

1 SOUTHEAST ALASKA FEDERAL SUBSISTENCE  
2 REGIONAL ADVISORY COUNCIL MEETING

3  
4 PUBLIC MEETING

5  
6 VOLUME II

7  
8 Haines, Alaska  
9 September 25, 2007  
10 8:30 o'clock a.m.  
11

12  
13 COUNCIL MEMBERS PRESENT:

- 14  
15 Bertrand Adams, Chairman  
16 Michael Bangs  
17 Michael Douville  
18 Merle Hawkins  
19 Donald Hernandez  
20 Joe Hotch  
21 Harvey Kitka  
22 Lee Wallace  
23 Frank Wright  
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26 Regional Council Coordinator, Robert Larson  
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P R O C E E D I N G S

(Haines, Alaska - 9/25/2007)

(On record)

CHAIRMAN ADAMS: Okay, this meeting is now back in session. Yesterday we took a recess, we are considering Proposal FP08-02 and Mr. Hernandez had some issues with it and I asked him to come prepared to address those issues this morning. So I'll go ahead and turn the time over to you, Donald, please.

MR. HERNANDEZ: Thank you, Mr. Chairman. Yeah, we had a chance to talk about this last night and look over all the information that we had. And, let's see, I think in the deliberations we were discussing whether or not to amend the proposal or deal with it as written. And I think, at least, the consensus is that we would deal with this proposal as written, and not try and amend it.

CHAIRMAN ADAMS: Okay.

(Pause)

CHAIRMAN ADAMS: Are you going to want to address it some more or are we just going to move on from here.

MR. HERNANDEZ: So we were just looking here, that would mean that we'll be dealing with the proposal as written on Page 55, and the executive summary on Page 55 and not going with the OSM recommendation.

So the -- let's see, so that wording would delete in the regulation the portion that says:

Only Federally-qualified users may harvest sockeye salmon in streams draining into Falls Lake -- Falls Lake Bay and Gut Bay or Bay of Pillars.

So our recommendation would be to rescind the closure on all three bays.

I guess the justification for that would be that we have not been able to find anything in the information presented to us that does represent a

1 conservation concern at this time.

2

3                   We don't believe that -- given the fact  
4 that just essentially all of this subsistence harvest  
5 takes place in the marine waters and not in the Federal  
6 waters, we don't see that this would -- that rescinding  
7 this closure would have much of a detrimental effect on  
8 the subsistence users and it would actually benefit the  
9 non-subsistence users by allowing them harvest in these  
10 two systems but we don't see that the impact from that  
11 harvest is very much, if at all. There seems to be  
12 very little use in these systems by non-subsistence  
13 users, which is kind of an important part of our  
14 consideration.

15

16                   And there is -- we have some real good  
17 evidence for the system at Falls Lake Bay. There is a  
18 little sketchier information at Gut Bay Creek, but I  
19 guess we're fairly confident that the situation in the  
20 two creeks is essentially the same in regards to what  
21 the use by non-subsistence users is.

22

23                   So that's our recommendation.

24

25                   CHAIRMAN ADAMS: Okay. I'd like to  
26 just open it up for discussion by other Council  
27 members, you know, if they have the same feelings as  
28 what Don and his group had come up with over the night.

29

30                   Michael, go ahead.

31

32                   MR. DOUVILLE: Thank you, Mr. Chairman.  
33 I agree with Mr. Hernandez.

34

35                   I believe that there is a mechanism in  
36 place that allows the in-season manager by the district  
37 ranger to take care of any problems that may arise in  
38 the future. I'm not sure about this system but I do  
39 think that the district manager has that authority, if  
40 not, then I would delegate it. So I don't see any -- I  
41 support the motion.

42

43                   CHAIRMAN ADAMS: Okay, thank you. Lee,  
44 did you have something.

45

46                   MR. WALLACE: No.

47

48                   CHAIRMAN ADAMS: No. Anyone else.

49

50                   (No comments)

1 CHAIRMAN ADAMS: Okay. You know  
2 there's another alternative that I might throw out here  
3 for you, and I know it doesn't seem to me like you guys  
4 have any problems with going in this direction but if  
5 there is some issues that some of the other Council  
6 members who might have a problem with this as it is, we  
7 could probably defer it, you know, and have the Federal  
8 Subsistence Board take it up, in many cases I would  
9 probably recommend something like that but you've got  
10 to be very careful about that, you know, so I just  
11 wanted to throw that out as an option if the Council so  
12 wishes, however, I'm all in favor of handling this in  
13 this method as well.

14  
15 What's the wish of the Council.

16  
17 MR. WRIGHT: Question.

18  
19 CHAIRMAN ADAMS: Question's been called  
20 for. So all in favor of this motion, please, signify  
21 by saying aye.

22  
23 IN UNISON: Aye.

24  
25 CHAIRMAN ADAMS: Opposed.

26  
27 MR. WALLACE: No.

28  
29 MR. KITKA: Aye.

30  
31 CHAIRMAN ADAMS: Okay, motion carried.

32 Thank you.

33  
34 Thanks Donald.

35  
36 MR. LARSON: Two nay's.

37  
38 CHAIRMAN ADAMS: Two nay's, Tina.

39  
40 REPORTER: (Nods affirmatively)

41  
42 CHAIRMAN ADAMS: Yes. Okay, moving on.  
43 We're now on Proposal No. 3.

44  
45 MR. DOUVILLE: Mr. Chairman.

46  
47 CHAIRMAN ADAMS: Michael.

48  
49 MR. DOUVILLE: Since we are using the  
50 agenda as a guide.....

1 CHAIRMAN ADAMS: Uh-huh.  
2  
3 MR. DOUVILLE: .....is it -- I know  
4 that Frank has to leave.....  
5  
6 CHAIRMAN ADAMS: Yeah.  
7  
8 MR. DOUVILLE: .....is it possible we  
9 could address.....  
10  
11 CHAIRMAN ADAMS: I told him yesterday  
12 that the weather was going to keep him here, it looks  
13 like I'm right.  
14  
15 (Laughter)  
16  
17 CHAIRMAN ADAMS: But, yes.....  
18  
19 MR. DOUVILLE: Is it possible we could  
20 address the Makhnati Island issue before we go any  
21 farther?  
22  
23 CHAIRMAN ADAMS: Yeah, we could do  
24 that. Isn't there another issue that we needed, is it  
25 Chatham Strait issue that we wanted Frank to be here  
26 at.  
27  
28 MR. LARSON: The discussion regarding  
29 the non-subsistence area Juneau road system.  
30  
31 CHAIRMAN ADAMS: Okay. So I think  
32 we'll go ahead and do that. Thanks, Cal, we know  
33 you'll be with us the rest of the time.  
34  
35 (Laughter)  
36  
37 CHAIRMAN ADAMS: So we're back on to  
38 the Makhnati Island issue. Welcome, Terry, thank you.  
39 Boy, you look like you got a lot there.  
40  
41 MR. SUMINSKI: Hopefully we won't have  
42 to go through all of it.  
43  
44 CHAIRMAN ADAMS: Terry, please.  
45  
46 MR. SUMINSKI: Good morning, Mr.  
47 Chairman. Council members. Terry Suminski, the  
48 fisheries biologist for the Forest Service in Sitka.  
49 I'm going to be going over FP08-18, I believe it is,  
50 yes.

1                   This proposal is a result of the  
2 Federal Subsistence Board -- or I'm sorry, the  
3 executive summary starts on Page 130 and the Staff  
4 analysis starts on Page 131 of your Council books.

5  
6                   This proposal is the result of the  
7 Federal Subsistence Board deferring action at their  
8 January 2007 meeting on Proposal FP07-18, which was  
9 submitted by the Southeast Alaska Subsistence Regional  
10 Advisory Council. The Board took no action on an  
11 identical proposal, FP07-19, which was submitted by the  
12 Sitka Tribe of Alaska. Both proposals asked to close  
13 the Federal public waters in the Makhnati Island area  
14 near Sitka to commercial herring fishery during the  
15 months of March and April. The Board also directed  
16 Staff to work with the Council to form a working group  
17 to study the situation and report their findings to the  
18 Board in December of 2008.

19  
20                   The Council believes that a regulatory  
21 change is needed to ensure that subsistence need for  
22 herring and herring roe are met. The proponents feel  
23 commercial fishing activities displace subsistence  
24 users from traditional harvesting sites, may disrupt  
25 herring spawning such that good quality deposition of  
26 herring eggs does not take place at traditional sites  
27 and may cause herring to spawn away from subsistence  
28 sites, it also may seriously reduce the biomass of  
29 spawning herring upon which subsistence users depend.  
30 The proponent stated that excluding this area from  
31 commercial fishing would provide a refuge for herring  
32 in Sitka Sound, which would increase the number of  
33 herring produced in this area and ultimately increase  
34 the production of herring within Sitka Sound.  
35 Subsistence users in the area would be protected from  
36 competition from commercial activities both for herring  
37 and space to conduct harvest activities.

38  
39                   Under current Federal regulations all  
40 rural residents of Alaska are eligible to harvest  
41 herring roe and macrocystis kelp, herring roe on  
42 hemlock or herring roe on other substraights from  
43 Federal waters in Southeast Alaska. There are no  
44 seasons or harvest limits in regulation.

45  
46                   The Federal public waters near Makhnati  
47 Island comprise a small part of the spawning area of  
48 herring in Sitka Sound and also make up a small, but  
49 important part of where subsistence herring eggs are  
50 gathered.

1                   Evaluating the effects of a closure in  
2 a small area of Federal waters is extremely difficult  
3 due to large yearly fluctuations and the intensity and  
4 location of herring spawning throughout Sitka Sound,  
5 however, there has been spawn in the Makhnati area in  
6 all of the last 31 years. Spawn and subsistence  
7 harvest occurs in most years within the Federal public  
8 waters but there's no way to know how much of the  
9 harvest comes from only Federal public waters. The  
10 traditional harvest of eggs on substraights is affected  
11 by many natural factors such as weather, where and how  
12 much and when the herring spawn. Establishing a small  
13 area for only subsistence use may not provide the  
14 additional benefit to subsistence users if herring lack  
15 spawning, fidelity and simply don't spawn there in any  
16 given year.

17  
18                   The area where the commercial sac roe  
19 herring fishery occurs also varies widely from year to  
20 year. From 1992 to 2007 the Federal public waters near  
21 Makhnati Island have made up part of the areas open to  
22 commercial fishing six out of the 16 years. No  
23 commercial herring harvest occurred in Federal public  
24 waters in 2007.

