

1 SOUTHEAST ALASKA FEDERAL SUBSISTENCE
2 REGIONAL ADVISORY COUNCIL MEETING

3
4 PUBLIC MEETING

5
6 VOLUME II

7
8 Juneau, Alaska
9 September 24, 2008
10 8:30 o'clock a.m.

11
12
13 COUNCIL MEMBERS PRESENT:

14
15 Bertrand Adams, Chairman
16 Michael Bangs
17 Donald Hernandez
18 Harvey Kitka
19 Floyd Kookesh
20 Richard Stokes
21 Lee Wallace
22
23 Regional Council Coordinator, Robert Larson

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P R O C E E D I N G S

(Juneau, Alaska - 9/24/2008)

(On record)

CHAIRMAN ADAMS: Good morning, everyone.
I'll give you a minute or two to settle down and then
we're going to get started.

(Pause)

CHAIRMAN ADAMS: Well, it took less than
a minute, less than 30 seconds, thank you.

Good morning everyone.

IN UNISON: Good morning.

CHAIRMAN ADAMS: Who was your evening.

IN UNISON: Good.

CHAIRMAN ADAMS: Okay. Well, I hope we
can have a real good productive day, we've got three more
proposals to do, so we'll go ahead and call this meeting
to order and let's start right off the bat with Proposal
04.

Thank you, Cal.

MR. CASIPIT: Thank you, Mr. Chairman.
For the record my name is Cal Casipit, subsistence Staff
biologist for the Forest Service in Juneau in the
regional office.

I'll be presenting FP09-04, the executive
summary starts on 67 of your book and the actual analysis
begins on 68.

Proposal FP09-04 was submitted by the
Alaska Department of Fish and Game and requests that no
subsistence fishing permits be issued for streams crossed
by or adjacent to the Juneau road system. The proponent
is concerned that the streams crossed by or adjacent to
the Juneau road system support small populations of fish
that can be easily over exploited. This proposal is
similar to Proposal FP06-31 which was submitted to
removal the Federal Subsistence Board's current area wide
Federal subsistence fishing regulations for steelhead,

1 Dolly Varden and cutthroat in streams crossed by or
2 adjacent to the Juneau road system and replace them with
3 State of Alaska sportfishing regulations. At its January
4 2006 meeting the Board rejected Proposal FP06-31 as
5 recommended by this Council.

6
7 All fresh waters on the Juneau road
8 system are within the exterior boundaries of the Tongass
9 National Forest and are considered Federal public waters
10 for the purposes of Federal subsistence fisheries
11 management.

12
13 I'm really not going to cover the C&T
14 determinations for the area, I mean Proposal 15 talks
15 about all those issues so I'm not going to really get
16 into that.

17
18 For regulatory history I'm sure you're
19 all aware of the regulatory history on this, it's been
20 before this Council several times before in various
21 forms. There's a summary of the regulatory history on
22 Page 69 and 70 of your book. I'm really not going to get
23 too deeply into all that. I did want to note that last
24 year we analyzed FP08-04 which was submitted by the
25 Alaska Department of Fish and Game requesting that a no
26 Federal subsistence priority determination be made for
27 customary and traditional use of fish on the Juneau road
28 system, which is the same -- essentially the same
29 proposal that you'll hear about in Proposal 15 later
30 today, or hopefully later today. And at its December
31 2007 meeting the Board agreed with your Council
32 recommendation and rejected that proposal as well.

33
34 I have an extensive section beginning on
35 Page 70 and continuing on 71 and into 72 that talks about
36 the current events regarding the species on the road
37 system and we talk about steelhead and trout and other
38 issues. I did want to point out that at least for
39 fishing on the Juneau road system, for steelhead we have
40 restrictions on the permit that's not -- it's not open
41 like -- it's not similar to the actual background
42 regulations the Board passed, is we have a 32 inch
43 minimum size limit, limited to rod and reel only without
44 bait for steelhead. For the other species, such as
45 trout, again, it's an 11 inch minimum size limit rod and
46 reel without bait as well, so we do have minimum size
47 limits and restrictions on the use of bait for steelhead
48 and trout on the Juneau road system.

49
50 And I also wanted to point out, at least,

1 for salmon fishing on the Juneau road system, based on
2 Board regulation at the beginning when we rolled over the
3 State regulations in 2000, at least for salmon fishing on
4 the Juneau road system we've applied the same regulations
5 that prohibits the use of nets on the Juneau road system
6 for salmon and that's similar to what's in the
7 regulations for Petersburg, Sitka, Wrangell, Ketchikan.

8
9 I did want to point out for harvest
10 history, that to date no fish have been harvested on
11 Federal subsistence fishing permits on the Juneau road
12 systems, however, under the limited data that's available
13 for the statewide sportfish harvest survey there has been
14 some use of various species on the Juneau road system now
15 and it's -- admittedly it's fairly -- it's small but
16 there are entries in that survey that do indicate that
17 people from Skagway, Sitka, Wrangell, Pelican, Haines and
18 Gustavus have harvested on the Juneau road system under
19 State sportfishing regulations.

20
21 If this proposal -- effects of this
22 proposal. If this proposal were implemented there would
23 be no opportunity for Federally-qualified subsistence
24 users to harvest fish in Federal public waters on the
25 Juneau road system. This could be detrimental to the
26 satisfaction of their subsistence needs if a Federally-
27 qualified subsistence user desires to harvest fish on the
28 Juneau road system under Federal regulation.

29
30 Known conservation concerns for steelhead
31 and trout on the Juneau road system are addressed by our
32 restrictive permit conditions and additional restrictions
33 could be placed on the permit under the local Federal
34 fisheries manager's authority if additional conservation
35 concerns arise.

36
37 Our preliminary conclusion is to oppose
38 the proposal.

39
40 By adopting this proposed regulation
41 change we would not provide subsistence users with a
42 subsistence priority as required under Section .804 of
43 ANILCA, Title VIII and could be detrimental to the
44 satisfaction of their subsistence needs. Known
45 conservation concerns for steelhead and trout on the
46 Juneau road system are addressed by restrictive permit
47 conditions and additional restrictions can be placed on
48 the permit if additional conservation concerns arise.

49
50 That's all I have, Mr. Chair.

1 CHAIRMAN ADAMS: Thank you, Cal. Is
2 there any questions for Cal by the Council.

3
4 (No comments)

5
6 CHAIRMAN ADAMS: All right. Thank you.
7 Okay, next, please, George.

8
9 MR. PAPPAS: Good morning, Mr. Chair and
10 members of the Council. George Pappas, Department of
11 Fish and Game.

12
13 This proposal should be supported for two
14 reasons. First to assure Federal subsistence users don't
15 face enforcement actions. The Juneau road system is
16 totally surrounded by lands, which are State lands or
17 privately owned, and when an enforcement officer
18 encounters an individual fishing with methods and means
19 and limits that are prohibited by State regulations while
20 standing on State or private lands, that person likely
21 will be cited. Therefore not issuing Federal permits on
22 the Juneau road system would prevent unnecessary
23 enforcement issues for Federally-qualified subsistence
24 users.

25
26 Secondly, and more importantly, the
27 streams within the Juneau road system constitute a very
28 small portion, less than 10 percent of the freshwaters in
29 Districts 11 and 15 of Southeast Alaska.

30
31 And by the way our comments are on Page
32 75 in the book but I'm summarizing here.

33
34 This proposal, similar to the Federal
35 regulation already adopted for Petersburg, Wrangell,
36 Sitka area, that regulation states, no permits for the
37 use of nets will be issued for salmon in streams flowing
38 across adjacent road systems within the city's limits of
39 Petersburg, Wrangell and Sitka. The current Federal
40 permit stipulation doesn't allow the use of nets on the
41 Juneau road system but it's not in regulation.

42
43 Other Southeast communities disallow nets
44 under both State and Federal regulations because liberal
45 methods and means and limits are not conservative enough
46 to sustain resources in the highly accessible populated
47 areas. This proposal simply recognizes the conservation
48 issue that should be addressed in regulation for the
49 Juneau area.

50

1 We agree with the OSM analysis, that
2 because of road access, special attention must be given
3 to two dozen Juneau road system streams which support
4 small populations of fish. Under State regulations seven
5 of the streams have been closed to all fishing. Four of
6 the streams have salmon retention prohibitions in order
7 to insure continued sustainability. All of the streams
8 open to fishing are conservatively managed for high use
9 and have severely restricted methods and means, size
10 limits, harvest limits and fishing schedules. The
11 existing harvest levels can only continue if fishing
12 effort does not increase substantially and most fishers
13 practice non-retention. The OSM justification realizes
14 -- recognizes these conversation issues but incorrectly
15 believes that an 11 inch size limit for fish will address
16 the conservation, high use in these areas. They also
17 incorrectly believe there is no conservation issue since
18 no one fishes under Federal liberalized regulations.
19 These fish stocks could be impacted even if a few rural
20 residents choose to fish -- to subsistence fish on the
21 Juneau road system with the liberal size limits.

22
23 Streams that cross the road system within
24 the Borough of Juneau are relatively accessible, support
25 small fish stocks and receive increasing pressure by
26 residents of the area. This necessitates increased
27 restrictions on size, gear, and limits in order to assure
28 sustainability of a stock while also retaining the
29 opportunity for residents of the area to participate in
30 fishing. To date not a single Federal subsistence permit
31 has been requested or issued for the road system within
32 the Juneau Borough boundary. There have not been any
33 reported harvests by rural residents for subsistence use
34 in the freshwaters of the road system. There's no
35 evidence of a customary and traditional use of fish
36 stocks for subsistence by any rural residents in
37 freshwaters that cross the road system, there's no
38 evidence indicating the subsistence opportunity along the
39 Juneau road system is needed for subsistence by rural
40 residents living outside the boundary.

41
42 The Department recommends the support of
43 this proposal so that subsistence permits are not issued
44 for freshwaters accessible through the Juneau road
45 system. This action would not impact Federally-qualified
46 rural subsistence users who retain a meaningful
47 preference for harvest in other more reasonably
48 accessible areas closer to home.

49
50 There is simply no evidence of a need to

1 provide for subsistence priority opportunity for
2 Federally-qualified residents of other communities to
3 fish these limited freshwater streams for these small
4 sensitive tightly restricted stocks for salmon and other
5 fish by Alaska rural residents.

6

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

9

10 Alaska Department of Fish and Game
11 Preliminary Comments to the Regional Advisory Council

12

13 FP09-04 Juneau Road System No Federal
14 Subsistence Permits

15

16 Introduction:

17

18 This proposal disallows issuance of
19 federal subsistence permits for streams crossing the
20 Juneau road system within the City/Borough of Juneau
21 based on concern for fish stocks. These streams
22 constitute a very small portion (less than 10%) of the
23 freshwater fisheries in Districts 11 and 15 of
24 Southeast Alaska. No one has ever acquired a federal
25 subsistence permit for any of these streams so there
26 will be no impact on subsistence users. If any federal
27 subsistence fishing were to occur, these fish stocks
28 could be impacted before evidence of unsustainable
29 harvests would be available. FP09-04 is similar to and
30 consistent with federal regulations previously adopted
31 in the Petersburg, Wrangell, and Sitka area under
32 ^U_.27(i)(13)(ix) prohibiting issuance of permits for
33 the use of nets.

34

35 Impact on Subsistence Users:

36

37 The existing federal subsistence
38 fishery within streams crossed by the Juneau road
39 system requires a permit. No federal subsistence
40 permits have ever been requested or issued. No prior
41 harvests by rural residents have been documented for
42 subsistence use in fresh waters of the road system
43 within the Juneau City/Borough boundary. There is no
44 evidence of a customary and traditional use of fish
45 stocks for subsistence by any rural resident in fresh
46 waters that cross the road system within the Juneau
47 City/Borough boundary. Most Juneau area fishing occurs
48 within marine waters, just as most fishing throughout
49 Southeast Alaska occurs in marine waters--outside of
50 claimed federal waters. Meaningful subsistence fishing

1 opportunity for rural residents occurs in streams that
2 are closer to their respective communities. Eligible
3 rural residents would have to travel substantial
4 distances by boat or airplane in order to fish on the
5 Juneau road system. Though daily air and ferry service
6 exists, the Juneau area is not near or reasonably
7 accessible to rural residents of Southeast Alaska for
8 purposes of subsistence or sport fishing. (In fact,
9 only two sport-caught fish were reported by responders
10 to the Statewide Sport Fish Harvest Survey over 2004
11 through 2006 by rural residents of Southeast Alaska on
12 the Juneau road system.) No evidence indicates that
13 subsistence opportunity along the Juneau road system is
14 needed for subsistence by rural residents living
15 outside the Juneau City/Borough boundary.

16

17 Opportunity Provided by State:

18

19 State regulations provide for a variety
20 of sport fishing opportunities in fresh waters and
21 adjacent saltwater shoreline areas of the Juneau road
22 system but these opportunities are more restricted than
23 elsewhere in Southeast Alaska. The Department lists
24 only 15 fresh water streams and numerous salt water
25 shoreline areas along the Juneau road system for
26 anglers to fish and although salt water shoreline areas
27 are also available for anglers to fish, fishing even in
28 saltwater for trout and Dolly Varden is more restricted
29 and subject to lower bag limits than in other areas of
30 Southeast Alaska. Nearly all freshwater sport fishing
31 activity (approximately 80%) along the Juneau road
32 system takes place in four primary streams (Cowee
33 Creek, Montana Creek, Peterson Creek, and Fish Creek).
34 The fish populations in these streams are relatively
35 small. Several small roadside streams are closed to
36 sport fishing altogether, and others are closed to
37 salmon or Dolly Varden fishing. Restrictive bag and
38 possession limits are in effect for many species.
39 Juneau roadside bag and possession limits and size
40 requirements differ in several respects from regional
41 regulations and are more restrictive. Bag and
42 possession limits have been reduced for coho salmon,
43 sockeye salmon, and Dolly Varden. In addition,
44 cutthroat trout size limits are also more restrictive
45 than the regional regulations.

46

47 Conservation Issues:

48

49 Two dozen Juneau area streams support
50 small populations of fish and can be easily accessed

1 from the local road system. Seven of the streams have
2 been closed to all fishing and four streams have salmon
3 retention prohibitions in order to assure continued
4 sustainability. All other streams open to fishing are
5 conservatively managed for high use and have severely
6 restricted methods and means, size limits, harvest
7 limits, fishing schedules (e.g., no bait, seasonal
8 closures, slot limits, species prohibitions). Existing
9 harvest levels can only continue if effort does not
10 increase substantially, most fishers practice non-
11 retention, and the streams are conservatively managed.

12
13 The Department has continually
14 expressed concerns about sustainability of highly
15 accessible and liberal federal subsistence fisheries on
16 the Juneau road system. The federal steelhead 32 size
17 limit allows a harvest rate that is unsustainable. The
18 Federal Staff Analysis for proposal FP 06-31 at the
19 January 2006 Federal Subsistence Board meeting (pages
20 395-400 in the meeting materials book) provided no
21 biological justification for the 32 size limit other
22 than to state the size limit was set less than the
23 state sport fish limit of 36 to give federally
24 qualified users a subsistence priority. The State
25 36 size limit and other regulations were adopted to
26 rebuild depleted stocks and biological standards to
27 achieve a sustainable harvest rate. Sport fishing
28 cutthroat regional minimum size limit of 11 in length
29 was established to protect about 60% of trout
30 populations until they can spawn at least once. The
31 regulations in the Juneau area are even more
32 restrictive because they impose a 14 minimum size
33 length to allow all female cutthroat trout to spawn at
34 least one time. The federal regulations allow
35 retention of cutthroat trout less than 14 in length,
36 which allows harvest of juvenile cutthroat trout in
37 areas of high use.

38
39 The State fishing regulations in place
40 for near or within highly populated areas of Alaska
41 for fish stocks exposed to elevated exploitation
42 pressures were developed to conserve and rebuild a
43 variety of fish stocks. The current regulations in
44 place that protect such stocks were successfully
45 developed through utilizing the most current scientific
46 knowledge and management methods. When all of the
47 required data needed to manage a fishery are not
48 available or if a fish stock has been identified as
49 finite, fragile, or of concern, the fisheries are
50 managed conservatively through restrictive regulations.

1 In absence of critical information about stock sizes
2 and harvest rates, the State regulations should be used
3 to help ensure sustainability of the resource. The
4 federal regulations could jeopardize fish stocks
5 because harvest limits are excessive for the size of
6 streams and damage would not be evident until after it
7 is reported. The federal subsistence permit appears to
8 be the foundation for federal stock conservation, but
9 its reporting requirements may be too little, too
10 late for small stocks.

11
12 Under federal subsistence fishing
13 regulations, these fish stocks could be impacted if
14 even a few rural residents chose to travel to Juneau
15 for subsistence fish. These federal regulations apply
16 to the area where non-federally qualified Juneau
17 residents and other users are subject to State sport
18 fishing regulations. The current federal regulations
19 provide an exemption from State sport fish license
20 requirements, allow liberalized gear, and allow
21 liberalized size limits. In summary, streams that
22 cross the road system within the City/Borough of Juneau
23 are relatively accessible, support small fish stocks,
24 and receive increasing pressure by residents of the
25 area, thus necessitating increasing restrictions on
26 size, gear, and limits in order to assure
27 sustainability of those stocks while also retaining an
28 opportunity for residents of the area to participate in
29 fishing.

30
31 Jurisdiction Issues:

32
33 According to the Department s Fish
34 Distribution Database, the majority of fish habitat and
35 documented fish observations in these streams are not
36 located within federal land. Some streams have
37 relatively inaccessible headwaters on federal land, but
38 they flow through State, private, and other land
39 ownership to marine waters. Most of the lengths of
40 these streams also are not within the Tongass Forest
41 boundary. Other streams along the Juneau road system
42 flow entirely on non-federally owned land. However,
43 the federal analysis in the December 2007 Federal
44 Subsistence Board Meeting Materials book page 181
45 incorrectly and over broadly claims:

46
47 Federal public waters comprise all
48 fresh waters draining into fishing District 11 and
49 those fresh waters draining into fishing District 15
50 south of the Chilkat Peninsula (near Haines), but also

1 including the eastern side of Chilkoot Inlet north to
2 Skagway, all within the exterior boundaries of the
3 Tongass National Forest (Map 1). These waters include
4 all streams crossed by roads connected to the City and
5 Borough of Juneau road system.

6
7 In order for rural residents and
8 enforcement personnel to know where they can legally
9 participate in federal subsistence fisheries, we
10 request detailed land status maps showing areas and
11 specific boundaries of waters claimed to be within
12 federal subsistence jurisdiction and the basis for
13 those claims. Maps provided by federal staff to date
14 are not accurate enough to ensure federal subsistence
15 users do not inadvertently fish from lands not under
16 federal jurisdiction. Significant portions of federal
17 lands surrounding the Juneau road system are bordered
18 by state or private lands, where there is either no
19 federal jurisdiction or federally qualified subsistence
20 fishers cannot participate in federal subsistence
21 fisheries while standing on non-federal lands. During
22 the December 2007 Federal Board meeting, State of
23 Alaska Wildlife Trooper testimony illustrated to the
24 Federal Board the importance of users understanding and
25 knowing jurisdiction and land status. This testimony
26 explained that when an enforcement officer encounters
27 an individual conducting an activity that is prohibited
28 by State regulations on State or private lands,
29 including State owned submerged lands, the person will
30 likely be cited. Closing the Juneau road system area
31 to issuance of federal subsistence fishing permits will
32 significantly decrease the likelihood that rural
33 residents will be cited for violation of state law for
34 subsistence fishing on non-federal lands along the
35 Juneau road system.

36
37 Recommendation:

38
39 Support. This action is consistent
40 with the previously adopted federal regulation
41 prohibiting issuance of permits for net fishing in the
42 Petersburg, Wrangell, and Sitka road system areas
43 (^U.27(i)(13)(ix)). The Federal Board should exempt
44 the current Juneau City and Borough boundary area from
45 region-wide regulations by not allowing subsistence
46 permits to be issued for fresh waters accessible
47 through the road system. This action would not have an
48 impact on federally qualified rural subsistence users
49 who would retain a meaningful preference for the
50 harvest of the species found along the Juneau road

1 system in other more reasonably accessible locations.

2

3 CHAIRMAN ADAMS: Thank you, Mr. Pappas.
4 Is there any questions from the Council.

5

6 Mr. Hernandez, please.

7

8 MR. HERNANDEZ: Thank you, Mr.
9 Chairman. Yeah, George I'd like to maybe get a little
10 more information on this enforcement and jurisdiction.
11 I don't know it seems like there is some debate about
12 that. When you talk about enforcement officers would
13 have to cite people if they were Federally-qualified
14 and they were fishing on a, I guess, essentially would
15 be a Federally -- Federal waters of a stream but they
16 would not be on Federal land, I don't know, is there an
17 ongoing dispute about if people are engaged in fishing
18 on a Federally-regulated water body and, you know,
19 where they are actually standing, could they be cited
20 because they're not on Federal land if they're fishing
21 in Federal waters? I mean what's the status of that
22 whole situation right now, I mean I don't know if it's
23 settled.

24

25 MR. PAPPAS: Through the Chair. Mr.
26 Hernandez. Yes, as I understand State regulations
27 apply to all lands in Alaska, but more specifically
28 Federal subsistence regulations for fishing do not
29 apply to State and private lands so the Federal
30 jurisdiction claims for Federal waters within the
31 exterior boundaries of a Federal unit, if someone was
32 standing, you know, in the stream fishing along it, as
33 I understand State enforcement will not cite somebody
34 but if somebody is standing on their back yard or their
35 dock fishing in a river that's claimed under Federal
36 jurisdiction, if you're actually conducting activities
37 on State or private lands and you have a stringer of 12
38 inch fish where a minimum size is 14 inch fish the
39 person will receive a citation. It doesn't matter if
40 the person's a Federal subsistence user or a State
41 user, a resident user, it doesn't matter, they have to
42 enforce the State regulations which apply to State and
43 private lands. And that gets confusing around here.

44

45 That's one of our comments, and I think
46 it was noted in a note to the Board last year from the
47 RAC here, in some areas it's a patchwork. You go up on
48 the Yukon, one mile's Federal land, one mile's private
49 lane, another mile's State land, another mile's Federal
50 land, it gets confusing and we don't want to have

1 subsistence users confused so the advice from the
2 enforcement folks, and they said it at the Board last
3 year, the State enforcement officers will have to
4 enforce State regulations on State and private lands.
5 And it's very difficult. I've had folks at the RAC and
6 in the public say, well, okay if I'm two inches out in
7 the water, I'm okay, that's not on State or private
8 lands.

9
10 CHAIRMAN ADAMS: Remember the question
11 I asked yesterday about the Tawah Creek issue and, you
12 know, Cal confirmed to me that if a Federal -- you
13 know, if there's a stream that is in Federal
14 jurisdiction and then it goes into private or State or
15 otherwise, it's the Federal regs that override the
16 others. So respond to that, please, I'm trying to get
17 my mind clear on this again because what you're saying
18 now is kind of contradictory to what I heard yesterday.
19

20 MR. PAPPAS: Mr. Chair. The answer and
21 information that was provided to you was talking about
22 participating in the fishery, the Federal subsistence
23 fishery in Federally-managed waters under claimed
24 jurisdiction, there was no mention of the land status
25 where you're fishing, now I was waiting for that
26 question. If you're in a boat, off the land in the
27 waterway, and you're participating in a Federal
28 subsistence fishery, as I understand it, State
29 enforcement officers are not going to -- I guess the
30 State enforcement's authority would be if you were
31 participating from land that is not Federal, even
32 though it's game jurisdiction -- excuse me -- the
33 exterior boundaries, it comes down to where you're
34 standing, sir.

35
36 Mr. Chair.

37
38 CHAIRMAN ADAMS: Very, very
39 interesting. Okay, any other questions.

40
41 Harvey.

42
43 MR. KITKA: Thank you, Mr. Chair. I
44 had some interesting thoughts here while you were
45 talking and it encompasses not only the Juneau area,
46 but probably in the Ketchikan area and other
47 communities that are basically where the towns have
48 grown up around the smaller Indian communities, like
49 the Auke Indians and the Taku Indians. How come there
50 was never customary use and determination for these

1 Indians and why are they so discriminated against
2 because -- just because they live in a big community
3 now, the towns have grown up around them, they are
4 still a small community.

5

6 Thank you.

7

8 MR. PAPPAS: Mr. Chair. Mr. Kitka.
9 Maybe Mr. Larson can help me with this answer about
10 determination -- making findings of C&T for different
11 areas. The different criteria that they place for a
12 community contiguous -- a contiguous community or an
13 area has multiple tiers it has to meet, including the
14 numbers of schools, the distance from -- I don't have
15 the exact list. You have some OSM Staff here that
16 could actually answer that question better. But if
17 it's part of a contiguous community, I believe it is
18 considered -- they do make boundaries, and an example
19 is the Happy Valley, Ninilchik on the Kenai Peninsula,
20 because they were together, they're further away from
21 Anchor Point, further away from Homer, they didn't draw
22 the line there. I don't have a solid answer for you,
23 you'd have to talk to OSM Staff that could provide some
24 information for that.

25

26 MR. KOOKESH: I had the same question
27 as him.

28

29 CHAIRMAN ADAMS: Go ahead Floyd.

30

31 MR. KOOKESH: Yeah, I didn't know if
32 you were the right person to -- he was the right person
33 to answer, too, I was thinking about this, their
34 question that there's no C&T determination been made
35 but it's like as Mr. Kitka said, the Auke Tribe and the
36 Douglas Indian Association, you know, the Douglas
37 Tlingits, they've always been here before the State and
38 the Federal people, I'm wondering why that argument is
39 even being thrown out, maybe we should look at the C&T
40 determination, that issue?

41

42 CHAIRMAN ADAMS: And we'll just go
43 ahead and finish the questioning that the Council might
44 have for you right now and then we'll probably call,
45 you know, Cal or someone up here to answer the C&T
46 situation.

47

48 Mr. Bangs, go ahead.

49

50 MR. BANGS: Thank you, Mr. Chairman.

1 Well, getting back to this citing if you're standing on
2 land, I understand the principle behind that but I
3 think there's a lot of probably streams that are fished
4 say on Prince of Wales or something that this occurs
5 on, has there been anyone actually cited for that or is
6 this something new they're going to start enforcing
7 just to make it more difficult, or what's the reasoning
8 behind this?

9
10 MR. PAPPAS: Mr. Chair. Mr. Bangs. It
11 is State regulation. The Troopers have always cited
12 folks that if they are on State lands for State
13 regulations, they apply to State reg -- State and
14 private lands, State regulations apply. If you're
15 fishing out of season, if you're fishing with a gear
16 type that's not approved by the Alaska Board of
17 Fisheries, if the limits and sizes are different,
18 that's their job, it's never changed.

19
20 This is something that has developed in
21 the last several years with the introduction of
22 different methods -- with the divergence of the
23 management of the fisheries, with the different limits,
24 different methods and means, as they're being
25 developed, that are not parallel to the Department --
26 to State regulations, enforcement -- has it happened --
27 I'm not aware there have -- there have been cases where
28 folks have been claiming to be Federal subsistence
29 fishing in State areas not within Federal lands and
30 have been cited for way over limits but the folks
31 weren't permitted, they're -- as I understand there
32 have -- it comes down to the bottom question, you find
33 someone with a stringer of fish, they don't have a
34 Federal subsistence permit, they don't have a State
35 license, what are they doing, well, they're in
36 violation of all regulations at that point in time. So
37 is it new, is it -- no, it's not new.

38
39 If you're hunting or fishing in State
40 land and you get contacted by a Trooper and if you're
41 not adhering to State regulations you'll be cited.

42
43 When the enforcement officers from the
44 Department of Public Safety testified at the Board --
45 at the Federal Subsistence Board last year, that it's
46 important that everybody knows where they're fishing --
47 that's why a lot of our comments over the last several
48 years, make sure you have OSM or somebody provides the
49 public -- the rural users -- the Federally-qualified
50 users good maps, you know, who owns what land, where

1 can you and you cannot fish.

2

3 CHAIRMAN ADAMS: Don, go ahead.

4

5 MR. HERNANDEZ: I'd like to talk about
6 some other comments you made concerning the
7 conservation concerns. Your concern about the possible
8 increase in the effort by subsistence users causing a
9 conservation concern, presently what -- I guess I'm
10 kind of wondering about what is the level of fishing
11 going on in some of these streams now, it seems to be
12 fairly minimal. I can't really point to any specific
13 numbers here or anything but you kind of characterize
14 as fairly minimal amount of effort by all users, and I
15 was just wondering what -- who does primarily fish on
16 these small systems now, is it primarily Juneau local
17 residents, do you get a lot of non-residents coming,
18 you know, visitors to the area that want to go
19 sportfishing, do they utilize some of these streams, do
20 you have any kind of indication of what the present use
21 is?

22

23 MR. PAPPAS: Mr. Chair. Mr. Hernandez.
24 If you give me a second here, I think Terry Suminski
25 might have the database with him. Terry, do you have
26 that data? I don't have the statewide harvest survey
27 in front of me. I can get that for you today, the
28 breakdown. My assumption is it's more residents than
29 non-residents and the statewide harvest survey that was
30 run for last year's meeting, what was it, 40 or 50
31 people from communities around Southeast, outside of
32 Juneau, the statewide harvest survey so there was
33 participation from other folks in the region. But
34 currently the regulations are established to have the
35 fishery sustainable so that's the point we're trying to
36 make here.

37

38 CHAIRMAN ADAMS: Follow up Don.

39

40 MR. HERNANDEZ: Yeah, I guess as follow
41 up. I guess the point I would make, you know, if these
42 are Federal waters, then, you know, any increase in
43 fishing pressure would have to come at the expense of
44 other users, you know, that's what Title VIII mandates
45 on Federal waters so I guess I'd just be curious to
46 know the level of participation between residents, non-
47 residents and, you know, who would be eliminated first,
48 obviously it shouldn't be the subsistence user in a
49 conservation concern and so I would be interested to
50 hear what the present use is.

1 CHAIRMAN ADAMS: Anyone else.

2

3 (No comments)

4

5 CHAIRMAN ADAMS: Thank you, George.

6

7 MR. PAPPAS: Thank you, Mr. Chair.

8

9 CHAIRMAN ADAMS: While we're in
10 discussion here a couple things popped up -- you're
11 excused, sir.

12

13 I would like to, you know, clarify a
14 couple things here and if we could have Jeff come up
15 here, enforcement, and maybe he can shed some light on
16 some of the issues that we've discussed so far as far
17 as the Federal side of it is concerned. Thank you,
18 Jeff.

19

20 MR. BRYDEN: Thank you, Mr. Chairman.
21 For the record my name is Jeffrey Bryden. I'm the lead
22 law enforcement officer for subsistence in Alaska for
23 the Forest Service. I work both in Southeast and
24 Southcentral Alaska.

25

26 The discussion has been on some
27 jurisdictional issues with regards to the Federal
28 jurisdiction. I cannot talk for the Alaska Department
29 of Public Safety. If the Alaska Department of Fish and
30 Game wishes to speak for them, I can't say one way or
31 the other on how the Department of Public Safety will
32 enforce or will not enforce.

33

34 Federally, if our agency is issuing a
35 Federal subsistence permit for an area, the enforcement
36 side will not be citing anybody who's fishing under a
37 Federal subsistence permit if they're standing on State
38 land within what we consider to be a Federal permitted
39 fishing area. So Federally nobody will be cited by
40 myself or any of our other officers for something like
41 that, if our agency is permitting that to be taking
42 place under our jurisdiction under our understanding
43 with it.

44

45 I can't, obviously, speak for any of
46 the State officers. To the best of my knowledge nobody
47 has been cited by a State officer fishing with a
48 Federal subsistence permit for that type of situation
49 standing on an area within a river system that's within
50 the proclamational boundaries of the Forest that I know

1 of.

2

3 CHAIRMAN ADAMS: Questions, anyone,
4 while he's here.

5

6 (No comments)

7

8 CHAIRMAN ADAMS: I don't know if that
9 clarifies anything or not, Jeff, but thanks for
10 offering that for us.

11

12 MR. BRYDEN: Yeah, sorry, I can't give
13 you any more information on it. Like I said it is kind
14 of.....

15

16 CHAIRMAN ADAMS: Has there been any
17 Federal subsistence permits issued, do you know, in the
18 Juneau road system area?

19

20 MR. BRYDEN: From the testimony we've
21 heard there hasn't been any issued at this point.

22

23 CHAIRMAN ADAMS: All right, thank you.

24

25 MR. BRYDEN: Thank you, sir.

26

27 CHAIRMAN ADAMS: The other issue that I
28 came up with, the one on C&T. And I'd like maybe one
29 of the Federal people, possibly, Steve, if he can come
30 up and address that for us, please, is there a C&T
31 determination for this area, or if you don't feel like
32 it you can delegate someone else to do it, like Larry,
33 or even Cal.

34

35 MR. WALLACE: Mr. Chair.

36

37 CHAIRMAN ADAMS: While he's coming up,
38 go ahead, Lee.

39

40 MR. WALLACE: Yeah, while he's coming
41 up I just want to make a comment on Jeff's comment.

42

43 Certainly I'm pleased with your comment
44 of the Federal -- the Feds making that ruling about not
45 being so picky about whether you're standing on State
46 grounds in Federal waters or whatever, it just makes
47 common sense. And when you compare the jurisdiction
48 and the way the State does it, you know, if you're
49 standing in the wrong place at the wrong time and, you
50 know, everybody's been out fishing in different times

1 on rocks and in the waters and, you know, sometimes it
2 requires moving around and if you just happen to be in
3 the wrong spot at the wrong time with the State it just
4 doesn't make sense. And I just like the spirit of the
5 law that the Feds are ruling on this particular area of
6 where you're standing.

7

8 CHAIRMAN ADAMS: Thanks for that
9 comment, Lee. Well, it looks like they sent you up to
10 sit on the hot seat, uh.

11

12 (Laughter)

13

14 CHAIRMAN ADAMS: Go ahead.

15

16 MS. KENNER: My name is Pippa Kenner
17 with OSM. Was the question, what the current C&T for
18 fish is on the Juneau road system?

19

20 CHAIRMAN ADAMS: Yes.

21

22 MS. KENNER: Okay, it's coming up to be
23 discussed in the analysis for Proposal 9-15. And on
24 the first page it says the Juneau road system is within
25 fishing districts 11 and 15, currently all rural
26 residents of Southeastern Alaska and Yakutat areas have
27 a positive customary and traditional use determination
28 for Dolly Varden, trout, smelt and eulachon for
29 Districts 11 and 15. Currently no determination has
30 been made for salmon in Districts 11 and 15 and,
31 therefore, all rural residents of Alaska may harvest
32 salmon using Federal subsistence regulations.

33

34 CHAIRMAN ADAMS: Very good, thank you.

35

36 MS. KENNER: You're welcome. I
37 also.....

38

39 CHAIRMAN ADAMS: It seemed like I
40 remember reading that somewhere and it must have been
41 in that proposal the other day when I was going over
42 it, so good.

43

44 MS. KENNER: Oh, Mr. Chair, I don't
45 mind pointing that out to you at all.

46

47 I also recognize that there was some
48 information you were looking for earlier from the State
49 about the use of the Juneau road system by rural
50 residents. And there is actually some of that

1 information here too, I was wondering if you wanted it?

2

3 CHAIRMAN ADAMS: By all means, go
4 ahead.

5

6 MS. KENNER: Mr. Chair, let me
7 find.....

8

9 MR. KOOKESH: What page?

10

11 CHAIRMAN ADAMS: What page is that on?

12

13 MS. KENNER: It starts on Page 125.
14 There's a long explanation of the data but this is from
15 the sportfish mail out survey, and from that survey it
16 was determined that 24 of the entries where people had
17 reported harvesting on the Juneau road system through
18 that survey, 24 entries were for waters crossed by the
19 Juneau road system, and this is from 1996 to 2006,
20 including fishers from the communities of Skagway,
21 Sitka, Wrangell, Pelican, Haines and Gustavus.

22

23 CHAIRMAN ADAMS: All right, thank you,
24 appreciate it. Any questions.

25

26 (No comments)

27

28 CHAIRMAN ADAMS: You're excused. Okay,
29 I think we're getting closer to some clarification here
30 now. Any other Federal -- George, you want to come
31 back up, go ahead.

32

33 MR. PAPPAS: Mr. Chair. George Pappas,
34 Fish and Game. You asked about enforcement issues. I
35 believe there was a Federal subsistence steelhead
36 fisherman this year who was using bait and he was
37 fishing from private land, he was cited, because he was
38 not standing -- excuse me, he was on private or State
39 land using bait which is not legal in the State --
40 under State regulations. I believe there was one
41 person that was cited this year.

42

43 Additionally, another example for
44 Federal enforcement. If a State hunt is open and a --
45 the Federal -- along the border of a Federal -- State
46 -- or excuse me, National Parks or Forest Service, if a
47 hunter on a State hunt was standing three feet inside
48 the Federal line hunting and shooting the animal on the
49 State property he would be cited likely by Federal
50 enforcement officers, but I don't know what the State

1 would do. So that's kind of an example that might be
2 tangible.

3

4 Thank you, Mr. Chair.

5

6 CHAIRMAN ADAMS: Tangible but pretty
7 confusing to me.

8

9 (Laughter)

10

11 CHAIRMAN ADAMS: That's the problems
12 that we have to face when we have dual management and I
13 really do hope that we can solve a lot of these
14 problems, you know, in the future. So thanks, George,
15 for that clarification.

16

17 MR. PAPPAS: Thank you, Mr. Chair.

18

19 CHAIRMAN ADAMS: Okay. Tribal, Carrie,
20 do you have anything, okay.

21

22 MS. SYKES: Good morning. Okay, I'm
23 Carrie Sykes from Central Council Tlingit-Haida Indian
24 Tribes of Alaska. And I agree with the OSM
25 recommendations.

26

27 It doesn't provide a subsistence use
28 priority as per Title VIII of ANILCA.

29

30 They stated that there's no fish
31 harvested that had been reported on Federal lands but
32 there may be utilization. I would suggest to keep the
33 options open. We keep on talking about gas and the
34 amount of money that people have to spend to go do
35 their subsistence fishing, and without opportunity it
36 can't be a meaningful priority. And I like how John
37 Littlefield put it on Page 70, that's what he states;
38 Page 70, John Littlefield he says: Without an
39 opportunity you can't have a meaningful priority.

40

41 And there's no substantial evidence
42 they need to change the regs. It's already restricted.

43

44 And the State's not requiring
45 sportfishers to report their harvest.

46

47 Central Council opposes.

48

49 CHAIRMAN ADAMS: Thank you, Carrie.
50 And appreciate you pointing out those criterias that

1 the Council uses to make these determinations.

2

3

MS. SYKES: Thank you.

4

5

CHAIRMAN ADAMS: So, gunalcheesh, thank
6 you. Any questions of the Council to Carrie.

7

8

(No comments)

9

10

CHAIRMAN ADAMS: Hearing none, thank
11 you.

12

13

REPORTER: Bert. Bert.

14

15

CHAIRMAN ADAMS: Okay, no questions for
16 Carrie.

17

18

You know last year we did a lot of
19 fining and, of course, you know, George he got fined
20 for coming in late, he also got fined for leaving early
21 and a lot of fines in between for some reason or
22 another, but I think I was probably the one that came
23 in behind him for not turning the button on or making
24 something -- anyhow, we contributed to the cause,
25 George, and thank you.

26

27

Okay, where are we now, oh, Mr.
28 Loescher, you want to come forward and testify on four,
29 please.

30

31

Mr. Loescher, welcome.

32

33

MR. LOESCHER: Mr. Chairman and members
34 of the Advisory Council. My name is Bob Loescher. I
35 would like to associate my remarks with Carrie Sykes'
36 comments on behalf of the Tribe so I make sure all my
37 points fit in those four categories.

38

39

I'm a member of the Juneau Tlingit-
40 Haida Community Council. I've been a member for 38
41 years. I'm also on the Camp Council of the Alaska
42 Native Brotherhood. And I'm a resident of Juneau, I'm
43 a Tlingit. I live in North Douglas in the Bayview
44 Subdivision.

45

46

I've seen Juneau grow. I grew up here
47 as a little boy, there was 5,000 people here and we had
48 a little city council. I was on the first assembly --
49 the last city council and the first unified city and
50 borough assembly when our community grew to 3,000 plus

1 square miles.

2

3

4 I have fished in every stream. I have
5 climbed every mountain around Juneau. I've seen the
6 city and borough of Juneau get its land selections from
7 the State some 19,000 acres. I've served on the
8 Goldbelt board of directors twice. And Goldbelt owns
9 land, Native land under ANCSA on west Douglas and Echo
10 Cove at the mouth of Berners Bay.

11

12 Some of the lands are National Forest
13 lands, which have streams and lakes. I've hunted and
14 fished on all these places over the years and I take my
15 grandchildren there now.

16

17 And what I object to is this policy
18 that somebody's trying to propose here. The State
19 government, State police, you know, they have these
20 enforcement business going on with our people about
21 fishing and hunting and subsistence and State permits
22 and what not, our people try to get the permits as much
23 as they can, I never heard of this subsistence permit
24 that we need for Juneau but maybe there's a little
25 education required here. We have 5,000 Tlingit-Haida
26 tribal members in this town and we have a 35 member
27 council and if there needs to be any education on this
28 issue we're certainly available to meet, we meet
29 monthly. And we're happy to receive the State and
30 Federal people come to our community council and have a
31 talk about these policies that they're trying to impose
32 or where we're supposed to fish and not fish. But I
33 wouldn't want to see our people getting arrested
34 because they're standing two feet on one side of the
35 line or they're fishing in a National Forest stream
36 area and we don't know where the State or local
37 government boundary is for their land. I just see this
38 as, you know, it's too complicated for our people to
39 understand unless you have an educational process and a
40 regulatory and enforcement process that we can all
41 respect.

42

43 And so the other thing I'd like to
44 suggest to the Council is that my sister, Wanda Culp,
45 who lives in Hoonah, but it might be applying here,
46 too, where the State and local police have some kind of
47 cooperative agreements and they go out on private land
48 or National Forest land or municipal land or whatever
49 land, and then they start arresting our people for
50 subsistence activities, fishing, and, again, National
51 Forest streams, for one -- one occurrence occurred, we

1 were getting potlatch fish in Hoonah, they arrested our
2 people and take them to the magistrate court, and we
3 wonder about these things.

4

5 Another is deer hunting. Where a city
6 policeman will be out there arresting our people
7 because they have some kind of a cooperative
8 relationship with the National Forest enforcement
9 people or the State Troopers.

10

11 And I think somebody should be
12 examining these cooperative agreements to make sure
13 that, one, they're not abused in the enforcement, in
14 application of whatever their agreements say, but also
15 that there is some relationship to the interests of the
16 various land owners and to the laws that -- and
17 regulations that we're effecting here. And so I'd like
18 to raise that with the Council as well because that
19 kind of abuse has been occurring and certainly the --
20 on behalf of our Native community here in Juneau we
21 certainly don't want to receive that kind of problem
22 here either.

23

24 Last year I was at ANB hall and I was
25 the only one there, and being a camp council member I
26 answer the phone and there's a Federal official on the
27 line from US Fish and Wildlife Service that said we
28 need to have information about Native people shooting
29 seals in the borough out by Lena Point or wherever,
30 Berners Bay or somewhere, and they're asking us whether
31 we know anything about this, and I says, well, what is
32 your problem, because we were cooking the seal meat in
33 the ANB hall.

