MEMBERS PRESENT:
Mitch Demientieff, Chair
Judy Gottlieb, National Park Service
Paul Tony, Bureau of Indian Affairs
Denny Bschor, U.S. Forest Service
George Oviatt, Bureau of Land Management
Gary Edwards, U.S. Fish and Wildlife Service
Keith Goltz, Solicitor

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MR. SMITH: Thank you, Mr. Chairman. I'm sorry, this morning I wasn't quite ready for you, but I'll certainly give it my best here. I hardly know where to start, of course.

First off, my name is Mike Smith and I work for Tanana Chiefs Conference.

I'd like to just make a brief comment real briefly on the discussion you had yesterday concerning whitefish, and just some observations we have currently made in regards to the importance of non-salmon species. Recently we conducted a traditional ecological knowledge and harvest survey of non-salmon species in the Koyukuk region, and something rather startling showed up, and when we compared it to a base line study done in 1982. So basically over that period of 20 years, and I'll just pull it out for an example, and we haven't fully analyzed it and put it together yet in a report, but Hughes kind of sticks out in my mind.

Hughes, of course, is a village of about 65, 70 people, and in 1982, they harvested approximately 10,000 salmon. At the same time they harvested approximately 30 pounds of non-salmon species in that area. Our recent harvest surveys, that has shifted considerably. In the last year they harvested somewhere -- I believe 2002 is where our information ends. They harvested somewhere around 1100 salmon and the harvest of non-salmon species rose to almost 4 -- a little over 400 pounds. So the importance of those non-salmon species is becoming evident as the salmon populations are declining.

In regards to the proposals, we'd like to speak in favor of the Association of Village Council Presidents' proposal on the windows and the implementation schedules. We think it's a fairly straight forward, simplistic proposal in that it -- well, it makes relatively sense (sic). If the -- you know, the
windows could -- you know, it's my understanding that the proposal would implement the windows at the beginning of the year, and then the Federal managers in a positive or negative determination as to a conservation concern, once they collect some information and run strength information make a determination as to whether or not a conservation concern exists. If so, then leave the windows in place. If not, lift the windows. We think that's a pretty straight forward proposal. It gives the subsistence users a very clear idea as to what their fishing opportunities are going to be at the beginning of the year so they can plan in a more efficient manner. It also allows them to practice what is a diminishing subsistence practice of their customary and traditional subsistence harvest of salmon.

In regards to Proposal -- and I'm not real good at the numbers, I'm more of an issue person. 35 mesh depth proposal that was proposed I believe by the Eastern Interior Regional -- or Eastern RAC. While I have the information, I haven't had a chance to seriously look at it and analyze the information provided by the Council. But if it is true that a large king salmon is now considered a 10 pound fish, then something seriously is wrong and needs to be looked at. And whether or not the 35-inch mesh depth is the appropriate vehicle, we're not sure yet, but we would like to see a standardization of net sizes and gear types up and down the river if possible. What that's going to look like in the end, we're not real sure, but in order to provide some, you know, good catch information and so on and so forth, we just think that standardization of nets along the Yukon would be appropriate.

In regards to the extension of the drift gill netting into the Galena area, we're supportive of that proposal. And the reason we're supportive of that proposal is if in fact we're going to institute windows upon the subsistence users and the restrictions on subsistence users, we think any real opportunity to provide them an opportunity to collect those fish needs to be taken.

Secondly, some of the arguments made against the proposal I think are probably questionable. One, the concern as to the increased numbers of fish, if we look at the harvest numbers, if in fact that harvest increased by say 20 percent, we're talking, you know, maybe 500 to 1,000 extra fish taken that year by, I might add, qualified subsistence users.
As to the stock composition, that would be great if we knew what the stock composition was out in Galena at any given time. The assumption that the front run of the fish and stuff are Canadian-bound is questionable now. The recent genetic information released by the State Department of Fish and Game seems to indicate that the run is at best 50/50 Canadian-bound fish and American born fish.

So, I mean, it's -- so we would be in support of that proposal. I think the proponents of that proposal went out of their way to alleviate some of the concerns by limiting the size of the fish, or by limiting the size of the nets. They have agreed to, you know, they went to the 35-inch mesh deep in order to alleviate the concern of catching all the big fish that might be running out in the middle, and so on and so forth.

Once again, I think we need to remember what we're trying to protect here, and that's the legitimate customary and traditional use of subsistence users in a customary and traditional fashion. So whether or not the drift net is a customary and traditional fashion I'm not here to debate right now, because certainly if it's okay for 500 miles prior to this, it should be okay for the few extra people that might be included with this proposal.

And, I'm sorry, Mr. Chairman, but I think that's about it in regards to the more -- the specific proposals that we had concerns with, and with that, I'll leave it at that.

CHAIRMAN DEMIENTIEFF: Thank you, Mike, and I apologize here. We didn't have a chance to talk, but I just went by your -- I mean, you had various -- you spoke to some proposals, which, of course, I don't know what your schedule is, I know you had to leave early yesterday, but you are more than welcome to have ample opportunity if there's additional points you want to bring up on specific proposals, and if your time schedule allows you to. But thank you very much for your testimony.

MR. SMITH: Yeah, Mr. Chairman, I have a rather interesting meeting to go to right now. I've got to go deal with the State Board of Game on a Tier II proposal, so I get to jump ships here.

Thank you, very much.
MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Could I just ask Mike one easy question I think so we all know. We know you represented Tanana Chiefs. Can you geographically tell us how much up and down river Tanana Chiefs is involved in?

MR. SMITH: The region itself runs from Holy Cross all the way to the Canadian border.

CHAIRMAN DEMIENTIEFF: Okay. Thank you. And then I just want to inform the Board that we're working on Unit 2 deer, finalizing their report. The gentleman, what, Mr. Hernandez, who has to leave tomorrow on the morning flight to Juneau, so they're working on finalizing that, and if at all possible, at the end of the day we'll go ahead and just go into our update on that. He's the one that's primarily in charge, so I just want to let you know that that schedule change may happen.

And just before we get too serious here, a little bit more updates. My wife and I went over to the hospital last night to visit some friends, and I bumped into Johnny Thompson who I didn't know, and he's a long-time RAC member from YK, was in the hospital since June. And I just happened to visit him, and escorted him around the hospital a little bit, and while my wife and I were visiting other people. So I didn't even hear that. But the good news is, is he's getting out of the hospital today after being in there since June. He's moving over to I think Quyana House, which is just housing right next door to the hospital, or adjacent to it. And so I just wanted to kind of update you with that.

And the other good news, our old friend Bill Thomas from Southeast I understand, I got some reports yesterday, is back up and operating and got his sense of humor back. So that's really good news for us, too. Even though he doesn't serve on the RAC, he's certainly an old friend. Anyway, I just wanted to give you that little bit of gossip.

Okay. With that, we'll move on to Proposal No. 21.

MR. CASIPIT: Thank you, Mr. Chair. The
Proposal FP05-21 was submitted by the Southeast Regional Subsistence Advisory Council which would allow Federally-qualified subsistence users to harvest fish under sport fishing regulations after taking the annual subsistence harvest limit for that species under Federal subsistence fisheries regulations.

The current statewide Federal subsistence harvest regulations specify that once an annual limit is taken, no additional fish of that species may be harvested under any other regulations. This proposal would benefit subsistence users because of the increased fishing opportunity. This proposal would also align Federal and State regulations, because there's not a similar State prohibition in subsistence personal use or sport fishing regulations.

This proposal is similar to a proposal that the Board deliberated in 2003. That proposal was FP04-21. This proposal allowed the accumulation of Federal subsistence and State sport fishing limits for salmon in the Copper River drainage upstream of Haley Creek.

The effects of this proposal is that current Federal subsistence fishing regulations prevent any additional harvest opportunities by Federally-qualified subsistence fishers or members of their households by any means once an annual subsistence harvest limit is taken. This is not the case with State personal use subsistence or sports fishing regulations. The current regulation is an unnecessary restriction to subsistence users, and because of the low additional harvest would not result in any conservation concerns. Adopting this proposal will provide an increased opportunity for subsistence users.

I'll be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comments.

DR. SCHROEDER: Mr. Chairman, we have received no written public comments for this proposal.

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

MR. LITTLEFIELD: Thank you, Mr. Chair. The Regional Council recommendation is on Page 233, and this motion was supported by the Council on a vote of nine to one. And the Council could find no conservation concerns with this proposal. It is -- substantial information has been provided to us, enough to make our decision. The proposal is positively affecting subsistence users and has no effect on other users.

When you look at this, the existing regulation, the State said you cannot accumu -- once you've reached your Federal limit, you could not take fish from a sport fish. It would have been illegal to take sport fish or any other State subsistence permit. But if you look at the number of fish that are taken legally under a Federal harvest limit, and those are shown on, excuse me here, Page 236, so those are the fish that we can legally take in Southeast Alaska as a subsistence user. So we're not talking about thousands of fish that a person could accumulate here. So if we -- if you were to take those fish, and you'd have to travel all over to the Stikine and Tom's Creek and we know that subsistence users are not going to travel hundreds of miles to go get these fish. So if you were to get that limit, you would be prohibited from catching fish anywhere else.

We saw no reason why you could not catch those fish and still participate in the State fisheries as any other resident could. So that's why we changed it a little bit from the original proposal and added that you could accumulate this -- the limit shown on Page 236 with the State limits as they exist, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. KESSLER: Mr. Chairman, I'm Steve Kessler with the Forest Service. The Interagency Staff Committee recommendation is on Page 234. The Staff Committee recommends that you support the proposal with modification to remove the second reference to the word annual, consistent with the recommendation of the Southeast Regional Advisory Council, but not to accumulate with the State's subsistence harvest limits, which is contrary to the recommendation of the Council. The modified proposal would read as on Page 234.
As far as justification, this proposal would allow accumulation of Federal subsistence and State sport fishery annual harvest limits parallel to the opportunity under State regulations. The Council recommends that in addition to allowing the combination of Federal subsistence and State sport harvest limits, accumulation of State harvest limits should also be considered by the Board. While we do not agree with the Council's modification, we do support the intent of the original proposal.

If users are unable to obtain the fish that they need, and there is no conservation concerns, the manager already has the latitude to provide for additional harvest on a case-by-case basis. That flexibility enables managers to more effectively address the specific needs.

Of a particular concern is if there is a conservation concern overall or in a specific location, coordinating subsistence harvest limits among Federal and State managers would be considerably more difficult if the subsistence harvest limits were stacked. Accumulating State and Federal subsistence fish harvest limits would set a precedent statewide, and could result in substantial conservation and management coordination concerns. Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Department.

MS. SEE: Mr. Chairman, the Department supports the intent of the original proposal. The Southeast Regional Advisory Council further modified this proposal to allow for duplicate Federal and State subsistence harvest limits to be accumulated. The harvest limits currently in place are intended to be liberal, thus providing efficiency and flexibility to individual harvesters. If this regulation were adopted as modified by the Council, the State would likely have to reconsider harvest limits in State-managed subsistence fisheries for both sockeye and coho salmon in order to ensure that harvest occurring at numerous small systems are sustainable.

We would like to note here that the State and the Federal subsistence regulatory programs were each developed to provide for subsistence users essentially independently of each other. It was noted in the Staff
Committee's analysis or recommendation that the Federal system can easily adjust for users' uses, as can the State system do as well. And so we have a corresponding ability in the State system to do this. So this is really an unnecessary modification, but it's a very problematic modification as well, and we feel that the Staff Committee recommendation notes that point clearly.

Thus, we support the intent of the original proposal when we support the Interagency Staff Committee recommendation regarding this proposal. Thus, we do not support the proposal as modified by the Council.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Mr. Chairman, I have a question for Mr. Littlefield. Under current Federal regulations are not subsistence needs being met, and, if so, are there examples of those needs not being met? And wouldn't it simply be more prudent to adjust the Federal limits then if they are problematic, and like I said, do we have examples of needs not being met?

MR. LITTLEFIELD: I don't know if I can give you examples, but I would have to say the answer is probably, yes, some people's needs are not being met, because I hear that. Otherwise we wouldn't be here deliberating some of these proposals. I can't give you a concrete example, but if a person needs -- say they need 100 fish. Well, we don't have -- 100 sockeye. Well, we don't have that in our system. Or 100 coho. So if they were to gather 40 cohos legally under the Federal system, they would be prohibited from getting the other need. In other words, we try -- we're needs based here. If they can't meet their needs, we have to provide that opportunity for them. What we're doing is preventing them from having the opportunity to gather those other 60 fish under the State regulations.

So if you look at the Interagency Staff Committee recommendation, it's kind of backwards. What they want you to do is go on a case-by-case basis. What I think is better is to have a regulation that's regionwide and the manager still has the flexibility to go the other way. In other words, he can enforce these, saying, well, this stream is -- we don't want you to go
in the stream and take too many fish. That's what we've
done on other proposals.

So I can't give you any concrete examples
of need, but I certainly know that some people need a lot
more fish than what are in the existing limits, and some
don't take near as many. Matter of fact, if we could
have Mr. Suminski -- is he here? I think he could give
us some information on exactly how many fish are being
taken under these permits. Like coho, it's very
minuscule. And if those people take that, you ought to
be able to let them catch some more fish on the other. I
don't know if you want to hear that, but he does have the
data on how many fish are legally taken. And we're
talking not about the State system, we're talking about
the Federal system.

So the amount of fish that you can legally
take is shown on Page 236. So I guess if you looked at
that and said is that too many fish for some person to
have? Could they meet their needs? I suggest that those
needs for many families are not being met. That's not
enough, and it's unfair to prohibit them from getting
more under the State system.

MR. EDWARDS: I guess my question would be
then why wouldn't we just simply adjust those limits on
Page 236? That seems to me to be the proper thing to do.
And if we have data that would certainly show that needs
aren't being met, then maybe that's what we need to be
looking at.

MR. LITTLEFIELD: Thank you, Mr. Chair.
We are addressing that. In other words, we did that on
the steelhead proposal, No. 28, where before you could
only take a 36-inch. We did meet their needs by moving
to one fish a day. We haven't met the needs yet, but
we're going in a positive direction to going to one fish
and the two annual limits. We're going to talk about
Proposal 30, which has to do with the trout, and we're
going to hopefully liberalize those limits. But we
recognize that those limits don't meet everyone's needs.

And I think that the small amount of fish
we're talking about, there is no conservation concern
here with any of these that anybody's brought up, Staff
or State, even though they've mentioned it, that this has
dire consequences for everybody else. But we have to
remember, you can only take what's legally taken under
Federal regulations. So if you add those to the subsistence, we're not talking huge numbers here.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. MECUM: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Oh, Doug.

MR. MECUM: Thank you, Mr. Chairman. I had a question just to make sure I understand. Under the -- I guess this is for Staff. Under the Federal system, Federal managers have the authority to allow additional fish to be taken under Federal subsistence permits, is that correct?

MR. CASIPIT: That would be under our in-season manager's authority, and I don't remember the authority that's granted in the letters from the Board, but they can set permit conditions, specify gear, open and close seasons, close and re-open Federal subsistence fisheries, close and re-open areas to non-subsistence users. There's a series of things that they have authority to do. I don't have the letter in front of me. Perhaps, Tom, maybe.....

CHAIRMAN DEMIENTIEFF: Tom, go ahead.

MR. BOYD: Well, Mr. Chairman, I don't have the answer either without researching it, and I'd need to look at the letter of delegation again just to see exactly how it's worded, but I think as a general rule, we have delegated the in-season managers some authority to allow additional opportunity. But if the Board has set some sideboards, then -- I mean, as a general rule, then they may not be able to exceeds those sideboards. In this situation, I'm just not sure without looking into it. And I'm looking back at our regulation specialist to see if he has anything to add to what I've said. He says I'm correct, so.....

CHAIRMAN DEMIENTIEFF: Go ahead. Follow-up.

MR. MECUM: Yes. Thank you, Mr. Chairman. Well, the reason I asked was just to understand that. Under the State system, you -- the managers do have that authority to provide for additional fish to be taken under the authority of subsistence permits, and we do that routinely.
Thank you.

CHAIRMAN DEMIENTIEFF: Yeah, we've made quite a bit of progress in terms of delegating to our in-season managers, but that's a really technical question, and we don't have our in-season manager here to answer that. And -- but we'll certainly get a response to you as soon as we can.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: John. I'm sorry, John was first.

MS. GOTTLIEB: Okay. Sorry.

MR. LITTLEFIELD: Thank you, Mr. Chair. I would like to get that question clarified, too, because it's been my understanding that under -- this is not a very easy system to adjust, the Federal system. It -- the authority granted to the land manager has to be in regulation, and so it's been my understanding that the land manager could close those under an emergency action. It's a special action request. It's not simply just saying, sure, go get 40 fish. But it's been my understanding that the land manager could not say, well, the limit is 40 cohos, go take 100. I think the limit is -- the limit's 40. My understanding of how this works is the limit is 40, I don't want you to take any more than 20. That's the special action. As far as I know, it was never increased. I don't know of any example, maybe somebody else could help me on that, but I don't know of examples where it's gone up above the existing Federal limit. Always down or closure.

CHAIRMAN DEMIENTIEFF: Yeah, we're -- I was just doublechecking. I was listening to you, John, but, yeah, definitely it is a sideboard issue that we have tailored some of the delegations, although it's a blanket authority, we have tailored the delegating to specific fisheries. So without having the manager here, it's very difficult for us to be able to respond to that kind of a question right at the moment. But we definitely will find it, and we will make sure that the State and regional council have that explained very definitely. Judy.

MS. GOTTLIEB: Mr. Chair. Our upriver, Copper River in-season manager, Eric Veach is here, and I had been planning to ask him how this regulation worked...
on the Copper last year. So if it would be all right for
Eric to come up and answer that question, we'd appreciate
it.

CHAIRMAN DEMIENTIEFF: Yes.

MR. VEACH: Mr. Chair. Ms. Gottlieb.
Eric Veach with Wrangell-St. Elias National Park and
Preserve.

As far as we know, the regulation worked
fine. I think one of the things I might just mention,
when we put this regulation forward, when the Subsistence
Resource Commission put it forward, some of the concern
was is that most users didn't even understand that they
couldn't accumulate the two limits, and so I think in a
lot of -- I think by and large it was pretty seamless
because most of the users weren't even really aware that
it was a problem at first. But as far as we know, there
wasn't any problem.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Gary.

MR. EDWARDS: I'm not sure who can best
answer this, either the Staff or the State, but for these
-- other than for steelhead, now many additional fish can
you take in these systems under a sport fishing license?
In other words, if the limit, for example, in Salmon Bay
Lake is 30 sockeye under subsistence, if you also wanted
to sport fish, how many additional sockeye could you take
throughout the season?

MR. CASIPIT: The general limit for
Southeast for sockeye is six per day sport fishing.....

MR. EDWARDS: And that.....

MR. CASIPIT: .....12 in possession.

MR. EDWARDS: .....season runs how many
days?

MR. CASIPIT: It's a year-round season.

There is no season.

MR. EDWARDS: So if you added those
numbers together for -- with what's being originally
proposed on Salmon Bay Lake, you could take 30 under

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subsistence, and then another 30 or 100 under sport fish, right?

MR. CASIPIT: Six per day, 12 in possession, right.

MR. EDWARDS: All right. Or 200.

MR. TONY: Mr. Chair, I have a question.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BSCHOR: I believe for Ms. See or possibly Mr. Kessler. As far as stacking the numbers under the State and the Federal system, is there -- it's inferred that there is a potential conservation concern there. Could you give me more information on that, or expand on that as to what the positives and negatives might be of this?

MR. KESSLER: Yes. Mr. Bschor, I don't -- in my view of this, I don't think that there is necessarily a conservation concern. I mean, that's going to be on a case-by-case basis depending on the situation with a specific species, a specific run. If there were a conservation concern under both the State and the Federal systems, the -- that fishery could be closed or modified.

I think that the main point here in the problems that the Interagency Staff Committee saw with this proposal is the management coordination concern, is that as we have more and more of the -- this regulation would apply to all these different runs. So, for instance, if we have a situation where coho salmon start being an over conservation concern in Southeast Alaska, the numbers start going down, and then we have a coordination concern with the -- that the Federal system will have to start reducing, the State system will have to start reducing, which one do you reduce by how much, and so that the users still can get hopefully as close to what they need as they can, but we don't know if it would be fishing under Federal regulations or under State regulations, and it all has to be coordinated. And I guess that's from the Staff Committee's perspective. That's the difficult issue with this proposal.

CHAIRMAN DEMIENTIEFF: Marianne.

MS. SEE: Yeah, through the chair. The
distinction here, it's important to come back to this, that the Department does support the original proposal, that sport fish and Federal subsistence limits can in fact be combined. That is not the concern here. The larger concern is a programmatic concern about stacking the Federal subsistence limits on top of State subsistence limits. It's a programmatic concern. In any one given place, as Steve Kessler noted, there may not be an actual conservation concern about that particular run in that particular location, but that could really depend on the place and the species. And also, you know, by extension, whether this would be something that would be looked upon for wildlife where there could be some real problems. So we just think this is a point at which we would ask the Board to really give careful consideration to this. As you heard from the numerical example about sport fish and Federal subsistence limits, there could be numerically an opportunity to catch a lot of fish, which is fine the Department feels under those two sets of regulations, but we don't want to see a hasty decision made by any means on this issue with respect to the two subsistence programs, regulatory programs where in fact there's a provision for an efficient and substantial harvest in each program for the benefit of the subsistence users to meet the traditional customary uses. That's what each program is set up to do. And again, if there's a problem with the limits in either program, that is up to the managers in those programs to look at that and make adjustments as possible to provide for the uses that are customary and traditional in that area. So there are mechanisms in each program separately to do that, but there is not an intent that I'm aware of ever to consider literally stacking those limits between the Federal and the State systems.

Thank you.

CHAIRMAN DEMIENTIEFF: John, you had a comment.

MR. LITTLEFIELD: Thank you, Mr. Chair. When I was in the men's room this morning, the water was falling on my head, but the sky wasn't. And I hear a lot of that in these discussions, that the sky is falling. We're going to have, you know, -- they're going to decimate the resource. We said there wasn't a conservation concern, and we told you we had substantial evidence to base that on. And I'd like to ask Mr. Suminski, if you would indulge me, Mr. Chair, to come
forward, as well as the other staff and let you know how many sockeye were taken on Prince of Wales Island where there's an authorized subsistence fishery, how many cohos were taken in Southeast Alaska, and then I want you to ask yourself, if the addition of those cohos and those sockeye and those trout, and I don't know if he has numbers on that, is going to bust the bank. I suggest that when you hear the numbers, this is a non-issue, folks. If you would let Staff give you a short presentation on how many fish were taken under legal regulations. In other words, we're talking about Federal legal regulations here. And so those are the fish we're talking about. If he could give us some enlightenment there, I think it might open your eyes. We're only talking about a few fish here. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. And I needed to respond actually to the State's comments. We don't miss -- or we don't mix apples and oranges. We have entirely two different projects, as the State does, in dealing with fish and game resources. You have your own board for each. And we track, even though it's the same board, we track our process differently. That's why we meet here now for fish, and we'll do the game later, so they're -- what we do here with regard to regulatory action does not go over into the game side. So I appreciate your concern, but we do things pretty much the same way the State has. I remember the old days when they used to meet for a month, you know, when they did fish and game once, and that got a little confusing in the State system, but we actually track ours very much like the State system. So you can rest assured that while we're making fish regulation, we are not making game regulation.

Okay. Go ahead, Cal.

MR. CASIPIT: To answer Chairman Littlefield's question, I'm skipping a little bit ahead, but under the proposal for FP05-27, on Page 276, table 1 shows the salmon catches from Federal permits for 2002 and 2003. And just to summarize, for cohos in 2002, 396 fish were reported on Federal permits, 169 sockeye. IN 2003, 21 sockeye and 206 cohos were reported on Federal permits.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. GOTTLIEB: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Thank you. I'm afraid I have a process problem here. I think originally suggested, there is a need. The need's being identified by the RAC, and I appreciate and support that there is a need. I think the initial solution of adding the sport fish limit would be a good answer to this need. But I would hope that we would be pretty cautious about separating out actions from the Board of Fisheries, as Gary is saying, if there is a need, as has been identified for more fish, one answer we could provide would be to use this additional sport fish limit and make that additive, or I think this Board isn't doing our job if we, rather than addressing increasing our Federal subsistence limit, say okay, go ahead and add the State limit. I think -- and my preference would be, if we need to raise the limit, let's do that, but not mix the two. We're in a dual management system, and I'd prefer not to mix those actions.

Thank you.

MR. EDWARDS: Mr. Chairman, as maybe a follow-up to the observation that Mr. Littlefield made, and what's shown here in this table, I think there's no question that there's a minimal amount of fish being taken which would seem to me would indicate that needs are actually being met, or these numbers would be significantly higher, which they could be under the existing regulations for these fish; is that correct? That's partly correct.

The other thing you have to consider as well is that people prefer to fish in marine waters, State jurisdiction. It's just -- and instead of walking up the creek, it's a lot easier to pull your boat into the estuary and set your gill net. And, you know, I think that's what's occurring here.

I think in that table where you see the drop between cohos in 2002 and 2003 is because in 2002 the only coho opportunity was the Federal opportunity, and then in 2003 the State Board of Fish allowed for cohos to be caught in State jurisdiction in Southeast, and, you know, I think people switched over to the State system in that case, because they were allowed to fish in marine waters.

CHAIRMAN DEMIENTIEFF: Yes. John and then
Ralph.

