, it is  
39 our duty, it is our responsibility to either alter or  
40 abolish that government and start a new one based on  
41 those same principles, that is the protection of our  
42 lives, our liberties and our pursuit of happiness.

43  
44 The pursuit of happiness issue is an  
45 interesting one because it's very broad. But in my  
46 studies of the Federalist papers, Democracy in America  
47 and other writers like Thomas Jefferson and so forth I  
48 found out that those -- that pursuit of happiness means  
49 that we have the right to be able to do whatever it is  
50 we want with our lives so long as we don't interfere

1 with other people's rights to do the same thing.

2

3                   And one of those rights is the right to  
4 be able to earn a living. To provide for our families.  
5 And no government or any department of government has  
6 the power or the authority to take that away from us.  
7 So our right to be able to subsist off of our natural  
8 resources is a natural right, therefore, no government  
9 or department of government can take those away from  
10 us; we have that right, it's our natural right.

11

12                   Mark Jacobs, from Sitka, compounded  
13 that so many times as he spoke to the Native people and  
14 people in general. And I actually got that idea from  
15 him, is that, no -- none of those rights can be taken  
16 away from you because it is a natural right.

17

18                   A natural right is something that comes  
19 from nature or it is something that comes, as Mr.  
20 Aloysius alluded to, comes from the Creator. And  
21 because it comes from nature and because it comes from  
22 the Creator it is given to us by those higher law'd  
23 people and as a result it is guaranteed to us through  
24 the people who founded this country, through the  
25 Constitution and the Declaration of Independence.

26

27                   Appreciate this opportunity to have  
28 this Chair's meeting, Mr. Chairman, we put it on the  
29 table last year and, of course, you know, now we are  
30 having it.

31

32                   I'd like to address the issue of RACs  
33 having the ability to do RFRs.

34

35                   I think it was a year or so ago when we  
36 brought the issue of, I think it was rural  
37 determination and Makhnati Island to the table and, of  
38 course, the Board decided that they were going to  
39 combine Ketchikan and Saxman together as one community  
40 which brought their population threshold above the  
41 requirements for being determined as non-rural.

42

43                   I have to say that, you know, the  
44 Council, you know, supported Saxman and that they  
45 should be kept separate. There was a lot of  
46 documentation, you know, indicating that Saxman was a  
47 rural community all by itself but the Board, you know,  
48 decided that they were going to combine them together.  
49 We saw at that very same meeting, Kodiak, who has a  
50 Navy Base near by and they separated the Navy Base from

1 Kodiak and so as a result Kodiak was able to get their  
2 rural determination at that meeting. Same situation,  
3 in my opinion, with Ketchikan and Saxman. The Council  
4 said we were going to challenge that, we were going to  
5 submit an RFR. We went on record at the end of the  
6 meeting saying that we were going to do that and we  
7 were told at that same time that RACs could not do  
8 RFRs. In our meeting in Kake last February, we had a  
9 few of the Council members, we were on a ferry then, we  
10 delegated, you know, three or four of our Council  
11 members to look up that, if there was any evidence, if  
12 there was any RFRs submitted by RACs and, of course,  
13 they found some. And then, you know, we came prepared  
14 in the May meeting to address that issue and I  
15 appreciate, you know, Keith coming to me before the  
16 meeting started saying that we can do RFRs, however,  
17 there was going to be a change in that. We were told  
18 that they were going to make it not possible for RACs  
19 to do RFRs. It's interesting to note that in the  
20 handbook, in the operations manual, rather, we have,  
21 you know, all of these issues, they're numbered and  
22 everything, and then it jumps from 17 to 19, 18 is left  
23 out of there, 18 addressed RAC's ability to do RFRs, it  
24 was taken out for some reason, I don't know why. Maybe  
25 somebody can answer that.

26

27 Another issue, Mr. Chairman, that will  
28 probably -- will, I'm sure going to be addressed at  
29 this meeting is the issue of.....

30

31 CHAIRMAN FLEAGLE: Excuse me, Bert.

32

33 MR. ADAMS: Yes.

34

35 CHAIRMAN FLEAGLE: Just real quickly,  
36 can you just point out where you said that No. 18 is  
37 missing?

38

39 MR. ADAMS: Page 19. Page 19 in the  
40 operations manual.

41

42 CHAIRMAN FLEAGLE: Okay. We'll just  
43 put our fingers on that for after you're done in case  
44 somebody wants to respond.

45

46 MR. ADAMS: Thank you.

47

48 CHAIRMAN FLEAGLE: Thanks, go ahead.

49

50 MR. ADAMS: Okay, and I'm almost done

1 here, Mr. Chairman.

2

3 C&T is going to be another issue among  
4 the Native community. I got wind of this here last  
5 week. You have a letter written by the president of  
6 Central Council, Tlingit and Haida asking for a four  
7 week delay on determining this issue because they felt  
8 that tribes needed to get together and they haven't had  
9 that opportunity to get all of the tribes together to  
10 talk about this issue so they're asking for, you know,  
11 a delay in that.

12

13 Just briefly I'd like to talk about the  
14 Makhnati Island issue subcommittee. The Board asked  
15 for the Council to organize a subcommittee in regards  
16 to the Makhnati Island herring fishery and we did have  
17 that meeting. I want to thank Chuck for putting  
18 together the committee and we had a meeting, oh, I  
19 think it was in September sometime in Sitka. The  
20 subcommittee met, talked about it and one of the things  
21 that -- and, of course, the Council met in Haines a  
22 week or so after that and they adopted the  
23 subcommittee's report. One of the things that popped  
24 out and I didn't realize this until afterwards was the  
25 subcommittee accepted a threshold. It used to be  
26 20,000 before the State would determine whether it was  
27 okay to open up or keep the herring harvest closed. I  
28 think Sitka Tribes, you know, asked for 40,000, they  
29 doubled that and then the committee accepted -- you  
30 know, took in between, I think it was 35, I thought  
31 maybe myself 25 would be more appropriate, but the  
32 Council, in Haines, when they accepted it, didn't talk  
33 about that threshold, so I wanted the Board to know  
34 that we didn't discuss this, you know, in length or  
35 didn't even bring it up as a matter of discussion so  
36 that will be brought up I'm sure a little bit later on  
37 as well.

38

39 Rural determination. We really think,  
40 you know, I mentioned it already, that Saxman should be  
41 separated from Ketchikan.

42

43 Saxman and Ketchikan did submit RFRs  
44 and the Board accepted them. We submitted one as well  
45 but ours wasn't accepted because of the fact that we  
46 were an advisory committee to the Board and therefore  
47 RACs were not allowed to submit RFRs. I addressed this  
48 at our Council meeting in Haines to Mr. Buklis and I  
49 don't -- and my feeling is this, you know, Saxman and  
50 Ketchikan were fortunate that they were able to have

1 people volunteer to come and help them put that  
2 together. There was, I guess, an anthropologist or an  
3 archeologist or someone from the University of Alaska  
4 who was able to do some background work on Saxman. We  
5 had two attorneys -- or they had two attorneys, you  
6 know, assist them. The RAC monitored, you know,  
7 regular teleconference meetings to assist them in  
8 whatever way we could and then when we submitted ours  
9 it got turned down, and my position here, Mr. Chairman,  
10 was that Saxman and Ketchikan were fortunate to have  
11 people, you know, who are willing to step up and help  
12 them with theirs and I think they did a real  
13 outstanding job in submitting a real good quality RFR.  
14 I'm more concerned about other smaller communities,  
15 let's say Hoonah or Kake or Haines who would not have  
16 that ability or the expertise, you know, to protest or  
17 challenge, you know, any regulation that the Board  
18 might adopt and who would be the most logical  
19 organization would they go to for help, I think it's  
20 the RACs, I really do. And, you know, I just really  
21 feel, you know, that they are being short-changed  
22 because of the action that the Board has made in this  
23 regard.

24  
25 Thank you, Mr. Chairman, for taking the  
26 time to listen to us, and look forward to a meeting.

27  
28 Gunalcheesh.

29  
30 CHAIRMAN FLEAGLE: Thank you, Bert.  
31 We're having a brief discussion between the solicitor  
32 and I here about whether we were getting into an area  
33 that borders on substantive deliberative issues versus  
34 Council concerns and discussion and I allowed your  
35 discussion feeling that it was based on an action that  
36 the Board took but I do want to recognize that I was  
37 being cautioned that we were approaching, if not,  
38 crossed the line on the topic. But you raised an  
39 interesting point about how the book was put together  
40 and I'm going to see if I can get an answer to that  
41 without having to hold off for an executive session.  
42 I'm operating under the old book, too, I still have my  
43 2006 book and Item 18 is in there as you said. And  
44 Pete's book is the 2007 and 18 is missing. So I  
45 concur, that that's, in fact, the fact, but maybe Keith  
46 can give us an explanation as to where No. 18 went.

47  
48 MR. GOLTZ: I didn't write it. I  
49 couldn't find it in mine either.  
50



1 CHAIRMAN FLEAGLE: Well, here's mine.  
2  
3 MR. GOLTZ: Larry has an answer.  
4  
5 CHAIRMAN FLEAGLE: Larry.  
6  
7 MR. BUKLIS: Thank you. Mr. Chairman.  
8 Larry Buklis, OSM.  
9  
10 Bert Adams is correct that there was  
11 some discussion back and forth in the spring and summer  
12 regarding the role of Councils and RFRs in the rural  
13 process. And there was differing advice at different  
14 points along the way, he's correct, and we apologize  
15 for that. But in the end we determined that Councils  
16 weren't in a position to submit RFRs, and in the course  
17 of that discussion we indicated that where our existing  
18 operations manual had said that they could, we would  
19 correct that by removing it. Now, that was poorly  
20 executed because we pulled it but didn't resequence the  
21 questions that followed. So you have this odd  
22 situation of a missing number. It was done with intent  
23 but poorly implemented in terms of editing.  
24  
25 I don't know if you want me to speak to  
26 some of the rural content issues or not.  
27  
28 CHAIRMAN FLEAGLE: If it would add to  
29 the discussion.  
30  
31 Board members, any objection.  
32  
33 (No comments)  
34  
35 CHAIRMAN FLEAGLE: Attorney.  
36  
37 MR. GOLTZ: We're very close but we'll  
38 trust Larry.  
39  
40 (Laughter)  
41  
42 CHAIRMAN FLEAGLE: This time.  
43  
44 MR. BUKLIS: Thank you, Mr. Chairman.  
45 Mr. Adams is correct, there was an RFR we've numbered  
46 07-05 submitted from KIC, Ketchikan Indian Community,  
47 which addresses the Ketchikan issue, and he's correct  
48 there's an RFR from Saxman, No. 07-06, which addresses  
49 concerns about Saxman and how it had been grouped and  
50 determined non-rural by the Board.

1                   Just as a correction something was  
2 mentioned about Kodiak and the Coast Guard station, in  
3 fact, the Coast Guard station was part of the grouping  
4 that this Board addressed as a group and I recollect  
5 that the decision hinged on characteristics of the  
6 grouped area. Just to correct the record, Mr.  
7 Chairman.

8  
9                   CHAIRMAN FLEAGLE: Appreciate that.  
10 Thanks, Larry.

11  
12                   Other Board response, comments or  
13 discussion to any of Bert's topics.

14  
15                   Denny.

16  
17                   MR. BSCHOR: Yes, Mr. Chairman. Just a  
18 correction. I believe it goes in line with that also  
19 on the other issue at Ketchikan and Saxman. Ketchikan,  
20 as I recall did exceed the population criteria without  
21 Saxman, if I'm not mistaken.

22  
23                   CHAIRMAN FLEAGLE: Thank you. Other  
24 comments. As long as we're not going to go into  
25 debate, Bert, I'd welcome your comments.

26  
27                   MR. ADAMS: Thank you, Mr. Chairman.  
28 I'm not going to start a debate, I'm going to start a  
29 thought.

30  
31                   (Laughter)

32  
33                   MR. ADAMS: It was my understanding  
34 that Ketchikan was pretty close to the threshold, you  
35 know, there's some documentation about that but I just  
36 want to bring that up as a matter of interest as well.

37  
38                   Thanks.

39  
40                   CHAIRMAN FLEAGLE: Appreciate that.  
41 Okay. I have a couple of Council Chairs that haven't  
42 had an opportunity -- well, one, Victor, would you like  
43 to share any comments with us.

44  
45                   MR. KARMUN: Northwest Arctic, thank  
46 you. Probably the biggest concern for the resource up  
47 there is the price. Twenty years ago there used to be  
48 200-plus permits in use in Kotzebue Sound, now there's  
49 only about 50 or 60. You could make a very good living  
50 back then fishing. Now, you can barely pay for your

1 gas. I think it's the price of fuel, who knows. But  
2 what the fishermen are asking, for the lack of protein  
3 around the world, how come they're not getting a better  
4 price. Plus the back haul out of Kotzebue, the  
5 distance or whatever, probably eating up a lot of the  
6 profits. But it's not for the lack of quality or  
7 quantity, I have no idea what -- being as I'm not  
8 really involved with that fishery anymore.

9

10 Anyway, that's about all I could get  
11 from the rest of the Council members, the fishermen I  
12 talked to.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: Thank you, Victor.

17

18 Other comments.

19

20 MR ALVAREZ: Mr. Chair.

21

22 CHAIRMAN FLEAGLE: Randy.

23

24 MR. ALVAREZ: Thank you, Mr. Chair.

25 Can I ask a couple of questions that came up?

26

27 CHAIRMAN FLEAGLE: Yes.

28

29 MR. ALVAREZ: Has the amount necessary  
30 for subsistence changed ever? You know the reason why  
31 I ask this is that is there any figures written down  
32 anywhere that is necessary in the regions? You know, I  
33 had the opportunity to attend the State Board meetings  
34 and it's in statute that what's necessary for Bristol  
35 Bay for subsistence fish, it's in statute, and I was  
36 wondering if there's anything similar in the Federal  
37 side that states that. And also it came up, you know,  
38 that it's probably going to change, and one of the  
39 reasons I say that is population, and also as Victor  
40 said, fuel. My son recently went to visit a friend up  
41 on the Kobuk River and he said fuel up there was \$8.25  
42 a gallon. People having to revert back to dogs. Well,  
43 dogs, you have to feed them and the traditional food is  
44 fish, so it's probably going to be -- you know that can  
45 revert back to more necessary like it used to be.

46

47 And also at what level do the user  
48 groups -- are able to harvest a resource? And, you  
49 know, one of the reasons why I say that is because in  
50 our region the North Peninsula Caribou Herd in 9C and

1 9E, we can no longer harvest them for the -- you know  
2 it's been five or six years. Before that we were on  
3 Tier II. But, you know, I don't like -- I don't think  
4 we should -- it's in anybody's best interest to go that  
5 way, that route, there should be -- from the way I  
6 understand ANILCA, it says that when the resources get  
7 low other user groups will cease being able to use the  
8 resource.

9  
10 Well, last year we had submitted a  
11 proposal restricting moose hunters, we asked for a  
12 corridor along some of the rivers and creeks that the  
13 locals, because they use skiffs mainly to harvest and  
14 we were not -- apparently it was because the resource  
15 wasn't considered low enough and my question is what  
16 number do we go by? How does that -- how do we know  
17 when it's reached that threshold, the resource.

18  
19 And, Mr. Chair, that's kind of my two  
20 questions right there, you know, what level the  
21 resource is at and then is there any amounts necessary  
22 written down anywhere.

23  
24 Thank you.

25  
26 CHAIRMAN FLEAGLE: Thank you, Randy.  
27 We'll see if we can get answers for you. Pete.

28  
29 MR. PROBASCO: Thank you, Mr. Chair.  
30 Mr. Alvarez. The ANS amount that you refer to, that is  
31 a numbers or ranges that you find in State regulations,  
32 the Federal program has subsistence use amounts but we  
33 do not have at this time numbers in our regulations.  
34 As we deal with what constitutes an action by the Board  
35 dealing with the Board's responsibility to meet  
36 subsistence needs, it's based on our process, primarily  
37 the Council. The Board's charge is first to address  
38 conservation concerns for that resource, followed by  
39 meeting the subsistence needs of rural residents.

40  
41 And so it's through this process,  
42 working with the Councils, the public determining if  
43 the subsistence resource -- or the resource is adequate  
44 to meet the subsistence needs.

45  
46 Mr. Chair.

47  
48 CHAIRMAN FLEAGLE: Okay. So to jell  
49 that down, we don't have it listed in regulation as the  
50 State does but we do use numbers that are somewhat a

1 moving target based on the circumstance at the time,  
2 case by case, almost, Pete.

3

4 MR. PROBASCO: That's correct, Mr.  
5 Chair. And, Mr. Alvarez, I know is very familiar with  
6 the State regs as well and I think he was looking at do  
7 we have something similar as far as numbers in the  
8 Federal regs.

9

10 Mr. Chair.

11

12 CHAIRMAN FLEAGLE: Thank you. How  
13 about for question two, Keith.

14

15 MR. GOLTZ: No. I was going to talk  
16 about something else.

17

18 CHAIRMAN FLEAGLE: Okay, well, go  
19 ahead, chime in with what you have.

20

21 MR. GOLTZ: All right. Now, that we're  
22 done. This is a public session but it's not a full  
23 public session. So what that means under FACA is that  
24 we are limited in the topics we can talk about and  
25 we're supposed to be focusing on administrative and  
26 procedural matters, which I think is the bulk of what  
27 we have done. But we have to be careful, I think, that  
28 we don't get into substantive matters in a session  
29 where the public doesn't have the right to come forward  
30 and make their comments.

31

32 And I think it would be easiest to  
33 think of it as, in terms of specifics. When you're  
34 drawing on a specific example before the Board, it's  
35 probably not going to be appropriate for this session.  
36 But when you're dealing with the broader questions of  
37 what the regulations look like or how the RAC really  
38 functions in this process, then I think we're on solid  
39 ground.

40

41 CHAIRMAN FLEAGLE: Thanks, Keith. But  
42 that just raises in my mind, and maybe in the Council's  
43 Chair's minds a further question of when is that  
44 opportunity provided to the Council Chairs to share  
45 those concerns that they have with either past Board  
46 actions or Board, you know, Board's change and Board's  
47 philosophies tend to change with it sometimes and, you  
48 know, there might be some valid concerns to a little  
49 more than just administrative.

50

1  
2 MR. GOLTZ: Well, is the question is  
3 focused on a particular issue that should be during the  
4 regular Board agenda. If there are other kinds of  
5 small questions that deal with day to day operations,  
6 that's what we have the coordinators for. And if  
7 there's something that falls between those cracks, then  
8 we have our annual reports.

9  
10 What we should not be doing, is, in a  
11 restricted session, talking about specific concrete  
12 issues.

13  
14 CHAIRMAN FLEAGLE: Okay, Keith. Point  
15 well taken. But from the Chair's perspective, I  
16 appreciate the open discussion that you guys brought  
17 before us and since we're not taking any action at this  
18 meeting, I appreciate hearing your concerns. And, Bob,  
19 I hope that we're not just going further down this  
20 bureaucracy trail by having that little discussion. I  
21 hear your comments as well.

22  
23 Do we have other Council Chairs that  
24 want to add any final comments before we go on break.

25  
26 Sue.

27  
28 MS. ENTSMINGER: Yeah. I just want to  
29 alert the Board that I'm only here today, and the vice  
30 Chair will be here on the Eastern Interior for the  
31 proposals. I felt like I didn't have the adequate  
32 information on the fisheries so I felt that the vice  
33 Chair did. I will be in town and it meant a lot to me  
34 to be here for these concerns, and I appreciate that  
35 you guys, and our Staff allowed it that I could be here  
36 for this, and he would be here for the rest of the  
37 meeting.

38  
39 CHAIRMAN FLEAGLE: Thank you, Sue.  
40 Ralph.

41  
42 MR. LOHSE: Mr. Chair, I'd like to ask  
43 Keith a question.

44  
45 CHAIRMAN FLEAGLE: Yes.

46  
47 MR. LOHSE: Now, from what I understand  
48 we can bring up actions of the Board as long as we keep  
49 them in the general and not relate them to a specific  
50 proposal that's been on the table or something like

1 that. I'm trying to think of, like, in the case of  
2 Southcentral's, what I wanted to bring up for  
3 Southcentral, the due deference question. As long as  
4 we apply that to the general actions of the Board on  
5 the broad scale, that's fine. If I would specifically  
6 limit that to an action on a proposal, I would be out  
7 of line, am I correct?

8

9 MR. GOLTZ: I think that's correct. I  
10 think your statement was a good one. I concur with it.  
11 I enjoyed listening to it. But if this becomes sort of  
12 a private a lobby session where the public or other  
13 adverse parties don't get a chance to fully speak then  
14 it probably is not in full compliance with FACA and  
15 that's the line I'm trying to avoid.

16

17 I think you did very well.

18

19 MR. LOHSE: Well, thank you, Keith. I  
20 wasn't thinking whether I did well or not, I just  
21 wanted to have that clarified as far as all of us are  
22 concerned, is that, we can bring up types of actions  
23 but we shouldn't apply them specifically to a specific  
24 proposal or specific place, but the type of action is  
25 okay.

26

27 MR. GOLTZ: Right. The words as I  
28 recall them, I don't have them with me, but I think  
29 it's administrative and procedural. And it became very  
30 important during the Safari Club litigation, the charge  
31 was that the RACs were getting an extra shot at the  
32 Board that the public couldn't equal, and that's the  
33 impression we're trying to avoid. And it seems to me  
34 that as long as you're not bringing up and pounding on  
35 specific issues, action items that either have come  
36 before the Board or will come before the Board, you're  
37 going to be okay.

38

39 MR. LOHSE: Thank you, Keith. Thank  
40 you, Mr. Chair. I'll just throw in one other thing.  
41 It was interesting listening to my neighbor here talk  
42 about his grandson's hunting with his rifle.

43

44 It's kind of interesting because in our  
45 family we have the same kind of tradition, my boys all  
46 got their first deer with the same rifle that their  
47 uncles got their first deer, that their grandfather got  
48 their first deer and that their great-grandfather got  
49 their first deer, so their first deer was shot with a  
50 rifle that was over 100 years old. And currently

1 today, my son's are hunting with -- my oldest son has  
2 got his grandfather's pre-64 model 70 and he's hunting  
3 with that and my middle son's got a 93 year old man who  
4 kind of adopted us, his rifle, and he hunts with that,  
5 they're both 30.06 pre-64s and my youngest son hunts  
6 with the rifle that I've had since 1963. And I  
7 currently don't have a rifle.....

8

9

(Laughter)

10

11 MR. LOHSE: .....because my son's have  
12 them. And that's what I kind of think of as this idea  
13 that he was talking about. The fact that we're not in  
14 it for ourselves, this is something that you're trying  
15 to hand down to the next generation and you hope it  
16 hands down to the next generation after that, then the  
17 generation after that.

18

19

20 And while I recognize the fact that  
21 there are people who have been here in Alaska for  
22 thousands of years, that also is part of our -- that's  
23 also part of our rural cultural that extends all over  
24 the United States. It's part of why, to me, ANILCA,  
25 while it's very important for the Natives in Alaska,  
26 it's also important for the non-Natives in Alaska. And  
27 I'll always stick up for the Native's rights, but I  
28 also have to, at the same time, stick up for rural  
29 Alaskans, because I really think that that lifestyle is  
30 important, that it's there, whether somebody makes use  
31 of it or not, it's important that it's there for the  
32 health and -- the mental health and well-being of our  
33 whole nation.

33

34

And I'll let it go at that. Thank you.

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

CHAIRMAN FLEAGLE: Are you still  
enjoying it.

MR. GOLTZ: I'm still enjoying it.

CHAIRMAN FLEAGLE: Oh, good.

(Laughter)

CHAIRMAN FLEAGLE: Okay, I have a  
couple of hands. I was going to call a break and I  
think we're just crossing over the threshold for a good  
break time. We'll continue the discussion when we come  
back, I got two hands, Randy and Bert. And, Pete,



1 before we go on break, got an announcement, go ahead.

2

3 MR. PROBASCO: Thank you, Mr. Chair, and  
4 I'll make this very quick. It's obvious we have a lot  
5 of public that are here that would like to testify on  
6 the issues before the Board and there may be some  
7 confusion on the Board's process.

8

9 I have a lot of cards here that are  
10 proposal, specific, our next item on the agenda, our  
11 Chair will be calling for comments on issues that are  
12 not on our agenda, so if you turned in a card that's  
13 proposal specific, I will purposely hold that until  
14 that proposal is called to the table. We do have some  
15 people that want to testify on issues that are not on  
16 the agenda and that will be the appropriate time, when  
17 Mike calls that, which is every morning at the  
18 beginning of the meeting.

19

20 So, thank you, Mr. Chair.

21

22 CHAIRMAN FLEAGLE: Thank you, Pete.  
23 And basically that's the public's opportunity to  
24 address the Board on just whatever the global issues of  
25 the program are.

26

27 MR. PROBASCO: Uh-huh, that's correct.

28

29 CHAIRMAN FLEAGLE: Thank you. And we  
30 will open that opportunity as soon as we complete this  
31 discussion and that opportunity will be made available  
32 at the beginning of each day.

33

34 Pete.

35

36

37 MR. PROBASCO: And the last thing I  
38 wanted to note is that we've had some comments, and I  
39 appreciate the comments, both by phone and email, my  
40 Staff has put together all comments received both prior  
41 to the comment deadline and those received after so the  
42 Board has before them, all actual written comments that  
43 have been received. And actually the Board has  
44 received many of these when they were submitted but  
45 there were some received here most recently that are  
46 also included in this packet. So if you're out there  
47 and have written comments that you submitted to our  
48 office, the Board now has them before them.

49

50 Thank you, Mr. Chair.

1 CHAIRMAN FLEAGLE: Thank you, Pete.  
2 With that the Board will stand down for 15 minutes.

3  
4 (Off record)

5  
6 (On record)

7  
8 CHAIRMAN FLEAGLE: All right, we're  
9 going to go ahead and reconvene, resume. We're  
10 continuing Council Chair discussions, and I have Randy.  
11 Randy, you're up next.

12  
13 MR. ALVAREZ: I guess my question  
14 didn't come out the way I wanted it to. I was  
15 wondering how is it determined at what level can the  
16 Board restrict other user groups because that would  
17 also determine when we could send in a particular  
18 proposal. And I only mentioned a proposal from the  
19 past because it was not -- it was against ANILCA so we  
20 had to reject our own proposal. But, you know, is  
21 there -- how is that determined?

22  
23 CHAIRMAN FLEAGLE: Thanks, Randy.  
24 Keith, you got a response.

25  
26 MR. GOLTZ: Larry might want to help on  
27 this, but normally, in the past, it's been determined  
28 by context. OSM, or sometimes the InterAgency Staff  
29 Committee will put together a report that analyzed the  
30 request and relates it to the resource and the people  
31 involved. That goes through our process and if the  
32 Council recommendation is rejected, it's rejected on  
33 one of three points, which we discussed here earlier,  
34 and you should be getting a letter back explaining why  
35 it was rejected.

36  
37 Ralph, I thought did a very good job of  
38 outlining the RAC process and how it works, in theory.  
39 In practice, however, it's a matter of negotiation, and  
40 we don't get to that hit, the Staff goes to the  
41 Council, and the Council gives input to the Staff and  
42 if you go back and total things up you'll find that the  
43 vast majority of our recommendations are accepted as  
44 modified through that process. And I think that's the  
45 way ANILCA was designed to work.

46  
47 MR. ALVAREZ: Thank you.

48  
49 CHAIRMAN FLEAGLE: Thank you. Bert.

50

1 MR. ADAMS: Thank you, Mr. Chairman.  
2 You know when I raise my hand to say something you're  
3 going to have to get to me right away otherwise I might  
4 forget what it was all about.

5  
6 (Laughter)

7  
8 MR. ADAMS: Luckily enough I kind of  
9 wrote it down here. Get one of those Bert Adams, Sr.,  
10 moments, you know.

11  
12 But what I wanted to add to my previous  
13 comment was the First Institute, you know, when they  
14 went out and did this survey among Native communities,  
15 one of the questions was who would you rather have  
16 manage the resources than the State, the Feds or the  
17 State, and a majority of the answers were the State,  
18 and I thought that was interesting and I just wanted to  
19 leave it on the table here for food for thought,  
20 because ANILCA, as I mentioned earlier, does provide  
21 for State management of the resources, you know, under  
22 Federal law, or under the conditions of ANILCA. And,  
23 you know, this is what I think is an interesting  
24 comment coming from the Native community. I don't know  
25 whether they feel that way or not yet, you know, a lot  
26 of things have changed after AFN Convention and, you  
27 know, after further discussion I understand from the  
28 Native communities, but at that time I thought it was  
29 interesting that they came out with that observation.

30  
31 Thank you.

32  
33 CHAIRMAN FLEAGLE: Thank you, Bert.  
34 Comments.

35  
36 Commissioner Lloyd.

37  
38 COMMISSIONER LLOYD: Well, thank you,  
39 Mr. Chair. I've actually been very heartened by the  
40 discussion I've heard this morning from the RAC Chairs,  
41 and I just wanted to make the suggestion to add to a  
42 couple of things that I've heard so that we can, or you  
43 can as this Board more clearly articulate your  
44 operating principals and the constituents and  
45 associated governments can best understand the  
46 directions that you take under the programs that you're  
47 implementing.

48  
49 So, for example, Mr. Alvarez, did  
50 mention the notion of ANS, which is, you know, the

1 amount necessary for subsistence under State rules but  
2 a similar process has been suggested on the Federal  
3 side with the subsistence use amounts and we've asked  
4 in the past, we, the State of Alaska have asked in the  
5 past that consideration be given to that kind of  
6 process on the Federal side so that people can  
7 understand what's being expected, what criteria would  
8 be used to subsequently then look to restrict other  
9 uses. And I would commend this Board to more in detail  
10 articulating its procedures, whether it's determining  
11 customary and traditional uses or subsistence use  
12 amounts or other attributes of the program like that.

13

14 Thank you.

15

16 CHAIRMAN FLEAGLE: Thank you,  
17 appreciate the comments.

18

19 Other comments. Okay, Bert, go ahead.

20

21 MR. ADAMS: One more short one. You  
22 know, the last couple years that I have been coming to  
23 these meetings, I talk to, you know, some of the Board  
24 members and I make it clear to them that, hey, I'm a  
25 State's rights person, I think that the State has  
26 certain rights and one of them is to manage the  
27 resources within State jurisdiction and most all of the  
28 Board members that I talk to, you know, I'm not going  
29 to mention names say, yeah, I agree, I agree that  
30 should be. So, you know, my commission here or my  
31 thought here is that all the State needs to do is come  
32 in compliance with ANILCA and they could have it.

33

34 But, you know, talking to Commissioner  
35 Lloyd here, he wanted to know how he could go through  
36 that process and make it happen, the bottleneck is in  
37 the Legislature, you know, all of the Governors that  
38 we've had in the past have said that they would like to  
39 see the State manage those resources but for some  
40 reason or another the Legislature just won't allow it  
41 to happen so that's where we need to go, I think, to  
42 make the changes. If that's what the people want. I  
43 am a State's rights person. I believe the State has  
44 certain responsibilities, you know, and if you want to  
45 put the proper roles of government in their proper  
46 orders, the Feds have their duties have their duties  
47 and responsibilities, the states and the locals and  
48 tribal governments and so forth, you know, all fall  
49 into place, they just need to be working together and  
50 doing their proper roles.

1                   They all have different roles. And  
2 sometimes, you know, the Feds are taking too much of  
3 those responsibilities and it's because people ask for  
4 it, but if you want the governments to really fall into  
5 compliance, with what they really ought to be doing, I  
6 don't know how to accomplish that but it's something  
7 that needs to be thought about and how we can make it  
8 happen.

