MEMBERS PRESENT:

Tim Towarak, Chairman
Gene Virden, Bureau of Indian Affairs
Larry Bell, U.S. Fish and Wildlife Service
Steve Kessler, U.S. Forest Service
Deb Cooper, National Park Service
Bud Cribley, Bureau of Land Management
Craig Fleener, State of Alaska Representative
Keith Goltz, Solicitor's Office

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PROCEEDINGS

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(On record)

CHAIRMAN TOWARAK: Good afternoon. I'm going to call this work session to order.

OPERATOR: Excuse me. This is the operator. Do you want to join the main conference live?

DR. WHEELER: Hey, Sherry, we're ready to get the meeting started.

OPERATOR: (Indiscernible - away from microphone).

CHAIRMAN TOWARAK: Thank you. I will now call this work session to order. The first item on the agenda is introductions and I'm going to start with our complete right here. We've got a lot of fill-ins, so I'm going to ask everyone to introduce themselves and who they represent.

MS. COOPER: My name is Deb Cooper, associate regional director for the National Park Service, Alaska Region.

MR. KESSLER: Hi, my name is Steve Kessler. I'm the subsistence program leader for the Forest Service for the Alaska Region and I'm representing regional forester Beth Pendleton, who hopefully will be here a little bit later. Thank you.

MR. BELL: Good afternoon. Larry Bell. I'm the assistant regional director for external affairs for U.S. Fish and Wildlife Service in the regional office in Anchorage, here today representing our regional director Geoff Haskett.

DR. WHEELER: Continuing the tradition of actings, I'm Polly Wheeler. I'm here acting for Pete Probasco, who is the ARD for Subsistence.

CHAIRMAN TOWARAK: I'm Tim Towarak. I'm from Unalakleet. I'm the Board Chair.

MR. GOLTZ: My name is Keith Goltz. I'm here representing the Solicitor's Office.
MR. VIRDEN: Hi. My name is Gene Virden. I'm the BIA regional director, Alaska.

MR. CRIBLEY: I'm Bud Cribley. I'm state director for the Bureau of Land Management here in Alaska.

DR. WHEELER: Mr. Chair. I think I'll have the Staff introduce themselves as and if they come up to the table. Mr. Chair.

CHAIRMAN TOWARAK: You're first.

MR. ARDIZZONE: Good afternoon. I'm Chuck Ardizzone. I'm the acting deputy ARD for Subsistence.

CHAIRMAN TOWARAK: Thank you for those introductions. As you can see, we've got a lot of people filling in. Perhaps you could give us an update on Pete Probasco.

DR. WHEELER: For those of you that may not have heard, Pete had an accident out at his cabin in Lake Louise this past weekend and he fell off a ladder, which was on scaffolding, and he fell pretty far, so he separated his pelvis and he's in the hospital right now and expected to -- he was supposed to have had surgery today, but we haven't heard from his wife, so we don't know really what the status of that is. We will keep people informed as we know. At this point, just because of the amount of pain and everything else he's enduring, he's requested that there not be visitors. We will let you know as soon as we know anything and we'll keep you posted. It's probably going to be a fairly lengthy recovery, so we'll see. Pete's tough, but even this kind of brought him down, I think.

CHAIRMAN TOWARAK: Thank you. I was remiss in introducing the State people. Would you introduce yourselves, please.

MR. FLEENER: Thank you very much, Mr. Chair. I'm Craig Fleener, the deputy commissioner for the Alaska Department of Fish and Game. We have with us Jennifer Yuhas, here to my right, one of our team members, and George Pappas. I don't think there's anybody else from the State.

Thank you, Mr. Chair.
CHAIRMAN TOWARAK: I apologize for skipping over you. The next item on the agenda is to review the agenda. Are there any agenda topics that anyone would like -- the Board would like to present at this time? Otherwise I'd entertain a motion to approve the motion -- approve the agenda. Go ahead.

DR. WHEELER: Mr. Chair. There's been a request that there be an update on the -- there's a wildlife special action that the Board will be considering probably towards the end of this week dealing with Kenai moose, potential changes to the hunting regulations for moose in Unit 7 and 15, and we could put that under other business if the Board would be so inclined.

CHAIRMAN TOWARAK: Are there any objections.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, we will include the review under other business in item 9 on Kenai.

MR. BELL: Mr. Chairman. Move to approve the agenda as amended with the special action request on Kenai moose Unit 7 and 15 to be added to other business.

MR. KESSLER: Second.

CHAIRMAN TOWARAK: You heard the motion and a second. Any discussion.

(No comments)

CHAIRMAN TOWARAK: Not hearing any. All those in favor of the motion say aye.

IN UNISON: Aye.

CHAIRMAN TOWARAK: Any opposed say nay.

(No opposing votes)

CHAIRMAN TOWARAK: Motion passes unanimously. Item number 3 is information exchange.

DR. WHEELER: I don't have any other information except for the fact that Pete's out, I'm in
as of Saturday, so we'll be reviewing -- I'll be meeting
with Staff this week after we get done with Federal
Subsistence Board meeting to kind of develop a plan for
the next three months or so. So we will certainly keep
you, Mr. Chair, and the rest of the Board apprised as to
how we're moving forward, recognizing that we've lost
some key Staff in the past couple of months, so we're
going to move forward as best we can, Mr. Chair. There
may be questions that come up and you all will be the
first to know.

CHAIRMAN TOWARAK: Thank you. Any
information exchange from the rest of the Board.

(No comments)

CHAIRMAN TOWARAK: Not hearing any, then
we will proceed to public testimony, opportunity for non-
agenda items. Go ahead.

MR. FLEENER: This is actually part of
information exchange. I just wanted to notify the Board
that I will be the Department's permanent representative
to the Federal Subsistence Board. I really look forward
to working with you guys and it's interesting to be back
working with the Federal Subsistence Board from this
perspective and at some point in time I'd like to sit
down with you folks and others who are involved in the
Federal Subsistence Board and talk about my experiences
as a RAC chair and on the RAC for so many years and what
I'm doing in this position and how we can keep and build
a good and better relationship and continue going that
direction.

As many of you know, I have a distinct
interest in hunting and fishing in Alaska. having grown
up in Fort Yukon and serving in a capacity similar to
this one and working with subsistence for so many years
and so I really am excited and a little bit anxious.
It's definitely a different eat for me. The last time I
participated in an official capacity with the Federal
Subsistence Board I didn't need reading glasses and now
I do, so times have definitely changed for me. One thing
that I do relish is the opportunity to work together with
so many people who have a lot of similar interests.

Thank you for the opportunity to work
with you.

CHAIRMAN TOWARAK: Thank you and welcome.
Item number 4 then is public testimony opportunity for non-agenda items. Is there anyone from the public that
would like to address the Board on any other topics that we don't have on our agenda. For those in attendance we
have -- the rest of the agenda includes a Board discussion on nonrural determination for the community of Saxman. We have a work session tomorrow to get an update from tribal consultation work group, we have an update of wildlife hunting closures and then we have a review of threshold analysis of the request for reconsideration of the Ninilchik customary and traditional use determination and then the new item on Kenai.

If we don't have any testimony from the public, we will then move on to item 5, which is the last topic for today.

I will turn the floor over to Polly.

DR. WHEELER: Thank you, Mr. Chair.
Before Pete went on his extended sick leave he had asked me to address the rural determination issue for the Board and I agreed to do that, so now I'm sitting wearing two hats, I guess, but so be it. I do have a one-page, both sides handout that already needs corrections, so I will walk you through that.

I know that the Board had a meeting on April 6 specifically as sort of a rural determinations 101 and this continues that discussion because there still seems to be -- it's a complicated issue and confusing issue, so I'll do my best to clarify rather than get people more confused, but by all means if you have questions as we move through this than please ask them.

There's really two main components to the rural determinations process. There's basically methods and there's communities. The methods part of the rural determinations process is in subpart B of the regulations, which means that only the Secretaries of the Interior and Agriculture can change those regulations. The Board can make recommendations to the Secretaries, but only the Secretaries can decide to change the methods by which the Board approaches rural determinations.

In your packet there's three items. There's a lot more than three items, but there's three items having to do with rural. The first item is the actual regulations, the subpart 100.15 in the rural
determinations process. The next item is the transcript from the last meeting where Saxman was discussed and you may want to bring this up later when you talk about Saxman specifically. The third item is the final rule from May 7, 2007 that is the final rule for rural determinations for the communities based on the last decennial review process.

