FISH AND WILDLIFE SERVICE FEDERAL SUBSISTENCE BOARD
LOWER LEVEL, EGAN CONVENTION CENTER
ANCHORAGE, ALASKA

VOLUME I

JUNE 25, 2002
1:30 o'clock p.m.
PUBLIC MEETING
CHAIRMAN DEMIENTIEFF: We'll go ahead and call the meeting to order. We'll check first to see who we've got on line. Is Alex Nick on line? Mike Reardon? How about Robert Nick, is he on line? Wayne Morgan, are you on line? James Charles, are you on line?

MR. CHARLES: Yes, I am on line.

CHAIRMAN DEMIENTIEFF: Okay. Ray Collins.

MR. COLLINS: Yes, I'm here.


MR. REAKOFF: Yes, I'm here.

CHAIRMAN DEMIENTIEFF: Okay. And Vince Mathews.

MR. MATHEWS: Yes, I'm here.

CHAIRMAN DEMIENTIEFF: Well, we'll just add these people on as they come in.

We're here with regard to Special Action FSA02-03, and with that we'll go to Jerry Berg for the Staff presentation.

MR. BERG: Thank you, Mr. Chairman. For the record my name is Jerry Berg, I'm the Staff fishery biologist for the Office of Subsistence Management and I'll be presenting the Staff analysis for Special Action 02-03 which is submitted by ONC and KNA requesting to limit the chinook and chum salmon harvest in Federal waters to Federally-qualified subsistence users or alternatively, to limit the non-subsistence fishing activities to the same schedule being imposed on subsistence harvest activities. The request also suggests that the closed dates do present a substantial disruptive to traditional methods of harvest.

The Staff analysis does identify that the Kwethluk IRA Council voted to support this request. It also states that the Kuskokwim River Salmon Working Group also voted to support the request but in fact I guess we found out later that they didn't actually vote on it. There was discussion of support of the Special Action but
The Alaska Board of Fisheries has identified the Kuskokwim River chinook and chum salmon as stocks of concern and as a result, the Board of Fisheries established a reduced fishing schedule as part of the Kuskokwim River Salmon Rebuilding Plan. This schedule was adopted to rebuild the salmon runs by providing closed periods during which salmon pass through with reduced fishing pressure to improve the equality of escapement with possibly more large females reaching spawning grounds and also to more evenly spread the subsistence fishing opportunity throughout the drainage.

We're now in the second year of the rebuilding management plan and the schedule identified in the plan is being implemented through emergency orders issued by the Alaska Department of Fish and Game. The Federal Subsistence Board adopted, by temporary action, in May of 2000 the same schedules, openings and closings identified in the State EO's unless superseded by a Federal special action. The schedule consists of four days per week open to subsistence fishing with nets or fishwheels followed by three closed days through June or July unless the run strength warrants further action. Subsistence fishing with rod and reel is not restricted under the schedule and is open seven days a week with no bag limits.

Many of the residents of the Kuskokwim River drainage support the schedule and the efforts to help rebuild these salmon stocks. However, many of these same people do not support the sportfishery being open seven days a week while they are being restricted by the schedule.

The Federal Subsistence Board received this request in late April and addressed the request on May 1st and at that point decided to defer action on the request until more in-season run strength became available in late June which is where we're at today. The Board also decided to discuss the fishing schedule imposed on Federally-qualified subsistence users and whether the subsistence priority is being properly afforded in Federal waters.

Federal jurisdiction extends throughout the lower and middle portion of the Kuskokwim River drainage, primarily on the Yukon Delta National Wildlife Refuge. The Refuge boundary includes all waters from the mouth of the river upstream to and including the lower portion of the Aniak River as you can see on the map on Page 3 of the
Prior to 2001 the Kuskokwim River was open to subsistence fishing seven days a week, 24 hours a day unless a commercial fishing period was announced. In January of 2001, the Alaska Board of Fisheries instituted the subsistence fishing schedule in a conservation effort to address declining salmon runs. This schedule was implemented in the Lower Kuskokwim River and all salmon spawning tributaries starting the first week of June of this year was extended to the lower and middle river during the second week of June and was finally implemented in the entire river drainage starting June 16th and is now in place today with the next opening starting tomorrow. It's closed through tonight, midnight.

During subsistence fishing closures all gillnets with stretch mesh greater than four inches must be removed from the water and all fishwheels must not be operated. There's no restrictions on subsistence rod and reel fishing and no harvest limits using rod and reel.

The Alaska Department of Fish and Game has also placed restrictions on the salmon sportfishery by not opening the sportfishing until June 15th and reducing the bag limits from three to one chinook or chum salmon per day. The Alaska Department of Fish and Game has also stated that they don't expect to have a directed commercial fishery in June or July.

For current events involving this issue the Kuskokwim River Salmon Management Working Group met on June 18th to assess the chinook and chum salmon run strength and agreed with the ADF&G and Fish and Wildlife Service recommendation to maintain the subsistence fishing schedule for another week and to meet again this coming Thursday to reassess the run strength. This management strategy was based primarily on the Bethel test fish index information we have available and also the in-season subsistence harvest reports. As you can see in Figure 1 on Page 5, that the chinook numbers for this year are better than the other three years with comparable water flow data. We can only compare the data to years with similar water flow due to the efficiency of the drift gillnets. And then again on Figure 2, Page 6 you can see the chum numbers are also coming in better than years with similar water flow. And those numbers are through June 23rd, this past Sunday.

The in-season subsistence harvest reports through June 15th have been favorable with most fishers
below Lower Kalskag reporting very good to normal catches
and I understand that Mr. Greg Roczicka with ONC has some
updated information that he might be able to provide us
later today on the more recent opening.

So given the current run status of the run
and the in-season subsistence harvest reports it is
expected that escapements and subsistence needs will be met
for chinook and chum salmon in 2002.

The subsistence fishing schedule
implemented in 2001 may have contributed to improving
escapements throughout the drainage and you can see in
Figures 3 and 4, Figure 3 has the escapement numbers for
chinook salmon throughout the drainage and as you can see
there were improved escapements throughout the drainage
this last year. Of course, there were also measures taken
throughout the migratory route of those salmon as they
migrate up to the Kuskokwim as well. And then you can also
see on Figure 5, it shows the recent years subsistence and
commercial harvest levels for the Kuskokwim River.

The preliminary subsistence harvest
estimates for the Kuskokwim River for chinook salmon in
2001 were 73,600 fish compared to a 10-year average of just
under 80,000 chinook salmon. In the 2001 preliminary
harvest of chum salmon was just under 50,000 fish with a
10-year average of 63,000. So we were just under the 10-
year averages for subsistence harvest last year, although
those are above the minimum amounts necessary for
subsistence identified by the Board of Fisheries and I
believe the State may have more information about that
later.

Sportfishing for chinook and chum salmon on
Federal waters in the Kuskokwim River drainage primarily
occurs on the Aniak, Kisaralik and Kwethluk Rivers. A
majority of this sportfishing effort for chinook salmon
within the Kuskokwim drainage occurs within Federal waters
on the Aniak River. There was some displaced sportfishing
effort last year in 2001 partly due to the muddy water in
the Aniak River and partly due to the Federal action to
restrict use to only Federally-qualified subsistence users
in June and July. That displaced effort did result in more
sportfishing effort on the George River and there were
closures of the sport and subsistence fishery on the George
River most likely due to the higher water and the Federal
special action.

Under more liberal regulations than are
currently in place, sportfish anglers caught an average of 2,720 chinook salmon per year on the Aniak, between 1997 and '99, although the actual sport harvest for the Aniak River rarely exceeds 500 salmon there is some associated hook and release mortality with chinook salmon and although we don't know for sure what those rates are on the Aniak River there was a study conducted on the Kenai River in the late '80s and early '90s that identified an averagehooking mortality of 7.6 percent with a range of four to 11 percent.

For chum salmon there's approximately 3,200 chum salmon caught and released annually on the Kisaralik, Kwethluk and Aniak Rivers combined.

The four day a week subsistence fishing schedule has resulted in a major change in traditional fishing practices for residents in the Kuskokwim area. Many local residents view the schedule as a substantial restriction on subsistence activities and the don't understand why the sportfishery is allowed to continue with the subsistence priority in both State and Federal law. Traditionally residents fished as personal, weather and environmental factors permitted. Families would focus their fishing efforts based on timing of the run, water conditions, processing and drying conditions. Probably the most significant factor is simply having good weather conditions available for processing and drying salmon at the time when salmon are relatively abundant and can be caught. When good weather for processing is not at hand people generally do not harvest their salmon during those times. When salmon fishing is closed at the same time that fish are available and drying conditions are good is likely when the greatest impact to subsistence fishermen could occur.

With the subsistence fishing schedule instituted in 2001, the Kuskokwim River salmon fishermen have lost the flexibility that is key to their traditional patterns. However, the subsistence fishing schedule is a conservation measure created to help rebuild the Kuskokwim River chinook and chum salmon runs. Subsistence fishers from the middle and upper Kuskokwim River village have long supported efforts to ensure that more chinook salmon arrive in their portions of the river and the schedule is likely helping achieve that goal.

The Alaska Department of Fish and Game also did not open sportfishing until June 15th. These sportfish regulatory actions are implemented as conservation measures.
to help reduce the impact sportfishermen may have on the chinook and chum salmon populations. However, some residents of the Kuskokwim River drainage view the sportfish closure through June 15th as window-dressing because the sportfishery does not really get started until late June or early July in the Aniak River.

There is a conflict over local perceptions of sportfishing. Many Kuskokwim River subsistence users view hook and release sportfisheries as playing with their food. Subsistence fishermen believe that sportfishermen disrupt spawning salmon or at least disrupt spawning habitat. Sportfishers do not harvest many salmon over all and at present levels they will likely have little impact on escapement or subsistence harvest levels during an average or better than average run. It is more of a conflict between traditional values and cultural beliefs which are not very well understood on either side of the issue.

When ANILCA passed, Congress prohibited imposing restrictions on the taking of fish and wildlife for non-subsistence uses unless necessary identified under Section .815 of ANILCA. However, under Section .804, it also states that subsistence has the clear priority for non-wasteful uses of subsistence over the taking of fish and wildlife for other purposes. The Ninth Circuit Court has interpreted this language to mean that subsistence living, although at the heart of ANILCA is not, per se, preemptive statutory priority and the Board is not required to completely eliminate other uses of fish and wildlife before imposing restrictions on subsistence uses. However, the Federal District Court in the Bobby case interpreted ANILCA to mean that the limits and restrictions imposed on subsistence uses must not be inconsistent with the customary and traditional practices of subsistence users.

In this instance, a significant and meaningful priority for subsistence over sportfishing is provided by the fact that subsistence users employ highly effective gillnets and fishwheels, fish without harvest limits during the subsistence openings and are able to fish seven days a week using rod and reel.

The Special Action request would have the greatest impact on sportfishermen fishing for chinook and chum salmon and would negatively effect the commercial activities of guides, outfitters and shuttle services operating in support of the chinook and chum salmon fisheries in the area. Sportfishing for other fish species
would be allowed to continue. In addition sportfishing effort normally directed at the Aniak River may shift to other drainages that are less capable of supporting chinook harvest such as the George River this past year.

That's all I have at this time, Mr. Chair. I'd be happy to answer any questions.

CHAIRMAN DEMIENTIEFF: Thank you, we'll keep you available for any questions during the court of the meeting. We are having trouble, I understand, in Bethel with the phones. There was a number of people that I called earlier in the meeting that were not on line, just simply are not able to get in. So if there are people from Bethel, any time that you're able to hook on we will go ahead and allow them to testify even if it's out of order during the process. In fairness, it's not their fault.

Speaking of testifying.....

MR. MARTIN: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. MARTIN: This is Wayne Martin with KNA. I just dialed in about five minutes ago when Jerry Berg started his report.

CHAIRMAN DEMIENTIEFF: Okay, good thank you.

MR. NICK: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICK: This is Alex Nick from Bethel, we're on line.

CHAIRMAN DEMIENTIEFF: Okay, you got Mike Reardon and Robert Nick with you?

MR. NICK: Robert Nick's here.

CHAIRMAN DEMIENTIEFF: Okay, good thank you. Sometimes phone magic does work. If there are people in the audience that wish to testify, again, the blue forms are available on the table outside the door here. We simply need to get them filled out and we'll take them in the order that we receive them.
With regard to that, with Alex being on line I'm not sure if Alex or Tom is going to give the summary of written public comments, Tom, are you going to do that?

MR. KRON: Yes, Mr. Chairman. I can prepare -- we have a statement summarizing the comments that we received. There were about 20 public comments received from Bethel this morning and I'll go ahead and read through the summary.

A survey was done by ONC of subsistence people along the Kuskokwim River asking for comments on the fishing schedule last year and this year. Sixteen responses were submitted to the Refuge office. The communities represented in these responses are as follows:

Six from Bethel, six from Napaskiak, one from Kipnuk, one from Oscarville and two were unknown. Six opposed the fishing schedule, 10 responses favored the fishing schedule, although one acknowledged its inconvenience. The main reason cited for opposition was not being able to harvest enough fish to meet family needs. Interference with work and other schedules was another reason for opposition. Those who favored the schedule cited the importance of the health of the fish stocks, opportunity to rest with shorter schedule and the ability to meet the families needs with this schedule. Some did acknowledge the inconvenience and noted that not all families were able to catch enough fish for their needs.

Mr. Chair.

CHAIRMAN DEMIENTIEFF: Thank you. With that we'll open the floor to public testimony. And I think we will go ahead and start with the people on line in case we have other phone troubles. I'm not sure who's going first, Robert Nick, did you wish to testify?

MR. R. NICK: Thank you, Mr. Chairman. I would like to make a few comments. This afternoon, yesterday or the day before, you know, there was no comments regarding me speaking for the Federal Subsistence RAC so I'll be speaking for myself as a subsistence fishermen and for other subsistence fishermen in my village and the Kuskokwim River.