9

10                   Thanks.

11

12                   CHAIRMAN FLEAGLE: Thank you, Bert.

13 Keith.

14

15                   MR. GOLTZ: I'm, with Niles, I've been  
16 here from the beginning of this program, which is now  
17 almost 18 years and I'm not that thrilled to be here  
18 either. But during that whole period of time, it's  
19 always been the Department's position that this program  
20 is best managed by the State of Alaska, and that's  
21 still our ultimate goal, is to return subsistence  
22 management to the State of Alaska.

23

24                   CHAIRMAN FLEAGLE: And my understanding  
25 was when this Board was first formed, it was under the  
26 idea that it was a six month temporary job and now  
27 we're at 18 year temporary.

28

29                   MR. GOLTZ: Yeah, that's what we  
30 thought. That's correct.

31

32                   CHAIRMAN FLEAGLE: It's taken the  
33 bureaucratic-ship a long time to respond to the rudder  
34 to come up with everything that will be perfect. I  
35 don't know if they'll ever get there.

36

37                   Larry.

38

39                   MR. BUKLIS: Thank you, Mr. Chairman.  
40 Council Chair Alvarez, Commissioner Lloyd and Solicitor  
41 Goltz had some comments about closures and adjustments  
42 with numbers and the Council role. I wanted to point  
43 out to the Board and the Chairman and Council Chairs  
44 and others, that the folders before you have two  
45 documents in them. One is the closure policy that the  
46 Board adopted August 29th of 2007, which lays out an  
47 approach to closures. And, secondly, are the Board  
48 meeting guidelines, updated, effective that same date  
49 because we factored in the consequent linkage to your  
50 meeting guidelines from the closure policy. And

1 specifically on Page 5 of the meeting guidelines, the  
2 decision discussion gets into the Council role and some  
3 of the points that were being raised there.

4

5 Thank you, Mr. Chairman.

6

7 CHAIRMAN FLEAGLE: Thank you, Larry.  
8 And that's before the Board members in whatever color,  
9 peach color, or whatever that is, folder, and that's  
10 available to the public out in the lobby.

11

12 MR. BUKLIS: If not, we can make it  
13 available, Mr. Chairman.

14

15 CHAIRMAN FLEAGLE: Would you repeat  
16 that.

17

18 MR. BUKLIS: If not, we can make it  
19 available, yes.

20

21 CHAIRMAN FLEAGLE: Okay, thank you.

22

23 MR. PROBASCO: It's available.

24

25 CHAIRMAN FLEAGLE: Okay, Theo's giving  
26 the thumb's up, it's available if anybody wants those  
27 two documents that Larry refers to.

28

29 All right, that concludes our  
30 discussion with Council topics and I do appreciate the  
31 discussions that were brought before the Board,  
32 heartfelt, meaningful, and I think very important for  
33 the Board to hear.

34

35 That opens our first public comment  
36 period of the day and I'm going to hand it over to Pete  
37 for what we're up to.

38

39 Pete.

40

41 MR. PROBASCO: Thank you, Mr. Chair.  
42 And as I said earlier today, if some of you have  
43 submitted a yellow card that's proposal specific and  
44 have to leave early, please let the lady out front at  
45 the table know that and then I'll work with our Chair  
46 to see if we can make adjustments to allow the  
47 opportunity for you to testify. I have one person that  
48 would like to testify on issues that are not on the  
49 agenda, and that is Merle Hawkins.

50

1 CHAIRMAN FLEAGLE: Okay, we have a  
2 person, we have a table with a microphone, and for  
3 testimony please push the button to turn the microphone  
4 on and state your name for the record and please  
5 confine your comments to about five minutes.

6  
7 Thanks.

8  
9 MS. HAWKINS: Good morning. My name is  
10 Merle Hawkins. I'm representing Ketchikan Indian  
11 Community. I'm the tribal council secretary. I'm also  
12 a member of the Southeast Regional Advisory Council on  
13 subsistence, and did attend the Haines meeting where a  
14 lot of the proposals are being brought forth at this  
15 meeting.

16  
17 But I wanted to talk about the  
18 operations manual, which I know is not a very popular  
19 subject, but it's very upsetting for me as a  
20 representative of the people that I represent for  
21 something like this to happen. When we went to Haines,  
22 we were given the revised 2007 Regional Advisory  
23 Council Operations Manual and as was stated by our  
24 Chair of the Southeast RAC, they took out Section 18  
25 which regards if the Federal Subsistence Board rejects  
26 a recommendation, is the Regional Advisory Council work  
27 over, the response was not necessarily. If the Federal  
28 Subsistence Board rejects a recommendation the Council  
29 may choose to appeal the Board's decision through the  
30 request for reconsideration process. The Board may  
31 also defer action and send the proposal back to the  
32 Council requesting further input and information.

33  
34 I think what's most upsetting is the  
35 way it was handled.

36  
37 And also in the management regulations  
38 for subsistence harvest of fish and shellfish on public  
39 lands and waters in Alaska, this is effective April  
40 1st, '07 through March 31st, '08. Page 3 it talks  
41 about the Federal Subsistence Board and says the  
42 Federal Subsistence Regional Advisory Councils, State  
43 of Alaska representatives and the public play an active  
44 role in the regulatory process. And it's kind of hard  
45 to do that when they change the rules right in mid-  
46 stream or where it's unclear what exactly the rules  
47 are.

48  
49 And also I wanted to agree with some of  
50 the comment that Sue made about how complex all of

1 these things are. When I have people at home getting  
2 cited for going out and digging clams that don't  
3 realize they have to have a State fishing permit -- or  
4 a license -- and I think we can all do a better job at  
5 educating people on what's allowed and what's not  
6 allowed. I also have a lot of people at home getting  
7 cited for selling seafood and so I think it's  
8 important, these are very complex regulations and it's  
9 a very challenging job and position, and I did bring a  
10 junior Council member so I can continue to educate  
11 people and make sure that -- because I'm pretty new at  
12 this myself, so continue to teach people and learn how  
13 to jump through all the hoops that we have to go out  
14 and get our fish and game and wildlife, seafood and  
15 everything else that we need.

16  
17 So I thank you for being here and thank  
18 you for listening to me. And I will testify later  
19 about the Ketchikan request for reconsideration.

20  
21 CHAIRMAN FLEAGLE: Okay, thank you,  
22 appreciate the comments. Questions, Board members.  
23 Keith.

24  
25 MR. GOLTZ: I agree with Sue, too, and  
26 I told her during the break that if I could write my  
27 own job description, I would sit down and work on these  
28 regulations, State and Federal so that they were clear  
29 and understandable to the public. It's an enormous job  
30 and it's one that simply hasn't been funded. But I  
31 certainly concur that it makes things more difficult  
32 than they really would have to be.

33  
34 As to the missing No. 18. I think that  
35 is somewhat remarkable that we couldn't at least  
36 renumber them, but we didn't. The change is clear.  
37 And there are really two reasons for it.

38  
39 One, is because of our other  
40 regulations. If you look at the request for  
41 reconsideration section, it says the request for  
42 reconsideration can be filed by an aggrieved party and  
43 it's hard to conceive of a Regional Advisory Council as  
44 an aggrieved party.

45  
46 The second thing is that the Councils  
47 are not designed to operate as advocates. They're an  
48 objective part of the process. They filter public  
49 comments, they come to a decision, that decision is  
50 then brought before the Board and we have a process for



1 dealing with that decision. If it's rejected, then  
2 there's another process for notifying the Council of  
3 that rejection. Ralph has altered us this morning that  
4 perhaps we need to be better about responding to the  
5 Council in case of rejection but that is the process  
6 and that is the way it's supposed to work.

7

8 CHAIRMAN FLEAGLE: Thank you, Keith.  
9 Appreciate your testimony. Thank you.

10

11 Pete.

12

13 MR. PROBASCO: That's it, Mr. Chair.

14

15 CHAIRMAN FLEAGLE: All right, that  
16 concludes the first public comment period for non-  
17 agenda items. We now move to the public comment period  
18 on consensus agenda items, including both the Fisheries  
19 Resource Monitoring Plan and Subpart C and D regulatory  
20 proposals.

21

22 And by way of introduction for the 2008  
23 Draft Fisheries Resource Monitoring Program. The  
24 Fisheries Resource Monitoring Program was implemented  
25 in 2000, this is the ninth plan up for consideration  
26 and approval by the Federal Subsistence Board.  
27 Projects funded by the Monitoring Program provide  
28 critical information for Federal subsistence  
29 management. The more than 300 projects that have been  
30 funded through the Monitoring Program since the  
31 inception of the program include a broad geographic  
32 disciplinary and species and focus. The purpose of the  
33 presentation is to present the funding recommendations  
34 on the 30 projects included as part of the Draft 2008  
35 Plan so that we, as the Board, can consider these  
36 recommendations and vote in support or not of said  
37 recommendations.

38

39 As far as process for the Federal Board  
40 addressing the 2008 Draft Monitoring Program goes,  
41 first we'll announce the Monitoring Program consensus  
42 agenda by directing you to Page 9 which lists each of  
43 the 28 projects, for which there is consensus on  
44 whether or not it should be funded. As described on  
45 Page 9 the consensus agenda includes recommendations  
46 to fund 23 of the 30 projects in the amount of  
47 approximately 2.1 million. There's also consensus on  
48 not funding five of the projects. After that, Steve  
49 Klein, Chief of Fisheries Division, will provide an  
50 overview of the 2008 Draft Monitoring Program and then

1 following Steve, Polly Wheeler, Chief of the  
2 Anthropology Division, will present the two projects  
3 for which there was not consensus. Then we will look  
4 for a motion on the two non-consensus items after I  
5 invite any further comments from the public, affected  
6 Regional Advisory Councils and ADF&G. Then we'll come  
7 back to the consensus agenda, looking for a motion  
8 after we have addressed the two non-consensus agenda  
9 items.

10

11 And with that we're going to go ahead  
12 and turn it over to Staff, which are seated and ready  
13 to address this. Good morning, Steve and good morning  
14 Dr. Wheeler.

15

16 MR. KLEIN: Good morning, Mr. Chair.  
17 Dr. Wheeler and I are happy to bring to you the Draft  
18 2008 Monitoring Program this morning. It begins on  
19 Page 5 of your Board books and it continues until Page  
20 126 with an executive summary on Page 6. I know we  
21 have some new Board members so I'll probably go into a  
22 little more detail but I'll try to be brief.

23

24 The mission of the Monitoring Program  
25 is to provide information needed to better manage  
26 subsistence fisheries on Federal public lands. And not  
27 only is the information used to manage fisheries but  
28 it's also used for many of the regulatory proposal  
29 analysis that you'll be going over, over the next  
30 couple of days.

31

32 So the projects that we fund with this  
33 program and there's about 70 to 80 every year, it  
34 includes weirs, for example, to estimate abundance of  
35 salmon, it includes harvest surveys where we're getting  
36 qualitative and quantitative harvest information and it  
37 also includes traditional ecological studies.

38

39 For 2008 most of the projects that will  
40 be in the water next year, they've already been  
41 approved by the Board when you went through this  
42 process in 2006 and 2007, most of the projects were  
43 funding -- or approved for three years of funding.

44

45 If you look on Page 8 of your books  
46 there's a listing of what we call continuation  
47 projects, and those are a listing of 43 projects that  
48 will be operating next year that you've previously  
49 approved and those total about \$3.8 million for the 43  
50 projects.

1                               So after we account for the prior  
2 funding commitments we had about \$2.1 million available  
3 for the 2008 Monitoring Program. which is before you  
4 today. We actually began developing that plan over a  
5 year ago, we released our processes, it's a  
6 competitive process where we release a request for  
7 proposals and that was done in November of 2006. We  
8 really try to make our RFP, our request for proposals  
9 focused on the highest priority information needs so  
10 Staff develop -- identify what the priorities are for,  
11 in this case, for 2008, we review it within OSM. We  
12 also have a Technical Review Committee that reviews it  
13 and we really use those priority information needs to  
14 drive the proposals that we receive. And for 2008 I  
15 think we were very successful in that 22 of the 30  
16 projects you'll be considering today did specifically  
17 identify priority information needs in the RFP.

18  
19                               In response to our RFP we received 54  
20 research proposals totaling \$5 million so that was  
21 about two and a half times the amount of available  
22 funding. The proposals, which is generally a two page  
23 kind of concept proposals, they were reviewed by fish  
24 biologists and anthropologists within OSM, as well as  
25 the Technical Review Committee. And the Board has  
26 given us four criteria to really look at for  
27 prioritizing projects and those include strategic  
28 priority; addressing issues important to the  
29 Subsistence Management Program. A second criteria is  
30 technical merit, we want to make sure it's  
31 scientifically sound in terms of what becomes before  
32 you. A third criteria is investigator availability, we  
33 want solid performers that are implementing the  
34 projects. And then the fourth criteria the Board gave  
35 us was partnership and capacity building, where mostly  
36 these projects either involve a Federal or State entity  
37 or sometimes just a tribal entity but you really have  
38 strong partnerships and also we're giving higher  
39 priority to projects that include capacity building.

40  
41                               I've mentioned the Technical Review  
42 Committee several times. I think that's a very, very  
43 important part of the process. The TRC members are  
44 listed on Page 7 of your book and it includes three  
45 scientists from the State as well as seven Federal  
46 members. Most of those members have over 20 years of  
47 experience, and that TRC, by having a mix of expertise  
48 in State and Federal and different perspectives, I  
49 think it really makes a science driven program.

50

1                   So the TRC reviewed the 54 proposals  
2 they received in March of 2007 and we recommended 34 of  
3 those proposals for investigation plan development.  
4 And we have a two tiered process. I mentioned the  
5 proposals are really a concept proposal. The  
6 investigation plan really provides detailed  
7 descriptions of the methods, the objectives and how the  
8 information from the project can be applied to  
9 management.

10  
11                   For those we received 30 investigation  
12 plans in this second stage and those, again, went to  
13 the Technical Review Committee, they recommended those  
14 30 projects and recommended funding for 23 projects  
15 totaling the \$2.1 million that's available.

16  
17                   So that's kind of the science behind  
18 the Draft 2008 Monitoring Plan. But another important  
19 step is we take it out to the Councils and the Councils  
20 review our recommendations, the recommendations from  
21 the TRC and offer their perspectives on the priorities.  
22 During the Council review, the Councils supported the  
23 TRC recommendations for all but two of the  
24 investigation plans considered for 2008.

25  
26                   And then finally the last step is the  
27 InterAgency Staff Committee and they reviewed it last  
28 month. They reviewed both the TRC and Council  
29 recommendations and recommended funding all projects  
30 supported by the TRC.

31  
32                   So as you pointed out, Mr. Chair, the  
33 consensus agenda includes 22 projects that are  
34 recommended for funding and by consensus we mean it has  
35 the support of both the science body, the TRC, the  
36 Councils and the InterAgency Staff Committee.

37  
38                   There were also six projects not  
39 recommended for funding by all three bodies. All of  
40 these are identified on Page 9 of your Board books and  
41 then following that you have summary tables on Pages 12  
42 to 19 that kind of summarize these 30 projects that we  
43 looked at, it both summarizes them overall first and  
44 then we looked at it by region. For example, the  
45 Northern Region, the Yukon Region, the Kuskokwim  
46 Region. So those summary tables are on Pages 12 to 19.  
47 And then after that we have kind of an overview of the  
48 Monitoring Program followed by regional overviews and  
49 project specific summaries beginning on Page 25.

50

1                   Before I turn the floor over to Polly I  
2 want to really thank the OSM Staff and the Technical  
3 Review Committee for their efforts in, I think, really  
4 developing a scientifically sound Monitoring Plan for  
5 2008. I'd especially like to thank Ben VanAlen and  
6 Terry Suminski with the Forest Service who kind of  
7 stepped in and assisted us at the Staff level and  
8 really helped us develop the plan for the Southeast  
9 Region. And I'd also like to thank the Councils for  
10 their input into the Monitoring Plan and I think having  
11 their support for the information we're collecting is  
12 also critical to the program.

13

14                   So now I'll turn it over to Polly and  
15 she'll discuss the two non-consensus projects.

16

17                   CHAIRMAN FLEAGLE: Thank you, Steve.  
18 Before we go there real quickly, are there any Board  
19 questions for Steve's report.

20

21                   (No comments)

22

23                   CHAIRMAN FLEAGLE: Polly.

24

25                   DR. WHEELER: Thank you, Mr. Chair.  
26 Good morning Federal Subsistence Board members,  
27 Regional Council members and State of Alaska  
28 representatives.

29

30                   As described by Chairman Fleagle I'm  
31 going to present the two Fisheries Resource Monitoring  
32 Program projects up for consideration as part of the  
33 2008 Plan for which there was not consensus. You can  
34 find short descriptions of the two projects as well as  
35 the Technical Review Committee, the various RAC  
36 recommendations and the recommendations of the  
37 InterAgency Staff Committee on Pages 10 and 11 in your  
38 books.

39

40                   The two projects are 08-103, the Kobuk  
41 River Sheefish Spawning and Run Timing Project and 08-  
42 150 the Nuiqsut Baseline Fish Harvest Assessment. As  
43 you might surmise both projects are in the Northern  
44 Region, and it should be noted that funding for the  
45 Northern Region is somewhat limited. It constitutes  
46 about five percent of the total funding available  
47 through DOI to the Monitoring Program. So while there  
48 were three projects total up for consideration in the  
49 Northern Region funding limitations only allowed for  
50 one of those projects to be funded.

1                   The priority list of projects in the  
2 Northern Region can be found on Page 29 in your books.  
3 As you can see, if you flip to Page 29, the Kobuk River  
4 Sheefish Project is the top project in the Northern  
5 Region and the Nuiqsut project is at the bottom of the  
6 three projects.

7  
8                   Project 08-103 the Kobuk River Sheefish  
9 Spawning and Run Timing Project involves the deployment  
10 of radiotelemetry to document spawning frequency,  
11 timing and location along with post-spawning migration  
12 of sheefish in the Kobuk River. It addresses an  
13 important subsistence sheefish fishery associated with  
14 numerous Federal public lands including Gates of the  
15 Arctic, Selawik National Wildlife Refuge, Kobuk Valley  
16 Wilderness Area and Kobuk Valley National Park. The  
17 proposed project is technically sound and the  
18 investigators are well qualified to conduct the work.  
19 This project provides fundamental information needed to  
20 manage and sustain subsistence fisheries that target  
21 these stocks.

22  
23                   The Northwest and Seward Peninsula  
24 Regional Advisory Councils supported the Technical  
25 Review Committee recommendation to fund this project.  
26 The North Slope Regional Advisory Council did not  
27 primarily because they wanted to see the Nuiqsut  
28 project funded. The InterAgency Staff Committee  
29 supported the Technical Review Committee recommendation  
30 to fund this project.

31  
32                   As far as Project 08-150 the Nuiqsut  
33 Baseline Fish Harvest Assessment project goes, this is  
34 a two year project which aims to collect and synthesize  
35 detailed information on the subsistence harvest of all  
36 fish by the residents of Nuiqsut. While the project  
37 investigators are highly qualified to do the work and  
38 they proposed a solid collaborative project with good  
39 capacity building, the research plan had some  
40 unresolved technical challenges that we certainly did  
41 try to address between the proposal and the  
42 investigation plan stage but didn't get there. A major  
43 problem with that project is that the application to  
44 Federal subsistence fisheries management was not  
45 articulated, rather investigators focused primarily on  
46 development impacts. As a result the Technical Review  
47 Committee did not recommend this project for funding.  
48 Both the Seward Peninsula Regional Advisory Council and  
49 the Northwest Arctic Regional Advisory Council agreed  
50 with the Technical Review Committee and did not

1 recommend this project for funding. The North Slope  
2 Regional Advisory Council disagreed with the TRC  
3 recommendation feeling strongly that this project  
4 should be funded. And as I said there was only  
5 sufficient funding in the Northern Region to fund one  
6 of the three projects.

7

8 The Staff Committee supported the  
9 Technical Review recommendation to not fund this  
10 project as well.

11

12 Mr. Chair.

13

14 CHAIRMAN FLEAGLE: Thank you, Polly.  
15 All right. Pete, do we have any written public  
16 comments or public testimony for these issues.

17

18 MR. PROBASCO: Mr. Chair. I have one  
19 person that is signed up, wasn't specific but would  
20 like to comment on the Draft Fisheries Resource  
21 Monitoring Plan and it's Mr. Darrel Williams.

22

23 CHAIRMAN FLEAGLE: Okay, I guess we're  
24 going to hold off on that then. Right now we're  
25 looking for just action on 103 and 150, specific.

26

27 MR. PROBASCO: Mr. Chair. I have no  
28 public comments signed up for that.

29

30 CHAIRMAN FLEAGLE: Okay, thanks.  
31 Further comment from the Department of Fish and Game on  
32 those two proposals.

33

34 MR. PAPPAS: No comment, Mr. Chair.

35

36 CHAIRMAN FLEAGLE: Thank you, George.  
37 Polly already provided recommendations of three of the  
38 affected Subsistence Regional Advisory Councils in her  
39 overview. Do any of the representatives of the other  
40 Councils have anything to add to our understanding of  
41 those projects, Proposals 103 and 150.

42

43 Council Chairs.

44

45 (No comments)

46

47 CHAIRMAN FLEAGLE: Hearing none, thank  
48 you. I'm now looking for a motion from the Board to  
49 support the Technical Review Committee's  
50 recommendations to fund Project 08-103, which is the

1 Kobuk River Sheefish Spawning and Run Timing and also  
2 to not fund Project 08-150, the Nuiqsut Baseline Fish  
3 Harvest Assessment as provided in our documents that we  
4 have.

5

6 Go ahead, Marsha.

7

8 MS. BLASZAK: Mr. Chair. I'd like to  
9 move that we adopt the recommendation of the Northwest  
10 Arctic and Seward Peninsula Subsistence Regional  
11 Advisory Councils to support the funding of Project 08-  
12 103, the Kobuk River Sheefish Spawning and Run Timing  
13 project.

14

15 And following a second I'll speak more  
16 to this motion.

17

18 CHAIRMAN FLEAGLE: Thank you, for the  
19 motion.

20

21 MR. MELIUS: Mr. Chair, I'll second  
22 that motion.

23

24 CHAIRMAN FLEAGLE: I have a second. Go  
25 ahead, Marsha, please.

26

27 MS. BLASZAK: While this motion is  
28 consistent with the recommendations of the two Councils  
29 I just mentioned, it is counter to the recommendation  
30 of the North Slope Subsistence Regional Advisory  
31 Council. Unfortunately the North Slope Council did not  
32 address the merits of its recommendation.

33

34 I would add that this motion is also  
35 consistent with the recommendations of the Technical  
36 Review Committee, which ranked this project the highest  
37 priority of the three Northern Region projects  
38 evaluated for funding in 2008.

39

40 I believe the proposal is technically  
41 -- the proposed work is technically sound, it addresses  
42 an important subsistence sheefish fishery associated  
43 with Federal public lands and the results of the work  
44 should provide key information needed to manage and  
45 sustain subsistence fisheries that target these stocks.

46

47

48 I will be supporting this motion.

49

50 Thank you, Mr. Chair.



1 CHAIRMAN FLEAGLE: Other deliberation.  
2  
3 (No comments)  
4  
5 CHAIRMAN FLEAGLE: I'd just like to add  
6 to the discussion that the North Slope RAC's  
7 recommendation to fund is based not on the project  
8 itself but the intent to have projects that more  
9 directly impact their region.  
10  
11 Other discussion.  
12  
13 (No comments)  
14  
15 CHAIRMAN FLEAGLE: Are we ready for the  
16 question.  
17  
18 MR. MELIUS: As the second to the  
19 motion, Mr. Chairman, I intend to support it. It  
20 basically was the review of the TRC and OSM that  
21 indicated that this Proposal 103 was indeed the one to  
22 be supported and we'll see in the future with others if  
23 they come back taking care of those technical  
24 difficulties.  
25  
26 Thank you, Mr. Chairman.  
27  
28 CHAIRMAN FLEAGLE: Thank you, Tom.  
29 Further discussion.  
30  
31 (No comments)  
32  
33 CHAIRMAN FLEAGLE: Are we now ready for  
34 the question.  
35  
36 Question is recognized.  
37  
38 Pete, would you please poll the Board,  
39 go ahead, 103.  
40  
41 MR. PROBASCO: Thank you, Mr. Chair.  
42 Final action on the Monitoring Plan to fund Project 08-  
43 103. Mr. Cesar.  
44  
45 MR. CESAR: Aye.  
46  
47 MR. PROBASCO: Mr. Bschor.  
48  
49 MR. BSCHOR: Aye.  
50

1 MR. PROBASCO: Mr. Melius.  
2  
3 MR. MELIUS: Aye.  
4  
5 MR. PROBASCO: Ms. Blaszak.  
6  
7 MS. BLASZAK: Aye.  
8  
9 MR. PROBASCO: Mr. Fleagle.  
10  
11 CHAIRMAN FLEAGLE: Aye.  
12  
13 MR. PROBASCO: And Mr. Lonnie.  
14  
15 MR. LONNIE: Aye.  
16  
17 MR. PROBASCO: Thank you, Mr. Chair.  
18 The motion carries six in favor.  
19  
20 CHAIRMAN FLEAGLE: Thank you, Pete.  
21 Now, we're ready for a motion on 08-150.  
22  
23 (No comments)  
24  
25 CHAIRMAN FLEAGLE: The Chair can't  
26 move.  
27  
28 MR. MELIUS: Mr. Chair. I would move  
29 forward a motion that we not fund 150. I believe that  
30 the -- as indicated earlier by Staff that there were  
31 technical difficulties with this particular proposal.  
32 I would encourage that maybe in future years those will  
33 be taken care of, but right now I would not support  
34 that particular project, and would hope that there'd be  
35 a second to that motion.  
36  
37 MR. LONNIE: I'll second that motion,  
38 Mr. Chairman.  
39  
40 CHAIRMAN FLEAGLE: Thank you. We have  
41 a motion and a second. And I'd like to just add to the  
42 discussion that we also have two of the three Regional  
43 Advisory Councils that would be affected in this area  
44 supporting this action, and only one that's in  
45 opposition, the one that's most closely associated with  
46 the project.  
47  
48 Further discussion, Board members.  
49  
50 (No comments)

1 CHAIRMAN FLEAGLE: Are we ready for the  
2 question.  
3  
4 MR. CESAR: Question.  
5  
6 CHAIRMAN FLEAGLE: The question is  
7 recognized. Pete, on 150 please poll the Board.  
8  
9 MR. PROBASCO: Thank you, Mr. Chair.  
10 Final action on Monitoring Plan Project 08-150 to not  
11 fund this project.  
12  
13 Mr. Bschor.  
14  
15 MR. BSCHOR: Aye.  
16  
17 MR. PROBASCO: Mr. Melius.  
18  
19 MR. MELIUS: Aye.  
20  
21 MR. PROBASCO: Ms. Blaszak.  
22  
23 MS. BLASZAK: Aye.  
24  
25 MR. PROBASCO: Mr. Fleagle.  
26  
27 CHAIRMAN FLEAGLE: Aye.  
28  
29 MR. PROBASCO: Mr. Lonnie.  
30  
31 MR. LONNIE: Aye.  
32  
33 MR. PROBASCO: And Mr. Cesar.  
34  
35 MR. CESAR: Aye.  
36  
37 MR. PROBASCO: Thank you, Mr. Chair.  
38 Motion carries, six/zero.  
39  
40 CHAIRMAN FLEAGLE: Thank you, Pete.  
41 Now, that we have addressed the two non-consensus  
42 agenda items we'll return to the consensus agenda, and,  
43 Pete, are there any written public comments, and we do  
44 have one public testimony comment, but how about any  
45 written comments.  
46  
47 Pete.  
48  
49 MR. PROBASCO: Mr. Chair. I will turn  
50 to Staff to see if they have any written comments that

1 they've received. Mr. Klein or Dr. Wheeler.

2

3 MR. KLEIN: Mr. Chair, there were no  
4 written comments.

5

6 CHAIRMAN FLEAGLE: Okay, thank you. At  
7 this time we will call forward the one person that  
8 wants to publicly testify.

9

10 Pete.

11

12 MR. PROBASCO: Thank you, Mr. Chair.  
13 Mr. Darrel Williams.

14

15 CHAIRMAN FLEAGLE: Good morning,  
16 Darrel, welcome.

17

18 MR. WILLIAMS: Good morning, Mr.  
19 Chairman, members of the Board. Give me just a second  
20 here to get myself organized.

21

22 First, I'd like to point out just  
23 because I'm here and it is part of the topic, the  
24 Federal Subsistence management area is vast in the  
25 state of Alaska. A lot of people traveled a long ways  
26 to come here and participate in this, and it'd be nice  
27 if some considerations were made for these folks like,  
28 maybe, coffee. You know I had to drive a long ways  
29 myself and I know a lot of other people came further  
30 than me. You know, providing for these needs will  
31 create a better process, have people more engaged in  
32 what they're doing, not tired and not leaving the room  
33 missing part of what they're doing, it'd be a really  
34 good idea to provide something like that. And it's  
35 been real good in the past it's just, for some reason  
36 there's been a bump at this meeting.

37

38 What I'd like to point out on the  
39 Fisheries Resource Monitoring Plan, there's some pause  
40 with the folks down in Ninilchik when we were going  
41 through this and reviewing this plan. And to be  
42 succinct and cut to the quick, our pause is with Jim  
43 Fall. In the work that he did down on the Kenai  
44 Peninsula, we all know, it's a matter of record, we've  
45 gone over it for hours and hours and hours, and the  
46 problem that came out of the work wasn't a typo, it  
47 wasn't something that was forgot to be put in the  
48 report, it was the deliberate effort to change the  
49 information by how the information was put together and  
50 presented to you.

1                   Receiving bad information in this from  
2 the State of Alaska causes the rural subsistence users  
3 to have to meet the burden of rejoinder and address  
4 these issues and have to prove it ourselves. So we're  
5 very concerned when we look at the Staff list and we've  
6 seen something like this happen and we see that  
7 somebody who has been involved in an incident like this  
8 is the research director for this kind of project. And  
9 our information is ongoing and what not, our concern is  
10 for other rural residents throughout the state who are  
11 engaged in this subsistence process; it's a very  
12 difficult task for a lot of people. Not everybody can  
13 come up and speak in front of people, not everybody can  
14 even get here, or they might be getting coffee. So I  
15 would like everybody to be able to consider that.

16  
17                   I don't share the confidence in the  
18 State that was expressed here at the Board level  
19 earlier. I'm fairly objective. I sit back and I  
20 think, okay, what proposals in the last five years has  
21 the State put forward that have had a positive  
22 determination for subsistence use. Those are the kinds  
23 of questions I ask because I always try to ask the  
24 right questions. I was a little alarmed and I thought  
25 I would address that for the record for you.

26  
27                   Mr. Chairman. Members of the Board.  
28 Thank you. Are there any questions.

29  
30                   CHAIRMAN FLEAGLE: Thank you, Darrel.  
31 Appreciate your comments. I'd like to speak to the  
32 most important of the two, and that was the coffee  
33 issue, I concur. I was surprised to find no coffee and  
34 I think that -- I'm not sure why, but, Pete, was  
35 explaining earlier and maybe he can share that with the  
36 Board and it looks like I've caught him at a bad moment  
37 here.

38  
39                   Pete. Coffee.

40  
41                   (Laughter)

42  
43                   MR. PROBASCO: Coffee issue. Well, Mr.  
44 Chair, I, too, am a coffee drinker, as you can tell,  
45 but there are regulations that we have to follow when  
46 conducting these type of meetings and I found out that  
47 our office was not -- was in violation of some of those  
48 regulations and we found out that we could not provide  
49 coffee and tea at these type of meetings and so we're  
50 in that type of situation. During the break I was

1 talking to some of the Board members and they asked, in  
2 the near future, explore it further and see if there's  
3 some other avenue but that's where we're at right now.  
4 It's a regulation that I have to follow.

