December 12, 2001
8:30 o'clock a.m.
PUBLIC MEETING

MEMBERS PRESENT:

Mitch Demientieff, Chairman
Gary Edwards, U.S. Fish and Wildlife Service
Niles Cesar, Bureau of Indian Affairs
Taylor Brelsford, Bureau of Land Management
Judy Gottlieb, National Park Service
Jim Caplan, U.S. Forest Service
Solicitor: Keith Goltz
CHAIRMAN DEMIENTIEFF: I call the Subsistence Board to order. We are now going to move into Southeast and, with that, who is going to give the opening? Who is going to give the opening? I thought somebody was going to brief..... (Pause) The first proposal up is FP02-35. Is it Bob or Cal that's going to give the analysis?

MR. CASIPIT: Thank you, Mr. Chairman. My name is Calvin Casipit. I'm the Subsistence Staff fisheries biologist for the Forest Service in Juneau, Alaska. Before I start on FP02-35, I just wanted to make sure the Board was aware that their action on 35 renders moot the co-portions of 27, 28, 29, 30, 31, 32 and 33. It also renders moot, in total, the proposals 02-24, 02-26, 02-38 and 39. So that Board action on that one proposal 35 will make our job a lot simpler later on, I guess.

The staff analysis for 35 starts on your page 6 behind tab E. Proposal 02-35 was submitted by John Littlefield of Sitka, requests closing Federal waters in Southeast Alaska to coho salmon fishing except by Federally-qualified subsistence users. It also establishes harvest limits, harvest methods and season dates and requirements for Federal permits. This proposed regulation would only apply to coho harvests in fresh water above mean high tide as this is the extent of Federal jurisdiction in Southeast Alaska. Any discussion related to marine waters are excluded from this analysis because of lack of Federal jurisdiction.

The proposal was submitted out of concern that there's not enough opportunity for rural subsistence users to harvest coho salmon under Federal subsistence permits issued and harvest limits and methods applied that recognizes the customary and traditional take of coho salmon in Southeast Alaska.

Again, I just wanted to mention that the extent of Federal public lands and waters, the proposal here deals with basically Forest Service waters above mean high tide within Southeast Alaska.

The Federal program does have a customary
and traditional use determination for subsistence harvest of all salmon species, including coho salmon in Southeast Alaska, but up until now the Federal government has only issued permits for coho salmon in sections 3A, 3B and 3C. That was an action this Board took last December, December of 2000, to create this coho fishery on the west coast of Prince of Wales Island.

The State only issues subsistence permits to take coho salmon in Salt Lake and Mitchell Bay near Angoon. Subsistence users in other areas of Southeast Alaska have had to purchase State sport fishing license and comply with State sport fish limits of six coho salmon per day to fish legally.

The closure part of the proposal causes concern because it unnecessarily restricts non-Federally-qualified subsistence users. Right now there are no conservation concerns region wide for coho salmon in Southeast Alaska. With that, I'll be happy to answer any questions from the Board.

CHAIRMAN DEMIENTIEFF: Yeah, you'll be there anyway. If there's other questions, we'll deal with them. Summary of written public comments.

MR. SCHROEDER: Mr. Chairman, there's two public comments, both in opposition. The first, from the United Fishermen of Alaska, that is concerned that the Board lacks jurisdiction in marine waters. Their other point is that it unnecessarily restricts non-subsistence users. The Southeast Alaska Fisherman's Alliance also have some concerns. They're in opposition and mentioned that the Board does not have jurisdiction in marine waters. In addition, many subsistence fishermen are also commercial fishermen, dependant upon the economics of the commercial fishery. That would be damaged by the complete prohibition against the harvest of coho salmon. That's all.

CHAIRMAN DEMIENTIEFF: Thank you very much. Department comments.

MR. VINCENT-LANG: Thank you, Mr. Chair. Department is neutral with respect to coho salmon harvest limits recommended by the Staff Committee in the Southeast Regional Council for this group of proposals. As in other areas of the State, we believe that long-term regulations should be based on the amounts of each stock determined to be necessary and reasonable for subsistence
uses in the area. The Alaska Board of Fisheries will be reviewing coho salmon subsistence fishing during the 2002-2003 regulatory cycle and will conduct such an assessment as part of its review.

We support the Staff Committee recommendation that a permit with harvest reporting provisions be required for these coho salmon fisheries. This harvest and effort information is necessary to ensure conservation and responsible management of these fisheries. We also support the recommendation regarding marine jurisdictional issues. Marine water is identified in this, and the other proposals in this group are now subject to Federal jurisdiction.

Finally, we support the recommendation not to close Federal waters to other uses in this proposal and the other proposals in this group. Closing coho salmon fishing to Federally-managed waters in Southeast Alaska to non-Federally-qualified users would unnecessarily restrict non-Federal fisheries because there are no widespread conservation concerns for coho salmon in Southeast Alaska and no indication that subsistence opportunities have been or will be restricted. These comments will refer to proposal 35 and those other portions that Cal stated that this overall coverage proposal covers. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Public testimony, we have one request. Cora Crome.

MS. CROME: Thank you, Mr. Chairman, Members of the Board. My name is Cora Crome and I represent Petersburg Vessel Owners Association. PVOA is opposed to proposal 35 as it was written and submitted because it would unnecessarily limit other users of the resource when no conservation concern exists and also because it attempts to extend Federal jurisdiction into the marine waters of Southeast Alaska. Comments in the inter-agency Staff Committee recommendations, staff analysis and Alaska Department of Fish & Game comments all agree that coho stocks are healthy and there is no evidence subsistence harvest needs are not being met. Therefore, restricting other users is not necessary.

ANIILCA does not allow the restriction of non-subsistence users unless it is necessary for the conservation of healthy populations of fish and wildlife. Restricting catches of coho salmon by other users would have a large impact on commercial fisheries in the area.
and it should be noted that many subsistence users are also commercial fishermen and they would lose a significant part of their livelihood if this proposal was adopted as written.

In addition, this proposal seeks to limit harvest in all of Southeast Alaska. The Federal Subsistence Board does not have jurisdiction over marine waters and we would request that the Board consider this proposal only on the Federal waters where you have jurisdiction. The scope of Federal jurisdiction is established by the secretary and cannot be modified or changed by the Federal Subsistence Board.

The Regional Advisory Council in Southeast recognized these concerns and modified this proposal so that it doesn't restrict other users or extend jurisdiction to marine waters. We appreciate this consideration and support these modifications. We would note that the daily bag limit would increase from six, under existing State regulations, to 20, under the proposed regulations. It should be noted that the effect this will have on harvest is unknown and staff recommended a well-designed permit system, which we would support.

It stated in staff analysis that any regulation which will increase removals of coho salmon should be approached with caution. We hope the Board will consider this and develop cautious regulations that allow subsistence harvest while also protecting salmon streams and just that you be sure that whatever regulations are adopted will be enforceable. Thank you for the opportunity to comment.

CHAIRMAN DEMIENTIEFF: Thank you. Is there any questions for Cora? Thank you very much.

Regional Council recommendation.

MR. THOMAS: Council recommends the support of modified proposal.

CHAIRMAN DEMIENTIEFF: Staff Committee.

MR. THOMPSON: Thanks, Mr. Chairman. The Staff Committee recommends the Board adopt this proposal with the modifications recommended by the Council; however, we would urge that the last sentence in the regulation, the proposed regulation, be stricken, which reads the Federal in-season manager may modify the bag
limits upwards or downwards as required. We believe that
allowing only Federally-qualified subsistence users to
harvest coho in this area would unnecessarily restrict
non-subsistence fisheries.

Coho stocks are healthy in this region.
There are no conservation concerns for coho in this area,
no evidence that subsistence harvest needs are not being
met. The daily annual harvest limits of 20 and 40 fish
reflect a reasonable compromise between the risk of over
fishing individual stocks and promotion of a safe and
efficient subsistence fishery.

Permit requirements are consistent with
existing Federal and State subsistence permits and are
needed to estimate harvest and manage for escapements.
Not having a closed season promotes distributing the
harvest among streams and throughout the run.
Maintaining this natural, temporal and spacial
distribution of escapements among the thousands of coho-
producing streams in the region is paramount for the
continued health of the resource.

The exception for sections 3A, 3B and 3C
is in recognition of last year's Federal Board decision
that created a Federal coho subsistence fishery in those
sections. The Southeast Regional Council recommended
continuing the coho fishery in 3A, 3B and 3C with no
annual limit for another year or two in order to collect
information on subsistence uses and needs in that area.
I believe that concludes our recommendation, Mr.
Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. With
that, we'll move the issue after Board deliberations. Is
there any discussion on the proposal?

MS. HILDEBRAND: Mr. Chairman.

This is Board and Regional Council only when we get to
this point. Go ahead, Gary.

MR. EDWARDS: I would certainly be
willing to yield.

CHAIRMAN DEMIENTIEFF: Go ahead.

MS. HILDEBRAND: Ida Hildebrand, BIA
Staff Committee member, for clarification to the Board.
Under discussion of the Regional Council in Southeast, the proponent was not requesting extension of Federal jurisdiction into all marine waters, the proponent was requesting Federal jurisdiction for all waters within the Tongass to be considered Federal waters as Federal waters are considered in all refuges and park lands. Thank you, Mr. Chairman.

Chairman Demientieff: Thank you, Ida. Gary.

Mr. Edwards: Mr. Chairman, I guess I'd like to ask the State maybe to respond to the Staff Committee's recommendation as well as the Council's recommendation, which is a modified of the proposal.

Mr. Vincent-Lang: Mr. Chair, Gary. We're neutral with respect to the bag limits because we haven't gone through an analysis yet, which we will do next year, as to what amount is reasonably necessary. We're very supportive of the permit requirements, we're very supportive of the basic outline and structure of this proposal, as requested by the inter-agency Staff Committee and RAC.

Chairman Demientieff: Bill.

Mr. Thompson: Thank you, Mr. Chairman. There's some comments here that I've never heard at the Council level. From the Council, this was a precaution to make sure we didn't get into a conservation concern. That being the case, I would like to have some idea at what point does a fishery meet the standards of a conservation concern? The reason for my question is because that subsistence coho fishing isn't all over in Southeast. There's a lot of cohos down there, but that particular fishery isn't permitted.

There's a question to Staff Committee. I heard a term used, I'm sorry to see start infiltrating our language, the expression as needed. Who is going to determine the needs of subsistence research for the users? Thank you, Mr. Chairman.

Mr. Thompson: Mr. Chairman, I'd defer to our biologist Cal to -- there is some room for discussion about what constitutes a conservation concern and there are differing definitions. Do you want to comment on that, Cal?
MR. CASIPIT: Thank you, Mr. Thompson.

I'm not sure I do want to comment in light of the RFR we have in front of us later on. You're right. The standard of conservation concern is a pretty sticky one. The State of Alaska has very tight definitions of what constitutes conservation concerns, what constitutes management concerns, what constitutes all these different levels of a concern with a stock. The Federal government doesn't have that same sort of really tight definitions of what we consider a conservation concern.

You know, my personal opinion is that a conservation concern, in my book, is where you have escapements that are such that the continued beneficial uses of that stock are put in jeopardy. I don't know how that fits with the State's definitions, but that's my personal definition. Again, when the escapements for a stock are such that the long-term continued beneficial uses of that stock are put in jeopardy.

CHAIRMAN DEMIENTIEFF: Do we have follow-up?

MR. THOMAS: My follow-up is that I'm glad this point was brought up because in the not too distant past cohos were in serious trouble down there. With the advent of hatcheries and different means of enhancement, that changed that particular picture. It's like any other fishery, it's vulnerable, but at what time do we recognize the vulnerability? I hope this discussion gets exchanged between agencies so that we can have a flag to look for. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Any other discussion? Jim.

MR. CAPLAN: Yes, sir, Mr. Chairman. I would move to adopt Proposal 35 as modified and recommended by the Staff Committee and I do so out of respect for a long-standing traditional fishery for subsistence users and the fact that there are reasonable conservation measures built into the process as well as monitoring through the permit. It strikes me that this is a very timely proposal and sets in place some very good regulation beneficial to subsistence users. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion?
MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

MS. GOTTLIEB: Mr. Chairman, I certainly agree with the Forest Service that this is a good time to establish and open the fishery and we'll rely on the RAC and the users to provide us with information and to have feedback from them and others on conservation concerns should they arise.

CHAIRMAN DEMIENTIEFF: Thank you. Bill, I have a particular question about striking the last sentence of the Regional Council recommendation, which would give authority to the in-season managers to close fisheries. I know what you're bound to as far as your council, but I'm just curious what kind of discussion was had with regard to that council background.

MR. THOMAS: If I remember right, the discussion there was to utilize that provision in this process of in-season management. That would give closer attention to any system, such as this one here.

CHAIRMAN DEMIENTIEFF: Mr. Boyd, is that going to be you that's going to respond to that because it may already be ostracized?

MR. THOMPSON: Yes, Mr. Chairman, we did have some discussion about this and I believe the reason pivoted around the opportunity not only to increase the bag limits but to decrease as is currently authorized in our regulations and we felt we should limit it to just the existing authorities to decrease.

MR. EDWARDS: Mr. Chairman. Correct me if I'm wrong, Tom, but it's my understanding that the in-season managers were not delegated the authority to increase. They could decrease. So, to increase would require Board action and not simply the action of an in-season manager.

MR. BOYD: That's correct. The Board has the authority to delegate certain actions to in-season managers. Annually, they do so. You do so. I think you characterized it correctly.

CHAIRMAN DEMIENTIEFF: Bill.
MR. THOMAS: Thank you, Mr. Chairman.

Now we all know.

CHAIRMAN DEMIENTIEFF: Is there any further discussion on the motion? All those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Okay. 24 is now moot, Cal?

MR. CASIPIT: Yes, Mr. Chairman. Both 24 and 26 now become moot.

CHAIRMAN DEMIENTIEFF: 38 and 39 also, is that right?

MR. CASIPIT: Also 38 and 39, correct.

CHAIRMAN DEMIENTIEFF: And portions of others. Again, for the record, which ones, Cal?

MR. CASIPIT: For 35, the action you took on 35 renders moot 24, 26, 38 and 39 in its entirety. It also renders moot the coho portions of 27, 28, 29, 30, 32, 31, 32 and 33.

CHAIRMAN DEMIENTIEFF: With that, we'll move on to FP02-27.

MR. CASIPIT: Thank you, Mr. Chairman. For 02-27, I'll only be talking about the sockeye portions of this proposal since the coho portions have already been taken care of. Also, this sockeye portion of 02-27 is very similar to the sockeye portion of 28, 30, 31, 32 and 33. So, much of what I'll be presenting here in 27 in regards to sockeye portions also would be exactly the same issues and presentation I'd make for 28, 29, 30, 31, 32 and 33.

Proposal 02-27 was submitted by the Sitka Tribe of Alaska. It requests closing Politofski Lake watershed and part of the small arm of Wale Bay and marine waters to sockeye and coho salmon fishing except
by Federally-qualified subsistence users for the
customary and traditional use determination and under the
terms of Federal subsistence fishing permit.

The proponent also requests changes to
the sockeye salmon harvest limits and establishment of a
subsistence coho salmon fishery. Again, the coho portion
of this proposal has been taken care of by your action on
FP02-35.

The extent of Federal public lands and
waters, again, the entire Politofski watershed is located
on Federal public lands entirely within the boundaries of
the Tongass National Forest. There's a portion of this
proposal that asks us to extend jurisdiction to marine
waters. Again, those waters are under jurisdiction of
the State of Alaska. As far as the sockeye regulatory
history, ADF&G Commercial Fisheries Division manages the
sockeye subsistence fishery at this location under their
State subsistence permits and harvest reporting has been
under their permit stipulations since '85.

We have quite limited estimates of
escapements for Politofski Lake. What we do have in
terms of personal use harvest data, sport harvest data
and commercial purse seine harvest for the Whale Bay area
are all detailed for you on a table on page 60 of your
book. You can see what information we do have on that
system. In general, the sockeye salmon stocks in this
system are considered healthy. That completes my
briefing.

CHAIRMAN DEMIENTIEFF: Summary of written
public comments.

MR. SCHROEDER: Mr. Chairman, there's
three public comments. All are in opposition to this
proposal. First, from the United Fishermen of Alaska.
Their concern is that the Board lacks jurisdiction in
maritime waters. It's also an unnecessary restriction on
non-subsistence users. The Southeast Alaska Fisherman's
Alliance have similar concerns; lack of jurisdiction in
maritime waters. Also, many subsistence fishermen are also
commercial fishermen dependant upon the economics of the
commercial industry that would be damaged by the complete
prohibition against the harvest of coho salmon. The
Southeast Alaska Seiners cite an unnecessary restriction
to non-subsistence harvest. They're also concerned that
closing the fishery would have significant adverse
consequences for the purse seine fishery.
CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

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

My comments will speak to the sockeye portions of Proposal 27 as well as Proposals 28, 30 through 33. The Department supports Staff Committee recommendation for this group of proposals with respect to sockeye salmon and to marine jurisdictional issues. We feel marine water is identified in this proposal. Any other series of proposals are not subject to Federal jurisdiction. We support the Staff Committee recommendation not to close Federally-managed waters to other uses. Closing sockeye salmon fishing in Federally-managed waters in Southeast Alaska to non-Federally qualified users would unnecessarily restrict non-Federal fisheries because there are no widespread conservation concerns for sockeye salmon in Southeast Alaska and no indication that subsistence opportunities have been or will be restricted. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. At this time, we'll move on to public testimony. David Bedford.

MR. BEDFORD: Mr. Chairman, Members of the Federal Subsistence Board, I appreciate the opportunity to speak to you at this time. My name is David Bedford. I'm the executive director of Southeast Alaska Seiners. I also serve as the chair of the Subsistence Committee for United Fishermen of Alaska. I've been involved in the subsistence issue quite a bit. I had the honor to serve on the Governor's Subsistence Summit that met here in Anchorage. I also now sit on the Subsistence Drafting Committee and am very involved in the State's efforts to try to grapple with this issue and resolve it.

I'm going to be commenting on this proposal. I'm in sort of the same position that the Staff was. The comments I'm going to be making in particular on this proposal would also probably apply, except for some factual specifics, to a number of the other proposals that will come up.

There's also a little bit of a question in my mind on kind of the procedural posture that we're in on this particular proposal. The reason I bring that up is because at the Regional Advisory Council, the entire proposal was tabled, so the Council, itself, never
really dealt with the sockeye part of this proposal. They did deal, of course, with coho in a proposal you folks have already dispensed with. So, in tabling this proposal, it wasn't real clear to me what it was the Regional Advisory Council was doing. My sense of the conversation that took place within the Regional Advisory Council was that they thought that there were some elements of the proposal that they didn't really particularly want to pursue.

Nonetheless, the proposal, as I understand that you folks are considering, is the one that's written in the regulation book or it was written in the proposal book and so that's the one that I have to speak to. Frankly, I speak rather critically of it. Southeast Alaska Seiners opposes this particular proposal that would eliminate non-subsistence fishing in the small arm of Whale Bay. Understand that that's the part of it that I speak to here. We certainly do not oppose the notion of establishing a subsistence fishery on the sockeye stocks in that area. Rather, I'm speaking to the notion that this proposal would reach out in the marine waters and close non-subsistence fisheries.

The proposal seeks to assert jurisdiction in marine waters contrary to the Federal regulations that implement Title 8 of ANILCA. Furthermore, Title 8 of ANILCA precludes restriction of non-subsistence fisheries except under rather limited circumstances. Those, in particular, are situations in which you have a conservation concern or situations in which you are unable to provide for subsistence by virtue of a non-subsistence use. In our view, neither of those apply in this particular case.

As I say, to begin with, Federal regulations preclude reaching into marine waters, but even if you were going to consider taking some sort of action in the marine waters, we don't believe it would be appropriate to regulate the fisheries in the marine waters under these circumstances. In this particular instance, the same fishery operates in the small arm of Whale Bay and takes approximately 27,000 pink salmon and 3,000 chum salmon annually. We also harvest approximately 65 sockeye and 70 coho.

In looking at the potential, for example, for regulating here on a conservation basis, there could be no real effect to satisfy any sort of conservation concern by closing that fishery down when the potential...
net savings would be 65 sockeye and 70 coho. The same rationale applies in providing for subsistence. A complete closure of the fishery in that area would not transfer enough fish into a subsistence harvest to make any difference.

In addition to that, we don't have any information that I've seen that suggests that there is any sort of conservation concern or that there is any failure to provide for subsistence in that area. So, that being the case, there's really no basis for any kind of restriction of non-subsistence uses in the marine waters. Thank you.


MS. CROME: Thank you again, Mr. Chairman, Members of the Board. My comments on this proposal are somewhat similar to my comments on the last one. Again, the proposal, as it was originally written and submitted, would have the effect of extending Federal jurisdiction into marine waters and restricting non-subsistence users. I had a chance to read through some of the staff analysis on this and I think that those make it pretty clear that there is not a conservation concern for either sockeye or coho stocks, both stocks are healthy, and that the Federal Subsistence Board would not have jurisdiction to extend into marine waters. So I will keep that brief in the interest of time.

I would also just like to point out that Whale Bay is a pretty important area for commercial fishing and if you were to take an action that would restrict commercial fishing in this area, it would have severe economic effects on communities in the area and on subsistence users who rely on commercial fishing for a significant portion of their income. We don't see any conservation concern or other concern that would make this action necessary at this time. Thank you.

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

MR. THOMAS: Thank you, Mr. Chairman. We anticipated succumbing to opposition to our presence here today. Whenever we have a single disagreement on our council, we table the action to avoid hard feelings. We tabled this because it did have points and issues that
weren't, for one thing, totally understood my some members of the Council. It wasn't adequately presented by the sponsor of the proposal and it just didn't lead to an opportunity to come up with a reasonable recommendation, so we tabled it. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. THOMPSON: Mr. Chairman, the Staff Committee recommends the Board reject the proposal. With respect to the closure, modify the proposal for the coho fishery and adopt a Federal permit requirement for coho. We believe that allowing only Federally-qualified subsistence users to harvest sockeye and coho in this area would unnecessarily restrict non-subsistence fisheries as has been testified here this morning. There are no conservation concerns for coho or sockeye in the area and no evidence that subsistence harvest opportunities are not being met.

The established season has been refined over the years to provide good subsistence fishing opportunity for sockeye while balancing the need to provide for escapement. Sockeye are extremely vulnerable when in the troll areas that are highly desired by subsistence users. Some respite from fishing pressure, closed periods, for instance, is essential to ensure that adequate numbers of fish occur throughout the length of the run and are allowed to spawn. An open season that encompasses the entire run timing would put escapement of sockeye at risk. Decreasing the sockeye harvest limits and establishing the annual harvest limit would meet subsistence users' needs while supporting conservation of the sockeye stock. However, a harvest reduction is not necessary because the stock is healthy.

Additionally, very little fishing effort occurs for sockeye in fresh water; therefore, the changes would have negligible effect on users or the sockeye stock and result in additional regulations. Our reasons for the recommendation for coho are the same as those stated in Proposal 35.

In addition, another element of this proposal is uncertainty about the boundary between marine and inland waters. This proposal involves waters that are not under Federal jurisdiction. Specifically salt water below mean high tide, which is under State
jurisdiction; therefore, the salt water portion of this proposal is outside of the scope of this analysis.

Staff Committee believes that the correct delineation of Federal jurisdiction is shown on Map 1 in your book for the analysis of the proposal and conforms to the definition of fresh water of streams and rivers, which, in Federal regulation, means the line at which fresh water is separated from salt water at the mouth of streams and rivers by a line drawn headland to headland across the mouth of the waters that flow into the sea.

That concludes our recommendation, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. CAPLAN: Mr. Chairman, I'd ask that the Staff Committee give us a delineation of exactly what's in their proposal currently. There may be some confusion that comes out of all the different things you've heard. Would you restate that again for us?

MR. THOMPSON: Mr. Chairman. The regulation that we would recommend would read you may only harvest coho salmon in Southeast Alaska waters under Federal jurisdiction under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 coho per household and an annual limit is 40 coho per household. Only dipnet, spears, gaffs and rod and reel may be used. Bait may only be used from September 15th through November 15th. You may retain incidently caught trout and sockeye unless taken by gaff or spear.

MR. CAPLAN: Thanks, Ken. Mr. Chairman, I would point out that this proposal is very similar to Proposal 35 and I would move to adopt Proposal 27 as modified and recommended by the Staff Committee.

CHAIRMAN DEMIENTIEFF: Is there a second to the motion?

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

CHAIRMAN DEMIENTIEFF: It's been moved and seconded. Is there additional discussion?

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MS. GOTTLIEB: I thought at the start of this discussion we were talking about sockeye. Now the proposed regulation is reading coho. So what are we suggesting on sockeye, please?

MR. THOMPSON: I'll need some staff help on the actual season bags for sockeye.

MR. CASIPIT: I do have the existing State permits for that area that shows the sockeye limits and the seasons and all that, but, again, that sockeye fishery occurs in State water under the State permit. I would be happy to read what's under the State permit for that area.

CHAIRMAN DEMIENTIEFF: My understanding is we've adopted this very same language in Proposal 35. So, does that make it in regulation? It would make it in regulation, right? The coho part is moot. You may not retain incidentally caught trout and sockeye unless taken by gaff or spear, would be the language that would be added here.

MR. CAPLAN: I believe that's correct, Mr. Chairman. That's why I said it was very similar to 35. It does cover that portion of sockeye with respect to method of take.

CHAIRMAN DEMIENTIEFF: Yeah, that would already be in regulation, the sockeye part.

MR. CAPLAN: Right.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BRELSFORD: To ensure that we're all on the same page, I believe the action clause in the proposal concerning sockeye was a request to close. The Board's action in adopting the recommended course here is to reject that closure and, as a consequence, there would be no language inserted into the regulations recognizing such a rejection. In effect, there will be no change in regulatory language concerning sockeye. The action before the Board rejecting the closure is actually characterized in the first paragraph or in the first bullet item on the overheads provided for the audience.

CHAIRMAN DEMIENTIEFF: That's what we're
Mr. BRELSFORD: Correct.

Chairman DEMIENTIEFF: The modified proposed regulation would simply read you may not retain incidently caught trout and sockeye unless taken by gaff or spear. Yes, Bill.

Mr. THOMAS: Thank you, Mr. Chairman. Where did that last line come from? Is that a Staff Committee.....

Chairman DEMIENTIEFF: Staff Committee.

Mr. THOMAS: The reason for my question, if you're able to keep fish caught by a spear or a gaff, that's not a necessary provision. A subsistence fisherman knows the difference between a trout and a coho or a sockeye. When they're throwing a spear or using a gaff, they know what they're throwing at. I'm not sure of the reason for that. What is the rationale behind that?

Mr. THOMPSON: Mr. Chairman, the reason for that is if they do accidently take those other species and they're dead, then you might as well keep them, is basically the logic.

Chairman DEMIENTIEFF: Yes, Doug.

Mr. VINCENT-LANG: I just want to make it clear what my understanding is of where we are on this. In the previous action, you dealt with coho salmon and the portions of those proposals dealing with coho salmon. Right now, my comments to this proposal deals specifically only with the sockeye portion of this proposal and only with the sockeye portions of those other proposals that Cal listed. So my understanding is the action that's being taken here only deals with the sockeye portion because you've already dealt with the coho portion in the previous action.

Chairman DEMIENTIEFF: Correct.

Appreciate you telling us our job. Cal.

Mr. CASIPIT: Mr. Chairman, I also wanted to point out that in the action you took on 35, there is
that provision for you may not retain incidently caught trout or sockeye salmon unless taken by gaff or spear. That sentence is in 35 as well, in the recommendation for 35 and what the Board passed.