So I'm just going to speak to the regulations specifically. Again, the methods for dealing with the rural determination process are in subpart B. Again, the Board can make recommendations to change this part of the regulations, but only the Secretaries can actually make those changes. It's similar to -- right now there's a final rule for the last year. One of the recommendation that came out of the secretarial review was to expand the Federal Subsistence Board to include two new members representing rural Alaska subsistence interests. That's in subpart B. That's sort of how the Board is structured.

So the Secretary -- you remember, Mr. Chair, the Board made a recommendation on that final rule what it should look like and that went to the Secretary where, my understanding is, it's now sitting with the Secretary for him to make the final call on that. So those are all those things that the Secretary can do. The Board is delegated the authority to make regulatory changes and also to look at the communities in the rural review process and we'll talk about that in a little bit.

The current regulations -- and, again, this is just a one pager in your packet. It's Section 100.15. It describes the parameters for rural and by that I mean the population parameters, so that is less than 2,500 is considered rural, 2,500 to 7,000 is nonrural or rural depending on community characteristics, and then above 7,000 is presumed nonrural unless it possesses -- unless the community possesses characteristics of a rural nature. So that's in Section 100.15.

The other elements of the rural determination process that are in regulation is general guidelines for the process to be used for evaluating rural status including community or area characteristics to be considered. Also, this section of the regulations also directs the Board that communities or areas shall be considered in the aggregate, meaning they will be lumped together in some way.
The regulations in this section also direct that rural determinations shall be reviewed on a 10-year cycle, that they may be reviewed out of cycle pending special circumstances, and that once a community has changed from rural to nonrural a five-year waiting period must be enacted before the status changes.

Mr. Chair, just as an aside, that's where the community of Saxman is right now. The decision, again, was made in May or was published in May 2007, so the five-year waiting period for the community to get into compliance will end in May of 2012. So while the regulations direct the Board to aggregate communities or areas based on social, economic or political integration, a mechanism for doing so is not in regulation. Rather the Board has a lot of latitude to look at how that's actually done. So that's more in policy not in regulation.

In 2000, the last decennial review, the Board provided specific guidelines for evaluating whether or not communities or areas were integrated and in the handout there's 1, 2 and 3. The questions that the Board looked at or the guidelines that the Board provided at that time were the communities in proximity and road accessible to one another, do they share a common high school attendance area and do 30 percent of the working people commute from one area to another. All three of those criteria were considered in total, so they weren't -- it wasn't just one was considered, they were a package deal.

In 2000, the Federal Board used the following specific community characteristics. Again, to bring you back to the regulation, number 5 of the specific regulation says community or area characteristics shall be considered in evaluating a community s rural or non-rural status. The characteristics may include, but are not limited to use of fish and wildlife, development and diversity of the economy, community infrastructure, transportation and educational institutions.

So they say the Board can include these but they're not limited to these. Again, there's a fair amount of discretion on the Board which some could argue is a good thing to have in regulation. It's good to have some latitude in regulation. On the other hand you could maybe refine things a little bit too.
So in 2000 the Federal Board used economy and when they looked at economy they looked to wage employment, percent unemployment, per capita income, diversity of services, cost of food index and number of stores of defined large national retailers. That was what they looked at, the package of things they looked at under economy.

They looked at community infrastructure, including the cost of electricity, fish and wildlife use, they looked at the variety of species used per household, percentage of households participating in fish and wildlife use, level of average harvest per capita for all subsistence resources combined and level of average harvest per capita of salmon and large land mammals only. They also looked at transportation and educational institutions present in the community or area.

So, Mr. Chair, with that, just general review again. There's methods and there's communities. The methods are in subpart B, that's Secretarial purview not Board purview, but the Board can provide direction. So, for the upcoming decennial review the Board may decide to retain the existing process by following the current regulations, which I just reviewed, so therefore we wouldn't need any regulatory changes.

Alternatively, the Board could recommend to the Secretaries, that would be Interior and Agriculture, to change the process, which would mean changing the regulations. Should the Board opt to change the regulations, it needs to articulate which sections it proposes to change and why it wants to change these regulations. Again, this is a Board recommendation, which would then go to the Secretary.

The process for recommending changes to the existing regulations for rural determinations is anticipated to take approximately two years and I've outlined the steps or we've outlined the steps that we thought might need to be undertaken in order for that change to occur. Then once the regulations are changed, if the Board decides to go down that route, the Board can proceed with the rural determination process under the new regulations.

Mr. Chair, I'm raising this in the context of the Saxman discussion because, as was mentioned at the May meeting, there was some interest in potentially staying the decision on Saxman, and this is
going to be a larger discussion this afternoon. If the
Board opts to go down that road because of the
Secretarial review or whatever else, it may want to look
at changing the regulations also. If the regulations are
changed, we need to know what the time frame would be,
potential time frame would be for changing those
regulations should the Secretaries agree to the changes.

The second part of the rural
determinations, Mr. Chair, is communities and that is
within your purview, within the purview of the Board.
The current determinations for nonrural communities or
areas are included in regulation at 100.23. The Board
can recommend two options for engaging in the rural view
on this end or at least two options, I guess. Publishing
existing findings for nonrural communities and request
proposed changes, much like the Board does with wildlife
or fisheries regulations. Put a call out there for
changes to the regulations or proposed changes to the
regulations and see what the Board gets back.
Alternatively, the Board can direct the Staff to do
advance Staff work to examine certain communities, which
was the route that was chosen at the last -- during the
last decennial review.

So hopefully, Mr. Chair, this provided
some clarity, not adding further complication. But, if
you want, I can take some questions if you have them or
you can move into your discussion of Saxman.

Mr. Chair.

CHAIRMAN TOWARAK: Are there any
questions from the Board regarding the explanation of
where we're at with rural and nonrural determination? Go
ahead, Mr. Kessler.

MR. KESSLER: Polly, just to be sure
we're clear here, the process that you laid out has
aggregation first and then the determination of rural or
nonrural. Is that how it operates? So you aggregate
communities as is shown about two-thirds down the page
and then once you aggregate then you figure out who
actually is rural and nonrural, is that right?

DR. WHEELER: That's correct.

CHAIRMAN TOWARAK: Are there any comments
from anyone else.
MR. BELL: Mr. Chairman. Larry Bell, Fish and Wildlife Service. Not a comment or question to Polly, but maybe an effort to get the discussion going. The original motion to have this put on the agenda to begin discussion about Saxman arose from Regional Director Geoff Haskett at a previous meeting, so I feel it's maybe a little bit incumbent on Fish and Wildlife Service to maybe lay the issue out a little bit and get some discussion going so the Board might determine what, if anything, it wants to do next.

I'm certain in making that recommendation to look at Saxman that Mr. Haskett was not in any way offering that the Board had failed to do its diligent work in making the previous determination and that we're certain that the work done by that Board appropriately followed the criteria laid out before it and made a rational decision and one that I think was well-founded on fact using the criteria.

So I don't think that was the effort, but I think the effort was to see if there are other opportunities for Saxman as there continue to be requests both from the Regional Advisory Committees and members of that community and even recent visits by Regional Director Haskett to the area to perhaps see what, if any, options might exist.

So, I think as I look at that, Mr. Chairman, a couple things come to mind. One is, of course, if you continue to apply the same criteria, you can expect to get the same results, but a lot has changed in the five-year waiting period in which Saxman has been waiting to implement the nonrural status that they were last given. Not the least of which is the Secretaries' direction to the Federal Subsistence Board to begin considering and adopting processes that might include Regional Advisory Council input and information along those lines.

I've tried also to analyze this from an out-of-cycle perspective. I think if we look at it as an out-of-cycle request, at least in my opinion, it makes no sense only because of the timing, if nothing else, of trying to complete an out-of-cycle request in the midst of trying to begin the new review under the 2010 census results. By the time that information rolls in, it would approximately coincide with the time it would take to do an out-of-cycle review and, quite frankly, I'm not certain that we could meet a threshold for justifying an
out-of-cycle review.

So, with that, Mr. Chair, maybe we can get some discussion from other Board members and then I'll just continue to build and add on that and see where the Board ends with the end of this discussion. Also recalling that, of course, we're not here to make a decision on this today. Simply begin a discussion and if there needs to be a later decision, we could perhaps address that at a different meeting after public notification.

Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Thank you. Polly, you might want to review the process that we would need to use in order -- if the Board wanted to do a stay on the Saxman decision.

