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SOUTHEAST
FEDERAL SUBSISTENCE REGIONAL
ADVISORY COUNCIL

Taken at:
Alaska Native Brotherhood Hall
Yakutat, Alaska

October 16, 2001

ATTENDANCE

Council Members Present:

William C. Bill Thomas, Chair
Bert Adams
Floyd Kookesh
Richard "Dick" Stokes
Mary Rudolph
Patricia Phillips
Michael A. Douville
Marilyn R. Wilson
John Littlefield
Harold Martin
Dolly Garza

Coordinator:

Fred P. Clark

Others Present:

Dan LaPlant, US FWS; Scott Kelley, ADF&G;
David Johnson, Tongass NF; Ida Hildebrand,
BIA; Rachel Mason, NPS; Jim Capra, NPS;
Sandy Scotton, NPS; Eric Veach, NPS; Mike
Jackson, OVK; Burt L. Jackson, OVK; Daniel
Gillikin, USFS; Steve Will, KCAW-FM; Don
Rivard, US FWS; Greg Bos, US FWS; Tom
Morphet, United Fishermen of Alaska; Bob
Larson, USDA; Mike Turek, ADF&G; Ben Van
Alen, USDA; Doug McBride, US FWS; Terry
Suminski, USDA; Jeff Reeves, USDA; Greg
Kahler, USFS; Martin Myers, USFS; John
Burick USFS; Nels H. Lawson, USFS; Robert

1 Johnson, ADF&G; Steven McCurdy, ADF&G;
2 Robert Chadwick, ADF&G; Tom Brookover,
3 ADF&G; Pete Probasco, US FWS; John Burick,
4 USFS; Wini Kessler, USFS; Rick Davison,
5 ADF&G; Neil Barten, ADF&G; Meg Cartwright,
6 ADF&G; Bob Schroeder, JFSL; Judy Ramos,
7 Yakutat Tlingit Tribe; David Belton, Hoonah
8 Indian Association; Herman Kitka, Sitka ANB;
9 Robi Craig, Sitka Tribe of Alaska; Jude
10 Pate, Sitka Tribe of Alaska; Jack Lorrigan,
11 Sitka Tribe of Alaska; Walter A. Johnson,
12 Yakutat; Woody Widmark, Sitka Tribe of
13 Alaska; David Bedford, Southeast Alaska
14 Seinners.
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PROCEEDINGS

MR. THOMAS: Good morning,
everybody.

MR. CLARK: Good morning, Bill.

MR. THOMAS: You're a much better
looking group than yesterday. The only one
that was rested was Fred. He was here a day
early.

But I think we had a good
afternoon yesterday in spite of everything,
and thanks to all of you -- and with regard
to our briefings, if I don't need to be
corrected, we're on 8(g).

MS. MASON: Mr. Chairman?

MR. THOMAS: Rachel?

MS. MASON: There's still one
update from 8(f), and that's mine.

MR. THOMAS: That's yours?

MS. MASON: Yeah.

MR. THOMAS: Let's do yours next.
Before we get into that, a couple
of our members got here.

Where is Ray? Ray is president
of the ANB and he's also the commander camp,
second Vice; and he would like to greet this
group to Yakutat, and so we'll give Ray the
floor for the next hour and a half.

MR. SENSMEYER: Sorry I wasn't
here yesterday. We were out working on a
project to try to ensure subsistence salmon
for the foreseeable future and it's a
project we've been working on for the last
couple of months -- collaborative effort
between the City, Borough, Yakutat Tribe,
United Fisheries, Forest Service, and we've
been having really good results thus far.
We welcome you here to Yakutat on behalf of
ANB. It's good to see old friends, Dolly,
ANB camp 2 president, Harold Martin. And
also the chairman of the Alaska Native --

1 Floyd, it's good to see you. And Elders,
2 Herman Kitka. Good to see you here. Ida,
and the rest. I welcome you and hope you
3 have a good, productive meeting; try to keep
you in here as long as we can --

4 Lunch will be served, let me see,
for the ANBS members for the -- tonight
5 there will be Indian tacos; we'll be welcome
to that also.

We welcome you.

6

(Applause.)

7

MR. THOMAS: Rachel?

8

9 MS. MASON: Thank you,
Mr. Chairman, it's good to be back on the
10 hot seat again. I'm here to talk about
Project No. 01-091 in Fisheries Resource
Monitoring Projects. This is the East Alsek

11 River Salmon Historical Use and TEK; and
it's been funded for \$25,000, which I notice
12 is the lowest of any of the projects on that
list there. We're just starting up now, and
13 I think Doug told you yesterday that this
particular project was rolled over in 2002.
14 Yakutat Tlingit Tribe is the investigator on
the project to collect traditional
15 ecological salmon -- cooperative agreement
between National Parks Service and YTT
16 funded by the Fisheries Monitoring Program.
It will mainly involve oral history
17 interviews and literature review, and the
main stimulus for this study is the dramatic
18 decline in salmon runs on the East Alsek
River, and by documenting traditional
19 knowledge of salmon populations, habitat
uses, and interactions that will help in
20 developing a restoration plan. And the
study is going to focus on indigenous
21 management of salmon and particularly the
role of the Tlingit clans in the fishery as
22 part of a larger study that -- to collect
TEK throughout the northern southeast Alaska
23 for subsistence salmon fishing, and the
Forest Service is also coordinating a
24 project with YTT that's part of the
Fisheries Resource Monitoring Program. And
25 that project is mapping subsistence

territories, and so we're trying our best to

1 coordinate the projects because there will
2 be considerable overlap and many of the
3 State interviewees with the East Alsek River
4 project. And YTT is now in the process of
5 hiring a local anthropologist to conduct the
6 interviews, and I'm going to work with the
7 researcher and with YTT to develop the
8 interview protocol and help in any way I
9 can. I don't know if Bert, if you have
10 anything else to add about the project.

11 MR. ADAMS: Bonnie has asked me
12 to give a report on Wrangell-St. Elias and
13 subsistence resource activities. I'll touch
14 on that. I know you have to leave this
15 morning. Have a safe trip back.

16 MS. MASON: Thank you. It was
17 really good to be here.
18 Does anybody have any questions?

19 MR. THOMAS: If you have any
20 questions, hold them for somebody else.
21 Thank you.
22 Does that complete our briefing
23 under 8(f)?

24 Okay. We'll move then on to
25 Wrangell-St. Elias Resource Commission,
folks. Is that you, Bert?

MR. ADAMS: It's me, yes.

MR. THOMAS: Front and center.
You can't sit in the background, you have to
be up there.

MR. ADAMS: Thank you, Mr.
Chairman and members of the Regional
Advisory Council. Thank you for the
opportunity of giving a short report on
subsistence resource commission's
Wrangell-St. Elias activities -- my computer
went kaput on me. I had to take notes from
the notes I had on the written report, so
please bear with me as I go through this
process.

The purpose, you know, of the
Subsistence Resource Commission is to
recommend to the Governor and the Secretary
of the Interior Program for subsistence

1 hunting within the Wrangell- St. Elias
2 National Park, and the Commission members,
3 you know, consists of five people who have
4 been appointed to be there by the Secretary
5 of Interior, Governor of the State of
6 Alaska, and by the Regional Advisory
7 Councils. Ray Sensmeyer sits on that
8 Commission as well, and he was appointed, I
9 believe, by the Secretary of Interior. And
10 then a couple of years ago, this body
11 appointed me to serve on that Commission,
12 and I have been doing so since.

13 I've attended about three
14 meetings so far, and one of the things I
15 found out about this Commission is that it
16 deals directly -- it comes from Title VIII
17 of ANILCA, and the specific -- they
18 specifically deal with issues that
19 specifically in parts, that have a group of
20 local residents that represent communities
21 and who are charged to provide a hunting
22 climate for the Wrangell-St. Elias National
23 Park and Preserve, and the responsibility is
24 also to implement the plans and
25 recommendations.

One of the things that this
Commission has dealt with, you know, quite
extensively is the resident -- what do they
call it, resident status -- resident-zoned
communities, and what a community or
division has to approve is that they have
cultural and traditional use of those
resources and that they can prove that and
become a resident-zoned community. Many of
the communities up in that area have been
trying to get into that system. We know of
a group that definitely doesn't fit that
category and has been trying over the years
to get recognized as a resident-zoned
community. So those are some of the
important things that I think that this
Commission deals with in determining whether
a community has proven that they can meet
those requirements.

23 Rachel has given a report, you
24 know, on the East Alsek River situation, but
25 that's only one part of that area that we
are trying to deal with.

Eric Veach, the guy right behind
me, and I'm close with other people from

1 National Parks Service and Forest Service,
2 community of Yakutat, the City, Borough, the
3 Glacier Corporation, Yakutat Tlingit Tribe
4 had meetings a couple of years to try to
5 arrest the decline of the East Alsek sockeye
6 salmon. Used to be in the 1980s and early
7 into the 1990s, tremendous amount of sockeye
8 used to go in there, and all of a sudden
9 they started a rapid decline, so I think in
10 the last three or four years they've had no
11 commercial fishing down there at all, and so
12 as a result of these series of meetings we
13 came up with four proposals to arrest that.
14 The first one was the traditional and
15 ecological knowledge project which Rachel
16 just gave a report on, and the Commission or
17 the people felt that this would -- what we
18 did is prioritize all of these projects and
19 that was our No. 1 project. The reason we
20 felt that it was important that we get an
21 idea of what a TEK or traditional knowledge
22 area was where it would be able to document
23 how those resources were managed and
24 gathered information on ways and means that
25 our people were able to put together the
26 management plans and implement that. And
27 then once that has been documented and
28 everything, when we do start managing --
29 planning for management of that area, then
30 we can bridge the gap of traditional
31 knowledge and western science, put them
32 together and come out with a plan that we
33 think would be really beneficial to that
34 area.

18 Another one that has been
19 advanced as we speak, is the hydrology
20 project. And we'll probably get that -- you
21 know, hopefully be approved for next year
22 which will take place the year after.

21 And another project that will
22 be -- we'll be pushing through is to put
23 together an analysis on the existing data on
24 the East Alsek River Fisheries and do a
25 stock assessment. But those are some of the
26 concerns that we have, and how we as a
27 community and as a Federal government try to
28 address these issues.

25 After discussion by the
26 Subsistence Resource Council in the previous
27 meeting, people had a chance to make

1 comments on it, and one of our Board
2 members, Donald Correl, made a motion to
3 draft a letter to the U.S. Fish & Wildlife
4 Service supporting all of these proposals.

5 Let me see, SRC Chairs have a
6 meeting annually, and the Chairs of these
7 commissions get together at a designated
8 place. I guess they're going to have one,
9 you know, next week in Anchorage. And they
10 get together and they talk about issues of
11 common interest. And then they bring that
12 information to their regular meetings.

13 One of the things that's been an
14 issue, particularly in Yakutat, is the use
15 of ATVs in forelands, that's across the bay
16 over there. That's where Wrangell-St. Elias
17 begins is across the bay, and one of the
18 residents of this community has put in a
19 proposal to allow the use of ATVs,
20 particularly for moose-hunting in that area.

21 It has been on the table for a
22 couple of meetings, and has been tabled
23 because of some sensitivity about the use of
24 ATVs in those areas and the damages --
25 potential damages that might cause to the
environment and so forth.

One of the things about -- that
has been brought out in our meetings too,
particularly our last one was somehow
figuring out how we can have alternates.
With only nine members on the Council or the
Commission and sometimes, you know, because
of travel conditions and everything, they
can't all make it for various reasons, and
so they would like to see if we can have
alternate members to fill that gap and meet
quorum requirements if there's a shortage.

I think that's about the extent
of my report.

I'll be happy to answer any
questions. I don't claim to have the
answers, but I'll try.

MR. THOMAS: Thank you, Bert.

With regard to the ATVs, can you
share some of the discussion that occurred
at the meeting with regard to these? I know
there's different varieties of ATVs. I was
wondering if you can just give us a brief
overview of some of the discussions

1 regarding those, some of the concerns and
2 some of the advantages?

3 MR. ADAMS: The advantage of
4 using ATVs is you can hunt moose in the
5 forelands and it will be easier to bring
6 them back to the rivers where you have your
7 campsites established. And one of the
8 disadvantages for particularly the
9 representatives of Yakutat and the -- is the
10 experiences that we had on the ATVs in the
11 Situk and Ahrklin Rivers where there's a lot
12 of -- tremendous lot of sea pigeons where
13 they lay the eggs. We've seen ATVs go
14 across the nests and damage the
15 environments, and there's a great concern
16 about that happening there.

17 The discussion is kind of even on
18 both sides, following the trails or the
19 beach when the low tide is a lot easier but
20 keeping it above high water mark would be
21 kind of limited and so forth. But those are
22 some of the things that we talked about,
23 and, the Commission has been kind of
24 reluctant about making a decision on it one
25 way or another because of the balance there.

MR. THOMAS: Thank you.
Anybody else have any questions?
Thank you very much.

MR. ADAMS: I'd just like to
thank the Southeast Regional Advisory
Council for letting me sit on that seat and
represent you in this matter. Thank you
very much.

MS. WILSON: Bert --

MR. ADAMS: I want to go home.

MS. WILSON: I wanted to know,
does the Commission make determinations on
whether the ATV can be used or not, or who
makes that decision?

MR. ADAMS: Somebody help me.
Eric?

MR. VEACH: Yeah, Commission can

1 actually make recommendations to the park.

2 MR. ADAMS: He answered the
3 question to me. The answer is yes.

4 MS. WILSON: The Commission just
5 recommends, then?

6 MR. ADAMS: No, they can make
7 decisions on whether ATVs can or cannot be
8 used in those areas.

9 MS. WILSON: Oh, okay. Thank
10 you.

11 MR. THOMAS: Better move fast.
12 Okay. I understand that we have
13 more briefings on 8(f) and that being the
14 case, we'll move back one line and, Fred,
15 could you introduce those?

16 MR. CLARK: Meg?
17 I'll let Meg introduce herself,
18 and she'll be using a project.

19 MR. THOMAS: What was the
20 baseball score yesterday?

21 MR. TUREK: We won.

22 MR. THOMAS: A two-minute break
23 while we set up. Two minutes.

24 MR. CLARK: Mr. Chairman?

25 MR. THOMAS: Fred.

MR. CLARK: Thank you. I have
the insight and wisdom to having the sort of
wisdom to break there, as always, the
machine breaks. I would suggest we move
back one more step in the agenda and pick
out the inseason management briefing while
they're starting to get the machine started.

MR. THOMAS: 8(e). Are we done,
in fact, with 8(f)?

MR. CLARK: No.

1 MR. THOMAS: This will lead into
what we do with 8(f).
2 Go back to 8(e) now?
3 We're now at 8(e), the beginning.
We're now --

4 MR. SUMINSKI: Terry Suminski.
I'm a fisheries biologist with the U.S.
5 Forest Service.
6 Bob Chadwick, and I work for the
Department of Sport Fish.

7 MR. THOMAS: Bob what, Chadwick?

8 MR. CHADWICK: I'm the area
9 management biologist for Sitka.

10 MR. SUMINSKI: We had occasion to
close Redoubt and Salmon Lake this summer
11 for sockeye fishing -- the closure was due
to low escapement through the weirs in both
12 systems, and also because of concerns that
if you close Redoubt Lake there would be
13 displaced fishermen that would go to Salmon
Lake, and Salmon is relatively close -- lake
filled with sockeye close to town.

14 I'll let Bob talk about the
15 actual numbers if you're interested in the
escapement numbers.

16 MR. THOMAS: Let me interrupt you
a little bit. For one thing, I can't hear
17 worth a damn, and I think we have Richard --
John is worse than Richard, so we need for
18 you to speak to where the three of us can
hear you, everybody else can hear you. I'm
19 having trouble hearing you.

20 MR. SUMINSKI: I can't tell how
21 loud I'm speaking into the microphone. Is
that better?

22 MR. THOMAS: Make believe it's
23 your wife when you're coming home late.

(Laughter.)

24 MR. SUMINSKI: I never do that.
25 Okay. I'll start over there. We

did close Redoubt and Salmon Lake this

1 summer to sockeye salmon fishing to all
2 sport and fish subsistence as coordinated
3 actually with U.S. Forest Service inseason
4 management, and Department of Fish & Game,
5 both the sport fishermen and the commercial
6 fish division.

7 Bob has the press release with
8 the actual numbers and we can just go
9 through that really quickly.

10 MR. CHADWICK: On July 11th, we
11 issued a news release notifying sport
12 anglers and subsistence anglers that there
13 would be a closure, both at Redoubt and
14 Salmon Lake -- that was July 11th. The
15 closure would be effective 11:59 p.m.,
16 Friday July 13th. At that time -- by that
17 time usually 16 percent of the run returned
18 to Redoubt, and we were estimating a
19 projected escape of 7,571 sockeye.

20 And since this would represent
21 only 21 percent of the average escapement,
22 we felt there was a need to close the
23 fisheries to protect the sockeye.

24 Earlier that season, we did a
25 model of the time that we were looking at,
26 the sockeye run was a little earlier than in
27 previous years and we had a projected
28 escapement as late as June 29th, right
29 around 5,000 to 25,000 sockeye, so we
30 weren't -- even though the previous year,
31 2000, we had a run of less than 4,000 fish,
32 we thought maybe that was a one-year event.
33 We were optimistic that we might have a
34 little bit better escapement.

35 But by July 11th, we saw that it
36 was a poor year and we needed to take
37 action.

38 We did this at 60 percent of the
39 run. We all reviewed the information at the
40 same time and took action immediately before
41 that week.

42 If you have any more questions,
43 I'll answer them.

44 MR. THOMAS: Patty?

45 MS. PHILLIPS: What was the
46 final -- I mean, the final season summer
47 like? Did you get your escapement?

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MR. CHADWICK: Final escapement
this year was 3,661. So still low.

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MR. THOMAS: When will we have a
number you'll be happy with?

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MR. CHADWICK: There's 20 years
of data -- right, on the Redoubt, and it has
yet to be compiled, and right now we're
talking about who is going to do that, and
we see the need for compiling the data to
actually assess what escapement levels are
needed.

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This year, we were looking at
past average escapements, refertilization,
and we were looking at 10,000, 15,000 range,
what we were looking at. I preface that and
that's without looking at doing a full
analysis of that 20 years' data, and that
number is just something that we were using
inseason, between Federal staff and sport
staff, I mean Fish & Game staff.

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MR. THOMAS: What was the number
you gave us that you counted?

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MR. CHADWICK: The escapement for
2001 was 3,661 fish.

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MR. THOMAS: Okay.

17

MR. CHADWICK: Just for some
additional information, 2000 right around
2900 fish; but 1999 it was 50,000 -- 57,500
fish.

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MR. THOMAS: For a system that
size, have you arrived at what would be a
good, workable number for escapement to
allow some pressure in there, assuming that
you had 3,600 fish here, give those a chance
to move uninterrupted in that system, and
hopefully that spawning conditions are what
you want them to be, okay. The next cycle
around we're anticipating, if that's not
interrupted, that we'll have more returns,
and then the same cycle, another time later,
pretty soon if everything works right, your
numbers are going to be a point that you'll

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1 be more satisfied with, and I was just
2 trying to get a feel for how much time do
3 you think would be needed in order to assist
4 those systems to get where you feel like
5 you'd be happier with them? I say you, only
6 because you're in the project and you
7 represent many, many people. In fact, a lot
8 of people that's not here. I'm saying you
9 rather than we right now, because if you
10 make a mistake along the way it will be you
11 and not me.

12 (Laughter.)

13 MR. CHADWICK: Not to waffle on
14 the number, but we have a couple different
15 things that are entered in the mix here.
16 Bill Davidson or Terry might be able to
17 speak to this a little better. They'll
18 correct me if I'm wrong here. We have years
19 of -- where this lake is fertilized and
20 where we attribute some of these large
21 escapements -- large escapements probably to
22 the fertilization. We can't say that
23 definitively. Then there's a period where
24 the lake wasn't fertilized and that these
25 fish are coming back, low escapements are
26 fish that were in the lake as you and I also
27 know is low fertilization.

28 Right now we believe the low
29 escapements might be due to no
30 fertilization. But without reviewing the
31 data, again, I say 20 years of it, that's a
32 healthy chunk of work.

33 Bill?

34 MR. THOMAS: Let me clarify
35 something while he's coming up. He's just
36 anxious to get up here, I know.

37 (Laughter.)

38 MR. THOMAS: The only reason I'm
39 asking you about these numbers is I'm like a
40 typical user, you know, I want to go out and
41 get all the fish I want, anytime I want.
42 When it gets in trouble how come you didn't
43 stop me? This type of thing. And I'm
44 really back to the way you guys handled that
45 closure. Somebody told me in one breath

1 what that problem was, and I endorsed his
2 attempt to close. And so -- now, that's the
3 kind of hands-on that we need, but everybody
4 here supports all that goes on with the
5 interagencies, with management, especially
6 in the biology area. And you rely a lot on
7 your information, and we want to be
8 supportive, and be a positive contributor
9 for your efforts, and -- when you leave us,
10 we all become -- when you leave this
11 meeting, you become bureaucrats, and
12 fishermen. All of a sudden the
13 communication breaks down, we don't know
14 each other. We need to find a way to where
15 the community -- the using public knows
16 what's going on and the importance of why
17 things are done the way they are in these
18 different systems, and I think the report
19 you're giving now is a good, classic example
20 of a system that really needed some
21 attention. And I appreciate your report.

22 So -- did you have some help in
23 the audience?

24 MR. LITTLEFIELD: I have several
25 questions. One from the biological
26 standpoint would be the carrying capacity
27 from what the Forest Service has done. What
28 do they believe the carrying capacity in
29 numbers the Redoubt Lake system is? There
30 should be an estimate of what you think that
31 number should be and what that lake system
32 will carry.

33 MR. SUMINSKI: John, I think the
34 only estimate I know that has a carrying
35 capacity was done by the Department of Fish
36 & Game and it was euphotic zone model based
37 on the physical characteristics of the lake
38 and certain biological characteristics, but
39 that estimate was approximately 100,000
40 fish, 100,000 sockeye that theoretically
41 that could produce, that would be in
42 high-point conditions.

43 MR. THOMAS: John?

44 MR. LITTLEFIELD: Thank you. My
45 second question is: When you started
46 testifying on 7/11 of this year -- am I

1 correct -- you had a sport fish and a
2 subsistence closure on the same date,
correct?

3 MR. SUMINSKI: That's correct.

4 MR. LITTLEFIELD: In 2000, the
5 year 2000, do you have the date of when that
6 closure took place, because this is not a
one-year phenomenon.