5  
6 Thank you, Mr. Chair.

7  
8 CHAIRMAN FLEAGLE: Keith Goltz.

9  
10 MR. GOLTZ: Nobody discussed this with  
11 the Solicitor's office, and I intend to pursue it too.

12  
13 (Laughter)

14  
15 CHAIRMAN FLEAGLE: By tomorrow morning.

16  
17 (Laughter)

18  
19 MR. GOLTZ: By noon.

20  
21 CHAIRMAN FLEAGLE: Thank you, Keith.  
22 Thanks for your comments, Darrel.

23  
24 MR. WILLIAMS: Mr. Chairman, thank you  
25 very much.

26  
27 CHAIRMAN FLEAGLE: Commissioner.

28  
29 COMMISSIONER LLOYD: Thank you, Mr.  
30 Chairman. I have a question on a point of order, and  
31 it is a question because I'm not as familiar with your  
32 process as I am with others. But in the comparable  
33 State Board of Fisheries process, we take great care in  
34 admonishing people, not to express their views about  
35 particular individuals, let alone commenting directly  
36 about a scientist, a particular scientist's integrity  
37 and I appreciate the tenor and upbeat nature of Mr.  
38 Williams' testimony, but my question is to you, whether  
39 or not that type of focus on a particular individual is  
40 appropriate testimony in front of this body.

41  
42 CHAIRMAN FLEAGLE: Thank you,  
43 Commissioner Lloyd, appreciate that. It caused me to  
44 almost jump in and stop but the individual name had  
45 reached the audience's ears and wasn't repeated again  
46 and so I chose not to stop that. But I think you're  
47 right. In the future if people would remember that,  
48 you know, personalities are not the problem, that we're  
49 dealing with issues, resource management issues and we  
50 should tend to remain respectful of individuals and

1 even further than that, the systems, we should continue  
2 to respect the systems. We are forced into this  
3 situation where we have to work together and sometimes  
4 we don't work together that well but we're always  
5 forced into having to deal with contentious or  
6 conflicting issues and we can still agree to do it. So  
7 I appreciate you raising that. And we will make a  
8 point, I think, to open our meetings in the future with  
9 just some common courtesy guidelines and try not to go  
10 down that path.

11

12 Keith, do you have something to add.

13

14 MR. GOLTZ: It's common courtesy and  
15 respect, but it's more. Seasons and bag limits,  
16 methods and means. That's why ANILCA brings us here.

17

18 CHAIRMAN FLEAGLE: Other comments.

19

20 (No comments)

21

22 CHAIRMAN FLEAGLE: All right. With  
23 that let's just recognize that as a ground rule and  
24 from here on out, for the meeting, both in testimony  
25 from the public and in debate on the Board, and Board's  
26 questioning public, vice versa, just keep that level of  
27 respect going both ways always.

28

29 Thank you.

30

31 Let's see where are we at.

32

33 (Pause)

34

35 CHAIRMAN FLEAGLE: No further public  
36 comments, right?

37

38 MR. PROBASCO: That's correct, Mr.  
39 Chair. Nobody else signed up.

40

41 CHAIRMAN FLEAGLE: All right. Any  
42 further comment from the Department of Fish and Game on  
43 the consensus agenda.

44

45 (No comments)

46

47 CHAIRMAN FLEAGLE: Hearing none, we're  
48 going to go ahead and open the floor for a motion to  
49 support the consensus agenda as presented.

50

1 MR. BSCHOR: Mr. Chair. I move to  
2 support the projects as presented.  
3  
4 CHAIRMAN FLEAGLE: Thank you, Denny.  
5  
6 MS. BLASZAK: Mr. Chair, I second.  
7  
8 CHAIRMAN FLEAGLE: Thank you. Any  
9 discussion, Board members. How about Pete.  
10  
11 MR. PROBASCO: Mr. Chair. Just so that  
12 we're clear, we're speaking to the consensus  
13 recommendation to fund and consensus recommendation not  
14 to fund found on Page 9.  
15  
16 CHAIRMAN FLEAGLE: Page 9. And I stand  
17 corrected, I said 23 proposals being funded, it is 22  
18 as Steve pointed out, and was it six that are not being  
19 funded -- yes, thank you.  
20  
21 Further discussion.  
22  
23 (No comments)  
24  
25 CHAIRMAN FLEAGLE: Ready for the  
26 question.  
27  
28 MR. CESAR: Question.  
29  
30 CHAIRMAN FLEAGLE: All right, question  
31 is recognized. Pete, on the consensus agenda, please.  
32  
33 MR. PROBASCO: Thank you, Mr. Chair.  
34 Dealing with the 2008 Fisheries Resource Monitoring  
35 Plan consensus recommendations for projects to fund and  
36 consensus recommendations to projects not to fund found  
37 on Page 9.  
38  
39 Mr. Melius.  
40  
41 MR. MELIUS: Aye.  
42  
43 MR. PROBASCO: Ms. Blaszak.  
44  
45 MS. BLASZAK: Aye.  
46  
47 MR. PROBASCO: Mr. Fleagle.  
48  
49 CHAIRMAN FLEAGLE: Aye.  
50



1 MR. PROBASCO: Mr. Lonnie.  
2  
3 MR. LONNIE: Aye.  
4  
5 MR. PROBASCO: Mr. Cesar.  
6  
7 MR. CESAR: Aye.  
8  
9 MR. PROBASCO: And Mr. Bschor.  
10  
11 MR. BSCHOR: Aye.  
12  
13 MR. PROBASCO: Mr. Chair, motion  
14 carries six/zero.  
15  
16 CHAIRMAN FLEAGLE: Thank you, Pete.  
17 Okay, that now moves us into the 2008/2009 Subpart C  
18 and D proposals, fisheries regulations before this  
19 meeting that begin on Page 127. And first we have the  
20 announcement of the consensus agenda. Do we need a  
21 moment to gather forces.  
22  
23 (Pause)  
24  
25 CHAIRMAN FLEAGLE: Let's take five  
26 minutes just to get realigned here. Stand down for  
27 five minutes.  
28  
29 (Pause)  
30  
31 CHAIRMAN FLEAGLE: I hate to break up  
32 that very important caucus that was just occurring  
33 that's concerning coffee.  
34  
35 (Laughter)  
36  
37 CHAIRMAN FLEAGLE: But, anyway, I think  
38 that will get figured out. It sounds like we have  
39 something in motion.  
40  
41 I was reminded by Counsel, that it was  
42 not necessary to take a motion for the negative action  
43 to not pass the one Fisheries Resource Monitoring Plan  
44 proposal, and as I get to know this Federal system and  
45 how it differs from normal operating systems.....  
46  
47 (Laughter)  
48  
49 CHAIRMAN FLEAGLE: .....I will get to  
50 be more and more intimate as to how we proceed.

1                   One of the things that continues to  
2 throw me for a loop is in other regulatory processes  
3 and boards that I serve on, we operate under Robert's  
4 Rules, which pretty much indicates -- dictates that you  
5 make your motion stated in the form of an affirmative  
6 action, and that motion then is real clear to the  
7 voters that when you vote on it, you're voting yes to  
8 pass that action that's requested in the motion or no,  
9 means no you vote to fail that action.

10  
11                   We have a different situation here, and  
12 I'm going to go ahead and just take this opportunity to  
13 spell it out since we're going to be entering the  
14 regulatory portion of the meeting to where we are going  
15 to be taking motions on proposals. And where this  
16 process differs is that we have the Regional Advisory  
17 Council's deference issue that needs to be addressed in  
18 Section .805 and it's been brought to our attention in  
19 this program that the motion should reflect the  
20 Council's recommendation as considering the proposal.  
21 So we do have an opportunity for motions to be stated  
22 in an affirmative that would be an affirmative action  
23 to reject a proposal and that's the part that I have a  
24 real hard time with. I would rather have a process  
25 where the motion is just laid out, I move to support  
26 out Proposal 08, for instance, and then the vote would  
27 be three aye's and three nay's or something like that,  
28 but what we have, the case here, is -- and I'll read  
29 some talking points that have been presented for me for  
30 this.

31  
32                   As you make a motion, the motion should  
33 address the Regional Advisory Council's  
34 recommendation, and a motion may be  
35 made to adopt, reject or modify a  
36 Council's recommendation.

37  
38                   The motion should be clear and  
39 understandable.

40  
41                   If you move to reject a Council's  
42 recommendation, you must support your  
43 motion with rationale that addresses at  
44 least one of the three criteria from  
45 Section .805c. You may reject the  
46 Council's recommendation when it is:

47  
48                   1. Not supported by substantial  
49 evidence;

50

1 2. Violates recognized principles of  
2 fish and wildlife conservation; or  
3

4 3. Would be detrimental to the  
5 satisfaction of subsistence needs.  
6

7 Section .815 authorizes restrictions to  
8 non-subsistence uses only when  
9 necessary for the conservation of  
10 healthy populations of fish and  
11 wildlife. And in the case of National  
12 Parks or Monuments, the definition is  
13 natural and healthy populations, to  
14 continue subsistence uses of such  
15 populations or pursuant to other  
16 applicable law.  
17

18 And so with those thoughts in mind we  
19 will be hearing motions that are somewhat contrary to  
20 what would be the norm but that is in deference to the  
21 Regional Advisory Councils. So we'll be moving forward  
22 that way.  
23

24 Now, moving into the regulatory portion  
25 of the meeting, our first order of business is to  
26 announce the consensus agenda and Larry Buklis is  
27 sitting here prepared to do that for us.  
28

29 Larry.

30  
31 MR. BUKLIS: Thank you, Mr. Chairman.  
32 We're not asking for Board action at this time on  
33 these, I'm just bringing to your attention or  
34 announcing, as you said, that we have three regulatory  
35 proposals on the consensus agenda. They're listed on  
36 Page 2 of the Board meeting book.  
37

38 They are FP08-01, and the position is  
39 to support. And the analysis and positions of the  
40 different parties on this are detailed beginning on  
41 Page 127.  
42

43 Secondly, FP08-03, and the position is  
44 to support with modification. And that's detailed  
45 beginning on Page 153.  
46

47 Mr. Chairman, please note on FP08-03,  
48 the Stikine River issue, that the season date change  
49 would require coordination with the Pacific Salmon  
50 Commission process prior to implementation. So,

1 although, this is on the consensus agenda, there is a  
2 coordination feature I want to bring to your attention,  
3 and we are intending to have a letter drafted and ready  
4 for you, Mr. Chairman, later in the week for you to  
5 consider regarding communication on this coordination  
6 initiative.

7  
8 Thirdly, finally, FP08-06, and the  
9 position is to oppose. That's detailed beginning on  
10 Page 220.

11  
12 As described on Page 2 of the Board  
13 meeting book, with the consensus agenda, these three  
14 are proposals for which agreement exists among Federal  
15 Subsistence Regional Advisory Council, the Federal  
16 InterAgency Staff Committee and the Alaska Department  
17 of Fish and Game concerning Board action. Anyone  
18 disputing the recommendation on a proposal may request  
19 that the Board remove the proposal from the consensus  
20 agenda and place it on the regular meeting agenda.

21  
22 Mr. Chairman, the Board, of course,  
23 retains final authority for removal of proposals from  
24 the consensus agenda. The Board will take final action  
25 on the consensus agenda, as described in the overall  
26 meeting agenda, after deliberation and decisions on all  
27 the other proposals.

28  
29 Thank you, Mr. Chairman.

30  
31 CHAIRMAN FLEAGLE: Thank you, Larry.  
32 Just for a reminder for the Board members, and  
33 especially for the new Board members, at what time do  
34 Board members have the opportunity to ask these to be  
35 removed from the consensus agenda since we're not going  
36 to be acting on the consensus agenda until the end of  
37 the meeting, right?

38  
39 MR. BUKLIS: Correct, Mr. Chairman.  
40 Each morning you allow for comment on consensus agenda  
41 items -- I'm sorry -- yes, on consensus agenda items,  
42 and that's a point in time where you may get further  
43 input and perspective on the consensus agenda. So in  
44 response to such input you might have discussion by the  
45 Board, but I don't know that you're limited to those  
46 points in time. I think it's at your call as to  
47 whether you entertain input from Board members on the  
48 consensus agenda.

49  
50 CHAIRMAN FLEAGLE: So virtually any

1 time prior to the adoption of the consensus agenda  
2 then?

3

4 MR. BUKLIS: That's correct.

5

6 CHAIRMAN FLEAGLE: Duly noted, thank  
7 you. Questions for process or for what was laid out on  
8 the consensus agenda by Larry.

9

10 (No comments)

11

12 CHAIRMAN FLEAGLE: All right, thanks,  
13 Larry.

14

15 COMMISSIONER LLOYD: Mr. Chairman.

16

17 CHAIRMAN FLEAGLE: Commissioner Lloyd.

18

19 COMMISSIONER LLOYD: Thank you. You  
20 had read into the record some instructions on the  
21 formulation of motions for this body and moved quickly  
22 into the consensus agenda, I'm wondering if you'll  
23 allow me a question back on your previous set of  
24 instructions.

25

26 CHAIRMAN FLEAGLE: Most certainly, go  
27 ahead.

28

29 COMMISSIONER LLOYD: Thank you. As you  
30 know the State of Alaska has approached the Federal  
31 Subsistence Board a number of times on the issue of  
32 deference to the Regional Advisory Councils. I was not  
33 aware of the particular instructions that you are now  
34 putting in front of the Board in terms of framing  
35 motions with regard to proposals from the public, need  
36 to be presented on the table here as motions with  
37 regard to Regional Advisory Council recommendations.  
38 And so I'm wondering if there is a written protocol or  
39 a written rationale or set of instructions, other than  
40 your talking points, that provides that guidance.  
41 Because it occurs to me that these are, indeed,  
42 proposals from the public, and without a further  
43 explanation my assumption would be that you'd be voting  
44 affirmatively on those proposals, not on an Advisory  
45 Council's set of recommendations to you.

46

47 Thank you.

48

49 CHAIRMAN FLEAGLE: Yeah, and that was  
50 the conundrum I found myself in, having been involved

1 with the process that you're referring to. And so the  
2 order of business that takes place here is different  
3 and it was this way when I came and I don't have the  
4 answer but I think Keith might.

5  
6 MR. GOLTZ: Well, there is a written  
7 rationale and I think Larry has it. It's in our Board  
8 meeting guidelines.

9  
10 CHAIRMAN FLEAGLE: Larry, would you  
11 like to speak to it.

12  
13 MR. BUKLIS: Thank you, Mr. Chairman,  
14 that's correct. The Board meeting guidelines, which  
15 are in the folder speak to decision-making, Page 5, and  
16 the first sentence says, the Chair will initiate Board  
17 action on a proposed regulatory rulemaking by  
18 entertaining a motion on a Council recommendation.  
19 That feature of the guidelines isn't new from this  
20 August, that is a carryover from the prior versions.

21  
22 CHAIRMAN FLEAGLE: Denby.

23  
24 COMMISSIONER LLOYD: Thank you, Mr.  
25 Chair. I'm glad it's in the guidelines and I presume  
26 then that there's a legal rationale and a legal basis  
27 for that and for my information, can you give me some  
28 notion of how long you've been operating under that  
29 scenario.

30  
31 CHAIRMAN FLEAGLE: Keith.

32  
33 MR. GOLTZ: Larry might have the exact  
34 date. I can, from memory, sketch in the history of it.

35  
36 When we first started the program we  
37 were sort of feeling our way along and at the beginning  
38 we did, in fact, move on the proposals themselves, but  
39 it was quickly called to our attention by the RACs that  
40 in doing that, there was a temptation to slide over  
41 their recommendation and the legal counsel from the  
42 very beginning has been that, the decision template is  
43 found in .805c, and that when the Board rejects a  
44 Council recommendation they have a responsibility to  
45 communicate the reasons for that recommendation back to  
46 the Council. We're circling back, again, to Ralph's  
47 statement this morning. I think Ralph gave us a  
48 complete analysis and a correct one of how we view  
49 .805c and what the Board's responsibilities are.

50

1 CHAIRMAN FLEAGLE: Denby.

2

3 COMMISSIONER LLOYD: Thank you, Mr.  
4 Chair. And I certainly don't mean to engage in a  
5 debate here, I was looking for the information and as  
6 you know the State disagrees, but thank you for the  
7 explanation.

8

9 CHAIRMAN FLEAGLE: Thank you. And the  
10 next step in the process is to begin with the  
11 regulatory proposals but we're so close to having a  
12 good break time for lunch I think we'll do that. And  
13 let's reconvene at 1:00 o'clock and at that time we  
14 will take up individual proposals.

15

16 Thank you.

17

18 (Off record)

19

20 (On record)

21

22 CHAIRMAN FLEAGLE: Good afternoon, the  
23 Federal Subsistence Board reconvenes. It's the  
24 afternoon, December 11th, and we're ready to step into  
25 regulatory proposals. And if you have a Board book,  
26 the process that we follow is outlined on the agenda on  
27 Page 3. There will be an analysis presentation by the  
28 lead author followed by a summary of written public  
29 comments, and then the floor will be open for public  
30 testimony on that proposal, then there will be the  
31 Regional Council recommendation, followed by the  
32 Department of Fish and Game and then the InterAgency  
33 Staff Committee comments and then Board discussion with  
34 Council Chairs and State liaison and finally Federal  
35 Subsistence Board deliberation and action.

36

37 And I've been given the head's up that  
38 there is an agency representative that wants to speak  
39 to more than one proposal, and when that person steps  
40 up to speak on the first proposal, he wants to address  
41 -- I'm going to go ahead and allow the testimony to  
42 cover all four proposals.

43

44 And as Pete stated, if there's time  
45 concerns on anybody here, I know a lot of people  
46 traveled a long way for the meeting, and some of the  
47 action is probably going to go until Day 3 that you may  
48 be here for, if you have to leave town or can't be here  
49 when those issues come up, please let us know and we  
50 can make accommodations to take your testimony before

1 you leave. We want to make sure we have all the  
2 available testimony on these issues we're addressing.

3

4                   Also one more comment, I guess, I  
5 should have done it earlier this morning when all three  
6 were here, but we do have two of the Board members that  
7 used to sit up here that are in the audience, and I  
8 just want to recognize and appreciate the work that you  
9 folks did with us on the Board, and that's George  
10 Oviatt with the BLM back there, and Judy Gottlieb, and  
11 thank you for continuing to be an integral and  
12 important part of the process. We appreciate your work  
13 in the past up here.

14

15                   Pete, are there any other announcements  
16 from Staff.

17

18                   MR. PROBASCO: No, Mr. Chair. And just  
19 remind people if they do plan on testifying, please  
20 fill out a yellow card and we'll get it up here.

21

22                   CHAIRMAN FLEAGLE: Thank you. Any  
23 general comments from Board members before we start.

24

25                   (No comments)

26

27                   CHAIRMAN FLEAGLE: All right, let's go  
28 ahead and get started then.

29

30                   The first proposal up for consideration  
31 is Proposal 08-02 and for the analysis presentation  
32 we're going to turn to two gentlemen, Cal and Robert.  
33 Cal, you're going to lead.

34

35                   MR. CASIPIT: Thank you, Mr. Chair.  
36 For the record my name is Calvin Casipit. I'm the  
37 subsistence Staff fisheries biologist for the USDA  
38 Forest Service, Alaska Region. The executive summary  
39 for your analysis begins on Page 137 in your book and  
40 the analysis itself begins on Page 139.

41

42                   Proposal FP08-02 was submitted by the  
43 Alaska Department of Fish and Game and it requests the  
44 closure to non-Federally-qualified subsistence users be  
45 rescinded at three locations, Falls Lake, Gut Bay and  
46 Pillar Bay drainages in Southeast Alaska. As you know  
47 the analysis for Pillar Bay or Kutlaku Lake is covered  
48 in FP08-01, which is on your consent agenda.

49

50                   I just also wanted to point out that



1 the Staff analysis presented to the Southeast Alaska  
2 Regional Advisory Council was to support this proposal  
3 with modification to rescind the closure at Falls Lake  
4 but maintain the closure at Gut Bay Lake. We also  
5 asked the Council to provide additional local  
6 information on uses and stock status in Gut Bay Lake  
7 that Staff wasn't aware of at the time. That  
8 information would be included in the subsequent Staff  
9 analysis and is being presented to you today here at  
10 your Board meeting.

11  
12 The Alaska Department of Fish and Game  
13 states that it is not necessary to retain the closures  
14 at Falls Lake and Gut Bay Lake to the harvest of  
15 sockeye salmon by non-Federally-qualified users to  
16 ensure the continued viability of these sockeye salmon  
17 populations. I wanted to point out Map 1 on Page 140  
18 of your Board book. It shows the locations of Falls  
19 Lake and Gut Bay Lake in relation to the community of  
20 Kake which has the positive customary and traditional  
21 use determination for sockeye salmon at these two  
22 locations.

23  
24 I have an extensive few paragraphs on  
25 regulatory history in these two systems. I am not  
26 going to go over those, they're there for you to read  
27 and several of the Board members are well aware of the  
28 regulatory history that goes with this one. I did want  
29 to point out, though, at the Council meeting held in  
30 Haines, in September the Council voted to support this  
31 proposal. Their reasoning was that there was no  
32 conservation concern at either Falls or Gut Bay Lakes,  
33 that there's little, if any, non-Federally-qualified  
34 users fishing in Federal jurisdiction in those two  
35 locations and escapement and harvest use conditions at  
36 Falls and Kutlaku Lake trend with escapement and  
37 harvest uses at Gut Bay Lake.

38  
39 Based on what Staff's information is,  
40 Staff information, we concur that little subsistence or  
41 sportfishing occurs in areas under Federal  
42 jurisdiction, basically the freshwaters in the Gut Bay  
43 Lake area.

44  
45 We have evaluated recent escapements  
46 and harvest levels at Falls Lake and feel that Falls  
47 Lake salmon stock is healthy.

48  
49 I wanted to call your attention to  
50 Table 3 on Page 144 of your Board book, it displays the

1 reported harvest of sockeye at Falls and Gut Bay Lake.  
2 From 2001 to 2006 for Falls and Gut Bay Lake the  
3 harvest of sockeye has averaged 1,700 fish and 400  
4 sockeye salmon per year respectively at each of those  
5 two locations. Annual subsistence use has generally  
6 been increasing at Falls Lake and stable at Gut Bay  
7 Lake. There is a general increasing trend in  
8 subsistence harvest at Gut Bay since 2002 and most of  
9 the subsistence harvest that occurs at those two  
10 locations are taken by residents of Kake.

11  
12 Adopting this proposal would allow the  
13 retention of sockeye salmon by non-Federally-qualified  
14 users in the Federal public waters of the Falls Lake  
15 and Gut Bay Lake watersheds. No adverse impacts,  
16 effects to subsistence users from sportfishers are  
17 expected at Falls and Gut Lake since very few  
18 sportfishers have been observed in those locations in  
19 Federal jurisdiction.

20  
21 The OSM conclusion is to support  
22 Proposal FP08-02.

23  
24 The stock status of sockeye salmon at  
25 Gut Bay Lake is unknown and subsistence harvests are  
26 low compared to Falls Lake. No stock status  
27 information has been collected for Gut Bay Lake but it  
28 appears that in 2006 the Falls Lake had the greatest  
29 return of sockeye salmon recorded for the system.  
30 While the reported subsistence harvest was substantial,  
31 it was not the greatest recorded and did not appear to  
32 be excessive in relation to the escapement.

33  
34 Also I wanted to point out that there  
35 has been a long-term Fisheries Resource Monitoring  
36 project funded in cooperation with the Forest Service,  
37 Organized Village of Kake and ADF&G at Falls Lake that  
38 provides estimates of escapement and subsistence  
39 harvest and currently there's a funding commitment for  
40 this project through 2009. This information allows  
41 fisheries resource managers to avoid conservation  
42 issues and provide harvest opportunities for all users.

43  
44  
45 The Council found that there was no  
46 conservation concerns at either Falls or Gut Lakes,  
47 there's little if any non-Federally-qualified users  
48 fishing in Federal jurisdiction in those two locations  
49 and that conditions at Falls and Kutlaku Lake trend  
50 with conditions at Gut Bay Lake.

1                                   And with that, that concludes my brief  
2 introduction and I would be happy to answer any  
3 questions.

4  
5                                   CHAIRMAN FLEAGLE: Thank you, Calvin.  
6 Board members, questions.

7  
8                                   (No comments)

9  
10                                  CHAIRMAN FLEAGLE: All right. We'll  
11 now move to summary of written public comments, and who  
12 do we have doing that -- Robert.

13  
14                                  MR. LARSON: Yes, Mr. Chairman. For  
15 the record my name is Robert Larson. I'm the Southeast  
16 Council coordinator, I work for the Forest Service in  
17 Petersburg.

18  
19                                  We've had one public comment regarding  
20 this issue and that was submitted by the Organized  
21 Village of Kake, actually during the Council meeting in  
22 Haines.

23  
24                                  The Organized Village of Kake is a  
25 Federally-recognized tribal government and they speak  
26 in opposition to FP08-02. Their position is that they  
27 have not talked formally with any ADF&G or Federal  
28 subsistence Staff about detailed findings in the Falls  
29 Lake Bay and Gut Bay drainages with regard to sockeye  
30 salmon populations. They are not convinced that there  
31 is adequate escapement of sockeye salmon into Falls  
32 Lake or Gut Bay. The present subsistence harvest limit  
33 is too small in these locations. Sockeye salmon  
34 interception by commercial fisheries in Chatham Straits  
35 should be eliminated to increase both the subsistence  
36 harvest and escapement.

37  
38                                  And that is the extent of our public  
39 comments.

40  
41                                  CHAIRMAN FLEAGLE: All right, thank  
42 you. And there's a synopsis of that on Page 152. We  
43 now open the floor to public testimony. Pete, do we  
44 have anybody wishing to testify on this proposal.

45  
46                                  MR. PROBASCO: Mr. Chair, I have no one  
47 signed up to testify on Proposal 2.

48  
49                                  CHAIRMAN FLEAGLE: Okay, thank you.  
50 Regional Council recommendation. Bert.

1 MR. ADAMS: Thank you, Mr. Chairman.  
2 The Council did support this proposal. And, you know,  
3 the analysis, you know, said that the resources were  
4 healthy and they didn't think that closing the  
5 proximity of each of those lakes would cause any  
6 conservation problems. They also thought, you know,  
7 that it would benefit both subsistence and non-  
8 subsistence users. However, you know, we do have that  
9 letter on file that Mr. Larson just shared with us and  
10 we have a member of the Council who is from Kake, Mr.  
11 Nick Davis, who wasn't there at the meeting. He  
12 couldn't because of some other commitments. But I'm  
13 sure that if he were there and had a chance to address  
14 the Council, the decision probably would have been  
15 different.

16  
17 But I have to say that the Council at  
18 this point, you know, supports it, but I offer that  
19 other avenue just for your consideration when you make  
20 your decision.

21  
22 Thank you.

23  
24 CHAIRMAN FLEAGLE: Thank you, Bert.  
25 Questions, Board members.

26  
27 (No comments)

28  
29 CHAIRMAN FLEAGLE: All right. Alaska  
30 Department of Fish and Game comments. George.

31  
32 MR. PAPPAS: Good morning, Mr.  
33 Chairman. Members of the Board. My name is George  
34 Pappas, Department of Fish and Game, Subsistence  
35 Liaison Team for the record.

36  
37 Mr. Chairman. Our full State comments  
38 on this proposal are in your Board books on Page 148  
39 and I'm going to read some of the more important  
40 information for the record.

41  
42 The Department requests the Federal  
43 Subsistence Board rescind the fisheries closures for  
44 non-Federally-qualified users in freshwaters draining  
45 into Falls Lake Bay and Gut Bay. The intent of this  
46 proposal is to reopen these areas to other users  
47 because information confirms that a conservation issue  
48 for sockeye salmon does not exist. In addition, the  
49 fact that few, if any sockeye salmon are harvested in  
50 the freshwaters in these areas by Federally-qualified

1 subsistence users despite the closure to non-Federally-  
2 qualified users confirms that the closure is not and  
3 was not necessary in order to continue subsistence  
4 uses.

5  
6 The Department supports Federal actions  
7 to rescind unnecessary closures of fisheries to other  
8 user groups consistent with Sections .815 of ANILCA.

9  
10 For background. On December 5th, 2000,  
11 the Board closed freshwaters at the Falls Lake Bay and  
12 Gut Bay Lake on Baranof Island and the Bay of Pillars  
13 at Kuiu Island to the harvest of sockeye salmon to non-  
14 Federally-qualified users in response to Proposals  
15 FP01-31. FP01-31 submitted by the Organized Village of  
16 Kake and the city of Kake requested the closure due in  
17 part to conservation concerns. The Southeast Regional  
18 Advisory Council supported the closure to non-  
19 Federally-qualified users. The Federal InterAgency  
20 Staff Committee recommended rejecting Proposal FP01-31  
21 on the basis that the sport harvest constitute a small  
22 portion of the total harvest in the waters where  
23 Federal regulations are claimed to apply. Federal  
24 Staff at the Board meeting agreed there was a lack of  
25 substantial evidence to support closing waters to non-  
26 Federally-qualified users and stated that such a  
27 closure was unnecessary.

28  
29 Despite lack of substantial evidence of  
30 a conservation concern, the Board adopted the Federal  
31 closure to non-Federally eligible users and established  
32 a Federal possession limit of 15 sockeye salmon per  
33 individual and 25 per household annual limit. These  
34 limits mirrored the harvest limits in place on  
35 Department subsistence permits at the time.

36  
37 The proponents of the original proposal  
38 indicated harvest and activities of unguided and guided  
39 sport anglers was largely the source of competition and  
40 anglers were -- would displace or interfere with the  
41 Federally-qualified subsistence users.

42  
43 Statewide harvest surveys for Falls  
44 Lake Bay and Gut Bay areas indicate very low angler  
45 effort in recent years and no sport harvest of sockeye  
46 salmon in either location. Historically the number of  
47 sockeye salmon harvested in the sportfishery is small  
48 and due to limitations in the statewide harvest survey  
49 cannot be reported separately for Falls Lake Bay and  
50 Gut Bay drainages. Average estimate for Falls Lake Bay

1 marine, sport harvest from the on-site krill project  
2 for the years 2001/2005 was 54 sockeye salmon per year.  
3 Salt water guided angler data also indicates that  
4 sportfishery harvest in marine waters in Districts 109-  
5 20 which include both Falls Lake Bay and Gut Bay have  
6 averaged less than a dozen sockeye salmon annually in  
7 recent years. The number of sockeye harvest and effort  
8 in Falls Lake Bay State subsistence fishery increased  
9 slightly over the last 20 years. Though the effort and  
10 harvests in the Gut Bay fishery during the same time,  
11 same years remain steady.

12  
13                   Opportunity provided by the State.  
14 Current State subsistence regulations in the area  
15 provide for harvest of salmon with gaffs, spears, beach  
16 seines, dipnets, drift gillnets and cast nets. Harvest  
17 limits for Falls Lake Bay are similar to those at Bay  
18 of Pillars allowing limits of 50 sockeye salmon both in  
19 possession and annually. At Gut Bay the harvest limits  
20 are more restrictive and allow possession of 10 sockeye  
21 salmon and annual limits for individuals or households  
22 of 20 sockeye salmon. Under current permit conditions  
23 there are sufficient opportunities for harvest of  
24 salmon for subsistence purposes in this area. State  
25 managers also have the authority to establish or change  
26 open fishing periods, possession of annual limits, gear  
27 types and specifications and in-season actions to open  
28 and close time and areas. The purpose of such  
29 management actions is to provide for escapement as a  
30 basis for a sustainable harvest of surplus return when  
31 they occur.

32  
33                   The 2001 through 2006 State subsistence  
34 harvest from Falls Lake Bay average approximately 1,700  
35 sockeye salmon per year. An average of 40 sockeye  
36 salmon were taken annually at Gut Bay. An average of  
37 61 State subsistence permits were reported at the Falls  
38 Lake Bay fishery and an average of 30 State subsistence  
39 permits were reported for the Gut Bay subsistence  
40 fishery during the same years.