CHAIRMAN DEMIENTIEFF: Correct.

MR. CASIPIT: What we're really talking about here in 27 is just the proponent's request to close those areas to non-subsistence use of sockeye, non-Federally-qualified users for sockeye and they also requested some changes to the seasons and bag limits. But, again, like I said, they're asking for changes to a State-managed fishery and State jurisdiction. Like I said, I'd be happy to tell you what the existing State bags and seasons are, but I don't think it's applicable here.

CHAIRMAN DEMIENTIEFF: Right. It's a one-liner. It would be the first and probably the last one-line regulation we ever adopt. Any further discussion? Hearing none, all those in favor of the motion please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

MR. CASIPIT: Mr. Chairman, the Board's action on 27, is that the same action you guys are taking for 28, 30, 31, 32 and 33? Is that what I'm understanding? I'm just asking that question because it depends on where I go next.

CHAIRMAN DEMIENTIEFF: Those are similarly situated proposals, aren't they, Ken?

MR. THOMPSON: Yes.

CHAIRMAN DEMIENTIEFF: Which ones are those now? Let's run over those again.

MR. CASIPIT: Okay, 27, 28, 30, 31, 32 and 33 are very much the same. They're asking for us to close subsistence fisheries in marine waters and to
modify sockeye limits in those marine waters, as well as
the coho portions, which we already took care of in 35.
Is the Board's action on 27 the same for 28, 30, 31, 32
and 33?

CHAIRMEN DEMIENTIEFF: Right. That
leaves us with 29.

MR. CASIPIT: 29 is different. I
recognize that 29 is different.

CHAIRMEN DEMIENTIEFF: That's where we're
going next.

MR. THOMPSON: Mr. Chairman, I wonder if
we could take a minute. I was alerted when I came in
this morning that the Forest Service personnel, some of
the managers, wanted to run something by me regarding 29.
I wonder if we could take some time to do that.

CHAIRMEN DEMIENTIEFF: We'll just stand
down. We're not going to take a break.

MR. THOMPSON: Thank you.

CHAIRMEN DEMIENTIEFF: (Pause) First of
all, I'll go on the record as saying that by actions
taken on Proposal 35 we have rendered moot -- because it
dealt with all of Southeast Alaska, we have rendered moot
Proposals 24, 26, 38 and 39; so, therefore, those
proposals will not be considered because they are
rendered moot. They deal with smaller portions of all of
Southeast Alaska as we dealt with in 35. Jim.

MR. CAPLAN: Thank you, Mr. Chairman. I
do want to apologize to the group and to the Board and to
the audience. I realize this is confusing. One reason
is, as the Chairman stated, we're dealing in some cases
with proposals that cover the whole of Southeast Alaska
and other cases of ones that have very specific
geographic reference. What we're being trying to do is,
if the sort of broad scale geographic proposal passes,
then that, as the Chairman said, renders moot the more
specific local geographic ones. A lot of numbers and a
lot of different paper here. Again, I do apologize for
some of the confusion.

At this point, I would, however, since
the last motion which passed did deal with a relatively
limited range, the discussion on sockeye, I would also
I like to make a motion that for all the additional proposals that concern sockeye and the sockeye take in marine waters, which are, as I recall, the Proposals 28, 30, 31, 32 and 33, that those also be rejected by the Board wherein the proposal concerns marine waters and those are not under the jurisdiction of the Federal Subsistence Board. And so move that, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there a second to the motion?

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Any discussion?

Hearing none, all those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Now we move on to Proposal 29.

MR. CASIPIT: Thank you, Mr. Chairman.

I'll call the Board's attention to the staff analysis on page 92. Proposal FP02-29 was submitted by the Sitka Tribe of Alaska. It requests closing the Redoubt Lake watershed and part of Redoubt Bay to sockeye and coho salmon fishing except by Federally-qualified subsistence fishermen with a positive customary and traditional use determination under the terms of Federal subsistence permit. The proponent also requests changes to the sockeye salmon harvest limits and establishment of the subsistence coho salmon fishery. Again, the Board has taken care of the coho portion of this proposal by its action on FP02-35.

This proposal asks to close the Redoubt Lake watershed and part of Redoubt Bay, that's on Map 1 on page 93, to sockeye and coho salmon fishing except by Federally-qualified subsistence fishermen with a positive customary and traditional use determination under the terms of Federal permit.

Let me talk about the line of Federal jurisdiction, that map there on page 93. You can see the words Federal jurisdiction and a little arrow drawn to a
real small spot on the map. That's basically the outlet of Redoubt Lake. The proposed closure boundary by Sitka Tribe of Alaska, again, the arrow shows where the line ought to be. You can see right below Redoubt Bay there's kind of a hatched cross-line and that actually, if you look at the latitude and longitude descriptions, that's actually in the proposal from Sitka Tribe of Alaska. That line gets moved back to approximately where that arrow ends on page 93. Again, that proposed line is within marine waters and outside the Federal jurisdiction.

Again, Redoubt Lake watershed is located on Federal public lands entirely within the boundaries of the Tongass National Forest. The area of requested closure includes areas of marine waters within Redoubt Bay. Those marine waters are under the jurisdiction of the State of Alaska.

I just wanted to mention that there have been in-season closures of the sockeye subsistence fishery in 2000 and 2001 due to low escapements. A little background on the system. The Forest Service, in cooperation with Fish & Game, has operated a weir on the outlet of Redoubt Lake to estimate sockeye escapement since 1981. There's also an ongoing sockeye fertilization project in that lake. The escapement data, the weir count data, personal subsistence harvest data, State sport harvest data and commercial fisheries data is all displayed on Table 1 on page 97. That second column there shows the weir counts and you can see the very low escapements that occurred in the years 2000 and 2001 down at the bottom of those columns.

Again, in terms of the sockeye fertilization projects, the Forest Service, in cooperation with Fish & Game and Northern Southeast Regional Aquaculture Association, has been fertilizing Redoubt Lake since 1984. There was a lapse in fertilization in 1996, 1997 and 1998. The weir has operated since 1981 at that location. These low escapement counts similar to pre-fertilization escapement counts occurred in 2000 and 2001 and it's thought to be that lower escapements are due to the lapse in fertilization in '96, '97 and '98.

We talked about the total sport harvest in marine and fresh waters in the Sitka area. For the entire area around Sitka, sport harvests in both marine and fresh water has increased from 600 to 2,450 sockeye.
here recently. That's also displayed in that table on page 97. Again, the proponent is requesting that we close portions of the bay, the Redoubt Bay, and the fresh waters of Redoubt Lake to non-Federally-qualified subsistence fishermen because of conservation concerns. We cannot close the marine waters because marine waters are beyond our jurisdiction. With that, I'll be happy to answer any questions from the Board.

CHAIRMAN DEMIENTIEFF: Summary of written public comments.

MR. SCHROEDER: Mr. Chairman, there's one written comment that is in opposition by the Southeast Alaska Seiners. They make two points. One, that there's a lack of jurisdiction for marine waters. The other is that it would have an effect on non-subsistence fisheries.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. VINCENT-LANG: Mr. Chair. Our comments are fairly lengthy on this one. We have a lot to say on this one. The Department strongly opposes the closure of Federal waters to non-Federally-qualified users for harvest of sockeye salmon and opposes the proposed changes to the fishery and Federal permit requirements for sockeye salmon fishing in the Redoubt Lake area.

First, we do not believe the Federal Subsistence Board has jurisdiction over the marine waters identified in this proposal. We support the majority of Staff Committee recommendations and limit any actions to fresh water only.

Second, closing waters under Federal jurisdiction to non-Federally-qualified users would unnecessarily restrict non-Federal fisheries because existing monitoring programs and management authority we feel are sufficient to conserve Redoubt salmon stocks.

In general, an abundance of Redoubt Lake sockeye has been relatively high and exploitation has been low. In 1984, the U.S. Forest Service, ADF&G and NSRA joined in an effort to enhance sockeye production at Redoubt Lake through fertilization and these efforts have occurred every year except in 1997 and 1998. The weir, operated in conjunction with the fertilization project,
showed that escapement counts increased from an average of 7,400 between 1982 and 1988 to 37,600 fish between 1989 and 1999 after the lake was exposed to fertilization. Low escapement counts, similar to pre-fertilization escapement counts, occurred during 2000 and 2001 and are thought to be due in part to the lapse of fertilization. Similar to the increasing trend in escapement estimates, subsistence harvest at Redoubt Lake increased from an average of 150 between 1982 and 1988 to 3,200 fish in 1989 through 1999.

Sport harvest of sockeye salmon estimated for the entire Sitka area, including Redoubt and other stocks, increased from an average of 600 to 2,450 fish. Recognizing that some Redoubt Lake sockeye salmon are also harvested incidently in other marine fisheries, potential exploitation on this stock we feel is relatively low. While the 2000 and 2001 escapements were low relative to the fertilization escapement levels, they were very similar to pre-fertilization levels and do not warrant a level of concern necessary to close the area to non-Federal use by regulation, particularly in light of the lapse of fertilization that occurred.

The definition of a healthy resource relates to two separate time periods for the stock; periods when there is no fertilization and periods when there is fertilization. Whether there is fertilization or no fertilization results in a different determination of what the health and abundance of this resource will be. Also, a determination of the amount necessary and reasonable given the various levels of production in this system should be made to decide a determination as to whether or not sufficient opportunity is being provided for.

The Department feels that the Federal and State monitoring program and management authority are sufficient to manage Federal and State fisheries during the occasional years of low abundances observed during 2000 and 2001. During both years, the Department and the Forest Service acted cooperatively and jointly to protect Redoubt Lake salmon stocks by closing sport and subsistence fisheries at the head of Redoubt Bay and in Redoubt Lake. This action was taken early in July when less than 15 percent of the past annual escapements have been counted through the weir and effectively ensured low exploitation by the sport and the subsistence fisheries of Redoubt Bay and Redoubt Lake.
In 2002, the Department will close the
sport fishery pre-season on the stocks using its
emergency order authority. We believe this action will be
sufficient to conserve stocks and provide subsistence
opportunities for both Federal and State qualified users.
We note that there is a real potential for increased
returns due to the resumption of fertilization on this
stock.

For these reasons, we believe that the
pre-season and in-season management coordination is a
c better approach providing for needed escapement and
subsistence opportunities than the proposed regulatory
approach being proposed in this proposal. Thank you, Mr.
Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Public
comment. Cora Crome.

MS. CROME: Thank you, Mr. Chairman,
Members of the Board. As with the similar proposals that
have been discussed this morning, we oppose this proposal
as written because it extends Federal jurisdiction into
the marine waters of Redoubt Bay. All the staff comments
and analysis that are presented confirm that the Federal
Subsistence Board doesn't have the authority to extend
jurisdiction to non-Federal waters and those waters where
you guys do have jurisdiction are clearly defined in
regulation. Therefore, we oppose the portion of this
proposal that would apply those restrictions to marine
waters and that's all I have on this one. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. David
Bedford.

MR. BEDFORD: Mr. Chairman, Members of
the Board, my comments mirror those of the person who
spoke before me. Southeast Alaska Seiners opposes this
proposal because the proposal seeks to assert
jurisdiction in marine waters contrary to the existing
Federal regulations. Title 8 of ANILCA limits the
Federal subsistence program to Federal public lands. The
Federal regulations expressly exclude the marine waters
surrounding the Tongass National Forest from the
definition of Federal public lands. The waters of
Redoubt Bay are marine waters and are therefore excluded
from Federal subsistence management. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you.
Regional Council comment.
MR. THOMAS: Thank you, Mr. Chairman.
I'm questioning some appropriateness. I have a couple
questions, but I don't know if that's appropriate now or
is it ever appropriate?

CHAIRMAN DEMIENTIEFF: You can get him
during deliberation. We just need your recommendation
now, sir.

MR. THOMAS: Okay. The recommendation,
initially, it just said support. It's still support, but
even the recommendation -- the support was modified and
that's only to reflect that top paragraph on page 89. If
you look on 89, where it says the Redoubt Lake watershed
is closed to sockeye salmon fishing except by
Federally-qualified subsistence fishermen with a positive
customary and traditional use determination, that's where
our support is confined to. The language following that
did not receive any testimony at our RAC meeting. The
bottom line, the provision of the regulation does not
apply, was a sunset clause that was inserted by staff, by
Staff Committee. So, with reference to the support from
the Regional Council, it's confined to that single
section in bold writing at the top of page 89. Thank
you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff
Committee.

MR. THOMPSON: Mr. Chairman, Staff
Committee recommends the Board support the regulation
change for one year, after which the Board would revisit
the proposal. However, the Staff Committee agreed that
the Board does not have the authority to extend
jurisdiction into marine waters. Some of our reasoning,
weir count data demonstrates a precipitous decline in
sockeye escapement at Redoubt Lake during the past two
years, which we believe is associated with the lapse in
the lake fertilization in the project.

Staff Committee noted that sport harvest
of sockeye estimated for the entire Sitka area and
including Redoubt and other stocks increased from an
average of 600 during the 1977-87 period to 2,450 fish
during the 1988-99 period. However, testimony at the
Southeast Regional Council public meeting of October of
this year suggests that local subsistence needs were not
being met.

Staff Committee recommends that the Board
revisit this proposal after one year to look at the
escapement levels as a result of fertilization of the
lake and to look at the results of coordinated in-season
management efforts.

Due to the reference, perhaps
inappropriate reference, that we made to the Regional
Council recommendation, which Bill Thomas just clarified
for us, we do support the Council recommendation with
respect to closing Redoubt watershed to sockeye salmon
fishing except by Federally-qualified subsistence
fishermen with a positive customary and traditional use
determination. We also recommend the provisions of the
regulation do not apply after February 28th of 2003. I
believe that concludes my remarks, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Now we
move forward to Board discussion.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: Thank you, sir. I'd just
point out once again that, in this case, the Staff is
stating clearly that it's not their belief nor is it the
belief of the board that we have jurisdiction in marine
waters and, therefore, they focused on the closure in the
appropriate area within Federally-reserved waters. In
addition, it's my observation that the Staff Committee
added to the work of the Regional Council some
conservation measures aimed at, first of all, ensuring
that the subsistence users would get adequate product for
their use and also that the fisheries would be protected.
So, therefore, Mr. Chairman, I would move to adopt
Proposal 29 as modified and recommended by the Staff
Committee. Thank you, sir.

CHAIRMAN DEMIENTIEFF: We have a motion.
Is there a second?

MR. EDWARDS: Mr. Chairman, were we going
to have some discussion prior to a motion?

CHAIRMAN DEMIENTIEFF: There's always
time to deliberate after. I mean he's already made the
motion. Is there a second?

MR. EDWARDS: Okay.
CHAIRMAN DEMIENTIEFF: Second.

Discussion.

MR. EDWARDS: I have a couple questions and I don't know who best can answer it, but on the table on page 97, where it refers to permits of subsistence user, I'm assuming that's individual permits and not household permits, is that correct?

CHAIRMAN DEMIENTIEFF: Cal. Oh, hang on a second.

MR. CASIPIT: Currently, the State permit for Redoubt Bay is 10 sockeye per individual......

MR. EDWARDS: That wasn't my question. On the table, it indicates the number of permits. My question is, are those individual permits or are those household permits. I'm just trying to understand what the harvest level is on an individual basis of subsistence users.

MR. CASIPIT: There are both individual and household permits issued for that area, so I think those are just permits issued.

MR. EDWARDS: I guess my question is, sort of when I did the math, it looked like the harvest per permit by subsistence users is very small, somewhere between 8 to 10 in most cases. It's unclear then over on the next part of the table, where we have the sport harvest, what that represents as the number of anglers. Do we have a handle on what that is?

MR. CASIPIT: I'm sorry. Can you ask that question again?

MR. EDWARDS: Well, if you look at the table, you can determine what the harvest is by permit holder on subsistence users, which is very small. I calculate somewhere between 8 and 10 fish per the whole season, which seems to be not a whole lot, and way below what the established bag limit is, both either on a daily basis or a weekly basis, but it's unclear -- we have the harvest by anglers in fresh water, but there's no number there, so you can't compute or try to determine is that four anglers taking 300 and some fish or is that 100 anglers taking three fish.

MR. VINCENT-LANG: I don't have that
number with me, but I can guarantee you it's a small number of anglers.

MR. EDWARDS: All right. Then my only other question is that it would appear, based upon the data, that when we have tried to do an in-season management on this, we have closed the subsistence fishery and the sport fishery simultaneously and I guess my question is, it would not appear that we have been given any deference to the subsistence user in those cases.

MR. VINCENT-LANG: I concur and that's why this year we are going to close pre-season the sport fishery so that the state and federally-qualified subsistence fisheries have deference, so that there will be a pre-season closure to our sport fishery.

MR. EDWARDS: That, in turn, would mean that subsistence users would be able to continue to fish?

MR. VINCENT-LANG: Until such time as we determine based on in-season management that we are or are not making the run. If fertilization kicks in and we start seeing large levels of return, then we would probably lift the EEO on their sport fishery as long as there was enough fish to provide for escapement needs as well as for federal and state qualified subsistence fisheries that are occurring in the area.

MR. EDWARDS: Thank you.

CHAIRMAN DEMIENTIEFF: Bill, you had something?

MR. THOMAS: Thank you, Mr. Chairman. Yesterday we spent a lot of time talking on anatomical layouts of fish and I thought the discussions were risque at best. That being the case, I thought I would like to continue that by asking the Department if they would explain to me what is lake fertilization and how significant is fertilization. I've heard it explained at our RAC meeting, but I'm doing this for the benefit of people that don't understand what fertilization is. Besides that, it kind of turns me on.

MR. VINCENT-LANG: Lake fertilization, what it basically does is we increase the nutrient levels in the lake and what we're trying to do is increase the growth of juvenile sockeye salmon in the lake. We don't
believe that the lake, per se, is limited by the number of spawners put into it, rather by the number of juvenile fish that are migrating out of the lake. As we increase the feed for those juvenile fish, we increase the numbers that the lake can support as well as the health of those fish as they migrate out.

What we saw at Redoubt Lake is a very positive response to lake fertilization. When we fertilize the lake, we see increased returns of adult sockeye salmon. Likely, we believe, from the increased smolt production from that lake by increasing the feed available to those juvenile fish.

Now, when we shut off fertilization to that lake, it was obvious that production went down and went down very dramatically. So we believe now, when we are restarting the fertilization up, that hopefully we'll have a positive response. Now, there is one question out there in that we're using a slightly different application of fertilization to the lake. Where, in the past, we used one kind, now we're using a different kind. We're unsure as to what may happen with that. I think most of the biologists are fairly confident that we're going to see increased returns.

MR. THOMAS: In terms of that, when you say different kinds of fertilization, what kind would they be?

MR. VINCENT-LANG: Cal, do you want to handle that one?

MR. CASIPIT: In the past, we've applied liquid fertilizer to the surface of the lake. I think -- Terry, correct me if I'm wrong -- we're applying a solid fertilizer now. It's kind of a slow release. The best way to describe it is kind of like an Alka-Seltzer tablet. You hang it in the lake and it kind of slowly dissolves over time.

MR. THOMAS: I'm not sure I'm absorbing very much of this. I'm really trying to lead you into a layman's discussion, but I'm not having very much luck in doing that.

MR. VINCENT-LANG: Bill, maybe an analogy might help. For those of us who have lawns, your lawn in Alaska is not going to grow very green, but if you put some fertilizer in it that's high in nitrogen, all of a
sudden that lawn starts growing like mad and turns real
green and it increases the growth of that lawn. We did a
very similar thing with lake fertilization. That lake
was not producing sockeye. We tried putting some
additional feed in that lake, just like we do fertilizer
to a lawn, and it started making it grow and it increased
production. Everybody benefitted from that; subsistence
users, sport users, commercial users and a variety of
people.

MR. THOMAS: So, if you'd leave the lake
to its own devices, there'd be a problem.

MR. VINCENT-LANG: It appears that when
we cut fertilization off that lake, the results are not
as high as when we fertilized it. You're right.

MR. THOMAS: I appreciate that. Thank
you.

CHAIRMAN DEMIENTIEFF: We have a couple
late-arriving members of the Sitka Tribe, representing
the Sitka Tribe. Since they're the authors of the
resolution, I'm going to allow them to come up and make
some brief comments. I'll just extend basically the
witness period. Gary Olsen and Jude Pate. Go ahead.

MR. OLSEN: Thank you, Mr. Chairman. We just
came in on the plane. Just got here. Thank you very
much for allowing us to speak. Coming in fairly cold, I
guess I wanted to talk a little bit about Redoubt Bay and
what it means to me.

First of all, my name is Gary Olsen, for the
record. I'm a councilman for the Sitka Tribe of Alaska
and I'm also president of the Alaska Native Brotherhood
in Sitka, Sitka Camp No. 1. We're probably representing
around 3,000 people that are enrolled with the Sitka
Tribe of Alaska. Many of them I've gone to Redoubt with
40 to fish.

I want to talk about the advantages and some of
the things I've done at Redoubt. I've been able to go
down to Redoubt catching sockeyes. It's the only place
near Sitka that's very close so you can catch some
sockeyes and you can dipnet them right out of the river.
The other place is Salmon Lake, but there's really not
very many fish there, so we really don't bother with
Salmon Lake as much as we do Redoubt.
A couple times going down to Redoubt we've been fogged in. Couldn't hardly see across the boat harbor. We went down to Redoubt anyway because I knew we could bounce from island to island getting there and you can't do that some of the other places that are a little further away. Glag Bay, for example, or Necker Bay, if it's foggy, you're not going there, at least not in my little boat. So, you know, the weather has a big impact on availability of fish and being able to go out and harvest them.

During that time, going down to Redoubt when it was foggy, I actually had my daughter with me and that's another factor. The last two years I've been forced actually to go to Necker Bay and to Glag Bay, again, which are further away and you have to go on the outside waters to get there. Under those conditions, I won't take my family. I'll take another adult male. I don't want to say too much, but I won't take my daughter with me and I won't take my wife with me to those others bays, but I will take them to Redoubt.

CHAIRMAN DEMIENIEFF: Gary, I'm sorry, but could you keep your comments to the proposal. We understand you use this bay.

MR. OLSEN: That was my comments. The proposal was to, if I remember right, allow federal users -- subsistence users using that area and I guess that was the point I was trying to make. We subsistence fish and there's not very many places we can go. So, when that area is shut down, we're not able to -- it's not easily available for us to go get sockeyes. I'm sorry about moving away from the subject.

The last two years, I don't believe I was able to harvest any sockeye from that area. We've been forced to go to those other areas that I was talking about. I don't know what else to say.

CHAIRMAN DEMIENIEFF: So you believe there is a definite biological concern there? Is that what you're here to say? I mean is that what the proposal was about?

MR. OLSEN: The proposal is about allowing subsistence users to continue harvesting in that area beyond sport fishing, being able to harvest these areas. Generally, the subsistence users have smaller craft, are not able to travel to those other areas that I
was talking about. That's the point I was trying to make. And that the subsistence users should be allowed to harvest fish. We've talked around and we wanted to make -- we don't want to harvest the last fish or the last 20 fish that come to this bay. We want a level of conservation, definitely. We agree with that. Beyond that, once that threshold for conservation has been reached, I think the subsistence user should be allowed to fish in there. If you allow the subsistence user and the sport user into the same area at the same time, that just doubles the pressure on the fish and you end up taking more fish that way. I believe, federally, the subsistence user doesn't use all that much fish, but I think they should be allowed to even if the stocks do get down to a certain level.

CHAIRMAN DEMIENTIEFF: Any other questions? Thank you very much.

MR. OLSEN: Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Jude Pate.

MR. PATE: Thank you, Mr. Chairman. My name is Jude Pate. I'm an attorney for Sitka Tribe. Thank you also for allowing us to testify. We urge you to adopt Proposal 29 as proposed by Sitka Tribe. There is a biological concern. There used to be a great run of fish there. Herman Kitka provided that testimony to the Regional Advisory Council. It's dropped off. Efforts to seed or fertilize have been variable. In the last two years, the fishery has been closed and opened to sports and subsistence at the same time for a very brief period of time. In the year 2000, there was only 35 fish taken by subsistence users. Last year, probably a similar number.

We believe that this is a straight violation of ANILCA because it provides no meaningful priority for subsistence. The Fish & Game says that they're able to tell by the time 10 to 15 percent of the run comes in what that run is going to look like. Well, then, they should keep it open just for subsistence during that 10 to 15 percent time of the run. Then, if it looks like there's enough fish for everybody or more people, then add in sport. Or, if it looks like it's going to be a bad year like it has the last two, then close it. That's what I believe ANILCA requires.

I would emphasize what Mr. Olsen said about
conservation. If the Fish & Game believes there needs to be a higher threshold, set it higher, close the fishery, but if you're going to open it for a short period of time, give subsistence a priority and a meaningful preference.

The most significant objection, and I believe it was noted up there when I came in, is jurisdiction. I believe that jurisdiction is not a problem. On the fresh waters, you have jurisdiction. Apply that priority. The problem is, when you apply that priority, it may create a conflict with the state. That's easily remedied. You have extra-territorial jurisdiction authority. You know where those fish are coming to. They're going to head for those federal waters. That's where they're going to spawn and those federal subsistence users are waiting for them. Right out in front of Redoubt Bay there's the sports people. You know who's taking them and you know that that's frustrating the federal purpose of ANILCA. Bingo. That's extra-territorial jurisdiction. You can do it. You should do it. ANILCA allows you to do it and you have the authority to do it.

Mr. Chairman, I thank you again and I just ask you to honor the promise of ANILCA and the trust obligation of the tribe and to give us a meaningful priority for sockeye harvest under Proposal 29.

CHAIRMAN DEMIENTIEFF: Any questions?

MR. EDWARDS: Yeah, I have one question. I guess I would like to ask -- maybe just before you came in the state had indicated, which certainly was news to me, that their approach this year would be to close -- and correct me if I'm wrong either Terry or Doug -- was to close the season to sport fishing to begin the season and then only open it by an action if there was sufficient fish coming in, which, I guess, it would seem to me then, would provide the subsistence preference up front until such time it was determined that there was adequate enough fish to open up the sport fishery. From the data, which seems to be somewhat of a limited fishery, I guess my question is would that then satisfy the concerns that you just expressed?

MR. PATE: It would to some extent. The main concern I'd have with that approach would be there's no guarantee. That's the word of the State. That could be changed with personnel, a governor, a director of Fish
& Game. We want the federal obligation honored. If Fish
& Game is willing to do what you suggested, then they
should have no problem with Proposal 29 because it
doesn't ask for any more, it just asks for that federal
promise and that federal obligation to be honored.

MR. EDWARDS: I guess I'd like to respond
to that or maybe somebody could. I don't think that's
what our proposal would do. In fact, I think our
proposal would close it for the entire season to only
subsistence users, so it would not allow the condition
which you describe where the run did come back strong,
then to open it up to other users. Somebody correct me
if I'm right or wrong.

CHAIRMAN DEMIENTIEFF: Not without
another Board action. You're correct. Any other
questions? Thank you very much and I'm glad you guys got
here.

MR. PATE: Thank you, Mr. Chairman.

MS. GOTTLIEB: Mr. Chairman. I have a
question for the Department.

CHAIRMAN DEMIENTIEFF: Go ahead.

MS. GOTTLIEB: I believe you said you're
closing to sport fishing for this season but that you
would keep the subsistence opportunity open. I wondered,
if you know, if the existing permit holders would qualify
under the federal program.