MR. LITTLEFIELD: Thank you, Mr. Chair. Maybe if I could tell you a little bit about how we fish coho down there. For years and years we fished only under the State sport fish regulations for cohos for my smokehouse. Those are subsistence fish. And what we would do is my son and I or others, my son or friends, they would go out to the rivers and because it's a lot of fun, they would sport fish, six cohos each, and legally bring them back to the smokehouse.

Well, we were proactive, and I think it was Proposal FP2002-37 or something like that, where this Board approved the coho for Southeast wide, which everybody then said the sky was going to fall. We had, you know, the Southeast seiners coming up claiming that we were going to decimate the fisheries, and we even had radio reports that we were decimating the fish. Well, it hasn't happened.

What this allows us to do is when we go up the river, if we have a Federal subsistence permit, and if we get lucky enough to catch 10 cohos each, we can take home 10 under the Federal permit. But if you mark those 10, because you have to do that to keep yourself from betting picked up by the law, if you mark those 10, and the next day come back and mark another 10, and you fill your Federal limit, you can no longer go back in there and catch any sport fish under the existing regulations.

Because of your action at the Federal Board, the State of Alaska, and I'm really thankful they did, I testified at the board, enacted the liberal regulations that they have in marine waters. And part of that was because -- I think a lot of it was because of your action. And I do applaud them for that, because that spreads out the fishery. It's not that you want to necessarily prefer in the marine fishery, but if you can take fish farther away from the terminus area, then the chances are that you may have -- of your need is 20 cohos, if you're far enough away from the terminus, you could be taking one fish from each stream, instead of under the federal program taking those 20 fish out of one particular stream.

So again we come back to our needs. Some people's needs are not being met, and those people shouldn't be penalized for that, and we're talking very
small numbers. So I guess I'll leave it at that, Mr. Chair.

CHAIRMAN DEMENTIEFF: Before I get to you, Ralph, basically it's opportunity. You may not be targeting the fish as you're going to the streams, is that what's going on? But while you're there, you're also harvesting fish? I mean, I don't know how that works. That's a big point for me.

MR. LITTLEFIELD: I guess I don't understand, Mr. Chair. I guess the opportunity would be if you were lucky enough to catch 20 fish in one day, which is more likely what we can put in our smokehouse. We can put more than that, then you would have those on your Federal permit and bring them home. But if you were to do that twice in a season, you would be prohibited from taking fish in any other fishery for the remainder of the year. And that shouldn't be done. And if you were lucky enough to get your 40 coho or your 30 sockeye, why can't you just participate in the State program anyway? I mean, we're talking very, very small numbers here. So we didn't think it was a problem.

And it's certainly no conservation concern, no matter what his statements are from the Interagency Staff Committee or the State. I dispute the conservation concern problems here. They're nonexistent in my opinion.

CHAIRMAN DEMENTIEFF: Thank you. Ralph.

MR. LOHSE: Well, Mr. Chair, I guess I'm going to confess to my ignorance. I wasn't under the impression that if you participated in a Federal subsistence program that you were then disallowed from participating in State sport fishing. And if I'm correct on that, or if I've been wrong on that in the past, I'd like to be corrected, because I was under the impression that the fact that you participated in the Federal subsistence program, you didn't give up your rights as a State citizen, and that you still could participate in any sport fishery that there was. In that case, this proposal that's sitting in front of us doesn't do anything, because I -- unless I'm totally wrong, I didn't realize that you gave up your right to go sport fishing just because you took part in the subsistence fishery.

So your proposal says that you can accumulate a Federal subsistence limit with your daily
harvest limit under the sport fishery. When couldn't you
do that?

MR. LITTLEFIELD: You can't do it now.

CHAIRMAN DEMIENTIEFF: Go ahead, Ralph, we
are going to get a response to you, but we're working on
that right now. In the meantime, Paul.

MR. TONY: Yeah, has anybody ever
addressed the legal issue about whether the Federal
Subsistence Board has a right to prohibit people from
participating in State government activities?

CHAIRMAN DEMIENTIEFF: We're not going to
take a break, but we're going to stand down just for a
few seconds while we come up -- because it's a very
important point that you raise, and we want to make sure
we have the right answer. And we think we have the
capabilities right here, so don't get up and leave.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: Okay. Everybody
has got together and has answers for us, but one of the
things that's clear to us, and it's come up and kind of
stopped us a couple of times this morning is with regard
to specific delegations, or specific questions regarding
delegations to land managers. And I just want to assure
everybody on the record that we will -- we have regular
Board work sessions. We'll address a way so that we can
have the answers available to us. We apologize for it
right now, but we're doing the best we can, but we will
make sure that we have that information available to us,
and we'll do that in a work session, at our very next
work session.

So with that, I don't know who wants to --
Tom is going to. Okay.

MR. BOYD: Mr. Chair. I believe one of
the questions had to do with do our current regulations
prohibit the accumulation of Federal subsistence harvest
for fish in concert with State subsistence and sport
harvest. And I'm going to read from the subpart (D)
fishery regulations. I think it's paragraph 27. You may
take fish for subsistence uses at any time by any method,
unless you are restricted by the subsistence fishing
It goes on to say, the harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative, except as modified by regulations in 27(i), which means the area specific regulations again. I'm interpreting this to mean that our current regulations prohibit the accumulations of Federal and State harvest limits.

I think another question was asked, do we have the authority to restrict individuals from sport harvest under State regulations, and I can only tell you what our regulations say, and I've just read those. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. John.

MR. LITTLEFIELD: Thank you, Mr. Chair. That particular section, for those of you who have books, is on Page 232, and it's the -- it has that regulation that Mr. Boyd just read.

What I would suggest that could accomplish the purposes here, we've asked to say that these don't have anything to do with Southeast. I would say that one of the options available to the Federal Subsistence Board would be to look at that section that's shown on Page 232 and strike everything after the first section, the first period, and that was you may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section, and which there are many, many further on. From the harvest limits, from that on to the remainder of the paragraph, if you were just to strike that, it would remove the linkage to the State system completely. It would address the Regional Council's concern by saying they're not tied together, and we're talking only a few fish. It becomes a non-issue. And I suggest that as a possible means of accomplishing what the Regional Advisory Council has asked you to do. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

MS. GOTTLIEB: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: To ask a question for clarification, we're talking about in Federal waters under this regulation.

MR. BSCHOR: Yeah. Ms. Gottlieb. Mr. Chair. That's correct. These regulations apply to only Federal waters, and in the case of southeast, that would be the inland freshwater systems that are currently within the forest.

CHAIRMAN DEMIENTIEFF: Paul.

MR. TONY: Mr. Chair. Yes, so does that mean that you can accumulate if you -- as long as you go outside of the Federal waters after you've taken your limit in Federal waters?

MR. BOYD: Our regulations currently prohibit that, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yeah, and that -- and the proposed regulation takes that limiting factor away. Ralph.

MR. LOHSE: Mr. Chair. I was looking at what Tom was reading to us, and I was just wondering if the last two sentences in there were also part of the regulations, or if that was just written as an explanation, where it says, this means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not after that take any additional fish of that species, any additional fish of that species under any other harvest limit specified by a State season. Is that part of the regulations, or was that must an explanation that was written at the end of it?

MR. BOYD: You know, I'm struggling to make the distinction. I mean, it's both in my mind. It's an explanation, but it's also part of the regulation.

MR. LOHSE: And, Mr. Chair?

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: And then from this last little discussion that you had with Paul, you're saying that
that then extends to State waters? It's if the Federal
limit is taken on Federal waters, then the person
participating in the Federal fishery can't take part in a
State fishery on State waters?

CHAIRMAN DEMIENTIEFF: Keith.

MR. GOLTZ: Yes.

MR. LOHSE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. LOHSE: Then I want to really thank
our area fisheries management for helping our area at
least craft regulations to keep people on the Copper
River from inadvertently doing an illegal act in sport
fishing and subsistence fishing for king salmon. And I
think it's time that this gets changed in this state.
Otherwise the Federal Government is being very more
restrictive for subsistence uses than is definitely
necessary.

Thank you.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. LITTLEFIELD: Mr. Chair, just a point.
We didn't take four hours on this one in Southeast.

CHAIRMAN DEMIENTIEFF: Yeah. The way --
at the rate we're going, I'm worried about whether or not
we have enough room reservation here.

Okay. Further discussion.

MR. BSCHOR: May I make a suggestion,
perhaps short of taking on language that really no one
else -- we're just discussing among ourselves here, and
changing the actual regulations, if we could deal with
the proposal that's before us, and maybe look at -- I
think where I'm coming from is that I never -- I wasn't
under the assumption that if you subsistence fished, you
couldn't go ahead and get sports fish. So if we could at
least fix that today, would that be worth pursuing?

CHAIRMAN DEMIENTIEFF: And that is the RAC
recommendation. There's one thing that's, you know, a
big part of what their recommendation is. Quite frankly,
given the fact that we are being more restrictive, and I
think that's pretty clear to us, that's not something
that we really want to do. Therefore, I really am
intending to support the RAC recommendation as it stands.

And in terms of the future, if there are issues
that come up in specific fisheries that we need to work
on, I think that we're all committed that we would be
able to fine tune the regulations in conjunction with our
resource people, the State's people, and the RACs to fine
tune these regulations, but it's clear to me that we do
not have a conservation concern. It's clear to me that
we are not providing the opportunity, so at least I
intend to support. Of course, I don't get the privilege
of being able to make motions, but I intend to support
the RAC recommendation just based on that, and if we need
to revisit the issue, then so be it. You know, I'm
certainly prepared to do it.

MR. BSCHOR: Mr. Chair. I'm still
concerned about the stacking of the State subsistence and
Federal subsistence, but I'm prepared to make a motion to
adopt the proposal as modified, but then I think maybe we
should at least have a vote on an amendment that would
strike the language on the State subsistence stacking.
And I'm prepared to do that, if you wish to go that way.

CHAIRMAN DEMIENTIEFF: Like I said, I
don't get to make the motions. I'm just going to -- I'm
trying to make a -- or help us make a regulation, so you
are free to go about your business here and move whatever
you want.

MR. BSCHOR: Okay. Therefore I move to
adopt the proposal as modified by Southeast Regional
Advisory Council.

CHAIRMAN DEMIENTIEFF: There is a motion.

MR. OVIATT: Second.

CHAIRMAN DEMIENTIEFF: Okay. Discussion
on the motion.

MR. EDWARDS: Mr. Chairman, for some of
the same reasons that were already presented, I plan to
vote no on the motion. I could be persuaded to vote yes
on an amendment of that motion that would allow the sport
fishing limits to be added to the current Federal limits.

MR. BSCHOR: I'd like to make a motion to
amend to strike the part allowing accumulation of State
subsistence harvest with other harvest.

CHAIRMAN DEMIENTIEFF: There is a motion.
Is there a second on the amendment.

MS. GOTTLIEB: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion on the amendment.

MR. TONY: Mr. Chairman, I'd just like to ask for the record what the .805(c) reasons for rejecting the RAC's recommendation are in this one aspect.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I would think that recognized principles of fish and wildlife management don't usually allow for combining harvests, and so I think this is an opportunity for the managers to work as always with the RAC to discuss this aspect of it some more, and again as I stated previously, if we're somehow not providing enough fish or enough opportunity through our Federal program, my strong preference would be for us to do our job most properly would be to receive proposals on that particular issue. I think the RAC has brought up a really valid issue, and it bears a lot more discussion on the permits and what else could be done either through process or through numbers of fish.

Thank you.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes, Gary.

MR. EDWARDS: I also believe that there could be conservation issues in some cases if we do allow stacking of limits on small terminal streams. It could have a conservation impact on a stream by stream basis.

MR. TONY: Mr. Chairman, I would think that that would be mitigated by the manager having the ability to protect the stocks. And I do think that there's a precedent in fish and game management for different jurisdictions allowing users to take the limit. For instance, I could fish here in Alaska and then I
could travel to Montana and catch their limit. I could
then go to California and catch their limit. I could
then go to Canada to one of the provinces and catch their
limit. I mean, it's allowed to go from jurisdiction to
jurisdiction and catch whatever the limit might be.

CHAIRMAN DEMIENTIEFF: Yeah, I think
that's really the big part of the delegation, and I do
know that that is in there. That is delegated for
conservation concerns. And I agree with your point, but
I just want to make it clearly obviously that that is in
there, and we do know that that is in there. That's in
all of the delegations that we have across the State.
Conservation is principle to the reason. So if there was
an issue, a conservation issue, then the field managers
would have that authority.

John.

MR. LITTLEFIELD: Thank you, Mr. Chair. I
let this skip by when we were discussing Proposal 17, and
I don't like to read from Title VIII all the time, but --
because you guys should know it. But I'm going to read
it once more for this one, because the question was
asked, you know, of 805. What are your duties under
that, and I'll read them for you again.

It says, the Secretary, and, you know, the
Board sitting there is acting as the Secretary, may chose
not to follow any recommendations which it determines is
not supported by substantial evidence, number 1, violates
recognized principles of fish and wildlife conservation,
not management, conservation, or would be detrimental to
the satisfaction of subsistence needs.

In Southeast we are very careful to
address these three questions, and another one, the
effect on other users. We always discuss those. We
expect you to either support this regulation as we
presented it to you, or vote it down. Those are the
things that we expect out of you. Sometimes that doesn't
happen, and we get an .805(c) letter every year back to
the Council, and in that .805(c) letter you have to say
which one of these three gave you the authority to
overrule our recommendations, because that's how the
system works.

A proponent submits a proposal to us at
the Regional Advisory Council. The law says that we're
going to review that and send it to you. You have only
three options for refuting that. And if you don't have
those options, you cannot just refute it.

What I suggested to you earlier was if you
modify 27 to include only the first section, that would
accomplish the purpose that the Regional Advisory Council
asked you. In other words, you may -- what we asked you
to do is to approve the language that said you may
accumulate annual Federal subsistence harvest limits
authorized for Southeast Alaska, and we're only talking
about Southeast, with harvest limits authorized under
State of Alaska sport fishing and subsistence
regulations.

The maker of the motion made an amendment,
which I don't think is legal, amending his own motion, to
strike the subsistence regulations, and only have it
apply to sport fishing or something like that.

All of this can be accomplished by
striking those last two sentences in 27(a)(2). You would
meet what the Regional Advisory Council asked you to do,
and you will address the need for the rest of the State
of Alaska.

Absent that, I want you to state for the
record why those three recommendations, why you're not
going to vote to support our proposal. And I would also
recommend, Mr. Chair, that you consider for the record
reconsidering -- and you only have today to do that,
reconsidering 17, putting it back on the floor, and
making those recommendations to us. Because as I recall
yesterday, that discussion did not take place. It was
simply a vote saying you don't want to do 17, and I don't
want to go back in four hours of testimony again on the
religious deals, but there is a process here, and the
process says how you are to act, and how we are to act at
the Regional Council, and we expect that the law be
followed, so we're asking you to do that. Make those
recommendations, tell us why you're refuting it, or
support the proposal as submitted by the Regional
Council, or modify 27 to do the -- accomplish the same
purpose. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yeah, I think we'll
deal with 17 at the conclusion. We'll give you the
opportunity to address that after we complete the
Southeast proposals. But we need to deal with this one,
so if the maker or the second wishes to address the three
criteria, I would appreciate that. Keith.
MR. GOLTZ: I don't disagree with anything that John just said, but I want to point out that those criteria assume that your regulation is otherwise legal, and one of the basis for determining whether a proposal is legal or not is whether or not you have a rational basis, and you have an adequate record.

If you start to accumulate limits, I think you're required to investigate what you're accumulating with. In other words, you have to examine the rational basis of the State limit, and which would broaden the consideration of fisheries proposals, and embed this Board rather more deeply in the State system than it's ever gone before.

The reason we have distinguished in our regulations the State and Federal system is in fact systemic. We want to make sure that we have an independent Federal system, so that our focus is on the subsistence user and on that user's needs and not distracted by what the State has done in any particular context.

The conservation concerns are folded into that when you see that you've already set a full limit for the Federal subsistence users. You have not had to consider the State. If the State has, for an example, already set a 30-fish limit for a subsistence user and the full need we determine is 40, then the Federal limit probably should be 10 and not 40.

So you're -- I suppose the bottom line here is that I think you're walking into waters that could become very stormy, and if you want to do that, I would suggest that you defer and request for a full legal opinion so that we can tease some of these issues out. I think this is more than just a proposal dealing with Southeast and a few fish. I think it's a proposal that has implications for the entire Federal program.

CHAIRMAN DEMIENTIEFF: Paul.

MR. TONY: Thank you, Mr. Chairman. I'd like the Board members and everybody else to think about a hypothetical, and that is a subsistence user in Federal waters, in Federal jurisdiction, reaching their limit, and then returning home and the next day going out into State waters at a point equidistance from Federal land managers for a variety of different jurisdictions, and fishing under the State law in violation of our Federal
regulation. Now, who is going to enforce this Federal regulation? Which land manager is going to send their enforcement officer out into State jurisdiction to cite this person for a violation of the Federal regulation.

CHAIRMAN DEMIENTIEFF: Any more discussion on the amendment.

(No comments)

CHAIRMAN DEMIENTIEFF: Are we prepared to vote then on the amendment.

(Board nods affirmatively)

CHAIRMAN DEMIENTIEFF: Okay. All those in favor of the amendment please signify by saying aye.

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: All those opposed.

MR. BSCHOR: No.

CHAIRMAN DEMIENTIEFF: No. The amendment carries.

We now have the main motion before us as amended. Any further discussion on the main motion as amended.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Certainly the Council and Keith have brought up an issue that bears a lot further discussion and communication, and so I'd certainly encourage that those discussions continue, and as you said, maybe we can get a briefing on it as well, and maybe bring it back to us and to the public. The Council has identified a problem, and hopefully the motion before us will go a ways towards solving that problem, but again, if there's other things this Board needs to do with respect to amount of fish, we want to do our job there, too.

Thank you.
CHAIRMAN DEMIENTIEFF: Any other discussion on the motion as amended. John.

MR. LITTLEFIELD: Just for the record I will, you know, object to the maker of the motion making amendments. I don't -- you know, you guys need to be careful, because we've been sued by everybody in the country it seems like, and you need to be careful in the matter of process here.

I don't think we're stepping into waters that we haven't been in before. And if you look on page 236, you'll see that we haven't. The language on 236 for the Copper River, again this is in 27, it talks about subsistence -- taking subsistence unless restricted further herein. Well, here's one, 27(11)(4), that lets you accumulate. It says in the second sentence, you may accumulate the harvest limits of salmon authorized with the harvest limits for salmon authorized under the State of Alaska sport fishing regulation. So you can do that, and if you need to restrict them further, you can restrict them further in -- in other words, you can -- we're only talking about Southeast Alaska here, remember, so again hopefully you would justify why you're taking this action, Mr. Chair, and maybe you might revisit that amendment and just do it proper for the record. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. And then I really -- I don't feel that the -- that we have done diligence again to address the three criteria, so I want to hear those criteria addressed by the maker of the motion or a Board member, because we need to get this on the record.

MR. EDWARDS: Mr. Chairman, I think if you would check the record, I did address that issue from my perspective from a conservation impact that that stacking of limits on small terminal streams could have a conservation impact, and which I previously said.

CHAIRMAN DEMIENTIEFF: Anybody else. He's first I think, Denny.

MR. GOLTZ: I want to assure John that my prior comments were not directed toward combining subsistence and sport. My concern, and it is a major concern, has to do with stacking the two subsistence systems together.
CHAIRMAN DEMIENTIEFF: Go ahead.

MR. BSCHOR: Yeah, I just wanted to also for the record support what Mr. Edwards has just said, and agree with what he said as far as the conservation situation.

CHAIRMAN DEMIENTIEFF: Thank you. Any other discussion on the main motion as amended.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Oh, not me. Take that back. All those opposed say aye.

CHAIRMAN DEMIENTIEFF: Aye.

MR. EDWARDS: Aye.

CHAIRMAN DEMIENTIEFF: Okay. With that, we'll move on to 23.

MR. CASIPIT: Thank you, Mr. Chair. The Staff analysis for FP05-23 begins on Page 243 of your book. Proposal FP05-23 was submitted by the Southeast Regional Advisory Council, and it requests closure of the subsistence fishing for chinook salmon and sets an incidental harvest limit for chinook salmon in the Southeastern Alaska area. Current Federal regulations do not restrict the harvest of chinook salmon in waters under Federal jurisdiction in the Southeastern Alaska area.

The intent of this proposal is to establish a general regulation for the Southeastern region that closed the directed chinook salmon fishing unless otherwise specified. The proposal recognizes that chinook may be harvested while targeting other species and sets an incidental harvest limit.

For biological background, I've provided -- we've provided a table, Table 1. Table 1 displays the escapement, and index survey data for key chinook salmon
indicator stocks in the Southeastern Alaska area. While
chinook salmon production in the Southeastern Alaska area
originates mostly from mainland rivers and streams, the
island stock of chinook salmon in the King Salmon River,
Admiralty Island, is a rarity in the Southeastern Alaska
area, and escapement is relatively -- escapements are
relatively small as reported by the chinook technical
committee of the Pacific Salmon Commission.

Chinook salmon stocks in the Southeastern
Alaska area have rebuilt over recent years and are
generally considered healthy. So -- and you can see in
2002 the escapement estimates for various indicator
streams throughout Southeast.

For harvest history, we've provided an
excerpt from a reference from Mike Turek, Alaska
Department of Fish and Game, Subsistence Division,
basically saying that most of the current king salmon
harvest in Southeast comes from marine waters.

Effects of this proposal is that closing
subsistence fishing to the harvest of chinook salmon in
waters under Federal jurisdiction, that's fresh water, in
the Southeastern Alaska area would not change where users
currently obtain chinook salmon, which is primarily from
marine waters.

Closing the Federal subsistence fishery
would align Federal and State regulations and provide
users with clear direction for the harvest of chinook
salmon in fresh water. The proposal recognizes that
chinook salmon may be harvested by subsistence users
while targeting other species, and establishes an
incidental harvest limit. This incidental harvest limit
would allow some incidental harvest while limiting the
effect on chinook salmon stocks. The incidental limit of
two chinook salmon would align with most State personal
use limits, but would potentially be more restrictive and
not consistent with State subsistence fishery incidental
limits.

With that, I'll answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you. Written
public comments.

DR. SCHROEDER: Mr. Chairman, we have no
written public comments for this proposal.
CHAIRMAN DEMIENTIEFF: Okay. Thank you. We have no additional requests for public testimony at this time.

Regional Council recommendation.

MR. LITTLEFIELD: Thank you, Mr. Chair. I'm glad we're off the controversial issues. Anyway, this one was a five-to-five decision, and it failed on a tied vote, and the Regional Council could not come to a consensus on a couple of issues. Number 1 was the number, whether two was the correct number or three was proposed, four was proposed as I recall. There was no consensus, and the additional problem was the hatchery kings which in our particular area in Southeast, in Sitka they have the hatchery in Silver Bay and you can be targeting salmon and easily catch three or four king salmon there in a high year, in one set.

We didn't see that this was a problem with hatchery fish, so we wanted to try to address that. That didn't work as the amendment. We also -- well, anyway, I'll just say that we couldn't come to consensus on this. We had intended to bring this back up in the meeting. We simply ran out of time. So I don't know what to tell you here, Mr. Chairman. Our recommendation is to oppose, because it failed on a tie vote, so that shows you how strongly in favor we were.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. KESSLER: Mr. Chair. I'm Steve Kessler with the Forest Service. The Staff Committee recommends that you defer this proposal to next year's consideration. This would allow the Council to consider this proposal again, and we believe that Staff has thought about and developed a regulatory solution that could address everyone's concern. So therefore again the recommendation is to defer this to the next cycle and allow further deliberation by the Council in public meeting.

In the meantime, there are no significant conservation concerns resulting from the existing regulations.

CHAIRMAN DEMIENTIEFF: Thank you.
Department comments.

DAN BERGSTROM: Yes, Mr. Chairman. I'm reading from the Department's comments on proposals in your supplemental materials.

This proposal would close targeted subsistence fishing for chinook salmon in waters applicable to Federal regulations and set an incidental harvest limit in the region. The proposal is a reasonable response to the conservation issue posed by current regulations. In the Southeast region, the size of particular chinook salmon stocks that are in waters applicable to Federal regulations is very small. For example, the King Salmon River stock has an escapement goal of only 120 to 250 fish. Actual escapements have been as low as 117 fish as seen in 2003.

Even the larger stocks with the exception of the Taku and Stikine are still relatively small with escapement goals between 500 and 2,000 fish. Such small stocks are susceptible to overharvest, especially in river where spawning fish are congregated and susceptible to harvest.

This proposal would align Federal regulations with State regulations. It also provides incidental harvest limits that align with most State fishery and personal use fishery limits. And the Department supports the proposal.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion.

MR. EDWARDS: Just a question for Staff, Mr. Chair. What is -- the current regulations then if we were to defer on that, the current regulations allow what?

MR. CASIPIT: Since our regulations are silent on the harvest of chinook salmon, there is no harvest limit.

MR. EDWARDS: And I guess the question to the State, these waters are closed to sport fishing for chinook?

MR. BOYLE: Through the Chair, yes.

CHAIRMAN DEMIENTIEFF: John.
MR. LITTLEFIELD: Mr. Chair. I'd recommend that you adopt the Regional Advisory Council's actions. You have three entities here. One is saying opposed, that's the Regional Advisory Council, second is the Interagency Staff Committee which is to defer.

And I'd remind you that this was brought forward by the Southeast Alaska Regional Advisory Council. This was one of our proposals that we put forward ourselves, and we could bring it back up if we want, but deferring it accomplishes nothing. If you oppose it, we could bring it back up again, and I think there was plenty of interest in that. We don't want to decimate any fisheries, and so I think if the Council had a little bit more time to discuss this, they would come up with the correct answer.