DR. WHEELER: Thank you, Mr. Chair. If the Board were to go down that road, that would be -- there would be a directed final rule that would have to be developed, but that would be a regulatory decision, Mr. Chair. Because this is a work session and under the Board's own guidelines the Board can't take regulatory action unless in very specific circumstances. So that would be a regulatory decision that would need to occur in a public meeting.

So should the Board opt to think that's the route they're going to want to go down, we would need to have a publicly noticed public meeting or a properly noticed public meeting and that could probably occur via teleconference. We could have an open public line, that sort of thing. So if the Board chooses to make a regulatory decision, it needs to occur in a public meeting.

CHAIRMAN TOWARAK: Are there any comments or questions from other Board members regarding the process?

(No comments)

CHAIRMAN TOWARAK: I've got a question. I've read so much material here in the last couple of weeks. Did I read somewhere where the State recognizes Saxman as a rural community? Go ahead.

MS. PETRIVELLI: Mr. Chair. I'm Pat
Petrivelli, BIA anthropologist. Before the Federal government took over management and the State did make rural determinations, the State did recognize Saxman as a rural community and the Federal Board did consider -- looked at the State determinations when they were making their decisions in '91 and I think it was part of the record for the Federal Board.

CHAIRMAN TOWARAK: As far as you know, that's the current status?

MS. PETRIVELLI: The State doesn't -- with their current regulations, all subsistence users, it doesn't matter if they're rural or nonrural, so they don't make rural determinations anymore. It was just when they used to make rural determination they did Saxman as rural, but they don't do rural determinations anymore.

CHAIRMAN TOWARAK: Right. I failed to remember that. Thank you. Mr. Cribley.

MR. CRIBLEY: Mr. Chairman. This issue came up at our last meeting. We had some discussion at that meeting and there seemed to be interest on the part of the Board to look at this particular situation in the continuing concern on the part of the community of Saxman about our reconsideration of the determination that had been made.

We've had some discussions as far as what the Board's options are on how we may deal with the circumstance such as this and I think because the issue has been brought up Fish and Wildlife Service has expressed an interest in looking at this particular issue.

I would recommend that we have kind of -- well, I hate to open this up, open this can of worms up so to speak, and have additional review and an additional public hearing on this to determine if we want to make a decision to either uphold the determination that was made or to pick a different alternative on how to deal with the Saxman's rural determination issue. I think the issue is worthy of discussion.

It was not a part of the original determination to understand the full thinking and the full -- and was not privy to the full Board discussion of why they did decide to make it a part of or included as
a part of the community of Ketchikan, but I think it
would be worthwhile based on our current situation, the
current direction that the Secretary is going right now,
to look at this again and make sure this is the direction
that we want to go or at least to allow the Board to
consider that with the Board members that we have in
place right now and make a recommendation at that time.

CHAIRMAN TOWARAK: Thank you, Mr. Cribley. I feel it's an opportunity for us to review it.
Would we have another opportunity after the 2010 census numbers come out?

DR. WHEELER: Mr. Chair. There's two processes at play here and I know we keep using review
and is it the subsistence review or the decennial review. There's two processes. One is the stay in the Saxman
decision and, as I heard it earlier or as Larry, I think, articulated, staying the Saxman decision in light of the
issues that have come out through the course of the Secretarial review.

But separate from but related to that is the decennial review based on the 2010 census. As I had
gone over earlier, sort of explained what's in regulation. If the Board chose to recommend changes to
the regulation, that could be factored in in a review of Saxman down the road, but they are two different but
related pieces. I don't know if Keith wants to jump in here and clarify what I've just obfuscated.

MR. GOLTZ: I don't know if I can. That's not the job of attorneys, to be clear, is it?

(Laughter)

MR. GOLTZ: I think what Larry Bell was saying is that if it were simply a matter of decennial reviewing, it wouldn't make sense to do it now because
we're so close to a whole new cycle. But if we're looking at what the Secretary has asked us to do, which
might result in a change in our criteria, then it makes a lot of sense not to whipsaw these people, to stay our
existing decision, and come out with some finality after we determined what, if any, changes should be made to our
process. That's the way I hear it.

MR. BELL: Mr. Chairman. I disagree, I think he did provide clarification. Oddly enough.
MR. BELL: Here's what I look at. We have a determination that's due to take effect in May of 2012 and during that same period of time we need to respond to Secretarial directive to look at the process for determining rural/nonrural, to give consideration to including Regional Advisory Council recommendations. So, in an effort to keep from having a former decision take place in 2010, it might be prudent to just hold that decision, see what the new Secretarial process looks like under the directive and see if the standard would apply and allow us to arrive at a different decision under that guidance.

That said, there's probably a different group of people that would be included in that because there are a number of communities that are due to take -- their nonrural status would become effective in 2012. So we might want to look at that collection rather than just the single issue relative to Saxman. Saxman is what we're here to talk about today and we can determine, if we choose, how to apply the same standards across the board to the other communities.

I think it's real important that -- it's just the timing of it brings us to a decision point where we can either implement in 2012 and take the nonrural determination with some risk that shortly thereafter it could be a different decision coupled with the bigger review based on the 2010 census that could lead yet to another change.

So I think it behooves the Board to give some consideration to minimizing the effort put forward on Staff to do this variety of administrative actions, the effort put forward on the Board to take on a variety of administrative actions that could all lead to different determinations and back and forth and back and forth.

So I just think that maybe giving some serious thought to how we might limit those number of actions, comply with the Secretaries order, look hard at the criteria used with consideration of Regional Advisory Council and those determinations and then make one decision seems to me to be the prudent course of action.

Thank you.
MR. GOLTZ: Well, let me just reaffirm one point. Saxman is the driver here today, but all communities have to be treated equally under the same criteria. So if we decide to change course, we decide to change course not just with Saxman but with the others that are listed on that sheet.

As long as I have the floor, let me just add an historical footnote as how we got here. I don't know if anybody else is left in the room or if I'm the only one who was on the original committee. When we put these rules together initially, we took the State's rules and adopted them as closely as we could to the Federal statute because we knew that in six months the State would be taking us back and that six months has now passed. We have to apply Federal criteria to the facts that are in front of us now. We can't be bound by what the State had done in the past.

CHAIRMAN TOWARAK: Mr. Kessler.

MR. KESSLER: Mr. Chairman. On our agenda we had public testimony opportunity for non-agenda items and this is an agenda item and I notice that we have some representation here from Saxman and I was wondering if we're going to have the opportunity for some public testimony so we can hear directly from them.

CHAIRMAN TOWARAK: Yes, we will have an opportunity for the public to testify. Go ahead, Mr. Virden.

MR. VIRDEN: There is a lot of change going on right now and to me it makes sense to stay this decision for a period of time. One of the big things that we're waiting for is the new policy of consulting with tribes to come out from the Department of Interior. I'm under the understanding that that really didn't happen back in December of 2007 nor in July of 2008. That's just another reason, I think, that's important to hold this for a while and not flip-flop like was mentioned earlier.

Thank you.

CHAIRMAN TOWARAK: Thank you. What would be the proper process for us to go through to do that?

DR. WHEELER: Mr. Chair. In terms of process, two things. One is -- again, this is a work
1 session, so under the Board's own guidelines, if the
2 Board were to -- if the Board is interested, what the
3 Board can do is decide to have a public meeting to
4 address this specific issue. That's not a regulatory
5 action. The Board can take that action at this meeting
6 and that will start the ball rolling. That's how it
7 would occur, then we'd publicly notice it. If the
8 meeting were to happen in person or via teleconference,
9 we can decide that down the road. We don't need to
to
decide that here. So that's one piece of it.

de

12                 The other piece of it is, because there
13 are members of the public that are here that probably
14 want to testify to it, the Board can use this opportunity
15 as continuing to gather information. This is a work
16 session. The purpose of a work session is to gather
17 information, so it's completely appropriate to ask for
18 public comments. I don't know if we've got anybody
19 online, but there's probably people in the audience that
20 want to do that. So you could gather information. That
21 information can be used when you have a public -- if you
22 opt to go down that road, if you have a public meeting,
23 you can use that previously gathered information to help
24 you in your decision-making.