25  
26                   In 2002 a memorandum of agreement was  
27 signed between the Sitka Tribe and ADF&G in response to  
28 poor spawn and harvest in 2001. Since the agreement  
29 was signed, the amount necessary for subsistence as  
30 determined by the Alaska Board of Fisheries were met in  
31 2003, 2004 and 2006. But not in 2005. Preliminary  
32 data from 2007 looks like it may not be met this year  
33 also.

34  
35                   A Federal closure of a fishery may only  
36 be exercised when it is necessary to conserve fish  
37 stocks or to continue subsistence uses. In most years  
38 subsistence needs for herring spawn on substraights  
39 have been met. In years when subsistence needs are  
40 met, a permanent closure in regulation would not be  
41 necessary. In years when subsistence needs were met  
42 it's unclear if a closure to commercial fishing in  
43 public waters would have made a difference in the  
44 success of the subsistence fishery.

45  
46                   The Federal managers will continue to  
47 support the coordination between ADF&G and Sitka Tribe.  
48 And Chuck went over the findings from the user group or  
49 the work group, so I won't go into that, but just one  
50 note I'd like to add, as an in-season manager we hope

1 that the Makhnati Subcommittee Report could help the  
2 Council provide some guidance to us in how we should  
3 manage this area, in-season, whether you would prefer  
4 something short of a permanent closure. Some other  
5 alternative to ensure a subsistence priority in the  
6 Makhnati area.

7

8 Thank you.

9

10 CHAIRMAN ADAMS: Thank you, Terry.  
11 With all that paperwork you had I thought we were going  
12 to stay here for the rest of the morning.

13

14 (Laughter)

15

16 MR. SUMINSKI: I like to keep it short.

17

18 (Laughter)

19

20 CHAIRMAN ADAMS: Questions to Terry  
21 from the Council.

22

23 Harvey.

24

25 MR. KITKA: Thank you, Mr. Chairman.  
26 Terry, putting a higher threshold on the closure of  
27 Makhnati Island, will this help the in-season managers  
28 and will it make it so that you guys wouldn't have any  
29 objection to this or would you know, what is it that  
30 you guys want?

31

32 MR. SUMINSKI: Something easy.

33

34 (Laughter)

35

36 MR. SUMINSKI: Mr. Chair. Mr. Kitka.  
37 Yes, that would help because as you know the commercial  
38 fishery takes place before the subsistence fishery and  
39 we don't have the results from the subsistence fishery  
40 until long after the commercial season is over, we  
41 still don't have final results from last year. So to  
42 manage it in-season probably isn't something we could  
43 do.

44

45 What we'd have to look for is some --  
46 hopefully something very subjective that we could use  
47 to enter the season, some pre-season action. Since we  
48 do get a biomass forecast from the State in February,  
49 that would be a very easy thing for us to implement, if  
50 that's the route you'd like to take.

1 Thank you.  
2  
3 CHAIRMAN ADAMS: Donald, did you have  
4 something.  
5  
6 MR. HERNANDEZ: I had essentially the  
7 same question that Harvey had.  
8  
9 CHAIRMAN ADAMS: Any others.  
10  
11 MR. WRIGHT: Mr. Chairman.  
12  
13 CHAIRMAN ADAMS: Frank.  
14  
15 MR. WRIGHT: It says that, you know,  
16 this is a small area for harvest and commercial  
17 fishermen, they don't fish in there, right, or do they?  
18  
19 MR. SUMINSKI: They have, yes.  
20  
21 MR. WRIGHT: They have?  
22  
23 MR. SUMINSKI: Yes, uh-huh.  
24  
25 MR. WRIGHT: So if it's a small area  
26 and, you, as the Feds, got to control that, so you're  
27 agreeing -- you agree what the State and Tribe are  
28 doing by having an MOU, so what would you guys do if  
29 you guys wanted to get in on that agreement?  
30  
31 MR. SUMINSKI: Mr. Chairman. Mr.  
32 Wright. I believe by signing on to the agreement, if  
33 that takes place, it would just formalize the way we  
34 interact and communicate. I'm not sure if it would  
35 change a whole lot, what we're actually doing now, but  
36 it would just kind of formalize it, you know, make it  
37 -- yeah.  
38  
39 CHAIRMAN ADAMS: But the final say of a  
40 yea or nay on whether it should be opened or closed  
41 would be, of course, with the in-season manager, am I  
42 correct on that?  
43  
44 MR. SUMINSKI: Mr. Chairman. Yes, we do  
45 have the authority to do that.  
46  
47 CHAIRMAN ADAMS: Okay.  
48  
49 MR. SUMINSKI: Yeah.  
50

1                   CHAIRMAN ADAMS: Any other questions.  
2 I see Donald's wheels turning over there, so, Donald.  
3  
4                   MR. HERNANDEZ: I think I have some  
5 questions for the State.  
6  
7                   CHAIRMAN ADAMS: Okay.  
8  
9                   MR. DOUVILLE: I got one question.  
10  
11                  CHAIRMAN ADAMS: Go ahead, Mike.  
12  
13                  MR. DOUVILLE: Thank you, Mr. Chairman.  
14 Is there any other numbers besides the 20 and 40,000  
15 ton mechanisms that were discussed, I don't see it in  
16 here, any other numbers.  
17  
18                  MR. SUMINSKI: Mr. Chairman. Mr.  
19 Douville. We did discuss 30,000 tons, that was kind of  
20 a number that we just kind of threw out there to begin  
21 with. At 20,000 tons, that's the threshold for the  
22 State commercial fishery anyways, so if it's below  
23 20,000 tons, they're not going to fish, we won't have  
24 to do anything. At 40,000 tons, it would probably  
25 result in a closure, you know, quite a few of the  
26 years, if you look at the table on Page 148, you can  
27 see what the biomass forecasts are just to get an idea  
28 for what 40,000 would mean.  
29  
30                  But 30,000 was just one we talked about  
31 but I don't know if there's any significance to that  
32 number, you know, it's just something that we're using  
33 to discuss the issue -- or discuss the idea.  
34  
35                  MR. DOUVILLE: But the 30,000 ton was  
36 discussed?  
37  
38                  MR. SUMINSKI: Yeah. Just, you know,  
39 as a number to use, you know, Harvey may have more  
40 information but that was just a number that people  
41 threw out. I don't know, if, really, it was -- how  
42 significant it was. It just.....  
43  
44                  MR. DOUVILLE: So nobody agreed to any  
45 number then?  
46  
47                  MR. SUMINSKI: Ultimately, that's  
48 correct. Yeah, there was no agreement.  
49  
50                  CHAIRMAN ADAMS: Just to answer your

1 question further, when we were on the teleconference,  
2 you know, that was one of the real big issues that we  
3 weren't able to come to an agreement on. And so it's  
4 going to be up to this body to determine, you know,  
5 what that threshold would be.

6

7 Donald, go ahead.

8

9 MR. HERNANDEZ: It sounds like -- Mr.  
10 Chairman, it sounds like the discussion moved away from  
11 having an outright closure as more towards providing  
12 some kind of priority because I mean everybody's kind  
13 of moved away from talking about an outright closure or  
14 is that still part of the discussion or have you moved  
15 on to more of a compromised priority.

16

17 MR. SUMINSKI: Mr. Chair. Mr.  
18 Hernandez. That's correct. I think, in general,  
19 people were trying to find some alternative short of a  
20 closure, and I think that was part of the charge of the  
21 working group. And then you saw the ideas that the  
22 committee came up with to do that.

23

24 MR. HERNANDEZ: And kind of the idea of  
25 an elevated biomass threshold here, to set that, that's  
26 kind of been the consensus, the best way to kind of  
27 resolve it, would you say, and that's where we should  
28 be focusing on?

29

30 MR. SUMINSKI: It was an idea, but,  
31 again, there wasn't consensus. You know the Tribe and  
32 the Seiners went back to their groups and came up with  
33 different numbers and ultimately there was no  
34 consensus.

35

36 I guess I could say, as the in-season  
37 manager, again, it is an attractive idea because I feel  
38 it -- I haven't discussed it with the lawyers but I do  
39 feel it helps me meet, you know, a clear subsistence  
40 priority for the area, you know, under ANILCA, because  
41 it provides a higher conservation standard possibly.  
42 But, yeah, as far as the working group there was no  
43 consensus, you know, if that's the best way to go or  
44 not.

45

46 CHAIRMAN ADAMS: Right now the  
47 threshold, the State uses the 20,000 tons, we threw  
48 around the idea of 30,000 and Sitka Tribe, you know, is  
49 recommending a 40,000 -- 40,000, you know, will trigger  
50 a shut off, you know, if they use that threshold, but,

1 you know, those are options that I think we need to  
2 figure out here.

3

4 Go ahead, Michael.

5

6 MR. DOUVILLE: Thank you, Mr. Chairman.

7 In this table, in the last 10 years only one year was  
8 like a little bit below 40,000 tons, are these  
9 predictions made after the season or prior to any spawn  
10 or when do they make this estimate?

11

12 MR. SUMINSKI: Mr. Chairman. Mr.  
13 Douville. This -- the biomass forecast is actually  
14 made preseason. Usually this number will be calculated  
15 and be ready in February before the season starts.  
16 This is just to give an idea, you know, to set the  
17 quota, give processors and fishermen an idea of what  
18 kind of season they're going to be looking at. And so,  
19 yes, that is a number that comes before the season. If  
20 you look over to the right, the other numbers are the  
21 ones that are after the season, the ones that are the  
22 harvest, the actual harvest and then the actual spawn  
23 deposition and, you know, the returns. So this catch  
24 plus escapement equals return column is what's  
25 calculated after the season, what actually showed up.

26

27 CHAIRMAN ADAMS: Mr. Hernandez.

28

29 MR. HERNANDEZ: Yeah, I guess I just  
30 noticed that. I guess I have a question about that.  
31 So that column spawn deposition estimate in tons,  
32 that's calculated after the season is over and that's  
33 done with those -- is that where they dive and actually  
34 do the measuring of the spawn deposition and then  
35 calculate what the total run was, is that what that  
36 number is?

37

38 MR. SUMINSKI: Mr. Chairman. Mr.  
39 Hernandez. Yeah, that's correct. There's dive surveys  
40 and other surveys they do after the spawn to figure out  
41 what actually happened, how many herring showed up.