As we all know, the conditions of the river this summer, or this spring and summer so far is that water was high and when water is high we are told that salmon
swim up the river a lot faster than they do when the water's low and it may be the case this year and although last year in the first year of the reduced fishing schedule, many families were able to go out and try to catch as much as they can very quickly, kind of overburdening themselves physically and unable to catch the good going weather that they had, but this year a lot of them were able to catch and everything and the first year of the reduced schedule and this year many families have relaxed their efforts to catch their subsistence catches. So in such I think they're going to miss out on the king salmon run on the river.

And I will speak for myself as of Saturday, which is, I believe the 23rd, I went out and I only got 12 kings and they were mostly red kings and I think the kings have gone by. And I know that some families have not been able to catch their subsistence needs in my village. Yesterday, speaking to one lady who (telephone cuts off) she wanted to know if -- she sure wanted to have her son go fishing but I told her that she has to wait until Wednesday or sometime Tuesday morning. So in this justification, in the second paragraph, I'd like to reference the Federal in-season manager on the Kuskokwim that will monitor the run and for any possible changes may be lifting or relaxing the fishing schedule. And then right now, as Jerry indicated, we take advantage of the weather when we do our subsistence harvest. And right now, this day, this week, last week we had that good weather but it may not be with us longer.

So my first comments are in relation to the four day subsistence schedule on the Kuskokwim and many -- some families as I heard from the written comments earlier, someone indicated that some families have not been able to catch their amounts necessary for subsistence so I'd like to point out a word that we always look to, you know, when we determine how much effort or how much opportunity would be afforded to subsistence fishermen and that is the word, reasonable. Are we getting reasonable opportunity considering the high waters that we had and the good flying weather so my suggestion would be as for the subsistence, the four day subsistence although the working group recommended to continue through this week, that if any possibility to relax those.

So my second comment would be the Special Action request, as I remember throughout the years that there has always been some comment in regards to the subsistence, like to the sportfishing activity in the rivers that the salmon go up to spawn and the indications
are from comments I heard from people that travel those areas, I haven't been there, but some restrictions probably do need to occur in sport fishing.

And then coming back to the words, reasonable opportunity, for many years our people, the subsistence fishermen have indicated their need to be the final or the last users when stocks are diminishing. So I think with that I support the request for the Federal Special Action to limit the fishing of salmon, chinook and chum salmon in the rivers where sport fishing occurs to subsistence fishermen only. And we have done that last year and we -- I guess the sport fishermen survived it and I know that many of them generally don't fish for subsistence, they fish for the sport. So with that, to allow more time for others that may want to speak on this Special Action request, I'd like to express my total support for this Special Action request.

I thank you, Mr. Chairman, for this opportunity. But in closing, I would like to state again that we do have families that have not met their amounts necessary for subsistence of chinook salmon and I think we're on the tail end of the chinook run here on the lower river.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you, Robert.

Is there any questions from Board members?

MR. CHARLES: Hello, James Charles.

CHAIRMAN DEMIENTIEFF: Who is this?

MR. CHARLES: Hello.

CHAIRMAN DEMIENTIEFF: Okay, thank you very much. Wayne Morgan, are you on line?

MR. MORGAN: Yes. I can hear you, but I'm hearing some echo and it's hard to understand now.

MR. CHARLES: Hello.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CHARLES: I'm James Charles, I'd like to make a comment, too, but I hear an echo in the line here and it's pretty bad.
BETHEL: James Charles, we can hear you in Bethel real well, you're coming in very clear in Bethel.

MR. CHARLES: Okay, I'd like to make a comment, too.

CHAIRMAN DEMIENTIEFF: You folks don't have a radio on in your place, do you?

MR. CHARLES: Mr. Chairman, can you hear me, James Charles?

CHAIRMAN DEMIENTIEFF: Yes, I can hear you.

MR. CHARLES: Okay, I'd like to make a comment, too, if it's okay for you.

CHAIRMAN DEMIENTIEFF: Yes.

MR. CHARLES: Okay. I'm James Charles from Tuntutuliak. And I'm living here at the mouth of the Kuskokwim and I'm a subsistence fisherman, too. On this Special Action request, we do not have too much.....

CHAIRMAN DEMIENTIEFF: James. Mr. Charles.

MR. CHARLES: Yes.

CHAIRMAN DEMIENTIEFF: We're still getting some feedback problems. I think what we're going to do is take some of the people that are testifying here and we're on line with the teleconference operator and see if they can get our connection cleared up.

MR. CHARLES: Okay.

CHAIRMAN DEMIENTIEFF: But we'll do everything we can to give you the opportunity to testify.

MR. CHARLES: Okay.

CHAIRMAN DEMIENTIEFF: So, yeah.

MR. CHARLES: Okay.

MR. NICK: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Pardon. Ray, are you still on line, Ray Collins?
MR. COLLINS: Yes, I am.

CHAIRMAN DEMIENTIEFF: Yeah, we're still getting echo, I hear two of you, Ray.

MR. COLLINS: You're echoing now, too.

CHAIRMAN DEMIENTIEFF: Yeah.

(Laughter)

CHAIRMAN DEMIENTIEFF: Okay, hopefully we can get the teleconference operator to clear it up. In the mean time we'll go ahead.....

MR. MORGAN: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. MORGAN: This is Wayne Morgan from Aniak.

CHAIRMAN DEMIENTIEFF: Yeah.

MR. MORGAN: How about those guys who are having that echo hang up and call back.

CHAIRMAN DEMIENTIEFF: Yeah, well, we're working on it. In the mean time we'll go ahead with the people that are here that wish to testify. Another suggestion besides no radios on is if you're on speaker phone, to mute your speaker phone if you're just listening.

With that, we're going to go ahead and ask Phillip Guy to come up and testify please. Go ahead, Phillip.

MR. GUY: Thank you, Mr. Chairman and Board, other members here. I would like to let the Board know that we have James Nicholia and John Owens present who are with the Kwethluk Joint Group. The Kwethluk Joint Group is composed of the Kwethluk IRA Council, which has been the lead agency with respect to land and renewable resources. And, of course we have the Kwethluk City Council and the Board of Directors of Kwethluk Incorporated for the reason that our lands, collectively per ANCSA is ours.

I have a resolution which I would like to read, a joint group resolution No. 02-06-03, heading
Kwethluk Joint Group resolution supporting the
Orutsararmiut Native Councils and Kuskokwim Native
Association Special Action request to the Federal
Subsistence Council. And it reads as follows:

Whereas; the Kwethluk Joint Group held a
special meeting June 13, 2002 to consider Orutsararmiut
Native Council's and Kuskokwim Native Association's Special
Action request to the Federal Subsistence Board to (1)
reinstate restrictions limiting chinook and chum salmon
harvest in Federal waters of the Kuskokwim River drainage
to Federally-qualified subsistence users or (2) as a
minimum alternative, limit 2002 recreational and commercial
sportsfishing activities consistent with restrictions being
imposed, this is emphasized by the Kwethluk Joint Group, on
subsistence harvest activities in the Kuskokwim River
drainage. And

Whereas; the Kwethluk Joint Group would
favor the combination of the above (1) and (2), however, if
given choices to make will favor number 2 above the minimum
alternative for the following reasons: The tribal members
and residents are expressing frustration with the
regulation that allows for recreational and commercial
sportsfishing activities when subsistence harvesting
activities are restricted; and subsistence salmon
harvesters voluntarily are restricting their customary and
traditional means to prepare for the coming winter
consumption and use, use for traditional trading, i.e.,
salmon for seal oil, et cetera, and (2), the Joint Group is
on record opposing commercial fish and wildlife guiding
which includes catch and release sportfishing; (3) the
Joint Group continues to favor the Title VIII of Alaska
National Interests Land Act of December 2, 1980,
Subsistence Management and Use where Section .804 provides
for priority and including non-wasteful subsistence uses in
light of the Alaska State Legislature's quite apparent
reluctance to provide for recognized rural Alaska priority
uses of fish and wildlife; (4) the Joint Group recognizes
conservation and protection needs of fish (salmon and other
fish species) and wildlife renewable resources for the
reason that we, within Alaska, are a growing population and
jobs for cash in rural Alaska are far more limited for lack
of various types of infrastructures that create permanent,
semi-permanent or seasonal jobs. Most employment
opportunities are with State operated school systems, the
Indian Reorganization Act Councils, Alaska Native
Industries Cooperative Association and some private stores;
and
Whereas, the Joint Group was aware that the Alaska Department of Fish and Game had closed the Kuskokwim River drainage to sportsfishing for salmon from May 1 until June 15, to June 15th. We, all parties, are into continuing conservation, protection and water shed protection efforts of the salmon species. Traffic disruption and interruptions of spawning salmon of the spawning grounds does harm to future salmon populations and are not, please note, I'm saying this, are not based on current run strengths and/or fish tower or weir counting operations while they are important and necessary for salmon propagation and conservation; and

Whereas, the Kwethluk Group once again have begun to observe greater numbers of both high powered inboard and outboard motor boat types going up and down the Kwethluk River, inboard boats can easily skim over some more shallow depth waterways; and

That the Kwethluk Joint Group Resolves to support the Special Action request of the Orutsararmiut Native Council and the Kuskokwim Native Association to reinstate restrictions limiting chinook and chum salmon harvests in Federal waters of the Kuskokwim River drainage or to limit 2002 recreational and commercial fishing activities with restrictions being imposed on subsistence harvest activities in the drainage.

And this resolution is sent out to various people, which include our Honorable Governor Tony Knowles and our congressman.

CHAIRMAN DEMIENTIEFF: Phillip, we have all that on record. We've got the original resolution and it will be filed on the record. Do you have additional comments?

MR. GUY: Yes, thank you, Mr. Chairman. Per the earlier presentation regarding the four day restriction, it's going contrary to our cultural traditional ways. I thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Any questions. Thank you.

MR. NICHOLIA: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICHOLIA: I have a comment.
CHAIRMAN DEMIENTIEFF: Yes. What's your name?

MR. NICHOLIA: James Nicholia.

CHAIRMAN DEMIENTIEFF: Okay.

MR. NICHOLIA: I'm from the same group as Phil Guy, the Kwethluk Joint Group. We've worked together on this resolution and our village met to form this resolution in opposition to the sportfishing that is occurring during our closed subsistence fishing.

I live in Kwethluk along where they go up the Kwethluk River and I have a fish camp on the Kuskokwim going up towards Kwethluk River and Kisaralik and during our fishing closures I see a number of boats going up with rod and reels dangling on the side of the boats and that is frustrating to us when we have to sit and wait for our opening of our subsistence fishing. And to me and to the other people that are trying to conserve the salmon up the river for future use and when they -- we let them pass going up to the rivers to spawn and the sportfishermen are up there going after them and this catch and release fishing activity that they say that it is conserving salmon, to me it isn't. hen an injured animal or a fish is released, it cannot eat when it's injured in the mouth or live healthy, therefore, it will not be healthy enough to spawn to my point of view, it is hurt.

The village do not support this sportfishing activity while we are sitting idle waiting for our opening three days a week.

Thank you, Mr. Chairman and the Board.

CHAIRMAN DEMIENTIEFF: Thank you. Let's go back on line and see, Wayne Morgan, are you on?

MR. MORGAN: Yes. I'm back on. I called back and I don't have that feedback anymore.

CHAIRMAN DEMIENTIEFF: Yeah, why don't you go ahead and testify right now, please.

MR. MORGAN: Okay. I got another person in line after me. Okay, I did a similar questionnaire as a summer reporter down in Bethel on the fishing schedule. Okay, seven people were not in support of the schedule, two people were in support of the schedule. That two that
favored the schedule said that if this schedule is going to bring back the salmon then they're good with it, no problem with it. The seven that did not support it is the -- they reported that there's more flies out there, that more eggs on the drying fish, if they have to fish again for another week. And on the closed days, the subsistence user is, you know, sitting on the beach and watching boat loads of fish head up -- I mean boat loads of fishermen head up the Aniak River to do fishing. To me the schedule is -- the subsistence users are conserving fish to have more fish for the sportsfishermen at the spawning grounds. And people are working on the open days and those people working, when they get a chance to go fishing, there's more boats on these open days and only limited areas to drift. So they're having problems doing that and they can only do that after work.

Another one is elders having a hard time setting and resetting of pulling out the nets every week. And that's been a hardship on them also.

And they said they do not need this schedule because there is more fish out on the river.

Thank you.

CHAIRMAN DEMIENTIEFF: Thank you. There was someone else on line with you there that wished to testify.

MR. MORGAN: Yes.

CHAIRMAN DEMIENTIEFF: Would you please have that person please identify themselves.

MR. MORGAN: Yeah, Mr. Chairman, my name is Herman Morgan. I'm the Chairman of the Central Kuskokwim Fish and Game Advisory Committee and I've been on there about 20 years and probably my last year, but it's interesting to see the increase the number of guiding operations, both hunting and sportfishing. To me it's not right to allow these sportfishing activities in the spawning grounds, especially in the shallow spawning streams because especially the boat and the pressure of the water that damages the egg. In one pass, you got five miles down the stream that's a foot deep and these guides, they drive over it every day, you could wipe out more salmon than 10 subsistence families could use. And until you get a limit on the number of these guiding operations, the commercial systems that go out sportfishing, we're
going to see our resource threatened and maybe we'll have
little more fish if they keep doing that. But you got to
-- away from these boats washing up salmon fry and other
fry on the beaches.

Another thing is grayling, subsistence
fishermen who go out there in the winter to fish for
grayling, we don't catch grayling anymore. In 1998 the
sport anglers caught 11,800 grayling, it's not only salmon.
Of all places that -- the place where the salmon lay their
eggs should be protected for future generations if we're
going to keep our salmon. And those are my concerns.