41  
42                   For conservation issues. The Falls  
43 Lake Weir Project contributes substantially to  
44 answering questions about Falls Lake sockeye salmon  
45 stock. From 2002 to 2006 an average of approximately  
46 4,000 sockeye salmon entered the Falls Lake system.  
47 The Falls Lake sockeye salmon stock is healthy. The  
48 stock productivity appears to be consistent with the  
49 size of the lake and there's enough escapement  
50 information to manage the system to avoid conservation

1 issues and provide appropriate harvest limits for all  
2 users.

3

4 Gut Bay drainage does not currently  
5 have an accurate stock assessment program but recent  
6 subsistence harvest levels have been moderate and  
7 steady. It is unlikely that a significant increase in  
8 harvest will result in the Gut Bay drainage if this  
9 proposal's adopted. The State approaches the situation  
10 conservatively and will continue to monitor the harvest  
11 information by all users as well as to coordinate with  
12 the Federal land managers.

13

14 Jurisdiction issues. Currently the  
15 State subsistence fishery harvest in these areas occurs  
16 within marine waters and is not subject to Federal  
17 regulations. If this proposal is adopted State  
18 fisheries would resume in freshwaters currently closed  
19 where the Federal government claims jurisdiction.  
20 However, most fishing occurs within marine waters.

21

22 The Department's recommendation is to  
23 support this proposal. And, Tina, has some further  
24 comments to make.

25

26 CHAIRMAN FLEAGLE: Tina.

27

28 MS. CUNNING: Just in concluding  
29 comments. The only reason this proposal was not on the  
30 consensus agenda is due to a concern by members within  
31 the InterAgency Staff Committee regarding the lack of  
32 available data for Gut Bay salmon escapement.

33

34 The way the Department manages salmon  
35 resources in Southeast Alaska is to do assessment work  
36 on select systems. We don't have the resources to  
37 monitor every single one of these lake systems in  
38 Southeast. The local salmon systems that we do  
39 monitor, Falls Lake and Kutlaku are being studied and  
40 current data suggests the area's salmon population  
41 returns are all increasing.

42

43 Gut Bay resources are likely as healthy  
44 as other salmon streams in the vicinity. The  
45 Department, the RAC and OSM do not foresee the need or  
46 justification to keep the freshwaters closed to non-  
47 Federally-qualified users.

48

49 There's no notable Federal subsistence  
50 harvest in Gut Bay freshwater from Federal permits, as

1 no permits have been issued to date.

2

3                   The Organized Village of Kake submitted  
4 a letter to the Southeast RAC minutes before the vote  
5 at that fall meeting about reopening Falls and Gut Lake  
6 Bay. The Organized Village of Kake complained that the  
7 Department did not work closely with Kake when this  
8 proposal was being submitted. The Department did not  
9 realize that was an issue until they heard about it at  
10 the Haines meeting. So subsequent to that meeting we  
11 have been in contact with the village of Kake. We are  
12 taking a couple of steps on their behalf. One, we're  
13 drafting a letter of apology. Unfortunately this  
14 proposal went in during the timeframe that we had just  
15 had a staff person, our coordinator quit, I had been  
16 named to be acting, I was gone on vacation, the  
17 proposal was submitted while I was gone; a variety of  
18 problems that resulted in this situation and it won't  
19 happen again. So we have been in contact with the  
20 community of Kake. What their primary interest is that  
21 they would like to start a community subsistence permit  
22 system, which we already have the authority to do. We  
23 can do this through either the Board of Fish, setting  
24 a framework for a community harvest subsistence permit,  
25 or we can handwrite stipulations in our current State  
26 subsistence permits and issue this to the communities  
27 upon request. So we've advised Kake that we will work  
28 with them on that for this coming season.

29

30                   CHAIRMAN FLEAGLE: Okay, thank you,  
31 both George and Tina, for those comments.

32

33                   Turn to the InterAgency Staff Committee  
34 comments. Larry Buklis.

35

36                   MR. BUKLIS: Thank you, Mr. Chairman.  
37 Deputy ARD of OSM and the Chair of the Staff Committee.  
38 Mr. Chairman. The Staff Committee comments on 08-02  
39 can be found on Page 147 and I'll highlight a few key  
40 points.

41

42                   I would start by saying that the State  
43 Staff are correct, that the Council, State and OSM  
44 analysis positions are in support of the proposal. A  
45 majority of the Staff Committee felt that there would  
46 be some benefit, however, in the Board taking up the  
47 proposal and addressing it at the meeting because of  
48 some of the features of it that have been raised  
49 already by prior speakers.

50



1                   Some of the key points the Staff  
2 Committee wanted to emphasize, the Department of Fish  
3 and Game and the Organized Village of Kake had closely  
4 cooperated on the Kutlaku issue, which is on the  
5 consensus agenda, Proposal No. 1, and we've heard  
6 discussion about what may or may not have happened in  
7 terms of coordination relative to Falls Lake and Gut  
8 Bay.

9  
10                   The Staff Committee goes on to note  
11 that the original closures were based on user knowledge  
12 of these systems and given the lack of stock  
13 assessments and there is now assessment information  
14 available for Falls Lake Bay but not for Gut Bay and,  
15 therein, is, I think, a key issue which the State has  
16 raised.

17  
18                   For Falls Lake there does not appear to  
19 be a conservation concern and the Staff Committee notes  
20 there may or may not be a parallel in terms of stock  
21 status of these two systems.

22  
23                   The Staff Committee also notes that  
24 it's not clear whether subsistence uses or needs are  
25 being met. On the one hand there's the letter from OVK  
26 that's been mentioned already, on the other hand  
27 there's the record of subsistence harvest data which  
28 has not varied much for Gut Bay Lake over the last 20  
29 years.

30  
31                   As described in the analysis, all -- or  
32 almost all of the sockeye fishing occurs in marine  
33 waters outside of Federal jurisdiction.

34  
35                   And then finally the Staff Committee  
36 notes that as the Board considers this they probably  
37 should look to ANILCA .805c, of course, Council  
38 deference, and .815 which deals with closures.

39  
40                   Thank you, Mr. Chairman.

41  
42                   CHAIRMAN FLEAGLE: Thank you. Now,  
43 I'll turn to Board discussion with Council Chairs and  
44 State liaison.

45  
46                   Board members.

47  
48                   Denny.

49  
50                   MR. BSCHOR: Yes, Mr. Chair, I'll go

1 first. I'm just reminded, I appreciate the information  
2 about the consensus item on Kutlaku. We had a similar  
3 situation, discussion, a couple years ago on that one  
4 and we've, I think, moved forward in a very positive  
5 way and appreciate those efforts, especially from the  
6 State Game and Fish working with the community.

7  
8 And so as I look at this issue, I see  
9 that we have information in place that, from what I can  
10 tell, is not a conservation issue. I think we have  
11 enough information in at least a close vicinity that  
12 can be extrapolated at this point and I have no problem  
13 with any kind of a conservation issue on that.

14  
15 And I was going to comment, I was going  
16 to ask the Fish and Game, if they could work with the  
17 town of Kake and work some of this communication stuff  
18 out and Ms. Cuning already said they're going to do  
19 that so I'm feeling pretty good about that also.

20  
21 Thank you.

22  
23 CHAIRMAN FLEAGLE: Thank you. Other  
24 discussion.

25  
26 (No comments)

27  
28 CHAIRMAN FLEAGLE: Are we ready for a  
29 motion.

30  
31 Denny.

32  
33 MR. BSCHOR: I'm prepared to make a  
34 motion, Mr. Chair.

35  
36 Move to adopt the Council's  
37 recommendation which is to rescind the closure to the  
38 non-Federally-qualified users of the freshwaters of  
39 Falls Lake and Gut Bay Lake. And upon a second I'll  
40 give my rationale.

41  
42 MR. MELIUS: I'll second that motion.

43  
44 CHAIRMAN FLEAGLE: Okay, thank you. We  
45 have a motion and a second. Go ahead, Denny, please.

46  
47 MR. BSCHOR: I think it's been covered  
48 very well on both Page 138 and 145, the reasons behind  
49 my intent to vote for this motion.

50

1 I've already said I don't see a  
2 conservation problem, I don't -- and also the fact that  
3 the majority of the fishing's in marine waters I think  
4 we need to take that into account and so I don't think  
5 it's going to be detrimental to subsistence use.

6  
7 I think with that it's well covered in  
8 the documentation.

9  
10 Thank you, Mr. Chair.

11  
12 CHAIRMAN FLEAGLE: Okay, appreciate  
13 that. And I also want to make a comment. It appears  
14 that the closure was put in place just to basically  
15 assess the situation which sounds like has occurred,  
16 and looks okay.

17  
18 Are we ready for the question.

19  
20 MR. CESAR: Question.

21  
22 CHAIRMAN FLEAGLE: Question's  
23 recognized, Pete, on Proposal 2.

24  
25 MR. PROBASCO: Thank you, Mr. Chair.  
26 Proposal 2 to support the proposal which rescinds the  
27 closures to non-Federally-qualified subsistence users  
28 in Falls Lake and Gut Bay.

29  
30 Ms. Blaszak.

31  
32 MS. BLASZAK: Aye.

33  
34 MR. PROBASCO: Mr. Fleagle.

35  
36 CHAIRMAN FLEAGLE: Aye.

37  
38 MR. PROBASCO: Mr. Lonnie.

39  
40 MR. LONNIE: Aye.

41  
42 MR. PROBASCO: Mr. Cesar.

43  
44 MR. CESAR: Aye.

45  
46 MR. PROBASCO: Mr. Bschor.

47  
48 MR. BSCHOR: Aye.

49  
50 MR. PROBASCO: And, Mr. Melius.

1 MR. MELIUS: Aye.  
2  
3 MR. PROBASCO: Mr. Chair, motion  
4 carries six/zero.  
5  
6 CHAIRMAN FLEAGLE: Okay, thank you. We  
7 now move to Proposal 4. And the analysis presentation,  
8 we're having a Staff change.  
9  
10 (Pause)  
11  
12 MS. H. ARMSTRONG: I've worked here  
13 longer than anyone but I don't have a name plate.  
14  
15 CHAIRMAN FLEAGLE: And just who are  
16 you.  
17  
18 MS. H. ARMSTRONG: My name's Helen  
19 Armstrong, I'm with the Office of Subsistence  
20 Management and I'll be doing the analysis presentation  
21 for Proposal FP08-04. This proposal can be found on  
22 Page 175 in your books, that's where the analysis  
23 begins. The executive summary is a couple pages  
24 earlier.  
25  
26 Proposal FP08-04 was submitted by the  
27 State of Alaska, Alaska Department of Fish and Game  
28 and it requests that a fisheries no Federal subsistence  
29 priority customary and traditional use determination be  
30 made for the Juneau road system area. The Juneau road  
31 system is within fishing Districts 11 and 15 and if you  
32 look at Map 1 on Page 176 you can see where that's  
33 located. All streams crossed by roads connected to the  
34 city and borough of the road system are Federal public  
35 waters because they are within the exterior boundaries  
36 of the Tongass National Forest, and you can see that as  
37 well in Map 1. The Juneau road system is estimated to  
38 be less than 10 percent of the area of these fishing  
39 districts.  
40  
41 The proponent is concerned that the  
42 Juneau road system being a non-rural area should not be  
43 included in an area with a positive customary and  
44 traditional use determination. When the Board makes a  
45 customary and traditional use determination the uses of  
46 the resources in the area analyzed. In this case the  
47 specific locale raised as a concern by the proponent is  
48 the Juneau road system situated within fishing  
49 Districts 11 and 15. A point to make here is that the  
50 districts are the typical geographic descriptor for

1 which the Board has made customary and traditional use  
2 determinations in the Southeastern Alaska area.

3

4 I'm going to just go through what the  
5 existing customary and traditional use determinations  
6 are in the Southeast. It can get a little bit  
7 confusing but I'm going to just try to lay that out  
8 simply. If you have your reg books and you want to see  
9 this, it's not in the analysis, but it is in the reg  
10 books on Pages 66 and 67. In the current regulations  
11 all of the districts in Southeast Alaska except  
12 Districts 11 and 15 have community specific customary  
13 and traditional use determinations for fish. Districts  
14 11 and 15 fall within the remainder of the Southeastern  
15 Alaska area, so you won't see 11 and 15 in that list,  
16 but you do see a remainder.

17

18 Dolly Varden, trout, smelt and eulachon  
19 are the only fish species in the remainder area that  
20 have a positive customary and traditional use  
21 determination of all rural residents of Southeast  
22 Alaska and Yakutat areas. No customary and traditional  
23 use determination has been made for all other fish,  
24 including salmon, in Districts 11 and 15 and  
25 consequently all rural residents of Alaska are eligible  
26 to harvest salmon in these districts.

27

28 The question we're really asking in  
29 this proposal is can we or should we make location  
30 specific customary and traditional use determinations.

31

32 There are some location specific  
33 customary and traditional use determinations already  
34 made for fish in Southeast, in Districts 1 and 12, but  
35 these were adopted from State regulations. The Federal  
36 Program has never made location specific determinations  
37 in Southeast.

38

39 These C&Ts were originally adopted from  
40 the State's determination when the Federal Subsistence  
41 Management Program for fish management was adopted in  
42 1999.

43

44 The current regulations that affects  
45 Districts 11 and 15 were put into effect in 2000 and it  
46 was a conscious decision by the Board to have a  
47 broadbrush C&T determination for both districts. So  
48 this has already become before the Board and you're  
49 all, except for Niles, relatively new here, and so this  
50 -- you know, when we went back and looked at the

1 regulatory history it was kind of interesting because  
2 it was a decision to leave these C&T determinations to  
3 be this broadbrush and not to make specific  
4 determinations.

5  
6           The Juneau area is designated as non-  
7 rural under the Federal Subsistence Management Program,  
8 therefore, Juneau residents are not eligible to harvest  
9 fish under Federal Subsistence Management. But the  
10 proponent is concerned that fish stocks in the Juneau  
11 area streams could be impacted if even a few eligible  
12 rural residents choose to travel to Juneau and  
13 subsistence fish on the Juneau road system.

14  
15           There have been Federal permits  
16 required since 2002 for the Federal subsistence salmon  
17 and trout harvest in Districts 11 and 15, including the  
18 Juneau road system. But no harvest from the Federal  
19 permits have been reported from the Juneau road system  
20 for salmon and trout. That is there has not been a  
21 problem so far with Federally-qualified users  
22 harvesting fish with Federal permits in the road  
23 system. So right now we don't see that there's any  
24 kind of problem.

25  
26           Our analysis found that the communities  
27 harvesting fish in Districts 11 and 15 are Skagway,  
28 Haines, Klukwan, Tenakee Springs, the Juneau area  
29 including Douglas, Auke Bay and Thaine; Petersburg and  
30 Wrangell. There are nearby communities such as Angoon,  
31 Hoonah, Gustavus and Excursion Inlet that have no  
32 individual or community records of harvest in Districts  
33 11 and 15, although it is possible that harvest has  
34 occurred.

35  
36           So what I did in this analysis is I  
37 looked at who has used 11 and 15, not necessarily who  
38 has used the Juneau road system, looking at it in a  
39 broad way of the whole district. And I'm not going to  
40 go through all of the eight factors, but in the  
41 analysis you'll see that those communities that I just  
42 listed, that they do fulfill the eight factors for  
43 harvesting fish from Districts 11 and 15 which the  
44 Juneau road system is part of. That is not to say that  
45 they necessarily have harvested fish from the Juneau  
46 road system but rather that they have harvested fish  
47 from 11 and 15.

48  
49           We do have some limited data available  
50 from the statewide sportfish harvest survey, which is a

1 mail out survey conducted by ADF&G indicating some  
2 freshwater use from waters of the Juneau road system by  
3 rural residents of Southeast Alaska, but the survey was  
4 designed to provide regional estimates of the harvest  
5 of fish by sportfish license holders using sportfish  
6 gear under sportfish regulations and it doesn't provide  
7 reliable estimates by the actual rural communities.

8

9                   From 1996 to 2006 there were 107  
10 entries from responses to the statewide harvest survey  
11 from rural residents of Southeast Alaska who  
12 sportfished in Districts 11 and 15. And of these 107  
13 32 fished in freshwaters. In looking at which streams  
14 were fished, 24 of the 32 were for the Juneau road  
15 system, including fishers from Skagway, Wrangell,  
16 Gustavus, Haines, Sitka and Pelican. But the low  
17 number of survey responses is too small to apply an  
18 expansion factor to estimate effort and actual harvest  
19 so we really don't know very much from this. We just  
20 know that there may have been some harvest, we don't  
21 know how much effort or how much harvest by residents  
22 of Skagway, Wrangell, Gustavus, Haines, Sitka and  
23 Pelican.

24

25                   What we also found from the survey is  
26 that the harvest effort in the Juneau road system was  
27 by Juneau area residents. There were roughly 1,200  
28 entries for residents of the Juneau road system.

29

30                   If this proposal is rejected, affects  
31 on fish populations and stocks and populations are not  
32 anticipated. As far as we know the harvests are  
33 minimal, if any at all.

34

35                   No change in subsistence harvest are  
36 anticipated if the proposal is rejected.

37

38                   The status of the population or stock  
39 is not relevant actually in the context of customary  
40 and traditional use determinations. Permits are  
41 currently used in the Juneau road system to effectively  
42 address any conservation concerns if they should arise.

43

44                   If this proposal is adopted, there  
45 could be affects on subsistence users because a no  
46 Federal subsistence determination specifically for the  
47 Juneau area would not provide Federally-qualified  
48 subsistence users with a meaningful subsistence  
49 priority.

50

1                   The OSM conclusion is to oppose  
2 Proposal FP08-04. This is because the residents of the  
3 Juneau road system, the road-connected area live in an  
4 area determined non-rural by the Federal Subsistence  
5 Board and therefore are not Federally-qualified  
6 subsistence users. And although Juneau residents do  
7 not have eligibility under ANILCA, Title VIII to fish  
8 under Federal subsistence regulations due to their non-  
9 rural status, other Federally-qualified rural residents  
10 do.

11  
12                   Data presented in the analysis show  
13 that there is use of fish in Districts 11 and 15 by  
14 Federally-qualified subsistence users, including users  
15 from the nearby communities of Haines, Klukwan,  
16 Skagway, Petersburg, Tenakee Springs, and Wrangell, and  
17 that these communities fulfill the eight factors.

18  
19                   Proposal FP08-04 request a specific C&T  
20 use determination for the Juneau road system but there  
21 is no benefit to management by making a customary and  
22 traditional use determination in a subportion of a  
23 district when there has been little subsistence harvest  
24 by Federally-qualified users fishing under Federal  
25 regulations.

26  
27                   If conservation concerns do arise,  
28 permit stipulations can be added or modified on the  
29 Federally-required permit to address them.

30  
31                   Furthermore, conservation concerns are  
32 not a reason to modify a customary and traditional use  
33 determination.

34  
35                   Thank you, Mr. Chair. That concludes  
36 my presentation.

37  
38                   CHAIRMAN FLEAGLE: Thank you. Summary  
39 of written public comments.

40  
41                   Pete -- oh, that's Robert, again, I'm  
42 sorry.

43  
44                   MR. LARSON: Mr. Chairman, Robert  
45 Larson, Southeast Regional Coordinator. There are no  
46 written public comments.

47  
48                   CHAIRMAN FLEAGLE: Okay, thank you.  
49 Public testimony. Pete.

50



1 MR. PROBASCO: Thank you, Mr. Chair.  
2 We have one public testimony and that's Mr. Darrel  
3 Williams.

4  
5 MR. WILLIAMS: Mr. Chairman. Members  
6 of the Board.

7  
8 I'd like to take a moment to speak to  
9 this proposal. Some of these things are real similar  
10 to what we went through on the Kenai Peninsula and I  
11 believe that just because somebody's on a road system  
12 and they still have their rural status, maybe we should  
13 still consider them rural and be able to give them the  
14 subsistence priority. I think it would help with a lot  
15 of future problems, we're liable to end up with the  
16 same kind of issues we had on the Kenai Peninsula.

17  
18 There's been a change in a lot of the  
19 folks here sitting on the Board so I think I know who  
20 the Board members are and so -- and I'm not sure if  
21 everybody really recalls all the last few years of  
22 going through this. One of the things that we did  
23 because of the Federal areas in Southcentral is we  
24 tried to delineate the areas to make them user specific  
25 and things like that. We put a lot of time and work  
26 into that and I think for the sake of a little  
27 consistency, I think passing C&T determinations or  
28 making them go away based on the road system could be a  
29 problem.

30  
31 One of the other things that comes to  
32 mind when I think of the road system is the Federal  
33 Highway Administration. They classify roads as rural  
34 and non-rural and I'm pretty sure their classification  
35 probably wouldn't work with the Federal Subsistence  
36 Board classification; I don't know. But I see a lot of  
37 problems in going into a road system classification.

38  
39 Thank you, Mr. Chairman.

40  
41 CHAIRMAN FLEAGLE: Okay, thank you.  
42 And I think we had interest -- wasn't this the proposal  
43 that.....

44  
45 MR. PROBASCO: Trooper Waldron.

46  
47 CHAIRMAN FLEAGLE: Okay, Trooper  
48 Waldron.....

49  
50 MS. CUNNING: (No microphone on) He's

1 going to testify (no microphone on).....

2

3 CHAIRMAN FLEAGLE: Could you speak in  
4 the microphone please.

5

6 MS. CUNNING: Trooper Waldron will  
7 speak as part of our testimony. That's what Pete  
8 asked, to include him with the State comments.

9

10 CHAIRMAN FLEAGLE: Okay, I understand.  
11 Thank you.

12

13 So do we have any further public  
14 testimony, Pete.

15

16 MR. PROBASCO: No more public testimony  
17 for Proposal 3, Mr. Chair.

18

19 CHAIRMAN FLEAGLE: All right, thank  
20 you. Next, we'll move into the Regional Council  
21 recommendation.

22

23 Bert.

24

25 MR. ADAMS: Thank you once, again, Mr.  
26 Chairman. The Council opposes this proposal.

27

28 They found that there was not enough  
29 information presented indicated that subsistence  
30 fishing in Juneau areas was inappropriate or that it  
31 was necessary -- necessarily resulting in a  
32 conservation issue or concerns.

33

34 Helen, you know, spent a lot of time on  
35 Districts 11 and 15, I just need to emphasize, you  
36 know, that these areas would be available for the  
37 Juneau residents, you know, if they want to go out and  
38 do their subsistence fishing or hunting.

39

40 The proposal would not affect non-  
41 subsistence users but it would -- at the same time it  
42 would not benefit any subsistence users, so that's one  
43 of the reasons why the Council opposed this.

44

45 Also said that there was no evidence  
46 that a conservation concern exists, but, you know,  
47 that's the extent of my comments here, Mr. Chairman.

48

49 I thank you.

50

1 CHAIRMAN FLEAGLE: Thank you, Bert.  
2 All right, now we turn to the Alaska Department of Fish  
3 and Game for comments.

4  
5 Tina.

6  
7 MS. CUNNING: Thank you, Mr. Chairman.  
8 I'd like to ask the Federal Staff to put the Juneau  
9 land status map on the screen while George presents our  
10 comments.

11  
12 MR. PAPPAS: Mr. Chair, for the record,  
13 George Pappas, Department of Fish and Game.

14  
15 The Alaska Department of Fish and Game  
16 submitted Proposal FP08-04 to remove the Federal  
17 subsistence priority for the streams crossing the  
18 Juneau road system within the city and borough of  
19 Juneau. In 2005, the Department submitted FP06-31  
20 requesting the Federal Subsistence Board not to  
21 authorize Federal subsistence fisheries in the  
22 freshwaters along the road system within Juneau city  
23 and borough boundaries due to conservation concerns on  
24 these small streams. The small stocks that are already  
25 restrictively managed or closed due to intensive  
26 fishing pressures by the Juneau area residents. The  
27 Federal Subsistence Board analysis of FP06-31 in  
28 January of 2006, and the threshold analysis of the  
29 Board's denial of the Department's fisheries request  
30 for reconsideration FRFR06-05 suggested that, instead  
31 of changing the Federal regulation for taking a fish on  
32 the Juneau road system it would be more appropriate for  
33 the Board to adopt the determination of no Federal  
34 subsistence priority for the area within the city and  
35 borough of Juneau along the road system. Based on a  
36 Federal Board suggestion the Department submitted  
37 Proposal FP08-04 consistent with the Federal Board's  
38 suggestion to make an area specific or community based  
39 customary and traditional use determination. No  
40 Federal subsistence permits have been requested and no  
41 prior harvest by rural residents have been documented  
42 for subsistence in the freshwaters of the road system  
43 within the Juneau city or borough boundaries.

44  
45 Adoption of this proposal will have no  
46 impact on subsistence users. There is no evidence of a  
47 customary and traditional use of fish stocks for  
48 subsistence by rural resident in the freshwaters across  
49 the road system within the Juneau and borough boundary.  
50 As documented in the Federal Staff analysis, most

1 fishing occurs within the marine waters just as most  
2 fishing occurs in marine waters throughout Southeast  
3 Alaska. The existing Federal subsistence fishery  
4 within the streams crossed by the Juneau road system  
5 requires a permit and federal permits have ever been  
6 issued, a meaningful subsistence fishing opportunity  
7 for rural residents is provided in streams in marine  
8 areas that are close to the respective communities.  
9 Eligible rural residents would have to travel  
10 substantial distances by boat or airplane in order to  
11 fish the Juneau roads. Rural residents may have to  
12 travel some distances to subsistence fish but they have  
13 more readily accessible fish without traveling to the  
14 freshwaters of the road system within the Juneau city  
15 and borough boundaries to obtain subsistence fish.  
16 Though daily air and ferry service exists, the Juneau  
17 area is not near or reasonably accessible to rural  
18 residents of the communities of Southeast Alaska for  
19 the purposes of subsistence fishing. In fact only two  
20 responses by rural residents from Southeast Alaska over  
21 the last three years ever reported sportfishing in the  
22 two fresh -- excuse me -- in two freshwater systems on  
23 the Juneau road system in the statewide harvest  
24 sportfish survey.

25  
26                   No evidence has been provided that  
27 shows steelhead, trout, and char in the freshwaters of  
28 Juneau road system have been customarily and  
29 traditionally used for subsistence by rural residents  
30 living outside the Juneau area. No evidence indicates  
31 that subsistence opportunity along the Juneau road  
32 system have been or would be needed for subsistence by  
33 rural residents living outside the city and borough  
34 boundaries. Without such documentation, the Board  
35 should exempt the Juneau city and borough boundary area  
36 from the region wide regulations and this action would  
37 have no impact on Federally-qualified rural subsistence  
38 users.

39  
40                   Opportunity provided by the State.  
41 State regulations provide for a variety of sportfishing  
42 opportunities in the freshwaters and adjacent saltwater  
43 shoreline area of the Juneau road system. The  
44 Department's sportfishery's website for the Juneau road  
45 system lists 15 freshwater streams and numerous  
46 saltwater shorelines areas for anglers to fish. Nearly  
47 all the freshwater sportfishing activity, roughly 80  
48 percent along the Juneau road system takes place in  
49 four primary streams, which are Cowee, Montana,  
50 Peterson and Fish Creek. The fish populations in these

1 streams are relatively small and given Juneau's  
2 relatively large human population and road access, the  
3 potential exists for overharvesting local fish  
4 resources. As such, several small roadside streams are  
5 closed to sportfishing altogether and others are closed  
6 to salmon or Dolly Varden fishing. Restrictive bag and  
7 possession limits are in effect for several species aw  
8 ell. The Juneau road system bag and possession limits  
9 and size requirements differ in several respects from  
10 the regional regulations. Bag and possession limits  
11 have been reduced for coho salmon, sockeye salmon,  
12 Dolly Varden and cutthroat trout size limits are more  
13 restrictive.

14

15                   Because Juneau is a non-rural area,  
16 residents of Juneau who historically have used fish  
17 stocks are ineligible to participate in the Federal  
18 subsistence fishery and cannot qualify for Federal  
19 customary and traditional use determination.  
20 Additionally, residents of Juneau could be displaced  
21 from their local fisheries by rural residents from  
22 distant areas if conservation concerns arise for any of  
23 the District 11 stocks and preferences are provided --  
24 and preference -- excuse me, and preferences are  
25 provided to Federally-eligible rural resident through  
26 special action in times of shortage. Thus, the  
27 existing Federal subsistence regulations could lead to  
28 restrictions on the Juneau residents of the non-rural  
29 area along the Juneau road system. This would also  
30 impact opportunities of previously rural residents who  
31 move to Juneau and rely upon the opportunity in the  
32 Juneau area to continue their fishing activities.

33

34                   The Department has serious conservation  
35 concerns. The Department continues to have concerns  
36 about the sustainability of the highly accessible and  
37 liberal Federal subsistence fisheries on the Juneau  
38 road system. The Federal steelhead 32 inch size limit  
39 allows a harvest rate that is unsustainable. The  
40 Federal Staff analysis for Proposal FP06-31 at the  
41 January 2006 Board meeting provided no biological  
42 justification for the size limit other than to state  
43 that the size limit was set less than the State's  
44 sportfish limit of 36 inches to give Federally-  
45 qualified users a subsistence priority. The State's 36  
46 inch size limit and other regulations are adopted to  
47 rebuild depleted stocks and biological standards to  
48 achieve a sustainable harvest rate. The Department's  
49 sportfish cutthroat regional minimum size limit is 11  
50 inches in length and it was established to protect

1 about 60 percent of the trout populations until they  
2 can spawn at least once. The 14 inch minimum size  
3 length limit for cutthroat trout was established for  
4 high use waters such as the Juneau road system to allow  
5 all female cutthroat trout to spawn at least one time.  
6 The Federal regulations allow retention of cutthroat  
7 trout less than 14 inches in length, which may lead to  
8 the harvest of juvenile cutthroat trout in areas of  
9 high use. The State fishing regulations in place for  
10 near or within highly populated areas of Alaska for  
11 fish stocks exposed to elevated exploitation rates were  
12 developed to preserve and rebuild a variety of fish  
13 stocks. The current regulations in place that protects  
14 such stocks were successfully developed in utilizing  
15 the most current scientific knowledge and management  
16 methods. With all the required data needed to manage  
17 a fishery are not available or if a fish stock has been  
18 identified as finite, fragile or of concern the  
19 fisheries managed conservatively through restrictive  
20 regulations. In the absence of critical information  
21 about the stock sizes and harvest rates the State  
22 regulations should be used to help ensure  
23 sustainability of the resource.

24  
25                   The Federal regulations could  
26 jeopardize the fish stocks because the harvest limits  
27 are excessive for the size of the streams and the  
28 damage would not be evident until after it was  
29 reported.

30  
31                   The Federal subsistence permit appears  
32 to be the foundation for Federal stock conservation but  
33 the reporting requirement may be too little or too late  
34 for small stocks. The Juneau area streams support  
35 small populations of fish that can be easily accessed  
36 from local road systems. Under Federal subsistence  
37 fishing regulations these fish stocks could be impacted  
38 even if a few eligible rural residents choose to  
39 subsistence fish while visiting Juneau. These Federal  
40 regulations apply to an area where non-Federally-  
41 qualified Juneau residents and other users subject to  
42 State and sportfishing regulations. The current  
43 Federal regulations provide an exemption from State  
44 sportfishing license requirement, allows liberalized  
45 gear, and allows liberalized size limits.

46  
47                   In summary streams that cross the road  
48 system within the city and borough of Juneau are  
49 relatively accessible, support small fish stocks and  
50 receive increasing pressure by the residents of the

1 area, thus necessitate increasing restrictions on size,  
2 gear and limits in order to assure sustainability of  
3 those stocks while retaining an opportunity for the  
4 residents of the area to participate in the fishery.