MR. VINCENT-LANG: Some of them would,
but I don't know the exact proportion of them. I'm
sorry. I could get that to you if you wanted, but I'd
have to dig into those files to get it.

MS. GOTTLIEB: That's okay. I just
wanted to know.

MR. VINCENT-LANG: You've got to realize
that most of the fishing that occurs down there for
subsistence is occurring in the marine waters. I think
just because the opportunity to harvest fish is that much
better out in the marine waters, so I think most of the
subsistence fishing would still be occurring in marine
waters and the subsistence opportunity would be provided
for. A vast majority of those people, I think, would be
federally qualified as well as state qualified.
MR. O'HARA: Doug, two things. One is no one will get to use the resource until you get an escapement, right?

MR. VINCENT-LANG: That's correct. But, in this case, there's enough uncertainty in our mind as to what the run is going to be that we feel that it's necessary to close down the sport fishery pre-season but leave the subsistence fishery open.

MR. O'HARA: That's good.

MR. VINCENT-LANG: That is a priority. If, in the event we get to the 15 to 20 percent point in the run, we determine there's not enough fish, no one will be able to fish. But if we're above what's needed for both subsistence and escapement, then we would liberalize the recreational fishery.

MR. O'HARA: That's good. The other question is, your fertilization thing. Have you thought about disease and what might happen to all the fin fish on the coastline if you breed something in there that's not going to be good for the runs?

MR. VINCENT-LANG: In this case, we're not changing the genetic make-up of that run, so I don't think we're necessarily doing anything that could be harmful to other stocks up and down the coast. Now, there are some questions as to what increasing a stock would do to other mixed stock fisheries, but, in this case, I think we're fairly confident that we're not doing any long-term damage to other health stocks by fertilizing.

CHAIRMAN DEMIENTIEFF: Well, for purposes of closure, at least for me, it's clear that it's the Secretary of the Interior that has the authority to extend extra-territorial jurisdiction. It's beyond the scope of our Board. I don't think it's going to limit any sport fisherman's opportunity. I like the plan the State has. I'll vote for the proposal, but it's clearly, I think, what the tribe would want, but it's clearly beyond our jurisdiction. We just don't have that authority unless the secretary delegates it to us and he hasn't done that to date. Gary.

MR. EDWARDS: Mr. Chairman, given the
time, might it be appropriate to take a break. I'd kind
of like to talk with the Board. I think the information
that the State brought up, I guess it's unfortunate it
wasn't brought up maybe earlier. I don't know whether
that would sort of change our view. But it just seems to
me that what is being provided for provides the priority
which we're trying to ensure. If folks don't feel that
way, then we don't need a break, I guess.

CHAIRMAN DEMIENTIEFF: This is the
purpose of discussion of a motion. We're talking. Talk.

MR. CAPLAN: Mr. Chairman, I appreciate
Gary's point. There is new information arriving. I also
appreciate having Jude and Gary coming up and visiting
with us. It's nice to see folks again from Southeast
attending these sessions. If I could take a moment, I'd
like to get us back to the motion and maybe clarify what
that motion is and maybe a couple other points to go with
it.

One is, as Bill Thomas pointed out early on, and
I think folks may have missed the point a little bit, the
actual proposal that came forward from the Southeast
Council concerns the first provision at the top of page
89, which states the Redoubt Lake watershed is closed to
sockeye salmon fishing except by federally-qualified
subsistence fishermen with a positive customary and
traditional use determination. In addition, the
provision at the bottom, which says the provisions of
this regulation do not apply after February 28th, 2003.
That's what the Council brought forward, as I understand
it, Bill, and most specifically the first provision that
requires closure.

What you see in the middle of the presentation
there did not come from the Council and is not a part,
actually, of the recommendation from the Staff Committee
and that is an unfortunate inclusion, at least a
confusion, so I wanted to straighten that out. First and
last provision there.

The second thing is that this is a conservative
measure by the Board, if adopted, intended to take care
of the subsistence user, as we are appointed to do. In
addition, should the fish runs prove to be abundant, the
Board might act through emergency action or special
action to open it to sport fishing down the road. So, in
one sense, we're closing it with the option to open
rather than leaving it open with the option to close and,
therefore, taking care of our subsistence users. That's
the heart of this motion as made. Thank you, Mr.
Chairman.

MR. CAPLAN: Thank you, Mr. Chairman.

Probably the best thing to do at this point is to
withdraw my motion because of the complexity of what was
presented and then resubmit a motion to adopt the
Regional Council recommendation. Thank you, Mr.
Chairman.

CHAIRMAN DEMIENTIEFF: Do you have the
consent of the second? Gary, that was you.

MR. EDWARDS: I guess I'm really confused
now what we're doing.

CHAIRMAN DEMIENTIEFF: What you'd be
doing -- he's withdrawing as the maker of the motion to
adopt the proposal. He needs the consent of the second
and that would get the proposal off the table. And then
he's going to follow that up with another motion.

MR. EDWARDS: I didn't second.

CHAIRMAN DEMIENTIEFF: Who was it? Judy?

MS. GOTTLIEB: I'll agree.

CHAIRMAN DEMIENTIEFF: Go ahead. Now
you've got a subsequent motion?

MR. CAPLAN: Thank you, Judy. Let me
remake the motion then and thank you for your tolerance.
I would move that the Redoubt Lake watershed be closed to
sockeye salmon fishing except by federally qualified
subsistence fishermen with a positive customary and
traditional use determination and I would add the
provision that the regulation would not apply after
February 28th, 2003, and I would add that provision with
an eye towards re-evaluating the situation in a year.
Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there a second
to the motion?

MR. CESAR: I'll second that.
CHAIRMAN DEMIENTIEFF: Again, we'll note for the record that that is consistent with the Regional Council recommendation. Is there any further discussion?

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. THOMAS: One correction there is the bottom line. That wasn't forwarded by the Council to my understanding. Only the portion on the top section was forwarded by the Council. That's just a correction. It's not an objection. It's a correction. Thank you.

CHAIRMAN DEMIENTIEFF: Was your intent to go with the Southeast Council recommendation?

MR. CAPLAN: Yes, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: So, correctly then, that would be stricken from the motion. You're basically going with the Southeast Council recommendation.

MR. CAPLAN: It was, Mr. Chairman. I wanted to add the provision or give the option for the Board to add the provision for determining this regulation after one year and I'd like to hear the comments of the Board with respect to that.

MR. CESAR: Mr. Chairman, I think the Board always has the opportunity to go back and change stuff. That's what our belief is. I don't think adding a time line in there does much to it except to highlight it, Jim.

CHAIRMAN DEMIENTIEFF: That's true. It's a regulation. We're going to revisit -- you know, it could be revisited every year.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Two thoughts. Jim's earlier statement, our philosophy of closing this area to non-federally-qualified subsistence users and opening it if there would not be a conservation concern is consistent with past actions of this Board, so I would support that.
Secondly, I guess I'd just like to make sure that if we only include the first part consistent with the Regional Advisory Council, that there are, in fact, seasons and bag limits in place for the federal subsistence fishery before we omit that. Thank you.

Bill is nodding his head yes.

MR. BRELSFORD: Mr. Chairman, I'd like to ask that the comments, the technical clarifications by Staff regarding these bag limits, be part of the Board discussion on the record. I have exactly the same concern. I'd like to know what the effect of removing this portion of the motion would be and, therefore, what would be the regulations in effect the upcoming season. So, if we could have that information as part of the public record, I would appreciate it.

MS. GOTTLIEB: Mr. Chairman, could we ask Bill to address Taylor's question, please?

CHAIRMAN DEMIENTIEFF: Yes. Bill.

BILL: Yes, Mr. Chairman. Mr. Brelsford and Ms. Gottlieb have a very valid concern here. By eliminating the state permitting system and by having it qualified to federal users only, it eliminates the aspect of the state harvest limit and season, so it would be necessary to place into federal regulation some appropriate season and harvest limit, otherwise there is none, and it would be unlimited. Now, whether or not these dates and limits are correct or are appropriate in the book, I don't know. That would be something that we would have to be advised on. Thank you.

CHAIRMAN DEMIENTIEFF: Cal.

MR. CASIPIT: Thank you, Mr. Chairman. The season bags methods and means that are listed on page 89 there in the middle between the two paragraphs that Mr. Caplan was referring to is what was suggested by the proponent, Sitka Tribe of Alaska. The existing bag limit and season for sockeye in Redoubt Bay is 10 fish per individual, 10 fish per household, June 1st through August 15th. Allowable gear, according to the state permit, is, unless otherwise specified, hand purse seines, beach seines, drift gillnets, dipnets, gaffs and spears are the types of subsistence gear allowed for general use in the Sitka area. Drift gillnets may not exceed 50 fathoms and there are no mass restrictions. In Redoubt Bay, only dipnets, gaffs and spears may be used.
So, in the instance of Redoubt Bay, I guess that would be the only allowable gear. That's the only allowable gear under the state permit. Dipnets, gaffs and spears.

CHAIRMAN DEMIENTIEFF: Okay. I think we better take a break.

MR. CAPLAN: Mr. Chairman, may I ask very quickly, sir, also for clarification. It was my understanding in modifying my proposal that what came forward from the Council would include the current season and bag limits under the state system and apologize that we missed the point that it was going to somehow exclude that, but that was my understanding and, therefore, I didn't make it a part of my motion. Perhaps we do need to caucus a little bit on it, but I think that's where we're at. Thank you, sir.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We'll call the meeting back to order. Further discussion. Jim.

MR. CAPLAN: Thank you, Mr. Chairman. As I was saying as we went on break, and I appreciate the break, sir, it was my intention to take the recommendation from the Southeast Subsistence Council, which would be the closure recommendation, put a sunset clause on that, which would mean February 28th, 2003 that would be up. And it was with the understanding in making that motion that there would be the need for a federal permit because the state would no longer have jurisdiction, but that we would follow the current state methods and means and season. Therefore, Mr. Chairman, I would like to make a proposal, for clarity on the record, to amend my motion to exclude the need for a federal permit and the recognition that this would be the same bag method and means and season as currently exists for that area under state regulations. Thank you, sir.

CHAIRMAN DEMIENTIEFF: We have a motion to amend. Is there a second?

MS. GOTTLIEB: I'll second that.

CHAIRMAN DEMIENTIEFF: It's been moved and seconded. Is there any other discussion on the amendment? Bert.
MR. GRIEST: I just had a question for clarification. I'm wondering whether the Regional Advisory Committee had a chance to comment on the limit, whether it's long-term, short-term. What are they looking at?

CHAIRMAN DEMIENTIEFF: He already went over it two times. Go ahead.

MR. THOMAS: Okay. Generally, our limits are identified by the strength of a system. So, if the system shows to be very healthy with an abundance of escapement and everything, then there's a desire to be more liberal, but if they recognize that the run is weaker, then they fish accordingly. If it will stand, for instance, 15 fish a family, that's what they'll go for, but that's the user instinct. Right now we're regulated by regulation by state and federal. That's the best I can give you. Thank you.

CHAIRMAN DEMIENTIEFF: Okay. Is there any more discussion on the amendment? Hearing none, all those in favor of the amendment please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: We now have the main motion as amended before us. Is there any discussion on the main motion as amended? Gary.

MR. EDWARDS: Mr. Chairman, I guess I still have some concerns that we have mechanisms in place with our in-season managers to open and close, which I view as new information from the State as their plans to start with a closure. It seems to me that the more prudent way to go would be to then invest that authority in those in-season managers to either continue to keep it open or closed, if it would warrant it, to a broader use down there and kind of consistent with what our charge is. I guess, based upon that, I probably will plan to vote no on the motion.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed?

MR. EDWARDS: Aye.

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 40.

MR. CASIPIT: Thank you, Mr. Chairman.

The staff analysis from which I'll be discussing begins on page 196 of your book. Proposal FP-02-40 was submitted by the Craig Community Association, the tribal government for Craig. Requests changes to the federal subsistence steelhead harvest limit on Prince of Wales Island to one fish per week, 24 inches or larger per individual and eliminates the prohibition against bait.

The existing federal regulation, the proposed federal regulation is displayed there in the middle of the page on page 196.

A little on the regulatory history. This current federal subsistence fishery for steelhead on Prince of Wales was created by this Board a year ago. Before then, all steelhead harvest occurred under the State of Alaska's sport fish regulations or incidently caught and commercial salmon fisheries. The current federal subsistence steelhead fishery is two fish per year as an annual limit, 36 inches or greater, using a dipnet or rod and reel gear with no bait.

The biological background, we discussed what we do know about Southeast steelhead stocks. There's about 300 identified steelhead populations in the area. Most of those stocks contain less than 200 spawning adults. There are major sport fisheries on the larger systems, like the Naha, Carta, Thorn Rivers and Situk River near Yakutat.

I wanted to call the Board's attention to Table 1 and Figure 1. They're on page 200 and 201. What I'm about to present here basically summarizes all the biological background and other issues that are in the staff analysis.

If you take a look at Figure 1 and you look at the 36-inch size class -- let me back up a bit here. Figure 1 represents the reproductive potential of
steelhead populations in Southeast Alaska based on a sample of almost 10,000 steelheads sampled over the past few years. If you take a look at that, you look at there and you see the percentage in each of those size classes, again, that's reproductive potential. That's basically the number of eggs in the gravel, if you will, after spawning.

So, basically, with a 36-inch minimum size limit, about 13 percent of the steelhead population is exposed to fishing pressure or harvest or the reproductive potential is exposed to harvest with a 36-inch minimum size limit. With a 24-inch minimum size limit, virtually the entire population is exposed to harvest. So I just wanted to bring the Board's attention to that.

The Table 1 is basically just the percentage of the population in each of the size classes. Figure 1 is actually reproductive potential. That's number of individuals multiplied by the number of eggs those individuals may carry.

The effect of this proposal would liberalize the federal subsistence steelhead harvest limit on Prince of Wales Island. Again, with a 24-inch minimum size limit, virtually the entire steelhead population, reproductive potential of the populations, are exposed to harvest. With the existing regulation the way it is, only about 13 percent of the reproductive potential of the populations are exposed to harvest. So, with that, I will be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you.

Summary of written public comments.

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

CHAIRMAN DEMIENTIEFF: Department comments.

MR. VINCENT-LANG: Thank you, Mr. Chair. The Department supports Staff Committee recommendation to reject this proposal. We concur with the staff analysis stating that available research indicates that steelhead stocks can sustain only low harvest levels and are easily susceptible to declines because of overharvest. Current federal and state regulations are designed to limit potential harvest to five percent of the steelhead populations to assure for sustainable yield of the
In addition, the minimum size limit of 36 inches protects 95 percent of the steelhead in Southeast Alaska, including the Prince of Wales Island stocks, from exposure to harvest, and a ban on the use of bait with rod and reel minimizes hooking mortality to negligible levels. Recent catch and stock assessment data indicate that these regulations have been effective in reversing a previous decline in steelhead abundance.

Liberalization of current regulations would likely cause a general decline in Prince of Wales similar to the decline we experienced in the 1980s and could cause irreversible harm to individual stocks.

The proposed regulation is similar to formal sport fishing regulations that likely contributed to the decline in the 1980s. The proposed reduction in the minimum size limit would expose 98 percent of the steelhead to harvest and relaxing the annual harvest limits would substantially increase harvest of steelhead on Prince of Wales Island. Although the levels of harvest would depend upon the amount of fishing effort, the proposed changes would result in a harvest larger than many stocks can support even under existing eligibility and effort levels and even if non-federally-managed fisheries are closed. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We have no request for public comment. Regional Council recommendation.

MR. THOMAS: Thank you, Mr. Chairman. The Southeast Regional Council recommends to support. I'd like to address some of the comments I've heard. First of all, you have to realize that this is referring to federal subsistence permits. That's never occurred before, so there's no history of that threat. The term likely is likely to be exaggerated.

The comments and discussion at the meeting was that the 36-inch provision was difficult to adhere to when people are going out to get a fish to eat. Ask any subsistence fisherman. They don't care if the fish is 16 inches long or 60 inches long. If it's going to put food on the table, that's what they're going to gather. So, trying to make it more palatable, they're asking for a 24-inch size.

This overharvest thing is not likely to occur on
Prince of Wales Island. The preponderance of pressure for steelhead is the sport fishery and most of them come from my neck of the woods in Ketchikan. So, if I keep my guys home and you let these guys fish for 24 inch, we'll do real good. So the Council supports this proposal. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. THOMPSON: Yes, Mr. Chairman. The Staff Committee recommends the Board reject this proposal. We believe that allowing the increased harvest opportunities for steelhead on Prince of Wales Island as requested by the proponent would cause conservation concerns. The small coastal populations of steelhead have very limited harvestable surplus and are easily over fished. Any significant expansion of harvest opportunity will likely require additional stock assessment information, including a project which is currently proposed to address this management issue.

The existing bait restriction should be kept to minimize mortality, a steelhead less than 36 inches. Allowing the more liberalized harvest limit of one fish per week throughout the season would result in unsustainable harvest of steelhead. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. We'll advance to Board deliberation.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: I had a question for Staff based on some of my past involvement in fisheries. Is it at least theoretically possible to include smaller fish? In other words, create a slot to protect the breeding populations and, therefore, have something like 36 inches and greater and 28 inches and lesser slot limit for this fishery. Would that be another way of approaching the situation? In other words, an approach that would allow for more take by subsistence users but relatively little impact on the breeding population.

MR. CASIPIT: That could be a very good way of approaching this; however, would have concerns about eliminating the restriction on bait and changing...
the bag limit from two fish per year to something like a fish per week. That would probably be going a little too far. But if we were to maybe stay with an existing bag limit of two fish a year and keeping the bait restrictions, the approach that you were talking about, Mr. Caplan, may be a pretty good way to go.

MR. CAPLAN: Thanks, Cal.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: Thank you, Mr. Chairman. With all respect to Staff Committee, the information you've got there is all hypothetical. It's speculation that doesn't really have any support. We're talking about a fishery that doesn't know seasons. Subsistence doesn't know seasons. So, when somebody needs a steelhead and they're available, they're going to go get one. With all due respect to the process, Prince of Wales has a very honorable history of managing and respecting their resources and it's a very subsistence-oriented game management unit. The Staff Committee recommendation reflects no consistency with existing conditions in that region. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion.

MR. CAPLAN: Mr. Chairman, thank you, sir. I'd like to somewhat reluctantly move to reject Proposal 40 as recommended by the Staff Committee. One of my reasons is that I believe there is a conservation concern here, particularly with the longevity of these fish populations. Also that I don't think that the full range of alternatives for changing the current system have been looked at and I refer specifically to Mr. Casipit's remarks about slot limits. Therefore, I move this, as I say, somewhat reluctantly, with an eye towards down the road receiving information back from the Council staff and ADF&G about perhaps another approach that could increase use by subsistence users with minimal impact on the long-term quality of the fishery. Thank you, sir.

CHAIRMAN DEMIENTIEFF: There is a motion. Is there a second?

MR. CESAR: I'll second it.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.
MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I guess for future information, yes, I would be interested in the results of the studies that are being done there and maybe more information on the use of this resource by sport fishing interests.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BRELSFORD: Thank you, Mr. Chairman. I intend to support the motion with some of the same reservations or hesitance expressed by our colleague from the Forest Service. I think, as a general matter, we are trying to provide for a continuation of subsistence uses and, therefore, we would like to know something about the timing, method, means, harvest levels that characterize a traditional fishery.

I note in this instance that the proponent has provided very, very little information. It's made plain that the existing limitation is too restrictive and a fairly broad expansion is proposed, but there's really no description of how steelhead fishing has fit into the subsistence harvest pattern, so I think that kind of information would be very helpful for us. If that information were available, then I think perhaps some mid-range alternatives that would strengthen the subsistence opportunity without going so far as to create a conservation problem would be possible. So I think this is one that, reluctantly, we'll have to send back to the proponents and to the staff in the region. Thank you.

MR. CESAR: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CESAR: I intend also to support the motion for some of the same reasons. I just think there's enough unanswered questions here that we really need to have better information. I understand it was, in fact, discussed at the Regional Advisory Council, obviously in more depth than we're doing it here, but, in my mind, it still leaves a gap. I think that we have no real recourse except to send it back and ask them to do a better job on it and come up with a better range of alternatives for us to deal with.
CHAIRMAN DEMIENTIEFF: Yes, Bill.

MR. THOMAS: This is our best shot, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: No further discussion? Hearing none, all those in favor of the motion please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 42. Are they linked?

MR. CASIPIT: Yes, Mr. Chairman, 42 and 43 are much the same and we've analyzed them in the same staff analysis.

CHAIRMAN DEMIENTIEFF: Okay.

MR. CASIPIT: Proposal FP-02-42 requests that hooligan possession limits for subsistence fishermen be set at 500 pounds of hooligan per week for the Unuk River system. Proposal FP-02-43 is very similar and specifies an annual limit of 1,000 pounds of hooligan for the Unuk River. Proposal 02-42 was submitted by John A. Harrington and Lawrence W. Carson of Ketchikan, and FP-02-43 was submitted by Walt Northrup, Edward Burns, Earl Mossberg, Earl Patrick and Sean Richardson, all of Ketchikan.

A related proposal, Proposal FP-02-41, is submitted by the USDA Forest Service. Requires a permit for subsistence hooligan fishing in fishing Sections 1-C and 1-D, the area of the Unuk River. That is on your consent agenda and I wasn't intending on discussing it here.

Currently, there are no harvest limits or reporting requirements for subsistence hooligan fisheries in the Unuk River in federal regulation. As I said, Proposal FP-02-41 on your consent agenda, would require a federal subsistence permit for all streams within Sections 1-C and 1-D, which includes the Unuk River.
The hooligan fishery on the Unuk River occurs in federal jurisdiction within the boundaries of the Tongass National Forest above the mean high tide line. In the past, this fishery was managed by the State of Alaska as a commercial fishery and had a total annual allowable harvest cap of 25,000 pounds, which was divided equally between all the participants in that fishery.

The commercial fishery for the Unuk River was closed in 2001 due to low stock conditions the previous year and it was unclear when and if the fish would return in 2001. There is not a stock assessment program that we have in place for the hooligan in the Unuk River, but we intend to take some basic fishery data next year and we took some basic stuff in 2000 as well.

The spawning return in 2001 was greater than what Fish & Game and federal staff thought was going to occur and we were assuming that it's at a more normal level. It was at a more normal level in 2001. The 2001 season, the fishing that did occur there, was conducted by individuals that had participated in the commercial fishery in the past, but they were also federally-qualified subsistence users. So, when the state closed the commercial fishery, those users basically switched over to the federal regulations and was fishing for hooligan in the Unuk River under federal regulations.

The effect of these two proposals would be to reduce the total subsistence harvest by affecting the scale and efficiency of the harvest necessary for successful fishing and customary trade of these fish. The harvest cap would also restrict the opportunities to share hooligan harvested in the subsistence fishery. The length of time that hooligan are in the rivers and are able to harvest is not known, but what evidence we do have indicates that a weekly harvest rate would also restrict the harvest as well. At this time, we don't know if additional subsistence fishermen will participate next year in that hooligan fishery.

One of the other things I wanted to mention also, and this was brought to my attention by Fred Clark, our former council coordinator for the Southeast Region, he was doing some basic research on hooligan fisheries and found that individuals needed a huge amount of hooligan to make the hooligan oil, the hooligan grease that's important to many in Southeast Alaska and is traded widely throughout the state and, indeed, other places. What Fred was saying was that it takes 100 pounds of
hooligan to make one gallon of hooligan oil. So, by
instituting a 500 or a 1,000 pound harvest limit would
severely restrict subsistence users' ability to make a
product that is very important to the cultural and
traditional use of rural people in Southeast.

Indeed, one of the other interesting tidbits of
information I found was that the state name of Oregon
comes from the trade name of hooligan. When people were
talking about coming across the Oregon Trail and meeting
indigenous peoples that say they were on the Oregon
Trail, it wasn't the Oregon Trail, it was the Hooligan
Trail and it was the trade route of this very valuable
resource throughout, not only Alaska, but the northwest
cost as well. So, the importance of hooligan to rural
people, to Native people, is very important and any
limitations on how much should be taken or individual
limits should really take into account the customary and
traditional use of that resource. You know, you need a
whole lot of hooligan to make a little bit of oil. With
that, I'll answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. SCHROEDER: Mr. Chairman, there is a
public comment to support Proposal 42 by Nancy Hilstrand
in Homer and she's in favor of a rational annual harvest
limit. We also have a recommendation to support Proposal
43 from the United Fishermen of Alaska for very much the
same reason, to support an annual limit.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. VINCENT-LANG: The Department does
not support the Staff Committee recommendation that
opposes any hooligan harvest limit for the Unuk River
area. It is important that the small stock of hooligan
be managed conservatively, but, without any harvest
limits, conservative management will be very difficult to
achieve.

The Department supports the concept of harvest
limits for the federally-qualified hooligan subsistence
fisheries in District 1. Although the specific amount of
the harvest limits should be determined based on stock
assessment work, very little stock assessment data is
available.
The Department, in cooperation with the Forest Service, submitted a hooligan stock assessment proposal to the Office of Subsistence Management, but it was not recommended for funding this year. Until such time as new stock assessment data is available to indicate higher harvests are sustainable, a conservative harvest policy should be followed to protect this resource.

In 1997, the Alaska Board of Fisheries established a 25,000 pound limit for the commercial hooligan harvest for the Unuk, Klahini and Chickamin Rivers combined. This was because of increasing participation in the fishery and the need to cap the fishery at a reasonable level. The 25,000 pound limit represented the upper end of recent harvest levels. Until more stock assessment data is available, the Department supports adopting this as an upper limit for the hooligan harvest in these rivers to protect this resource. That's all I have.

CHAIRMAN DEMIENTIEFF: Thank you. Public testimony. Now we can finally get Louie Wagner, Jr. up here.

MR. WAGNER: Thank you, Mr. Chair, the Council and Board. This has been a difficult road for me for the past 10 years. My name is Louie Wagner. I'm a member of the Metlakatla Indian community. I'm a new council member for the tribe there. I'm just a fisherman, not a lawyer, and I'll do the best I can here.

I'll start out with kind of our history of what we've been doing on the Unuk River. I started with my older brother, Bert May, fishing the hooligan on the Unuk River in the early '60s with the same boat, Satellite. My brother, Bert May, started fishing hooligan on the Unuk River on his seine boat, the Pep, around the 1940s. Since then, my son has been coming to the Unuk River with me to fish the hooligan and, also, my brother, Walter Wagner, brings his seine boat to the Unuk River to fish the hooligans. We have traditionally, for generations, fished the hooligans on the Unuk River for Natives and non-Natives of Metlakatla, Ketchikan, Saxman, Hydaburg, Klawock and Craig.

At one point, in between the 10 years, we had to rush around to get signatures to get the fishery re-opened. It was closed for no reason. There had been no study at all on the river and all of a sudden Ketchikan
Fish & Game office closed the fishery. With 1,800 signatures we received from Ketchikan, Metlakatla, Prince of Wales area and the media on Ketchikan, we were able to get the fishery open in time to fish the hooligans.

Also, there's a petroglyph at the mouth of the Unuk River that marks it as ours. A long time ago each clan would retain possession of its lands and resources. Fishing rights were also inherited by descendants of the individuals or passed on to the group. We harvest only what we need. Now, with this large interest in the hooligan fishery, when people submit proposals, they should have proof of what they propose and be here to back up their proposals because it has a major impact on our lives in the lower Southeast. These people that submitted the proposals, I thought they were my friends. I know every one of them and they're non-Natives.