The State's action in supporting it is to make it align with their regulations. Nowhere is it our requirement that we align with the State. And I don't like to see that as a defense. They should stand on their own merits.

And I think we can flesh this out, so if you were to accept the recommendation of the Council, we can handle this next year. It's not a problem at this time.

CHAIRMAN DEMIENTIEFF: I agree with you, John, with taking care of the matter that way. Give us time to bring back -- you know, and I'm appreciating the commitment to do the work, and I'm hearing you that you -- the Council did not have enough time, simply ran out of time I think was the way you phrased originally to be able to finish the work on this particular proposal. And given the fact that there's not a conservation concern or anything else, I see no reason just to remove this proposal and that's kind of how -- where I'm leaning right now, just because of that reasoning, and if there's no conservation concern, get us more time, and get this one off the table as opposed to the Staff Committee recommendation to defer.

Other discussion.

MR. EDWARDS: Mr. Edwards, I guess one quick question for Staff. Given the limited number of fish, and the numbers appear to be very small, and the fact that there isn't any restrictions, why hasn't that created a conservation concern, or is it just lack of
participation in this fishery by subsistence users.

MR. CASIPIT: A little of both I think. Folks aren't aware that our -- I think most users aren't aware of how our regulations are permissive rather than restrictive. I think that's part of it as well. And like I said, I think in the analysis, most people just prefer to get their chinooks out of marine waters, outside our jurisdiction.

CHAIRMAN DEMIENTIEFF: The -- you know, and the other thing is, is that we have to utilize the tools, and I keep coming back to the delegation of authority to managers. If there became a huge interest, our managers are delegated the authority to close that fishery for conservation concerns, and we have to trust our system. We set it up, and it's worked in other areas, and we have to trust that the system will work while we're taking the additional time to work out a solution to this issue. So that's kind of where I'm at with regard to that. And I'd hate to keep bringing that back up, but we have to trust our system that we have built.

Discussion or motion. Doug, yes.

MR. MECUM: Thank you. I just had a question for the Interagency Staff Committee. What is the rationale for the deferment? It seems to me that this is really kind of a housekeeping issue in large part with one specific conservation issue relative to this one small stock. What is the rationale for the idea of deferring?

MR. KESSLER: Mr. Chair. Mr. Mecum. The rationale was that this -- that by deferring it, it would give the Council additional time for discussion. There has been some discussion among the -- among Staff about some possible solutions to this. If the Board were to oppose this and the Regional Advisory Council brought it up as a new proposal for next year, that would accomplish the same thing.

MR. BSCHOR: With that said, I'm prepared to move on this. I'd like to move to -- in line with the Southeast Regional Advisory Council to reject the proposal.

CHAIRMAN DEMIENTIEFF: There's a motion. Is there a second.
MR. LITTLEFIELD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Oh, wait, we need a second. We've got this on the.....

MR. LITTLEFIELD: Hopefully -- I would move to adopt, you can't make a backwards motion. So I would move to adopt and then vote it down, if you could, please.

MR. BSCHOR: I'll withdraw the first motion, and move to adopt.

CHAIRMAN DEMIENTIEFF: Is there a second.

MR. OVIATT: I'll second.

MS. GOTTLIEB: Are we adopting their opposition or adopting.....

CHAIRMAN DEMIENTIEFF: We're adopting their recommendation which is to reject.

MS. GOTTLIEB: Got it. Mr. Chair.

CHAIRMAN DEMIENTIEFF: We have a motion to adopt the Regional Council recommendation is basically. And by voting in favor of the motion to adopt, we accept the Regional Council recommendation is where we're at.

Yeah, and the proposal goes down.

UNIDENTIFIED VOICE: Right.

CHAIRMAN DEMIENTIEFF: But it's one of those things. It just.....

UNIDENTIFIED VOICE: (Indiscernible, away from microphone)

CHAIRMAN DEMIENTIEFF: Well, yeah, but, you know, we've chosen this vehicle to use the Regional Council recommendation as the vehicle, so that is their recommendation. They opposed. We vote in favor of the motion, and then we reject the proposal, and we will see when they come back with it. That's where we're at. Okay. Any further discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: 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 motion carries.

The proposal is rejected.

Okay. 25.

MR. CASIPIT: Thank you, Mr. Chair. Your Staff analysis for FP05-25 begins on Page 261 of your book.

I'm probably going to be spending a little bit more time on this staff analysis than previous ones, so bear with me, please.

Thank you.

Proposal FP05-25 was submitted by the Alaska Department of Fish and Game. It requests that we -- that the Federal program allow non-Federally-qualified sport and subsistence fishers to harvest sockeye in Pillar Bay, the fresh waters of Pillar Bay. That is Kutlaku Lake and Stream. The Federal Subsistence Board restricted the harvest of sockeye salmon at Kutlaku Lake, Gut Bay Lake and Falls Lake to Federally-qualified subsistence users effective for the 2001 fishing season.

Alaska Department of Fish and Game subsequently submitted a request for reconsideration which was not adopted by the Board.

In addition, the Board funded a sockeye assessment project at Kutlaku Lake in 2002 and 2003. These studies produced a partial sockeye salmon escapement estimate for 2002 and a total escapement estimate for 2003.

2002 sockeye escapement estimate greater -- which was greater than 1400 fish for Kutlaku Lake was incomplete, because it did not account for an unknown number of sockeye salmon spawning in the stream after the survey, and spawners that were in the lake.
The 2003 escapement estimate accounted for these spawning groups, and is much higher than any of the recent aerial or foot escapement surveys displayed in Table 1.

Because there has only been one completed escapement survey, there remains some uncertainty with the data and the escapement goal -- an escapement goal has not been established. Because of budget shortfalls and change in priorities, there are not plans for continued assessments of this type at Kutlaku Lake in the future.

The 2003 escapement estimate does suggest that there is not a concern with sustainability.

Commercial harvest of sockeye salmon in the lower portions of the Chatham Strait have significantly increased, but harvest of mixed stock of sockeyes -- and appear to allow adequate escapement. Table 2 displays those commercial catches in Lower Chatham Straits.

The subsistence fishery has decreased significantly since 2000 and recently annual harvests are about one-third of the long-term average. That's displayed in Table 3.

Due to limitation of the statewide harvest survey, it is unlikely that the estimate of sockeyes taken in the sport fishery will be known in future years, whether the retention of sockeye by non-Federally qualified users is allowed or not.

For regulatory history, again I wanted to talk a little bit about the original closures that were put in place in '01. Proposal FP01-31, submitted by the organized Village of Kake and the City of Kake, requested that the Board close the Federal public waters draining into Falls Lake, Gut Bay Lake, and Colored Bay drainages, that is Kutlaku Lake, to the harvest of sockeye salmon by non-Federally qualified users, and eliminate possession limits at those locations. The Board did take action. They did not agree with the elimination of possession limits, but they did agree to the closure to Federally non-qualified subsistence users.

The Alaska Department of Fish and Game submitted the request for reconsideration for Kutlaku Lake. The Staff analysis indicated while there was
conservation concerns at Falls Lake and Gut Bay Lake
there was not a clear evidence of a conservation concern
at Kutlaku Lake. The Board did not rescind the closure
of any of these three systems to non-Federally-qualified
users because of a couple reasons, one, the uncertainty
of the escapement data and, two, the potential for
interference with subsistence fishing activities by other
users.

In 2002, Alaska Department of Fish and
Game responded to the conservation concerns at the
Kutlaku Lake by closing a large section of the bay near
the mouth of the stream leading to Kutlaku Lake to
subsistence fishing. And I'll call your attention to
Figure 1. And if we could go back to that -- on the
screens we've flashed an ortho-photo digital quad of the
area and I wanted to explain what that means. The red
area enclosed by the two green lines are the area that
Alaska Department of Fish and Game in 2002 closed to
subsistence fishing. The yellow line in the middle is
the line of Federal jurisdiction, that is, areas below
that line is Federal jurisdiction, areas above that line
towards marine waters is State jurisdiction. So to
explain this even a little more, what this means is that
Federally-qualified subsistence users can harvest in that
red area but they have to be Federally-qualified users.
No subsistence users, either State or Federal are allowed
to fish in that area above that yellow line.

So that kind of explains that. I'll be
happy to answer any questions if there's any confusion
there.

I also wanted to call your attention to
Table 4. These are recreational visitor user days on the
Tongass National Forest recently. This is our reports of
basically guided or outfitter guided activities in the
Kutlaku Lake, Bay of Pillars watershed. You'll notice
that there has been no sockeyes reported being harvested
by outfitter guides or their clients in recent years
although there has been some fishing reported there.

The effects of adopting this proposal
would be to allow the retention of sockeye by non-
Federally-qualified users in the Kutlaku Lake watershed.
This change would allow all sportfishers, and all State
subsistence fishers to retain sockeye harvested in the
areas under Federal jurisdiction in the Kutlaku Lake
watershed. Due to limitations of the statewide harvest
survey for sportfish it is unlikely that the estimate of
sockeye taken from Kutlaku Lake in the sportfishery will
be known in future years, whether the retention of
sockeye by non-Federally-qualified users is allowed or
not.

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

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

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

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

MR. LITTLEFIELD: Thank you, Mr. Chair.
The Regional Advisory Council recommendation is on Page
262 of your Board book, and we opposed this action by a
vote of 8/1. We did conclude that there was a
conservation concern with this system and the existing
system, and there are restrictions on it now and we felt
they should be continued.

The existing data, which, if you look back
at it, basically we're trying to take this action based
on one year of data is not sufficient in our view to base
a decision on. In other words, there is no fishery
that's based on one year's data that we know of, usually
it takes at least three and sometimes more than that.

Adopting the proposal would also have an
adverse effect on subsistence users and no effect on the
subsistence sport users, non-subsistence. And when you
look at these fishing -- Mr. Casipit talked about Table
4, if you look at that, you'll see that there is some
fishing going on but there are no fish taken, and this is
what we're telling you, that sportfishermen are not
required to tell you how many fish they have but we are
literally regulated to death in the subsistence fishery
reporting every single fish we catch. So we don't know
what those numbers are. There are real no numbers there.

So we want to error on the conservative,
in the side of conservation and say let's get some better
numbers and in another year or two and look at this
system. We heard a lot of testimony from OVK, the
Organized Village of Kake, and they are the closest
people that use this area in a traditional area and
they're 45 or 50 miles, I don't know how many miles it is
away from that but when you look at the limits that are
allowed for their 15 in possession to make a 45 or 50
mile run, they're really low which indicates that maybe
there is -- you know, this is system isn't 50 or 100 like
we might -- like in Sitka we can get up to 100 sockeyes
depending on the run strength at Redoubt, so it's not
indicative of a system that's in full recovery.

We would like you to oppose this proposal
and err on the side of conservation.

Mr. Chair.

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

MR. KESSLER: Mr. Chairman. Steve Kessler
again with the Forest Service. The Interagency Staff
Committee recommendation is on Page 262 and 263.

The Staff Committee did not reach
consensus on this proposal and we have two options for
you to consider. The first option is the same as the
recommendation as the Southeast Regional Advisory
Council, it would maintain the closure of Pillar Bay,
Kutlaku Lake and Creek.

For this option, it was based on four
considerations. First, during public testimony at the
Southeast Regional Advisory Council representatives of
the community of Kake stated that they're unable to meet
their subsistence needs for sockeye salmon because of
insufficient fish and competition with other harvesters.
Second, the reported subsistence harvest levels by Kake
community members may be constrained by the current
levels of fish and would likely be higher if more sockeye
were available and if the harvest cap were increased.
Third, the population abundance information suggestion
there may be sufficient fish for other harvesters
represents only one and are depending on an
interpretation of two years of data. Adequate sockeye
salmon escapement over a full five year life cycle is
desirable to demonstrate that there are no conservation
concerns with this stock. And finally, fourth, lineology
data from Kutlaku Lake suggests that this system is very
productive and is likely able to support larger
populations of sockeye.
The second option among the Staff Committee was to support the proposal and that would be contrary to the recommendation of the Southeast Regional Advisory Council.

The regulation then would read as proposed on Page 261 of your Board book. Justification for this option is based on three items. First, that recent spawning escapement information on Kutlaku Lake sockeye indicates abundance level capable of sustaining subsistence harvest as well as allowing for non-subsistence uses. Second, that available information indicates that nearly all the harvest and user conflict occurs in marine waters which are outside of Federal management jurisdiction. And, third, past actions by the Federal Subsistence Board to resolve user group conflicts such as overcrowding has been to encourage the appropriate Federal and State agencies to work together in resolving such conflicts not through the non-subsistence harvest closures.

That concludes my testimony, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. BOYLE: Thank you, Mr. Chair. Cal covered pretty much the regulatory history, how this regulation got to be in place and also noted that the Office of Subsistence Management funded that study, they didn't ask for a five year study, by the way. And so that field work's done, we have some data, the final project report is being worked up, and I think might be over at FIS at this time.

So the most recent best available escapement estimates we have from the Kutlaku project really contribute to help answer some of these questions. The numbers we had in the materials, and by the way our comments begin on Page 15 of Department comments. The most recent information that's in the final draft report for the project is 8,000 to 9,000 fish, sockeye with a midpoint estimate of 8,500 sockeye, that's with a 95 percent interval. There's additional information that's in the summary packet on the supplemental materials for Proposal FP05-25.

Some of the key points in there, in Table 1, as Cal noted, there's so little participation there on the sportfishery that it can't be gleaned out for that
Table 1 shows the freshwater sportfish harvest, there's no year there where it exceeds a thousand for an entire area.

Table 2 shows the sockeye harvest from the guided saltwater sportfishing. That information clearly shows that people don't go there to target sockeye it's coho and chinook salmon.

And Appendix A in this material, and it would probably be easier to refer to Cal's Table 2 on Page 266, it shows the sockeye harvest in Chatham Strait.

To put that in some context, those numbers, we have the Commercial Fisheries Division, for those same statistical areas, the 10 year average for pink and chum salmon which is the targeted fisheries, these sockeye numbers here are the incidental take, so for the period 1995 to 2004, the average pink salmon harvest is 3.2 million fish and the chum salmon 131,000 fish. And then you can see the sockeye harvest on Page 266, it gives some perspective, they aren't targeting sockeye in these fisheries, it's predominately a pink salmon fishery. And in the sockeye there's certainly mixed stock fish that are moving up Chatham Strait into other areas.

So when we look at this viewed with the past harvest and escapement information, you know, data from the project strongly supports that the degree of harvest from the Federal subsistence fishery in Kutlaku along with other uses is proportionately low relative to the escapement and well within the range of sustainable use.

So based on this most recent information that the Board had requested, the Department concludes that there are not conservation concerns with the Kutlaku sockeye stocks there. The State approaches these situations conservatively, you know, we provide for subsistence and other uses when there's a harvestable surplus available, the State will continue to monitor the harvest information by all users as well as continue to coordinate with the Federal land managers.

The State and Federal Staff working with the public can resolve potential user conflicts whether
they're in State marine waters or on Federal lands. And
the Department notes that support from OSM funds have
been key in getting this information on the Kutlaku
escapements so we have some current information.

Another source of information that we'll
get annually is now with the State sportfishing guiding
law, there'll be freshwater log books also being kept.

And as Cal noted in his Staff analysis,
when our request for reconsideration for this proposal
came up in 2001, the Staff Committee majority opinion
there was to rescind the restrictions at Kutlaku Lake,
and that was before we had any of this information. So
now we have some information on the system and
essentially what we have a permanent closure to non-
Federally-qualified users that's in the regulation. We
note that the Board adopted Proposal 28 which liberalized
the region-wide steelhead harvest and it's noted in Staff
analysis for that proposal and also in the Interagency
Staff Committee comments, it says, Federal in-season
managers would have the ability to adjust regulations and
close specific streams as needed for conservation and to
ensure the Federal subsistence priority. And we feel now
it would be consistent to do that and remove this current
regulatory closure and return this system to in-season
management.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Board
discussion.

MR. EDWARDS: Mr. Chairman, I guess I'd
since 2000 that the subsistence fishery has decreased
significantly. What do you attribute that to?

MR. CASIPIT: If I had to guess it's
because of that large closure area that was put in the
State -- put in through the State system. That red area
that showed on your Figure 1. That basically closed the
best fishing area to subsistence fishing.

MR. EDWARDS: So does that remain closed?

MR. CASIPIT: I believe that is still
closed.

CHAIRMAN DEMIENTIEFF: Go ahead.
MR. MECUM: Thank you. Mr. Chairman.

This closure that the State implemented was a closure that was in response to requests from the people of Kake to make their annual limit the same as -- the daily bag limit and the annual limit the same. It is as you heard, it's a very remote, 50 miles away or something like that and to be more efficient in their operations, to be able to travel over there, they wanted to make those limits the same. And so we were willing to accommodate that request but at the same time we thought if people were going to do that, be more efficient, that we want to back them out a little bit.

And that was the reason for that. I mean I really wouldn't even call it a closure, it's really a line change which is just sort of a routine thing you do in fisheries management.

There are also other opportunities, Falls Bay, which is probably the primarily system where people go to to get their subsistence fish, I think there's been some displacement of effort to that location as well as the fact that there is a lot of fish available in Kake from their Gunacreek Hatchery operation on their chum salmon program which has been very successful.

So those are the reasons for those differences.

Thank you.

CHAIRMAN DEMIENTIEFF: Further discussions.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: If I could ask, I guess there isn't anybody from Kake on your Council, which may be a little bit of a drawback and perhaps because this is a recurring issue maybe we can do a little recruiting in that direction and help your direct input. But I guess I'm wondering, again, whether really what's called to question here is if Kake needs a higher limit from this Board or I guess I'd also like to know if anyone testified how effective the closure that we currently have in place has been or how helpful to Kake people -- Mr. Littlefield.
CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Ms. Gottlieb, through the Chair. The Kake people, I have to agree with Mr. Mecum, are targeting other fish. It is a significant run to -- you know when you run 50 miles you'd like to get more than 15 fish so that was one of the things that was a trigger to us that said, well, if they're going to run 50 miles they should be able to get 100 fish and if they don't have a hundred limit then there's probably something not up to par, we don't know what's going on. But we say the numbers are not adequate to make this decision. That was our recommendation.

But if you look at -- the State brought up commercial fishing, so let's go to that table, Table 2 on Page 266. You see that this has been a -- if you were to graph this you would see that it is has gone up to a high of 41,000 fish in 2001 and if you take those and average them out, we came up -- these are hundreds of times the take of the subsistence users in that area. We were real concerned about the effects. We don't know what these are either. We don't know exactly what those were and that's why we said we don't have enough data. We've asked the Council to research that and come up with some reasons or whether this commercial take is impacting them and we first saw this in the Gut Bay, Bay of Pillars, Kutlaku closures, Falls Lake that were mentioned that came before the Board in 2001. You could see that progression going upward, and we don't know the effect of those, and we can't say today. And that's why we're telling you that we'd like to maintain those conservation measures that are in effect and get some more data on that.

We've asked for more data and I think we could wait, there would be no harm in waiting a year to flesh this out, or two.

Thank you.

CHAIRMAN DEMIENTIEFF: Doug.

MR. MECUM: Thank you. Well, Mr. Chairman, I was glad Mr. Littlefield brought up the commercial fisheries information, too, because that information that is in front of you could be very misleading if you were going to try to make any conclusions about the impact of the commercial fishery on this stock.
Those are four subdistricts that are spread over a very large geographic area. If you look at
the harvest data from -- which is something we mention in our comments, I thought, from the subdistrict, which is
also a fairly large area that's five miles from the terminus of the stream, the harvest there over the past
10 years has been a total of 1,500 sockeye. The areas that are listed in this report here are areas that would have nothing to do with catches from that particular stock.

And I guess one of the things I would say that bothers me about the idea that we don't have enough information, it's one of these sort of precautionary black holes where there's no exit. If we're not going to continue to fund weir programs there we're not going to have the information and this, in effect, would amount to a permanent closure, and I just think that's unwise.

You know, in essence what you have here is a gear conflict, I guess, with people wanting to conduct their subsistence fisheries, free from interference from other users and I understand that, but that seems to be a fairly draconian measure when, in my view, there clearly is no conservation concern for this stock. So, I guess in my view it's an unnecessary restriction.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Gary.

MR. EDWARDS: Mr. Chairman, there's a couple of us over here who are still confused by these two different closures, could you put that back on the screen and sort of explain again exactly what it is and what would or would not take place depending on how we voted here?

MR. CASIPIT: I'll try. Well, let me give this another try.

You'll see that red shaded area bounded by the two green lines. That whole red area under the State system, I use the word closure but Mr. Mecum said it's not really a closure, but there is no subsistence fishing allowed within those two green lines under the State regulation. That yellow line is the line of Federal jurisdiction. So even though the State has closed the entire red area to subsistence fishing, that area below that yellow line is still open to federally-qualified
users for subsistence fishing. That area below the
yellow line is closed to Federally-non-qualified users.

If the Board was to remove the closure or
basically remove the closure as the proponent has
requested, all that area below that yellow line would now
be open to all users. I wouldn't know what would happen
in the area above that yellow line since that is State
jurisdiction and it's up to the State as to what's going
to happen there.

Did that answer your question?

MR. EDWARDS: Sort of. I'm a little
crossed. I still don't understand why would the people
from Kake then, why would they want you to close that
area to them?

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. MECUM: Mr. Chair. Again, this was
something that the area managers worked out with the
local people there again because I'm not sure what the
limits were on the permits, we do this all on an annual
basis by permit, but there was a daily limit that was
less than the annual limit and they said if we're going
to go all the way over there we want to have the
opportunity to catch more fish so we said, well, we could
make the daily limit the same as the annual limit, I
think 50 fish, but if we're going to do that we want to
make you a little less efficient by moving you out
further because obviously it's not a system that we can
really track on a daily basis. So this would be
typically the kind of thing you do in a fisheries
management is just move the fishery out a little further.

MR. EDWARDS: But it seemed what it
accomplished was reduce the participation.

MR. MECUM: Well, that's an assumption
that you're making Mr. Edwards, and I think that it's
more likely that that had to do with other opportunities
than with this particular action but I can't tell you
that for absolutely certain.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Thank you, Mr. Chair.
If you'll look at the screen there, what was neglected
and I was trying to flag him down, was, the Federal
waters continue to the bottom of the screen, okay. In other words, that little thing on the bottom there is a lake, in other words that's Kutlaku Lake on the bottom there, so the stream fishing -- in addition to the bottom part of the red it's closed all the way up into the lake, so those are other areas. And if you look back on Table 4, on Page 271, you're going to find that we have a bunch of people fishing up there who I suspect are non-Federally-qualified fishermen that are not catching any fish and that's because they're not allowed to, so I don't know why they would put those on their permits.

So I just didn't want to forget that it included the freshwaters so there's a little bit more that should be shown in that color.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

MR. BSCHOR: Yeah, Mr. Chair. Just a couple of points. It seems that -- while I'm encouraged with the information as far as the numbers that come from the State and realizing that's one year, and then realizing also that it's probably the only year of information we're going to have because we don't have any more study funded there, but I also think that the Board needs to know that the in-season manager and the Forest supervisor are still concerned about this particular system relative to sockeye. I can't speak for them as far as specifics, perhaps the Staff can give us what their specific concerns are. But I do want you to know that they really favor continuing a closure.

CHAIRMAN DEMIENTIEFF: Further discussion.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'm wondering if we do have any data on the subsistence take from the lake.

MR. CASIPIT: Our permits really don't -- the permits that we issue and I believe the permits the State issues really don't make a distinction where the fish were caught, whether they were in the stream or the lake or the immediate terminal area, it's just reported as harvest at Kutlaku Lake.
CHAIRMAN DEMIENTIEFF: Denny, you have something.

MR. BSCHOR: Yes, I'll make a motion at this time if you feel it's appropriate.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BSCHOR: I move to adopt the Southeast Regional Advisory Council recommendation.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion.

MR. TONY: Second.

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

MR. EDWARDS: Mr. Chairman. I believe that the last time this came up when the State came to us and asked us for reconsideration, I was the only one at that time that voted in favor of doing that. Since that time we have gone out and we were concerned from a conservation standpoint, we did go out and ask for a study to be done, recognizing again it was only a year study, it does seem pretty convincing that there is not a conservation issue.

As has been discussed previously, you know, one of our responsibilities is not to unduly restrict other uses. It seems to me it's very clear here that those other uses are pretty minimal. And as you pointed out yourself, that if, in fact, if it becomes problematic and this other additional use is having an impact, then the in-season managers will certainly have the opportunity to go in there and regulate that. So as a result of this discussion, you know, I would plan to vote against the motion.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

MS. GOTTLIEB: Mr. Chair, if I could ask maybe a couple more clarifying questions.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I think, Doug, you were saying a number of about 1,500 commercial harvest about
five miles from the system. Is there any plan sometime
in the future to either try to track how many of those
might be going into the system or was that your estimate
of how many sockeye might be going into the system?

MR. MECUM: Mr. Chairman. What I said was
that there was 1,500 sockeye harvested in the last 10
years, harvest ranging from maybe one or none to upwards
of 500 in any given year. In the subdistrict -- the
commercial fishing subdistrict that's adjacent to Bay of
Pillars and the closure line for the commercial fishery
where the subdistrict starts is five miles away from the
stream terminus.

You know, even if you attribute all of
those sockeye caught in that subdistrict to Bay of
Pillars, which would be, you know, the maximum for that
stock, it's still as, you know, Mr. Edwards just talked
about, a diminimus number of fish as are the other uses.

And one other point while I have the
floor, I'd just say is that, you know, the State
subsistence fishery is going to continue on in this
particular case. We do not have any conservation
concerns for this stock and most of the harvest, if not
practically all of it occurs in the State subsistence
fishery.