42

43 CHAIRMAN ADAMS: Go ahead.

44

45 MR. HERNANDEZ: I guess, I don't know  
46 if you're that familiar with this or maybe I should be  
47 asking the State, but I was looking at the table, Table  
48 2 on Page 136 -- see there's two tables, there's one on  
49 Page 148 and one on 136. The one on Page 136, that  
50 goes through 2006 and like I say, I don't know how

1 familiar you are with these numbers, but I saw  
2 something quite a bit different there, you know,  
3 compared to the other years, the table, and in 2006 the  
4 forecast biomass was only 10,400 tons, they set the  
5 quota at 10,700 tons, which just doesn't make any  
6 sense, and then of course they had the deposition  
7 estimate, was, you know, pretty high, 75,000 tons. Do  
8 you know what the situation was there in 2006, why that  
9 would be -- I mean they were under threshold according  
10 to that and they set a really high quota, is it just --  
11 don't know what's going on.

12  
13 MR. SUMINSKI: Mr. Chairman. Mr.  
14 Hernandez. Sorry about that. I noticed that yesterday  
15 that that, 2006 roe, was shifted.

16  
17 MR. HERNANDEZ: So is this just a  
18 misprint?

19  
20 MR. SUMINSKI: Yeah, the actual  
21 forecast biomass for 2006 was 52,059 tons.

22  
23 MR. HERNANDEZ: Oh, okay.

24  
25 MR. SUMINSKI: And then you shift all  
26 those numbers over to the right and it's just up until  
27 -- so what we'd end up with is under quota, it'd be the  
28 10,000.....

29  
30 MR. HERNANDEZ: Uh-huh.

31  
32 MR. SUMINSKI: .....and then under  
33 harvest was -- the actual harvest was 10,070.

34  
35 MR. HERNANDEZ: Okay.

36  
37 MR. SUMINSKI: You know, it's just  
38 shifted over. And then the actual catch plus the  
39 return is the 75,000.

40  
41 MR. HERNANDEZ: Uh-huh.

42  
43 MR. SUMINSKI: And then the 140 is --  
44 goes away, I'm not sure.

45  
46 MR. HERNANDEZ: And then did you say  
47 for this past year 2007, do they not have numbers out  
48 yet or do you know what they are?

49  
50 MR. SUMINSKI: I think they do have

1 them but they're not in this table, they weren't ready  
2 by the printing deadline.

3  
4 MR. HERNANDEZ: Did it have -- it seems  
5 like they would have at least the forecast biomass  
6 because that's pre-season.

7  
8 MR. SUMINSKI: Yeah, they wouldn't have  
9 the forecast biomass yet for '07.

10  
11 MR. LARSON: For '07.

12  
13 MR. SUMINSKI: For '07 -- or.....

14  
15 MR. HERNANDEZ: For '08.

16  
17 MR. SUMINSKI: .....for '08, sorry.

18  
19 MR. HERNANDEZ: Yeah, for '07,  
20 it's.....

21  
22 MR. SUMINSKI: Sorry, you're right.  
23 Let me see what I have for '07 here. Okay, for '07 I  
24 just have the harvest, the commercial harvest was  
25 11,754 tons and the forecast for 2007 was 59,517 tons  
26 and the total run turned out to be approximately 52,864  
27 tons. But I don't have all the numbers, you know, for  
28 this whole table, that's just what I have for 2007.

29  
30 MR. HERNANDEZ: I was just kind of  
31 following up on Mr. Douville's comment there that 2006  
32 didn't look right but, you know, there hasn't been a  
33 year in the last 10 years, at least, it's gone below  
34 that 30,000 ton threshold and only two years that have  
35 been below the 40,000 ton threshold then the last 10  
36 years so, okay, that clears it up for me, thanks.

37  
38 MR. SUMINSKI: Uh-huh.

39  
40 CHAIRMAN ADAMS: Any other questions  
41 for Terry. Thank you.

42  
43 MR. SUMINSKI: Thank you.

44  
45 CHAIRMAN ADAMS: Frank. Mike.  
46 Michael, Frank, go ahead, take your time.

47  
48 MR. WRIGHT: So what is the  
49 recommendation of your agency?

50

1 (Laughter)

2

3 MR. SUMINSKI: I don't know if we have  
4 a -- if we can make a clear recommendation like that.  
5 I'd have to go with what the subcommittee came up with  
6 and I guess we're just looking for guidance, you know,  
7 how the Council would like to see this area managed.

8

9 CHAIRMAN ADAMS: Yeah, just as a matter  
10 of information, we did adopt the subcommittee's, you  
11 know, recommendations yesterday. So when we go into  
12 deliberations, you know, we'll be going through all of  
13 that so, you know, you can amend it, or do whatever you  
14 want with it when we get to that point.

15

16 Michael.

17

18 MR. DOUVILLE: I think if I remember  
19 right 2001 they had trouble with getting their needs  
20 met, is that -- that's a good year, I think for that,  
21 but there's still 52,000 tons that -- or 53,000 almost  
22 of biomass. And there was one other year -- it doesn't  
23 seem like it matters if the biomass is there or not on  
24 whether they get their subsistence, there's other  
25 factors that are playing into this other than biomass.

26

27 Can you shed any light on those?

28

29 MR. SUMINSKI: Mr. Chairman. Mr.  
30 Douville. You know the reason why the subsistence  
31 harvest is good or bad or -- you know there's numerous  
32 reasons, that's one of the recommendations of the  
33 subcommittee, was to try to study those, figure out why  
34 some years it's good, some years it's bad, you know,  
35 maybe Harvey can help me with it but it's -- I wish I  
36 knew.

37

38 CHAIRMAN ADAMS: Harvey, go ahead.

39

40 MR. KITKA: Can I help Terry on the  
41 2001. On the 2001 season, the biomass was definitely  
42 there but the commercial fishermen set right on the  
43 trees, they made their commercial catches right where  
44 we were setting our branches and they took the herring  
45 right off the spawn and that was why we yelled at Fish  
46 and Game so hard that year because we wanted them to  
47 move it at least a little away from where we set our  
48 branches and they wouldn't listen. So we took it to  
49 the Board of Fish and get them to change it.

50

1 MR. DOUVILLE: My question is for  
2 Harvey, I guess.

3  
4 CHAIRMAN ADAMS: Okay, go ahead.

5  
6 MR. DOUVILLE: So the Sitka Tribes did  
7 make an attempt to go to the Board of Fish to have a  
8 designated branch setting area, if you will, sort of  
9 protect it.

10  
11 MR. KITKA: That is sort of the  
12 message, that was where the agreement came out, the  
13 2001. We didn't get -- we did not get an area  
14 basically of where we could subsist, we asked for  
15 certain things and at times they agreed with us and at  
16 times they didn't and there were some years where we  
17 said, stop, don't fish in that area anymore and they  
18 didn't listen and this was one of the years where we  
19 had some bad communication. And it was also the years,  
20 some of the years where we didn't get our subsistence  
21 needs met.

22  
23 And that's part of the reason for this  
24 Makhnati issue. We just can't seem to get the State  
25 Fish and Game to stop and listen to us.

26  
27 CHAIRMAN ADAMS: Go ahead, Donald.

28  
29 MR. HERNANDEZ: So I'm looking at the  
30 numbers on Table 1 on Page 135, it goes back a number  
31 of years, it's the subsistence harvest and you talked  
32 about 2001, there isn't even a number shown there for  
33 2001, was that like a complete failure for the  
34 subsistence harvest or how bad was it? Yeah, either  
35 Harvey or Terry, whoever can respond to those numbers  
36 there, I don't know.

37  
38 MR. SUMINSKI: Mr. Chair. Mr.  
39 Hernandez. There was no subsistence harvest survey  
40 done that year so we don't really know what the actual  
41 number is, that's why it's not in this table. But  
42 Harvey may have some.....

43  
44 MR. HERNANDEZ: But yet -- I was going  
45 to say, Harvey, yet we know from you that that was a  
46 very poor year, correct?

47  
48 MR. KITKA: Yes, it was.

49  
50 MR. HERNANDEZ: Yeah.

1 MR. KITKA: It was probably as bad as  
2 this last year.

3  
4 MR. HERNANDEZ: And I see in 2005  
5 significantly lower number and maybe, Harvey, you can  
6 answer again, is that -- did you feel that that number  
7 was adequate to meet your needs in 2005?

8  
9 MR. KITKA: 2005 was another year that  
10 was not adequate for most people.

11  
12 MR. HERNANDEZ: Yeah. And also in 2005  
13 I guess it should be noted that that was a very  
14 successful year for the commercial fishery, it was one  
15 of the -- actually I think that was the peak, it was  
16 the highest harvest in the last 20 years so -- and then  
17 2007 we don't have a number, did you -- was a survey  
18 done, do we have an idea what happened this past year  
19 or is that too hard to say.

20  
21 MR. KITKA: According to the surveys, I  
22 think it might be in one from Sitka Tribe but I haven't  
23 really looked at it. But the -- our last herring  
24 meeting, we came up with the number of 66,000 tons and  
25 as most of the communities in Southeast usually get  
26 herring eggs from Sitka Tribe probably realized they  
27 didn't get anywhere near like they usually get.

28  
29 MR. HERNANDEZ: So I see some really,  
30 you know, some good years in the last five or so but  
31 then we also have a couple of very poor years, so it's  
32 pretty, yeah, not always successful it sounds like,  
33 yeah.

34  
35 MR. KITKA: Mr. Chairman.

36  
37 CHAIRMAN ADAMS: Go ahead.

38  
39 MR. KITKA: Just for your information  
40 on the years that we started to get halfway decent --  
41 the spawn on Makhnati Island has started -- you can  
42 tell almost from one side, the island of spawn is from  
43 where the herring are, and if we get it on both sides  
44 of the island that means the spawning, actually both  
45 sides of the Sound, if it's only on one side, then the  
46 herring are only one side of the Sound, and it's a real  
47 shame that we're down to where we're just a few islands  
48 now of spawn, where it used to cover the whole Sitka  
49 Sound and beyond. It used to go through Sitka Sound  
50 and down south of us, down as far as Whale Bay and

1 sometimes even further. And if you go back to some of  
2 our ancient records it went from the south end of  
3 Baranof to Lisianski and that was the spawn within the  
4 Sitka Sound area.

5  
6 MR. HERNANDEZ: Uh-huh.

7  
8 MR. KITKA: So when they talk about a  
9 successful spawning, they're not even talking about a  
10 fraction of what it was when it was good. Just an  
11 information type thing that you guys can think about.

12  
13 MR. HERNANDEZ: So if I could comment,  
14 Mr. Chairman.

15  
16 CHAIRMAN ADAMS: Yes.