34

35 (Laughter)

36

37 MR. LOESCHER: So I'm sitting here
38 trying to understand. Well, we're with the US Fish and
39 Wildlife enforcement people and we had complaints that
40 Native people are shooting seals. Well, you know, we
41 don't look at it as a violation of law, we're looking
42 at it as a potlatch issue and we want to get a seal,
43 how far do we have to go to get a seal? Can't go to
44 Glacier Bay, my homeland to get a seal anymore, you
45 know, can't shoot seal in the Juneau borough, 3,000
46 square miles, the only place is to go to Icy Straits
47 and it's a long ways from here and it's pretty
48 dangerous in the wintertime, springtime, so we need to
49 get understanding about this enforcement business. And
50 before you all start deciding how many feet on this

1 side of a line and that side of a line, whether our
2 children are going to be arrested, we certainly need to
3 have an education process and maybe come to some
4 understandings with the law enforcement policies and
5 programs.

6

7 And so I want to speak against this
8 proposition that they have and associate my remarks
9 with our tribal Tlingit-Haida representative
10 presentation.

11

12 Thank you.

13

14 CHAIRMAN ADAMS: Thank you, Mr.
15 Loescher, we appreciate your comments. Why don't you
16 just sit there a minute maybe there's some questions
17 that the Council might have.

18

19 (No comments)

20

21 CHAIRMAN ADAMS: Having none, then.....

22

23 MR. KOOKESH: Comment.

24

25 CHAIRMAN ADAMS: Oh, Mr. Kookesh, go
26 ahead.

27

28 MR. KOOKESH: Mr. Loescher. Yesterday
29 -- yesterday when we had our opening remarks I made
30 comments that through Douglas Indian Association
31 there's a concern that we have to go so far to subsist
32 for halibut and that's another issue. Why is it that
33 the sportfisherman can just fish off the dock and the
34 commercial fisherman can fish near the community but
35 when it comes to our subsistence for halibut we have to
36 go 40 miles or something, outside the range, and like
37 you said going into Icy Strait, we don't have that kind
38 of equipment, and I was just wondering if you had any
39 comment to add to the halibut side of the fishery for
40 our people.

41

42 MR. LOESCHER: Mr. Chairman. Mr.
43 Kookesh. I have a green card in my pocket for halibut
44 subsistence and it is disconcerting, at least to me and
45 my family that we can't get the halibut under our
46 permit and dump my 20 or 30 hooks into the water to try
47 to find a halibut is exasperating enough. But to have
48 to travel all the way to Icy Straits or Chatham Straits
49 which is very dangerous for our people, it's not right.
50 And then to watch the boxes of fish leaving Juneau at

1 the Juneau airport just outrageous our people. It
2 comes up at our community council and our ANB meetings
3 all the time; how can it be that this policy exists and
4 continues to be enforced.

5
6 In response, Mr. Chairman, I just think
7 it's not right that this occurs and then I have a
8 permit in my pocket and I can't use it, and I'm proud
9 of that permit. I use it for identification by the
10 way.

11
12 (Laughter)

13
14 CHAIRMAN ADAMS: Thanks, Robert. I'll
15 just kind of follow up -- Harvey, do you have
16 something, go ahead, and then I'll have something to
17 end up with.

18
19 MR. KITKA: Thank you, Mr. Chair. Mr.
20 Loescher, Harvey Kitka here. Over your long history of
21 being around Juneau and Douglas and being involved in
22 all the community affairs, I asked a question earlier
23 about the C&T determinations for Juneau and Douglas, I
24 just was curious if you guys had ever made any
25 commitment to try to get a C&T determination for the
26 Juneau Douglas area.

27
28 MR. LOESCHER: Mr. Chairman. Mr.
29 Kitka. Yes, I serve on the Legislative Committee, I'm
30 Chairman of ANB and also serve in the Tlingit-Haida
31 community council. We are very interested in the C&T
32 determinations and read all of the proposals, the tiny
33 print, but it's taking so long for anything to happen,
34 we're not quite sure of the process or the timing is to
35 make our concerns.

36
37 I will tell you that I've been here in
38 Juneau for 61 years and the Douglas Indian Association
39 people, the clans and the tribes that live here, the
40 families that live here, they use Taku River system for
41 fish, you know, we -- we use Berners Bay for eulachon,
42 you know, where I live at -- a very fancy subdivision
43 now, Bayview Subdivision in north Douglas is Fish
44 Creek, those -- there's properties there in that area
45 where old, old Tlingit families own property there and
46 fished Fish Creek for many years. And then the beaches
47 at Echo Cove for clams and what not. All these are
48 cultural traditional areas where we have gathered.
49 Berry picking, you know, you can't even -- you know,
50 we're getting chased out of different areas now because

1 we don't know whose property lines are where but the
2 places where we used to pick berries, you know, it's
3 hard for us to figure out where we can go berrypicking
4 anymore. So, yes, we have a big need to address this
5 issue and how we fit in is another question.

6
7 I would like to say to you though it
8 seems like there's a manifest destiny for the State of
9 Alaska to create huge boroughs in Southeastern Alaska,
10 and that push is bigger and bigger. And I notice Sitka
11 and Saxman are having problems maintaining their
12 status. Well, as these boroughs get bigger, the people
13 still live there and they still use these lands for
14 hunting and fishing and gathering. So I'm hoping that
15 our Council here will be sensitive that, even though
16 these political jurisdictions are getting bigger, there
17 becomes more law enforcement among all these agencies
18 working together, that we can maintain an understanding
19 about the traditional areas where we hunt and fish and
20 gather in our communities and certainly with education
21 and knowledge of where the proper places to go hunt,
22 fish and gather, we can all work together to resolve
23 it.

24
25 I will tell you I'm very sensitive as a
26 community leader, Juneau has 7,000 Alaska Natives and
27 American Indians living here. Many people will come
28 from the rural communities because of the economy and
29 cost of living, fuel costs and all those things, have
30 come to Juneau for health, the elders have come here
31 for health services and what not. And there is a need
32 for us to gather our food. The cost of food at the
33 grocery store is getting higher, it's like 20 to 30
34 percent because of the add-on on the cost of fuel to
35 goods, so our people this year have gathered a lot of
36 berries and jarred a lot of fish and then as deer
37 hunting comes on, we'll be jarring a lot of deer meat
38 too, and so -- and these are people that live in Juneau
39 because we're going to survive. And I'm hoping that
40 whatever policies that you all create and the
41 enforcement regimes that occur don't exclude the people
42 here, because we have to survive as well.

43
44 CHAIRMAN ADAMS: Anyone else. Floyd.

45
46 MR. KOOKESH: Yeah, but after you.

47
48 CHAIRMAN ADAMS: Okay. Mr. Loescher,
49 thanks for your comments. Floyd is going to have
50 something after me but I just wanted to address to you,

1 you know, the fact, as I mentioned earlier, this
2 problem with dual management is a real big problem, you
3 know, that we have to deal with every time we come to
4 these meetings, whether it be here or up in the Federal
5 Subsistence Board. And ANILCA plainly states, you
6 know, that the State and the Feds need to work together
7 to develop regulations pertaining to subsistence. It's
8 right in there.

9

10 And, of course, we know that the came
11 out of compliance several years ago and several
12 lawsuits have arisen because of that and until those,
13 you know, get settled, you know, we can't deal with
14 that, you know, as quickly as we'd like to.

15

16 But I agree with you, you know, that an
17 education process really needs to be enforced or, you
18 know, brought forward to everyone because, you know, a
19 lot of those people are confused. That's the reason
20 why I brought out that, you know, Tawah Creek issue, on
21 steelhead trout yesterday, you know, because I was
22 confused. You know and I consider myself a very --
23 pretty well educated person but I was more and more
24 confused and I can understand where the normal people
25 -- person on the street can get confused with the
26 regulations and, you know, both State and Federal and
27 so, you know, those are issues that we need -- I think
28 we need to really, really think about as we go forward
29 on this thing.

30

31 I just want to share with you a
32 humorous story. It was several years ago when we had a
33 lot of people in the room, we had a Dr. Garcia, we had
34 a Dr. Schroeder, we had a lot of people out in the
35 audience who had, you know, Ph.d., degrees and they're
36 referred to as Doctor Doctor such and such, you know,
37 Floyd was sitting beside me and he says, hey, you got a
38 degree, don't you, and I said, yeah, and he said what
39 do you have it in and I said, well, I got a bachelor of
40 Science degree in English, so he pops on his little
41 microphone there and he explains the situation, you
42 know, that there are a lot of people with doctorate
43 degrees here and he says, from now on I want you to
44 know that Bert Adams will be referred to as BS Adams.

45

(Laughter)

46

47
48 CHAIRMAN ADAMS: So I thought, you
49 know, this would be a good way to dismiss you, Robert,
50 with a little humorous joke like that, so thank you for

1 being here.

2

3 MR. LOESCHER: Gunalcheesh.

4

5 MR. KOOKESH: Mr. Chairman.

6

7 CHAIRMAN ADAMS: Oh, Floyd, has a
8 comment, Bob, so stay there please.

9

10 MR. KOOKESH: Yeah, Mr. Loescher, I
11 didn't know how long we'd have the privilege of your
12 presence at our RAC meeting but I did have a question
13 that I was going to pose -- that I'm probably going to
14 pose to law enforcement and -- and what -- what had
15 come up was Sealaska had -- and -- and I'm asking you
16 this question, I know this is a little out of line but
17 I don't know -- I know he has very valuable time and we
18 don't want to take too much -- but -- but I know you
19 were at Sealaska for many years, you know, you worked
20 for our people and the -- the discussion has been at
21 the last two meetings about the Sealaska Land Bill
22 that's been out there. And I know that Sealaska,
23 through Rick Harris and Ron Wolf have been doing a lot
24 of PR in the outlying communities on the land bill and
25 -- and the discussion yesterday is -- from the
26 gentleman at the other end of the table here, is that,
27 they're not being allowed access to Sealaska's lands,
28 there's a restriction being put in place, or is in
29 place, and -- and as a shareholder of a -- of Sealaska
30 I am concerned that why should a private -- why should
31 we allow non-shareholders onto our private property,
32 and I was just wondering what your opinion is of -- of
33 us allowing people to have access to private lands
34 because I'm concerned that -- that not only will they
35 -- they're allowed to -- can we -- we can allow them to
36 harvest but -- but they'll start taking our trees off
37 our land because we've allowed them to go there and I
38 know under the non-Native system we put up fences and
39 you're not allowed to go there because you mentioned
40 earlier you -- you got pushed off of a berrypicking
41 place, you know, and I'm just wondering as a -- as a
42 former Sealaska, what your opinion is of non-
43 shareholders being allowed access and -- and being
44 allowed onto those private property of Sealaska.

45

46 MR. LOESCHER: Mr. Chairman. Mr.
47 Kookesh. First of all I think it's an evolving
48 question and I think we should leave it in that
49 context. In the past we've had State Troopers and
50 local law enforcement try to make arrests on -- on our

1 logging roads and on the private properties held by
2 ANCSA corporations including Sealaska. The State has
3 been very reluctant to take these cases to court. We
4 have filed briefs, you know, in court on those kinds of
5 issues. It's an issue of trespass management and
6 liability that has to be addressed. Also shareholders
7 have the right of access onto properties. The general
8 public, we have to find a way to get respect for
9 private lands and resources on those lands.

10
11 Up north Native corporations have
12 formed agreements for recreational and hunting and
13 fishing access where there are corporate permits. I
14 think in time our corporations will move in that
15 direction and I think it's good resource management and
16 also we can
17 manage risk and liability if we do things like that.

18
19 I think, and this is all perspective
20 thinking, that with regard to the new land selections
21 that are being advanced in Congress for Sealaska's 80
22 -- or 50 to 80,000 acres that are remaining entitlement
23 which surround a number of the Native communities and
24 other communities, and then the landless communities,
25 Wrangell, Petersburg, Haines, Ketchikan, and Tenakee
26 have about 115,000 acres to select out of the Tongass
27 Forest and hopefully Congress will work with that and
28 maybe we'll get the Tongass Plan amended to be able to
29 accept that. They intend to select, not within core
30 townships, but in a number of other areas under
31 different criteria of land use, both Sealaska and the
32 landless communities are attempting to do that.

33
34 But I think in exchange for
35 consideration of those kinds of land selections, I
36 think there'll have to be laws and amendments tagged on
37 to those conveyances which will provide for cooperative
38 agreements and allowing for recreational and other kind
39 of access to those kinds of lands.

40
41 So I think it's an evolving question.

42
43 I think, though, that the public
44 interest, meaning the State and Federal government
45 could do a lot by reaching out to Native corporations
46 and they have laws and programs on their books which
47 will in aid of cooperative relationships in land and
48 resource access and management. And I think if we can
49 work in that direction, I think we should do so.

50

1 Also it's financially beneficial for
2 corporations, Native corporations to work with the
3 State and Federal government for tax credits. There
4 are tax programs and other programs that make it
5 beneficial. But maybe I've said too much. But I think
6 it's an evolving question that you've asked.

7
8 CHAIRMAN ADAMS: And it certainly is a
9 revolving [sic] question, Robert, because you know the
10 Wrangell-St. Elias Subsistence Resource Commission has
11 addressed trespass issues, you know, on private lands
12 up, like for instance in the AHTNA region, and they
13 have no problem with their own shareholders and Native
14 people using the property but we have this problem of
15 outsiders, sportfishermen and sporthunters coming in
16 and squatting on those properties and, you know, doing
17 their business and there's a lot of, you know, trash
18 problems and waste problems and so forth that they have
19 to deal with.

20
21 And, of course, you know, these private
22 corporations fall under State jurisdiction, and the
23 problems with the State enforcing all of those, they
24 just don't have Troopers, you know, to take care of
25 those issues and, you know, there, we are trying to
26 deal with it and I bring it up quite often, you know,
27 what's happening, and, you know, the cooperative
28 agreements, you know, is fine but it's really actually
29 enforcing those issues that is the big problem.

30
31 Once, again, thank you, Robert, we
32 appreciate your presence here. You're welcome to stay
33 a full day and bless us with your presence.

34
35 I'd like to invite any other tribal
36 member to come up and testify. Walter, do you have --
37 good, thank you.

38
39 MR. JOHN: Thank you, Mr. Chairman and
40 Board members. My name is Walter John. I am a
41 shareholder with Sealaska Corporation and Goldbelt and
42 CIRI and the Thirteenth Region, you know, and when I
43 was born and raised in Juneau, just like Mr. Loescher
44 talked about, how he has fished in all these streams
45 and basically I have too.

46
47 And I was reading through this report
48 on Page 75 where it says, no Federal subsistence
49 permits have been requested or issued and then it goes
50 down. There is no evidence of customary and

1 traditional use of fish stocks for subsistence by any
2 rural residents in freshwaters that cross the road
3 system within Juneau city and borough of Juneau, and
4 then it talks about daily air and ferry system exists
5 so that means we should be able to go out, come back
6 and forth. Then it says no evidence indicates that
7 subsistence opportunity along the Juneau road system is
8 needed for subsistence by rural residents living
9 outside of Juneau -- city and borough of Juneau.

10

11 It kind of -- you know, I was born and
12 raised here and when I was a young boy and a teenager
13 we used to go to Fish Creek out where Bob lives and
14 Salmon Creek and Sheep Creek and we used to use a gaff,
15 which the Fish and Game has outlawed. For some reason
16 they said it wasn't good and yet, to me, it's the most
17 scientific way of fishing because you could actually
18 pick the fish that you want, we would pick the males
19 and that was it and fill up our tubs and bring it home
20 and make our -- our dry fish, that type thing, you
21 know, and -- but I started thinking about I remem --
22 you know we always have to prove traditional use.
23 White people don't have to, but we have to prove
24 traditional use. We have to prove that, you know, that
25 we've been using this fish for centuries.

26

27 And that takes me back to when I was
28 doing some research about our smokehouses. Do you know
29 that back in the turn of the century that the Federal
30 government started tearing down our smokehouses. Then
31 they turned around and say that there's no proof that
32 you've used these facilities or used these creeks. I
33 mean when I was a little boy we would catch fish, you
34 know, from -- even from Salmon Creek and take it home
35 and then -- and then make our smoke fish and that type
36 thing. And I remember talking to some friends of mine
37 from Kake and different villages where they were
38 subsisting, they were getting fish and some guy
39 hollered at them, you know, what are you Natives doing,
40 cussed at them and 15 minutes later a Fish and Game
41 plane lands and I wondered where do they keep that in
42 their budget, it cost a lot of money to fly planes, but
43 this happens in many of our villages up north where if
44 it looks like a quote/unquote, violation, of Fish and
45 Game rules and regs, a plane like kamikaze comes flying
46 into the village to run the Native off.

47

48 And you think about the thousands of
49 thousands of fish that are caught by purse seine, and I
50 used to be a purse seiner, thousands of fish that are

1 caught. You think of the thousands of tons of herring
2 fish that are caught in Sitka but if a Native goes out
3 catches a limit on subsistence and sportsfishing then
4 that's against the law.

5
6 I keep wondering who dreams up all of
7 these rules and regulations, you know, because with all
8 this, you know, everything, no matter what -- all these
9 beautiful words that are being said by the Feds and by
10 the State, when everything's said and done, what's
11 happening is Native people are being restricted from
12 being able to use their own food, food that we have
13 used since time immemorial. And I don't know, I just
14 sit here with amazement at how all of these rules and
15 regulations, how they all came about, we have a room
16 full of people, Feds, you know, we're talking about
17 subsistence, something that -- I mean what would the
18 Italians think if it became against the law to have
19 spaghetti, you know, that type thing.

20
21 Basically what these rules and regs are
22 saying that we cannot smoke our fish, we can't eat our
23 fish, we can't live the lifestyle, the cultural
24 lifestyle that we have lived before 1492, long before
25 any rules or regulations were adopted by the State.
26 And then you can even go back, even, you know, these
27 guys from the territorial sportsmens, they always say a
28 deal is a deal, you know, what happened with land
29 claims. Well, as Native people we didn't vote on it.
30 We did not vote yes or no on land claims. When it
31 comes to statehood, Native people weren't involved. So
32 as far as I'm concerned when the State did that, it was
33 basically illegal how they became a state without input
34 from Native American people. And then when Russia,
35 quote/unquote, sold Alaska, they didn't owe Alaska. If
36 you go back to the legal status that we have as a
37 people and just by virtue of the fact that they've
38 signed treaties gives us a government to government
39 relationship with the -- with the United States of
40 America. And if you look at the -- at the
41 Constitution, any treaty that was ever signed
42 supersedes or has more power or authority than any
43 State Constitution. And, you know, down south the
44 Native American people, they don't want the state's
45 involved with much of their business, they'd rather
46 have the Federal government involved. And I just kind
47 of wonder if we're going in the right direction here.

48
49 But I'm concerned about all these
50 rules, all these regulations that -- that basically

1 forbid Native people from eating our food here in
2 Juneau. And somewhere along the line this stuff has to
3 stop, you know, this is food we've been living on since
4 -- you know, like I said since time immemorial, and I
5 know that our bodies -- like a brother here said, that
6 our body was programmed to eat our food, and when we
7 don't, we have a lot of sickness, which costs money,
8 that type thing, you know, but I think we really need
9 to begin to look at some of these rules and regulations
10 that forbid Native people from taking -- you know,
11 taking -- I can't go to Fish Creek and when I was a boy
12 that's what we did. And Salmon Creek, they got it all
13 blocked off, they don't let the salmon go up Salmon
14 Creek, you know, they got fences out there that -- so
15 the salmon can't go up Salmon Creek, they do things
16 like that -- and how can they do that and then we can't
17 catch a fish, you know, it just -- it doesn't make any
18 sense to me, you know.

19

20 Thank you.

21

22 CHAIRMAN ADAMS: Just hang on there,
23 Walter.

24

25 MR. JOHN: Okay.

26

27 CHAIRMAN ADAMS: Is there any questions
28 by members of the Council.

29

30 (No comments)

31

32 CHAIRMAN ADAMS: I find that your
33 comments are very interesting, you know, maybe like to
34 touch upon a couple of them if I might.

35

36 MR. JOHN: Yeah.

37

38 CHAIRMAN ADAMS: You know we follow the
39 rules and the regs -- or the conditions under ANILCA.
40 And ANILCA recognizes the fact that there are going to
41 be more and more people moving into the state of
42 Alaska. And because there will be more and more people
43 moving into the state of Alaska there's going to be
44 more and more people impacting rural areas, more and
45 more people who will be moving into the villages
46 because of, you know, the attraction that it provides
47 to them. Now, we see, you know, where people in the
48 small villages in rural Alaska are moving away because
49 of the high cost of living there and ANILCA says, you
50 know, as these population increases, you know, explode

1 to a point where, you know, it's going to adversely
2 impact our subsistence resources then, you know, that's
3 why we're here, is to make regulations so that those
4 resources could be available to us, you know, seven
5 generations, you know, into the future.

6

7 So I'd just like to just make that
8 comment, you know, we follow the rules of ANILCA.....

9

10 MR. JOHN: Sure. Uh-huh.

11

12 CHAIRMAN ADAMS:and ANILCA
13 recognizes that and so, you know, you need to use those
14 tools to make sure that those regulations, you know,
15 that we go -- that we -- bring before us here are for
16 the benefit of the people and that's why we have those
17 four criteria that we follow when we consider
18 regulations.

19

20 I agree with you that, you know, the
21 Constitution and that government to government
22 relationship that Native tribes have with the Federal
23 government is really, really important and I am
24 encouraging more and more tribal governments to get
25 involved in subsistence issues because I think that
26 government to government relationship is very, very
27 important. And we could have a tremendous amount of
28 impact. I'm glad that Carrie is here. I'm glad that
29 Tlingit-Haida, you know, is taking more of an interest
30 in the subsistence issues that we have before us every
31 day because I think that that organization will be the
32 tool that will bring everybody together, you know, all
33 the tribal governments together so that we can enjoy
34 and further this government to government relationship
35 with the Feds.

36

37 But I just thought I'd share these
38 things with you because you brought these up as very
39 interesting points of concern and, you know, thank you.
40 I thank you for that.

41

42 MR. JOHN: Yeah, well, I'd like to make
43 a comment.

44

45 CHAIRMAN ADAMS: Sure.

46

47 MR. JOHN: I was involved with -- like
48 before land claims, I was probably the only person in
49 Juneau and San Francisco that spoke out against land
50 claims, I didn't like the writing -- today I'm glad

1 it's here because it's really changed our lifestyle,
2 but looking back at land claims I'm probably a minority
3 but I was really upset when they changed it from Native
4 to rural. I was upset over that because I knew the --
5 the kind of problems that we're facing today are the
6 problems that we would be having so I didn't want to
7 change it from Native to rural because we're talking
8 about a culture, we're talking about a people that have
9 lived this lifestyle since time immemorial.

10

11 And as far as authority, I think of our
12 tribal organizations like Sitka, or BIA, when we really
13 look at the authority that we have, we are true
14 Federally-recognized tribes. We have immense authority
15 and what I would like to see is for us to begin to use
16 that authority. I think it even supersedes Central
17 Council, the authority that we have.

18

19 But I thank you for your comments.

20

21 CHAIRMAN ADAMS: And I agree with that
22 but, you know, what I'm saying is that Central Council
23 can be the tool that can bring organizations together.

24

25 MR. JOHN: Oh, I agree with you there,
26 too. I agree with you.

27

28 CHAIRMAN ADAMS: Yeah. So I think
29 tribal governments should really step up to the
30 plate.....

31

32 MR. JOHN: I agree. I agree.

33

34 CHAIRMAN ADAMS:and take more
35 aggressive interest in our subsistence issues.

36

37 Floyd, do you have something.

38

39 MR. KOOKESH: Yeah, Walter. One of the
40 -- one of the issues that we seem to be struggling with
41 here is -- and my comment is -- since you've lived here
42 all your life is why haven't we made -- why haven't we
43 sought and accomplished customary and traditional
44 determination for the Juneau salmon streams when we've
45 done this as you mentioned time -- since time
46 immemorial.

47

48 And the other thing that seems to be a
49 grey area for us based on the State of Alaska's
50 comments is -- is where you're standing. That's scary

1 when you're a Native, you know, where you're standing,
2 and that shouldn't be the case around here, you know,
3 it should be cut and dry.

4

5 Because an example that Peter Naoroz
6 used yesterday was the gentleman fishing right below
7 his house, the Native guy fishing right below his
8 house, you know, just taking -- taking all the fish he
9 needed, you know, he wasn't stealing, he was taking
10 food for himself and when Peter came up to him he
11 thought Peter was law enforcement, he was a Native and
12 he got nervous. There seems to be -- there's some
13 missing link in terms of education and taking, you
14 know, there's something missing. And I was just
15 wondering how you viewed it.

16

17 But Bert likes the comment I made
18 about, you're a Veteran, right?

19

20 MR. JOHN: Yes.

21

22 MR. KOOKESH: You're a Veteran. The
23 comment I made -- I made this in Sitka, too, because it
24 occurred to me that when -- I talked -- tell the story
25 about when Don Bremmer and I were sitting together and
26 how he laughed about how isn't it ironic that Natives
27 go to war to fight for their freedom and our freedom
28 and then when they come back home they have to fight
29 for their rights.

30

31 MR. JOHN: Yeah.

32

33 MR. KOOKESH: Isn't that -- isn't that
34 amazing?

35

36 MR. JOHN: Yeah. Yes.

37

38 MR. KOOKESH: That in our society, that
39 you have to fight for your rights now that you've --
40 even though you fought for your freedom, died -- people
41 died for it.

42

43 But anyway I was just kind of seeing if
44 you had any comment, feedback on those.....

45

46 CHAIRMAN ADAMS: But before you do
47 that, I am not a Veteran.

48

49 MR. KOOKESH: You're not.

50

1 CHAIRMAN ADAMS: No.

2

3 MR. KOOKESH: Well.....

4

5 CHAIRMAN ADAMS: Okay, thanks.

6

7 MR. JOHN: Like I had mentioned before
8 when I was a kid we used to be able to fish, we used to
9 go there with our gaf hooks and they outlawed them.
10 And then Fish and Game started chasing us away, you
11 know, they started telling us that we can't fish for
12 our fish even though we were born and raised -- I was
13 born and raised here in Juneau, I didn't move here from
14 South, you know, lately I did because I lived in
15 Colorado for awhile. But basically it became illegal
16 as far as I'm concerned, you know, if -- if I went out
17 there right now they'd probably arrest me if I went out
18 there to catch a -- but there's probably no fish
19 either, you know, because I know there's no fish in
20 Salmon Creek because they got it all wired off. They
21 don't allow the fish to go up Salmon Creek. And so
22 they can do that but I can't go out here or to Sheep
23 Creek and get salmon so that I can make smoke fish. In
24 fact, where can I build a smokehouse in Juneau, it'd
25 probably be illegal in the city and borough of Juneau,
26 you know, someone would start complaining that there
27 was smoke coming out of my smokehouse, that type thing,
28 you know.

29

30 And it just -- I don't know, I have a
31 hard time when I start thinking about what we have to
32 do as Native people.

33

34 You know, like Mr. Loescher was talking
35 about, I was on the board of directors for Goldbelt and
36 we were trying to get people off our land, State, city,
37 nobody would do anything about it, they'd just go out
38 there and they'd trash our land, they'd build fires,
39 people even built tents and that type thing and live on
40 our land. If we were doing that, you can bet your life
41 that there'd be someone right there and would have us
42 in jail, that type thing, you know, there seems --
43 there just seems to be -- there is a double standard.

44

45 CHAIRMAN ADAMS: Thank you, again.
46 When ANILCA was being, you know, was in Congress, and
47 they were talking a long discussion about Native and
48 non-Native, in fact it got to be pretty hot discussion,
49 you know, Native people wanted to insert in there
50 Native and that's the way the original bill was, and

1 then the discussion was, yeah, well, we can't
2 discriminate and so they changed it from Native to
3 rural. So, you know, we have ANILCA addressing Native
4 and non-Native peoples and, you know, and it's still
5 the same we are included, but we can use that, you
6 know, as a tool also to make sure that we get our C&Ts
7 and, you know, our resources and that's why I say that
8 regulations are really important, and make sure that
9 they are right for the right reasons and based on
10 correct principles and so forth, you know, so, again,
11 you know, Walter, thank you.

12
13 MR. JOHN: Well, I understand you're
14 not wanting to discriminate but what's happening to us
15 now, you know, that's.....

16
17 CHAIRMAN ADAMS: Exactly.

18
19 MR. JOHN:basically that's
20 discrimination. And when it really comes down to a law
21 because I remember when I first started working with
22 Sealaska Corporation, with their election process, I
23 had to meet with attorneys and at the start I was kind
24 of intimidated by them but the more I came around them
25 the less intimidated I became by attorneys, you know,
26 now I look at when an attorney says something, it's
27 only his opinion. So when you have a law or a state
28 constitution, everything comes down to one thing, how
29 do you interpret that. How do you implement that law.
30 And that's where you -- we have a beautiful
31 Constitution but it comes down to one thing, you're
32 driving down a road, a policeman makes a decision that
33 you have broken a law.....

34
35 CHAIRMAN ADAMS: Uh-huh.

36
37 MR. JOHN:it comes down to that
38 simple act, one person who has a badge, he can throw me
39 in jail, you know, and that's based on the
40 Constitution.

41
42 CHAIRMAN ADAMS: Yes.

43
44 MR. JOHN: So any law can be
45 misinterpreted. It all depends on how you interpret
46 any law, it can be written fantastically. A good
47 example was limited entry. When they wrote that law I
48 went to -- I went to the Alaska Native Brotherhood Hall
49 with our fishermen, they were behind it, I made a
50 comment, I said you better not vote for this because

1 the end result of this law is we will no longer have a
2 fishing fleet. That law didn't say they were going to
3 get rid of our fishing fleet, but what was the result
4 of that law, we no longer have a fishing fleet.

5
6 So law is good if it's interpreted
7 properly and it takes everyone into account, all
8 people, and especially minorities. Even if -- if I'm a
9 Democrat, George Bush is -- I'm still his constituent.
10 Sarah, I'm her constituent. So everything -- all laws
11 -- it all comes down to interpretation and
12 implementation.

13
14 CHAIRMAN ADAMS: Interpretation and
15 intent.

16
17 MR. JOHN: Yes.

18
19 CHAIRMAN ADAMS: Intent.

20
21 MR. JOHN: That's even better.

22
23 CHAIRMAN ADAMS: Yeah. Because I bring
24 that up all the time. I bring that up all the time.

25
26 I get into -- well, several years ago,
27 you know, I was very intimidated when I started talking
28 to attorneys about the Constitution, and one of the
29 things that I found out and I'll pose this out to
30 everyone for their benefit is you don't have to be an
31 attorney to understand the Constitution. And so I kind
32 of, you know, delved quite a bit into the US
33 Constitution, the Alaska Constitution, I really
34 consider myself a Constitutionalist, and so it's, you
35 know, don't get intimidated when someone starts talking
36 to you about, you know, the laws and issues here and
37 there.

38
39 MR. JOHN: Yeah.

40
41 CHAIRMAN ADAMS: You know, just find
42 out what the real intent was.....

43
44 MR. JOHN: Yes.

45
46 CHAIRMAN ADAMS:what was -- and
47 then use that as a basis for your argument.

48
49 So, thank you, again, appreciate you
50 being here.

1 MR. JOHN: Okay.
2
3 MR. KOOKESH: You said you used to.
4
5 CHAIRMAN ADAMS: What?
6
7 MR. KOOKESH: You said you used to get
8 intimidated.
9
10 CHAIRMAN ADAMS: I used to, not
11 anymore. Okay, any more tribal people.
12
13 (No comments)
14
15 CHAIRMAN ADAMS: InterAgency.
16
17 MR. KESSLER: No comments.
18
19 CHAIRMAN ADAMS: No comments. Back to
20 his old mode, again, Steve. Okay, Fish and Game
21 Advisory Committee comments.
22
23 (No comments)
24
25 CHAIRMAN ADAMS: You know, ladies and
26 gentlemen and members of the Council, I would really
27 like to see more participation from local Fish and Game
28 Advisory Committees.
29
30 We don't see enough of that here. I
31 know back home, you know, our advisory committee isn't
32 very active. When an issue comes up then they call a
33 meeting and then they don't get a quorum and, you know,
34 I think, you know, we, as Council members, you know,
35 really need to try to push that some more so that we
36 have more representation from the communities in that
37 area.
38
39 Mr. Bangs, go ahead.
40
41 MR. BANGS: Thank you, Mr. Chairman.
42 Along that same point, our Advisory Committee, which
43 I'm on our Fish and Game Advisory Committee in
44 Petersburg, they don't receive this information, they
45 don't know that these proposals are going through
46 unless there is an active person on the committee
47 that's aware of it. And I -- we talked about this at
48 another meeting that it would be good if these
49 proposals were sent to advisory committees, it would
50 have to go through the State but I think we would have

1 more participation if they were aware.

2

3 Thank you.

4

5 CHAIRMAN ADAMS: That's an excellent
6 idea, Mr. Bangs. And, Mr. Larson, please make note of
7 that.

8

9 Lee.

10

11 MR. WALLACE: Yeah, Mr. Chair, in that
12 same manner, Saxman just recently activated their
13 advisory committee and, you know, by the time I receive
14 my booklet, actually it was helpful when Robert sent
15 the email with the attachment, with the materials, and --
16 but even at that, for say Saxman Community Council to
17 look at that it'd actually need to come sooner. And
18 probably has the same comment, you know, about, you
19 know, getting quorums and getting the material, it'd
20 have to come in a sooner manner and -- for my committee
21 in Saxman to look at this and make any comments.

22

23 CHAIRMAN ADAMS: Thank you. Let's just
24 encourage more local participation. Mr. Kookesh first,
25 and then I'll let you come up there George.

26

27 Mr. Kookesh.

28

29 MR. KOOKESH: Yeah, it would seem -- I
30 wouldn't say -- it would be to the State's own benefit
31 -- Mr. Chair.....

32

33 CHAIRMAN ADAMS: Yes, go ahead.

34

35 MR. KOOKESH: It would be to the
36 State's own benefit if they informed their own Fish and
37 Game Advisory Committees instead of us having to do
38 this. I know we have a responsibility to our
39 constituents, too, but if the State really wants
40 support -- garnish support for say like all these
41 proposals, they should be making that effort.

42

43 Thank you.

44

45 CHAIRMAN ADAMS: And I agree with you
46 and then they should be inviting us to their meetings,
47 you know, your advisory committee would have you come
48 to theirs to listen and participate.

49

50 But, go ahead, George.

1 MR. PAPPAS: Mr. Chair. George Pappas.
2 Yes, I believe the Board of Fishery staff distributed
3 to over 200 AC members in Southeast the information
4 twice, with the attachments of -- what the proposals
5 are, also distributed via email the proposal deadlines,
6 when you can make comments, what have you, was
7 distributed emailwise, but obviously it's not working
8 so we need to improve on that and we'll talk with our
9 Staff and see if we can't get with OSM Staff and the
10 coordinators to improve upon that because they're the
11 same folks in the same places.

12
13 CHAIRMAN ADAMS: Great. And in my
14 community, you know, when emails come up for the
15 announcements and everything I just forward it over to
16 the local paper and they publish it. So, you know, the
17 community knows -- if they're reading those things, you
18 know, that it's happening, but getting it to the
19 advisory committees, I think is really probably a lack
20 of communication there somewhere. But thanks for that
21 information.

22
23 Larry, were you going to come up and
24 say something?

25
26 MR. BUKLIS: (Shakes head negatively)

27
28 CHAIRMAN ADAMS: Okay. Do we have any
29 public comments, Mr. Larson.

30
31 MR. LARSON: Mr. Chairman, there are
32 no public comments.

33
34 CHAIRMAN ADAMS: Okay. Public
35 testimony.

36
37 (No comments)

38
39 CHAIRMAN ADAMS: Hearing none, I'd like
40 for us to take a break, be here at a quarter after then
41 we'll go into Council deliberations.

42
43 Thank you.

44
45 (Off record)

46
47 (On record)

48
49 CHAIRMAN ADAMS: George, you got
50 something else to add?

1 MR. PAPPAS: Mr. Chair. George Pappas.
2 I need to clarify something I said earlier. I said an
3 individual was fishing, a Federal subsistence permitted
4 individual was fishing for steelhead while standing on
5 private lands with bait this year, talking to Staff I
6 said that incorrectly. An individual was issued a
7 community subsistence permit, that individual was
8 standing on private lands fishing for steelhead with
9 bait and when he was contacted the individual did not
10 have his Federal subsistence permit on him. So he was
11 cited under State sportfishing regulations because he
12 also did have a sportfishing license.

13
14 So that is not a clear cut case, I
15 apologize if I misled you.

16
17 CHAIRMAN ADAMS: Thank you, George, for
18 that clarification. Thank you.

19
20 MR. KOOKESH: Confusion lingers.

21
22 CHAIRMAN ADAMS: Yeah, confusion
23 lingers.

24
25 MR. KITKA: It clarified the confusion
26 to me.

27
28 (Laughter)

29
30 CHAIRMAN ADAMS: Thank you, again,
31 George. There's a discussion over here, they're
32 wondering if you can clarify the confusion for us, or
33 anyone.

34
35 (Laughter)

36
37 CHAIRMAN ADAMS: The way that we're
38 going the way that we're going to do this is we're
39 going to go through the deliberations on Proposal No. 4
40 right now and then we're going to take up No. 15 right
41 after that because it is related, and then we'll do
42 Makhnati Island proposal last. So that's how we'll
43 proceed with the next items on the agenda.

44
45 We are now in deliberations, Council,
46 so what's the wish of the Council as far as this
47 proposal is concerned.

48
49 Again, I encourage you to use -- or I
50 insist that you use the four criteria that has been

1 outlined to us when we go into deliberations.

2

3 Don, go ahead.

4

5 MR. HERNANDEZ: Thank you, Mr.
6 Chairman. I'll move to adopt Fishery Proposal 09-04 as
7 written on Page 67.

8

9 CHAIRMAN ADAMS: Thank you, Donald.

10

11 MR. BANGS: Second.

12

13 CHAIRMAN ADAMS: And seconded by Mr.
14 Bangs. We are now in discussion folks.

15

16 (Pause)

17

18 CHAIRMAN ADAMS: Mr. Hernandez.

19

20 MR. HERNANDEZ: Thank you, Mr.
21 Chairman. I'll be voting against this proposal.
22 Looking at our criteria, the information that we have
23 been presented on this proposal, I don't think it
24 adequately addressed the historical use of subsistence
25 users in this area.

26

27 The proponents, it seems like they
28 choose to look at very recent historical use of the
29 area and I don't think that properly reflects the use
30 by subsistence users throughout the history of this
31 area. I think that was inadequate information there.

32

33 I don't believe there's a conservation
34 concern with this proposal. I think any conservation
35 concerns can be adequately addressed by in-season
36 subsistence management.

37

38 And this is a proposal which could be
39 detrimental to subsistence users. It essentially takes
40 away their access to streams that subsistence users
41 have used over a long period in history.

42

43 And in regards to the non-subsistence
44 users in this area it's unclear how they may be
45 affected, that depends on the level of use by the
46 subsistence users and recent history shows that there
47 has been very little use by subsistence users that
48 could change over time but there's no evidence
49 presently to suggest it would have much impact on non-
50 subsistence users.

1 CHAIRMAN ADAMS: Thank you, Donald, any
2 other comments.

3

4 Mr. Bangs.

5

6 MR. BANGS: Thank you, Mr. Chairman. I
7 agree with Mr. Hernandez but a point I would like to
8 bring up is, you know, I know it's difficult for the
9 State to do this, I guess, but I would really like to
10 see names attached so I know who is thinking about
11 these proposals. This says it's the Department of Fish
12 and Game, well, the Department of Fish and Game is very
13 large. And whenever an organization makes a proposal
14 they, generally, board of directors or whatever, but
15 you know who that is. And to me it's not like I'd be
16 upset with whoever it is, but I'd just like to know
17 their rationale behind it and I would know who to go to
18 to talk to about the different proposals, whether I
19 agree with them or not. It's just one of the things
20 that I think would be helpful to me, anyway, if I knew
21 who was the proponent.

22

23 Thank you.

24

25 MR. KOOKESH: Mr. Chair. Mr. Chair.

26

27 CHAIRMAN ADAMS: Mr. Kookesh.

28

29 MR. KOOKESH: Yeah, and we have been
30 through this process before where someone in Unit 2
31 would try to make a proposal for someone in Unit 4, so
32 we don't know the State of Alaska might be someone down
33 in Ketchikan for all we know, and it -- it -- you are
34 right, we do need to know who they are and that would
35 be very nice for the record.

36

37 CHAIRMAN ADAMS: Thank you. You know I
38 was looking at literature cited, you know, there's some
39 information in there but maybe it needs to be a little
40 bit more complete. You might take that into
41 consideration.

42

43 Any other comments.

44

45 (No comments)

46

47 MR. KOOKESH: Question.

48

49 CHAIRMAN ADAMS: Question has been
50 called for, Mr. Kitka, would you please take role.

1 MR. KITKA: Lee Wallace.
2
3 MR. WALLACE: No.
4
5 MR. KITKA: Michael Bangs.
6
7 MR. BANGS: No.
8
9 MR. KITKA: Donald Hernandez.
10
11 MR. HERNANDEZ: No.
12
13 MR. KITKA: Floyd Kookesh.
14
15 MR. KOOKESH: No.
16
17 MR. KITKA: Bert Adams.
18
19 CHAIRMAN ADAMS: No.
20
21 MR. KITKA: Harvey Kitka votes no.
22 Richard Stokes.
23
24 MR. STOKES: No.
25
26 MR. KITKA: Mr. Chair, the proposal
27 failed.
28
29 CHAIRMAN ADAMS: Thank you, Mr. Kitka.
30 With that we'll move on to Proposal No. 15.
31
32 Thank you for -- both of you for
33 accepting the change of agenda here and being prepared,
34 so go ahead.
35
36 MS. KENNER: Good morning. Again, Mr.
37 Chairman, my name is Pippa Kenner and I work for the
38 Office of Subsistence Management, and I am presenting
39 the analysis for Proposal 09-15 today.
40
41 09-15 submitted by ADF&G requests that
42 a fisheries no-Federal subsistence priority customary
43 and traditional use determination be made for the
44 Juneau road system. A companion proposal, 09-04
45 requests that no Federal subsistence fishing permits be
46 issued for any streams flowing across or adjacent to
47 the road systems within the city and borough boundary
48 of Juneau. I know most of you probably remember that,
49 but I just want to remind you that these two proposals
50 are asking for essentially the same thing.

1 The proponent is concerned that fish
2 stocks in Juneau area streams could be impacted if even
3 a few Federally-qualified rural residents choose to
4 travel to Juneau and subsistence fish on the Juneau
5 road system. This is the same request as in FP08-04
6 last year. Both the Council and the Board did not
7 support the request. If conservation concerns arise
8 they can be addressed by the in-season manager and
9 through the permitting process. The Council
10 determined, I'll remind you, that there was no
11 information presented that indicated that subsistence
12 fishing in the Juneau area waters was inappropriate and
13 no need was seen to make a location specific customary
14 and traditional use determination.

15
16 Basically nothing has changed since the
17 Board's decision last year. And, therefore, OSM's
18 preliminary conclusion is to oppose this proposal.

19
20 Thank you, very much.

21
22 CHAIRMAN ADAMS: Thank you, Pippa. Any
23 questions.

24
25 (No comments)

26
27 CHAIRMAN ADAMS: Do you have one.

28
29 MR. KOOKESH: Huh.

30
31 CHAIRMAN ADAMS: Do you?

32
33 MR. KITKA: Yes, I have one.

34
35 CHAIRMAN ADAMS: Mr. Kitka.

36
37 MR. KITKA: Thank you, Mr. Chair. I
38 posed a question on the last one about rural
39 determination for the Juneau people who have lived here
40 for countless generations, realizing, of course, that
41 according to our books and what we have been given, the
42 Federal government took the C&T determinations from the
43 State and utilized them and at this point the Federal
44 government, I don't believe, has given any C&T
45 determinations to any other Indian groups, and maybe we
46 need to find out from you and your partner there, just
47 how we go about getting them started again, so they can
48 get their C&T determinations.