CHAIRMAN DEMIENTIEFF: Thank you. Could I
get your first name again, I didn't quite catch it?

MR. MORGAN: Herman.

CHAIRMAN DEMIENTIEFF: Herman. Herman
Morgan, okay, thank you. James Charles, are you on line?

MR. CHARLES: Yes, I am.

CHAIRMAN DEMIENTIEFF: Okay.

MR. CHARLES: Can you hear me?

CHAIRMAN DEMIENTIEFF: Yes.

MR. CHARLES: I started awhile ago with
this Special Action request on sportfishing. We do not
have sportfishing out here at the mouth of the Kuskokwim
but as a working group member and a Fish and Game Advisory
Committee and Fish and Wildlife Council member, I agree
with this Special action request because I have been with
the working group on and off since 1988 and we've had
sportfishing reports from up river and the people, I've
heard, does not like the sportfishing going on when we are
closed for subsistence fishing. So I agree with this
Special Action request, too.

And another thing I had in mind is the
subsistence fishing schedule, the people down here complain
about. I've had people complaining to me about fishing
schedule, even there's a lot of fish out there on the
river. There is a lot of kings out there. When we fish on
scheduled times I think some people fish more than what
they need when we do that because thinking about next year
when it's open if the fish are going to be gone but when
they go out they take more than what they used to take
before this schedule started. They used to fish just what they need. And now I think they overharvest thinking it's going to be closed again next week. So that's how I see it, some people do not like the fishing schedule even if there's a lot of fish out there.

Chums are running quick this summer, too. The people go out there, they are catching quite a few chums already even we're using king gear, we catch quite a few chums and not too many reds, we catch very few reds this time but a lot of chums. So it may be that way up -- but from down here, from the mouth of the stream up to Bethel, people may harvest more than what they need because of this schedule.

That's all I have now.

CHAIRMAN DEMIENTIEFF: Thank you. Ray Collins.

MR. COLLINS: Yes.

CHAIRMAN DEMIENTIEFF: Did you have testimony?

MR. COLLINS: Yes. Up here the fish are starting to show up. I've talked to some subsistence fishers yesterday and they're noticing over the years a continued decrease in the size of those fish and that seems to be true this year, that they're smaller fish.

I understand the concern down there and agree with the concern over the sportfishing, that, you know, the fact that they have to shut down for three days while the sportfishing continues. I think, though, that the closures do benefit subsistence fisheries up river in that they allow slugs of fish to get past. And also the fact that when the commercial was going down there and subsistence going on, using the king gear, I think that may have led to the decrease in the size of the fish in that it was targeting the larger fish. And so having closures allows some of those to get by maybe and I'd be interested in the biologists comments on that, whether or not -- and I think the same is true on sportfishermen, if they're only allowed one fish, they're liable to be letting all the smaller ones go and keep fishing just for the bigger fish so they're going to be selectively harvesting the largest fish, too under that sportfishery. And I'm wondering what the long range impact of that is going to be. I think they've found on the Kenai River that that has had an
affect over there. In fact, they're, I think, requiring
them to let some of the bigger fish go now.

So I think those things have to be kept in
mind when we consider this. But even though subsistence
fishermen are frustrated down there, again, I would
reiterate I think that having certain periods closed and
allowing fish by benefits subsistence fishers up the river.
Because normally people up here have to fish, they can't
get all theirs in one drift or even in a few drifts, they
have to fish throughout the season in order to get their
subsistence needs because there's just fewer fish out there
so they have to put out more effort to get what they need.

Those are my comments at this point, thank
you.

CHAIRMAN DEMIENTIEFF: Thank you, Mr.

MR. REAKOFF: My comments would be I agree
with everything Ray said. I feel that those windows are
necessary for passage on the low return years. But I also
have great empathy for the people who are watching a lot of
sportfishing activity, when everybody is taking cuts, you
know, there should be some cuts on the sportfish side. I
would be inclined to agree that if there's a closure for
subsistence then there should be equitable closure for the
sportfishery also. And that would be my opinion.

But I wouldn't agree with lifting the
window closures to allow fish passage because they're
necessary to allow fish to get up stream further.

And that's all of my comments right now,
thank you.

CHAIRMAN DEMIENTIEFF: Thank you. John
Owens.

MR. OWENS: Thanks, Mr. Chairman and
Federal Subsistence Board members. My name is John Owens
and I'm here with my fellow corporation board members,
James Nicholia and Phillip Guy. I'm also a tribal
administrator for traditional council, Kwethluk IRA Council
in Kwethluk. I'm here to stand up for our people in the
river, especially my family that has a fish camp in
Kwethluk. We're here to support ONC and KNA's proposal to
limit or eliminate sportfishing guides in their business in
our river, especially on the Kwethluk River plus other
Kwethluk Joint Group, consisting of Kwethluk IRA Council, City of Kwethluk and Kwethluk Incorporated passed a resolution supporting ONC and KNA proposals. The Kwethluk IRA Council reluctantly voted to support limited subsistence fishing schedule second year in a row which started last year. We didn't want to take part in this schedule but if it's going to help us conserve the fish down the road we had no choice but to follow with this schedule.

This schedule is disrupting our traditional way of life that we do preparing food for our winter consumption and it is taking longer for us to catch our limit for each family. What bothers us is why sportfishing guiding businesses are allowed to fish while we are being denied or restricted with this schedule.

Who are we conserving this fish for? I know a portion of it is for our people. Are we sacrificing our inherent right to subsist and gather our Native food so that high seas fishermen, False Pass have fisheries and sportsfisheries can get their fish?

With that, I'd like to show you the fishing schedule that has been distributed in the Kuskokwim to everybody. These are the open days that we fish and these are closed days that are marked. And we don't like this schedule. When we go out fishing for our family, we have certain amounts of fish that we fish for, a limited amount. When we get to that point, number of fish that we need for the winter, that's when we stop. And even with this schedule, it's making it harder for us to gather our fish and longer to fish. I still haven't gotten my numbers of fish that we need for the winter, I'm not even halfway there. After I work then I have to go out fishing after 5:00 o'clock. There's another schedule here. Subsistence salmon fishing schedule continues to apply to the entire Kuskokwim River drainage, the schedule is part of the Kuskokwim River salmon rebuilding management plan. There's another one that came out. These are faxes that came from the Alaska Department of Fish and Game that came to our IRA offices, that's why I thought I'd share them with you.

Kuskokwim area salmon update number 5, district 4, Quinhagak is closed because of limited or fishermen in that district right there. Quinhagak is part of the Kuskokwim and, I think, is part of the intercept fisheries that is being allowed to be done commercially for
the fish that are going up the Kuskokwim that are bound for the spawning grounds.

One last thing that I want to share with you, Paul Agoathica, the other day, I think it was yesterday, he's a Nunavut Premier, he visited Bethel and Barrow and I guess he's going to be here come AFN this fall, and I think this applies in their land and it should apply to us, this quote I'm going to read to you on the newspaper is -- I think it should be applied in our area on the Kuskokwim. The Inuit who are traditional users get first priority of the harvest of any species and thereafter, the non-inuit population are given an allocation and after that the sports hunters or fishers or commercial fisheries come last. I think that should apply in this case where ONC and KNA are proposing to limit sportsfishing in our area.

That's my comments. Thanks, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Greg Roczicka.

MR. ROCZICKA: Thank you, Mr. Chairman. Before I put my comments on the record, Mr. Berg mentioned earlier that I did have an update for our in-season subsistence survey, which we do on a weekly basis throughout the river and have for the last couple of years since this restriction went into place and I'd offer that for you now.

We surveyed 33 families last week and eight of them reported being unable to fish for various reasons and hope to be able to be out next week. Of those, 23 families for king salmon, 17 reported that it was still very good through that week of the 17th through the 22nd, five felt it was normal and three felt it was getting poor. For chums, 12 people considered it to be a very good run, nine classified it as normal and three said it was poor. For sockeye, two families considered it very good, 10 said normal and 10 poor.

I won't go into great detail here but just on general comments that people had, the overall observation is that we do have a very healthy run of kings and chums coming back this year. But during this report period as well, several families noted that it's very fortunate that a run does appear to be strong since during last week which is traditionally the peak of the run, the average peak of the run as it comes through. Participation
in search and rescue efforts and funeral activities as well as cultural prohibitions related to two recent drownings which took place there precluded a lot of people from going out and created further substantial hardship and disruption for them to pursue their subsistence harvest. And also several comments noted that it's getting later on in the month now again and that flies are being an increasing and significant problem. And then on a personal note I spent last Sunday, every hour on the hour picking eggs off the fish and I was having a hard time keeping up with it.

I don't know if there's any questions on that before I proceed.

Seeing none, for the record, my name is Greg Rocicza. I work as a natural resource director for the Orutsararmiut Native Council. And to a degree this Board has already denied us a substantial portion of our request. We asked within one of the main components that we had there is that we asked that you wait, that you do not authorize and preauthorize a non-subsistence use before you know what the run is going to be and we're certainly as greatly as we are fortunate that these runs have come back as healthy as they have this year. But given the biological circumstances that put us in this situation it could just as easily have ended up looking the same as it did in '99/2000. I think it was a very irresponsible act to have this precedent put in place, it's a dangerous precedent, it's a very dangerous precedent for down the road and I would hope that you take a very hard look at that and fix it in the future.

Many people say to you that the reasonable opportunity for subsistence has been met or is being met under the current schedule and again, to some degree, this may be so but it's not just a numbers game. It's, you know, to an equal and perhaps even greater degree -- no, not perhaps, to a greater degree it most definitely is not. Right at the heart of the matter is that the reasonable opportunity for subsistence is that sportfisheries advocates would have you believe being just the numbers. It's a cultural and traditional -- oh, gosh, I lost my place here and lost my train of thought. The cultural and traditional practices have just been so totally disrupted. And pushing it later into the season you're making people work twice as hard for hopefully the same, many people are not achieving the amount that they consider they need. On that survey which we did and we tried to make it very objective questions that we put out for people for them to respond to this Board, you, just a straight up or down
answer doesn't really cut it but we were looking at about a
50/50, so if 50 percent of your people don't feel they're
meeting their subsistence needs, is that providing a
reasonable opportunity? I don't believe so.

And then, you know, in the face of all
this, when people have to sit on the bank and watch
somebody from New York state or some foreign country as it
is very often in the middle Kuskokwim walk up and send that
off to wherever while they're not allowed to be out
fishing, I would put it to you that that's not a matter of
equity.

And our greatest concern, of course, is the
future and authorizing this sportfishery to occur before
you know what the run is, I mean you don't know if you're
going to be able to provide a reasonable opportunity until
you know what that run return is. And perhaps at present
levels, that people say it's a negligible amount of
harvest, you know, so even with possible catch and release
mortality, people are saying, well, it doesn't affect that
many fish. By gosh knowing the way the commercial industry
can grow, it's scary looking down the road. I can tell you
for a fact that 10 years ago in GMU 19 there was only eight
to 10 commercial game guides and outfitters, we're looking
at 59, 60 and counting as of two years ago, with the growth
in that industry and you're looking at the same thing with
the failures you have on the Kenai, with the increased
allocation arguments that are going on down in Southeast,
where are people going to be going, they're going to be
looking over the next hill, into the Kuskokwim drainage for
some place to support their activities. And I'll tell you
again in five or 10 years, you know, perhaps a lot of you
guys ain't going to be here anymore after that you'll be
promoted on to Seattle or Denver or Washington, D.C., even,
we're going to be here having to live with that so I ask
you to set that policy in place now, be pro-active.

How many of us have sat here, you know, 10
40 years ago, if only we would have done something, if we
would only have taken this pro-active measure. So that's
what we're asking is for that equity.

Another point on this issue of the
sportfish having no great impact, well, last year on the
george, the State saw fit to support closing that to
sportfishing because of the displaced activity from the
Aniak and that's at limited levels nowadays. So if there
is no impact, that doesn't hold water either.
I've heard also that you should focus on this amount necessary for subsistence and I know you do need to hang your hat on something but I've also heard as well that it's being advocated that you place that at the low number that was arrived at last year which, again, is one of the -- it's not the lowest run we had which was 2000, totally dismal but still it was a very low run and it was a very limited effort and so if you're saying that your amount necessary for subsistence should be placed at something where you had severe restrictions in a low run, I don't think that's appropriate either and I would hope that you would refrain from doing that.

I guess the final point I'd like to make is that with that Staff review which, by the way, we only got yesterday afternoon, I haven't had time to really sit through and analyze it and think of all the different connotations and write up a big long dissertation telling you whether I agree or not but one of the points in there, of course, I believe it came from your legal quoting the Ninth Circuit Court decision that this Board is not statutorily required to completely eliminate all other uses. We haven't asked you to do that. We provided you the alternative that you at least make it equal. And say that you're not going to be allowing non-subsistence uses out there seven days a week when you have subsistence restricted to four.

You know, we have a large and pretty relatively intact ecosystem out there and we'd sure like to keep it that way.

I don't think anybody begrudges sportfish quote/unquote their share when the runs are healthy but they're certainly a huge sour taste in the stomach and the mouth when that burden of conservation is borne entirely on the backs of only the subsistence users. And the point of saying, well, we've cut them back to one fish bag limit and so forth, that's as much window-dressing as the closure from June 1 to 15. That's no significant problem for that industry. It's a catch and release industry, being able to keep a fish is a bonus.

So anyway, we would ask you for those two basic premises that when you apply your restrictions, that you don't allow non-subsistence uses to exceed that opportunity. I don't believe reasonable opportunity is being provided in customary and traditional practices. And I don't believe you can justify it either and even your minority report, I just had a chance to glance through that
as well and I was pleased to see that they agreed along
those line.