The Unuk River is a unique place. We call it God's place. It is approximately 80 miles from Metlakatla and not accessible to everyone unless you have a seine boat or a good-sized boat that will carry enough fuel to get you there. And you also have to have a good idea when the hooligans will be there. No one lives on the river to give you a telephone call and tell you when to come up there and catch the hooligans. A few years ago, one of the people who work in the Fish & Game office in Ketchikan asked me how I knew when the hooligans came. It takes years of experience and, even then, we've missed a couple times because we held off a little too long. You just have to have a good idea. In recent years, the Department set a time period of when we can go up and catch the hooligans and there's no telling when they're going to come. You can't have a time frame on them. The run is short. They don't hang around long.

With this one proposal here in 41, why is it only in East Bean (ph) Canal and Burroughs Bay that you must possess a subsistence fishing permit? The hooligans run three to 10 days and should not be compared to the salmon, trout or char permits, which those are around a lot longer than the hooligan are.

There was an article done in the Alaskan Southeast in June 2001. They did a story on their harvest up there on the Chilkoot River near Haines. It has a hooligan run that local Natives harvest the same as I do and they don't have to defend their fishing rights every spring when the hooligan come in to harvest for their people. It's a good article. I have it with me if
anyone would like to see it.

All we ask is to continue with what we have been doing on the Unuk River. It has been our custom, our tradition, our way of life and without harming the fish run. In 2000, there was a few fish that came up there on the river. There was several non-whites that came up to fish the river because of the way the Department set it up to divide up the fish that we have caught over the years and they wanted to share that poundage with everyone else interested in maybe getting a limited entry permit and they were just back and forth, up and down the river, the airplanes were coming in, landing, taking off on the river, and you only have so much water on the river and these hooligans have nowhere to go and you start charging around amongst them. It's not that big of a river. In some places, it's a lot narrower than this room.

When no one is around, you could walk across those fish at times. Like last year, we went up, I was one of them that was up there fishing, my son and I that's here with me, there was no one around. It was like the old days when we would be there alone and the fish came in really nice. There was no problem with them.

The biggest problem that has come here is with the possibility of limited entry permits and these non-Natives and there's one of them in the proposal, on Proposal 41, that was interested in trying to get a permit. These people down there, it's just the way it's been done all these years and it's been accepted, they look for us. One year, I think the Daily News was down there from Ketchikan, they were interviewing some of the people in line to pick up their fish and they asked them why they were there and they told the reporter that it just isn't spring until we have our hooligans and that was a neat little quote he put in the paper on it.

There's a lot more I could say, but it's probably slipped my mind now. I think I covered pretty much what I wanted. Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Any questions?

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Go ahead, Judy.
MS. GOTTLIEB: Mr. Wagner, thanks for coming up here. We know Metlakatla is pretty far from the river and certainly Anchorage is a lot further, so I appreciate your testimony.

MR. WAGNER: Thank you, Judy.

CHAIRMAN DEMIENTIEFF: Regional Council recommendation.

MR. THOMAS: The Regional Council opposes Proposal 42. I might point out that this proposal is put forth by non-eligible users. There is mention made of stock assessments. You heard Mr. Wagner testify on his history of harvesting hooligan. It's done with very little disturbance. In fact, stealth and quietness is the key to a successful harvest. Anybody else that's been up there with ambitions of harvesting hooligan will come up there with their twin engine, 250-horse outboard motors and go barreling right through them. They do that so regular, that the fish never had a chance to school. There was no way they could school with all that disturbance.

I say all that because, typically, to get an assessment of a stock, especially fish, is going to require -- I don't know what technology is going to be used, but I know it's going to be clumsy by standards of being careful with a resource. Stock assessments occur every time a subsistence user harvests hooligan. They know what the strength of the run is as compared to the history of their involvement. They respect the strength, whether it's abundant in nature or whether it's got a conservation threat, and they respond accordingly.

I'm excited in the fact that there's interest in the stock assessment at this point. It's a fishery that's been going on, I'll say, 3,326 years. That's as far back as my memory will go. The stocks and the fisheries and the respect for the fishery, a subsistence user religiously identifies themself with the resource they're going after. They don't have annihilation in mind, so I want to point that out.

Sometimes subsistence users and us people on the Advisory Council at this forum are too conservative sometimes to reflect what the discussions at the Regional Advisory Council is and representing the people in our region, but we oppose this proposal, Mr. Chairman. Thank you.
CHAIRMAN DEMIENTIEFF: Staff Committee.

MR. THOMPSON: Mr. Chairman, the Staff Committee recommends rejecting this proposal as recommended by the Council. I believe that available stock size and basic life history information on the Unuk hooligan is not adequate to determine an appropriate total harvest rate. Although there is concern for the long-term sustainability of the hooligan fisheries on the Unuk, a closely-monitored subsistence fishery should provide adequate protection of the population until a stock and fishery assessment program is developed.

CHAIRMAN DEMIENTIEFF: Thank you. We now advance to Federal Board deliberations. Is there discussion?

MR. CAPLAN: Mr. Chairman, just a question for Cal, Ken and for Chairman Thomas. We've been talking specifically about Proposal 42. Do your remarks and your opposition also extend to Proposal 43?

CHAIRMAN DEMIENTIEFF: They're linked.

MR. THOMPSON: Same for Staff Committee.

MR. CAPLAN: Thank you, sir. I just wanted to clarify that. Folks specifically mentioned Proposal 42, but didn't necessarily include 43. When I make my motion, I'll probably cover both of them in the interest of time. Thank you, sir.

MR. EDWARDS: Mr. Chairman, it's my understanding, Cal, that there is a monitoring effort going on or there are plans for one. Can you elaborate a little bit on that?

MR. CASIPIT: I'm really not familiar with the nuts and bolts, what's planned nuts and bolts this spring for monitoring that fishery. I would ask maybe if -- I know we have several staff from the southern Southeast here that are more familiar with the kind of monitoring that will go on there. If I can get either Dave Johnson or Jeff Reyes up here to answer that question, I'd appreciate it.

MR. JOHNSON: Mr. Chairman, Board. Yes,
there is a monitoring plan that will be in place this
spring and that will consist of a ranger boat trip that
will go up the Unuk with fish biologists from the Forest
Service and also the State as well. Last year, because
the State did not have a commercial season, we did want
to know what was going on with the hooligan fishery there
in the Unuk River and, as a result of the State and
Forest Service cooperating on that monitoring effort, we
began that process last year and we plan to continue it
this year. Basically, right now, it only consists of
monitoring the presence or absence of the fish when they
return and also the amount of harvest to take place and
also the sale that occurred last year in Ketchikan.

CHAIRMAN DEMIENTIEFF: Further
discussion. Taylor.

MR. BRELSFORD: Mr. Chairman, this would
be a question for the Forest Service Staff that would be
overseeing this fishery in the upcoming spring. The
State has proposed a broad harvest guideline in the
amount of 25,000 pounds, I wonder if the Forest Service
has a working guideline of some sort or if you would
expect to come in under that amount, that is to say, can
we allay the potential conservation concerns that have
been raised by the State?

MR. JOHNSON: At this point we don't have
an actual number, Taylor. But I would point out that
prior to this last year when there was no State fishery,
that historically ADF&G has had a commercial fishery
there with the lack of data as well and so we would be
working cooperatively with them to set up a monitoring
effort to look at what the harvest would be. Also there
has been another study elsewhere in the region on
hooligan and we are looking at seeing if that proposal
that was put in place up here on the Chugach might be
also something that would be workable there in Southeast.

MR. BRELSFORD: If I may, Mr. Chairman, so
the result is that you would be consulting directly with
your ADF&G counterparts as the harvest occurs and if
there were any alarm bells you would have ADF&G's input
on that point and would be able to take appropriate
management measures?

MR. JOHNSON: Yes, and in fact that's what
occurred this year. ADF&G and the Forest Service and law
enforcement personnel, along with information that was
provided to Mr. Thomas later on was involved with
MR. BRELSFORD: Thank you.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Bill.

MR. THOMAS: Yeah, Dave, with regards to monitoring and responding, do you have any idea on how a threshold will be established and how that threshold will be referred to?

MR. JOHNSON: Mr. Chairman, Bill, from what little I know about hooligan, the little I know about it tells me that a lot of people know very little about hooligan. There's some information that indicates they may spawn in different locations in alternate years. There's not good information on what a “healthy population” of hooligan would be in a given system, so at this point our first concern is to know whether there's presence or absence of the fish. As indicated, the State had closed that fishery and as it turned out there was a lot of fish as compared to other years when there was a more productive fishery. So we would work closely with the State, we would want to have a monitoring plan in place that would achieve the goals of providing for a healthy population of hooligan on the Unuk River.

MR. THOMAS: You know, I think you should incorporate the harvesters in that plan because they got the best information right now. And my concern about this whole activity is the disturbance of traffic that will be used in making these determinations. I'm hoping carefully designed to not interfere with the habits of the hooligan run.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion.

MR. JOHNSON: Just one other comment, Mr. Chairman. This past year, also, I would defer to Mr. Waggoner, but that is, in fact, what was done on the hooligan -- or on the Unuk River. The Forest Service biologists along with the State went up the Unuk River and met with Mr. Waggoner and some other folks to actually see what was going on and talk to the people...
that were actually doing the harvesting.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. THOMAS: Mr. Chairman, one last comment.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. THOMAS: Some people that went up the river didn't have a paddle.

(Laughter)

CHAIRMAN DEMIENTIEFF: Further discussion.

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

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: And that motion is to reject Proposal 42 and 43 as recommended by the Southeast Regional Advisory Council.

CHAIRMAN DEMIENTIEFF: Is there a second?

MR. CESAR: I'll second that.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. CESAR: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CESAR: I know that hooligan are, you know, at least from my understanding of up around the Haines area that they're a real finicky fish and there's a lot of superstition about hooligan and they talk about oldtimers talk about, well, someone threw a dog in the river up in Klukwan and the hooligan didn't come in or there's all these things, but, you know, when they do get disturbed there are strange -- they exhibit strange behavior and that may, in fact, be a problem, I don't know but I am concerned about that. The only thing I would question, Bill on or challenge Mr. Thomas and I rarely do that, is I think up in the Haines/Klukwan area we have about 4,000 years worth of history with hooligan fishing.
MR. THOMAS: But the only problem there is you're guessing.

(Laughter)

CHAIRMAN DEMIENTIEFF: Okay. Is there any more meaningful discussion on the motion?

(Laughter)

CHAIRMAN DEMIENTIEFF: Hearing no further meaningful discussion on the motion, all those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

The Chair at this time would entertain a motion to adopt consent agenda items.

MR. CESAR: So moved Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there a second?

MR. EDWARDS: Second.

CHAIRMAN DEMIENTIEFF: For the record, although it's well documented, we're talking about FP02-36, FP02-41, FP01-24, FP01-30, FP02-20, FP02-10, FP02-8 and FP02-9. All those in favor of the motion, please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: The consent agenda items have been adopted. Okay, we're going to move right on here to RFR01-01.

MR. CASIPIT: Thank you, Mr. Chairman.

RFR01-01 was submitted by the Alaska Department of Fish
and Game. It asks for the reversal of this Board's December 2000 decision to close the freshwaters of Falls Lake, Gut Bay and drainages to the Bay of Pillars to non-Federally-qualified subsistence users for the harvest of sockeye salmon. The Staff analysis includes a summary of events leading up to this point and the Staff evaluation of whether there's a conservation problem at any of these three sites. Federally-qualified users for each of these three systems are residents of Kake. The Staff analysis appears on Page 231 behind Tab F.

The organized village of Kake and the city of Kake submitted Proposal FP01-31 last year. That proposal asked the Board to restrict the harvest of sockeye in Falls Lake, Gut Bay and Bay of Pillars to Federally-qualified subsistence users and increase harvest limits. The Regional Council supported the portion of the proposal to close the waters to non-Federally-qualified users but not to increase the harvest limits. There were two reasons for this decision where allocation issues with non-subsistence users and the Council's desire to be proactive and address possible but undefined conservation problems at these locations.

The Interagency Staff Committee thought the action was an unnecessary restriction to non-Federally-qualified users and recommended rejecting the Regional Council's recommendations for three reasons. The freshwater, sport and subsistence fishery comprised a very small proportion of the total harvest; there was a general lack of information regarding total harvest of sockeye salmon in these systems; and the sportfish harvest reporting system did not provide detail required to assign harvest by stream. The contribution by any of these three systems to the total sockeye by-catch in the commercial fishery cannot be estimated and subsistence harvest estimates probably underreported actual subsistence harvest by an unknown amount. When necessary, additional changes or restrictions to the sport and subsistence fisheries could be made by ADF&G that would provide for escapement.

The Subsistence Board deliberated this proposal on December 5th, 2000 and rejected the Interagency Staff Committee recommendation. The Board then adopted that portion of the proposal to close the three systems to sockeye fishing by non-Federally-qualified users, the reasoning was that it was a little step that we can do to conserve stocks that are in trouble while we're getting the information necessary.
In April of 2001, the State of Alaska submitted the request for reconsideration of the Board's actions. There were two main reasons identified. Their first principle claim was that the Board violated ANILCA by enacting a closure that was not necessary. Principle claim number 2 was that conservation concern identified during Board deliberations and public testimony was not supported by substantial evidence.

In 2001 sockeye fishing regulations for these systems were for freshwaters of Falls Lake and Gut Bay, ADF&G permit required with a July 20th closure and a limit of 10 sockeye per household and possession, residents of Kake only. The Bay of Pillars or Kutlaku Lake had a possession limit of 15 sockeye per individual and 25 per household with a July 21st closing date. In saltwater, for Falls Lake, Gut Bay and Kutlaku Lake, ADF&G permit required with the same season and harvest limits for subsistence for all State residents. The sportfishery had a general sockeye limit of six per day, 12 in possession although the limits were reduced for Falls Lake and Gut Bay by emergency order to three per day and six in possession each year since 1999.

In reviewing principle claim number 1, that the closure violated ANILCA because it was unnecessary we found that the Board can restrict non-subsistence uses only when necessary for conservation of healthy populations, to continue subsistence uses and for reasons set forth in other regulations or laws. The guidelines for what is necessary, healthy or continued subsistence use are not strictly defined and the Board was within their legal standards of ANILCA to interpret available information to allow for the closure.

In reviewing principle claim number 2, that the conservation concern was not adequately identified, we found that it was necessary to discuss each system separately and it's displayed in your analysis there. There is a conservation concern at Falls Lake because there is a question of sustainability of the fisheries under current management practices. There is a very small component of the total harvest that does occur in freshwater. The question that needs to be discussed is whether the closure of the freshwaters is warranted given the small amount of harvest that may occur there. A little additional information here, we operated a weir on Falls Lake, a sockeye assessment program at Falls Lake, it was a complete capture weir. We realized no escapement through the weir until July -- until the 20th
when the subsistence fishery closed.

There is a conservation concern at Gut Bay because there is a question of sustainability of the fishery. In addition there is a concern about poor escapements based on information that we got this season. Again, in Gut Bay we have a mark and recapture stock assessment project there and apparently the stock assessment crew went in there to attempt to capture sockeye for a mark to later be recaptured to develop a population estimate. The marking crew couldn't catch enough fish to mark. The escapement was so low there was so few fish that they couldn't even get enough to mark.

At this time there does not seem to be a conservation problem at Kutlaku Lake because we don't see an increase in harvest or we don't see very many escapement problems there but then again we don't have any monitoring program or assessment programs going in there yet.

With that I will be happy to answer any questions to provide more clarification on any of the statements we made. I'll let Robert here give the written public comment.

CHAIRMAN DEMIENTIEFF: Written public comments, please.

MR. SCHROEDER: Mr. Chairman, I'm not aware that there's any public comments.

CHAIRMAN DEMIENTIEFF: Department comments.

MR. VINCENT-LANG: I'm going to separate my comments into the three different drainages, Falls, Gut Bay Lake and Kutlaku.

With regard to Fall Lake, the Department agrees that there are issues and concerns with the conservation of Falls Lake stocks but not to the degree suggested by the Staff. Staff analysis, we feel, oversimplifies the potential effect of generally increasing harvest trends in marine mixed stock fisheries on Falls Lake stocks with little knowledge of stock composition and incorrectly interprets aerial survey data as a reason to believe spawning abundance has declined.

The analysis downplays the important fact that the 2001 weir counts were well within the range of past weir
counts, which indicates current levels of exploitations
of Fall Lake sockeye salmon stocks are sustainable.

We agree with the analysis that the
timing of the 2001 Fall Lake escapement was skewed in
proportion to the natural timing of the run and that
fisheries must be managed in the future to assure
escapement occurs in proportion to the natural
progression of the run. We also agree with the analysis,
that, while the Board enacted the only regulation
available to them at the time, the Board decision for
Falls Lake was not meaningful or necessary and that the
meaningful fishery restrictions must be implemented by
the State if the fish are to be conserved. To that end,
we believe the best approach is coordinated pre- or in-
season action by State and Federal agencies under
authorities granted them by regulations, not regulatory
action by the Federal Subsistence Board.

Next year we plan to involve users and
the management decisions for the 2002 fisheries at Falls
Lake with the objective of ensuring that the escapement
occurs proportionately throughout the run.

In terms of Gut Bay Lake, the Department
also agrees that the assessment of the issues for Gut Bay
but not -- I'm sorry. The Department also agrees with
the assessment of the issues for Gut Bay but not to the
degree suggested in the Staff analysis, for much the same
reasons I described for Falls Lake. However, we agree
with the Staff analysis that uncertainly with the data on
Gut Bay, sockeye has reached a point where further action
is necessary. However, we do not believe that the Board
action was necessary or meaningful for Gut Bay. If fish
are to be conserved the Department will need to implement
further management actions, again, we believe the best
approach is pre- or in-season action coordinated by State
and Federal agencies under the authorities granted them
by regulations, not regulatory action taken by the
Federal Subsistence Board.

Similar to Falls Lake, we plan to involve
users and management decisions for the 2002 fisheries
with the objective of insuring that escapement occurs and
that it occurs proportionately throughout the run.

Finally, in terms of Kutlaku Lake, the
Department agrees with the Staff Committee recommendation
and the analysis of the issues for Kutlaku Lake. There
is not a conservation concern requiring that the area be
closed to non-Federally-qualified subsistence users. The sportfishery harvest has no measurable impact on the spawning escapement or subsistence fishing opportunities. We believe the closure would unnecessarily restrict other uses of this fishery.

Thank you, Mr. Chair. And thank you for considering this request for the reconsideration.

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

MR. THOMAS: The Regional Council affirms the Board December 5, 2000 action for all three systems.

CHAIRMAN DEMIENTIEFF: Staff Committee.

MR. THOMPSON: Mr. Chairman, the Staff Committee recommends that Falls Lake, that the board affirm its decision. We believe there is sufficient evidence to support a conservation concern at Falls Lake. The Board enacted a regulation that was necessary despite management jurisdiction, only in freshwater, there was sufficient uncertainty regarding escapements to justify this regulatory closure. The Board enacted the only regulatory option available and was the only means by which the Board could enact some conservation measure.

We believe the Department of Fish and Game should implement further management actions to insure fisheries sustainability including continued monitoring of escapement through the weir and regulation of marine patterns particularly the subsistence fishery to insure the distribution of escapement throughout the run.

At Gut Bay, the Staff Committee recommends that the Board affirm its decision. Again, rationale there is that there is sufficient evidence to support a conservation concern by Federal definition. The State of Alaska is bound by the terms and definitions of sustainable salmon fisheries policy for the State of Alaska. As defined in that policy an escapement goal must be established to identify a conservation concern. Although Federal Staff in the December 2000 deliberations used the term conservation concern, they did not define its use as narrowly as in the State's policy. There are clearly issues and concerns with conservation and sustainability of the harvest here. The data on Gut Bay,
sockeye are highly uncertain and harvesting is increasing.

Last December the Board enacted the regulatory -- a regulation that was necessary here, we believe, the lack of escapement data, again coupled with the observation of the 2001 escapement may be so low at Gut Bay Lake as to be undetectable by the on-site crews. That raises serious questions of whether any further directed fishing for Gut Bay sockeye is sustainable. Despite management jurisdiction, only in freshwater, there was sufficient uncertainty regarding escapements to justify this regulatory closure. The Board enacted the only regulation option available which would accomplish some conservation measure.

At Kutlaku Lake or Pillar Bay drainage, the Staff Committee did not reach a consensus for recommendation here. The majority of the Staff Committee members favored a recommendation to rescind the Board action for Kutlaku Lake, however, the minority viewpoint recommends affirming the Board decision consistent with the recommendation of the Council.

The majority of the Staff Committee made this recommendation believing that there is sufficient evidence to support a conservation concern at Kutlaku Lake. The minority viewpoint, however, would recommend the Board rescind its decision. Testimony -- they believe the testimony from subsistence users in Kake said that sport users are negatively impacting the ability of Kake subsistence users to get the fish that they need at all three locations due to competition from sport users occupying the best locations to subsistence fish. The minority members believe the Council is correct and there are sustainability concerns for sockeye at all three locations based on Western Science and traditional ecological knowledge. The minority of the Staff Committee agrees with the Council that such testimony is substantial evidence.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. As we begin our deliberations but before we get ready for a motion I want to have a word to say about that. Well, let me just start out by doing this, before we start -- before we have the vote on whether or not to accept the request for reconsideration or deny it, I'm going to ask for individual roll call vote on what we use as a
vehicle. If we're going to use the Southeast Regional Council recommendation as a vehicle, we'll take care of it in one vote. If we're going to use the Staff Committee recommendation as a vehicle then we're going to do it in three votes. So as we get ready, you know, before we get to the motion that's what's going to happen.

Is there any deliberation right now or do you just want to.....

MR. EDWARDS: Mr. Chair, I'd just like to ask the State, do they have any plans on any of these three systems to have closures prior to the season opening or what is your -- on your sportfish or what are you thinking about doing?

MR. VINCENT-LANG: Mr. Chair, Gary. We are going to assure that there are adequate escapements going up those rivers and we're going to assure that those rivers are going to get escapement -- assure that escapement occurs in proportion to how it has historically occurred. So, yes, we're looking at how we're going to do that right now. We just feel that the best way -- the largest exploitation is occurring in marine waters and I think the best way to assure that those levels of escapement are being achieved as well as the priority for Federal subsistence uses up in those areas is not through Board action, rather it's through cooperative management. And I think we need to assure that that's happening and we will do the best we can to assure that that will happen by working with the users out there.

CHAIRMAN DEMIENTIEFF: Further deliberations before we get to the motion. Well, define the further debate by choosing our vehicle. Now, that doesn't determine which way you're going to vote on the request for reconsideration it just determines the vehicle. Either Staff Committee or Regional Council.

We'll start, Niles, what do you want to use as a vehicle?

MR. CESAR: Mr. Chairman, I want to use the Regional Advisory Council.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: I think it would be good to have a discussion on each area, please.
CHAIRMAN DEMIENTIEFF: Pardon?

MS. GOTTLIEB: A discussion on each of the three, recommendations that the Staff Committee made.

CHAIRMAN DEMIENTIEFF: Oh, you want to further discuss?

MS. GOTTLIEB: Well, the vehicle I'd like to use is the approach that the Staff Committee made.

CHAIRMAN DEMIENTIEFF: Okay, that's all I want to know now.

MS. GOTTLIEB: Okay.


MR. CAPLAN: Yeah, I would follow what the Staff Committee recommended in terms of vehicle.

CHAIRMAN DEMIENTIEFF: I want to use the Regional Council.

MR. EDWARDS: I would like to use the Staff Committee's recommendation.

CHAIRMAN DEMIENTIEFF: Taylor.

MR. BRELSFORD: I think we should proceed through the Staff Committee recommendation point by point.

CHAIRMAN DEMIENTIEFF: Okay. Then at this time the Chair would entertain a motion for RFR01-01(A).

MR. CAPLAN: Thank you, Mr. Chairman. I would move to affirm the Board's December 5th, 2000 decision to close Falls Lake to non-subsistence users.

MR. CESAR: I would second that motion, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Is there any further discussion on that motion? Hearing none, all those in favor signify by saying aye.

IN UNISON: Aye.
CHAIRMAN DEMIENTIEFF: Those opposed, same sign.
(No opposing votes)
CHAIRMAN DEMIENTIEFF: Motion carries.
The Chair would entertain a motion for RFR01-01(B) -- Part B.
MR. CAPLAN: Thank you, Mr. Chairman. I would move to affirm the Board's December 5th, 2000 decision to close Gut Bay to non-subsistence users. Thank you, sir.
CHAIRMAN DEMIENTIEFF: Is there a second to that motion?
MS. GOTTLIEB: Second.
CHAIRMAN DEMIENTIEFF: Discussion.
Hearing none, all those in favor signify by saying aye.
IN UNISON: Aye.
CHAIRMAN DEMIENTIEFF: Those opposed, same sign.
(No opposing votes)
CHAIRMAN DEMIENTIEFF: Motion carries.
Okay, RFR01-01, Part C, is there a motion or do you want discussion on this first or do we just want to go to the motion? What's the pleasure?
MR. CAPLAN: Mr. Chairman, I'd make a motion to rescind the Board's decision concerning Kutlaku Lake that was made on December 5th, 2000 because there is a lack of sufficient evidence of a conservation concern to continue that closure. Thank you, sir.
CHAIRMAN DEMIENTIEFF: Is there a second to that?
MR. EDWARDS: Second.
CHAIRMAN DEMIENTIEFF: Discussion on the motion.
MS. GOTTLIEB: Mr. Chairman, could we have one more summary, either from Staff or from the
Department on possible use of that area and then maybe a little more detail on how the Department plans to work with the variety of users if we do rescind this?

MR. VINCENT-LANG: Well, first off, we don't believe there's a conservation issue at Kutlaku Lake, but we are going to assure that both escapement needs are being met as well as those escapement needs being met in terms of the proportion of the run. But right now, that lake is providing sufficient escapements as well as numbers of fish needed for Federally-qualified users, in our opinion.

CHAIRMAN DEMIENTIEFF: Are we going to shift heavy pressure from the two lakes that are closed, are we going to shift a significant amount of non-subsistence user pressure onto this lake? I mean would you see that that's conceivable that that's going to happen?

MR. VINCENT-LANG: I don't think so, no. I think what you'll basically see is some windowing of subsistence fishing opportunity into those other systems and will be able to provide for the escapements into there so, no, I don't really see that happening, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes, Cal.

MR. THOMAS: That's true, Mr. Chairman. Like I keep saying, nobody does better assessment on this to what I'm about to say but at the Regional Advisory Council meeting in Yakutat in October, Mr. Mike Jackson representing the organized village of Kake indicated to us that he thought that shifting would occur because of the conservation concerns at Falls and Gut Bay, he was concerned that a lot of people in Kake would no longer go to those places because those people in Kake are concerned about the sustainability of the populations in Falls and Gut and would probably shift their effort to Kutlaku, but that was testimony provided by Mike -- Mr. Mike Jackson at the Council meeting.

CHAIRMAN DEMIENTIEFF: Thank you. Bill, go ahead.

MR. THOMAS: That's true, Mr. Chairman. Like I keep saying, nobody does better assessment on this than the subsistence users. If every user group had the same approach to the resource as subsistence users, we wouldn't be here. But Kake was very adamant and
MR. CESAR: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CESAR: I'm hearing both sides, you know, folks saying that there is, in fact, a concern and there will be shifting but also there may not be shifting. To me, you know, somewhere in the middle is probably true. In my estimation there will be some shifting. And so I intend to vote against the motion to rescind for that reason.