17  
18 MR. HERNANDEZ: It sounds like -- under  
19 those conditions it sounds like, you know, as the  
20 spawning area decreases it sounds like the subsistence  
21 and commercial harvest would tend to take place more in  
22 the same areas, it'd be harder to find places away from  
23 the commercial harvest to do your subsistence harvest  
24 if the actual spawning area has kind of been decreasing  
25 over the years, is that kind of the situation?

26  
27 MR. KITKA: Yes, it is.

28  
29 MR. HERNANDEZ: Okay, thank you.

30  
31 CHAIRMAN ADAMS: Okay, if you have any  
32 more questions for Harvey maybe we can take care of  
33 those during deliberations.

34  
35 MR. HERNANDEZ: Right.

36  
37 CHAIRMAN ADAMS: Okay. I'd like to  
38 just go ahead and move on. Any more questions for  
39 Terry.

40  
41 (No comments)

42  
43 CHAIRMAN ADAMS: Okay, thank you,  
44 Terry.

45  
46 MR. SUMINSKI: Thank you.

47  
48 CHAIRMAN ADAMS: George, you're next.

49  
50 MR. PAPPAS: Good morning, Mr. Chair.

1 My name is George Pappas, Department of Fish and Game.  
2 And yesterday -- yes, yesterday I handed out the FP08-  
3 18 Makhnati Island -- Makhnati Island area herring, the  
4 Department's preliminary comments. And I believe these  
5 are a summation from the comments that were provided at  
6 the last Federal Subsistence Board, though, truncated,  
7 I've been instructed to read these into the record.

8  
9                   Proposal FP07-18 was deferred by the  
10 Federal Subsistence Board at the January 2007 meeting.  
11 That proposal has been renumbered and resubmitted for  
12 consideration to close marine waters in the Makhnati  
13 Island and Whiting Harbor area, which are subject to  
14 Federal claims of jurisdiction. The closure would  
15 apply to commercial herring fishing during March and  
16 April and only allow subsistence herring fishing by  
17 those Federally-qualified. Commercial harvest rarely  
18 occurs in the proposed closure area, and the area is  
19 not the primary subsistence herring fishing area used  
20 by Federally-qualified local residents.

21  
22                   Adoption of this proposal would be  
23 detrimental to both the subsistence and commercial  
24 fisheries, depending upon where and when the herring  
25 spawn in a given year. The commercial fishery is  
26 managed to minimize the commercial harvest near heavily  
27 used subsistence harvest areas but is a very short and  
28 fast fishery, so effective actions must be taken in a  
29 timely manner. The proposal close -- the proposed  
30 closure would limit the options for where a commercial  
31 fishery could occur, potentially resulting in a  
32 commercial fishery in a higher subsistence use area.  
33 The proposed closure would also prohibit subsistence  
34 harvest in this area by non-Federally-qualified  
35 individuals. A closure in this small area,  
36 approximately 560 acres, is expected to have little or  
37 no impact on the total commercial or subsistence  
38 harvest.

39  
40                   The position of the Department is to  
41 oppose this proposal.

42  
43                   Opportunity provided by the State. For  
44 the vast majority of the subsistence herring egg  
45 harvest, the State does not restrict fishing periods or  
46 seasons and does not restrict the amounts of herring  
47 harvested by individuals for subsistence purposes in  
48 this area. The harvest of spawn on hemlock boughs or  
49 spawn on hair kelp is unrestricted and no State permit  
50 is required. Post-season evaluation of the subsistence

1 harvest is accomplished by a harvest monitoring program  
2 conducted by the Sitka Tribe of Alaska, I'll refer to  
3 as STA, in cooperation with the division of Subsistence  
4 and the Alaska Department -- of the Alaska Department  
5 of Fish and Game, which I'll refer to as the  
6 Department. The Alaska Board of Fisheries has found  
7 that the 105,000 to 158,000 pounds of herring spawn is  
8 the amount reasonably necessary for subsistence use in  
9 Section 13-A and 13-B north of Aspid Cape.

10

11                   The State does require a permit that  
12 may limit harvest of spawn on kelp and requires harvest  
13 reporting the following season. The harvest of spawn  
14 on kelp accounts for an average of only two percent of  
15 the subsistence harvest on all types of substrate, so  
16 State requirements for spawn on kelp harvest is not a  
17 -- is not a significant limitation.

18

19                   The limited, non-commercial exchange  
20 for cash of subsistence harvest herring roe on kelp,  
21 legally taken in Districts 1 through 16 under terms of  
22 a permit, is permitted as customary trade. The annual  
23 possession limit of spawn on kelp is 32 pounds for an  
24 individual and 158 pounds for a household of two or  
25 more people. The Department has authority to issue  
26 additional permits for herring spawn on kelp above the  
27 annual possession limit if harvestable surplus is  
28 available.

29

30                   Commercial herring vessels, permit  
31 holders and crew members may not take or possess  
32 herring in the 72 hours prior to -- to or following a  
33 commercial herring fishing period.

34

35                   The current -- there currently are no  
36 conservation or management concerns for these healthy  
37 stocks. From 1979 through present, with only one  
38 exception, the Sitka Sound herring resource has been  
39 above the current 20,000 ton threshold, and the run has  
40 averaged 71,000 tons in the past five year period.  
41 Herring are managed under a conservative management  
42 strategy that sets threshold biomass levels below which  
43 commercial harvest does not occur and limits harvest  
44 rates to 10 to 20 percent of the total mature spawning  
45 biomass. This is a time proven strategy that provides  
46 for conservation of the resource. The area proposed  
47 for closure is so small that it is unlikely to provide  
48 conservation benefits above the threshold and harvest  
49 rate, especially given the high very -- highly variable  
50 nature of herring spawn -- herring spawning behavior.

1                   The Board does not have the authority  
2 to close at -- this area solely to commercial herring  
3 fishing as suggested by the proposal. Instead, the  
4 Federal Board would have to close the area to herring  
5 harvest by all non-Federally qualified users, which  
6 would include all subsistence, commercial, or other  
7 harvests occurring under State regulations. In this  
8 case, such a closure is not necessary to provide for  
9 continued Federal subsistence and would violate Section  
10 .815 of ANILCA. Such a closure would be detrimental to  
11 subsistence uses by unnecessarily limiting options for  
12 management of commercial fisheries and thereby  
13 increasing the likelihood of impacts to higher  
14 subsistence use areas.

15  
16                   In response to the Board of -- the  
17 Board's Federal Register notice of May 1, 2006, the  
18 Department submitted separate comments on June 5, 2006,  
19 regarding the title status of submerged lands in this  
20 area.

21  
22                   Other issues. Management of the  
23 commercial fishery involves a memorandum of agreement  
24 between the STA, the Alaska Board of Fisheries and the  
25 Department. The MOA provides in-season collaboration  
26 that includes:

- 27  
28                   1.           Daily contact between STA and  
29                   the Department;  
30  
31                   2.           Department consultation with  
32                   STA regarding whether a  
33                   proposed opening might affect  
34                   subsistence opportunities; and  
35  
36                   3.           Verbal and written  
37                   communications from STA  
38                   explaining its reasons --  
39                   reasoning to the Department if  
40                   STA concludes there is a  
41                   potential for a proposed  
42                   opening that would -- that  
43                   negatively impact subsistence  
44                   fisheries.

45  
46                   A formal objection by STA to a proposed  
47 opening does not necessarily result in a commercial  
48 closure and the Department maintains discretion  
49 regarding whether or not to open the fishery. However,  
50 STA's objections are considered by the Department. The

1 in-season consultation process provides the STA with an  
2 opportunity to provide input for consideration by the  
3 Department and may affect the decisions regarding  
4 whether to open or -- an area for a commercial fishery.  
5 Any changes to the memorandum of agreement would  
6 require approval by all signatories, including the  
7 Alaska Board of Fisheries.

8

9                   The State's regulatory management plan  
10 for Section 13-B sac roe fishery is:

11

12                   Distribute the commercial harvest by  
13 time and area if the Department  
14 determines that it is necessary to  
15 ensure subsistence users have a  
16 reasonable opportunity to harvest.

17

18                   Closing a fixed area will provide less  
19 opportunity for the Department to distribute the  
20 harvest and:

21

22                   May increase the chance of commercial  
23 fishing taking place in the vicinity of  
24 a -- better traditional egg harvesting  
25 areas.

26

27                   Since the management plan has been in  
28 effect, 2002 to 2006, subsistence ANS was not met in  
29 2005, and potentially in 2007 as we understand now.  
30 Preliminary information recently provided to the  
31 Department indicates the harvest during 2007, yeah,  
32 once again below the ANS range. Reasons that the  
33 cumulative harvest may be below ANS are only partly  
34 understood as described below.

35

36                   Herring biomass in Sitka Sound has  
37 shown a long-term increase and is considered healthy.  
38 In 2005, the year that ANS was not met, the biomass was  
39 at record, near record -- was at record or near record  
40 levels since the biomass estimates were first reported  
41 in 1978. The commercial sac roe herring harvest of  
42 11,366 tons in 2005 was around 14 percent of the total  
43 estimated spawning biomass, a very conservative harvest  
44 rate. Difficulty in meeting subsistence needs that  
45 year was primarily due to a large portion of the  
46 herring biomass spawning in an areas inaccessible to  
47 subsistence fishermen. In 2007 the spawning biomass  
48 remained at a high level. Intensive herring spawning  
49 was followed immediately by severe weather which  
50 undoubtedly limit -- limited many subsistence

1 harvesters access to the spawning grounds. Collective  
2 harvest success can be diminished during any particular  
3 season when one or more of the factors do not favor  
4 subsistence users and these include:

- 5
- 6                   Inclement weather;
- 7
- 8                   Spawn timing;
- 9
- 10                   Spawn location;
- 11
- 12                   Loss or theft of sets;
- 13
- 14                   Subsistence harvester's schedules; and
- 15
- 16                   The amount of participation by a  
17                   limited number of individuals known as  
18                   high harvesters who harvest for  
19                   distribution to others.
- 20

21                   If one or more of these factors is  
22 unfavorable, the amount harvested can drastically  
23 fluctuate and below -- remain below ANS. It is  
24 important to note that how the commercial fishery is  
25 managed, either inside or outside of the Makhnati  
26 Island area, may be less of a factor for the  
27 subsistence fishery than these other factors.