But the bottom line is that for the future
I think you really do need, and if you do anything positive
today, given the strength of the run, I certainly don't
expect you to impose any or enact any restriction in full
as it was requested but that you establish a policy that in
the future you will have your managers leave non-
subsistence uses closed until you have the run data to
support having them open. And you should be sitting here
today deciding that. That should be your question today
about whether or not to open it for non-subsistence uses.
I shouldn't have to be here asking you that. That's your
mandate. Who are you here to represent? Who do you defer
to? In this instance by opening preseason when you don't
know what the run is, when you don't know what your returns
are, I mean if you have a crystal ball, I'm sure these guys
sitting back here, Mr. Sandon would be glad to have it.
I would hope that you put that in place as
a policy and I'll leave it at that for now and if you have
any questions I'll try to answer them.

CHAIRMAN DEMIENTIEFF: Go ahead, Gary.

MR. EDWARDS: We've heard from several
witnesses today as well as yourself that this schedule that
has been placed on the subsistence user in many cases is an
inconvenience and is a hardship but we've also heard and it
appears as a result of that schedule last year that it has
allowed us really to manage the fisheries much better up
and down the river for all subsistence users. I think we
heard earlier today from the folks in McGrath that they
felt that having those closures that it has not only
allowed them to be able to ensure that they get their fish
but also in some cases, larger fish, how would you respond
to that?

MR. ROCZICKA: I wouldn't argue the point
at all. And I don't believe that that's a point in
question in our request. Our request does not ask for
closure or removal of those windows. We ask that all users
and especially non-subsistence uses, which I don't believe
it is your mandate to defer to be subject to what the
return is on those fish. So I don't argue the point at
all.

I guess if I could add just one more thing
here that popped to mind. I've had a lot of people tell me
that one of the main questions going around also is, well, what difference does it make if the sportfishery doesn't even occur until late June to early July? Well, the question, of course, that comes to mind for me when people say that, well, if it's not a big deal then why are the State making such a big squawk about it? And secondly, is what I've told you earlier, is that, you're setting precedent here for the future of our fisheries and for the future of subsistence and has been referenced as well, that need is going to do nothing but grow and you need to have that protection in place in my mind. I think it makes a huge difference and it makes a difference to the future.

CHAIRMAN DEMIENTIEFF: Thank you very much, Greg.

MR. ROCZICKA: (In Native)

CHAIRMAN DEMIENTIEFF: Eric Johnson.

MR. JOHNSON: Good afternoon. My name is Eric Johnson, I'm the natural resources attorney with Association of Village Council Presidents in Bethel. And AVCP supports the request that's been made by ONC and KNA. We believe that a meaningful preference and a reasonable opportunity is not being provided to subsistence users on the Kuskokwim under the current schedule because as has been testified to this Board, first of all, as Wayne Morgan in Aniak pointed out, he's had elders report that they're having a hard time setting and resetting their setnets every week.

Second, people have had to fish during four day openings as some of the testimony's indicated and not on the days when the weather is good or when the fish is running which, in and of itself is a pretty serious alteration of traditional subsistence use patterns.

Third, as some of the testimony today has indicated, people are being forced to fish later into the year, into late June and July, they're being forced to fish into the time of the year when dampness becomes a problem for drying fish, when flies come out that start to lay egg on fish. And this is a problem and this is an alteration that's, you know, potentially leading to wanton waste that is at odds with custom and traditional and it also increases the probability that not all subsistence fishers will have a real chance to get their needs met before it just becomes too difficult to be out there drying fish with all the flies and the dampness.
Finally, these are some basic disruptions to subsistence activity and to patterns of use that are interfering with customary and traditional patterns of fish camp use and the way that people carry on their summer fishing activity.

The Federal Staff has recognized as much in its Staff report on Page 12 of the Staff report and I'm quoting here, it says, with the subsistence fishing schedule instituted in 2001, Kuskokwim River fishermen have lost the flexibility that is key to their traditional fishing patterns. And as I read that statement what it's saying is that the flexibility that is key to customary and traditional fishing patterns has been lost with this schedule. And, you know, there are good reasons why this schedule was put in place. People have spoken today about the need to ensure that some salmon get up river for up river subsistence needs. There's the conservation justification with the need to ensure escapement but one thing that I think is absolutely clear and that statement in the Federal Staff report backs up is the fact that justified as these restrictions may be, they are fundamentally disruptive of customary and traditional use patterns of subsistence salmon fishing on the Kuskokwim.

As John Own from Kwethluk pointed out, even though the Kwethluk IRA has reluctantly gone along with supporting the restrictions this year, as John said, quote, the schedule's disrupting our traditional way of life.

In the Bobby case the district court recognized that the Federal Subsistence priority protects duration of use as well and it stressed the importance of the finding that had been made in that case that hunting had been customarily done year-round in the Lime Village area for moose and caribou. Similarly here, the Federal Staff has recognized that before 2001, that fishing was open 24 hours a day, seven days a week. The Staff has recognized that fishing has always been under a flexible schedule that allows for accommodating when the runs are running and accommodates weather and other variables. And so just as in the Bobby case you have a situation where customary periods of fishing, customary and traditional durations of fishing are not being followed with this schedule. And in that sense, it can't really be said that people are having a reasonable opportunity to engage in a customary and traditional subsistence way of life. And so long as sportfishing is going on and -- while people are under these kinds of schedules, as long as sportfishing is going on unabated, it's not a meaningful preference either.
And if there's a surplus of fish such that there's extra fish out there, then I believe that those fish should go towards liberalizing the schedule a little bit for the subsistence fishermen who already aren't being able to carry on their customary and traditional patterns of subsistence activity. Even if all of the fish that were taken by sportfishermen in a season would only add up to a few hours of additional openings per week, those few hours would make a difference for subsistence fishermen because they bring subsistence fishermen that much closer to being able to basically fish in something that more resembles the customary and traditional use patterns that ANILCA protects.

And to allow this level of disruption to continue unabated in any way shape or manner so that sportfishermen can fish, I believe is to deny a reasonable opportunity and a meaningful preference.

And my final comment I just wanted to briefly mention the Ninilchik case, which is quoted in the Staff opinion and the Staff analysis and I do want to observe that the schedule that was upheld in that case was actually a schedule where there was a subsistence only opening for moose on the Kenai afterwards there was regular hunting season which subsistence hunters were able to hunt as well as sport hunters, which is, I believe quite different from what we're talking about here where you're talking about a 24/7 sportfish schedule and subsistence fishermen being limited to a much briefer duration each week. I think the situation here is much more of an inversion of any common sense understanding of what a subsistence priority would be, which is one reason why I get a lot of calls in Bethel from people who are asking, you know, what sort of priority is this? You know, they look at the length of time each week that they have compared to sportfishermen and, you know, it just defies any common sensical notion of what a meaningful preference is.

Also in the Ninilchik case, the Court was able to find that the schedule there did, the advanced schedule for subsistence was providing a meaningful preference for subsistence and I don't believe it's the same here, you know, where -- we're not talking about mere restrictions of the sort that the Ninilchik case recognizes as acceptable on subsistence before other uses are eliminated. I believe what we're talking about here is a schedule that's inherently disruptive of subsistence customs and traditions and because of that, it's my view
that sportfishing needs to yield so that that inherent
disruption of custom and tradition in subsistence can be
corrected.

And thank you. And unless there's some
questions that's all I have to say.

CHAIRMAN DEMIENTIEFF: Gary.

MR. EDWARDS: I'll propose the same
question but maybe a little differently. If there is
agreement and I haven't heard any disagreement that, in
fact, the schedule is fundamentally disruptive but at the
same time it does allow a better management of the run up
and down the river for all subsistence users, should we not
have that fundamental disruption in order to allow everyone
to have a better opportunity?

MR. JOHNSON: If that fundamental
disruption is needed so that three days each week on fixed
days subsistence can't fish then, you know, I believe that
if there's enough extra fish that it's contemplated that
maybe sportfishing should be allowed, that maybe whatever
number of fish are taken by sportfishermen in the Aniak or
other drainages should be tolerated that those extra fish
need to be reallocated so that restricted fishing schedule
can be a little less restrictive.

I don't think there's a problem necessarily
with the restrictive fishing schedule, everybody knows that
it's an interference with custom and tradition and that
it's an interference with protected uses under ANILCA but
that there's conservation, justifications, that, you know,
there's a need to spread out the subsistence harvest up and
down the river. But that begs the question of what about
the amount of fish that are being taken by sportfishers?
And, you know, recognizing that this restrictive schedule
is fundamentally disruptive of subsistence patterns, if
there are some extra fish out there, you know, and if that
subsistence fishing schedule could be liberalized even by a
matter of a few hours I believe that that's where those
excess fish should go. Those extra fish should go towards
liberalizing a subsistence fishing schedule that's
inherently disruptive.

CHAIRMAN DEMIENTIEFF: Thank you, very
much. I think we're going to take a short break here
before we continue on.

MR. NICK: Mr. Chair.
CHAIRMAN DEMIENTIEFF: Yes.

MR. NICK: This is Alex Nick from Bethel. For the record, I do have four people waiting on line from Bethel to give their public comment. Their names are Leonard Revak, Frank Charles, Mary Gregory would like to be last, Allen Joseph from AVCP.

CHAIRMAN DEMIENTIEFF: Okay, we'll continue on with them just after a brief break here.

(Off record)

(On record)

CHAIRMAN DEMIENTIEFF: We'll call the meeting back to order. We have four more people in Bethel to testify; is that correct?

MR. NICK: Yes, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICK: M. Chairman, whenever you're ready we will begin with Mr. Leonard Revak.

CHAIRMAN DEMIENTIEFF: Leonard what?

MR. NICK: Leonard Revak.

CHAIRMAN DEMIENTIEFF: Okay, go ahead.

MR. REVAK: Mr. Chairman and attendant elders. This is addressed in the hole of maybe resolving some of the questions about sport fishing in the upper reaches of our tributaries of the Kuskokwim River. In the period of 1960 to 1964 I worked at Katori Bay over on Afognak Island for the Department of Fish and Game. And we were doing some research work on insect populations in the outlet of Katori Lake and it had been observed in the period of 1958 to 1960 that there was a run, a natural run of coho salmon, silver salmon between 50 to 100 fish, that run increased by 1962 to over a thousand. Because just incidentally the taking eggs in Little Katori lake, we took some coho eggs and reared them in the hatchery so we just put the fry in the Big Katori River.

And what we observed was is that in sampling we had marked off quadrants in the river and sampling random quadrants for insect larvae we would inadvertently kill coho eggs and when the eggs were widely
dispersed like in the period between 1950 and 1960, the
damage was pretty much limited to the quadrants we were
sampling in. But when the density of the eggs increased as
the run increased, we found that the fungus from the dead
eggs were spreading and smothering live eggs in the
adjacent quadrants.

And the reason I'm bringing this up is
because while we are concerned here in the Kuskokwim about
sportfishery and the amount of fish they are taking during
the chum and king salmon runs, I think we should also
address the potential damage that is being done on the
spawning grounds with people going up river into the
spawning areas and fishing for coho salmon later on in
August and -- or in late July and August.

And I'll limit my comments to that. I don't
have any exact figures. None of this work was published,
as far as I know and I did the research prior to this
meeting to see if there was anything published on this.

The second and quick point I want to make
is on the catch and release. Figures reported are under
ideal conditions on the Kenai River which is, for the most
part, are fish out of saltwater being caught. Very few
fish close to spawning are being caught in the sportfishery
there so the statistics of recovery in this report that
we're dealing with here really have probably no bearing
whatsoever on the survival of king salmon caught and
released in the upper reaches of our local rivers here in
the Kuskokwim area. And I think before we go ahead with a
sportfishery up there on these fish, we should know what
kind of survival catch and release is producing. Because
lactic acid build up in these fish would be significantly
different and perhaps much more damaging than it would be
in Kenai fish.

And I'll end my comments with that. Thank
you.

CHAIRMAN DEMIENTIEFF: Thank you very much.
Who do we have testifying next?

MR. NICK: Mr. Chairman, we have Frank
Charles.

CHAIRMAN DEMIENTIEFF: Frank. Frank what,
Frank Charles?

MR. NICK: Yeah, Mr. Chairman, we have Mr.
MR. CHARLES: Good afternoon Mr. Chairman, members of the Federal Subsistence Board. My name is Frank Charles from Bethel. For the record I am a co-chair of the Kuskokwim River Salmon Management Working Group. I also would like to point out that you had Mr. Wayne Morgan, who is a fellow co-chair from the Kuskokwim here. If you don't know already, the Kuskokwim River Salmon Management Working Group represents, we believe, the entirety of the Kuskokwim River drainage. We have 12 members representing various user groups and areas throughout the Kuskokwim drainage. And it was reported to you in the Staff analysis and report that we met last week and one of the proponents of the minority viewpoint pointed out some concerns and we, for the most part, as a working group agree with the concerns brought forth by the proponents of the Special Action request. And for the record, back in April when we had our preseason meeting, the proponents brought forth their concerns and indicated that they would be bringing forth a Special Action request to you folks. We'd agreed as a working group with the concerns and, in fact, endorsed their efforts for a number of reasons. And they are, that as Mr. Roczicka pointed out to you, making management actions and making decisions prior to knowing what the type of returns we may have is contrary to what we believe to be the practice and philosophy of the working group. All indications were that because these stocks were identified as stocks of concern by the Board of Fisheries, that there was a high likelihood of poor returns and that conservative action should have been taken prior to the start of the season.

And lastly, there is a great deal of uncertainty about the effects of sportfishing as was pointed out to you by Mr. Roczicka regarding mortality. And as Mr. Roczicka pointed out, the growing number of sportfishing activities and guides, commercial guides here on the Kuskokwim, in addition and most importantly, on the principle of the matter.