CHAIRMAN DEMIENTIEFF: I also intend to vote against it because there will be shifting. Even by the qualified subsistence users. If there's going to be some limited time for qualified subsistence users to go to the other lakes, to go to Part A and Part B, they're going to go to Part C, too, and then there's going to be heavy pressure on Part C. You have to manage an area. You have to manage an area as a whole. There's a population there that's going to harvest. And my philosophy has always been to error on the side of conservation and I'm deeply concerned that that shift will happen and next year we'll be back here or even sooner, be back here with the same thing.

MR. EDWARDS: Mr. Chairman, I think then you'd have to ask the follow-up question, if some level of shifting does occur, could the resource that is being shifted to, could it support that and nobody has addressed that. Plus the other issue is that we can manage this through in-season management and if that does become a problem we can take action accordingly.

MR. CAPLAN: Mr. Chairman, I also had a concern, somewhat related to the credibility of our closure process. We want to -- I think we want to make sure that we use closures when we actually have a conservation concern. In this case we don't have one currently, we do have safeguards in place for monitoring both through the subsistence users and through the Department and the Forest Service, and that's really the basis for my motion, is that, I want to make sure that our closure processes stay rationale and supportable and that's the reason for the rescission.
Thank you, sir.

CHAIRMAN DEMIENTIEFF: Yeah.

MR. NICHOLIA: It's the nature of the beast that's going to be shifting. Once you cut off one area, they're all going to go over there. You're just going to create a pressure on this C part when you close those two areas, it's the nature of the beast, it's going to happen. I could see it. What the State has done, they let everything go and what you guys are trying to do is put a bandage on it.

MS. CROSS: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. CROSS: Proposal 44 is a perfect example of shifting.

CHAIRMAN DEMIENTIEFF: Further discussion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I mean, might we once again ask that special attention be paid to this area so that if there is adequate escapement and opportunity for others to harvest here, then it be opened by our special action and in-season manager in coordination with the State.

CHAIRMAN DEMIENTIEFF: Yes, that could be done. We did give opening as well as closing authority to our managers if it looked like there was going to be enough to sustain a harvest. We've already got that mechanism in place to be able to handle that.

MR. BOYD: Mr. Chair, just a point of clarification. As a general rule, if an area remains open, the in-season manager has been delegated the authority to open and close, however, the Board formally closes and then it preempts the in-season manager, so that's the clarification.

CHAIRMAN DEMIENTIEFF: So I gave you the wrong information. That was what he first gave me but it turns out, our man behind us corrected us all.
MR. CESAR: Yes, Mr. Chairman, you know, we understand that at the end of the table but it would take an action by the Board to open it, which we understand that also.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Taylor.

MR. BRELSFORD: I believe it's important to insure that we're all focused on the same motion. The affect of the Board's actions in the first two systems in question was to close to non-Federally-qualified subsistence users. That is to say that Federal subsistence users continue to have access to those first two systems. There may, indeed, be shifting of effort but what the Board has done, what we've reaffirmed is to sustain the opportunity for subsistence users in the first two systems. With that being true, I think we ought not to overestimate the redirection of effort into this third system and in light of the lack of current data documenting a conservation concern and the safeguards in place I'm prepared to vote in favor of the motion.

Thank you.

MR. THOMAS: Yeah, and with respect to Taylor's comment I don't think overestimation is the case here. Because there's a lot of activity and there's a lot of pressure that will be moving.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. EDWARDS: Question.

CHAIRMAN DEMIENTIEFF: Question's been called for. We'll go to a roll call vote. Taylor.

MR. BRELSFORD: I vote in favor of the motion.

CHAIRMAN DEMIENTIEFF: Pardon?

MR. BRELSFORD: I vote in favor of the
motion.

CHAIRMAN DEMIENTIEFF: Okay. Gary.

MR. EDWARDS: I vote in favor of the motion.


MR. CAPLAN: Aye.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Oppose.

MR. CESAR: Oppose.

CHAIRMAN DEMIENTIEFF: And I'm opposed to the motion. Motion fails, so the Board decision stands.

That completes that. We have -- it's 12:00 noon, we will start exactly at 1:00 o'clock. We have two issues left. A couple of minor issues, I think they are. Something about customary trade and something about our fisheries projects for this next year.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We'll call the Board meeting back to order. Our first item up for business this afternoon is Customary Trade Task Force. We'll have a briefing on the comments -- we'll have a briefing first, Pete Probasco will provide the briefing.

MR. PROBASCO: Thank you, Mr. Chair. My presentation as you presented before our lunch break was to discuss the light topic of customary and trade. And to address this issue we're going to break it out into four parts. I'll do a briefing, which will be followed by Ann Wilkinson who will give us the comments from the various comments we've received. And then Carl Jack will give us a summary from the tribal governments. Followed by Tim Jennings with the Staff Committee presentation.

Mr. Chairman, my presentation will cover five areas. Those areas are the history of why the issue is before you. I'll briefly review the ANILCA regulations and the current regulations primarily for the
benefit of the audience. I'll also go over, briefly, the
goal of the Customary Trade Task Force and its
membership. I'll discuss the process that you assigned
this task force and what we accomplished. And then the
discussion of the proposed regulatory language, and then
the time line that the Federal Subsistence Board has
placed on this issue.

I'd like you to focus your attention to
Tab H and to avoid confusion on how this is laid out, in
the beginning of the document you will see the exact
information that we provided to the Regional Councils,
the tribal governments, as well as the public. This
information went out and was reviewed by all those three
teries I just discussed along with the time table and
the charge that you gave the task force. Immediately
following that is a meeting of the Customary Trade Task
Force amended draft language. Part of your task -- or
assignment to this task force was to review comments
prior to this meeting received and we met on November 2nd
and amended the language that we had initially set forth
to the three entities and this language which is before
you entitled November 2nd, meeting of the Customary Trade
Task Force. This language did not go out to the Regional
Advisory Councils, the tribal governments or the public.
And the difference is, and as the comments reflect, is in
A12 where we introduce a permitting system.

For the benefit of the audience, I think
it's important that we briefly review the language -- or
the regulations and that identifies why the issue is
before us. In Section .803 under ANILCA, we see the
introduction of customary trade and throughout the
process when we discuss customary trade we immediately
found that there was confusion in the public sector when
we discuss customary trade. Under Federal regulations,
customary trade pertains only to cash sales. When we
were out in the public sector we found out when we talked
customary trade, they actually looked at the whole
package, customary trade meaning barter and all other
aspects of exchange of subsistence goods with an
individual. So it took us some time to work through that
process and get everybody to understand that when we
discuss customary trade we're talking about the cash
sales of subsistence harvested foods.

The issue that was before the task force
that you assigned us was to try to define customary
trade. And the purpose of defining customary trade as we
saw in the regulations is the drafters of the regulatory
language failed to identify what they meant by
significant commercial enterprise and so that was the
main focus of the Customary Trade Task Force. And in
addition to that, we were looking at regulations that
were consistent with the definition of subsistence uses
under Section .803 of ANILCA, where we try to define the
limited exchange for cash and what constitutes a
significant commercial enterprise.

Our overlying theme is we were looking at
regulations that were fair and precludes abuses, all
qualified users needs are met and does not intrude or
prevent the trade or sale between communities and
villages.

Mr. Chair, at this time I'd like to
recognize the task force that was put together. And that
proved to be a very good move on the Federal Subsistence
Board part. Not only did it include agency staff but
more importantly it included representatives from each of
the respective Councils on this Customary Trade Task
Force. And we all, when we met we all had different
ideas what constituted customary trade, we had difference
of opinion and for you that attended the meetings you saw
the difficulties that we encountered. The task force met
on four different occasions and then subcommittees had
met numerous times throughout that process. And I can
say that the make up of that committee was the reason why
this committee was successful in providing you language
that may not be perfect, but at least gives the
opportunity for the Federal Subsistence Board to get
their arms around the issue of customary trade.

Mr. Chair, as I said we had four meetings
of the Customary Trade Task Force as a whole, in addition
we had some subcommittees that would do work and present
it to the Customary Trade Task Force on various elements,
various research, et cetera. And then in the fall we
took this language and went out to all the Regional
Advisory Councils. Mr. Carl Jack head up the tribal
government consultation process. And we mailed it to all
agencies and the public as well.

And then one other important thing that I
pointed out earlier in my presentation is that we did
meet on November 2nd, after the Regional Advisory Council
process and that language is somewhat different, what
they reviewed, and that's where the permitting
requirement was introduced.
Mr. Chair, I'd like you to point your attention to -- and what I will address is that language that the task force adopted on their November 2nd meeting and that is on Page 9 under Tab H. And I won't go into detail with it but the important part and I think it helps understand the regulation, is that, the task force elected to break it out in three parts. We addressed the transactions between rural residents to other rural residents and the task force is recommending that there be no limit established.

Under transactions between rural residents and others, and others are defined as non-Federally-qualified subsistence users and non-fishery businesses. And here is where you see a recommendation of a cap for salmon only of a thousand dollars per member of household.

And then finally A13 is very similar to the State regulations where we're recommending that a business, as required under Alaska statute licensed to conduct fishery business cannot conduct in the exchange of subsistence harvested products.

Mr. Chair, I know the Board is very familiar with the schedule of events that we have put this issue on task, we're currently in the process right now of developing a proposed rule. And for the public's benefit, the purpose of a proposed rule is to try to identify how the Federal Subsistence Board currently views the issue, that proposed rule will again go out through the process of review by the public, by the Regional Advisory Councils, and the tribal governments; it is not a final rule. It's just a proposed rule. And if the Board elects to stay on this schedule, based on what the earlier assignment, we would look at developing a final rule in May.

So Mr. Chair, with that that would conclude my presentation on the issue of customary trade and I'd like to hand the mike over to Ann Wilkinson, with your permission.

CHAIRMAN DEMIENIEFF: Ann.

MS. WILKINSON: Thank you, Mr. Chairman. I'll present to you first the Regional Council's recommendations and then second, a summary of the written comments received by the Customary Trade Task Force.
The following Regional Council recommendations were formed during their fall meetings. The Southeast Council proposes the following regulatory language, in paragraph 11, the exchange for cash of subsistence harvested fish, their parts or eggs -- excuse me. Customary Trade: The exchange for cash of subsistence harvested fish, their parts or their eggs legally taken under Federal subsistence management regulations. This new language deletes, completely, paragraphs 12 and 13.

The Southcentral Council voted to support the draft language with the following modifications. In paragraph 11, they would use the phrase Federally-qualified subsistence users rather than rural residents. They would also add the following, at least 50 percent of all fish taken under subsistence regulations are kept for the family's personal use. In paragraph 12, they would again use the phrase, Federally-qualified subsistence users rather than rural residents. They fully support paragraph 13 as it is written. The Southcentral Council acknowledges that subsistence gathering is first and foremost about providing food for one's family and community. However, customary trade is also a part of this way of life. The Council considered that a cash limit would require adjustments for inflation and concluded that allowing the sale of a percentage of the fish harvested would be more appropriate. The percentage decided upon was considered enough to, at least, in part defray costs of subsistence fishing while discouraging anyone who may see this as a business opportunity. The Council is concerned that someone may misunderstand the term rural resident and therefore recommends the use of Federally-qualified subsistence user. After discussing the cash limit in paragraph 12, the Council decided to approve the draft language including the $1,000 cash limit with the understanding that the regulation may be changed, if necessary.

The Kodiak/Aleutians Council voted to adopt the Customary Trade Task Force language with a $1,000 cap on salmon and with the following modification. These regulations will expire in two years from the effective date of the regulations unless extended, superseded, modified or revoked. The Council expressed concern that a high dollar amount will open to the door to abuse. However, there are people in the villages that barely make a living. There should be a dollar limit but it should not be seen as a goal. They want to make sure that there is no abuse and are concerned about
enforcement. One member suggested the need for a permitting system. They also considered that with the price of fish right now, $1,000 worth of fish could be a lot of fish so limiting the number of fish exchanged might be more appropriate. Members are concerned about the commercial aspect this proposed regulation gives to their subsistence way of life. They also urged everyone to remember that only a small portion of all the fish harvested is for subsistence.

The Bristol Bay Council recommends the following amendments to paragraph 11 and 12. Cap the cash exchange for salmon between rural residents at $1,000. Cap the cash exchange for salmon between rural residents and others at $400. The council concurs with the draft regulatory language for paragraph 13.

At their fall meeting, the Yukon-Kuskokwim Council supported paragraphs 11 and 13. But they have many concerns about the impacts of paragraph 12. Since their meeting, the Council has decided to reconsider the entire customary trade issue, including the draft language at their winter meeting.

The Western Interior Council supports by consensus the draft regulatory language with the understanding that the $1,000 can be adjusted as needed for their region at their next public meeting and annually throughout -- excuse me, through the regular proposal process. The Council discussed how this regulation may effect long-standing trade practices across drainages, the need for some cash income to support subsistence activities and whether there should be legal constraints on trade in times of poor fish returns. The Council concluded that the final regulations must be simply and clearly written and shared with all the villages.

The Seward Peninsula Council supports paragraph 11 as drafted. They would remove the cash limit for the Seward Peninsula region and would strike the word barter from paragraphs 12 and 13. The Council concluded that $1,000 is not much money when one considers the high cost of gasoline, motor oil, parts and other things necessary for subsistence fishing as well as the high cost of living in the region. This is compounded by the very limited opportunity to get cash. The Council, knowing their region should have the discretion to decide whether a limit may be needed in the future and if so, what that limit may be. The Council
would like the Customary Trade Task Force to clarify their reasons for restricting barter in paragraphs 12 and 13. The Council will then address this at their next meeting.

The Northwest Council did not make any recommendations because it wanted to wait to review comments from the tribal governments during the tribal consultation process. The Council discussed the proposed regulations, concerns regarding monetary limits were raised specifically regarding customary trade of trout and sheefish.

The Eastern Interior Council does not feel that they fully represent the residents of their region until the new member appointments are announced. They understand that they will have the opportunity to make recommendations at their winter meeting when the Council should have a complete membership.

The North Slope Council did not take formal action on the draft regulatory language addressing customary trade. Council members are generally opposed to establishing any regulations. They stated that if regulations are adopted, they must clearly pertain to the sale of fish only. They support language that would prohibit cash sales to commercial businesses. However, they want to maintain the ability of rural residents to bring their fish to where it can be properly handled and distributed to others like the general store. The Council stressed the importance of hearing and considering tribal government input on this issue.

And that concludes the Regional Council recommendations and their justifications. The Customary Trade Task Force received 17 written comments from the following people: The Alaska Board of Fisheries, the Alaska Department of Environmental Conservation, the Alaska Department of Fish and Game, Commissioner's Office, the Alaska Outdoor Council, the Egegik Tribal Council, the Kenai Sportfishing Association, the Petersburg Vessel's Owner's Association, Ms. Tammy Schrader of Homer, the Sitka Tribe of Alaska, the Southeast Alaska Fishermen's Alliance, Southeast Alaska Seiners, Mr. Nicholas Tucker of Emmonak, the United Cook Inlet Drift Association and the U.S. Fish and Wildlife Service, Law Enforcement Division. Copies of these letters are included in your book under Tab H and in your supplemental folder for the ones that we received most recently. When reviewing these, rather than do each one
individually, I made a general summary. The comments we received from the public, government agencies and private organizations expressed their concerns regarding the issue of customary trade in general and regarding of the draft regulatory language in particular. They also made recommendations for the Board's consideration.

There is general recognition that customary trade is integral to the subsistence way of life. However, some commentors said that subsistence should not include any cash transactions. Subsistence should be treated as a whole and in its entirety. One subsistence activity upholds the next.

Some commentors said that there is a need to authorize existing practices without creating new uses or expanding existing ones, while others stated that there is little or no need to regulate this practice. The rural economy is now a mix of cash and subsistence, yet there are few employment opportunities for rural residents. Much of the rural economy is barter and customary trade.

Some commentors expressed concern that an inappropriate cash limit would create a hardship for subsistence people. Conservation of resources was also addressed. There is concern that the shear number of Federally-qualified subsistence users will have an impact on resources and that this proposed regulation will give customary trade the same priority as the use of fish for food. Any sale of salmon should be strictly regulated and those regulations enforced to protect salmon stocks. There is concern that the draft regulatory language is overbroad. It does not recognize regional differences and culture, economy and resources. Neither does it address potential impacts on commercial fisheries. More fish in the market effects the price. Also commercial fishermen must pay fees whereas subsistence fishermen do not. Concern was expressed that the level of cash sales of subsistence salmon could approach or surpass that of the commercial fishery in some areas.

The cash limit suggested in paragraph 12 is a major point of contention. Some commentors expressed concern that setting a dollar amount would attract the unscrupulous, others said it would invite abuse by authorizing significant cash sales. Others believed that setting a cash limit would protect the
resource. But of those commenting on this topic, no one said that there should not be a limit.

The commentors generally acknowledged that without a permitting system or a requirement to keep a record of transactions, the proposed regulation would be unenforceable. Concern was expressed that improperly processed fish present a health risk to the consumers. Alaska has the highest botulism rate in the United States and all cases in Alaska have been associated with processing of traditional Native foods. Nearly one-quarter of Alaska's botulism cases were from fish. There is also concern that these proposed regulations may put many subsistence fisheries in violation of Federal and State food laws.

Many commentors expressed concern that the Board's projected time line for finalizing this proposed regulation is too brief. It does not provide adequate time to determine necessary harvest amounts or to correlate with State regulations nor does it allow time to address all the issues the proposed regulation raises.

Commentors provided the following recommendations. Defer action until the issue raised by the proposed regulation can be addressed. Set the cash limit at $400. Do not allow subsistence caught fish to enter the commercial market. Require the record of transaction as they occur and -- excuse me, including the name and address of the seller and buyer, the origin, species and amount by weight, number or value of fish sold. Regular maintenance of a record and requiring that the record be available to enforcement officers on request. Limit proxy sale to be for household members only. Work with the Alaska Department of Environmental Conservation. Place limits on either the number or pounds of fish traded for cash. Limit the sales of all fish by setting a limit for individuals or households. Regulate subsistence fisheries on a case by case basis, and the State and Federal regulatory approach should be as consistent as possible.

That concludes the summary of Regional Council recommendations and written public comment. Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Pete, do you have a follow-up?
MR. PROBASCO: No, Mr. Chairman, I was just going to say Mr. Jack will do the tribal government summary at this point. Mr. Chair.

MR. JACK: The tribal consultation with 229 tribes, Federally recognized tribes was initiated by the Office of Subsistence Management on August 30, 2001 and concluded on October 30. The consultation was conducted pursuant to the Department of Interior, Alaska Policy on Government to Government Relations with the Alaska Native Tribes. Three comments we received from the tribal governments, Egegik Tribal Council, Sitka Tribe of Alaska and Upokosiguuk Tribal Council. All of the comments and recommendations did not depart from the proposed regulatory language. For the record, the comments are enclosed in the Board packet.

In addition to the comment period, the OSM staff met with representatives of the Interior villages, Huslia, Hughes, Alatna, Koyuk and representatives from the Tanana Chief's Conference on October 24 during the AFN Convention. A record of those meetings are also enclosed in the Board book. On November 14th, the OSM Staff, along with the Chairman and members of the Northwest Arctic Subsistence Regional Advisory Council, as a panel, explained the background and discussed the proposed regulations with 11 member tribes of the Maniliqq Tribal Association.

Mr. Chairman, that concludes my report.

CHAIRMAN DEMIENTIEFF: Pete.

MR. PROBASCO: Mr. Chair, before I turn the mike over to Mr. Jennings, I did, in looking over my presentation forget -- and I wanted to recognize the committee members, with your permission, by name, they put a lot of work into this process and in my opinion they went above and beyond the call of duty. It was through their hard work that we were successful. From the Southeast Region we had a tag-team there with Dolly Garza and Bill Thomas. They both would alternate duties. From Southcentral we had Ralph Lohse. From Kodiak/Aleutians we had Della Trumble. From Bristol Bay we had Pete Abraham. From Yukon-Kuskokwim we had Robert Nick. From Western Interior we had Ray Collins. From Seward Penn we had Grace Cross. From Northwest Arctic we had Bert Griest. From Eastern Interior we initially had Chuck Miller and for personal reasons we had to step down and Gerald Nicholia stepped in in his capacity. And from
the North Slope, Region 10, we had Mike Paklatak. As far
as agency staff, Mr. Chair, we had Tim Jennings, we had
two anthropologists, Janet Cohen and George Sherrod. Two
enforcement personnel, Wally Sorroka and Marty Meyers.
We had fishery biologists from the AY-K area, Robert
Sundown and Fred Anderson. We had a fishery biologist
from Southeast, Don Martin. Our regional coordinator Ann
Wilkinson sat on the committee but she also took on the
duty of recording all our minutes and notes and did an
outstanding job, not only very accurately and timely.
From the Department of Fish and Game we had Robert Wolf
attend a meeting and Polly Wheeler. And also sitting in
on behalf of the tribal governments was Carl Jack. And
Ken Lord did his best to keep us out of trouble as our
solicitor.

Mr. Chair, that was your committee.

CHAIRMAN DEMIENTIEFF: Thank you very
much.

MR. BOYD: And I would add one name to
that and that's Pete Probasco who just presented the
report and chaired that very diverse committee with its
huge charge.

CHAIRMAN DEMIENTIEFF: I thank all of
them. Department of Fish and Game comments.

MR. HAYNES: Thank you, Mr. Chairman. We
appreciate the opportunity to offer comments today.
However, we're not going to speak to the specific
proposals on the table since we only received them last
night and this morning. So our comments are going to be
general, and we'll look at the specifics that you'll be
looking at today at a later time.

As you know, Mr. Chairman, State law
includes customary trade in the definition of subsistence
uses and the State Board of Fisheries and Game provide
for customary trade by acting on proposals from the
public. The State views customary trade as an ongoing
customary and traditional subsistence use. It is a use
that is considered to be included along with other
subsistence uses in State Board determinations of the
amount of a resource that is necessary for subsistence.

It's worth noting that very few customary
trade proposals have ever been introduced at the State
Board. In fact, there have been two over the years, in
the early '90s a proposal to the Board of Fisheries to allow customary trade of salmon roe on the Yukon River was rejected, and then a proposal to allow customary trade of herring roe on kelp in Southeast Alaska was adopted by the Board of Fisheries. But given that few proposals have ever been submitted to the Boards. From one perspective one can conclude that there's been little need for regulation of customary trade up until now. From another perspective, there is the potential for abuse of customary trade which could have multiple ramifications.

Most would agree that without appropriate regulation of customary trade, there is a potential for subsistence harvest to be diverted to a quasi commercial market for profit. A high profile incident involving the egregious abuse of customary trade can severely undermine public support for Title VIII ANILCA protections.

The State's legal framework for regulating customary trade has been refined through several revisions of the State subsistence law and in our experience it has worked pretty well. The Department recommends the Federal program take a similar approach to regulating customary trade. It is particularly important that customary trade issues be carefully evaluated and addressed on a case by case basis. The reason is simply that customary trade practices are as different across Alaska as are the underlying culture and geography. One size cannot possibly fit all. Attempting to develop a blanket limit or statewide allowance ignores the tremendous diversity of trade that occurs among Alaska's Native cultures and other rural residents involving a variety of species.

The Federal Customary Trade Task Force has worked hard to be sensitive to the ongoing practices in customary trade and to be sensitive to the need to avoid the burden of new regulatory requirements overlaid on this ongoing activity. We applaud this effort and sensitivity. But it will be all for nothing if the Board authorizes significant cash sales of salmon, for example, under the guise of customary trade. Under the proposed regulation we anticipate there will be significant cash sales and increased subsistence harvest of salmon and possibly other fish species. We believe this proposed regulation is sure to pose future problems because it makes no differentiation in priority between cash sales and human consumption of subsistence resources. We do believe problems can be avoided and ongoing patterns of
customary trade as part of a pattern of customary and traditional use can be protected. To reach these goals, we offer the following recommendations.

First, in general, regulations should accommodate customary trade as defined by region specific customary and traditional practices, including amounts of trade, species and specific foods traded and geographic areas affected.

Second, levels of trade that would amount to a significant commercial enterprise should be defined on a case by case basis according to known patterns of trade of a particular item. In order to protect vulnerable salmon stocks, for example, a household cap on either the number of pounds of fish traded, either on the number or pounds of fish traded is necessary and appropriate. The proposed cash value cap for household members on sales of salmon to others may still result in a larger income to a large household than the average income provided by some commercial fisheries.

Third, the unit of measure to which regulations apply should be the amount of harvested resource, not the value. Amount of trade is a meaningful measure that is more stable over time than is monetary value. A focus on the amount of resource emphasizes the management agency's interest in the resource rather than its monetary value.

Fourth, a mechanism is needed to determine the effect of the new regulations on use of the resource. The Department and the Federal subsistence program need to know if new customary trade regulations would simply accommodate an ongoing practice or if they would provide an incentive to increase subsistence harvest. We suggest monitoring customary trade through standard subsistence research methods. From experience in other projects we are concerned about the reliability of information gathered through a permit or nonstandard recordkeeping system without some more rigorous assessment provided for.

Fifth, given the importance of the customary trade issue, every effort should be made to achieve consistency among State and Federal regulatory approaches. Regulations that legitimize customary trade are important but there are many reasons to avoid authorizing a new use or increased harvest. For example, some salmon runs, such as the Kuskokwim River chinook
salmon are suffering through a trend of low abundance and management of some stocks is subject to treaty conditions. Allowing increased harvest on stocks of concern or any species with small populations may impact both the sustainability of those fishery resources and the well-being of rural residents who rely on those resources for food.

In conclusion, while the Department supports development and clarification of Federal regulations addressing customary trade, a region or subregion level of understanding of Alaska Native and other rural customary trade practices should be the basis upon which future regulatory proposals are drafted. We recommend as a starting point a careful review of the December 2000 report prepared by the Department for the Office of Subsistence Management entitled sharing distribution and exchange of wild resources, annotated bibliography of recent sources. More time will be required to conduct a thorough review at the local area and species specific level and to develop these very important regulations.

Thank you for the opportunity to present these comments.

Chairman Demientieff: Thank you, Terry. We'll now move into public testimony. Our first presenter will be Manny Soares. Manny, before we start, we're going to allow about three, you know, maybe a little bit over if you're trying to summarize, minutes. Again, just because it's on the proposed rule and there are many people that want to comment.

Mr. Soares: Thank you, Mr. Chairman. I'm Manny Soares with the Department of Environmental Conservation and as was stated earlier we have submitted written comment so we just wanted to get on record some points which are covered in our comments as well.

Basically, the proposed regulation as written does pose problems to the Department of Environmental Conservation as stated in our written comments. The point I'd like to make, the current proposal is vague. Several important terms are not defined, including customary trade and traditional methods for processing and significant commercial enterprise which we believe will be confusing to subsistence fishers.
Second point, current proposal does not comport to State law which requires the commercial entities that sell food to the public obtain food from sources approved by this Department and subsistence fishers would not be an approved source.

Point three, the current proposal may place subsistence fishers in violation of Federal laws regarding processing of seafood and number 4, it unduly threatens the health of those that would consume this food. Alaska has the highest incidence of botulism in the United States and all outbreaks have been associated with traditional Native foods. We do remain willing to work collaboratively with the Subsistence Board to find a workable balance between these issues and the important traditional trade of seafood plays to Alaska Native culture.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Philip Titus.

MR. TITUS: I'm Philip Titus, I represent Yukon River Drainage Fisheries Association and I'll read a letter that's dated December 11th from -- and I passed out some here for your guys.