49
50 CHAIRMAN ADAMS: Does somebody have an

1 answer?

2

3 MS. KENNER: Yes, I do, I'm going to
4 give it a try.

5

6 CHAIRMAN ADAMS: Go ahead.

7

8 MS. KENNER: It is very complicated,
9 but under the Federal system the lack of C&T on the
10 Juneau road system is because of it being determined a
11 non-rural area. However, within the State system --
12 but you -- but under the Federal system you can still
13 subsist on the Juneau road system, but the residents of
14 the road system are not qualified because they live in
15 a non-rural area, however, in the State system all
16 residents of the state are considered subsistence
17 users. But our problem there is that the entire
18 borough of Juneau exists in a non-subsistence area and,
19 therein lies the problem.

20

21 We can get to the Juneau road system
22 for rural residents, that's where we have to stop, then
23 you have to continue with the State system.

24

25 CHAIRMAN ADAMS: Any other questions.

26

27 (No comments)

28

29 CHAIRMAN ADAMS: We've heard it said by
30 Mr. Loescher that there are 5,000 Tlingit-Haida people
31 who live in Juneau. And I think -- of course, ANILCA
32 says, you know, Native and rural people, but I'm
33 wondering if there is a way that this can be addressed
34 as far as, you know, those people, you know, who live
35 in -- who live within the Juneau borough can be
36 addressed, you know, those 5,000 Native people. Steve
37 [sic], go ahead.

38

39 MR. BUKLIS: Mr. Chairman. Larry
40 Buklis, OSM.

41

42 The rural/non-rural determinations are
43 the foundational point for eligibility so if people are
44 residents of a community that is determined non-rural
45 they aren't eligible for C&T determinations. And so
46 residents of Juneau, whether they're Native or non-
47 Native don't qualify because they're non-rural. And
48 there's nothing about our program that can change that
49 so long as ANILCA is structured the way it is and so
50 long as the determination of Juneau is non-rural.

1 CHAIRMAN ADAMS: Thank you, Steve [sic]
2 for that explanation.

3
4 Let me just pose another question if I
5 might. You know we have a lot of those, you know,
6 Tlingit-Haida people, who live in other communities and
7 they come here just to work, so if they have C&T
8 determination, like say from Hoonah or Klukwan or other
9 places in Southeast Alaska, would they be eligible to
10 participate in subsistence hunting and fishing in the
11 road systems in Juneau.

12
13 MS. KENNER: Yes, as long as they
14 follow Federal subsistence laws.

15
16 CHAIRMAN ADAMS: Great. That's good to
17 know. Any other questions.

18
19 (No comments)

20
21 CHAIRMAN ADAMS: Thank you, appreciate
22 it. Mr. Pappas.

23
24 MR. PAPPAS: I'm George Pappas for the
25 record. Thank you, Mr. Chair.

26
27 Proposal FP09-15 requests the Federal
28 Subsistence Board to demonstrate customary and
29 traditional findings for individual communities within
30 Districts 11 and 15 for all stocks within the waters
31 that cross the roads within the current boundaries of
32 the city and borough of Juneau.

33
34 This proposal is consistent with the
35 direction that the Federal Board gave to the State on
36 January 13th, '06, the State requests the eight
37 regulatory factors concerning the customary and
38 traditional use of each fish stock by each community to
39 be evaluated, generally considered and reviewed by the
40 Federal Board.

41
42 You just heard the OSM analysis, which
43 clearly does not show any evidence of use by rural
44 residents of specific streams on or adjacent to the
45 Juneau road system within the Juneau city and borough.
46 The OSM analysis does not address the eight factors
47 contained within the Federal regulations to be
48 considered related to each fish stock in streams along
49 the Juneau road system. The OSM analysis does not
50 provide any evidence of customary and traditional

1 subsistence use of any of these fish stocks in the
2 waterways by any rural residents living outside of the
3 Juneau area.

4

5 In fact, in the InterAgency Staff
6 Committee in 2000, the year 2000 noted to the Federal
7 Board there was a lack of substantial evidence to show
8 that the communities in the region have customarily and
9 traditionally harvested and used the stocks of rainbow
10 trout and cutthroat trout, Dolly Varden along the
11 Juneau road system. No evidence has yet to be
12 presented.

13

14 The Department has continually
15 expressed this lack of evidence of use to you and the
16 Federal Board.

17

18 No Federal subsistence permits have
19 ever been requested and no prior harvest by rural
20 residents have been documented for subsistence fishing
21 in the freshwaters within Juneau road system.

22

23 Meaningful subsistence fishing
24 priorities for rural residents exist in streams that
25 are closer to the respective communities.

26

27 Based on this lack of documentation of
28 any subsistence use, the freshwaters of Juneau city and
29 borough road system should be deleted from the
30 regionwide regulations by making negative customary and
31 traditional finding for all communities for all fish
32 stocks in fresh waters that cross the Juneau road
33 system.

34

35 This action would have no impact on
36 Federally-qualified rural subsistence users.

37

38 We request your support of this
39 proposal, which is consistent with the Federal Board's
40 previous suggestion to the State to submit this
41 proposal.

42

43 There simply is no evidence of a
44 continued customary and traditional use.

45

46 Thank you, Mr. Chair.

47

48 Alaska Department of Fish and Game
49 Preliminary Comments to the Regional Advisory Council

50

1 FP09-15 Juneau Road System Customary
2 and Traditional Use Determination

3

4

Introduction:

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Proposal FP09-15 requests the Federal Subsistence Board (Federal Board) demonstrate customary and traditional findings for individual communities within Fisheries Districts 11 and 15 for fish stocks within all waters crossed by roads within the current boundaries of the City and Borough of Juneau, consistent with the course of action suggested by the Federal Board on January 13, 2006. The proponent requests the eight regulatory factors concerning customary and traditional use of each fish stock by each community be evaluated, generally considered, and reviewed by the Federal Board. Because the Juneau non-rural area has no specific customary and traditional use determination, it currently falls under the category Remainder of the Southeastern Alaska Area and is open to subsistence harvest of Dolly Varden, trout, smelt, and eulachon by all rural residents of the Southeast Alaska and Yakutat areas and subsistence harvest of salmon by all rural residents of Alaska.

The waters that would be subject to this determination constitute a very small portion (less than 10%) of the freshwater fisheries in Districts 11 and 15 of Southeast Alaska and are very important to the residents of the Juneau area but are not important to rural residents. In acting on previous proposals, the Federal Board suggested it would be appropriate to adopt a determination of no Federal subsistence priority, but the Federal Board rejected the State's proposal (FP08-04) requesting such a determination in December 2007 without evaluating the eight regulatory factors concerning customary and traditional use of each fish stock by each community. The Interagency Staff Committee in 2000 noted to the Federal Board that there was a lack of substantial evidence to show that communities in the region have customarily and traditionally harvested and used the stocks of rainbow trout, cutthroat trout, and Dolly Varden in Southeast Alaska along the Juneau road system. Recent staff analyses provide no evidence of use of any of these fish stocks in these waterways by any rural residents living outside the Juneau area and no evidence that indicates a subsistence opportunity along the Juneau road system would ever be used by any

1 community in Southeast Alaska.

2

3

Impact on Subsistence Users:

4

5

No federal subsistence permits have ever been requested, and no prior harvests by rural residents have been documented for subsistence use in freshwaters of the road system within the City and Borough of Juneau boundaries. There is no evidence of a customary and traditional use of fish stocks for subsistence by any rural resident in freshwaters that cross the road system within the City and Borough of Juneau boundaries. Meaningful subsistence fishing priorities for rural residents exist in streams that are closer to their respective communities. Eligible rural residents would have to travel substantial distances by boat or airplane in order to fish on Juneau roads, and such harvest would not be cost effective. Based on the lack of documentation of any subsistence use, the Federal Board should exempt the fresh waters of Juneau City and Borough road system area from region-wide regulations by making a negative customary and traditional finding for all communities for all fish stocks in freshwaters that cross the road system within the City and Borough of Juneau boundaries. This action would have no impact on federally qualified rural subsistence users.

28

29

Opportunity Provided by State:

30

31

State regulations provide for a variety of sport fishing opportunities in freshwaters and adjacent shoreline areas, but these opportunities are more restricted than elsewhere in Southeast Alaska. Most people fish for subsistence and recreational use in marine waters. The Department's sport fisheries website for the Juneau road system lists only 15 freshwater streams and although saltwater shoreline areas are also available for anglers to fish, fishing in saltwater for trout and Dolly Varden is more restricted and subject to lower bag limits than in other areas of Southeast Alaska. Nearly all of freshwater sport fishing activity (roughly 80%) along the Juneau road system takes place in four primary streams (Cowee Creek, Montana Creek, Peterson Creek, Fish Creek). Fish populations in these streams are relatively small, and, given Juneau's relatively large human population and road access, the potential exists for over harvesting local fish resources if additional harvest opportunity is provided. Several small

1 roadside streams are closed to sport fishing
2 altogether, and others are closed to salmon or Dolly
3 Varden fishing. Restrictive bag and possession limits
4 are in effect for many species as well. Juneau
5 roadside bag limit, possession limits, and size
6 requirements differ in several respects from regional
7 regulations. Bag and possession limits have been
8 reduced for coho salmon, sockeye salmon, and Dolly
9 Varden. In addition, cutthroat trout size limits are
10 more conservative in the Juneau area than in other
11 areas of Southeast Alaska. These restrictions on Dolly
12 Varden and cutthroat trout are also effective in all
13 salt water adjacent to the Juneau City and Borough road
14 system to a line mile offshore.

15
16 Because Juneau is a non-rural area,
17 residents of Juneau who historically used fish stocks
18 in the area are ineligible to participate in the
19 federal subsistence fishery and cannot qualify for a
20 federal customary and traditional use determination.
21 The existing federal subsistence regulations could lead
22 to even more restrictions on non-federally qualified
23 users (e.g., Juneau residents) in the non-rural area
24 along the Juneau road system on both state and federal
25 lands. These further restrictions--which are
26 unnecessary since there are no existing subsistence
27 uses in need of continuation--could potentially force
28 Juneau residents to travel long distances to rural
29 areas to participate in freshwater sport fisheries and
30 might result in increased state subsistence and
31 personal use participation in these areas as well and
32 thus could create increased competition and be
33 detrimental to the satisfaction of subsistence needs in
34 those rural areas. Further state restrictions along
35 the Juneau road system would also impact opportunities
36 for those who relocate from rural areas to Juneau and
37 rely upon opportunity in the Juneau area to continue
38 their fishing activities.

39
40 Conservation Issues:

41
42 The Department has continually
43 expressed conservation issue concerns to the Federal
44 Board about sustainability of highly accessible
45 fisheries on the Juneau road system if these fisheries
46 are subjected to any participation under liberal
47 federal subsistence regulations. Comments illustrating
48 the Department's ongoing concerns and conservation
49 issues have been presented both in writing and orally
50 to the Federal Board for proposals FP06-31, FP08-04,

1 and the Department s Fisheries Request for
2 Reconsideration 06-05. Additional concerns are
3 published in the Department comments for FP09-04
4 contained in this Federal Board meeting book. If
5 federally qualified users were to fish along the Juneau
6 road system under the more liberal federal regulations,
7 the State would have to apply additional restrictions
8 on non-subsistence users, causing unnecessary
9 restrictions in violation of Section 815 of ANILCA.

10

11 Jurisdiction Issues:

12

13 According to the Department s Fish
14 Distribution Database, the majority of fish habitat and
15 documented fish observations in these streams are not
16 located within federal lands. Some streams have
17 relatively inaccessible headwaters on federal land, but
18 they flow through State, private, and other land
19 ownership and are not within the Tongass Forest
20 boundary prior to crossing Juneau roads to enter marine
21 waters. Other streams along the Juneau road system
22 flow entirely on non-federally owned land. However,
23 the federal analysis in the September 2007 Southeast
24 Regional Advisory Council Fisheries Meeting Materials
25 book, page 84, incorrectly states:

26

27 Federal waters comprise all fresh waters
28 draining into fishing District 11 and those
29 fresh waters draining into fishing District 15
30 south of Chilkat Peninsula (near Haines) . . .
31 all within exterior boundaries of the Tongass
32 National Forest (Map 1). These waters include
33 all streams crossed by roads connected to the
34 City and Borough of Juneau road system.

35

36 We requested this statement be
37 corrected before providing the 2008 analysis to the
38 Regional Advisory Council, Federal Board, and
39 subsistence users. In particular, we also requested
40 that the federal maps be corrected to accurately
41 portray the Tongass Forest boundary which specifically
42 excludes a significant portion of the Juneau area. To
43 date these corrections have not been made.

44

45 In order for rural residents to know
46 where they can legally participate in federal
47 subsistence fisheries, and to aid enforcement personnel
48 in determining whether activities are legal, we request
49 detailed land status maps showing areas and specific
50 boundaries of waters claimed to be within federal

1 subsistence jurisdiction and the basis for those
2 claims. Maps provided by federal staff to date are not
3 accurate enough to ensure federal subsistence users do
4 not inadvertently fish from lands not claimed under
5 federal jurisdiction. Significant portions of lands
6 surrounding the Juneau road system are bordered by
7 state or private lands, where there either is no
8 federal jurisdiction or where persons cannot
9 participate in federal subsistence fisheries while
10 standing on non-federal lands. During the December
11 2007 Federal Board meeting, State of Alaska Wildlife
12 Trooper testimony (Federal Board Transcripts December
13 11, 2007 pages 89-91) illustrated to the Federal Board
14 the importance of users understanding and knowing
15 jurisdiction and land status. This testimony explained
16 that when an enforcement officer encounters an
17 individual conducting an activity that is prohibited by
18 State regulations and the individual is on State or
19 private lands, including State owned submerged lands,
20 the person may be cited. A negative Customary and
21 Traditional determination for fish stocks on the Juneau
22 road system will significantly decrease the likelihood
23 that rural residents will be cited for violation of
24 state law for subsistence fishing on non-federal lands
25 along the Juneau road system.

26

27 Recommendation:

28

29 Support, consistent with the Federal
30 Board s previous direction to the State to submit this
31 proposal. The Interagency Staff Committee in 2000
32 found a lack of data to support customary and
33 traditional findings for fish along the Juneau road
34 system by communities of Southeast Alaska, and the
35 current Staff Analysis provides no evidence of
36 customary and traditional use of any fish stock along
37 the Juneau road system by any rural community. There
38 is simply no evidence of a continued customary and
39 traditional use or any evidence of need to provide a
40 subsistence priority opportunity for federally
41 qualified residents of other communities to fish in
42 these limited freshwater streams for these small,
43 sensitive, and tightly restricted stocks or for salmon
44 by all Alaska rural residents.

45

46 CHAIRMAN ADAMS: Questions anyone.
47 Don, go ahead.

48

49 MR. HERNANDEZ: Thank you, Mr.
50 Chairman. Yeah, Mr. Pappas, in your Fish and Game

1 comments in our briefing book, Page 134, it says --
2 under the topic impact on subsistence users: It
3 states: There is no evidence of a customary and
4 traditional use of fish stocks for subsistence by any
5 rural resident in the freshwaters that cross road
6 systems within the city and borough Juneau boundaries.
7

8 Does the State fail to recognize
9 historical use beyond, say, the last few years?
10

11 MR. PAPPAS: Mr. Chair. Mr. Hernandez.
12 The evidence -- as I understand the evidence used and
13 presented for finding C&Ts are from the studies, the
14 surveys, the work that Fish and Game has done, the work
15 that OSM has done, over, I guess in recent years to
16 establish customary and traditional findings.
17 Information, specific information obviously has not
18 been presented and the Department is continuing to
19 repeat that, we don't have the same information for a
20 particular location outside of this area to come and
21 fish a particular stock along these streams in the
22 Juneau area.
23

24 CHAIRMAN ADAMS: Donald, follow up.
25

26 MR. HERNANDEZ: Well, you know, I think
27 there's quite a bit of testimony in the Federal
28 comments, you know, dealing with, you know, the long-
29 term use in this area by Native residents. I don't
30 understand why the State fails to recognize that.
31

32 CHAIRMAN ADAMS: George.
33

34 MR. PAPPAS: Mr. Chair. Mr. Hernandez.
35 The State -- reviewing this information, does not see a
36 community saying that there's folks at any point in
37 time that came and have fished this particular creek
38 for this particular stock. That's the point that the
39 Department has brought forth to the Federal Subsistence
40 Board last year and the eight criteria required to be
41 generally reviewed for making the determination did not
42 take place at the Federal Board last year, thus, this
43 proposal.
44

45 Mr. Chair.
46

47 CHAIRMAN ADAMS: Thank you. Anyone
48 else.
49

50 MR. WALLACE: Mr. Chair.

1 CHAIRMAN ADAMS: Mr. Lee, please.

2

3 MR. WALLACE: Yeah, and I totally agree
4 with Mr. Hernandez. When I went through this material
5 and looked at all the Goldschmidt and Haas customary
6 and traditional use of the territories outlined and
7 there's numerous pages of them with numerous clans, and
8 that telling me -- and being an indigenous individual,
9 I know those people and us, we, we've used those lands
10 in a customary and traditional manner for, using the
11 words of a gentleman here from Douglas, is that we've
12 been using those lands from time immemorial for
13 customary and traditional use of gathering of food and
14 sustenance and transportation. and, yes, they haven't
15 formally come out and they didn't give the eight
16 criteria to qualify for C&T but in my mind I know that
17 all these clans used those particular territories for
18 just that, for a way of life, whether it was -- yeah,
19 mostly we go for the sockeye but there's other times
20 when the sockeyes are low, we go for other species,
21 whether it be coho, whether it be Dolly Varden or
22 steelhead and so I feel on the same lines as Mr.
23 Hernandez, is the State failing to recognize, you know,
24 the data that was presented by OSM.

25

26 Thank you.

27

28 CHAIRMAN ADAMS: Anyone else. Donald.

29

30 MR. HERNANDEZ: Thank you, Mr.
31 Chairman. Also looking at your comments on Page 135 in
32 the paragraph opportunity provided by the State. About
33 midway down the paragraph it says, fish populations in
34 these streams are relatively small and given Juneau's
35 relatively large human population and road access the
36 potential exists for overharvesting local fish
37 resources if additional harvest opportunity is
38 provided.

39

40 That statement to me seems to be
41 directly addressed by the findings of Title VIII of
42 ANILCA, which talks just about that -- it talks about
43 that very situation where increases in population could
44 lead to conservation problems, and in that case on
45 Federal waters with a subsistence priority, it's clear
46 that ANILCA says that that priority harvest would be
47 for rural residents.

48

49 Your statement there seems to indicate
50 that you don't recognize the findings of Title VIII,

1 would you not agree with that?

2

3 MR. PAPPAS: Mr. Chair. Mr. Hernandez.
4 The Department's position is we're looking -- we don't
5 recognize the support for the C&T that was made for the
6 Juneau area, not -- excuse me, the lack -- we don't
7 recognize the lack of information that does not support
8 the C&Ts for this area by communities outside of this
9 area. Maybe I said that incorrectly.

10

11 Point taken about that particular
12 comment. If a valid C&T was made for the communities
13 for the road systems for the stocks here, this would be
14 a different situation.

15

16 CHAIRMAN ADAMS: Follow up, Donald.

17

18 MR. HERNANDEZ: So I guess the crux of
19 the whole focus of this proposal is that the State is
20 kind of sticking to their position that the Federal
21 system needs to make a customary and traditional use
22 for each individual community who, in the past, may
23 have used this area and you don't recognize the fact
24 that our category of any rural user qualifying in this
25 specific area is a valid determination; is that the
26 crux of your contention with the whole focus of your
27 proposal, I guess?

28

29 MR. PAPPAS: Mr. Chair. Mr. Hernandez.
30 Yes, we see clarity on who used the stocks when the
31 current regulations for C&T here, someone from Barrow
32 or Kaktovik or Attu could come fish for salmon here
33 with the general salmon C&T or anybody -- any rural
34 resident can fish here. We have a challenge with that,
35 too, but that's a different issue.

36

37 Mr. Chair.

38

39 CHAIRMAN ADAMS: Mr. Kookesh.

40

41 MR. KOOKESH: When these proposals all
42 came here, I just looked at them as something that
43 wasn't good, but the longer I sit here the more, to me,
44 more insulting it gets. It almost borders on the First
45 Nations being last. And it also borders on, you know,
46 you don't recognize the time immemorial of the Native
47 people who came here, it's almost like who died and
48 made you king, I mean why is this system like this, why
49 can't we just share the resource fairly. But I'm just
50 getting into this whole process, it's got to stop here,

1 I mean.....

2

3 CHAIRMAN ADAMS: Thank you, Floyd for
4 those comments, well taken.

5

6 And, again, you know, we're definitely
7 dealing with this dual management issue and until we
8 can address that, you know, right down to the core, you
9 know, we're going to be doing this for a long time to
10 come yet. And I just hope that, you know, we'll be
11 able to address this sooner.

12

13 You know one of the great books that's
14 out is called Ha'Ani (ph), Our Land, by Goldschmidt.
15 And this tells, in great detail, where Native land
16 ownership was, was claimed by the Native people. And I
17 liked this because as I read through it, particularly
18 in the Yakutat area, somebody made a testimony about
19 where their clans, you know, had claim on a certain
20 piece of land and then it was backed up by somebody
21 else, not of the clan, you know, and so if we went back
22 to that, you know, we, like for instance in Yakutat,
23 would have ownership of lands all the way from Cape
24 Suckling down to Lituya Bay, which is, you know, the
25 boundaries of the borough right now. But our people
26 decided that they wanted to be included as, you know,
27 in the civil government of Alaska, and that's how come
28 we're under that. But that is a great testimony to me
29 as to, you know, who really has the true rights of the
30 ownership of these properties claimed by the clans in
31 Southeast Alaska.

32

33 So it'd be worth, you know, looking at
34 just as a matter of information and say, oh, yeah, wow,
35 if things had gone that way, you know, years ago a lot
36 of this stuff would have been eliminated.

37

38 Let me see I've got a lot of little
39 notes here but it doesn't apply to what we're talking
40 about here.

41

42 I want to address, you know, if I
43 could, what Walter said, you know, about the spearing
44 of the salmon after -- and Mr. Kitka's father also
45 shared this principle with me. They never went after
46 the salmon as they were coming up the river, always
47 after they went up, did their business, and then they
48 got them when they were coming down. And in Yakutat,
49 you know, we called that to going out and getting the
50 red fish. And the reason why they did that was because

1 it was a lot easier to smoke and dry, most of the oils
2 were out of it, although I like a lot of oil in my
3 fish, you know, but in those days it was a lot easier
4 for them to process food and I thought I'd just throw
5 that out as a matter of information as well.

6

7 As I said, you know, a lot of my notes
8 here don't apply to what we're talking about right now
9 but I just put them there for my own benefits.

10

11 Any other questions.

12

13 (No comments)

14

15 CHAIRMAN ADAMS: And then I have -- oh,
16 I have another question here in the margin, who, in
17 Juneau has C&T, and that was already answered by Pippa,
18 you know, anyone moving from Angoon, you know, for job
19 purposes and so forth does have C&T if they are
20 working, you know, for job purposes. So I think that's
21 a real good piece of information to make people aware
22 of.

23

24 So anyone else.

25

26 George, go ahead.

27

28 MR. PAPPAS: I have a very difficult
29 job. Bringing forth this information many times at
30 this, counter, to what the Federal subsistence system
31 is established for. The dual management is complex and
32 it's probably going to get more complex and there might
33 be some more divisions. Our job is to protect the
34 resources, make sure they're -- not protect them, but
35 conserve them, make sure that they're sustainable and
36 as part -- as a liaison team, our job is to ensure that
37 the Federal regulations that are established are
38 adhered to without different interpretations over time,
39 and that's part of our job coming forth and bringing
40 forth the Federal regulations and bringing forth the
41 complexities between the enforcement and I fully
42 understand what you're saying and personally I'll do my
43 best to stick with the State's position, without -- so
44 you understand, what I am presenting you is
45 specifically the State's position.

46

47 Thank you.

48

49 CHAIRMAN ADAMS: Thank you for that,
50 George, but I think the goal for the Federal and the

1 State, you know, and ANILCA is to, of course, protect
2 the resources, that's the goal that we all ought to be
3 striving for. I think the dual management issue, you
4 know, comes up when we don't agree on how methods and
5 means and so forth can be achieved. It seems to me
6 like it should be pretty simple if we got all together
7 and had a workshop of some sort and see how we can
8 address this dual management situation so that in the
9 future we can all come together on this same page.

10
11 Another thing that I've always
12 challenged the State on and I'll continue to do that, I
13 do it here and I do it at the Federal Subsistence Board
14 is that, if the State wants to take over the management
15 of the subsistence resources, ANILCA applies for that,
16 it provides for it. It says that the State will manage
17 the subsistence resources under the Federal laws, which
18 is ANILCA. Of course the State came out of compliance
19 and now my challenge is, you know, coming back into
20 compliance and we'll turn all of this stuff right over
21 to you. I've talked to almost all of the Federal
22 Subsistence Board members in the past and they say, we
23 don't want this, you know, and so the dual management
24 issue is a big problem and if we want to solve problems
25 then I think it would be beneficial for the State to
26 come in compliance with ANILCA.

27
28 There's a lot of different varying, you
29 know, views on that, more people would like to have
30 Federal oversight over these issues but, you know,
31 ANILCA is the law of the land, and that's, I think, is
32 how we need to address that particular issue. So just
33 thought I'd throw that out for people's thought.

34
35 Any other comments, questions for Mr.
36 Pappas.

37
38 (No comments)

39
40 CHAIRMAN ADAMS: Thank you, sir.

41
42 MR. PAPPAS: Thank you, Mr. Chair.

43
44 CHAIRMAN ADAMS: So far you're batting
45 zero, sorry.

46
47 (Laughter)

48
49 MR. PAPPAS: I was about to pull the
50 fire alarm because it's such a nice day.

1 (Laughter)
2
3 CHAIRMAN ADAMS: I do appreciate your
4 sense of humor, George, and, you know -- okay,
5 InterAgency -- or tribal, tribal. Carrie.
6
7 MS. SYKES: Mr. Chair. Board.
8
9 The effect of this proposal will impact
10 the Juneau rural residents as stated on Page 129. It
11 won't provide the ability to harvest fish from Federal
12 public waters. Walter John previous testimony proves
13 that there is previous traditional use of these areas.
14 This is not consistent with Title VIII of ANILCA -- if
15 it's not adopted -- it's also stated in the summary
16 that they don't anticipate effects on the fish stocks
17 and the populations so it doesn't look like it's a
18 conservation issue. And Central Council will continue
19 to oppose the State's efforts to request no Federal
20 subsistence priorities on non-subsistence use areas in
21 communities with road systems.
22
23 So we oppose it.
24
25 CHAIRMAN ADAMS: Thank you, Carrie,
26 appreciate it. any questions, anyone.
27
28 (No comments)
29
30 CHAIRMAN ADAMS: Thank you.
31
32 MS. SYKES: Thank you.
33
34 CHAIRMAN ADAMS: Other tribal
35 organizations, Walter.
36
37 MR. JOHN: Thank you, Mr. Chairman.
38
39 REPORTER: Hold on, hold on.
40
41 MR. KOOKESH: Turn it on first.
42
43 CHAIRMAN ADAMS: If you don't turn on
44 your microphone I'll fine you.
45
46 MR. JOHN: I thought it was on. Okay.
47 Thank you, again.
48
49 You know I just find it -- it's
50 absolutely amazing that I can hear a statement from the

1 State of Alaska that they have no proof that Native
2 people ever fished in Sheep Creek, Fish Creek. We used
3 to get coho, you know where the dump is right now,
4 there used to be a fantastic coho creek that went right
5 by there. It's about this wide, we'd go and get our
6 coho from there. And then our sockeye over at Auke
7 Lake, we can get sockeyes from there. As a little boy,
8 again, I said we used to use our gaffs.

9
10 You know, I work with Douglas Indian
11 Association and we have what we call Tlingit Ecological
12 Knowledge, and what we do is we talk to our elders
13 about subsistence, and they'll talk to us, they'll say
14 things to us and then before we're done, they'll look
15 at us and they'll say don't say anything about what we
16 told you because they don't want people to know where
17 we, you know -- let other people know the knowledge
18 that they have on where we got our fish and that type
19 thing, you know, and -- but I think about -- I kind of
20 wonder about, we can write letters, we can speak
21 against something but it's like we're invisible. It's
22 like our words don't really count, you know, and I was
23 thinking also, you know, from our elders, you know,
24 yesterday we were talking about sea otter, 100 years
25 ago, 200 years ago, the Tlingits would not allow sea
26 otters to go up in the bays. They would not allow them
27 because they knew what the sea otters would do. And
28 then when you talk about the rural people coming to
29 Juneau, even today if we have a meeting, people from
30 Angoon will stand up and they will say I want to thank
31 the Auke Tribe for allowing us to stand on their land.
32 You get permission from -- if I went to Yakutat, I
33 would have to get permission from the Yakutat people to
34 subsist on their land, you know, we had that kind of
35 respect.

36
37 But I don't know how they can say that
38 there is no evidence of -- what -- what do we need to
39 do as a people to prove that it's been outlawed by the
40 State, we can't fish there anymore, our smokehouses
41 have been torn down by the Federal government, and so
42 the evidence is gone and we can't use our gaffs, we
43 can't go to any of these creeks and some of them don't
44 have any fish in them anymore because, you know, of the
45 amount of people that live here, that type thing, you
46 know, and I'm just wondering what do we have to do.
47 The people that come up here from Texas can fish and
48 take fish back to Texas, you know, that type thing,
49 but, you know, we can't take fish from our own land
50 that we have been using for thousands of years so that

1 we can -- I don't like to use the word, subsistence
2 because for us it's basically a lifestyle. I'm sure
3 our brother, Bangs, here, he's got a lifestyle that he
4 lives when he's fishing and that type thing but he's
5 lived here, he works here and he's part of the
6 community and, you know, I often wonder how long, you
7 know, how long have the people that are making these
8 rules, how long have they lived here. I mean it's
9 obvious that they weren't here when I was a kid when we
10 used to subsist on all of these creeks, gaff and get
11 our fish for boil fish, for smoke fish, we did that for
12 all those years. It's just absolutely amazing to me
13 that the State just pushes that aside and say, you guys
14 didn't exist. You can't prove that you used the land
15 even though our rules and regulations don't permit you
16 to use them today, so we don't use them, and now they
17 say there's no history of our ever using these creeks
18 and we used them when I was a boy and a teenager,
19 getting our fish.

20

21 I know I've said it before but I don't
22 know what kind of evidence do we have to have to prove
23 to them that we have subsisted -- that we have lived
24 off our lands since I was a little boy and time
25 immemorial.

26

27 Thank you.

28

29 CHAIRMAN ADAMS: Thank you, Walter.
30 Just hang on there for a minute, any questions for him.

31

32 Mr. Bangs, and then Mr. Kitka.

33

34 MR. BANGS: Thank you, Mr. Chairman. A
35 point you made about having to prove your history, it
36 seems to me it should be the other way around.

37

38 MR. JOHN: Yeah, I agree with that 100,
39 you know, because we have been here before.

40

41 And you know I'm a church man, I go to
42 church and I have people come up to me all the time and
43 they say, Walter how can you be smiling and doing the
44 things that you do and all these things are happening
45 to your people, these are non-Natives that speak to me
46 like that, you know, and I said, I have strong beliefs.
47 And I also believe that no matter what, no matter what
48 rules, no matter what regs that they throw at us, we're
49 going to make it, but it would be a lot better if we
50 could catch fish in our creeks that we used to catch

1 fish in when I was a little boy.

2

3

Thank you.

4

5 CHAIRMAN ADAMS: Okay, any other -- oh,
6 yes, Mr. Kitka.

7

8 MR. KITKA: Thank you, Mr. Chair.
9 Walter, I just basically want to document to your
10 knowledge whether any of your organizations have ever
11 been questioned about C&T in this area?

12

13 MR. JOHN: I'm not sure but Bob
14 Loescher could probably touch on that a lot better than
15 I can, you know, because like I said I did live in
16 Colorado for a few years. But I know from my childhood
17 how much we depended on it. We wouldn't have made it
18 through the year if we couldn't subsist. And I think
19 maybe this information needs to get out to the
20 community because I know our people in the community
21 are very concerned about our subsistence lifestyle
22 because of the cost, the cost of fuel, cost for rent.
23 What's happening is that the State is cutting funding
24 from our villages, the Feds have cut funding and so our
25 people are forced to move to Juneau, not by something
26 that we want. At the same time our fishing areas have
27 been closed down, we can't fish like we used to fish at
28 Indian Island. We no longer have a fishing fleet
29 because of certain things that have happened in the
30 last 30 years. So we don't have -- I mean we used to
31 be able to fish and just bring home, you know, every
32 weekend carry fish that we could bring to our family,
33 that type of thing. But I think Bob could answer that
34 question better than I could.

35

36 CHAIRMAN ADAMS: Bob, you want to go
37 ahead and address that issue.

38

39 MR. LOESCHER: Mr. Chairman. You're
40 speaking of the C&T regs that came out a couple years
41 ago and they're still on the table I understand; is
42 that correct? They're still under discussion.....

43

44 CHAIRMAN ADAMS: Yep. Yes.

45

46 MR. LOESCHER:by this Council and
47 the State Board.

48

49 CHAIRMAN ADAMS: Your assumption is
50 correct.

1 MR. LOESCHER: Well, there is kind of a
2 mix up in our community because they say that we're not
3 eligible for C&T in Juneau but we don't feel that way.
4 Our community has been here forever and, you know,
5 we're not sure about the legalisms and where we stand
6 in this process. But I know one thing, Mr. Chairman,
7 and members of the Council, you know, I've been here a
8 long time like I explained before and I saw Juneau
9 grow, and there's two things about that.

10
11 One is that we support road extensions
12 here in Juneau. And that road extension is going to go
13 past Berners Bay and Berners River, and that's a
14 subsistence area for hunting and fishing and gathering,
15 and our people go there and use it. We get eulachon
16 from that area, we get fish from there. And as roads
17 get extended, does that mean that we get further and
18 further diminishment of our rights and anybody else's
19 rights that may come to Juneau or outside of Juneau and
20 want to get resources for our home use. And as the
21 boroughs get bigger and bigger, the city and borough of
22 Juneau has an application to annex half of Admiralty
23 Island and they have an application to annex all the
24 way down to Hobart Bay and that's where Goldbelt lands
25 are. And does that mean that because of this rural
26 that you're considering now, that all of these lands
27 will sooner or later be -- the rights of our people
28 become extinguished because we extend a road system.

29
30 And what about the people, Mr.
31 Chairman, who come from Klukwan and Haines, Kake and
32 Angoon and Hoonah, who come to work at the Kensington
33 Mine. We support the Kensington Mine, but also our
34 people want to be able to gather, hunt and fish and if
35 those people come here we do not want to see this
36 Council make a rule that says that we would diminish
37 the right of any of our tribal members, even if we're
38 not qualified ultimately in Juneau, we would not want
39 to see tribal members from those communities lose their
40 rights to hunt and fish and gather; it doesn't seem
41 right.

42
43 And so.....

44
45 CHAIRMAN ADAMS: Mr. Loescher.

46
47 MR. LOESCHER: Yes.

48
49 CHAIRMAN ADAMS: Before it slips my
50 mind. We just determined here a little while ago that

1 those people who come from those communities who have
2 C&T will be able to take that with them to Juneau if
3 they are working over there for some reason, you know,
4 so they will have the blessings of, you know, hunting
5 and fishing in the Juneau area. So I just wanted to
6 clarify that before I forgot.

7

8

Okay.

9

10 MR. LOESCHER: Yes, sir, thank you, I
11 appreciate that, but I was responding to the
12 presentation of the State official here a few minutes
13 ago.

14

15 It's very important to us because those
16 people have relatives in our community and our
17 community is getting bigger because of the economic
18 circumstance of our area of the state. So it's just
19 not to look at a rural in isolation is what I'm trying
20 to say. We're looking at the government's expanding
21 geographically because of the borough policy. We're
22 looking at economic opportunity, the lines that are not
23 currently reached by road but will be reached by road
24 in time, so your rule -- we don't want to create a rule
25 that diminishes our rights. And even if some people
26 don't have rights and other people still have rights,
27 let's not lose those -- that opportunity to preserve
28 those rights.

29

30 And that's sort of the basis of my
31 testimony. I was flabbergasted, Mr. Chairman, members
32 of the Council, to hear that there's no information or
33 evidence or record, yet, they'll acknowledge Haas
34 Goldschmidt report, which was used in a Federal court
35 case made by the Tlingit-Haida tribes and presented in
36 Federal court, it's recognized by everybody, that
37 report, yet, I can't speak on behalf of the
38 Wooshkeetaawn people or the Auke people, or the Taku
39 people because I'm Chukinadee, from Hoonah, Glacier
40 Bay, but I'm an elected representative for the tribe
41 here in Juneau. I sit on the council. And I observe
42 that there was a Juneau Indian village held by the Auke
43 Tribe, there is a recreational area out here called
44 Auke Village Recreation area which I tried, when I was
45 Sealaska president to get the deed for, US Forest
46 Service fought me so hard it was unbelievable, yet, we
47 have a burial ground there. At Berners Bay there is a
48 burial site there right near the dock where the mine is
49 established. At Taku there is two Indian historic
50 sites and cemeteries at Taku. How can you say that

1 there is no evidence of our existence, and certainly we
2 existed, we hunted and we fished and gathered because
3 that was the only economy that there was, and even
4 today there is a reliance on this economy of hunting
5 and fishing and gathering. Witness personal use
6 fishery, regulations State of Alaska, sportfishing
7 regulations, commercial fishing, certainly, you know,
8 subsistence hunting, fishing and gathering falls into
9 that regime as well. There's evidence that we all use
10 these resources. So I'm having a hard time when the
11 State can come here and make a presentation to you and
12 say there's no evidence of use. It continues.

13

14 And I'm here living proof that it
15 continues.

16

17 I have a smokehouse at my house in
18 north Douglas and I catch fish out of Fish Creed, by
19 the way, so, Mr. Chairman, I'm probably breaking all
20 kinds of laws, but I just wanted to say to you, please
21 don't accept these kind of proposals from the State,
22 and if it's an open question in your mind, table the
23 darn thing and the Native community will step up
24 somehow and work with you and the State, the Federal
25 people to provide more current information.

26

27 And by the way you're invited to hold
28 your meetings at the ANB hall or the Tlingit-Haida
29 Community Hall rather than this little dinky room that
30 you got. No disrespect, Mr. Chairman, but we do exist
31 and we do have an interest in what you're doing. So I
32 just wanted to offer these comments.

33

34 Gunalcheesh.

35

36 CHAIRMAN ADAMS: Gunalcheesh, Robert,
37 and Walter. I just want to make a comment, you know,
38 on some of the things that you have said so far.

39

40 We are recognize that more and more
41 people are moving from the villages into larger
42 communities, you know, for economic reasons and it's
43 enlightening to me to know that they will still retain
44 their right to subsistence hunt and fish in those areas
45 where they -- like in the Juneau area.

46

47 You know the sea otter thing is another
48 thing. It's coming to a point where they are in direct
49 competition to us for our subsistence foods. I
50 appreciate a comment you made, you know, about how we

1 used to keep them away from the bays. I remember
2 George Dalton from Hoonah, or is it his son, Robert,
3 one of them, was talking about that -- he came to
4 Yakutat, and he was talking about how he was trolling,
5 you know, in Glacier Bay, that's when they could still
6 do that, and he was anchored out overnight and all he
7 heard all night was the sea otters cracking those
8 cockle and clam shells, you know, they were feasting on
9 those all night, kept him awake all night. And then he
10 made the statement that our people a long time ago used
11 to keep the sea otters out on the Fairweather Bench.
12 He told about how when they traveled out there, you
13 know, you could barely see the tops of the mountains
14 they were so far out, and then the Russians came and,
15 you know, they depleted sea otters in that area and in
16 1968 the Fish and Wildlife Service, US Fish and
17 Wildlife Service transplanted some of those sea otters
18 from the Aleutians and where did they put them, they
19 put them in the main land and in the islands and ever
20 since then they have been, you know, just like you and
21 me they multiply all year-round. They eat 25 percent
22 of their body weight a day. We have a tremendous
23 amount of sea otter in our area and if you multiply
24 that times their body weight and so forth, that's
25 hundreds of thousands of subsistence foods that they
26 are taking from our area. So that's a real serious
27 issue that we have to address.

28
29 Subsistence has already been important
30 in life. Let me tell you the story about the Russians,
31 when they came to Yakutat, oh, I think it was in the
32 late 1700s, established a fort there. And they came
33 there with the permission of our people. They wanted
34 to settle there and they were able to build a fort and
35 they used our young men to help them plant the gardens
36 and cut down the trees and build their fort and
37 eventually, you know, they blocked -- we have the
38 Arhnklin River and it goes up along the peninsula and
39 all the way down to the Situk or even all the way down
40 to Dry Bay, little streams and lakes and so forth that
41 are connected together and in those lakes was where we
42 had our villages to smoke our salmon, they would go up
43 that, and what the Russians did is they blocked off
44 that stream, they put a damn there so that the salmon
45 couldn't come up into those areas where our people
46 smoked them. And so that was one of the many reasons
47 why we went into battle with them, you know, they were
48 taking away our ability to survive. And so we were
49 able to have this tremendous battle on the banks in
50 their fort and we chased them out and they never came

1 back. Another battle took place in Dry Bay a couple
2 three years before that and we chased them out and they
3 never did come back.

4

5 So, you know, our tradition of living
6 off the land, I call it, instead of subsistence, a land
7 based economy. And it's been there forever and ever
8 since time immemorial and they can't ever take that
9 away from us, we still practice those today.

10

11 Another thing that you mentioned was
12 that when somebody came into another area, like for
13 instance, in the Dry Bay area, a lot of Chilkat people
14 and other people from Southeast Alaska used to come up
15 there and hunt and fish, of course, you know, they had
16 a direct meeting with the leaders of that area and they
17 negotiated how much salmon they were going to take,
18 they negotiated how much seal they were going to hunt
19 and whatever it was from those resources that they
20 took, it was a negotiation. So we had ways and means
21 of managing our resources. And we also provided them a
22 guide, so that they would have successful hunting and
23 fishing. And so, you know, that's a protocol that I
24 think needs to be respected.

25

26 I remember you talking yesterday about
27 how you would educate your clients on your charter
28 vessel, not to take more than over 100 pounds of
29 halibut, because those are spawners, I, too, did the
30 same thing when I was in the business and they
31 respected that, they wanted to come back again every
32 year. And I said if you want to be assured that these
33 resources are going to be available for you in the
34 future, you know, we need to respect this principle and
35 they did.

36

37 And so, you know, I just wanted to
38 throw that out to you because we do have a long history
39 of occupation in our lands, clan ownership, and we did
40 have protocol and we did have ways and means of
41 managing our resources. I could talk all day about
42 this, but I want you to know that I support what you
43 said and it was interesting to me that you also
44 observed those things.