As you well know, we're into our second year of the salmon rebuilding plan here on the Kuskokwim. Although we reluctantly agree when the Board of Fisheries developed this plan to restrictions unprecedented in our history, we believed that compliance and maintaining of the plan was very important and we continue to believe so. And any intrusion on our activities, our beliefs and ways needs
to be carefully assessed, monitored and dealt with well in advance of any negative effects that may arise as a result of our negligence in that respect. And I believe that's part of the reason why we have such a fair amount of involvement of the working group. We believe that the rebuilding plan is not just for our present generation but for generations to come and, in fact, we also believe that we need to be sure that those fish that return in any given season are returned in such sufficient numbers to provide for their progeny, four to five, six years, eight years down the road. And that's very important to our adherence to the plan. As you've heard a number of people pointing out the difficulties and the burdens that the plan has provided for many of our residents here in the Kuskokwim. We anticipated that when the plan was first developed by the Board of Fisheries, however, as you know, with many of the things that we've had to learn to live with over the years there was a great deal of learning to be done and I believe we're in that process now. And one of the big lessons here is that this area is one of the last cultural strongholds of peoples in the United States and for that matter, in the world to practice a way of life that is unique, priceless and irreplaceable.

The insults, the frictions and intrusions on our way of life up to now have been momentous, very significant and unprecedented. Prior to this last year, the first year of our rebuilding plan, you need to understand that especially the commercial fishers here on the Kuskokwim have made a fair number and significant number of sacrifices prior to the restrictions being put into place. In other words, the working group, many times voted not to open up the river here to ensure our subsistence users were given that opportunity for their needs to be met and that escapement needs were addressed. And it's only in the last year or two that you've seen even more significant restrictions.

You need to understand that I represent the Kuskokwim Fishermen's Cooperative, which is, by the way is on its last legs. The cooperative represents a little over 800 fishers here on the Kuskokwim and it gives you a clear indication of the importance of commercial fisheries here on the Kuskokwim for our economy and our way of life. Because we have no commercial activity anymore in June and July it's placed an additional burden besides the subsistence restrictions on our peoples being able to have a sense of self-worth identify and to be able to be independent. And based on those concerns, we felt that why is it that subsistence users, commercial fishers be sitting
on the beach for a period of time while nearly unrestricted
sportfishing program or regime occurs, especially with
those guided operations that continue to make money while
subsistence fishers and commercial fishers aren't making
money at all.

And again, for the record, the working
group almost unanimously supported the Special Action
request forwarded by ONC and KNA. We did that as early as
April. We, in fact, took it upon ourselves to petition the
Board of Fisheries to make those kinds of considerations.

I need you to understand that although
you've heard concerns about the burdens of the restrictions
and the four day opener and three day closures, the primary
thrust of this based on a matter of principle towards
sportfishing occurring totally unrestricted while people
here on the Kuskokwim are sitting on the beach.

And again, I'd like to emphasize that it's
a matter of cultural principle for us. We believe that the
Federal Subsistence Board, who is a lot more amenable to
our concerns as a people and we're asking you on that basis
that you grant our considerations regardless of what you
may have heard otherwise. Because the precedent you set
here will avoid a great deal of controversy and difficulty
for yourselves and our people out here and for the state
down the road.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Who else
do we have?

MR. NICK: The next person is Mr. Joseph
Allen from AVCP -- or Allen Joseph.

MR. JOSEPH: Yeah, Mr. Chairman, I work with
Eric Johnson of AVCP, my name is Allen Joseph. Mr. Johnson
just gave some testimony earlier and I'd like to add to
AVCP's testimony so my comments will be quite short.

I'd like to confirm support of AVCP,
Kuskokwim Native Association and ONC's efforts in their
Special Action request. AVCP basically supports closing
down sportfishing in all periods when subsistence salmon
fishing is restricted and we request the Federal
Subsistence Board to consider that in the spirit of putting
a preference for subsistence fishing.
And I'd like to make one comment about the sportfishing closure between May 15th and June 15th. I believe the closure was meaningless because salmon are not in the major sportfishing areas or streams by then, after June 15th you see salmon begin reaching in these streams. That's why I say the closure was meaningless.

I hope we don't have anymore future restrictions on subsistence fishing on emergency order which authorizes these restrictions. But if there's to be any more restrictions in the future and close subsistence and sportfishing are restricted, I think it'd be a bit more meaningful if the sportfishery closure extended beyond the 15th -- July 15th.

And with that I end my comments and I than you very much.

CHAIRMAN DEMIENTIEFF: Thank you. Do we have anymore on line?

MR. NICK: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. NICK: Mr. Chairman, from Bethel, the last person is Mary Gregory.

CHAIRMAN DEMIENTIEFF: Go ahead.

MS. GREGORY: Mr. Chairman, members of the Federal Subsistence Board. My name is Mary Gregory. I'm the vice-chair of the Yukon-Kuskokwim Delta Regional Advisory Council on subsistence and also a member of the Orutsararmiut Native Council. I want to thank all those people who testified on behalf of the request from ONC and KNA. And I want to thank Kwethluk people for their support as well.

On June 20th, two days after the Kuskokwim working group meeting, to publicize this meeting, you saw it in the Tundra Drums, I think that time we had a call-in show, one of the callers said last year when he went to (indiscernible - phone cuts in and out) River to gather some plants during a closure time he watched sportfishing going on on the moss of the river. He was so frustrated and insulted to see the sportfishermen fishing when he couldn't subsistence fish for his own family.

I think it's like taking food out of the
mouth of a pauper and giving it to a prince, not only as a
different food pattern altogether, traditional use of the
food and the spiritual aspect of it. If I don't eat my
every day food I feel robbed, violated, not complete.

As for catch and release sportfishing, we
use that whole fish. We use the guts, the (in Native), and
everything else that we don't hang up to dry to flavor our
Yup'ik delicacy (in Native) known as a stink fishhead and
we even dry the heads to make (in Native) for our winter
potlucks and potlatches. I agree with Allen Joseph,
closing the sportfishing from 1 to 15 is not worth it
because the fish are not there yet. And also when you
close the down river for us people, not to fish, what more
discrimination is happening when you open it up near the
spawning, it's more vulnerable to being hurt.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. That's
all you have in Bethel now?

MR. NICK: Mr. Chairman, that is all the
public comments we got from Bethel.

CHAIRMAN DEMIENTIEFF: Okay.

MR. NICK: Thank you very much.

CHAIRMAN DEMIENTIEFF: We have one more
request here, Jennifer.

UNIDENTIFIED VOICE: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

UNIDENTIFIED VOICE: I have two people here
to provide public comment after Jennifer.

CHAIRMAN DEMIENTIEFF: Okay.

UNIDENTIFIED VOICE: Thank you.

CHAIRMAN DEMIENTIEFF: Okay.

MS. HOOPER: Thank you, Mr. Chairman.

MR. COLLINS: Mr. Chair, this is Ray
Collins. I have one additional comment I'd like to make,
too, if I might have opportunity at the end.
CHAIRMAN DEMIENTIEFF: We'll let you do that on the Regional Council comments, okay?

MR. COLLINS: Okay.

CHAIRMAN DEMIENTIEFF: Go ahead.

MS. HOOPER: Thank you, Mr. Chairman. Federal Subsistence Board members. I've been debating whether or not to submit a blue card. I've been really toying over a question that was asked to a couple of people earlier and I would like to take this opportunity to respond.

First, I'd like to make sure that I understood the question right, Mr. Gary Edwards asked both Greg and Eric, it seems that the subsistence restrictions and the disruptions to the traditions and long-time practices of the subsistence fishermen on the Kuskokwim River have helped management. And at first, I want to make sure that I understood your question right because that is happened and it is helping management, shouldn't the disruptions and the subsistence restrictions continue? Did I hear it right?

MR. EDWARDS: Well, I think I guess what I meant is while we acknowledge that disruption and as unfortunate as it may be, if that does allow a better management for the system for all subsistence users, might that be a necessary sacrifice that has to be made?

MS. HOOPER: Okay, I guess I did understand it. I guess my issue with this and my comments on this that it never should have gotten to this point where we have to restrict and halt traditions that have, you know, gone on for thousands of years and then have this scary reality that they, you know, may be ultimately forever disrupted, why do our subsistence fishermen who fish for food need to be disrupted and restricted to help management. And it's the hard reality that the management that has happened, whether it was in the river, in the bay, in the ocean, wherever, has not done its job, I guess.

And I guess I'd just like to tie this to the sportfishing issue here at hand. It's an almost backwards approach that the State has used in managing the sportfishery as compared to managing and allowing subsistence. We came into the season with restrictions already in place, you know, with the outlooks that the Department had but yet sportfishing was allowed to stay
open, you know, even with the regulation to close through
June 15, which we all know is basically moot. It doesn't
do anything for the fishery as far as managing.

But I'd just like to point out, you know, that it's a complete backwards approach to management when
you allow one fishery to be unrestricted, aside from the
regulation that was put into EO, it wasn't the case
initially but then you manage other fisheries by going into
the season, closed and restricted.

And I just wanted to share these points
with you, I hope they made sense. Thanks.

Now, somebody is line.

Mr. Chair, this is Wayne
Morgan.

Mr. Chair, this is Wayne
Morgan and then
I'll give a short testimony on something that I missed.
Thank you.

I'll give a short testimony on something that I missed.
Thank you.

Wayne, you've
already testified so we'll just allow the one person to
 testify.

Mr. Chairman, my name is Harry Elane and I
was born and raised here in Aniak, 30 years. I've been
living a half mile up inside the Aniak River.

Over the years I've seen the Aniak die a
slow death. In the late '70s the Fish and Game did a
survey, a study all summer long of a test fishery up in the
Aniak River. And the number that they came up with was a
million fish went up that river. Now we are fighting just
for a few.
Because of poor management we now are in a situation where our subsistence is restricted. And the Alaska Department of Fish and Game, they call it the rebuilding plan, they need to go the rest of the way, there's tremendous boat traffic that's up the Aniak River with guided fishermen. To me, my personal opinion, that is causing detrimental conditions on the spawning grounds. If I'm correct, I think it's in the 42 or 44 percent that went up the Aniak River spawning ground, so to me I feel that if you're going to restrict us for our subsistence and the Fish and Game, the Fish Board is not knowing what the escapement level is and what the returns are, that sportfishing should be closed until such time as we can get a good picture of what's going on.

The other thing I want to make comment on is these boats that are going up the Aniak, they're not small little boats. These are boats that are -- well, one boat runs up there has a nine foot bottom, has a 250 mercury jet unit on it and the other boats are with the 115 range and 22-foot boats, they cause a lot of erosions and God knows what it's doing to the spawning grounds.

That's what I have to say.

CHAIRMAN DEMIENTIEFF: Thank you. Okay, with that, we'll move on. That concludes our public testimony. We'll move onto Regional Council comments. Harry, you have comments and Ray, you have comments also?

MR. COLLINS: Yes.

CHAIRMAN DEMIENTIEFF: Go ahead, Harry.

MR. WILDE: Mr. Chairman, my name is Harry Wilde, Chairman of Yukon/Kuskokwim Regional Council. Mr. Chairman, I support Orutsararmiut Native Council request. I think there is enough fish in the Kuskokwim to satisfy the subsistence fishermen in Kuskokwim. Mr. Chairman and member of the Federal Subsistence Board, I would like to see to lift subsistence restrictions in Kuskokwim River before the winter comes around so these people wouldn't have hardship for their winter food in winter.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Ray Collins.

MR. COLLINS: Yes. I've been listening
very closely to the testimony and some of the things that are coming through, along the thoughts that I have, one is that basically the fishing industry is unregulated except that now you've limited it to one fish, but it's a growth industry and there's no limit on what that growth will be. And what we've seen in other areas, in hunting and on the Kenai and so on, it just keeps growing. And so even if it's limited to the one fish let's say, next year there may be twice as many guides. The other is that as that grows, we don't know, we don't have any handle on what we're doing to the habitat and we're in a building plan and we ought to find out exactly what it's doing to those spawning areas before we allow that to continue or it to certainly increase.

The other point that I heard the biologist make, I was glad to hear that, was the comment on what's happening in the catch and release. Because to my mind, again, allowing them only to keep one fish it's basically unrestricted because most of them don't want to keep fish anyhow. And as I testified before, if they do keep one it's likely to be the largest fish for trophy value. It doesn't limit the number of ones that they can hook and then release. And as we know salmon are different from trout and grayling and the others, in that, they stop feeding when they come into fresh water and I haven't heard this brought out yet and they seem to have only enough reserves to get them to their spawning ground and that's why the Kuskokwim fish are richer than the Yukon fish because they've got further to go to the head of the river. Well, by allowing fishing as they approach the spawning ground, they're at the end of their reserve strength and they've got enough to see them through the spawning area and by practicing catch and release there, we don't know exactly what we're doing in hindering their success in spawning when we catch and release them at that point and maybe they're catching and releasing more than one time. And we may be hindering their ability to even carry out successful spawning because they're at the end of their reserves at that point.

So I think we ought to know more about that before we allow this activity to continue or certainly to increase.

And then there's the equity question that came out, you know. Should they be able to do it seven days a week when there are restrictions on subsistence fishermen. But I think there's biological reasons for us to look very closely at that industry and seek to get in
place some kind of a plan that will protect the spawning
grounds and those spawners before we allow this to just
continue to grow as it is right now. There's no limit on
the number of guides or the number of fishermen that can
take part in it.

That concludes my comments. Thank you, Mr.
Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Staff
Committee recommendation.

MS. FOX: Thank you, Mr. Chair. The Staff
Committee did not reach consensus on a recommendation. As
a result I will be presenting two viewpoints, one for the
majority and one for the minority.

With regard to the majority viewpoint, the
majority of the Staff Committee voted to recommend that the
Federal Subsistence Board oppose the request. The data
available in the Bethel test fishery and in in-season
subsistence harvest reports are the best indicators to date
that the 2002 chinook and chum salmon runs are better
through June 23rd than years with similar water flow. In-
season subsistence harvest reports through June 15th have
been favorable with most fishers reporting good catches.
Given the current status of the run and in-season
subsistence harvest reports, it is reasonable to expect
escapements and subsistence needs to be met for chinook and
chum salmon in 2002, even with the reduced subsistence
fishing time allowed in the schedule.