7 MR. CHADWICK: You're correct,
8 sir. July 11th, 2000, both subsistence
9 harvest and sport harvest were closed on the
10 same date. The next closure, both fisheries
11 were closed was 1996. This also happened on
12 July 26th, 1996 -- July 26th, 1995. The
13 next closure -- both fisheries were closed
14 was 1993, July 16th. And then in 1992, July
15 10th.

16 Recognizing this, this has
17 happened in the past, this year, again we're
18 expecting, you know -- we had one year,
19 there was a chance the previous year, 2000,
20 where we had a decrease in the escapement of
21 37,500, to 2900 -- roughly 2900 fish, this
22 might be a one-year -- might -- when we
23 started escapement data for 2001, you know,
24 we had a pretty good -- there was a chance
25 that 25,000 fish might come back; but within
that next week, week and a half period of
time, with the run, the escapement numbers
didn't increase, the number of fish per day
wasn't increasing, we were down to 6600
fish. I mean, as soon as we had that data,
we met with Terry and Bill Davidson, with
the Comm Fish Division and I, and decided
that we needed to close it as soon as

possible.

During those discussions,
realizing we were closing both fisheries at
the same time, we discussed staggering -- if
we were wrong, the run did materialize. We
would stagger the openings of the two
fisheries with the subsistence harvest
opening first and the sports fishery after
that.

This year, we've entered into
conversation in trying to decide exactly how

we would -- again, if we have a low run, how

1 we would stagger the opening, seeing as how
2 with two years of low runs, how we would
3 stagger it to allow the closing of the sport
4 fishery before subsistence fishery. And
5 right now we're talking about what
6 percentage of the run we would look at
7 closing the sport fishery, and what percent
8 of the run we would close the subsistence
9 fishery.

10 MR. THOMAS: John?

11 MR. LITTLEFIELD: I have another
12 question: Do you have a record of the last
13 three years or maybe even five years? I
14 don't know how much data you have there of
15 the restrictions that have been placed on
16 the subsistence fishery in the Sitka area.
17 I am a subsistence user in that area. I
18 know there have been reductions in limits,
19 reductions in time, reductions in the area.
20 I would like you to address which ones of
21 those have taken place over the last several
22 years.

23 MR. CHADWICK: Sir, that question
24 would be better answered by the area
25 manager, commercial area biologist, Bill
Davidson.

MR. THOMAS: Move the table.
There you go. There you go.

MR. DAVIDSON: Mr. Chairman --

MR. THOMAS: Pull the mic close
to you.

MR. DAVIDSON: In the past two
years, the Redoubt closures are the only
subsistence closures at Salmon Lake this
past year. Otherwise the subsistence
fisheries have been open in the salmon area.

In 1999 while we did come out
with a news release announcing that we'd
adjust in the seasons that some of the Sitka
area subsistence fisheries in -- so, that
was a time when managing the sockeye
systems, we had very little information
about what levels of escapement were getting

1 into the lakes, and we had been observing
2 since the State permit went into effect in
3 1985, the reporting permit where we get
4 information about the level of the
5 subsistence harvest, it was apparent that
6 there was a very clear print of increasing
7 harvest levels, particularly at some of the
8 systems, and so a concern evolved about
9 exactly how much take is sustainable, is
10 allowable at different systems. And so what
11 we did in 1999 is we looked at subsistence
12 systems that are in close proximity to one
13 another, and looked at them as sort of
14 groups of stocks, and we decided to close
15 the subsistence season when about between 80
16 and 90 percent of the harvest had normally
17 occurred historically, but the timing of the
18 reports have capped on the subsistence
19 permits. And just in order to make sure
20 that we were getting a portion of those runs
21 in the lake to guarantee that there was some
22 escapement. So, we did that, I believe, up
23 in Flag Bay, and we did it at Falls and Gut
24 on East Baranof, and also up at western part
25 of Yakobi Island, Surge and Takanis.

And so that was a -- the first --
the major effort to look at what we were
doing with management and try to provide for
conservation in stock. In the case of
increasing harvest levels, it seems like a
lot greater access to -- by more and more
people using the resources and just wanting
to slow things down. 1999 was the major
look at how we're managing and what our
options are the manage -- to manage the run
better, to provide for greater use and
greater productivity in the long run.

And that's as far as I have --
I've researched the subsistence actions that
we've taken in the past three years -- there
have been some past actions on Sitkoh Bay, I
believe and those go back a little bit
further.

Does that answer it fully?

MR. LITTLEFIELD: You mentioned
the areas, what about the limits, back --
bag limits that were allowed, as well as the
fishing dates? Were they restricted in any
manner?

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MR. DAVIDSON: At Klag Bay the limit was 25, and we reduced that limit to 20. At Hoktaheen, the limit was 25, and we reduced that to 20. And at Redfish Bay the limit was 50, and we reduced that to 25; and we didn't change the limit at Falls or Gut. We think those are the only ones that actually changed. So....

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MR. THOMAS: John?

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MR. LITTLEFIELD: Prior to these actions from the early '90s up through 2001, was there any restriction placed on the sport fishery prior to the restrictions placed on both of them on the same day?

4

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MR. CHADWICK: Yes, in 2001 and 2000, there was -- the bag possession limits for Hoktaheen, Klag, Falls --

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MS. WILSON: Speak into the mic please.

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MR. CHADWICK: Sorry. There was bag and possession limits reduced to sockeye salmon at 2000 and 2001 at Klag, Hoktaheen Falls, 2001, those reduc- -- reductions were made, Klag -- Salmon Lake, with the addition of Salmon Lake with Klag and Falls and Hoktaheen, and bag -- possession limit was reduced to three and possession limit of 3. That decreased the limit in half, possession limit in half.

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MR. THOMAS: John?

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MR. LITTLEFIELD: Mr. Chairman, members of the Council, and also staff who have been answering these questions, I'd like to thank you for this information, and the reason I'm asking this because later on when we start discussing proposals there will be a proposal presented by the Sitka Tribe that will address this, the closures in these bays, specifically in the Redoubt system. We'll talk about that, where they want to have some input on management and subsistence so we can go to ANILCA, to

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1 discuss the uses that we've customarily and
2 traditionally done before. What I see
3 happening is a pattern here where there is
4 no prior sport closures. As far as I'm
5 concerned there should be no sport opening
6 at all at Redoubt, because we know there's a
7 problem there. Subsistence should be
8 managed open, we should allow that. If we
9 need to close that for subsistence, that's
10 fine, I agree with that.

11 Prior to that, we need to take
12 the actions to protect the continued use of
13 subsistence users.

14 So, I think we'll probably be
15 addressing these, and I just want to make
16 these points.

17 Thank you, Mr. Chair.

18 MR. THOMAS: Thank you, John, and
19 thank you for responding.

20 One of the things we have to bear
21 in mind is that not everybody here and not
22 everybody in management are bound by Title
23 VIII. We understand that. And those of you
24 that aren't bound by Title VIII, I'm hoping
25 that your patience in becoming Alaska-sized
to understand and bear with us on some of
the direction that we've come from with some
of the -- with some of the enthusiasm that
we bring with it.

So, bear with us, and we
apologize that we try to keep things at a
good, civil, good deliberation, atmosphere,
and sometimes we're not able to do that.

The Chairman has his limits on
control, so....

Thank you very much.
Any more questions --

MS. PHILLIPS: Mr. Chairman?

MR. THOMAS: Patty?

MS. PHILLIPS: Excuse my
nonknowledge of some of these issues. I was
wondering about Proposal 5. It mentioned
the lake fertilization, and can you give us
a brief description of what that involves,
and why or why not you have that program --
has not continued if you're going to see

1 such dramatic results from it?

2 MR. DAVIDSON: That's one of the
3 real problems with, you know, coming up with
4 a number for how many fish should be in
5 Redoubt Lake to maintain the high
6 productivity in the system is the
7 fertilization.

8 You have many years of detailed
9 information about what went into the lake,
10 but it's difficult to analyze that
11 information. Some years the lake was
12 fertilized and some years it wasn't
13 fertilized and to separate out the natural
14 productivity of the lake versus the
15 fertilized effects of the lake.

16 On top of that, there's just --
17 there's -- the work hasn't been done. There
18 hasn't been -- like I said, a Fish & Game
19 staff person to sit down and put all that
20 information together and study it and try to
21 take their best stab at what that number
22 should be.

23 So, we -- it's fair to say we
24 believe the fertilization is a good tool and
25 it does help to increase the lake
26 productivity, but it's made it more
27 difficult to know exactly what the numbers
28 are -- what numbers work best.

29 So, we have a lot of work and a
30 long ways to go on managing all these
31 sockeye subsistence fertilized and
32 unfertilized ones.

33 What it comes down to is a very
34 difficult thing to do, is to say, in a case
35 like Redoubt Lake, which is the most
36 important producer of sockeye for the Sitka
37 area is to say, you know, at what point do
38 we close that lake? Do we close it when we
39 think there's only going to be 10,000 fish
40 in the lake, 15,000, 25,000? Understanding
41 the importance of fish for Sitka we need to
42 get that work done. We need to have a
43 management plan that describes how the
44 systems are to be managed, because, you
45 know, it's not that we want to take the
46 subsistence away during the season, but we
47 do want that lake to be producing as much so
48 that there's more to go around.

1 MR. THOMAS: John?

2 MR. LITTLEFIELD: Thank you, Mr.
3 Chairman. I'd like to follow up on Patty's
4 question about the fertilization. Given
5 that the number that the approximate number
6 of 100,000 fish is the carrying capacity of
7 Redoubt Lake which is what we would assume
8 to be the run to be in there. And
9 fertilization is taking place late, which I
10 totally support, all artificial, do you
11 believe that if we had a run of 100,000 fish
12 in Redoubt Lake, would that be sufficient to
13 self-fertilize this lake?

14 MR. DAVIDSON: That's a question
15 that -- it's got to help, but I don't know
16 that that's the entire answer to Redoubt
17 Lake, an anaerobic layer of the lake, a host
18 the nutrients that get into that lake are
19 lost. It doesn't turn over like a lot of
20 other lakes to remix the new strengths, and
21 so it's a unique situation. I can't fully
22 answer that one, John.

23 One other comment on that -- at
24 one time -- that particular system, prior to
25 interception by any type of fisheries other
26 than the C and T users, was a huge system,
27 and apparently there is a number -- I don't
28 know if it's 100,000, at which that system
29 self-fertilizes itself. I don't know what
30 that number is, but that should be our goal.

31 MS. GARZA: Marilyn?

32 MS. WILSON: I don't know if this
33 is the right group to ask, but has it ever
34 been taken into consideration the
35 temperature of the waters, because I just
36 found out that that's one of the most
37 important things for fish to rejuvenate?

38 MR. DAVIDSON: I think that there
39 must be records with the project on Redoubt
40 Lake of water temperatures. I agree that's
41 really important, and, you know, what
42 climate -- climate changes might be going on
43 are really important as well.

44 MS. WILSON: It seems like one of

1 the more important issues is water
2 temperatures. Don't biologists think of
3 this? I've heard of a system where the
4 trees were cut down along the streams, and
5 it did away with all of the fish. They
6 never came back any more. So, I want a
7 better answer.

8 MR. SUMINSKI: I'll try to help.
9 Terry Suminski.

10 We have taken, every year that we
11 monitor the lake, which is like 20 out of
12 the last 22 or 23 years, we take water
13 temperatures every month. We take them
14 every day at the weir. I would have to look
15 back at the data, but I'm pretty sure there
16 has been no significant change in the water
17 temperature over the time that we've
18 monitored it.

19 And I think you're probably
20 referring to higher water temperatures.

21 MS. WILSON: Yes.

22 MR. SUMINSKI: There has been no
23 logging or anything on this system. So, as
24 far as water temperature changes, it hasn't
25 increased -- I could check for sure, but I
26 think it's probably safe to say there hasn't
27 been any.

28 MS. GARZA: Thank you.
29 Are we still on 8(f) project
30 updates in the reports?
31 Fred?

32 MR. CLARK: We're still on the
33 Fisheries Information Project Reports, so if
34 the computer starts running, it's time for
35 Meg's report.

36 MS. GARZA: The computer's up.
37 So, please state your name for
38 the record.

39 MS. CARTWRIGHT: Can you hear me?
40 Mr. Chair, members of the
41 Council, my name is Meg Cartwright. I work
42 for the Alaska Department of Fish & Game and

I've been the project leader on the new

1 Federally funded subsistence projects in
2 Southeast.

3 So, I have a little slide
4 presentation here for you and I'll be glad
5 to answer questions.

6 I'd also like to introduce -- he
7 worked for the Fish & Game prior to working
8 with the Forest Service, and was
9 instrumental in getting the projects and
10 designs formatted -- I'd also like Burt
11 Jackson from the organization of Kake, to
12 stand up so everybody can see who he is.

13 He was one of the crew members on
14 the miner projects, and I would encourage
15 all of you to approach him on the break. He
16 spent much more time in the field than I
17 did. He can give you a better idea about
18 the field project.

19 Doug McBride gave me an overview
20 of these projects and what they were, and
21 then there was some discussions about
22 temperature and oxygen and stuff like that.

23 So, my presentation is on the
24 biological data, what we collect, why we
25 collect it, and how.

26 This a cooperative project
27 between Alaska Department of Fish & Game,
28 the Forest Service, and six other
29 cooperatives, including Angoon Community
30 Association, Hydaburg, Klawock, Organized
31 Village of Kake, Sitka Tribe of Alaska, and
32 Wrangell Cooperative Association.

33 We all have a common goal in this
34 project. We all want healthy stocks.

35 So, how do you go about deciding
36 whether these stocks are healthy?

37 This is a simple diagram of the
38 food level of the salmon system in sockeye
39 salmon. Nutrients derive from the
40 productivity of the system from the bottom
41 up. On the bottom, you see nitrogen,
42 phosphorous and carbon. They are taken up
43 by the next system, algae or aquatic project
44 of the system. Light, photosynthesis,
45 temperature and oxygen, also drive these
46 processes.

47 Then, in turn, zooplankton, which
48 are on the third level -- they definitely
49 are not to scale, they are hardly noticeable
50 to your eye when we collect them in our

1 nets. Zooplankton, they are eaten by
2 sockeye fry. Sockeye fry leave the system,
3 return as adults; adults coming back in
4 sockeye systems are extremely important for
top down productivity. Returning adults,
die, rot, and the rotting carcasses release
nutrients through the system, nitrogen,

phosphorous carbon -- they create offspring,
which are fry, which in turn are supported
by the cycle and the process repeats itself.

6 So, what our -- what our
7 assignment here is to try and estimate
8 what's going on at each one of these
9 systems, at each one of these different
10 levels. For adults returning, we use weirs
and mark-recapture studies on the beach or
if the -- or in the streams, as well as we
look at weir marks on the spawning grounds
to determine whether the weir are accurate.
In other words --

11 The three weir projects in
12 Southeast are Klawock Lake, Falls Lake, and
Klag Lake.

13 This is an aerial photo of
14 Klawock Lake, and -- Ben, can you remember
what the escapement was in Klawock -- it was
about 7,000.

15 This is the adult weir at Klawock
16 Lake, and the background there is the
trap -- we're also taking a look at the age
and sizes of smelts coming out of the
system. This is a closeup of that trap.

17 Sockeye fry can stay in the lakes
18 one to two years, and it's important for us
to know whether they're holding over for
another year away.

19 This is an aerial view of Falls
20 Lake, and we have a weir in this one. We
had 2,500 fish return to this system. I
21 just wanted to back up to Klawock -- what we
do at these weirs is we mark fins at the
22 weir, we mark 30 percent of the fish, we go
to the spawning grounds and we like to see
23 30 percent of these also showing up on the
spawning grounds. We did not see that at
Klawock. We saw much less than 30 percent.
24 We thought there was a leak in that weir.

Falls, we marked 50 percent and

25

we saw about that many on the spawning
grounds. We had a pretty good estimate of

1 2,500 escapement.

2 This is the Falls Lake fish
3 ladder and the trap on the top, strung
4 across the whole falls to get the total
5 escapement.

6 The other weir system is Klag and
7 the total escapement in there was just a
8 little over 12,000. And we think that was a
9 pretty accurate number, too. I don't have
10 any pictures of Klag here.

11 The other projects we call the
12 "lake trilogy projects," and the crew would
13 go out for ten days, spend three days in
14 each lake, and do a mark recapture study, so
15 the lake trilogy was: Gut, Kook,
16 Hoktaheen, Kanalku, and Hasselborg and
17 Sitkoh. And Thoms, Luck, Salmon Bay, and
18 Hetta was a late spawning, where we did
19 recapture estimate as well as creel survey
20 and subsistence harvest monitoring.

21 This is a picture to show you
22 life out there in the camps. We try to
23 minimize our presence here, building a
24 single platform to count the lake trilogy.

25 So, the crew would come out to
the lake and motor around the edge of the
lake and count the numbers of fish that they
saw or walk the stream to count the number
of fish they were seeing there.

And then they -- this is Sitkoh,
they seined up the fish, mark them, and
release them again, went out the next day.
Recaptured fish in these same areas to look
at the marked and unmarked ratio and from
that come to an estimate on this particular
trip.

We use purple marks on the beach
spawners -- you can see it marked here. And
this is what the mark looks like. It's
amazing, I walk the streams in Hoktaheen and
the whole fish would be gone except for the
purple plate, you can see the marks left
from decaying carcasses.

And we also took lengths and
scales from fish to determine the age
structure of these populations.

More pictures of beach seine.

In some of these systems there
were -- we identified other problems. This
is the outlet of the lake. The water goes

1 underwater; it decays; and the Forest
2 Service identified this as the large debris
3 barriers in this system, and then went with
4 the afternoon crew and cleared the debris
5 out.

6 We know that some fish were
7 getting through, but we think this was a
8 barrier.

9 The other thing that we want to
10 be able to estimate in the adults returning
11 is the number that are harvested in the
12 subsistence and sport fisheries, and we use
13 a direct expansion ceil survey sample
14 designed after the sport fishes.

15 Next we want to estimate the
16 number of fry in the lake, and we do this by
17 hydroacoustics surveys using sonar gear, and
18 then -- which just gives you the number of
19 targets in the lake, and then we follow that
20 with a mid-water trawl to determine the
21 species of those targets and they're the
22 typically stickleback and sockeyes in our
23 system and we take scales to determine

24 whether they're one or two-year-old fish.

25 Then the rest of lake
26 productivity is determined through the -- we
27 drag a small fish net and put zooplankton to
28 estimate the number of food available to
29 sockeye. And temperature and oxygen
30 profiles are taken because they help
31 productivity, and full water chemistry
32 analysis is also being done on Klawock Lake.

33 Here is an example of a
34 zooplankton net and bucket.

35 We also are summarizing all of
36 the historical information to get a picture
37 of the long-term productivity of these
38 lakes, including hatchery, cannery,
39 subsistence and commercial fisheries
40 catches.

41 Then we took this put together
42 including traditional knowledge, historical,
43 lake productivity, creel survey, escapement
44 indexes, fry population and final stock
45 assessment to come up with a range of
46 escapements that we think will maximize the
47 productivity in the lake and therefore
48 maximize the number of fish returning to the
49 subsistence and commercial fisheries.

And, again, our purpose is to get

1 back to healthy stocks.

2 I just want to give you a sneak
3 preview of some of the projects that have
4 been funded. This is the fish ladder on
5 Pavlov Lake. On Chichagof, sockeye seine in
6 Eagle Lake.

7 That's all I have. Thanks.

8 MS. GARZA: Questions for Meg?
9 Meg or Megan?

10 MS. CARTWRIGHT: It's Meg.
11 Patty?

12 MS. PHILLIPS: I appreciate the
13 welcomed presentation.

14 I was looking at this Hoktaheen
15 Lake, Kook, in the Green book, and it
16 mentions that you had delays into Hoktaheen
17 Lake. Will that skew the escapement
18 numbers?

19 MS. CARTWRIGHT: What it means is
20 we just didn't get as -- the confidence
21 intervals around that escapement will be
22 river-wide, so our estimates -- we won't
23 have much certainty in our estimates. But
24 we did go in there twice, so we'll get one
25 sampling event, then another sampling event.
That's a stream spawning system. And so
we'll at least get one estimate. But the
preferred is to have three estimates. We
literally missed every other trip due to
weather and the terrorist activities.

MR. DOUVILLE: Thank you, Mr.
Chairman. You said you have a leak in the
weir, you thought for some reason at
Klawock?

MS. CARTWRIGHT: Yeah, we tagged
30 percent of the weir and we thought about
10 percent marks on the spawning grounds.
So, that would either lead us to believe
that there was a leak in the weir or fish
that were marked didn't make it to the
spawning grounds. So, with one year's data,
it's -- it's hard to say, but probably more
fish than what was counted when we were out
there.

1

MR. DOUVILLE: So you feel that they made it through the weir without being counted?

3

MS. CARTWRIGHT: Yeah, that's one possibility.

4

5

MR. DOUVILLE: You did tell us 7,000 or some similar number?

6

MS. CARTWRIGHT: Right.

7

MR. DOUVILLE: You mentioned a barrier at these creeks had been cleared out. I understand there was a barrier at Hoke Lake, which is right across the ladder. There's a beaver dam that was built that fish couldn't get by this year. Are you aware of that?

11

MS. CARTWRIGHT: No, I'm not aware of that. I don't know anything about that system.

13

MS. GARZA: Marilyn?

14

MS. WILSON: I really appreciated the well-presented report also. It was very understandable, and the pictures are great to see these projects being done.

16

I wanted to know about that one lake that had barriers in it, that were removed. I know up in Haines we had work done on the Cape up there. It was a fast-running river or creek, and they moved all the rocks, and they made it all smooth on the edges, and there was nowhere for the fish or the salmon to rest. So, I was wondering if this has anything to do with that creek that you were -- that you took the debris out of?

22

MS. CARTWRIGHT: Yeah, you're talking about -- there's two issues here with large woody debris. In the past, historically, fisheries biologists thought if you just stripped all the wood out of the system, fish would have a better chance to get up, and we've found out that it's very

25

1 valuable in terms of creating scour pools or
2 areas for fish to rest when they really need
it.

3 In the case of Kuke, if you had
4 too much -- in this system, the water was
5 presenting underground. It was presenting
6 an actual barrier to returning. There's a
barrier to having some, and having too much
to speak. I'll let Ben speak. He was one
of the people out there and erased the
barrier.