28                   And that concludes my -- my comments.

29

30                   CHAIRMAN ADAMS: Questions for George  
31 Pappas.

32

33                   MR. KITKA: Mr. Chair.

34

35                   CHAIRMAN ADAMS: Mr. Kitka.

36

37

38                   MR. KITKA: Thank you, Mr. Chair. I  
39 realize you weren't privy to the in-season or preseason  
40 meetings that took place in Sitka, but do you have any  
41 records of what was said by the State biologist that  
42 came to the meeting?

43

44                   MR. PAPPAS: At this time I do not have  
45 a -- the preseason forecast information or the MOA.

46

47                   MR. KITKA: It was part of their  
48 preseason forecast information. And it's on public  
49 record now. And by the State's biologist's own words,  
50 the biomass in Sitka Sound is decreasing according to

1 what she said, and, yet, they still keep increasing the  
2 quota.

3

4 MR. PAPPAS: I'll investigate that.

5

6 MR. KITKA: Thank you, Mr. Chairman.

7

8 MR. PAPPAS: You have my attention,  
9 sir.

10

11 CHAIRMAN ADAMS: Okay. Don, did you  
12 have some questions of George.

13

14 MR. HERNANDEZ: Yeah. In your report  
15 the jurisdiction issue, It says the Board does not  
16 have authority to close this area solely to commercial  
17 herring fishing as suggested by the proposal, instead  
18 the Federal Board would have to close the area to  
19 herring harvest by all non-Federally-qualified users.  
20 Okay, I understand that. Which would include all  
21 subsistence, commercial or other harvest occurring  
22 under State regulations. What other harvest occurring  
23 under State regulations, I don't understand that. What  
24 other harvests?

25

26 MR. PAPPAS: I would assume non-  
27 qualified users. Maybe that's just a redundant way of  
28 stating somebody from Juneau couldn't go down there and  
29 subsistence fish for herring under State regulations  
30 because they're not Federally-qualified, or Anchorage  
31 or Fairbanks. I don't believe there's a personal use  
32 fishery, let me find out. Is there a personal use  
33 fishery for.....

34

35 MR. CHADWICK: (Shakes head negatively)

36

37 MR. PAPPAS: No, that would be just  
38 Federal or non-Federally-qualified individuals.

39

40 MR. HERNANDEZ: All right, I understand  
41 that part. I just don't see any other harvest  
42 occurring under State regulations. So, I guess, yeah,  
43 possibly a personal use fishery, is that what -- so if  
44 anybody wanted to come from Juneau, say, they wouldn't  
45 be able to harvest there.

46

47 MR. PAPPAS: That is correct.

48

49 MR. HERNANDEZ: Either under State or  
50 Federal regulations?

1 MR. PAPPAS: They would be able to  
2 under State regulations if it was open.....

3  
4 MR. HERNANDEZ: Right.

5  
6 MR. PAPPAS: .....but if the area was  
7 totally closed for non -- you know, non-qualified  
8 individuals then they could not, you are correct.

9  
10 MR. HERNANDEZ: Okay, I guess I  
11 understand that now.

12  
13 Another question I have, Mr. Chairman,  
14 going back to forecast biomass. Over the last 20 years  
15 now that we have these numbers to look at, have the --  
16 has the actual method of determining that forecast  
17 biomass, have there been any changes in that over the  
18 last 20 years. I know, you know, just as a commercial  
19 fisherman, you know, just the technology available now  
20 to do that type of work has changed, you know,  
21 drastically in 20 years. Can you give us any insights  
22 as to -- I'm trying to get at, you know, how reliable  
23 are numbers from 20 years ago compared to what we can  
24 do today, you know, I mean is it done the exact same  
25 method that it was done 20 years or have you seen some  
26 changes, do you know what I mean by that?

27  
28 MR. PAPPAS: Mr. Chair. Mr. Hernandez.  
29 That's a.....

30  
31 CHAIRMAN ADAMS: Realizing you weren't  
32 here 20 years ago, George.....

33  
34 MR. PAPPAS: .....exactly, I was on a  
35 skateboard somewhere.

36  
37 CHAIRMAN ADAMS: .....take your best  
38 shot at it.

39  
40 (Laughter)

41  
42 MR. PAPPAS: The Department uses the  
43 best information, the best modeling, the best tools  
44 available, has it changed in the last 20 years, I would  
45 say it probably has evolved. But more importantly if  
46 you look at what the forecast is in comparison to what  
47 actually the run was, the final results, and you  
48 compare the difference between the two, that should  
49 give you a measure of success of the current modeling  
50 system.

1 I could make some telephone calls and  
2 find out what the updates were, not a problem, if you'd  
3 like I could do so.

4  
5 MR. HERNANDEZ: Well, I was just -- you  
6 know we hear from the users, you know, that have been  
7 fishing that area for generations, you know, and they  
8 don't always have the same assessment, you know, as  
9 what we see scientifically and I'm always kind of  
10 looking for explanations and, you know, I fished there  
11 commercially back in 1978, '79, I was there 20 years  
12 ago, I kind of saw it firsthand and, you know, I'd say  
13 it was probably definitely better than it was, the  
14 stocks have improved, but I just always kind of  
15 question, you know, the reliability of, you know, these  
16 hard numbers that we look at, just how reliable they  
17 are.

18  
19 So trying to correlate what we hear,  
20 you know, from the people that have lived there all  
21 their lives, you know, and know what's going on and  
22 what we see in black and white. And so I just wondered  
23 if you had any insight into that but it probably takes  
24 somebody that'd be more involved in the process over a  
25 long period of time to know how that all works.

26  
27 So, thank you.

28  
29 CHAIRMAN ADAMS: Do you want to take a  
30 stab at it, George, however, Bob Larson here has also  
31 got some information.

32  
33 (Laughter)

34  
35 MR. PAPPAS: It's true. It's true, Mr.  
36 Larson's been involved.

37  
38 MR. LARSON: Thank you, Mr. Chairman.  
39 Don. George. In the '70s the primary method of  
40 determining biomass in all of Sitka Sound and really in  
41 all the herring fisheries that we have was a hydro-  
42 acoustic assessment technique, where you would look at  
43 the size of the herring schools in the winter time and  
44 determine what component, or how big they were, how  
45 much they weighed and what component of those were, in  
46 fact, going to be mature herring. And starting in  
47 about the late -- with Kashakes (ph) in the late '70s  
48 and then moving into Sitka Sound in the '80s, it was  
49 real clear that the better method of looking at that  
50 was to examine the number of eggs. So during the '80s

1 we had some melding or combination of hydro-acoustics  
2 and spawn deposition work and mostly it was to prove  
3 this different technique and to see if, in fact, it was  
4 more accurate and was a better technique than what we  
5 were used to using.

6

7 But since -- I believe that the last  
8 hydro-acoustic survey we did in Sitka Sound was  
9 probably about 1988, so since then it's been entirely  
10 the spawn deposition method.

11

12 MR. HERNANDEZ: And of course the spawn  
13 deposition is after the fact?

14

15 MR. LARSON: Exactly.

16

17 MR. HERNANDEZ: So how do you get your  
18 preseason forecast then?

19

20 MR. LARSON: That method has changed  
21 over the years as well, in that, our first estimate of  
22 forecast were actually the escapement from the year  
23 before. Now, most recently, in the last 15 years that  
24 method, as we've taken the escapement, we've looked at  
25 the age composition and the weight at age of those  
26 herring and applied a mortality and a growth estimate  
27 to actually produce a real forecast for the subsequent  
28 year.

29

30 So that really hasn't changed in the  
31 last 15 years or so.

32

33 MR. HERNANDEZ: Okay. I just -- yeah,  
34 so it has definitely changed over the last 20 years and  
35 the methodology for doing it so.....

36

37 MR. LARSON: A little bit.

38

39 MR. HERNANDEZ: .....but not in the  
40 last 15 years.

41

42 MR. LARSON: But not -- that's correct.

43

44 MR. HERNANDEZ: Yeah. Okay, thank you.

45

46 CHAIRMAN ADAMS: How are we doing, any  
47 more questions for George?

48

49 MR. KITKA: I have one.

50

1 CHAIRMAN ADAMS: One from Harvey.  
2  
3 MR. KITKA: Thank you, Mr. Chair.  
4 George, in your records do you have a percentage of  
5 what age groups were in the catches that were the  
6 samples, the sample catches? Do you have a breakdown  
7 of the ages and what percentages of the different age  
8 groups?  
9  
10 MR. PAPPAS: For -- are you looking for  
11 a spreadsheet over the last years or how many years?  
12  
13 MR. KITKA: Just this last year.  
14  
15 MR. PAPPAS: I don't have that  
16 information in front of me. I assume they collect that  
17 information as part of the forecasting, I can obtain  
18 that information but, yeah, herring -- as you see our  
19 herring specialist is not here right now.  
20  
21 MR. KITKA: Thank you.  
22  
23 MR. PAPPAS: I apologize for not having  
24 the information.  
25  
26 CHAIRMAN ADAMS: Any other questions.  
27  
28 (No comments)  
29  
30 CHAIRMAN ADAMS: I got one or two here,  
31 George. It says here under other issues down toward  
32 the last part of that paragraph where it starts off by  
33 saying, a formal objection by STA to a proposed opening  
34 does not necessarily result in a commercial closure and  
35 the Department maintains discretion regarding whether  
36 or not to open the fishery.  
37  
38 Again, I thought that the memorandum of  
39 agreement, you know, was for the purpose of coming to a  
40 meeting of the minds as to whether there should be a  
41 closure or opening, and I'm kind of disturbed at the  
42 fact that that statement is being made. That if STA,  
43 you know, objects to it, that the Department is going  
44 to go ahead and do whatever it wants.  
45  
46 So, you know, I know you're just  
47 the.....  
48  
49 MR. PAPPAS: Uh-huh.  
50

1                   CHAIRMAN ADAMS:   .....and I really  
2 don't want to put you on the spot since you're kind of  
3 new to the program but, you know, I feel kind of  
4 disturbed about that. ANILCA clearly, you know, points  
5 out that the State of Alaska and the Feds should work  
6 together, you know, on issues pertaining to ANILCA  
7 subsistence in the state of Alaska, and to me that's a  
8 binding contract, you know, between the State and the  
9 Feds, and in this case, you know, there's a memorandum  
10 of agreement between the State and Sitka Tribe, and  
11 we're talking about, you know, adding the Feds into  
12 that MOA as well. And it appears to me like, you know,  
13 the State is not in favor of the Feds, you know,  
14 stepping in. It is Federal water. And so whether we  
15 like it or not, you know, we could open or close it,  
16 you know, at our discretion, if we so wish, because it  
17 does fall under our Federal jurisdiction. Sorry my  
18 tangle is getting tongue here this morning. And it  
19 says in that last sentence, any changes to the MOA  
20 would require approval of all of the signatories  
21 including the Alaska Board of Fisheries.