45

46 Thank you, Walter, does anyone
47 else.....

48

49 MR. JOHN: I just have one more
50 comment.

1 CHAIRMAN ADAMS: One more comment, go
2 ahead.
3
4 MR. JOHN: I like to read books on
5 history and one of the things that happened to the
6 Plains Indians, because they were such powerful
7 warriors, what they did is they wiped out their ability
8 to exist by slaughtering the buffalo. Well, that's
9 what's happening to us right now, our means, our way of
10 making a living has been taken away from us by, I
11 think, collusion between the State and the banks, all
12 our permits were taken away from us, so our ability to
13 make a living and now what's being attacked is our
14 ability, just basically to live as human beings in our
15 own lands.
16
17 Thank you.
18
19 CHAIRMAN ADAMS: Thank you, Walter.
20 Appreciate it.
21
22 InterAgency.
23
24 MR. KESSLER: (Shakes head negatively)
25
26 CHAIRMAN ADAMS: No. Okay, any other,
27 Fish and Game Advisory Committees from the communities.
28
29 (No comments)
30
31 CHAIRMAN ADAMS: Written comments, Mr.
32 Larson.
33
34 MR. LARSON: There is no written
35 comments.
36
37 CHAIRMAN ADAMS: No written comments.
38 Public testimony, Mr. Buklis, please.
39
40 MR. BUKLIS: Thank you, Mr. Chairman.
41 Larry Buklis, OSM. I'm not speaking for the Staff
42 Committee.....
43
44 CHAIRMAN ADAMS: Uh-huh.
45
46 MR. BUKLIS:but I wanted to
47 follow up our OSM analysis and presentation. Some
48 questions have since come up or comments about
49 residency and we wanted to point out how we define
50 resident.

1 People talked about people coming from
2 other areas to work in Juneau for awhile and whether
3 their C&T would come with them and it does so long as
4 they remain a resident of that other place. We just
5 wanted that to be clear.

6
7 And in our regulation booklet, on Page
8 88, we have definitions and there's a definition of
9 resident. I won't go through the details if you're
10 clear on that point, but the main point is, if you're a
11 resident, let's say of Hoonah, and you come to Juneau
12 for awhile to work, as long as you are still a resident
13 of Hoonah, then you are a rural resident and your
14 rights apply -- your eligibilities apply.

15
16 CHAIRMAN ADAMS: I appreciate you
17 coming forth and explaining that because I was going to
18 ask that question and it just slipped my mind, so
19 thanks for reminding me and making that clear.

20
21 Mr. Bangs, you got a question.

22
23 MR. BANGS: Yes, thank you, Mr.
24 Chairman. Larry, is it -- from what I'm gathering from
25 the State, if you are standing on State lands then
26 you're not allowed to use a Federal subsistence
27 activity, you're prevented from -- is that true, or
28 private land, you're no longer eligible for Federal
29 subsistence activities?

30
31 MR. BUKLIS: Well, I think Officer
32 Bryden answered it quite well and I would only say that
33 the way we, in the Federal program, have approached the
34 regulations is -- and the jurisdiction question, is
35 that for wildlife regulations, you know, if there's
36 inholdings within a Federal conservation unit, Forest,
37 National Park or Refuge, if there's inholdings and
38 you're on that private or State land, then the hunting
39 regulations for the Federal Program don't apply on
40 those private lands.

41
42 So the Federal hunting regulations,
43 subsistence hunting regulations apply on the Federal
44 lands.

45
46 For fishing regulations, Federal
47 subsistence regulations, the jurisdiction is within the
48 exterior boundaries, so the water flowing within the
49 exterior boundaries is where we have the reserved water
50 rights, and the subsistence fishing regulations that

1 you're working on apply.

2

3 This more recent question of who owns
4 the up lands, on whose land are you standing as you
5 exercise this opportunity is a more recent development
6 and question that has not been resolved by the courts.
7 And the Federal Program continues to make and amend
8 regulations for the waters within the exterior -- the
9 freshwaters within the exterior boundaries of these
10 conservation units like the Tongass Forest here, and we
11 continue to approach the regulations that way. The
12 question of whose land are you standing on, I
13 understand trespass issues, now there are trespass
14 issues, but that aside, in terms of the fishery
15 regulations, this program has not been recognizing that
16 question as Officer Bryden explained, but it hasn't
17 been tested.

18

19 MR. BANGS: Thank you, Larry. The
20 reason I brought it up, I was just curious as to, if
21 that is true then Mr. Kookesh couldn't hunt subsistence
22 on Sealaska land is the way I -- it's private land, and
23 if it's conveyed from the Federal government to
24 Sealaska, then it would preempt him from hunting under
25 Federal regulations. I mean that's what I was getting
26 at, it just doesn't seem to make any sense to me.

27

28 MR. BUKLIS: Yes. My understanding is
29 --in terms of the wildlife -- I know it's not the
30 wildlife cycle now, but the wildlife regulations apply
31 on the Federal public lands and if you're on Native
32 corporation land or privately -- otherwise privately
33 owned land, the Federal subsistence wildlife
34 regulations would not apply, but they apply through the
35 reserved water rights of the water flowing through the
36 Refuge or Forest.

37

38 CHAIRMAN ADAMS: Harvey, please.

39

40 MR. KITKA: Thank you, Mr. Chairman.
41 That brings to question, Native allotments, which is
42 basically private land, I know my dad had this kind of
43 come to court one time about his lands in Deep Bay
44 where he gathers his fish and what he gets on his
45 property, I believe the State tried to take him to
46 court on that one time and then it was kind of taken
47 out of court, or something, that it was -- it was
48 defeated anyway, but are you saying that the State
49 would have jurisdiction on his private land for getting
50 fish, which is basically what you would call Federal

1 waters, but on his property it would be private land?

2

3 MR. BUKLIS: Mr. Chairman. Mr. Kitka.
4 Not exactly. What I was saying was, for hunting
5 regulations, which is not what we're dealing with this
6 week, but for hunting regulations, the land ownership
7 is relevant in the view of the Federal Program, our
8 regulations for subsistence hunting apply on the
9 Federal public lands. And if you are on a Native
10 allotment or Native corporation land or some other
11 privately held land, that would not be considered
12 Federal public land, and so the State hunting
13 regulations would apply. You could still hunt but it
14 would be State regulations, and there's trespass issues
15 so you have to consult with the land owner.

16

17 For fishing regulations, this program
18 has been approaching the waters flowing on Federal
19 public lands as our jurisdiction for Federal
20 subsistence fishing. This question of who owns the
21 uplands and whose land are you standing on as you fish
22 is a recent -- is a more recent question and that is a
23 question that has not been challenged in the courts
24 with a finding. It's a State point of view, and the
25 Federal Program continues to view the reserved water
26 rights and the flowing waters and is not addressing
27 this land ownership question as Officer Bryden
28 explained when he addressed it.

29

30 I'm being consistent with him in
31 responding to you.

32

33 CHAIRMAN ADAMS: I want to bring up the
34 allotment issue. Because Native allotments, of course,
35 you know, are under the Bureau of Indian Affairs and
36 tribal governments, and so I don't view them as being
37 under State jurisdiction because it's not private land,
38 it's under Federal jurisdiction, so I don't think that
39 -- you know, maybe you can correct me if I'm wrong, but
40 I think I'm right.

41

(Pause)

42

43

44 CHAIRMAN ADAMS: Mr. Kessler.

45

(Pause)

46

47

48 CHAIRMAN ADAMS: While they are under
49 discussion, would Patricia please come up, the BIA
50 person, and help us with this issue.

1 (Pause)
2
3 CHAIRMAN ADAMS: There's a caucus going
4 on over there.
5
6 (Pause)
7
8 CHAIRMAN ADAMS: Go ahead, Larry.
9
10 MR. BUKLIS: Thank you, Mr. Chairman.
11 I was consulting with other Staff and they concur that
12 what I described is correct. The only question that we
13 had among us was whether the points you're raising
14 about Native allotments is specifically in litigation
15 now and it is being tested, and, we think it is but
16 we're not sure, nor are we sure of the direct reference
17 for you. So I don't want to mislead you on whether
18 it's being specifically tested now. But we are in
19 concurrence with what I said about Federal public lands
20 and the hunting regulations and other lands, including
21 Native allotments.
22
23 The only question that remained, was
24 whether that point about Native allotments is in
25 litigation and I don't want to misadvise you, so I
26 won't say with surety that it is.
27
28 CHAIRMAN ADAMS: Okay, thank you, but I
29 still think, you know, that we're under Federal
30 jurisdiction, but, you know, if it's in litigation now,
31 then I'm sure it will all come out in the end, so,
32 thank you.
33
34 MR. KOOKESH: You're talking about
35 trust lands.
36
37 CHAIRMAN ADAMS: Okay. You're smiling
38 over there, Mr. BLM man, do you have a comment to make
39 on this?
40
41 MR. FINCHER: No, sir.
42
43 CHAIRMAN ADAMS: No, sir.
44
45 (Laughter)
46
47 CHAIRMAN ADAMS: Okay. So we're into
48 deliberation now folks.
49
50 MR. KOOKESH: We're all done with

1 public.

2

3 CHAIRMAN ADAMS: Yeah, we're all done
4 with public unless there's anyone else who would like
5 to testify.

6

7 (No comments)

8

9 CHAIRMAN ADAMS: Nope, let's move on.
10 We're in Council deliberation now, so Council go ahead.

11

12 Mr. Bangs.

13

14 MR. BANGS: Thank you, Mr. Chairman. I
15 move to adopt WP09-15 as written on Page 105.

16

17 CHAIRMAN ADAMS: Thank you, sir.

18

19 MR. KOOKESH: Second.

20

21 CHAIRMAN ADAMS: Seconded by Floyd.

22 All right, we're in discussion.

23

24 MR. KOOKESH: Chairman.

25

26 CHAIRMAN ADAMS: Mr. Kookesh.

27

28 MR. KOOKESH: Just a point here. One
29 of the things I'm really glad is that -- for one,
30 first, I'm going to vote against this proposal, No. 15.
31 But the one thing that struck me, the main reason why
32 I'm now going to vote against it is because of Bob, Mr.
33 Loescher's comments, about the expanding road system,
34 you know, there's no limit as to where it will go and
35 the impacts that it will have. And so it raised the
36 biggest red flag and I can't go there, we can't be
37 doing this but there are other issues in there and I
38 really thank Bob for bringing up that point, because
39 it's endless.

40

41 Even if our roads, like bridges, go to
42 nowhere.

43

44 CHAIRMAN ADAMS: Thank you, Floyd.
45 Would you like to address the four criteria as to why
46 you're not going to support this.

47

48 MR. KOOKESH: I just wanted to say
49 that.

50

1 CHAIRMAN ADAMS: Just talk about that,
2 okay, well, we do need to address it. So any other
3 comments.

4
5 Mr. Hernandez, please.

6
7 MR. HERNANDEZ: Thank you, Mr.
8 Chairman. I've always been a little unsure how to
9 address the criteria on these customary and traditional
10 use questions.

11
12 I guess I've been involved in a few of
13 these, you know, over the years I've been on the
14 Council here and they always seem to fall under
15 different criteria to me, but I think we need to reject
16 this, you know, just out of hand, this is a proposal to
17 essentially take away opportunity that presently exists
18 for subsistence users. And I don't see that there's
19 any substantial evidence that would make it necessary
20 for us to do that. This is not something we need to
21 do.

22
23 I think the situation here is that the
24 State wants us to take a very narrow view of how to
25 interpret all this customary and traditional use
26 determination. They don't see -- the State doesn't
27 seem to recognize the fact that people have used this
28 for all of historical time, they want to have a higher
29 standard, they want us to go from, you know, individual
30 to individual community and analyze, you know, how each
31 person from wherever in Southeast Alaska may have used
32 this particular area at some point in the past and, you
33 know, my experience with these issues is that we just
34 don't feel that that's necessary. We understand the
35 fact that people have used this area for subsistence,
36 whether or not there are people that presently live in
37 Hoonah, Angoon or Juneau for that matter, and still
38 live here is kind of immaterial to us. I think that's
39 the way we've interpreted these customary and
40 traditional use determinations, you know, over the last
41 few years and I think that's, you know, perfectly
42 within our right to do that.

43
44 I think that's why we see this
45 proposal, the State just doesn't feel that we can do it
46 in that manner and we obviously feel that we do and the
47 Board agrees with us and I don't think we need to -- I
48 think we can just reject this proposal out of hand,
49 without having to address the criteria.

50

1 CHAIRMAN ADAMS: Thank you. It is very
2 difficult, you know, to use those four criteria when
3 you come to C&T determinations and so I respect that.

4
5 Any other comments.

6
7 Mr. Bangs.

8
9 MR. BANGS: Thank you, Mr. Chairman. A
10 point that has come up a few times about these
11 proposals and I think if the State understood Title
12 VIII they wouldn't even put these proposals in, you
13 know, it seems pretty plain that we -- or at least they
14 would know that we would not be able to accept the
15 proposals based on the information that we have.

16
17 It's detrimental to subsistence users
18 and it seems like they put the proposals in as
19 placeholders or just to take up time or something, or
20 they don't understand. I mean appreciate George coming
21 up and sitting on the hot seat and presenting these
22 proposals but I think the State knows that we're not
23 going to go anywhere with these proposals before
24 they're even presented.

25
26 Thank you.

27
28 CHAIRMAN ADAMS: Thank you for that
29 observation, Mike. And, you know, we need to recognize
30 that George is only the messenger and he does his best
31 to deliver the message. But if it doesn't, you know,
32 meet our requirements, you know, you can almost be
33 assured it's going to be rejected. So thank you for
34 sticking with us George.

35
36 But any other comments. Lee, please.

37
38 MR. WALLACE: Mr. Chair, I'd like to
39 make a comment. You know this is my third RAC meeting
40 and I've been through a number of proposals, and
41 proposals that -- you know, regarded to Saxman's rural
42 status and others, and comments made by citizens, you
43 know, it's just more and more evident that amendments
44 continually need to be made to ANILCA. I guess that's
45 going to be my driving force when I leave, and I would
46 encourage each and every one of you to go back to your
47 communities, too, and, again, I mentioned there's an
48 election coming up, there's going to be a new
49 Congressman, hopefully a new Senator, definitely a new
50 President, and there definitely will be new Secretaries

1 appointed so I see administrative changes and other
2 changes, and I think that's a vital point, because I
3 think what I'm observing these last three meetings is
4 that, yeah, definitely nothing's perfect, Alaska Lands
5 Claims wasn't perfect, ANILCA wasn't perfect and I
6 think that's the evidence that I'm seeing in these
7 meetings that, yes, there definitely needs to be some
8 changes and some issues addressed and I think if some
9 of those issues were addressed and administrative
10 changes, we wouldn't be deliberating on resolutions
11 like -- or proposals like this.

12

13 Thank you.

14

15 CHAIRMAN ADAMS: Thank you, Lee, point
16 well taken.

17

18 And I need to emphasize, too, that
19 ANILCA is, of course, the law of the land and, you
20 know, if we have that in the back of our minds at all
21 times, that that's the tool that we use to determine
22 whether we should accept the regulation or not. And,
23 again, just need to emphasize that more and more.

24

25 Again, what's the wish of the Council
26 on this proposal.

27

28 MR. HERNANDEZ: Question.

29

30 CHAIRMAN ADAMS: Question's been
31 called. Mr. Kitka, please take roll.

32

33 MR. KITKA: Thank you, Mr. Chair. Lee
34 Wallace.

35

36 MR. WALLACE: No.

37

38 MR. KITKA: Michael Bangs.

39

40 MR. BANGS: No.

41

42 MR. KITKA: Donald Hernandez.

43

44 MR. HERNANDEZ: No.

45

46 MR. KITKA: Floyd Kookesh.

47

48 MR. KOOKESH: No.

49

50 MR. KITKA: Bert Adams.

1 CHAIRMAN ADAMS: No.
2
3 MR. KITKA: Harvey Kitka votes no.
4 Richard Stokes.
5
6 MR. STOKES: No.
7
8 MR. KITKA: Mr. Chair, the resolution
9 has failed.
10
11 CHAIRMAN ADAMS: The resolution has
12 failed, thank you, Mr. Kitka. I don't know, it's
13 nearly lunchtime. I wouldn't want to start the next
14 proposal until after lunch so maybe we can take care of
15 a couple other things that are on the agenda that might
16 be appropriate at this time. Kind of suggesting Item
17 No. 13. The young lady's here from the.....
18
19 MR. LARSON: They're not ready, they
20 were going to do some work at lunch.
21
22 CHAIRMAN ADAMS: Okay, I understand
23 they're going to do some work during lunch.
24
25 MR. LARSON: Actually the chinook
26 bycatch can be done right now and the halibut after
27 lunch.
28
29 CHAIRMAN ADAMS: Okay.
30
31 MR. KOOKESH: Mr. Chair.
32
33 CHAIRMAN ADAMS: Who has a comment.
34
35 MR. KOOKESH: Since we're waiting for
36 our next speaker, can I make a comment while we're
37 waiting.
38
39 CHAIRMAN ADAMS: By all means, do.
40
41 MR. KOOKESH: Mr. Chairman. Earlier,
42 Mr. Loescher, I believe extended an invitation to use
43 the ANB Hall or the Community Council building in
44 Juneau.
45
46 CHAIRMAN ADAMS: Uh-huh.
47
48 MR. KOOKESH: So just for this Council,
49 yeah, just keep in mind there are bigger rooms than
50 this and you'll probably have a larger audience.

1 CHAIRMAN ADAMS: And easier access,
2 okay.

3
4 (Pause)

5
6 CHAIRMAN ADAMS: Like I said, you know,
7 unless the Council wants to, you know, we can start the
8 introduction of the next proposal but I'd like to maybe
9 save it until after lunch and if we can take care of
10 some other issues in between, perhaps we can go that
11 route instead. But what's the wish of the Council,
12 it's already a quarter 12:00, so maybe we can just do a
13 filler here and pick up another issue.

14
15 Yes, go ahead, come forward Mr. Bryden.

16
17 MR. BRYDEN: Thank you, Mr. Chairman.
18 If I could just have a minute of your time. If anybody
19 has any questions on information that was just kind of
20 given out on the residency requirement for being a
21 person coming into the Juneau area and working, please
22 feel free to get with me on this. As a law enforcement
23 officer, neither myself or anybody else wants to find a
24 subsistence user who's mistakenly under the impression
25 that they can be into an area. One of the things that
26 I personally do is work with a lot of the different
27 districts in the Forest Service on the issuing of
28 subsistence fishing and hunting permits and looking at
29 the residency questions, if somebody has a question of
30 whether or not the person is actually eligible to be in
31 the area and receive a permit, we work with them. We
32 don't want anybody mistakenly believing they're
33 eligible to come into an area and being caught that
34 way. So if anybody has those type of questions, we're
35 more than willing to work with anybody on that because
36 we're not here to try and catch somebody that's doing
37 something that they didn't intend to do and they're
38 under that impression.

39
40 CHAIRMAN ADAMS: Well, thank you, Jeff,
41 for that information. But how could we get the word
42 out to the people, you know, so that they know where to
43 go if they want to make sure they're not breaking any
44 laws or so forth?

45
46 MR. BRYDEN: In the different hunting
47 and fishing activities that require a permit, they're
48 going to have to come to a district office and they're
49 going to be talking with somebody who's actually
50 issuing those permits. The local individuals in those

1 offices, probably 90 plus percent of those permits is
2 pretty easy, because they know the people, they live
3 there, they can help them fill it out, they explain the
4 rules and regulations; it's the folks that are just
5 moving into the areas, those are the ones that we get
6 into the questioning and stuff and that's when I'll get
7 a call and they say, hey, we have this person who's
8 just coming in, you know, are they eligible, are they
9 not eligible, and I'll sit down with the local folks,
10 I'll sit down with the person putting the permit in and
11 we'll fill it out with them and say, okay, here's what
12 we -- do you actually live here, is this where your
13 permanent dividend check's coming to, is this where
14 your vehicles are registered through and we'll write
15 down the criteria with them. If they're not meeting
16 the criteria, it's pretty obvious to both us and to
17 them at the present time they're there. Where we're
18 getting the problems at is where people come over to
19 work for just a little while and a little while becomes
20 a longer and longer and longer and all of a sudden
21 everything they have is now showing residence in an
22 urban area and they're no longer a rural person. And
23 when you move your household goods out of there and you
24 have them in both places, okay, is this your permanent
25 residence or is this your part-time residence, that's
26 when the questions get -- and we're more than willing
27 to work with anybody that has those types of questions
28 ahead of time so that they don't all of a sudden go in
29 and apply for stuff and start harvesting and then
30 somebody's questioning them because that's where we get
31 a lot of our information coming from, is somebody will
32 say, well, look at this person, they don't live there
33 anymore, they live here.

34
35 So, again, we're more than willing to
36 try and work with folks on this.

37
38 CHAIRMAN ADAMS: Yeah, I know that
39 you're more than willing to work with them on it but I
40 still haven't been satisfied as to how do we get the
41 word out to those people who are moving into the
42 community -- from the communities that have C&T and
43 want to go out and hunt and fish in those areas. Is
44 there a communication device that you use, such as
45 announcements in the paper or, you know, posted signs,
46 emails, so forth, so that they can be well informed as
47 to where to go and how to get the permits.

48
49 MR. BRYDEN: If a permit is required
50 for that activity, say they're going to have to come

1 into the office, whatever that area they're going to be
2 at and get that permit, so if they want to do a moose
3 hunt they're going to have to come in and get the moose
4 permit right there. If they're going to do a fishing
5 activity in an area where fishing permits are required,
6 they're going to have to come into a local office and
7 get that information. So it's going to be the
8 responsibility of the person that's coming into the new
9 area to hunt and fish to make sure that they have the
10 proper permits for that area.

11
12 CHAIRMAN ADAMS: Okay, thank you. Mr.
13 Kitka.

14
15 MR. KITKA: Thank you, Mr. Chair. It
16 seems like we had about the same type of discussion
17 before with, the Unit 2 deer, and it seemed like it was
18 up to us to direct these people to give the information
19 to the different organizations so that they were more
20 well informed and it seemed like the ruling came from
21 us.

22
23 CHAIRMAN ADAMS: Okay.

24
25 MR. BRYDEN: Okay, thank you, sir.

26
27 CHAIRMAN ADAMS: Thank you. Thank you.
28 Excuse me, Donald, go ahead.

29
30 MR. HERNANDEZ: In our area, you know,
31 I know we deal with a lot of permitting for deer
32 hunting and what not and one of the places that people
33 can go and get their Federal permits is at tribal
34 offices. I don't know if that's regionwide or not, but
35 that's also, at least, in the lower end of the region,
36 it's a good opportunity to get a lot of information so
37 like I say I don't know if that is possible -- it's
38 probably something that is possible here in Juneau
39 there might just have to be a little bit of a liaison
40 between the tribes and the Federal managers, and that's
41 also well within the scope of possibility to have the
42 tribal agencies issue those permits and it's a good
43 place to get information.

44
45 CHAIRMAN ADAMS: Agree with you Donald,
46 that's a real good place to start.

47
48 Okay. We got about 13 more minutes to
49 go here, Jim Fincher, would you like to come forward
50 and talk about your agency report, please, before

1 lunch, and George.

2

3 (Laughter)

4

5 MR. FINCHER: Good morning, Mr.
6 Chairman and Council members.

7

8 CHAIRMAN ADAMS: I want you to know,
9 Jim, that if you get out of line he's ready to kick you
10 right in the shins there, okay, so that's why he's
11 there.

12

13 (Laughter)

14

15 MR. FINCHER: Well, that's why he was
16 sent with me.

17

18 (Laughter)

19

20 MR. FINCHER: Well, my name is Jim
21 Fincher and I am the field manager for the Anchorage
22 Field Office for Bureau of Land Management. And as you
23 know, George Oviatt is sent to cover my back during the
24 discussions today.

25

26 But George is the special assistant to
27 our State director, Tom Lonnie, and deals a lot with
28 subsistence issues.

29

30 As the agency administrator for the
31 Anchorage Field Office, I oversee the lands here in
32 Southeast Alaska, and a large part of the state, about
33 19 million acres are covered by the Anchorage Field
34 Office.

35

36 What I would like to do during our
37 agency briefing is talk about three different issues
38 with you this morning; talk about some of our
39 administrative changes in personnel that we've had in
40 our subsistence management program; talk about some
41 updates to our planning efforts here in Southeast
42 Alaska; and then talk about specifically about some of
43 the projects that we have underway in the Sitka area.

44

45 In terms of our personnel changes, at
46 the State office level we have a new subsistence
47 program manager, and that is Dan Sharp. And he's been
48 with us, what, about six months now, I guess. And at
49 the Anchorage Field Office level we have a new
50 subsistence manger as well and his name is Geoff

1 Byersdorf. I've only been with BLM about five weeks
2 now but I've been able to spend quite a bit of time
3 with both these gentlemen and I'm really impressed with
4 their professionalism, their interest and passion with
5 subsistence management and they're both doing a great
6 job and I look forward to them having the opportunity
7 to hopefully work with this Council in the future.

8
9 In terms of our planning efforts, the
10 individual to contact about the information I'll be
11 talking about is Chuck Dentin out of my office or you
12 could give me a call as well. But this past March, our
13 management plan -- resource management plan for this
14 geographic area is the Ring of Fire Resource Management
15 Plan, and the record of decision and the associated EIS
16 was approved in March of this year so we're real glad
17 to have that management plan in place. However, within
18 this document the decision regarding the area of
19 critical environmental concern for the Haines block was
20 deferred, that designation was deferred until we could
21 do additional analysis related to the impacts of
22 helicopter activity on mountain goat populations and so
23 we'll be doing additional analysis on that issue here
24 in the months ahead and we'll be doing that through a
25 supplemental EIS and a plan amendment. At the same
26 time we're doing this supplemental EIS, we'll be
27 revising the special recreation management use --
28 special recreation management area designation for the
29 Haines block as well because our agency's guidelines
30 for the use of that designation has changed and so we
31 want to make sure we're consistent with that, so that
32 will be addressed during that supplemental EIS.
33 Currently in terms of our process we're doing all the
34 pre-work that we need to do to initiate that
35 supplemental analysis and we will be going out begin
36 our public scoping in Haines in either late October or
37 early November.

38
39 Let's see in terms of our projects that
40 we have, the first project I'd like to talk about is
41 the Sitka block house recreation and public purposes
42 act lease transfer, which is something that we're
43 negotiating with the city of Sitka on. It's a historic
44 site there in Sitka that we feel would be better
45 managed by the local residents in Sitka, it's an
46 important heritage and interpretive site and so
47 negotiations are underway with the city and as of this
48 point they haven't submitted a formal application but --
49 and until that happens the site will remain under our
50 jurisdiction, but we hope and believe that'll be in the

1 best interest of the public for them to take on that
2 responsibility.

3
4 The other three projects are something
5 that's really, I think, relevant to the interest of the
6 Board here, and that deals with the FAA's analysis of
7 expanding the airport there in Sitka. The second one
8 would be the submerged tidelands request that we have
9 received from the State for the Executive Order 8877
10 areas on the, I believe it'd be on the west side of the
11 airport, as well as within that same area, the causeway
12 uplands proposal from the State. In terms of the
13 airport runway improvement project, the FAA and the
14 Department of Natural Resources have prepared and
15 released the draft environmental EIS, environmental
16 impact statement, documenting the affects of that
17 expansion on the resources and that draft environmental
18 impact statement includes an analysis of the options
19 for a potential lease or for a transfer of the land
20 from the Federal ownership to the State, and it also
21 considers the affects of that transfer on subsistence
22 use in that area.

23
24 My boss, Gary Reamer, has met with the
25 -- and several others have met with the Sitka Tribe of
26 Alaska and we've discussed all three of these projects
27 with the Tribe and we understand the importance that
28 this area has for subsistence resources and we would
29 encourage folks to respond to the draft environmental
30 impact document, that response is open to October 14th,
31 and you can go on line and do that, there is -- I have
32 an address where you could also send in written
33 comments if you'd like that. On October 2nd next week,
34 from 4:00 to 9:00 there'll be an .810 hearing in Sitka
35 on this issue, the impacts of the airport expansion on
36 subsistence users. There should be some announcements
37 on that in the local Sitka paper.

38
39 In terms of the submerged tidelands
40 application, that was received under the Recreation and
41 Public Purposes Act, and we've -- and that request is
42 for 595 acres of submerged tidelands within that
43 Executive Order area. And we're in the process right
44 now of evaluating that application and the first step
45 is to determine if that application properly fits under
46 that Act proposal. And of the three things that I'm
47 talking about here, this is our least priority and we
48 won't be getting back to the State on that for a few
49 weeks or a couple months anyway.

50

1 The third project is this interstitial
2 causeway uplands application, again, that was done
3 under the Recreation and Public Purposes Act, and that
4 is for the acquisition of approximately 15 acres
5 encompassing the causeways in the Makhnati Island area
6 for the creation of a historical interpretive park.
7 And like I said before there was consultation in April
8 with the Sitka Tribe of Alaska and we imagine that
9 we'll be addressing this issue with the State through
10 the environmental analysis steps later this winter.

11
12 So, Mr. Chairman, that concludes our
13 presentation at this time and would entertain any
14 questions that you or the Council may have.

15
16 CHAIRMAN ADAMS: Questions anyone.

17
18 Mr. Kitka.

19
20 MR. KITKA: Mr. Chair.

21
22 REPORTER: Harvey.

23
24 MR. KITKA: Excuse me. Mr. Chair,
25 thank you. Maybe I had some questions kind of on the
26 BLM's -- I'd like to get kind of an understanding on
27 some of the land issues and how it transfers within the
28 government. Basically if I understand everything
29 right, BLM is the ultimate owner of all government
30 properties, that's correct?

31
32 MR. FINCHER: I would not say that
33 we're the ultimate owner, but when it comes to realty
34 issues we're the agency that does the analysis and the
35 processing.

36
37 MR. KITKA: Okay, thank you.

38
39 CHAIRMAN ADAMS: Let me say that every
40 word that you say I'm taking it and then I watch George
41 to see if he nods or goes like this.

42
43 (Laughter)

44
45 MR. FINCHER: I was trying to watch him
46 but.....

47
48 CHAIRMAN ADAMS: So far you're doing
49 good.

50

1 MR. FINCHER: Thank you.
2
3 CHAIRMAN ADAMS: Any other questions.
4
5 Mr. Kitka.
6
7 MR. KITKA: One more question. I
8 realize that the issues on Makhnati Island and
9 surrounding lands and things. As the person on this
10 Council and part of the Sitka Tribe, I know we have
11 some strong feelings about turning the title over to
12 the State and I think possibly we'd probably favor a
13 lease more than a regular land transfer.
14
15 Thank you.
16
17 CHAIRMAN ADAMS: No comment.
18
19 MR. FINCHER: No. I know that we've
20 heard that and we understand that and that's why that
21 was considered in the EIS as an option.
22
23 CHAIRMAN ADAMS: George, go ahead.
24
25 MR. OVIATT: For the record, George
26 Oviatt. Mr. Chairman. Mr. Kitka. I think it's
27 important that you make sure those comments are
28 submitted to BLM during the comment period of this EIS
29 that is now out, as part of the process.
30
31 Thank you.
32
33 CHAIRMAN ADAMS: That comment period is
34 going on now?
35
36 MR. FINCHER: Yes, through October
37 14th.
38
39 CHAIRMAN ADAMS: October 14th, all
40 right, good. Any other questions, comments.
41
42 (No comments)
43
44 CHAIRMAN ADAMS: Thank you, gentlemen
45 for your report.
46
47 MR. FINCHER: Thank you.
48
49 CHAIRMAN ADAMS: It's almost 12:00
50 o'clock. I want to encourage everyone to support the

1 cause back there, and enjoy your lunch, we will be back
2 here at 1:00 o'clock.

3

4 (Off record)

5

6 (On record)

7

8 CHAIRMAN ADAMS: Shall we get prepared
9 to reconvene here in a couple minutes.

10

11 (Pause)

12

13 MR. KOOKESH: Okay, you can start now.

14

15 CHAIRMAN ADAMS: We were waiting for
16 you.

17

18 Okay, we're back in session now, ladies
19 and gentlemen, welcome back. I trust that you had a
20 nice break and a nice lunch. We're going to do our
21 last proposal now and I see that Mr. Miller is here and
22 I was hoping that you'd be here for this one. We put
23 it as the last one so that you could have an
24 opportunity to be here.

25

26 All right, Terry, introduce it to us,
27 please.

28

29 MR. SUMINSKI: Thank you, Mr. Chairman.
30 Council members. My name is Terry Suminski. I'm a
31 subsistence fisheries biologist with the Forest
32 Service.

33

34 Proposal FP09-05, the summary starts on
35 Page 78 and the analysis starts on Page 79 of your
36 books. This proposal was submitted by the Sitka Tribe
37 of Alaska and seeks to close the Federal public waters
38 in the Makhnati Island area near Sitka to the harvest
39 of herring and herring spawn except for subsistence
40 harvest by Federally-qualified Federal Subsistence
41 Board users.

42

43 The proponent believes the closure of
44 these waters is necessary to ensure the continuation of
45 subsistence use by Federally-qualified subsistence
46 users and to provide a meaningful preference for
47 qualified subsistence uses of herring.

48

49 The proponent states that the Federal
50 harvest of herring displaces subsistence users from

1 traditional harvesting sites, disrupts herring spawning
2 such that good quality of deposition of herring eggs
3 does not take place at traditional sites and may
4 seriously reduce the biomass of spawning herring upon
5 which subsistence users depend.

6
7 Under existing Federal regulations all
8 rural residents of Alaska are eligible to harvest
9 herring and herring roe from Federal waters in
10 Southeast Alaska. There is no season or Federal limit
11 in regulation.

12
13 The Federal Subsistence Program has
14 jurisdiction over approximately 800 acres of marine
15 waters near Makhnati Island near Sitka as shown on Page
16 81, it's Map No. 2. And you'll notice there's two
17 different sections of Federal waters that were reserved
18 from different Executive Orders.

19
20 The short regulatory history is that
21 the Board rejected a similar proposal in the 2008
22 regulatory cycle, which was Proposal FP08-18. The
23 Board's rationale for that rejection was that there was
24 no substantial evidence of a conservation concern and
25 need for a closure to ensure the continuation of
26 subsistence uses.

27
28 This proposal would close the Federal
29 public waters in the Makhnati Island area near Sitka to
30 all uses of herring and herring spawn except for
31 subsistence harvest by Federally-qualified subsistence
32 users and the OSM preliminary conclusion is to oppose
33 this proposal.

34
35 The justification is that this proposal
36 is effectively the same as the proposal previously
37 considered by the Board. At that time the Board
38 determined that there was no conservation concern in
39 this area for herring at recent biomass levels and that
40 closing Federal public waters to non-Federally-
41 qualified users may not be effective in benefitting
42 subsistence users.

43
44 The biomass in Sitka Sound has been
45 trending higher since 1978 with the highest estimated
46 pre-season biomass this last year in 2008. There have
47 been no restrictions on subsistence uses, no commercial
48 harvest occurred in Federal public waters in 2007 or
49 2008. And a vast majority of commercial harvest was
50 taken well away from Federal public waters and

1 traditional harvest areas.

2

3 In years when subsistence needs were
4 not met, it is unlikely that a closure to other users
5 in Federal public waters would have made a difference.

6

7 Adoption of this proposal would result
8 in an unnecessary closure to non-Federally-qualified
9 users.

10

11 Also the Alaska Board of Fisheries will
12 meet in February of 2009 to discuss Southeast finfish
13 issues and that will be another forum to address Sitka
14 Sound herring issues.

15

16 Thank you.

17

18 CHAIRMAN ADAMS: Thank you, Terry. Is
19 there any comments, questions.

20

21 Floyd and then Mr. Kitka.

22

23 MR. KOOKESH: Mr. Suminski, what's the
24 difference between biomass levels and subsistence
25 harvest?

26

27 MR. SUMINSKI: Mr. Chairman. Mr.
28 Kookesh. Biomass is -- when I refer to biomass in here
29 it's the measure of the weight of all the herring that
30 are in Sitka Sound. The subsistence harvest is just
31 the weight, pounds of the eggs. Is that what you're
32 looking for?

33

34 MR. KOOKESH: What I was looking at, a
35 determination has been made based on biomass levels and
36 I was wondering how that equated out to subsistence
37 harvest, take.

38

39 MR. SUMINSKI: Mr. Chairman. Mr.
40 Kookesh. Are you asking about the relationship of the
41 biomass to the harvest?

42

43 MR. KOOKESH: (Nods affirmatively)

44

45 MR. SUMINSKI: Yeah, and I've tried
46 different basic statistical methods to try to find the
47 relationship there and it's -- the only one that I
48 could find that even had any somewhat, a very poor
49 relationship, is the miles of spawn related to the
50 subsistence harvest, and that was not a very strong

1 relationship. So that's one of the issues here is how
2 those -- how that interacts, you know, how the amount
3 of fish interacts with the amount of harvest, it's not
4 always what you would expect, you know, it's not always
5 the more fish the more harvest, it depends on where
6 they harvest -- or where they spawn.

7

8 Thank you.

9

10 CHAIRMAN ADAMS: Anyone else -- oh, Mr.
11 Kitka, I'm sorry, go ahead.

12

13 MR. KITKA: Thank you, Mr. Chairman.
14 Terry, under ANILCA, I heard you say that even those
15 subsistence -- the subsistence for herring in Sitka the
16 needs were not being met, I thought under ANILCA that
17 when the people of Sitka or any rural community say
18 when their needs are not being met that meets the
19 highest criteria of anything and I know that this
20 Council reflects that point of view and I'm just
21 wondering why the Forest Service or the Staff would
22 take that stand, where it wasn't the highest criteria
23 on your books.

24

25 MR. SUMINSKI: Mr. Chairman. Mr.
26 Kitka. I don't believe we're saying that that isn't the
27 highest priority. What I think the Board stated last
28 time was that this particular closure would not be
29 effective in helping that situation. So it's more of
30 an effectiveness of this action of closing that area.

31

32 CHAIRMAN ADAMS: Follow up.

33

34 MR. KITKA: (Shakes head negatively)

35

36 CHAIRMAN ADAMS: Any other questions.
37 Don, go ahead.

38

39 MR. HERNANDEZ: I guess, you know,
40 under Federal management of these waters we are
41 obligated as Mr. Kitka pointed out to provide some kind
42 of a rural priority, you know, to subsistence needs
43 that aren't being met. So how is the Federal
44 involvement, what means do we have, I guess, as Federal
45 managers to try and ensure that this priority is
46 carried out in this fishery if we -- it seems like we
47 have -- I mean we have jurisdiction over some waters,
48 that gives us some say but what can we do as Federal
49 managers to ensure that this subsistence priority is
50 being met?

1 MR. SUMINSKI: Mr. Chairman. Mr.
2 Hernandez. I think we went through that exercise last
3 year with the subcommittee and that report and they
4 came up with some ideas, and unfortunately the Board
5 didn't think that they'd be effective and I haven't
6 come up with anything new.

7
8 MR. HERNANDEZ: Nothing new.

9
10 MR. SUMINSKI: Sorry.

11
12 CHAIRMAN ADAMS: Floyd, go ahead.

13
14 MR. KOOKESH: So what would it take for
15 OSM to not oppose this and what would it take for
16 people to be able to harvest what they need? You know,
17 because the Sitka herring fishery, it serves all of
18 Southeast and I believe that if you probably look at
19 the real herring fishery that's going on there, it's
20 probably just there to serve the females and for people
21 from other countries; is that correct?

22
23 MR. SUMINSKI: Mr. Chairman. Mr.
24 Kookesh. You're correct the sac roe fishery takes the
25 eggs while they're still in the skein and I think the
26 majority of that product does go to Japan. As far as
27 what -- well, maybe could you -- what was your first
28 question, I'm sorry.

29
30 MR. KOOKESH: What would take OSM to
31 side with us?

32
33 MR. SUMINSKI: I think the same answer
34 that I gave Mr. Hernandez, I don't know. I think it
35 has to do with the size of the area that we're dealing
36 with with Federal jurisdiction and it's within a -- you
37 know, it's a relatively small area within a much larger
38 fishery that is controlled by the Department and the
39 State Board of Fish. I think, like I said, the
40 meeting, the State Board of Fish meeting is coming up
41 in February and I do know that the Sitka Tribe has
42 submitted proposals to that Board and I'm sure that,
43 you know, it'd be better to speak to it than I would,
44 but that may be a better way to get action that has an
45 effect over a larger area.

46
47 Thank you.

48
49 CHAIRMAN ADAMS: Anyone else.

50

1 (No comments)

2

3 CHAIRMAN ADAMS: I know I have had some
4 conversations, you know, and asked the same question
5 that you have asked Floyd, and some of those
6 conversations were with some of the members of the
7 Board and they've, of course, you know, us to keep on
8 it. And then the next question is, you know, how do we
9 approach it so that we don't have to repeat ourselves,
10 you know, on the proposal that we have in here, come up
11 with some new evidence of some sort or new ideas. I
12 think that would make a lot of difference. But, you
13 know, that's something that we really need to sit down
14 and figure out how we are going to approach it.

15

16 The subcommittee that you mentioned
17 that met last year, I think it was last year, the
18 reason why the Board wasn't so excited about that is
19 because we didn't agree. The subcommittee was supposed
20 to come out with a proposal that everyone could sign
21 their name to and it wasn't that way and so I think
22 that was a weak point right there. So maybe we need
23 another subcommittee in order to -- and that would have
24 to come from the Board, of course, I believe, would be
25 in order to review that and make sure that we do
26 something that is compatible, you know, with ANILCA and
27 with the regs and make sure that everyone is on the
28 same page. Because the Board isn't going to look at
29 anything if we're divided, you know, and I think that
30 might have been one of the reasons why it didn't go
31 this last time.

32

33 So I just wanted to throw that out as a
34 matter of concern when we go through this process.

35

36 Any other questions.

37

38 Don, go ahead.

39

40 MR. HERNANDEZ: Yeah, I was thinking
41 back to that subcommittee and you referred to some
42 different ideas there that I guess the Board rejected.
43 I think there might have been some, you know, merit to
44 some of those ideas that -- I got the impression the
45 Board was looking for consensus, you know, everybody
46 had to agree, like you said, Mr. Chairman, but Terry do
47 you think that it's within the jurisdiction as the
48 Federal manager, that right now, those waters are
49 essentially subject to the management of the Department
50 of Fish and Game, how they manage the Sitka Sound as a

1 whole, but do you think as Federal waters, that there
2 could be a -- there could possibly be a management
3 strategy that is adopted that would reflect more the
4 rural preference and priority for a subsistence herring
5 fishery for those waters, do you think that is
6 something that could be done that is different than
7 what the State management plan, it would be a Federal
8 plan for Federal waters that better reflects the need
9 of the subsistence user or is that something you don't
10 think is possible?

11
12 MR. SUMINSKI: Mr. Chairman. Mr.
13 Hernandez. I guess the -- my first impression is that
14 I haven't come up with anything better than what the
15 subcommittee came up with and that was not accepted by
16 the Board. As far as a priority, there are no
17 restrictions in the area for subsistence users so it's,
18 you know, as much as you want type situation.

19
20 The last couple of years the commercial
21 fishery did not take place at all in that area, and
22 actually well away from it, and so that's where I was
23 getting at, where a closure may or may not be effective
24 and that's where the Board went with it the last go
25 around. But, you know, any sort of action that the in-
26 season manager would take in that area would have to be
27 a preseason action because once the fishery starts
28 you're not going to get the information you need to do
29 any sort of action in-season. And so we're looking at
30 preseason action in the area if there was something we
31 could do, and that's what I was looking for last year,
32 was some indicators or some triggers or something that
33 we could use and justify a closure preseason if needed,
34 and that's where the -- you know with ANS and the other
35 -- about the predicted biomass, you know, those are
36 something that, you know, you can count and make a --
37 and justify your action. Other than that I honestly
38 have not come up with, you know, better ideas, so thank
39 you.

40
41 CHAIRMAN ADAMS: So do you think maybe
42 our position might be kind of weak then for the Board
43 if we submit it as we see -- as it is written now for
44 us -- I'd like to find some way to strengthen it if we
45 can, maybe some other ideas will come forth as
46 testimony is borne, you know, throughout the rest of
47 this process, you know, but please share your view on
48 that if you would.