Mr. Chairman, the Yukon River Drainage Fisheries Association would like to comment on the draft regulatory language regarding customary trade. While YR DFA appreciates the effort and hard work of the Customary Trade Task Force, this issue is one of great importance to the local fishery users on the Yukon River and needs to be further explored. After reviewing the time line of the task force, YR DFA feels that this process is moving too quickly. The fishery on the Yukon River is complex and we recommend that further time be allotted towards developing new regulatory language that will more strongly prevent any abuses while continuing to allow traditional customary trade.

We would also like to suggest that previous studies continue to be reviewed and that traditional research take place, such as talking with elders which can help to substantiate the recommendation on regulatory customary trade. Furthermore, the Customary Trade Task Force should include more local people from the regions that this regulation is going to affect. Overall, we would like to request that this
Thank you for your consideration. Jill Kline, Executive Director Yukon River Drainage Fisheries Association. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Cora Crome.

MS. CROME: Thank you, Mr. Chairman, members of the Board. I really appreciate the opportunity to comment here today but I regret to say we can't support the recommendations of the Customary Trade Task Force. We're really concerned about the proposed language and we feel that it would allow abuses of subsistence regulations. Beginning with the part of the proposal that allows unlimited trade between rural residents. I feel that the unlimited sale of trade of customary and traditional subsistence fish to other rural residents, I think this will really cause a lot of expansion. I think in the past people have only taken what they can eat or what their family can eat. But I think this would encourage them to take a lot more and sell that to friends or neighbors or anybody else. So I think there's really a potential there for expansion of harvest beyond what has been customary and traditional.

The thousand dollar limit on the sale of subsistence caught salmon to others. We really feel that that's inadequate to prevent abuses. I think the limit's a little excessive when you consider that $1,000 could be sold by every family member including small children. And families that harvested and sold under these regulations could end up selling a significant amount of fish, especially given the low value right now of many salmon species. I think that this will expand subsistence harvest and trade beyond what is customary and traditional. It allows extremely high levels of sale of subsistence caught fish and we feel that this will increase subsistence harvest and put increased pressure on the resource which will have negative effects on those who harvest subsistence for food as well as anybody else who uses the resource.

I've often heard the argument made that subsistence is self-limiting and I would respectfully submit that when people are allowed to profit from the sale of subsistence caught fish, subsistence ceases to be self-limiting.
The third part of the regulation would prevent the sale of subsistence to licensed fisheries businesses. But we don't feel that this adequately prevents the sale to other businesses such as restaurants or general stores or businesses out of state. And we'd like to see some language that would prevent subsistence fish from entering commerce in any way or at any point. The public comments that were received on this language reveal widespread concern about abuses of the proposed regulations. And I think it should be noted that there are a lot of eligible subsistence users out there and not every user is going to share the same values or the same traditions. And if you enact a regulation that allows for abuse, someone is going to take you up on that and profit from subsistence caught fish. And we don't believe that a regulation should be adopted that will only work if no one exercises the privilege that they're allowed under the regulation.

So we're ask the Board to consider those public comments and the comments you received from the Alaska Department of Fish and Game and also that you talk with the people that will be enforcing this regulation and see how they think it will work. We'd like to see a permit requirement that will make sure that people do stick to the limits that are set in the regulation.

So I'm going to conclude with that, Mr. Chairman, so that I don't take too much of your time. Thank you for the opportunity to comment.

CHAIRMAN DEMIENIEFF: Thank you very much. Allen Joseph.

MR. JOSEPH: I'm Allen Joseph. I'm representing Association of Village Council Presidents. We send seasons greetings to the Federal Subsistence Board. The Association of Village Council Presidents consisting of 56 villages in the YK-Delta supports the joint recommendation on Section 12 of the draft regulatory language on customary trade and subsistence caught fish that has been made by the Yukon-Kuskokwim Delta, Eastern Interior and Western Interior Regional Advisory Councils. AVCP agrees with the three RACs that the issue of whether and how to allow sales of subsistence caught fish to non-rural residents is one that must be worked out by the Regional Councils at a regional level.

AVCP supports a regional dialogue within
the YK-Delta on this important issue, one that will involve RAC members, tribal governments, regional organizations and the public and is prepared to do what it can do to facilitate such a discussion among the people in our region. AVCP believes that the Regional Advisory Council meeting scheduled for Tuntutuliak in early March would provide an ideal opportunity for regional input on this most important issue of the sale of subsistence caught fish to all sorts of people who do not recognize subsistence users and who may have little, if any, connection to the subsistence way of life.

AVCP also hopes that this regional discussion will provide an opportunity to address all aspects of the larger question of the sale of subsistence caught fish, not just to outsiders but among rural residents as well. Until this important regional dialogue takes place, AVCP will not take a position on issues surrounding cash sales of subsistence caught fish. The people of our region must be given the opportunity to decide what sales are or are not consistent with our cultural values and our traditions of customary trade.

AVCP hopes that the Federal Subsistence Board will be open to revisiting any customary trade regulations, at least, at the regional level which may be found inconsistent with the customs, traditions, values of our region. AVCP is not alone in recognizing the need for a reasonable determination of what is or is not acceptable under customary trade. The briefing paper prepared for the fall of 2000 Regional Advisory Council recognizes that "customary trade practices vary regionally and may require accommodating regional differences in regulation." And Nick Trader of Emmonak in his comments on this issue has specifically stressed the cultural uniqueness of the Yup'ik people and the need to respect regional differences in custom and tradition.

The recommendation of the three RACs as to Section 12 of the draft regulatory language would clearly further this recognition of the uniqueness of regions and cultures in Alaska and the resulting need for varying approaches to customary trade that take different traditions into account.

The use of cash in customary trade is a serious issue that requires meaningful regional dialogue. We must be careful to preserve our traditional patterns of customary trade but at the same time we must be careful as well that we do not endanger our subsistence
traditions by introducing an unwarranted degree of commercialism into our subsistence. Those who have wrongfully opposed our subsistence traditions and way of life will no doubt be watching what happens with this customary trade issue. You must.....

CHAIRMAN DEMIENTIEFF: Allen, if you could please summarize, we can get your written comments in.

MR. JOSEPH: Yeah, I'm almost done.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. JOSEPH: We must not give ammunition to these anti-subsistence advocates by allowing our subsistence traditions to be misunderstood should our right to engage in customary trade be abused by few. We must also insure that we do not endanger our fishery resources through overharvesting should customary trade be abused, but first and foremost AVCP and the RACs must hear from the people in our region as to what our villages and tribes consider acceptable customary trade.

AVCP wishes to note that of the three comments received from tribal governments on this customary trade issue, not one is from our region. It is for this reason and others that AVCP requests that the Federal Subsistence Board follow the joint recommendation of the three RACs as to Section 12 of the proposed regulation and that the Board allow our RAC to return to our region to engage in further regional dialogue on these customary trade issues.

Thank you very much.

CHAIRMAN DEMIENTIEFF: Thank you. We've got a request from a person who's running on a tight schedule so I'm going to move him ahead right now, Gilbert Huntington.

MR. HUNTINGTON: Thank you, Mitch. Forgive me but I'm unaware of your thing here, do I have a time limit?

CHAIRMAN DEMIENTIEFF: Yeah, we're trying to keep it within three minutes.

MR. HUNTINGTON: Okay.
CHAIRMAN DEMIENTIEFF: We'll allow a little bit of extra time if you're going to summarize.

MR. HUNTINGTON: Okay, thank you. First off, I want to try to bring a little bit from what my father said. I know you, Mitch, know him, Sidney Huntington. His main point of contention with this issue for the moment is the total -- in his mind, the total lack of study in the key area that needs to be studied and that's with the elders. In his view and I tend to agree with him, is the fact that the people that really know about this issue, especially on the Yukon, haven't really been consulted and our viewpoint, to the extent that it needs to be done for the potential impact that this issue will affect us.

I really think that there needs to be a study done, either by the Department or Fish and Wildlife or whoever to these people. I mean I can say I know something about customary trade and I really can't see maybe one or two people along this table here that know very much about it. I really seriously doubt that most of us know, really, very much other than the last, you know, maybe 30 years or something. Maybe that can be considered customary and traditional but I don't know. I think that for us on the Yukon, it's such a dangerous time for us now, stocks have been low and, you know, I've been working on this for a long time, for 10 years or more on -- I've been on the Yukon/Canada Salmon Negotiating Treaty, I'm presently on the Yukon panel for restoration and enhancement, that's where I just came from. I'm skipping part of that meeting. It's so complex on the Yukon and there's such a vast amount of user groups, conflicting user groups that I really think this has got to be studied more than kind of getting, in my mind and other people's mind, that the people that really need to address this issue aren't at the table. The people that fish and customary and traditional trade on these fish are really not at the table and I think it needs at least another year.

That's about all I have. I'd be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Gilbert, I think one thing you have to understand is what we're doing is proposing a rule, it doesn't mean that that's going to be the rule. But we're trying to get the process going and the reason we had this task force to get a product out so that we could start getting the wide range input and
that's basically what we're looking to do here today. We
have a time frame that the Board has not, yet,
necessarily, agreed, you know, going to adhere to, but I
think we're targeting May but that doesn't mean things
are going to happen in May. And we're hearing a lot of
that. So, I mean this gets word out so people can have
something to react to. And that's basically what we're
trying to do right here. Because to this point it's just
been the product of a task force and now it's -- and the
Board's been working on it a little bit but this will get
a product out where people can start to give the
meaningful input that we're looking for. So that's kind
of where we're at right now, basically starting.

MR. HUNTINGTON: Okay, I'm sorry, but
that was not the way I read the time line for this issue.
I admit I don't understand the Federal way of doing
things. But I was to the understanding that this would
be inserted into the Federal Register, this next April or
something; is that correct?

CHAIRMAN DEMIENTIEFF: The product is the
property of the Board, though. If we're not done and if
we're hearing we're not done then we'll -- you know, we
will react to that, I mean it's the property of the
Board. That's why we're trying to get a product out on
the street and begin to get the reaction that we need to
build a rule that will work, so that's where we're at.
So there'll be plenty of other opportunities.

MR. HUNTINGTON: Good. A big relief for
me.

CHAIRMAN DEMIENTIEFF: Okay. Anybody
else. Thank you. Thanks for taking your time from your
other important meeting. David Bedford.

MR. BEDFORD: Mr. Chairman, members of
the Federal Subsistence Board, my name is David Bedford.
I've been through my bonafides and I'll save you from
going through that again. I want to start by saying that
I attended three meetings of the Customary Trade Task
Force and my hat is off to the people who were involved
in that process. These were some people who were
struggling with what I view as being a particularly
difficult issue and one that I think is very meritorious
as well. How do we go about -- we have a new regulatory
structure under Title VIII of ANILCA for dealing with
subsistence and particularly with subsistence fisheries.
How do we go about setting up a regulatory program that preserves and protects the existing practices that we have on customary trade? And I have to say that for me, I mean this is really a conundrum because, I mean, I lived in rural Alaska for 17 years and I spent a lot of time in Sitka, in little towns, Pt. Baker and Craig and places like that, you know, and nobody ever offered to sell me any subsistence caught fish. This was something that, at least, it was never on the radar screen until over the past few months when people are talking about it here. This is a practice that has taken place for an awful long time without the benefit of regulation. And so then the Customary Trade Task Force was confronted with this problem, how do we go about authorizing something that has been a very informal thing that's been occurring below the level of scrutiny of any kind of agency for quite some time? How do we go about authorizing that? And I think that the way that the task force approached it was to sort of look at what are all of the various practices that have taken place across the state and how can we construct a tent that is big enough to encompass all of those? And I think that's a very laudable effort. But I think that it also carries with it a certain problem and that is that in trying to inclusive, it may include an awful lot of things besides those particularly customary practices. So if we start off with the first section of the proposed regulation, and again I mean I have to join some of the other folks who have spoken here, I haven't had the draft alternatives that you folks are looking at for very long and so I'm not really going to try to speak directly to these things. But just in general we have one notion in here which is the idea of unlimited trade amongst rural residents. Well, there are probably some cases where there are individual rural residents who trade a lot to other rural residents. What we have now is a regulation that says all rural residents may trade in unlimited amounts with all other rural residents. I think that's probably very different from what actual practices have been. So we're authorizing something in an effort, again, to try to predict what is much more broad than that. And by introducing cash into the equation I think what we're going to do is wind up encouraging an awful lot of people to take part in this who probably would not have under other circumstances. This raises, for me, a number of
concerns. Where I come from, where I work in Southeast Alaska, we have, I don't know, something on the order of 3,000 cataloged anadromous streams. We have several-odd thousand more fish stocks there, most of them are small. You guys have seen the numbers, I mean Redoubt Bay, 2,000 fish escapement last year, a big year 60,000. We're now authorizing under the second section of this for the population of Sitka to harvest somewhere on the order of 100,000 fish, 100,000 sockeye for customary trade. Well, the local stock is not big enough to sustain that kind of harvest and all the local stocks in sum are not big enough to be able to sustain that so, again, we have to rely on people not taking advantage of the opportunity to make money. And I think that that is a risky proposition. I believe that this raises for concerns for conservation. I think that once we introduce money into this that we encourage people to go out and harvest and that there are in many instances limited surpluses available. I think it raises also a problem in being able to assure the people are going to be able to harvest subsistence uses for their customary and traditional uses and I think that it also creates a possibility of conflict over the resource with non-subsistence uses. Then at the point that we begin to see an accelerated demand for fish for subsistence harvest for customary trade there will be an increasing effort to reach out into non-subsistence areas and provide those fish back in to the subsistence fisheries for, I believe, new practices.

In any event, I do want to say that I do strongly encourage the ongoing effort to try to develop regulations to deal with. I think there are some elements of what folks are looking at that are very encouraging. I think that the idea of having some kind of a reporting system so that we can begin, first off, to establish some kind of a baseline right off the bat of what is the level of this kind of use now so that we can begin to compare over time what happens in the future and perhaps we'd find out that all of my theories were -- that there was nothing to it. But I think that the reporting of the harvest and sale is a crucial element in the management of this enterprise.

Secondly, I think that it's very prudent to enact the kind of limitation that's been suggested by the task force in terms of who might receive these products and I agree that fisheries businesses ought not to. I think that it might be prudent to look at making those limitations even greater. I mean I have.....
CHAIRMAN DEMIENTIEFF: You need to summarize.

MR. BEDFORD: Yes. In any event, my summary then is I want to thank you folks for the hard work that you've done and I believe that there's more to be done yet. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. John Lamont.

MR. LAMONT: Mr. Chairman, members of the Board, my name is John Lamont. I'm from the Lower Yukon River. I grew up on my family's homestead located at the Upper Mouth of Lamont Slough, on the south mouth of the Yukon. I'm here to testify regarding customary trade in Alaska definition of commerce and exchange of product for money.

Public testimony last week at the North Pacific Council meetings supported no sale or exchange of subsistence halibut for money. The timeline that I looked at for this Federal regulation, I think is too quick. Our area can't have one person making decisions for the whole region. You need to get out there with information. You need to go to the villages and put it on the public announcements. Go to KNOM and KICY. You need to also -- if you were to approve this regulation, you'd shift the harvest greatly, I think.

My traditional commercial fishery has supported my traditional gathering of fish, game, berries, greens, fuel, wood for many years and my family's. I strongly oppose any exchange of a subsistence resource for money. I strongly believe in bartering which is the exchange of subsistence resource for other subsistence resource, but not customary trade. I'd like to know where or when customary trade became an exchange for money in my Native land.

The North Council heard from young and old alike. Every testimony in regards to exchanging subsistence halibut for money was opposed to. In my village no one exchanges food for money or my neighboring villages also. This proposed regulatory language will open up subsistence sales. If you don't put a stop to it now you will be faced with many a difficult decisions in the future and possibly litigation. If you take subsistence caught salmon and exchange the roe for money, dry the fish and exchange the dried fish to a dog musher.
for money, you're involved or we are or whoever does is involved in a substantial commercial enterprise. When did commercial trapping ever become non-commercial enterprise? I agree that traditional commercial trapping supports the customary gathering lifestyle, the same as my family, neighbors, friends and myself have depended upon a traditional commercial fishery. Without one we're unable to sufficiently maintain a customary gathering way of life.

If you open up customary trade, you will further restrict our people from our indigenous way of life. Please, don't adopt any regulation yet that allows so-called customary trade.

I'm sorry I'm not an eloquent speaker but I thank you for the time. Are there any questions?

CHAIRMAN DEMIENTIEFF: Thank you very much. Delice Calcote.

MS. CALCOTE: Good afternoon. My name is Delice Calcote. I work for Chickaloon Village. Chickaloon Village is a part of the Cook Inlet Treaty Tribes, they formed a treaty so many of the villages in Cook Inlet -- formed a treaty in the early '80s so they also authorized Cook Inlet Marine Mammal Council, which I'm also another secretary too.

This issue of customary trade here in the Cook Inlet is currently being collected, the information from our elders and that's not a finished product but it is a project in the making at this time. And the tribes are also organizing an inter-tribal court, part of our enforcement and part of our regulations that are already -- several of the tribes have their own fishing and game hunting ordinances that were established before the tribes were Federally recognized in 1994 by the President and Secretary of Interior. You know, there's lots of international recognition of Alaska tribes through the 1945 UN Treaty Doctrine, Article IV, Section IV or Article XII in the Constitution is the disclaimer clause for Alaska Natives.

I'm sorry I don't have something written up for you but we will be presenting -- we understand that this process is ongoing and that we'll have another opportunity to present something in writing. What I want to say about the customary trade is that the tribes of Cook Inlet or the village of Cook Inlet have been doing
traditional trade. Tyenok is part of the old grease
trade, particularly villages would trade for the beluga
oils as far down as from -- or up north, the Arctic
Village people would come down to Tyenok and trade for
the beluga oil. And from Chickaloon area, we traded --
our fish is different from up there and other parts of
the state. So not only was our fish processed different,
but we traded for what's available there, the mountain
goat and other items that aren't available over there in
the Tyenok or in other villages. I'm from the Kodiak
area and I know that some of my relatives are in the Cook
Inlet area, we married into this area, I have lots of
cousins. Over in Kodiak and the Dillingham area but also
here in the Cook Inlet area. So when you try to restrict
us to a thousand dollars, you know, and trying to say
that we're going to be making a profit like that little
redhead claimed back there on a thousand dollars per
member, it's like a slap in the face, you know, for many
families that consist of two or three children and 5,000
if you could think of 5,000 and somebody could make a
profit on $5,000 is -- I hope she feels ashamed.
We deal with many issues.....
CHAIRMAN DEMIENTIEFF: You're going to
have to summarize now.
MS. CALCOTE: .....on customary trade and
our fishing and the tribes are still working on that.
We're working on a coastal zone plan. So I just want you
to be on notice that something's being worked on and
it will be forthcoming.
Thank you very much.
CHAIRMAN DEMIENTIEFF: Thank you. Gabe
Sam.
MR. G. SAM: Thank you, Mr. Chair. I got
a juggling act going here, I just came from the Yukon
River Panel where Gilbert just came from and so now I'm
over here.
Mr. Chairman, RuralCAp -- I'm the
subsistence advocate for RuralCAp and that's 731 East 8th
Avenue, when I first heard about this customary trade, I
attended one of the meetings and I was strongly
advocating at the time, you know, for a customary trade
among the people in the Interior. I know what customary
trade was going on there. And I was also advocating for
more tribal involvement of our tribal member villages to
go out there and hear what they had to say about
customary trade.

Since then, Mr. Chair, I've done kind of
a poll of the villages throughout the whole state, just
kind of randomly picked villages and there's a wide range
of differences on the terms of customary trade and so
therefore RuralCAp's position is to take this back to the
Regional Advisory Councils for more discussion and not
only Regional Advisory Councils but possibly villages for
their input and to really get firsthand of what's going
on out there. And, you know, we could not stress more
that there should be more tribal involvement on the task
force. I know that on the RACs there are the Native
to the elders. The elders wanted beaver meat and
so, you know, we'd give it to them but they'd just give
us like $20 for gas and it was -- it benefitted not only
the trapper but also the people that subsisted off the
food. We didn't think of it as no -- as kind of like a
business thing, it was more or less a trade, you know,
true aspects of customary trade. And you know, now that
I live here in Anchorage, it's harder and harder to buy
strips from the Interior where I usually buy strips from
the Interior, and so you know, my four year old just
loves salmon strips and I spend a lot of money buying
strips and I think, you know, a lot of people that fish
in the Interior, that's their sole income, especially for
the older people. And that's all I'm going to say on
that matter.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you, Gabe.

MS. GOTTlieb: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTlieb: I wonder if I might ask
Gabe a question, please?
CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Thank you. Gabe, once again thanks to RuralCap for having you come here and speak to us. And since you did an informal poll, I was planning on asking the members of the Customary Trade Task Force but if you have a sense of this I'd appreciate it, too, and that is whether people felt like the work that has been done, even though it may not be totally in consensus yet, is that an improvement from the current rule or are people aware of the current rules?

MR. G. SAM: Well, Mr. Chairman, Ms. Gottlieb, when I asked this issue I said that there was a Customary Trade Task Force and they quickly wanted to know, well, who's representing me, you know? I haven't seen anything. So that's what I mean that I think, you know, a lot of this information should go to the tribal councils. I know that's a lot of tribal councils but that's who should see this information. They make their decisions at their tribal council meeting and they'll submit whatever they feel that, you know -- that'd be the truest form of information gathering that I could think of. Because they'll take this information up at the tribal council meeting and they'll discuss it and they'll come up with their ideas of what they think is their customary trade.

You know, each region is different. You're going to come up with a wide range of customary trade. You know, right now upon the Koyukuk River, there may come a day when we're going to be trading belugas from what I heard. You know, there's belugas going up the Koyukuk River now so we're going to have a whole new customary trade there. Maybe Carl might show me how to hung belugas one day.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Well, I know you're busy with the other meeting but one of the things that we did in the opening was advise that one of your former predecessors sitting to my left here did the initial round of tribal consultations, so that's been done. Any other questions.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MR. THOMAS: I just wanted to inform also, you know, sitting up here I can tell who lives in the bush and who lives in the jungle and so I'm telling you that the representation on these Regional Advisory Councils, a preponderance, or most of them are members of tribal councils in different parts of the state.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Any other questions. Thank you, Gabe.

MR. G. SAM: Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gloria Stickwan.

MS. STICKWAN: Gloria Stickwan, Copper River Native Association. We met with our villages in the Copper River region and talked about customary trade. We support the customary trade because we do trade fish for monies in some of the villages, our elders do. That's part of their income of how they make their monies. Back in the 30s and 40s they did trade with roadhouses as well to make their monies until it became illegal.

We support a customary trade without limits on income. But somehow this has got to be managed or watched or monitored because there will be abuse. I don't think it will come from the people in the rural areas, but I think other people may take advantage of this so somehow it's got to be monitored. We support the definition that the task force came up with.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. That concludes our public testimony. It's got on our process here, Regional Council comments, but you're certainly going to be commenting during the deliberations so do you just want to defer that maybe. I mean it's going to be open for Regional Council during deliberations. Maybe we'll just skip that and go right to the Staff Committee recommendation if that's agreeable? No objection. Staff Committee.

MR. JENNINGS: Yes, Mr. Chair. For the record, my name is Tim Jennings and I will present the Staff Committee recommendations regarding customary trade. I would first like to mention the briefing paper
that you have before you dated December 10, 2001 entitled Customary Trade Options for Federal Subsistence Board Consideration.

In this briefing paper, the Interagency Staff Committee recommends proposed regulatory language in Subpart A, which would correct an inadvertent error that removed the allowance for barter of fish and wildlife. Additionally, it would provide clarifying language and would include changes to better accommodate references to subpart D regulations.

The briefing paper also presents six options for Board consideration of the proposed rule that addresses customary trade in subpart D regulations. These six options are summarized briefly as:

1. The task force recommendations which include a permitting requirement.
2. Replace the permitting requirement with a recordkeeping.
3. Remove restrictions on barter for transactions from rural residents to others.
4. Add regional language as recommended by the Regional Advisory Councils.
5. Unlimited customary trade between rural residents, prohibition for fisheries businesses, and maintain present regulations for a rural resident to others.
6. Defer publication of proposed rule.

These options are described in more detail in the briefing paper.

The following is the Interagency Staff Committee recommendation regarding customary trade and for reference it is option five in the briefing paper.

The Staff Committee recommends that the Board adopt with modification the recommendations of the
task force and publish a proposed rule addressing customary trade. The Staff Committee supports the task force recommendations that customary trade of subsistence harvested fish, their parts or their eggs between rural residents be allowed with no limitation. The Staff Committee also supports the recommendation to prohibit customary trade or barter with fisheries businesses. The Staff Committee recommends modifying the task force recommendation regarding customary trade from rural residents to others and suggests maintaining the present regulations which would allow for additional time for discussions and development of a draft language that would be more acceptable to all concerned.

And the specific draft language for the subpart D portion of a proposed rule is before you on Page 1 of Staff Committee recommendation, and I won't repeat it herein.

The justification for the Staff Committee recommendation is that it is recognized that customary trade between rural residents is a long established traditional practice that allows many subsistence users a means to exchange fish, their parts or their eggs for cash. It also recognizes that proposing the prohibition on the customary trade or barter of fish, their parts or their eggs with fisheries businesses required to be licensed under Alaska Statute would help insure that unintended uses and the development of commercial businesses and fisheries do not occur.

The Staff Committee recommends maintaining the present regulations regarding customary trade from rural residents to others. Although the task force developed recommended draft language for this part of a proposed rule, it is recognized that concerns have been raised regarding a permitting requirement as a means of tracking customary trade exchanges from a rural resident to others. This permitting requirement was proposed only recently and has not been reviewed by the public, Regional Advisory Council or tribal governments, thus maintaining the present regulations for customary trade from a rural resident to others would allow more time and opportunity to review this proposal and other potential options for tracking exchanges would also provide a more deliberative process, allow for subsistence users directly affected by a proposed regulation to have additional opportunity, to be involved in the process and allow time to refine the draft language so it is more acceptable to all concerned.
Finally, the Staff Committee recommends that if the Board decides to move forward with the proposed rule at this time, that in the preamble of the proposed rule we should provide the context and background of customary trade including the work of the Customary Trade Task Force, that we discuss various options such as the permitting requirement, recordkeeping and regional limitations that were considered during the development of a proposed rule. Also indicate that the Federal Subsistence Board will consider proposals to modify or establish regional limits on customary trade and barter for specific areas in fisheries and address that Federal and State of Alaska laws and regulations concerning food safety would not be changed or affected by a customary trade regulation in any way.

Mr. Chair, this concludes the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you. At this time we'll advance this to Board deliberations. Does anybody want to go first? Bill.

MR. THOMAS: Excuse me, Mr. Chairman, I've been confused and unconfused so many times. When you say Board deliberations, is that restricted to the Board members themselves or can we infiltrate once in awhile?

CHAIRMAN DEMIENTIEFF: Business as usual, Bill.

MR. THOMAS: Thank you, sir.

(Laughter)

MR. THOMAS: Thank you, Mr. Chairman. You know, I'm fortunate to be involved in this process, not only as a user but as a knowledgeable person and with a lot of history, a lot of participation and a good memory.

Much of what we heard today from people that don't understand what's happening here, one of the reasons they don't understand is because it's never happened before. These type of determinations have never been undertaken using members of any given or affected communities. Well, we're doing that now.

And many of you, I could tell, have been
used to testifying before the Federal government became involved. I can tell that because your language never changes. A lot of negative speculation results in negative characterization like the words, may -- may continue, would allow, would encourage is all negative speculation at best. There's really no history to support any of the speculation.

I have been trying to avoid saying this part but I've had to say it for the last nine years. The State has a history of not being sensitive to the subsistence community. In fact, in the last seven or eight years you've seen in newspapers where they were even called hostile towards subsistence. That needs to be addressed. We can't be walking around that all the time. If it's in the water, you might as well wash with it. Sure, we'll take more time. Like you said, this is just a start of what we're doing.