7 MR. VAN ALLEN: Ben Van Alen,
8 Forest Service, Juneau, and at Kook. It's
9 an interesting system. All the stream goes
10 under water in -- caverns, stands around in
11 three locations, it's just the interest of
12 those caverns, upstream entrances had
13 collected sticks and most of the debris that
14 you can pull out by hand, kind of like
15 beaver dam material, debris clogging the
16 entrances to the caverns. There was
17 evidence of fish that had gotten caught and
18 killed and whatnot trying to make it into
19 the system. All I know is back in the '60s,
20 it was a routine activity to go to a
21 particular system and make sure those cavern
22 entrances were cleared of debris and it had
23 been dropped off the do list and I guess
24 that was a cooperative effort back then by
25 Fish & Game and the Forest Service, so I
think it was helpful to go back and probably
make that an annual activity. It's a
one-day trip. It's not a big thing, but,
you know, it ties in with the overall
concern we have for Kuke sockeye. It
clearly has declined in abundance in recent
years, from our stock assessment work. We
certainly couldn't find very many fish up in
the system. Historically, it had, you know,
a decent run, and decent subsistence
harvests, and all indications are that it
was a lot higher. The other could be
complications with logging in the system,
both on the inlet tributaries and along the
lakeshore, but thinking big picture, it's a
big enough lake that it should be producing
considerably more than what it appears to be
producing.

So, any little bit like this

1 assisting and easing the migration of adult
2 salmon in the system, I think would help.

3 MR. KOOKESH: I notice in
4 concluding your presentation, you noted
5 "traditional knowledge." Can you elaborate
6 what role traditional knowledge played?

7 MS. CARTWRIGHT: Yeah, I think --
8 I don't know how to do that, but I know that
9 information is also being corrected, and I
10 think it's important as part of the --
11 especially -- estimating the long-term scale
12 of what these lakes used to produce before
13 long-term -- and I'd like to use that
14 information to figure out what the
15 productivity could be of these things. It's
16 all part of the puzzle.

17 MS. GARZA: Bert?

18 MR. ADAMS: I think that
19 traditional knowledge is very, very
20 important before you even start developing
21 any type of management plan to help our
22 resources, and as I explained earlier in my
23 report. One of the things that the tribe is
24 involving this coming year is looking at a
25 way the resources were managed for our
26 people many, many years ago in that area.
27 We consider the fact that that particular
28 area took care of, you know, hundreds and
29 hundreds of people. Between 5 and 700
30 people. You know, the resources of that
31 area, and somehow or another they had some
32 ways and means of managing the resources so
33 that, you know, those fisheries and the
34 seals and other game would keep coming back.
35 And I really believe that it's important
36 that we implement TEK to all the projects
37 that we get ourselves involved in. As I
38 mentioned earlier, with western science,
39 when management comes together, we will have
40 good sound management, to take care of the
41 resources. I just wanted to make that
42 comment.

43 MS. GARZA: John?

44 MR. LITTLEFIELD: My grandfather

1 called Kowual (ph.) claimed was the leader
2 of the Basket Bay Arch House, which was in
3 the Hogan Lake. That's where they lived at
4 one time. There is considerable amount of
5 fish, far more than there is now. I was
6 wondering if the Forest Service or maybe the
7 ADF&G has an estimate of the carrying
8 capacity of Hogan Lake?

9 MR. VAN ALLEN: I can't say on
10 that exact numbers, but there was a study
11 done, a cooperative study with Forest
12 Service and Fish & Game. In particular,
13 Dave Barto Group with Statewide Knowledge
14 Project, which more or less has been
15 disbanded, by the way, due to funding cuts,
16 but they did study Kook Lake and put out a
17 report. All the reports were towards
18 understanding the carrying capacity of the
19 lake and included some escapement
20 estimation, from the ecological standpoint
21 and traditional standpoint.

22 The carrying capacity is
23 certainly much greater than the production
24 is at present time. It appears to be
25 escapement-limited, I guess we would say.
If we put more fish in there, we would get
more fish back.

I don't have that number off the
top of my head.

One more thing on numbers, if I
could jump in. We talked about Redoubt Lake
and what kind of an escapement goal, what's
a good escapement goal for that system?
Almost across the board in all these sockeye
systems, even ones we've studied like
Redoubt for 22 years of weir data and all
the associated spawner/recruit information
knowledge as well as many other systems we
have like Chilkat and Chilkoot and others
with a long history of data, really the best
thing we can as biologists come up with is,
I believe, a consensus on kind of a minimum
escapement level. What we'd like to say,
then probably a couple of tiers there. The
minimum escapement we like to say, you know,
in any given year, to avoid that, what I
call the escapement bottleneck, we have to
keep the escapement at least above a certain
amount or else we will be paying a price in

1 loss of future production.

2 So, that's literally what we did
3 at Redoubt. The last two years, we've seen
4 in -- inseason assessment, inseason an
5 escapement is certainly less than about
6 6,000 fish, less than that. So that's kind
7 of a trigger that we say, well, we need to
8 make some immediate and -- and most direct
9 action in reducing exploitations on this
10 fish, so that's where the sport and
11 subsistence fisheries get curtailed.

12 So, it's certainly a minimum
13 there, and I guess that probably what we're
14 looking at mostly these other systems where
15 we'll come up with an assessment of we want
16 at least so many fish at Falls Lake, so many
17 at Klag, the upper end of the biological
18 escapement goal, the range of escapement,
19 likely maximize production will remain
20 unknown because we're basically each year
21 we're adding down points of an experiment.
22 Experiment between what's the relation
23 between spawners and returns, and unless we
24 literally collect data points throughout
25 that range of spawners and certainly we've
26 got some lower on the range, we need higher
27 escapement levels, we won't really know what
28 the carrying capacity of the lake is. Like
29 Meg pointed out earlier, adults that
30 literally feed on two things, you know, one
31 is the primary productive -- the
32 phytoplankton feed the sea plankton, feed
33 the eggs, we're escapement limited. If we
34 had more eggs in there, we would probably
35 produce more fish.

36 Redoubt, it's really unclear,
37 we're not certain if we add more fish we're
38 really getting more back. It appears the
39 fertilization effort that had been conducted
40 in the -- mostly the early '90s, mid-'90s,
41 didn't pro -- did produce production of
42 sockeye that was healthy. In fact, '89 to,
43 what was it, 1999, we had literally the
44 highest escapements observed in many, many,
45 many years, highest runs returned. So,
46 it's -- in each system it's certainly on its
47 own, but general consensus that, I guess,
48 I'd be putting forward is that we want to --
49 wherever we can, gradually rebuild -- build
50 up escapements. At the same time, if you're

1 looking at enhancement, you probably would
2 do better at fertilizing than efforts to
3 fertilize, increase the primary productivity
4 of the system, would probably be better than
5 adding fish, adding fry, doing -- adding
6 fry, doing egg takes or anything like that.
7 It appears at Redoubt, that literally, we're
8 starting to get a cyclic pattern. Every
9 four years we get a bigger year, that's the
10 overescapement. In the high years, it
11 represses production for generations. It
12 produces enough food for the fry, and not
13 enough for the next year and the next year.
14 A healthy system is where there's one where
15 there's no cyclic pattern to it. You build
16 the escapements to a higher plateau so the
17 overall carrying capacity is -- and your
18 returns are dependent on maturations,
19 survival, climate, ocean, you name it.

20
21 MS. GARZA: I'd like to ask a few
22 questions that are more administrative.
23 You're the regional creator for all these
24 projects?

25 MS. CARTWRIGHT: I'm the Fish &
Game leader.

MS. GARZA: Okay. It looks like
the majority of these projects will at least
continue through next year. I guess my
concern is that I had heard through several
of the communities that they didn't feel
that they had equal or even close to equal
participation in these projects that were
intended to be cooperative.

Did you run across any problems
where they voiced to you, and, if so, do you
have any plans for changing them?

MS. CARTWRIGHT: This is the
first I've heard about that, Dolly. So, if
people have some comments and suggestions
for next year, I'd be very interested in
them. We are planning to get together with
our cooperators this winter and talk about
problems and things that worked and things
that didn't work and how we can make them
better.

I think -- you know, our ultimate

1 goal is to get Tribal governments involved
2 in fisheries research and I'm really proud
3 to say that our crew leader in the Wrangell
4 trilogy didn't work out and we were able to
5 hire John Feller through the Fish & Game
6 registers. Now he's a Fish & Game person,
7 and there's some successes and maybe some
8 areas we need to work on. I can't respond
9 to --

6 MS. GARZA: In the quick
7 presentation by Ray Sensmeyer, he did inform
8 me that he is an ADF&G Tech II now. In the
9 work with the other Tribes, are any of these
10 guys being trained so they will fall into
11 ADF&G employable columns?

9 MS. CARTWRIGHT: That's our goal,
10 and a lot depends on, you know, just how
11 quickly people are coming up to -- top
12 speed, but it's the goal of both the Tribal
13 governments and Fish & Game that they will
14 eventually take over the field projects.

13 MS. GARZA: So, they're being
14 made aware of what ADF&G requirements are
15 required for ADF&G jobs.

15 MS. CARTWRIGHT: Getting your
16 foot in the door leads to opportunities
17 elsewhere. So, that's definitely possible
18 too.

17 We gave each Tribal government a
18 job description, and my idea was these guys
19 would go out this year and maybe next year.
20 Everybody is different on their levels of
21 experience and abilities. So, they would go
22 out with the Fish & Game crew leaders, just
23 begin to learn, how do you set up the camp,
24 how do you set up research, and the critical
25 thing is truly understanding things so you
26 can make in-field decisions that you need to
27 do.

23 If you come up with something
24 that isn't in the protocol, then you need to
25 be able to make a decision.

24 MS. GARZA: One thing I might
25 suggest -- I'm with the Alaska Sea Otter/Sea

Lion Commission, as well as with the Alaska

1 Native Science Commission and part of our
2 goal has been to train Alaska Natives to do
3 this type of field research because they're
4 in the field. I mean, they live in the
5 field. And for the Alaska Sea Otter/Sea
6 lion Commission, as well for the Alaska
7 Native Harbor Commission, when we train
8 people to do Level 1 or Level 2 -- or to do
9 research surveys, we have a dedicated
10 training time. We like to finish up with a
11 certificate so that if you guys change or if
12 ADF&G people changed here, we continue with
13 the projects that it would be close that
14 these people have been trained to do these
15 types of protocols for field tests -- I want
16 to suggest that, at least consider it.
17 Also, if you are meeting with the
18 cooperatives this fall, I would like to be
19 notified of the meeting. I don't know that
20 I would attend, but I do get contacted by
21 different Tribes. If I have a feel for
22 what's going on, it helps me in the
23 conversations.

13 MS. CARTWRIGHT: I actually was
14 going to approach you at some point during
15 this meeting and talk to you about doing
16 just that.

16 MS. GARZA: So I guess my final
17 question is, I know that two in the -- two
18 of the villages are here, Sitka Tribe and
19 LVK. Did either of you guys intend to
20 present on any of these projects, or are you
21 guys still here looking cute?

19 Herman is here looking cute.
20 Jack, you have a power point?

20 MR. LORRIGAN: If I may.

21 MS. GARZA: One minute, two
22 hours, whatever.

22 Thank you, Meg.
23 We'll take a break and make sure
24 that Jack can get this thing running.

24 (Break.)

25 MR. LORRIGAN: Good morning,
Council, Mr. Chairman, everybody else.

1 Thank you for indulging.

2 MR. CLARK: Your name for the
3 record.

4 MR. LORRIGAN: My name for the
5 record is Jack Lorrigan. I'm with the Sitka
6 Tribe of Alaska as a biologist, and also a
7 coordinator for these lake projects on the
8 tribe side Klag Lake and Salmon Lake.

9 They say a picture is worth 1,000
10 words. I have about a 25,000-word report
11 for you.

12 I hope you remember it all.

13 Michael Stringer helped me out
14 with this presentation. He did a pretty
15 good job with the time frame he had to get
16 pictures for us.

17 This is the Sitka Tribe logo.
18 Our department is the customary and
19 traditional resources department.

20 Here we go.

21 Spring of -- actually, February
22 of 2001, we were selected to have Salmon
23 Lake and Klag Lake as projects in the Sitka
24 area. Cooperative part of it was between
25 Fish & Game, Forest Service, and NSRAA
especially on Salmon Lake, because that is
such a close-linked town.

ADF&G, U.S. Forest Service,
NSRAA, as I said.

One of the reasons for that is
that we have so many -- so many varied
interests in these lakes, with Redoubt and
Salmon Lake being shut down. Salmon Lake is
even closer and has a smaller population of
sockeye, so as it would have more impacts, a
larger system a further away from town,
that's why NSRAA has an interest in this
since their hatchery is very close to this
area.

There's a possibility -- these
two lakes are funded to go through the year
2004, and we might be getting Redfish Bay.
We don't know whether the Federal Fish Board
and yourselves decide on what to do with
that. The subsistence is value here.
Salmon Lake, Klag Lake because Redoubt Lake
already has a Forest Service weir on it.

This was taken on top of Restovia

1 in Salmon Lake, right here. The hatchery
lays right in here. Pretty faded.

2 One of the most important
3 subsistence resources we have. It's
4 presented in an earlier presentation. They
5 closed Salmon Lake because of the displaced
6 fishermen for Redoubt would charge over
7 there and take advantage of the stock we
8 didn't know a whole lot about. So to be on
9 the safe side, they decided to close Salmon
10 Lake to sport and subsistence fishing this
11 year.

12 We're also doing coho in Salmon
13 Lake. In years past, Fish & Game had a weir
14 in there. They ended their project when
15 their weir blew out during October rains.
16 We built a floating weir, which is pretty
17 new to Alaska, not Alaska, but Southeast
18 anyway, and it's designed to take higher
19 flows.

20 One reasons why Salmon Lake over
21 here has so much concern about it is that
22 the hatchery here, NSRAA released several
23 million chum in Deep Inlet down here, so
24 we've had a high commercial use in this area
25 right here where seiners, gillnetters,
26 trawlers and even sport fishermen are
27 concentrating their efforts pretty close to
28 this area here and we speculate that the
29 coho and sockeye have to come through here
30 to get to here, and that this fishery may be
31 impacting the return.

32 MS. GARZA: Jack, can you point
33 out Sitka?

34 MR. LORRIGAN: Sitka is right up
35 here. The pulp mill is over here; Jamestown
36 Bay; here's the airport right off there.
37 Eastern Channel, Deep Inlet, Aleutkina, Long
38 Island.

39 A lot of fishing effort here.
40 They stagger openings for seining,
41 gillnetting, and trawling, so everybody gets
42 a shot at the chum that are coming back to
43 here (indicating).

44 Like I said, there may be an
45 impact on sockeye, especially returning
46 about the same time of year through this
47 area trying to get down here. Deep Inlet --

1 has a recovery for their chums in this area
2 so we don't know for sure where these fish
3 are or if they are even being impacted.
4 It's just speculation at this point, that's
5 why we have the weir project. The weir is
6 where the pointer is.

7 To make sure we give the sockeye
8 the lake, and the pinks, and chums to spawn
9 on this, it's advantageous not to have
10 the -- anything washing up on the weir.

11 We'd like to thank the U.S. Coast
12 Guard. They lifted a bunch of materials
13 into the area with us. We built a sleep
14 tent and cook shack near the weir. All this
15 lumber and all the heavy stuff had to be
16 lifted in. The Coast Guard lifted a lot of
17 weir materials in. They lifted about 7,000
18 pounds of materials in. And Era Aviation,
19 we contracted them to lift the rest.

20 The crew came from the college
21 and people around town. That's been one of
22 the challenges of this job is personnel.

23 We strive to make it a Native
24 hire issue, but that's not always realistic,
25 and usually a lot of locals hiring for jobs,
we were able to keep the weir manned as much
as possible.

We had a pretty good crew.

15 This is the floating weir, and
16 this is upside down. We lifted it into the
17 lake and the helicopter released it into the
18 lake and we floated it into position,
19 brought it down the channel. This baffle
20 right here, they're designed to help lift
21 this panel, this weir panel, and they
22 connect side by side. They bring in extra
23 pickets and they have connectors on the
24 side, they slide an extra picket to slide
25 all the weirs together. We adjust the
baffles to let the weir ride however the
water is flowing. If it's flowing really
high, you want as much an angle on the
baffle as possible to keep this tip up so
the fish aren't jumping over. If it goes to
a log, it bounces back up.

It's attached to a rail with a
cable, and the baffles are on this end, as
the flows come up and down, this part comes
up and down, this part's kind of a difficult

challenge to make fish-tight. That's one of

1 the reasons why we had the mark recapture
2 study is to verify that our weir was not
3 allowing fish to get through. So, you tag
4 100 fish in a trap, which is this portion
5 right here, and you go recapture them in the
6 lake, you want to make sure you get 100 fish
7 that have been tagged. If you catch 100
8 fish in the lake and only 80 of them have
9 tags, and 20 of them don't look like any
10 anything has happened, you've got another
11 situation to deal with.

12 These hooks attach on the cable.
13 This is an angle iron that's been driven in
14 the supreme bad, anchor it with a sand bag.
15 It's pretty stout. We've been on the weir
16 when the trap was under water, here, the
17 other day, and the weir held. We saw coho
18 jumping behind it. They wanted to get
19 through, they cut the trap down to keep them
20 from going in, around let them hang in the
21 back until it was safe to go work again.
22 This whole portion was underwater, cascading
23 over. We're in a situation where a
24 traditional weir would have blown out.

25 That's what it looks like from
downstream. Done modifications throughout
the summer to deal with holes and just
troubleshoot throughout the year, and you
see how the baffles are all adjusted down to
keep the weir flying, basically, is how we
describe it.

You've got a safety up on the
top. Since the camp is on this side of the
stream, and the trap is on the other side,
we have to take a skiff on the high water
and hand over hand ourselves to get over to
the other side to get into the trap.

We have the generators set up
with wire, I think this is the wire here, to
have some lights shine on the trap at night
so we can keep an eye on during the flows.
There's not much you can do when the water
is raging, but you can know when you lost a
portion of the weir, when a portion went
under, or estimate when the fish get into
the lake. That's the lake in the
background, comes through here and this
debris pile here comes from another little
stream to the left.

This is a stream, sleep shack in

1 the stream that runs behind the sandbags,
2 and that thing is really temperamental. It
3 rains a little bit and it's hard to cross,
4 so we had to have a crew sandbag this
5 portion to keep that stream from depositing
6 a big bunch of debris behind the weir which
7 could have affected it, because the stream
8 technically falls back in the lake around
9 these trees when it gets to flowing way
10 high, so we had to account -- accommodate
11 that.

12 We've been using clove oil to
13 knock the -- they give us a flow punch,
14 purple tag in the dorsal. This is a
15 recovery tub, lessens the stress on the
16 fish, not beating themselves up fighting us.
17 We can get them processed really quickly.

18 These are coho.

19 We're planting a flow tag in
20 here, taking scales here.

21 Then we do a mark recapture at
22 the other end of the lake. Mr. Chadwick,
23 who is right here, I think that's one of the
24 crew. They gave me a dry suit to keep the
25 net off the dor, there's a lot of logs, you
26 have to have somebody out there to unstick
27 it.

28 We do mark recapture every week
29 on Wednesdays, and you have a crew of about
30 four to five people to go fish the glory
31 hole and see how well the weir is working.

32 Salmon Lake had 1,121 sockeye go
33 through than -- that we actually tagged,
34 coho to date there's been 960 that entered
35 the lake that we've handled.

36 Everything went fairly fluidly.
37 I'd like to thank Fish & Game and the Forest
38 Service for all their help. They've been
39 outstanding in terms of support and
40 expertise. It's been an enjoyable
41 experience and we hope to do some more of
42 this.

43 MS. GARZA: Any questions for
44 Jack?

45 MR. LORRIGAN: I've got Klag Lake
46 to go.

47 MS. GARZA: Speed it up.

1

MR. LORRIGAN: I'm trying to.
2 Klag Lake is on the northern end. It's

3 another important sockeye system. Everybody
4 that don't go to Redoubt or Salmon Lake
5 charged up to Klag Lake, which is a pretty
6 good sockeye system.

7 There's an old Fish & Wildlife
8 shack, that they've refurbished. We have a
9 solar panel, no generator. We redid the
10 cabin. The weir is up around the corner.

11 The cabin's down here, and the
12 stream looks like this through the ponds.
13 Only place we found sockeye spawning is
14 right here (indicating).

15 We radio-tagged six fish and we
16 didn't find them anywhere. In fact, we only
17 found the carcasses right through here.

18 MR. VAN ALEN: They all were low.
19 We did find spawning on a lake in that other
20 pond.

21 MR. LORRIGAN: That's right.
22 Right here, there was some spawning, so
23 we're speculating the fry that was -- there
24 was a little falls, not really high -- but
25 it must be so that they have to deal with
trying to get back into the lake.

26 We didn't see anything on the
27 edges.

28 Did you? We never did.

29 MR. VAN ALEN: Near the outlet
30 there was lake spawning. Around the
31 corner -- to the right -- there you go.

32 MR. LORRIGAN: Okay. I didn't
33 know that.

34 So, there was some lake spawning.
35 Forest Service packed the weir on
the Sitka ranger and put it -- put up the
36 weir, they -- the weir, they got it in a
37 day. Same thing. They knock the fish out
38 in this area and have a recovery tote.
39 Upstream view of the down.

40 We're trying to tag 40 percent of
41 the fish and then those -- once we hit our
42 goal for the day, we just count -- passed

the rest.

1 They did weights at Klag,
2 everything is the same, they took weights,
3 also.

4 That's what we did at Klag.
5 Klag Lake had 12,115 fish go
6 through the weir, and approximately 1500
7 fish were caught in the subsistence fishery.

8 All the information is not in
9 yet, because we're not requiring them to
10 carry in their subsistence report forms
11 until November. That's about all the hard
12 evidence numbers you're going to get right
13 now.

14 MS. GARZA: John?

15 MR. LITTLEFIELD: Jack, you
16 mentioned the intercepting of the NSRAA
17 fishery that takes place there where you
18 showed the area around the terminal harvest
19 area -- go back to the sockeye -- I'd like
20 to know, is significantly ahead of when the
21 terminal harvest fishery takes place for the
22 chum, and correct me if I'm wrong on that,
23 but basically the sockeye have been in there
24 prior to when the terminal harvest fishery
25 takes place, and also only the very last
26 week, I believe, of the weekly opens affect
27 the coho. In other words, the majority, the
28 eight weeks that they harvest chum salmon
29 predominantly in the harvest area, near Long
30 Island, Deep Inlet, in those areas there.
31 There are no sockeyes there or coho, if you
32 can comment on that.

33 MR. LORRIGAN: Okay. That's
34 true. We did see a number of coho coming in
35 to Salmon Lake with gillnet scars around the
36 pectorals and there's also a big trawl
37 impact, a lot of ripped-off jaws. We don't
38 know how significant that is, if it's a
39 major factor in those runs or not.

40 Seems like all the systems had
41 really good survival this year, Salmon Lake,
42 roughly 1,000 fish coming back to it. That
43 was one of the questions about this project
44 is whether or not it's being impacted by all
45 the commercial effort out in front.