5  
6 For jurisdiction issues. According to  
7 the Department's fish distribution database the  
8 majority of the fish habitat and documented fish  
9 observations in these streams are not within Federal  
10 lands. Some streams have relatively inaccessible  
11 headwaters on Federal lands but they flow through  
12 State, private and other land ownership and are not  
13 within the Tongass Forest boundary prior to crossing  
14 the Juneau road systems into marine waters. Other  
15 streams along the Juneau road system flow entirely on  
16 non-Federally owned lands, however, the Federal  
17 analysis in the September Regional Advisory Committee  
18 Fisheries Council meetings -- fisheries meeting  
19 materials book on Page 84 incorrectly states, Federal  
20 waters comprise of all freshwaters draining into  
21 Districts Fish No. 11 and those freshwaters draining  
22 into Fishing Districts 15 south of Chilkat Peninsula  
23 near Haines all within the exterior boundaries of the  
24 Tongass National Forest. And these waters include all  
25 streams crossed by the roads connected to the city and  
26 borough of Juneau road system. In order for the rural  
27 residents and enforcement personnel to know where they  
28 can legally participate in the Federal subsistence  
29 fisheries we request detailed land status maps showing  
30 the areas and specific boundaries of waters claim to be  
31 within the Federal subsistence jurisdiction and the  
32 basis for those claims. The map included with the RAC  
33 meeting materials is insufficient to provide this  
34 information. Significant portions of the lands  
35 surrounding the Juneau road system are bordered by  
36 State and private lands where there is either no  
37 Federal jurisdiction or where a person cannot  
38 participate in Federal subsistence fishery while  
39 standing on Federal lands.

40  
41 The Department's recommendation is to  
42 support this.

43  
44 Mr. Chairman, Tina will conclude with  
45 our Department comments and Trooper Waldron will also  
46 provide some testimony.

47  
48 Thank you, Sir.

49  
50 CHAIRMAN FLEAGLE: Tina.

1 MS. CUNNING: OSM'S own analysis shows  
2 that no Federally-eligible residents reported  
3 harvesting within the non-rural designated area by the  
4 Federal Board of the city and borough of Juneau on the  
5 Juneau road system for subsistence. In fact, only two  
6 dozen people from rural communities fished there under  
7 the sportfishing regs according to our harvest survey  
8 for the last 10 years.

9

10 The rural subsistence preference in  
11 this non-rural area lacks common sense.

12

13 Federal regulations allow residents of  
14 Barrow to Adak to Hyder to Federally subsistence fish  
15 for salmon along the general road system without a  
16 license, with increased bag limits and methods and  
17 means.

18

19 The rural subsistence preference within  
20 the Federal non-rural area on the Juneau road system  
21 allows other rural residents of Southeast Alaska to  
22 fish for juvenile trout, undersized, 32 inch long  
23 steelhead in high use areas requiring the user to fly  
24 to town or catch a ferry to access the non-rural  
25 fishery.

26

27 The State is responsible for  
28 sustainable management of fish. These fisheries are  
29 already on the edge.

30

31 The community subsistence fishing  
32 regulations are a conservation issue magnified in this  
33 high use area. However, the Federal Subsistence Board  
34 turned down our proposal on conservation basis and told  
35 us to resubmit this area, that it should not have a  
36 regional or statewide C&T determination, and that is  
37 what we've done. We've come back to you and asked that  
38 it be excluded from the C&T area. The Federal size  
39 limits on steelhead and the resident species is too  
40 liberal for long-term sustainability of the finite fish  
41 stocks and any Federal participation could  
42 significantly increase the conservation risk for these  
43 small stocks.

44

45 There's virtually no Federal land along  
46 the road system as demonstrated by the map up there.  
47 And I'm going to ask Theo to flip up the next Juneau  
48 map that you have on the CD, while Trooper Waldron  
49 provides his testimony on enforcement.

50



1 CHAIRMAN FLEAGLE: Okay, real quick.  
2 Before you continue there's just one discrepancy, I'd  
3 like to see if we can get cleared up.

4  
5 Your reference to residents from Barrow  
6 to Adak being able to fish for salmon, and I think  
7 Helen's coverage said that salmon was one of the fish  
8 that a positive C&T was not determined for, is that  
9 right, Helen?

10  
11 MS. H. ARMSTRONG: No, she's actually  
12 correct. The remainder of the Southeastern area, it's  
13 no determination, all rural residents of Alaska, all  
14 Federally-qualified rural residents.....

15  
16 CHAIRMAN FLEAGLE: I see.

17  
18 MS. H. ARMSTRONG: .....for salmon.

19  
20 CHAIRMAN FLEAGLE: I understand, okay.  
21 I understand, okay, thank you.

22  
23 Trooper.

24  
25 TROOPER WALDRON: Thank you, Mr.  
26 Chairman. Members of the Board. For the record, my  
27 name is Burke Waldron, I'm a captain with the  
28 Department of Public Safety, Division of Alaska  
29 Wildlife Troopers.

30  
31 I have some comments here on Proposal  
32 -- on multiple proposals that I've lumped all into one  
33 block. So I'll be commenting on Proposal 04, 05, 08,  
34 09, 11, 12 and 17.

35  
36 The Federal Subsistence proposals  
37 before the Board raise several enforcement concerns for  
38 the State of Alaska. These concerns fall into two  
39 basic categories.

40  
41 The first category is illustrated in  
42 FP08-04, 08, 11 and 12. These proposals adopt  
43 regulations in areas where there is little or no  
44 Federal land. If an enforcement officer encounters an  
45 individual conducting an activity that is prohibited by  
46 State regulations, an individual is on State or private  
47 lands, including State owned submerged lands the person  
48 may likely be cited.

49  
50 Similarly Fisheries Proposals FP08-09,

1 and 12, would authorize methods, means and equipment  
2 not legal under State regulations on State and private  
3 lands.

4  
5                   These proposals involve use of  
6 equipment such as fish traps and fishwheels which would  
7 be difficult, if not impossible to set up or operate  
8 without an attachment to non-Federal lands.

9  
10                   Fisheries Proposal 08-11 approves  
11 Federal subsistence fisheries without requiring a  
12 Federal permit, registration or reporting by Federal  
13 subsistence users. Eliminating such requirements  
14 significantly complicates enforcement efforts on non-  
15 Federal lands. As an example if an enforcement officer  
16 contacts a fisherman standing on or using non-Federal  
17 lands while in possession of fish or game that is not  
18 in compliance with State regulations and the individual  
19 is not in possession of a fishing license or State  
20 permit, that individual may also be cited.

21  
22                   The second category is Federal  
23 authorization of fish to be sold in commercial markets.  
24 Approval of Fisheries Proposal 08-05 and 08-17 would  
25 significantly increase subsistence user's opportunity  
26 to sell subsistence caught fish because the proposed  
27 regulations would reduce the separation of subsistence  
28 and commercial fisheries by either time or area. The  
29 subsistence harvest marking requirements prevent  
30 commercial buyers from purchasing subsistence harvest.  
31 With concurrent fisheries the marking requirements will  
32 be easily violated because of low enforcement presence.  
33 Few convictions involving illegal commercial sales of  
34 subsistence caught fish involve the sale of legally  
35 marked fish. Violators do not normally advertise they  
36 are about to commit a crime.

37  
38                   If these proposals are adopted, efforts  
39 to enforce fishery regulations would be crippled if  
40 officers were required to check every participant in a  
41 fishery and determine the legality of their fishing  
42 activities. All over Alaska the commercial fishermen  
43 and their families subsistence fish with the same gear,  
44 the same boat and the same area targeting the same  
45 fish. Because of the State's marking requirements  
46 combined with time or areas separation of the  
47 commercial and subsistence fisheries this has reduced  
48 the problem in the past. But if the Federal Board  
49 eliminates the separation we may have to ask the Alaska  
50 Board of Fisheries to distinguish the gear and vessels

1 used in commercial fisheries from subsistence  
2 fisheries.

3

4 Thank you.

5

6 CHAIRMAN FLEAGLE: Okay, thank you.  
7 Tina, you have additional.....

8

9 MS. CUNNING: Mr. Chairman. Trooper  
10 Waldron is actually here for meetings next door and  
11 that's why we provided an opportunity for him to give  
12 all his testimony at one time so he could go back to  
13 the Game Board -- Game Guide meeting that's next door,  
14 so unless you have questions for him.

15

16 CHAIRMAN FLEAGLE: Appreciate that.  
17 You were reading something there, do you have something  
18 that you can leave with the Board so they can refer to  
19 your comments on future proposals, if you can get that.

20

21 TROOPER WALDRON: Certainly.

22

23 CHAIRMAN FLEAGLE: Thanks, Tina,  
24 appreciate it. Thanks.

25

26 All right. That puts us to the  
27 InterAgency Staff Committee comments. Larry.

28

29 MR. BUKLIS: Mr. Chairman. The  
30 InterAgency Staff Committee found the Staff analysis to  
31 be a complete and accurate evaluation of the proposal,  
32 and also found the recommendation of the Advisory  
33 Council to be consistent with ANILCA, Section .805c.

34

35 Mr. Chairman, I would like to note that  
36 for several of the proposals that follow I have a  
37 similar sort of comment from the Staff Committee, so  
38 when you get to those later proposals I will just  
39 indicate that I have nothing further to emphasize for  
40 those, and the comments on each are a matter of record  
41 in the Board book.

42

43 Thank you.

44

45 CHAIRMAN FLEAGLE: That almost sounds  
46 too efficient. Thanks, Larry.

47

48 Helen.

49

50 MS. H. ARMSTRONG: Mr. Chair. I just

1 need to correct myself because I misspoke. The C&T  
2 determination is not for salmon for all rural  
3 residents, it's for all other fish, so it doesn't  
4 include Dolly Varden, trout, smelt, and eulachon, but  
5 all other fish, it's for all rural residents. I just  
6 wanted to correct that on the record.

7

8 Thank you.

9

10 CHAIRMAN FLEAGLE: Okay, thank you.  
11 That does relieve some confusion.

12

13 Board discussion with Council Chairs  
14 and State liaison.

15

16 Denny.

17

18 MR. BSCHOR: Mr. Chair. Just a  
19 clarification on the jurisdiction issue, and our  
20 Counsel is not here, the Federal waters that we're  
21 talking about, whether they're -- no matter which lands  
22 they flow through, I'm understanding the freshwaters to  
23 the saltwater are within our jurisdiction. Now,  
24 understanding the land, if it's private, people would  
25 have to have permission to fish off the private land  
26 and that sort of thing, but -- so if I'm wrong about  
27 that I need to be better informed here.

28

29 I think it's an important point.

30

31 CHAIRMAN FLEAGLE: I agree. Let's go  
32 ahead and step down and we'll wait until we get --  
33 we'll stand down anyway for five minutes.

34

35 (Off record)

36

37 (On record)

38

39 CHAIRMAN FLEAGLE: We're called back to  
40 order. And we left with a question hanging and that  
41 was Denny Bschor had a legal question, jurisdictional  
42 for Keith.

43

44 Denny, would you restate the question  
45 now that we have Keith present, please.

46

47 MR. BSCHOR: Yes, it was relative to  
48 the comments from the State about jurisdiction of the  
49 waters flowing across the routes through the -- through  
50 the private lands to the saltwater, and my question was

1 I need -- my understanding is that there is  
2 jurisdiction through the freshwaters, through whoever's  
3 land it is until it hits the saltwater and I was just  
4 asking if that was a correct interpretation.

5  
6 MR. GOLTZ: Technically that's correct.  
7 Our regulations apply to all inland waters within and  
8 adjacent to the external boundaries of basically CSUs.

9  
10 That doesn't address questions of  
11 trespass, though, and other questions that might come  
12 up, but we have claimed jurisdiction within the entire  
13 external boundaries.

14  
15 Now, I should warn people that this  
16 matter is now in litigation. But as of this moment,  
17 our regulations do assert jurisdiction.

18  
19 CHAIRMAN FLEAGLE: That's our story and  
20 we're sticking to it, I guess.

21  
22 (Laughter)

23  
24 CHAIRMAN FLEAGLE: Okay, thank you.

25  
26 MR. PROBASCO: You got Tina.

27  
28 CHAIRMAN FLEAGLE: Tina.

29  
30 MS. CUNNING: Denny, we've got a map up  
31 here that we've thrown up for you. This is a map from  
32 1958 that was provided to the State with the Statehood  
33 Act, and if you look at the blocked area that's around  
34 the Juneau area, that was an exclusion from the Tongass  
35 Forest that preceded by decades prior to statehood.

36  
37 So under our interpretation those lands  
38 within those blocks that were in effect long before  
39 statehood are exclusions from the Tongass Forest, so  
40 there would not be jurisdiction on the waters within  
41 that block.

42  
43 CHAIRMAN FLEAGLE: Tom Melius.

44  
45 MR. BSCHOR: Yeah, I'm not going to go  
46 any further as far as the.....

47  
48 CHAIRMAN FLEAGLE: Oh, okay.

49  
50 MR. BSCHOR: Excuse me, do you have

1 something, I'm sorry.

2

3 MR. MELIUS: It's your issue.

4

5 MR. BSCHOR: I don't want to get any  
6 further into the legal issues here and since this is  
7 being litigated I probably ought to shut up.

8

9 CHAIRMAN FLEAGLE: And I thought that's  
10 what we were doing so I called on the next hand in  
11 line.

12

13 Keith, do you have further comments.

14

15 MR. GOLTZ: I think that's a good  
16 course of action. I will point out that we're aware of  
17 that withdrawal.

18

19 CHAIRMAN FLEAGLE: Okay, thank you.

20 Tom.

21

22 MR. MELIUS: Yeah, Mr. Chairman, more  
23 of a point of clarification. As we move forward with  
24 the proposals in front of us on the agenda, is there  
25 value in having the written testimony and reports  
26 submitted as part of the record and trying to use the  
27 time in front of the Board to more or less summarize  
28 the remarks as opposed to having a lengthy reading of  
29 the reports, and this is not taking anything away from  
30 the information that's being presented, just more or  
31 less a process question to move things along before the  
32 Board.

33

34 CHAIRMAN FLEAGLE: Thank you, Tom.  
35 That was the purpose of the group huddle when we  
36 stepped down waiting for a legal opinion, Pete and I  
37 talked to the State about that and they felt that for  
38 the most part that just summarizing the comments,  
39 because the comments -- their written report is in the  
40 record, is adequate, but they felt that there were  
41 three instances in this meeting where they wanted to  
42 have the written report on the verbal record because  
43 that is what gets transcribed into the court record,  
44 which is available in perpetuity on the web site for  
45 further review. And, they're encouraged, while they  
46 agreed that there's only two more proposals that they  
47 feel that they need to read their justification into  
48 the record and they're not as lengthy as the one that  
49 was just read into the record, and I considered that an  
50 okay compromise. Unless there's maybe an overruling

1 here, but felt that we could accommodate that at this  
2 case.

3

4                   And part of the reason, the issue that  
5 they raised about having the record available --  
6 readily available, we'll just have to work on in the  
7 future to see if there's a way that we can resolve that  
8 issue further.

9

10                   Tom.

11

12                   MR. MELIUS: Yeah, and, Mr. Chairman,  
13 my comments aren't directed at any one body who has got  
14 information that they would like to have presented to  
15 the Board, it was more or less just in trying to keep  
16 the process moving and not wear down folks too much, so  
17 that's it.

18

19                   Thank you, Mr. Chairman.

20

21                   CHAIRMAN FLEAGLE: Oh, absolutely. And  
22 we have addressed this with Staff before and have asked  
23 that stuff that is presented in written form be  
24 summarized in verbal communication at the meeting, so  
25 appreciate the comments.

26

27                   Keith.

28

29                   MR. GOLTZ: I'd like to ratify what you  
30 just said and add a little bit to it.

31

32                   One of the recent lessons of  
33 Chistochina, which we've always relied on before anyway  
34 is that once it's in the book it's in the record, and I  
35 think that's a clear statement of the law.

36

37                   If you're concerned about having that  
38 particular document part of the transcript, you can do  
39 that by asking the court reporter to include it with  
40 the Chairman's ratification of that, that becomes part  
41 of the written document.

42

43                   You can do it either way, there's no  
44 legal restriction on reading it in, but you don't have  
45 to.

46

47                   CHAIRMAN FLEAGLE: So just a reference  
48 with a request that the court recorder place that  
49 document in the record.

50

1 MR. GOLTZ: That's correct.  
2  
3 CHAIRMAN FLEAGLE: Okay. Other  
4 comments.  
5  
6 (No comments)  
7  
8 CHAIRMAN FLEAGLE: We're back to the  
9 proposal.  
10  
11 Bert. I got Bert and then Denny.  
12 Bert, go ahead.  
13  
14 MR. ADAMS: Thank you for taking care  
15 of that lengthy part, I was going to address that, too,  
16 but, Tom, thanks for bringing it up, now I am off the  
17 hook.  
18  
19 (Laughter)  
20  
21 MR. ADAMS: This proposal, the Council,  
22 you know, didn't see enough evidence to support it and  
23 that's one of the main reasons why it was not  
24 supported, it was opposed.  
25  
26 And if it would be appropriate, Mr.  
27 Chairman, there's a -- i don't know whether you'd allow  
28 this or not but I'm going to ask it, you know, I'm a  
29 brave man. There's an individual from Yakutat who  
30 lives in Juneau now and he feels strongly about this  
31 particular issue and he didn't have time to put in, you  
32 know, your yellow slip for a comment, he came in kind  
33 of late, and I'm wondering if it'd be appropriate to  
34 have him come forward and share his testimony with us.  
35  
36 CHAIRMAN FLEAGLE: I would allow this.  
37  
38 MR. ADAMS: Mr. Donald Bremner.  
39  
40 CHAIRMAN FLEAGLE: This is a public  
41 meeting and we do want to make sure that those views  
42 are represented, sure.  
43  
44 MR. ADAMS: The individual is Mr.  
45 Donald Bremner, so if he could come forward, please.  
46 Thank you.  
47  
48 Thank you, Mr. Chairman.  
49  
50 CHAIRMAN FLEAGLE: Thank you. And,



1 yeah, there's a microphone at this table, you need to  
2 push the button to turn the microphone on and please  
3 confine your comments to within about five minutes for  
4 time constraints. Thanks. And state your name on the  
5 microphone for the record.

6

7 MR. BREMNER: Mr. Chairman, my name is  
8 Don Bremner. I was born and raised in Yakutat, Alaska,  
9 but I have lived in Juneau since 1989. I am the  
10 natural resource coordinator for the Southeast Alaska  
11 Intertribal Fish and Wildlife Commission. We work on  
12 subsistence and commercial fish issues. I apologize  
13 for getting here late and didn't get here in time to  
14 put in my yellow sheet.

15

16 But from reading this proposal, we  
17 don't see that there's enough evidence to warrant this  
18 proposal.

19

20 The Fish and Game themselves stated  
21 that there's no real conservation issue and that it  
22 wouldn't make a difference if this was adopted or not.

23

24 But my point here and emphasis is that,  
25 really, if you look at the eight criteria for customary  
26 and traditional use determinations, I think that was  
27 totally left out of this proposal and that's the work  
28 that has to be done.

29

30 Like when the State comes up with this  
31 kind of a proposal, it's a weak document with not a  
32 whole lot of scientific or even technology that we're  
33 required to document when we go after even a single  
34 species of subsistence foods. So I think it would be  
35 appropriate if the Council would table this for a later  
36 date until you are able to hold these C&T use  
37 determinations in Juneau where I know there's five or  
38 6,000 Tlingit-Haida and Tsimshian people that would say  
39 differently to the State's findings here.

40

41 You know I look at this and I see it  
42 just as another ploy to expand State rights within our  
43 region, like what's happening in Kenai. So I think it  
44 would be appropriate to table this until you have those  
45 C&T determinations in Juneau where our Native people  
46 will have a chance to speak to you.

47

48 That concludes my comments, thank you.

49

50 CHAIRMAN FLEAGLE: All right, thank

1 you, Don, appreciate that.

2

3 Back to Board and Chair and State  
4 discussions.

5

6 Denny, go ahead, please.

7

8 MR. BSCHOR: Well, maybe to get us back  
9 to the real issue here as far as the C&T determination.  
10 This is not really a discussion about methods, means or  
11 take at this point, it's C&T. We have other areas that  
12 are non-rural that we've designated C&T on and we do  
13 have evidence, I think, that there has been customary  
14 and traditional use.

15

16 For the new members I just want to make  
17 sure they understand all that, and that the rural --  
18 the non-rural aspect of the location is interesting,  
19 but it doesn't really affect the C&T determination, and  
20 I'm going to go based on what our analysis was for C&T  
21 relative to this issue.

22

23 CHAIRMAN FLEAGLE: Further discussion.  
24 Tom.

25

26 MR. MELIUS: Mr. Chair. I guess I  
27 would have -- being one of the new people on the Board,  
28 though, still not quite certain that there's not  
29 substantial evidence of a long-term use by rural users  
30 on these streams. I did listen very closely to the  
31 points brought up by George and the issues that the  
32 State was purporting as conservation concerns,  
33 enforcement concerns, and I'm not certain I'd be able  
34 to support a motion that I think you would be  
35 advancing, Denny, so I'm just wanting to share that I  
36 do have some concerns with that.

37

38 CHAIRMAN FLEAGLE: Okay, thank you.  
39 Other discussion.

40

41 (No comments)

42

43 CHAIRMAN FLEAGLE: Are we ready for a  
44 motion. Is somebody willing to propose a motion.

45

46 Denny.

47

48 MR. BSCHOR: Mr. Chair, I'll propose a  
49 motion. I move to reject Proposal FP08-04 consistent  
50 with the recommendations of the Southeast Alaska

1 Subsistence Regional Advisory Council. After a second  
2 I'll provide some rationale for this motion.

3

4 MR. CESAR: I'll second.

5

6 CHAIRMAN FLEAGLE: Okay, it's moved and  
7 seconded. Go ahead, please, Denny.

8

9 MR. BSCHOR: While recognizing that the  
10 Juneau area is heavily impacted by other use, sports  
11 use, even commercial to an extent, and realizing that  
12 the accessibility to the road system does cause some  
13 concern, realizing that we also have ways of dealing  
14 with those specific streams relative to permit systems  
15 and that sort of thing. In-season managers have the  
16 ability to work hand in hand with the State on those  
17 areas.

18

19 I agree with the logic that there  
20 shouldn't be small areas with customary and traditional  
21 use determinations. In Southeast -- fishing districts  
22 recommended by the Southeast Council seem to be  
23 appropriate to geographical areas, and as you look at  
24 the Juneau city and borough, they brag that they're the  
25 biggest city and borough in the nation, it covers a lot  
26 of country, I don't think there's any benefit in  
27 subdividing it into smaller areas.

28

29 Realizing that I've covered the non-  
30 rural aspect of the -- that the people of Juneau,  
31 residents, aren't able to fish there, we haven't had  
32 evidence that there's anyone fishing from outside the  
33 Juneau area from the other communities. There may be  
34 some occurring that we don't know about but we  
35 certainly aren't permitting anything at this point in  
36 time.

37

38 ANILCA provides a priority for rural  
39 residents to hunt and fish on Federal lands and  
40 everywhere they may be located, assuming the resource  
41 uses are customary and traditional.

42

43 I think the analysis did an excellent  
44 job of laying out the case that use of fish is  
45 customary and traditional.

46

47 Like I say if there does become a  
48 problem with conservation uses on the Juneau road  
49 system, the Federal in-season manager has the authority  
50 to deal with that.

1 For these reasons and others relative  
2 to the customary and traditional use issue here I would  
3 vote for my motion.

4  
5 CHAIRMAN FLEAGLE: Other discussion.

6  
7 Marsha.

8  
9 MS. BLASZAK: Mr. Chairman. I'd just  
10 like to clarify, because, again, I'm new at this. The  
11 proposal that we're considering is that from the  
12 Council -- no.

13  
14 CHAIRMAN FLEAGLE: The proposal is  
15 submitted by the Alaska Department of Fish and Game but  
16 the Council recommendation is to not adopt and that was  
17 what Denny's motion supports.

18  
19 MS. BLASZAK: Okay.

20  
21 CHAIRMAN FLEAGLE: The Council  
22 recommendation.

23  
24 MS. BLASZAK: Okay.

25  
26 CHAIRMAN FLEAGLE: And that's the  
27 confusing part that I spoke about earlier.

28  
29 MS. BLASZAK: And reading what's up on  
30 the screen in front of me is perhaps where I'm  
31 confused.

32  
33 CHAIRMAN FLEAGLE: Right. The motion  
34 is to reject the proposal.

35  
36 MS. BLASZAK: Okay.

37  
38 CHAIRMAN FLEAGLE: And that's based on  
39 the recommendation of the RAC.

40  
41 MS. BLASZAK: Okay.

42  
43 CHAIRMAN FLEAGLE: That's why it's  
44 confusing, but we'll get there.

45  
46 Niles.

47  
48 MR. CESAR: Yes, I support the  
49 recommendation of the RAC to oppose FP08-04 for all the  
50 reasons that Denny talked about.

1                   And, I mean, there is -- I'm aware of,  
2 mainly because my family originally comes from Haines,  
3 that there is usage of that area by people from Haines,  
4 not very often, but I would say fairly consistently  
5 over the years, they have been in there and especially  
6 up towards Berner's Bay and Echo Cove to use that area.  
7 So I don't see a conservation concern, but I do  
8 believe, and it is more confusing and it would -- it  
9 can pose more of an enforcement issue, I guess, than  
10 anything, but I think that we're able to deal with  
11 those issues.

12  
13                   And so for the reasons articulated by  
14 Denny and myself I plan to adopt the recommendation to  
15 oppose.

16  
17                   CHAIRMAN FLEAGLE: Commissioner Lloyd.

18  
19                   COMMISSIONER LLOYD: Thank you, Mr.  
20 Chairman. I have a process, hopefully a brief factual  
21 question, and then some points of deliberation, if  
22 you'll indulge me in that order.

23  
24                   My process question is there is some  
25 confusion between what's on the screen versus what  
26 you're attempting to clarify, that you're considering  
27 the motion, or the conclusion of the RAC to reject the  
28 proposal. But I've seen in other guidance amongst the  
29 Federal Board and your general Council, that deference  
30 to the RAC, which we disagree with for other reasons,  
31 does not include issues surrounding customary and  
32 traditional use findings. So I'm wondering if, even  
33 under the guidance that you're operating under, is this  
34 an appropriate proposal within which to operate under  
35 that guidance.

36  
37                   CHAIRMAN FLEAGLE: Okay, that's a good  
38 question, and we'll go ahead and allow that process  
39 question. I just want to point out that with a  
40 compromise that I've reached with my Board, based on  
41 past deliberative discussions with the State, once the  
42 motion has been made, that the deliberative portion,  
43 we're not going to allow, because it's the Board's  
44 process. But as far as the Board wanting to elicit  
45 further information or you having process questions or  
46 something like this, is certainly well within order.

47  
48                   So that is a good question.

49  
50                   And I think we'll turn to Keith for the

1 answer to the question. I think you heard it.

2

3 MR. GOLTZ: I heard it. And I think  
4 you're technically correct. The judgment that we've  
5 been operating under is that on taking regulations,  
6 seasons and bag limits, methods and means, deference is  
7 due the RAC under .805c.

8

9 However, under our present procedure,  
10 C&T is not viewed as a taking recommendation.

11

12 I think the motion as put up on the  
13 screen does tend to lead you to the conclusion that the  
14 .805c is applicable but that's not what we've said in  
15 the past on C&Ts.

16

17 CHAIRMAN FLEAGLE: Thanks, Keith.  
18 Denby.

19

20 COMMISSIONER LLOYD: Well, thanks, Mr.  
21 Chairman. I was going to let that lie, but since  
22 Regional Director Blaszak asked the specific question,  
23 I thought that the advice that she was given was not in  
24 accordance with what your Counsel just said, so that  
25 was a point of order I wanted to ask you.

26

27 Am I to understand that you have made a  
28 conclusion that for factual questions in deliberations,  
29 that you'll ask me not to participate in the  
30 discussion?

31

32 CHAIRMAN FLEAGLE: That was the  
33 consensus that this Board agreed to at a meeting, I  
34 believe it was in May, if I recollect back, where we  
35 did have an issue where we had considerable debate that  
36 was both entered into by RAC Chairs and State liaison  
37 and I was approached about the discussion, the  
38 deliberative portion by the State and it was argued  
39 that the letter from the Secretary's office had granted  
40 that liaison seat didn't go all the way to allow  
41 complete deliberative privilege in the process and  
42 because the Board is the only ones that are going to be  
43 able to vote on it and that's what we determined to be  
44 the interpretation which was concurred by with legal  
45 counsel, so, yes, you are correct in assuming what I  
46 said was our position.

47

48 And, Keith, if you want to jump in with  
49 further clarification there I'd welcome that as well.

50

1 MS. CUNNING: Mike, I was there when  
2 you gave that clarification and we may not have relayed  
3 it to Denby absolutely correctly but my understanding  
4 was that we could speak after a motion was made, he  
5 could get attention, we can't, and that attention is to  
6 provide additional facts that may not be before you or  
7 to ask for questions on points of order on process.

8  
9 CHAIRMAN FLEAGLE: Exactly. But not to  
10 deliberate. Not to be a part of the argument. That  
11 portion is reserved for prior to the motion being made,  
12 and that's why we have the extra line item, Board  
13 discussion with Council Chairs and the liaison.

14  
15 MR. LOHSE: Mr. Chair.

16  
17 CHAIRMAN FLEAGLE: Keith. And then  
18 I'll call on you, Ralph.

19  
20 MR. GOLTZ: It's in the meeting  
21 guidelines. Larry might have them in front of him.

22  
23 Basically it says that prior to a  
24 motion the State and Council liaisons will fully  
25 participate.

26  
27 Once a motion is made the liaisons may  
28 be invited to participate.

29  
30 And that's on Page -- I have it now,  
31 Page 51 of our meeting guidelines.

32  
33 CHAIRMAN FLEAGLE: Thank you. All  
34 right. And, Ralph, you wanted to chime in.

35  
36 MR. LOHSE: Thank you. I think Keith  
37 answered the question right there. I was under the  
38 impression that once deliberations started any member  
39 of the Board could ask the liaison or any Council  
40 member for additional information.

41  
42 CHAIRMAN FLEAGLE: Absolutely. And I  
43 don't intend to stop that process.

44  
45 Denby did throw out that he had three  
46 pieces to his statement, and the third was deliberative  
47 and I just wanted to establish the -- reestablish the  
48 ground rules, if you will. Denby, did you have  
49 additional -- I think you covered point one, but not  
50 point two.

1 COMMISSIONER LLOYD: Well, that's  
2 correct, Mr. Chairman, and I appreciate you remembering  
3 that.

4  
5 My question of fact is I hadn't heard a  
6 description of the methods and means that are allowed  
7 under current Federal customary and traditional  
8 findings for the Juneau road system in a non-rural area  
9 that are beyond what's currently allowed under the  
10 State of Alaska sportfishing regs. And if possible I'd  
11 like to have that put on the record, on the verbal  
12 record.

13  
14 CHAIRMAN FLEAGLE: Do we have somebody  
15 who can give that answer, it looks like we have Larry.  
16 Okay, we're going to take a brief at ease -- or while  
17 that's being considered, is there any other discussion.

18  
19 MR. ADAMS: Mr. Chairman.

20  
21 CHAIRMAN FLEAGLE: Bert.

22  
23 MR. ADAMS: I take issue with that  
24 word, reject, the Council didn't reject this, they  
25 opposed it. And I think somebody, you know, on the  
26 Board here stated, correctly, that you support the  
27 Council's motion or, you know, to oppose the proposal  
28 would probably be better worded, for me anyhow, so I  
29 just wanted to bring that up as an issue.

30  
31 Thank you.