22  
23                   And it appears to me, you know, that  
24 the Board would welcome, you know, another mouthpiece  
25 in there to help, you know, work out a solution one way  
26 or another.

27  
28                   So I don't expect you to answer, I'm  
29 just sending this out as a caution, you know, that  
30 these are some of the things that I'm kind of disturbed  
31 about, and you can respond to that if you want.

32  
33                   Thanks.

34  
35                   MR. PAPPAS: Mr. Chair. In some  
36 fisheries in other parts of the state there are  
37 memorandum of -- something along the lines of  
38 memorandums of agreement, they're not co-management  
39 teams. Co-management and memorandums of agreement are  
40 different categories. Most of the ones I've been  
41 involved with or understand, where the user group works  
42 with the Department, it's an advisory role in both  
43 directions and the vast majority of the needs are met.  
44 The vast majority -- and my experience -- and I'm not  
45 sure about the memorandum of agreement with the STA and  
46 the Department, yet, the Department is the managing  
47 agency for the fisheries and it's their -- they have to  
48 take everything into account of what is going to  
49 happen, and I do understand there has been -- from  
50 earlier testimony, there has been protest saying do not

1 -- please do not do this and then went ahead anyways.  
2 I don't understand the circumstances beyond that or  
3 around each decision.

4  
5 But, yeah, it is not a co-management  
6 agreement that I understand and it does -- it's at best  
7 an advisory relationship.

8  
9 As I understand the fisheries are -- in  
10 recent times, the biomass has been successful, the  
11 management practice has been successful, there hasn't  
12 been over-exploitation on the biomass in recent times.  
13 And as I have been informed the system is working for  
14 the biomass as a whole, but as I understand here from  
15 the 2005 and 2007 the ANS has not been met. So those  
16 other issues we definitely have to work with, but there  
17 are a lot of factors involved that are not linked to  
18 the biomass.

19  
20 CHAIRMAN ADAMS: Thanks. Appreciate  
21 you put your best effort forward, thanks.

22  
23 MR. PAPPAS: Yes, sir.

24  
25 CHAIRMAN ADAMS: Okay. Any other  
26 questions for Mr. Pappas.

27  
28 Frank.

29  
30 MR. WRIGHT: Yes, thank you, Mr. Chair.  
31 I had that same question as he had underlined here.  
32 When there's going to be an opening, how much time do  
33 they have, you know, because I know that, you know,  
34 they have boats out there running around checking out  
35 what the masses are, so when these groups get together  
36 like the Department of Fish and Game and STA, how much  
37 time do they have to decide that and then.....

38  
39 CHAIRMAN ADAMS: George.

40  
41 MR. PAPPAS: Mr. Chair. Mr. Wright.  
42 The -- if I remember testimony at the last January  
43 Board of Fish -- or excuse me, Federal Subsistence  
44 Board, it's real quick. It's a matter of, if I  
45 remember correctly, wasn't it a matter of a few hours,  
46 a couple hours, to make the head's up on it and  
47 communication's imperative at that time. And wasn't  
48 there a problem, was it last year, in communication,  
49 there was no communication during one particular period  
50 or was it 2006, cell phone problems, people weren't

1 available, what have you, but to answer your question  
2 it's a very short period of time, yeah, approximately  
3 two hours.

4  
5 MR. WRIGHT: Mr. Chair. So agreements  
6 have to be made real quick between the State and the  
7 Tribe and so the Tribe says, no, then Fish and Game  
8 could say we're going anyway, so that co-management  
9 thing probably would be better than an MOA.

10  
11 CHAIRMAN ADAMS: Thanks, Frank. Any  
12 other questions. I was going to bring that up, too.

13  
14 Go ahead, Mr. Bangs.

15  
16 MR. BANGS: Thank you, Mr. Chairman. I  
17 have a question. I'm involved in a couple other  
18 fisheries, one herring egg fishery on kelp and a dive  
19 fishery and both of those fisheries have very large  
20 areas set aside for subsistence harvest. The sea  
21 cucumber fishery has literally hundreds of square miles  
22 that's closed to commercial harvest, and the egg  
23 fishery, the one down around Craig and Klawock has the  
24 best herring spawning area closed just to protect the  
25 subsistence users. And I'm wondering why the State  
26 doesn't have any problem closing those areas but is  
27 adamant about not setting aside an area for Sitka.

28  
29 Do you have any idea why the  
30 State's.....

31  
32 MR. PAPPAS: Mr. Chair. Mr. Bangs.  
33 No, I do not. I would assume we have some corporate  
34 knowledge here to reference if we've had proposals in  
35 the past to the Board of Fish to do so. I guess I'm  
36 asking the Council, just, collectively, do you know if  
37 there has been Board of Fisheries proposals to close  
38 down areas for Sitka for subsistence?

39  
40 MR. DOUVILLE: Say that again?

41  
42 MR. PAPPAS: Do you recall if there  
43 were proposals to the Board of Fisheries to close down  
44 areas specifically for herring subsistence in the Sitka  
45 Sound?

46  
47 CHAIRMAN ADAMS: Not that we know of.

48  
49 MR. PAPPAS: Not that you know of. But  
50 you're -- Mr. Chair, Mr. Bangs, what you're indicating

1 is other areas so those particular types of regulations  
2 could be proposed to the Board of Fisheries, since it's  
3 not breaking new ground, by individuals who want to put  
4 that forth.

5  
6 CHAIRMAN ADAMS: Okay. Good questions.  
7 You're holding up pretty good.

8  
9 Any others.

10  
11 MR. DOUVILLE: Mr. Chairman. What he  
12 said makes me -- I never even thought of that before  
13 but there is a specific area for herring -- finding in  
14 the Craig area which does not involve -- the best  
15 traditional area is Fish Egg Island, and the line is  
16 quite clear, it keeps you at least a mile or more away  
17 from that area where you cannot take herring, it's just  
18 a -- you're confined to one area, the traditional area  
19 is absolutely protected from it. And there's been  
20 effort to change that but it has gone nowhere.  
21 However, they're allowed sometimes to go outside their  
22 designated area that they have now and that's a  
23 judgment call by the biologists that are there but  
24 never in the traditional area of subsistence harvest.

25  
26 MR. PAPPAS: Mr. Chair. This would be  
27 an application of what you've stated, closing an area  
28 off -- if a proposal was formed to close off an area  
29 specifically for subsistence, if it was only 100 yards  
30 of where they put their branches in, as Mr. Kitka said,  
31 sometimes that would not be effective.

32  
33 Mr. Chair.

34  
35 CHAIRMAN ADAMS: How we doing folks.  
36 Any more questions.

37  
38 Joe.

39  
40 MR. HOTCH: Yeah, thank you, Mr.  
41 Chairman. I am wondering if you advise the subsistence  
42 users before you close the area, do they have a period  
43 to respond to the closure? I think if my little area  
44 some days would be closed, I need to respond to you --  
45 I need to be aware of why you're closing an area. Is  
46 that happening in these little areas on there?

47  
48 MR. PAPPAS: Mr. Chair. Mr. Hotch. I  
49 believe the discussion was closing the commercial  
50 fisheries in those areas, not actually the subsistence

1 fisheries, sir.  
2  
3 MR. HOTCH: Well, in the case that you  
4 are going to close a subsistence area, I need to be  
5 aware of that before you close it. I don't want to get  
6 picked up illegally doing my subsistence.  
7  
8 MR. PAPPAS: Mr. Chair. Mr. Hotch.  
9 Yes, that is correct, the Department strives for the  
10 subsistence fisheries or sportfisheries where there's a  
11 large participation of individuals who aren't sitting  
12 on their single side-band radio waiting for a  
13 countdown, they at least try to get 24 hours, 48 hours  
14 ahead, advance notice, because it's much more difficult  
15 to reach the individual than someone who does it for  
16 business, is on the deck of his boat with his hand-held  
17 listening for the announcement, sir.  
18  
19 Mr. Chair.  
20  
21 MR. HOTCH: Thank you.  
22  
23 CHAIRMAN ADAMS: Anyone else.  
24  
25 (No comments)  
26  
27 CHAIRMAN ADAMS: Any other questions.  
28  
29 MR. WARREN: I want.....  
30  
31 CHAIRMAN ADAMS: You can do your part  
32 during public testimony. This is Council  
33 deliberations.  
34  
35 MR. WARREN: All I need is two hours.  
36  
37 (Laughter)  
38  
39 CHAIRMAN ADAMS: Once upon a time, uh.  
40  
41 (Laughter)  
42  
43 CHAIRMAN ADAMS: Okay. Unless there's  
44 no others, we thank you George.  
45  
46 MR. WRIGHT: Mr. Chairman.  
47  
48 CHAIRMAN ADAMS: Yes.  
49  
50 MR. WRIGHT: I have a question.

1 CHAIRMAN ADAMS: Okay.

2

3 MR. WRIGHT: It says here the annual  
4 possession limit for spawn on kelp is 32 pounds, 158  
5 pounds for a household of two or more and then it says  
6 additional permits. So what would be the limit if you  
7 had an additional permit? The Department has authority  
8 to issue additional permits for herring spawn on kelp  
9 above the annual possession limit, is there a limit  
10 then or.....

11

12 MR. PAPPAS: Mr. Chair. Mr. Wright.  
13 My assumption is it's related to the strength of the  
14 run, if it was phenomenal, I wouldn't assume it would  
15 be just another 32 pounds and 158 pounds, I assume it  
16 would be conditioned to how large the return is and  
17 what the harvestable surplus would be.

18

19 MR. WRIGHT: Yeah, Mr. Chair.

20

21 CHAIRMAN ADAMS: Uh-huh.

22

23 MR. WRIGHT: The reason I ask that is  
24 because I know sometimes there's a seine boat or  
25 something that goes over to Sitka and brings a lot of  
26 eggs over to Hoonah to distribute out to the community  
27 so I was just curious, does that take an additional  
28 permit or -- because I know this last round there was a  
29 seine boat that came over to Hoonah with herring eggs  
30 on it.

31

32 MR. PAPPAS: Mr. Chair. Mr. Wright.  
33 My assumption there is mult -- you know, if a family of  
34 two, if you had five folks on board and they had a --  
35 each of them had a family of more than one or two -- or  
36 excuse me, more than two, then that would be a  
37 significant amount of herring eggs somebody could bring  
38 over.