49
50 MR. SUMINSKI: Yes, Mr. Chair, I'd hate

1 to guess which way the -- you know, I'm not going to
2 say what the Board would do but I would think if it was
3 the same proposal as they saw last time and we don't
4 have anything more to sway them, my guess is that you'd
5 get the same answer.

6

7 Thank you.

8

9 CHAIRMAN ADAMS: Yeah. That's the
10 impression that I got, too, and some of the Board
11 members, you know, said come back with some new
12 information for us and we'll be happy to consider it
13 again.

14

15 And I know, you know, Sitka's Tribe,
16 wind was blown out of their sail when this was rejected
17 by the Board. And I've talked to some of the Sitka
18 Tribe people and they didn't know whether they wanted
19 to pursue this any further or not and of course we saw
20 last spring, you know, a proposal, you know, to have
21 the place closed down but it came after the fact. But
22 I'm glad that it's before us now but I think we need to
23 really brainstorm and think about how we can present
24 this to the Board so it will be passable to them.

25

26 Mr. Bangs.

27

28 MR. BANGS: Thank you, Mr. Chairman.
29 Terry, since this Makhnati issue has come before us a
30 few years ago and they had the subcommittee formed, in
31 your opinion, do you think that the State Fish and Game
32 is less likely to open the sac roe fishery in that area
33 because of this or do you think that they would still
34 us it as though -- you know, any other area?

35

36 MR. SUMINSKI: Mr. Chairman. Mr.
37 Bangs. Again, I don't want to speak for the State, but
38 just what I've heard in conversations with the managers
39 is that they do try to avoid not only the Federal
40 waters but that whole core area, you know, the
41 traditional subsistence fishery if they can. And I
42 think they would continue to do that and, you know,
43 that is their direction also, from my understanding.

44

45 Thank you.

46

47 CHAIRMAN ADAMS: Their criteria, or
48 observation, they watch the biomass or something, I
49 think it's 20,000 or so, is that it, and they determine
50 whether they should open it or keep it closed, you

1 know, on that information. And then I think Sitka
2 Tribe asked for a higher threshold and that's the
3 reason why I think that we came at a stalemate during
4 that subcommittee meeting we had in Sitka a year ago.

5

6 Do you want to respond to that Terry

7

8 MR. SUMINSKI: Mr. Chairman. I believe
9 that's correct. The State uses a minimum threshold to
10 have a commercial fishery of 20,000 tons, preseason
11 forecast. And the subcommittee -- boy, I should
12 probably check but I believe it was a higher number,
13 yeah, and there wasn't consensus on that with the
14 subcommittee members.

15

16 Thank you.

17

18 MR. KITKA: Mr. Chair.

19

20 CHAIRMAN ADAMS: Mr. Kitka.

21

22 MR. KITKA: Thank you, Mr. Chair.
23 Terry, on that proposal, on the higher threshold, if I
24 remember right Sitka Tribe asked for that just for the
25 closure of the Makhnati area, and not the whole Sitka
26 Sound. I really don't see where anybody would have a
27 problem with that, considering the fact that the
28 seiners have said time and again, that that is not one
29 of their primary fishing areas and the Makhnati Island
30 would not affect them at all if they did close that
31 area.

32

33 MR. SUMINSKI: Mr. Chairman. Mr.
34 Kitka. You're correct that would have triggered a
35 closure only in the Federal waters, that higher biomass
36 estimate.

37

38 CHAIRMAN ADAMS: Any other questions.

39

40 MR. KOOKESH: I have one.

41

42 CHAIRMAN ADAMS: Go ahead Floyd.

43

44 MR. KOOKESH: Maybe I'm -- maybe I'm --
45 maybe I've been missing from Southeast, but it seemed
46 like the question is are the needs being met, and why
47 all of a sudden we're basing it on determination of
48 biomass levels and all of a sudden we're arguing at a
49 different level when we should be talking the basics
50 because for someone who lives in Angoon and Juneau,

1 things have changed, it's not there anymore. You can
2 argue biomass all you want but still the needs aren't
3 being met, I don't know, I haven't seen -- maybe I
4 missed some of the argument somewhere.

5

6

Mr. Chairman.

7

8

CHAIRMAN ADAMS: Well, we've heard
9 testimony over and over again from people from Sitka
10 that their needs aren't being met and so as we tried to
11 address this issue then this biomass issue came up, you
12 know, and entered into the conversation. But we were
13 focusing on the fact that, you know, their needs
14 weren't being met. We haven't forgotten that at all
15 so.....

16

17

Mr. Bangs.

18

19

MR. BANGS: Thank you, Mr. Chairman.
20 To me, I think the question is, why aren't their needs
21 being met, and I think that's where the biomass
22 question comes up, that's why all these different
23 things enter into it because that is the question, it's
24 not whether they are being met, or not, we know they're
25 not but why, and that's -- I -- I don't know -- that's
26 what gives -- I have trouble with this.

27

28

CHAIRMAN ADAMS: Your point is well
29 taken, too, Mr. Bangs, so appreciate that.

30

31

Any other comments.

32

33

MR. WALLACE: Mr. Chair.

34

35

CHAIRMAN ADAMS: Go ahead, Lee.

36

37

MR. WALLACE: Mr. Chair, I thank you.
38 In looking at this and I understand we've discussed
39 this issue in prior meetings but as I'm looking at the
40 map on Page 90 it outlines the sac roe herring opening
41 segments there and what I'm seeing is that -- and I'll
42 go back to when I was a child in Hydaburg, I was able
43 to get into a skiff and go right across the bay to the
44 Seqwan Point, just a stone throw away from the beach
45 and the creek from Hydaburg and we used to be able to
46 get our herring there, our herring roe, and then the
47 State came in and they commercialized herring roe, and
48 low and behold just like many areas in Southeast Alaska
49 they've all but disappeared and the herring aren't
50 coming back there. And I'm looking at this map and

1 MR. PAPPAS: Mr. Chair. George Pappas.
2 Department of Fish and Game. Ours is very short, we
3 have no new information here. The State agrees with
4 the OSM analysis to oppose the proposal.

5
6 Thank you, Mr. Chair.
7

8 Alaska Department of Fish and Game
9 Preliminary Comments to the Regional Advisory Council

10 FP09-05 MAKHNATI ISLAND AREA HERRING

11 Introduction:

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15 Proposal FP09-05 requests closure of
16 marine waters of Makhnati Island and Whiting Harbor,
17 which are subject to federal claims of jurisdiction, to
18 harvest of herring by non-federally qualified users.
19 The closure would only allow subsistence herring
20 fishing by federally-qualified users and would bar
21 state subsistence, sport, and commercial fisheries for
22 herring or herring spawn in the area. The proposed
23 closure area is not where the primary subsistence
24 herring fishing has occurred, and commercial harvest
25 rarely occurs in the area.

26
27 Impact on Subsistence Users:

28
29 Adoption of this proposal could
30 potentially be detrimental to subsistence fisheries,
31 depending upon where and when herring spawn each year.
32 The commercial fishery is managed to minimize harvests
33 near heavily used subsistence areas. Actions by the
34 Alaska Department of Fish and Game (Department)
35 commercial fishery managers must be taken in a timely
36 manner to be effective. The proposed closure would
37 limit options for where a commercial fishery could
38 occur, potentially resulting in a commercial fishery in
39 areas important to subsistence users. The proposed
40 closure would also prohibit subsistence and sport
41 harvest in this area by non-federally qualified
42 individuals. A closure in this small area (560 acres)
43 would have little or no impact on the total
44 subsistence, sport, or commercial harvests.

45
46 Opportunity Provided by State:

47
48 For the majority of the subsistence
49 herring egg harvest, the Department does not restrict
50 fishing periods, seasons, or amounts of herring

1 harvested for subsistence purposes in this area.
2 Harvest of spawn on hemlock boughs or spawn on hair
3 kelp is unrestricted, and no state permit is required.
4 Post season evaluation of subsistence harvest is
5 accomplished by a harvest monitoring program conducted
6 by Sitka Tribe of Alaska in cooperation with the
7 Department s Division of Subsistence. The Alaska Board
8 of Fisheries found that 105,000 to 158,000 pounds of
9 herring spawn is the amount reasonably necessary for
10 subsistence uses in Section 13-A and Section 13-B north
11 of Aspid Cape. The Department requires a permit that
12 may limit harvest of spawn on *Macrocystis* kelp and
13 requires harvest reporting following the season. (See
14 5 AAC 01.730(g)) Harvest of spawn on *Macrocystis* kelp
15 accounts for an average of only 2 percent of the
16 subsistence harvest on all substrate types, so state
17 requirements for spawn on kelp harvest is not a
18 significant limitation.

19
20 The limited non-commercial exchange for
21 cash of subsistence-harvested herring roe on kelp,
22 harvested in Districts 1-16 under terms of a permit, is
23 allowed as customary trade. The annual possession
24 limit for spawn-on-kelp is 32 pounds for an individual
25 and 158 pounds for a household of two or more people.
26 The Department has authority to issue additional
27 permits for herring spawn-on-kelp above the annual
28 possession limit if harvestable surpluses are
29 available. Commercial herring vessels, permit holders,
30 and crew members may not take or possess herring 72
31 hours prior to or following a commercial herring
32 fishing period.

33
34 Conservation Issues:

35
36 Currently there are no conservation or
37 management concerns for the Sitka Sound herring stock
38 that might potentially spawn in waters of the Makhnati
39 area. From 1979 through present, with only one
40 exception, the Sitka Sound herring resource has been
41 above the current 20,000 ton threshold, and the run has
42 averaged 75,342 tons in the recent five-year period
43 (2003 2007). Herring are managed under a conservative
44 management strategy that sets threshold biomass levels
45 below which commercial harvest does not occur and
46 limits harvest rates to 10-20 percent of total mature
47 spawning biomass. This is a time-proven strategy that
48 provides for conservation of the resource. The area
49 proposed for closure is so small that it is unlikely to
50 provide conservation benefits above the threshold and

1 harvest rate, especially due to the highly variable
2 nature of herring spawning behavior.

3

4

Jurisdiction Issues:

5

6

7 The Federal Board does not have
8 authority to close this area solely to commercial
9 herring fishing as suggested by some closure
10 proponents. Instead, the Federal Board would have to
11 close the area to herring harvest by all non-federally
12 qualified users, which would include all subsistence,
13 personal use, sport, commercial, or other harvests
14 occurring under state regulations. Such a closure is
15 not necessary to provide for continued federal
16 subsistence and would violate section 815 of ANILCA.
17 Such a closure may also be detrimental to subsistence
18 uses by unnecessarily limiting options for management
19 of commercial fisheries and thereby increasing impacts
20 to areas that are more important as subsistence use
21 areas.

21

22

Other Issues:

23

24

25 Herring biomass in Sitka Sound has
26 shown a long-term increase and is considered healthy.
27 The 55.3 total nautical miles of spawn in Sitka Sound
28 in 2008 was consistent with the recent 5-year average
29 of 54.8 nautical miles and above the long-term (1964-
30 2007) average of 42.4 nautical miles. The spawning
31 biomass after the 2008 fishery, as estimated by spawn
32 deposition surveys, is not available at this time,
33 although preliminary assessment of spawn deposition
34 indicates a record high level. The estimated average
35 spawning biomass from 1964-2007 is estimated at 30,617
36 tons, and the recent 5-year average spawning biomass
37 (2003-2007) is estimated at 75,342 tons. The 2008
38 season forecast biomass of 87,715 tons was the highest
39 on record. In contrast to the 2007 spawning event, in
40 2008 a significant portion of the biomass spawned on
41 Kruzof Island shoreline on the west side of Sitka
42 Sound. The Kruzof Island shoreline is not considered a
43 viable opportunity for setting subsistence branches due
44 to the distance from town, exposure to ocean surge, and
45 generally unfavorable shoreline structure for setting
46 branches. Significant spawning also occurred along
47 islands near the road system, including heavily used
48 subsistence areas of Kasiana and Middle Islands.
49 Unlike the 2007 season, very limited spawning occurred
50 within the federally claimed waters of Makhnati Island
in 2008. During the 2008 season, bad weather generally

1 did not impact subsistence users from accessing fishing
2 sites, and commercial harvests during the 2008 season
3 occurred well away from the Makhnati area. The 2008
4 commercial sac roe GHL of 14,723 tons was harvested on
5 three separate days. Two openings occurred March 25,
6 harvesting 1,147 tons in an area over 4 nautical miles
7 distant from the Makhnati area. On March 26, two one-
8 half hour openings occurred harvesting 9,380 tons. The
9 fishery boundaries for the March 26, 2008, openings
10 were just over 3 nautical miles from the Makhnati area,
11 though the actual harvesting occurred over 7 nautical
12 miles west on Kruzof Island shoreline. The third
13 opening occurred March 31 harvesting 3,973 tons with
14 the nearest open waters being 5.5 miles distance from
15 the Makhnati area.

16

17 Recommendation: Oppose.

18

19 CHAIRMAN ADAMS: Could you repeat that.

20

21 (Laughter)

22

23 CHAIRMAN ADAMS: I was preparing myself
24 to listen to a long, you know, explanation from you,
25 George, but would you please repeat what you just said
26 because it went by fast.

27

28 (Laughter)

29

30 MR. PAPPAS: Yes, sir. The State
31 agrees with the OSM analysis to oppose the proposal.
32 We have no new information.

33

34 Mr. Chair.

35

36 CHAIRMAN ADAMS: Thank you. Mr. Bangs.

37

38 MR. BANGS: Thank you, Mr. Chairman.
39 George, in your opinion, I'd like to ask you the same
40 thing I asked Terry, is the State more likely to stay
41 out of that area now that this has come about or it's
42 just a coincidence that they haven't opened that in the
43 last two years.

44

45 MR. PAPPAS: Mr. Chair. Mr. Bangs.
46 Yeah, the Department's required to distribute the
47 commercial harvest by fishing time and area as the --
48 if the Department determines that it's necessary to
49 ensure subsistence users have reasonable opportunity to
50 harvest the amounts of herring spawn necessary for

1 subsistence users, so they are required to distribute
2 the effort in the fishery itself. Now, the vast
3 majority of the subsistence harvest is taken in the
4 State fishery outside of that area and as Terry had
5 mentioned earlier, they do move the boats around, and
6 if I remember correctly from last year, in the last 20
7 years, I think there's actually been a commercial
8 fishery inside the boundary one time, near the
9 boundary, yes, but inside, I think just one time.

10

11 I would assume that the commercial
12 fisheries managers are fully aware of this issue and do
13 not want to reduce the impacts on subsistence users if
14 possible.

15

16 CHAIRMAN ADAMS: Anyone else.

17

18 (No comments)

19

20 CHAIRMAN ADAMS: Thank you, George.

21

22 MR. PAPPAS: Thank you, Mr. Chair

23

24 CHAIRMAN ADAMS: Okay. Any other

25 Federal people.

26

27 (No comments)

28

29 CHAIRMAN ADAMS: State.

30

31 (No comments)

32

33 CHAIRMAN ADAMS: Okay. Mr. Miller,

34 you're up.

35

36 MR. KOOKESH: You're going to tribes.

37

38 CHAIRMAN ADAMS: Uh-huh. Following

39 that will be Heather Woody, Michael Baines.

40

41 Go ahead, sir.

42

43 MR. MILLER: Thank you, Mr. Chair.

44 Thanks for delaying this portion anyways so I could

45 come here and speak for a few minutes.

46

47 And basically our subsistence needs are

48 not being met and that's about it.

49

50 No, I'm just joking.

1 (Laughter)
2
3 MR. MILLER: We've got all kinds of new
4 information.
5
6 CHAIRMAN ADAMS: Well, I was preparing
7 myself to listen to a long one, too, Mike, so you'd
8 disappoint me if you did.
9
10 MR. MILLER: No, thank you again for
11 giving me a few minutes here to talk and welcome to --
12 I guess we're not in Sitka, but it's just nice to see
13 everybody again. We've talked about this issue quite a
14 few times and here we are again.
15
16 So for the record my name is Mike
17 Miller and I'm a member of the Tribal Council of the
18 Sitka Tribe. I'm a subsistence harvester for many
19 years in the Sitka herring egg fishery. I harvest a
20 lot of eggs for family and friends and a lot of
21 extended family and friends all around the state and
22 outside of the state as well.
23
24 We're here once again to talk about
25 this issue and I guess I'm, you know, a couple of the
26 comments that were made here is kind of where I'm going
27 with this because we have talked about it and talked
28 about it and talked about it and everybody has good
29 intentions but the good intentions aren't working
30 otherwise we wouldn't be here. The numbers, it looks
31 like for this year's harvest are once again well below
32 the amount necessary for subsistence, and I believe
33 that's the last three out of four years we've been in
34 that situation, so for me, you know, we've looked at
35 all kinds of different scenarios and how to work with
36 the industry and work with the State to fix this
37 situation but I don't want to be here five years from
38 now still looking at different ways to fix this
39 situation and still have the same situation.
40
41 CHAIRMAN ADAMS: I've heard you say
42 that before, too, so.....
43
44 MR. MILLER: Which I guess it's not
45 good to be here again doing it.
46
47 CHAIRMAN ADAMS: It's good to repeat
48 yourself thought.
49
50 MR. MILLER: But, Mr. Chair and Board

1 members, you know, the proposal is to close those
2 waters for commercial fishing. And I really think
3 that's -- having tried to work through this process
4 with the State and industry I think that's where we
5 need to go, I think. We need to continue to look at
6 ways to open it but I think that this Board's role and
7 the Federal Board's role -- or this Council's role and
8 the Federal Board's role is to protect subsistence.

9
10 It seems like often times we've been
11 approaching it to say, well, you know, let's be careful
12 that we don't adversely affect commercial, but we're
13 seeing the compromise of subsistence and, you know, we
14 don't have all the answers but what do you do when
15 you're not meeting subsistence needs, so that's why I'm
16 speaking in support of this proposal. Let's continue
17 to work with the industry and the State to figure out
18 ways to better subsistence opportunities but let's do
19 it by saying subsistence is the priority and go ahead
20 and support the closure there.

21
22 I don't believe the State really, at
23 times, has the management wish to follow Federal
24 guidelines as closely as they could. And there was an
25 interesting incident this last year involving marine
26 mammals, and the State, it turns out for the Sitka
27 herring fishery has no incidental take permit for
28 marine mammals and they've been requested to get that
29 from the Federal government but their answer to that is
30 just that there are no marine mammals involved in this
31 fishery are affected by it and we know that's not true.
32 But technically, you know, they're leaving the
33 fishermen out to hang right now because if they get
34 entanglement they're not covered by any permit.

35
36 So what I get worried is -- is that
37 sometimes you get these -- the State might not fully
38 understand the whole -- or fully appreciate the whole
39 issue that we have before us. It's -- we're at the
40 desperate stage, you know, we're that far off from
41 getting our needs met and that's why we're here again
42 with you guys.

43
44 I guess our Staff is going to -- and
45 other council members are going to speak more to the
46 issue. I'd be happy to have -- you know, if there's
47 any questions for me on this, but I do have another
48 meeting I need to go to as well.

49
50 CHAIRMAN ADAMS: Any questions anyone.

1 Mr. Bangs, go ahead.

2

3 MR. BANGS: Yeah, thank you, Mr.
4 Chairman. Yeah, I'm struggling with this a little bit
5 because I see that this is, you know, this closure
6 would give a space for Federal-qualified users, which
7 it already is, and they haven't fished there and the
8 needs are still not being met so I'm trying to figure
9 out what the correlation is between the two. This
10 closure doesn't seem like it would make any difference
11 to your needs being met and I'm wondering what --
12 there's got to be a better approach to getting your
13 needs being met if -- if history here shows me, the
14 literature I have, it wouldn't make any difference to
15 your needs being met and that's where I'm kind of
16 trying to fit the two together because they don't seem
17 to correlate.

18

19 Thank you.

20

21 MR. MILLER: Mr. Chair, thank you. I
22 don't think as with any fish, that anything is ever
23 going to be guaranteed for needs being met. There is,
24 you know, a few things that -- that probably will be
25 presented here as to the affects fisheries might have
26 on -- on needs being met, even if they're not in the
27 specific area there, if they're just close to it or
28 things like that and -- and also if they do occur in
29 the area, specific to the Makhnati waters, what affect
30 that could have on the needs, such as if the fish are
31 getting scared out of that area, if the seining in that
32 area or in the area adjacent to that is actually
33 causing the fish to stop spawning and I think Heather
34 Woody will present a little bit of information that
35 we're finding that the fish actually can start
36 reabsorbing their eggs and just move to another place
37 or not spawn at all.

38

39 But I guess to -- you know, to
40 guarantee one thing or another, I don't think any of us
41 can do that, the same as the State can't guarantee
42 that, you know, obviously that needs are going to be
43 met with the way things are existing.

44

45 So to get back what Mr. Suminski said
46 is, you know, we're dealing with numbers, I guess and
47 we can boil it right back down to what Mr. Kookesh said
48 is the numbers say the needs are not being met, so do
49 we stay with leaving things the way they are,
50 management wise, or do we start changing it. And I

1 think this is a positive step -- like I say it's going
2 to be continued to be refined even if it -- if it were
3 closed, we still would be at the table with the
4 industry and the State saying, well, let's -- let's
5 make sure that we're doing this right, we're not just
6 trying to close it and walk away from it, this is a
7 good faith effort to continue working on it but I think
8 we're just going about it the wrong way, we're just
9 trying to prove and guarantee that, you know, that
10 we're absolutely 100 percent sure that this is going to
11 work but we're coming it from the standpoint of not
12 wanting to jeopardize anything with the commercial
13 industry when I think we should be coming from the
14 other direction and say, well, we got to do everything
15 we can for subsistence first to make sure that's
16 protected, and then -- and then try to work the other
17 user groups back into it. So in a very indirect way
18 that's -- I hope that answered your question.

19

20 MR. KOOKESH: Question.

21

22 CHAIRMAN ADAMS: Mr. Kookesh.

23

24 MR. KOOKESH: Yeah, just a few comments
25 -- maybe one good comment. The area we're talking
26 about is one square mile; is that correct?

27

28 MR. MILLER: I don't believe it's quite
29 that big but I -- for some reason I'm -- in the 600
30 acre range -- so it's just over a square mile then.

31

32 MR. KOOKESH: And the next thing is, if
33 I'm correct and I thought that the -- the idea was that
34 this is Federal waters and we could go to the Federal
35 Subsistence Board and have an ally, a common
36 relationship, I thought this was -- this was what this
37 was about, about Federal -- the Federal, like their own
38 -- something out of their pocket. But the other -- the
39 other thing that -- that's just a comment, but my -- my
40 question is, I think Suminski was talking about in-
41 season regulatory authority. The herring spawn is like
42 this, I mean tell me how long it takes to do in-season
43 regulatory authority because if you look at the deer
44 season and the doe season, that's a different -- that's
45 a whole different animal when you're talking about
46 exercising in-season regulatory authority because by
47 the time you play that one with the Sitka herring
48 fishery it's -- it's over, I mean give me a break.

49

50 MR. MILLER: Mr. Chair.

1 CHAIRMAN ADAMS: Go ahead.

2

3 MR. MILLER: If I could respond to
4 that. We assume, too, that -- also that the Federal
5 Subsistence Board would, you know, just apply Federal
6 standards to the Federal waters, that was our direct
7 line of reasoning so it's been a bit frustrating that
8 that hasn't happened yet.

9

10 And then your comments on the in-season
11 management, that was an option that was recommended,
12 you know, and that was always held out that this is an
13 option for the Tribe, if you -- if you see your needs
14 aren't being met you could petition for emergency
15 closure and that is a new thing that did happen this
16 year, we found out that that is not a viable option at
17 all. There was concern this year that needs weren't
18 going to be met and so that petition process was
19 started, the answer at the end of the day was no, but
20 that no came a couple weeks after the fishery was over.
21 So it is too slow of a process to have any meaningful
22 effect on this helping subsistence.

23

24 CHAIRMAN ADAMS: Okay, I just want to
25 remind everyone again, you know, that ANILCA is the law
26 of the land, and Section .804 of ANILCA says that
27 subsistence will be guaranteed -- guaranteed a priority to
28 subsistence users and so that's one big tool that we
29 can keep reminding ourselves and, of course, you know,
30 as we go through the process of this proposal and if it
31 goes further, you know, to the Board, just to remind
32 them of that.

33

34 Also Floyd gave -- brought out a real
35 good point, that it is in Federal jurisdiction, so the
36 Feds have the authority to either open it or close it,
37 they can do whatever they want with it and I'm really
38 at a loss as to why they didn't give deference to the
39 Council because I think we had a real strong argument
40 when we -- when we presented it to the Board and, of
41 course, you know, it was just like the wind was taken
42 out of my sail when they -- when they voted against it.
43 And -- and so those two things, you know, we do have a
44 subsistence priority, it's addressed very clearly in
45 Section .804 of ANILCA and it's in Federal waters, so
46 they do have the authority to do what they want with
47 that area even though it's small, you know, so just
48 food for thought.

49

50 Any more, Mike.

1 MR. MILLER: Well, thanks, again, for
2 the opportunity to comment to you guys. Just in
3 closing, Mr. Chair, again, the argument, at least from
4 my standpoint, it is very simple and I hope it doesn't
5 get too complex and get away from the fact that the
6 needs aren't being met.

7

8 CHAIRMAN ADAMS: Thank you.

9

10 MR. MILLER: Thanks.

11

12 CHAIRMAN ADAMS: And while Heather's
13 coming up I just want to recognize an old friend that's
14 standing at the door over there, Mr. Tony Strong, just
15 waive your hand and it's good to see you, and welcome.

16

17 MR. KOOKESH: Can I make a comment.

18

19 CHAIRMAN ADAMS: Floyd, you want to
20 make a comment, go ahead.

21

22 MR. KOOKESH: Sure, while you -- while
23 you're getting prepared. You know I've been chartering
24 out of Angoon for years and -- and -- and every year at
25 the end of September the herring are still there, the
26 first week of September this year they all disappeared.

27

28 MR. KITKA: Why was that.

29

30 MR. KOOKESH: They all went, yeah,
31 Sitka or something. But just that observation, I've
32 never seen that happening where the herring just like
33 disappeared, totally left Danger Point, and we usually
34 have -- usually have in -- in August where the herring --
35 the herring are flipping from Danger Point to Parker
36 Point seven miles long, we haven't had that in two
37 years. So if there's indicators that are going to be
38 put out there, it should be one of those -- that should
39 be one of them.

40

41 CHAIRMAN ADAMS: Thank you, Floyd,
42 point well taken. Thanks. Heather, go ahead.

43

44 MS. MEURET-WOODY: Thank you for this
45 opportunity. For the record my name is Heather Meuret-
46 Woody. I'm a biologist for the Sitka Tribe and I'm
47 here today to speak on their behalf in support of
48 Proposal FP09-05.

49

50 I wanted to start by saying that the

1 Sitka Tribe believes that there's a conservation
2 concern despite what Fish and Game says. A closure is
3 necessary to maintain subsistence uses because
4 currently commercial fishing is getting the priority by
5 being allowed to fish and subsistence uses are being
6 limited and the Makhnati Federal water area is
7 important to subsistence users and the conservation of
8 the herring population in Sitka Sound.

9
10 ANILCA states that subsistence uses
11 must have a priority or a meaningful preference. When
12 subsistence needs are not being met then a closure for
13 non-subsistence users is required, otherwise the
14 commercial fishery gets their fish while subsistence
15 users are unable to get their share.

16
17 The Sitka Tribe has a memorandum of
18 agreement with the Department of Fish and Game to
19 collaborate on management of the Sitka Sound herring
20 fishery. Since the inception of the MOA in 2002, Sitka
21 Tribe has worked really hard with the State on this
22 issue. The current regulations has set the amount
23 reasonably necessary for subsistence at 105 to 158,000
24 pounds per year. The regulation also requires the Fish
25 and Game manager to disperse the commercial harvest of
26 herring if he finds it necessary to protect subsistence
27 resources or subsistence opportunity. These
28 regulations, unfortunately have not resulted in the
29 outcome that the Sitka Tribe feels is necessary,
30 meaning in 2001, 2005, 2007 and 2008 the amount
31 reasonably necessary for subsistence has not been met
32 under the State's management regime. We are asking for
33 a regulation that is going to ensure a meaningful
34 subsistence preference.

35
36 You could read more about this
37 regulation on Page 83 and 85 of your booklet.

38
39 I'd like to share with you some points
40 on how the commercial fishery impacts the subsistence
41 fishery. The commercial sac roe fishery disrupts
42 herring schools that are staging to spawn in customary
43 and traditional areas, this also includes Makhnati. We
44 are talking about hundreds of boats motoring all over
45 herring schools at one time and excessive test setting
46 that's disrupt -- disturbing herring spawning activity
47 and breaking up schools.

48
49 In 2007 fish and Game conducted 39 test
50 sets, most of them were in our traditional area.

1 The 2008 guideline harvest limit was
2 14,723 tons, or 30 million pounds. The 2008 commercial
3 herring fishery removed a large population of fish from
4 one school, 10,000 tons in one opening or 20 million
5 pounds. The record catch of a thousand tons made in
6 one set was at Shoals Point on the Kruzof Island
7 shoreline. The Tribe is concerned with this ever
8 increasing harvest while there are indications that
9 localized stock depletion has occurred and subsistence
10 needs are not being met.

11
12 Fish and Game told the Tribe that this
13 particular opening was the largest area ever opened at
14 one time during the Sitka Sound sac roe fishery, thus,
15 they were unable to control the fishery and they did
16 not have an understanding of how much herring was in
17 the Shoal's Point area. In fact, no one knew how much
18 fish were caught in the nets until they pumped the fish
19 out at the processors. Some of these nets filled with
20 herring sat in the water for three to four days
21 following the fishery. By the time the fish were
22 unloaded at the processor the quality was poor as the
23 female herring expelled their eggs and the catches were
24 subsequently downgraded.

25
26 In the last 12 years test fishing in
27 the commercial fishery has occurred in our traditional
28 area most every year. If you turn to Page 12 and 13 of
29 the handout that I gave you I included maps of all the
30 commercial openings for the last 12 years.

31
32 And, in fact, in 2006 and 2003 and 2005
33 the commercial fishery did occur in the Makhnati
34 Federal water area.

35
36 We believe that once these fish move
37 into their spawning grounds they can be easily
38 disturbed by the test setting and the fishing causing
39 them to vacate their beach where they normally would
40 spawn and spawn on a different beach or maybe even
41 leave the Sound completely. This phenomenon ties into
42 the theory that old adults or the repeat spawners have
43 the knowledge of the migration routes and are those
44 that are responsible for the persistence of the live
45 cycle pattern and spacial homing. They can lead or
46 entrain the younger fish to maintain the life cycle
47 pattern. This is called entrainment of the young into
48 the adult spawning migration. The commercial fishery
49 in 2008 removed millions of these repeat spawners, the
50 older adult fish from the population, possibly

1 disrupting future spacial homing.

2

3 Also when the commercial fishery opens
4 around the traditional area, including Makhnati, it
5 appears to be impacting the prespawning herring causing
6 the schools to move out and spawn on the Kruzof Island
7 shoreline. We have seen this occur in seven out of the
8 last 10 years. In 2008, after the record opening on
9 the Kruzof Island shoreline the fish immediately
10 spawned the next morning at Shoal's Point. The Kruzof
11 Island shoreline appears to be unfavorable for larval
12 retention, unlike the northern part of the Sitka Sound
13 where larval can find optimal survival conditions. If
14 you turn to Page 14 I included a map of Sitka Sound
15 oceanography.

16

17 Along the Kruzof Island shoreline, the
18 larvae could be evicted right out of the Sound and
19 therefore not recruit into the population and this may
20 be why we're experiencing no recruitment in the Sitka
21 Sound herring population.

22

23 I'd also like to point out that
24 subsistence herring egg harvesters use the southeast
25 Kruzof shoreline less often than other areas because
26 the bottom is sandy and it provides a poor quality of
27 eggs and they are limited to using mostly small boats
28 and skiffs so traveling that far is not preferred.

29

30 I'd like to continue with some points
31 on why a closure is necessary to conserve the herring
32 population.

33

34 We believe that the ASA model the
35 Department uses is insufficiently estimating Sitka
36 Sound biomass. I'd first like to define the term
37 biomass. Biomass is based on the weight of fish, not
38 the actual number of fish in an individual population,
39 that's called abundance. Fish and Game uses herring
40 biomass as a surrogate for abundance. We believe that
41 Fish and Game lacks knowledge on the larval and
42 juvenile stages of herring life history in Sitka Sound.
43 The larval stage is the most important factor for
44 determining year class strength. The ASA model only
45 estimates mature fish recruited into the population.
46 The ASA is a predictive model that reflects the natural
47 mortality assumptions that you make, it doesn't include
48 mortality from natural diseases or even increased
49 predation on early life stages of herring. In 2007,
50 pathology results from herring samples collected in

1 Sitka Sound at Cannon Island had almost a 30 percent
2 prevalence of ichthyophonus; it's a herring disease,
3 with almost 20 percent of those fish demonstrating
4 visible signs of the disease. Ichthyophonus prevalence
5 is higher in older fish over age five. 92 percent of
6 our fish in 2008 were over age five.

7
8 We also believe that Fish and Game
9 lacks knowledge on stock structure and site fidelity or
10 spacial homing. Sitka Tribe has researching Sitka
11 Sound herring since 2004, we have determined not only
12 two separate stocks of herring are present in Sitka
13 Sound, but actually these fish do exhibit site fidelity
14 but to what extent is currently being addressed.

15
16 The State keeps telling everyone that
17 the spawn location is the prime factor affecting
18 harvester success, however, herring have spawned within
19 these Federal waters 34 out of 44 years or 77 percent
20 of the time.

21
22 Herring is not as highly variable as
23 Fish and Game believes.

24
25 Site fidelity does occur. Herring have
26 spawned in the Middle Island, Kasiana Island area 43
27 out of 44 years or 98 percent.

28
29 Herring show a degree of fidelity
30 returning to spawn repeatedly in the same site 75 to 95
31 percent of the time.

32
33 Fish and Game has stated that the Sitka
34 Sound herring population has been declining since 2004.
35 The herring are also growing slower than they used to
36 and they're maturing later. Maturity in herring is
37 size dependent. And Fish and Game has stated that the
38 Sitka Sound herring are experiencing lower maturity
39 rates than previously observed. From 1978 to 2001 35
40 percent of age three fish were mature and 100 percent
41 of age four fish were mature and then recruited into
42 the population. Now, Fish and Game is observing that
43 no age three and no age four fish are mature or
44 recruiting and even age five and six fish are not
45 mature yet.

46
47 During the 1920s through the 1960s when
48 the herring fleet enjoyed unrestricted entry and the
49 herring were harvested for reduction, for the most part
50 there was a strong recruitment for four year olds, and

1 you can see this age, weight, length data on Page 15 of
2 your handout. Basically I would just focus on the
3 columns for three and four year olds that shows the
4 recruitment.

5
6 Fish and Game has stated this trend is
7 very different than what has been observed between 1978
8 and 2001. There's no other herring population that are
9 experiencing this trend. And for forecasting they're
10 not really sure what this means. Fish and Game is now
11 compensating for this trend by using two different
12 maturity schedules in the ASA model.

13
14 In 2008 Fish and Game forecast said
15 that 57 percent of the biomass was over age eight, and
16 like I said 92 percent were over age five. When you
17 have older fish in a population which is experiencing
18 fewer recruits they have slower growth rates and slower
19 maturity rates, that means the population is declining.
20 The population age is relatively older when recruitment
21 is poor. And this is exactly what we're seeing in
22 Sitka Sound.

23
24 I'd also like to share with you some
25 points on why a closure is necessary to continue
26 subsistence uses of herring.

27
28 The Tribe is concerned that when, in
29 2008, the State allowed 10,000 tons of repeat spawners
30 consisting of over eight year old fish to be harvested
31 by the commercial fleet, that left us with a seriously
32 reduced biomass of spawning herring upon which
33 subsistence users depend and ultimately a poor quality
34 of spawn deposition of herring in our traditional
35 areas. In 2008 the Tribe's surveys have documented
36 another year where the amount reasonably necessary for
37 subsistence has not been met. The Tribe has already
38 documented with our surveys, our subsistence areas,
39 we've included these on Page 7 through 11. We
40 documented these areas to show that these are where we
41 subsist and it was to allow for minimal disruptions of
42 the commercial fishery on the subsistence fishery.

43
44 On March 21st, 2008, the Tribe sent a
45 letter to Fish and Game requesting a no commercial
46 fishing zone which included the Makhnati Federal waters
47 as well as Middle Island, Kasiana and the Halibut Point
48 Road system. At the discretion of Fish and Game they
49 refused to agree on the requested no fish zone, I
50 included a copy of this letter on Page 16 and the map

1 is on Page 17 of the requested no fish zone.

2

3 The MOA between the Tribe and the State
4 calls for collaborative management. The highest
5 concentration of herring spawn in Sitka Sound in 2007
6 was in the Makhnati Federal waters area, and so I
7 included the spawn density map for you on Page 18, the
8 large dots mean the most spawn and it was all on the
9 Makhnati Federal waters. The Makhnati Federal waters
10 are very important to the perpetuation of herring.

11

12 An area closure would protect
13 subsistence herring, egg harvesting, ensure the
14 adequacy of subsistence harvest and protect herring
15 spawning sites. This success is documented in the
16 Nelson Island and Kuskokwim herring fishery and the
17 Cape Romanof Kokachik herring fishery. Also the
18 Canadian management requests that the fishing fleet
19 avoid excessive disturbance of herring caused by
20 vessels running back and forth over schools prior to
21 openings and the fleet is also requested to avoid
22 locations where local First Nations are gathering
23 herring for aboriginal food.

24

25 In conclusion, the subsistence needs
26 are not being met as the commercial sac roe fishery
27 takes a priority in Sitka Sound. The Tribe was, again,
28 unable to harvest the amount reasonably necessary for
29 subsistence uses of herring eggs in 2008, while the
30 commercial fishery pulled in a record 30 million
31 pounds. This year the Tribe harvested 71,936 pounds or
32 36 tons.

33

34 The commercial fishery disrupts the
35 life cycle pattern of Sitka Sound herring returning to
36 spawn by targeting the repeat spawners. The fishery
37 may also be causing the herring to vacate their beach
38 where they would normally spawn and spawn on a
39 different beach or maybe even leave the Sound
40 completely. The methods that Fish and Game uses are
41 questionable, as they seem to be missing data on all
42 life stages of Sitka Sound herring except for the
43 reproductive stage. When you have older fish in a
44 population which is experiencing fewer recruits, lower
45 growth rates and slower maturity rates, this means the
46 population is declining. An area closure would protect
47 subsistence herring egg harvesting, ensure the adequacy
48 of subsistence harvest and protect herring spawning
49 sites.

50

1 Why can't the commercial fleet be
2 requested to avoid important locations for local
3 subsistence herring egg harvesters.

4
5 The Makhnati Island Federal waters
6 consist of 600 acres, while the Sitka Sound consists of
7 many hundreds of miles of shoreline. Why is the
8 commercial fishery so concerned about this one little
9 area.

10
11 Thanks, that's all I had.

12
13 CHAIRMAN ADAMS: Thank you, Heather.
14 That's a very detailed and enlightening report. I was
15 really impressed with what you had to share with us.
16 Is there any questions by members of the Council.

17
18 Donald, go ahead.

19
20 MR. HERNANDEZ: It sounds to me like
21 the commercial herring fishery is awfully concerned
22 about these 600 acres when they should really be
23 concerned about their fishery as a whole, from what you
24 have just presented to us, it sounds like kind of a bad
25 situation for the herring stocks in Sitka Sound.

26
27 And I guess my question is, you said
28 that this is all research that Sitka Tribe has done
29 since 2004; is that what you said?

30
31 MS. MEURET-WOODY: Mr. Chair. Mr.
32 Hernandez. That's correct, we started researching
33 herring in Sitka Sound in 2004.

34
35 MR. HERNANDEZ: So prior to your
36 research efforts, which sound fairly extensive, had any
37 of this type of research been done by the Department of
38 Fish and Game or anybody else concerned with the
39 commercial fishery?

40
41 MS. MEURET-WOODY: Mr. Chair. Mr.
42 Hernandez. In Sitka Sound, the only research that is
43 done by the State is just the reproductive stage.
44 Other areas in the state, for example, Prince William
45 Sound, they encompass all life stages of herring as
46 they know that the larval stage is the most important,
47 that's where most of the mortality occurs. As a
48 biologist for Sitka Tribe I've been researching, not
49 only adults but also juvenile and larval stages of
50 herring, I actually know where larval herring retain to

1 and juvenile herring, you know, hang out and grow and
2 Fish and Game doesn't.

3

4 MR. HERNANDEZ: How about this, you
5 mentioned separation of stocks, I don't know what the
6 right term is, but this information, I think you've
7 been researching on just how many distinct stocks of
8 herring may be present in Sitka Sound and how they're
9 impacted by the commercial fisheries, I'm thinking back
10 to two years ago, I think it was, the fishery was moved
11 up to Salisbury Sound and we heard testimony at our RAC
12 meetings at that time, I think Harvey, you -- Mr. Kitka
13 expressed some doubts as to whether or not those were
14 actually Sitka Sound herring that were being fished on,
15 and I remember in particular, Ralph Guthrie, long time
16 resident, seemed fairly knowledgeable, testified that
17 he was very skeptical about that, is that something
18 that you know more about and can tell us about?

19

20 MS. MEURET-WOODY: Mr. Chair. Mr.
21 Hernandez. I have done otolith chemistry on adult and
22 juvenile herring in Sitka Sound, that's their ear bone,
23 and it's like a little black box recorder, it's
24 precipitated out we think at conception. So while the
25 egg is incubating the surrounding water is being laid
26 down inside this otolith, so it's like a little black
27 box, a mini-recorder of its entire life history.

28

29 We found that the otolith chemistry is
30 from -- we call it chemical area one or Salisbury Sound
31 is distinct from chemical area two, which is the
32 northern and southern part of the main Sitka Sound, so
33 that would be like from Cape Kruzof including Middle
34 Island, Kasiana. If I had a map it would be a little
35 easier. So we found that the chemical area was
36 distinct from chemical area two, meaning Salisbury
37 Sound was distinct from northern and southern Sitka
38 Sound, indicating that these fish stocks can be
39 considered to be separate groups of randomly mating
40 reproductively isolated individuals with temporally and
41 spacial integrity which exhibit differences in life
42 history parameters.

43

44 So we conclude that Salisbury Sound is
45 a separate distinct stock than the majority of Sitka
46 Sound stock.

47

48 MR. HERNANDEZ: How about in your
49 otolith studies there, do you see that there are
50 herring stocks that may be distinct to other locations

1 that sometimes spawn in Sitka Sound and are being
2 impacted by the commercial fishery there?

3

4 MS. MEURET-WOODY: Mr. Chair. Mr.
5 Hernandez. At this point I have samples that are yet
6 to be run that include south of Sitka all the way down
7 to Dorothy Narrows area and Hoonah Sound samples. The
8 thing with the majority of Sitka Sound is the
9 homogeneous water, so yes we found fish that spawned --
10 we broke the Sound up into four zones, we found that
11 fish in zone two and three were very similar to each
12 other and it was because of the homogenous of the ocean
13 water whereas we were able to really distinctly pull
14 out Salisbury Sound. And when we do otolith chemistry,
15 these are trace elements, so this is what the fish eat,
16 where they live, what type of water they prefer, what
17 temperature, do they prefer upper water column, lower
18 water column, you know, what do they like to eat, where
19 they migrate to, where they return to spawn, where they
20 were spawned, so it's a very distinct chemical
21 defecation that shows that we have identified two
22 separate stocks right now.