32  
33 CHAIRMAN FLEAGLE: Thank you, Bert.  
34 Appreciate that. Larry.

35  
36 MR. BUKLIS: Mr. Chairman. Just a  
37 small point, but the Board speaks through adoption or  
38 rejection actions to make regulations, and the State  
39 and the Councils provide advice or recommendations in  
40 the form of support or oppose the position, but when  
41 the Board acts, they act in the words, adopt or reject.  
42 So, Bert, it's a slightly different thing, but if the  
43 Board is making a motion to take regulatory action then  
44 they're rejecting or adopting it, and your advice was  
45 to oppose.

46  
47 CHAIRMAN FLEAGLE: Thanks. Further  
48 deliberations on the topic while we're waiting for the  
49 answer that Denby Lloyd asked.

50



1 (Pause)  
2  
3 CHAIRMAN FLEAGLE: Niles.  
4  
5 MR. CESAR: As long as we're in this  
6 waiting mode. I'd like to take the opportunity at this  
7 point to introduce our newest member of the Bureau's  
8 Staff, Charlie will retire this summer, sometime, he  
9 keeps telling me, and in order to deal with that I've  
10 named someone to shadow Charlie this spring and summer  
11 with the notion of coming in as my back up into the  
12 process and that's Kristin K'eit, Kristin do you want  
13 to stand. And Kristin is the head of our natural --  
14 what's your title.  
15  
16 KRISTIN: Division Director for  
17 Environmental and Social (not by microphone).....  
18  
19 MR. CESAR: Right. She's our branch  
20 manager, reports directly to me and has expressed an  
21 interest in this process. She's Inupiat and Tlingit  
22 from both ends of our state and is very interested in  
23 becoming more in this process and so I'm delighted that  
24 she's expressed that interest and I will use her more  
25 often in the future and when I'm not required to be  
26 here it's likely that she'll be sitting here next to  
27 Keith.  
28  
29 CHAIRMAN FLEAGLE: Thank you. Welcome.  
30 Thank you, Niles.  
31  
32 I got a process question now, I just  
33 thought of it. Go ahead and turn off your mic Niles.  
34  
35 Now, just the way that we do business  
36 here in trying to include the Regional Advisory  
37 Council's recommendation in the motion, such as the  
38 case here, where the motion is to reject the proposal,  
39 and now we don't have a positive motion to adopt. If  
40 this motion were to fail, does the proposal become  
41 adopted? We've never had a positive action on it.  
42  
43 MR. PROBASCO: You'd have a motion.  
44  
45 CHAIRMAN FLEAGLE: We'd have to have  
46 another motion.  
47  
48 Keith.  
49  
50 MR. GOLTZ: No, if this motion passes,

1 the existing regulation stays in place. The Board  
2 guidelines put it this way, the Chair will initiate  
3 Board action on a proposed regulatory rulemaking by  
4 entertaining a motion on a Council recommendation.

5  
6 CHAIRMAN FLEAGLE: I understand that.

7  
8 MR. GOLTZ: Okay.

9  
10 CHAIRMAN FLEAGLE: But given the  
11 unlikelihood on this proposal and perhaps on future  
12 proposals, that the Board overturns the Council's  
13 recommendation and actually votes against the motion,  
14 does that turn it into an affirmative action that would  
15 pass the proposal? I don't see how it could, but that  
16 just -- it makes it a real funny process, and I think  
17 Pete's probably hit it right, we probably would be at a  
18 stalemate and probably would have to have a different  
19 motion to adopt the proposal against the RAC's wishes  
20 or something like that.

21  
22 MR. GOLTZ: The way these are written,  
23 we rely on the wisdom and clarity of the Chair.

24  
25 (Laughter)

26  
27 CHAIRMAN FLEAGLE: If we were doing  
28 that we wouldn't be putting forth negative motions. We  
29 wouldn't be here. And that's probably what we need to  
30 fix through some process in the future.

31  
32 MR. GOLTZ: We can probably rework  
33 this. The motivation was initiated by the Board -- the  
34 Council Chairs and the purpose was to keep us focused  
35 on the RAC recommendation. Now, there may be another  
36 way to do this, there's no legal reason that I know of  
37 why it has to be written exactly this way.

38  
39 CHAIRMAN FLEAGLE: All right, that's  
40 probably something we could look at in the future to  
41 try to clean up the process, this makes it pretty  
42 confusing, not only to Board members, but it's got to  
43 be confusing as heck to everybody else that's trying to  
44 follow this.

45  
46 Bert.

47  
48 MR. ADAMS: Thank you, Mr. Chairman.  
49 It seems to me like you made it clear, you know, at the  
50 onset that all of the motions would be made in the

1 affirmative, that means positive, you know, and then  
2 you would work from there. But, you know, I think that  
3 it really should read that the Board supports the RAC's  
4 recommendation to oppose the proposal. I think that's  
5 an appropriate motion right there.

6

7 Thank you.

8

9 MR. BSCHOR: And you would think I  
10 would have learned my lessons from John Littlefield.

11

12 (Laughter)

13

14 MR. BSCHOR: But I think Bert is  
15 absolutely correct. So we can correct this, I don't  
16 know what the parliamentary procedure is but I can  
17 issue another motion that would be what he just said.

18

19 CHAIRMAN FLEAGLE: Sure.

20

21 MR. BSCHOR: So I can either withdraw  
22 my.....

23

24 CHAIRMAN FLEAGLE: No, just if the  
25 second concurs, go ahead and restate it.

26

27 MR. BSCHOR: Okay, let's see if I can  
28 get it right this time.

29

30 I move to adopt the recommendation of  
31 the RAC, which is to reject the proposal, consistent  
32 with the -- that's it, that's it, reject the proposal.  
33 Okay.

34

35 CHAIRMAN FLEAGLE: Now, do we have  
36 concurrence with the second, and that was Tom, right,  
37 who seconded.

38

39 MR. CESAR: No, actually it was me.

40

41 CHAIRMAN FLEAGLE: No, it's not. It's  
42 Niles.

43

44 MR. MELIUS: No, I'm confused enough  
45 for the day.

46

47 (Laughter)

48

49 CHAIRMAN FLEAGLE: It doesn't change my  
50 concern but it does make it -- it's a little clearer.

1 MR. BSCHOR: It's a positive motion.

2

3 CHAIRMAN FLEAGLE: It's a positive  
4 motion to vote against the proposal is basically what  
5 it is.

6

7 All right, now, do we have an answer to  
8 the question raised by Commissioner Lloyd.

9

10 Robert.

11

12 MR. LARSON: Yes, Mr. Chairman.  
13 Regarding gear and special provisions for the Juneau  
14 road system. It's a combination of regulations that  
15 are passed specific to Southeast Alaska for salmon, for  
16 coho salmon and for trout and steelhead, and steelhead  
17 trout, all of which are slightly different, and some  
18 specific permit stipulations and conditions that are  
19 attached to the subsistence fishing permit itself that  
20 would provide for additional restrictions for the  
21 Juneau road system.

22

23 For instance, there's -- in our  
24 regulations there are language, unless otherwise  
25 specified in a section, allowable gear for salmon or  
26 steelhead is restricted to gaff, spears, gillnets,  
27 seines, dipnet, cast nets, handlines or rod and reel.  
28 Now, if you look at a permit for the steelhead, for  
29 instance, you'll see that for the Juneau road system,  
30 the minimum size limit, there is a minimum size limit,  
31 which there is not for a lot of places, the minimum  
32 size limit is 32 inches.

33

34 If we then look at the salmon and trout  
35 permit, which is separate from the -- well, let's just  
36 stick with the steelhead permit for a minute, then  
37 because we have a minimum size limit, then the gear is  
38 restricted to dipnets, gaff, spears, handlines, and rod  
39 and reel except that for places where there's a minimum  
40 length then the -- let me read exactly what it says --  
41 I lost my place here -- anyway, what it says is that  
42 you can't use gear that causes mortality of that fish  
43 while harvesting that fish if it's got a minimum size.

44

45 If we look at the special restrictions  
46 for the Juneau road system we see for salmon and trout  
47 that for the Juneau road system it says, except for the  
48 -- with the exception of the 11 inch minimum size limit  
49 for trout subsistence fishing restrictions are the same  
50 as State sportfishing regulations.

1 CHAIRMAN FLEAGLE: Thank you.  
2  
3 MR. LARSON: Mr. Chairman. And I see  
4 where I lost my place.  
5  
6 It's rod and reel without bait for the  
7 Juneau road system regarding steelhead.  
8  
9 CHAIRMAN FLEAGLE: Okay, thanks.  
10 Further discussion.  
11  
12 (No comments)  
13  
14 CHAIRMAN FLEAGLE: I'm going to weigh  
15 in.  
16  
17 This proposal makes a lot of sense to  
18 me and I actually support what the intent is by the  
19 proposal. I understand that the way the system is set  
20 up that you want to have a broad determination that  
21 doesn't have little donut holes in it and I agree with  
22 that concept where it makes sense, but in this case I  
23 just can't see where it makes any sense to continue to  
24 allow virtually anybody from the across of the expanse  
25 of Alaska to harvest subsistence fish on these streams  
26 that the people that live next to it can't. And I'm  
27 not sure how that really works in the real world. It's  
28 evident that there's very little actual subsistence  
29 harvest here, so the issue is almost moot to whatever  
30 the Board does here, isn't apparently going to change  
31 much, but I do agree that the proposals intent is to  
32 fix a problem that exists in concept and I agree with  
33 that concept, I guess, is the simplest way to put it.  
34  
35 For that reason I'm going to vote  
36 against the motion. And that was perhaps evident in my  
37 question about what happens if this motion fails. I  
38 probably tipped my hand a little bit, but we'll see  
39 what happens when we get there. But I just don't see  
40 any reason to continue to allow subsistence take on the  
41 Juneau road system when -- well, anyway I'll stop  
42 there.  
43  
44 Other comments.  
45  
46 MS. ENTSMINGER: Is it open.  
47  
48 CHAIRMAN FLEAGLE: It's okay, it  
49 depends on what you want to ask?  
50

1 MS. ENTSMINGER: I wanted to make a  
2 point that what you just spoke of, this is another  
3 example of how things are so hard for the user to  
4 understand. You're the Chair and, you know, allowing a  
5 C&T -- I don't want to get into it, but it's just a  
6 good example.

7  
8 CHAIRMAN FLEAGLE: Could you swing your  
9 mic over closer to you.

10  
11 MS. ENTSMINGER: I apologize. I said  
12 this is a good example of why the users have a hard  
13 time understanding things, and you just pointed out  
14 that the C&T -- there is no C&T basically is what it is  
15 and I guess as a user I would think that the Federal  
16 process would do the C&T first before you would get to  
17 this point.

18  
19 CHAIRMAN FLEAGLE: Thank you, Sue.  
20 Further discussion.

21  
22 (No comments)

23  
24 CHAIRMAN FLEAGLE: Do we need to table  
25 this until tomorrow when everybody's had a chance to  
26 think about it.

27  
28 (No comments)

29  
30 CHAIRMAN FLEAGLE: I'm kidding. Denny.

31  
32 MR. BSCHOR: I don't want to table it  
33 until tomorrow but could we have a slight -- a short  
34 caucus.

35  
36 CHAIRMAN FLEAGLE: The Board will stand  
37 down for 10 minutes.

38  
39 (Off record)

40  
41 (On record)

42  
43 CHAIRMAN FLEAGLE: Good afternoon,  
44 we're back on record. And confusion abounds. It's  
45 abundant and it's contagious. And Pete's going to make  
46 a couple of corrections to where we've just been making  
47 some discussions.

48  
49 MR. PROBASCO: Thank you, Mr. Chair.  
50 And hopefully not add more confusion.

1 (Laughter)

2

3 CHAIRMAN FLEAGLE: Chair Sue Entsminger  
4 made a very good point on following our process. And  
5 one statement that was made is that the C&T process  
6 needs to be established first before methods and means.

7

8 And in the case of the Juneau road  
9 system there is an established C&T already. The  
10 proposal before us is taking the Juneau road system out  
11 of the much larger area that the C&T has already been  
12 established and teasing that out and that's the  
13 discussion right now. So the Juneau road system,  
14 within this larger area, already has a C&T.

15

16 The other point I want to make is that  
17 -- and I think most Board members are aware of this, is  
18 that, a C&T is independent of methods and means and  
19 harvests and those types of take regulations. A C&T  
20 only establishes use.

21

22 And so when we get into this C&T, Staff  
23 and myself, we get a little uncomfortable when we start  
24 going down the discussion of take type regulations, so  
25 we need to keep ourselves focused on C&T versus the  
26 other regulations that may or may not follow in the  
27 future.

28

29 Mr. Chair.

30

31 CHAIRMAN FLEAGLE: Thank you, Pete.  
32 And we're going to go ahead and continue to take  
33 further discussion on the proposal, on the motion to  
34 adopt the Council's recommendation to reject.

35

36 Further discussion Board members.

37

38 Tom Melius.

39

40 MR. MELIUS: I'll just be short, Mr.  
41 Chairman, as I mentioned when the motion was made, some  
42 of the concerns I had for a lack of support of this.  
43 And I think you laid it out well before the break,  
44 common sense dictates not to be supportive of this. I  
45 think that's the right wording with our motion.

46

47 CHAIRMAN FLEAGLE: Are we ready for the  
48 question.

49

50 MR. CESAR: Question.

1 CHAIRMAN FLEAGLE: Question's called.  
2 Pete, on the motion before us, please, poll the Board.  
3  
4 MR. PROBASCO: Mr. Chair. Action on  
5 Proposal FP08-04, to adopt the recommendation of the  
6 Southeast Alaska Subsistence Regional Advisory Council  
7 to reject the proposal.  
8  
9 Mr. Fleagle.  
10  
11 CHAIRMAN FLEAGLE: No.  
12  
13 MR. PROBASCO: Mr. Lonnie.  
14  
15 MR. LONNIE: Aye.  
16  
17 MR. PROBASCO: Mr. Cesar.  
18  
19 MR. CESAR: Aye.  
20  
21 MR. PROBASCO: Mr. Bschor.  
22  
23 MR. BSCHOR: Aye.  
24  
25 MR. PROBASCO: Mr. Melius.  
26  
27 MR. MELIUS: No.  
28  
29 MR. PROBASCO: And Ms. Blaszak.  
30  
31 MS. BLASZAK: Aye.  
32  
33 MR. PROBASCO: Motion carries four/two.  
34  
35 CHAIRMAN FLEAGLE: Thank you. So the  
36 proposal does go down and the issue remains status quo.  
37  
38 All right, next we move to Proposal 08-  
39 05, and we start out with our analysis presentation.  
40  
41 MR. ADAMS: Mr. Chairman.  
42  
43 CHAIRMAN FLEAGLE: Bert.  
44  
45 MR. ADAMS: Thank you. I need an  
46 explanation about what happens to this proposal now,  
47 where does it go and, you know, down the line I'm sure  
48 it will probably be brought up again but what can we  
49 look forward to here.  
50



1 CHAIRMAN FLEAGLE: This proposal is  
2 dead. It just got voted down.

3  
4 MR. ADAMS: Right.

5  
6 CHAIRMAN FLEAGLE: And as far as where  
7 this Board or this OSM is going to go with it, it will  
8 be a matter of the record, right, Pete.

9  
10 MR. PROBASCO: That's correct, Mr.  
11 Chair. Status quo remains, the proposal was rejected.

12  
13  
14 MR. ADAMS: That's what I wanted to  
15 know, thank you.

16  
17 CHAIRMAN FLEAGLE: Thank you, Bert.  
18 All right, back to Proposal 08-05, analysis  
19 presentation, and we have new Staff at the table,  
20 please introduce yourself and proceed.

21  
22 MR. VAN ALLEN: Thank you, Chairman.  
23 I'm Ben Van Alen, I'm a fisheries biologist with the  
24 Forest Service in Juneau. And I'll try to be succinct  
25 here.

26  
27 This proposal would eliminate Federal  
28 subsistence fishing regulations that close Federal  
29 subsistence fishing for specific periods of time or  
30 days and locations that the State opens for commercial  
31 set gillnet fishing.

32  
33 The State commercial set gillnet  
34 fishing occurs mostly in State, which are marine waters  
35 and Federal subsistence fishing only occurs in Federal,  
36 that's freshwaters. This 48 hour closure regulation  
37 does not apply to fisheries in different locations and  
38 is confusing to users, managers and enforcement. There  
39 is not a problem now with the illegal commercial sale  
40 of subsistence taken salmon and this regulation change  
41 is not likely to cause illegal sales to occur.

42  
43 Other Federal subsistence fishing  
44 regulations directly prohibit the commercial sale or  
45 purchase of subsistence taken fish and the regulation  
46 requiring subsistence caught salmon to be fin clipped  
47 limits the mixing of subsistence and commercial taken  
48 fish.

49  
50 The conclusion is to support this

1 proposal. Adopting the proposal will simplify Federal  
2 subsistence fishing regulations and remove an  
3 unnecessary restriction on Federal subsistence users.

4

5 Thank you.

6

7 CHAIRMAN FLEAGLE: Thank you. Summary  
8 of written public comments, Robert.

9

10 MR. LARSON: Mr. Chairman, Robert  
11 Larson. There is one written public comment to support  
12 the proposal. You can find it on Page 219 of your  
13 Board book.

14

15 In summary, the comment from Mr. Bert  
16 Adams, Suzanne McCarthy, Sue Entsminger and Robert  
17 Fithian, they feel that this proposal would benefit  
18 subsistence users by simplifying Federal subsistence  
19 regulations and providing additional subsistence  
20 opportunity.

21

22 That concludes public comments.

23

24 CHAIRMAN FLEAGLE: Appreciate it, thank  
25 you. We now turn to public testimony. Pete, do we  
26 have anybody wanting to testify on 05.

27

28 MR. PROBASCO: Mr. Chair. I have no  
29 one signed up for Proposal 5.

30

31 CHAIRMAN FLEAGLE: Okay, thank you. We  
32 did have comments on Proposal 05 by the Department of  
33 Public Safety which are going to be presented in  
34 writing to the Board at some point.

35

36 Now, we move to Regional Council  
37 recommendation, Bert Adams.

38

39 MR, ADAMS: Thank you, Mr. Chairman.  
40 The Council supports this proposal. Just need to take  
41 note that most all of the subsistence fishing in the  
42 Yakutat area is under State jurisdiction, and, you  
43 know, they're required to have a subsistence permit in  
44 order to fish for their needs, you know, on the Situk  
45 River and other rivers in that area.

46

47 In 2006 there were only 57 sockeyes  
48 caught under the Federal regulations out of the 3,500  
49 sockeye total subsistence harvest in that area. The  
50 Council determined that the area would be impacted by

1 this regulatory change is confined to a small area on  
2 the Dangerous River and on the Alsek River, and would  
3 not affect State regulations that prevent commercial  
4 fishermen from subsistence fishing 48 hours prior or  
5 post-commercial fishing in waters under Federal or  
6 State jurisdiction.

7

8                   The proposal retains the requirement of  
9 fin-clipping to prevent introduction of subsistence  
10 caught fish into a commercial market.

11

12                   Now, on the Situk River, for instance,  
13 you know, there's the runs of salmon that come in and  
14 the State watches -- or monitors the escapement and  
15 when they reach a certain threshold then they're  
16 satisfied that there's enough salmon into the spawning  
17 areas to do their business and so they'll open up the  
18 commercial and the subsistence fishing all week. And  
19 the reason then for clipping the fins, you know, was to  
20 determine, you know, commercial fishing and subsistence  
21 so subsistence fishermen are required to clip that  
22 little fin off the back of their backs. And so there  
23 was some confusion about that, you know, earlier when  
24 this was taken -- when this issue was a problem and  
25 then they saw that something needed to be done and  
26 that's the reason for the clipping of that little fin.

27

28                   As mentioned that there was only three  
29 people who applied for Federal permits and only 57  
30 sockeyes were caught and so that's a very small amount.

31

32                   The Council felt that adopting this  
33 proposal would benefit subsistence users particularly  
34 by removing that little fin in the back and removing  
35 unnecessary language from Federal regulations, and that  
36 it would not cause a conservation concern.

37

38                   So adopting this proposal would have no  
39 affect on non-qualified users and would benefit  
40 subsistence users if there ever came a time when there  
41 would be more subsistence fishermen, you know, in  
42 Federal waters. Right now it's very small but the  
43 Council thought that this would be a good proposal to  
44 support.

45

46                   Mr. Chairman. I brought the issue up  
47 one time several years ago and, you know, somebody took  
48 it and ran with it here and there but I expressed those  
49 concerns because there is a regulation that says that  
50 you cannot use the same gear for commercial and for

1 subsistence, same way with vessels and camp sites. In  
2 the Situk River, you know, we go out there and we fish  
3 earlier in the season and get our subsistence uses  
4 taken care of, we stay in the same camp, we use the  
5 same vessels, we use the same gear, and so this is how  
6 this proposal came about, but we feel it is necessary.

7

8 Thank you, sir.

9

10 CHAIRMAN FLEAGLE: Thank you, Bert.  
11 Department of Fish and Game comments. George.

12

13 MR. PAPPAS: Thank you, Mr. Chair. For  
14 the record, George Pappas.

15

16 Mr. Chairman. The full text of our  
17 comments are in your book, we'll provide excerpts for  
18 your consideration.

19

20 The present 48 hour prohibition has  
21 been in effect throughout most Southeast Alaska since  
22 long before statehood to prevent user group conflicts,  
23 illegal sales of subsistence caught salmon, and  
24 prospecting prior to commercial salmon fishing openings  
25 under the guise of subsistence. The proponent's desire  
26 to separate the Federal and State subsistence fisheries  
27 by space, location, however the 48 hour prohibition  
28 still applies in marine waters. The prohibition would  
29 also still apply to use of State owned submerged lands  
30 and freshwaters within Federal lands.

31

32 This proposal has many enforcement  
33 issues. If adopted the inability to determine where  
34 the boundary is above mean high tide in estuarine areas  
35 where most commercial fisheries occur will increase  
36 user conflicts. If adopted there will also be  
37 potential migration of subsistence caught fish into  
38 commercial markets, which has been a reoccurring  
39 problem in many of Alaska's fisheries where subsistence  
40 and commercial users target the same stock in the same  
41 approximate location with the same gear in relatively  
42 close or concurrent fishery time periods. Enforcement  
43 efforts to prevent this migration of subsistence caught  
44 salmon into commercial markets can be very difficult as  
45 many subsistence users are also commercial users.  
46 Frequently, these users are utilizing the same boat and  
47 gear to fish in approximately same area for both  
48 fisheries or regularly travel between areas or  
49 fisheries in the same boat with the same fishing gear  
50 and the same fishing crew members on board. Local

1 residents often have a fish camp either up river or  
2 near a river mouth and travel back and forth to  
3 participate in the subsistence and commercial  
4 fisheries.

5  
6                   The fact that no pattern of subsistence  
7 caught fish being sold commercially currently exists is  
8 due to the 48 hour subsistence fishery closure  
9 regulation which was specifically enacted long before  
10 statehood to effectively prevent this migration into  
11 the commercial markets.

12  
13                   The Federal Staff analysis incorrectly  
14 assumes that the removal of the 48 hour subsistence  
15 fishery closure will not increase illegal sales of  
16 subsistence catch because the prohibition on the sale  
17 of subsistence caught salmon and current marking  
18 requirements for the subsistence caught salmon enacted  
19 for prevent commercial buyers from -- or was enacted to  
20 prevent commercial buyers from purchasing marked fish.

21  
22                   The law enforcement presence, the low  
23 enforcement presence plus the ease of transporting  
24 harvest that has not been properly marked to commercial  
25 buyers when subsistence fishers are conducted in close  
26 geographical and temporal proximity to commercial  
27 fisheries is not addressed within the Federal analysis.

28  
29                   If this proposal is adopted, a  
30 Federally-qualified fisherman that is also a licensed  
31 commercial fisherman could fish in freshwater Federal  
32 subsistence fisheries under the guise of subsistence  
33 move into adjacent waters opened to commercial fishing,  
34 continue to fish during the commercial fishing period  
35 and deliver the blended catch to the commercial  
36 markets.

37  
38                   Illegal prospecting prior to commercial  
39 fishing period has significant financial incentives for  
40 commercial fishermen to find the fish and reduce the  
41 amount of time necessary to search for the productive  
42 fishing sites. In addition, the 48 hour closure window  
43 following the commercial fishing period prevents  
44 commercial fishermen from illegally harvesting more  
45 fish under the guise of subsistence fishing and  
46 blending the illegal catch with a load of market bound  
47 commercial catch. If this proposal is adopted  
48 additional regulations will be needed to distinguish  
49 Federal subsistence fishers from commercial fishermen,  
50 for example, marking the gear differently or a

1 different type registration in order to make the  
2 regulations enforceable.

3

4                   The Department would consider  
5 supporting regulatory changes proposed to the Alaska  
6 Board of Fisheries in order to reduce the State  
7 subsistence fishery closure period to 24 hours before  
8 and following a commercial fishery.

9

10                   The proponent is encouraged to submit  
11 such a proposal to the Alaska Board of Fisheries to  
12 reduce the closure window to 24 hours before and after  
13 the commercial fishery openings so that the closure  
14 would apply to all fisheries -- fish -- fishers in the  
15 waters of Yakutat.

16

17                   The Department recommendation is to  
18 oppose this proposal. This proposal is fraught with  
19 enforcement problems and would only apply to Federal  
20 subsistence fishermen in freshwaters within Federal  
21 lands. The Federal Board should, instead support a  
22 proposal to the Alaska Board -- the Board of Fisheries  
23 that would apply to all subsistence fishermen in all  
24 waters to reduce the closure period before and after  
25 commercial fishing periods.

26

27                   Thank you, very much, Mr. Chair. That  
28 concludes my comments.

29

30                   Alaska Department of Fish and Game  
31 Comments to the Federal Subsistence Board.

32

33                   FP08-05 Removal of 48-hour closure  
34 before and after commercial net fishery in Yakutat.

35

36                   Introduction: This proposal is  
37 intended to eliminate the prohibition on taking salmon  
38 for subsistence with nets during the 48-hour period  
39 before and after each State commercial salmon net  
40 fishing period. If adopted, the prohibition would no  
41 longer apply to federal subsistence fishing with nets  
42 in freshwaters above mean high tide within federal land  
43 but would remain in effect for all state subsistence  
44 fisheries in freshwaters and for all subsistence  
45 fisheries in marine waters (below mean high tide). The  
46 present 48-hour prohibition has been in effect  
47 throughout most of Southeast Alaska since long before  
48 statehood to prevent user group conflicts, illegal sale  
49 of subsistence caught salmon, and prospecting prior  
50 to a commercial salmon fishery opening under the guise

1 of subsistence. The proponent desires to separate  
2 the federal and state subsistence fisheries by space  
3 (location). However, the 48-hour prohibition would  
4 still apply in marine waters. The prohibition would  
5 also still apply to use of state-owned submerged lands  
6 in freshwaters within federal land.

7  
8 Enforcement Issues: If adopted, the  
9 inability to determine where the boundary is above mean  
10 high tide in estuarine areas where most commercial  
11 fisheries occur will increase user conflicts. If  
12 adopted, there will also be potential migration of  
13 subsistence-caught fish into commercial markets, which  
14 has been a recurring problem in many of Alaska's  
15 fisheries where subsistence and commercial users target  
16 the same stock in the same approximate location with  
17 the same gear in relatively close or concurrent fishery  
18 time periods. Enforcement efforts to prevent the  
19 migration of subsistence-caught salmon into commercial  
20 markets can be very difficult as many subsistence users  
21 are also commercial users. Frequently, these users are  
22 utilizing the same boat and gear to fish in the same  
23 approximate area for both fisheries or regularly travel  
24 between areas or fisheries in the same boat, the same  
25 fishing gear, and same fishing crew members on board.  
26 Local residents often have a fish camp either up a  
27 river or near the river mouth and travel back and forth  
28 to participate in the subsistence and commercial  
29 fisheries.

30  
31 The fact that no pattern of subsistence  
32 caught fish being sold commercially currently exists is  
33 due to the 48-hour subsistence fishery closure  
34 regulation, which specifically was enacted long before  
35 statehood to effectively prevent this migration into  
36 the commercial market. The federal staff analysis  
37 incorrectly assumes the removal of the 48-hour  
38 subsistence fishery closure will not increase the  
39 illegal sales of subsistence catch because of the  
40 prohibition on the sale of subsistence-caught salmon  
41 and current marking requirements for subsistence caught  
42 salmon enacted to prevent commercial fish buyers from  
43 purchasing marked fish. The low enforcement presence,  
44 plus the ease of transporting harvest that has not been  
45 properly marked, to commercial buyers when subsistence  
46 fisheries are conducted in close geographical and  
47 temporal proximity to commercial fisheries is not  
48 addressed within the federal analysis.,

49  
50 If this proposal is adopted, a

1 federally qualified fisherman that is also a licensed  
2 commercial fisherman could fish in freshwater federal  
3 subsistence fisheries under the guise of subsistence,  
4 move into adjacent waters open to commercial fishing,  
5 continue to fish during the commercial fishing period,  
6 and deliver the blended catch to the commercial market.  
7 Illegal prospecting prior to a commercial fishing  
8 period has significant financial incentives for  
9 commercial fishermen to find the fish and reduce the  
10 amount of time necessary to search for productive  
11 fishing sites. In addition, the 48-hour closure window  
12 following a commercial fishing period prevents  
13 commercial fishermen from illegally harvesting more  
14 fish under the guise of subsistence fishing and  
15 blending the illegal catch with a load of market-bound  
16 commercial catch. If this proposal is adopted,  
17 additional regulation will be needed to distinguish  
18 federal subsistence fishers from commercial fishermen  
19 (e.g., marked gear or registration) in order to make  
20 the regulations enforceable.

21

22                   Opportunity Provided by State: The  
23 State subsistence fishery regulations in the Yakutat  
24 area are some of the more liberal in the State of  
25 Alaska. State subsistence regulations in this area  
26 provide for harvest of salmon with gear types listed in  
27 5AAC 39.105, which include: gillnet, purse seine,  
28 beach seine, hand purse seine, power gurdy troll gear,  
29 hand troll gear, fish wheel, and trawl unless  
30 restricted under a subsistence permit. Current state  
31 permit conditions do not establish a daily or annual  
32 limit for subsistence harvest of sockeye salmon. Many  
33 subsistence fishing households in Yakutat are also  
34 commercial fishing households, and fishers have the  
35 option to retain fish taken during commercial periods  
36 for personal use or to share their harvest.

37

38                   Jurisdiction Issues: The Department  
39 requests detailed maps showing the boundaries where  
40 this federal regulation would apply in freshwaters,  
41 particularly those at the mouths of rivers above mean  
42 high tide in order that federally-eligible fishers will  
43 know where they cannot subsistence fish in adjacent  
44 waters that are closed under state regulation before  
45 and after a commercial opening. This will be very  
46 important for enforcement of federal and state  
47 regulations where fisheries occur in estuarine areas.