Thank you.

MS. GOTTLIEB: Mr. Chair, one other
question please.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: Do we have an estimate of
either a number of sport users or sport take if we
reopened this?

MR. BOYLE: Ms. Gottlieb. Mr. Chair. We
have presented Table 1, I believe in the handout to give
you the best information we have for the area. As Mr.
Littlefield said and Mr. Casipit said, we don't have
estimates in the past, specifically for Kutlaku Lake.
We've gotten literally one or two responses from our
mailout questionnaire over the last 20 years for that
particular location. We do estimate harvest over a much
broader area, roughly 1/7th the size of Southeast Alaska
and you can see over on the right-hand column on that
table, the estimates are in the order of magnitude of,
you know, two to 800 fish or so annually from the area around Petersburg, Wrangell, and Kake as a whole in freshwater.

I guess what I look at trying to ascertain effects of reopening the sportfishery in this area is what were the effects of the Federal Board when it, you know, effectively closed the non-Federally use of the sportfishery. It's very hard to detect a difference in this information in the last two years relative to several years beyond that, so with that, I would suspect, again, reopening the area to non-Federal subsistence use would have basically an undetectable consequence in what we see in this table.

MR. EDWARDS: Mr. Chairman, I guess I'd like to add one other thing to my remarks.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: It seems to me that if we pass on this motion and then do not plan to do any further studies to evaluate whether this fishery, this run can withstand both sport and commercial -- or sport and subsistence fishing, then essentially we're going to be closing it forever more because we're not going to be doing anything to determine if and when it could be and that seems to me that we're going to be then unduly restricting other uses when there may not be a need to do so.

CHAIRMAN DEMIENTIEFF: Further discussion.

John.

MR. LITTLEFIELD: I'd like to respond a little bit to Ms. Gottlieb's question. If you'll look at the State data that was supplemental materials for FP05-25, and if you'll look at the back sheet in there you'll actually see which districts they're talking about. It's kind of hard to tell exactly where the Bay of Pillars is on that chart if you're looking at Chart No. 2. But if you come up about halfway up Chatham Strait at the bottom, before you get to Frederick Sound on the right-hand side, you'll see where it says Rowan Bay, and below that the Bay of Pillars, so that's the area where we're talking about, in that Bay of Pillars.

I don't think anyone can tell us with any certainty where all these sockeye come from, whether they migrate from the bottom through subdistrict 10, or
whether they go through 61 or whether they're coming from
the north, 51 or 20 on the other side. But if you were
to take and add up those four subdistricts, you're going
to see that it's one heck of a lot of fish. That was one
of the questions that we posed, is we want our Staff to
search that out and find out what's happening there
because those numbers are real significant. And I know
we looked at these earlier when we did close those three
streams and we'd like to find that out. We think there
will be some other additional information, and hopefully
the Staff will have that prepared for us at the next
meeting.

It doesn't have to remain closed forever,
we can look at this again. We've asked for additional
information and if we get information from the most
effective users, the Organized Village of Kake, and if
they tell us that that system's okay, we would then say,
sure, let's open it up, if there's enough for everybody
let's do it. I don't think they wanted a private enclave
although there was definitely a user conflict there just
like there was in Redoubt, but no one is proposing that
we close this forever.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

MR. OVIATT: Does the Forest Service have
a commitment or are you going to do further studies, are
you going to elevate this? Are we going to get some data
coming in? I really hate to support closures, but I also
hate to go against the Forest Service and the management.
And if we thought you were going to elevate this on your
priority list for studies and we would get this data
coming in we could reevaluate this in the future.

CHAIRMAN DEMIENTIEFF: Cal.

MR. CASIPIT: Thank you, Mr. Chair. There
is no proposal to continue work at Kutlaku through the
FIS process, and I don't think that there's going to be
money coming out of our regular Forest Service funds
either. Most of this work that we do with salmon stocks
for subsistence come through the FIS program, and we did
dedicate $2 million a year to the FIS program, and right
now there's just higher priorities out there. I mean
we've heard that folks are most interested in Falls Lake
and we've got projects going at Falls Lake. You know,
there definitely is conservation concerns at Falls Lake
and that's why we're choosing to spend our money there instead. Klawock Lake, folks are very concerned about Klawock Lake, we're spending money there. It's just a matter of priorities and, sure, if priorities change we'll go back to Kutlaku but right now there's no plans to go back there.

CHAIRMAN DEMIENTIEFF: Thank you.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: Mr. Chair, thank you. In the supplemental materials on the bottom of the second page it says that the data confirmed that the supply of food was adequate for the current level of fry production and has the potential to support even higher numbers of fry in the lake, so I mean I guess that's good news that the thought that the lake could support more fish and more fishing. So to me, I think, that also means though that maybe a little less take has to occur so that more of the fry can get up there and enhance the system.

CHAIRMAN DEMIENTIEFF: Further discussion. Doug.

MR. MECUM: Yes, Mr. Chair, if I could respond to Ms. Gottlieb on that particular point. You really can't look just at the fry data in isolation with, you know, considerations about spawning areas. You know, these kind of systems are generally spawning limited so I'm not sure that that would really do anybody any good.

The other thing to think about, and we've laid this out in some of our comments, you know, that 8,000 sockeye, granted it's one year, I admit that freely, but that's quite a few sockeye for a system of this size. If you compare it to other systems in Southeast Alaska, Hughsmith Lake, for example, which is a much bigger system we have an escapement goal there of about 800 to -- 8,000 to 16,000, I believe, Lake Eva, you know, a few thousand fish. So those kinds of numbers are kind of in the ball park of the kind of numbers you'd expect to see in those type of systems.

CHAIRMAN DEMIENTIEFF: Paul and then Denny.
MR. TONY: This is a question for the State on whether you have any plans on maybe reallocating or making this a priority for your research funds?

MR. MECUM: Mr. Chairman. Mr. Tony. No, not at this time. I guess we kind of feel the same way about the -- that the Forest Service does in terms of where we put our money, this is not that high of a concern for us at this time.

CHAIRMAN DEMIENTIEFF: Denny.

MR. BSCHOR: Mr. Chair, I guess where I am is I don't particularly want to be in favor of something that closes it forever, however, I still think I have not -- with one year's worth of information that looks positive, I don't think that's enough to solve the conservation concern I have. And I know that's not enough to solve the conservation concern the in-season manager has. So I believe we still have a conservation concern. Now, whether we have the priority to make the studies right now or not that's another issue, I guess. I don't think we can decide that at this point in time with this particular decision. But I do think that that's important relative to the issue of is it going to be closed forever. So I have a feeling that issue will become more important if we continue the closure. So I'm going to still come out on the conservative side on this when we vote.

CHAIRMAN DEMIENTIEFF: I tend to agree with you, Denny. And I think with the one year study, with the manager's concern and with the fact that, as John mentioned in his testimony, the local people, who are still supporting the closure, you know, I intend to vote in favor of the motion as we do err on the side of conservation.

I do have a request to take a brief break, it's 11:20, we're not breaking for lunch, but a short break, I have a request from one of the Board members to take a real short break, so don't run away, and then we'll continue our discussion on the motion.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: I'll go ahead and
call the meeting back to order.

Further discussion on the motion.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I guess I just would want to sort of reiterate that in some of the previous decisions we made, you know, we stressed the fact that we do have this in-season management capability and it was a system that we established and to use your words, it's a system that we need to trust. And it seems to me that certainly it can apply in this case, and that if we vote to open this and if the in-season managers determine that there truly is a conservation concern then they could close it in-season. And it just seems to me that if we're going to use that rationale, we ought to be willing to use it in all cases and not just in selective cases.

CHAIRMAN DEMIENTIEFF: And I think in trusting that system that we have to realize that the managers do have a conservation concern right now, and so I trust that. I trust the process. And if there is that concern, until, in this case, the local people, again, and our managers have been able to do away with that concern, then I think our best interest is to err on the side of conservation and support the Regional Council recommendations.

John, did you have something.

MR. LITTLEFIELD: Thank you, Mr. Chair. I'd mentioned earlier that OVK said their needs weren't being met. If you look at -- I know the transcript is kind of hard to read through if you look at the transcript of what happened at our meeting, but you'll see that we had quite lengthy testimony. And one of the things that I'm looking for and I'm trying to find it, in addition to their needs not being met, they said that the stream was not up to par. Those people who had their pulse upon the fishery said that it hasn't recovered yet, so that's the second part of the information you got to weigh. Those people said it isn't up to par, as well as their needs are not being met. Their needs cannot be met with 15 fish. They're 50 miles away from Kake, they're not going to spend $2 a gallon to go get 15 fish in Kutlaku and that's why the opportunity is not there. But they go there and those people have told us that that
system is not up to par yet. And that's the second part of this that I hope you would weigh, to be included in your vote.

And the question of whether we can fund this or not is money driven. We didn't have enough money to fund the projects that we talked about this year, even though we did agree with the Technical Review Committee, there were projects we thought should have been funded too. It's a money issue. That's separate. That has -- it's totally different from what we're asking you to do. I would say that the Council has said that they wanted more information and we directed Staff to get us some more information at our next meeting. If we get that information and that information is indicative of opening up that stream and OVK says that it should be open, we're going to recommend that it be open. We're not telling you to close this up for life.

That's all I have, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Is that your spring meeting, John, that this information is going to be available?

MR. LITTLEFIELD: Mr. Chair. At the spring meeting we'll be discussing bear regalia made of claws.

CHAIRMAN DEMIENTIEFF: Okay, let's not go there.

(Laughter)

CHAIRMAN DEMIENTIEFF: Any further discussion on the motion.

MS. GOTTlieb: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTlieb: Mr. Chair, thanks. It does sound like we've heard very strongly from the Kake area that, again, their needs are not being met and I don't know whether the closures that were illustrated also plays into that or not but it also seems to me we're struggling with user conflicts as well as the needs and/or conservation issues. And if there's a way, perhaps, to, separate out the discussion or the issue of user conflicts and commit to cross-communication and some
sort of dialogue with the managers with Kake and other
users of that region and the Regional Advisory Council,
that commitment might go a long way towards, as John is
saying, we hope not to have this closure in place
forever, but to provide that information necessary to
determine how soon an end point could arrive at.

CHAIRMAN DEMIENTIEFF: Thank you.

Further discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: I guess finally in
closing from my point of view, we have to remember that
we have a user friendly system. That things can be
brought up even out of sequence with us, we're not hard
and fast. If there is information that does become
available, you know, it can be brought forward because we
are user friendly.

Any further discussion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed, same
sign.

MR. EDWARDS: Opposed.

MR. OVIATT: Opposed.

CHAIRMAN DEMIENTIEFF: Okay, motion
carries.

FP05-27.

MR. CASIPIT: Thank you, Mr. Chair. The
Staff analysis for FP05-27 begins on Page 272.

Proposal FP05-27 was submitted by the
Southeast Regional Advisory Council. It addresses the
area's Federal subsistence coho salmon fishery. If
adopted, this proposal would remove the annual harvest
limit for coho salmon and delete the prohibition of
retaining incidentally caught trout and sockeye salmon in
the Southeastern Alaska, other than 3-A, 3-B and 3-C.

Basically the intent of this proposal is to standardize the Federal regulations for subsistence coho salmon fishing in Southeast Alaska. If you look at the existing regulations that are displayed on 274 we have two sets of regulations governing coho harvest in Southeast, one for Sections 3-A, 3-B and 3-C, which is the west coast of Prince of Wales Island and everywhere else. And what this proposal seeks to do is combine those two sets of regulations together for one regulation for coho harvest in Southeast region-wide.

A little on regulatory history. The regulatory restriction governing the harvest of coho salmon in 3-A, 3-B and 3-C, the west coast of Prince of Wales Island were in effect during the 2001 fishing season, in the subsequent year, 2002 a similar regulation was adopted for the remainder of Southeast Alaska area. And, again, the State adopted their subsistence coho fishing regulations effective in the 2003 season.

A little on harvest history. I'll call your attention to Table 1 on Page 276, that displays the salmon harvest for 2002 and 2003 from Federal permits. We've broken out 3-A, 3-B and 3-C, the remainder of Prince of Wales and all of Southeast together so for comparison purposes you can see the numbers there.

The effect of this proposal would be to streamline the Federal regulations, and provide users with a consistent regulation for the harvest of coho salmon throughout the Southeastern Alaska area. This would include the use of gaffs in 3-A, 3-B and 3-C and this proposed regulation would not change recent harvest practices, nor will it effect conservation of the species.

With that, I'll answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comments.

DR. SCHROEDER: Mr. Chairman, there are no written public comments for this proposal.

CHAIRMAN DEMIENTIEFF: We have no additional request for public testimony at this time. Regional Council recommendation.
MR. LITTLEFIELD: Thank you, Mr. Chair.
Our recommendation is on Page 273 and it is extremely short. We do not believe this raises any conservation concerns. The Staff analysis that we received supports the change. The data shows that there is no conservation concern. It might help subsistence users by clarifying and simplifying regulations. And we believe it has no effect on other users.

The Regional Advisory Council supported this motion 8/1.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Staff Committee.

MR. KESSLER: Mr. Chairman, the Interagency Staff Committee supports the proposal consistent with the recommendation of the Southeast Regional Advisory Council. And just to further note that any concerns that may arise in the future from this regulation can be addressed by specific conditions stipulated on the required subsistence fishing permit.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. SEE: Mr. Chair. We note that most harvest of coho is occurring in the marine waters and we don't know as much about some of the smaller systems, there are about 1,800 coho systems in Southeast.

The Board of Fisheries as was noted in the Staff analysis previously aligned State regulations with Federal regulations that would diverge again if this proposal were adopted. And a lot of what I'm going to say has to do with the difference in approach to how harvest could be regulated under these different regulations of both State and Federal systems.

We note that the harvest data -- I'm sorry. In the immediate future the State will monitor harvest trends in the coho subsistence fisheries as reported on the permits, but will retain annual limits at the discretion of area management biologists. And we feel that annual limits are a helpful tool. When regulations by the Alaska Board of Fisheries providing for a subsistence coho fishery in State managed waters
were adopted there was a concern at that time with potentially excessive harvest of the many small coho salmon systems. We think that annual limits do help alleviate those concerns until harvest patterns are better understood, and that's a key point, I think that we would like to get better information on those harvest patterns, especially in the small systems.

We previously recommended an alternative approach to this proposal, recognizing that the intent was to try to harmonize the regulations throughout the region. We felt that really it should be, the harmonization should be reversed, in fact, that if the regulations -- the current Federal regs for coho salmon outside Sections 3-A, 3-B, and 3-C were also extended to Prince of Wales, they would align the annual limits throughout Southeast with State subsistence fishing regulations, and we supported that approach. We recognize, however, that the lack of interest in that approach by the Council is, again, somewhat of a philosophical one in the way that you develop regulations with the kind of sideboards that the State has traditionally used are not being supported as much in the Council's approach to this and it's a difference of approach. It carries with it some benefits and some drawbacks, which we just want to make sure are clearly understood when these kinds of changes are being considered.

One of those areas is about incidental harvest. The State does not limit incidental harvest of trout and Dolly Varden in the subsistence salmon fisheries but there's two important distinctions between State and Federal regulations that pertain to this. The State does not allow a directed subsistence fishery for those species so there's no confusion between targeted and incidentally caught trout and Dolly Varden, and defined seasons apply in the State salmon fisheries, while Federal regulations are year-round.

Federal Staff have clarified that incidental subsistence harvest of trout and Dolly Varden taken with rod and reel gear will be limited to State sportfishing bag limits.

Without a defined fishing season there's a concern about the levels of incidental harvest of trout and Dolly Varden that would occur under the Federal salmon regulations. Further, because existing Federal regulations also provide for directed harvest of trout
and char, the resulting harvest potential for incidentally-caught trout and char could far exceed the opportunity provided for targeted trout and Dolly Varden harvest limits.

This is largely because of when you might be fishing that the potential exists, especially in small systems, for a lot of Dolly Varden or trout to be harvested, when, in fact, we could potentially find that that might not be a desirable outcome.

Repealing the incidental harvest provisions, combined with the year-round Federal season, therefore raises some conservation concerns to us and may result in enforcement problems. We think that the annual limits and the seasons are, in fact, really helpful tools in this regard. So with this divergence, if, in fact, this regulation goes forward as is proposed by the Council, we feel that this puts an additional responsibility on the Federal manager, which may be something that the Federal program wishes to do, but we think that puts additional responsibility on the Federal managers to really monitor the effects of this. Are there, in fact, going to be areas in which there should be some additional scrutiny and monitoring and follow-up about the effects of harvest on some of these species that would not occur with some of the side boards that the State system currently provides.

So we would just note that that's an important angle of this and it should be something that the Federal program would have to commit to if, in fact, this regulation passes, as is proposed. We don't currently support this regulation as written. Again, we prefer to see these side boards in place. We would support the kind of modification that we've presented. We recognize that that has not been of interest to the Council at this time.

Thank you.

Discussion.

(No comments)

CHAIRMAN DEMIENTIEFF: Let me just tell you what my plan is here. I'm hoping we can complete this proposal because I got a request to accommodate somebody with public testimony right after lunch. I was
thinking about breaking, but I don't want to break the whole -- if we could come right back to the proposal after lunch, then we'll just take a little bit later lunch and maybe try to finish work on this proposal if we can.

(Pause)

CHAIRMAN DEMIENTIEFF: Well, we are going to have to. I forgot that we have public testimony right at 1:00, so we are going to have to break for lunch. We'll break for lunch, we'll accommodate that testimony, then we'll accommodate Mr. Andrew from AVCP who has a travel conflict and then we'll come back to deliberations. I've been working with our Staff with regard to something about Unit 2 deer. The person who's done the primary work for them now is going to be leaving also. I've been informed by them that they will be ready for that, so we will close the day with that Unit 2 deer update, so that will be kind of out of sequence. So that's where we're at and we'll come back with public testimony and deliberate this. So we'll try to get here as close to 1:00 o'clock as we can, please.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We'll call the meeting back to order on marine jurisdiction, the proposed rule. Bill Knauer will give the introduction at this time.

Bill.

MR. KNAUER: Thank you, Mr. Chairman, Members of the Board, Council. A proposed rule to revise and clarify jurisdiction in coastal waters was published in the Federal Register by the Secretaries on December 8th of 2004. This rule would amend the Federal subsistence management regulations to clarify that the jurisdiction is confined to inland waters and pre-Statehood withdrawals. This amendment would primarily impact coastal areas within the Yukon-Kuskokwim Delta, Bristol Bay and Kodiak/Aleutian regions.

In the Katy John decision, the 9th Circuit Court of Appeals concluded that the Federal Subsistence Program must be crafted to reach waters in which the United States has an interest by virtue of the reserved
water rights doctrine. Subsequently, regulations were
published in 1999 which extended subsistence management
jurisdiction to all navigable and non-navigable waters
within the exterior boundaries of Federal regulations in
Alaska. As a result, Federal subsistence management
regulations now cover hundreds of thousands of acres of
saltwater marine embayments within refuge boundaries that
were not withdrawn prior to Statehood.

The Federal Subsistence Board never
intended that its regulations be construed to include
marine waters other than the pre-Statehood withdrawals.
Its entire focus was on inland waters. The proposed
amendment would remove these saltwater embayments shown
on these maps in yellow that you see before you by
clearly defining the demarkation between inland waters
for the Federal Subsistence Management Program.

This map shows the Yukon Delta area and,
again, the areas in yellow are the highlighted areas that
would be divested from jurisdiction in this program. The
proposed amendment would also specifically identify those
pre-Statehood withdrawals shown here in red of submerged
lands underlying marine waters in which the Federal
Subsistence Board would still exercise jurisdiction by
virtue of owning title to the submerged lands.

The Federal Subsistence Board is now going
to hear public testimony and we'll ask for comments from
the Regional Councils during their winter meetings coming
up in February and March. A final rule will be published
by the Secretaries after consideration of public and
Regional Council comments.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Bill.
We have no requests for public testimony, but I do need
to note for the record because written request was filed
by Eric Johnson of AVCP who has since notified us that he
will file a written comment and will testify that way.
With that being said, we have no other requests and we'll
deal with it by written comments and look forward to the
round of Regional Council meetings.

So we'll move on. Timothy Andrew. Tim
has a travel conflict, so we're just going to accommodate
him and allow him to speak to his proposals at this time.

MR. ANDREW: Thank you, Mr. Chairman, for
the opportunity to testify today and I appreciate you
moving me up a little bit earlier to accommodate my
travel schedule.

My name is Timothy Andrew. I’m the
director of Natural Resources for the Association of
Village Council Presidents. I am testifying before you
today in support of Proposal 05-02 and 06 and in
opposition of Proposal No. 05-03.

In regards to Proposal 05-02 and 06, in
1998 or late 1990s we were faced with an extreme and
critical shortage of salmon entering the Yukon-Kuskokwim
Rivers. At that time, AVCP reluctantly supported windows
as a management tool to allow salmon to reach their
spawning grounds and also to allow interruptions of our
subsistence fishing activities within the two rivers.

In our cooperative appeal with the State
of Alaska and the U.S. Fish and Wildlife Service, we
stated that we would support windows as a conservation
tool only as long as it does not become a way of life.
It has now been several years since the appeal and the
subsistence fishery is still managed by windows. In
other words, it has become a way of life.

For the last two years both Chinook and
chum salmon runs have rebounded to a point where some of
the escapement goals have been met and subsistence needs
are also being met and limited commercial fishing is
occurring as well. When the commercial fishery is
opened, the windows management system is immediately
relieved to allow a relaxed subsistence schedule.

Mr. Chairman and Members of the Federal
Subsistence Board, that is where the point of contention
lies. It appears, at least peripherally, that the
subsistence fishery is based purely on the allowance of
the commercial fishery. In other words, subsistence is
tied with commercial opportunity. Additionally, we have
been blessed with good weather, good drying weather
conditions for drying salmon throughout the late month of
May and June when the windows are in place.

If the weather conditions were not
favorable, many would not come close to meeting their
subsistence needs. With unfavorable weather conditions,
they declared subsistence opening would not achieve the
harvest participation due to fear of wasting precious
salmon.
Another adverse possibility is wiping out a run destined for a particular stream. In a confined opening where people have only a limited opportunity to harvest their needs, maximum participation will occur. We have seen it around Bethel and I'm confident the same occurs elsewhere in the state.

It is human nature, when faced with limited opportunity people will take advantage of it. Conversely, when ample opportunity to harvest salmon exists, people will harvest only what they need for the time and at a slower pace as weather conditions and environmental conditions allow.

Additionally, windows are extremely disruptive to the customary and traditional way of life. Faced with restrictions, many of the families have moved to the villages and away from fish camps due to the limited subsistence fishing opportunity.

Mr. Chairman and Members of the Board, we do not necessarily oppose the utilization of windows as a management tool. We just oppose it being tied to the commercial fishery. When a commercial fishery opportunity is announced, the windows are lifted at that time.

In regards to Proposal 05-03, the stated proposal seeks to decrease the depth for allowable gear in the Lower Yukon area. This proposal, if adopted, would severely disenfranchise the subsistence fisher along the Lower Yukon River. New nets on the average cost $1,200 pre-hung and I don't know what the cost would be for the subsistence fisher to decrease their mesh sizes and the amount of work that would be involved as well. In any case, it's considerable cost to the subsistence fisherman. The proposal, if adopted, would also be more restrictive than what is allowed in State regulation.

We do not fish 24/7 in the Lower Yukon River whether for subsistence or for commercial. We are currently restricted by both subsistence windows and commercial windows. During periods where windows are not in effect, limited fishing occurred because people have already met their subsistence needs.

For the last several years we have had two 36-hour windows for subsistence fishing, with the exception of the coastal district, which is open seven
1 days per week due to the limited amount of population in
2 the area and also the limited area where people can
3 actually subsistence fish. The Black River fish camp
4 being the most concentrated area in the coastal district.
5 It becomes more liberal as you go further up the river.
6 There’s anywhere from -- there's two 42 hours to
7 unrestricted openings as you go further up the management
8 districts on the Yukon River and this occurs through July
9 15th.
10
11 As far as commercial openings on the Lower
12 Yukon River, we also have a maximum of six hour openings
13 that has occurred over the last couple years and rarely
14 have gone beyond 12 hours. Those situations we are --
15 the window system is not intentionally in place, but it
16 also allows the fish to pass through because 24 hours
17 prior to the commercial opening and 24 hours after a
18 commercial opening we cannot fish for our subsistence
19 needs, but after July 15th we are allowed 12 hours before
20 and after.
21
22 Mr. Chairman, that concludes my testimony.
23 I'll be happy to answer questions.
24
25 CHAIRMAN DEMIENTIEFF: Are there any
26 questions by Board Members.
27
28 (No comments)
29
30 CHAIRMAN DEMIENTIEFF: Thank you. We're
31 happy to accommodate your schedule and appreciate the
32 testimony. Yes, John.
33
34 MR. LITTLEFIELD: Thank you, Mr. Chair.
35 In your comments you said that the Regional Advisory
36 Councils were going to have the chance to review the
37 marine waters and I'd just note the actual comment period
38 ends on January 24. I was wondering, this thing occurs
39 in between our meetings, so I'm wondering how we could
40 comment on the proposed rules and still comply with the
41 regulations.
42
43 MR. KNAUER: Mr. Chairman, the comment
44 period does officially close on January 24th, but because
45 it did appear in the Federal Register between Council
46 meetings, we are providing a special opportunity for each
47 of the Regional Councils to provide their comments during
48 their winter meetings. There will be a statement in
49 their booklets as well as a full copy of the Federal
50 Register notice for them to examine.
CHAIRMAN DEMIENTIEFF: That's the public comment period that was advertised, but we can accommodate the RACs is basically what the deal is.