23

24 CHAIRMAN ADAMS: You done, uh.

25

26 MR. HERNANDEZ: Yes.

27

28 CHAIRMAN ADAMS: Yeah, it's
29 interesting, Heather, when we were in Sitka, you know,
30 and we spent, oh, I don't know hours and hours, a day
31 and a half or so, you know, listening to testimonies
32 from the residents of Sitka when this proposal was
33 being prepared to send to the Federal Subsistence
34 Board, and we did hear from many of the elders, such as
35 Ralph Guthrie and their testimony was that the
36 Salisbury Sound stock was separate from any of the
37 others. And I'm happy to say that, and I'm also happy
38 to, you know, give this document -- you put this
39 together, and, you know, so we have traditional
40 ecological knowledge, you know, coming together with
41 Western Science and as this Council has always been,
42 you know, supportive of TEK projects so that we can
43 document these things, you know, from TEK point of view
44 and then backing it with Western Science, bridging them
45 together so that when we do management plans for any
46 area such as that, you know, then we can use the
47 knowledge of both to develop a scheme that will be
48 compatible with the area, so I really appreciate your
49 report and I'm sure it's going to come up, if not by
50 anyone else, but by me as we go through deliberations.

1 Thank you.
2
3 Any other comments.
4
5 (No comments)
6
7 CHAIRMAN ADAMS: Questions.
8
9 (No comments)
10
11 CHAIRMAN ADAMS: Thank you. Michael
12 Baines.
13
14 MR. BAINES: Thank you, Mr. Chair.
15 Council members. I'm Michael Baines from the Sitka
16 Tribal Council. And I hope we're going to alleviate
17 some of your concerns about sending this back to the
18 Federal Subsistence Board.
19
20 I just want to say a few things that --
21 there is a conservation concern no matter what the Fish
22 and Game and fishermen say, there -- anybody you talk
23 to will tell you that there has been herring all the
24 way from Cape Ommaney to Salisbury Sound and in your
25 handout you could see that on the letter from Booth
26 Fisheries on Page 6, Booth Fisheries was a reduction
27 plant that operated in the area a while back.
28
29 Also the commercial fishery impacts the
30 subsistence fishery when you have 50 seiners and 50
31 power skiffs and 50 tenders and other boats, like the
32 Coast Guard and State Troopers and other enforcement
33 boats and they have skiffs holding the corks and little
34 boats running around to sample the herring, it's just
35 going to impact any school of fish, it's ridiculous to
36 think that it wouldn't.
37
38 There was fish in one of the areas
39 where we get a lot of our herring, Kasiana, a couple
40 years ago and they held a fishery right across by --
41 along the shore at Halibut Point Road and just that
42 many boats just scares the fish away, if they don't get
43 scared away they have a false spawn which means there's
44 no eggs. The -- the water will turn white, but when we
45 set our branches there, we'll pull them out after they
46 stop spawning and there's no eggs on them because the
47 males -- the -- the eggs just didn't get laid there.
48
49 Also in 2005 when the amount necessary
50 for subsistence wasn't met the Department of Interior

1 tried to blame it on other things like the weather,
2 some -- that we're just not going out and setting our
3 branches and at the Anchorage meeting somebody even
4 suggested we're getting lazy which I can assure you
5 isn't the situation.

6

7 If you look on the maps on Pages 2
8 through 5 of the handouts that we prepared for you
9 it'll show the openings, which are very close or in our
10 subsistence areas. Our traditional subsistence areas
11 consist of Kasiana, Middle Island, Makhnati area.
12 Areas close to town because they're not prone to the
13 big Southeast winds and ocean swells and a lot of our
14 subsistence gathers use small boats. And one of the
15 favorite things that the fishermen will tell you is
16 that the fish have tails but the commercial boats have
17 propellers that can go chase the herring whenever they
18 want but there's only a few places where we can --
19 where it's suitable for us to set our branches. So
20 that's why we're trying to protect the Makhnati area.

21

22 Also I think a closure is necessary to
23 conserve the herring population. It's just a small
24 area out of the whole Sitka Sound but there used to be
25 a lot more fish and for some reason the Fish and Game
26 and the fishermen think the herring population is
27 healthy but just look at the Booth Fisheries letter and
28 you'll see that there's just a small fraction of the
29 fish that there used to be.

30

31 We don't want to see it end up like the
32 fisheries in Lynn Canal, West Ben Canal, Kashaks (ph),
33 Cat Island, Craig and Seymour Canal, even Tenakee
34 Inlet, which there's little herring in those areas
35 anymore.

36

37 A closure is also necessary to continue
38 subsistence uses of the herring, in particular, to get
39 herring eggs, subsistence needs are not being met while
40 the commercial fishing has a priority and, in
41 particular, our tribal attorney pointed out that ever
42 since the guideline harvest level has been over 10,000
43 pounds, those are the years that we haven't been
44 getting our herring eggs.

45

46 The State claims that no subsistence
47 harvesting occurs in the Makhnati Federal waters, but
48 if you look at your handout on Page 7 you'll see that
49 those little marks are areas where we've gotten herring
50 eggs since -- from 1945 to 1996 and you'll see a couple

1 marks around the Makhnati area.

2

3 And I just want to close by repeating
4 that there is a conservation concern. The herring are
5 just getting wiped out and I think they'll just keep
6 fishing them until there isn't one herring left.

7

8 The commercial fishing in the area does
9 scare the fish away or trigger a false spawn, and it
10 could also help preserve the herring population.

11

12 CHAIRMAN ADAMS: Thank you, Michael.

13

14 (Laughter - microphone fell)

15

16 CHAIRMAN ADAMS: Oh, that was me, okay,
17 I was wondering how that popped out of there by itself.

18

19 (Laughter)

20

21 MR. BAINES: I have one more thing.
22 There's a map in one of our handouts that shows the
23 miles of spawn over the years and if you look at those
24 maps, just keep in mind that Kruzof Island is about 25
25 miles long and they say like in 2002 there was 42
26 nautical miles of spawn and just for me, it's hard to
27 figure out how those little squiggles can add up to
28 42.6 miles when Kruzof Island is 25 miles long.

29

30 And that's it.

31

32 CHAIRMAN ADAMS: Okay. Questions from
33 anyone.

34

35 (No comments)

36

37 CHAIRMAN ADAMS: Gunalcheesh.

38

39 MR. BAINES: Thank you.

40

41 CHAIRMAN ADAMS: Peter, you're next.
42 And then after that, Carrie.

43

44 MR. NAOROZ: Thank you, Mr. Chair. For
45 the record my name's Peter Naoroz and I'm with
46 Kootznoowoo Inc., the ANCSA Corporation for Angoon,
47 Alaska. Yesterday I testified to the Council about the
48 importance of listening to communities and I'd just
49 like to underscore that.

50

1 We're very fortunate to have Sitka
2 Tribe taking the lead in gathering information and
3 doing the necessary work for this important stock of
4 fish, important to all of Southeast.

5
6 I share the opinion of at least one of
7 the Council members, who, I think, commented how --
8 what a concern this is after the report that the Sitka
9 Tribe biologist gave but I think there is a reason to
10 be optimistic, and that's that there is good science
11 out there, and that's really what I'd like to speak
12 about for a moment.

13
14 In addition to listening to the
15 community, what the community has done here has
16 provided that science to us. That science was missing
17 from the report provided by the State and that science
18 was missing from the report provided by the Office of
19 Subsistence Management Staff. For that reason I would
20 give those reports minimal weight and I'd give the
21 Sitka Tribe's report great weight. And I think that's
22 the difference between last year and this year, which
23 brings up another point. I think it's just wrong for
24 the Office of -- the Federal Subsistence Board to ask
25 for unanimity in these situations, this is a matter of
26 responsibility. Their job is to make sure that this
27 need's met, not to push everybody in the corner and get
28 along.

29
30 I'm also very impressed by the fact
31 that there's a memorandum of understanding right now
32 and that this Council has been provided the basis for
33 the disagreements in that. And I would cite all those
34 matters and talk about it in your deliberations.

35
36 I appreciate the time that I'm allowed
37 to speak and I'm glad to answer any questions.

38
39 CHAIRMAN ADAMS: Thank you, Peter. Is
40 there any questions. And then, instead of Carrie, I
41 think Ron is trying to -- going to have to catch an
42 airplane here.

43
44 MR. PORTER: No, I'm fine.

45
46 CHAIRMAN ADAMS: You're okay.

47
48 MR. PORTER: The plane already left,
49 I'm fine.

50

1 CHAIRMAN ADAMS: Oh, okay, all right.
2
3 (Laughter)
4
5 CHAIRMAN ADAMS: Great, any questions.
6
7 MR. KITKA: He's stuck here with us.
8
9 (Laughter)
10
11 CHAIRMAN ADAMS: You're stuck here with
12 us, all right. I wish I'd have known earlier, then we
13 would have put you up there. But, okay, any questions
14 for Peter.
15
16 Lee, go ahead.
17
18 MR. WALLACE: Thank you, Mr. Chair.
19 Peter, yeah, I wholeheartedly agree with you totally,
20 your thought process.
21
22 What's happening here what I'm
23 observing from the Federal government is they have that
24 trust responsibility with organized, recognized tribes,
25 and what I'm seeing here from -- Sitka Tribe's been at
26 this issue for a number of years and what I'm seeing
27 from the Federal government is their failure to honor
28 that trust responsibility to protect their wishes and
29 their concerns that they have with their fishery of
30 their herring roe and definitely I just see it as a
31 lacking and I think that's why I say -- you know, our
32 Chairman says, yeah, it's -- ANILCA's the law, but you
33 know what it's failing us and it keeps on deteriorating
34 and we just keep on losing ground as indigenous peoples
35 of Alaska and so it's time to wake up and, you know,
36 make that fight to the Federal government to say, hey,
37 you got to turn things around and honor those trust
38 responsibilities that you have with us.
39
40 MR. NAOROZ: Mr. Wallace. Through the
41 Chair. Kootznoowoo cannot afford to do this type of
42 work, this study that's being done -- that's done by
43 Sitka, and it really is a diminishment of our rights,
44 the ones that we negotiated as part of ANCSA and then
45 ANILCA. And I hadn't really -- I had made a note to
46 talk about that and how important it is but it's an
47 ongoing thing and I think that inaction here on this
48 modest proposal is, you know, jeopardizes, you know, in
49 a lot of our people's minds, you know, whether that
50 settlement was done, is done, and furthermore, you

1 know, if I was just to make a bold recommendation, I
2 would start the process to go to extra-territorial
3 jurisdiction based on what I heard today. I wouldn't
4 just stop at Makhnati Is -- I -- these Federal waters,
5 if people agree, I'd take it all the way to high tide,
6 and I -- and, you know, I just can't speak any stronger
7 in favor of the Tribe's position here.

8

9 And so, thank you, Mr. chairman.

10

11 CHAIRMAN ADAMS: Thank you, Peter,
12 appreciate it.

13

14 Okay, Carried, you're next.

15

16 MS. SYKES: Thank you, Mr. Chair and
17 Council. On this proposal we are deferring to Sitka
18 Tribe's recommendations. I can see that they've done a
19 lot of work and the Central Council has been on record
20 as supporting their efforts on many occasions and, in
21 fact, I believe there was a resolution of support at
22 the last General Assembly. I'd have to check on that
23 to make sure. But I know that we have provided that
24 support.

25

26 This is a very important resource, not
27 only just to Sitka and to Southeast, but the Natives
28 statewide, this isn't just Southeast Alaska. And, you
29 know, I grew up on herring eggs, I love them. My
30 grandbabies love them. They've been home for two weeks
31 now and I pulled out my last two bags of herring eggs,
32 they want to eat them for breakfast, I mean they just
33 really love them, and that's how I was raised.

34

35 I keep on hearing talk about the
36 biomass and it being deeper or the spawn being further
37 and that brings up the concern again about energy, you
38 know, the cost of fuel, to be able to go out and get
39 those herring eggs, but I guess the bottom line is the
40 needs aren't being met, the eggs aren't there. And I
41 think we need to make changes to meet these future
42 subsistence needs.

43

44 Jeannie Greene did a DVD and I have
45 copies for you, this is with Sitka Tribe and I helped
46 with this, but I don't know, I just don't want the
47 herring eggs to be a memory, you know, I want them to
48 be there for my grandbabies and so I'm speaking on a
49 personal note and also on behalf of Central Council to
50 support this effort.

1 CHAIRMAN ADAMS: Gunalcheesh, Carrie.
2 Any questions of the Council.

3
4 (No comments)

5
6 MS. SYKES: Thank you.

7
8 CHAIRMAN ADAMS: Thank you. Mr.
9 Porter, you're next. I'm sorry you missed your plane,
10 sir.

11
12 Okay.

13
14 MR. PORTER: Mr. Chairman. Members of
15 the Council. My name is Ronald Porter. I am here as a
16 representative of SHA, the Sitka Herring Association,
17 which is made up of permitholders purse seine sac roe
18 in Southeastern Alaska.

19
20 We are opposed to the Makhnati
21 proposal. I'll read you a short excerpt -- and I'd
22 like to kind of blend some of my comments with some of
23 the stuff the State has had to say here, if you don't
24 mind, and I would like to add at the onset of this, we
25 believe in the State of Alaska science. The State of
26 Alaska has probably the best herring program in North
27 America and maybe in the whole world. There's been
28 more dollars, more time, herring has got more research
29 than salmon has got, and we live by the science the
30 State produces and we believe in it. And I want it
31 known on the record that I am very supportive of what
32 the State of Alaska has to say about their herring
33 program

34
35 The Sitka Herring Association, myself,
36 I'm one of the representatives that's a liaison person
37 between the Tribe, and the permitholders and the staff
38 and this is the fourth time we've looked at this
39 proposal. Three times before this body, twice before
40 the Federal Subsistence Board and then we had a task
41 force that looked at it. Nothing has changed.
42 Everything has remained the same.

43
44 We do not feel that the Sitka Sound sac
45 roe fishery is in any kind of trouble.

46
47 It's flourishing. It's some of the
48 highest biomasses it has had. The average miles of
49 spawn have stayed very consistent. We see 50 plus
50 miles of spawn on an annual basis. And in that 50

1 miles there's a lot of eggs. I realize that the
2 subsistence users have had some years that they have
3 not met their amount necessary and we have tried to
4 alleviate some of that by offering our vessels,
5 offering to take these guys, offering to pull their
6 branches because herring have tails, weather gets bad
7 and they can't get to their branches, we've tried to do
8 this. Last year we put a program together that we did
9 that very thing, but we had some problems, some of the
10 guys that had set branches, they couldn't find them for
11 whatever reason, somebody had beat them to them I got a
12 sneaking suspicion. But anyway we, as permitholders
13 there, have made some real effort to try to alleviate
14 the problem that they're not getting their subsistence
15 needs. We feel that the spawn is there. We see the
16 spawn. and we see the fish.

17
18 And the contention that when we go test
19 fishing or we go commercial or we fish there on the
20 quota that those fish leave the area is not correct. I
21 have some very sophisticated sounding gear on my vessel
22 and I was one of the first group that ever fished sac
23 roe in the state of Alaska so I know what I'm looking
24 at. And when we're test fishing I'm looking at those
25 schools of fish, after the fishery is over we look at
26 that stuff to see what's kind of going on and we go in
27 these areas and take a couple of thousand tons or 3,000
28 tons and the fishery closes and the tide changes you
29 cannot tell that we've even been there.

30
31 Under harvesting of this product, it
32 appears to me that less and less household members are
33 harvesting. In 2007, they interviewed 126 people, of
34 that 68 of them harvested. The big years when there
35 was bigger amounts of spawn taken, it looks like the
36 number is going steadily down of people that are
37 actually harvesting. And based on the high harvesters,
38 I guess, you'll call them, a great deal of those people
39 are no longer there. Back here a few years back guys
40 come from Hoonah, guys come from Angoon, guys come
41 from Kake, guys come from Ketchikan, guys went home
42 with eggs to Klawock, most of all of those people that
43 probably took the majority of the spawn out of Sitka
44 Sound are no longer there. Ronald John, Peter Jack and
45 Ray Howard, Leo Woods, and Joe Demmert, Greg John,
46 Frank Hayward, Mike Lynch, those guys all were there,
47 they were sac roe fishermen with licenses, and when the
48 season was over, they stayed and took eggs and they
49 took them back to their various communities. Those
50 guys aren't there. I think that had an impact on the

1 amount -- if those guys were still around I think we'd
2 be harvesting a lot more product here than you think.

3
4 We, like I say, this Makhnati Island
5 area that you're talking about, this -- you know the
6 State -- the State talks about that it may take some
7 reasonable opportunity away from the fishery. If you
8 close the Makhnati Island and the fish set up in that
9 area with Makhnati open you could probably still have a
10 fishery in that area, if Makhnati's closed and you
11 can't fish in that area and you have to move away from
12 it then you're going to be moving down into the area
13 that we're trying to stay away from, that's the prime
14 back side of Kasiana, Apple Island group and those
15 places. You know if that were to happen, let's hope it
16 don't, but if it does and the fish set themselves up
17 there and they decide to go ahead and prosecute a
18 fishery there and we don't have Makhnati available to
19 us, it puts us back in an area where we probably don't
20 want to be. The Department tries to stay away from it.

21
22 Other issues here. Herring biomass in
23 Sitka Sound has shown a long-term increase and is
24 considered healthy. The 55.3 total nautical miles of
25 spawn in Sitka Sound in 2008 was consistent with the
26 recent five year average of 54.8 nautical miles and
27 above the long-term, 1964 to 2007 average of 42.4
28 nautical miles, the spawning biomass after the 2008
29 fishery is estimated by spawn deposition surveys and is
30 not available at this time although preliminary
31 assessments of spawn deposition indicates a record high
32 level. The estimated average spawning biomass from
33 1964 to 19 -- to 2007 is estimated at 75,342 tons. The
34 2008 season forecast biomass of 87,715 was the highest
35 on record. In contrast to the 2007 spawning event, the
36 2008 -- in 2008 a significant portion of the biomass
37 spawned on Kruzof Island shoreline on the west side of
38 Sitka Sound. The Kruzof Island shoreline is not
39 considered a viable opportunity for setting subsistence
40 branches due to the distance from town, exposure to
41 ocean surge and it's generally unfavorable shoreline
42 structures for setting branches. Significant spawning
43 also occurred along the islands near the road system,
44 including heavily used subsistence areas of Kasiana and
45 Middle Islands. Unlike the 2007 season very limited
46 spawning occurred within the Federally-claimed waters
47 of Makhnati Island in 2008. The 2008 season bad
48 weather generally did not occur -- in 200 -- excuse me
49 -- the 2008 commercial sac roe guideline harvest of
50 14,723 tons in an area over four nautical miles

1 distance from Makhnati Island, on March 26th two one
2 half-hour openings occurred just over three miles from
3 Makhnati, the third opening occurred March 31st harvest
4 of 3,973 tons with the nearest harvest being opening
5 being 5.0 miles to the Makhnati area.

6
7 We don't see where there's any data
8 available that justifies the closing of Makhnati. And
9 I guess that's kind of the long and the short of it.

10
11 I'd like to just expound a little bit
12 more on the program that we tried to put together and I
13 -- I'm not going to say it was a failure but it didn't
14 work out like we had hoped. But we put together a
15 group of guys that was willing to help everybody
16 harvest and then the Sitka Tribe had a representative
17 there, Roy Levine, that was kind of supposed to be in
18 charge of who came and who didn't' and for some how --
19 I think some of the people did not want the help. They
20 wanted to do it on their own, which I can understand
21 that. I have things I do I'd rather do myself. But we
22 tried to alleviate this problem of these people that
23 say they can't get to the stuff, we can do that and
24 we're willing to do that. We understand there's a
25 problem but we don't think the closure of Makhnati will
26 have any affect on it.

27
28 CHAIRMAN ADAMS: Questions anyone.

29
30 Mr. Kookesh and then Mr. Kitka.

31
32 MR. KOOKESH: This one just came to my
33 mind then so why are you here?

34
35 MR. PORTER: Why am I here?

36
37 MR. KOOKESH: If it's not going to have
38 any affect.

39
40 MR. PORTER: Well, I'm here because we
41 don't want it closed, that's why I'm here and I'm here
42 to support the State of Alaska, that we believe that
43 their science is correct.

44
45 MR. KOOKESH: Okay. Mr. Chairman, I
46 have a few.....

47
48 CHAIRMAN ADAMS: Follow up.

49
50 MR. KOOKESH:I have a few

1 comments here. I'm a charter boat operator out of
2 Angoon and one of the things I value from all my years
3 -- I've been doing this 28 years, been guiding --
4 guiding 28 years and in my opinion when the herring
5 disappear everything's going to disappear and I'm
6 thinking in the -- I'm glad we don't have the ability
7 to catch krill because that's the last, once the krill
8 are gone, the herring are gone, everything's going to
9 just disappear right with it. And I was sitting here
10 as I was -- I'm sitting here thinking that I don't know
11 what your age is but based on the information, the data
12 that was presented, it'll probably be in our lifetime
13 that this fishery will go away, that's been my
14 observation, in our lifetime. Like I said I don't know
15 your age or anything.

16
17 MR. PORTER: Well, in all due respect,
18 Mr. Kookesh.....

19
20 MR. KOOKESH: Yeah.

21
22 MR. PORTER:your projections are
23 wrong. They're incorrect. I can take you back into
24 Sitka Sound farther than you are old. I was -- I went
25 to high school over there and when we first started
26 bait fishing heavily in sac roe fishing in Sitka Sound
27 we were working on 500 ton quotas and quotas of biomass
28 of less than 10,000 tons. Today we're at an all time
29 high and it appears to be getting higher. I don't know
30 about your herring at Distant Point, what's happened to
31 those fish, but there used to be a pretty substantial
32 body of herring around there all the time, is it gone?

33
34 MR. KOOKESH: Oh, yeah.

35
36 MR. PORTER: It's gone, where'd it go?

37
38 MR. KOOKESH: It's not there.

39
40 UNIDENTIFIED VOICE: Sitka Sound.

41
42 MR. PORTER: It didn't.....

43
44 MR. KOOKESH: Where does it go.....

45
46 MR. PORTER: No, it didn't go to Sitka
47 Sound, no, it did not, that's not correct.

48
49 MR. KOOKESH: One of the -- one of the
50 comments you made earlier was that you wanted to take

1 people out. We have this same situation in Angoon with
2 sockeyes where they wanted to bring us sockeyes but
3 that kind of goes to the point of where people don't
4 want you to do it for them, that's why we were here, we
5 did it ourselves, they wanted to go get the sockeyes
6 themselves because that was part of their customary and
7 traditional practices. You know, your idea was great
8 to help but I don't believe people are ever going to go
9 there with you because that was the exercise where we
10 taught our children how to take from the land and we
11 have to teach them that. That probably started before
12 you came, you know, before the non-Native came. But
13 the idea that you can do it for somebody, that's never
14 going to work.

15
16 MR. PORTER: We weren't.....

17
18 MR. KOOKESH: I mean.....

19
20 MR. PORTER:going to do it for
21 them.

22
23 MR. KOOKESH:you might mean
24 well.....

25
26 MR. PORTER: We were offering to help.

27
28 MR. KOOKESH: Yeah.

29
30 MR. PORTER: Make our equipment
31 available so if the weather was bad -- the year before
32 we had a situation where the weather was bad, guys said
33 they couldn't get out, we can get out any time, you
34 know, they had branches they couldn't lift them, they
35 were too heavy and we told them we could take care of
36 that, we weren't trying to do it for them.

37
38 MR. KOOKESH: Yeah.

39
40 MR. PORTER: We were offering to help
41 them do it. However we did in one instance go out and
42 do it for them and bring the stuff back to the ANB
43 float and pass it out.

44
45 MR. KOOKESH: And then the idea that
46 there was fewer -- fewer harvesters was probably
47 because there was probably less stock for them to
48 harvest. In Angoon, where I come from, there's -- we
49 counted one time, we sat down and counted how many
50 seines go out for the community and we counted like

1 only 12 seines, and those are community seines where
2 families get together and participate probably going to
3 go to that level with the price of fuel being what it
4 is, but we do have community -- community seines, like
5 there's groups that harvest together.

6

7 And the one thing I was wondering
8 about, is what is your membership made of because we
9 talked earlier about proposals coming to us from the
10 State of Alaska saying who is the maker of these
11 proposals, not to -- I'm not saying you're behind the
12 proposal but who's the Sitka Herring Association and
13 what is their membership made up of?

14

15 MR. PORTER: Our membership is made up
16 of permitholders that hold Southeast Alaska sac roe
17 purse seine permits.

18

19 MR. KOOKESH: How many.....

20

21 MR. PORTER: I don't know, the
22 Commission is -- the Commission has dropped, I think
23 we're at 51 or maybe 52. Of that group, I believe the
24 last analysis there was 38 or 39 of those were
25 residents, and a large number of those residents are
26 Native Alaskans just like yourself.

27

28 And if you want to talk about an issue
29 of how many people that's just the guy that holds the
30 permit. There's five members on each boat as a crew
31 member, there's several tenders with three people,
32 there's support groups, there's cold storages, this --
33 this herring doesn't just go to that one individual. I
34 believe the harvest last years was worth about 8
35 million bucks.

36

37 CHAIRMAN ADAMS: Let me just call for a
38 point of order here.

39

40 If you're going to address the issue,
41 you know, please address the Chair and we'll recognize
42 you.

43

44 MR. PORTER: Excuse me, I'm sorry.

45

46 CHAIRMAN ADAMS: Also -- you know, also
47 I would appre -- I'm going to say please don't
48 interrupt, you know, a Council member when they're
49 trying to complete a thought and so forth, let them
50 finish their comment and then you can respond, this is

1 the way I'd like to see it happen so that we could have
2 a clean meeting here. So continue on, please.

3

4

Mr. Kitka.

5

6 MR. KITKA: Thank you, Mr. Chair. Ron,
7 it was about two or three weeks ago we had a meeting
8 with Fish and Game about the last year's sac roe
9 fishery and looking at their maps and I pointed out to
10 them that their ideas of miles of spawn was
11 considerably different than ours. They look at miles
12 of spawn as -- they count even the drifting spawn as
13 part of the spawn, which is considerably different.
14 They looked at the one behind St. Lizari and they call
15 that one of the major spawn areas and I pointed out to
16 them, I said, looking at that picture, being a long-
17 time harvester of this, I said you got maybe a quarter
18 of a mile of spawn in each spot and the rest is just
19 drifting spawn and actually it's just drifting away
20 with the tide and you can't count that whole area as
21 miles of spawn. And we had several of our herring
22 committee go out there and actually do -- try to get
23 the macrocystis kelp that was in the area and the -- in
24 the areas where they said there was part of the miles
25 of spawn there was not even an egg on the kelp. So the
26 miles of spawn was what Fish and Game tells us is
27 considerably different than our point of view. The TEK
28 on our point is a lot different than Fish and Game and
29 we pointed this out to them and we asked them if they
30 could work together with us on this point of view.

31

32 But on another part of that was we
33 noticed that even though the biomass, they say, is --
34 some people say it's increasing and some people say
35 it's decreasing, but the age difference is considerably
36 different within that biomass. And the miles of spawn,
37 we can see something, there's nothing -- there's
38 something not right there because if you look at the
39 subsistence take within that -- within those things
40 where they say it's getting better, the subsistence
41 take is decreasing every time they say it's getting
42 better. And our people that harvest it, and I being
43 one of them, I was out there during that, during what
44 they say was bad weather and to check my branches on
45 it, you know, we went through it and we went had all
46 the branches in some of the major areas and there was
47 no eggs on a good portion of our trees, and we were
48 there right from the start of it.

49

50 And I still have real questions of how

1 they look at their miles of spawn. And basically I
2 just wanted to inform you that the biomass and the
3 miles of spawn don't agree with the amount that is
4 harvested by the subsistence people.

5

6 MR. PORTER: Mr. Chairman.

7

8 CHAIRMAN ADAMS: Mr. Porter, go ahead.

9

10 MR. PORTER: Harvey. I think -- in
11 fact, I'm sure, the Department flying over an area and
12 looking down at the spawn, that's not all of it, they
13 go, they look at that aerial skiffs, they do transects
14 there at a later date to back up their data with that --
15 with what they've seen and what they've put -- sure,
16 they come up with a nautical, X amount of miles, and
17 then from that they -- they do these transects and the
18 egg depositions that tells how much spawning was there.
19 I don't -- in fact, I'm positive, absolutely positive,
20 they're not putting out a fictitious number here,
21 they've got no reason to tell it any way except just
22 exactly like it is.

23

24 CHAIRMAN ADAMS: Thank you, Ron. Is
25 there anyone else.

26

27 Mr. Bangs, please.

28

29 MR. BANGS: Thank you, Mr. Chairman.
30 Mr. Porter, in your opinion, what do you think would be
31 the biggest factor in helping them to achieve their
32 needs in gathering of the eggs?

33

34 MR. PORTER: Mr. Chairman. Mr. Bangs.
35 I think when you get in a situation where they, for
36 whatever reason, can't get their harvest then they need
37 some help to get the harvest if they want the eggs.
38 And I understand what some of you are saying about that
39 there's something to be said about people wanting to go
40 do this on their own but, you know, these -- these
41 herring have spawned all over Sitka Sound. You know
42 they have spawned from Redoubt all the way up through
43 all the island systems all the way down to Kruzof now,
44 and I think that -- I think there's years that the --
45 the fish on Middle Island and Kasiana and the Apple
46 Island group and those places don't happen, and
47 Makhnati, Makhnati has got a very poor spawn history as
48 a matter of fact. And I think when you get that
49 situation, it gets too far away for people to go get
50 the stuff they need some way to do it, if they can't do

1 it on their own, we've offered to help them, try to
2 figure something out. We -- we see there's a problem,
3 no question about that, but we don't think it's because
4 of commercial fishing and we don't see any reason to be
5 closing areas because we think that the biomass and the
6 spawn deposition are both very healthy.

7

8 MR. BANGS: Thank you.

9

10 CHAIRMAN ADAMS: Okay. You know I'd
11 just like to make some observations, too, here, Ron.
12 Out of due respect for yourself when we were
13 considering this at the Federal Subsistence Board, you
14 know, was it a year or so more ago, we had a commercial
15 harvest -- herring commercial harvester, you know, who
16 lives up north but he comes down and fishes in Sitka
17 Sound for the herring roe, and one of the questions --
18 I asked him a question, if that place was open and if
19 worse came to worse came to worse would you go into
20 Makhnati Island and fish that area for herrings and his
21 answer was absolutely yes, they would. So, you know,
22 that scared me at that time. And, you know, all Sitka
23 Sound -- Sitka Tribe is trying to do is to preserve
24 that.

25

26 And, again, back to this issue of your
27 offer, your group's offer to assist the members, the
28 tribal members, you know, in achieving their needs,
29 again, they don't want, you know, that kind of help,
30 they'd rather do it their traditional way, it is a C&T,
31 and, you know, that is how they'd like to gather their
32 herring spawn.

33

34 Last March I was in Mentasta for our
35 Wrangell-St. Elias Subsistence Resource Commission
36 meeting, same kind of an issue came up where a family
37 was having trouble meeting their caribou and wild game
38 meats. The season had passed and they still hadn't
39 gotten their needs filled and they came to us asking
40 for help because of that and the explanation was one of
41 the young woman had a son who was not able to -- he
42 gets sick when he eats processed food, you know, like
43 beef and pork and things like that and that the wild
44 game was the one that keeps him healthy and they were
45 pretty concerned in the fact that they wouldn't have
46 any of the wild meat, you know, for him to survive or,
47 you know, to subsist on during the winter. And, you
48 know, it was a State closure that took place and they
49 weren't able to hunt in that area because of the
50 closure. Well, we happened to look into Federal regs

1 and we found a little area that was open under Federal
2 jurisdiction and we made them aware of that, there was
3 about three more days for them to fulfill their needs
4 there and so, you know, the woman who got up and made
5 her testimony, we don't want, you know, to accept your
6 charity like this and she started to cry because of the
7 fact that her family was not going to have that wild
8 game for the remainder of the season, she said, okay,
9 I'll accept your charity, but we would rather go out
10 and hunt ourselves and then we came up with this area
11 that was open. I don't know -- I'll have to find out
12 when I go back again whether they took advantage of
13 that.

14
15 But, you know, the Native people are
16 proud in that fact, they want to practice their
17 traditional way of hunting and fishing and gathering
18 and even though, you know, your gesture was a kind one,
19 I think we need to respect the fact that they want to
20 have that opportunity to harvest their products on
21 their own.

22
23 MR. PORTER: Mr. Chairman.

24
25 CHAIRMAN ADAMS: Mr. Kitka.

26
27 MR. PORTER: Mr. Chairman.

28
29 CHAIRMAN ADAMS: Yes, go ahead.

30
31 MR. PORTER: I appreciate what you're
32 saying but we -- all we were trying to do there was
33 help out and -- and I guess I was -- I had a couple
34 people when we put this thing together, and we wrote a
35 letter to Mr. Widmark about what we was trying to do,
36 we don't want to do it that way, then we had some other
37 people say that'd be just fine, but we -- we meant no
38 disrespect about any type of cultural issues
39 whatsoever, it was a way we thought would help get
40 these people some eggs because they were saying they
41 couldn't get any, you know, I guess I hear what you're
42 saying about -- about people wanting to go get them
43 themselves but when they're hauled to Angoon or they're
44 hauled to Kake or they're hauled to Ketchikan or
45 they're hauled to Craig, or they're hauled Klawock,
46 they're not harvested there by the person that takes
47 the eggs. All our thought was just try to help out and
48 see if there was some way to make this thing work for
49 everybody, and that was the long and short of it.
50

1 CHAIRMAN ADAMS: Okay. Before --
2 you'll be next. I just want to follow up on that.

3
4 We get, you know, our herring eggs from
5 Sitka, I live in Yakutat. And I have to say that the
6 spawn that we received this year was very thin compared
7 to the year's past and, you know, so I was wondering
8 why and it's obvious to me, you know, that the needs
9 aren't being met and for some reason or another we have
10 to address that.

11
12 Mr. Kitka, go ahead.

13
14 MR. KITKA: Thank you, Mr. Chair. I
15 just wanted to tell you, Ron, that Sitka Tribe really
16 appreciated your guy's offer, and they will take you up
17 on it at some time if we ever have a problem where the
18 weather is beating us. I know the Tribe, in our
19 meetings, have talked about this and I know even the
20 processors have offered to have their tenders standby.

21
22 One of the things that was concerning
23 about us, about the help that was offered, was whether
24 you guys would offer a boat to standby and make sure
25 that our eggs weren't being stolen at the time and
26 taken away to Ketchikan and Hydaburg and wherever else
27 they go to and Angoon and make sure that.....

28
29 (Laughter)

30
31 MR. KITKA:this -- this was one
32 of our concerns, was whether the boat that you guys
33 give us what standby on our settings through that whole
34 time and whether you'd give up your fishery to do it.

35
36 Thank you.

37
38 CHAIRMAN ADAMS: Thank you. I'm going
39 to stop conversation here now. Thank you for being
40 here, Ron, and, again, I'm sorry that we allowed you to
41 miss your airplane but.....

42
43 MR. PORTER: Well, missing the plane is
44 fine.

45
46 CHAIRMAN ADAMS: Okay.

47
48 MR. PORTER: I'm just trying to get our
49 point out and obviously I'm not doing a very good job
50 here.

1 CHAIRMAN ADAMS: No, you do a very good
2 job.

3
4 MR. PORTER: But I think that this
5 proposal does nothing.

6
7 CHAIRMAN ADAMS: Okay, thank you.
8 Okay. We've got two more to do and then I want us to
9 take a break and go into -- two more tribal testimonies
10 to do. Robert Loescher, would you please come forward,
11 and then Walter, you're next.

12
13 (Pause)

14
15 CHAIRMAN ADAMS: Just take note that we
16 have spent two hours on this proposal, I knew it was
17 going to be a long one but we got to -- we've got to
18 talk about it.

19
20 Mr. Loescher, welcome.

21
22 MR. LOESCHER: Yes, thank you, Mr.
23 Chairman. Members of the Council.

24
25 As I stated before I represent the
26 Juneau Tlingit-Haida Community Council and also the
27 Alaska Native Brotherhood in Juneau, Camp No. 2.

28
29 And I want to say to you the needs are
30 not being met, that's the bottom line. And I don't see
31 a priority occurring here in this situation. I'm not
32 convinced that the science and the management is
33 occurring that's supportable. And the public policy is
34 -- is not being recognized, that subsistence is the
35 priority and the law of the land.

36
37 And I just want to say a few things.
38 First of all I want to -- I want to thank the Sitka
39 Tribe for taking the leadership on this issue. In
40 Juneau we've tried to support Sitka over the years and
41 our community is very supportive of their efforts and I
42 was very impressed with their presentation today and I
43 think the State needs to answer for some of the points
44 of science that the Sitka Tribe is advancing because
45 the presentation of the State today was very limited.

46
47 Mr. Chairman. One of the things that
48 was mentioned here was about the ways of our people and
49 shipping eggs to other communities, whether it's by
50 jet, plane, Alaska Airlines, or by seine boat or marine

1 highway system, and the fact that our people want to do
2 and gather the herring eggs themselves on the branches
3 or on the kelp or however we're able to get it. It's a
4 cultural thing, it's a thing that's been done for
5 centuries and needs to be honored and respected.

6
7 I get herring eggs from Sitka. The
8 last three or four years, the last two or three years
9 the eggs have been getting thinner on the branches and
10 they're not as thick as they used to be and that's not
11 satisfying, you know, our total requirements. And I'll
12 have to say to you that I'm probably one of the few
13 people that get the eggs here in Juneau, there's not a
14 lot of families that get the eggs as much as I do but I
15 have relatives in Sitka. My grandfather and
16 grandmother came from the village, Harold Bailey and
17 Elizabeth Bailey, and we used the herring eggs in a
18 traditional way and it's more of an honor if -- if the
19 eggs come as a gift, culturally if it comes from our
20 family or the opposite clan it has more meaning and
21 maybe that's lost on some people as they look at how we
22 get our eggs and how they're delivered to us and what
23 not. And I'm hoping that -- I know you -- many of you
24 on the Council understand what I'm talking about, we
25 use these eggs for potlatches. And, again, we've had
26 many, many funerals here in Juneau and potlatches here
27 many, many clans reside here and herring eggs are one
28 of the -- one of the foods that are served, and it's a
29 very high honor to be able to present these eggs to --
30 in a potlatch. And, again, I want to thank Sitka
31 people for that.

32
33 The thing that troubles me, Mr.
34 Chairman, and members of the Council is this, it's --
35 you have to remember how this thing started, we've been
36 here forever. And in the Tlingit-Haida case, you know,
37 the use of our land and resources was one of the six,
38 seven points of our litigation and then we settled for
39 ANCSA, legislative settlement, and in between that
40 time, prior to the passage of ANCSA was statehood,
41 statehood came and then ANCSA and then after that
42 ANILCA. The Statehood Compact is -- we're -- one of
43 our problems is, is that the State got title to waters
44 of the State, the drinking waters in the streams and
45 lakes and what not, and they got title to tidelands,
46 but in the Statehood Act it recognized Alaska Natives
47 and they disclaimed interest in our lands and left to
48 the future resourcement on how fish and game and
49 gathered resources would be managed and in the Katie
50 John case, we won that case, Governor Knowles had to

1 back down, and that was dealing with navigable waters
2 and being able to catch salmon in the stream. And I
3 knew Katie John, she was very much of a hero to me.

4
5 The State and the Federal Subsistence
6 Board are treading on a narrow, narrow place with us at
7 this point and, of course, they say, we may be treading
8 on this very narrow place but it's called State rights,
9 it's a constitutional issue, if you want to deal with
10 us, deal with us in court. That's what the Attorney
11 General's advising the Fish and Game, the Fish and Game
12 Board and what not. The Federal Subsistence Board, and
13 I hope it isn't this Council, this Advisory Council,
14 has basically by administrative fia (ph) set aside the
15 issue of tidelands in the navigable waters adjacent to
16 tidelands, and those adjacent to rivers and streams and
17 this is where the rub is going to occur, because, you
18 know, I respect your efforts here and I hope you don't
19 change your position. I heard you, you know, to
20 support the Sitka Tribe's proposition, because it's a
21 symbol of what we're talking about, you know, in this
22 little piece of ground, this little water, this
23 tideland that the Sitka Tribe is trying to set aside to
24 protect the priority use for herring egg spawn is a
25 symbol of the issue that we're going to face or we're
26 facing. And for the Federal government, it's nothing
27 for them, they plan everything, look at the Tongass
28 Plan we've been working on for 20 years, they plan
29 every inch of the land, there's nothing for the Federal
30 government to say that that little piece of water, that
31 submerged land can be set aside for priority use for
32 herring egg spawn, there's nothing wrong with that and
33 should be a part of any planning process the Federal
34 government has. And I would urge the Council to focus
35 on that as one of your recommendations that supports
36 this call by the Sitka Tribe.

37
38 The other issue is that the Federal
39 Subsistence Board is a bunch of bureaucrats appointed
40 by the Administration, albeit, very high powered
41 bureaucrats from the Department of Interior, Department
42 of Agriculture, Bureau of Indian Affairs and what not,
43 and they're not going to upset the cookie jar here.
44 They have set aside this whole issue of tidelands and
45 the navigable waters issue for a long time. This is
46 not the first time we've approached this issue and it's
47 really a humbling, almost dishonorable feeling that I
48 have as a Tlingit to realize that we fought a land
49 claims, we fought court suits in US Court of Claims
50 only to come to this point in the year 2008 where we,

1 the tide's people, Tlingit people, the tide's people,
2 tideland is where we got our food, most of our food and
3 today they are telling us that we do not have access
4 and right on a traditional and customary basis to use
5 the tidelands and the rivers and streams, I think it's
6 totally wrong. And the reason it is this way is by
7 administration fia (ph), is nobody will stand up for
8 us, the Federal Subsistence Board has neglected their
9 duty and has taken an administrative policy regarding
10 this matter.

11
12 Now, this little piece of tideland,
13 this submerged land that the Sitka Tribe has come to
14 you with is a piece of Federal property and if they
15 cannot honor a Federal law, you know, that says that
16 resources on that land have to be available to meet the
17 need of the people that the law was focused on, that it
18 can't be a priority, that it cannot be set aside for
19 land management purposes, I think there's something
20 wrong with the Federal government, because they have
21 the power to do that. The land managers at the BLM
22 have the power to do that and we shouldn't let them off
23 the hook at all on that point.

24
25 And I support Sitka Tribe's efforts in
26 this regard.

27
28 The other thing, Mr. Chairman, and
29 members of the Council, goes like this, most of you
30 know that I've been a tribal member and tribal leader
31 for a long, long time but I worked in commerce in
32 Sealaska Corporation for many, many years, I knew Joe
33 Demmert, one of the most honorable persons I ever met
34 in my life. I asked him one day about the herring
35 harvest at Sitka and he told me, Bob, yes, we -- it's a
36 very lucrative commercial business and he and his son
37 owned licenses and permits there, they had lots of
38 vessels, they maybe had a million dollars each boat
39 that they had, they had crews and family to feed and
40 there were Native leaders, Mr. Leo Woods there and
41 several others who fished that fishery, when you ask
42 Joe Demmert about the conflict between subsistence and
43 commercial fishing he just nodded and said to me, Bob,
44 we will give deference to subsistence, to the gathering
45 of herring -- herring egg, that's what Joe Demmert told
46 me. And, you know, greed and, you know, commerce and,
47 you know, they have to be managed, you know, you're not
48 going to see these commercial fishermen with the big
49 investments and what not want to give up a very
50 lucrative fishery but the law says that herring,

1 gathering, subsistence and what not is a priority. You
2 know I recognize we have a difference of opinion with
3 the State over State tidelands and waters, but as a
4 matter of public policy the traditional fishery,
5 herring fishery, gathering subsistence at Sitka is part
6 and pas -- part and pas -- part and parcel to our
7 Alaskan history, our territorial history and even in
8 statehood it's been there, the gathering of herring egg
9 is a tradition and commercial fishing came later and
10 evolved, and the subsistence should have a priority.