48

49                   Other Comments: Most Yakutat  
50 commercial fisheries are open by regulation for 2



1 days: 6 AM Sunday through 6 PM Tuesday. State  
2 regulation 5AAC 01.660 precludes subsistence fishing  
3 for 48 hours before and 48 hours after each commercial  
4 fishery opening for each river or bay fishery  
5 individually. When the commercial fishery is open  
6 longer so that the 48-hour closure overlaps the  
7 commercial openings, subsistence fishing has a  
8 guaranteed opening 6 AM to 6 PM on Saturday (12 hours).  
9 During years when abundant runs allow longer commercial  
10 fishing openings, state officials modify the 48-hour  
11 closure regulation by Emergency Order. For the past 3  
12 years due to abundant salmon returns, the Department  
13 commercial fisheries managers have written Emergency  
14 Orders to extend the period from 6 AM Friday to 6 PM  
15 Saturday (2 days). When escapement goals are met and  
16 there are no conservation concerns, commercial  
17 fisheries are extended to 7 days, and subsistence  
18 fishing is similarly extended. The user groups in  
19 Yakutat area would likely support an additional  
20 moderate liberalization to the subsistence fisheries by  
21 reducing the 48-hour subsistence closure to 24-hour.  
22 Less than a 24-hour closure to subsistence fishing  
23 before and after commercial fishing periods is not  
24 enforceable, according to enforcement personnel. The  
25 Department would consider supporting regulatory changes  
26 proposed to the Alaska Board of Fisheries in order to  
27 reduce the State subsistence fishery closure period to  
28 24 hours before and following a commercial fishery.  
29 The proponent is encouraged to submit such a proposal  
30 to the Alaska Board of Fisheries to reduce the closure  
31 window to 24-hours before and after the commercial  
32 fishery opening so that the closure would apply to all  
33 fishers in all waters in the Yakutat area.

34

35 Department Recommendation: Oppose.

36

37 This proposal is fraught with  
38 enforcement problems and would only apply to federal  
39 subsistence fishermen in freshwaters within federal  
40 lands. The federal Board should instead support a  
41 proposal to the Alaska Board of Fisheries that would  
42 apply to all subsistence fishermen in all waters to  
43 reduce the closure period before and after commercial  
44 fishing periods.

45

46 CHAIRMAN FLEAGLE: Thank you. We have  
47 now the InterAgency Staff Committee comments. Larry.

48

49 MR. BUKLIS: Mr. Chairman. Page 215.  
50 This is one of those proposals for which the Staff

1 Committee had no particular comments beyond the  
2 analysis and regarding this Council recommendation,  
3 found it consistent with ANILCA .805c.

4

5 Thank you, Mr. Chairman.

6

7 CHAIRMAN FLEAGLE: Board discussion  
8 with Council Chairs and State liaison.

9

10 Bert.

11

12 MR. ADAMS: Let me just clarify a  
13 little bit here.

14

15 Under State regulations there is a  
16 closure 48 hours before commercial fishing is open,  
17 I'll use the Situk River as an example. Situk River  
18 opens at 12:00 noon the beginning of the year on  
19 Sundays, okay, so 48 hours prior to that anyone who is  
20 subsistence fishing has to pick up their net, and  
21 before the opening they need to have their nets from  
22 the water. So I just wanted to clarify that a little  
23 bit because there might be some confusion out there  
24 somewhere.

25

26 Did I make myself clear as mud?

27

28 CHAIRMAN FLEAGLE: Yeah, would you just  
29 restate exactly what part you're -- you're talking  
30 about -- yeah, why don't you restate that.

31

32 MR. ADAMS: The State has a regulation  
33 right now that says that you have to pick up your net  
34 48 hours prior to a commercial opening and then 48  
35 hours after a commercial opening, you can go out and  
36 subsistence fish, okay. And I think all that this  
37 proposal is doing is mirroring the State proposal.  
38 And, yeah, that's about all I can say.

39

40 It's a very simple thing but it turned  
41 into a complicated thing when we started talking and  
42 deliberating about it, you know, on the RAC level. And  
43 I was kind of sorry that I brought it up in the first  
44 place.

45

46 (Laughter)

47

48 CHAIRMAN FLEAGLE: Denby.

49

50 COMMISSIONER LLOYD: Well, thank you,

1 Mr. Chair. I do have some comments and I hope not to  
2 make the same mistake I made last time to wait for the  
3 motion to be on the table.

4

5 But in response to Chairman Adams  
6 comments, I guess I'm now more confused than I was to  
7 begin with and I wonder if I can ask Staff to let us  
8 know or let me know whether or not his characterization  
9 of current State regulations is their understanding of  
10 them.

11

12 CHAIRMAN FLEAGLE: I'm sorry, I was  
13 trying to read, what did you ask?

14

15

16 COMMISSIONER LLOYD: I'm asking your  
17 indulgence to ask Fish and Game Staff whether they  
18 understand State regulations similarly to how Chairman  
19 Adams just articulated them.

20

21 CHAIRMAN FLEAGLE: I think by their  
22 reading the two page document it's apparent that they  
23 don't but go ahead.

24

25 Tina.

26

27 MS. CUNNING: You're correct. The 48  
28 closure, this proposal would eliminate that 48 hour  
29 separation in time between the subsistence fishery and  
30 the commercial fishery, it's been in effect long before  
31 statehood and it's been a very effective regulation.  
32 Once the fish runs start to really come in and are  
33 healthy then we get rid of that 48 closure. This is  
34 only during the early parts of the run and the late  
35 parts of the run when we're trying to protect the  
36 stocks that are coming in for spawning is the 48 hour  
37 closure -- 48 hour window when they can't participate  
38 and have to have that separation. And what happens is  
39 people that are operating on -- at like at setnet sites  
40 or down in the marine estuaries and areas they can run  
41 up the rivers to pick up freshwater, do other things  
42 they do up the rivers and then come back down again.  
43 By not having the separation there's a real high chance  
44 then of people picking up fish in the freshwaters,  
45 bringing them back and selling them out of their other  
46 sites.

47

48 It's a real serious enforcement issue.

49

50 We are very interested in reducing the

1 48 hour separation to 24 hours. There's a lot of  
2 sympathy for that, especially in the Yakutat area and  
3 it's something that we're very interested in supporting  
4 but not eliminating the closure -- the window  
5 altogether.

6

7 CHAIRMAN FLEAGLE: Ralph Lohse.

8

9 MR. LOHSE: Yeah, I got a little  
10 confused there, too, for a second, now, I'm not sure  
11 that I'm not even more confused than I was before.

12

13 First I'd like to -- so that I know  
14 what I'm talking about before I start, I would like to  
15 ask Bert if what -- are you trying to allow the fishery  
16 48 hours before or -- I mean prior to the 48 hours or  
17 are you trying to allow the fishery from the 48 hours  
18 until the commercial fishery starts?

19

20 CHAIRMAN FLEAGLE: Bert.

21

22 MR. ADAMS: Would you repeat yourself?

23

24 MR. LOHSE: That's what I thought.

25

26 (Laughter)

27

28 MR. LOHSE: Are we talking about, you  
29 know, when I read this right here I always thought that  
30 what this proposal was, was to allow fishing in the 48  
31 hours just before a commercial opener, am I correct in  
32 understanding that -- okay.

33

34 It's kind of interesting to me because  
35 I've been listening to the reasonings behind not having  
36 that and I'm not speaking for or against the proposal,  
37 but it's just kind of interesting to me how different  
38 parts -- the same logic that's being applied to this  
39 doesn't apply in Prince William Sound.

40

41 In Prince William Sound on the Copper  
42 River, the only time that you can go out and  
43 subsistence fish is during a commercial opener. You're  
44 not allowed to fish prior to a commercial opener,  
45 you're only allowed to fish during a commercial opener.  
46 So the commercial fisherman is out there and the  
47 subsistence fisherman is out there at the same time.  
48 And so if we're concerned about subsistence fish  
49 entering the commercial market, then here we have in  
50 Prince William Sound -- I know it's on the Copper River

1 and I'm pretty sure it's in Prince William Sound, the  
2 only time that you can subsistence fish is when there's  
3 a commercial opener going on.

4  
5                   So the reasoning behind not wanting  
6 what Bert is asking for, by the State doesn't make --  
7 you know I understand why it's there, I just can't  
8 understand why you can use that argument in once place  
9 and then in another place you do just exactly the  
10 opposite. And I'm not saying that we should change it  
11 in Prince William Sound, I'm not saying we should go  
12 along with it in Southeastern. I just can't see how  
13 you can use the argument that you're trying to prevent  
14 fish entering the commercial market by putting a  
15 separation on the subsistence fishery and then at the  
16 same time manage a subsistence fishery that you put at  
17 the same time as the commercial fishery, and those two  
18 seem like they're at opposite ends to me and I'd like  
19 some comments on that.

20  
21                   CHAIRMAN FLEAGLE: Well, I'm not versed  
22 on what Prince William Sound does but it appears just  
23 reading the proposal as it was presented in the book,  
24 that the two fisheries occur in different locations.  
25 The commercial fishery occurs in saltwater where we  
26 don't have any authority and they're wanting to have  
27 the subsistence fishery occur in the flowing water  
28 closer to the opening time of the commercial fishery is  
29 what I'm reading. And I think that's what the  
30 understanding -- Tina's addressing as well, is that,  
31 somebody sitting there at the mouth, commercial fishing  
32 in the saltwater could run up stream and grab fish and  
33 mix them up if we were to allow this, right, Tina.

34  
35                   MS. CUNNING: We, actually, at your  
36 request skipped over the comments that probably would  
37 have clarified this for you and we can go back and  
38 actually read that part of the regulation that explains  
39 it.

40  
41                   But this is -- normally the subsistence  
42 fishery and the commercial fishery can occur at the  
43 same time when there's a commercial opening but there  
44 is a closure to the subsistence fishery 48 hours before  
45 and after in order to prevent the migration from the  
46 subsistence fishery, in other words fish being caught  
47 and then moving into the -- being held and then being  
48 sold as part of the commercial fishery, and that's only  
49 at the early and end runs when there's not a lot of  
50 fish running to try to protect those stocks.

1                   So if you want to look at our  
2 comments, in your Board book there's an explanation that  
3 says other comments and that's the one that explains  
4 the current fisheries and how they operate, both for  
5 subsistence and commercial.

6  
7                   MR. LOHSE: Mr. Chair.

8  
9                   CHAIRMAN FLEAGLE: Go ahead, Ralph.

10  
11                  MR. LOHSE: I think Tina just explained  
12 something to me by doing that. What she's basically --  
13 what they're basically saying is what they're trying to  
14 prevent is the extension of the commercial fisheries  
15 prior and after the commercial fishery.

16  
17                  The argument that it keeps subsistence  
18 fish from entering the market doesn't hold water  
19 totally if you've got a commercial fishery and a  
20 subsistence fishery happening at the same time. But if  
21 you have a subsistence fishery that flows into a  
22 commercial fishery or extends after a commercial  
23 fishery you could have an extension of a commercial --  
24 an unintended extension of a commercial fishery and  
25 that makes more sense to me.

26  
27                  CHAIRMAN FLEAGLE: Randy.

28  
29                  MR. ALVAREZ: Thank you, Mr. Chair.  
30 I'd like to give you an example of Bristol Bay where I  
31 commercial fish there and we also subsistence -- my  
32 wife subsistence and mother subsistence fishes there.

33  
34                  And Bristol Bay, the subsistence  
35 fishery it's all different. Some areas you can  
36 commercial and subsistence fish at the same time, in  
37 some areas they won't let you, whatever the regulation  
38 is. For instance up the Kvichak River, the first  
39 village at Levelok, which is freshwater, and up river  
40 farther to Egiogik where I reside, it's open all the  
41 time, subsistence fishery, you know, and I don't buy  
42 that where they're trying to keep the subsistence  
43 fishing from going into the commercial market, you  
44 know, that's not a good excuse for not being able to  
45 let the subsistence fishery go on. And put  
46 jurisdiction -- put the commercial -- even though I'm a  
47 commercial fisherman, have been all my life, it looks  
48 like they're putting more towards the commercial  
49 fishery than the subsistence fishery and I don't think  
50 that's -- I think it should be the other way around.

1 I think the number 1 agenda here is  
2 sustainability of the fishery or the fish, of the run  
3 and then subsistence should take number 1 usage before  
4 anything else, and having subsistence fishery closed  
5 right before and right after a commercial fishery, it  
6 doesn't -- my opinion, doesn't look good, because it's  
7 not done that way in other areas. You know in some  
8 areas -- like I said in my areas, some of my areas it  
9 goes on at the same time so I just wanted to comment on  
10 that.

11

12 Thank you.

13

14 CHAIRMAN FLEAGLE: Thank you.  
15 Commissioner Lloyd.

16

17 COMMISSIONER LLOYD: Thank you, Mr.  
18 Chairman. I do have some concerns about where you  
19 would be headed if you take up this as a motion and  
20 choose to pass it, which I don't know if you will or  
21 not because I'm not allowed to participate after you  
22 have put a motion on the table.

23

24 But similar to the last proposal there  
25 are a number of possible enforcement difficulties with  
26 this proposal that I don't believe have been thoroughly  
27 assessed in your Federal Staff comments to you or in  
28 the ISC comments. And while it may be desirable in  
29 isolation to make you regulations simpler, and, of  
30 course, that's an attractive idea, what I'm asking you  
31 to consider and what I think is also required of you to  
32 consider under ANILCA is the entire management program,  
33 the effect on other users, interaction with other  
34 jurisdictions and management programs, and you've had  
35 testimony, both from State representatives, from Fish  
36 and Game and also from the Troopers that in this case,  
37 this type of proposal really does bring to the fore  
38 substantial enforcement difficulties, and I'm not sure  
39 that you're gaining a sufficient addition to your  
40 requirement to assure a meaningful subsistence  
41 preference, while at the same time engendering what the  
42 State jurisdiction is telling you is a very, very  
43 difficult enforcement proposition.

44

45 Thank you, Mr. Chairman.

46

47 CHAIRMAN FLEAGLE: Denby -- I'm sorry  
48 Denny.

49

50 MR. BSCHOR: Pretty close, isn't it.

1 COMMISSIONER LLOYD: Yeah, perilously  
2 close.

3  
4 MR. BSCHOR: Yeah.

5  
6 (Laughter)

7  
8 MR. BSCHOR: Thank you, Mr. Chair.  
9 Just a question for Mr. Adams. As I look at the  
10 history here it says that our Federal regulations were  
11 copied from and are nearly identical to the State  
12 regulations that restrict subsistence fishing where and  
13 when there are commercial set gillnet openings. And  
14 so, you know, once again, we think we're mirroring the  
15 regulations, that's why it's in there. And I heard the  
16 State say that they're looking at maybe a 24 hour --  
17 change from 48 hours to 24 hours, if I got that  
18 correctly; would that satisfy some of your concerns if  
19 that were to happen?

20  
21 MR. ADAMS: I never heard the 24 hour  
22 idea yet but -- and I don't know whether it would help  
23 the problem or not so I'd have to think about that a  
24 little bit. Probably so but, you know, 24 hours, that  
25 certainly would benefit subsistence users so probably  
26 so, yeah, thanks.

27  
28 CHAIRMAN FLEAGLE: Further discussion.

29  
30 Bert, go ahead.

31  
32 MR. ADAMS: Yeah, I guess, what I need  
33 to reiterate again and let me just give you an example.  
34 The Situk River opens for sockeye on 12:00 noon Sunday,  
35 closes 12:00 noon Tuesday, okay, 48 hours after that,  
36 you know, people can go out and subsistence fish, 48  
37 hours prior to that they can -- they have to pick up  
38 their nets, they can fish up to that point on each end.  
39 And then when -- and this has already been reiterated  
40 but I'll say it again, when the escapement is such  
41 that, you know, the Fish and Game are satisfied that  
42 there is enough fish up the river then they'll open it  
43 up both for commercial and subsistence fishing. And so  
44 we have the problem of identifying, you know, which  
45 ones are subsistence caught fish and which ones are  
46 commercial. There is some concern that, you know,  
47 subsistence fishermen might go up the river and come  
48 back down and sell it commercially. I really don't see  
49 that happening. But then there's -- it provides a  
50 method for identification of what is commercial and



1 what is subsistence fishing -- fish caught --  
2 subsistence caught fish -- it's getting late in the  
3 afternoon, I'm sorry.

4  
5 But, you know, I just wanted to  
6 reexplain that again if I can. It's a simple thing  
7 that started off and it got pretty complicated as I see  
8 it happening right here. But anyhow I just wanted to  
9 take another stab at that, thanks.

10  
11 CHAIRMAN FLEAGLE: I have another  
12 question for you Bert and just about your personal  
13 knowledge of the area.

14  
15 The Staff analysis gave us some  
16 figures, State subsistence harvest around 3,000 sockeye  
17 from the Situk and 3,500 from the whole Yakutat area  
18 with the average take of sockeye salmon per permit, per  
19 household, about 22 fish, that's under the State  
20 limits. Now, do you foresee households increasing  
21 their take under this or would it just make the  
22 opportunity at a better time? I guess that would just  
23 address the conservation side of the equation.

24  
25 MR. ADAMS: The way the State operates  
26 in the Yakutat area is I want to go out and I want to  
27 do subsistence fishing, I go out there and I get a  
28 permit, okay, and the permit indicates on there how  
29 many sockeye do I want, how many king salmon do I want,  
30 how many chums, and, you know, all of these different  
31 species, you know, and I'll say I want 60 sockeye this  
32 year, I want 20 king salmon this year, I want 40 cohos  
33 and so forth, you know, and so I keep track of when I  
34 go out subsistence fishing, I'll keep track of how many  
35 I caught, what day and all that and then I turn that in  
36 at the end of the year -- by the way I got to turn mine  
37 in when I get back home.

38  
39 But anyhow that's how that works for us  
40 there, okay.

41  
42 So the 22 fish doesn't seem realistic  
43 to us. I have a large family, you know, so we fulfill,  
44 you know, all of the quotas that we put on our permit  
45 pretty easy. But, you know, I think 22 is pretty low  
46 for Yakutat, I don't know, maybe I'm wrong but that's  
47 how it works, you know, personally that's how I do my  
48 subsistence fishing and I do my reporting, in that same  
49 way that I just described to you.

50

1 Does that help you?  
2  
3 CHAIRMAN FLEAGLE: It does, thank you.  
4 Other discussion.  
5  
6 Niles.  
7  
8 MR. CESAR: I'd just like to further  
9 the discussion about the 24 hour window versus a 48  
10 hour window. It seems to me like, you know, I mean  
11 obviously I'm not in Yakutat and I don't know the  
12 difficulty of bringing it from a 48 to a 24, it seems  
13 to me there would be some benefit to the subsistence  
14 users. The question I had in my mind, I guess is how  
15 much of a burden does it place on them and is it  
16 worthwhile pursuing that notion. In my mind it seems  
17 to be a reasonable attempt to do something constructive  
18 and if we headed in that direction, should we then  
19 modify the proposal or send the proposal back for the  
20 maker and the RAC to reconsider because we would be  
21 making a 24 -- it would be cutting it in half and that  
22 might require going back to the RAC.  
23  
24 So I don't know -- you addressed a  
25 little of that, Bert, by saying, yeah, maybe it would  
26 help, but that wasn't a very definitive answer and I'm  
27 wondering if you -- now, that you've had a few more  
28 minutes to think about that, whether you think that  
29 might be a solution.  
30  
31 MS. BLASZAK: Mr. Chairman.  
32  
33 CHAIRMAN FLEAGLE: Marsha.  
34  
35 MS. BLASZAK: I think further on that  
36 point of the notion of considering a 24 hour versus  
37 what we have before us, is there any information the  
38 State can provide us on when they might propose taking  
39 that up so that we can.....  
40  
41 MR. ADAMS: That would certainly help  
42 me, you know, respond to that maybe in a more positive  
43 manner so I would like that, too.  
44  
45 Thanks.  
46  
47 CHAIRMAN FLEAGLE: Commissioner Lloyd.  
48  
49 COMMISSIONER LLOYD: Mr. Chair. I  
50 believe the next scheduled Southeast Board of Fish

1 meeting is not this spring, but the following spring,  
2 so proposals would need to be submitted by, I believe  
3 it's April 10th of this immediate next year for  
4 consideration of the following board cycle.

5

6 CHAIRMAN FLEAGLE: Ralph.

7

8 MR. LOHSE: Mr. Chair. Just one short  
9 comment. I was listening and did a little bit of math  
10 on paper with what Bert was telling us, you know, that  
11 if they have a 48 hour fishing period from Sunday noon  
12 until Tuesday noon and they have two 48 hour breaks on  
13 both sides of that, that leaves them 24 hours in the  
14 middle of the week from Thursday noon to Friday noon  
15 for a subsistence fishery. If you cut that down to the  
16 24 hours, that gives them 72 hours of fishing, so  
17 you've tripled their fishing time by dropping it to 24  
18 from 48. So that's a significant amount, but whether  
19 that's enough or not, I'm not in a position to make a  
20 comment.

21

22 But I think it has to be looked at from  
23 the standpoint that that is a pretty small increment of  
24 time in comparison to the commercial fisheries and the  
25 closures for their subsistence and by dropping to 24  
26 from 48 you've increased that by 200 percent -- 300  
27 percent actually.

28

29 CHAIRMAN FLEAGLE: Denby.

30

31 COMMISSIONER LLOYD: Well, thank you,  
32 Mr. Chairman. And I appreciate those positive comments  
33 about the potential amplification of subsistence  
34 opportunity with the movement towards 24 hours.

35

36 I'd also remind the Federal Board  
37 members, though, that on Page 217 under other comments,  
38 and these are comments provided by the Department of  
39 Fish and Game, that the 48 hour stand down or what  
40 could become a 24 hour stand down really only applies  
41 during the early and late shoulder seasons, and that  
42 during the midst of the season often times the  
43 Department, very specifically by emergency order,  
44 rescinds the stand down period, and certainly we do so  
45 when the escapement goals are met. So I guess I don't  
46 know off hand and perhaps Staff can answer, but there  
47 are often times when the stand down is completely  
48 lifted and so that would add an abundant amount of time  
49 for subsistence fishing opportunity to overlap with the  
50 commercial fishery openings.

1 Mr. Chair.

2

3 CHAIRMAN FLEAGLE: Thank you. Other  
4 Board comments.

5

6 (No comments)

7

8 CHAIRMAN FLEAGLE: RAC Chair comments.  
9 Bert.

10

11 MR. ADAMS: Mr. Chairman, thank you.  
12 Another user group that we need to consider, too, is  
13 the sportfishing. There's a -- I hear a lot of  
14 complaints, you know, of the commercial and the  
15 subsistence users about the sportfishing taking place  
16 there and they can do it seven days a week, 24 hours a  
17 day if they want, there's no limitation there, but  
18 still, you know, there's a limitation on commercial and  
19 subsistence but, you know, that's something that I  
20 hear, you know, not only from commercial and  
21 subsistence fishermen but also on the other side, you  
22 know, I talk to sportfishermen, when are those people  
23 going to pick up their nets down there so that we can  
24 get more fish up here, you know, and it's a user group  
25 problem and I think it really needs to be addressed  
26 somehow to include that other group, that third group.

27

28 Thank you.

29

30 CHAIRMAN FLEAGLE: I have a general  
31 question. I came to this process not real strong on  
32 fish, obviously coming from the Board of Game we dealt  
33 with nothing but game and not fish, so -- and I'm being  
34 real careful because I agreed at one point not to  
35 address my former life here. But I have learned that I  
36 tend to look at proposals and try to take action based  
37 on the vast majority of people that operate under  
38 common guidelines and not trying to manage based on the  
39 few, the small minority of people that would violate  
40 those common basic courtesies provided -- and I'm  
41 talking mainly from my history on the game side,  
42 obviously, so I don't know how this applies to  
43 fisheries, but my question and I don't know if this  
44 would be something the State could address or  
45 enforcement.

46

47 But how much problem, how many times do  
48 you have problems with people using subsistence fish in  
49 a commercial market? I mean personally if I were the  
50 one out there fishing I wouldn't even think of it. And

1 I think that's the vast majority of fishers are  
2 probably that way but maybe I'm ignorant, does  
3 somebody.

4

5 George.

6

7 MR. PAPPAS: Mr. Chair. I don't have  
8 the statistics in front of me and unfortunately Captain  
9 Waldron's not available. I believe one of the largest  
10 fines in the history of Alaska for an enforcement case  
11 was subsistence caught fish being commercially sold. I  
12 don't have inside information, maybe some folks from  
13 the northern areas have some information on that. It  
14 is present. I don't have any data in front of me, sir,  
15 I apologize.

16

17 CHAIRMAN FLEAGLE: Yeah, I mean and we  
18 have game violations, too, but does that mean that it's  
19 prevalent, you know, that's my question. That's my  
20 question, is how prevalent is it. If you have one  
21 large instance, I mean do you still want to manage for  
22 that possibility.

23

24 Steven.

25

26 MR. DAUGHERTY: Mr. Chair. I don't  
27 have the statistics either but we do have -- see quite  
28 a few cases within the Department of Law. We have had  
29 some significant cases in the past regarding sales of  
30 subsistence caught fish in commercial fisheries. And  
31 the difference between fish and game is there is a very  
32 strong commercial incentive in the commercial fisheries  
33 context to take all the fish that you can and to sell  
34 those fish.

35

36 Mr. Chair.

37

38 CHAIRMAN FLEAGLE: Thanks, Steven.

39 Pete.

40

41 MR. PROBASCO: Mr. Chair. Just to  
42 share some history. The Board actually dealt with this  
43 on a similar issue but in the Chignik area, where  
44 Chignik fishers had gone to the Board of Fish  
45 requesting a reduction in the time prior to and after a  
46 closure for subsistence fishing and the Board, at that  
47 time, listened to the concerns of the Chignik fishers  
48 and reduced that to a smaller period of time, I believe  
49 it was 12 hours, and then our Board followed suit with  
50 our regulations to match that. And so the precedence

1 has been set recognizing that maybe the old school,  
2 where we had these very larger windows of closures may  
3 not be appropriate in today's terms.

4

5 Mr. Chair.

6

7 CHAIRMAN FLEAGLE: Thank you, I  
8 appreciate that historical perspective.

9

10 Tom.

11

12 MR. MELIUS: Mr. Chair. It seems like  
13 the discussions have offered a pathway forward with a  
14 reduction of a 48 hour to a 24 that the Council may  
15 want to give further consideration to. But to get  
16 there we have options. We have options of either a  
17 motion that would take on the Council's recommendation  
18 on the 48 hours, to eliminate that, tabling of the  
19 motion, a withdrawal of the motion, that might be  
20 coming so there's several ways still ahead of us. But  
21 does seem, listening to the discussion that a 24 hour  
22 pathway with the Board -- with the Fish Board  
23 addressing this may be a more appropriate way to solve  
24 this situation; it's just how to get there.

25

26 CHAIRMAN FLEAGLE: I agree, Tom. And  
27 I, too, appreciate the willingness of everybody here to  
28 start looking at a way we can meet in the middle, and I  
29 think that's a good move to start doing that.

30

31 But I'm just not convinced personally  
32 that this shoulder season or, you know, maybe I'm just  
33 calling it the wrong thing, but maintaining any type of  
34 a closure is warranted. I'm not sure that just given  
35 on the evidence that we have, you know, we had two  
36 Federal permits issued in the last history and they  
37 were last year, the subsistence harvest is small, you  
38 know, overall, I agree with Bert's recommendation or  
39 observations that the people in his area that  
40 commercial fish are probably not going to try to  
41 hygrade those over to -- I said commercial, I meant  
42 subsistence, over to the commercial system, so I tend  
43 to support the proposal as presented. And I don't  
44 know, maybe there's still room for modification or  
45 deference or tabling or something to meet that  
46 compromise, but as it stands I'm willing to support the  
47 Council's recommendation on the issue.

48

49 Denby.

50

1 COMMISSIONER LLOYD: Thank you, Mr.  
2 Chairman. And I won't repeat my earlier arguments.  
3 But I do want to, I guess, ask a question and maybe  
4 make a suggestion.

5  
6 If the Board thinks that you want to  
7 move towards something like a 24 hour accommodation  
8 under the presumption that the Board of Fisheries will  
9 consider that and very likely is to act positively on  
10 that, and if the current Federal regulations defer to  
11 the State regulations, then my suggestion would be to  
12 not take any action or to reject this proposal at this  
13 time because if the Board were to take action and if  
14 the Federal regs simply mirror the State action then  
15 you would avoid a possible conundrum. But if you take  
16 action at this meeting to assert a 24 hour stand down,  
17 then there's a possibility that you'll be in immediate  
18 conflict with the 48 hour stand down, that is going to  
19 be continuing for the next year or so under State  
20 regulations.

21  
22 I hope I'm making myself clear.

23  
24 CHAIRMAN FLEAGLE: You do. And that's  
25 part of the problem. When we fix one problem, often we  
26 create two more and that's part of what we have to  
27 consider in our dual management system here, so thanks.

28  
29 Niles.

30  
31 MR. CESAR: I have a concern that by  
32 not taking action, we're putting something off for at  
33 least a year, maybe two years, and that the opportunity  
34 for folks to do their subsistence is altered, and I'm  
35 concerned about that.

36  
37 I was hoping, in my mind, that by  
38 moving to a 24 hour stand down, that we could move  
39 slowly into this and it would be beneficial. But  
40 having rethought it, I'm prepared to endorse the RAC's  
41 position on this for those reasons.

42  
43 CHAIRMAN FLEAGLE: Further discussion  
44 between the Board and the State and Council Chairs  
45 before we start looking for a motion.

46  
47 Ralph.

48  
49 MR. LOHSE: One last comment, Mike --  
50 Mr. Chair. In comment to what you just said before,

1 and I know that there have been some large scale  
2 violations in the past. I do know that any commercial  
3 entity that deals in subsistence caught fish is taking  
4 a pretty large risk. And from personal observation,  
5 and this is observing both the sportfishery, the  
6 subsistence fishery and the commercial fishery, I've  
7 personally observed more small scale violations of fish  
8 entering the market or personal markets from  
9 sportfishing and small scale subsistence fishing than  
10 I've seen enter the market from subsistence fishing  
11 into commercial fishing.

12  
13 We know we have a problem with that in  
14 the state, we've seen it in other places. There's been  
15 stings conducted on the Kenai River and on the Copper  
16 River. I've personally seen it myself in the Cordova  
17 area, with people coming and catching silver salmon and  
18 canning silver salmon way more than they can use and  
19 they're going to go back and they'll end up down in --  
20 I'll just say down in Arizona or someplace like that,  
21 and we have a lot of that going on in the state, those  
22 people don't have as much at risk. At this point in  
23 time with the kind of enforcement we have and the laws  
24 that we have, any commercial processor that tries to  
25 deal in subsistence caught fish is setting themselves  
26 up for a large fine. And I really don't think you have  
27 as much problem there as you do have on the multiple  
28 small scale problems that we have all over the state.

29  
30 CHAIRMAN FLEAGLE: Thanks, Ralph.  
31 Anybody willing to through a motion out there for  
32 consideration by the Board.

33  
34 Denny.

35  
36 MR. BSCHOR: Mr. Chairman. I'm  
37 prepared to do so. I'm not sure how I'm going to vote  
38 on this, but let me just say this, and hopefully I'll  
39 word this one so that's a positive wording so stop me  
40 if it sounds like it's not.

41  
42 I move to support the recommendation of  
43 the Southeast Alaska Regional Advisory Council, which  
44 is to adopt Proposal FP08-05. I have some rationale  
45 and I'll explain that after the second.

46  
47 MR. CESAR: I'll second it.

48  
49 CHAIRMAN FLEAGLE: Okay, you got your  
50 second, go ahead, Denny, continue.



1 MR. BSCHOR: Well, first of all it  
2 simplifies our regulations. Bottom line is that it  
3 doesn't sound like there's a large number of Federally-  
4 qualified users right now that are being affected. We  
5 have a way of identifying the fish that are caught by  
6 the fin-clipping. And it does assist in the ability  
7 for subsistence users to practice subsistence. And  
8 with that I'll see if there's any more discussion.

9

10 CHAIRMAN FLEAGLE: We have a motion.  
11 Board discussion.

12

13 Tom.

14

15 MR. MELIUS: Mr. Chairman. I support  
16 the ideas that were laid out. While I had hoped that  
17 possibly we could have come to another pathway, I don't  
18 see it there before the Board, so I would be supportive  
19 of the motion.

20

21 CHAIRMAN FLEAGLE: Marsha.

22

23 MS. BLASZAK: Mr. Chair. I also  
24 support the motion. I think what's resonating for me  
25 is the earlier discussion, the eloquence from the  
26 various Council Chairs about simplification, about  
27 bureaucracy and this seems like a fairly easy one for  
28 us to move forward on for those reasons. It's not  
29 affecting very many users and I'll vote in support of  
30 it.