MR. LITTLEFIELD: Thank you for the explanation. I'll save my comments for the appropriate time then.

Thank you.

CHAIRMAN DEMIENTIEFF: Board discussion on Proposal 27.

(No comments)

CHAIRMAN DEMIENTIEFF: Hearing none, is anybody prepared to offer a motion at this point in time?

MR. BSCHOR: I'll move to adopt the proposal as recommended by the Southeast Regional Advisory Council.

CHAIRMAN DEMIENTIEFF: Is there a second to that motion.

MR. OVIATT: Second.

CHAIRMAN DEMIENTIEFF: Discussion.

MS. GOTTLIEB: Mr. Chairman, I was wondering if I could ask Chairman Littlefield if this would in any way change recent harvest practices.

MR. LITTLEFIELD: I don't know. It might mean the opportunity might be increased so that you could go out and get more fish, but I can't really answer that.

CHAIRMAN DEMIENTIEFF: Further discussion on the motion.

MR. BSCHOR: Yes, I'd just like to say that it doesn't appear there would be any conservation concerns from this proposal. Just for the record, the divergence from State and Federal regulations is something I think we should continue to be concerned about, but in this case I'm okay with what's being proposed here.

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries. I think we ought to have lunch more often. I'm kind of mellow today. No. 29.

MR. CASIPIT: Thank you, Mr. Chair. The Staff analysis for FP05-29 begins on page 278 of your book. This Proposal FP05-29 was submitted by Mr. William Welton, requests a 36-inch minimum size limit and a two fish annual harvest limit for the Prince of Wales and Kosciusko Island Federal subsistence steelhead fisheries. This proposal indicated no restrictions on gear types. The proponent is concerned that existing Federal subsistence regulations may allow too much steelhead harvest for populations to handle, so he requests a change to the minimum size restriction of 36 inches along with a two fish annual harvest limit as exists in State regulation.

The Board is very familiar with the Prince of Wales steelhead fishery. We've discussed this over the past three years in the annual regulatory cycle. The regulatory history and biological background is much the same as what you've seen in the past. I did want to point out that we do have some additional information on subsistence harvest that's provided to you, but I did want to point out that the existing fishery is harvesting a very small amount of steelhead on the island, you know, less than 100. It was 24 this year and 26 the year before that.

The fall fishery this year for 2004, I was talking with Jeff, for instance, for the fall fishery that began on December 1st, only six permits have been issued, only one has been fished and no fish have been harvested. It's a fairly small amount of effort going on.

The effect of this proposal would be to
restrict the Federal subsistence harvest of steelhead on
Prince of Wales and Kosciusko Islands and reverse the
Board's decision establishing the current regulations.
Prior to the Federal regulatory change, steelhead harvest
was identified by community harvest surveys and in order
to improve the harvest assessment information and
document this harvest, the minimum size limit was removed
to be able to track this previously non-legal or non-
documented steelhead harvest.

The Board's action in December 2002 was
designed to accommodate harvests as documented in these
community harvest surveys. Annual household limit of two
fish over 36 inches does not meet subsistence users
documented use of seven steelhead per household for the
households reporting using them on the island. This
would be an unnecessary restriction to subsistence users,
although reported harvests have been low, permit returns
have indicated that some households have harvested an
annual limit in the spring fishery.

With a minimum size limit of 36 inches,
less than one percent of the steelhead population is
available for harvest, which would not provide for
subsistence uses. Harvest opportunity for Federally-
qualified subsistence users would be greatly reduced and
catch and release mortality may increase with the minimum
size limits. Based on the low reported harvest from the
Federal fisheries, little or no effects would result for
other user groups by restricting the fishery.

I'll be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you. Written
public comment.

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

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

Regional Council recommendation.

MR. LITTLEFIELD: Thank you, Mr. Chair.
Our recommendation is on page 279. I'd like to note that
we opposed this proposal 9-0, unanimous. Steelhead has
been before the Council. I cannot even remember how many
times, but I'm sure you've heard it many times here. We
believe that the existing program on Prince of Wales
Island is working just fine. No conservation concerns with it. As you heard, there was maybe 50 fish taken in the last couple years.

But over the discussion of this issue is when we came up with the oversight where the Council chairs and the affected Council were not being consulted on the closures of streams, which was approximately 21 or somewhere in that area previous year and we wanted to be consulted and we are being consulted. We're not going to unnecessarily recommend anything. If there's a documented conservation concern, we would certainly recommend that that land manager take action.

One of the things we noted here in the discussion as well as in a previous item, the Council further notes that ANILCA would appear to require closure of streams for non-subsistence harvests, including sport fishing, before Federal subsistence fishing opportunities were curtailed. Again, we were asked earlier in the session whether we used law enforcement and legal to make our decisions in Southeast and I would have to say we do that quite actively.

At this time, if it's possible to address that particular question, whether that statement is true or not, I would like to ask the lawyer from the Department of Agriculture, who we rely on, who's at our meetings, to address that. He gives us information on substantial evidence as well as other things. This is in direct contradiction to what the State of Alaska, Mr. Lance Nelson said. So, for the record, if we could have Mr. Ustasiewski address that particular comment in our recommendations. That's all I have, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Now, out of sequence, or Board discussion? Will that work?

MR. LITTLEFIELD: It's all part of the process. I would like to have him address that for you, please, at whatever time you wish.

CHAIRMAN DEMIENTIEFF: The request is so noted. During Board discussion we'll open with that. Thank you, John.

Staff Committee.

MR. KESSLER: Mr. Chairman and Board Members. The Interagency Staff Committee recommends that
you oppose the proposal, consistent with the
recommendation of the Southeast Regional Advisory
Council.

The justification for that is on page 280
of your book. Following two years of Federal regulation
implementation for the harvest of steelhead, no apparent
conservation concern has been detected resulting from
these regulations for Prince of Wales Island. An annual
household limit of two fish over 36-inches does not meet
subsistence users documented needs and this would be an
unnecessary restriction to subsistence users.

So, in summary, this proposal would not
serve conservation and would be an unnecessary
restriction. Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MR. BOYLE: Thank you, Mr. Chair. Prior
to the Southeast Regional Advisory Council in October of
2002, the Federal and State Staff agreed that small
steelhead stocks should be protected and that additional
harvest opportunity proposed at the time should be
directed away from fall steelhead stocks on Prince of
Wales Island.

Conservation provisions on spring and
winter permits issued since 2003 provided some protection
for small stocks utilizing 21 listed streams. We remain
concerned that existing Federal steelhead regulations and
permit provisions applied to date do not assure that
small stocks and fall runs are adequately protected.
I'll reference our Regulatory History and
Stock Status of Trout in Southeast Alaska paper as well.

The federal analysis notes the intent of
the Federal Subsistence Board that the current federal
regulation be assessed after two years. Again, we talked
about this yesterday, the results from the correspondence
study conducted on steelhead fishers in Prince of Wales
Island in 2004 indicate that the current permit return
system is not capturing all contemporary harvest on
Prince of Wales Island. The study concluded that the
actual harvest of steelhead is greater than the number
reported on the permits. Again, as we said yesterday,
this suggests
that the new regulations may not be providing the benefit
of improved harvest reporting as originally intended.
Our recommendation would be to support the proposal with the modification that adopting the proposed regulations as written could unnecessarily limit opportunity on larger systems for subsistence fishing that are thought to contain larger numbers of fish. However, we would recommend that the proposed regulations apply to all small streams on Prince of Wales Island that could not sustain increased harvest. This would protect all steelhead systems thought to support 100 or less fish of spawning adults while maintaining the harvest opportunity on larger systems.

Also, we encourage the Federal Subsistence Board to support improved subsistence steelhead harvest monitoring and reporting, as well as any stock assessment of steelhead on Prince of Wales Island.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. As we begin Board discussion with regard to the issue, we do have a request that's on record from Chairman Littlefield and Jim is here, prepared to respond, hopefully.

MR. USTASIEWSKI: Yes, hopefully. Mr. Chair, when this issue was raised yesterday on a different proposal, I believe Mr. Goltz's answer was that it would depend on the circumstances and I think that's essentially my answer as well. I'd like to maybe flesh that out a little bit more than we had time for yesterday.

The statement I was just now asked to address about ANILCA appearing to require closure of streams for non-subsistence harvest, including sport fishing, before Federal subsistence fishing opportunities were curtailed. I think that's probably generally true. There would be some situations where that would probably not be the case. Clearly, if there were conservation concerns about a system, both subsistence and non-subsistence harvests could be curtailed. At the same time, we wouldn't have to do one before the other.

There may be a situation where subsistence harvests are higher than they may somehow need to be. I'm not sure if that's something that happens very often, but if we had a bag limit of 40 coho per year, for example, and it was determined that only 20 were needed or something, that would be a situation where maybe the subsistence opportunity was then greater than what it
needed to be. But barring some sort of odd circumstance like that, I think in general that ANILCA requires, as was pointed out, a meaningful priority for subsistence over non-subsistence. I think even there was some discussion yesterday from the State in agreement that that's what the Federal law provides, a meaningful preference. If there's a non-subsistence fishery in an area but the subsistence fishery is closed, it's hard to see how that could be a meaningful subsistence preference. In other words, the subsistence people, if they're blocked out of an area, their needs are not being met, it's hard to see that that's a meaningful preference under ANILCA as required.

So, I think in general that statement is true, but there could be some situations where we would curtail subsistence even if all of the non-subsistence were not eliminated.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

Gary.

MR. EDWARDS: I guess I'm trying to understand meaningful preference. If you had a situation where you had six streams within a quarter of a mile of each other and subsistence needs were being met on three of those, could you restrict subsistence use on the other three and still allow sport fishing? If the sport fishing in this case was a catch and release where you knew that the mortality would be significantly lower than if those streams were open to subsistence take.

MR. USTASIEWSKI: Through the Chair. In your example, the subsistence needs are being met on the other three streams?

MR. EDWARDS: Yes.

MR. USTASIEWSKI: And it's simply a question of allowing some catch and release opportunities where subsistence needs are otherwise being met.

MR. EDWARDS: Under my scenario, then you would close three of the -- because you had some concerns of overharvest, you would close three of the streams to subsistence, but remain open to catch and release only because you would assume that the mortality would be significantly less.
MR. USTASIEWSKI: I suppose it could be significantly less and you would still have conservation concerns. There had been discussion about how with catch and release fishing there's incidental mortality. In discussion on other topics, I understand it was in the range of five to ten percent, something like that. It's not a huge percentage, but there could be a situation where that, itself, might pose a conservation concern. So you might not have catch and release even there. I don't know. I guess I'd fall back to the answer it depends.

You're coming up with a hypothetical that it seems on its face if subsistence needs are being met, then they're being met. There's no need to create a subsistence priority if subsistence needs are being met. I think there may be some issue with whether they're being met or not, so the hypothetical may not square with reality in some of these stream systems.

CHAIRMAN DEMIENTIEFF: John.

MR. LITTLEFIELD: Mr. Chair, I'd like to address that if I could. There's a part that's always kind of put in the background of Title VIII and that's right in the line with conservation that talks about continuing the use. In other words, I interpret that as if I am fishing on a stream in Sitka and my ancestors have fished there forever and you tell me that I've got to go 60 miles away to another stream and catch those fish there. That's not the same -- that would be okay under the State, but that's not allowed underneath the Federal program because the Federal program says we're supposed to be allowed to continue to access that stream in our customary and traditional manner. So I think maybe you could talk about that, Mr. Ustasiewski, but you need to be able -- that's an equal part of this. Not only conservation, but to be able to continue the use patterns that are customary and traditional.

MR. USTASIEWSKI: Mr. Chair, if I could, just to follow up. I have tended to use a shorthand term, subsistence needs, yet Title VIII I think maybe in one place talks about subsistence needs, but, as John pointed out, the language in general is about providing for an opportunity that's necessary to continue subsistence uses. That's the language in Section 802.2 of ANILCA, which is a statement of Congress's policy in enacting Title VIII. Section 804 talks about necessary to continue subsistence uses and Section 815 talks about necessary to continue subsistence uses. Section 805(c),
which has been bandied around a couple times in this
discussion does talk about subsistence needs as a basis
for rejecting a RAC recommendation if it's detrimental to
subsistence needs.

But the basic construct is what's
necessary to continue subsistence uses. That, as I say,
I shorthand as subsistence needs sometimes. I'm not
really sure what that means. I think it's something that
has to be defined in each situation you find yourself in.
What's necessary on Prince of Wales Island for the
continuation of customary and traditional uses of
steelhead, that's going to be, you know, I think up to
the RAC in the first instance to state what's necessary
in their experienced position, opinion, and then for the
discussion to develop as to just what the facts really
are. I thank you for clarifying that. Like I say, we
tend to sort of just say what's necessary for
subsistence, but it's important to look at the actual
language of Title VIII.

CHAIRMAN DEMIENTIEFF: Further discussion.

Yes, Jack.

MR. REAKOFF: Mr. Chairman, this is a
multi-region-wide question and I would agree with Mr.
Littlefield that under 802 of ANILCA the regulations are
supposed to have the least adverse impact upon the
subsistence users. Of the eight criteria, the third
criteria is economy of time, effort and expense. It's
not economical to go 60 miles away to go get fish in
another area. If there's a sport interest or a
commercial interest that's competing with the subsistence
users, that interest is supposed to be curtailed to
provide the least adverse impact on the subsistence user,
so I will agree with the chair from Southeast.

CHAIRMAN DEMIENTIEFF: Thank you. Other
discussion. Go ahead.

MR. BSCHOR: Mr. Chair. Just a couple
questions for the State, Mr. Boyle. The streams that
have a 100 or fewer spawners, do you have a list of those
on Prince of Wales Island?

MR. BOYLE: Mr. Bschor, I'll refer that to
our regional management coordinator for Southeast, Tom
Brookover.

MR. BROOKOVER: Mr. Bschor, through the
Chair. I'm looking at the appendices lined out in the Federal Staff analysis on page 296 and 297. On 297 is Appendix B. That's a list of Prince of Wales Island steelhead drainages accessible by road with fall steelhead systems italicized. In the left-hand column is a list of the road accessible small streams, so that would include that list. As well as a number of streams on Appendix A, which are remote steelhead systems. A number of those are small streams.

MR. BSCHOR: And those are the ones you're referring to? There aren't any more than that that you know of?

MR. BROOKOVER: Mr. Bschor, through the Chair. No, those are the ones that we know about.

CHAIRMAN DEMIENTIEFF: Thank you.

Ralph.

MR. LOHSE: Mr. Chair, could I ask a question. These small streams that are listed that you're talking about that have less than 150 fish, are they open for sport fishing right now?

MR. BROOKOVER: Mr. Chair. Yes, they are.

CHAIRMAN DEMIENTIEFF: Okay. Thank you.

Paul.

MR. TONY: Thank you, Mr. Chair. Just looking at Table 2 on page 289 again and noting, I guess, in this weir study anyway, only eight of over 1,100 fish were in this category. It just doesn't seem reasonable that that would be something that would be a meaningful way to meet the subsistence priority.

CHAIRMAN DEMIENTIEFF: Thank you.

Judy.

MS. GOTTLIEB: Mr. Chair. I agree. When we've had this discussion at least a few times before that saying to people they can keep fish over 36 inches is pretty meaningless, actually. I think we can be consistent with our decision on 28 here and hopefully commit to that improved monitoring and reporting to get a more accurate, perhaps, reflection of what is actually
being taken.

MR. BSCHOR: Mr. Chair, looking at the past couple of years we've had, what is it, 24 and 25 fish, is that correct, that have been harvested?

MR. BROOKOVER: Twenty-four and 26.

MR. BSCHOR: And we have a cap of 100, right?

MR. BROOKOVER: A cap of 100 in the fall and a total cap between two seasons of 600.

MR. BSCHOR: So it's obvious to me if we probably have a little bit of an indication now what the subsistence use is, which we didn't know before. It may not be all the reported fish that are taken, but it is very few compared to what our expectation was and that expectation was not very high as I remember our past discussions.


MR. TONY: Thanks, Mr. Chair. Yeah, in addition to that, too, I think we funded a study that's going to go forward this year that the State is participating in that will do some stock assessment work. I would note, too, that under methods and means that spears are allowed and it would be kind of hard to spear a 35-inch fish and then release it.

CHAIRMAN DEMIENTIEFF: Further discussion. See, you've just got to take your tape measure out there before you spear. Is somebody prepared to offer a motion.

MR. BSCHOR: Yes, I'm prepared to move to adopt the proposal that's in line with the recommendation from the Southeast Advisory Council.

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

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.
MR. BSCHOR: Let me just say I don't know if there's substantial data to say we have a conservation problem with continuing as we are. Also I think if this proposal that's been requested is adopted that it would interfere with subsistence harvest.

CHAIRMAN DEMIENTIEFF: Any further discussion.

(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same sign.

(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.

Proposal 30.

MR. CASIPIT: Thank you, Mr. Chair. Proposal FP05-30, the Staff analysis begins on page 304 of your book. This proposal was submitted by John Littlefield of Sitka. It requests changes to the existing Federal subsistence regulations for trout, char, and grayling in the Southeastern Alaska Area. Changes are proposed for harvest and size limits. The proponent states that subsistence users have a long history of utilizing trout and that the existing regulations do not provide for their needs.

This proposal was submitted out of concern that existing regulations do not provide enough opportunity for rural residents of Southeastern Alaska to harvest trout, char and grayling for subsistence purposes. I wanted to point out for a couple of these species that we have an interesting situation. Under Federal regulations, a subsistence fishing permit is not required for harvesting fish other than salmon, trout, char, and eulachon in Subdistricts 1-C and 1-D. Since grayling are not a member of those genera, then Federally-qualified users may harvest grayling without a subsistence fishing permit under the existing Federal regulations in the Southeastern Alaska
management area. There are general Federal regulations regarding methods and means, seasons and harvest limits for grayling in Southeastern Alaska and I've displayed them further below in the existing Federal regulations.

Brook Trout (Salvelinus fontinalis) are a char, and are not native to Alaska. All populations in Southeastern Alaska were introduced in the last century. Since they are a char, Federally qualified users are required to have a Federal permit to harvest them, there are general Federal regulations regarding methods and means, seasons or harvest limits.

I want to point out again that both grayling and brook trout were introduced to Southeast Alaska and they were introduced early in the last century.

Under Federal regulatory history I wanted to point out that the Board first deliberated the issue of subsistence harvest of trout in the regulatory cycle for '01, FP01-22 was the proposal that was deliberated. That proposal requested liberalized harvest limits of six trout and ten Dolly Varden per day with no minimum size limits. The result of that was the Board did go with the 10 fish Dolly Varden, which was consistent with State regulations. The Board also increased the limit for trout in Six Lakes in Southeast to six trout; however, everywhere else the sport fishing regulations for trout were used.

I'll talk a little bit about biological background of the species. I've displayed some information that we have for lakes that contain grayling and brook trout and those were provided to you on the top of page 308. As far as the cutthroat, rainbow trout and Dolly Varden populations, Table 1 displays the information that we do have for those species in various locations through Southeast. It's not a very big list compared to the populations that are out there. A similar table to Table 1 here is what you saw in FP01-22.

Table 2 I wanted to point out. This is the results of the community harvest surveys in Southeastern Alaska by community, by year and by species. So you can see, for instance, in Angoon in 1996 for Dolly Varden there were 213 fish taken. That would repeat for all the communities throughout Southeast where we have the data and it goes on for almost two and a half pages.
Table 3 displays the harvest and catch of cutthroat, rainbow trout, Dolly Varden and grayling and brook trout throughout Southeast. I wanted to point out that, in general, the catch estimates that are listed there are more prone to error than the harvest estimates. Harvest limits tend to constrain reported harvest but don't have the same effect on catch. People tend to round up versus round down and literature indicates that people tend to exaggerate their catch, particularly for non-memorable fish caught in large numbers. All of these tend to inflate catch estimates to varying degrees. I want to also point out there are no directed commercial harvests of trout, char or grayling in Southeast Alaska.

The effect of this proposal will recognize existing subsistence harvest for grayling, brook trout, Dolly Varden, rainbow, and cutthroat trout in Southeastern Alaska that has not been permitted in the past. It is unclear what effect this proposal will have on harvest opportunities for grayling and brook trout since the existing Federal regulations do not specify methods and means, seasons or harvest limits and are not clear for those species. Brook trout and grayling are found only in a handful of locations in Southeastern Alaska. Having no harvest limit for Dolly Varden could lead to conservation concerns for the species in some locations.

I want to point out also that Federal in-season managers still have the ability to adjust regulations as needed for conservation and to ensure the Federal subsistence priority. I'll be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comment.

DR. SCHROEDER: Mr. Chairman, we've received two public comments. One is from Mark Vinsel of Rain Country Flyfishers in Juneau, Alaska. He opposes Proposal FP05-30 and he's concerned particularly about there being a real possibility of the decimation of these fish in heavily impacted Juneau areas. He points to how fish in the Juneau road connected area are recovering after restricted regulations to restore populations were implemented in the 1990s.

So his recommendation is that waters accessible by the Juneau road system be exempt from this proposal and that those areas continue to be managed.
under the current sport fish limits. He also feels that
other areas of Southeast Alaska with road system access
that have special restricted regulations may warrant
exclusion from the proposed regulations.

Our second public comment was received on
January 11th of this year. Opposes Proposal 30. The
comment is from a Mark Kelke (sp) of Juneau, Alaska. He
believes that the current harvest limit of 10 fish daily
provides ample access to Dolly Varden for subsistence
uses while not jeopardizing the long-term health of the
stocks. He points out that given the very slow growth
rate of these species, both the current harvest and size
minimums are appropriate.

Mr. Chairman, that concludes our written
public comments.

CHAIRMAN DEMIENTIEFF: We have no
additional requests for public comment. At this time,
Regional Council recommendation.

MR. LITTLEFIELD: Thank you, Mr. Chair.
Our recommendation is on page 300. We voted to support
this proposal and the vote was 8-0 unanimous. We did not
believe that any conservation concerns were presented.
It also would recognize a long-term existing practice.
We've had people arrested doing these activities. The
data presented was strongly in support of the proposal
and this proposal would certainly benefit subsistence
users. We do not believe there's any significant effect
on non-subsistence users.

One of the things during discussion here
that we noted was that the sport harvest catch and
release mortality was significant. When you look at the
numbers of a number of trout as well as steelhead, this
discussion came up that, you know, even using a five
percent figure we believe that the catch and release
mortality was higher than the subsistence take. Many
Council members were concerned about that because that's
basically playing with your food when we're talking about
taking a fish home to eat it. For those reasons, we did
support this with modifications.

One of the things I just noted from the
Interagency Staff Committee is this option where they
recommended stream-by-stream basis and we earlier had
rejected that in other proposals and I would say that
works as well here. We craft a region-wide proposal and
let the land managers address any streams that may be at risk. If those are shown to be a problem, certainly the land manager would do that after consulting with us and we would have no reason to not recommend conservative measures. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. KESSLER: Mr. Chairman, Board Members. Again, I'm Steve Kessler with the U.S. Forest Service. The Interagency Staff Committee recommendation is on pages 301 and 302 and I would like to make sure and bring to your attention again that there was a corrected pages 301 and 302 that were in your supplementary materials.

The Interagency Staff Committee did not reach consensus on this proposal, resulting in two recommendations or options. With the two options I'll go a little bit more into detail about those options.

Option A is to support the proposal with modification consistent with the recommendation of the Southeast Regional Advisory Council. The modified proposed language for this option is shown on pages 301 and 302.

Justification for this option is shown on 302. This proposal would legalize the opportunity for Federally-qualified subsistence users to harvest the quantities of Dolly Varden, brook trout, grayling, rainbow and cutthroat trout they need for subsistence purposes. Unlimited harvest of Dolly Varden, as requested by the proponent, could lead to conservation concerns for that species and that has been modified.

Considerable concern has been expressed over the potential effects of eliminating the size slot limit for cutthroat trout. Under current State and Federal regulations, only fish 11-22 inches in length may be retained. Although studies have documented reduced cutthroat populations at a number of Southeast Alaska localities, the influence of subsistence harvest in such declines is unclear, as many systems have been targeted by resident and non-resident sport anglers. The mortality rate associated with cutthroat trout catch and release sport angling is estimated at five percent of the total sport catch in Southeast Alaska with estimates of that catch ranging between 30 and 40,000 fish.
Therefore, if harvest of fish less than 11 inches is a concern, the substantial sport fishery should be curtailed before restricting the take by Federally-qualified subsistence users.

Some concern has been expressed concerning the harvest limit for grayling and brook trout and I would like to call to your attention again that these are introduced species to Southeast Alaska.

The Southeast Regional Advisory Council is aware that there may be management situations where additional harvest restrictions may be needed to protect these species and the Council has agreed that these protections may be established through in-season management following consultation with the Council.

The other Option B is to oppose the proposal, which is contrary to the recommendation of the Southeast Regional Advisory Council. The justification for that option is that liberalizing subsistence harvests of resident fish on a region-wide basis could place small populations at risk from over-harvest. The small introduced populations of grayling and brook trout may also be over-harvested with adoption of this regulation. Past regulatory actions by the Federal Subsistence Board in 2001 indicated there were conservation concerns with a region-wide approach to liberalizing subsistence harvests of resident trout due to insufficient baseline data for these species. There is currently very little population monitoring of resident fish populations in Southeast Alaska by either the State or Federal agencies. It is unclear how in-season management adjustments would be accomplished in the absence of an active fishery monitoring program on these species.