25                 Mr. Chair.

26                 CHAIRMAN TOWARAK: Thank you, Polly. I
27 think what we'll do now then is to open the floor for
28 public testimony, but before we do that I want everyone
29 to know that I received letters from the Skagway
30 Traditional Council, a letter from the Alaska Federation
31 of Natives, a letter from the Hydaburg Cooperative
32 Association and a letter from the Organized Village of
33 Saxman in regards to Saxman's specific situation. I
34 assume the rest of the Board have received all of this.

35                 DR. WHEELER: Yes, Mr. Chair, those
36 letters are all in the blue envelope in the right-hand
37 pocket. Mr. Chair.

38                 CHAIRMAN TOWARAK: In a nutshell, each
39 one of these organizations have expressed an interest in
40 having the Federal Subsistence Board review the 2007
41 decision, which essentially is asking us to put a stay on
42 the original decision. With that said, I'm going to open
43 the floor for public testimony. If you would come up to
44 the mic and introduce yourself. You have discretion on
45 time. I don't think we're pressed for time today, but
46 you're welcome to come up and address the Board.
MR. WALLACE: Thank you, Mr. Chair. Lee
Wallace from the Organized Village of Saxman. I would
like to see if there is anybody online, especially from
Saxman. I know there's time constraints for individuals
that may have logged on and may want to give some
comment. I would check and see if there is anybody
online.

OPERATOR: Take questions from the phone?

DR. WHEELER: Yes, please, Sherry.

OPERATOR: Thank you. To ask a question
on the phone, please press star then 1. Please unmute
your phone and record your name when prompted. To
withdraw your request, press star 2. Once again, on the
phone, if you would like to ask a question, please press
star 1. At this time, we show no questions.

DR. WHEELER: Sherry, how many people do
we have online?

OPERATOR: You have eight parties online.
We do have one question coming through. One moment.

(Baby crying in background)

CHAIRMAN TOWARAK: We won't answer that
question.

(Laughter)

DR. WHEELER: Go ahead.

OPERATOR: Our question comes from Bert
Adams. Your line is open.

MR. ADAMS: Good afternoon folks, members
of the Board. I'm just here to listen in and to gather
information, but I just need to let you know that the
Southeast Regional Advisory Council has always supported
Saxman in their effort to retain their rural status. So
I can see we're going to be able to address this a little
bit later on and I just want you to know that I'm here to
listen in and to support their efforts. So just short
and sweet.

Thank you very much for allowing me to
say a few words.
CHAIRMAN TOWARAK: Thank you, Bert.

OPERATOR: We show no further questions.

CHAIRMAN TOWARAK: Go ahead, Mr. Wallace.

MR. WALLACE: Thank you, Mr. Chair and
Board members and acting Board members filling in. I've
been involved with the FSB process for a number of years,
since probably going back to 2006. I sat on the
Southeast RAC with Chairman Bert Adams and I've seen a
number of times in a number of meetings where you have
acting individuals sitting in, so I'm really not sure if
the process is a great one. I don't know if all that
information is shared and sometimes individuals have
different thought processes.

But here we are today at this work
session, Mr. Chair, and I think the rest of the Board
members, the official Board members I know I sent emails
out late Friday expressing my concern about what's
transpired.

I was able to participate at the May 4th
work session with a little bit of difficulty. The
individual sending out the announcement of the work
session said it's a listen only and I really disagreed
with that. We all know it's supposed to be a public
process, public input, nation to nation listening to your
tribal governments throughout Alaska because, really,
that's your real participants, the official participants
of the way of life.

Since 2006 I've been on a roller coaster
with the Saxman issue, whether we're going to be rural
status or lose our rural status. There's been some
meetings happening and some different ideas came out.
Most recently was the May 4th meeting. I listened
online, I gave public comment and testimony, I read the
transcripts.

Keith here said, yeah, you guys can't
make decisions at a work session like today, but it would
have to be at the July public meeting. Then on June 27th
I received an email again announcing of another work
session. When I read the transcripts of the May 4th
transcripts, you guys are announcing it's going to be a
public meeting and that's why I'm here today. Again,
Saxman, unlike -- just like any other small rural
village, we don't have enormous funds to travel, yet
alone to bring a class action suit to the Federal
government and the FSB system.

So I was sitting back here when you guys
start your work session and I wanted some input, but I
was patiently waiting. So I came up here. The village
council voted to send me up to testify at a public
meeting. I hear Polly, Dr. Polly, saying, well, official
public meeting. That's what I intended this to be, but
here we are at a work session.

So when from May 4th to June 27th did it
change from a public meeting to a work session again? I
wasn't given knowledge of that prior to having our tribe
book a flight up here, thinking I was going to be at a
public meeting.

Part of your agenda at the work session
also was to say let's limit our executive sessions. Once
you have executive sessions you're going to tell the
public what they're about and once you come out of
executive session you're going to give a summary. So I'm
taking that possibly that decision was made in executive
session and that was the public announcement, let's have
another work session on July 11th and 12th.

Granted, it's a very important decision
for Saxman. It's been on our agenda every since that
December ruling many years ago. I have to tell you folks
that that was probably the lowest part of my political
life, serving as president for our tribal people for nine
years. It was a hard trip home. When I got back home,
the people from Saxman met me. They met me with a
regalia and song. It was to lift my heart. It's been a
burden.

We're fighting for a way of life. You
know, decisions were made in D.C., decisions are made in
Anchorage, and I thank Pete for coming to Saxman. As I
did invite the past Board, let's come down to Saxman,
let's show you what Saxman is all about because a lot of
times individuals make decisions and they haven't even
been to a community.

One thing I want to briefly talk about,
what's changed since the decision. Some of the
regulations call for are you socially and economically
attached to this larger community of Ketchikan. One of
the criteria you folks used was, again, integration.
Yes, all of our students go to Ketchikan, but my question
to you and all of you is are we really integrated into
the school system. My answer is positively no.

We recently received 2010 data from our
neighboring tribe KIC and they're working directly with
the Ketchikan School District. For the 2010 school year
and it varies from year to year, but from 2010 we had a
66 percent drop-out rate. When I see a 66 percent drop-
out rate, I do not see integration. In some years it's
even larger, some years it's better, but on the whole
it's a large drop-out rate. To me, that says we're not
integrated with their school system.

So I would ask the Board when we're doing
this whole review period, the stats show that we're
really integrated. Merely just because we attend school
to a larger community, that's not integration.

Back in 2006, a year long process, the
tribe received an ANA grant to do strategic planning.
From that whole year of planning with help from the city
of Saxman and Cape Fox Corporation and interested
citizens, elders and youth of the community -- we knew
that drop-out rate was high with our students going into
Ketchikan.

One thought process to combat that would
be to have our own school in Saxman. So what we've
proposed throughout that year-long discussion period in
the community was to plan and a goal to have a charter
school in Saxman, K through 12. With the hopes of
integrating the Tlingit, the Haida, the Tsimshian
language, Native arts and language, sciences, math into
the system where we could have a higher success rate for
our children. We're currently not getting that now in
Ketchikan.

I think a lot of you would look at the
urban centers throughout Alaska and you'd see the same
issue of Alaska Natives, American Indians coming into the
urban center and not having a good success rate. Largely
because I believe it's a learning style difference. If
you guys consider looking at the different criteria, I'd
like you to examine that drop-out rate and say that's not
integration at all.

Again, with the Secretarial review
period, definitely one of the big bullet points was lack
of deference that was given to the regional RACs and
definitely there was no deference when Bert Adams and the
Southeast RAC gave their recommendation to the past Board saying, you know, we're with keeping Saxman rural and not integration of Saxman to Ketchikan.

Simply, if you look at the first -- one of the criterias is population threshold. Mr. Chair, you were asking about rural status from the State. Definitely Keith could tell you there's all different forms of the definition of rural and we all went through that years down the road. The basic threshold, we're a village of 400, mainly Tlingits, Haidas and Tsimshians and American Indians in Saxman, 70 percent. So we're the majority and our way of life is the majority of how we conduct our lives.

Why is rural status so important to us. When it really kicks in, when it's really important is when stocks are low and you have priority over nonrural citizens. A lot of our citizens who are hunters they have that advantage of the large deer population on POW and they were able to go to POW prior to all of the Ketchikan and all the sport hunters who come up to Alaska from the Lower 48 and other parts of Alaska to hunt deer, so they do have that advantage and that's very important to have that week long advantage to get over there before there's a whole population of deer hunters.