The chinook salmon harvest in the Aniak
River sportfishery is expected to be low given the current
regulations and it is not likely to hinder escapement or
subsistence needs. As a result it is not reasonable to
close Federal waters to non-subsistence fishing.
Similarly, limiting the non-subsistence users to a four day
a week schedule would do little to increase subsistence
harvest or to increase escapements.

The Federal in-season manager will continue
to monitor the runs to determine if the chinook or chum
salmon run strength demonstrates a need for change in
management strategy to help meet subsistence and escapement
needs. This may include lifting or relaxing the fishing
schedule if the run strength is sufficient. Evaluations of
in-season run strength will be a joint effort between the
Department of Fish and Game and Fish and Wildlife Service
managers in cooperation with the Kuskokwim River Salmon
Management Working Group and the four members of the Yukon-Kuskokwim Delta and Western Interior Regional Advisory Council Coordinated Fisheries Committee. The subsistence fishing schedule is a restriction placed on subsistence users but it is being done to help rebuild the chinook and chum salmon runs for future generations and to distribute fishing opportunity more evenly throughout the river. Many local subsistence users recognize and support the fishing schedule because of these benefits. The strength of the salmon runs should allow subsistence users to meet their needs in 2002, although the schedule does pose a substantial change in the traditional practices of rural life and fish camps.

Although subsistence users are being restricted to less fishing time, a significant priority is provided relative to the opportunities for non-subsistence uses. Sportsfishermen are also being restricted from three salmon per day to only one salmon per day and sportfishermen on the Aniak River are only allowed to retain two chinook salmon per year.

The meaningful priority for subsistence stems from the facts that the subsistence users employ more efficient gear, fish without harvest limit during the subsistence openings and are able to fish seven days per week using rod and reel.

The Staff Committee endorses the ongoing efforts of local users and State and Federal managers to monitor run strength and to consider flexibility in the subsistence fishing schedules.

For the future the schedule might be revised to recognize significantly different levels of fishing pressure in portions of the river with more fishing time in portions where pressure is low as is the case in the Yukon River subsistence fishing schedule.

In addition, the Staff Committee supports the suggestion of the Yukon-Delta National Wildlife Refuge manager and others, that more specific data should be collected to monitor changes in fish camp traditions such as fewer multi-generational families at fish camp due to the fishing schedule.

Moving on to the minority viewpoint. The minority vote was to support the Special Action request. The proponent requested that Federal waters on the Kuskokwim and its tributaries be closed to sportfishing or,
in the alternative, that sportfishing be restricted by the same time constraints as subsistence fishing is restricted by the Board of Fisheries fishing schedule.

In addition at the Kuskokwim Working Group meeting on the evening of June 18th, the proponent also added that if those two requests were not honored then remove the fishing schedule from the Upper Kuskokwim to free subsistence users in that portion of the river to fish seven days per week until their needs were met. Since the lower river users were nearing completion of their subsistence harvest, in that area, the schedule could be maintained.

When the Board of Fisheries fishing schedule was imposed on subsistence users in 2001 it was accompanied by a joint State and Federal management request that subsistence users voluntarily restrict their own use to ensure escapement and as a conservation measure. The subsistence users did comply and now that there seems to be a slight improvement in the fish runs, subsistence are still being taxed by the fishing schedule and sports users are reaping the benefit at the expense and sacrifice of the subsistence users.

This schedule is perceived as a major hardship on subsistence users and they have voluntarily complied. Now, the perception is that they are not reaping the benefit and that the Federal Board is responsible for ensuring their subsistence priority over all other uses as required by ANILCA.

Subsistence users are burdened by the fishing schedule that prohibits their customary and traditional practices of preservation of fish by not allowing them to process their fish when the weather and run are most conducive to maximum yield and restricts their participation in the fishery based solely on schedule and not taking their customary and traditional practices into consideration. It is the customary and traditional practice to take the fish needed on the days of the run and when the weather is most suitable for preservation and that customary and traditional practice is to be considered under the Bobby case. Under the schedule, the later dates are often rainy days and weather in which the prepared fish would spoil and become wanton waste contrary to their customary and traditional practices.

Subsistence users are already under a hardship to go to and from nets on a scheduled basis and
the pulling and confiscation of nets by law enforcement adds to their limited resources expended on additional gas and motor costs when a simple task is providing the marker material is an option that could, instead be offered to them.

Data isn't gathered on sports uses regarding harvest, species taken or number of fish taken. Estimates are used as though they reflect what is actually happening and insufficient data is presented on catch and release mortality. Subsistence users believe in conservation and do support conservation efforts. But it is seen as a failure of the Board to not protect their subsistence priority over all other uses and to burden their customary and traditional practices unnecessarily.

The proponent requested that the schedule be liberalized to allow the upper drainage or areas above Bethel area to obtain their subsistence needs. The problem will continue next year if the Board of Fisheries fishing schedule is again imposed on the subsistence users.

That concludes my report.

CHAIRMAN DEMIENTIEFF: Thank you.

Department comments.

MS. SEE: Thank you. And thank you to the Chair, the Board, the Regional Advisory Council Chairs and all the members of the public who have taken a lot of time today to look at this issue in detail. My name is Marianne See with the Department, I'm the Department's coordinator on dual management issues about subsistence. We have kind of two parts to this comment today. One is an overview that I'll offer and then I will segue to our sportfish comments which are in more detail.

We do appreciate the opportunity to provide information and perspectives regarding this Special Action request to change sportfishing provisions on the Kuskokwim River drainage. The Department's Divisions collaborate closely to ensure sustainable management of the resource, implementation of the State subsistence law and to provide, where possible, for other user needs. Each of the divisions of sportfish, subsistence and commercial fisheries has staff available here today, either in the room or on-line in Bethel to provide specific relevant information.

My comments are briefly on issues that are
division representatives will further elaborate.

Our overall position on this Special Action request is based fundamentally on the fact that we continue to provide for priority for subsistence harvest opportunity, provide for other uses and fully engage the public on these crucial issues. We do support the current management measures on the Kuskokwim for subsistence and sportfishing which are designed to adapt to changes in the numbers of fish returning to the river. We, thus, do not support this Special Action request and ask that you consider several main issues as you deliberate today.

We want to emphasize that there are interrelated reasons for management provisions currently in place on the Kuskokwim drainage. The schedule for subsistence fishing in the Kuskokwim drainage is intended to accomplish four key objectives.

Firstly, to promote the health of the salmon resources themselves and rebuilding of the salmon runs to allow some fish to pass through with minimal fishing pressure consistent with the Kuskokwim River Salmon Rebuilding Plan. Another is to provide subsistence priority through the entire river system and to ensure that fish reach subsistence users in the up river drainages. Another is to improve the quality of fish escapement, that is, to provide for larger fish and larger female fish that reach the spawning grounds. And lastly, to provide for other uses of salmon as possible while ensuring the subsistence priority. In this we use regulatory tools, such as timing or bag limits to avoid competition and conflict.

Now, a key measure that the Department uses to implement the subsistence priority is a finding of amounts necessary for subsistence or ANS, which is expressed as a quantitative range. Although it does not assess qualitative characteristics about the harvest, it's an essential tool to evaluate the potential to meet subsistence users needs. We use it in preseason and in-season evaluations to ensure that regulatory provisions will be best aligned to ensure that subsistence users for a specific resource will have reasonable opportunity for harvest.

We want to make it very clear that we have looked carefully at information from previous years in planning and conducting management regimes for this season. Last year, in a year of below average salmon runs for the
Kuskokwim River, we saw that subsistence users harvested at levels well within this ANS range. At that time subsistence fishers were on a schedule as is the case this year. We also know, as has been mentioned, that users voluntarily reduced their harvest last year and the resulting effect on the harvest data is unknown. This year fish managers have closely watched indicators of run strength and compared those with those of prior years to conclude that the runs should provide fish to subsistence users in numbers that will achieve the amounts necessary for subsistence for that range.

Additionally, if runs continue to develop as they have, a commercial fishery for chum salmon may occur if a buyer can be found. At this point we would no longer require the schedule.

And I've been advised and Gene Sandon of our Commercial Fisheries Division may have further comment on this or can answer questions, that an evaluation will be made very soon on this. Mary Pete from our Division of Subsistence is also on-line in Bethel and both can provide additional information on this point.

Because the ANS is so important, amount necessary for subsistence, my apologies for using an acronym, we wanted to make sure that we provided some information to you which is the second sheet which regards reasonable opportunity and that is background information for you, it has been previously provided to the Board of Fisheries and it speaks to reasonable opportunity which I believe will be something that may come up in your deliberations this afternoon.

We want to also note that because the ANS assesses quantity, we need other ways to look at the quality of subsistence harvest. This is where other information such as surveys, interviews and other kinds of research is essential. The most relevant information that we have at this time and I realize we've heard other surveys this afternoon, but our information comes from a 2001 subsistence harvest questionnaire which occurred at the end of the season. In that questionnaire, users were asked how they felt about the subsistence fishing schedule. There were 627 families responding from 24 different communities. Of these, 60 percent offered either positive remarks or comments indicating that they accepted the schedule. The remaining 40 percent had negative comments. Although this is a small sample size, it does provide a helpful indicator of support for the subsistence fishing
schedule. We acknowledge that further research is needed to assess aspects of the quality and the effects of the fishing schedule on users.

Regarding sportfishing key measures were put in place this year and they have been mentioned to ensure the subsistence priority while also providing some potential for sportfishing opportunity. The basic approach we're using is to use timing and harvest limits to minimize the potential perceived competition for fish. Subsistence Fishing constitutes a small portion of the overall harvest from prior years and will be further reduced by these measures that include the closed sportfish season until mid-June. And also, fishing activity we note generally starts up later than the subsistence fishery and is conducted in the tributaries where little subsistence fishing occurs. Another measure is reduced bag limits for sportfishers.

To go into this in more detail, we have Charlie Swanton sitting to my right from the Division of Sportfish who will further explain effects of these and related provisions. And he'll be providing more information on the fisher effort, the number of fish actually caught by sportfishers and the locations of these activities in the Kuskokwim drainages.

MR. SWANTON: Thanks, Marianne. Again, my name is Charlie Swanton for the record with the Sportfish Division in Fairbanks as part of Sportfish Division Region 3.

I thank the members of the Board as well as the Chairman for the opportunity to address these Special Actions. The packet that you have before you with the Fish and Game logo on it is what I'm going to speaking to, the first page goes through discussion topics. What I'm going to try and do first is give a brief description of the region as well as the areas, go into the 2002 regulations for the upper and lower Kuskokwim and the reason why the upper and lower Kuskokwim are broken out that was is because most of the information that we and that I will be presenting here today is derived from a survey instrument called a statewide harvest survey. What this instrument does is collect this information by sending survey packets to licensed sport anglers, both resident as well as non-resident and unfortunately because of the time that it takes to do this, the information that we have in terms of catch effort and harvest is about a year in delay. So for example, we are anticipating the draft final numbers for
the 2001 fishing season should be available to us probably in the next couple of weeks. So most of the statistics that I will be referring to only go through the year 2000.

With that being said, I'll move into background regulations and then emergency orders and then move into the statistics as Marianne referred to for both the lower Kuskokwim sportfisheries and the upper Kuskokwim sportfisheries. The lower Kuskokwim sportfisheries would be those that are operated on the Kisaralik, the Kwethluk and the Aniak and the upper would be for those that are operated on the George and the Holitna River. These are the primary ones where we do have harvest catch and effort information. And I will also add some catch and harvest statistics as well.

There's two maps following the next page in the handout. One is, like I said, is a regional map and as you can see there's, located on that within the region, is six different management areas that are all operated out of the regional office in Fairbanks of which I'm the management supervisor. The second map depicts the lower Kuskokwim management areas as I referred to before and essentially the break out point is the Aniak which is typically referred to as the mid-Kuskokwim and we have a management biologist, John Burr, that's responsible for managing the sportfisheries in the upper Kuskokwim. And then we have a management biologist stationed in Bethel, Bob Lafferty, who is responsible for managing the sportfisheries from the Aniak down river.

Background regulations have been in the past and continue through this year were the sportfishery opened on the 1st of May and closed on the July 25th. July 25th is referred to as a spawning closure. What that purports to mean is that a majority of the spawning of chinook salmon takes place after the 25th of July. I believe that that particular regulation has been on the books since 1987 or somewhere thereabouts. So it has been in place to protect spawning salmon on the spawning grounds.

The bag and possession limit background is three chinook salmon, two fish over 28 inches. The 2002 regulations under the Board of Fisheries rebuilding plan of which we told the Board we would institute by EO prior to the season a one chinook or chum salmon bag limit per day. That was instituted by EO this year. The second component was to delay the beginning of the sportfishery from the 1st of May to the 15th of June. I guess I may well address
that particular issue since it's been referred to as window-dressing or a charlatan's web of deceit.

The reason why that particular EO was issued had to do with responding to an outcry from AVCP and the subsistence users this spring. The discussion was had in front of the YK-Delta RAC and it was expressed to the YK-Delta RAC, that the influence of that particular emergency order was going to have some minor measurable impact on the systems around Bethel and likely to have no or very minimal impact on the sportfisheries and the harvest as you moved up river. 15-June was the date selected and we don't have any additional information to know whether that date, as you move up river does or does not have any impact. That was what was expressed to the YK RAC and nothing more or less from that so there was no deceit associated with that particular emergency order. We typically cut emergency orders to have a desired biological effect and a measurable effect and we do not necessarily think that that particular emergency order had one nor do we think that we can really measure it. And until we get to that point that's essentially what has to be looked at. So anyway, I just wanted to clarify that particular aspect.