In this option it is recommended that adjustments to subsistence harvests of resident fish should be approached in smaller geographic areas to provide greater safeguards to these small stocks and allow greater flexibility in setting harvest limits.

Mr. Chairman, that concludes my testimony for this proposal, which is the last Southeastern Alaska proposal and, therefore, concludes the materials I'll be presenting to the Board.

Thank you.
CHAIRMAN DEMIENTIEFF: We might not be done with you yet. Department comments.

MR. BOYLE: Thank you, Mr. Chair. The Department understands that the current regulations for trout do not provide a meaningful subsistence priority. However, the regulations were adopted for the sport fishery and weren't intended for the subsistence fishery. In 1994, the Alaska Board of Fisheries concluded that the region-wide harvest limits at the time of five fish per day for trout were leading to declines in cutthroat trout abundance. The Board recognized that the specific biological characteristics of cutthroat trout put them at a high risk of stock declines caused by fishing. These factors include low abundance, slow growth, low fecundity and a high natural mortality rate.

In response, the Board of Fish established the current Southeast regulations, which are two fish per day, bag limit, a ban on the use of bait and a minimum length limit of 11 inches. These regulations were designed to reduce fishing mortality, increase the reproductive potential of each trout population. These regulations were the results of an extensive review of successful trout management techniques used throughout the United States and Canada in a two-year public planning process conducted by the Department. I'll reference you again to that paper we provided in the supplemental materials, Regulatory History and Stock Status of Trout in Southeast Alaska.

These trout regulations were implemented on a region-wide basis because the Department recognized that we did not have the ability to monitor stock status and fisheries in the hundreds of lakes and streams that contain cutthroat trout. We also recognize that because these regulations were so restrictive we would be foregoing harvest opportunity for trout in many lakes and streams. This was necessary to allow the recovery of trout stocks in all waters.

This conservative approach to trout management was supported by the majority of the sport fishermen and it has led to significant reductions in the cutthroat harvest and fishing mortality. Since 1994 the cutthroat trout harvest has averaged about 4,800 fish per year as compared to a harvest of over 20,000 annually occurring in the early '80s. Catch and release mortality is specifically listed as a concern and we heard that from Mr. Littlefield earlier and in the Staff analysis.
Since 1994, the average number of fish caught and released has been about 36,000 fish per year at an estimated mortality rates, this equates to 1,800 cutthroat trout per year. It should be noted that a similar rate of catch and release fishing was occurring prior to 1994. At that time, the bag limit was five fish and there was no length limit. The point being that the current trout regulations have not caused an increase in catch and release fishing mortality.

In 2001, a similar regulatory proposal was before the Board, as Cal mentioned. It requested a six fish subsistence harvest limit for trout in all Federal waters. At that time, the State and the Federal Staff agreed that this regulation would lead to unsustainable harvest and the Board rejected the proposal, citing conservation concerns.

The State's position on this current Proposal 30 has not changed since our views in 2001. We continue to maintain that a region-wide harvest limit of six trout is not sustainable. This regulation is essentially the same regulation that led to the trout stock declines in the 1970s and '80s. The majority Staff recommendation at that time in the 2001 proposal has changed, but it's not clear why. The Staff analysis does not address the substantial body of information that led the Alaska Board of Fisheries to enact the existing conservation measures. Nor does it provide any new data to justify this change of position.

As we mentioned in Proposal 28 and it's addressed somewhat in Option B in this proposal, subsistence harvest for resident fish should be approached in smaller geographic areas and that's not necessarily stream by stream. It would be geographic areas around a community, it will provide greater safeguards protecting small stocks and allow greater flexibility in setting harvest limits. We believe that this approach will provide a subsistence priority and ensure that trout fisheries are sustainable region-wide.

We have the regional Southeast Staff here to answer any questions.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you, sir.
Board discussion.
MR. EDWARDS: Mr. Chairman. For Staff, with regards to steelhead and rainbow trout, what is currently allowed under subsistence regulations?

MR. CASIPIT: For steelhead?

MR. EDWARDS: No, for cutthroat and for rainbow.

MR. CASIPIT: There's six lakes that are in the regulations that say you can take six fish in these six lakes. Everywhere else it's exactly as the sportfishing regulations, which is two fish between 11 and 22 inches.

MR. EDWARDS: And what's being proposed would do what to that?

MR. CASIPIT: This proposal would basically for cutthroat trout and rainbow would eliminate the slot limit, so there would be no size limit and also would increase the bag limit from two to six.

MR. EDWARDS: And a subsistence permit would be required, correct?

MR. CASIPIT: Correct.

CHAIRMAN DEMIENTIEFF: Any other discussion? John.

MR. LITTLEFIELD: Thank you, Mr. Chair. I probably should have mentioned this under 28, but I'm the proponent of this proposal as well as 28 and I wanted to make sure that on the record, to be fair in Southeast, even though this was meant to be a Southeast proposal, I did relinquish the chair and let the vice-chair handle these two and I felt that was appropriate, but I don't have any conflict of interest in this, just for the record.

Mr. Chair, the grayling and brook trout, if you would continue that question of Mr. Edwards on what are the limits there. Well, there are no limits and we haven't decimated that fishery. These are putting some reasonable limits on. The proposal was meant to flush out information from Staff and what was sustainable.

I would note that the State's comments, if
you'll read them, there are over 5,000 bodies of water that have these fish in them. So it's a little bit -- I'll go back to my preposterous hat again to say let's develop 5,000 proposals and submit them to you on a stream-by-stream basis. We need to do this on an area-wide basis and then protect those areas where there are documented conservation concerns. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Doug.

MR. MECUM: Mr. Chairman, a question of my colleague to the left here if I could. With respect to what the Council did, the Board has established customary and traditional use determinations for a number of geographic areas in Southeast Alaska, which is the Appendix A that has been referred to earlier. Did the Council consider these liberalizations of regulations for these subsistence fisheries for the areas where it's been shown to be a customary and traditional use and instead went with all over Southeast Alaska where there are no customary and traditional use determinations for these species?

CHAIRMAN DEMIENTIEFF: Your response, John.

MR. LITTLEFIELD: Mr. Mecum, through the Chair. The current C&T designations that are on Appendix A basically were taken from the State of Alaska C&T designations as near as I know. There may be a change in District 13 where I think we added something a couple years ago, but basically those were State recommendations on C&T. In particular, I was asked a question earlier in Juneau what was going to come up, which is District 11. Well, no one ever developed a C&T there, so it would default to the less restrictive open to all rural residents, the remainder of Southeast Alaska.

I guess as far as where the problem is is you can't feed a family on two fish. I don't care if you're in Hoonah, Angoon or Sitka. You can't feed a family with two fish. So we thought that subsistence regulations should have been liberalized to allow people to at least feed their family and if you're going to feed your family, slot limits don't make any sense because you're only doing this once or twice. If you're out, it doesn't matter where you are in Southeast, you ought to be able to take enough fish to feed your family without
fear of prosecution, which is what's happened in the past. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. The State has follow-up.

MR. MECUM: Yes, thank you, Mr. Chairman. Just to be clear, I wasn't asking that question in any way to get into the issue of the opportunity -- the meaningful preference question for subsistence uses. That's not the point of my debate. My question still remains, I guess I don't understand why the subsistence fishery liberalization is applied to the entire of Southeast Alaska when there's already customary and traditional use determinations on the books that, yes, it was a State determination, but it was a State determination through the Board of Fisheries public process. If I remember correctly, there are Staff here that participated in that. It took quite a considerable amount of time to go in and document those uses and it just doesn't make any sense to me to apply it to such a broad area when you have C&T determinations in front of you already that the Board has already accepted.

CHAIRMAN DEMIENTIEFF: Thank you. Go ahead.

MR. LITTLEFIELD: Thank you, Mr. Chair. I guess if you look at the C&T designations, they say Dolly Varden mostly and trout, smelt and hooligan or eulachon or whatever you call them, we call them hooligans, for the remainder of Southeast Alaska. Some of the other districts, in particular 2, 5, 13, have salmon where we've added those. This particular proposal talks about all the char as well, so this would now put all of those on there. It would put grayling, brook trout instead of Dolly Varden trout. So it would just clarify it. I don't know if that's answered the question or not.


MS. GOTTLIEB: Mr. Chair. Perhaps I could ask Chairman Littlefield again. It seems to me what you and the Council were trying to craft was something reflective of harvest patterns, which would in a way include what's customary and traditional and by whom. Also, your previous comment about efficiencies of harvest seems to me are incorporated in here. Am I interpreting that correctly?
CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Mr. Chairman. Correct me if I'm wrong, but I thought I heard it said that the Board had previously kind of considered this blanket-wide approach and had not approved it because they had some conservation concerns. If that's the case, I guess I'd ask Staff what has changed since that decision to indicate that there is no longer these conservation concerns.

MR. CASIPIT: Mr. Chair, Mr. Edwards. As far as stock status information about these systems, there hasn't been a whole lot of research done on these populations in the past few years. I guess, to answer your question directly, you know, over these intervening years we've been hearing from folks at these Council meetings that, number 1, their needs for trout are not being met. We also had testimony at the latest meeting that there are lots of lakes -- in fact, a tribal member got up and said there's lots of lakes that he knew of that he can walk to that there's lots of cutthroat in them. They don't get any longer than about eight inches, so those fish don't even make it into the slot limit.

I was just talking with Jeff earlier this morning that he received an '04 permit back that he sent on to Bob Larson to put into our database, but there was a comment in there from an individual saying, you know, I took so many trout and it was more than the limit and the reason I did it is because I can't feed my family on two fish. So we've been seeing lots of anecdotal information. Obviously not scientific studies, but basically traditional knowledge and concerns from users saying that our needs are not being met. In some cases, the fish don't even grow into the slot size. So that's some of the information that we've been hearing since then.

MR. EDWARDS: Maybe as a follow-up, would you acknowledge that there are probably some streams that do need -- that there are conservation concerns on? If we're not going to be doing any monitoring of these streams, how are we really going to know if we have a problem or don't have a problem?

MR. CASIPIT: Without a doubt, especially in terms of the Juneau road system and all where we may want to have our in-season managers take action to reduce the amount of harvest out of those locations. You know,
case by case, point by point areas where we probably don't want to allow that harvest and our in-season managers have that authority to restrict harvest if they have to for conservation.

CHAIRMAN DEMIENTIEFF: Staff Committee, do you have additional information?

MR. KESSLER: Yes, Mr. Chair. One of the changes that has occurred since early 2000 when I think the proposal was up before is that now we have a Federal subsistence permit that's required for these harvests. It may have been limited -- we were just discussing this back here -- limited harvest permit back then and we have this in-season management authority now. With a combination of those two, we have much greater ability to understand where fish are being harvested and to control those harvests if there becomes a conservation concern through that in-season authority. We didn't have all those tools before.

CHAIRMAN DEMIENTIEFF: John, you had follow up.

MR. LITTLEFIELD: Yes, Mr. Chair. Along that same line, I don't like to read our comments because I assume that you're reading them, but on page 300, one of the last statements up there before the regulation language says that the Council is aware that there may be management situations where additional harvest restrictions are needed to protect these fish species. These may be established through in-season management with consultation with the Council.

So we are aware that there are some streams certainly where you don't want any fishing, roadside streams. Like I said, identify those. The land manager, ADF&G or anybody, even a member of the public could approach ADF&G and say we think this stream needs some protection. We would certainly expect the land manager to take the action that's appropriate to protect those areas. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Follow up.

MR. EDWARDS: One thing I don't quite understand is that when we passed Proposal 28 we had specific language in there that said the permit conditions and assistance to receive special protection will be termed by the local Federal fisheries managers in
consultation with ADF&G and I'm a little unclear why we
don't have similar language in this when we're talking
basically a similar situation.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair. I'd just like to
ask a couple questions and maybe some of the biologists
can correct my assumptions if I'm wrong and maybe give us
some further explanation on it. I understand that we
have about 5,000 streams down in Southeastern from what
we're talking about right now and most of these are small
streams. I'd almost be willing to bet that 99 percent of
the streams in Southeastern end up in the ocean one way
or the other. There may be some land-locked ones, but I
would doubt there's very many of them.

With some of the studies that are being
done on cutthroat trout and dollies right now, we're
finding that they're not as home-based as we ever thought
they were. We find that the same dolly that might winter
in this lake ends up wintering in a different lake, like
20 miles away, 100 miles away, 200 miles away.
Cutthroats do the same thing. They don't necessarily go
back to their natal stream. The ones that go to the
ocean they can winter in one lake this winter and they
can winter in another lake the next winter.

So most of these small streams that seem
to be the crux of the issue have fishing coming in them
and out of them from saltwater at some time or another or
can be fed from saltwater some time or another. Most
people aren't going to fish in streams that don't have
any fish and if there is a problem, as has been pointed
out, the land manager could close some, especially those
that are accessible by road or close to communities.

But it's not a case that if somebody makes
a mistake and has a picnic at one of these small streams
and takes the six fish that are in that small stream that
that small stream is never going to have fish again. I
mean it's not like you're going to go out and wipe out a
small stream for the future for cutthroat or Dolly Varden
tROUT. Now, I'm not going to say anything about
steelhead because it's possible that you could do that.

We've seen in the Chitina Valley, and I'll
use our area for an example, we have fish back in streams
now that when I talk to some of the old-timers when I
first came there, they said 50, 60 years ago there were
fish there and there hadn't been fish for a long time. We have steelhead in streams that we haven't had fish for a long time. We have salmon in streams that we haven't had fish for a long time simply because of the fact that under our current management we've been allowing sufficient escapement up the river. We have pioneers and these pioneers go into these streams and repopulate them.

So, if you're talking about these little streams down in Southeastern and you're worried about making a mistake and somebody is going to have a picnic and catch too many fish on one stream once, as a subsistence user, they're not going to go back there again if there aren't any fish there. Those streams aren't wiped out forever. Overall, they don't affect the general population of Southeastern because you're talking about fish that move. They go up one stream, they come down one stream, they run down to the ocean.

I don't know how many of you have ever fished Dolly Varden in the ocean, along the beaches, as they travel back and forth. Or how many of you fished cutthroat in the ocean. We see it all the time in Prince William Sound. You see cutthroat jumping along the shore. They don't go into the same stream every time. So, with that in mind, I'm kind of like John in that way, I don't think we need to put the worst case scenario on everything all of the time and I find both sides doing that. I find both sides trying to put the worst case scenario. If we don't get it, this is going to happen or if we do get it, this is going to happen. Let's take a look at things more on a broad scale. The world is a little bit more flexible than we think it is.

Thank you.
I think what Mr. Edwards just said makes a lot of sense, that if you have a consultation process in consultation with the Alaska Department of Fish and Game, who has done most, if not nearly all, of the pioneering work and research on life history characteristics and the populations in Southeast Alaska in particular. That certainly would make us a lot more comfortable.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. You had a follow-up, Ralph.

MR. LOHSE: Yes. I'd like to agree with Mr. Mecum, it's probably true that maybe I did argue against myself, but the thing is -- I guess it's a question of whether you're going to micromanage everything or you're going to try to look at the bigger picture. We have a tendency in our day and age we want to get everything under our control. We want to micromanage things right down to the last iota. But the world doesn't work that way. We've just seen what's happened in part of the world. We've seen what's happened in California. We've seen what's happened in Indonesia. The world doesn't work on micromanagement. It works on a bigger scale. And the world is a lot more resilient than we think it is. And we're a lot smaller than we think we are. So I guess maybe I'm arguing against myself, but as you people that have been around me know, I'm not for micromanagement. I don't think we have those kind of capabilities at this point in time.

CHAIRMAN DEMIENTIEFF: Thank you.

John.

MR. LITTLEFIELD: Thank you, Mr. Chair. I believe on the land manager issue I believe they have that authority to do those special action requests delegated by the Board and it doesn't matter whether it states in there that the permit conditions do it or not. They still have the responsibility to ensure the conservation of the fishery at all times. I would have no objection to inserting that language as an amendment to this. It doesn't change anything and it only strengthens it if you want to look at it. That will still be done. The land manager will be consulted and protect the fishery. Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.
Denny.

MR. BSCHOR: Mr. Chair, I believe since there is a permit required we definitely want to do that anyway. It's just part of the process. I think I'm prepared to offer a motion here to adopt the proposal as modified by the Southeast Regional Advisory Council.

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

MR. TONY: Second.

CHAIRMAN DEMIENTIEFF: Moved and seconded. Discussion on the motion.

MR. BSCHOR: My main concern is that we would be able to legalize the opportunity for Federally-qualified subsistence users to harvest these species and I'm relatively certain that the conservation concerns can be managed through the permit system and dealt with that way.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion.

Gary.

MR. EDWARDS: Mr. Chairman, I guess considering the fact that we've put this language in and it seemed to be something that the Council at least is willing to agree to and strengthen, I guess I would be interested at some point in trying to have that language inserted. I don't know how we would actually do that, but I think there would be some value in that.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion. These can be done fairly simply. Maybe it doesn't have to be done today, but we can always do that fine-tuning and we've shown that ability to do that in the past. Let it run through the process.

MS. GOTTLIEB: Mr. Chair. I think to reiterate one major change and really commendable ones, since we've heard these proposals over the years, is the good and positive and strong working relationship and good communication that has taken place amongst the on-site managers as well as with RAC and local residents and that strengthens the information base that you all have to make those day-to-day decisions.
MR. EDWARDS: Mr. Chairman. I guess just to follow up on what I had suggested, I guess I would offer maybe as an amendment that we approve the recommendation as proposed by the Southeast Council with the addition of the language that we used in Proposal 28 reference permit conditions and consultation with ADF&G.

MR. OVIATT: I'll second.

MR. LITTLEFIELD: Yes, Mr. Chair. If you look on page 211, that will give you the language of 28 that the amendment talks about. It says the permit conditions in systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G. This is 27(i)(13)(iii). So you have to remember there's a whole book with the same things, (iii). I question this. Where do these come in? Well, after that comes 30. If you look at the language farther on that restricts that, it's the same permit, we're using the very same fishing permit that we're already going to issue you under the main heading. So I really think it's already taken care of. If you're going to get a fishing permit under these conditions in Southeast Alaska, and maybe I could be corrected by Staff, but I believe that you're already going to have this protection and if you want double protection, I guess I don't have any problem with it either.

I'd like to note for the record that I did yield the priority to my colleague to the right on that last question.

CHAIRMAN DEMIENTIEFF: Further discussion.

CHAIRMAN DEMIENTIEFF: We have an amendment. Is there a second to the amendment.

MR. OVIATT: I'll second.

CHAIRMAN DEMIENTIEFF: John, you had a comment.

MR. LITTLEFIELD: Yes, Mr. Chair. If you look on page 211, that will give you the language of 28 that the amendment talks about. It says the permit conditions in systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G. This is 27(i)(13)(iii). So you have to remember there's a whole book with the same things, (iii). I question this. Where do these come in? Well, after that comes 30. If you look at the language farther on that restricts that, it's the same permit, we're using the very same fishing permit that we're already going to issue you under the main heading. So I really think it's already taken care of. If you're going to get a fishing permit under these conditions in Southeast Alaska, and maybe I could be corrected by Staff, but I believe that you're already going to have this protection and if you want double protection, I guess I don't have any problem with it either.

I'd like to note for the record that I did yield the priority to my colleague to the right on that last question.

CHAIRMAN DEMIENTIEFF: There is a motion to amend. Our regulations specialist has noted that we do need the amendment, so it's a necessary thing. Is there any further discussion on the amendment.

(No comments)

CHAIRMAN DEMIENTIEFF: 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: Motion carries. We now have the main motion as amended before you. Is there any further discussion. Paul.

MR. TONY: I just had a question just for my own edification about what the significance of referring to some of the species as introduced is, how that affects the proposal.

CHAIRMAN DEMIENTIEFF: I think Keith has had this discussion before with us. Would you like to run through that again, Keith, please.

MR. GOLTZ: I think in this case we probably don't need it. ANILCA applies to wild, renewable resources whether introduced or not.

CHAIRMAN DEMIENTIEFF: Thank you. I knew we'd been down this road before. It's a good point to bring out though. Any further discussion on the main motion as amended.

(No comments)

CHAIRMAN DEMIENTIEFF: 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. With that motion carrying, it ends the Doug, John and Ralph show over there. The discussion was really great. I'm kind of teasing a little bit, but I was enjoying it. The three of you sitting side by side were going at it pretty good for a while. Go ahead.
MR. BSCHOR: Mr. Chair, I'd like to take just a couple of minutes to say a few words. You know, a lot of work goes into this whole process, especially from the ground level before it even gets to us, and we have a lot of excellent on-the-ground support from dedicated, hard-working resource professionals, technicians and cooperators. I just want to take a moment to mention that one of our finest fisheries biologists, Ricardo Seinz, who worked on the Misty Fiord Ketchikan Ranger District, was in the field on November 4th. This is a person who is highly respected by the community, by fellow employees and his peers, and he had an unfortunate accident while he was retrieving equipment from the Blackwell Lake fish ladder and lost his life and I just wanted to say on the record -- I just wanted to express our sadness and grief over his loss and offer our condolences and sympathy to his family and friends.

CHAIRMAN DEMIENTIEFF: Thank you very much. It's nice of us to think of people that we -- it's not the first one we've lost in our program, but we are always mindful of those kind of things and I appreciate that part of the things we do.

We do have an opportunity at the end of the agenda for Council chairs and Board discussion, but I'm going to invite John -- I know he's got a parting concern. Since we're still on Southeast, I'm going to ask him to please share those with us.

MR. LITTLEFIELD: Thank you, Mr. Chair. I appreciate everybody hanging in there with us. I'll try to keep these comments under four hours. Basically, Mr. Chair, what I would ask the Federal Board to do is, I don't believe that you satisfied the requirements of ANILCA on 17 when you discussed that. It was turned down and I would like to see you make that right for the record, why you did that, because I don't think the 805(C) letter is going to cover that. You only have today to do this because if we want to bring it up for reconsideration, you need to do that today.

As a matter of housekeeping, I'd like to see that and again remind you that you can reject that proposal, as I mentioned during that time, for those three reasons. You rejected it and I'd like you to state for the record what your conservation concerns were, what your concerns were with the evidence that we submitted, as well as the detriment to subsistence users, so that we maintain the process here that we're required to under
law. If you could do that.

I guess on the rest of these things, we spent quite a bit of time on these and I'll hold my comments until the end of the meeting until the other chairs have had a chance. If you could address 17, I would appreciate that before the end of the day.

Thank you.

CHAIRMAN DEMIENTIEFF: Just hang on one second here. Yes, John, I do believe that I did say on the record that I could find no and my Staff Committee rep could find no violation, that we did look at it. I do, I guess if anything, apologize for not elaborating enough. I know we did consider it. I don't know what the pleasure of the Board is, but I think we did comply with the -- but what it was was a wake-up call and we have truly done diligence on every other one in terms of elaborating on why there's a difference with the Regional Council. It was an exercise I had done personally, but it's not something that I elaborated on enough at the time. For that I truly apologize, but I do know that it was on the record.

So I don't know what the pleasure is. If somebody wants to go through the exercise again. It is on the record, just not as strong as we'd like it to be. I'll just leave it at that. If there's nothing else, then we'll move on.

MR. BSCHOR: Mr. Chair, my concern was the situation it would set up which could cause the detrimental -- the action could cause a detriment to the satisfaction of subsistence needs and specifically there are some words that I would like to enter. Let me read them just so that we have them very clearly.

If the manager and law enforcement are not aware of the location and time of harvest, there is substantially greater likelihood that those taking the fish will be stopped, questioned or potentially cited. No permit is required by taking those fish, therefore there will be no record of whether the harvest is legal or illegal. In the long run, this could be more detrimental to the satisfaction of subsistence needs and the affecting of religious ceremonies than what is currently required.

CHAIRMAN DEMIENTIEFF: Thank you. There
being no motion for reconsideration, we'll go ahead and
move on. Thank you very much, John, for all of your hard
work, everybody, all the Staff. We are going to take a
short break here momentarily, but I just want to let you
know what our schedule is for the day. I did mention
Unit 2 deer. It's unclear to us how long it's going to
take to complete the work. It could take as little as 10
minutes. It could take as long as a half hour, so we're
just going to schedule that for 4:30 today and whenever
we get done we'll be done with the business for the day.
As close to 4:30 as we can, depending on what proposal we
have. It may be a little bit sooner, maybe a little bit
later, depending on where we're at. I don't want to
leave a proposal on the table overnight is what I'm
saying. So that will be our schedule. John.

MR. LITTLEFIELD: Thank you, Mr. Chair.
Thirty seconds. I'll just teach you a little bit of
Tlingit. I try to teach the Council a word or two every
time. It's like this, hoo-cha (sp), there's no more, I
don't have anymore left.

Thank you. Thank you for sticking with
us.

CHAIRMAN DEMIENTIEFF: Okay. After the
break we'll come back with Prince William Sound Proposal
No. 13.

(Off record)

(On record)

Jerry Berg, I believe, is going to do the Staff.

MR. BERG: Thank you, Mr. Chair. For the
record, my name is Jerry Berg. I'm a Staff fishery
biologist in the Office of Subsistence Management.

Proposal 13, submitted by Ahtna Inc., the
Copper River Native Association, and the Chitina Native
Corporation, requests regional modifications to the
customary trade regulations. It requests that customary
trade of salmon to people other than rural residents in
the Upper Copper River District be limited to $100 per
household per year and no more than 50% of the annual
household catch, that there be a reporting requirement
and that sales of traditionally-prepared salmon be
allowed.
Also, customary trade of salmon between rural residents would not have a dollar limit, but would be limited to no more than 50% of their annual household catch and, again, sales of traditionally-prepared salmon would be allowed.