11
12 Now, you can't -- you know I was very
13 curious when I was listening and it raised an analogy
14 in my mind about the State's position and I'm glad they
15 didn't try to add to their position because I get a
16 kick out of the story you can't put lipstick on a pig.
17 And there is a pig here, you know, the State is not
18 recognizing that subsistence gathering of herring egg
19 is a priority, they're not meeting the needs, their
20 science is being questioned, their in-harvest season
21 management is questionable and they can't put lipstick
22 on a pig. And I'm hoping that you folks will hold your
23 ground, hold your ground on this proposition by Sitka
24 Tribe and move it forward one more time to the Federal
25 Subsistence Board.

26
27 And along with that thought, you know,
28 I would even ask this Advisory Council and others and
29 I'll certainly bring it up at Central Council and the
30 Tlingit-Haida -- or the ANB Convention coming up, that
31 we should ask for a moratorium for maybe three to five
32 years to stop the commercial fishery at Sitka of
33 herring until all this can get sorted out, because if
34 we don't sort it out soon we won't have a resource and
35 it's very important that if we all sign up as Americans
36 for a law that says Title VIII of ANILCA is the law of
37 the land and the natural resources have to be managed
38 in a way to meet the need then that should be a
39 priority. We should be willing to stand up and defend
40 that right that that law provides, and the Native
41 people have to stand up as well, and with you as you go
42 ahead and make this decision today. But I urge you to
43 support the Sitka Tribe's position and I'm going to do
44 my best to provide some leadership in the region to
45 help Sitka Tribe with this proposition and the next
46 time it comes up in the Federal Subsistence Board maybe
47 there'll be more of us there to help.

48
49 Gunalcheesh.
50

1 CHAIRMAN ADAMS: Thank you, Robert.
2 And I really emphasize the importance of people, you
3 know, who will be affected by this to go to the Board
4 and offer their testimony because the last time, you
5 know, we just had maybe four people. And in contrast
6 to, you know, when rural determination was being
7 considered for Kodiak and Ketchikan, there were 30
8 people from -- or more from Kodiak who testified, you
9 know, on their issue and, you know, that sure out
10 numbers and takes away the punch, you know, if you have
11 four people as opposed to 30. So I'm going to really,
12 really encourage Sitka Tribe and anyone else, you know,
13 in Southeast Alaska to really scrape up the resources
14 to send representatives up there to testify on this
15 issue and I think we'll have a better outcome as a
16 result of that.

17
18 So thank you, Robert, any questions for
19 him or comments.

20
21 Mr. Stokes, go ahead.

22
23 MR. STOKES: Yes, thank you for your
24 words of encouragement.

25
26 I would like to bring a little
27 something out for.....

28
29 REPORTER: Dick. Dick, your
30 microphone.

31
32 MR. STOKES:during the 1930s
33 there was this young teenager and.....

34
35 REPORTER: Dick.

36
37 MR. STOKES:before -- there's not
38 a fraction of herring in Southeast Alaska, it was
39 nothing for -- for me to go out in the morning when I
40 fished with my uncle and I used to use a herring rig
41 right in the harbor and get all the bait we needed, and
42 then I got on a cannery tender in 1941, 42 and 43 and
43 we'd run to Point and there'd be huge balls of herring
44 right in the middle of the water. And the only ones
45 that were fishing were the sardine boats from
46 California and Oregon, and they said they never caught
47 any king salmon but they had large terses (ph) on the
48 boat and a lot of salt and they were filleting out all
49 the kings and salting them down and taking them down
50 and right where we used to have a family night all the --

1 all the time there in Wrangell, at the ANB hall and it
2 was nothing for the guys to go out when the herring
3 were spawning and they'd go right out across the bay 10
4 or 15 miles and they'd bring in herring, herring roe
5 that was just real thick and now it's all gone,
6 everything's gone. It was not unusual for the power
7 troller to go out and get 35 and 40 king salmon a day
8 and the hand troller was real hand trolling and they
9 would get nine or 10 and now you can't do that, and you
10 can't -- you can't get a herring anywhere there.

11
12 So this is what's going to happen in
13 the Sitka area if we don't do something about it.

14
15 MR. LOESCHER: Mr. Chairman. I agree
16 and there are many stories. Just one comment, if I
17 could, Mr. Chairman, I -- I grew up here in Juneau and
18 when I was a young man, nine, 10, 11, 12, 13 years old
19 I sat on a herring pond out here at Auke Bay owned by
20 Robbie Robinson and Al Martin, and we used to supply
21 herring for the halibut boats that would go out in the
22 spring and then we'd package up herring for bait and
23 sell them in the market. And, you know, that was --
24 there was an abundance in my lifetime of herring here,
25 you know, out by Auke Bay, right by the ferry terminal,
26 a place called Indian Point, and it's all gone now.
27 And the reason is, Mr. Chairman, is it got fished out,
28 it got fished out. Commercial herring seining began to
29 occur and they fished all the herring out. And now the
30 only herring that I know about is down by Hobart Bay
31 towards the Petersburg area and they -- from time to
32 time they hold a herring fishery there for bait fish in
33 the spring and that's the closest we have now to any
34 abundance of herring, other than Sitka and Sitka's the
35 last spot, you know, Hoonah Sound may be a little bit
36 and a little bit down on Prince of Wales Island and
37 even there it's beginning to diminish.

38
39 So I'd encourage, Mr. Chairman, this
40 Council to proceed with the proposal, I urge you to do
41 that and I'll see what I can do to bring some support
42 when it's presented later. But the bottom line is
43 that, you know, Joe Demmert told me, we should give
44 deference to the subsistence and he was one of the best
45 herring seiners that ever lived and he still respected
46 that.

47
48 CHAIRMAN ADAMS: Thank you, Robert. We
49 really appreciate your comments and we'll go ahead and
50 move on. The next person is Walter, Walter John.

1 MR. JOHN: Thank you, Mr. Chairman and
2 Council. I just want to start off my statements here
3 because I heard someone talking about age. On December
4 3rd I'll be 69 so I'm up there in that age range.

5
6 But I kind of find it.....

7
8 CHAIRMAN ADAMS: You're still a young
9 buck yet.

10
11 (Laughter)

12
13 MR. JOHN: Yeah, yeah, I know, but
14 probably about the same age as Ron there.

15
16 (Laughter)

17
18 MR. JOHN: But I find it interesting
19 that I heard a comment that there was 50 miles of spawn
20 and all we want is one mile. If there's 50 miles of
21 spawn what's wrong with our having one mile. Right now
22 there's not enough herring, you know, last year I had
23 about five bags and the year before I had 50 pounds but
24 this year I don't have any but, you know, the reason I
25 don't have that much now is because the beautiful lady
26 I'm married to is a full-blooded White girl. That was
27 supposed to be a joke.

28
29 Anyway they -- I just find it
30 interesting, too, that, you know, like there was no
31 reason to close the herring spawn area, well, there is,
32 there's about \$ 8 million, that's the reason because
33 we're talking -- we're really talking about money and
34 money basically rules our economy in this country.

35
36 I also heard things about numbers, you
37 know, we have about 25,000 people in our tribe and a
38 vast majority of them eat our herring roe, even people
39 down south, we send bags to our relatives down south so
40 that they can eat our herring roe, so it's 25,000
41 people and I know there's a lot of our non-Native
42 friends eat our herring roe with us. And I find it
43 interesting that we have 25,000 people that we're
44 talking about and, yet, it sounds like this item here
45 could be killed if one or two people vote no, just one
46 or two people, that's what it sounds like to me, you
47 know, and I heard someone talking about my uncle Ronald
48 John, and I remember when he used to bring herring
49 here, well, the reason we don't have that is because of
50 happened after limited entry, the closing of the

1 canneries, we no longer have a fish fleet. There's
2 probably -- what's his name is the only commercial
3 fisherman from Hoonah, he was sitting here yesterday,
4 he's the only one from Hoonah and we used to have a
5 fabulous fleet, Sitka, Angoon, the mosquito fleet we
6 called them, we had fishermen all over the place, you
7 know, in Wrangell, Craig, Saxman, we had powerful
8 fishermen and that fleet is no longer there. And I
9 guess it kind of bothers me because we do have
10 basically unelected bureaucrats that kind of set the
11 tone for what we have to deal with, you know.

12
13 And I remember I was at a hearing about
14 30 years ago, just before that hearing I took my sons
15 to Hawk Inlet, I wanted to show off where I fished when
16 I was a little boy to my boys, they're in their 40s
17 now. I took them out in a skiff and I start -- I said
18 we're going to go out here and we're going to get some
19 crab. When we were little boys we used to go out there
20 and catch crabs and clams and put them in a bucket and
21 get water right from -- you know, saltwater, I wouldn't
22 do it today because it's polluted, but we'd boil our
23 crab and that type thing right there. When I took them
24 around there, and this was 30 years ago, there were no --
25 I saw three crab and they were white, which means they
26 were no good, and there was hardly any, you know,
27 cockles or clams, that type thing, you know, and -- but
28 I started thinking about I don't trust the State
29 myself. I remember when I went to the hearing I was
30 with an elder from Hoonah, Jim -- Jim Austin, he got up
31 to start talking, he started talking about anything the
32 State regulates it seems like it dissipates, it
33 disappears. He said look at our salmon, look at --
34 look at everything, how -- when they start regulating
35 it, it disappears and he looked -- he looked at the
36 Council members and he just said I make a motion that
37 the State regulate mosquitos.

38
39 (Laughter)

40
41 MR. JOHN: Anyway there's a story in
42 the Bible that, where it talks about a man who -- the
43 Jewish people were being surrounded and everything was
44 being taken away from them. They had one bean patch.
45 And he said we're going to make a stand. And if you
46 read that story in the Bible they made their stand on
47 that bean patch and they won. And I think that's where
48 we're at right now, we have a small piece of land when
49 you look at a total coast of Sealaska -- the land mass
50 of Alaska, we're talking about one mile and it's

1 probably -- and -- and I really believe as a people
2 that we're really going to have to fight, we're really --
3 we're going to have to do something to protect our
4 subsistence, our right to subsistence, our way of life
5 and our people really depend on it.

6

7 And I urge you to support Sitka. I'm
8 from Douglas Indian Association and I support this
9 concept, I think it's the right thing, and thank you.

10

11 CHAIRMAN ADAMS: Gunalcheesh, Mr. John.
12 Any questions of him.

13

14 (No comments)

15

16 CHAIRMAN ADAMS: Thank you.
17 InterAgency. Welcome, Mr. Kessler.

18

19 MR. KESSLER: Thank you, Mr. Chairman
20 and Council. I thought we were going to take a break
21 after the last speaker.

22

23 (Laughter)

24

25 CHAIRMAN ADAMS: You know, we could if
26 you want. Let's go ahead and take a break.

27

28 MR. KESSLER: Okay.

29

30 CHAIRMAN ADAMS: That way you can
31 gather your thoughts together.

32

33 (Off record)

34

35 (On record)

36

37 CHAIRMAN ADAMS: Okay, is everyone
38 ready.

39

40 (Pause)

41

42 CHAIRMAN ADAMS: I think before we have
43 Steve come forward and do his thing, we need to address
44 this little issue because there's a 5:00 o'clock
45 deadline today and that's in regards to the charter
46 sector catch limit and if we can come up with kind of a
47 statement, Bob, that will be compatible with the
48 Council's wishes then I think we can meet that
49 deadline. Would you like to address it a little bit
50 more, Mr. Bangs, support it a little bit more.

1 MR. BANGS: Thank you, Mr. Chairman.
2 The North Pacific Management Council is meeting on
3 October 2nd and 3rd, I believe, or 2nd, 3rd and 4th,
4 and they're going to make their decision, their final
5 decision on the allocative split between the commercial
6 and sport charter and sportfishing allocation of the
7 quota. And we've heard this a few times in meetings
8 prior to this one and this one about the concern about
9 the continual overharvest by the charter sector going
10 over their guideline harvest.

11
12 So today is the deadline for submitting
13 letters to be brought into record for that Council
14 meeting.

15
16 And with Mr. Larson's help we have a
17 brief letter that we wrote just asking the Council to
18 support making sure that all the user groups,
19 commercial, sport, and sport charter stay within their
20 guideline harvest and come up with some regulations
21 that will work for the -- you know, into the future,
22 and it's a very short letter and I think Mr. Larson
23 will read it into the record.

24
25 CHAIRMAN ADAMS: Mr. Larson.

26
27 MR. LARSON: Mr. Chairman. The letter
28 is as follows:

29
30 The Southeast Alaska Subsistence
31 Regional Advisory Council was formed
32 under Title VIII of the Alaska National
33 Interest Lands Conservation Act as a
34 forum, in part, for the expression of
35 opinions and recommendations by persons
36 interested in any matter related to the
37 subsistence uses of fish and wildlife
38 within the region.

39
40 Rural residents of Southeast Alaska,
41 including Yakutat, are dependent upon
42 the continued subsistence use of all
43 wildlife resources, including halibut
44 throughout the region.

45
46 The Council supports a continuation of
47 the subsistence halibut fishery and is
48 concerned with maintaining the
49 availability of the halibut resource
50 near rural communities.

1 The Council has heard many comments and
2 concerns regarding the growing sport
3 halibut charter fleet in Southeast
4 Alaska and the decline in halibut
5 abundance in the Southeast Alaska area.
6

7 Many subsistence users have reported
8 that it is becoming much more difficult
9 to catch halibut near communities where
10 they have traditionally harvested in
11 the past. We encourage the North
12 Pacific Fisheries Management Council to
13 develop a management strategy that will
14 allow the continuation of subsistence
15 uses in areas adjacent to rural
16 communities.
17

18 It's followed by a sentence that says:
19

20 Please address any questions to this
21 letter to either Bert Adams or to
22 myself.
23

24 CHAIRMAN ADAMS: Okay. So that is
25 before you. Would you like to pursue this with a
26 motion, it might be a good idea.
27

28 MR. BANGS: Thank you, Mr. Chairman. I
29 move to adopt this letter that was just read and we
30 send it to the North Pacific Management Council to be
31 entered into the record at their meeting.
32

33 CHAIRMAN ADAMS: Thank you, Michael.
34 Is there a second.
35

36 MR. KITKA: I'll second it.
37

38 CHAIRMAN ADAMS: Seconded by Harvey.
39 Discussion.
40

41 MR. KOOKESH: Discussion.
42

43 CHAIRMAN ADAMS: Mr. Kookesh.
44

45 MR. KOOKESH: Mr. Chairman. I haven't
46 had much time to absorb the letter but I've seen the
47 original document that it came off of, and I'm just
48 wondering if we need to run this by our InterAgency
49 Staff before we kind of jump the gun here.
50

1 I recollect from talking to my older
2 brother, Matt, who's been involved in the halibut
3 fishery and he says you shouldn't go there because you
4 might get what you don't want from National Marine
5 Fisheries. We can go there but the only thing I'm
6 hesitant about is this question and the quota because
7 that's what my brother said we need to be careful
8 about, process, but I'm -- I'm just saying I don't
9 think -- I'm not voting -- supporting this, but I think
10 we need to -- we need to let some InterAgency Staff
11 look at it before we go anywhere.

12
13 CHAIRMAN ADAMS: Larry, please.

14
15 MR. BUKLIS: Mr. Chairman. Larry
16 Buklis, office of Subsistence Management. I'm also the
17 acting Deputy ARD at Subsistence Management Office.

18
19 And the Council correspondence policy
20 allows for Council to correspond on regulatory matters
21 to other agencies and boards and commissions and we
22 only ask that you run your draft past the ARD for
23 subsistence and get approval and I checked with Pete
24 Probasco yesterday and -- or this morning and he said I
25 could act on site on his behalf, so I've reviewed the
26 draft letter and it's within your purview and we have
27 no concerns or restrictions or edits on it. Now, in
28 terms of the content and how you want to comment about
29 halibut management, that's within your purview and I'm
30 not here to advise you on what view to take, but a
31 letter along these lines is within your authority and
32 we have no objection.

33
34 CHAIRMAN ADAMS: Okay, thank you,
35 Larry. Thanks for bringing that up because it kind of
36 struck my mind too as to how we pursue this without
37 your input, so thanks again, Larry, it looks like we're
38 okay with it.

39
40 Mr. Bangs.

41
42 MR. BANGS: Thank you, Mr. Chairman.
43 In regards to Mr. Kookesh's comments. I think the
44 letter is general enough to just show that we're
45 concerned that we want to make sure that subsistence
46 halibut fishing continues and that they acknowledge the
47 problems that the other sectors, commercial and
48 charter, that we're not left out of it and that it is a
49 concern and we're aware of it. And we have had very,
50 very few meetings where this hasn't come up in the last

1 three years, where people are concerned about being
2 able to -- especially with the cost of fuel, it's
3 imperative that we're able to go close to home in our
4 small skiffs or whatever and be able to catch our
5 subsistence halibut, and that was my concern, and I'm
6 just hoping that the Council will support this letter.

7

8 Thank you.

9

10 CHAIRMAN ADAMS: Thank you. Any other
11 comments.

12

13 MR. KOOKESH: Chair.

14

15 CHAIRMAN ADAMS: Mr. Kookesh.

16

17 MR. KOOKESH: On the language, under
18 second paragraph, I believe you should strike the
19 Council -- the second sentence, it says, the Council
20 has heard many concerns -- many -- had heard -- many
21 comments and concerns, I believe you don't need to have
22 heard many concerns and you should just -- the Council
23 has concerns I believe is language enough; Council has
24 concerns regarding -- regarding the growing sport
25 halibut charter fleet and -- but I think you also need
26 to mention the -- the decline that's being seen in the
27 commercial quota. That needs to also be written right
28 in -- right next to this because those are the two --
29 the two issues. There's a -- there's a growing fleet
30 and then there's a declining commercial quota, so that
31 needs to be in the same -- same sentence.

32

33 CHAIRMAN ADAMS: Okay. That would
34 require an amendment, you know, if you want to strike
35 that and.....

36

37 MR. KOOKESH: It's just a letter.

38

39 CHAIRMAN ADAMS:put.....

40

41 MR. KOOKESH: It's just a letter. It's
42 just simple language, it's friendly lang -- but you
43 need to do that because we're just targeting the
44 growing sportfish fleet and then you also need to
45 mention that the -- the commercial halibut quota
46 decline also. I believe Mr. Wright would ask for that
47 also.

48

49 CHAIRMAN ADAMS: And I would, too.

50

1 MR. KOOKESH: It's just a -- it's just
2 a letter, it's not a -- it's not a.....
3
4 CHAIRMAN ADAMS: Go ahead, Mr. Bangs.
5
6 MR. KOOKESH: It's just housekeeping.
7
8 CHAIRMAN ADAMS: Go ahead, Mr. Bangs.
9
10 MR. BANGS: Thank you, Mr. Chairman.
11 The decline in the commercial halibut quota doesn't
12 affect subsistence, it's something that doesn't change
13 our need for -- it shows that there's a decline in the
14 halibut stocks, which does have an affect on us but to
15 mention that the decline in the commercial catch is a
16 symptom of what's happening, is there's overharvest
17 happening.
18
19 MR. KOOKESH: Mr. Chair.
20
21 CHAIRMAN ADAMS: Rebuttal.
22
23 MR. KOOKESH: Yeah, rebuttal, yeah.
24 But, Mr. Chairman, there's a -- there's a -- there's a
25 problem between both user groups, that's where the
26 fight is, and we don't want to favor one or the other,
27 we should address them both and keep it as mutual as we
28 can because that's what we're talking about. This is
29 supposed to be a neutral letter and it should -- should
30 mention that, it's just something I see so -- and like
31 I said I -- I've only seen this letter like three
32 minutes ago.
33
34 CHAIRMAN ADAMS: Yeah, we've only seen
35 it only three minutes ago, but how does the other
36 Council members feel about the discussion that has
37 taken place so far.
38
39 MR. HERNANDEZ: Mr. Chairman.
40
41 CHAIRMAN ADAMS: Go ahead.
42
43 MR. HERNANDEZ: Mr. Chairman. I see no
44 problem with seeing the letter with the way it is
45 written. I see it as -- it's a simple state of fact,
46 that the abundance is declining, that's -- that's
47 acknowledged, you know, by the Commission that we're in
48 a period of declining abundance which the letter
49 states. The Council has heard, you know, comments and
50 concerns regarding the growing charter fleet catch, the

1 fact that they're exceeding their guideline harvest
2 level, I think that's a fact not in dispute. And the
3 letter doesn't encourage any particular course of
4 action by the National Marine Fisheries, it just -- it
5 just points out these situations and it does affect
6 subsistence users and we'd like to see them consider
7 our subsistence uses in their decisions and I think
8 that's perfectly fine.

9

10 CHAIRMAN ADAMS: Anyone else. I see
11 where Floyd is coming from and I would agree that maybe
12 if we just crossed out, heard many comments, and then
13 have it read the Council has concerns regarding growing
14 halibut and so forth, would that work?

15

16 MR. BANGS: That's fine.

17

18 CHAIRMAN ADAMS: Okay. Does that work
19 for you?

20

21 MR. LARSON: (Nods affirmatively)

22

23 CHAIRMAN ADAMS: Okay. Why don't we
24 just do that, cross that out of there and then send the
25 letter out like that.

26

27 MR. LARSON: Okay.

28

29 CHAIRMAN ADAMS: Thank you. So ready
30 for the question.

31

32 MR. LARSON: Okay.

33

34 CHAIRMAN ADAMS: Okay, so ready to do
35 action on this.

36

37 (Council nods affirmatively)

38

39 CHAIRMAN ADAMS: All right. All in
40 favor please say aye.

41

42 IN UNISON: Aye.

43

44 CHAIRMAN ADAMS: Opposed.

45

46 MR. KOOKESH: Nay.

47

48 CHAIRMAN ADAMS: The motion is carried.
49 One nay. It goes out, thanks.

50

1 Mr. Kessler, please.

2

3 Another thing I want to bring up before
4 I forget. As you can see we've lost a couple of
5 Council members over the last couple of days, Patty
6 couldn't make it, Frank had to leave because of another
7 meeting, and in the past we've talked about alternative
8 Council members, in case we, you know, have trouble
9 meeting a quorum. We go through a lot of expense, you
10 know, coming into these various communities and if we
11 don't have a quorum, you know, it's hard to do
12 business, so I think just for future thought I'm going
13 to put this on the table now so that we could bring it
14 up maybe later on, in regards to alternates for the
15 Council.

16

17 Thank you.

18

19 Mr. Kessler, go ahead.

20

21 MR. KESSLER: Thank you, Mr. Chairman
22 and Council. Steve Kessler with the Forest Service and
23 the InterAgency Staff Committee.

24

25 And what I wanted to bring to your
26 attention is sort of the thing that the Federal
27 Subsistence Board has to consider as they're dealing
28 with closures, such as what's being proposed here for
29 the Makhnati Island area.

30

31 And the language of ANILCA, which is in
32 Section .815 is here up on your screen. And what you
33 need to do if you're going to work at sort of
34 convincing the Federal Subsistence Board that now is
35 something different than what it was last year, is to
36 try and respond to what's here. And there's ANILCA and
37 then there's also the closure policy and I'll get to
38 that in just a moment.

39

40 But what ANILCA says in Section
41 .815(3), and this is what's called a limitation or a
42 savings clause, what a limitation or savings clause
43 means, everything else that came in front of this is in
44 effect but nothing here in this Title VIII shall be
45 construed as allowing the following, which in Number 3
46 is:

47

48 Authorizing a restriction on the taking
49 of fish and wildlife for non-
50 subsistence uses on the public lands

1 unless necessary -- and I've just
2 skipped a couple words there -- unless
3 necessary for the conservation of
4 populations of fish and wildlife or to
5 continue subsistence uses of such
6 populations.
7

8 So when the Federal Subsistence Board
9 looks at a closure they're going to evaluate it against
10 Section .815(3).
11

12 In addition the Board has a closure
13 policy. And the closure policy is about eight or 10
14 pages long, at some prior meeting you all received a
15 copy of it, it was finalized, it seems to me it was
16 about two years ago, maybe longer, it was probably
17 about two years ago, and it fairly well follows what
18 ANILCA .815(3) says.
19

20 Decision to close Federal public lands
21 or waters is an important decision and
22 will be made -- as set forth in Title
23 VIII. The Board will not restrict the
24 taking of fish and wildlife by users on
25 the Federal public lands unless
26 necessary for the conservation of
27 healthy populations of fish and
28 wildlife resources or to continue
29 subsistence uses of those populations,
30 for public safety, administrative
31 reasons or pursuant to other law.
32

33 And as one goes down through this
34 policy, it sort of expounds on that and what the
35 Federal Board will be looking at. Decision-making, how
36 the Board will make their decision, proceed on a case
37 by case basis. Follow statutory standard, customary
38 and traditional, base its actions on substantial
39 evidence contained within the administrative record.
40 At the bottom here, consider the recommendations of the
41 Regional Advisory Councils with due deference.
42 Consider comments and recommendations from the State of
43 Alaska and the public.
44

45 And then it continues with conditions
46 for establishing retaining closures but it really all
47 feeds off of that .815(3).
48

49 So I just want to make sure that you're
50 all clear that we know what the Board action has been

1 in the past so as you are trying to convince the Board
2 to do something different, which is my sense is that's
3 what you want to do, is that you'll need to take a look
4 at how can we convince the Board in light of .815(3)
5 and the closure policy.

6
7 Bert also asked me to explain a little
8 bit about what happens from here. After you make your
9 recommendations to the Federal Subsistence Board all
10 the recommendations for all proposals from around the
11 state are put together, there's a meeting of the
12 InterAgency Staff Committee to look at all those
13 proposals, this InterAgency Staff Committee makes
14 comments to the Federal Subsistence Board and those
15 comments, that are not recommendations, they used to be
16 recommendations, they are no longer, and then the Board
17 takes all of the different input that's received, it's
18 a public meeting, in January, considers the
19 recommendations of the appropriate Councils, Staff
20 Committee comments, public comment received previously,
21 new public comment and then deliberates and they
22 deliberate -- and the comments from the State of
23 Alaska, of course, and deliberates in light of what
24 their policy is and what the law says.

25
26 CHAIRMAN ADAMS: Thank you, Steve, for
27 that explanation.

28
29 Is there any questions in regards to
30 what he shared with us so far, particularly with the
31 .815(3) clause?

32
33 (No comments)

34
35 CHAIRMAN ADAMS: So just kind of
36 paraphrase, in your own words, you know, what that
37 really says, if you don't mind, Steve.

38
39 MR. KESSLER: Is this a test.

40
41 (Laughter)

42
43 MR. KESSLER: ANILCA says that you only
44 do closures to non-subsistence uses if it's necessary
45 for conservation or to maintain subsistence uses. But
46 there's more detail in that and there's more detail in
47 the closure policy and there's little nuances to it.
48 And if you need to just leave the closure policy up
49 here or, you know, of if you want to go through any
50 pieces of that we certainly can.

1 CHAIRMAN ADAMS: Okay. So, yeah, that
2 helps me understand, you know, just exactly what
3 .815(3) says and, yes, go ahead leave that up there for
4 now and if we need to refer to it, we'll do so.

5
6 Thank you.

7
8 Any questions, you know, does he need
9 to clarify himself some more.

10
11 (Laughter)

12
13 CHAIRMAN ADAMS: Okay, thanks, Steve,
14 appreciate it.

15
16 (Pause)

17
18 CHAIRMAN ADAMS: And, Steve, I
19 think.....

20
21 REPORTER: Bert.

22
23 CHAIRMAN ADAMS: There we go again.
24 Steve, did you do your InterAgency Staff Agency report
25 with this or.....

26
27 MR. KESSLER: That was it.

28
29 CHAIRMAN ADAMS: That was it, okay. So
30 Fish and Game Advisory Committee's, probably not.

31
32 (No comments)

33
34 CHAIRMAN ADAMS: Written comments, Mr.
35 Larson.

36
37 MR. LARSON: Yes, Mr. Chairman, there
38 are two public written comments and they're both in
39 opposition.

40
41 The first is from the Sitka Herring
42 Association. And they contend that there is no new
43 information been presented and the same conclusion
44 should be drawn this year as previous years. Much of
45 the spawn deposition appeared to occur outside of the
46 areas accessible with very little spawning in and out
47 of Makhnati Island.

48
49 The United Fishermen of Alaska also
50 submitted written public comments. Their point was

1 that closing the Makhnati Island in Sitka Sound to
2 commercial herring fishing does little or nothing for
3 subsistence users while usurping State jurisdiction in
4 the commercial fishery.

5
6 CHAIRMAN ADAMS: Usurping State
7 commercial fishing, huh, okay.

8
9 Mr. Bangs.

10
11 MR. BANGS: Thank you, Mr. Chairman.
12 I'm on the Fish and Game -- the Chairman of the Fish
13 and Game Advisory Committee in Petersburg and we did
14 discuss this at the prior time, the last time it came
15 up and they voted and they were opposed to the closure.

16
17 CHAIRMAN ADAMS: Thank you, Mr. Bangs.

18
19 MR. KOOKESH: Mr. Chair.

20
21 CHAIRMAN ADAMS: Go ahead, Mr. Koo --
22 Mr. Floyd.

23
24 MR. KOOKESH: Are we supposed to take
25 that in writing or verbal?

26
27 MR. BANGS: Yes, Mr. Chairman.....

28
29 CHAIRMAN ADAMS: It would be better for
30 them to come and testify or have it in writing.

31
32 MR. BANGS: I understand, I just -- you
33 were asking for.....

34
35 CHAIRMAN ADAMS: Point of interest.

36
37 MR. BANGS:this was the last time
38 that we discussed this, this came up before our
39 Committee, the second time, I think that the proposal
40 was submitted.

41
42 CHAIRMAN ADAMS: Uh-huh, and they still
43 hold that same position, yeah, okay.

44
45 Okay. Public testimony, anyone.

46
47 (No comments)

48
49 CHAIRMAN ADAMS: Okay. We're going to
50 go into Council deliberations now and we've got that,

1 you know, .815(3) up there to be mindful of as we go
2 through this process and also, you know, those four
3 criteria, so what's the wish of the Council on this
4 proposal.

5
6 I need to bring something up here, Mr.
7 Kookesh brought out a point of interest here, do we
8 have a quorum established here.

9
10 MR. KOOKESH: We only have seven.

11
12 CHAIRMAN ADAMS: Seven, how many do we
13 need.

14
15 MR. LARSON: We have a quorum.

16
17 CHAIRMAN ADAMS: Okay, we have a
18 quorum.

19
20 MR. KOOKESH: How many do you need to
21 pass it, that was my question, seven?

22
23 REPORTER: Floyd.

24
25 MR. LARSON: You have to have over
26 half.

27
28 CHAIRMAN ADAMS: You have to have over
29 half.

30
31 MR. KOOKESH: Over half?

32
33 CHAIRMAN ADAMS: Uh-huh.

34
35 MR. KOOKESH: 13, so.....

36
37 REPORTER: Floyd.

38
39 MR. LARSON: So you have four.

40
41 CHAIRMAN ADAMS: We got four.

42
43 MR. KOOKESH: Six, seven.

44
45 CHAIRMAN ADAMS: Yeah, uh-huh.

46
47 MR. KOOKESH: So it passed because I
48 voted no.

49
50 CHAIRMAN ADAMS: Yeah, you're the only

1 one that voted no so.....
2
3 MR. KOOKESH: So that's six.
4
5 REPORTER: Floyd.
6
7 CHAIRMAN ADAMS: Yeah.
8
9 MR. KOOKESH: That's more than
10 half.....
11
12 CHAIRMAN ADAMS: It is.
13
14 MR. KOOKESH:of 13?
15
16 MR. LARSON: Of seven.
17
18 CHAIRMAN ADAMS: It's only of the
19 people who are present, okay, we still have a.....
20
21 MR. KOOKESH: I just -- I'm just
22 understanding (Mr. Kookesh - NO MICROPHONE).
23
24 REPORTER: Floyd. Floyd.
25
26 CHAIRMAN ADAMS: No, it doesn't mean
27 that all 13 of us have to be here, it's the people who
28 are present, you know, and we do have a quorum and so
29 the vote was, you know, okay.
30
31 MR. KOOKESH: Well, then I'll read my
32 Robert's Rules and I'll get back to you.
33
34 CHAIRMAN ADAMS: All right, do that,
35 thank you. We do have a quorum amongst us, again, I'll
36 say that again, it doesn't mean that we have to have
37 all 13 board members here at all, you know, as long as
38 we have a quorum we can do business and the vote was,
39 you know, six/one, and so that -- it does pass, okay,
40 yeah, but go ahead, you're free to do that Robert's
41 Rules.
42
43 MR. KOOKESH: I will.
44
45 CHAIRMAN ADAMS: Okay. Settled. Okay,
46 where are we now?
47
48 Don, go ahead.
49
50 MR. HERNANDEZ: Mr. Chairman. I move

1 to adopt FP09-05 as presented on Page 78 in the
2 briefing book.

3

4 CHAIRMAN ADAMS: Thank you, Mr.
5 Hernandez. Is there a second.

6

7 MR. BANGS: I'll second.

8

9 MR. STOKES: I'll second it.

10

11 CHAIRMAN ADAMS: Thank you, Mr. Bangs.
12 Okay. It's moved and seconded. So discussion.

13

14 Don, go ahead.

15

16 MR. HERNANDEZ: I'll attempt to start,
17 Mr. Chairman.

18

19 I'm going to be voting in favor of this
20 proposal.

21

22 Of course as we all know this is the
23 second or third time we've looked at this proposal. I
24 think in order for us to vote in support of this
25 proposal and pass it on to the Subsistence Board once
26 again I think we need to have some -- some new reasons
27 to support this that maybe we haven't -- haven't
28 expressed in the past so I guess I'll attempt --
29 attempt to do that in regards to the criteria.

30

31 I think -- I think that at this meeting
32 we have heard some new information that we didn't hear
33 in previous meetings. The testimony from the Sitka
34 Tribe I think was information that we had not heard
35 before regarding what could be a conservation issue
36 with the Sitka Sound herring stocks. I think that
37 information warrants strong review by the Board.

38

39 And as far as the subsistence uses, I
40 think it is important for us to stress the fact that
41 subsistence needs have not been met. We've had another
42 year of commercial fishing and subsistence fishing
43 since our last meeting and, once again the needs were
44 not met, I think that strengthens our level of concern
45 for this fishery.

46

47 A lot of discussion on what the effects
48 of what this closure would be or not a, you know, lack
49 of effects, I guess, as a really effective proposal to
50 deal with the situation and I guess my view on that is

1 if the area remains open to commercial fishing, there
2 -- there is a chance that the subsistence users could
3 be impacted, however, I don't -- I don't believe that
4 if this area were to be closed, I can't see a situation
5 where that would negatively impact the non-subsistence
6 users, I think that's highly unlikely that that
7 situation would occur. I think it's more likely to
8 occur that if the area were not closed that the
9 subsistence users could be negatively impacted by that
10 action. I think it's important for us to see that this
11 area is closed to non-subsistence use.

12

13 CHAIRMAN ADAMS: Thank you, Donald.
14 Anyone else.

15

16 Mr. Bangs.

17

18 MR. BANGS: Thank you, Mr. Chairman. I
19 would have to agree with Mr. Hernandez, in part.

20

21 I've really been struggling with this
22 proposal. I agree that there is a problem and I
23 believe that a closure of some sort would be a very
24 positive help for the subsistence users there, I don't
25 feel that this -- this particular closure will -- will
26 solve the problem. I think it's like closing a stream
27 over here so that you can catch the fish over there.
28 It doesn't -- it doesn't meet the -- it doesn't match
29 the problem, I don't believe. I believe that it's
30 something that is reachable by a Federal withdrawal so
31 you have a subtitle withdrawal and I can see to where
32 this would be the only place where you could possibly
33 start with a closure, but I don't -- I just don't feel
34 that it's addressing the problem. I think we're -- you
35 know we're headed down maybe a path that would help but
36 it's really difficult for me to use the information
37 that was given to us and say that this is going to help
38 -- this is going to fix it, this isn't going to fix it.

39

40

41 There's a bigger problem.

42

43 And I -- I feel that the information
44 doesn't match the problem. It just doesn't fit.

45

46 And I would support the Tribe in a
47 closure to help the gathering, but it really -- it's
48 hard for me to justify closing this area with the
49 information that we have as a problem. And so I'm
50 really not sure how I would vote on this yet, I -- I'd

1 like to hear some more from other Council members.

2

3 CHAIRMAN ADAMS: Anyone else.

4

5 Harvey.

6

7 MR. KITKA: Mr. Chair. I believe there
8 was a lot more information that was brought over by the
9 Sitka Tribe's biologist and -- and some of the
10 traditional knowledge that was given to us by our
11 elders.

12

13 Knowing that this is the only piece of
14 Federal land that -- or body that the Federal
15 government would have control over within the Sitka
16 Sound, we -- we ask this of the Federal body to do it
17 for us, we tried, at one time with -- through the Tribe
18 to get the State to -- to put a moratorium on the Sitka
19 Sound, to stop the fishery all together for a few years
20 and allow it to build back up with no -- no results on
21 that board. They fought us, they threw it out, and
22 this was a means of trying to get their attention to
23 work with us and also to have a spot that was safe for
24 the herring to come and spawn.

25

26 Being as this is the only piece of
27 Federal land that Federal would have control over, and
28 we hope that through this venue that we would have a
29 means of being able to conserve the stock and to meet
30 our subsistence and help meet our subsistence needs,
31 realizing, of course, that going out beyond this area
32 might become a problem for the commercial fishermen,
33 but the extra-territorial laws that are attached to it,
34 we realized that we needed to take this first step to
35 be able to get that point to where we can protect the
36 stock.

37

38 And this was a conservation concern.
39 And this is basically a conservation concern as far as
40 the Sitka Tribe is concerned.

41

42 Thank you.

43

44 CHAIRMAN ADAMS: Mr. Kookesh.

45

46 MR. KOOKESH: Mr. Chairman. I'm not
47 the Federal Subsistence Board but I'm a user in this --
48 in this herring fishery and I do believe there is a
49 conservation concern because we've seen it first hand
50 where we had a small, what do you call, branches --

1 where we had branches of herring with hardly anything
2 on them. I've seen that stock that came out of Sitka
3 that went to Angoon and the stock that came from Sitka
4 that was given to the Juneau people. And I don't agree
5 with the Federal Subsistence Board that there wasn't a
6 conservation concern. I know that it was mentioned
7 that there are five -- five bureaucrats, and I happen
8 to agree that maybe they don't have all the -- maybe
9 they don't understand this issue, but I do believe that
10 there is a problem out there and to -- and to ignore it
11 is not -- it's going to go away it's just going to get
12 worse, to be basing it on those biomass levels. That's
13 not how we -- that's not how we judge our subsistence,
14 but we judge it by the -- the product. And I believe
15 that we have a problem.

16
17 And the issue is not protecting --
18 excluding non-Federally-qualified, the issue is -- is
19 -- is allowing this opportunity to harvest and have a
20 need met for the Federally-qualified, couldn't care
21 about the non-Federally-qualified.

22
23 I remember being in Hydaburg one time
24 when our Council member said that if we make this
25 decision we're just going to -- used a different
26 language, but we're just going to have the commercial
27 fishermen mad at us, and I said, hell with the
28 commercial fishermen, you know, if you're afraid of the
29 commercial fishermen our people are going to lose this
30 one. We can't just walk away from this one because
31 there's a bureaucracy in front of us, we need to go
32 forward with this. Just can't stop here.

33
34 I believe that the Sitka Tribe has
35 maken [sic] their case and they understand, it's -- it's
36 unfortunate that we're guilty walking in the door, we
37 have to prove ourselves innocent, you know, it's -- all
38 of a sudden -- all of a sudden it reverses itself, you
39 know, it's a -- something's wrong with that process.

40
41 CHAIRMAN ADAMS: Gunalcheesh, Floyd,
42 appreciate it.

43
44 Anyone else.

45
46 Lee, go ahead.

47
48 MR. WALLACE: Mr. Chair, yes. After
49 listening to Sitka Tribe and their presentation, yes, I
50 think there's more data that they brought forth in

1 previous times and, you know, based on other testimony
2 that was brought forth from tribal citizens, you know,
3 definitely I'm in support of the proposal. And, you
4 know, clearly Sitka's is bringing forth with a
5 conservation of the resource in mind and so the bottom
6 line again is the needs aren't being met.

7
8 CHAIRMAN ADAMS: Thank you, Lee. I'm
9 going to chime in here next. But I just want to
10 emphasize, you know, the fact that, again, we are
11 dealing with the law of the land and that is ANILCA.
12 And ANILCA .807 provides for a priority for subsistence
13 users and I think that, you know, those -- those two
14 work -- the fact that it's in ANILCA, and that there is
15 a priority that we need to focus on that as we go
16 through whether we want to pass this or not. I think
17 that's a real strong argument right there.

18
19 I was really appreciative of Heather's
20 presentation in regards to the new data that was
21 brought forth and I think that really should be used, I
22 don't know whether we can use it here or not, but when
23 you go to Anchorage and testify, that is going to be a
24 lot of ammunition right there.

25
26 I like -- this was -- this was a real
27 good example of TEK and Western Science being brought
28 together because we heard testimony in Sitka where the
29 elders have said that particular stock over in
30 Salisbury Sound was a lot different than the others,
31 and that came from the elders, they knew it and they
32 told us that that was the case, and then the biologist
33 comes in and they come in and they confirmed that so
34 that's perfect, it's just -- to me, you couldn't be
35 more perfect in bringing TEK and Western Science
36 together because they both came out with the same
37 conclusions, okay. And so I think, you know, that's
38 another thing.

39
40 Another reason that I think Sitka Tribe
41 wants this to be reserved for herring harvest is
42 because -- I think we heard testimony in Sitka that
43 they had to go further and further away to meet their
44 subsistence needs and sometimes the weather wasn't
45 compatible and so as a result of that, you know, they
46 did not meet their subsistence needs and appreciate,
47 you know, Ron and his group's offer to help, I'm sure
48 they appreciated that as well, but it's not the same as
49 practicing your traditional way of life, and so they
50 just want that place reserved so they can go out there,

1 it's just a short ways from Sitka and -- and they don't
2 -- they don't have to travel so far, you know, for
3 that, so if they can keep that place closed off then --
4 then the subsistence harvesters for herring will be
5 available there.

6

7 It is on Federal land. It has Federal
8 jurisdiction and so they can, they can close it, they
9 can close it or keep it open if they want. And what
10 Sitka Tribe is wanting to do is to have it closed so
11 that those -- that area, particular small --
12 particularly small area, one mile as opposed to 50
13 miles closes so that they would have that available for
14 them to not have to travel so far but still be able to
15 receive their harvest of herring roe.

16

17 So that's my comments on this Council
18 and I hope maybe I convinced you, Mr. Bang, or the
19 other comments as well but I think, you know, those are
20 the basic foundations that I'm coming from.

21

22 So, thank you, and any other comments.

23

24 Mr. Bangs, go ahead.

25

26 MR. BANGS: Thank you, Mr. Chairman. I
27 understand, you know, that there is a problem and I --
28 I feel that I would -- I would support this and I think
29 that the Sitka Tribe did a very good job of presenting
30 information that I hadn't seen before. I'm just
31 disappointed that we have -- we have some bad
32 information, it was either the State or somebody's got
33 -- somebody's got bad information there and that's what
34 -- where I am confused as far as who to believe, you
35 know, I see and I've heard a lot of testimony and I
36 know that fishery, the commercial fishery has been
37 going on for a long time and it wasn't that many years
38 ago that the subsistence needs were being met and for
39 them to continue the fishery and claim they're healthy
40 stocks but yet the subsistence needs aren't being met,
41 I'm at a loss for why and, you know, whether the
42 herring have been chased away or whatever, I don't -- I
43 don't quite follow it. I've only been over there for
44 that fishery one time but this is a very complex issue
45 and I -- I would support the Tribe, in their efforts,
46 to secure areas for subsistence, but I don't feel
47 really solid in believing the information that we
48 received is all accurate.