I guess for individuals who live up here in the Anchorage area and the Kenai Peninsula you see what happens when they open up the rivers for salmon fishing. I mean that's kind of the picture you get from deer hunters in POW. When I see those pictures of all the individuals lined up against the river banks fishing for salmon, that's a picture I see in POW and that's what helps us when we have that advantage of having priority to go receive our fish and game.

Again, you look at the fish and game and wildlife that's taken, the past, it's in the history. We have a larger than average take than say our urban area. So we're much like any other village in Alaska of 400 people. Not nearly approaching 2,500 or 7,000 or 11,000.

Back when Saxman was founded, it was really founded to give the children an education. At the early history of Saxman there was a school for all grades K through 12. The school building still stands in Saxman and yet I think it was basically for funding when Ketchikan moved in and Ketchikan got populated and there was a road built. Push comes to shove, the funding of
the school went away and they said, well, the school in Ketchikan is right there, so that's where everybody had to go to school. I think with our strategic planning we want to change that and, again, have our better success rate for our children.

So there are some of the things you want to look at. I guess if it wasn't really for Alaska Natives in Alaska there wouldn't be no Title VIII. There would be really no Title VIII if there wasn't Alaska Natives.

I think, again, you look at population thresholds and population in general. I think when you look at population you should be looking at just mere numbers. What happened is individuals got involved from different agencies and let's put all this different criteria in there. Really, Title VIII was there to assist. What I see with the different criteria and the regulations it's made it harder for villages and citizens of villages to go out and conduct their way of life.

So I guess in closing I would say, yes -- first and foremost I would like to see the reversal of the bad decision, of the broken decision back in 2006, 2007, but if that can't happen then definitely I'm in favor of a delay. Again, there was mention of Obama giving his directive to all his secretaries to come up with a tribal consultation policies, so I question the policies and the consultation process that was there years ago when these regulations were formed.

I do see there was like 56 different villages were received comments from, but that's only 56 and there's a whole lot more villages than 56 in the state of Alaska. Maybe at that point in time back in the '90s when it was conducted maybe there wasn't that real good effort to have proper consultation and proper input, so that led to the regulations that you see now. Well, let's throw this criteria here and make it a little harder for everybody to participate.

So I thank you for your time and I do hope that the Board members will consider the regulation changes are a hold or a delay in the Saxman 2012 deadline.

Gunalcheesh. Howa.

CHAIRMAN TOWARAK: Thank you, Mr.
Wallace. Are there any questions of Mr. Wallace from the Board? I wanted to ask you on the 66 percent drop out, is that K through 12 or just high school?

MR. WALLACE: The 66 percent is basically -- the big measuring point for going through a school system is high school graduation, so it is 66 percent for 2010. I'll give you another one. Years ago when my son was going through graduation some time ago, there was 11 boys that started kindergarten with him. Out of that class there was only two males that finished in that year. So sometime between junior high and high school that's where you see the drop-out rates most typically.

MR. BELL: Mr. Chairman. Larry Bell, Fish and Wildlife Service. I just want to make sure -- first of all I want to thank you for coming today and for your testimony and remind you that things that we hear today certainly can be used as we decide or whatever we decide in going forward. So certainly your time here has not been wasted. I saw the Board listening very attentively. Anything that you've told us can be used as we proceed to make any decisions relative to this matter, so thank you for offering that and for sharing with the Board your wisdom on these matters.

I want to make sure though that I heard you correctly in saying that you would support some kind of a stay, but your preference would be for a complete reversal of the 2007 decision. Did I understand that correctly, sir?

MR. WALLACE: Yes, you did. Again, after the secretarial announcement back in 2009 AFN, he said the system is broken and I at that time was, like any other Alaska Native, was overjoyed with that because we believe it has been broken, is broken. It's in slow repair. Most of us tribal citizens would say the system to be repaired is very slow. There's been some small changes in short times. Definitely we have a nice new Chairman here and definitely there is some new members that weren't there years ago.

The upcoming two rural seats to sit at your Board, that's a plus. I've given input that if those are rural seats, I'd like to see them Alaskan Native, American Indian. Again, individuals that could participate in Federal Subsistence Board priority status.
But, yes, you did hear me correctly.

MR. BELL: Thank you. Then in considering perhaps a stay, if that's a direction the Board chose to go, have you given any thought to what length that stay might take place in, the duration of a stay?

MR. WALLACE: I haven't really thought of that too much, but I know, again, listening to the May 4th discussion, basically again there's the May 2012 deadline for us to lose our rural status. If we do hit the 2012 deadline and we end up losing our rural status, it's just going to be one of the worst decisions that were ever made. I think you'll end up making outlaws of law-abiding citizens because they're going to continue their way of life. I can't really say that for sure, but I think genetically you're just going to do what's been done for hundreds and thousands of years. You just may see civil disobedience. I wouldn't want to see that.

As far as timelines, you know, different reviews are happening in the system. Southeast RACs charged to do a review and so that's underway and everything takes time. Just like today's meeting. I thought I was coming up to a public meeting, so yet we're again delayed again to make some other decision at a public meeting again.

One of the letters I sent to Tim and to the Board was -- and I did mention again that we're a small, economically-hampered government, Organized Village of Saxman. We operate on small needy funds. We operate on like $67,000 a year and that's to hire a tribal administrator and operate our different programs under the BIA. So one of the letters I referred to the United Nations Decoration of Indigenous People that President Obama signed. That would be our last resort due to lack of funds to take this to court. It would be taking it to a world court. If we end up losing our rural status, you are taking away our way of life by regulations and policy. That's an act of different agencies from the United States government. So, yeah, we would probably seek out help from the United Nations to take this issue to a further level.

We did have an intern last summer selected to go to the United Nations in Geneva and she did some preliminary research and then there was discussion of the United Nations indigenous rights of
people. Lo and behold at the meeting with President Obama last winter in December he did announce that we're going to sign that declaration and, by God, he did it. I think right now as far as Indian country in America and Alaska we have a friend in government, but we don't know how long that's really going to last, if it's going to be there at the next election. So there's the answer for you.

MR. BELL: Thank you very much. I don't have anything further for Mr. Wallace, Mr. Chair, but he did raise a good point I think in talking about this morning's executive session. So, for the record, I'd just clarify that I did attend the executive session this morning and matters discussed were limited to those matters of attorney/client communication and nothing beyond that was made and certainly no decisions were made during that session. So we appreciate you bringing that up, but I assure you that we did discuss only attorney/client communication matters and had nothing to do with any formatting of today's agenda nor changing it to a work session instead of a public meeting. So I appreciate you bringing that up and I'd just offer that as clarification. Again, thank you for coming up and your testimony today.

CHAIRMAN TOWARAK: Okay.

MR. GOLTZ: And I'd like to confirm that too and I apologize if there was any confusion between the public session and a work session, but your time is well spent. Your eloquent testimony now becomes part of the record and, as a matter of law, the Board will consider it when they make their future decisions.

CHAIRMAN TOWARAK: Go ahead, Mr. Virden.

MR. VIRDEN: Lee, you know on the 66 percent drop-out rate, was there any studies done back when -- before the last determination of nonrural from rural? I understand the school part.

MR. WALLACE: Eugene, not to my knowledge, there wasn't anything official. Most recently KIC and their education department started working directly with the Ketchikan School District. To be honest with you, it was really hard getting facts and data from the Ketchikan School District. When the new superintendent came to the area, he made a point to come out to Saxman and visit us and he's been out there a
number of times. So we have a working relationship with him.

Once KIC wasn't getting any data, I just simply made a phone call and an email to the superintendent. I said, you know, you guys need to get some data to KIC and, lo and behold, soon as I picked up the phone and made the email he got the data to them, but it was a dragging of the feet on the part of Ketchikan School District to get him that data. So the data was really not official, just that we knew that there was, like any other area, was a large drop-out rate. Like I say, different years varied, but that's a hard data in 2010, 66 percent.

CHAIRMAN TOWARAK: Go ahead, Mr. Kessler.

MR. KESSLER: Lee, thank you very much for coming here. I think this has been very worthwhile and I know the Forest Service, you've been just an excellent spokesman for Saxman over many years. I do want to apologize for Beth Pendleton not being here, the Regional Forester. She was here this morning. She had a medical emergency, so she asked me to sit in here for her this afternoon. I will do my best to make sure that she hears what you have said and I'll make sure she also gets a direct copy of that transcript because I know that being in Southeast Alaska it's really critical that the Regional Forester has an understanding of the issues with Saxman, a very important consideration there.