46 I don't know if I answered your

question all the way.

1
2 MR. LITTLEFIELD: I guess my
3 point was that the -- I didn't want it
4 misunderstood that the terminal harvest
5 fishery for chum salmon was a major
6 contributor to how many fish get up there;
7 either sockeye or coho. There are a number
8 of other fishers outside of that that do
9 affect it. In years of high pink abundance,
10 that whole area is open to pink salmon
11 fishing, and that's probably a bigger
12 contributor than the terminal harvest area.
13 There are other factors; NSRAA was probably
14 a smaller factor.

15
16 MR. LORRIGAN: I understand what
17 you're saying.

18
19 MS. GARZA: Bert?

20
21 MR. ADAMS: Jack, thank you for
22 that report. I found it very informative.
23 You mentioned I guess it was Klag
24 Lake, that had 1,000-plus escapement. Is
25 that enough? Is it normal?

26
27 MR. LORRIGAN: I don't think we
28 have any idea. This is the first time that
29 sockeye have been looked at there.
30 Encounters with fishermen who are familiar
31 with the area said it wasn't that abundant,
32 12,000 fish spawning in a little spot. In
33 other words, we don't know. It's going to
34 take a couple of years with being there and
35 watching that system to see -- and the
36 information from the studies aren't through
37 yet about what the carrying capacity could
38 be. So it's hard to say "yes" or "no" to
39 that question.

40
41 We don't know.

42
43 MR. ADAMS: It's just kind of a
44 fairly new research?

45
46 MR. LORRIGAN: I don't think it's
47 ever been done before. Klag -- the watch
48 cabin that was there was to keep creek
49 robbers out of there. It wasn't to assess
50 the statement.

1 MR. THOMAS: Creek robbers, you
2 said?

3 MR. LORRIGAN: Yeah.

4 MR. THOMAS: Really?

5 MR. LORRIGAN: Way back in the
6 '20s or '30s. The cabin is far improved
7 from what it was. It's been there a while.

8 MR. THOMAS: Okay.

9 MR. ADAMS: The reason why I
10 asked that, Jack, is back -- it was an
11 escapement goal of 45,000 a year. It
12 doesn't reach that, it's for an emergency
13 situation. I was just curious.
14 Thank you.

15 MS. GARZA: Thank you, Jack. The
16 lunch will be served as noon. We'll try to
17 wrap up about a quarter to noon. And Fred
18 can take anybody to the bank so they could
19 cash their check and pay for lunch.

20 Mr. Jackson and Mr. Jackson.
21 State your name for the record.

22 MR. JACKSON: My name is Mike
23 Jackson for the Organized Village of Kake.
24 I have degrees in management. Since my
25 knowledge of 50 years in the Kake area and
26 having my grandfather as one of the largest
27 influences on my life and being taught by
28 him and my father and the other Elders in
29 our community, I'd like to think I have a --
30 quite a knowledge of what the Kake area is
31 about in regard to sockeye fishing, coho,
32 and all the other salmon species.

33 The information we're getting
34 through the Alaska Department of Forest
35 Service Cooperation is very startling to us.
36 In the fact we never knew exactly what was
37 there. All we did was take what we needed
38 from the three systems that were studied
39 which is Falls Lake and Gut Bay. Falls Lake
40 has a weir on it and then Gut Bay is
41 probably of the trilogy, the Kook, Gut, and
42 Hoktaheen trilogy.

We wanted to look at the Bay of

1 Pillars. The information -- the initial
2 information we're getting is really
3 startling just because we finally know
4 what's in there and what the escapements are
5 and it really opened our eyes to what the
6 study is about.

7 And thanks a lot to Meg
8 Cartwright and Pete Johnson and the guy
9 that's leaving the boat, Fred Clark, on
10 getting it up and running, and Ben Van Alen.
11 It really helped us in getting the study
12 going.

13 You may have heard, there was
14 some personal conflict issues that came up
15 out of the Kake. One, we think that's part
16 of learning. This is the first time we had
17 personnel out in the field other than our
18 camping, subsistence-type camping. Once we
19 had settled down and had help from Angoon,
20 which really helped us out by providing some
21 personnel, it really settled us down and
22 started getting some information. So that
23 is really interesting, and we'll get into
24 that a little bit on reconsideration on the
25 nonsubsistence users that you're going to be
hearing on the first reconsideration. I'd
like to get into a little more information
when we get into that subject.

Burt Jackson?

MR. B. JACKSON: My name is Burt
Jackson. I was one -- I was a crew leader
for the Kake Trilogy. I'm employed by OVK.

This year was the first year that
we're doing this study, so it's -- it was a
real good learning experience. Meg
Cartwright and Jan Conitz were really great
help on getting -- basically my crew to --
up to the standards for Kake -- scales and
lengths and all that critical information
for the study, and they talked to us quite a
bit about the study procedures and also
about -- Robert Chadwick was a really great
help in Sitka as our biologist. Our Tech IV
was based out of Sitka. We're just getting
our camps into -- put into our lake systems.
But I have nothing but utmost respect for
ADF&G and the Forest Service for them
helping us getting top speed in all these
studies here.

1 Other than that, the systems that
2 we are doing Hoktaheen and Kook and Falls
3 Lake, I worked basically a month at Falls
4 Lake at the weir there, and it's really a
5 nice system. Other than that, Fish & Game
6 and the Forest Service really helped a lot
7 in getting us up to speed and taking the
8 valuable data that we need.

9 Jan and Meg got me -- talked me
10 into taking limnology studies and making
11 sure I can do that on my own, and they're
12 trying to -- Meg said, the goal is to try to
13 get Native people into tech positions for
14 Fish & Game, even biologist positions, and
15 their enthusiasm brought me into -- is part
16 of what brought me into this job is trying
17 to get the Native people into that position
18 and taking over the projects and the studies
19 in the future.

20 And that's -- I'm really
21 appreciative of their help and they're
22 nothing but great help and workers, techs.
23 The biologists I've worked with seem to be
24 pretty forthcoming with their information.

25 MS. GARZA: Bert?

 MR. ADAMS: My compliments to
 Kake for being able to take these projects
 and actually do them themselves. I'm just
 curious. Was that the same Bert as me?

 MR. JACKSON: It's spelled with a
 "U".

 MR. ADAMS: Anyhow, it's a good
 name, isn't it?

 MR. JACKSON: Yeah, definitely
 good name.

 MR. ADAMS: What kind of
 background have you had, Burt, in regards to
 the job you've done in Kake? How long have
 you been working with that?

 MR. JACKSON: Our first year,
 this is the first year for our projects, the
 only background I really have is
 subsistence, and the gathering of the fish.

1 And the rest of it I learned on the job
2 training for -- through Fish & Game and
3 their biologists and techs that instructed
4 us on how to take information and data and
5 all correctly.

6 MR. ADAMS: Congratulations to
7 you. And my compliments again to Kake, you
8 know, for taking on this initiative and
9 training and making sure that all the people
10 are getting hired in the future. I think
11 that's a great move.

12 MR. THOMAS: I want to echo
13 Bert's comment on congratulating folks for
14 the initiative you're showing from Kake, and
15 this being the first year, I think you've
16 handled it very well, and I appreciate you
17 guys' clarity in your reports.

18 Before we go on break, I want to
19 bring something up for Mike. This is a
20 totally different subject and I haven't
21 found anybody else to put on the spot so
22 Mike looks like the only vulnerable one to
23 me, so....

24 This has to do with government to
25 government, and it was brought to my
26 attention this morning from another
27 community with regard to some of the
28 decisions that are made on the inseason
29 management, could it be anyplace in any
30 region, and I was asked a question:
31 Shouldn't the Tribes have been brought in to
32 participate in this determination or not
33 necessarily that objective, but at least
34 made aware of this action happening on
35 inseason management? And I never had to
36 consider that before, because personally,
37 I'm not involved with Tribal affairs. This
38 is my only involvement here, and naturally
39 as that's what the Tribes -- that -- it was
40 after, well, thinking about it, was that if
41 you're going to go government-to-government
42 relationship established, then it's up to
43 both ends of that government to communicate.
44 In other words, are you the president of
45 Kake IRA?

46 MR. JACKSON: I used to be, now I
47 work as a staff member for them.

1

MR. THOMAS: But if you're the president, now we're into hypotheticals, and there's something going on, wouldn't you feel a responsibility to say I'm here representing the Organized Village of Kake, and under the government- to-government relationship we have, could you clue me in or send me some materials to where the Tribe will be better informed about what's going on here? Wouldn't that be a practical approach?

7

MR. JACKSON: Yes, it is. We have been working with the Forest Service many years now in regard to just what they do and their communications with us. A lot of the time per subsistence issues, specifically sediment and deer issues, but it took a little bit of education of what those government-to-government issues were and executive orders in regard to that, the same way with other agencies that I think they need to -- we need to have some kind of meeting in regard to, like, one of the resolutions I gave the staff to give you was to clarify what the government-to-government issues are and what the ANSCA corporations are, the Native corporations and other entities are in the villages, IRA Tribes, traditional Councils are the government-to-government part. Sometimes the name, like Kake Tribal Organization, Tribal issue, even the BIA gets the Kake Tribal gets the Kake Tribe mixed with the Organized Village of Kake and the City of Kake. Especially in our community, there is an education that we do give different industries when they come into town and start cooperating with us. Keeping us up to speed in regard to closures and management systems is very important to us. I have to sometimes educate the Councils for me to act. They sent me up here, because they really are concerned about what's happening on our sockeye and coho and steelhead fisheries.

24

MR. THOMAS: Thank you. One of my responses this morning was that you'll probably have times when the Federal

25

1 Government neglects, not intentionally, but
2 neglects to notify the Tribes of this type
3 of an action. So, I guess I got a couple of
4 considerations I'd like to be thought -- a
5 couple of suggestions I'd like considered.
6 One of them is that the Tribes establish
7 themselves better with the government and
8 that the Federal Government probably have a
9 flag ready and available when it comes into
10 season. I won't mention any names, Terry,
11 but a flag that says: If you're going to do
12 something like this, you could have a cc to
13 Tribes, you know. And that way people more
14 integral to that process.

15 This is totally different from
16 what you guys came up for review, but it
17 looked like an opportune time to mention it
18 right now.

19 Thank you.

20 MS. GARZA: And John, and then we
21 need to break.

22 MR. CASIPIT: Yes, I'm Cal
23 Casipit. I'm the subsistence staff
24 fisheries biologist for the regional office
25 in Juneau for the Forest Service. I was
involved early on in inseason management
planning, putting the protocols together for
the Federal program and how the Federal
program is viewed inseason management,
coordination with the Tribes and informing
the Tribes and including the Tribes in the
decision-making process for inseason
management actions are part of our inseason
management protocols and the Tribal
governments should be consulted with on
these inseason management actions. It's
part of our protocol. It's part of what we
instruct the inseason management to do.

26 MS. GARZA: John?

27 MR. LITTLEFIELD: I didn't have
28 any questions for Cal. I just wanted to
29 comment on these programs by the Sitka Tribe
30 as well as OVK.

31 When we had discussions on
32 limited funding, is this one of the things
33 we prioritized, the projects which had

1 cooperative agreements and involved both the
2 People? I want to commend both Sitka Tribe
3 and the organized Village of Kake. These
4 types of projects when I see them are going
5 to get my full support. You guys are going
6 to get my full support, both -- those things
7 I fully support and good job.

8 MS. GARZA: Bert?

9 MR. ADAMS: I forgot what I was
10 going to comment on, but I think one of the
11 important instruments, you know, that you
12 can use -- I know there's some Tribes like
13 Sitka Tribes, Ketchikan. I don't know
14 whether Kake has an MOU with the Forest
15 Service, but we do, and that opens the door
16 for anything that is going to happen. If
17 the Forest Service for instance, will come
18 in and do something or wants to do something
19 in the area, first people they come to is
20 the Tribal. And we sit down and talk about
21 it. Or if the Tribe wants to see some kind
22 of a program or project taking place here,
23 we work with them on that. That is a real
24 good instrument, you know, that opens the
25 door for a lot of things that we can do
cooperatively. Just a comment.

MS. GARZA: One of the comments
I'd like to say in response to that, when we
first started talking about the fishery
projects in Douglas, I got all bent out of
shape because I felt it wasn't going to the
Tribes, and we weren't hearing anything
about it; and, in fact, it was me who was
out of the loop and what was happening was
everything was going to the Tribes, but it
was missing the Council, and as Council
members if we would talk to the Tribes. We
weren't sure what was going on. I had to
apologize, because that process was
continuing and perhaps what we need is just
to get an occasional e-mail on -- on what
has been sent to the Tribes so we know what
the communication is.

24 Anyway, we'll break for lunch
25 until --

MR. THOMAS: 3:00 o'clock.

1

MS. GARZA: 1:15.

2

Do you have a comment, one quick
comment?

3

Lunch will be \$6. State your
name.

4

MR. SUMINSKI: Suminski,
subsistence fisheries biologist with the
Forest Service. Just to address the
chairman's concern, I did talk with Jack
from the Sitka Tribe, regarding the closures
of Salmon Lake and Redoubt Lake this year.
He was involved. That's all I had.

8

MR. THOMAS: The biologist -- you
need to talk to the guys, go talk to the
main squeezes.

9

10

MR. SUMINSKI: Okay.
Thank you.

11

MS. GARZA: Until 1:15.

12

(Lunch break.)

13

14

MS. GARZA: Calling the meeting
back to order.

15

We're still under No. 8,
briefing. We made it through Wrangell-St.
Elias -- next is the Southeast Regional
Advisory Council annual report which is
under Tab C.

16

17

18

MR. CLARK: Madam Chair, I'd like
to request that we defer the annual report
to 8(h) and deal, instead with the report on
customary trade with Pete Probasco. If we
could do that first.

19

20

MS. GARZA: Okay. So far we have
deferred 8(e) Inseason Fishery Management --

21

22

MR. CLARK: That was done?

23

MS. GARZA: That that's done?

24

MS. WILSON: Yeah.

25

MS. GARZA: We are deferring
8(h), the annual report, customary -- to

1 deal with Customary Trade with Pete
2 Probasco.

3 MR. PROBASCO: Thank you, Dolly,
4 Madam Chair. I'd like the regional -- thank
5 you, my name is Pete Probasco. I'm with
6 U.S. Fish & Wildlife Service, office of
7 subsistence management. I serve as the
8 State liaison between the Board of Fish and
9 the Federal Subsistence Board. I'd like the
10 Regional Councils to focus their attention
11 on Tab F of your booklet. That addresses
12 customary trade. I'd like to recognize
13 Dolly Garza and Bill Thomas. They've both
14 served on the customary trade Task Force and
15 were instrumental in developing the draft
16 that is before you for the Federal
17 Subsistence Board. My purpose today is to
18 receive any comment that you have on the
19 process and with the draft regulatory
20 language for the Task Force and for Federal
21 Subsistence Board to consider as we move
22 towards a final rule-making.

23 My presentation will cover four
24 areas: History of why the issue of
25 customary trade is before you; discussion of
the proposed regulatory language; schedule,
interests or timelines working towards a
final rule; and the importance of your input
as a Regional Council in this process.

26 We first need to establish what
27 is meant in regulatory terms when we discuss
28 customary trade. It's important that we
29 understand this distinction. Customary
30 trade pertains only to the cash sales of
31 subsistence-harvested fish. In Federal
32 regulations, when we talk about customary
33 trade, we specifically talk about the cash
34 sales. Barter is treated separate under the
35 Federal regulations; so, please don't
36 confuse customary trade with barter. And
37 the only discussion we have today is on
38 customary trade.

39 It is also very important that I
40 emphasize that this draft regulatory
41 language before you, as I said, deals with
42 cash sales of fish and not other wildlife
43 species.

44 In my presentation to some of the
45 other Councils, some Council members were

1 getting confused thinking we were talking
2 about other wildlife species, like migratory
3 birds, sea mammals, et cetera. This
4 regulation that's before you deals
5 specifically with the cash sales of fish.

6 Current Federal subsistence
7 management regulations specifically address
8 customary trade and barter. However, the
9 regulatory language pertaining to customary
10 trade is not specific enough to define
11 allowable levels. An important factor of
12 current Federal regulations in defining
13 customary trade is that the regulation
14 clearly recognizes and allows for the cash
15 sales of subsistence-harvested fish as long
16 as the cash transaction does not constitute
17 a significant commercial enterprise.

18 Unfortunately the drafters of the
19 original regulatory language did not define
20 the parameters of what constitutes a
21 significant commercial enterprise.

22 At times this has resulted in
23 uncertainty pertaining to what is
24 permissible when a subsistence harvested
25 fish is exchanged for cash. Further, the
current regulations, as written, is
unenforceable.

Retention of the current
regulatory language for invited use from
those who wish to use subsistence-harvested
fish for monetary gain to the detriment of
subsistence uses and users. If the limits
of cash exchange are not defined, then by
allowing this exchange to go unchecked could
potentially result in a negative impact on
other subsistence uses and users.

19 This is why the Federal
20 Subsistence Board established this customary
21 trade Task Force to develop this draft
22 regulatory language which is before you.
23 The purpose of this Task Force was to
24 attempt to define the term customary trade
25 as a subsistence use and then specify
appropriate limitations.

A great deal of planning and
thought went into the formation of this Task
Force to make sure that the group formed had
the expertise and background to tackle the
assignment. This is one of the primary
reasons why Regional Council members were

1 needed on the Task Force. We needed that
2 experience. We needed that traditional
3 knowledge in developing this regulatory
4 language.

5 The goal of the Task Force was to
6 develop draft regulatory language that
7 provided for the long-established practices
8 of "Customary Trade," as consistent with the
9 definition of "Subsistence Uses" in Section
10 803 of ANILCA, and defines the limits to
11 these cash sales. Customary trade Task
12 Force has met on three different occasions,
13 the last meeting being August 1st and 2nd
14 when the draft regulatory language was
15 finalized. That's printed in your booklet.
16 This draft language is now before the
17 Councils for their review and comment during
18 the fall meetings. The underlying themes of
19 the proposed language was to develop
20 language that is fair, prevents abuses,
21 meets the needs of Federally qualified
22 subsistence users, and does not prevent or
23 limit the trade or sale between communities
24 or villages.

25 In working toward the final rule,
there are numerous steps that must be
followed by law. I'd like briefly to review
these with you. Those steps are outlined
under that Tab as the third page, I'll just
briefly go through each step.

The first step -- this is the
step that we are currently in -- is a very
important step in that it provides the first
opportunity for Regional Councils, Tribal
governments, and public to directly comment
on the draft regulatory language. Council
comments are being solicited at all Council
meetings, and by the 1st of November, all
comments will be summarized and distributed
to the Task Force members.

And what we'll be doing here,
along with myself and Mr. Clark we'll be
recording all comments received from this
Council and presented.

The Task Force will review the
comments and recommend to the staff
committee and to the Federal Subsistence
Board how to address Council comments. It
is important to note that this is not your
only opportunity to comment on this

1 document. You, as a Council, will be
2 involved throughout the process and final
3 comments or recommendations to the Board
4 will be due just prior to the Federal
5 Subsistence Board May 2002 meeting.

6 Between November 1st and 15th,
7 the Task Force will meet once again,
8 consider the comments from the Regional
9 Councils, Tribal governments and the public,
10 and will recommend to the staff committee as
11 well as to the Federal Subsistence Board,
12 the Task Force recommendation how to deal
13 with the comments. The comments will still
14 go forward to the staff committee and the
15 Federal Subsistence Board for their
16 independent review.

17 Prior to December 2001, Federal
18 Subsistence Board meeting, the interagency
19 staff committee will review all comments
20 received to date, and will develop
21 recommendations on the draft preamble and
22 proposed regulatory language.

23 And during the December Federal
24 Subsistence Board meeting, the Federal
25 Subsistence Board will take action and
develop what we call the proposed rule.

This proposed rule will be
published in the Federal Register, and once
again it goes out to the Regional Councils,
tribal governments, and public for review
and comment on the proposed rule.

We will collect comments and
these comments will be delivered to the
staff committee and the Federal Subsistence
Board in preparation for the May 2002
meeting.

During the May 2002 meeting,
Federal Subsistence Board meeting, the Board
will review all comments and recommendations
and will develop the final rule, and take
final action.

So, the goal is to have the final
rule done in May of 2002.

It is the goal of the Federal
Subsistence Board to have the final rule in
effect for July of next year, 2002.

Mr. Carl Jack was going to be
here to bring you up to speed on the Tribal
government consultation process, and I just
briefly touched on that. We are required by

1 law to contact every Tribal government in
2 Alaska. Mr. Carl Jack is taking the lead on
3 that. He is well into that process, and he
4 will be responsible for collecting all those
5 comments and presenting them to the Federal
6 Subsistence Board.

7 I'd like you to focus your
8 attention on the draft regulatory language.
9 You will note that it's broken out into
10 three parts, and I believe Dolly played a
11 real key role in helping us to clearly
12 define these parts for the public, and it
13 turned out to be a very good way to draft
14 the regulatory language.

15 The first part of this regulatory
16 language deals with the cash sales between
17 rural residents. In other words, Federally
18 qualified subsistence users. If you look in
19 the definition under rural residents that's
20 what -- how rural residents are defined is
21 Federally qualified subsistence users. In
22 this situation, between rural resident to
23 rural resident there is no limitation on the
24 cash sale transaction.

25 The second part of the regulation
deals with the cash sales from rural
residents to others. In other words,
non-Federally qualified subsistence users.

In this case, the Task Force
focused on salmon and they're recommending
in the draft language to cap the cash sales
per individual at \$1,000.

For example, if you are from a
family of four, your annual transaction
would be \$4,000.

The group felt that other fish
species should not be addressed by the Task
Force and that Regional Councils should
focus on each other specific fish species if
they so desired.

The final section prohibits the
sales of subsistence-taken fish to fishery
businesses, i.e., processors.

Madam Chair, that concludes my
presentation, and at this time I'd be more
than happy to take comments or questions.

MS. GARZA: Any questions or
comments?

Patty?

1

MS. PHILLIPS: I like this document before us. I have a question. I come from a commercial fishing community, Pelican, and often times -- often times commercial fishermen will give you part of their catch and want it smoked and they get a portion of it back, you get to keep a portion, and then they might give you a little bit of money too. But -- so, where does that fall under it? It's kind of like a combination of barter and trade?

7

MR. PROBASCO: If the individual commercial fishermen is a rural resident, then what he is doing is perfectly legal. If he's a nonrural resident, State of Seattle resident, something like that, what he's doing is illegal.

10

Okay.

11

MR. DOUVILLE: I have a question. This first part is customary trade between rural residents. Would that cover the -- say, the hooligan fishery that happens in Saxman, Ketchikan?