And DEC said we should have safeguards in place. If we have a DEC, I don't know how long that organization's been in the State but those safeguards should already be there. And with regards to language in what we got so far, when it talks about commercial it talks about avoiding commercial, not including any. Cash sales, yes, has been not embraced by everybody here on the task force and they all have their own reasons for that. And you know, we just instituted a large unit of law enforcement people, it's a pretty big department in the state now, Federal law enforcement. If we write these too clean we're not going to have a need for them and if we're going to pay them I want them to be doing something.

I also realized that what we're doing here seems to be a threat to impose an invasive element to existing regulations. That's probably so. It might be merited, it might not be but it is a requirement of Federal legislation, we're here because of Federal legislation, we happen to be in a state that's in conflict with Federal legislation. So on behalf of the subsistence and users I felt like I needed to make you aware of that.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

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

MR. CAPLAN: Thank you, sir, for the opportunity to comment. I wanted to take us all back just a little ways, a couple years ago, maybe even a little more recently and point out that one of the motivators to get the task force going and to do something constructive with this issue of customary trade, particularly, was the fact that our current regulation as we understand it is not enforceable. And when you have regulations that are not enforceable and you really want to do something with those regulations, what you elect to do is to get on with doing something differently. And that's what the task force has put in front of us. They're to be commended and the Council Chairs are very much to be commended for all the work that went into it. Our tribal partners who spent time reviewing things to date are to be commended and we have more review to go and more ideas to kick around. But I guess my point would be we ought not lose sight of the fact that what we're attempting to do is to put in place a regulation that has the ability to be enforced because that will benefit the subsistence users across the state and that's our primary motivation and I think we ought to keep our eye on that prize as we go through this.

I would also comment that at the moment what I see in the proposal from the Staff Committee, which Tim read us a little while ago, is pretty much the status quo but stated in a better or more prettier way. Again, not an enforceable regulation as I interpret what he showed or what he discussed. And so I would urge the Board and the Councilmembers as we keep discussing this to try and put in front of the public something that also meets the goal of enforceability, whether that's a permit or some form of recordkeeping or something that the public can chew on that issue as we go along.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I guess I'd like to echo a couple of things that Jim said. First of all, again, I have talked to the task force, I sat in on several of the meetings and folks were dealing with a very difficult job
and assignment and really stepped up, I thought, and did just an excellent job. But both in our written testimony we heard as well as the oral, you know, we heard an awful lot about -- concerns about, you know, that this is going to increase harvest and this is not going to be limited and as Jim pointed out, because we are currently unable to enforce our current regulations that limit customary trade and therefore extension means that there isn't any limit so now not only can a person sell a thousand dollars worth, they could sell 5,000 or $10,000 worth so there is no limit.

So as Jim said, what the task force struggled with is one and foremost, preserving the right to carry out customary trade and then as well as trying to close this loophole which currently allows unlimited customary trade. And I think that's very important and maybe we haven't done a very good job of conveying that but in reality that's what we're dealing with.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gerald, I think was up first and then you Judy.

MS. GOTTLIEB: Yes.

MR. NICHOLIA: Yeah, thank you, Mr. Chairman. We have Carl Jack here and I have a lot of people in my region that utilizes subsistence caught fish to make ends meet and I think that he should go to each tribal council in the Eastern Interior region along the Yukon and be invited or sometimes, like in Tanana we have community meetings, and I'm bringing this up to my council and stuff, he should be invited to all the tribal councils and all the meetings, know when their meetings are happening to present this to the tribal councils and get more input from the people and have it publicly noticed and posted so that when he does come there the people that's most affected will have a say in this and then they'll know what's really going on. Because this is going to affect their lifestyle, really.

Thank you.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Thank you, Mr. Chairman. I believe what we heard from the Staff Committee does clarify and kind of crispen up a couple of the sections
and I assume that the task force agrees and feels that
that is an improvement to the existing regulations.

What I'm quite sure we heard here today is that
people want to look at the part 12 much more carefully
with more time. So I think we may have a very good
compromise to put out a proposed notice at this point in
time, come out with a very user friendly document or
briefing so that the information can be presented in a
way that everyone clearly understands and that people
have enough time to think about it and give us feedback
and talk amongst their organizations and let us know what
they think.

CHAIRMAN DEMIEN TIEFF: Bert, I believe
was next.

MR. GRIEST: Thank you, Mr. Chairman.
I've been involved -- I was fortunate enough to be
involved in the task force. We also invited Carl Jack
and Pete Probasco, also Willie Goodwin and myself, we had
like about six, seven or eight people from each of our
villages gather in Kotzebue for an annual meeting and we
spent a couple hours just talking about customary trade
with them. And I've also been in contact with all our
tribal people and calling some people and talking to them
in my own language and getting comment.

I think the task force really did a lot
of work and I commend a lot of them that have spent a lot
of time on this issue trying to get grips on what kind of
regulation would best meet everybody.

As far as the caps go, we thought it was
kind of a little low for our area but we're willing to
compromise just so that we can get it on the table and
passed and recognized. But there was A11 and A13,
everybody pretty much agreed on the task force that there
was a general agreement on those. On A12 at the last
task force meeting, like it was presented earlier, there
was some new information that -- a new proposal that came
out regarding permits, that never got back to our
Regional Advisory Councils and I support the Staff
Committee's recommendation that this be brought back to
the RACs for a meeting.

Thank you.

CHAIRMAN DEMIEN TIEFF: Della.
MS. TRUMBLE: Thank you, Mr. Chair. I think I speak from a number of levels here. You know, first of all I am the Chair of the Kodiak/Aleutians. I live in King Cove and I am also an administrator and a member of the Ogdol (ph) Tribal Council of King Cove. I am the president of the East Aleutian Tribes. And a part of this task force, trying to define or work this issue of -- definition of customary trade and I have to be thankful to be a part of it because I got to learn, not only what is utilized and done by a lot of different regions and we do differ quite extensively, but I think it also was a process and I feel in listening to some of the testimony how negative it is. And the idea that there isn't anything illegal or problems going on with subsistence at this point, but yet there is, like sales of smoked salmon, different fish does go on.

And how do you do that and legalize something so people don't get in trouble but also take into consideration that there are limitations and there is a need for enforcement to regulate something. When we say sometimes maybe we don't fix something that isn't broken, yet some of our streams are broken, our rivers are broken.

One of the things in regards to the permitting system, our region did strongly support a permitting system as a form of regulation and allowing people to subsistence fish. The other part of this is that we asked for a sunset clause that this regulation be effective and expire in two years from the effective date of the regulation unless extended, superseded, modified or revoked. And Mitch did bring to my attention that this will come every year so there's not a fear that this is something that's going to be set in place and we're not going to have to abide by it for the rest of -- for a long time.

CHAIRMAN DEMIENTIEFF: Ronny.

MR. SAM: Thank you, Mr. Chairman. I guess it was made clear to the Western Interior at our breakout session that we did have time to work on this issue especially 12A. And at the Western Interior region level we have a standing order that our coordinator mails out everything that has immediate impact to every community, every tribal office within Region 6, Western Interior.

We tried to pursue this issue through the
tribal councils and that's why we had some of our
Interior villages meet with Mr. Carl Jack. Again, we do
fax out everything that's immediate and important. I
guess it's quite apparent that if we pursue this issue
through the tribal councils it may not be forthcoming or
not be timely. So I would again back up Gerald Nicholia
of the Eastern Interior and ask that Carl Jack, Pete
Probasco travel to our hub villages and hold hearings on
this issue, especially 12A.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair, as was pointed out
by Gloria in Southcentral, we looked at this like the
Yukon did as something that we didn't want to make into
something that would attract people for the purpose of
doing it for financial gain but we recognize that some
financial trade has to take place in order to provide for
subsistence practices.

One of our suggestions was and, again,
this shows the differences in the regions, one of our
suggestions was that at least 50 percent of the fish that
were taken and traded had to be kept for the family that
was taking the fish because we looked at it from the
standpoint that subsistence was actually fish for the
family or community first and that you dealt with excess.
That's, to me, one of the reasons that I looked at
Section 12 and I think it has to go back to the different
Regional Councils because the different Regional Councils
all are dealing with -- they're dealing with different
attitudes, they're dealing with different attitudes,
they're dealing with different situations in the areas
that they're at and I don't think we're quite ready yet
to have a blanket for Unit 12 as much as I sometimes
think it would be nice and it would be handy.

The other thing I'd like to point out and
this is a question that I never did exactly get answered
and it kind of came out with the letter from the DEC, and
it's something that we all have to remember, is that this
only deals with a resource that's taken on Federal land
by Federally-qualified subsistence users. This does not
apply statewide, this is not a statewide blanket. And at
stake and still at question is whether this can be
traded, sold, bartered off of Federal land without being
in violation of State law? And that's something that's
going to have to be looked at in the future.
So while we do even come up with a definition, we haven't solved the whole issue but what we're trying to do is we're trying to come up with a handle is the way I look at it.

Thank you.

CHAIRMAN DEMIENTIEFF: I guess for me, I heard, you know, strongly that lots of people, more people want to be involved and the more I think about it, the more I'm thinking of just passing the whole packet out just to get the process moving. And I've also heard the other message about taking more time. And I think if we don't get a proposed rule out then all the things that people are asking for come out meet with our elders, you know, could be -- you know, other rural communities and non-Native towns, you know, one thing is obvious is you're not going to get one size fits all out of this, but to take our time. But if we don't get a package out, then we're not going to get the process going where people can come and participate.

It's also, quite frankly, to me, even though I've ordered for the timeline, I don't think that's going to happen either. There's just so much more work to be done.

So you know that's, I guess, what I would probably have to support at this point, you know, and I'm still willing to listen to other points of view but that's kind of what I'm thinking.

Mr. Chairman, the Advisory Council, Yukon-Kuskokwim Delta, we have really a concern about what impact it's going to be, the language of paragraph 12. Because right now our people, Native people, our elders in Yukon-Kuskokwim, they don't know nothing about this wording mostly on paragraph 12. And it's going to be very important because it's going to take time to let the people understand, you have to -- what they've been doing all these years and ever since I've been sitting on Council Chair, over 10 years now, that we've been trying to let the people understand in English and the Yup'ik. The Yup'ik is a pretty hard language for people to understand, right away, especially our leaders, elders, we depend on our elders for just about everything concerned of subsistence. We look at as me, myself, I am elder. I look at the subsistence as
life and death. Because when I was small, I even live on
my own -- own clothes, try to survive. That's why I'm
here. Or otherwise maybe I wouldn't be here.

This amount, it's very hard presented to
our elders, however, it has to be done. We need to put
this subsistence traded with -- fish, especially salmon
down in Lower Yukon. Lower Yukon people right now that
we try to work with upriver people because they also need
their own subsistence way of life.

So Mr. Chairman, members of Federal
Subsistence Board we would like to have this opportunity
to bring it back to our people. Thank you.

CHAIRMAN DEMIENTIEFF: Grace and then
Bert. I don't know who was first.

MS. CROSS: Thank you. This is something
that I -- our RAC didn't have a problem with part one or
part three of the proposed rule. It was part two that
gave us problems, mainly because they were talking about
dollar figures and the quantity of fish is very -- is
something that we wanted to see in our region, the amount
of fish that you sold because of the -- as you know, our
region is probably the most depressed in salmon, it's the
number that means more to us than the amount of money
that somebody receives in our region. And I think that
because of the vast difference within our state, I think
it's very important that at least subsection B is decided
among the regions where -- that the RACs of those regions
define what they want to have within their region in the
second part of the subsection.

Mainly for a number of reasons. One,
each region probably knows what abuses are going on and
in order to address those, each region -- it will give an
opportunity for each region to talk about it and address
them in a way that's meaningful to that region.

Like I said, a dollar figure to me
doesn't mean any difference in our region. First of all,
if a person's going to sell fish, each individual sells
fish for different amounts of money. Somebody might sell
fish for -- these are just for examples, somebody might
sell his fish for $3 and somebody might sell fish for $5.
But each individual is different and there's different
circumstances. So it doesn't make any sense to me and
the RAC to have a dollar figure within areas where
there's just too many unknowns. I think putting down the
number of quantity, the amount that is sold is a better way of keeping track as to what's going on versus putting down -- you can put down the number of money you made but how many fish did you sell? So that doesn't make any sense to me. And how do you enforce that based on money? The individual may have sold 100 fish for 1,000 where somebody else might have sold 50 fish for 1,000, now, who's in the wrong here, the person who sold 100 fish or the person that sold 50 fish? There's no way for anybody to keep track of what's going on if you use a dollar figure.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you, Grace.

Bert.

MR. GRIEST: Very simply, Mr. Chairman, you know, we got a member of each Regional Council committee represented on the Customary Trade Task Force, maybe after all this is sent back they could meet another time, we could continue to utilize the Customary Trade Task Force. We also got the State in there as a member, there's anthropologists, biologists and all the RACs can kind of get back together and finish deliberations on this issue.

We were so close to coming to agreement. Some people had different issues on A12, basically that was the thing that we needed to work on. There were some that had problems with permits, some had problems with a cap and we were very close to coming to some agreement as recommendations for everybody to look at.

CHAIRMAN DEMIENTIEFF: I think that's the kind of discussion that we need to go right now. It seems like right now we're starting to debate what the final rule should look like and we're far from doing that. What we need to do is get something out that can be reviewed and that's why I was suggesting that maybe we just want to publish the whole packet and there may be a great idea out there once we can get out and do the work. That doesn't mean that anybody's going to buy into any of these, that simply gets the process moving and that's what I'm talking about.

I think that Jim and then Dan.

MR. CAPLAN: Well, thank you, Mr. Chairman. Just a point I made the other day that Judy
reminded me of a minute ago when we were just chatting about this in our side bar session. And that is that, you know, sometime this next spring our friends from Metlakatla are going to get in their boat and they're going to take a long passage and then they're going to go up the Unuk River and they're going to pick up five or 10 tons, hopefully, of hooligan, bring them back to the Ketchikan docks and sell them to people there basically to cover their costs of acquiring those fish and they're going to sell them to non-rural people living in Ketchikan, Brother Thomas, perhaps, and that will be without color of law. They will be doing it outside the law.

It doesn't make them outlaws, don't get me wrong, but it will be outside the law. They won't be covered by a Federal regulation and they won't be covered by a State one because there's no commercial fisheries on the Unuk as I understand it. I think that the urgency for me around this issue is to get our folks, our subsistence users operating with the law and regulation in an effective way that allows them to carry out their customary and traditional trade and do so in a way that adequately protects the resource and protects their right to continue doing that.

So I feel some urgency around that. I appreciate that people want to wait and they want to delay and they want to get it right and I agree with that but at the same time, I also don't want folks who are well intended to be placed in jeopardy by the fact that this is taking longer than we hoped it would.

Thank you, sir.
MS. CROSS: If you read the -- it's the limitations of exchanges between its -- for salmon only, salmon, their parts, their eggs, it doesn't address any other kind of fish, just for salmon.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BRELSFORD: At the same time I do share our colleagues sense of urgency about moving forward to authorize -- to revise our current authorization of customary trade. I think we've heard testimony from several of the public organizations and stakeholders that have looked very carefully with great insight at the balancing act that is involved in changing these regulations on customary trade. I think we've heard extensive testimony over the years about the continuing practice of small scale customary trade in many parts of Alaska.

Only in 1999, merely 20 years after ANILCA was passed was there a provision to generally authorize this longstanding practice. Where we are now is to refine that to ensure that there are no abuses. So again, much of the testimony talked about preserving and protecting this traditional practice, while at the same time preventing abuses, it seems -- and then secondly, a great deal of the testimony spoke about the value of regional solutions and of returning to the regions for closer consideration of regional practices and regionally appropriate details on the methods of regulation.

So where I come out in the end is that paragraph 11, which provides recognition in region balancing act that we've been asked to achieve. And secondly, paragraph 13 that would erect a firm firewall between customary trade and large scale commercial channels, it seems to me that this is an enormous advance in protecting against abuse compared to the current language. So my sense of how to proceed with urgency is to ensure the protection against abuses into large scale commercial channels as we see in paragraph 13 and to move back to the Regional Councils and to regional discussion vehicles to think creatively and at greater depth about the limitations that are on the table for paragraph 12.

So for those reasons I intend to support the recommendation that's been offered by the Staff
Committee. Thank you.

MR. BROWER: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BROWER: Yes, I'd like to make a brief comment in regards to the Staff Committee's recommendations and maybe bringing this back to the Regional Councils for further deliberation. With the new language that's been presented I think that would make it very helpful for the rest of the Councilmembers to further understand what's been happening in my region. Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Mary, you had something?

MS. GREGORY: Yeah, I support the new version of the -- support from the Staff because we didn't have no problem with 11 and 13. And if we're going to go back and have our people who we represent advise us more, more power to us.

CHAIRMAN DEMIENTIEFF: Dan, do you got something?

MR. O'HARA: Yes, Mr. Chairman. There were things that you can pass today that pretty much everyone agrees on and what you can't, such as permitting and dollar amount goes back out to the Councils, right?

CHAIRMAN DEMIENTIEFF: Well, we're not setting regulation today, that's the whole thing about it.

MR. O'HARA: No, but you can do some things. You can do some things that's already been passed on.

CHAIRMAN DEMIENTIEFF: No, anything -- we're putting out a proposed rule. And then it goes out to all the villages, the tribal consultation, it goes out for public participation, State participation, Regional Council and then it goes through that whole process.
before it comes back to a decision point. And then the Board would still have to vote and then if we come up with something then we can -- we would advance that. See it's just the start of the process. What we need to do is get something out there. And I think, you know, actually my interest is to get something out there and I'm not saying I'm married to any of these issues but, you know, just to get something published. For that reason, I would probably -- now, that doesn't limit other ideas when it does come back to a decision point. It merely gets something out there that people can react to. So I guess, you know, with that, I could go with the Staff Committee recommendation. You know, I don't have no problem with that. That's just the start of the process.

Gerald.

MR. NICHOLIA: Yeah, like around Tanana, everybody knows everybody and pretty much we're trying to conserve the stocks because we've got stocks of concern and when somebody does something that's going to give us a bad name we'll turn them in. And I think along the three RACs, Western and YK and Eastern, I think that's what generally is happening. Because we want to protect the way of life that we're living. And if somebody's doing something to give us a bad name we will turn them in.

MR. THOMAS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Bill.

MR. THOMAS: We have a similar approach to it as the Eastern Interior or we use ours for crab bait.

CHAIRMAN DEMIENTIEFF: Well, I think we've discussed this about enough, what we're doing is trying to debate the final rule and we're months and months away from doing that. I'm looking for a motion from one of the Board members to get something out so we can get the process started with. Is there any Board member bold enough to go there?

MR. EDWARDS: Mr. Chairman, I didn't want to lead this motion but I'm going to because I'll still get to discuss what I want to discuss on one issue.
I agree with you, I guess I'm very comfortable of either going with the recommendations that came out of our task force or the Staff Committee's recommendation. I think the Staff Committee has done a good job in looking at the two areas that there seems to be the most agreement on plus I think they've laid good guidance that we're not going to forget what's in Section 12 and we'll discuss that. So, therefore, I will make the motion that we accept the recommendation of the Staff Committee which my understanding would be that the draft rule that would go out would keep in tact Sections 12 and 13. That's not right? 11 and 13, excuse me.

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

MS. GOTTlieB: Mr. Chairman, I'd like to boldly second that motion.

CHAIRMAN DEMIENTIEFF: Wonderful. Again, the idea is we're so far away from -- we're just starting. We just need to get a reason to go out to consult with people so that we can come back. And I predict right now -- boldly predict it will take us a week with just one item on the agenda to come up with a final rule when we finally get there but it's going to be a long time down the road.

MR. BOYD: Mr. Chair, I think just to add to that to clarify again and I think Tim presented it well, that we would also include in the language of the preamble to the proposed rule the full range of options that we've put before you today in keeping with what you've said, in order for the public to be aware of this, is they provide input and comment to us.

CHAIRMAN DEMIENTIEFF: So I forgot to close that up with I intend to vote for the motion. But, you know, that still doesn't dismiss when it gets back to us, you know, there's still other inclusive things. The Board will still have these things but we're not limited to these things and that also needs to be stressed when it goes out. If somebody has a better idea then we're going to listen to it.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: Mr. Chairman, two things.
One, I wanted to make clear that my motion had to do with the proposed rule. And secondly, although, I support 13 as written for the purposes of this motion, I do want to point out I do have concerns that as written it simply puts the onerous on the buyer of subsistence caught fish and in any transaction it takes both a willing seller and a willing buyer. And if the transaction is illegal it seems to me that the responsibility should rest both with buyer and with the seller and so I hope we take that in consideration as we go forward in the weeks ahead to deliberate on this.

CHAIRMAN DEMIENTIEFF: Everything is out. Everything is going to go out, Gary, we're not going to be limited to anything. When we actually come back and debate a rule and vote on a rule, we're going to have that plus all the public participation, you know, that's going to go -- and the State participation that's going to go in. Are we ready for a vote? I'm ready to vote. I'm looking for Board members at this point. Are we ready to vote?

MR. CAPLAN: Question.

CHAIRMAN DEMIENTIEFF: Question's been called for, all those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. Okay, we have a product.

MR. THOMAS: Mr. Chairman, you've got a mutiny in the making if you don't take a break.

CHAIRMAN DEMIENTIEFF: Reluctantly, we'll take a two minute break.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: The next item up on the agenda is the Draft Fisheries Resource Monitoring Plan. And Steve Klein will present for us.
MR. KLEIN: Thank you, Mr. Chair. Yes, the topic is for the 2002 Fisheries Resource Monitoring Program. But first I wanted to address the 2003 Fisheries Resource Monitoring Plan and we're just initiating that and with the permission of the Chair, I'd like to first briefly cover 2003 and get permission from the Board to proceed with that and -- with that call for proposals and then go over the draft 2002 plan.

CHAIRMAN DEMIENTIEFF: Go.

MR. KLEIN: Okay. For 2003 the process we normally follow would be a call for proposals in November and we've been deferring that decision to get Board approval for that call. In 2003, we're looking at approximately 1.3 million dollars available for projects. However, with projects initiated in FY-2000, some of those projects are long-term projects in view of the TRC and that they would need to continue in 2004. So certainly some of those projects should continue and actually the TRC took an estimate of that and that's probably about 900,000 of continuation projects that their funding concludes and they would need new funding in 2003. So we're proposing that of that 1.3 million that the first priority be to continue those long-term projects and a lot of these are escapement projects like weirs where we're gathering salmon escapement information and clearly to -- it's very useful information to both the in-season managers and the long term for escapement goals.

But secondly, we would ask for new projects, our best guess is maybe there might be 400,000 for new projects and we would invite new proposals that were targeted towards strategic priorities and issues and information needs identified by Councils.

There is one other issue we wanted to bring to the Board's attention and that was we're also recommending, given your decision on the Kenai Peninsula, that we earmark some funding to gather harvest information, traditional ecological knowledge from the Kenai Peninsula to support subsistence regulations. And we would like to start this this year, in 2002, and if we initiated it in 2002, it would probably be a two year study and Mr. Boyd there, I think has found some money to get that project started. This would be by the Alaska Department of Fish and Game and they're engaged to begin collecting the harvest data on the Kenai Peninsula. But in 2003 they would need additional funding and we're
proposing that we -- we're recommending to the Board and we're seeking your approval to set aside approximately 100,000 in 2003 so that the State could conclude that work.

So that's the process we're proposing for the 2003 call and we seek the Board's approval to proceed in that fashion.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Discussion on that.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Well, I appreciate the way Steve's presented the information today and I guess in light of some of our discussions yesterday about the need for more information on the Kenai Peninsula area and customary and traditional uses, the suggestion would be most helpful. I'm assuming the figures that you've come up with are realistic figures on the costs of what a typical study to gather this kind of information would be and if there were other -- if studies were accomplished with less money then it could be rolled over into other studies in 2003?

MR. KLEIN: Mr. Chair, Ms. Gottlieb, yes, that's correct, Judy. If there were left over funds in 2003, we would propose that that would be available for the other monitoring program projects. And I was just singling out that Kenai Peninsula separate from our normal process because it's a high priority that we want to proceed with in 2002. But we do want to roll as much as the monitoring program process in terms of getting an investigation plan, getting scientific review by the technical review committee, utilize as much of that process for that proposal -- or for the Kenai Peninsula harvest and TEK project.

CHAIRMAN DEMIENTIEFF: Discussion.

Everybody's so quiet.

MR. BRELSFORD: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.
MR. BRELSFORD: I believe that during the Board work session on Monday we had some lingering concerns about the context of the Kenai study. Those have now been laid to rest and I think we're prepared to concur in the call for proposals that would set in motion project selection for the 2003. So I would like to move that the Board express its concurrence with the proposed call for proposals for the year 2003.

CHAIRMAN DEMIENTIEFF: There's a motion.

MR. EDWARDS: Second.

MR. CAPLAN: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. CAPLAN: Call for the question.

CHAIRMAN DEMIENTIEFF: Question's been called. All those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Okay, now, we got the Draft Fisheries Resource Monitoring Plan.

MR. KLEIN: Thank you, Mr. Chair, yes. Now, I'll switch gears to the 2002 Draft Monitoring Plan and again this is a draft recommendation for Board consideration and approval. I have a brief power-point presentation that I'd like to go over the process we used for the 2002 draft plan. I'll quickly go through that and then we'll discuss the individual projects recommended by Staff Committee and the Councils and the TRC by the six geographic regions and inter-regional.

So to summarize, the process for 2002, it's a seven step process. It's a very deliberate process that gets input from Councils as well as scientific and technical peer review. It begins with the request for proposals, then there's a technical review of those proposals by the TRC, the Technical Review Committee. Then we get investigation plans that more...
fully identify what the investigators plan to do and the objectives they'll intend to accomplish as well as their methods. The Technical Review Committee reviews those investigation plans and then we get review from all of the Councils for the projects within their geographic area. And there's also a public input process there. Once that's concluded there's a Staff Committee review and then finally approval by the Board, which is where we're at today.

And I just want to briefly summarize those seven steps. The first step was a request for preproposals. We sent out that request in November of 2000. And there's an issues and information needs document which consists of the priority issues of the Councils have identified to us, that goes out with the call. And we had a request that all proposals be submitted by February of 2001.

As a result of that call for proposals we received -- we received 160 proposals and they were reviewed by the Technical Review Committee. There's four criteria we use when we evaluate each proposal as well as each investigation plan. Those ranking factors are strategic priority, scientific merit, past performance and expertise of the investigator, and the partnership and capacity building elements within the proposal. Those are the four ranking factors that the Technical Review Committee utilizes. But we also utilize priorities identified by the Councils, as well as regulatory issues that are before the Board and Councils.

We also have a couple of criteria. One, there is a regional allocation for each of the six geographic areas. For example, Yukon River we're directing 20 percent of the funding. And secondly, this is an interdisciplinary program where we're not just doing biological studies but also gathering harvest information and traditional ecological knowledge. And we're targeting two-thirds of the funding towards the stock, status and trends, the biological studies and our target is one-third for the harvest monitoring and traditional ecological knowledge.

So we had those 160 preproposals, the Technical Review Committee which is composed of all five Federal agencies as well three representatives from the State representing the commercial fish, sport fish and subsistence divisions. They reviewed those 160 proposals and we picked the best that met the ranking criteria and
the needs identified by the Councils. We selected 57 of those projects for advancement to preparation of an investigation plan.