The other thing that I don't know if the Regional Forester has had the opportunity to come to Saxman and speak with you directly, but I'll suggest at some point that that happen.

CHAIRMAN TOWARAK: Any further comments.

(No comments)

CHAIRMAN TOWARAK: I'd like to point out too that I appreciate listening to Bert Adams. Ever since I've become Chair we've spent a lot of time deferring our decisions to the Regional Advisory Councils and we will continue to do that and take their advice very seriously in all the decisions that we make.

I also want to reiterate what's been said in here is the executive session this morning was mainly to train the Board on the process that we have available
to us with regards to Saxman. We didn't talk about the
issue of Saxman being rural or nonrural. We talked about
the legal processes that were restricted. Let me tell
you, there's a lot of legal walking that we have to do in
order to make the right decisions. We're trying to be
very careful. The executive session was not that long
this morning, but it was useful to us to help us make the
proper decision.

I too want to state that your testimony
will be very important in our deliberations. I think it
was worthwhile for your tribe to send you up to this
meeting. We're going to discuss this issue a little bit
further to decide what this Board wants to do, whether
we're going to ask for a stay on the decision or whether
or not we're going to let it just go. We're still at
that point.

Everything that I've read it sounds like
there hasn't been too many things changed in Saxman since
2000 compared to 2010 in terms of economic development,
in terms of the reliance of the local population's use of
subsistence foods and so forth. So, in my mind, that's
a fact. I think if we do go further and open up for
another public meeting, hopefully we'll be able to get
people on the telephone to express their opinions to us
with regard to Saxman specifically, with the
understanding that we have to include other communities.
I think this morning we discussed Prudhoe Bay is also in
that and a couple of others that are going to probably be
grouped into the decision with Saxman.

MR. WALLACE: Mr. Chair, if I could.

CHAIRMAN TOWARAK: Sure.

MR. WALLACE: Probably what happened in
Saxman today with the lack of call-in is we recently lost
an elder in the village and they're actually planning
good for this evening and tomorrow for the services
of that elder. So I know, like many other villages, when
you lose an elder, you're losing a lot and this
individual was one of the few individuals that spoke the
Tlingit language and they're a big family in Saxman, so
I would believe that was the lack of possibly individuals
calling in.

Again, from what you just said before me
talking here was that there will be more discussion right
here at the table. If there is another public meeting
involving Saxman's issue, that would be published at
another date. Definitely I would encourage the Board to
move it to that point where there's actually public input
to assist in more comments and testimony.

Thank you.

CHAIRMAN TOWARAK: Thank you. We will
take that advice in determining a date, when it would be
worthwhile. We're going to probably rely a lot on Mr.
Adams, since he's the chair of the Regional Advisory
Council, to give us some direction in determining that if
that's the route that we decide. Mr. Virden.

MR. VIRDEN: Mr. Chair. If there is a
public meeting in the future regarding this issue, does
it have to be held in Anchorage or can we move it to
Juneau or Ketchikan?

CHAIRMAN TOWARAK: I think it's more of
an administrative decision. I know that there's been a
lot of discussion about our budget, but let me take that
question and work with the Staff.

DR. WHEELER: The other thing is, Mr.
Chair, is you can have the meeting by teleconference.
You don't always have to meet physically in the same
room. So if you had a meeting where everybody was on by
teleconference, people could be anywhere and that would
be the beauty of bringing people in.

CHAIRMAN TOWARAK: If it's possible, I
would like to see us meet somewhere closer to Saxman, but
we'll let you and Bert know about that decision after we
formalize our discussions here this afternoon.

I also want to point out that I did
receive your letter regarding today's process and our
Staff are working on an explanation for you. You should
receive it in the mail soon.

Are there any further questions of Mr.
Wallace? Thank you very much for coming and we
appreciate your time. We'll look forward to working with
you and if not on this issue, fisher issues.

MR. WALLACE: Thank you, Mr. Board and
thank you, Board members.

CHAIRMAN TOWARAK: Are there any public
members that would like to testify?

MR. WILLIAMS: Mr. Chairman, members of the Board. My name is Darrel Williams. I am a rural resident and I'm a subsistence user and I've got subsistence permits in my pocket. Some of you know me, some of you don't. Some things have changed since I was here last.

I'd like to say that we support the community of Saxman. I'm from Ninilchik. We've dealt with this issue on and off over the last 12 years. It seems like it keeps coming up. You know, we went as far as even hiring a statistician, Dr. Wolf, to be able to look at the status of what defines the community characteristics when you approach a threshold.

You know, for example, if you have a Coast Guard station that moves in next door, that's really out of the control of the community and I really wonder if this is an issue in the process that maybe the Federal Subsistence Board may have an opportunity to look at.

With that said, I am curious with the Secretary's review. Is there something that the Federal Subsistence Board plans to do about the rural determination process as a regulatory basis or is that really up for discussion?

CHAIRMAN TOWARAK: We've had prior discussions regarding rural determination. We haven't finalized our recommendations for the Secretary yet.

MR. WILLIAMS: Thank you, Mr. Chairman.

CHAIRMAN TOWARAK: Is that it?

MR. WILLIAMS: Yes, sir, that's it. Well, I want to take the opportunity to be able to say this and put it on the record because more than likely when the public meeting comes around I may not be able to attend the meeting that's going to be closer to where they're at being from Ninilchik. The rural determination process has been an ongoing issue for the last 10 years I've been involved in this stuff, taking a look at it.

That's why I wanted to take the opportunity to stand up and make a comment, provide our support to the community, that they should maintain their
rural status and also point out that there's been a lot of work done in the rural status determination over the years. I know we've had some changes. I know the Secretary has done some review. However, a lot of effort has already been put into it and I think it's a matter of record, going through the records and taking a hard look at it would actually answer a lot of these questions. So I just wanted to take the opportunity to do that.

Thank you.

CHAIRMAN TOWARAK: Any questions from the Board.

(No comments)

CHAIRMAN TOWARAK: Thank you very much, Mr. Williams. Go ahead.

MS. LEHR: Good afternoon. Thank you, Mr. Chair. Members of the Board. My name is Aurora Lehr. I'm with the Alaska Federation of Natives and I'm also here personally as a great grandchild and grandchild of Saxman, Naanyaa.aayi. My great grandfather was from there. My grandmother and my mother both grew up there.

On behalf of AFN and to reaffirm our position in the letter that's in your packet, we're supporting the reversal of the decision in Saxman. In light of the Board's discussion today, it does seem procedurally anyway to perhaps stay the decision. It would be prudent to stay the decision and not have to go through the entire process again. Maybe if the Board does decide to recommend to amend the review process, the decennial review, and then Saxman could be reviewed again at that time.

Again, I'd just like to, as a statewide organization, we certainly would appreciate the Board's consideration. Somebody had mentioned having the criteria be applied consistently to all the different communities, so I think that was very important to take into consideration and also, as Mr. Virden mentioned, the results of the Secretarial review, you know, with tribal consultation and also deference to the Regional Advisory Committees.

So I just wanted to say hello and we're here supporting.
CHAIRMAN TOWARAK: Thank you. How do you spell your last name?

MS. LEHR: L-E-H-R.

CHAIRMAN TOWARAK: Any questions of Ms. Lehr?

(No comments)

CHAIRMAN TOWARAK: Thank you very much for taking time to come in and we appreciate Julie's letter if you'll let her know.

MS. LEHR: I will.

CHAIRMAN TOWARAK: Any other public members want to make any comments.

(No comments)

CHAIRMAN TOWARAK: Do we have anyone on the phone that would like to make any comments to the Board?

MS. JACKSON: Thank you. I'm Janice Jackson, the ANS, Alaska Native Sisterhood, grand president. I wanted to let you know that we fully support the village of Saxman. In fact, we passed resolution 10-01 by all the delegates of the Grand Camp Convention that was held in October 2010 in the village of Saxman. I believe Lee Wallace, who is there, has a copy of this resolution and I would like to submit that through Lee.

I would also like to read the title and the whereas. Resolution No. 10-01, sponsored by the Saxman ANB and the Alaska Native Brotherhood Grand Camp Subsistence Committee. The title is Re-qualifying and Affirming the Traditional and Customary Hunting, Fishing and Harvesting Rights of the Tlingits and Haidas Originating from Saxman, Alaska Pursuant to Title VIII of ANILCA.