14

MR. PROBASCO: Madam Chair, Mike, yes, it would cover that if the Southeast Regional Council would elect to put a cap on that. They have the ability to make that recommendation, or they can just leave it as it's currently written and if would be covered under other fish species.

18

Madam Chair?

19

MS. GARZA: Hooligan was a big discussion at these meetings, I think with Bill as well as with me.

20

Part of the Hooligan issue is that the Hooligan boat sells to rural residents in Saxman or Craig, Klawock, it falls under Section A. It's no big deal. If it falls under Section B, if they sell it to Ketchikan, then what we inserted here is that there was no cap on it unless the -- unless this Regional Advisory Council chose to put that on there. The \$1,000 cap there is for salmon only, and that was largely at the request of Southwest, Western, and

25

1 Northwest regions, and some of the Interior.
2 And so the salmon is a big issue in some of
3 the other areas, and it was from the Council
4 members that that cap be placed in, and the
5 language is in there -- if some of the
6 regions will probably or are at least
7 interested in lowering that cap from \$1,000
8 to, say, 5 hundred. So, if you pick a
9 number out of the air, and let each region
10 go with it individually. So, this would not
11 deal with any -- it would not deal with any
12 resources, herring roe on kelp, with black
13 seaweed, with other things where there may
14 be monetary exchange. This would deal
15 entirely with those fishery resources in
16 inland waters and basically that's salmon
17 for us.

Floyd -- Floyd and then John.

18
19 MR. KOOKESH: My question was:
20 So where are we in terms of violations?

21
22 MR. PROBASCO: As far as in terms
23 of violations for enforcement what we have
24 is no definition or limitation on the amount
25 that can be sold. All we have in
26 regulations is that the cash transaction
27 cannot constitute a significant commercial
28 enterprise, but the authors of the language
29 did not define what constitutes a
30 significant commercial enterprise.

31
32 Realizing that and reports to the
33 Federal Subsistence Board, this issue has
34 finally come to a point where they felt it
35 was very important to get this Task Force
36 together, to try to define them, and that's
37 what they're trying to do is put bounds on
38 significant commercial enterprise.

39
40 Madam Chair?

41
42 MS. GARZA: As well, Floyd, in
43 being entirely Federal. There are Council
44 regions who want this done.

45
46 John?

47
48 MR. LITTLEFIELD: I'm trying to
49 follow the heading up here, Title 36,
50 CFR242.26. I assume down at the bottom that
51 is Section A-11, and 12; is that correct?

1 MR. PROBASCO: That is correct.

2 MR. LITTLEFIELD: Which Federal
3 Register are we talking about? The way I
4 look at it I have to look.

5 MR. ADKISSON: Last four separate
6 years to determine where you're talking
7 about, and on the copy that I'm looking at,
8 26.11 doesn't talk about customary trade at
9 all. We're talking about using hooks to
10 physically snag. Maybe I'm in the -- in the
11 wrong area here. I can't seem to follow you
12 in the Federal Register, there's that many
13 pages I've got to go through. I'd like to
14 see in what Federal Register; I need to know
15 where it is.

16 MR. PROBASCO: I believe it's
17 Part 36, not 26. It says 26 on the draft
18 regulatory language. 242.26.

19 Madam Chair, Mr. Littlefield, I
20 can get you copies of the draft regulations.
21 These were provided to me by the solicitor's
22 office. We're addressing always to the
23 Federal Register and the forestry -- both
24 under -- what do you call those, Marty?
25 Separate citations.

MR. LITTLEFIELD: Rather than
the --

MR. PROBASCO: What chapter --

MR. LITTLEFIELD: You want us to
make a motion on this, and 26 is not where
it appears to me.

MR. PROBASCO: Thank you, Fred.
Madam Chair, I believe this is
something we could clarify during the break
as far as the exact numbers. We may have
different registers that we're looking at.
Madam Chair?

MS. GARZA: While John and Fred
are looking for that, are there other
comments?

I guess one of the comments -- my
opinion was -- was C and T, customary trade,

1 and adding all -- all based on the Marine
2 Mammal Protection Act. We wanted somebody
3 defining -- my experience has always been
4 "us" is better. When I went to that meeting
5 in Anchorage in August, the impression I got
6 from almost all the other regions is that
7 this needed to be done, and so I didn't
8 stand on my high horse and say let's do
9 nothing and life will go on, but the
10 impression I got from other Council members
11 was that they felt they needed this as a
12 tool as well. And so I would not speak
13 against it.

14 Did you find it, John?

15

16 MR. LITTLEFIELD: No.

17

18 MR. CLARK: Still looking.

19

20 MS. GARZA: Ida?

21

22 MS. HILDEBRAND: Thank you Madam
23 Chair, Ida Hildebrand, BIA staff committee
24 member. I wasn't in attendance to the Task
25 Force meetings that you did attend, however,
I did return the other ones. There was
great resistance that this be defined. When
did they come to the -- succumb to the
urging of staff and -- in the end they
seemed to acquiesce to say, okay, we have to
draft regulations; we'll agree to the
regulations; and their objections for many
Councils was this only addresses fish and
salmon in particular. Customary trade in
the customary and traditional means is
customary trade for sale for portions of all
subsistence resources, not just fish.
Regional Councils all still feel very
adamant if there's going to be a limit, it's
going to be region-specific and not one
statewide limit. There is also concern that
the sale -- the prohibition on sale to fish
business that they maintain some kind of an
exception that if the only local outlet to
transfer fish to Elders and other people who
could not meet their subsistence would be an
exception to that prohibition, if that
happened to be a fish business, and the
concern that -- not to confuse commercial
fishing and if you sell your commercial take

1 you have to abide by the laws of the State
2 that already have various restrictions on
3 them.

4 But it's not -- it's not
5 regulatory language that Councils came out
6 and said we have to do this. It was pretty
7 much -- they said if we have to do that we
8 have to.

9 MS. GARZA: The impression -- I
10 spent a lot of times trying to catch up. At
11 the first meeting, they sat down and came up
12 with something similar to this, everybody
13 liked it and it was good. The second
14 meeting, there were different personnel
15 people there and they thought that they were
16 having something shoved down their throat
17 and didn't like it. At the third meeting
18 when we clarified what was between rural and
19 rural and what was between rural and other,
20 that that involved pretty much the whole
21 conference; we spent a lot of time talking
22 about it, and it was a consensus in the end.

23 MS. HILDEBRAND: It was a
24 consensus, also when they reported back to
25 their respective Councils. There's still a
26 lot of discussion, a lot of discomfort with
27 it, Western Interior with this, recently
28 made the decision on it said that they
29 agreed to this language on a trial basis,
30 and if they disagree or they find something
31 wrong with it, they retain the right to
32 change it before the final rule goes over
33 and certain right to change it by proposal
34 process after the final rule is passed.

35 MS. GARZA: That's in the
36 language here. It provides for that.

37 MR. THOMAS: Just because I got
38 here, doesn't mean I wasn't listening. Good
39 overview. I didn't get involved in the
40 discussion since you finished your comments,
41 and I need a refresher now as to what we're
42 responding to with regards to determining
43 customary trade. Is there specific wording
44 now that we're trying to satisfy through our
45 process of meeting the customary trade
46 ideas?

1

MR. PROBASCO: Madam Chair,
Mr. Thomas, the specific draft language is
under Tab F, and that's what we're asking
the Councils to comment on, and you were not
at that third meeting, Dolly was there.

4

5

MR. THOMAS: That's the whole
problem.

6

MR. PROBASCO: And her along with
a couple other Council members played a key
role in drafting this language, and then we
put it into regulatory language concept.
We're specifically asking the Councils to
address and comment on it, and you will
note, as I spoke to it, it's broken into
three parts: Discusses the cash sales from
rural resident to rural resident; cash sales
between rural residents and others; and Part
3 discusses cash sales to fishery
businesses, like processors.

10

11

12

Madam Chair?

13

MR. THOMAS: I guess that's what
was confusing to me.

14

I think that's what was confusing
to me was the difference in who the exchange
occurred with, whether they were rural or
nonrural.

15

16

I don't know if that distinction
is necessary because the amounts of cash are
still going to be the No. 1 consideration,
and so I think this is something -- I think
a lot of what we do needs to be put into a
form as a blanket whenever possible to keep
it easily understood by everybody involved
rather than being -- having everybody
involved as confused as the person next to
them.

17

18

19

20

21

And I say that because I guess I
haven't understood why the equation of
nonrural people would be a significant
factor here.

22

23

24

MR. PROBASCO: Madam Chair,
Mr. Thomas, and as you're aware, you were
part of the process, this draft language
before us is the work of a group of
approximately 22 individuals, ten of which

25

1 were Regional Council members, and we
2 started out with no concept on how this
3 should be defined, and this language that's
4 before you is the result of working through
5 that Task Force process, and many elements
6 of customary trade were discussed, the pros
7 and cons, the fears, the positive aspects,
8 et cetera. When you get a group like that,
9 as you're well aware of working with, this
10 is what we developed, and the group felt
11 very strongly that we needed to specifically
12 focus on salmon. It wasn't -- we had mixed
13 opinions. When it came to those mixed
14 opinions, they felt the best way to deal
15 with it is to get it out to the Regional
16 Councils, and then the individual Regional
17 Councils can identify the differences and
18 speak specifically to it.

19 MR. THOMAS: Are we looking at --
20 statewide language or are we still
21 considering regional language?

22 MR. PROBASCO: Madam Chair,
23 Mr. Thomas, we are looking at both. We're
24 looking at State regulatory language with
25 the ability for Regional Councils to
26 recommend specific language for their area
27 so that it combines both aspects.

28 Madam Chair?

29 MS. GARZA: So, Bill, it's two
30 pages, page 3 and page 4 under Tab F. The
31 first one was customary trade between rural
32 residents. That's basically statewide.
33 It's rural to rural. There's no volume
34 amount; there's no monetary amount; it's
35 just you trade whatever you trade between
36 Yakutat and Sitka or Ketchikan and Pelican
37 or Ketchikan and Kotzebue.

38 There's no legal limits or
39 requirements there.

40 The issue became when you trade
41 from rural to nonrural areas and part of the
42 concern that I had heard -- and I heard this

43 in sector with herring eggs on kelp is that
44 if you have too many people doing customary
45 trade to nonrural residents than there's a
46 limited amount of resources available to be

taken by the rural residents, and they may

1 not get as much herring eggs on kelp as
2 people in the communities who are paying
3 cash for it. That was a big concern for the
4 areas on salmon.

5 In terms of the \$1,000 amounts,
6 there were regions that wanted it less.
7 They wanted 500. Other regions say if you
8 start at 500, I'm going to get shot when I
9 go back to my cash. We came up with \$1,000
10 saying each Council would have to change it
11 to meet their needs.

12 Purchase by fisheries businesses:
13 This might have been what you talked about
14 earlier, Ida. I think how it was clarified
15 was in those instances where there are sales
16 at stores that if those are in rural areas
17 and it falls under Section 8 -- is that
18 correct?

19 MR. PROBASCO: It falls under
20 Section 8 but there is a loophole in there
21 once we approach stores or other areas then
22 the State's DEC requirements may come into
23 play. ANILCA and other regulations do not
24 allow us to define processing requirements.

25 Madam Chair?

MR. THOMAS: I really admire the
challenge that you had in heading up this
Task Force, because I'm familiar with the
players that are involved, and that's kind
of scary. I say that each region has
different needs, different mindsets,
different attitudes, different perspectives
than other regions, and the most encouraging
to me in this whole process was somebody
suggested, well, why don't each region
have -- why don't we make this customary
trade thing a regional issue? That sounded
good to me because I know Southeast can come
up with a good workable one for this region.
And it will work good across the state, but
they won't necessarily buy that.

I'm wondering, are we still -- do
we know for sure whether we're going to have
a region-only consideration?

MR. PROBASCO: Madam Chair,
Mr. Thomas, I can't speak to what the
Federal Subsistence Board will finally come

1 up with, but I know the charge they gave us,
2 and you're very familiar with the charge and
3 that was to take this Task Force and develop
4 regulatory language that defines the
5 limitations of customary trade with the
6 caveat that if Councils want, we can have
7 subparts that define specific limitations
8 for that specific area. But this regulatory
9 language and the task set before us was to
10 define first a state definition of customary
11 trade and then further refine it for
12 specific areas if so desired.

13 Madam Chair?

14 MR. THOMAS: Yeah, you know, I
15 appreciate that. And there's a lot of
16 things in here that bother me, and one of
17 them is regardless of what we come up with
18 from the Task Force and give to the Board
19 for consideration, I don't know if the Board
20 knew what they want to look for, I don't
21 know if they recognize it when they see it.
22 I don't know what they have for guidelines
23 for themselves. And if they don't have
24 them, then everything we're doing right now
25 is futility. And if they do have a
26 guideline for themselves, that should be
27 shared with this Task Force.

28 See, otherwise, there's no end to
29 this project. It will end when the money
30 runs out.

31 MR. PROBASCO: Madam Chair,
32 Mr. Thomas, that's where our role and your
33 role as a Council is so important right now,
34 to provide these comments specifically for
35 this draft language. The Federal
36 Subsistence Board, their intent was very
37 clear to us as a Task Force, what we were to
38 do; and based on that intent, I think it's
39 safe to say the Federal Subsistence Board
40 wants to take action on this. That's why
41 it's important as a Council, we get our
42 comments and our concerns clearly defined to
43 this issue.

44 Madam Chair?

45 MS. PHILLIPS: Madam Chair, as I
46 said earlier, I recognize this is a
47 good-faith effort to try to solve a problem.

1 I'm looking at this going, how does this
2 address what really happens in the community
3 I come from, okay? Let's say we have -- we
4 have a product called trail mix and what
5 that trail mix is made up of is dried
6 salmon, dried halibut, and dried seaweed and
7 it's all broken up and mixed up into one
8 little baggy, okay. Okay, let's say this
9 person takes this big garbage bag full of
10 small little baggies of trail mix into Gold
11 Medal and they're going to sell it. This is
12 not a real significant enterprise, but it's
13 going to help them stay just above the
14 poverty line. Are they going to sit there
15 when they're selling their little bag of
16 trail mix, are you rural, are you Native,
17 are you non-Native, and I know what you guys
18 are trying to do, I know it's right, but is
19 it realistic for the village that I come
20 from?

21 MS. GARZA: John?

22 MR. LITTLEFIELD: Thank you, I
23 think we finally found what Federal Register
24 we had.

25 MR. CLARK: Hold it close to your
mouth, John.

MR. LITTLEFIELD: Having looked
at about six copies of the Federal Register.

MR. THOMAS: Wait until the
machine goes by.

MR. LITTLEFIELD: One-minute
break. Can you hear me now, Mr. Chairman?
Of what -- of what we looked through quite a
conglomeration of Federal Registers, I can
tell you that in my red book I have over an
inch of Federal Registers, and I think it's
pretty hard for a Councilperson to try to
figure out what you're talking about without
citing Title 36 and the date of the Federal
Register, regulation, what you're talking
about so we're all on the same page. This
one apparently is from February 2nd, 2000,
and I'd like to note there are multiple,
multiple Federal Register regulation changes

1 since then, so I don't know if this is
2 accurate. It happens to be Chart C-11.
3 Secondly, I'd like to comment on some of the
4 species that have been mentioned here; one
5 is halibut, the other is herring eggs. At
6 the present time, those two species are
7 excluded from ANILCA by your own regulatory
8 language, excluding the marine waters. We
9 shouldn't be talking about those. As far as
10 I know, the case court -- excuse me, the
11 court case of Jackson Weaverson which is in
12 the \$25,000 range of herring eggs was
13 determined to be customary and traditional.
14 I think this is a substantial decline from
15 25,000 to 1,000, which we currently can do
16 right now.

17 MS. GARZA: John, I think I was
18 the one that said herring eggs, and all I
19 said was it was not included, and the
20 halibut is not included and the seaweed is
21 not included. So for Southeast it's
22 specifically salmon and trout. Of course,
23 if we do extend beyond.

24 But I'm not sure in the
25 Detrickson case, whichever case it was, that
26 25,000 still holds, there were things that
27 have changed since that court case.

28 MR. LITTLEFIELD: What?

29 MR. THOMAS: Madam Chair?

30 I have an amendment to -- Madam
31 Chairman. Thank you for your patience. I
32 did find that charge here, and it says that
33 that portion to develop regulatory language
34 that does define Federal subsistence as
35 specified limitations for the purposes -- I
36 think we need to amend that by taking the
37 word "clearly," define it and leave the rest
38 of it up to your imagination. I don't think
39 that we'll come up with a clear definition
40 that would -- I was being facetious, but I
41 think it's pretty realistic too.

42 Thank you, Madam Chair.

43 MS. GARZA: So the other thing to
44 bring up is that Pete did say Carl did
45 intend to be here. He is not. It's my
46 understanding that through his process that

1 Tribes are working or making sure that they
2 get their comments in and at that meeting in
3 August, there was at least one Tribe who had
4 serious opposition and issues. That was
5 TCC. And so we have to remember that
6 regardless of how we vote, or if we vote, we
7 may take no action and go forward with
8 nothing; the rest of the regions may go
9 forward with something. It's whatever we go
10 forward with.

11 Regardless of that, ANB, ANS,
12 Organized Village of Kake, Organized Village
13 of Kasaan, still have the opportunity to
14 respond to these and should be responding to
15 these. We don't necessarily have to be that
16 collective voice. This work, you take it
17 home and somebody brings up something that
18 makes you concerned, you should write it.
19 This is what we're concerned about and this
20 is what we should change. I think -- and at
21 the meetings that I was at, all we did was
22 bring up every conceivable thing that could
23 go right or wrong. People would come up
24 with an idea that we hadn't thought of. We
25 would have to say, okay, how do we have to
change this so it accommodates this? What
do we do with it? And the biggest issue is
making sure that if the trade is between
rural residents, it's no big deal.

The other thing I didn't see in
here was the issue of AFN and strips, and
that will probably be submitted by Western
as a separate issue. That was talked about
at the meeting.

MR. PROBASCO: As we got into the
discussion of customary trade to AFN and
similar gatherings is when we started
uncovering the TEC regulations. We looked
at Subsection B at this time with the cover
of AFN because it's the sale between a rural
resident and others.

MS. GARZA: Or rural resident --

MR. PROBASCO: If it's rural
resident and rural you're okay. You see the
difficulty that this Task Force had when we
started taking this on. I think the themes

that we left with is that anytime you

1 develop a very complicated regulation, it's
2 a long drawn out process and you don't get
3 the perfect regulation the first go-around.
4 What the Task Force has before us is a good
5 working document that as we work through the
6 years we'll further refine it and deal with
7 specific issues that various Councils make.
8 I'll be the first to admit that the
9 regulatory language that we have doesn't
10 encompass with everything. The Task Force
11 wrestled with many aspects of it. Through
12 the process we eventually will come up with
13 very good regulations.

Madam Chair?

8
9 MR. THOMAS: Madam Chairman, I
10 guess I'm kind of at a loss where all these
11 other entities are coming into play, such as
12 the Tribal organizations, the corporations
13 and all this kind of thing, because they're
14 not part of the Task Force. It says here
15 the Task Force membership includes one
16 representative of each of the ten Regional
17 Advisory Councils, Federal agency staff
18 consisting of fisheries biologists, Council
19 coordinators, and State of Alaska Department
20 of Fish & Game representatives.

21 So that sounds to me like a very
22 relative people assigned to a defined group
23 of people, and I think one of the reasons
24 why this was drafted like that is because
25 the -- going back to the initial intent of
the Regional Advisory Council was to make
sure that membership from the communities
was represented by each individual on the
Council. So that's how they get their input
to this -- to this for you, and so I'm not
sure that they have -- I'm going to talk
about -- she wants the microphone.

This draft language is before the
Regional Councils during the fall meeting
for their review and comment, in order to
the Federal record, the draft language is
also being forwarded to the 225 governments.

Okay. That's after we come up
with the language. Then it goes up for
review.

25 MS. GARZA: Marilyn?

1 MS. WILSON: Madam Chair, I'm not
2 sure I'm for this regulation. I don't think
3 we should have too many regulations. Who is
going to make sure that people don't sell to
the wrong people?

4 MR. THOMAS: The guy on the end,
5 nice-looking guy on the end.

6 MS. WILSON: The thing is, most
7 of us if we have some fish, we take it to a
8 big gathering, and we give it or we sell it
9 to people who are not able to make it
10 because they have to work for a living in a
11 city, and they used to be rural. Most of
12 these people that are sold to, these fish
are sold to or products are from these
villages and I just don't believe in some --
too many regulations, because it can't be
enforced, and we try our -- we make
regulations. And to put a cap on it like
\$1,000, that's very unrealistic too as far
as I'm concerned.

13 I just wanted to speak my peace.

14 MS. GARZA: Did you have a
15 comment? Fred was feeding my ear.
Marty?

16 MR. MYERS: Marty Myers, law
17 enforcement. I was on this committee as
18 well. I think it's important to note when
19 we talk about the cap and we went round and
20 round with this for several days trying to
21 sort this out, but we also requested from
22 each Council what was the amount that they
23 felt was reasonable. And most of the
24 amounts that came back to us from that round
25 robin were less than \$1,000. There were a
couple that were over. And that's why we
felt it was real strong for the Regional
Councils to submit their own proposals what
the cap would be. Everybody expressed a
concern that it really wasn't that much as
far as monetary value going on that
required -- that really brought this \$1,000
amount out of line. It's really important
for you to understand that. It's not
something that was grabbed out of the air,
it was talked about quite a bit. The \$1,000

1 is probably -- if I remember correctly, is
2 probably above mostly what everybody said
3 that they actually sold in these areas.

4 And as far as your comment about
5 overregulation, this whole thing resolved an
6 issue of the significant commercial
7 enterprise. That, to me, is tough for
8 anyone to take a look at because it
9 really -- it leaves the government agencies
10 to focus on individuals with the perceptions
11 of what is a significant commercial
12 enterprise. The whole idea was to bring
13 this out, to actually kind of throw out that
14 language, set up so people can know exactly
15 what they've got to do, what the limitations
16 are so the government doesn't have to on
17 their own go out and make their own decision
18 what they think a commercial enterprise
19 should be and go after those people. I
20 think it's better for the user what they
21 can -- to know what they can do upfront. I
22 think the first part of this, in my opinion,
23 is very liberal and very open. I mean, as
24 far as I'm concerned, the door is wide open
25 for trade between users. There's no cap,
there's nothing at all involved with that.
We think that's more than what's ever been
available before.

Thank you, Madam Chair.

MR. LITTLEFIELD: Can you hear
me?