And those investigation plans came in this summer in June. Again the Technical Review Committee reviewed those and within the funding targets that we had, we selected 31 of those for -- that was a Technical Review Committee recommendation for funding. So a little over half of the projects where we received investigation plans we were able to recommend for funding. So that initial 160, about 130 of them did not receive funding -- or were not recommended for funding and 31 were.

The next step is review by the Councils, that's a very important steps. In 2000, remember we had a meeting in Anchorage where we brought in all the Councils. This year we were able to go out to the Council meetings and present the draft recommendations from the Technical Review Committee. We presented those to the Councils and got input from the Councils and the Technical Review Committee. I think they're pretty much on target. When we presented them to the Councils, the Councils supported 29 out of the 31 projects recommended by the TRC. They also recommended four additional projects which I'll cover when we get into the various geographic areas.

So the next step was after we had technical review and input from the Councils, we presented it to the Staff Committee to form a draft recommendation for your review and approval today. And we presented to the Staff Committee in November. The Staff Committee took the input from the TRC as well as the Councils and came up with their recommendations.

So what we'll be presenting today is both the Technical Review Committee, the Regional Council recommendations and the Staff Committee recommendations. The recommendations by the Staff Committee they helped the monitoring program address the local fisheries issues and information needs that are identified by the Councils. The stock status and harvest data that it's providing is valuable both to the in-season managers as well as the long term management of our fishery resources. We're a program that's employing traditional ecological knowledge, I think probably unmatched by any other entity out there. The information that we're gathering is minimizing fishery conflicts and we're
building the capacity of local and tribal groups.

So that brings us to today and next I propose that we get into the recommendations before you. You'll have input from the Technical Review Committee, the Councils and the Staff Committee and we'll take public comment and State comment and come up with a final resource monitoring plan after your review and approval and then we'll get to work developing cooperative agreements to get those projects launched for this coming summer.

So that concludes my summary of the process and next I would propose that we get into the actual tables where we summarize for each geographic area, the projects recommended.

CHAIRMAN DEMIENTIEFF: Go ahead, Steve.

MR. KLEIN: Okay. This information can be found at Tab I of your books. There's a text summary of the process that was used in each of the geographic areas. And following that text summary is a sequence of 16 tables and it's those 16 tables that I'd like to use for our discussion here today. And those are also available on the back counter in hard copy for the audience.

So if you can turn to Table 1. Table 1 is a summary of the investigation plans that we received. Again, we received 57 investigation plans. The Technical Review Committee recommended 31 of those for funding. The Councils recommended 34 and the Staff Committee 31.

Table 2 summarizes the information for all regions by funding. And for FY-2002, our target was 2.1 million and the recommendations we're going to go over from both the TRC, the Councils and the Staff Committee, they pretty much fully utilize that 2.1 million dollars.

So I was going to cover the six geographic areas and then the inter-regional area starting from the north and moving counterclockwise to Southeast and then into the regional area and that's the way they're summarized in your book there. So Table 3 covers our northern geographic area which encompasses the Arctic/Norton Sound and Kotzebue Sound. And first I'll cover the stock status and trends and then the harvest monitoring and TEK component.
If there's questions at all throughout this, I could entertain those as well as at the end.

We did have a lot of agreement in most of the areas. In fact, three of the geographic areas there was complete agreement from the Technical Review Committee, the Councils and the Staff Committee and I'll probably go over those areas a little more quickly than areas where there was some disagreement among those three entities.

In the Arctic/Kotzebue/Norton Sound, that's one area where the Technical Review Committee recommendations, the Council recommendations and the Staff Committee recommendations all matched. And for the stock status and trend study it was actually a pretty easy decision for all three of those entities. There was three projects where we requested investigation plans, two of those were withdrawn, which just left one project for the Pikmiktalik, which the TRC found to be technically sound, the Council supported and the Staff Committee is recommending for your approval today. So on the stock status and trends for that northern area, there was a target budget level of 161,000 and the recommendations from the TRC, the Councils and the Staff Committee is that we fund that one project on the Pikmiktalik for about 20,000.

That still leaves a balance of 140,000 which if you'll turn to Table 4, Table 4 we have the harvest monitoring and traditional ecological knowledge projects for the northern geographic area. There are target was 81,000. In your tables there, one of the columns or one of the rows at the bottom is highlighted, it's the target budget levels for 2002, both that row and the rows below it will be very important for our discussion today. For the harvest monitoring, TEK portion there was 81,000, the TRC and the Regional Councils and Staff Committee recommended spending 181,000, which is overtarget but when we look at what happened in stock status and trends where there was basically a surplus of 140,000, we thought it was reasonable to have more projects in harvest monitoring and TEK. And there was four projects where we had investigation plans, the Technical Review Committee recommended three of those. One being subsistence fish harvest assessment on the North Slope, particularly at Anaktuvuk Pass. A second one of looking at traditional knowledge of whitefish in Kotzebue Sound. And a third study of fish that we eat, documenting traditional
knowledge in a book. That was recommended by the TRC as well. And those three studies pretty much fully utilized the remaining amount of funding.

There was a fourth study looking at Arctic grayling in the Kukpuk River near Point Hope, that was found to be technically sound, however, it was just a lower priority than the other three studies and was not recommended by the TRC. When we presented those to the Councils, the Councils for the most part agreed with those recommendations, particularly for the studies within their geographic area and the Staff Committee supported those recommendations, too. So on the harvest monitoring, TEK side there was three projects that we would like to conduct next summary and those for 181,000 in 2002.

That would conclude my summary for the Arctic/Kotzebue/Norton Sound area. And if there were questions for that geographic area we could -- I would be happy to address those, if not, I will proceed to the next geographic area which would be the Yukon River. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Can we go through them -- do we just go through them and then you'd be available to answer any questions when we get done? We'll have a chance to.....

MR. KLEIN: Yes. I can continue going through the remaining geographic areas there and take questions at that time.

Okay, the next table I'd refer you to would be Table 5 which is for the Yukon River. Table 5 will be stock status and trend, Table 6 will be the harvest monitoring and traditional ecological knowledge data type.

First Table 5, looking at the stock status and trends, the Technical Review Committee recommended three studies within the available funding. One is to look at delayed mortality of tag-fall chum salmon at Rampart. A second one was to look at run timing, migratory patterns and harvest information of chinook salmon. And this is a genetic study with YR DFA and AVCP as well as the State, U.S. Fish and Wildlife Service and Canada Department of Fish and Oceans. That was a high priority recommended by the TRC. And finally a small study for 14,000 looking at sex ratios of
juvenile and chinook salmon in both the Kuskokwim and Yukon Rivers.

The funding target for the Yukon stock status and trends was 275,000. The Technical Review Committee recommended those three studies, they totaled 251,000 which left a balance of approximately 20 to 25,000 in 2002. When we presented those to the Councils they supported -- and this was at the tri-Council meeting where we had the Yukon-Kuskokwim, Western Interior, and Eastern Interior Councils all together for the tri-meeting here in Anchorage. They supported the three studies recommended by the Technical Review Committee. They also recommended, in addition to those three studies support. That wasn't recommended by the TRC, the TRC felt that the technician would be provided by the Association of Village Council Presidents. They would provide the technician to work with ADF&G at Pilot Station. And actually this would be the third year of that study. The TRC, given the available funding felt that all investigators, particularly in the Yukon and Kuskokwim Rivers ought to be employing local technicians wherever possible and people ought to be building that into the project. And given the budget, those other three projects were a higher priority.

The three Councils felt this should be a priority and they recommended that that technician be supported. When the Staff Committee reviewed that, which is the final column you see there before the funding numbers, the Staff Committee recommended that that be funded for Yukon River stock status and trends and that's the recommendation to you today.

On the harvest monitoring and traditional ecological knowledge, there was a total of five studies where recommendation plans -- or investigation plans were prepared. There was a total of 138,000 available and here the Technical Review Committee and the Regional Councils and Staff Committee were in agreement on the projects to fund and those were three projects.

One was harvest monitoring and TEK of subsistence non-salmon fish in the Lower Yukon River. This was a project by Tanana Chiefs Conference and ADF&G. Secondly, an oral history tapes on the TEK of subsistence harvests and fishes at Old John Lake. And the third study recommended for studying by all three groups was monitoring subsistence harvest of fishes from Old John
Lake. So all three of those projects were recommended and those were within the funding target that we had.

There was, when we presented our recommendations, the TRC recommendations to the Council, there was considerable support for the top project listed there, Yukon River salmon TEK, a project by the Yukon River Drainage Fisheries Association. And the Regional Councils, as you see in footnote A would really like that funded if additional funds could be found.

And that summarizes the TRC, Council and Staff Committee recommendations for the Yukon River.

The next geographic area is the Kuskokwim River. This is another of the areas where there was unanimous support among the TRC, the Councils as well as the Staff Committee. Within the Kuskokwim, there was three projects submitted with an investigation plan. Two of those were a high priority for the Technical Review Committee.

One being Kuskokwim River chinook stock assessment which is a main-stem tagging study to estimate abundance of chinook as they come into the Kuskokwim River. And that's largely funded by Alaska Department of Fish and Game, but this gives them additional funding to fully fund that project. The second priority was on the Kisaralik River to estimate abundance and run time of adult salmon returning to the Kisaralik which actually compliments the first proposal, in that, all major tributaries below where they're going to enumerate the chinook in the main-stem, all lower river tributaries would be surveyed and an abundance number would be generated.

Those two studies totaled 280,000 which pretty much fully utilized the budget available. There was an additional study on coho and that was a genetics study, however, there wasn't sufficient funding to fund that and it was deemed a lower priority than the Kisaralik or the main-stem tagging project.

So that was the recommendation by the TRC and as I stated the Yukon-Kuskokwim Council and Western Interior Council fully supported the Technical Review Committee recommendations and the Staff Committee followed suit.

Next would be the harvest monitoring and TEK component for the Kuskokwim. And I'll refer you to
There were four projects that were submitted for funding. One of those projects was withdrawn. The three projects that were submitted were all deemed technically sound and recommended by the Technical Review Committee and within the budget available, $138,000, we were able to fund those three studies and stay under the budget there.

The three studies that are recommended is Aniak subsistence fishery post-season harvest surveys. And then two TEK projects, one looking at subsistence salmon fishing patterns in the Lower Kuskokwim and a second looking at TEK and harvest assessment of fish in Tooksook Bay. So those there studies were all technically sound, they stay under budget and those were all recommended by the Technical Review Committee. And when we presented to the two Councils for the Kuskokwim, they were highly supportive and the Staff Committee went along with those recommendations.

In Table 9 and 10 we have the recommendations for Bristol Bay/Alaska Peninsula/Kodiak and Aleutians. And in Table 9 we have the stock status and trends projects summarized. There was $142,000 available for this area in data type and the Technical Review Committee recommended three projects that would pretty much fully utilize that budget.

The three projects they recommended was a salmon escapement and carrying capacity project on the Kametalook River. A second one on the Clark River, a tributary to the Chignik River to enumerate late run stock in coho salmon. And finally a project on Kodiak looking at season use of in-shore habitats by red king crab. Those were the three projects recommended by the Technical Review Committee. When we presented that to the two Councils, in this case, the Bristol Bay, Alaska Peninsula Council and the Kodiak/Aleutians Council -- in the case of the Bristol Bay Council, they supported the Kametalook and Chignik River studies and abstained from the Kodiak red king crab study because it was out of their area. The Kodiak/Aleutians abstained from projects in Bristol Bay and did not recommend either of the two projects within their area, including the red king crab proposal recommended by the TRC. The Staff Committee, when they looked at the input from both the TRC and the Councils, they supported moving forward with two projects, the Kametalook River salmon escapement study and the Clark River sockeye and coho salmon escapement and did not recommend funding the red king crab study on
And then for the harvest monitoring and TEK component of the Bristol Bay/Alaska Peninsula/Kodiak-Aleutians area there was one study recommended by the Technical Review Committee and that was to conduct subsistence fisheries harvest assessment and TEK on the Lower Alaska Peninsula and Aleutians and within the available budget that fully utilized the 71,000 available.

When the Bristol Bay, Alaska Peninsula Council looked at these recommendations, they thought the proposal on the Kvichak subsistence fisheries assessment was a more important study and that's what they recommended. The Kodiak/Aleutians instead of funding the red king crab under stock status and trends, they recommended that we fund the subsistence fish harvest assessment and TEK on the Lower Alaska Peninsula and Aleutians as recommended by the Technical Review Committee, but also a similar study for the Kodiak area. And so they recommended those two studies in lieu of the Kodiak king crab study. When the Staff Committee reviewed the TRC and Regional Council recommendations, they selected the Kvichak River watershed subsistence fish assessment and the similar project on the Lower Alaska Peninsula and the Aleutians.

And those two studies totaled 122,000 which was over the budget target of 71,000 but within the target for the entire geographic area given the light funding on the stock status and trends side. And that was a tough decision for the Staff Committee to make and I was there when they made it and basically there was strong interest in trying to fund the study in the Kodiak region however it was just -- in the Staff Committee, from their perspective, given the dismal salmon returns in the Kvichak there were thoughts or concerns that people might switch species to resident species and it would be very strategic to start gathering some of that harvest assessment information from the Kvichak and that was deemed a higher priority.

So the Staff Committee recommends to you today two projects for harvest monitoring and TEK in the Bristol Bay/Alaska Peninsula/Kodiak-Aleutians region. That's four of the six geographic regions. The fifth geographic region is the Southcentral region and actually these last two regions there was
pretty much unanimous consent between the TRC, the
Councils and the Staff Committee so I'll go through those
rather quickly.

On the stock status and trends in
Southcentral, the budget target was 194,000 and there was
four projects submitted that advanced the investigation
plan stage. One was withdrawn. There were two coho or
sockeye salmon projects in Prince William Sound and one
project in the Copper River and based upon the priorities
Copper River chinook salmon would be a much higher
priority. And the study recommended here was by the
Native Village of Eyak and this builds upon a study they
initiated in 2001 with fishwheels to enumerate -- to try
and enumerate chinook salmon in the Lower Copper and this
study would compliment that by doing radio-tagging to get
migratory timing and looking at where the fish were
spawning and that was deemed a higher priority than
either of the Prince William Sound studies.

That was the recommendation by the
Technical Review Committee. When we presented that to
the Southcentral Council, they fully supported that
recommendation and the Staff Committee supported it as
well.

On the harvest monitoring and TEK side,
there was four projects that were recommended for -- or
four projects submitted for funding, three were
recommended by the Technical Review Committee and
actually the top project there, Chugach Region
subsistence harvest monitoring. That does say no all the
way across, there is -- in the footnote it does note that
a portion of that study that does mapping was actually
rolled into the next project for Chugach region and the
mapping component is included in the data layers as a
template for a TEK project. So actually three of the
studies are recommended and a portion of the fourth.

When we presented that to the
Southcentral Council, they supported the TRC
recommendation both for the Chugach region as well as an
investigation on the Copper River Eulachon and Upper
Copper River GIS. And all three of those studies were
supported by the Council as well as the Staff Committee.
And that data type for Southcentral, we had unanimous
agreement between the technical body, the Council and the
Staff Committee.

Similarly in Southeast Alaska, we had
unanimous agreement between those three entities. When we look at Southeast Alaska for stock status and trends, the priority in the past has clearly been sockeye salmon which are heavily utilized for subsistence. The TRC, when they reviewed the recommendations, they recommended two projects. Neva Creek sockeye stock assessment and a second was a sockeye stock assessment in Red Fish Bay and Tumakof Lake. Within the budget we had there was 282,000, those were the top two priorities by the TRC. The amount available was 282,000, those projects fully utilized the budget and although those other projects were technically sound, basically there was insufficient funds to recommend any additional projects to you.

So the Council supported the TRC recommendation when we presented it to the Southeast Council and Staff Committee fully supported the recommendations from the TRC and Councils.

Then on the harvest monitoring and TEK data type for Southeast Alaska, there was a target budget level of 141,000. The TRC kind of manipulated some of the budget numbers, instead of making them one year projects we made them two year projects and when we did that we were able to recommend three projects for your consideration today.

One is in Wrangell doing a subsistence salmon harvest use study. Second is a salmon survey at Hoonah and Klawock. And a third study we're recommending a fourth project for compiling a regulatory history in Southeast Alaska on subsistence salmon regulations that was technically sound and would provide valuable information but compared to the other three studies it was a secondary priority.

When we presented that to the Southeast Council, they agreed that the three projects identified there were the priority and the Staff Committee supported that as well. And by extending the funding to two years which was agreeable to all the investigators there, we were able to fully utilize the budget but instead of getting one project funded, actually get three projects underway in 2002. And that's the recommendation we're providing to the Board today.

Finally, last but not least important is inter-regional area. In the inter-regional we look at projects that span more than one region or that are
statewide. And when the Technical Review Committee met and reviewed the proposals we had three investigation plans before us.

The first one was to develop methods for calculation of sustainable subsistence harvest. This was a project by several investigators, including Ray Hillborn and that was supported by the TRC. A second study was the shared fishery data base to develop such a data base. That project was recommended by the TRC. And the third study there, to assess catch and release mortality of sportfish caught fish in Western and Interior Alaska, although that was technically sound and a worthwhile study it was of lower priority than the top two when reviewed by the Technical Review Committee.

When we went to the Councils, of course, these inter-regional projects were presented to all the Councils, you see a series of yes and no's. One thing we heard very clearly from the Yukon-Kuskokwim, Western Interior and Eastern Interior Council was the Hillborn proposal on sustainable subsistence harvest was not a priority for those three Councils and actually we heard that at the Bristol Bay/Alaska Peninsula Council meeting. When the Staff Committee looked at that, they're recommending that that study not be funded. However, they did recommend that we fund a similar type of study where we're looking at escapement goals and the models that we use to develop escapement goals, we're recommending that the remaining funds, which are about 99,000, that we do a call for proposals and try to get PI's out there interested in assisting this program and the TRC and developing better models for estimating escapement goals. The recommendation is to do a request for proposals to get some proposals in and if you decide to go down this path, the TRC would screen those proposals and if there was a study we felt met the needs of the Board, we would bring that back to the Board for subsequent approval.

And at this time the Staff Committee is just seeking your permission to do that. To set aside 99,000 and do a request for proposals and get investigation plans to bring back before the Board for your review and approval and stay within that budget target.

The Staff Committee, on the shared fishery data base, all the Councils supported that, Bristol Bay/Alaska Peninsula Council abstained but the
Staff Committee recommended that that project be funded. And then the catch and release mortality study, the Staff Committee recommended not funding that and the sum of their recommendations -- of Staff Committee recommendations is 131,000 which is over the target of 70,000 but there was sufficient funding to fund that shared fishery data base and set aside 99,000 for escapement goals.

And the last data type is harvest monitoring and TEK for the inter-regional area and the Technical Review Committee recommended that one study, Alaska subsistence fisheries data base GIS integration, when we presented that to the Councils, it was supported by all the Councils, except the Bristol Bay/Alaska Peninsula Council. The Staff Committee looked at the input and decided that was one project they would like to fund and they're requesting your approval of that. The second study submitted in this data type was to gather subsistence salmon harvest timing information. That was not supported by the TRC, any of the Councils or the Staff Committee. And within that category there was a budget of -- target of 35,000 and the study recommended would utilize 27,500 of that.

Mr. Chair, that concludes my summary of the Draft 2002 Monitoring Program and those are the recommendations from Staff Committee. You also have the input from the Councils and the TRC for your decisionmaking.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. State, do you guys have any additional comment?

MR. BERGSTROM: Mr. Chair, not much. We wanted to say that we do appreciate all of the work that went into reviewing these proposals by the Regional Councils and all the Staff time that went into this. And the Department is generally supportive of the projects recommended. The Federal funding of projects that have been initiated in this recent year here are providing more data for fisheries management and to conserve the fish resources and to involve rural users. So we're real supportive of this funding.

The Department suggests that the less amount of funding used for duplication and management, the more funding that will be available for these
important assessment and monitoring projects.

CHAIRMAN DEMIENTIEFF: Thank you. Okay, with that we advance the issues to the Board.

MR. CAPLAN: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CAPLAN: Yes, sir, I would move to adopt the proposals as presented.

CHAIRMAN DEMIENTIEFF: Is there a second?

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MR. EDWARDS: I'd like the opportunity to.....

CHAIRMAN DEMIENTIEFF: Sure.

MR. EDWARDS: I thought we were going to have an opportunity to ask Steve some questions.

CHAIRMAN DEMIENTIEFF: Yeah, you do.

We're going to discuss it. We always discuss the motion before we vote.

MR. EDWARDS: Right.

CHAIRMAN DEMIENTIEFF: I just wanted to get a motion on, you know, these are our Staff Committee recommendations. You still have opportunity to amend, change or anything.

MR. EDWARDS: But can we ask questions?

CHAIRMAN DEMIENTIEFF: Sure. Yeah. It's discussion. Regional Council Chairmen can, anybody can.

MR. EDWARDS: Steve, I got a couple questions on a couple projects. On Project 02-009, that's the one on technical support for Pilot Station sonar, the TRC voted no on that, could you elaborate a little more as to why the committee felt that we should not be spending the money on that project?

MR. KLEIN: Mr. Chair, Mr. Edwards. It
was primarily budget driven. The projects that we wanted
to fund in SST and the harvest monitoring and TEK, we
couldn't fund all the projects. And the Pilot Station
sonar technician, this is a project by the Alaska
Department of Fish and Game where they're enumerating all
salmon species as they pass Pilot Station. To separately
fund a technician, and Gary your field office funds a lot
of technician and it was the opinion of the TRC that all
agencies, particularly Federal and State agencies ought
to be using local hires. Hiring technicians from
villages as part of the normal business. So given both
the budget constraints and the desire for investigators
to automatically include that in their projects, it was
not recommended by the TRC.

I would add that subsequent to that
meeting we've been working with AVCP to develop training
objectives. This is the third year of their requesting
funding for it. Basically requested them to develop a
more detailed investigation plan where there were
training objectives and milestones and reporting. AVCP
has revised their investigation plan and when we
presented that to the Staff Committee with the revised
investigation plan, it focused more on some of the
training objectives we were looking for. The Staff
Committee was supportive and as chief of FIS I support
that as well.

MR. EDWARDS: So the plan has been
rewritten as reflected -- well, not really reflected in
the footnotes but it has been rewritten and we're
comfortable that that will accomplish the objectives?

MR. KLEIN: Yes.

MR. EDWARDS: All right. And my other
one has to do with Project 02-034, which is subsistence
fisheries assessment on the Kvichak River watershed on
resident species. Here again the TRC voted no, that's a
$74,000 project, I guess my question would be where would
the TRC have otherwise have spent that $74,000?

MR. KLEIN: Okay, Mr. Chair, Mr. Edwards,
we're looking at Table 10 then. And the Kvichak River
watershed resident species subsistence fish assessment
and yes the TRC did not recommend that. We felt -- what
happened here, Mr. Edwards, Mr. Chair was that on the
stock status and trends side, the recommendation left
quite a bit of additional funding available -- let's see,
when the Kodiak/Aleutians -- or when the red king crab
study was dropped, that was a $65,000 study in 2002 and
that was a higher priority for the TRC, partly because it
provided funding for a study in the Kodiak region. And
you know with Bristol Bay, Alaska Peninsula and
Kodiak/Aleutians, they’ve been asking for separate
budgets so there is an intent for the TRC to try to get
projects in both Bristol Bay/Alaska Peninsula area as
well as Kodiak/Aleutians to get a mix of projects.

The TRC, to provide that mix -- and the
Committee what was important, we thought that was a high
priority and recommended the funding. At the Staff
Committee level when that project fell out, that allowed
another harvest monitoring and TEK project to be funded.
So basically our target of using two-thirds stocks status
and trends and one-third harvest monitoring and TEK, here
it kind of switched and it went two-thirds harvest
monitoring and TEK when based upon the Council input.

MR. EDWARDS: I guess as a follow-up then
I'd like to ask Della, I mean, is the Council comfortable
with that decision because it looks like then that does
not allow any projects on Kodiak?

MS. TRUMBLE: Well, I did make some phone
calls when I looked through this and we went back to try
to remember the reasoning we did this. Technically at
our Regional Council when it came on these -- when these
different proposals came up, we didn't have any -- Kodiak
asked if the Aleutians had one of them that they wanted
moved forward, there was only one other one that we
thought that would be recommended and moved forward,
however, we didn't feel it was necessary because we do
already have a study being done on Mortensons. So we
then decided, well, we'd do the Kodiak red king
crab. However, what happened was in the Council was
there were two or three members from Kodiak that didn't
feel that this was a good study to do. So we went ahead
and wanted to move that funding over to this other
portion and that allowed for that funding to move over.
However, in reviewing this I do have some concerns to
some degree that it's -- both regions do not have
documented -- there's not good documentation of
subsistence use. And I do see that my area will be
funded however I do have concerns for the Kodiak area
because we just went through a process where people in
that region and public testimony in Old Harbor, felt that
they did not want to say that they were utilizing various
species of subsistence because we had a State Trooper in
the room but yet we know it happens and we need to get this documented because it's hurting both regions quite a bit.

So if there's any way there's any funding available or some other project falls through, we'd ask that you possibly look at helping this one project get funded.

CHAIRMAN DEMIENTIEFF: Any other questions? Gerald.

MR. NICHOLIA: Yeah, concerning the project about the Yukon River salmon traditional ecological knowledge, number 02-03, I think this is a good avenue to go to use to gather information for the C&T issues that we're dealing with. I'd sure like to see it be used this way to gather information from the elders where it will be another helping tool to deal with the C&T issue.

CHAIRMAN DEMIENTIEFF: Yes. You know, there's always a possibility if there's any extra money that we could consider some of these proposals that didn't quite make the cut on the first go-around. Ron.

MR. SAM: Thank you, Mr. Chairman. I just want to concur with Gerald's reassertion of our wishes for more funding.


MR. WILDE: Yeah, Mr. Chairman, I do personally support that because one of the important works that has been done, I wish it was supported. This is my personal support.

CHAIRMAN DEMIENTIEFF: Okay. Any other discussion. If not, all those in favor of the motion please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same sign.

(NO opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
Okay, I just want to announce that we do have incoming and outgoing. And we have three new Regional Council Chairs this year, Gerald Nicholia, Della Trumble and Harry Brower. And they'll all be getting, courtesy of the Federal program something to keep you -- a hammer, this one is Harry's, we'll get the other two before your Regional Council meeting so you can keep your Council's in line. As far as the outgoing, Ralph, will you come up and accept -- we have a recognition award for Roy Ewan who's been with the program since the beginning and we just wanted to get a nice plaque for him but we do have a ride home for it, I saw, since, you know, you replaced him it would be nice that you would come up and accept on his behalf but Gloria would be glad to take it.

MR. LOHSE: Gloria will be glad to take it?

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: I'll be glad to accept it on Roy's behalf, he was a real help.

CHAIRMAN DEMIENTIEFF: And then we also have -- I just want to say how sad I am that we're losing a Board member, James Caplan, who's been a real hardworking person on the Board, he's listened, been responsive and just has done a tremendous job and is going to be a real loss to the program. So Jim, I just want to thank you.

MR. CAPLAN: You bet.

(Applause)

CHAIRMAN DEMIENTIEFF: It's been fun and I want to thank one and all for all your hard work and I'm going to break in Harry's gavel, we're adjourned.

(END OF PROCEEDINGS)

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CERTIFICATE

UNITED STATES OF AMERICA )

STATE OF ALASKA )

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

THAT the foregoing pages numbered 148 through 287
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THAT the transcript is a true and correct
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Joseph P. Kolasinski
Notary Public in and for Alaska
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