Moving on past the maps, we'll move into the lower Kuskokwim to begin with. The 1998 through 2000 average effort within the lower Kuskokwim River, again, lower being from Aniak down river inclusive of the Kwethluk and the Kisaralik was 7,382 angler days, that's for all species. Distribution of that angler effort comprised 38 percent within the Aniak, 36 percent within the Kisaralik, 19 percent within the Kwethluk and seven within other minor systems. The average catch within these systems was 3,498 chinook salmon, that's an average for 98 to 2000. The reason why that differs from the 7,200 that was referenced in the Staff analysis is the utilization of 1997 through 1999, I chose to use a 1998 through 2000 average because that is the more recent data.

Two of the three highest catch records for the Aniak River occurred in 1997, in 1998. They were 12,000 and 5,000 respectfully. The next closest number to those was 3,375 which occurred in 1996.

In 2000 the effort was 435. Again, the catch distribution was 87 percent for the Aniak and 10 percent within the Kisaralik and Kwethluk combined.

The average harvest within the lower Kuskokwim was 489 chinook salmon per year. 82 percent of
the harvest was the Aniak and 10 percent was the other systems.

As an aside, in 2002 an aerial survey was flown last Friday and was conducted approximately from 2:00 to 4:00 p.m. out of Bethel and flew from the middle Kuskokwim all the way up to the Aniak. They couldn't make it up to the George River. There were nine anglers in total that were counted sportfishing last Friday during this period in time. I'm not professing that this is peak sportfishing time periods, I'm just saying to put it into context. There were more people fishing from the handicap ramps at the BLM boat launch at Sourdough on the Gulkana River last Friday than there were on the entire middle to the mid-Kuskokwim. Of those nine, two were on the Aniak and several were on the Kwethluk.

Moving on to the upper Kuskokwim River. The two primary systems there are the Holitna and the George River. In 2000 the effort was about 1,100 angler days per year and the 2000 effort was '91 for the George River and a thousand for the Holitna. Catch of chinook salmon is 883 per year. In 2000 161 chinook from the George were caught and 22 for the Holitna. The harvest of chinook salmon for these drainages has been about 140 chinook salmon per year. The harvest from the George was zero in 2000 and for the Holitna it was 22 fish.

In summary, all of the sportfishers operated within the Kuskokwim drainage can be considered small by statewide standards. As I referenced, the Gulkana, angler effort on the Gulkana for an average year is somewhere between 12 to 15,000. And catch averages well in excess of that and harvest is somewhere between three to 4,000 for the Gulkana. The harvest numbers in some cases are small and hence suffer from imprecision. When you have a survey instrument such as this, low numbers of respondents translate into imprecision of your numbers. We don't necessarily feel that there's several of orders of magnitude problems with regards to these numbers however there is some imprecision.

The estimated harvest that occurred in 2001 is probably less than 500 fish but we won't receive, again, we won't receive those numbers for several weeks. The State feels that the actions taken during 2001 and being proposed in 2002 are of limited biological consequence to the Kuskokwim River chinook salmon stocks. And in final, a basic tenet of salmon management is upon making a management decision, one has to evaluate its utility
towards meeting a measurable objective. The State questions the utility of these actions based on this principal.

Thank you, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Thank you. Board discussion. Gary.

MR. EDWARDS: I have a couple questions. I guess I can direct my first one, both, maybe to Staff as well as the State. It has been suggested that perhaps if we did not allow a sportfishery to occur that would allow some relaxation in the restrictions that were being placed upon the subsistence anglers and may allow us to do some modification to the schedule, I'd like to know whether the feeling is that that could occur if the sportfishery remained closed.

MR. BERG: Mr. Chair, Mr. Edwards. If the Board did take positive action on this request then it would close all other uses other than subsistence for Federally-qualified users, mainly impacting the sport users but it wouldn't change the schedule at all for subsistence uses; is that your question?

MR. EDWARDS: I guess my question was, would it allow us to allow a different schedule than the four day opening, three closure, would it allow four and a half day opening and two and a half day closure?

MR. BERG: I don't believe it would. I'd probably defer to Gene. Gene's probably more familiar with the rebuilding plans and the options we have. So I'll just turn it over to Gene.

MR. SANDON: Mr. Chairman. My name is Gene Sandon. I'm the regional supervisor for Arctic-Yukon Kuskokwim Region, Alaska Department of Fish and Game.

There's two reasons for liberalizing the -- or there's two reasons for adjusting the schedule, one, is for conservation when we don't have enough fish and then we would have to reduce the schedule to provide for escapement needs and subsistence use up river. And the second one is when we can liberalize it when there are enough fish to go commercial fishing. When we decide that we're going to go commercial fishing, the schedule basically goes away.

Restriction of the sportfish would not have that effect.
MR. EDWARDS: To follow-up on that, if I understand correctly in some discussions that we have had was that one of the things that could restrict the opening of the commercial season is the fact that there would not be any buyers present to buy fish and so you would not open it. If that's being the case, would there be opportunities then, if there would not be a commercial opening for that purpose, would there be an opportunity to expand the subsistence season or the schedule, excuse me?

MR. SANDON: Mr. Chairman, Mr. Edwards. Yes, as I read the State regulations there just has to be a sufficient number of fish to have a commercial fishery and if that's the case then we can relax the subsistence fishing schedule.

MR. EDWARDS: Mitch, can I have one other question?

CHAIRMAN DEMIENSTEIFF: Yes.

MR. EDWARDS: Another issue that was brought up was the concerns about the impact that sportfishing will have on the spawning grounds, both in terms of destruction of habitat, you know, covering of eggs and targeting of fish that may be about to spawn. But it's my understanding that most of the spawning does not occur on Federal lands and therefore really there's no actions that this Board could take that could restrict the opening or occurrence of sportfishing on there, even if we were to close the sportfishtery it would still remain open on those areas where spawning occurs; is that correct?

MR. BERG: Yeah, Mr. Chair, Mr. Edwards. I believe that is correct. The majority of the spawning probably occurs in the upper reaches, particularly on the Aniak drainage which would be outside of the Federal jurisdiction. Although, I imagine that there is some spawning that occurs in the main stem of the Aniak. I would guess that the majority does occur upstream in the headwater areas. I don't know, Charlie may have additional comments on that.

MR. SWANTON: No, I think that's probably true. I think probably the majority of spawning takes place up above. And again, like I mentioned before after the 25th of July.

MS. GOTTLIEB: Mr. Chairman.
CHAIRMAN DEMIENTIEFF: Yes, Judy.

MS. GOTTLEB: This is Judy Gottlieb from the National Park Service. I do want to thank all those people who were on line and who testified and provided us with a good deal of information. I want to make sure I'm clear on why this year is different than last year when we were in somewhat of a similar situation. My understanding is that we have better projections of the runs and I think the cooperation and the trust and the work that went on over the winter, good pre-season planning has made a huge difference also and certainly what we heard about the Kuskokwim working group and the inclusion of people in those discussions has made a difference.

But I do want to make sure I'm understanding this correctly, Jerry, do we have a conservation concern here?

MR. BERG: MR. Chair, Ms. Gottlieb. Given the run strength information we have to date, which is primarily the Bethel test information and the subsistence harvest report to date, even with the updates that Greg Roczicka provided us, certainly indicate that we are having fairly good runs this year. It actually looks maybe even somewhat better than last year and last year we did meet escapement and subsistence needs. So I don't see that there is a conservation concern at this point with the information we have in front of us today.

MS. GOTTLEB: Okay, thank you.

CHAIRMAN DEMIENTIEFF: In our management strategy is fish guiding considered a commercial activity by either or our program?

MR. EDWARDS: I think the answer to that, at least, I think you'll find it varies from Federal agencies. I believe the Park Service considers guides as concessionaires, where the Fish and Wildlife Service does not consider guides as a concessionaires and I'm not sure what BLM does.

MR. TERLAND: Gene Terland with BLM, we consider them as a commercial activity.

CHAIRMAN DEMIENTIEFF: Well, that clears that up. How about the State, do you manage that as a commercial activity?
MR. SWANTON: I believe, and I said I believe, I'm not real well versed in this, but I do believe that they are treated as a commercial enterprise.

MR. EDWARDS: Mitch, also as a follow-up to that and actually a question that Judy raised, we do, for example, on the Kenai National Wildlife Refuge in the upper Kenai, restrict the number of guides. But I believe that on all other refuges that there's no restrictions placed at this time.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MS. GOTTLIEB: So as I understand it within a couple days there will be another discussion with the Kuskokwim working group and others to look at the status of the runs and the harvest and so not really having the great crystal ball but just as your best guesses, might you be able to predict what could be discussed at that meeting on Thursday?

MR. BERG: Yes, Mr. Chair, Ms. Gottlieb. That's right, there is a Kuskokwim Salmon Working Group meeting scheduled for this Thursday at noon. And, you know, given the run information we have we'll certainly have a couple more days of information by then and, you know, hopefully we'll be able to have some discussions about whether the subsistence schedule can be relaxed or not, if there's enough fish, chum and chinook salmon in the river to consider a commercial fishery. If the State has anything they'd like to add.

CHAIRMAN DEMIENTIEFF: Yes.

MR. SANDON: Mr. Chairman, we've been directed to manage the Kuskokwim River salmon fishers conservatively and having a buyer, not having a buyer does add some weight to it, where we go, but the chum runs in the Kuskokwim and the Yukon in western Alaska are variable as far as run timing goes. The historic midpoint is around July 3rd and I'm thinking that we should be able to assess the run by that time, whether we're going to have a commercial fishery or not or whether we have enough fish to allow a commercial fishery or not. So it may not happen this Thursday but I'm looking forward probably to the next
1 week to start moving in that direction.

Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Other discussion. I guess if there's no further discussion then we can move on with a motion.

MR. EDWARDS: Mr. Chairman, I move that the Board support the majority opinion of the Interagency Staff Committee and reject the request to further restrict sportfisheries.

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

MS. KESSLER: I'll second.

CHAIRMAN DEMIENTIEFF: Discussion on the motion.

MR. EDWARDS: Mr. Chairman, in making that motion, you know, as I looked at the information that the Board was provided today, it would appear that spawning escapements is going to be made as well as subsistence needs will be met, both for chinook and chum. I mean I certainly agree that these last two years have been, you know, quite a hardship for the people along the Kuskokwim with what has happened to the western salmon runs and as we discussed throughout the day, I don't think there's any question that this four day a week subsistence schedule that has been placed upon these folks has certainly, if it hasn't been an inconvenience as somebody used the term, it's certainly been fundamentally disruptive, however, as we also discussed, it does appear that this approach, given the scarcity of the run has allowed us to better manage the system up and down the river for all subsistence users. And given that, you know, we have been told that regardless of the actions that we might take on the sportfisheries, at least, at this point it would not allow us to lift the restrictions on the subsistence use even for a few hours but, however, it does appear that there could be some light at the end of the tunnel.

But given that, I guess my concern would be that for us to restrict the sportfishery would be placing an unnecessary restriction on other uses at this time.

CHAIRMAN DEMIENTIEFF: For me, I'm going to vote no on the motion. I think one of the things that
really concerns me is how we treat the real threat out in that area and that is with regard to commercial guiding or whatever activities, however you want to phrase it. And I think that if we're going to do something, allow something, we're going to collectively have to find a way to deal with that issue and separate that out because to allow unrestricted guiding and we've heard much testimony with regard to that and that does include the State, by the by, collectively with the agencies in the area, I would really strongly encourage you to do something about that particular situation, to put that on our horizon as far as things to work on.

Now, in the absence of that, you know, because this is a management plan, in the absence of that, basically I'm forced to be the conservative, I'm forced to vote against the motion because I would tend to agree with the Special Action request and in the absence of a cooperative approach.

So you know if it fails and we go with the Special Action request that does it, it forces it to the table. If my vote does not prevail that has to be on the horizon. That has to be something that cannot wait, even another regulatory year. It has to be something that has to happen. So we need to do that.

With regard to relaxing the four day period, I have mixed feelings about that. I understand the disruption of traditional fishing but also heard testimony from the upper Kuskokwim that since this has been in place that the quality of fish in the upper Kuskokwim has improved. And even today, Ray Collins testified that he thinks that a good part of that might be because of the four day opening, you know, that's been going on to allow some of the bigger fish who, of course, would be targeted in any fishery to get up there. So I have real mixed emotions about that particular part of relaxing the fisheries, the management plan that we have in place right now. And I know that really doesn't have that much to do with the motion but there was testimony with regard to it today and I just wanted to speak to that particular issue.

So again, in closing I support the Special Action request. And losing again occur just to get these things on the map so we can find some cooperative way to deal with it because it's a big issue. And I think we've heard testimony today with regard to that. One of the big things that really upsets the locals is the fact that they're sitting on the beach not being able to practice
their subsistence and yet, these commercial and/or
sportfishing people are still allowed to be out there
fishing. And, you know, that's something that needs to be
seriously addressed in the future if we're going to limit
that, the very least we can do is the second part of the
Special Action request which is to have sportfishing be
done on the same table as the subsistence fishing. And I
think also that that is a very reasonable request. And it
would help in a conservation and a rebuilding program, it
certainly is not going to hurt anything for those to be
tied together. Now, I understand that would also take a
cooperative agreement between the State and the Feds to get
that done. So that's something I think we seriously ought
to look at.

And for those reasons I support the
management plan and tend to vote against the motion.

MR. CESAR: Mr. Chairman, I'm a little
confused. So your vote is to support the management plan
and vote against the proponents; is that correct?

CHAIRMAN DEMIENTIEFF: The Special Action
request, I'm sorry.

MR. CESAR: You're against the motion.

CHAIRMAN DEMIENTIEFF: Right.

MR. CESAR: The motion is to support the
Staff Committee.

CHAIRMAN DEMIENTIEFF: Right.