Some of this I don't have a
problem with, but when I look at this No. 3,
this final one, where it says no purchase by
a fisheries business, the way I look at
that, it talks about State of Alaska, so if
I was to sell to an unlicensed Japanese or
other foreign entity, I wouldn't be in
violation of this law, only if it was
registered under the State of Alaska. I
think when we have these discussions, what
we were saying was that as long as this fish
did not enter the commercial market at any
point it was okay, as long as they weren't
selling to a store or another person who
sent this to Seattle and had it processed,
that it was okay.

In other words, you won't be
buying all of this fish unless you're in a

1 commercial enterprise. And I think that
2 was -- at least that's what I remember what
3 the dis -- the discussions that this region
4 had, as long as it did not enter commerce,
5 along the line, commercial enterprise, that
6 is what we agreed to. This is significantly
7 different than what I agreed to.

8 MR. PROBASCO: Madam Chair,
9 Mr. Littlefield, I think it's important, you
10 touched on it in part. And as I spoke
11 earlier, there's many regulations that come
12 into play when you start looking at
13 customary trade. The key here on Part 3, a
14 person in Alaska to buy fish has to, by law,
15 be registered with the State of Alaska. If
16 you were to elect to sell it to another
17 individual that was a nonrural resident and
18 if this language went into place you would
19 be capped at \$1,000. So, you just can't
20 look at one, you've got to look at all three
21 together at the same time.

22 A person, commercial enterprise
23 cannot buy fish unless he's licensed as a
24 fishery business in the State of Alaska.
25 Right there, you've prevented a big loophole
for subsistence-harvested fish getting into
the commercial market.

The next hole or place where a
product can get into the commercial market
is rural residents to others. The group
felt because of the dynamics throughout the
State, that you had to allow some of that.
We talked about the small stores up north.
So they felt that \$1,000, rural residents
and others was a fair cap to place on salmon
only.

Madam Chair?

MR. THOMAS: Madam Chair?

MS. GARZA: I think AS43750071 is
the intent -- it's not Fish & Wildlife, it's
DEC or Department of Commerce.

MR. THOMAS: Madam Chair, I have
a complaint. Who do I complain to? The
Chair wouldn't recognize me.

Thank you, Madam Chair, Pete. I
think you're doing a good job out there. I

1 heard a couple of things that really
2 attracted my attention in support. I liked
3 what John just said, and when Marty said --
4 he made mention of monetary value, and I
5 think we need to focus in on that and to
6 decide if that really -- if there's monetary
7 value and recuperating expenses used to
8 harvest are one and the same. What is
9 monetary value until I think it's good that
10 he brought it out, but I don't know if it's
11 a good application. See what I'm saying?

I didn't think so.

7 Okay. That being the case, let
8 me get on to something probably a little
9 easier to decipher. You mentioned to John
10 of eliminating a loophole or preventing a
11 loophole. I like the way you expressed
12 that. I like the realization you had. What
13 I would hope you might be able to do if
14 you'd be kind enough to do so is to somehow
15 have that put into some kind of a visual for
16 display at our next meeting so that people
17 can look at that and see what the impact of
18 that preventing a loophole would amount to.

13 I think that was really well put
14 and I thank you for that.

14 But we can look at gloom and doom
15 here, but we'll have it finalized at our
16 next meeting, huh, Pete? We'll finish this
17 up at our November meeting.

16
17 MR. PROBASCO: Madam Chair,
18 Mr. Thomas, our November meeting of the Task
19 Force, what we will do as a Task Force is
20 look at all these comments, and from the
21 Task Force perspective only, was there
22 recommendations and comment that we
23 overlooked that we feel we should recommend
24 to the staff committee and the Board to
25 consider. The draft language -- we can't
change it. That's out on the table for
review. We can come back when we report to
the staff committee and the Federal
Subsistence Board with further
recommendations.

Madam Chair?

24
25 MS. GARZA: So, the Task Force
will be meeting the first part of November.
I will not be making that meeting. I have

1 something else going on. My good-looking
2 but not too bright alternative will be there
instead.

3 (Laughter.)

4 MR. LITTLEFIELD: Thank you,
5 Madam Chair. I'd like to note that I
6 believe this first part of the customary,
7 where it says this \$1,000 and stuff like
8 that, that's self-limiting if we do not
9 allow the sale of these products to enter
10 commercial enterprise in any area. Why
11 would I be able or how could I possibly be
12 able to sell \$25,000 worth of fish to my
13 brother. For what possible purpose could he
use it? For me, that purpose where I have
excluded this \$1,000 limit is on a very
limited basis like a pot latch situation
where we would buy these for gifts. It's
self-limiting. You're not going to spend
that kind of money. For me, personally, as
long as it does not enter commercial
enterprise covers all three of these points
that you've talked about.

14 Thank you.

15 MS. GARZA: So, then your point
16 is we can go either way on No. 1; that
washes out; no. 2 is unnecessary; no. 3
covers it all?

17 MR. LITTLEFIELD: Madam Chair, I
18 believe as long as No. 3, you have the no
19 part or parcel whatever this language shall
20 enter commercial enterprise at any point
until it's consumed is self-limiting by its
own language. I don't think you need any
monetary cap on this at all.

21 MS. GARZA: I could argue either
22 way on that. That's not what I heard from
23 other regions. I was surprised. I was
24 expecting to say we don't want anything, we
25 don't want anything, other regions wanted 5
hundred. They wanted lower amounts. I have
to be respectful of that -- our
recommendation here may say that there's no
cap for salmon. That could come from
Southeast. I don't think we should tell

1 other regions that if they clearly stated
2 that at another region.

3 MR. LITTLEFIELD: Madam Chair, my
4 understanding is that we're only talking
5 about Southeast Alaska.

6 MR. PROBASCO: I'd like to
7 remind, maybe Bill was at the meeting, we
8 tried to define commercial enterprise, we
9 tried to go down the path that you're trying
10 to go down, Mr. Littlefield. Define
11 commercial enterprise and getting a clear
12 definition of what is a commercial
13 enterprise and what isn't a commercial
14 enterprise, we started getting into the cash
15 sales between rural resident and rural
16 resident, that literally is a commercial
17 enterprise. We tried to define what we
18 meant by commercial enterprise. Is it
19 defined as a small business? When you look
20 under the definition of small businesses in
21 Alaska's definition, and don't quote me on
22 this, I believe a small business -- I can't
23 remember the dollar amount. It's in the
24 millions of dollars. It was still
25 considered a small business. We went down
that path, and would look at it and we kept
getting down to the quagmire when we tried
defining original enterprises. That's why
the group came out of that and has the draft
language before you now.

It was very difficult.
Madam Chair?

MR. THOMAS: The language now --
what page is that on?

Patty, you're not keeping me up
to date.

The reason for my question, we're
talking about a commercial enterprise, and
if I remember right, that's when we got
through with that we decided that rather
than using a commercial enterprise that the
subsistence product would not enter
commercial markets. Now there's a
significant difference there.

So, that seemed to simplify
things.

Do you recall that submission?

1 So that's when other regions --
2 it won't work in my region -- that's why I
3 was asking about the regional
4 considerations, because I'm confident that
5 this region can come up with language that
6 will be easily interpreted, understood and
7 everything else by the people that are going
8 to ratify it.

9 Thank you, Madam Chairman.
10 Fred?

11 MR. CLARK: Madam Chairman, if I
12 remember the discussion correctly, we had a
13 caucus in Anchorage, and we discussed
14 customary trade, that the Council came up
15 with the term "not for resale." I think the
16 word "resale" was the Council's definition
17 of getting into the market system.

18 So you can sell it once, but it
19 can't be for somebody else to sell again.

20 MS. GARZA: Okay. So we have to
21 decide what we're going to do here.

22 MR. THOMAS: Mike?

23 MR. DOUVILLE: Thank you, Madam
24 Chair. I'd just like to make a comment that
25 we're talking about subsistence-caught fish
26 which there is a very limited amount of.
27 You have a strain on those. I don't know
28 where you money cap. You can't catch that
29 many of them anyway. I mean, as a general
30 rule enough to take home and eat. So what
31 are we talking about here?

32 MR. THOMAS: Madam Chair, that's
33 the case in Southeast what you said is true,
34 but other regions have major river systems
35 running through them, and they have a
36 different way of life than we have in that
37 they harvest almost on a daily basis
38 year-around from those resources in their
39 vicinities, and they do make sure that
40 family and friends in places like Anchorage
41 have at least access to these foods, and so
42 it costs them 150 bucks to harvest
43 something, to get it to Anchorage. They
44 want to recuperate that cost. So, that's
45 pretty much all we're talking about here is

1 to get them from the regulation. It doesn't
2 look like we're going to commit some kind of
3 a sin; that's what we're going to do. For
4 down here, that's true, and I think here the
5 monetary case really didn't present itself
6 until hooligan became a tempest in the
7 teapot last spring. And so that's another
8 issue we're dealing with at that proposal.
9 I think the proposal that deal with
10 hooligan, and, in fact, I would have hoped
11 that we would have dealt with the proposals
12 before we considered action on customary
13 trade.

Thank you, Madam Chair.

8

MS. GARZA: Harold?

9

10 MR. MARTIN: Thank you, Madam
11 Chair. It's quite obvious to me that we're
12 not going to come up with language that if
13 its all of Alaska, and we keep talking about
14 regions up north, we're the Southeastern
15 region, why are we worrying about other
16 regions, let's come up with something that
17 if its the Southeast region?

14

MR. LITTLEFIELD: Madam Chair?

15

MS. GARZA: John?

16

17 MR. LITTLEFIELD: I agree with
18 what Harold says; so, based on that, if
19 we're talking about statewide application of
20 ANILCA, I think I will defer to the language
21 that's in ANILCA, Section 803 that says
22 whatever the customary and traditional trade
23 has been of that area. I can't tell what
24 the people on the Yukon have customarily and
25 traditionally traded. They can't tell us
26 how many herring eggs we have customarily
27 and traditionally taken. The language and
28 the law is whatever their customs and
29 traditions were. I'm going to defer that
30 for law.

23

24 MR. PROBASCO: You are indeed
25 correct. You have to look at the next step
26 and look at the definition of customary
27 trade. And that's where the words as long
28 "as it does not constitute a significant

1 commercial enterprise" comes in, that's
2 where we come in.

3 It's circular.
4 Madam Chair?

5 MR. LITTLEFIELD: There is no
6 definition for customary trade in ANILCA, at
7 all. That is a regulatory thing that you
8 guys have been struggling with. ANILCA says
9 whatever is customary and traditional,
10 that's what's legal. You guys are
11 struggling with a regulation, how to enforce
12 it, whatever those people's customs and
13 traditions are, that's legal. You're trying
14 to put some kind of cap, it's whatever those
15 people's customs and traditions are can be
16 documented.

17 We do that all the time.

18 MS. GARZA: That was one of the
19 big issues with MMPA is whether or not
20 you're arguing against the law or
21 implementing regulations, and in the
22 instances of MMPA where Fish & Wildlife
23 Service sued twice and said this is what the
24 regulation said and counter suit, well,
25 that's not what the lawsuit says. In both
cases, Fish & Wildlife lost. We have to
recognize there's a difference between the
two. I certainly agree with you there.

26 I guess what I would like to do
27 is, following Harold's questions, go through
28 the first, second -- second and third
29 sections here. If we want to toss them all
30 off, that's the recommendation for all
31 Council. If you guys want to defer, so you
32 want to think about it, if you want -- if
33 you want to and subcommittee wants to work
34 on it for Southeast, we can come back and go
35 forward with the November meeting, or you
36 may need to think about it. I know when I
37 went to the meeting, I was kind of like
38 ready to be "let's change everything. This
39 is all rotten, and blah, blah, blah." By
40 the end I understood the concerns from the
41 other regions. I was willing to accept it.
42 The majority of the cash transactions fall
43 out of the transactions anyway, herring,
44 hooligans, black seaweed, and more limited
45 level, salmon for us.

1

MS. WILSON: Madam Chair?

2

MS. GARZA: Marilyn?

3

4

MS. WILSON: I move we defer this until we take care of the hooligan proposal.

5

MS. GARZA: So is there a suggestion for where the agenda would go?

6

7

MR. ADAMS: Madam Chair, for the sake of discussion, I would second the motion that Marilyn has made.

8

9

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12

MS. GARZA: Okay. So, the motion is to defer -- it was initially listed as Item 11, "customary trade." We could defer it and if you have to leave Pete, I think -- so we can figure out what we need to do and send it up to Bill at the November meeting. Is that okay, Marilyn?
Bert?

13

MR. ADAMS: Yes.

14

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MR. LITTLEFIELD: Madam Chair, I believe I'm going to vote against this motion to defer. If we do not take this issue up it simply stands, and we could clarify this position, we stand by the definition of ANILCA, and we simply do not approve any -- stuff. I'm going to vote against the motion.

19

MS. GARZA: Is there any other discussion to defer action and leave it as Item 11?

20

21

MS. WILSON: Leave it at what?

22

MS. GARZA: Item 11, it would stay right after 10, the action.

23

Any further discussion on the motion?

24

25

MR. THOMAS: Question. Would that then mean whatever we're going to do now, would that be the same as leaving up to date and leave it where it's at on the

1 agenda?

2 MS. GARZA: Uh-huh.

3 So we'll leave it as orders of
4 the day and stays at Item 11, customary
5 trade, so we bring that up for action after
6 proposed FIS projects for fiscal year 2002.
7 What are your travel plans, Pete?

8 MR. PROBASCO: I was hoping to
9 leave this evening, Madam Chair.

10 MS. GARZA: Are you going to be
11 here Marty?

12 MR. MYERS: Yes.

13 MS. GARZA: Okay.
14 Basically, I think what we have
15 to talk about is just what we want and that
16 we'll go forward after I have a long talk
17 with Bill about what he can say up there.

18 MR. THOMAS: I have a motion,
19 Madam Chair.

20 MS. GARZA: Orders of the day
21 have been called.

22 MR. THOMAS: I move to take a
23 break.

24 MS. GARZA: Okay. Ten-minute
25 break.

(Break.)

MS. GARZA: We'll call the
meeting back to order. We have the Regional
Advisory Council annual report, and the
boundary waters -- before we get to
proposals.

Before we get to that, there was
an interest in trying to figure out who all
was interested in eating dinner here
tonight.

MR. CLARK: I think it's the high
school sports team that's going to be
providing dinner tonight. There has been

1 some interest in people leaving right after
2 the meeting is over to go enjoy the sunshine
3 on the beach and stuff, so as a courtesy to
4 the people that are providing dinner, I
5 thought it would be a good idea if we gave
6 them a rough idea of how many people are
7 planning on being here.

It's tacos.

8 MS. GARZA: So I know that there
9 are at least I want to go to the beach and
10 just kind of look at it for a while because
11 my head's full, so I don't want to be
12 disrespectful and have them come and make
13 dinner for 50 people if no one is going to
14 be here. If you raise your hand, if you
15 plan on eating here tonight, if there isn't
16 going to be enough --

17 MR. CLARK: Even if you don't you
18 can still make a donation.

19 MR. ADAMS: I want to put a plug
20 for Navajo tacos. She makes beautiful
21 Navajo tacos. I would highly recommend it.
22 Also, Bob Johnson just walked out
23 of the door --

24 MR. JOHNSON: I'm still here.

25 MR. ADAMS: I was going to tell a
bad story about it him, but he asked me to
let you know that he is going to go out and
get his camera. He's the community
photographer, and he would like to get a
picture of the Council members sometime
today.

Can't depend on the weather
tomorrow, so we take advantage of today if
we can.

MR. THOMAS: Ten-minute break for
pictures.

MR. ADAMS: He has to go get his
camera right now.

MS. GARZA: Can we do a count
first on who thinks they will be eating
dinner here tonight.

1

MR. CLARK: There is a request
for dinnertime. I don't know the answer to
that.

3

MR. ADAMS: 5:00 o'clock.

4

MS. GARZA: So, 5:00 o'clock
dinner, Indian tacos. If you're interested,
raise your hand. If not, we need to let
them know.

6

Can you talk to your daughter and
let her know it's a small number? If they
want to do it fine, let us know.

8

MR. ADAMS: I'll do that.

9

MS. GARZA: Regional Advisory
Report. Boundaries of Waters Under Federal
Jurisdiction.

11

MR. CLARK: We are on 8, Annual
Report. I direct your attention to page 10.
Page 10 under Tab C.

13

It actually starts on page 9
which is the cover page of the annual
report.

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You've already seen the annual
report. I think that you were all mailed
copies of the report, so you will have a
chance to re- -- you have had a chance to
review that before. We'll go through it
briefly here just to bring everybody up to
date on what happened.

There were essentially four
issues that the Council brought to the Board
this last year in the annual report -- kind
of in a short form here: Inadequate
information; allocation of fish; shooting
deer from boats; and definition of marine
jurisdiction.

22

23

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The first issue, Inadequate
Information. The annual report was looking
for more information-gathering efforts
directed towards fish and wildlife. The
Councils recognized that not enough effort
has gone towards developing good
information, especially for wildlife. We've
come a long way with the FIS program to get
information on fish stocks and traditional

1 ecological knowledge and local knowledge
2 about fish, but we're doing very little with
3 wildlife.

4 So, the Board's response was
5 that -- said: Oh, yeah, you're right.
6 We've made some strides. We're not going
7 anywhere with wildlife. We would like to
8 change that. We're going to need more money
9 to do that. Forest Service has been
10 continually asking to get the budget
11 increased to appropriately do the task that
12 has been put before them, but until we get
13 more funding, it's just not going to happen.
14 The Forest Service will continue to seek
15 additional funding to address those issues.

16 The funding for these types of
17 things, the additional types of projects
18 that the Council is interested in seeing
19 happen, comes through the Forest Service.
20 The funding doesn't come through the Federal
21 Subsistence Board.

22 The Board gave some examples of
23 things that the Forest Service staff has
24 been involved with. They've been involved
25 with property studies, such as the deer
transient surveys on the Prince of Wales
Islands. If the Board wants us to, we can
get the -- get them in the spring meeting.

26 Fish allocation: The annual
27 report between user groups should be based
28 on the needs of subsistence users and the
29 availability of fish.

30 The Council -- the annual report
31 said -- on page 14 -- "No non-subsistence
32 uses should be allowed until sufficient
33 evidence is provided to show that surplus
34 fish are available above and beyond that
35 necessary to provide for subsistence uses."

36 It's flipping the pyramid. The
37 base of the pyramid for uses has been
38 commercial, most of the fish caught by
39 commercial users. And then you go up the
40 pyramid and the arrows to sport users and
41 then the charter industry type of thing,
42 then right at the time, the fewest fish get
43 used by subsistence users. The way I
44 explained, the way the Council's approach to
45 people, to take the pyramid and flip it so
46 the base should be subsistence users and
47 there's leftover after subsistence users,

1 then sport and charter, and finally
2 commercial. Something like that. That's
3 just conceptual.

4 What the Board has said is:
5 "That the dual management structure of fish
6 and wildlife management in Alaska
7 complicates the Board's ability to ensure
8 that allocations are consistently made in
9 accord with the proposed hierarchy of
10 allocation."

11 That means you have to work with
12 the State. Federal Subsistence Board can't
13 say we're going to agree on this and take
14 care of subsistence uses first before
15 anybody else can take a crack at it. The
16 Board's authority is limited to subsistence
17 on Federal public lands. The relationship
18 between Federal and State regulatory
19 processes are being addressed by Federal and
20 State memorandum of agreement working group.

21 So, in order for -- the Board
22 prefers to approach this issue
23 collaboratively with the State. On those
24 occasions where action on the part of the
25 Board is clearly necessary to ensure the
continued availability of resources for the
customary and traditional users, the Board
is prepared to take action.

They have taken some actions in
the past. They've closed streams to
non-subsistence uses.

When there has been clear
evidence that sport and/or commercial
harvest is reducing the amount of fish
available to Federally qualified subsistence
users, the Board has developed regulations

that restrict other use in the areas under
Federal jurisdiction. No extension of
extraterritorial jurisdiction has been made,
and the authority to do so rests with the
Secretary of Interior and Agriculture, and
not with the Board.

The third issue was shooting deer
from boats. I don't think we need to spend
a lot of time on that right now. We've had
a more substantial briefing on that earlier.

It's essentially the same thing
as the briefing is in the reply from the
annual report.

Just as a reminder, the Board of

1 Game will be taking this up on their January
2 4th, 2002 -- yeah, January 4th, 2002
meeting.

January 18th.

3 I can't read my own handwriting.
4 Book of proposals will be made
5 available for -- with the comment period
6 closing on January 4th, 2002. That is for
7 the meeting that is on January 18th through
23rd in Anchorage. If people want to
testify directly to the Board of Game on
this issue, you can go to Anchorage and do
so.

8 The fourth issue is "Marine
Jurisdiction Definition."

9 The annual report called for a
10 clear definition of which water is under the
11 Federal jurisdiction for subsistence
12 fisheries. Your Council requested that
13 Board complete legal and administrative
14 reviews of maps showing where Federal
15 jurisdiction exists, then distribute the
16 maps to staff, Council members, and any
17 interested persons or organizations.

18 It happens that Cal has a whole
19 pile of them and is going to be distributing
20 momentarily --

Did you do that?

21 MR. CASIPIT: I haven't done
22 that. These are members that are made from
23 air photos that actually have lines across
the waters, so you'll have that. You're in
Federal jurisdiction; below that, you're in
state jurisdiction.

Those maps.

24 MR. CLARK: And that is for the
annual report.

The next step will be if you have
any questions concerning the Federal
Subsistence Board's reply, if you want to
get those on record. Then later on the
agenda -- agenda -- agenda under 16 on the
agenda, it's the annual report for 2001. So

that would be developing issues to the
Federal Subsistence Board.

MS. GARZA: John?

1 MR. LITTLEFIELD: I've got a
2 question for Fred that maybe he can clarify
3 just exactly what an annual report does for
4 those who don't know, and I might be one of
5 them. I think I know, but exactly what the
6 process is, what's done with this annual
7 report after you write it, and does the
8 Secretary ever see it?

9 MR. CLARK: The annual report,
10 the jurisdiction has been a responsibility
11 for the annual report is one of those
12 responsibilities that has been delegated to
13 the Federal Subsistence Board from the
14 Secretary. It doesn't go to the Secretary,
15 it goes to the Board, even though it says in
16 ANILCA it -- it's one of the authorities
17 that's given to the Regional Advisory
18 Council in 805 is to produce an annual
19 report, and has a whole list of things to
20 include in the annual report.

21 So, after the Council develops
22 the annual report, it's sent in for review.
23 It goes to the Federal Subsistence Board and
24 then staffed out to develop replies. It's
25 staffed at the Office of Subsistence
26 Management and Federal agency whose made up
27 the Federal Subsistence Board staff.