Whereas, the Alaska Native Brotherhood and Sisterhood Grand Camp is a fraternal organization organized in the year 1912. It is dedicated to the advocacy of civil rights, health, education, welfare, employment, economic justice and citizenship; and
Whereas, the Federal Subsistence Board decided on the 12-13 day of December, 2006 that the Tlingit and Haida people residing at Saxman, Alaska were ineligible to undertake customary and traditional hunting, fishing and harvesting because the community of Saxman was determined to be nonrural; and

Whereas, the Federal Subsistence Board undertook a public review process and engaged consultants to create a record in accordance with the Code of Federal Regulations established on the basis that a community met the criteria of being rural versus that of being urban; and

Whereas, the record of decision was primarily based upon Tlingits and Haidas residing at Saxman, Alaska being eligible or ineligible due to their community status rather than being eligible based on their qualifications as individual Alaska Natives; and

Whereas, Title VIII of ANILCA is Indian Law designed as part of a land settlement consideration by the U.S. Congress in order to provide for and benefit Alaska Natives; and

Now therefore be it resolved by the Alaska Native Brotherhood and Sisterhood Grand Camp meeting at Saxman, Alaska this October 4th-9th, 2010, that the Grand Camp hereby joins the Saxman IRA and the Tlingit and Haida people of Saxman, Alaska and their petition to seek reconsideration of the Federal Subsistence Board decision that this qualifies Alaska Natives and rural students from benefitting from the subsistence provision of Title VIII of ANILCA; and

Be it further resolved that the Grand Camp asserts that Title VIII of ANILCA is Federal Indian Law designed to benefit and settle land claims of the Saxman people, which includes their ability to customarily and traditionally hunt, fish and harvest natural resources in their capacity as individual tribal members and also as rural residents.

Be it further resolved that the Grand Camp finds that the Federal Subsistence Board and the State of Alaska has created a Code of Federal Regulations which work to exclude the recognition of Alaska Natives and beneficiaries of the law and have created regulations which prefer qualification for rural residents to the exclusion of Alaska Natives wherever they may reside; and
Be it finally resolved that the ANB and ANS Grand Camp will support a petition and/or litigation to the Secretary of Agriculture and the Secretary of Interior that will affirm and establish the ability of the people of Saxman, Alaska to benefit from Title VIII of ANILCA as Alaska Natives in a manner that sets aside the Federal Subsistence Board decision that qualifies Alaska Natives originating from Saxman, Alaska as rural residents.

This was certified and signed, adopted by the ANB/ANS Grand Camp in convention at Saxman, Alaska during the week of October 9th, 2010 by ANB Grand President Willard Jackson and ANS Grand President pro tem Dolores Cadiente and the ANB Grand Secretary Jeffrey Jackson.

CHAIRMAN TOWARAK: Thank you, Ms. Jackson. Are there any questions of Ms. Jackson in regards to her resolution? Go ahead.

DR. WHEELER: Ms. Jackson, I'm not a Board member. I'm just the acting head of the Office of Subsistence Management right now. It's my understanding that Lee does not have your resolution, but if you could fax that resolution to OSM, we can make sure that all of the Board members have it and then it becomes also part of the public record.

MS. JACKSON: Okay, I sure will do that.

DR. WHEELER: I can give you our fax number if you need it.

MS. JACKSON: Okay, I have a pen.

DR. WHEELER: Okay. It's 786-3898. If you do that, we'll go ahead and make it into a PDF and send it to each of the Board members. Mr. Chair.

CHAIRMAN TOWARAK: Thank you. Do we have others that.....

OPERATOR: We have two additional. The next comes from Bert Adams. Your line is open.

MR. ADAMS: Thank you, sir. Thank you, Mr. Chairman. I just wanted to follow up on the comments Lee had made and I really appreciate his being able to be present there. His testimonies are always compelling, so
I'm happy that he's able to be there for this workshop today.

And I just wanted to re-emphasize that we are fully behind Saxman in their effort to retain their rural status. We need to understand also the agenda because it's going to talk about Saxman's nonrural status determination. We need to really recognize that Saxman still has their rural status and our purpose here is to help them to retain it.

I also feel that a stay on this issue is in order and that will give the Board time to look at the process. You know, like for instance addressing the aggregation issue and also to have a public hearing to determine whether the regulation should be changed or not. It's going to take time for that process to take place, but then I think it would be appropriate, you know, for a stay to occur at this time.

I also need to remind the Board you are different than the ones who had heard this issue before. One of the things I found out in the rural status issue that the Board should give deference to the Regional Advisory Councils when it comes to these kinds of situations.

So I'm looking forward to working with you all and seeing this happen. Saxman indeed does deserve their rural status. Thank you for the opportunity to have this issue, you know, re-investigate it again.

In regards to Pete, give him my condolences if you will, Polly. I remember a couple years ago when I had a severe fall and I injured my hip. I fell a long ways from my roof and I told myself and my family that I was going to be up and running around in two weeks. Well, actually it took six weeks and I'm tough too. Anyhow, give him my condolences and let him know that I'm supporting him in getting back on his daily routine again.

Members of the Board and people present there, I just want to thank you for this opportunity to share these thoughts with you this evening or this afternoon. Have a good day.

CHAIRMAN TOWARAK: Thank you, Bert.
OPERATOR: It comes from Carol Wallace.

Your line is open.

MS. WALLACE: Good afternoon. My name is Carol Wallace and I'm calling from the city of Saxman and the organized village of Saxman as a community member. To the Board, thank you for giving us this opportunity to share some of our commentary and also if I could just -- part of the reason why I wanted to be on the line was because I think President Wallace thought that nobody from home was on the line with him, but there are some of us here, so we wanted to lend our support to this very important issue.

I was prepared to give public testimony when this meeting was scheduled to be a public hearing, but since it has been changed to a work session my comments will be brief and I'll reserve more extensive comments for a public hearing, which I hope will occur.

A couple of things that I wanted to request of the Federal Subsistence Board or am requesting the Federal Subsistence Board to take the following action. Revisit its prior decision and undertake a new review of the 2007 decision to move Saxman status from rural to nonrural. Since then new information has become available as well as new directives from Secretary Salazar and Obama's directive for tribal consultation.

At the time, Saxman was under review. Community members requested the Federal Subsistence Board review the criteria -- our community members from Saxman requested the Federal Subsistence Board review the criteria it was utilizing to make its determination, which we believe did not accurately reflect the socio-economic integration or lack of integration between Ketchikan and Saxman.

New information has since become available, some of which President Wallace pointed out, especially around the social integration of our youth with Ketchikan youth. That may help the Board more clearly understand Saxman's unique identity, history, government and culture, which is distinct from Ketchikan.

I should note to you that the challenge in our village and perhaps why there isn't a whole lot of testimony today at this work session is that we perceive our subsistence or customary and traditional harvest as a way of life with physical, cultural and spiritual
implications. How do we summarize these things when the
criteria requires us to talk about our way of life
through socio-economic integration with Ketchikan? How
do you summarize the spiritual implications of our
harvesting, our customary ways by summarizing, you know,
how our kids go to school or the number of people who are
employed. It seems very difficult for our village
members to do so.

ANILCA Title VIII outlines preference for
subsistence use that are more consistent with the intent
behind prioritizing subsistence use on public lands not
fully reflected in the Federal Subsistence Board's rural
determination criteria. This should be changed. From my
perspective, the changes to the FSB criteria will not
bring the review process out of regulatory compliance,
which was discussed to some extent with your Staff
earlier in this meeting.

As you consider reviewing the criteria or
process utilized by your Board in determining a
community's rural or nonrural status, I urge you to
include meaningful consultation with the Regional
Advisory Council and with tribes. If you choose to hold
a public meeting, I request that you hold the meeting in
person at Saxman as many of our villagers are low income
without resources to travel or to participate in public
hearings.

I also request that you do not host the
public meeting during the middle of our harvest season.
Today there are very few members of our community who are
present on the phone for this work session largely
because we are in the middle of a harvest season. This
is our way of life and subsisting is something that is
very important and vital to our community. We are
getting our shelves ready for the winter.

In addition, the Cape Fox people's nakani
(ph) passed away, so our village is preparing for his
services this evening and tomorrow. I can assure you
that it is the harvest we put up last year and what we've
caught this summer, which will feed our entire community
over the next few days and that will sustain his widow in
the coming months.