MR. EDWARDS: The opinion of the Staff
Committee and reject the.....

CHAIRMAN DEMIENTIEFF: Special Action
request.

MR. EDWARDS: .....request to further
restrict the sportfshery.

MR. CESAR: Okay. And your vote was to
reject that?

CHAIRMAN DEMIENTIEFF: Right. I intend to
vote against the motion.

MR. CESAR: It feels like Monday to me
CHAIRMAN DEMIENTIEFF: Okay.

MR. CESAR: The motion is to support the majority Staff Committee opinion which would, in effect, reject the proponent's request to close. So a vote yes would support the majority Staff opinion and your vote was no.

CHAIRMAN DEMIENTIEFF: Will be no.

MR. CESAR: Okay.

CHAIRMAN DEMIENTIEFF: Because I.....

MR. EDWARDS: And my vote will be yes to support the motion that I made.

MR. CESAR: Right, okay. Now, I guess it's time for my vote.

My vote will be to vote no. And let me give you some of the reasons why. I think that it is contrary to my thinking to have sportfishing opening while we have the folks sitting on the beach. It's just, you know, it goes against what I think.

And I appreciate Mitch's position that this part is a commercial activity because it is, in fact, a large part of it is commercial. Which reminds me of Southeast where, you know, 30 years ago we had no charter boat operators and now local people got to go fishing a lot farther than they did back then and yet the commercial guys are still saying they're sportfishing because they believe that they're providing a service to folks and they are but to me that's still commercial.

I would much rather see us support part of the proponent's request. I think it would be great if we could tie, you know, subsistence time to also the sportfishing time. And I also think we should look at variable windows, you know, having a window for, you know, elders, you know, taking some special consideration of that and also I'm sensitive to this notion that some people cannot make those four days. They're fishing in their off time and if they're gainfully employed and they're trying to make money on that aspect but the times that they're off the fishing is closed, it seems like we're defeating what
we're supposed to be doing. We's supposed to, you know, try to get it all together so folks will get opportunity and so I think that restricts reasonable opportunity from that perspective.

The third thing is that if want come to reasonable compromise within this next year, because I believe my vote's going to fail anyway, but I want to be on record as saying, as Mitch did, that we need to do something. And we need, I think, to look at that issue of tying it together. You know, I think there's been a lot of cooperation, no question about it. Made a lot of progress, no question about that. But I think we also have to fine-tune these things and I think that we have an opportunity or an obligation to fine-tune this.

And again, I'm not going to support the motion but I fully expect to loose but those are my reasons.

CHAIRMAN DEMIENTIEFF: Any other discussion.

MS. KESSLER: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Wini.

MS. KESSLER: I intend to support the motion and I have, I guess, three lines of thinking that compel me to do that.

Of course, ANILCA requires that we give priority for subsistence over other uses and that the opportunity provided must be a meaningful one for those users to provide for their needs. I do think that we meet that test in the sense of the fishing methods that are allowed, very efficient methods. There's no limit on the numbers that may be taken. Certain methods are, the more efficient methods are only allowed for day blocks but there's other opportunities that are more comparable in terms of being available seven days a week.

So I do think that that meaningful opportunity priority is available. And as well, in my thinking is that ANILCA clear direction for with respect to not restricting other uses unless certain conditions are met. In some of the discussions we had were the question of whether there was a conservation concern here and the evidence doesn't suggest that. As I read it we are not allowed to restrict the other uses under the conditions
that have been presented to us in total.

And I think the third factor that compels
me to vote this way is the question of whether, in fact,
restricting the sport users would allow, would it follow
from that that the schedule could be changed and the answer
I heard from that was probably not. So the desired effect
would not be realized anyway.

So those are my reasons for my inclination
to vote in favor of the motion. Thank you.

CHAIRMAN DEMIENTIEFF: There is one thing I
forgot to mention I should probably back up and mention the
other real big motivating factor and that is that I see
real slippage in our program. Where we had years of
positive gain. I think our cooperative approach and
cooperative working relationship with the people that we
are here set up to work with, I've just seen a lot of
slippage. And in this case the region has worked the
affected area, subsistence users have worked very hard to
get a very, I consider conservation concerns, they're in a
rebuilding mode, from where they were. And I see real
slippage in our program by our Board continuing to not have
high regard for the very people that we're here established
to set up and to send this message out by denying this
Special Action request I think widens the divide that we're
seeing slippage all over our program. And that, quite
frankly, is one of the real concerns that I have about the
direction our program is going.

That doesn't mean I'm not going to continue
to due diligence or anything, it's just that that really
concerns me. Because we've worked hard to get where we are
and I don't want to see us go back.

MS. GOTTLIEB: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

BETHEL: This is Bethel, we ask that you
please speak up we can hardly hear you out here.

CHAIRMAN DEMIENTIEFF: Go ahead, Judy.

MS. GOTTLIEB: Mr. Chairman, thank you. I
think the Board really should commend the subsistence users
for the adjustments and the compliance that they've shown
under these reduced schedules, not only here but, of
course, on the Yukon River as well. And I do think we do
find ourselves in a little bit situation because it is that we have the good news that escapement and subsistence needs are projected to be met.

But I certainly agree with you, there's lessons that can be learned particularly for next year and I would ask the Department to think about that for next year in terms of the season dates and I know there's been considerable discussion about it this year. I think that might be something that could go a long ways.

As the Board knows the Special Action had two parts to it. One was the adjustment of the schedule to be consistent with the subsistence schedule and the other was a full closure. So I guess the motion addresses both but I guess we also might have the option of splitting those out if we care to follow that.

Thank you.

CHAIRMAN DEMIENTIEFF: Your motion intended to reject the whole Special Action request; is that correct?

MR. EDWARDS: Yes, Mr. Chairman.

CHAIRMAN DEMIENTIEFF: And that does include the second choice that was put out?

MR. EDWARDS: Yes.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. CESAR: Mr. Chairman, I hear at least my concern and possibly yours and Judy's, you know, and maybe I'm misinterpreting it. I mean I wouldn't mind making an amendment to the motion to split it in half and do away with the full closure and have the sportfishing schedule align itself with the subsistence schedule. I'm not asking that the subsistence schedule be raised. But I don't really necessarily want to do that unless I feel like there's some, you know, some reason to do it. I mean two votes is not, three votes or four votes.

Thank you.

CHAIRMAN DEMIENTIEFF: Yeah, basically the motion, if it fails, we would come back with a second motion to see which of the two alternatives that we could advance positively. It would just come back and it'd
basically be in two motions. I mean if you amend, we're just going to confuse things, really, in my estimation.

MR. EDWARDS: Yeah, maybe I can address it. You know, you asked me the question why I sort of rejected the whole thing and I guess my thinking was was that even if we would accept the second portion of it it still doesn't change anything as far as what it might do on behalf of the subsistence users to give them more time. So it's just sort of an optic thing.

My also guess would be that in the case of the sportfisheries, that, you know, certain plans have probably been made on the assumption that you've chartered, for example, under the guides and all have been sold programs that would include seven days of fishing for king and if you put that restriction, you know, I'm sure that has some implications as a result of it.

MR. CESAR: Yeah, Mr. Chairman, if I might?

CHAIRMAN DEMIENTIEFF: Yes.

MR. CESAR: Yeah, I agree that it would have some financial implication to the sportfishing lodges and some plans of people who have been planning all year to fish I mean there isn't any question about that. And I don't necessarily want to do that but I also want to be sensitive to at least what I interpret my charge to be, which is within the conservation expectations to support the Regional Advisory Councils under these situations. I think it's a call, a judgment call and I don't think I'm prepared to make that motion without some indication that it's meaningful.

CHAIRMAN DEMIENTIEFF: I'm wondering if that were the alternative, if the State would be able to consider or would even consider an emergency order while we're working out some way to restore some order to close it to that. Would the State even consider that.

MR. SWANTON: I don't know if I'm at liberty to say whether we would or we wouldn't. I mean we'd pretty much consider anything. I don't know with a little bit of time I could probably give you odds as to whether we'd support it. On face value, I probably right now, I'd probably say no, that we wouldn't support it, we'd certainly consider it.

CHAIRMAN DEMIENTIEFF: Further discussion.
Are we ready to vote on this matter?

MR. CESAR: Mr. Chairman, I call for the question.

CHAIRMAN DEMIENTIEFF: Question. We'll take a roll call vote.

MR. CESAR: Mr. Boyd, just for me again because I'm really getting slow since I went over 60, so would you please state the motion and give me an indication of what a yea indicates and what a nay indicates.

Thank you.

MR. BOYD: As I understand the motion, the motion is to support Staff Committee recommendations which would, in essence, would oppose the proponent or the proposal to further restrict sportfishing. So a vote yes would support the motion to oppose the petitioner. We could have had Yogi Berra do that, too.

MR. CESAR: Question, please.

MR. BOYD: I'll call the roll. Mr. Cesar.

MR. CESAR: No.

MR. BOYD: Mr. Terland.

MR. TERLAND: Yes.

MR. BOYD: Mr. Edwards.

MR. EDWARDS: Yes.

MR. BOYD: Dr. Kessler.

MS. KESSLER: Yes.

MR. BOYD: Ms. Gottlieb.

MS. GOTTLIEB: No.

MR. BOYD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: No.

MR. BOYD: We have three yea's and three nay's Mr. Chair.
CHAIRMAN DEMIENTIEFF: Motion fails. At this time I think, you know, we still have a lot of work to do. I think this is a work in progress. You know, we have different agencies and we have to do a lot of work internally. In terms of accepting the Special Action request, the advice coming from the Chair is that we entertain a motion as opposed to the first part of the Special Action request, the alternative approach in the interim, which will allow us, while we're doing more work to line up our sportfishing season with the subsistence season. And I think that might be the way we might be able to send a good message to the subsistence users and at the same time give us some room, the freedom and room to work out a long-term solution.

Yes.

MR. CESAR: Mr. Chairman, you know, I'm a little concerned about the process and the outcome of the process we just went through. We voted not to support the Staff Committee recommendation. Does that, in fact, require another vote because if we don't support the Staff Committee recommendation, doesn't it hold that we supported the proponent and it's passed?

CHAIRMAN DEMIENTIEFF: No, we don't have an action. We have everything before us at this time. We have the Special Action request in front of us at this time.

MR. CESAR: Well, maybe we should have turned it around and made a motion to support the Special Action request and we wouldn't be in this predicament.

MR. EDWARDS: We'd still have three to three.

MR. CESAR: Yeah, that's true. So having heard that, I would like to make a motion to support part two of the proponents request which would, as I understand it, align the sportfishing window to the subsistence window in waters that we have jurisdiction over.

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

MS. GOTTLIEB: Second.

CHAIRMAN DEMIENTIEFF: Well, with regard to what my interests are, I think intend to support the motion
for all the same reasons that I spoke for with regard to the prior motion, why I intended not to support the prior motion.

I do think that this is a good interim step. It sends all the right signals. I think it's a good action to take. And it gives us the freedom and the room to build a long-term solution, you know, to this issue. And we've had to due diligence in the past on other issues and we worked it out. In many cases it took us a few years to do it but we just stayed in there and did diligence and worked out long-term solutions to different issues. And I think this is one of the issues that can we worked out in a long-term solution and I think we can do that fairly quickly.

MS. GOTTLIEB: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Judy.

MS. GOTTLIEB: I'm glad Mr. Cesar used the term aligned so that my understanding would be on this motion if there were a decision on Thursday that subsistence fishing is open 24 hours, seven days a week, then likewise that would apply to the guided industry.

MR. CESAR: That would be my intent. I intend to support my motion. I don't know why but I -- for all the same reasons I went through before. And I think for practically speaking it will not have as big an impact because we're reaching the cusp of the run and it will be on the downhill slide.

MR. EDWARDS: Mr. Chairman.

CHAIRMAN DEMIENTIEFF: Yes.

MR. EDWARDS: Earlier on when Mr. Niles was talking about sort of the optics of people sitting on the bank while others fished, I would certainly agree if I was one of those who was sitting on the bank and a bunch of anglers came by me in a boat, that I'd either want to throw rocks at them or question their parenthood or something. I wouldn't like it one bit.

But, you know, nevertheless, the issue that we're faced with is while there's certainly an issue of optics the reality is, is that we have agreed that we do not have a conservation issue here. We have agreed that subsistence needs are being met. And what we are now about
to do is, in fact, restrict other uses when there is no good reason to do so.

I'm also a little concerned that we just refer sort of to the sportfishers as simply the guide business when there are a lot of people who are not guided who are going up there on their own to utilize that. So I think it's broader than just sort of this as we kind of quickly referred to this commercialization because there is others.

So for that purpose I will vote against the motion.

CHAIRMAN DEMIENTIEFF: Further discussion.

MR. CESAR: Question.

CHAIRMAN DEMIENTIEFF: Question's been called for. Tom, do you want to take roll.

MR. BOYD: Yes, Mr. Chair. Mr. Cesar.

MR. CESAR: Yes.

MR. BOYD: Mr. Terland.

MR. TERLAND: Yes.

MR. BOYD: Mr. Edwards.

MR. EDWARDS: Nope.

MR. BOYD: Dr. Kessler.

MS. KESSLER: No.

MR. BOYD: Ms. Gottlieb.

MS. GOTTLIEB: Yes.

MR. BOYD: Mr. Chair.

CHAIRMAN DEMIENTIEFF: Yes.

MR. BOYD: Four yea's, two nay's, Mr. Chair.

CHAIRMAN DEMIENTIEFF: Motion carries. Is there no further business -- we are adjourned.
(END OF PROCEEDINGS)
TRANSCRIBER'S CERTIFICATE

I, Salena A. Hile, hereby certify that the foregoing pages numbered 02 through 68 are a true, accurate, and complete transcript of proceedings transcribed by me from a copy of an electronic sound recording to the best of my knowledge and ability.

DATE

SALENA A. HILE