There was testimony from two of the three proponents during the Southcentral Regional Council meeting this past October in Soldotna. They suggested that the customary trade limit between rural residents of the Upper Copper River District and others be increased from the $100 level in the original proposal to $500 per household annually. There was also some discussion at the meeting that the $100 limit would not allow the trade of many salmon and that it also seemed more practical to require all customary trade transactions of salmon to be recorded on a form.

The proponents felt that customary trade of salmon may increase in the Upper Copper River because people are now more aware of the regulation and because the area is on the road system. They want to see customary and traditional practices continue, but do not want subsistence harvest to increase in their area due to the customary trade provisions. They also believe the proposed changes would help keep customary trade at traditional levels in the Upper Copper River area.

A Federal subsistence fishing permit has been required to harvest salmon in the Upper Copper River district since 2002. Only rural residents who reside in the area with a positive C&T use determination for salmon in the Upper Copper River district qualify for the Federal permit.

Table 1 in the analysis summarized the number of Federal permits that have been issued and then reported harvest by subdistrict and species. However, the majority of permits issued in salmon harvested continues to occur under State-issued subsistence and personal use permits for the Upper Copper River District.

To engage in customary trade, subsistence-harvested fish must be harvested under Federal regulations and, thus, would need to be harvested using the Federal permit available. Subsistence salmon fishing in the Upper Copper River District is well documented, dating back many generations. However, there are no records of the amounts of salmon exchanged in customary trade in the Upper Copper River District or the amounts
of cash involved. Historically, there was some level of
exchange of traditionally prepared salmon for barter and
possibly some more recent exchanges of traditionally
prepared salmon for cash, but it has not been documented.

The proposed language to include a
provision that there be no monetary limit for cash sales
of salmon between rural residents already currently
exists in the statewide customary trade regulations. The
portion of the proposal that would allow the sales of
salmon processed using customary and traditional methods
falls outside the Federal subsistence program. Food
health issues, including fish processing, are controlled
by the State of Alaska. The customary trade regulations
do not exempt anyone from complying with State health
regulations for processing foods for sale. The portion
of the proposed language to allow the sale of processed
salmon could mislead users to think that they could sell
processed fish without meeting the required health
standards.

Without a requirement for sales between
rural residents and a limit of no more than 50 percent of
the annual household harvest of salmon, it would be
difficult to monitor or enforce the 50 percent provision.

The testimony and discussions at the
Southcentral Council meeting helped frame the issue in a
regional context. The result was a suggestion that the
customary trade limit between rural residents of the
Upper Copper River District and others be $500 per
household annually and that all customary trade
transactions of salmon be recorded on a form.

If adopted, there would need to be a
focused outreach effort to help avoid further to help
avoid further confusion in this complex area of
regulation. Users would need to be informed that allowed
customary trade is limited to salmon harvested with a
Federal permit, that they would need to adhere to dollar
limits and a limit on their percentage of catch and a
recording requirement. Most importantly, we would need
to inform people that these regulations do not provide an
exemption from the existing food health permit
requirements.

Thank you, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. Written
public comments.
MR. MIKE: Thank you, Mr. Chair. The written comments you'll find on page 332. We received two written public comments. The first one is from the Ahtna Subcommittee. Initially, we probably received this comment prior to our Regional Advisory Council meeting in Soldotna in October of 2003. The Ahtna Subcommittee initially supports the customary trade of salmon among rural residents limit on amount of cash as long as 50 percent of the annual catch is kept by the household. The customary trade cash value does not exceed $100.

After public testimony in the meeting in Soldotna, the Ahtna Subcommittee supported the modified proposal, that it would change it from $100 to $500.

The second public comment is from the Wrangell-St. Elias National Park Subsistence Resource Commission. They unanimously support the proposal with modification. The commission voted to amend the proposal as follows: The monetary limit on customary trade between rural and urban residents would be increased from $100 to $500. In addition, a reporting requirement should apply to customary trade between rural residents. The $100 limit on customary trade with urban residents unnecessarily restricts customary trade, and thus a $500 limit would better allow the continuation of customary trade by subsistence users. The reporting requirement on customary trade with rural as well as urban residents will help develop baseline information on the extent and nature of customary trade that takes place.

Additionally, the SRC voted unanimously to recommend to the Federal Subsistence Board that a study be initiated of the current and historic level of customary trade. They feel that additional information on this practice is needed and that this information would be of use to them in decision making.

Thank you, Mr. Chair.

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

MS. STICKWAN: My name is Gloria Stickwan. I work for Ahtna Corporation. I just wanted to say that we support Southcentral Regional Advisory Council’s point and we also wanted to have a study done, too. We’d like to see that done, a customary trade study done.
CHAIRMAN DEMIENTIEFF: Thank you.

Regional Council comment.

MR. LOHSE: Through the Chair, Regional Council voted unanimously to support this proposal as modified. You'll find our modifications on page 329 and 330. We, like Jerry said, had very good discussions. We ended up understanding that the cash sale of processed fish was not something that could be handled underneath this proposal. We ended up with a consensus on the $500 and a consensus on the reporting requirement with all the people that were there and with the Council itself. I would recommend that you include that. With that, unless you have some questions, I have nothing further to say.

Oh, one other thing. I do have something further to say. We will be presenting you with a resolution at the end of the meeting asking for that study that Gloria Stickwan mentioned.

CHAIRMAN DEMIENTIEFF: Thank you. Staff Committee.

MR. GERHARD: Yes, Mr. Chairman. For the record, I'm Bob Gerhard with the National Park Service and a member of the Interagency Staff Committee. The Staff Committee recommendation can be found on pages 330 and 331 of your book.

The Staff Committee concurs with the Southcentral Regional Advisory Council's suggestion that this proposal be supported as modified. The regulatory language is shown at the bottom of page 330 and the top of 331. You'll note that this includes the entire section of the customary trade regulations so that you can see the similarities and differences with the Bristol Bay actions that the Board took last year.

As a justification, the Staff Committee notes the following four points. First, that establishing a limit on the dollar amount and percentage of harvest that could be sold through customary trade and requiring sales to be recorded should provide additional control and accountability, but will place a burden of recording these transactions on the seller.

Second, there is no reason to adopt the statement about no monetary limit between rural residents because that is currently provided for through the statewide customary trade regulations.
Third, the portion of the proposal that speaks to the sales of salmon processed using customary and traditional methods is outside the authority of the Federal subsistence program. Food health issues, including fish processing, are regulated by the State of Alaska. The proposed language could be misleading if people do not realize they are also required to comply with processing health standards.

And, finally, mostly just a comment, current customary trade regulations are challenging to communicate effectively. This regulatory change would benefit from a focused outreach effort to clarify the regulatory changes to the users.

That is the Staff Committee recommendation.

CHAIRMAN DEMIENTIEFF: Thank you. I inadvertently passed by the Eastern Regional Council recommendation.

MR. NICHOLIA: Thank you, Mr. Chair. The Eastern Interior Regional Council supported the general concept, the proponent and subsistence users along the Copper River.

CHAIRMAN DEMIENTIEFF: Thank you very much. Department comments.

MS. SEE: Thank you, Mr. Chair. We note that our main concern about customary trade proposals is really that there needs to be a documentation of the customary nature and levels of trade that's demonstrated in the regulatory record. That has been a consistent comment that we've made about these proposals. We think that given that, if that information can be brought forward as regulations are crafted, we would view them quite differently because we feel that's kind of an evidentiary standard that the program should require.

We certainly would support that studies and projects that will allow that kind of information to come forward should be supported and toward that end we acknowledge and appreciate the support from the Federal subsistence program to direct efforts to get that kind of information through projects that are funded.
Given that the past adoption of such regulations by the Federal Board, that there has been adoption of regulations, the State does generally support restrictions in the amount of fish or dollar values allowed to help prevent abuse and commercialization of the practice.

At this time, it is important to note that until we see that documentation of the nature of the practice, we pretty consistently do not support regulations authorizing customary trade because we think that piece is really essential to include as part of the rationale for the regulation. Although the original proposal did not have a way to assess the proposed limits because customary trade in the original language did not have a reporting requirement between rural residents, we note that the Council does propose amending the proposal to require reporting customary trade between rural residents, which would address that deficiency or that problem rather.

We do commend that the Council spent a lot of time on this particular proposal and really looking at all the different aspects of it. Toward that end also, we noted on the record at that meeting and I would just note it here that it is a difficult concept to communicate and toward that end I think it's important to use the term customary trade very specifically and repeatedly for this practice and not to confuse this with sale. That really confuses people in a hurry. This is a practice which involves trading of harvested materials for cash, but in fact that is related to the mixed subsistence cash economy out there and the need to offset the costs of subsistence which involve cash.

So that is the fundamental nature of a customary trade. It is a trade and I think the casual use of the term sale really presents a great problem in communicating about this provision and this practice. So we would just note that sort of for the record that as you discuss this, it is important to use the right terminology.

At this point in time, because of our concerns about the need to document in any area, the actual nature of the levels of trade and the customary nature of it, that we do not support this particular proposal. I think you need to look at that recommendation in the context of all the points that I raised about that and would be happy to answer any
questions if you have them.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. With that, we'll go to Board discussion.

MR. EDWARDS: Mr. Chairman, I have a question for Staff and maybe also for the Council. Could this be interpreted that you could actually sell 100 percent of your catch if you only sold 50 percent from rural to rural and then 50 percent from rural to others?

MR. LOHSE: Mr. Chair. I don't know if legally you could interpret it that way, but if you would look at the record that the Council set and the past discussion, you would see that never was our intention. Our intention was that subsistence was taken for your home use first and no more than 50 percent of that should be surplus that you could end up trading or bartering or selling to somebody else. The idea wasn't that you could take 50 percent from one and 50 percent from the other and not keep any for yourself. The idea is to prevent abuses and point out that the subsistence really is for home use to start off with.

MR. EDWARDS: I concur. I guess I'd still ask the question. If you read it literally, it would appear that if you sold 50 percent from rural to rural, then you could sell the other 50 percent to others. I don't know if that's the case, but it seems to me we ought to clarify and if we need clarifying language, maybe we need to do that.

CHAIRMAN DEMIENTIEFF: I guess the point taken by Staff is that we do need to clarify it in the regulation. As we heard Ralph say, the Council's intent was for that not to happen, but we need to craft some language. Yes.

MR. REAKOFF: Mr. Chairman, this 50 percent language was worked on at the Western Interior Council when we were discussing this customary trade issue. It was understood this language came out of a subcommittee meeting. It was understood that 50 percent was to be retained for personal and family consumption and no more than 50 percent could be sold or bartered.

MS. GOTTLIEB: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: I'd like to thank the Wrangell-St. Elias Subsistence Resource Commission for their input on this issue as well as the Regional Advisory Council. Park Service, Diane McKinley and others prepared a one-page handout that explains the role of the SRCs in this process and their relationship to the RACs as well as the local Advisory Committees and to the Park Service. I think they really provided a valuable assistance in this case.

I also wanted to clarify that, of course, we did implement this in Bristol Bay last year and we do have a few results from that implementation. We also have examples of press releases as well as the forms that were used by people who applied for the record-keeping aspect of it. I think one thing we need to make clear to people who would want to do the recordkeeping and reporting is that it does become part of the public record, so this is important to make people aware of.

Likewise, we have our in-season manager from the Copper River here, Eric Veach, who would explain if we would like what kind of outreach program would take place to inform people about this system and how we would go about distributing the recordkeeping information and collecting the reporting information. So, if the Board wishes, we can do that as well.

CHAIRMAN DEMIENTIEFF: Thank you. Anybody else.

MS. GOTTLIEB: Mr. Chair, if I could ask Eric just to say a couple words, please.

CHAIRMAN DEMIENTIEFF: Go ahead.

MR. VEACH: Mr. Chairman, Ms. Gottlieb. Eric Veach with Wrangell-St. Elias National Park and Preserve. We are prepared to implement a public outreach and education effort if Proposal 13 is adopted. This will include issuing a press release prior to the season notifying subsistence users of the new regulation and the requirement to obtain a reporting form from our office. We use our well-established network that we use for publishing special actions that seems to be real effective in getting the information out to the users.

Also, when the users come in to obtain a
permit from our office, we'll have a handout prepared that will also explain the new regulation and if they request a reporting form, we'll go through the form with them and explain how to complete the form and it will become part of the public record and we'll ask them to return that form with their permit approximately 30 days after the end of the season.

CHAIRMAN DEMIENTIEFF: Thank you. Any other discussion.

Ralph.

MR. LOHSE: Mr. Chair. If you really do or part of the Board really does feel that there is a discrepancy that would allow, with the way this is written, 100 percent of the harvest to be sold, then I would suggest that you make a modification. It would be pretty easy to do in either one or the other where you could just say that no more than 50 percent of the annual harvest may be sold cumulatively or something to that effect so that you could come up with some wording that way. If it's clear the way it is, then just leave it the way it is.

I was looking back through the record and we made it very clear that while we recognized that the 50 percent is not something that's going to be easy to enforce or is actually unenforceable, it's more there to set a tone and that tone is that the harvest should be taken for yourself and your family first. If you have surplus above your needs, you could use it for trade or barter.

So, if you feel that needs clarification, I would suggest that you do that through an amendment at some time before you pass on this motion.

CHAIRMAN DEMIENTIEFF: Go ahead, Tom.

MR. BOYD: Mr. Chair, I'm in agreement with Chairman Lohse and I've been sort of trying to reconcile the language with some kind of an amendment to what Chairman Lohse described as the Council's intent. As I look on page 329 under the bold letters that constitute the purported amendment by the Council, I think that's where we find the problem language in that it says Upper Copper River District. The total number of salmon per household taken within the Upper Copper River District and exchanged in customary trade to rural
residents may not exceed 50 percent of the annual harvest of salmon by the household.

If you'll go to the companion language on the next page, 330 at the top, it deals with exchange between rural residents and individuals other than rural residents. What it says is that may not exceed $500 annually and it says and no more than 50 percent of the annual household harvest may be sold. I don't find that as problematic because that's pretty clear that the total that can be sold is 50 percent. So I think we need some kind of similar language in the preceding page and I'm not exactly sure how to structure it off the top of my head. I've been trying to figure that out right now. We can do that if we understand the concept and the intent.

CHAIRMAN DEMIENTIEFF: Ralph.

MR. LOHSE: Mr. Chair. With what Tom has just said, I went back and looked at our first section which he said is the one that's not so clear and what would happen if you would just say the exchange in customary trade or for sale -- well, you can't do that.

MS. GOTTLIEB: Mr. Chair, I'll go back to Chairman Lohse's previous comment that I don't think we need to micromanage the words because I believe the intent of the Council was very clear. No more than 50 percent. Also believe the intent of the Council was that a recording and reporting requirement was expected and I would like to move that we support the Regional Council's recommendation.

CHAIRMAN DEMIENTIEFF: We have a motion to support the Southcentral Regional Council's recommendation. Is there a second.

MR. OVIATT: Second.

CHAIRMAN DEMIENTIEFF: Moved and seconded.

MR. EDWARDS: Mr. Chairman, I guess, while I don't disagree that we shouldn't micromanage, but when it comes down to a matter of law and enforcement of it, it seems to me that you want your regulations as clear as they can be so there's not any misunderstanding either by the people who it applies to or a misunderstanding when it might ultimately go to trial.
MS. GOTTLIEB: Mr. Chair. I guess with respect to reporting we could either say the recording and reporting requirement, et cetera, rests with the seller or we could leave that reporting requirement to be as part of the permit that people would be coming in to get. That can easily be taken care of.

MR. EDWARDS: Maybe then as a follow up, Mr. Chairman, I'd offer an amendment. I think we all understand what we're trying to accomplish and maybe at this point we don't need to sit and try to word-smith it, but as long as we convey what the intent of the Council is, then maybe Bill Knauer can take that intent and then craft the proper wording that will get us to where we want, so there's no confusion and the total is only limited to 50 percent.

CHAIRMAN DEMIENTIEFF: It is clear that the language in Section 27(11) is the problematic one, but in 12(ii) if there was to be a motion amended, the easiest way is the make a motion to amend to make section (ii) consistent with section 12 and that gives us the flexibility to do that and gets us out of that. Ralph.

MR. LOHSE: I think if you just looked at section 12 down there, which is the one that seems to cover it pretty good, if you just said and no more than 50 percent of the annual household harvest may be sold or traded, that would cover everything, I think. Maybe the legal could give me an idea if that was correct.

CHAIRMAN DEMIENTIEFF: Keith.

MR. GOLTZ: Bill Knauer does this superbly. I think if we just tell him what the intent of the proposal is that he can craft it. I think we're probably just going to cloud his job if we get too nit-picky about the i's and e's.

CHAIRMAN DEMIENTIEFF: So the motion to amend to have section 11 language be consistent with section 12 gives us the flexibility. Is that correct, Keith?

MR. GOLTZ: It's enough for Bill. He just nodded to me.

CHAIRMAN DEMIENTIEFF: Well, that's how we'd fix it. We know what we want, okay. So if we just move to amend to make section 11 language consistent with
1 section 12, then Bill has the flexibility to fix it
2 without us having to sit here and draft the language
3 ourselves.
4
5 MR. GOLTZ: Yes, I don't think we want to
6 draft the language.
7
8 CHAIRMAN DEMIENTIEFF: I think we've been
9 down that road before. So the Chair would entertain a
10 motion to amend.
11
12 MR. EDWARDS: I made that motion already.
13
14 CHAIRMAN DEMIENTIEFF: I'm sorry. That
15 was the intent of your motion.
16
17 MR. EDWARDS: I didn't do it very well,
18 but that's what I intended to do.
19
20 CHAIRMAN DEMIENTIEFF: So we do have a
21 motion to make section 11 language consistent with
22 section 12. Is there a second.
23
24 MR. BSCHOR: Second.
25
26 CHAIRMAN DEMIENTIEFF: Discussion on the
27 amendment. It's already been pretty well discussed. All
28 those in favor signify by saying aye.
29
30 IN UNISON: Aye.
31
32 CHAIRMAN DEMIENTIEFF: Those opposed same
33 sign.
34
35 (No opposing votes)
36
37 CHAIRMAN DEMIENTIEFF: We now have the
38 main motion before us as amended. Is there any further
39 discussion on that.
40
41 (No comments)
42
43 CHAIRMAN DEMIENTIEFF: Hearing none, all
44 those in favor of the main motion as amended please
45 signify by saying aye.
46
47 IN UNISON: Aye.
48
49 CHAIRMAN DEMIENTIEFF: Those opposed same
50 sign.
(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
Thank you very much.

MS. GOTTLIEB: Mr. Chair. I guess I would ask as we're developing the recordkeeping form and outreach materials, we'll keep in mind the comments by the Department and try to be as clear as possible in our forms.

CHAIRMAN DEMIENTIEFF: Okay. We're going to Kuskokwim. When you're ready, you can begin the Staff analysis on 06.

MR. UBERUAGA: Mr. Chair, Members of the Board. My name is Richard Uberuaga. I'm a fisheries biologist with the Office of Subsistence Management and I'm assigned to work on the Yukon and Kuskokwim Rivers. The analysis for this proposal is found on page 371 of your Board book.

Proposal FP05-06 was submitted by the Association of Village Council Presidents, Eek Traditional Council and the Organized Village of Kwethluk and requests that permanent Federal subsistence regulation that lifts or relaxes the subsistence fishing schedule for salmon in the Kuskokwim River Drainage. When in-season indicators of run timing and run strength provide sufficient assurances that upriver subsistence needs and salmon population viability concerns will be met.

The proposal seeks to immediately lift the subsistence salmon fishing schedule when the State of Alaska opens a commercial chum fishery on the Kuskokwim River. A similar in-season special action request to this one was submitted to the Federal Subsistence Board from AVCP in 2003. Your response at that time was that subsistence regulations to address this issue are unnecessary as the Federal in-season manager currently has the authority to open and close subsistence fishing periods in areas of Federal jurisdiction based upon in-season run strength independent from the State's decisions.

This proposal would provide clear guidance on when to relax the subsistence fishing schedule in regulation. The current authority of the in-season manager has been spelled out in a delegation of authority
letter from the Board. However, this delegation of
authority letter is not widely distributed nor widely
known.

Once it is determined that the salmon run
abundance is strong enough to meet escapement subsistence
needs, the windowed fishing schedule is relaxed. State
and Federal managers use the same information to assess
run strength and timing. It would therefore be difficult
to make decisions that there are enough salmon to relax
the schedule prior to also making the assessment that
there are enough fish to have a commercial opening.

Joint Federal and State news releases are
issued once the Federal in-season manager has assessed
the run and consulted with Alaska Department of Fish and
Game on each action.

State regulations have prevented the four-
day-per-week subsistence fishing schedule from being
lifted unless in-season indicators of run strength
indicated sufficient harvest abundance to allow
commercial chum salmon fishery.

In January of 2004, however, the Alaska
Board of Fisheries amended the existing regulatory
language regarding the relaxation of the subsistence
fishing schedule. Removing that reference to the
commercial fishing -- again, this is only for the
Kuskokwim River, the regulation now supports relaxing the
subsistence fishing schedule if in-season indicators
indicate a run strength that is large enough to provide a
harvestable surplus and a reasonable opportunity for
subsistence and non-subsistence users.

This new state regulation will continue to
require sufficient abundance to allow the opening of
other fisheries besides subsistence before the schedule
will be lifted. The Federal proposal would provide clear
guidance in Federal regulations when to relax the
windowed fishing schedule.

The linkage between the windowed
subsistence fishing schedule and the commercial fishery
has been an issue of concern since 2001. Management of
this fishery is an incremental process and there is no
need to directly link relaxing the windowed subsistence
fishing schedule to a consideration of a commercial
fishery or providing for other non-subsistence uses.
Thank you, Mr. Chair. That concludes my remarks.

CHAIRMAN DEMIENTIEFF: Thank you. Written public comments.

MR. MATHEWS: Mr. Chairman, there were no written public comments on this proposal.

Thank you.

CHAIRMAN DEMIENTIEFF: We had one request for additional public testimony at this time, Eric Johnson.

MR. JOHNSON: Good afternoon, Mr. Chair, Members of the Board. Pardon my voice today. I'm still recovering from whatever is going around and my voice is just about gone, so I'll just croak through my testimony here briefly.

As was discussed in the issue paper that I believe is a part of your packet of materials, the fishing schedules are a serious restriction on customary and traditional subsistence uses. We believe this was made clear in past public testimony before this Board and in Staff reports, particularly the Staff report that was submitted at the time of the ONC and KNA special action request in 2002.

Given that these are serious restrictions on subsistence, the standard for justifying restrictions on subsistence is set out at Section 3114 of ANILCA. Basically restrictions on subsistence need to be necessary either to protect viable populations of salmon or to protect continued subsistence uses.

The problem right now is the State regulations say that you need a surplus that's sufficient for non-subsistence fisheries before you can lift or relax the schedules. The Federal regulations, as you know, have this blanket incorporation of the State regulations, so that limitation -- that part of the State regulations that require a sufficient abundance for non-subsistence fisheries has basically been incorporated by reference into the Federal regulations.

All we're asking is that the Federal regulation reflect what the Federal legal standard is under ANILCA when the State regulation clearly does not.
Federal Staff and the State now say that a regulation isn't needed because of the January 2004 changes that were made by the Board of Fisheries, but what did these regulatory changes do. They dropped reference to the word commercial, but they replaced it with the requirement that there still be sufficient fish for non-subsistence fisheries before the schedules can be lifted. In other words, the change really didn't change anything in so far as the trigger is still a non-subsistence consideration and not a consideration based around population viability.

We don't think it should be all that controversial just to have the Federal regulations reflect what the Federal standard says under ANILCA, particularly here where there's a State regulation that's in conflict with ANILCA. That's all I have to say at this time unless there's questions or comments.

CHAIRMAN DEMIENTIEFF: Any questions.

Thank you very much, Eric. Regional Council recommendations, Yukon-Kuskokwim and then Western.

MS. GREGORY: Mr. Chairman. Mary Gregory. The Yukon-Kuskokwim Delta Council spent several hours discussing the similar proposal from the other one and the Board of Fisheries dropped a reference to the commercial fisheries and the Board of Fisheries currently supports relaxing fishing schedules when numbers of fish are sufficient. The modification is on page 373, the second (a), that the windowed subsistence fishing schedule specified in 5AAC07.365 may be lifted when in-season salmon run strength is assessed to be sufficient to meet the escapement goals and subsistence uses.

That's what we did.

I'd like to add fish come when nature calls. They don't come when the regulatory system people say it's time for you to come up the river. They come when God -- God put everything on this earth for a purpose. The fish we use and when it's time for them to come, they'll come. My people have been using the fish for ages. We never exploited it, never disappeared. We've been here for ages. We work hard. When we put the windows for the first two weeks in June, that's the crucial part for us to dry our food without spoiling it because we want to get it when the sun is shining and get them dried and then smoke them before bad weather comes around.
We're the best conservation that's in the world, too, because since we've been here we've never had any shortages of food of the resources we use from off the land, the earth, the river. And we do not exploit. We only take what we can use for the winter and also to support our extended families. We are the best recycclist people in the world. My dogs don't eat dog food from the store, they eat my leftovers from my house.

CHAIRMAN DEMIENTIEFF: Thank you.

Western.

MR. REAKOFF: Thank you, Mr. Chairman.

Jack Reakoff, Western Interior Council. This proposal, in that Council members that live on the Kuskokwim River expressed concern that some drainages in the Upper Kuskokwim were still not making escapements or very low escapements. There's concern as to assessing the Kuskokwim run in season and assuring that those subsistence needs and escapements are met.

The Western Interior Council is very supportive of the windowed fishing schedules to allow dissemination of the fish throughout all of the areas that are harvesting fish and providing for escapements. So our Council has been very supportive of these windows. We are reluctant to take the windows away without real hard run assessments.