49

50 But I would -- I will support the Tribe

1 in their efforts, I just am pretty disappointed in the
2 type of information that we've received.

3

4 Thank you.

5

6 CHAIRMAN ADAMS: Your point is well
7 taken, Mr. Bangs, and, you know, no matter what comes
8 before us, you know, there's always going to be little
9 problems and glitches here and there that aren't going
10 to meet to our satisfaction but if we look at the whole
11 picture, you know, and make our determinations on that,
12 I think then we're probably heading in the right
13 direction, so I just appreciate that coming from you as
14 a Council member.

15

16 What's the wish of the Council.

17

18 Any more comment.

19

20 (No comments)

21

22 MR. WALLACE: Call for the question.

23

24 CHAIRMAN ADAMS: Question's been called
25 for, we'll take a roll call, Mr. Kitka.

26

27 MR. KITKA: Lee Wallace.

28

29 MR. WALLACE: Yes.

30

31 MR. KITKA: Michael Bangs.

32

33 MR. BANGS: Yes.

34

35 MR. KITKA: Donald Hernandez.

36

37 MR. HERNANDEZ: Yes.

38

39 MR. KITKA: Floyd Kookesh.

40

41 MR. KOOKESH: Yes.

42

43 MR. KITKA: Bert Adams.

44

45 CHAIRMAN ADAMS: Yes.

46

47 MR. KITKA: Harvey Kitka votes yes.

48 Richard Stokes.

49

50 MR. STOKES: Yes.

1 MR. KITKA: Mr. Chair, the motion
2 passes.
3
4 CHAIRMAN ADAMS: Thank you, Mr. Kitka.
5 So you've got a lot of work to do Mr. Larson putting
6 this proposal together for the Federal Subsistence
7 Board so you got your work cut out for you.
8
9 The next thing we'll pick up on the
10 agenda is the National Marine Fisheries Service have a
11 report to give to us and would the young ladies please
12 come forth and entertain us for a little bit.
13
14 Mr. John, are you leaving?
15
16 MR. JOHN: (Nods affirmatively)
17
18 CHAIRMAN ADAMS: All right, you going
19 to be around tomorrow?
20
21 MR. JOHN: Yeah.
22
23 CHAIRMAN ADAMS: All right, have a good
24 evening.
25
26 (Pause)
27
28 CHAIRMAN ADAMS: We're just going to
29 take an at ease here for a minute.
30
31 (Pause)
32
33 CHAIRMAN ADAMS: Are you ready, okay,
34 let's get these people settled down and we'll get
35 started.
36
37 (Pause)
38
39 CHAIRMAN ADAMS: Ladies and gentlemen,
40 we're back in session now so pay attention.
41
42 (Pause)
43
44 CHAIRMAN ADAMS: Let's wait until they
45 settle down a little bit.
46
47 (Pause)
48
49 CHAIRMAN ADAMS: Okay, go ahead.
50

1 MS. HARRINGTON: Good afternoon, Mr.
2 Chairman, members of the Council. I am Gretchen
3 Harrington with National Marine Fisheries Service and I
4 am here today to talk about the actions that the
5 Council is currently considering to minimize salmon
6 bycatch in the Bering Sea pollock fishery.

7
8 And you do have a copy of these slides
9 in front of you, I handed them out.

10
11 So just to give a little bit of
12 background, there's two different bodies, there's the
13 North Pacific Fisheries Management Council, which
14 defines the problem, the problems for any management
15 action, develops alternatives, analyzes impacts and
16 then makes a recommendation to the Secretary of
17 Commerce. And NMFS, National Marine Fisheries Service
18 is part of the Secretary of Commerce and we provide
19 data, our science center and our fisheries catch
20 counting divisions provide data. We work with the
21 council to analyze impacts, we insure that the
22 council's recommendations comply with applicable
23 Federal law and specifically the Magnuson-Stevens Act.
24 The Secretary then approves, disapproves or partially
25 approves the council's recommendations and then NMFS
26 implements and enforces the approved management
27 measures.

28
29 And we're here today as part of the
30 council's outreach plan for the salmon bycatch, and
31 presentations will be made to all of the Regional
32 Subsistence Advisory Council meetings as part of their
33 outreach plan to expand public involvement in council
34 issues. A similar presentation will be made to most of
35 the other RACs by council or NMFS staff.

36
37 So this issue, the problem basically is
38 that the Bering Sea pollock fishery catches chinook
39 salmon as bycatch. The five year average is
40 approximately 82,000 chinook salmon. In '07 there was
41 a spike in the amount of bycatch caught to 122,000
42 approximately. That caused quite a concern. The
43 numbers have decreased dramatically in '08. We've just
44 had the pollock -- these are primarily numbers from the
45 pollock A season, which is the winter fishery. There's
46 still more -- there's still going to be the pollock B
47 season in the fall so we expect more bycatch, this
48 isn't the final -- these aren't final numbers for 2008.
49 And the concern is, is that the estimates vary but that
50 approximately half -- or up to half of the chinook

1 salmon caught bycatch maybe destined for Western
2 Alaska, where the people rely on the chinook salmon for
3 their economic and cultural livelihoods.

4

5 MR. KOOKESH: Can we ask questions.

6

7 MS. HARRINGTON: Oh, sure.

8

9 CHAIRMAN ADAMS: Go ahead, ask your
10 question.

11

12 MR. KOOKESH: What is the closing date
13 on that pollock fishery that's ongoing?

14

15 MS. HARRINGTON: Mr. Chairman. The
16 winter fishery -- what we call the A season opens
17 January 20th and closes on June 10th, and then the B
18 season opens right after that, except they don't go
19 fishing until usually October, November and into
20 December. I'm not sure of the exact closure date but
21 they fish until the tact is harvested.

22

23 MR. KOOKESH: Hum.

24

25 MS. HARRINGTON: So we expect that the
26 -- I mean the bulk of the B season pollock fishery will
27 occur in November -- October, November and December.

28

29 CHAIRMAN ADAMS: Go ahead, Mr. Bangs.

30

31 MR. BANGS: Yes, thank you, Mr.
32 Chairman. When you say that the bycatch may be
33 destined for Western Alaska, are they doing DNA
34 sampling or scale samples or how do they assess that?

35

36 MS. HARRINGTON: Mr. Chairman. Yes,
37 they are doing genetic work on the salmon bycatch, and
38 there have been a couple studies previously and there's
39 ongoing work by the State of Alaska in conjunction with
40 the National Marine Fisheries Service and University of
41 Alaska and University of Washington on trying to get a
42 better understanding of the genetic composition except
43 we don't know for sure and as I'll show in later
44 slides, the composition of the bycatch of an individual
45 vessel depends on when and where it's fishing because
46 the salmon -- the distribution of the salmon depends --
47 where they're from changes the distribution of where
48 they're caught.

49

50 So, okay.....

1 CHAIRMAN ADAMS: I just got a question,
2 too, are you going to address like maybe later on what
3 happens to these bycatch, what do they do with it and
4 maybe possibly the size of the bycatch, of the salmon
5 that are caught, are you going to talk about that later
6 or could you answer that now?

7
8 MS. HARRINGTON: That's not part of my
9 presentation. There's a couple things. The salmon are
10 prohibited species, which means they're not allowed to
11 sell them and most of the salmon that are caught are
12 counted and discarded. There is a prohibited species
13 donation program, which actually Becky Carls is far
14 more involved in than I am, where the vessel can
15 deliver the salmon to a shore-side plant and they
16 process it and donate it to a food bank that's applied
17 for it. But I think the majority of the salmon is
18 discarded at sea after being counted.

19
20 CHAIRMAN ADAMS: And the size of the
21 salmon caught?

22
23 MS. HARRINGTON: We're in the process
24 of doing an environmental impact statement and ideally
25 that would be available -- and it will be available on
26 December 5th, that's our target date, and in there we
27 have a lot more detail on the salmon caught but they
28 think that they're juveniles, and, again, it depends on
29 when and where they're caught. And so I'll talk about
30 that a little bit more when I go into what type of
31 analysis we've been doing.

32
33 CHAIRMAN ADAMS: Sure. Continue on,
34 please.

35
36 MS. HARRINGTON: So the council right
37 now is looking at -- their proposed action is
38 minimizing chinook salmon bycatch to the extent
39 practicable while achieving optimum yield from the
40 Bering Sea pollock trawl fishery. And this balances
41 the two requirements that NMFS and the council operate
42 under the Magnuson-Stevens Act and that's achieving
43 optimal yield from the fisheries and minimizing bycatch
44 to the extent practicable.

45
46 So where are we in the process. The
47 North Pacific Fisheries Management Council has created
48 four alternatives to manage chinook salmon bycatch and
49 the council has been working on this issue since 2004
50 and they've developed these alternatives through a

1 lengthy public process in their council meetings.
2 Council and NMFS staff are analyzing the impacts of the
3 alternatives in a draft environmental assessment -- I
4 mean environmental impact statement, regulatory impact
5 review and initial regulatory flexibility analysis.
6 That is scheduled to be released on December 5th of
7 this year and we'll have a public comment period on
8 that document until February 3rd, 2009. The council is
9 scheduled -- currently scheduled to take final action
10 to make a recommendation in April 2009. And we plan on
11 having the program implemented by January 2011.

12
13 So the alternatives, there's always a
14 no action alternative and that right now is status quo,
15 which we have a chinook salmon savings area and then an
16 exemption from that savings area for vessels that
17 participate in an intercooperative agreement that has a
18 voluntary rolling hot spot system. Basically it's a
19 way to avoid catching salmon.

20
21 They also have alternative two, which
22 are the hard cap alternatives and they looked at -- or
23 they wanted a range of hard caps analyzed from
24 approximately 29,000 fish to 87,000 fish. And a bunch
25 of different numbers in between. And then different
26 seasonal allocations between the A and the B season.
27 And then how to allocate those caps to the different
28 pollock sectors and then also whether or not they could
29 transfer among sectors or roll over the bycatch from
30 the A season to the B season.

31
32 And all of these caps, as you can see,
33 are below the average of chinook salmon bycatch.

34
35 The other alternative, or alternative
36 three, and those were triggered closures, which
37 basically means you set a cap for an area and once the
38 cap is reached in that area you close the area and the
39 fleet moves out of that area. The trigger closures are
40 very similar to the type of management done under
41 status quo.

42
43 Alternative four, the council chose in
44 June of this year as their preliminary preferred
45 alternative. It has a number of components. And the
46 first component is a hard -- a high cap of 68,392
47 chinook salmon and that hard cap would only apply to
48 vessels that participated in an intercooperative
49 agreement which is a contractual arrangement among the
50 pollock vessels and in that contractual arrangement

1 they'd have incentives to reduce salmon bycatch. The
2 other component of this would be a back -- what we're
3 calling a backstop cap and that's of 32,482 chinook
4 salmon and that's from vessels that choose not to
5 participate in the ICA. The third component would be a
6 low cap of 47,591 salmon and that would be in the
7 absence of an ICA, meaning if the industry couldn't get
8 together to create an ICA that reduced salmon bycatch
9 in all years then the cap would automatically be
10 47,000.

11
12 These caps are managed a little bit
13 differently. The backstop cap would be divided 70/30
14 between the A season and the B season. It would not be
15 allocated to sectors, which means it would basically be
16 an open access to the cap. All catch would accrue to
17 the cap, even vessels that were participating in the
18 ICA, their catch would also accrue to this cap so --
19 and the vessels subject to the cap must stop fishing
20 once the cap is reached.

21
22 The high cap and the low cap management
23 would be very similar also.....

24
25 CHAIRMAN ADAMS: Excuse me, before I
26 forget, I need to ask you a question, how does the
27 pollock fishery feel about these caps that are being
28 suggested.....

29
30 MR. KOOKESH: It's pollock.

31
32 CHAIRMAN ADAMS:right now, are
33 they going to.....

34
35 MR. KOOKESH: It's pollock.

36
37 CHAIRMAN ADAMS:cooperate or not?

38
39 MS. HARRINGTON: The pollock fishery,
40 in their public testimony to the council has expressed
41 great concern for salmon bycatch. They have tried to
42 reduce salmon bycatch and, again, I'm relaying their
43 testimony to the council, they're taking the measure
44 they feel reduce salmon bycatch. I think they are
45 definitely in support of working -- they've testified
46 that they're in support of working out a solution that
47 reduces salmon bycatch.

48
49 CHAIRMAN ADAMS: So that is documented,
50 thank you.

1 MS. HARRINGTON: So let's see. Okay,
2 the high and low caps would be allocated to the four
3 pollock fishing sectors, the CDQ, the inshore catcher
4 vessel sector, the mother ship sector and the offshore
5 or catcher processor sector. The inshore catcher
6 vessel sector allocation would be further allocated to
7 cooperatives and inshore open access fishery, likewise
8 the CDQ sector allocation would be allocated to the CDQ
9 groups, the sectors could transfer caps among the
10 sectors in a given season. So if one sector caught all
11 of its pollock but had leftover salmon bycatch
12 allocation they could transfer that to another sector.

13
14 Caps would then be rolled -- in
15 addition to that caps would be rolled over from the A
16 season to the B season, meaning if a sector wanted to,
17 instead of transferring it they could have it rolled
18 over into the next season with, oh, 80 percent of their
19 remaining catch rolled over.

20
21 So in the environmental impact
22 statement, we're looking at -- we're analyzing the
23 impacts of the alternatives on pollock, the pollock
24 stocks and the pollock fishery, how the fleet would
25 change under these new management measures and the
26 impacts of the change in the fishery. We're also
27 looking at the impacts of the bycatch and the
28 reductions in bycatch on chinook salmon stocks, chum
29 salmon, other ground fish, meaning if you change the
30 fishery to move off salmon, do they start catching
31 something else, halibut, and so we're looking at that
32 other prohibited species, which are halibut, crab,
33 herring, and forage fish. And we're also looking at
34 the impacts of the alternatives on other marine
35 resources, including marine mammals, seabirds, the
36 habitat, ecosystem as a whole. There's also a chapter
37 on environmental justice considerations, and this is in
38 response to an Executive Order that directs agencies to
39 look at the environmental justice impacts of their
40 actions, meaning basically is there a disproportionate
41 impacts on low income and minority populations of the
42 Federal actions. And then there's also chapters on
43 economic impacts, and that includes net costs and
44 benefits to the nation and impacts on small entities.

45
46 And this gets back to some of the
47 questions earlier, is we don't have perfect genetic
48 data, we don't know exactly where all the salmon that
49 are caught come from. We are in the process of
50 improving the genetic work and improving our analysis

1 of the genetic work. The composition of bycatch
2 varies, depending on when and where the pollock fishery
3 occurs. Likewise the genetic information varies
4 depending on when and where the samples were taken.
5 And we're in the process of synthesizing all that
6 information.

7
8 One of the things that was done for the
9 impact analysis, to understand the impacts of the
10 salmon taken in bycatch on chinook salmon stocks and
11 then the effects of those changes in stocks on coastal
12 communities was there was an adult equivalent model
13 developed by scientists at the NMFS Alaska Fisheries
14 Science Center and State of Alaska.

15
16 An AEQ model, it's very complicated and
17 it's going to be fully explained in the analysis. But
18 the model combines observer data and the observer data
19 tells us the lengths and the weights of the salmon
20 caught. It combines that information with the best
21 available genetic data and it tries to estimate or
22 provide numbers of chinook salmon that would have
23 failed to return to a stream in a given year due to the
24 bycatch in the pollock fishery combined with estimated
25 natural ocean mortality and the year in which they
26 would have returned to spawn.

27
28 The analysis is ongoing and I think
29 that the numbers that I'm presented were provided in
30 the preliminary draft EIS and they may vary slightly
31 when we publish the draft EIS.

32
33 The Southeast Alaska chinook are
34 included in two categories. The AEQ model breaks it up
35 by geographic area. They're included in a category
36 called other, it's also included other areas with very
37 low contribution, including upper Kuskokwim, the South
38 Alaska Peninsula and Upper and Lower Copper River.
39 Also in the TBR group, which is the TransBoundary
40 stocks from the Taku and the Stikine River. So
41 basically the AEQ model provides us a way to quantify
42 and understand the impacts of chinook bycatch on a
43 broad geographic area.

44
45 So what are the impacts of the current
46 levels on chinook salmon that would have returned --
47 that were destined to return to the Southeast Alaska
48 rivers. We're estimating that approximately 2.5 to 3
49 percent of the chinook caught in the pollock fishery
50 originate from the two categories that include

1 Southeast Alaska rivers. The actual portion is
2 probably less but the way that the model combined them
3 we don't know exactly how much less.

4
5 And so the model provides an estimate
6 that an average of 1,789 chinook salmon failed to
7 return to rivers in the two categories that include
8 Southeast Alaska and then just for comparison I
9 provided the 2006 chinook salmon quota for Southeast
10 Alaska, all gears. So you can see it's a small number.

11
12 So what are the impacts of the
13 alternatives that the council is considering to
14 minimize salmon bycatch and basically all the
15 alternatives to status quo are designed to reduce
16 salmon bycatch compared to the recent average bycatch
17 levels.

18
19 The AEQ model looks at were the salmon
20 saved, what salmon would have returned had they not
21 been caught in the pollock fishery under the
22 alternatives, and they estimate, given the different
23 combinations of caps and the seasonal allocations of
24 the caps, approximately between -- well, a maximum of
25 2,084 salmon, and this is what would have been saved in
26 2007, so it's a little bit above the five year average,
27 because '07 was a large -- high bycatch year.

28
29 This, of course, actual numbers may
30 vary because specific cap levels may encourage the
31 fleet to fish in specific areas and that would change
32 the portion of salmon caught from individual river
33 systems.

34
35 So the stage we're at now is we're
36 encouraging public involvement to provide comments on
37 the draft environmental impact statement. Just in
38 general, for impact statements, you know, the comments
39 are the most helpful if they're specific as possible
40 and address the scope and content of the document, the
41 analysis of potential environmental impacts as well as
42 the social and economic impacts, the adequacy of the
43 proposed action, and the merits of the alternatives.

44
45 The draft EIS will be available for
46 download and I provide the website. Also this website
47 has a form where you can request a printed copy. The
48 website also includes the notice of intent, the scoping
49 report and related information. Or you can call our
50 office to request a copy. There is also more

1 information on the North Pacific Fisheries Management
2 Council's website and I've also provided that. And the
3 scoping report is a document that we produced that
4 basically summarizes all of the comments we received
5 during scoping and the council has this in front of
6 them and they consider these comments when they decide
7 the range of alternatives.

8

9 And that concludes my presentation, Mr.
10 Chairman.

11

12 CHAIRMAN ADAMS: Questions, anyone.

13

14 MR. STOKES: Yes.

15

16 CHAIRMAN ADAMS: Go ahead, Richard.

17

18 MR. STOKES: What is the average.....

19

20 CHAIRMAN ADAMS: Turn on your
21 microphone please.

22

23 MR. STOKES: Sorry, Tina. What is the
24 average age and size and weight of these chinook.

25

26 MS. HARRINGTON: Mr. Chairman. I am
27 sorry I don't know off the top of my head, I will look
28 it up. I know it's in here so.....

29

30 MR. KOOKESH: She said juveniles.

31

32 MS. HARRINGTON: Yeah, they're juvenile
33 but I don't know exactly which year.

34

35 CHAIRMAN ADAMS: So they're actually
36 catching them before they become adults.

37

38 MS. HARRINGTON: Yeah, they estimate
39 that they're probably two to three years, they catch
40 them two to three years prior to their returning to
41 their natal streams.

42

43 CHAIRMAN ADAMS: Okay. Floyd, did you
44 have a question.

45

46 MR. KOOKESH: Yes, I did.

47

48 CHAIRMAN ADAMS: Go ahead.

49

50 MR. KOOKESH: But I didn't have my hand

1 up yet.
2
3 CHAIRMAN ADAMS: Well, I say yours
4 first.
5
6 MR. KOOKESH: Well, my question.....
7
8 REPORTER: Floyd.
9
10 MR. KOOKESH: My question is we were
11 talking earlier about the herring fishery in Sitka and
12 the number \$8 million came up, what is the value of
13 this fishery? It seems to have a higher value than
14 salmon so.....
15
16 MS. HARRINGTON: The value of the
17 pollock fishery, yes, it's -- it's quite a bit -- it's
18 a very valuable fishery.
19
20 MR. KOOKESH: How much?
21
22 MS. HARRINGTON: I don't know the value
23 off the top of my head, millions, yes, I think.
24
25 CHAIRMAN ADAMS: Mr. Bangs, go ahead.
26
27 MR. BANGS: Thank you, Mr. Chairman.
28 I've heard it's the most valuable fishery in the state
29 by far.
30
31 But anyway the question I had was that
32 these salmon, they swim in with the pollock or are they
33 just caught while they're dragging their nets or
34 they're just like random or.....
35
36 MS. HARRINGTON: You know it depends.
37 They do some -- they commingle, some they'll catch a
38 net full of both salmon and pollock together or
39 sometimes they'll just catch salmon or just catch
40 pollock. That's the fleet intercooperative agreement,
41 they have this, what's called a voluntary rolling hot
42 spot system where there's -- to try to avoid catching
43 nets with salmon in them and one of the problems in '07
44 and the increase in bycatch is they weren't able to
45 avoid the salmon as well as they had been in previous
46 years.
47
48 MR. BANGS: Okay, thank you. The other
49 question I had was brought to attention by another
50 gentleman, is there any other bycatch fisheries that

1 catch salmon, the -- maybe the Pacific cod fisheries or
2 any of that, are they catching salmon in any of those
3 trawl fisheries?

4

5 MS. HARRINGTON: The Bering Sea pollock
6 fishery catches approximately 84 percent of the chinook
7 salmon bycatch, of the Federal groundfish fisheries.
8 There are other -- like the Pacific cod fishery also
9 catches salmon and I think -- but in general it's the
10 Bering Sea pollock fishery. And we just found a table,
11 the ex vessel value for pollock for 2006 it was \$246
12 million, for the catcher processors and then -- yeah,
13 and then 231 million for the catcher vessels. So,
14 again, you know, four sectors, doesn't say -- oh, and
15 the mothership and CDQ, I think those values aren't
16 there because of confidentiality, but it is, I think
17 it's the most valuable fleet -- most valuable fishery
18 in the nation.

19

20 CHAIRMAN ADAMS: Harvey.

21

22 MR. KITKA: Thank you, Mr. Chair. I
23 was just wondering, realizing you guys are talking
24 money on the most valuable fishery, from the Native
25 perspective, which I believe that the Federal
26 government has mandated that you guys all meet with
27 these people in the tribes and from our perspective
28 there's no more valuable fishery than the subsistence
29 fishery and knowing how much the bycatch is from year
30 to year will basically tell us at times, the amount of
31 fish that are returning to the streams is going to be
32 considerably less because that year that you had over
33 200,000 fish of juveniles stock might have been the
34 stock that was supposedly getting back to the stream
35 this last year where they didn't get anything. And
36 it's very disconcerting to my point of view.

37

38 Thank you.

39

40 CHAIRMAN ADAMS: Okay. Got a question.

41

42 MR. KOOKESH: (Nods affirmatively)

43

44 CHAIRMAN ADAMS: Go ahead, Floyd.

45

46 MR. KOOKESH: Two things. You
47 mentioned the Bering -- Bering Sea.....

48

49 MS. HARRINGTON: Uh-huh.

50

1 MR. KOOKESH:was one spot, where
2 was the other spot, and the other question is, for
3 someone who's a charter boat operator out there, we're
4 wondering what happened to the kings this year, is
5 there any environmental justice out there on it?
6

7 MS. HARRINGTON: Mr. Chairman. It's
8 the Bering Sea pollock fishery, that's what these
9 management measures will regulate and that's the
10 fishery that's catching the vast majority of the
11 chinook bycatch. As far as the return of chinook this
12 year, to Southeast, I'm sorry, I don't know, I can't
13 speak to that.
14

15 CHAIRMAN ADAMS: Okay. Another one.

16 MR. KOOKESH: Yes.

17 CHAIRMAN ADAMS: Go ahead.

18
19 MR. KOOKESH: Does it fit into a
20 category of making a request for some environmental
21 justice where we don't see the returns, may -- maybe
22 I'm not -- well. . . .
23
24

25 MS. HARRINGTON: The State of Alaska,
26 well, I'm sure you know manages the salmon in Southeast
27 Alaska and I think they'd probably be much more able to
28 speak to the decline in salmon abundance in Southeast
29 Alaska.
30

31 CHAIRMAN ADAMS: Well, we're wondering
32 about sockeye, too, so it must be, you know, something
33 that's taking place out there that's affecting all of
34 them.
35

36 MS. HARRINGTON: Yeah.

37 CHAIRMAN ADAMS: Any other questions.
38 Mike, go ahead.
39

40 MR. BANGS: I just wanted to clarify,
41 they do have onboard observers, all of these boats,
42 processors?
43
44

45 MS. HARRINGTON: Mr. Chairman. The
46 sectors -- the catcher vessel sector has 30 percent
47 observers, the -- yes, they all have observers, just
48 different amounts of observers. One of the other
49 management measures that will be implemented with all
50

1 of the alternatives is to increase all observer
2 coverage to 100 percent.

3
4 And one thing I wanted to point out in
5 response to an earlier comment is all of the
6 alternatives considered by the council to reduce
7 bycatch, when you look at the caps, the caps are far
8 below the -- well, the peak in 2007 and they're below
9 the average -- or they're near the average, the five
10 year average, so they are reduced bycatch.

11
12 CHAIRMAN ADAMS: Okay. How are we
13 doing, got a question.

14
15 MR. KOOKESH: (Shakes head negatively)

16
17 CHAIRMAN ADAMS: No. Okay, thank you.
18 Are you all prepared to do the halibut subsistence
19 fishing, too.

20
21 MS. CARLS: In a moment.

22
23 CHAIRMAN ADAMS: Okay.

24
25 (Pause)

26
27 MS. CARLS: Good afternoon, Mr.
28 Chairman, members of the Council. My name is Becky
29 Carl -- Carls -- I can say my own name, and I also work
30 for the National Marine Fisheries Service here in
31 Juneau.

32
33 Today I'm going to share with you some
34 information about new subsistence halibut final
35 regulations that were published this morning, they were
36 warm when I took them over there. They were just
37 published in the Federal Register and these regs will
38 be effective on October 24th. You wait 30 days between
39 publishing and the effective date unless we have some
40 emergency and we have to make them effective right
41 away. So I gave you a copy of the regs and a copy of
42 this slide presentation.

43
44 I will start by briefly describing the
45 current subsistence halibut program. But before I
46 launch in about that, I would like to share just a bit
47 about myself.

48
49 For the past five years I've been
50 working with Gretchen and a bunch of other good folks

1 down at NMFS here in Juneau. Before that I worked with
2 the National Weather Service for several years but I
3 got tired of all the rain which normally I could say
4 that, you know, and it'd be good for a laugh but we
5 have sunshine today, but I couldn't make the rain stop
6 so I got out of there.

7

8 When my kids were small, going back
9 some more, I stayed home with them and I did a lot of
10 volunteer work, which leads me to one of my favorite
11 halibut stories. For one of those volunteer positions,
12 I went on a trip to Chicago to meet a bunch of similar
13 folks from around the country, other states, and I met
14 up with some nice folks from the midwest who were quite
15 excited to learn that I lived in Alaska. One fellow,
16 in particular, was from Iowa and he could hardly wait
17 to talk about fishing, you know, folks from that part
18 of the country think a big fish is 12 inches, so they
19 have no idea what a really big fish looks like. He
20 wanted to know what my favorite fish was and I told him
21 halibut because I really love to eat halibut. Well, he
22 obviously didn't know a halibut from a herring or a
23 salmon because his next question was, did you ever see
24 a halibut, whoops, how do I get this to go, oh, excuse
25 me, one moment please, we will have this in a moment.

26

(Pause)

27

28
29 MS. CARLS: Here we go, okay. So his
30 question was, did you ever see a halibut stream
31 upstream to spawn so I just started laughing, tears
32 were coming down my cheeks because all I can do is
33 think of a picture like this in my head of this halibut
34 trying to swim up stream and it's not working out
35 really well.

36

(Laughter)

37

38
39 MS. CARLS: So that's as much fun as
40 we're really going to have.

41

42 Okay, why does NMFS manage the
43 subsistence halibut fishery.

44

45 The Halibut Act authorizes the North
46 Pacific Fisheries Management Council, which Gretchen
47 just explained to you the workings of that to develop
48 the fishery -- the halibut fishery regulations,
49 Secretary of Commerce, who's in charge of NMFS adopts
50 the regulations that re necessary to carry out the

1 purposes of an agreement with Canada under the Halibut
2 Act. NMFS has responsibility for managing the
3 subsistence halibut fishery and adopting the
4 regulations for its management.

5
6 A subsistence halibut is caught by a
7 rural resident or a member of an Alaska Native Tribe
8 for direct personal or family consumption as food,
9 sharing for personal or family consumption as food, or
10 customary trade. And customary trade means the non-
11 commercial exchange of subsistence halibut for anything
12 other than items of significant value. I want you to
13 know that it's unlawful to let subsistence halibut to
14 enter the commercial sector.

15
16 A rural resident, as defined in the
17 regulations of a community with customary and
18 traditional uses of a halibut listed on the table of
19 rural communities in Federal regulations can fish for
20 subsistence halibut. And where you can find the
21 Federal regulations at the end of the slide show, your
22 last piece of paper will show you a bunch of really
23 great websites and stuff where you can find the
24 regulations.

25
26 CHAIRMAN ADAMS: You have a question.

27
28 MR. BANGS: Yes, thank you, Mr.
29 Chairman. Now, this is an issue that I thought was
30 being resolved when it says who can fish for halibut
31 under a subsistence, it says you have to belong to a
32 rural community, well, people that live away from those
33 communities were exempt and I thought that was kind of
34 an oversight and I wondered if that isn't changed here.

35
36 MS. CARLS: That's not in this new
37 regulatory package but it's in the next one to come up.
38 It was just passed this past June, the council approved
39 new regulations, a new method for determining who is a
40 rural resident and stay tuned.

41
42 It's a bunch of very different, most of
43 Southeast, except for the non-subsistence areas, marine
44 areas that have been Ketchikan and Juneau, they've got
45 a 10 mile border around some parts of the state, it's
46 all very confusing, but it'll be in the next package of
47 regulations that come out. This is a different, older
48 set.

49
50 Sorry, Mr. Chairman.

1 A member of an Alaska Native Tribe can
2 also subsistence fish if the tribe has customary and
3 traditional uses of halibut and they're listed on a
4 table of tribal entities in Federal regulations.

5
6 Before subsistence halibut -- before a
7 person can go fishing for subsistence halibut, they
8 have to register for a SHARC card, and if you go halibut
9 subsistence fishing, you probably know the cute little
10 SHARC card. But there's a note on the next slide here,
11 a person who is not a rural resident, whether they are
12 inside or outside of the state, but they are a member
13 of a listed Alaska Native Tribe and the tribe is
14 located in a rural area may conduct subsistence fishing
15 but only in their IPCH area 2C, 3A, that sort of thing,
16 so that's good to know.

17
18 And the.....

19
20 CHAIRMAN ADAMS: Excuse me.

21
22 MS. CARLS: Oops, I'm sorry.

23
24 CHAIRMAN ADAMS: So that means if a
25 person lives in Seattle comes from Yakutat, he can come
26 up there and subsistence in 3A.

27
28 MS. CARLS: Anywhere in 3A.

29
30 CHAIRMAN ADAMS: Anywhere in 3A.

31
32 MS. CARLS: It doesn't have to be in
33 Yakutat. Well, where it's open, not in Juneau where
34 it's a closed area.

35
36 CHAIRMAN ADAMS: Yeah, understood.

37
38 MS. CARLS: Yeah. Okay. The current
39 general regulations in Area 2C for subsistence fishing
40 with a SHARC is that you're limited to set line gear
41 and hand held gear, 30 hooks per vessel, a retention
42 limit of 20 halibut per day and on board the vessel.

43
44 Fishing for subsistence halibut, is
45 prohibited, as I mentioned, in those non-subsistence
46 marine areas, and, again, see the last slide that I
47 have there for you to see where the regulations can be
48 found.

49
50 There are some special permits for

1 subsistence halibut fishing. The ceremonial permit is
2 only for listed area -- Alaska Native Tribes in area 2C
3 and 3A for the listed Native Tribes. They can harvest
4 up to 25 halibut associated with traditional cultural
5 events and they're good for 30 days.

6

7 The educational permits is also for
8 areas 2C and 3A, the Alaska Native Tribes only, for
9 harvest of up to 25 halibut for use in educational
10 programs, and those are also good for 30 days.

11

12 And then there is also a community
13 harvest permit, a CHP, it's only available right now in
14 area 2C for listed communities and Alaska Native
15 Tribes. NMFS will issue a CHP to a listed community
16 only if no Alaska Native Tribe exists in that
17 community. And it's for harvesting halibut on behalf
18 of the community or the Native Tribe. A CHP may not be
19 used in Sitka Sound, nor in Ketchikan, or Juneau non-
20 subsistence marine areas. Currently educational and
21 ceremonial permits may not be used there either. And
22 CHPs allow 30 hooks per vessel, no daily or possession
23 limit and they're good for a year. All of these
24 special permits have unique application and reporting
25 requirements, they're quite detailed, and that's, again
26 in the regs.

27

28 So where can you go fishing if you're a
29 qualified person. In any waters in and off Alaska
30 except for the following non-rural areas; Ketchikan,
31 Juneau, Anchorage, Mat-Su, Kenai, Valdez non-
32 subsistence marine areas, and there's special rules
33 inside Sitka Sound near Low Island, which is also
34 prohibited. And subsistence fishing for halibut within
35 the Sitka Pinnacles Marine Reserve is also not allowed.
36 And I have maps of these areas. There you can see
37 where Sitka Pinnacles and Low Island are. There's
38 Ketchikan non-rural area and the Juneau non-rural area.

39

40 So the new subsistence rules, and,
41 again, these are going to be effective October 24th.
42 I'm only mentioning 3A because it's part of this rule.

43

44 So 3A, Chiniak Bay is the roaded area
45 of Kodiak. The maximum hook limit per vessel will drop
46 from 90 hooks to 60 hooks, except when they're fishing
47 under one of those special permits. Also in area 3A
48 listed communities and Alaska Native Tribes may now
49 apply for community harvest permits, which they
50 previously were unable to do.

1 To address local depletion concerns in
2 Sitka Sound there are special rules in there for
3 different times of the year, they're seasonal and that
4 spells them out there.

5
6 And we're adding Naukati to the list of
7 eligible communities and they're really happy about
8 that.

9
10 We're going to implement possession
11 limit of one daily bag limit, generally in 2C this
12 means 20 halibut per day per vessel and in possession.

13
14 Revising the definition of a charter
15 vessel so that a vessel that is registered or that
16 should be registered as a sportfishing guide vessel
17 with the Alaska Department of Fish and Game.

18
19 Retention of -- they still want you to
20 -- if you own a charter vessel to be able to use your
21 vessel to go subsistence fishing, but it can't be also
22 while you're doing the charter fishing. So retention
23 of subsistence halibut on board a halibut vessel
24 remains prohibited if anyone other than the owner of
25 record of the owner's immediate family is on board the
26 vessel and each person that is subsistence fishing must
27 have a SHARC card. And transfer of subsistence halibut
28 to charter vessel anglers is prohibited.

29
30 We're eliminating the \$400 customary
31 trade limit and restricting monetary exchange for
32 subsistence halibut strictly to reimbursement of actual
33 expenses of only ice, bait, fuel or food. Rural
34 residents may only be reimbursed by members of their
35 same community, but Alaska Native Tribal members may be
36 reimbursed by any Alaska Native Tribe or its members or
37 residents of the same rural community to allow for the
38 tradition of trading subsistence fish, sharing it with
39 the community.

40
41 And we're going to allow use of
42 ceremonial and educational permits in those non-
43 subsistence marine areas in Juneau and Ketchikan and
44 the others by 12 specific Alaska Native Tribes whose
45 traditional fishing grounds fall within those areas,
46 and they're listed there in the regulations that I just
47 handed out. And I can spell them out if anyone wants
48 them. Currently these areas are closed to all
49 subsistence halibut fishing, now there will be the
50 ability to do ceremonial and educational fishing here

1 in Juneau and in Ketchikan.

2

3 MR. KOOKESH: Question.

4

5 CHAIRMAN ADAMS: Go ahead, Floyd.

6

7 MR. KOOKESH: I was never really
8 involved in this process but this is me asking you, for
9 someone who subsistence fishes, you ever catch 20
10 halibut with 30 hooks in one day? Do you know of
11 anybody realistically, is this a realistic proposal?

12

13 MS. CARLS: I don't know I've never
14 gone subsistence halibut fishing myself, so I can't
15 tell you, I can't speak to it. I think they were just
16 trying to allow for flexibility. Maybe you could have
17 a really great haul.

18

19 CHAIRMAN ADAMS: Point well taken

20 Floyd.

21

22 MR. HERNANDEZ: I caught about 16 in
23 one set one time on 30 hooks, that was a pretty good
24 set.

25

26 CHAIRMAN ADAMS: Pretty rare, too.

27

28 MR. KITKA: Mr. Chair.

29

30 CHAIRMAN ADAMS: Harvey, go ahead.

31

32 MR. KITKA: Thank you, Mr. Chair. I
33 was one of the people that was involved with part of
34 the Native working group North Pacific Fisheries along
35 with his brother, and when we -- just for information,
36 when we decided on the 20 fish per day, it wasn't
37 really that we thought anybody could catch 20 fish per
38 day it's just that it would provide realistic numbers
39 to the North Pacific Fisheries, because if you put the
40 numbers of one or two fish, if you allowed them just
41 that much, you wouldn't get realistic numbers because
42 everybody'd get one or two fish. Realizing, of course,
43 like he said, he got 16 in one set, so it is possible
44 sometimes that you can catch more, but you'd get a
45 realistic number if you allowed them to take more, and
46 the numbers would be more realistic.

47

48 MS. CARLS: Thank you. Good to know
49 that. Here I've provided a sample of what the
50 regulatory text looks like right now in our

1 regulations, and it's kind of difficult to understand
2 because it's just all words and, you know, keeps going
3 on and on and on. And in our new regulations we have a
4 new format for this part of the regulations so you can
5 go your regulatory area, permit type, and what your
6 retention limits are and your gear restrictions.

7
8 Unfortunately when the Federal Register
9 printed that this morning they reversed two of the
10 table headings and they put gear restrictions over
11 what's really supposed to be retention limits and
12 retention limits over what's supposed to be the gear
13 restrictions so they need to fix that.

14
15 So there are those new regulations.

16
17 And the last slide shows you where you
18 can go for more information. You can go to our website
19 and you can get the current regulations also at our
20 website and I gave you specific instructions to show
21 you exactly how to get straight there. Because
22 sometimes somebody gives you a website and then you go,
23 okay, now, where do I go.

24
25 And then the North Pacific Management
26 Council also has information on the halibut issues.
27 There's a State of Alaska report 2007 on subsistence
28 harvest Pacific halibut in Alaska 2006, and I included
29 the phone numbers and my email address.

30
31 This concludes my presentation, Mr.
32 Chairman.

33
34 CHAIRMAN ADAMS: Any questions of
35 Becky.

36
37 MR. KOOKESH: Yes.

38
39 CHAIRMAN ADAMS: Go ahead Floyd.

40
41 MR. KOOKESH: I had to step out a few
42 minutes and I missed your presentation on Page 6, and
43 one of the -- I work for a tribal government here in
44 Juneau and one of the biggest concerns is why they have
45 to go so far and is that ever going to change and what
46 is it going to take to change those lines where -- I'm
47 speaking to this because of the fact that we have to
48 spend a lot of money on fuel.

49
50 MS. CARLS: I understand.

1 MR. KOOKESH: And the idea is that we
2 all don't have large vessels and it becomes more
3 prohibitive and expensive and -- and the further out
4 you put the -- the Native community out there in the
5 straits and stuff the more danger you're putting people
6 in, is there ever going to be -- or I shouldn't even
7 say that, what is it going to take to make this -- this
8 realistic where we don't have to go so far to -- to
9 subsistence basically?

10
11 MS. CARLS: Mr. Chairman. The reason
12 they have these -- my understanding, because I haven't
13 been into this as long as some other people, is that
14 the reason we have the non-rural areas is to match the
15 State's list of non-rural areas where subsistence
16 fishing for ground fish is prohibited. And because
17 it's not rural, there are -- you know the rules around
18 subsistence about rural versus non-rural, but what you
19 can do if you want to change any of the subsistence
20 regulations is you talk to these folks up at the Alaska
21 Native Subsistence Halibut Working Group, and I think
22 you might know the chairman, Mr. Kookesh, I hear he's a
23 relative of yours.

24
25 (Laughter)

26
27 MS. CARLS: Matt, yeah.

28
29 (Laughter)

30
31 MS. CARLS: But you can also contact
32 RurAL CAP if you want to have to use your brother at
33 www.ruralcap.com, and there's Ellen Kazary, and she --
34 her email address is ekazary@ruralcap.com, and their
35 phone number, they have an 800 number, is 800-478-7227.
36 And the Alaska Native Subsistence Halibut Working Group
37 develops ideas that people bring to them to bring
38 forward to the North Pacific Fisheries Management
39 Council and that's how we make changes to the program.

40
41 CHAIRMAN ADAMS: Go ahead, Floyd.

42
43 MR. KOOKESH: Just a little follow up.
44 I mentioned earlier when we were talking about this
45 letter that my brother worried that if we go back and
46 start pressing the issue we will lose because when my
47 brother and them first passed this, I said, what are
48 you guys stupid, you can't use 40 hooks and think
49 you're going to catch any fish, you know, they walk up
50 the dock with their heads bent and their shoulders

1 slumped and I said, what happened on 40 hooks, huh, but
2 it doesn't work -- didn't work and I don't know why my
3 brother -- he just said they -- they had to go there
4 because they were willing to take whatever they could
5 get, and for them to pursue the issue wasn't going to
6 -- was probably not going to work for their benefit
7 because they were grateful, and what -- Mr. Kitka can
8 address it if I'm wrong, but they were lucky to get
9 what they could get, and if they went any further
10 they'd probably not win anything.

11
12 But we do need to do this because this
13 isn't right, we should allow for opportunities, that's
14 what we're sitting here for because we're seeing,
15 that's what our role is here, is to allow for
16 opportunity, not to put people's lives in danger, not
17 to -- not to mirror the State regulations, you know,
18 just because we want to look like them, which the
19 Federal subsistence is looking like, but, you know, we
20 need to do this the right way, not to -- not to murder
21 people, it's -- it kind of does that and tears your
22 pocketbook up because the price of fuel, you know, I
23 look at this as -- as it's -- it's not very good. It's
24 like the one rod per person, I don't know when that
25 regulation was adopted by the State but I bet you the
26 price of gas wasn't very much, maybe 35 cents, for all
27 we know, a gallon.

28
29 CHAIRMAN ADAMS: Okay, thank you,
30 Floyd. Any other questions for the young lady.

31
32 (No comments)

33
34 CHAIRMAN ADAMS: Thank you very much,
35 appreciate it.

36
37 MS. CARLS: Thank you.

38
39 CHAIRMAN ADAMS: Okay. Let's adjourn
40 until 8:30 tomorrow, and have a good evening and thanks
41 for your patience and bearing with us, both the people
42 out in the audience as well as the Council; I think we
43 did some good work today.

44
45 (Off record)

46
47 (PROCEEDINGS TO BE CONTINUED)