39

40 I'm unaware about the proxy -- the  
41 proxy system for the state of Alaska. I assume some  
42 high harvesters do proxy fish for other individuals in  
43 large amounts, and I believe there was testimony at the  
44 last Federal Subsistence Board from one of the high  
45 harvesters who sent out a significant amount of herring  
46 eggs.

47

48 CHAIRMAN ADAMS: Okay, thank you. Any  
49 other questions for George. I know one question always  
50 triggers another one so are there any others.

1                   MR. DOUVILLE: I don't have a question  
2 but I have a comment, you know, I don't know how the  
3 132 or 148 or whatever it is used in Craig, is the  
4 amount, but when we fill out our permits, sometimes we  
5 get 300 pounds, and you take that, you call it  
6 whatever, and then what you put away is different or  
7 what you share and sometimes we'll go get a whole lot  
8 more. But we never put on our permits that we got 350  
9 pounds when the permit is only good for 130, and I  
10 think that you see this case happening everywhere that  
11 subsistence eggs are taken so, you know, I know the  
12 subsistence harvest is much more than what the permits  
13 indicate.

14  
15                   CHAIRMAN ADAMS: Okay, are we done with  
16 him.

17  
18                   (No comments)

19  
20                   CHAIRMAN ADAMS: Thank you, George.

21  
22                   MR. PAPPAS: Thank you, very much. I  
23 have some questions, will make some telephone calls and  
24 I'll get some answers for you.

25  
26                   CHAIRMAN ADAMS: Thank you. Any other  
27 State, Federal, tribal agency comments. Mr. Warren if  
28 you want to come forward.

29  
30                   MR. WARREN: Thank you, Mr. Chairman.  
31 I want to.....

32  
33                   CHAIRMAN ADAMS: Could you go up here  
34 please.

35  
36                   MR. WARREN: You know, excuse my hat,  
37 but I have to keep my surgical implant in place.

38  
39                   CHAIRMAN ADAMS: One other thing, too,  
40 I understand that you had a question for the State.

41  
42                   MR. WARREN: Yes. Yes.

43  
44                   CHAIRMAN ADAMS: Well, I will allow  
45 that, too, so George.

46  
47                   MR. WARREN: What I'd want to say is  
48 that you're talking about Native values, Native food,  
49 using the English language.

50

1                   English language has management tools.  
2 I would like to see the Board give some authority to  
3 the Council coordinator to require all speakers to have  
4 copies of their speech handed out. There's nobody else  
5 in this organization that I can see that is going to be  
6 oriented towards the public, your coordinator.  
7

8                   Okay, the other thing is that all  
9 speakers should have an open statement like my part  
10 should declare that 30,000 tons of X foods means --  
11 what's the significance of it? Why not 100,000 tons?  
12 I'm at loss when I'm listening to a report with no  
13 relativity. Remember, I know you're in a very  
14 difficult position, half the time you're social  
15 scientists, the other times you're an engineer and at  
16 other times you're a commercial fisherman. But the  
17 language is -- has its built in techniques that we can  
18 communicate better. I want to know what's impacting us  
19 in the Southeast when it -- when someone presents  
20 information to alter the subsistence, I want  
21 substantial impact in that delivery. It's possible.  
22

23                   I think we all speak English. That's  
24 the essence of my position right now is that could you  
25 empower your coordinator to require all speakers to  
26 have a handout. You may have to buy a copying machine,  
27 you know. And the other one is to have the impact,  
28 what's my information, did I deliver what I said I was  
29 going to deliver? Because the Native can be outvoted  
30 where there's only about 275,000 of us, there was a  
31 time we were up in the millions but we are -- today  
32 respiratory problems and everything, just eliminated  
33 us, but we still have one leverage, Title VIII.  
34

35                   Thank you.  
36

37                   CHAIRMAN ADAMS: Thank you. Let me  
38 just answer your question here. We do our best and  
39 maybe I can get Bob to respond to that a little bit,  
40 too, but we do our best to get materials out, you know,  
41 to everyone that we think is going to be affected by  
42 this. The table is full over there with documents.  
43 Mr. Pappas was good enough to provide the Council with  
44 written, you know, opinions on all of the proposals  
45 that we are going through right now, so that stuff is  
46 available to us.  
47

48                   Let me say that during the time when we  
49 are deliberating or trying to figure out what to do  
50 with the Makhnati Island, there was a subcommittee that

1 was formed as a subcommittee to this Council, and the  
2 information that we gathered through a meeting in Sitka  
3 was not privy to public scrutiny at that time, it was  
4 only until after we adopted that proposal yesterday, or  
5 that subcommittee's report yesterday, did that become,  
6 you know, public and so it's available now to the  
7 public, you know, for review and for your information.

8

9 But I think we try our best, you know,  
10 to get the information out to everyone that is affected  
11 by this. And, maybe, Bob, you can elaborate on that as  
12 well.

13

14 MR. LARSON: Yeah. The only thing I  
15 can add there is we recognize the really importance of  
16 public participation and public information, however,  
17 you know, we cannot require a written report or written  
18 documentation of testimony from anybody, we can  
19 encourage people to, you know, put some time into  
20 providing that to us but it's not a requirement that  
21 we're able to put on anyone.

22

23 MR. WARREN: Okay, you can request  
24 that.

25

26 MR. LARSON: Yes.

27

28 MR. WARREN: But you need that social  
29 impact on all of us, yes, we can have an open --  
30 written open statement, those of us and have  
31 subsistence also. But I'm looking for -- to cut down  
32 our time trying to define what we said, what I heard.  
33 You might have heard that but that's not what I've  
34 said, you know, for example. You said that I said that  
35 you said.

36

37 (Laughter)

38

39 MR. WARREN: Thank you.

40

41 CHAIRMAN ADAMS: Thank you. Let me  
42 see, InterAgency.

43

44 MR. KESSLER: (Shakes head negatively)

45

46 CHAIRMAN ADAMS: Fish and Game Advisory  
47 Committee members.

48

49 (No comments)

50

1 CHAIRMAN ADAMS: Any written comments.

2

3 MR. LARSON: Mr. Chairman. There are  
4 no written comments that were submitted to the Office  
5 of Subsistence Management. However, there are written  
6 comments in the form of a Makhnati Island Subcommittee  
7 Report that was adopted by the Council as their  
8 document yesterday and is available at the back of the  
9 room.

10

11 That committee report has several  
12 components.

13

14 It has the discussion section. There's  
15 also an email from Ron Porter, one of the participants  
16 to myself. There's a formal letter from the Sitka  
17 Herring Association to Chuck Ardizzone, who is the  
18 Chairman, working group leader of the subcommittee.  
19 There is also a letter from the Sitka Tribe of Alaska  
20 that clearly articulates their position regarding the  
21 subcommittee's work and what they feel is a reasonable  
22 alternative and solution. What they feel an  
23 alternative would be is a 40,000 ton commercial fishing  
24 threshold for the Makhnati Island area, that's  
25 articulated in a letter that's attached to that packet  
26 and it's available -- all these items are available at  
27 the back of the room.

28

29 CHAIRMAN ADAMS: Thank you, Mr. Larson.  
30 Other testimonies.

31

32 Anyone from the public. Please come  
33 forward, sir, and state your name.

34

35 MR. GALL: Thank you, Chairman Adams.  
36 I'm Peter Gall.

37

38 CHAIRMAN ADAMS: Of course.

39

40 MR. GALL: It's very nice to see you  
41 again, sir, I guess it's been 16 years. My regards and  
42 to the others who I've worked with in the past.

43

44 I've lived in Haines for 33 years. And  
45 I will try to be very brief because the issue I'm  
46 addressing has been discussed since 1982 and since 2001  
47 continuing illegal activity in an area set aside for  
48 the protection of salmon spawning has continued. And  
49 it's been permitted by the State, despite protests  
50 ranging from the former Governor Jay Hammond to U.S.

1 Fish and Wildlife, dozens of biologists and so on and  
2 politics has really triumphed. And we have a protected  
3 area here which is not being adequately protected and  
4 I'd like to address it very briefly.

5  
6 First of all I'm approaching you  
7 because I've run out of resources in the state. The  
8 law is very, very clear and I'm going to speak to it  
9 just briefly.

10  
11 The violations are very clear. And the  
12 enforcement simply is not happening.

13  
14 There have been many protests from  
15 people that, I guess, you've heard from or will in the  
16 Klukwan area indicating their concern for the  
17 protection of the salmon resource.

18  
19 And I think this is as good a time as  
20 any to point out that the so-called Eagle Preserve, I  
21 guess, is an eagle preserve in the sense that that is  
22 what gives it the attention of the Federal government,  
23 but, in fact, it's a preserve for salmon and salmon  
24 habitat upon which the eagles depend.

25  
26 Back in the '70s when this was being  
27 debated, the phrase was, that the eagle is an indicator  
28 species of the health of the system.

29  
30 And in 1975, the large timber  
31 operations closed down here and an attempt was made to  
32 create a 20 year negotiated timber sale, which would  
33 have put virtually every tree in the valley into the  
34 timber base. At that time there was no land  
35 classification and no official planning. And that  
36 process of classification and planning began at that  
37 time and there was a series of events that I need not  
38 bore you with but in the end, in 1982, the State lands  
39 in this area were divided up. Part of it was set aside  
40 for multiple use, that's the Haines State Forest and  
41 part of it was, and this is really the key, was  
42 withdrawn from multiple use.

43  
44 The Chilkat Bald Eagle Preserve is a  
45 salmon spawning habitat in the center of the Haines  
46 State Forest. It's a very small area compared to the  
47 resource development area around it. And it was not  
48 made a critical habitat and it was not made a preserve  
49 -- excuse me, it was not made a Refuge, because Refuges  
50 and critical habitats allow the mitigation of damage by

1 competing uses.

2

3                   The history of this area is very clear,  
4 the king salmon resource was terribly damaged before  
5 '75 by the Department of Transportation. In the last  
6 decades, the DOT continues to run roads through -- in  
7 the spawning areas and then try to mitigate them with  
8 projects that may or may not work over time.

9

10                   And just to add one other element, this  
11 rose to national attention and during the Alaska Lands  
12 Act period, Gary Hart, put language into the bill to  
13 specifically take this Chilkat Valley area with the  
14 eagles and put it into Glacier Bay National Monument as  
15 a way of providing long-term protection because it was  
16 clear the State was not going to take action. And  
17 after that threat became real, real negotiations began  
18 to occur, and a division of the real estate was made so  
19 that resource development, high powered tourism,  
20 buildings, land disposal, industrial activities could  
21 take place in this valley and virtual every piece of  
22 State land with the exception of this central spawning  
23 area.