CHAIRMAN DEMIENTIEFF: Thank you very much. Staff Committee.

MR. SIMMIONS: Thank you, Mr. Chair, Board Members and Council Chairs. For the record, my name is Rod Simmions with Fish and Wildlife Service. I'll be providing recommendations of the Interagency Staff Committee for both the Kuskokwim and Yukon proposals. I'll refer you now to page 374 for the Interagency Staff Committee recommendation on this proposal.

The Staff Committee was opposed to this proposal, consistent with the recommendation of the Western Interior Council but contrary to the recommendation of the Y-K Delta Council. During its winter 2004 meeting, the Alaska Board of Fisheries approved regulations that separated the lifting of windowed subsistence fishing schedule from opening a commercial salmon fishery on the Kuskokwim River. This change thus accomplishes the proponents intent of decoupling these two actions within the Federal program.
and these revised State regulations would similarly apply
to Federal subsistence regulations.

The Interagency Staff Committee recommends
to the Federal Board that this separation of subsistence
windows and commercial fishery openings be described in
the 2005 booklet that provides information to the public
on Federal subsistence fishing regulations. That
concludes comments, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you.

Department.

MS. SEE: Mr. Chair, our comments consist
of two portions. I'll offer the first part. We note
that based on Staff attendance and participation in
Council meetings and in our observations that we request
that the Federal Subsistence Management Program
reevaluate the process now used to review proposals for
migratory fish in the Yukon and Kuskokwim River
watersheds.

We think it's very problematic that there
are three Regional Advisory Councils involved in the
Yukon River proposals and two Councils involved in the
Kuskokwim River proposals because they're meeting
separately and without benefit of broader river-wide
discussion and public input that all occurs at the same
time.

Because of the complexity, particularly of
the Yukon River, each proposal affecting migratory fish
will likely affect all fishers in these large drainages.
For all of the current proposals, the separate Councils
have developed substantially opposing viewpoints. This
is a concern for Proposals 02 through 06, and I'm
mentioning this now because 06 happens to be the first
one of this group, but it really applies to all.

Each individual Council has heard
different information and public comment pertaining to
some of these proposals. Communication we feel is
lacking when the Councils meet separately or certainly
it's impaired and conflicts between users are
unnecessarily increased. Councils need to have clear and
uniform information about management and the related
calls.

Thus, for fishery proposals, the
Department urges that the Office of Subsistence
Management consider combining the river Councils for the purpose of discussing and taking joint actions on Councils as a single body. The three Yukon River Councils and the two Kuskokwim River Councils we feel should meet together to discuss and take joint action on migratory fish proposals as needed. This, in fact, was done at the Wasilla meeting last year, which we think in many ways was a very successful approach to this.

Proposals would be discussed by all effective users in these forums and a single recommendation on proposals could at least, at times, result from these kinds of meetings. This approach would be more efficient and cost-effective as well. The wildlife cycle of meetings would not at all be affected by this request. Specific comments on this particular proposal will now be offered by Dan Bergstrom.

CHAIRMAN DEMIENTIEFF: Thank you. As we begin Board discussion -- oh, is there a question? I'm sorry.

MR. BERGSTROM: Yes, Mr. Chairman, now for comments on Proposal 06. I'm summarizing from page four of the Department's final comments on proposals.

Existing State management plans and fishing regulations provide a reasonable opportunity for subsistence fishing. This proposed wording would not change management actions. However, adoption of this proposal will likely increase the likelihood of users believing the schedule being relaxed earlier than managers can agree. Currently, management tools are already in place to relax subsistence salmon fishing schedules on the Kuskokwim River if the run strength is strong enough to do so.

During the January 2004 Board of Fisheries meeting, in response to a proposal from AVCP, the Kuskokwim River Salmon Rebuilding Management Plan was amended to clearly break the link between relaxing the subsistence fishing schedule to seven days per week and implementing a commercial fishery and that's in 5AAC07.365.

This wording provides the Department guidance to manage the subsistence fishery to achieve escapement goals and gives the flexibility to relax the subsistence fishing schedule based on run abundance. The Department does not support the proposal. The Department
1 does support the Interagency Staff Committee
2 recommendation to describe the current management
3 strategy in their 2005 booklet.
4
5 We do not support a regulation to describe
6 State regulations in a management plan. Thanks.
7
8 CHAIRMAN DEMIENTIEFF: Thank you. As we
9 begin Board discussion, I just want to respond to one
10 point, Marianne. I'm not discrediting your whole
11 testimony because there were some valid things that I
12 learned from in there. Last year we went through great
13 effort and great expense to bring the Regional Councils
14 together to share information. That part of it went
15 really well, but it did nothing to build consensus, so
16 that's why we decided not to do that again this year.
17 Not only that, it disenfranchised rural residents from
18 being able to go because we had to bring them to Wasilla
19 to a neutral site to have the meeting. Then they had
20 their individual Council meetings and the users simply
21 couldn't afford to get to one location. That's why we
22 had to go to a neutral site because it wouldn't have been
23 fair to have some of the people get to participate and
24 some not.
25
26 I just wanted to assure you also that the
27 program went through great effort to make sure that the
28 same information -- one person provided the same
29 information to all three of the Regional Councils, so
30 that was done by one person. In each individual Regional
31 Council meeting, of course, there were local people
32 working in the field that have their own land manager
33 people that are there that may provide some different
34 information, but the basic information was provided by
35 one person from OSM.
36
37 So I just wanted to clarify that on the
38 record that we have tried and it was helpful, but we went
39 through great pains this year to make sure everybody is
40 dealing off the same information. So I just wanted to
41 assure you of that. Other discussion.
42
43 MR. EDWARDS: Mr. Chairman, I guess I
44 might want to take a little different tack on this.
45 While I certainly agree that we've made efforts to try to
46 figure out how you bring three different kind of user
47 groups maybe together and three different regions, it's
48 my sense that back in 1999 when we started the fisheries
49 program, to some extent we tried to shoehorn it into our
50 existing organizations and existing Council structures
and geographic areas. My guess is if we hadn't
previously had 10 years of the organizations that we had,
we might have taken a totally different approach if we
simply had a responsibility for fisheries and might have
looked at it a little different.

I just think it might be worthwhile that
we could either ask the Staff or the Staff Committee to
kind of wrestle with that issue and have them ask is
there a better way that we can address these issues. I
find it sometimes very difficult when we have three
Councils represented and maybe two of them oppose and one
is for. I mean one can argue in some ways it makes your
job a little easier because you can almost pit one
against the other, but I don't think that's what we're
supposed to be doing. We're supposed to be looking at
how do we best manage these major systems for all users
that are 800 miles apart. Maybe, in reality, the
existing way we're organized to try to get that
representation there might be a better way to do it.

CHAIRMAN DEMIENTIEFF: Yes.

MR. REAKOFF: As a participant in the
Regional Council process from day one on the first
Council meeting in Western Interior, I find it fairly
frustrating to find out what Eastern has done, reading
their transcripts, their misperceptions of what our
proposals might mean. There has to be some kind of more
coordination with the Councils. Whether that entails
teleconferencing with the leadership or the coordinating
fishers committees or however that may be, I agree with
you, Mr. Chairman, that meeting in urban areas and not
having local participation is kind of a down side to that
and I didn't feel that the Tri-Council meeting was very
effective. It did bring everybody on the same sheet of
music, everybody understood where the other Councils were
coming from, but it was very expensive and still there
are certain aspects that all users are going to have
divisions on in those regions. We do need to have closer
Council coordination on presentation of various things
and understanding between the Councils so that when it
comes to a vote, we understood what the other Council is
talking about. So I would state that from the Western
Interior.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. Other
discussion. Yes, Mary.
MS. GREGORY: Several years back we invited Gerald to meet with us in one of our spring meetings because we were dealing with fisheries that involved his area from the Lower Yukon, so that is going on. We're not just ignorant, but we do try. Because of the differences in our cultures, our language, our way of life, it's not going to get resolved that easy.

CHAIRMAN DEMIENTIEFF: I think one of the things we have to be careful of, as we found out in the last few years, is that four-letter word, FACA, and there may be implications. I would suggest that maybe we continue the discussion on a coordination. Tomorrow we have the opportunity. Remember when we used to have the meeting between the Board and we had to change it to a public forum, which this clearly is and will be on the record.

So I would suggest that not in the heat of the regulation but in the process that's already scheduled that we just go ahead and talk about this more tomorrow because it is important to us and we know that it's out there. We just need to come up with some ideas. Maybe everybody sleeps on that part of it and then we'll talk about it without the pressure of a regulation on us. We could get farther. So that's just what I'm suggesting. Is that agreeable? I see nods. Jerry.

MR. NICHOLIA: Mitch, I have a lot of problems with this three-RAC system on the Yukon River. It creates a lot of dissent. Where we first started about five, six, seven years ago, we built a lot of working relationships. Last year I seen it kind of good, but we left out the public users. It creates a lot of dissent, like especially when the Eastern Interior has to meet first, then either the Y-K or the Western. From what we did in Eagle created other actions in Western and Y-K where if we would have had more coordination or something for what's going on, we would have done something different, but it already happened. We're here with all our different views now. Where we tried to work before to work as consensus, no matter what we do the mouth of the river is not going to be the same as the upper end of the river. It's just three different regions that have to work together. From my view, it's not working together to provide a subsistence opportunity to the users along the Yukon.

CHAIRMAN DEMIENTIEFF: Thank you. Further discussion on the proposal.
MR. EDWARDS: Mr. Chairman, if we're back
to Proposal 06, if you're ready for a motion, I'm ready
to make one.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Mr. Chairman, I move that we
accept the recommendation made by the Western Interior
Council that would reject the proposal. As has been
stated several times already, this regulation is
unnecessary as it represents a management strategy that
is already being practiced both by the State and the
Federal fisheries managers. Relaxation of the schedule
is based upon the abundance of fish, not whether a
commercial fishery is implemented or not.

CHAIRMAN DEMIENTIEFF: Thank you. Is
there a second to the motion.

MR. OVIATT: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion on the
motion.

MS. GOTTLIEB: Mr. Chair. I guess again
here's an example of where public information and
communication and outreach and I know previously there's
been a lot of joint press releases and a lot of radio
notices done by both State and Federal managers. I think
the information can hopefully get out there in ways that
everybody understands. An example of us not needing
perhaps to do a regulation, but could just work on
regular information.

CHAIRMAN DEMIENTIEFF: Thank you. Further
discussion on the motion.
(No comments)

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

IN UNISON: Aye.

CHAIRMAN DEMIENTIEFF: Those opposed same
sign.
(No opposing votes)

CHAIRMAN DEMIENTIEFF: Motion carries.
I've been closely watching the time. It took us about 30
1 minutes to go through that proposal. The next proposal
2 that we're going to consider is a very similar proposal.
3 I would anticipate it would take us at least 30 minutes
4 to go through that. We don't know how long the report is
5 going to be on Unit 2 deer, but I'm just going to say if
6 we get done early with that, fine, but we just want to go
7 ahead and resolve that today. We'll pick up with
8 Proposal 02 in the morning. That's the way we're going
9 to deal with it.
10
11 So if we can get the staffers for the Unit
12 2 deer report and we'll be done when they're done. John.
13
14 MR. LITTLEFIELD: Mr. Chair, now I know
15 why you made me number 1. I wore you guys out.
16
17 CHAIRMAN DEMIENTIEFF: Okay, Region 10.
18
19 MR. HERNANDEZ: Thank you, Mr. Chairman
20 and Members of the Board. My name is Don Hernandez. I'm
21 a member of the Southeast Regional Advisory Committee
22 Council and I'm the chairman of the subcommittee of the
23 Regional Council that was put together to deal with a
24 planning effort for Unit 2 deer. I'd like to thank you
25 for the opportunity for this timely report on deer
26 hunting during your fisheries meeting.
27
28 Our work is under way at this time and
29 hopefully will be completed this spring, so it's
30 important that I inform you of what we are doing. After
31 I read you this report, I'll be glad to answer any
32 questions you have.
33
34 This is a brief progress report and it's
35 intended to inform the Board of the work of the Council's
36 Unit 2 Deer Planning Subcommittee since the formation of
37 the subcommittee in May of 2004. I'll focus on the
38 process that we are following and working on Unit 2 deer
39 issues. The subcommittee will report to the Council when
40 its work is accomplished.
41
42 The subcommittee had three meetings so
43 far. The first one was an initial organizational meeting
44 in May and we've had since then working meetings in
45 Craig, Prince of Wales Island in November and a meeting
46 in Ketchikan in December. The subcommittee composition
47 includes members from the communities that use Unit 2
48 deer. There are four members from Ketchikan, there's two
49 members from Petersburg, one from Wrangell and the other
50 members reside on Prince of Wales Island in various
communities.

Membership of the subcommittee is representative of the persons who are concerned with Unit 2 deer issues and they include a registered guide, we have commercial fishermen, we have tribal government staff, Regional Council representatives, Fish and Game Advisory Council chair, we have the Craig Ranger District on Prince of Wales Island and the Alaska Department of Fish and Game, Division of Wildlife Conservation regional supervisor is also on our subcommittee.

We adopted a goal statement for this planning process and I'll read that to you now. The goal of the Deer Management Planning Subcommittee for Unit 2 is to recommend a subsistence-based management approach for deer in this unit. The recommended approach will be reported through the Southeast Regional Advisory Council to the Federal Subsistence Board. This management approach will need to ensure the long-term conservation of Unit 2 deer populations, allow subsistence users to meet their needs as provided in ANILCA, account for the habitat and other ecological changes that may affect the deer population over time, recognize the changes in access and tomography that may change subsistence and other demands for deer, and minimize adverse effects on non-subsistence hunters who also rely on Unit 2 deer populations. This management approach will include public education on deer management and habitat issues and on subsistence protections found in ANILCA.

I'd like to tell you about the formation of the subcommittee. Resolutions requesting formation of the subcommittee were passed by the Southeast Regional Advisory Council at its March 17-20, 2004 meeting. The Federal Subsistence Board authorized the subcommittee at an April 2004 work session.

The subcommittee held an organizational meeting in May 28th and 29th in Ketchikan. The purpose of this meeting was to discuss the direction received from the Council and the Board, review subcommittee composition, develop operating procedures and outline a scope of work. The subcommittee reported to the Council in a public meeting held on June 1st. The Council acted on a subcommittee report and made recommendations concerning the subcommittee to the Board at its next meeting in mid June 2004.

The Council's recommendation to the Board
1 outlined the objectives of the subcommittee and its work
2 plan and suggested an expanded membership for the
3 subcommittee. The Board approved the Council's
4 recommendations. U.S. Forest Service has contracted with
5 Shineburg and Associates to provide facilitation services
6 for the subcommittee planning effort.
7
8 I'd like to tell you about our
9 subcommittee membership. I'd also like to point out that
10 through some very excellent efforts by the Shineburg and
11 Associates facilitator and the U.S. Forest Service and
12 ADF&G Staff, I think they did an excellent job in
13 recruiting members for our subcommittee and membership is
14 as follows:
15
16 We have Mike Bangs, a Petersburg resident,
17 commercial fisherman, hunter, former Advisory Committee
18 member and chair, and he is presently a Southeast
19 Regional Advisory Council member.
20
21 We have Anthony Christianson, a Hydaburg
22 resident, member of the Hydaburg Community Association.
23 He's the natural resources staff for Hydaburg Community
24 Association and he's an avid subsistence hunter.
25
26 Mike Douville, Craig resident, Prince of
27 Wales Island. He's an active hunter and trapper and he's
28 also a Southeast Advisory Council member.
29
30 Dolly Garza from Ketchikan. She's an
31 educator, subsistence harvester, also Southeast Alaska
32 Regional Council member.
33
34 Myself, my primary residence is Point
35 Baker on Prince of Wales Island. I'm presently spending
36 my winters in Petersburg for school year, so I kind of
37 represent both communities on this subcommittee. And I'm
38 a commercial fisherman and active hunter and, as I said
39 before, a member of the Southeast Regional Advisory
40 Council.
41
42 Elena James is another Craig resident.
43 She represents the Craig community association. She's a
44 natural resources staff and she's an avid subsistence
45 hunter.
46
47 Johnnie Laird, Ketchikan resident. He's
48 an active, registered hunting guide and an active hunter
49 on the island. Former resident of Prince of Wales Island
50 now living in Ketchikan.
Tom Skulka is a Ketchikan resident. He’s with the Alaska Native Brotherhood. He's the president and he's an active hunter on Prince of Wales Island.

Tom Sims from Wrangell. He's the chair of the Wrangell Fish and Game Advisory Committee. He's a commercial fisherman and an avid hunter.

A.J. Slaygill, Ketchikan resident. He's a hunter/trapper and his position is to represent the sport hunting interest for Ketchikan residents.

So we have four Prince of Wales Island residents, four Ketchikan residents, a person from Wrangell and a person from Petersburg and they represent, as you can see, various interest groups and I think we’re very well represented.

Subcommittee actions and their schedule to date, subcommittee met November 18th and 19th in Craig. At this meeting, the subcommittee agreed on the planning processes and goals. We reviewed information provided by the ADFG and U.S. Forest Service Staff concerning ANILCA provisions, deer population characteristics, deer habitat and predator/prey effects. We looked at the inter-island ferry operations. We also looked at the effective timber management on habitat in Unit 2 and we provided for public testimony at that meeting. We had four members of the public provide testimony and about 25 community residents attended all or part of that meeting.

We met again in December 14th and 15th in Ketchikan. At this meeting the subcommittee heard further Staff reports concerning second growth management, access management, subsistence uses and needs assessments, enforcement activities and planning for wildlife information projects. The subcommittee spent a full day discussing ways of improving harvest reporting in Unit 2. About 15 members of the public provided testimony at this meeting and about 50 community residents attended all or part of this meeting.

Our next meeting will be in Wrangell and that will be next week, January 18th through the 20th. The subcommittee will give the Southeast Regional Advisory Council a progress report at the Council’s February meeting scheduled in Petersburg and we will be providing for public testimony from people in Petersburg at that meeting.
Our fourth meeting will be held back on Prince of Wales Island in the community of Thorne Bay and that's March 15th through the 17th.

Our final meeting will take place once again in Ketchikan and that's April 13th and 14th, at which time we will hopefully prepare a final report to the Council for their review. The Council can then act on the subcommittee's report either at a noticed teleconference meeting or at its fall 2005 meeting in Sitka.

With the support of the Forest Service, the subcommittee will be identifying persons interested in Unit 2 deer issues through a newspaper insert in local papers and persons who respond will be put on a mailing e-mail list for further contact. With the support of the Office of Subsistence Management, subcommittee documents will be available on the website.

I did want to point out to you when we had our meeting in Ketchikan, it was reported on the front page of the Ketchikan Daily News. We got a lot of press coverage for that meeting and a lot of public information was given out that way.

So, in summary, the subcommittee has found that deer hunting in Unit 2 has been greatly changed over the past 20 years as a result of the timber harvesting, road building and changes in human population that have taken place. Future declines in the quality of habitat for deer and decreases in deer population are almost certain to occur as regrowth of clear-cut areas proceeds. Improvements in inter-island transportation continues to improve access to deer hunting areas for both urban and rural residents. Because of these and other changes affecting Unit 2, the hunters who depend on Unit 2 deer, maintaining future deer hunting opportunities may require changes in deer management.

The subcommittee will do its best to provide sound recommendations to the Council concerning future deer management. Its recommendations may also encourage more aggressive management of habitat for deer.

I'd like to thank the Board for encouraging the Council to undertake this subcommittee process and I'd also like to thank you for your support in making this all happen. Before I entertain questions, which you may have, I'd just stress a few of the points...
from my report that I think are important.

The first one is that everything we do in this subcommittee will be passed on to the Regional Advisory Council for their review and any actions that result from our efforts will be approved by the Regional Advisory Council.

Another thing is that I think I recognize that the make-up of the Board is probably one of the most important factors in its success and I'd like to say that I am very pleased with the membership on this Board. We've had a couple meetings now and we really seem to be working well together. I think there's a lot of cooperation.

Also, cooperation of the agencies is very important to the success of this effort and I'd also like to say after our two meetings I think we're seeing a lot of really excellent cooperation. I think that's going to be vital to our success.

Also, public involvement is going to be key. That will happen through public testimony, news stories, as I pointed out, and a newsletter and distribution of information as a result of this process.

Also, something else that I think is good to point out in this effort is fostering a lot of understanding between the different user groups. Members of the committee are and will continue to be involved in resource issues and I think working together with a lot of these people is going to be very positive for a lot of things that happen in the future.

Also, our goal in this is for long-range planning to deal with changing situations. I think we all agree that our approach to this is to emphasize the need for good information, that all user groups will accept as reliable. If we have that information and we can all agree on what information is really good and reliable, I think it will go a long ways towards resolving some of these issues.

So, again, thank you very much and if you have any questions, I'd be glad to answer them.

CHAIRMAN DEMIENTIEFF: I don't really have a question, but we've used this tool in other difficult issues that we've had to deal with and, to me, I
congratulate everybody that has had an effort in this.
It sounds to me just from hearing your report -- well, to
be honest with you, I kind of track it through channels
and been keeping track of your work. It just looks like
to me that the group is doing exactly what we hoped it
would do. Whether or not we get a resolve, I know the
spirit of cooperation amongst the various users is so
very important to all of us. Hopefully it will resolve
in a consensus-building and a resolve to a very thorny
issue. But it sounds like you're doing everything that
at least I personally have hoped that the group would do
and we look forward to continue tracking the group and
your efforts.

Any other questions or comments. Gary.

MR. EDWARDS: Mr. Chairman, I just would
like to echo that and applaud all the people who are
involved in this. I attended the meeting, the only
meeting I've attended in the Southeast when we were first
trying to get this started and I actually had a couple
follow-up conversations with Mr. Hernandez and I think
it's exceeded all of our expectations. I think it's
right where we think we should be with this and I applaud
him for his leadership of the committee and the Forest
Service for stepping up and doing a lot of positive
things and the Council and the State for participation.
Hopefully, with all of that, it will result in some
agreed-upon, very positive recommendations that we
hopefully will get everybody down there and on the same
page and work out some of these tough issues.

I did have one question. When I attended
that meeting, one of the concerns was a lack of data that
this group would come together but might not have all the
facts that they needed to try to really wrestle with some
of these very difficult issues and one of them I recall
had to do with the non-subsistence harvest and trying to
get a better handle on that, an understanding of what is
taking place. Are we making any progress in that area or
is that still a significant data gap that needs to be
addressed?

MR. HERNANDEZ: Thank you, Mr. Chair. Mr.
Edwards. We did spend a fair amount of time at our
December meeting talking about the needs for data
gathering. As you know, there have been proposals put
forward both to the Federal Board and the State Board for
a registration permit requirement for reporting. The
subcommittee did reach consensus that that was a good
1 proposal. Since that meeting that recommendation went
2 into further discussion prior to the upcoming Board of
3 Game meeting to see how that might be implemented and we
4 had a very good meeting between Fish and Game and Forest
5 Service Staff discussing the needs of getting better
6 reporting requirements. I think we're well underway in
7 coming to some good agreement as to how that might
8 happen. These talks are still going on, but I expect
9 there will be a good result for us to consider.
10
11 CHAIRMAN DEMIENTIEFF: Any other
12 questions. Judy.
13
14 MS. GOTTLIEB: Mr. Chair. Likewise, I
15 want to thank you and your subcommittee. Just like our
16 Regional Advisory Council chairs, we know you're all
17 volunteers and we appreciate your dedication and personal
18 efforts towards issues that are really important to all
19 of us.
20
21 Thank you.
22
23 CHAIRMAN DEMIENTIEFF: Any questions.
24 Yes, John.
25
26 MR. LITTLEFIELD: Thank you, Mr. Chair.
27 As a member of the mutual admiration society, I would
28 like to echo those comments. I really appreciate the
29 Board saying this to Mr. Hernandez and your comments, Ms.
30 Gottlieb, were right on. You have 12 members there, 10
31 official members and two liaisons. Ten of them are
32 serving as volunteers for five meetings and that's
33 commendable that you'd do that and I want you to make
34 sure that you take the comments of this Board as well as
35 myself back to those members and tell them that we
36 appreciate their public service on behalf of the rural
37 residents. I know it's a lot of hard work. Everybody
38 has to give up something to do this, whether you're
39 retired like I am now or something, you have to give up
40 some time to do this and I appreciate the time that the
41 subcommittee has put in on this.
42
43 Thank you.
44
45 CHAIRMAN DEMIENTIEFF: Any other comments.
46
47 MR. BSCHOR: I'd be remiss not to join in
48 here and thank Mr. Hernandez. I know we had a
49 conversation right before this subcommittee began to meet
50 and it wasn't a very long discussion, but I think Mr.
Hernandez would agree that where you are right now was one of my primary hopes that would happen by the end of the process. So I'm really pleased and, likewise, let the rest of your subcommittee members know that we're pleased with the progress.

CHAIRMAN DEMIENTIEFF: Closing comments anybody. Thank you. Once again, John, you're still taking up our time. Chairman Littlefield says we can leave now for the day. We'll see you at 8:30 and we'll pick up on Yukon stuff.

(PROCEEDINGS TO BE CONTINUED)
CERTIFICATE

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

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

THAT the foregoing pages numbered 116 through 247 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD PUBLIC MEETING, VOLUME II taken electronically by Nathan Hile on the 12th day of January 2005, beginning at the hour of 8:30 o'clock a.m. at the Egan Convention Center in Anchorage, Alaska;

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

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

DATED at Anchorage, Alaska, this 29th day of January 2005.

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Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/08