28 They develop the responses that
29 goes from -- those responses go to staff
30 committee. They go to what's called a
31 leadership team at the Office of Subsistence
32 Management, which is people like Don Rivard.
33 Several of the folks here who take a look
34 over and make recommendations, and it goes
35 to the staff committee who make
36 recommendations and changes, and then it
37 goes to also the Board, and the Board
38 finally signs it, and that's what you get
39 back.

40 That's the process.

41 MS. GARZA: So, it doesn't do
42 much except for log our issues.

43 MR. LITTLEFIELD: The reason I
44 asked that question is I have -- I don't
45 know how many annual reports there are, but
46 I have from 1993 forward and in 1993 long
47 before I got this Board, this Board asked

1 this very same question. They asked this
2 question again in 1998. They asked it in
3 1999. And they asked it again in 2000.
4 Basically, you guys -- I shouldn't say you
5 guys, Federal Subsistence Board writes this
6 is the response to it and that's the end of
7 it. So, to me, it seems like they're
8 wasting our time here.

9 MS. GARZA: I suppose -- I would
10 say it's not a total waste of time. We have
11 gotten some good responses. We have gotten
12 legal counsel showing up here and talking to
13 us about showing the issues to bring up. I
14 think it's important for you or anybody else
15 to say this is the annual report we have
16 faced -- the issues we have on the time. We
17 have to realize the annual report is not the
18 only avenue that we use and we have to turn
19 to other ones.

20 MR. CLARK: Madam Chair, one
21 thing that I've done in the past and I would
22 be happy to do that for the Council again is
23 to update a summary of all the issues that
24 have come in in the previous annual reports,
25 if you think that would be useful. Just as
an illustration as Dolly says, the logging
of the issues.

MR. LITTLEFIELD: One of the
reasons I'm getting discouraged with these
annual reports is specifically in the 1993
annual report this Council asked for a third
definition of marine waters, what legal
jurisdiction they had, at the response to
the 1993 annual report. I have here in
front of me, Federal Subsistence Board said
we will give you the recommendations on
exactly how far those lands are in 1993 upon
resolutions of the Katie John case, when the
Katie John case has been decided twice and
we still have no resolutions.

And if you look in this year's
annual report, they say on the response to
marine jurisdiction, you say the courts may
rule in ongoing litigation that Federal
definition of marine waters jurisdiction
must be amended. Well, to amend it they're
only going to diminish it in my mind. They

1 can only diminish the authority that we have
2 already. So, I think there has been
3 inaction -- I don't want the Secretary -- I
4 want the Secretary to see the reports. I
5 want to have proof that these things are
6 doing good. When we write a report, I would
7 like to see the response be forwarded to the
8 Secretary and get some meaningful response
9 to this. Since 1993 the Federal Subsistence
10 Board said we will resolve this issue. This
11 is eight years later. We still don't have
12 it resolved.

13 MS. GARZA: So, what do we as a
14 Council want to do regarding annual reports?

15 MR. CLARK: Madam Chair, I think
16 it would be appropriate for the Council to
17 take up kind of John's question or approach
18 would be more appropriate to take that up in
19 the next phase on No. 16, rather than at
20 this time. This is kind of just a
21 reporting.

22 MS. PHILLIPS: Dolly?

23 MS. GARZA: Patty?

24 MS. PHILLIPS: There have been a
25 couple of instances where the annual report
has -- our involvement in the annual report
has made a difference, and one of them was
the Tongass revisions where our input helped
to change -- make changes to the provision.
And another one has been the increase in the
budget for programs like cooperative
management or cooperative agreements.

MR. CLARK: Patty, the wire is
loose on that microphone.

MS. PHILLIPS: I would recommend
that we continue to dog this issue. And one
way we dog it is to bring it up again in the
next annual report and to have meaningful
dialogue during our Council meetings on very
specific details that can move us forward to
that end.

MS. GARZA: Thank you, Patty.

1

MR. LITTLEFIELD: Madam Chair?

2

MS. GARZA: John?

3

MR. LITTLEFIELD: Fred is correct, the substance of this can be discussed at another time. I don't suggest at all -- suggest we don't do these annual reports, they're not in ANILCA. I would like to see them go to the Secretary. I would like some kind of meaningful resolutions to the Council. If the Council wants to say something, I want a reason why it's denied or approved. They're giving you the recommendations on what's best and we get back our paper and that basically just goes into Neverland. I'm looking for the next step. I want to see that the Secretary -- be assured that the Secretary gets the annual report. We're not talking about paperwork. I know they're busy. I know they can review this on a one-time basis on the secretarial level.

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MS. GARZA: Ida?

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MS. HILDEBRAND: Thank you, Madam Chairman. Ida Hildebrand, BIA staff committee member. Both myself, Greg Bos, sit on the staff committee to the Federal Board and take your comments very seriously. I personally recommend two or three things. The first thing is that you bring this up as an agenda topic at the Chair's meeting with the Federal Board in the December meeting and you request that it be on the agenda to be discussed with the Board, that you also write a letter to the Federal Subsistence Board, cc the office of subsistence management, the very exact words that you have just stated. John and I agree with your comment, Dolly, that you put it back in the next annual report and say this is No. 1, and we've been saying this since 1993.

26

27

28

29

And if nothing else, your annual report builds a record, a written record of your concerns of subsistence over the years, whether anyone takes you seriously or not,

1 that does build a legal record.

2 MS. GARZA: So, when this does
3 come up under Item 16, we -- between now and
4 Thursday or Friday, whenever it comes up,
5 what else do we want included in there? I
6 think for me, I need to have something on
7 hooligans included. It's a big issue right
8 now. If there's something that's particular
9 to your region or you think that we haven't
10 done, addressed properly, then we need to
11 bring it up. Of course, the Federal
12 jurisdiction will probably stay on that
13 report for a long time to come. Unless it's
14 resolved.

9 MR. CLARK: We'll have a lot more
10 discussion to put in that discussion as we
11 go through some of the other items that are
12 on the agenda. We'll have a lot of food for
13 thought as we move into that.

12 MS. GARZA: Two things we have:
13 One, the customary and trade. If we're
14 going to look at that as Item 11, then it
15 was discussed that we have a subcommittee to
16 look at it, and I'd like to see if there's
17 anyone who is interested in serving on that
18 committee that would either meet tonight or
19 tomorrow night and look at this document or
20 come up with a new document, and come up
21 with a response that the Council can review.
22 Is there anyone interested in being on that
23 committee?

18 Okay. Marilyn, John --
19 two-member committee.

20 MS. PHILLIPS: Okay.

21 MS. GARZA: Patricia?
22 And then for the annual report,
23 we have on occasion just sat in somebody's
24 room and plunked out ideas and come up with
25 some kind of a draft annual report, if the C
and T committee is meeting tonight, then
maybe tomorrow night we can crash in Fred's
room with a computer and play scramble and
come up with an annual report, and have some
kind of a draft ready for the near -- near
the end of the meeting.

1 Does that sound okay?
2 We'll take up tomorrow night,
3 having an open committee meeting hoping
4 people show up and throw in their two cents.

5 MR. CLARK: Sounds good.
6 Are we ready to move on?
7 Our next topic is "Boundaries of
8 Waters under Federal Jurisdiction."

9 MR. CASIPIT: Thank you, Madam
10 Chair, Regional Advisory Council members.
11 My name is Cal Casipit. I'm the subsistence
12 staff fisheries biologist for the Forest
13 Service in the Juneau Regional office. What
14 Fred is passing out to you are maps --
15 actually, they're photo registered
16 orthophoto quads, basically aerial
17 photography, showing marine waters
18 jurisdiction lines for various streams on
19 the Tongass.

20 If you notice, there's only a few
21 maps here, less than 20. There's probably
22 over -- there's over 3,000 -- hold on.

23 MR. LITTLEFIELD: I've got a lot
24 of Bay of Pillars here; they weren't
25 collated.

26 MS. GARZA: We'll stand at ease
27 for a minute.

28 We're back to order.
29 Cal, we've got maps in front of
30 us now.

31 MR. CASIPIT: Okay. Thank you,
32 Madam Chairman, Advisory Council. Thank you
33 for that little mixup earlier. I didn't

34 realize they were not collated. They should
35 all be collated.

36 There are 15 maps. If you
37 look -- we're calling them maps. They're
38 not really maps. They're -- as I said,
39 they're digital orthophoto quads with a
40 computer-generated line on the map. These
41 show the line of jurisdiction between State
42 jurisdiction and Federal jurisdiction.
43 Basically, it ties back to the definition of
44 inland waters that appears in our Federal

regulations. As most of you know, we've

1 defined our jurisdiction as waters at the
2 mean high tide line or upstream of the
3 straight line drawn from headland to
4 headland across the mouths of rivers or

5 other waters as they flow into the sea.

6 So, for these maps that we are
7 showing to you, that line represents that
8 mean high tide line.

9 As I said before, there's 15 of
10 these maps here in front of you. As you all
11 well know, there's over 3,000 fish streams
12 on the Tongass National Forest Service. The
13 job of drawing a line for every stream on
14 the Tongass is a huge job, and based on --
15 based on all the responsibilities that staff
16 is responsible for doing, we just didn't
17 have time to draw 3,000 lines and put them
18 all on maps. What's before you are maps of
19 areas where staff has determined that it's
20 important for you to know where the
21 jurisdiction line is, Klawock, Falls Lake,

22 Bay of Pillars, Situk River, places like
23 that.

24 If Council members would like
additional maps produced we would do that,
just get in contact with your local
subsistence fisheries biologist, either
Terry, Ben, Robert, or Jeff; and we'll do
what's necessary to get them drawn and
approved and signed by our deputy regional
forester and Board member.

This -- these maps really don't
get at the issue that I think the Council is
interested in in terms of marine waters.
We're only talking about upstream and mean
high tide here. I know the Council is
interested in jurisdiction in marine waters
because that's where most of the subsistence
foods are gathered from. I cannot say
anything about that issue at this time.
Mostly because I don't know a whole lot
about that issue.

I'm not an attorney. I'm not
working on any of the submerged lands cases
or anything like that, and there are no
attorneys here for the Federal program that
are here working on those issues as well.

With that, I'll be happy to

25

answer any questions or help you all
understand what's before you.

1
2 MR. STOKES: Madam Chair, I have
a question.

3 MS. GARZA: Richard?

4 MR. STOKES: Cal, I was looking
at the Mill Creek, Virginia Lake boundary.
5 Do we recognize the State of Alaska as a
no-fishing site or do we go by the Federal?
6

7 MR. CASIPIT: I'm not sure about
the no fishing lines for Fish & Game. I
believe those lines are directed at
8 commercial fishing. Maybe somebody from the
State can address that better than I. These
9 lines are for Federal jurisdiction. If
you're upstream of that line, you're in
10 Federal jurisdiction, Federal oversight of
the subsistence fishery --

11
12 MR. STOKES: You'll be perfectly
legal if you go up --

13 MR. CASIPIT: I have -- there is
an exception for Mill Creek because there's
14 that fish pass there and there's that part
of the regulation that also prohibits
15 fishing within, I think, 300 feet of a fish
pass, or other culvert or obstruction.
16 That's still in our Federal regs.

17 MR. STOKES: I might get a
large-scale map and have it clarified for
18 me. I know the fishermen do fish there, the
subsistence, and they fish above the
19 regulatory sign.

20 MR. CASIPIT: I'm not sure about
the regulatory markers of Fish & Game, but I
21 think they're directed at commercial
fishing. You can't fish upstream of the
22 regulatory markers, commercial fishing.

23 I do know that under the Federal
regs we don't allow subsistence fishing
within 300 feet after fish pass unless
24 otherwise marked. That's in the Federal
regs as well. I'd have to -- myself, I
25 haven't been to the Virginia Lake Fish Pass,
I don't know quite where it is on the fish

1 map, but we can't -- can, Robert and I can
2 work with you, to maybe get a more blown-up
3 version of Fish Pass. I'm not sure of a
4 resolution I can do with that orthophoto
quad itself, but we can sure mess around
with it and try.

5 MR. STOKES: If you can get a
6 large-scale map I would like to see it. I
would like some additional of Tom's and Mill
Creek and Salmon Bay.

7 MR. CASIPIT: High resolutions,
8 bigger scale?

9 MR. STOKES: Thank you.

10 MR. LITTLEFIELD: Madam Chair, I
11 was wondering, Cal, if you can address the
12 rationale about the maps. The last ones you
gave us across the Nakwasina River basically
looks like where all the tide goes out. I
can see that.

13 The next one is the Bay of
14 Pillars. Again, that looks like that
15 area -- water is also included. And let's
16 go back to Today Creek, that is also where
17 the tide goes out. There's a line drawn up
18 right in the river, and then if we look on
19 Tong's Creek, that area is covered by high
20 water, then dries out, you've got a line
21 drawn up in the woods. And the rationale
doesn't seem to be the same for picking
these lines. I'm not saying I agree with
them or disagree with them. I'm just saying
what rationale was used to go down to Salmon
Bay Lake, some of that is covered by
inter-tidal zone. Katlian River, that area
is all across where the extreme low water
mark is. It looks inconsistent and I'm
wanting to know how you developed them?

22 MR. CASIPIT: Well --

23 MR. STOKES: Madam Chair, I might
24 be able to clarify the one at Salmon Bay.
25 Where that boundary is is right at the neck
of the lagoon, and there's a nice hot hole
there that normally is where they fish.

That's upside down. This is the

1 entry to the -- the map is upside down.

2 MR. CASIPIT: Madam Chair,
3 Council, we tried to orient these maps
4 facing north, so the top of the page is
5 north. The thing about -- we weren't trying
6 to orient this like trying to orient it so
7 that, you know, salt water is always in one
8 direction. What we tried to do is orient
9 this so that the top of the picture is
10 north. So, that's why Salmon Bay looks like
11 it's going backwards.

12 But to answer Mr. Littlefield's
13 question more directly, we had to rely on
14 several things when we drew these maps.
15 First of all, we were looking at several
16 layers in our geographical information
17 systems, computer system that -- it's layer
18 upon layer of different resource
19 information. We were looking at channel
20 time, that is, estuary channel types and
21 flood plain channel types in that GIS layer.
22 We were looking at the extent of salt
23 grasses, and stuff that grows on the
24 inter-tidal flats. We were looking at a
25 known location or the folks on -- who
originally drew these lines, they were
looking at their personal knowledge of where
the mean high tide line was. So, what
you're seeing there is a combination of
several different layers in the GIS system
at the same time, we're trying to pick out,
you know, landmarks that a person could see
on the ground so that they could determine
where they were.

So, that there was a combination
of five things going on there and that may
be the reason why there could be perceived
an inconsistency where that line was drawn.
We're simply trying to draw the line at a
place where people can see where the
headline was and could determine where that
line was on the ground.

23 MS. GARZA: John?

24 MR. LITTLEFIELD: Madam Chair,
25 I'd like to note for the record two of these
maps which happen to be the areas where I'm
very familiar with, the area, Nakwisina

1 River. I would like to note these are
2 herring spawn rivers that are shown later.
3 There are halibut within the marine
4 boundaries, which like I said, I want to
5 comment on those. These areas do include
6 waters that have those fish at this time.

7 MS. GARZA: This is waters under
8 Federal jurisdiction. We've been given maps
9 by James Caplan on where he thinks the
10 boundaries are, and we, of course, have our
11 own ideas of where we think the boundaries
12 are, so is this an action item or is this
13 information that we will come back to this
14 issue later?

15 MR. CASIPIT: Madam Chair, this
16 is information for the Council that's
17 directly a response to the requests that
18 we've had from various members to produce
19 these maps. This is the first shot, the
20 reason that a few of them, especially in
21 areas where we know there's a fair amount of
22 controversy over where that line is.

23 This can be -- these lines can be
24 tested by individuals. I mean, I'm sure
25 they will be tested. This is simply the
26 first step and we were asked to draw these
27 maps, we drew them, and I guess we'll see
28 where things go with that.

29 MS. GARZA: My question is to the
30 Council, because we have proposals coming up
31 that deal with where that Federal water --
32 where the Federal obligation extends to, and
33 so if we need to have that discussion before
34 we go into proposals, then this is the last
35 spot unless we come up with an 8J.

36 John?

37 MR. LITTLEFIELD: Now, Madam
38 Chair, I think I would like to have the
39 Council have the Sitka Tribe present their
40 comments on marine jurisdiction as they
41 apply to all these proposals. As we look
42 through the proposal book, you'll find that
43 virtually all these proposals have over
44 No. A, marine jurisdictions. Prior to any
45 discussion on proposals, I would like to

have that discussion and I'd like to limit

1 this discussion only to the marine
2 jurisdiction, not the merits, 25 and 37
3 which have other issues applied to them.
4 So, not to get in the proposals, just a
5 discussion on marine jurisdiction.

6 MS. GARZA: We'll have comments
7 from Fred and then we'll go to Sitka Tribe
8 attorney, Jude Pate.
9 Fred?

10 MR. CLARK: Madam Chair, Council,
11 I would just like to reiterate some little
12 bit what Cal was saying, maybe expand a
13 little bit. These maps are a work in
14 progress. It's kind of a first step, and
15 the appropriate place for changing those
16 lines would be in working with the district
17 subsistence fisheries biologists who are
18 familiar with the streams, so by working
19 together and even looking at stuff on the
20 ground, it's a better way to get these lines
21 to be realistic and workable.

22 When we reach that point, it's
23 quite possible to put markers on the ground
24 so people when they're out there, they will
25 be able to see where the Federal line is --
Federal versus the State jurisdiction at
that point.

MS. GARZA: Does that mean we're
going to have a line of bouys three miles
out?

Cal, do you have any other
comments?

MR. CASIPIT: No, ma'am.

MS. GARZA: Okay. Jude Pate?

MR. PATE: My name is Jude Pate.
I'm attorney for Sitka, the Sitka Tribe.
Earlier yesterday, I handed to each Council
member and to some of the staff, packets
that are entitled: Materials in Support of
Proposals 25 and 37 and a Recommendation for
Extension of Federal Subsistence Priority to
Marine Waters within the Tongass National
Forest Service. I've given a couple copies
to your staff.

1 Madam Chair, I'd ask permission
2 right now to hand out two additional pieces
of paper.

3 MR. CLARK: Jude, do you have any
4 extras?

5 MR. PATE: That's all the copies
you made?

6 MR. CLARK: Make a couple more.

7 MR. PATE: Madam Chair, I'd just
8 like to reiterate that this presentation on
9 behalf of Sitka Tribe is regarding the
marine jurisdiction acts -- Marine
jurisdiction aspects of Proposals 25 and 37.

10 I believe there was two issues
11 raised here: One is a question of
12 procedure, your relationship and authority
as to the Secretary and Federal Subsistence
Board, and your authority and ability to
make decisions as a Council.

13 The second issue is substantive:
14 What are those lines of jurisdiction
15 regarding marine waters?

16 And to that effect, I've put
17 together this packet. I'd like to walk you
18 through it just very briefly.

19 Under Tab One, we have cover
20 letter from Mr. Littlefield regarding the
21 removal of these Proposals 25 and 37, and
22 related issues of marine jurisdiction.

23 The second tab is a legal
24 analysis by me done for Sitka Tribe.

25 The third tab is a request that
Sitka Tribe made to the BLM regarding
records and evidence concerning certain
reservations of marine waters in and around
Sitka Sound.

 The fourth tab is a compilation
of presidential proclamations that establish
the Tongass National Forest Service
including boundaries out into the marine
waters.

 The Fifth Tab is -- I apologize
for this -- it's a cutup version. I'm
trying to paste them together. Under Tab 5,
if you put them together, demonstrate the
boundaries that's established in 1925 to the

1 Tongass.

2 Under the sixth tab are the
3 certain other executive orders regarding the
4 Hazy Islands and Forrester Island within the
5 Tongass.

6 The seventh tab is a brief filed
7 by the Office of Solicitor General for the
8 United States in the Supreme Court in Alaska
9 vs. U.S. where the United States takes the
10 position and argues the position that all of
11 the waters, marine waters within those
12 boundaries are, in fact, owned by the United
13 States.

14 MS. GARZA: What was the date on
15 that?

16 MR. PATE: April 2000.

17 Madam Chair asked that I be able
18 to address procedure at this point regarding
19 the annual report very briefly. I believe
20 that the annual report is your most
21 effective and powerful tool as a Council.
22 If you look under Section 805 of ANILCA
23 you'll see that in 805, Subsection (a)3(d)
24 in the preparation of the annual report to
25 the Secretary contains a variety of items
including recommendations for a strategy to
implement protection of subsistence
concerning guidelines, regulations, policy
standards to implement the strategy.

Under 805(c), the Secretary's
required to review this and upon review has
to adopt those recommendations unless they
fail to meet the three standards, one of
which is Secretary can reject your
recommendation if it does support by
substantial evidence or if it violates
conservation principles or if it's to the
detriment of subsistence.

Apart from that, the Secretary
has to adopt your recommendations on matters
related to subsistence. Therefore, if
you're submitting this annual report and
there's nothing being done about it, there's
somebody who is not following the law. This
is a powerful tool for you. It may not be
being recognized for what it is at this
point, but I would submit to you that that
is a most effective tool for you and urge

1 you to keep that practice there and to --
2 write particularly in your annual reports
3 and follow up at the Federal Subsistence
4 Board meetings.

5 Regarding in particular Proposals
6 25 and 37, under ANILCA, Section 805(a)3(b),
7 this Council has the authority to provide a
8 forum for the expression of opinions and
9 recommendations by persons interested in any
10 matters -- any matters related to
11 subsistence uses of fish and wildlife within
12 the region.

13 I submit to you that it was
14 inappropriate for the Federal Subsistence
15 Board to reach down and take off the table
16 Proposals 25 and 37 that you all have the
17 authority to consider and make
18 recommendations regarding those, and the
19 Federal Subsistence Board jumped in before
20 their time. That seems very clear under the
21 law. I'm not saying that that means you
22 have to adopt 25 and 37; but they should
23 have stayed on the table for your
24 consideration.

25 I'd move on to the -- actually to
the substance of the matter, the reasons
that the proposals were taken off the table,
a regulation that's cited that says that
marine waters are excluded from Federal
jurisdiction in the Tongass.

 As you know, ANILCA requires and
has a promise to protect subsistence and has
been said if this protection is not extended
to the marine waters there's a gaping hole
in ANILCA. You all have the authority under
the law to take steps to protect subsistence
and to implement ANILCA; and if that means
making recommendations regarding the
extension of that priority to marine waters,
that's within your purview to do so. What I
would suggest is that you look in the packet
and there are at least four separate
sections that you can make recommendations
to as to an extension beyond the fresh
waters, and what this will do. It doesn't
mean the Secretary has to adopt. It doesn't
mean that the marine waters will necessarily
come within jurisdiction, but it will force
the hand. They will be required to respond
to you -- if you pursue it, they'll be

1 required to respond to you; at least give
2 you reasons for why they're not going to do
3 it, very specific reasons, and it --
4 basically has to say that it does not meet
5 substantial evidence or it fails under one
6 of the other respects.