31

32 CHAIRMAN FLEAGLE: Other comments.

33

34 MR. BSCHOR: Mr. Chair. My main  
35 concern is if there is some movement in the future of  
36 trying to make sure that as we learn more about these  
37 enforcement problems, I'm concerned about what I heard  
38 about enforcement problems, however, I think with the  
39 fin-clipping we have a way to deal with that. So  
40 that's where I am bottom line. But if there's a time  
41 in the future where we can have regs match, that was  
42 the intent, adopting this requirement in the first  
43 place, that's why we're dealing with it, was it matched  
44 the State's, so I'm concerned that we're deviating from  
45 that knowing that the State's going to do some further  
46 action, perhaps, we don't know for sure, nothing's a  
47 given until your Board goes through a similar process  
48 and they may not adopt it, but, anyway, with that mind  
49 I'm still going to vote for the proposal -- for the  
50 motion.

1                   CHAIRMAN FLEAGLE: Was that a call for  
2 the question, too.  
3  
4                   MR. BSCHOR: It was.  
5  
6                   CHAIRMAN FLEAGLE: I thought I heard it  
7 in there. The question's recognized.  
8  
9                   Pete.  
10  
11                   MR. PROBASCO: Thank you, Mr. Chair.  
12 Final action on FP08-05, on the motion to support the  
13 Southeast Regional Advisory Council's recommendation to  
14 adopt FP08-05.  
15  
16                   Mr. Lonnie.  
17  
18                   MR. LONNIE: Aye.  
19  
20                   MR. PROBASCO: Mr. Cesar.  
21  
22                   MR. CESAR: Aye.  
23  
24                   MR. PROBASCO: Mr. Bschor.  
25  
26                   MR. BSCHOR: Aye.  
27  
28                   MR. PROBASCO: Mr. Melius.  
29  
30                   MR. MELIUS: Aye.  
31  
32                   MR. PROBASCO: Ms. Blaszak.  
33  
34                   MS. BLASZAK: Aye.  
35  
36                   MR. PROBASCO: And Mr. Fleagle.  
37  
38                   CHAIRMAN FLEAGLE: Aye.  
39  
40                   MR. PROBASCO: Mr. Chair, motion  
41 carries six/zero.  
42  
43                   CHAIRMAN FLEAGLE: Thank you. Let's  
44 take our final break of the day before we push on for  
45 the finish line for the day. We'll stand down for 10,  
46 15 minutes.  
47  
48                   (Off record)  
49  
50                   (On record)

1                   CHAIRMAN FLEAGLE: Okay, we have the  
2 Board back assembled and the plan here, we were being  
3 asked about timelines and what the agenda states,  
4 tentatively from 8:30 to 5:00 daily. I was thinking  
5 about going until about 5:30. Looking at what we have  
6 before us, Proposal 18 is going to take a considerable  
7 amount of time for testimony and discussion. So what  
8 we're going to do is just go ahead and get through  
9 Proposal 7 and break for the day and come back fresh  
10 tomorrow morning for Proposal 18. So if there's people  
11 that are holding out, wondering if they're going to be  
12 given an opportunity to testify on 18 tonight, I'll  
13 just let you know that we plan on taking that up  
14 tomorrow.

15  
16                   At this time.....

17  
18                   MR. PROBASCO: First thing.

19  
20                   CHAIRMAN FLEAGLE: Pardon?

21  
22                   MR. PROBASCO: First thing.

23  
24                   CHAIRMAN FLEAGLE: First thing, yes,  
25 after opening testimony and what not.

26  
27                   I'd like to take the opportunity to  
28 welcome Special Assistant Hans Neidig to the meeting,  
29 he's in the back, appreciate you showing up. And also  
30 I gave kudos to our ex-patriot Board members earlier  
31 and Gary wasn't here and Gary's also now in the room.  
32 So just wanted to thank you, Gary, for your service  
33 behind this table and appreciate you still being here  
34 interested in the process.

35  
36                   (Pause)

37  
38                   CHAIRMAN FLEAGLE: Are we still arguing  
39 about coffee.

40  
41                   (Laughter)

42  
43                   MR. GOLTZ: When Gary was at the table  
44 we had coffee.

45  
46                   (Laughter)

47  
48                   MR. MELIUS: I'd like to have the  
49 record reflect that we weren't going to have  
50 disparaging comments about people on the Board.

1 (Laughter)

2

3 CHAIRMAN FLEAGLE: Okay, having said  
4 all that we're now ready to move to Proposal 07 and we  
5 start out with the analysis presentation, and we have  
6 new Staff at the table, please introduce yourself and  
7 go ahead and take off.

8

9 MR. SUMINSKI: Good afternoon. I'm  
10 Terry Suminski, fisheries biologist with the U.S.  
11 Forest Service in Sitka. The executive summary to  
12 FP08-07 starts on Page 231 of your Board books and the  
13 analysis starts on Page 233.

14

15 This proposal was submitted by Mr. Eric  
16 Morisky of Sitka and would close the Federal  
17 subsistence steelhead fishery on Admiralty, Baranof and  
18 Chichagof Islands in Southeastern Alaska Federal  
19 subsistence fishing area. The proponent believes that  
20 the Federal subsistence fishery for steelhead will lead  
21 to overfishing and extinction of small steelhead stocks  
22 on the ABC islands. He believes that subsistence needs  
23 are already adequately met by other species of fish  
24 such as chinook and sockeye salmon and that steelhead  
25 should be left for sportfishing.

26

27 The Federal Subsistence Board adopted  
28 FP05-28 resulting in a Federal subsistence fishery for  
29 steelhead in Southeast Alaska in 2005. This was  
30 excluding Prince of Wales and Kosciusko Islands, where  
31 there was an existing steelhead subsistence fishery.  
32 The reported harvest in the Federal steelhead fishery  
33 on Admiralty, Baranof and Chichagof Islands is shown on  
34 the top of Page 238 and is as follows:

35

36 In 2005 there was zero fish harvested  
37 on Admiralty, one on Baranof and one on  
38 Chichagof for a total of two.

39

40 In 2006 there was zero on Admiralty,  
41 three harvested on Baranof, six on  
42 Chichagof for a total of nine.

43

44 And in 2007 there was zero harvested on  
45 Admiralty, three on Baranof, three on  
46 Chichagof for a total of six.

47

48 For a grand total since the beginning  
49 of the regulation of 17 reported  
50 steelhead harvest.

1                   The OSM conclusion is to oppose this  
2 proposal.

3  
4                   The justification is that the  
5 participation and reported harvest of steelhead is very  
6 low on the ABC islands and a conservation based closure  
7 is not warranted at this time. Closing the Federal  
8 subsistence fishery for steelhead on the ABC islands,  
9 while other steelhead fisheries remain open does not  
10 recognize subsistence uses as a priority over other  
11 uses as required in ANILCA. Local Federal managers  
12 have the authority to manage the Federal subsistence  
13 steelhead fishery by permit stipulations and in-season  
14 action. The proposal would create an unnecessary  
15 regulation.

16  
17                   Thank you.

18  
19                   CHAIRMAN FLEAGLE: Thank you, Terry.  
20 We now turn to summary of any written public comments.  
21 Robert Larson.

22  
23                   MR. LARSON: Yes, Mr. Chairman, there  
24 are no written public comments.

25  
26                   CHAIRMAN FLEAGLE: Thank you. Any  
27 interest in public testimony before this meeting, Pete.  
28

29                   MR. PROBASCO: Mr. Chair. I have no  
30 one signed up for Proposal 7.

31  
32                   CHAIRMAN FLEAGLE: Regional Council  
33 recommendation. Bert.

34  
35                   MR. ADAMS: Thank you, Mr. Chairman.  
36 The Council opposes this proposal. I'll just read to  
37 you a statement here that should explain that.

38  
39                   The participation and reported harvest  
40 of steelhead is very low, as was indicated in the  
41 report earlier on Admiralty, Baranof and Chichagof  
42 Islands. There is no evidence of a conservation issue.  
43 The Federal subsistence steelhead fishery closure on  
44 ABC islands, while other steelhead fisheries remain  
45 open would not provide for a meaningful subsistence  
46 priority. A catch and release mortality in the  
47 sportfishery is a concern to the Council. We think  
48 that there's a lot of mortality in the catch and  
49 release issue with the sportfishing. The Council  
50 suggests this mortality should be accounted for in

1 State management if it is in excess to minimum  
2 exploitation rates, and the ADF&G should close streams  
3 prior to Federal closures.

4  
5 That's the extent of my comment, Mr.  
6 Chairman.

7  
8 CHAIRMAN FLEAGLE: Thank you, Bert.  
9 InterAgency Staff Committee comments.

10  
11 Larry.

12  
13 MR. BUKLIS: Mr. Chairman. Is the  
14 Department of Fish and Game next.

15  
16 CHAIRMAN FLEAGLE: Yes, they are, I  
17 skipped over them, and that was not an intentional  
18 slight, sorry, just moving too fast on my numbered list  
19 here.

20  
21 Fish and Game.

22  
23 Tina.

24  
25 MS. CUNNING: Mr. Chairman. We would  
26 like to take up Counsel Goltz' suggestion, that we  
27 request the Department's written comments on this  
28 proposal be entered into the record as written, as we  
29 have in the book, and we can give them a complete copy  
30 here that's unmarked.

31  
32 CHAIRMAN FLEAGLE: Okay, Keith, does  
33 that work?

34  
35 MR. GOLTZ: That works.

36  
37 CHAIRMAN FLEAGLE: Okay, thanks, Tina.

38  
39 MS. CUNNING: Okay. In light of that,  
40 I'm simply going to reiterate what we've stated before.  
41 That adoption of this proposal will have no impact on  
42 subsistence since the low level of participation  
43 indicates that the communities do not exhibit a pattern  
44 of customary and traditional use of steelhead.

45  
46 The subsistence priority for fish is  
47 already provided by other fisheries largely in marine  
48 waters of Southeast.

49  
50 The Federal subsistence regulations and

1 permit conditions are simply not conservative enough to  
2 ensure conservation of steelhead trout stocks. We've  
3 presented this information multiple times before.  
4 There's limited systems that we have assessment work  
5 on. Some of these streams have as few as 10 steelhead  
6 returning in a given year and we're monitoring very  
7 closely. Since we adopted our conservative regulations  
8 in 1994, we've been able to rebuild our steelhead runs  
9 in Southeast Alaska. The Federal authorized  
10 opportunity for subsistence use of steelhead should  
11 only be authorized in waters with stock assessment  
12 programs and a documented ability to withstand  
13 increased harvest using the best available estimates of  
14 harvest in-season. We don't believe that the Federal  
15 permit system may reflect actual participation given  
16 the study that was recently completed on Prince of  
17 Wales Island.

18  
19                   These Federal regulations are a  
20 conservation issue and the Federal permit stipulations  
21 do not address our biological concerns related to the  
22 many small populations of steelhead. We are very  
23 likely going to pursue emergency closure of the  
24 steelhead fisheries on these three islands if the Board  
25 does not adopt this proposal.

26  
27                   Alaska Department of Fish and Game  
28 Comments to the Federal Subsistence Board.

29  
30                   FP08-07, Admiralty, Baranof, and  
31 Chichagof Islands Steelhead.

32  
33                   Introduction: This proposal would  
34 eliminate the Federal subsistence harvest of steelhead  
35 trout in freshwaters within Federal lands on Admiralty,  
36 Baranof, and Chichagof Islands, but steelhead trout  
37 could continue to be retained under State of Alaska  
38 sportfishing regulations.

39  
40                   Impacts to Subsistence Users: The  
41 Federal Staff analysis to the Regional Advisory Council  
42 (RAC) (p. 126-127) reported only 17 steelhead were  
43 harvested under Federal subsistence permits in the past  
44 three years. Adoption of this proposal will have no  
45 impact on subsistence since the low level of  
46 participation indicates the communities do not exhibit  
47 a pattern of customary and traditional use of steelhead  
48 and the subsistence priority for fish is already  
49 provided by other fisheries.

50

1                   Opportunity Provided by State:  
2 Steelhead trout taken incidentally by gear operated  
3 under terms of a State subsistence permit for salmon  
4 may be legally harvested and possessed for steelhead  
5 trout. The holder of a State subsistence salmon permit  
6 must report any steelhead incidentally taken in this  
7 manner on his or her permit calendar. The State has a  
8 comprehensive package of sport, personal use,  
9 commercial, and subsistence regulations that work  
10 together to conserve steelhead and provide for  
11 subsistence harvest. These include a 36" size limit,  
12 bait and snagging prohibitions, restrictions on harvest  
13 in net fisheries that reduce bycatch of steelhead and  
14 authority to require commercial catch reporting through  
15 emergency order. This spring a statewide regulation  
16 was adopted that requires reporting of steelhead  
17 retained but not sold. The State's regulations  
18 successfully reversed the early 1990s decline in  
19 steelhead populations.

20  
21                   Conservation Issues: The proponent  
22 accurately recognizes current Federal subsistence  
23 regulations and permit conditions are not conservative  
24 enough to ensure conservation of steelhead trout stocks  
25 in Southeast Alaska freshwater systems, especially  
26 "smaller" easily accessible systems that may receive  
27 more intensive pressure. Steelhead fisheries with less  
28 conservative regulations than current regionwide  
29 sportfishery steelhead regulations are not sustainable.  
30 Population declines were evident in Southeast Alaska  
31 prior to 1994 under sportfishing regulations, which  
32 were similar to current Federal subsistence  
33 regulations. In 1994, the Alaska Board of Fisheries  
34 enacted conservative regulations for steelhead in  
35 Southeast Alaska, which helped rebuild depressed stocks  
36 and created a sustainable steelhead fishery.

37  
38                   Most steelhead populations contain 200  
39 or fewer spawning adults with only a handful of systems  
40 regularly receiving annual escapements of over 500  
41 adults. most of these steelhead populations are  
42 extremely difficult or impossible to assess and monitor  
43 on a regular basis. Steelhead populations in Southeast  
44 Alaska can be sustained only with very low harvest  
45 rates of 10 percent or less. History has shown that  
46 the level of harvest opportunity provided by the  
47 Federal regulations cannot be sustained in the absence  
48 of an intensive stock assessment program.

49  
50                   The Department urges the Federal Board



1 to respect the Department's concerns for stock  
2 conservation. Federal subsistence limits and  
3 regulations are creating the potential to unnecessarily  
4 impact the sustainability of steelhead. Stock  
5 assessment and stock status data for the numerous small  
6 steelhead stocks are necessary before authorizing  
7 Federal subsistence use. For example, in the case of  
8 Baranof Island, three streams containing steelhead runs  
9 are crossed by the Sitka road system. With the  
10 exception of a few isolated steelhead escapement  
11 surveys, no consistent escapement information and no  
12 population estimates have been generated for these  
13 streams. Forest Service Staff believes that  
14 escapements to these systems range from 10 to 200 fish  
15 per stream. As another example, one of the more  
16 extensively studied steelhead systems of larger than  
17 average run size in Southeast Alaska is Sitkoh Creek  
18 located on Chichagof Island. Adult steelhead returning  
19 to Sitkoh Creek were counted through a weir on the  
20 creek during 11 years, and escapement counts ranged  
21 from 395 to 1,108, with an average run size of 705  
22 fish. A preliminary estimate of 460 fish, which falls  
23 below the average run size, migrated into Sitkoh Creek  
24 during 2007. Any targeted subsistence harvest on these  
25 fish would significantly impact its sustainability and  
26 would not be reported until after the fact.

27

28                   The Federal authorized opportunity for  
29 subsistence use of steelhead should only be authorized  
30 in waters with stock assessment programs and a  
31 documented ability to withstand increased harvest using  
32 the best available estimates of harvest in-season. The  
33 Federal authorization to use bait for steelhead, and  
34 requirement to retain steelhead caught with bait,  
35 effectively results in there being no minimum size  
36 limit. Use of bait may also significantly increase the  
37 harvest of steelhead smolt as they emigrate to salt  
38 water in contrast to State regulations that protect  
39 nearly all of the steelhead smolt under the minimum  
40 size limit (11 inches), and incidental mortality is low  
41 because no bait is allowed. Although Federal officials  
42 are currently attaching stipulations to permits that  
43 match State regulations concerning size limits and  
44 prohibiting use of bait, the regulation itself is  
45 inconsistent with sound management of fish populations  
46 and will eventually result in unnecessary restrictions  
47 on other uses.

48

49                   Enforcement issues often create  
50 conservation issues, and there remains a question

1 whether the Federal permit system reflects actual  
2 participation and harvest of steelhead throughout  
3 Southeast Alaska. Low numbers of permits issued may be  
4 due to lack of compliance with permit requirements, and  
5 permit stipulations do not address the biological  
6 concerns related to the many small populations of  
7 steelhead. Data from recent studies indicate that not  
8 all subsistence users are obtaining permits, so permit  
9 stipulations, even if they were well designed, may not  
10 be effective. The permit stipulations and restrictions  
11 are, and will continue to be, ineffective until a  
12 concerted effort is exercised to issue permits to all  
13 active subsistence users and ensure stipulations are  
14 followed.

15  
16                   Jurisdiction Issues: There is a large  
17 amount of non-Federal land on Admiralty, Baranof, and  
18 Chichagof Islands. Many streams on these islands that  
19 support steelhead runs flow through this non-Federal  
20 land. In addition, the State disputes that Federal  
21 reserved water rights exist for all these waters and  
22 therefore disputes Federal subsistence jurisdiction  
23 over these streams. Detailed maps are needed of lands  
24 where Federal jurisdiction is claimed and the basis of  
25 each claim. In addition, fishermen need these detailed  
26 maps because they cannot participate in Federal  
27 subsistence fisheries while standing on non-Federal  
28 land.

29  
30                   Other Comments: There are competing  
31 purposes of ANILCA, such as conservation of fish and  
32 wildlife, rural subsistence preference, and recreation.  
33 The responsibility of the Board is to balance those  
34 competing purposes. Given the extremely low  
35 participation levels and harvest reported by the  
36 Federal Subsistence Program for the Admiralty, Baranof,  
37 and Chichagof Islands area, it is obvious that use of  
38 steelhead is not customary and traditional and is  
39 recreational. Subsistence priority uses are provided  
40 by other fisheries without endangering the small, less  
41 productive steelhead stocks and potentially causing  
42 unnecessary restrictions to other uses.

43  
44                   The Federal Staff recommendation is to  
45 oppose the proposal based upon the belief that a  
46 conservation based closure in regulation is not  
47 warranted due to the reported low participation and  
48 harvest levels. The Federal Board needs to support  
49 adoption of this proposal in order to be consistent  
50 with the authorities and responsibilities under ANILCA

1 to balance competing purposes, such as conservation of  
2 fish and wildlife, rural subsistence preference, and  
3 recreation. State and Federal regulations are  
4 providing a preference for subsistence uses, and there  
5 is no need to authorize Federal subsistence use of  
6 steelhead that jeopardizes the sustainability of these  
7 stocks.

8

9 Department Recommendation: Support.

10

11 CHAIRMAN FLEAGLE: Thank you, Tina. We  
12 now move to the InterAgency Staff Committee comments.  
13 Larry.

14

15 MR. BUKLIS: Mr. Chairman. I don't  
16 have any specific points to emphasize. The Staff  
17 Committee found the analysis to be complete and  
18 accurate and the Council recommendation to be  
19 consistent with .805c.

20

21 CHAIRMAN FLEAGLE: Okay, thank you.  
22 Board discussion with Council Chairs and State liaison.

23

24 (No comments)

25

26 CHAIRMAN FLEAGLE: Ready for a motion.

27

28 (No comments)

29

30 CHAIRMAN FLEAGLE: It sounds like we  
31 need coffee.

32

33 (Laughter)

34

35 CHAIRMAN FLEAGLE: Denny.

36

37 MR. BSCHOR: Just a few comments.  
38 First, since we've dealt with this one, it seems like  
39 before, a couple times, and the -- I guess maybe we  
40 ought to make further benefit of the new members or the  
41 new Board members, that we do explain what we've done  
42 relative to management of permits, specifics as far as  
43 working with the Fish and Game for those streams in  
44 question and that sort of things. So if someone from  
45 the Staff could maybe, maybe Bob Larson or someone, or  
46 someone you would pick could explain that a little bit,  
47 just so we're all on board as far as the actions that  
48 we've been taking.

49

50 CHAIRMAN FLEAGLE: Terry.

1 MR. SUMINSKI: Mr. Chairman. Mr.  
2 Bschor. Are you referring just to the actions on the  
3 ABC islands that we've taken for permit conditions?

4  
5 MR. BSCHOR: Well, since this is  
6 specific to the ABC islands, perhaps, but I believe if  
7 you want to go further than that that would be fine.

8  
9 MR. SUMINSKI: Okay. All the steelhead  
10 -- to fish steelhead under Federal rules you have to  
11 get a permit, and the permit conditions for ABC islands  
12 is on Page 237 of your Board book, 2006/2007, we had  
13 one permit condition that set a minimum size limit for  
14 steelhead of 36 inches and limited gear to rod and reel  
15 without bait for streams that were crossed by the Sitka  
16 road system. We had one other requirement on the  
17 permit for the ABC islands, that was to report any  
18 steelhead that were taken from Sitkho Creek, and that  
19 was to aid in the research that the Department of Fish  
20 and Game was doing out there, they were tagging every  
21 steelhead they could get so we wanted to capture that  
22 data.

23  
24 There's a variety of other permit  
25 conditions for other road systems, but the vast  
26 majority of streams have no permit conditions other  
27 than they're just managed under the general steelhead  
28 regulation.

29  
30 Hopefully that helps you.

31  
32 MR. BSCHOR: Yes, thank you. And then  
33 for the State Staff, what is the -- the latest figures  
34 we have for commercial harvest, that's I believe  
35 bycatch, but I don't know for sure if that's the case  
36 are from 1975 to 1986, varies from 533 to 11,540  
37 steelhead, do you have any new figures on what that  
38 might be and what your concerns might be there?

39  
40 MS. CUNNING: We did not bring that  
41 information with us. The important thing from that  
42 standpoint is that we have engaged in activities to try  
43 to assess what catches are and with the regulations  
44 that are on targeted stocks that occur on these small  
45 systems we have been able to rebuild the runs in the  
46 face of our ongoing fisheries, so the commercial  
47 fisheries is not the issue here. The issue is  
48 targeting small stocks on freshwaters.

49  
50 MR. BSCHOR: Thank you.

1 MS. BLASZAK: Mr. Chair.

2

3 CHAIRMAN FLEAGLE: Marsha.

4

5 MS. BLASZAK: Thank you. I heard  
6 Chairman Adams reference a concern about the mortality  
7 from catch and release sportfishery, does the State  
8 have any figures on what that might be?

9

10 MS. CUNNING: We didn't bring those  
11 figures with us but I will tell you that we do have  
12 some interesting projects, like the one at Situk Weir,  
13 where steelhead are counted on their way in and counted  
14 on the way out and there's krill census efforts to know  
15 what are caught in the system so we have a pretty good  
16 count on what's going in, what's going out, plus what's  
17 caught and those fish, there's -- I think -- believe  
18 the average two years ago when I looked into these  
19 figures was they're caught on the average of 10 times a  
20 piece and they survive just fine.

21

22 CHAIRMAN FLEAGLE: Denny.

23

24 MR. BSCHOR: Mr. Chair. One more  
25 question for the State. Are there any instances where  
26 Federal managers did not respond appropriately to  
27 specific and quantified documented conservation issues  
28 regarding steelhead brought to their attention by ADF&G  
29 managers?

30

31 CHAIRMAN FLEAGLE: Tina.

32

33 MS. CUNNING: We previously are on the  
34 record for objecting to the 30 inch length that was in  
35 place on permits for steelhead, the Federal Staff  
36 subsequently have moved up the lengths to 32 inch on  
37 some systems and 36 inches in other systems, that begs  
38 the question, though, that this is not a customary and  
39 traditional fishery and we don't have good numbers on  
40 those people who are participating throughout these  
41 remote areas where there is no enforcement, there are  
42 no Federal managers and that's what the Prince of Wales  
43 study on steelhead showed, was we may not actually have  
44 a good idea what's actually participating in the  
45 Federal fishery.

46

47 CHAIRMAN FLEAGLE: Ralph.

48

49 MR. LOHSE: Between the last thing -- I  
50 was sitting here looking at the proponent's reasons for

1 putting in the proposal, and one of the last comments  
2 was that this is not a subsistence fishery and I think  
3 that the Board went through that when they gave C&T for  
4 that fishery so that's not a question at this point in  
5 time. And, again, I know that as Council and as the  
6 Board we've had some disagreements with the State as to  
7 what actually constitutes a commercial fishery and how  
8 much quantity has to be involved, but here's to me the  
9 real question.

10

11 When you go back and you look at the  
12 reasons that the proponent put in for the fishery, and  
13 this is the question that you guys are going to have to  
14 answer and I'm not siding one side or another on this  
15 proposal, but the proponent says that subsistence needs  
16 are adequately met by other species of fish such as  
17 chinook and sockeye salmon and that steelhead should be  
18 left for sportfishing. There's your question right  
19 there.

20

21 CHAIRMAN FLEAGLE: Other discussion.  
22 Commissioner.

23

24 COMMISSIONER LLOYD: I'm confused, is  
25 there a motion on the table or am I allowed to -- okay,  
26 thank you.

27

28 With regard to the wording of the  
29 original proposal, I just want to make it clear for  
30 those who don't remember is this is not the  
31 Department's proposal, so our support of this proposal  
32 is based on our interpretation of the conservation  
33 concerns, not on an allocation issue between  
34 subsistence and sportfishing opportunity.

35

36 Thank you.

37

38 CHAIRMAN FLEAGLE: You bet. Denny.

39

40 MR. BSCHOR: Yes, just a couple of  
41 comments and then I'll be prepared to present a motion.

42

43 Having dealt with this early on and  
44 through the entire history of this particular issue we  
45 were really wanting to look to see what the level of  
46 use might be. Granted the level of use is not very  
47 high, that doesn't mean there's not C&T in my opinion,  
48 I agree with Mr. Lohse on that, I think there is C&T on  
49 freshwater species and the other species you mentioned  
50 are many times caught out in saltwater anyway. So I

1 look at the figures and I see a very low use, even if  
2 you doubled that, depending on which streams, and I am  
3 concerned about that and I do feel that the Forest  
4 Service is going to be every bit as cooperative as  
5 possible to make sure that we don't issue permits or if  
6 we find places that we do have problems, we'll deal  
7 with those.

8

9 But at this point in time I'm not  
10 seeing the conservation issue from that perspective.

11

12 Now, if there's a conservation issue  
13 from a larger perspective, then I got to wonder why  
14 we're losing so many fish in other ways. And I'm  
15 hopeful the Fish and Game will get on top of that, too,  
16 because as I've said before in past meetings, I  
17 certainly don't want to do anything that would harm the  
18 long-term viability of a species such as steelhead.  
19 And I just want that known.

20

21 I think that's all I've got to say. I  
22 just want to make sure others knew some of the history.

23

24 CHAIRMAN FLEAGLE: Ready for the  
25 motion.

26

27 MR. BSCHOR: Mr. Chair. I move to  
28 adopt the recommendation of the Southeast Alaska  
29 Regional Advisory Council.

30

31 MR. CESAR: Second.

32

33 CHAIRMAN FLEAGLE: Do you want to speak  
34 further to that motion, Denny.

35

36 MR. BSCHOR: I think I'm just going to  
37 refer to my comments that I just made relative to  
38 conservation, relative to the ability to provide some  
39 subsistence use for that species and that we have a  
40 pretty good system in place, if not a very good system  
41 in place for in-season manager authority to require  
42 conservation stipulations and work with the State on  
43 where legally caught fish can occur.

44

45 Thank you.

46

47 CHAIRMAN FLEAGLE: Thank you. I'm  
48 going to add to the comments.

49

50 I agree with the motion. And I also

1 agree that we do have a recognized customary and  
2 traditional use, we do have a harvest, albeit it's a  
3 small harvest, but we do have a harvest. And I  
4 emphasize small, 2005 is a total of two fish; 2006 nine  
5 fish; 2007 six.

6  
7 But apart from that, this program is  
8 supposed to recognize subsistence uses and in my  
9 opinion when you're doing that that subsistence use  
10 should be the last thing to go, not the first. And if  
11 there is a conservation concern and I know I heard Tina  
12 mention earlier that the State may EO close this  
13 steelhead fishery and in the case they do that and if  
14 it's warranted further down the line this Board may  
15 consider restrictions or closures, but at this time as  
16 long as there's still other uses, I don't see any  
17 justification at all to restrict or to close the  
18 subsistence harvest.

19  
20 So I'm going to support the motion as  
21 stated.

22  
23 Other comments.

24  
25 (No comments)

26  
27 CHAIRMAN FLEAGLE: Ready for the  
28 question.

29  
30 MR. CESAR: Question.

31  
32 CHAIRMAN FLEAGLE: The question is  
33 recognized. Pete.

34  
35 MR. PROBASCO: Thank you, Mr. Chair.  
36 Final action on FP08-07, move to adopt the  
37 recommendation of the Southeast Alaska Regional  
38 Advisory Council to reject Proposal FP08-07.

39  
40 Mr. Cesar.

41  
42 MR. CESAR: Aye.

43  
44 MR. PROBASCO: Mr. Bschor.

45  
46 MR. BSCHOR: Aye.

47  
48 MR. PROBASCO: Mr. Melius.

49  
50 MR. MELIUS: Aye.



1 MR. PROBASCO: Ms. Blaszak.  
2  
3 MS. BLASZAK: Aye.  
4  
5 MR. PROBASCO: Mr. Fleagle.  
6  
7 CHAIRMAN FLEAGLE: Aye.  
8  
9 MR. PROBASCO: And, Mr. Lonnie.  
10  
11 MR. LONNIE: Aye.  
12  
13 MR. PROBASCO: Mr. Chair, motion  
14 carries six/zero.  
15  
16 CHAIRMAN FLEAGLE: Thank you. That  
17 concludes action on Proposal 7, and as stated the next  
18 proposal is going to be the first thing we take up at  
19 8:30 in the morning. With that I'd like to go ahead  
20 and dismiss everyone.  
21  
22 COMMISSIONER LLOYD: Mr. Chairman.  
23  
24 CHAIRMAN FLEAGLE: Oh, hang on.  
25  
26 COMMISSIONER LLOYD: Mr. Chairman.  
27  
28 CHAIRMAN FLEAGLE: Denby, go ahead.  
29  
30 COMMISSIONER LLOYD: Thank you, sir, if  
31 you'll indulge me. You've made scheduling for FP08-18  
32 time certain for tomorrow morning and I appreciate  
33 that. I'm wondering if the Board would consider also  
34 designating a time certain for consideration of FP08-  
35 14, which you've moved ahead of 13. But given that the  
36 Staff support for the Yukon River proposals is fairly  
37 substantial, I'm wondering if you would consider making  
38 that a time certain of 3:00 o'clock tomorrow afternoon.  
39  
40 CHAIRMAN FLEAGLE: I don't know that I  
41 have enough information to make that determination.  
42 Pete and I can talk about it because it concerns  
43 staffing from our side as well and that can be a  
44 discussion we can take up first thing in the morning  
45 before we move on 18 if that will work.  
46  
47 COMMISSIONER LLOYD: Thank you, Mr.  
48 Chair.  
49  
50 CHAIRMAN FLEAGLE: All right, with

1 that, we'll recess for the evening. Thanks everybody  
2 for your participation.

3

4

(Off record)

5

6

(PROCEEDINGS TO BE CONTINUED)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

C E R T I F I C A T E

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 154 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME I taken electronically by Computer Matrix Court Reporters on the 11th day of December 2007, 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 23rd day of December 2007.

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