My recommendation is that you delay the
implementation of the decision to have Saxman designated
as nonrural until the Federal Subsistence Board has
revised its review criteria to include many of the
suggestions and directives from Secretary Salazar along
with bringing its review process in compliance with
ANILCA Title VIII. At that time, the Federal Subsistence
Board should revisit its 2007 decision for Saxman's
nonrural determination and I think at that time you will
find that Saxman will meet the criteria for rural
priority.

Thank you for your time and I really
appreciate that everyone is rolling up their sleeves to
talk about this issue and certainly our entire community
supports President Wallace and all the comments he's made
and we appreciate the support that has been shared from
Skagway, Hydaburg, AFN, as well as Mr. Adams on the phone
today and the Alaska Native Brotherhood and Sisterhood.

Howa. Gunalcheesh.

CHAIRMAN TOWARAK: Thank you, Mrs. Wallace. Any questions of the Board.

(No comments)

CHAIRMAN TOWARAK: Thank you for taking
your time for sitting in on our meeting. We appreciate
your presence. I'm assuming, Operator, that those were
the three.

OPERATOR: Yes. I'm showing no further
questions in the cue.

CHAIRMAN TOWARAK: Thank you very much.

Any new public members? If not, we will end our public
testimony. Let's take a five-minute break and then we'll
come back and resume our discussion.

(Off record)

(On record)

CHAIRMAN TOWARAK: I'll call us back into
session of our work session. We're still on the item of
the Board discussion on nonrural determination for the
community of Saxman. What are the wishes of the Board or
are there any further discussion on item number 5.

MR. BELL: Mr. Chairman. Point of
clarification. We had talked earlier about if we were
going to do something such as consider a stay or a delay
of the implementation of the May 2012 communities, I just
want to be clear what we're talking about. I'm looking at the Federal Register Volume 72, No. 87, where the decision was published in the Federal Register, reading from the summary, we are changing Adak status to rural. We are also adding Prudhoe Bay to the list of nonrural areas. The following areas continue to be nonrural, but we are changing their boundaries. The Kenai area, the Wasilla/Palmer area, including Point Mackenzie, the Homer area, including Fritz Creek East and North Fork Road, and the Ketchikan area. We've also added Saxman to the Ketchikan nonrural.

If we were to stay any of this, it's my understanding, Mr. Chairman, that we would be staying only the nonrural portion. Nothing would change in the status on Adak. Now, again, I know we're not making a decision today, but I'm trying to think about what our process forward would be and want to be clear on what communities would be affected by any further discussions of a stay of nonrural status.

So is my understanding correct, Mr. Chairman?

MR. GOLTZ: Yes, I believe it is. For the record, this is Keith Goltz.

MR. BELL: That's all I had at this time, Mr. Chairman, unless other Board members have something.

MS. COOPER: Thank you, Mr. Chair. First, I too would like to apologize to Mr. Wallace for the confusion on the status of today's work session and assure you that your trip was not in vain. I just wanted to start out with that.

Contemplating the input that we've heard, it appears that we need to discuss at the next publicly noticed Federal Subsistence Board meeting a stay of the implementation of nonrural designation. Without the benefit of hearing additional public comment today, I'm hearing at least three changes that have occurred or have yet to occur since the Federal Subsistence Board's decision of 2007 concerning rural determination of Saxman.

I just wanted to put those on the record of what I'm hearing today and make sure I'm hearing correctly. The first that I picked up, the first of those changes, is the Secretarial review of the Federal
subsistence process and potential effects of that review to rural determination during the next decadal review.

Secondly, I'm hearing just the proximity or rather how close we are now to a new decadal review of rural determination. So just how close we're getting to that.

Thirdly, the drafting of DOI's tribal consultation protocols, both for Federally-recognized tribes as well as for the ANCSA corporations. Certainly the educational system and drop-out rate by Saxman residents could be considered as well.

As far as what's changed, I see those three things as changes. It appears prudent to discuss a stay of the implementation of the 2007 rural determination until potentially all three of these changes have been decided and/or implemented.

So just to throw that out for discussion during the publicly noticed Federal Subsistence Board meeting. I just wanted to make sure I'm on the same page.

Thank you, Mr. Chair.

CHAIRMAN TOWARAK: Thank you, Ms. Cooper.

Any further discussion. Go ahead.

MR. BELL: Mr. Chairman. If you're prepared, I'm prepared to make a motion. Mr. Chairman, I'd like to make a motion that we have Staff prepare a public notice for a meeting where the nonrural determination for those communities listed in Federal Register Volume 72, No. 87, be noticed at the earliest convenience of the Board and that at that point in time we take up the issue of that nonrural determination to consider a stay of that determination until such time as the Secretarial review component of rural/nonrural determinations can be completed.

MS. COOPER: I'd like to second that motion.

CHAIRMAN TOWARAK: You heard the motion and the second. Is there any discussion on the motion. In my mind, the motion is fairly clear to hold a future meeting with regards to nonrural determination. Is there a call for the question.
MR. BELL: Call for the question, Mr. Chairman.

CHAIRMAN TOWARAK: The question has been called for. All those in favor of the motion say aye.

IN UNISON: Aye.

CHAIRMAN TOWARAK: Those opposed say nay.

(No opposing votes)

CHAIRMAN TOWARAK: Motion passes unanimously. That ends our agenda for the day. We are scheduled to have a work session again in the morning at 8:30, starting with the update on tribal consultation work group from Crystal Leonetti and Della Trumble. Go ahead.

DR. WHEELER: Along those lines, Mr. Chair, I do have a handout from Crystal and I will provide them to the Board members and if you could take a look at this tonight, my understanding is that is a summary of the meeting that occurred in June. It's also several draft protocols, one for government-to-government consultation and one for government-to-ANCSA-corporations consultation. They're draft protocols. Crystal is here in the back of the room. She'll be here to speak to this at 8:30 sharp tomorrow morning. Crystal, is Della going to be here in person or is she on the phone?

MS. LEONETTI: Here.

DR. WHEELER: Okay, cool. And there's extra copies for the public if you all are interested. Mr. Chair.

One other thing, just as a logistical issue, if you're interested in leaving your stuff here, this room does get locked at night, so you can leave your materials here and they'll be here when you get here tomorrow morning.

CHAIRMAN TOWARAK: We will then recess this work session until 8:30. Go ahead. Did you have a comment?

MR. CRIBLEY: Yeah. Just on the motion that we just passed, as far as the timing of that and also the location of that meeting, when do we -- do we
1 discuss that here or does the -- who figures that one 
2 out?

3 DR. WHEELER: I might punt that one to 
4 Pete.

5 MR. CRIBLEY: Oh, okay.

6 (Laughter)

7 DR. WHEELER: You'll be getting polled 
8 electronically and we'll look at our schedules. I'll say 
9 that we've got a lot on our plate coming up, but I'm not 
10 saying this in any way, just to alert people. I'm going 
11 to be meeting with some staff later this week to kind of 
12 look at what we've got ahead of us. Our next publicly 
13 noticed meeting for the Federal Subsistence Board is in 
14 January 2012. That's the wildlife regulatory cycle. 
15 Between now and then we have 10 RAC meetings and we have 
16 associated meetings with that. So we can look at our 
17 calendars and we'll do some electronic polling with the 
18 Board to see what your schedules look like.

19 MR. CRIBLEY: Just a question. Has the 
20 Southeast RAC scheduled their meeting?

21 DR. WHEELER: They have and I don't know 
22 offhand when it is. It's the last week in September in 
23 Wrangell.

24 MR. CRIBLEY: Okay. Thank you.

25 CHAIRMAN TOWARAK: I'd also like to see 
26 us consult with the community of Saxman and not schedule 
27 it during their gathering time, as was pointed out in one 
28 of the testimonies.

29 Further discussion. We will recess then 
30 until 8:30 tomorrow morning.

31 (Off record)

32 (PROCEEDINGS TO BE CONTINUED)
CERTIFICATE

UNITED STATES OF AMERICA         

STATE OF ALASKA                  

I, Salena A. Hile, Notary Public in and for the State of Alaska and Owner of Computer Matrix, do hereby certify:

THAT the foregoing pages numbered 2 through 43 contain a full, true and correct Transcript of the FEDERAL SUBSISTENCE BOARD WORK SESSION MEETING, VOLUME I taken electronically on the 11th day of July 2011, beginning at the hour of 1:00 p.m. at the Gordon Conference Room, Anchorage, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed under my direction;

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

DATED at Anchorage, Alaska, this 20th day of July 2011.

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Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/14