7 So, if you all decide to adopt or
8 if you want to push the marine waters issue,
9 I would suggest you look at the second
10 handout that I gave you, and under Roman
11 Numeral I, it says recommendations, and this
12 would be recommendations to the Federal
13 Subsistence Board, to the Secretary of
14 Agriculture, and the Secretary of Interior
15 to include in your annual report and a
16 separate recommendation apart from the
17 annual report to the Secretary to extend
18 marine jurisdiction or subsistence priority
19 to those four areas listed under A, B, C and
20 D.

21 I have to apologize, because I
22 gave out all my copies, but under A is the
23 assertion of the United States holds an
24 ownership interest to submerged lands and
25 marine waters surrounding the Maknahti
Islands -- that's the little island tip
under at the end of the runway in Sitka.

Item B is the assertion of --
that the United States holds an ownership
interest in the submerged lands and marine
waters surrounding Long Point, Cape Baranof,
Peisar Island, Legma Island, Shoals Point,
Cape Edgecumbe, and Beaver Point, as
described in the Executive Order 8877.

Under C is the assertion that the
United States has an ownership interest in
the submerged lands and the marine waters
within the boundaries of the Tongass
National Forest Service as described by the
proclamations listed there.

That provision is taken almost
word for word from the brief filed to the
U.S. Supreme Court by the United States. In
that brief the attorney says that -- if you
turn to Tab 7 on page 5 under count 2,
entitled "Tongass National Forest Service,"
in that paragraph, the attorney for the
United States lays out the case for
ownership of the submerged lands within the
boundaries of the Tongass National Forest

1 Service and the reasons for it, and the last
2 sentence says: United States accordingly
3 claims rights and interests in the marine
submerged lands within the Tongass National
Forest Service.

4 MS. GARZA: When you turn to Tab
5 7, it starts with page 2 of 12 at the top.
So what page are you talking to?

6 MR. PATE: I'm sorry, Madam
7 Chair, page 6. I apologize.
8 On page 6 of 12.
So, has everyone found it?

9 MS. WILSON: Yes.

10 MR. PATE: Under the heading "2,"
11 Count II, The Tongass National Forest: It's
12 in that paragraph that United States makes
13 its case for ownership for marine submerged
14 lands, marine waters in submerged lands in
15 the Tongass. And it's from there that I've
16 taken that portion of that argument and put
it under C, as a statement for an assertion
for ownership, and the final sentence in
that paragraph, that first paragraph is that
the United States supports the claims of
rights and interests in the marine submerged
lands within the Tongass National Forest
Service.

17 Under D regarding
18 recommendations, on the two-page --

19 MS. GARZA: So, on page 6 of 12,
20 No. 2, Tab 2, Tongass National Forest,
21 you're saying at the bottom of the first
22 paragraph, the very last sentence, the
United States accordingly claims rights and
interests in the marine submerged lands
within the Tongass National Forest Service.
So that is all of the marine submerged
lands?

23 MR. PATE: Marine submerged lands
24 as defined by those executive orders and
proclamations referenced in that paragraph.

25 There are certain marine waters
within town sites such as -- the various
town sites, including Sitka, that are not

1 subject to that reservation.

2 MS. GARZA: Do you have a map
3 that would give us an idea what those
4 submerged lands are? Is that the preceding
5 one?

6 MR. PATE: Yes, it's the chopped
7 up one. I have maps that are hand-drawn
8 that I can hand out to you that would give
9 you a version of that.

10 MS. GARZA: Okay. Is that the
11 big one?

12 MR. PATE: It's about this big
13 (indicating.)
14 Shall I hand them out?

15 MS. GARZA: Yeah. We can share
16 them.

17 MR. PATE: It's rough drawn
18 and -- but the map, the diagramatic map that
19 is attached in your report or in my
20 submission to you is much more precise as
21 far as maps and lines go. I'm sorry that I
22 don't have it presented to you as a whole.

23 This particular hand-drawn one
24 includes the forest as it was in 1909. In
25 1925 there was an additional withdrawal that
goes up towards Yakutat, and so that was the
edition in 1925.

Apart from that, this hand-drawn
map does not include the exceptions, which
include the various town sites, the forest
bound sites, including submerged lands in
marine waters in and around certain areas of
the town sites that are not subject to
Federal ownership or interest.

MS. GARZA: So, if we flip
through the chopped-up map we can see which
lands are excluded from that?

MR. PATE: Yes, ma'am.
Shall I proceed?

Under Section D of my
presentation to you all, and the suggested
recommendations, it states that the United

1 States has a reserved interest in the
2 submerged lands and marine waters within the
3 Tongass as described by the same
4 proclamations there.

5 Now, there's the ownership
6 interest and then there's the reserve
7 interest. They're two separate things.
8 It's one thing that the United States owns
9 the submerged lands. There's no question
10 that they have an interest in them. But if
11 the United States has reserved an
12 interest -- less than an ownership interest,
13 that is still enough to support an extension
14 of the Federal subsistence priority. That's
15 what Katie John was. The United States
16 didn't win that one on ownership. They won
17 that one on reserved interest, okay? And
18 for the same reason that the Forest Service
19 boundaries were described out to sea, and
20 for what we can tell the reason that was
21 done -- part of the reason that was done is
22 because there were no roads to transport the
23 logs; they needed to take care of an area by
24 which they could distribute the logs down
25 south. So the waters were reserved too.

So, that's another -- that's an
independent reason apart from ownership.
It's a reserved interest in the waters.

So, under the first page there, I
suggested that you recommend in your annual
report and in a separate stand-alone
recommendation that the Secretary of
Agriculture, Secretary of Interior, Federal
Subsistence Board consider this
recommendation. I suggest all three of
those entities: The Board, the Secretary of
Agriculture, and Interior separately because
there seems to be some confusion about who
has the jurisdictional role here. So you
cover all your bases when you do that.

Madam Chair, shall I move on?

On the second page, under Roman
numeral II, it suggests petitions to the
Secretary of Agriculture and Interior. This
process is the process that was followed in
Katie John. It's the actual petition. It's
not a recommendation under 805 by you all.
This is a petition that can be made by
almost anybody who is affected.

And in it, I suggest again, both

1 petitions to the Secretary of Agriculture
2 and the Secretary of Interior, it's not
3 exactly clear who has or is assuming to have
4 regulatory authority here. It's exactly the
5 same substance as the previous page, as to
6 which marine waters or submerged lands are
7 asserted.

8 The petition -- unlike a
9 recommendation, by you all, being a part of
10 your annual report, a petition does not
11 receive any special deference or
12 consideration. There is some question,
13 doubt, as to whether or not you all have the
14 authority to make recommendations concerning
15 jurisdiction. If you note in your hunting
16 proposal about hunting from a boat, the
17 Board did not take immediate action on it.
18 They deferred that, I believe, because they
19 do not believe that you all have the
20 authority to make recommendations regarding
21 an extension out there on the marine waters.
22 They should have -- I believe, they should
23 have adopted -- either rejected that
24 proposal about hunting from a boat, one of
25 three reasons, listed in 805(c), they didn't
do that. I believe that's a violation of
the process. But they may for the same
reason state that you do not have
jurisdiction, so you don't have the
authority to make recommendations under 805
concerning jurisdiction.

What I would suggest -- you'll
find out what they say about that. You'll
force them to respond to you on all these
points.

19 MS. GARZA: Thank you, Mr. Pate.

20 I think that this is the type of
21 material that this Council has been looking
22 for for quite some time -- you've got to
23 push this silver part of this.

24 It's the kind of material that we
25 have been looking for, and I think it's what
we have expected for and we've submitted
requests in our annual report for a clearer
definition of what the marine waters are as
the Southeast Council. We have been
concerned about protecting subsistence
fishery stocks and ensuring that subsistence
fishery stocks are adequately available to

1 our subsistence users since even before fish
2 fell under our jurisdiction, and so we thank
3 you immensely for providing this material.
4 We would also like to thank the Council,
5 Woody Widmark, for the work that Sitka Tribe
6 has supported. It's money out of their
7 guys' pocket. It should have been something
8 provided to this council by the Federal
9 Council, rather than the Tribal. We
10 appreciate the work that you have to do that
11 assists us in the decision process.

12 I had a question for Bill, and
13 then I have a question for Ida.

14 For Bill -- spit out your gum.
15 For Bill, when the shooting from
16 the boat proposal came forward and it was
17 agreed to be deferred, did you agree with
18 that deferral as the State Regional Chairs?
19 Do you remember that?

20 MR. THOMAS: State Regional
21 Chairman.

22 MS. GARZA: Federal Subsistence
23 Board comes together and a Chair from each
24 of the regions that also meets, right?

25 MR. THOMAS: On the Regional
26 Chairs? I don't remember us taking that up
27 as an agenda item.

28 MS. GARZA: Okay. So I'm not
29 sure if the process, when you bring that up
30 as whether or not that was done correctly,
31 if the -- if the Chairs had agreed to do it
32 and if the Southeast Chair had agreed to do
33 it, I would take it it was done properly,
34 but if we not --

35 MR. THOMAS: I never went
36 beyond -- from the region to the Board, it
37 wasn't brought up to the Chairs.

38 MS. GARZA: Then maybe I don't
39 understand how that process goes. I only
40 went to one Federal Subsistence Board
41 meeting, so maybe you should explain that
42 process. It was my understanding that as
43 the proposals come up that the Chair from
44 each of the regions can speak to that

1 proposal for the region.

2 MR. THOMAS: Thank you, Madam
3 Chair. It did come -- what would typically
4 generally, the unaffected regions would
5 proposal, would just endorse the position of
6 the affected region. That typically is what
7 would happen. Off the top of my head, I
8 don't recall that coming up as an agenda.

9 It went from here to the Board. I don't
10 remember the Board giving it back to us to
11 consider.

12 But with regard to the Chair's
13 meetings, the reason for the Chair meetings,
14 initially was to see if the regions had
15 common issues that weren't on the agenda to
16 discuss with the Federal Board, but since
17 then, the Board has found a way to come up
18 with some areas that was of interest to them
19 and they would give us what they call a
20 suggested agenda item to discuss at our
21 meeting, and we do that.

22 And at the same time, each Chair
23 knows that they can bring any agenda item
24 with them to that one-day meeting after they
25 get there. There's no need to submit it in
advance.

26 So, it's very effective, but it's
27 not real formal. It gets pretty formal when
28 we meet with the Board, but when we meet by
29 ourself, there's not a lot of formality.
30 Kind of like this microphone.

31 So, this is really a civil
32 process.

33 MS. GARZA: Now I have a question
34 for Ida.

35 Stay there, Jude.

36 So, if we go through these
37 proposals and we concur that it's quite
38 obvious that Federal jurisdiction extends
39 beyond what we have been given from the
40 James Caplan maps and we would like to
41 support these proposals based on our opinion
42 that Federal jurisdiction extends beyond
43 mean high of the ends of these creeks and
44 rivers and whatever. Strategically, how do
45 we submit that to the Federal Subsistence

Board so that if we get slapped in the face

1 we at least get a more clear response than
2 we've gotten back on the Federal waters
3 issue?

4 The first thing I had thought of,
5 based on these two pages from Jude was that
6 we simply copy and paste and pass every
7 single one of them as a resolution so that
8 it refers specifically to the legislation or
9 executive order or whatever that says that
10 extension is out there rather than in here.

11 But I'm not sure fountain
12 resolutions process is the best to go, so
13 I'm just looking for your advice, Ida?

14 MS. HILDEBRAND: Thank you, Madam
15 Chair, Ida Hildebrand, BIA staff committee.
16 A long time ago I have had a chance to look
17 at the things he presented to you. The
18 first thing -- you present it to the Board,
19 they'd take it under advisement. They would
20 have to see if the cases would stand, if
21 there's currently on the books a statement
22 by the Federal Board that they have excluded
23 the Tongass waters -- from Federal
24 jurisdiction, then the request would be that
25 they reverse that decision and include all
the Tongass waters which would be a separate
request from any of your proposals, but
would be directly related to your proposals.

And perhaps I would even go so
far as to ask them to identify when and
where they made that decision to exclude the
Tongass waters. What meeting, what date.

MS. GARZA: Thank you, Ida. Are
there any questions of Ida or Jude or Bill
since he's been attending these meetings?

What I'm trying to get at is what
approach should we take to go forward?

Mary and then John?

MS. RUDOLPH: I would like --
Mary Rudolph from Hoonah. I would prefer
the material he's presented us with -- it's
been an ongoing question, the marine
waters -- we have so much information put
before us with John working on the Sitka
Tribe is really something that maybe we
could have used a long time ago, but this is
really good, and I appreciate it, and we

1 really appreciate your report.
2 Thank you very much.

3 MS. GARZA: John?

4 MS. WILSON: John?

5 MR. LITTLEFIELD: Thank you,
6 Madam Chair. First I would like to also
7 commend the Sitka Tribe for putting their
8 money where their mouth is, and the reason
9 is that this whole report was generated was
10 on 25 and 37 which we'll get into substance
11 later, is the herring that we talked about
12 earlier. It was interesting to know in
13 these maps, also part of this marine
14 jurisdiction, charts or maps whatever you
15 want to call them, include areas that are
16 spawning areas for herring at this time.
17 Area spawned right where you've
18 drawn, so to say that you can't consider
19 those I believe is out of order, even by
20 your own very limited lines if we were to
21 accept these. In other words, as our
22 statement, I think the process would be --
23 loose-like, maybe even be four actions, if
24 you look under Tab 1, you have a chance to
25 read this, I would like to make sure this
report gets out as widely as possible. I
know we didn't have the ability to do that
right then. Certainly by the staff, I think
I would like to make a motion to go on the
record that when the time is appropriate
that we actually make a motion that they
delete those words and exclude marine
waters. I think this paperwork here lays
out quite clearly at least the need that
there was no rationale for that regulation.
In other words, the law did not say that, in
lieu of ANILCA and the definition of lands,
they include the waters. And the Tongass
National Forest Service as diagramed on this
map that was part of the handout and also
the executive orders for the Forrester
Island, I believe there are 16 or 17 miles
offshore, specifically state these are
within the boundaries of the Tongass
National Forest Service. So -- and the
Makhnati Islands which are right in the
Sitka area, five-mile exclusion area zone

1 happens to be, you will see this in 25, one
2 of the most reliable spawning areas of
3 herring in Sitka. So, the Sitka Tribe had
4 problems this year, the worst year in memory
5 for the subsistence take of herring eggs,
6 and yet it was concurrently the second best
7 year on record for the commercial herring
8 sac roe fishery, so these things needed to
9 be addressed. The Tribe was looking at
10 these, that's what generated these. When we
11 get into the meat of those, I think we'll
12 talk about that later, that proposal, but I
13 would suggest that, No. 1, these
14 recommendations here, that are listed -- add
15 these to our annual report. That would be
16 recommendation No. 1.

17 Secondly would be that we go
18 ahead and do a separate recommendation under
19 separate letterhead forwarding this as a
20 separate stand-alone report so that it is
21 not mixed up within our annual report, so we
22 can get a response to that, and I believe
23 you would include the briefing documents of
24 what your intent would be, so we would
25 include all the briefing documents provided
thus far by the Tribe.

26 Thirdly, I would also like to
27 petition the Secretaries of Agriculture and
28 Interior -- this is two separate -- we're
29 talking about five things, and a motion to
30 delete those words. I think that would make
31 it quite clear what the standard of the --
32 stand of the Southeast Regional Advisory
33 Council people, the Tlingit people, Haida
34 people, Aboriginal people of Southeast
35 Alaska, since before there was contact, were
36 people that live on the water. They did not
37 live on top of the mountain tops. They did
38 not live in muskegs. They lived on the
39 ocean. And to exclude the marine waters,
40 does not meet ANILCA. I would support
41 procedurally doing those five things.

42 MR. THOMAS: Madam Chairman, I
43 need instructions every time I use it.

44 Madam Chairman, with regards to
45 Mr. Littlefield's excellent ideas and
46 ambitions, I was wondering if some place
47 under 16 would be appropriate to insert
48 those, and I would leave the naming and

1 location of placement to Mr. Littlefield,
2 and looks like to me 16 would be the most
3 appropriate place to put that.

4 Thank you, Madam Chair.

5 MR. LITTLEFIELD: There are two
6 16s.

7 MR. THOMAS: The first one --
8 second one.

9 Make a 16 2(a) -- or 2 16(a).

10 MS. GARZA: John, I -- can you
11 get those five points in writing and out to
12 us?

13 I wasn't writing fast enough, and
14 I didn't get your five points.

15 MR. LITTLEFIELD: Madam Chair,
16 the way I see this, there are five separate
17 things the Council should do: No. 1 is we
18 should submit the recommendations shown here
19 in our annual report. We're developing the
20 annual report now.

21 No. 2, we should also submit
22 these recommendations in separate
23 stand-alone letter from this era --

24 MR. THOMAS: Slow down.

25 MS. GARZA: So, my -- by the
26 recommendation, you're talking about the
27 two-pager that Jude handed out?

28 MR. LITTLEFIELD: That's correct,
29 Madam Chair, the recommendation would
30 include the two pages.

31 MS. GARZA: Okay.
32 Keep going.

33 MR. LITTLEFIELD: The second item
34 would be to submit these as a stand-alone
35 package and the recommendation to the
36 Federal Subsistence Board including the
37 Sitka Tribe of Alaska's backup briefing
38 document as well as any other pertinent data
39 that was submitted by staff on maps, if they
40 want to look at those. There was a chart
41 presented by the Sitka Tribe and if you

1 wanted to, you could include those maps.
2 That was not my intent, but if
3 you want to, we can --

4 MS. WILSON: You said submit on
5 standing alone recommendations and what
6 else?

7 MR. LITTLEFIELD: That would
8 include the briefing documents of the Sitka
9 Tribe of Alaska and whatever else the
10 Council felt was appropriate to include
11 within that separate stand-alone report.
12 That's the wishes of the Council.

13 Item 3, I would submit the second
14 page to the petitions to the Secretaries of
15 Agriculture and Interior. I look at those
16 as three and four, two separate items. We
17 want two separate petitions. So that covers
18 three and four.

19 Items three and four that we
20 would take under consideration would be to
21 submit petitions to Secretary of Agriculture
22 as item -- as No. 3 and submit a Petition to
23 the Secretary of Interior under Item 4.

24 MS. GARZA: And the petition
25 would include?

MR. LITTLEFIELD: All the
information that's on the -- the two pages
are basically the same, Madam Chair. They
include the same language. So one page
would suffice.

And No. 5, Madam Chair, is I
would like to make a motion hopefully get a
second to delete the words "exclude the
marine waters -- "and excluding the marine
waters" under 243 -- 242.3(b)28.

242 -- 36 CFR 242.3(b)(28).

MS. WILSON: 36 CFR 242.3(b)(28)?

MR. LITTLEFIELD: 28?

MS. GARZA: That will be your
recommendation when we get to action items.

MR. LITTLEFIELD: That's correct,
Madam Chair, that would be my

1 recommendation.

2 MS. GARZA: Harold Martin is
3 waiting in the wings waiting to second.

4 MR. LITTLEFIELD: Hopefully.

5 MS. GARZA: Then I think in this
6 process we also have to do -- we should do
7 what Ida suggested and that's to ask the
8 Federal Subsistence Board at what meeting
9 did they exclude Tongass National Forest
10 waters, what were the actions and what was
11 the vote, can we get it in writing?

12 John?

13 MR. LITTLEFIELD: Madam Chair,
14 this is the Southeast Alaska Regional
15 Advisory Council. The land we're talking
16 about here is the Tongass National Forest.
17 For the record, I would like to note that
18 when they talk about the Chugach, which is
19 not in our purview, they've also added
20 "under the regulatory process" those same
21 words, and maybe the Council Chair could
22 bring this up. It's really not in our
23 purview to talk about the Chugach, but they
24 also have those words in the two forests,
25 and I think at most it should be under
consideration.

MS. GARZA: So, Mr. Chairman,
you'll talk to the Chugach Regional Chair?
Or were you not listening to John?

18 MR. THOMAS: Talk to him.

19 MS. GARZA: So, Jude, for this
20 cutup map under Tab 5, are there any that
21 have been taped together?

22 MR. PATE: I will be busy taping
23 together.

24 MS. GARZA: Some more so we can
25 have it on the wall so we can figure out
what areas are excluded.

To put what executive order and
what CFR, how it is included. So that if we
are taking up proposals and we would like to

1 reference why it should be included, why the
2 extension should go beyond, that we could
say okay, it is because of this.

3 MR. PATE: Yes, ma'am.

4 MS. GARZA: I'm not a ma'am.

5 MR. PATE: Yes, Chair.
6 Could I make one point, Madam
Chair?

7 You are Congressionally created.
8 The Federal Subsistence Board is not
mentioned anywhere in the world; they're
9 created by the State. The Federal
Subsistence Board can only have the power by
10 the Secretary. The Secretary can't take
away any power that's given to you by
11 Congress. You may have broader powers to
consider this matter than the Federal
12 Subsistence Board. If you make these
recommendations, I would suggest you make
the annual report directly to the
13 Secretaries and not just to the Federal
Subsistence Board. The Federal Subsistence
14 Board may say we can't consider that. I
don't think the Federal Subsistence Board
15 put in the excluding marine waters; that may
be the Secretary that included that.

16 MS. GARZA: Are there any other
17 comments under Item 8(i)?
It's 4:30.

18 MR. STOKES: Chair -- Madam
19 Chair, before we go on to anything else, the
weather prediction tomorrow is real nasty.
20 In order to take advantage of the weather
today, I would move that we recess until
21 tomorrow morning.

22 Is there a second?

23 MS. WILSON: I second it.

24 MS. GARZA: Before we do, I was
just wondering if there's anyone in the
audience who needs to present today or leave
25 tomorrow morning. Can we do it quickly?

1 MR. STOKES: There was a second
2 down here.

3 MS. GARZA: Bert, did you talk to
4 your daughter?

5 MR. ADAMS: I haven't had a
6 chance to talk to her yet.

7 MR. STOKES: Call for a question.

8 MS. GARZA: So we are at recess
9 until tomorrow morning at 8:30 since we're
10 cutting out early. We have a lot to cover
11 yet.

12 (Southeast Federal Regional
13 Advisory Council adjourned at 4:30 p.m.)
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I, Sandra M. Mierop, Certified
Realtime Reporter, do hereby certify that
the above and foregoing contains a true and
correct transcription of the Southeast
Federal Subsistence Advisory Council meeting
reported by me on the 16th day of October,
2001.

Sandra M. Mierop, CRR, RPR, CSR