24

25                   The traditional and customary uses of  
26 that area by people are pretty broad. They range from  
27 old time things, like hunting and trapping and berry  
28 picking to more modern and recreational activities like  
29 snowmachining and so forth. And all of that is  
30 protected in this Preserve.

31

32                   The only criteria that is -- and then  
33 commercial use was never part of the plan. The area  
34 was taken out of multiple use specifically for one  
35 purpose only and that was to protect the habitat, there  
36 are other purposes, I mean I can read them, but, the  
37 basic purpose is the.....

38

39                   CHAIRMAN ADAMS: Mr. Gall.

40

41                   MR. GALL: Yeah.

42

43                   CHAIRMAN ADAMS: Appreciate your  
44 comments, is this going to lead up to anything  
45 pertaining to Makhnati Island?

46

47                   MR. GALL: Yeah. Yeah.

48

49                   CHAIRMAN ADAMS: Okay.

50

1 MR. GALL: Yeah, I'm sorry, lead up to  
2 anything pertaining to what?  
3  
4 CHAIRMAN ADAMS: See we're going  
5 through Proposal No. 18, the Makhnati Island issue.  
6  
7 MR. GALL: Oh, I really apologize. I'm  
8 sorry. It was suggested to me that I come today to  
9 speak on this. When you asked about public comment I  
10 raised my hand.  
11  
12 CHAIRMAN ADAMS: Okay.  
13  
14 MR. GALL: I can put this off until  
15 later.  
16  
17 CHAIRMAN ADAMS: Yeah.  
18  
19 MR. GALL: Or dispense with.....  
20  
21 CHAIRMAN ADAMS: Yeah, please do,  
22 appreciate your comments and if you would fill out a  
23 little slip over there and then we'll take your  
24 testimony any time today, you know, if you don't mind.  
25  
26 MR. GALL: No, not at all.  
27  
28 CHAIRMAN ADAMS: But we're on this  
29 proposal for Makhnati Island.  
30  
31 MR. GALL: Yeah, my apologies. I came  
32 in the middle and someone signed to me so I thought it  
33 was the right moment.  
34  
35 CHAIRMAN ADAMS: It's good to see you  
36 again.  
37  
38 MR. GALL: Well, it's good to see you,  
39 sir, and I'll make my wrap up brief when I come back to  
40 you. Thanks a lot.  
41  
42 CHAIRMAN ADAMS: Thank you. So we are  
43 now in Council deliberations. Do you want to take a  
44 break.....  
45  
46 MR. DOUVILLE: Good idea.  
47  
48 CHAIRMAN ADAMS: .....and think about  
49 this for awhile.  
50

1 MR. DOUVILLE: Yeah.  
2  
3 CHAIRMAN ADAMS: How much time do we  
4 need?  
5  
6 MR. DOUVILLE: Okay, I've thought about  
7 it and -- no.....  
8  
9 (Laughter)  
10  
11 MR. DOUVILLE: .....kidding.  
12  
13 CHAIRMAN ADAMS: It's about 10 after,  
14 you want to come back at 10:30.  
15  
16 (Council nods affirmatively)  
17  
18 CHAIRMAN ADAMS: Okay. What time are  
19 you leaving -- when are you leaving?  
20  
21 MR. WRIGHT: This afternoon.  
22  
23 CHAIRMAN ADAMS: This afternoon. Okay,  
24 let's break.  
25  
26 (Off record)  
27  
28 (On record)  
29  
30 CHAIRMAN ADAMS: Okay, we're back in  
31 session. There was a lot of questions asked, you know,  
32 of George and he said he was going to go do some phone  
33 calls and get some answers and so I've called him back  
34 up here to address those questions that the Council had  
35 for him. So, George, go ahead and.....  
36  
37 MR. PAPPAS: For the record, it's  
38 George Pappas, Department of Fish and Game.  
39  
40 Mr. Chair, I'd like to start of by  
41 saying, thank you, Mr. Larson, your portrayal and  
42 description of the methodology for forecast and biomass  
43 estimation was perfect. Thank you, sir.  
44  
45 There were other questions that were  
46 posed.  
47  
48 One of them was regarding the MOA  
49 between the Department of Fish and Game and the Sitka  
50 Tribe of Alaska where situations were -- where

1 recommendations were made but the Department did not  
2 heed those recommendations. I understand -- I have  
3 been informed that the vast majority of the  
4 recommendations and conversations have been successful.  
5 There are specific examples such as 2005, where there  
6 was a miss-communication or something happened in the  
7 process, that the information, the Department did not  
8 have in hand to evaluate. So that was one example that  
9 was given in recent times. But the majority of the  
10 times the information is adhered to or listened to or  
11 seriously considered for forming management actions for  
12 that day.

13

14 I also understand your question about  
15 the time between when a decision is going to be made,  
16 the two hour process, and it happens early in the  
17 morning a lot of the time, maybe 6:00 to 8:00 o'clock  
18 in the morning before the commercial fisheries are  
19 announced in short order. So the timeframe is not the  
20 best hours of the day for communication but I assume  
21 STA and Fish and Game knows that and the  
22 communications, people should be, I guess, prepared, to  
23 communicate at that time prior to decisions being made.

24

25 Additionally, questions about the  
26 biomass, age composition for last year, for 2007. From  
27 the Department samplings for the age class, less than  
28 one percent were three year old fish, about one percent  
29 were four year old fish, about 10 percent were five  
30 year old fish, about 16 percent were six year old fish  
31 and about 18 percent were seven year old fish, and 55  
32 percent were eight years old or greater. That ties  
33 directly into the comment about the potential of the  
34 stocks declining. I believe the comment that was made,  
35 I guess what was it, it must have been in recent times,  
36 I don't exactly know what recent you're talking about,  
37 but how you can apply the comment declining stocks to  
38 the age compositions of the samples was the population  
39 out there is predominately older fish. And the younger  
40 classes that are coming up behind them are not as  
41 large, percentage wise, which indicates at some point  
42 in time we may decline in the future as the age classes  
43 move through, that's normal in fluctuating populations.

44

45 One thing of interest that the area  
46 manager did pass along is even though we have a  
47 majority -- a predominately older age class there of,  
48 say, 55 percent or older, there's been a very high  
49 survival rate of those older fish and those older fish  
50 are some of the larger contributors to the spawning

1 capacity since they are larger and older fish and are  
2 more fecund. But just with many populations, if you  
3 look at the age classes, the younger ones are lower  
4 percentages, or lower numbers, that can forecast a  
5 decline in the total biomass in the near future but  
6 that doesn't mean the stocks themselves, as a whole,  
7 will continue to decline, herring populations do  
8 fluctuate.

9

10 And I believe that those were the  
11 questions that were asked.

12

13 CHAIRMAN ADAMS: Okay. Any more  
14 questions of George or can we let him go.

15

16 (No comments)

17

18 CHAIRMAN ADAMS: Thank you, George. We  
19 do appreciate you going and getting that information  
20 for us.

21

22 MR. PAPPAS: It's my job to get the  
23 right information in front of the Council.

24

25 Thank you.

26

27 CHAIRMAN ADAMS: Thank you. Okay, we  
28 are now on Council deliberation on Item No. 18 -- or  
29 Proposal No. 18. What's the wish of the Council.

30

31 (Pause)

32

33 MR. HERNANDEZ: Mr. Chairman.

34

35 CHAIRMAN ADAMS: Go ahead, Mr.

36 Hernandez.

37

38 MR. HERNANDEZ: Thank you. First of  
39 all I was told during the break that this microphone  
40 wasn't picking up in the back of the room, can we be  
41 heard back there now?

42

43 MR. PAPPAS: That's good.

44

45 MR. HERNANDEZ: Good, okay. I think,  
46 Mr. Chairman, that we'd be looking at the executive  
47 summary on Page 130.

48

49 CHAIRMAN ADAMS: Okay.

50

1 MR. HERNANDEZ: And I would move to  
2 adopt Fisheries Proposal 08-18 as written on Page 130,  
3 and that would be to close the commercial herring  
4 fishery in the Federal waters of Makhnati Island during  
5 March and April.

6  
7 MR. BANGS: I'll second.

8  
9 CHAIRMAN ADAMS: It's been moved and  
10 seconded. We're into discussion now.

11  
12 Mr. Hernandez, won't you please go  
13 through the four criteria, if you would, that we use  
14 as a guideline for this.

15  
16 MR. HERNANDEZ: Well, Mr. Chairman,  
17 before I do that I think we're going to be proposing  
18 some amendments to that so.....

19  
20 CHAIRMAN ADAMS: Yeah, that would be  
21 appropriate, then we could address those four criteria  
22 and see if they fit after you do the amendments.

23  
24 MR. HERNANDEZ: Uh-huh.

25  
26 CHAIRMAN ADAMS: Continue on.

27  
28 MR. HERNANDEZ: I guess, you know, we'd  
29 be making substantial changes to that wording so, I  
30 guess, maybe we'll just start discussing what ideas we  
31 have out there and we'll get some final wording and  
32 then go from there.

33  
34 CHAIRMAN ADAMS: All right. Go ahead  
35 and plunge right into it.

36  
37 MR. HERNANDEZ: So I think where we  
38 would start is we would amend that proposal to set any  
39 potential closure in those waters, that would be based  
40 on a preseason forecast of the allowable biomass. And  
41 we'll say, for the purpose of discussion, that we would  
42 recommend that Makhnati Island Federal waters be closed  
43 to commercial -- or let's say, to non-subsistence uses  
44 in years when the allowable biomass is less than 35,000  
45 tons. And also a stipulation that those waters would  
46 be closed if there were two consecutive years in which  
47 the subsistence needs of the subsistence users were not  
48 met.

49  
50 So we put two provisions on that that

1 would trigger a closure in those waters.

2

3 So whatever wording our coordinator  
4 could come up with there to make that.....

5

6 CHAIRMAN ADAMS: Would you repeat that  
7 last one, please, the two year issue.

8

9 MR. HERNANDEZ: If there were two  
10 consecutive years in which the subsistence needs were  
11 not met then the waters of Makhnati Island would be  
12 closed to non-subsistence uses. And that would be the  
13 subsistence need of the, you know, Sitka community as a  
14 whole.

15

16 So any clarifications to that anybody  
17 else has would be.....

18

19 MR. DOUVILLE: Can I add?

20

21 CHAIRMAN ADAMS: Sure.

22

23 MR. DOUVILLE: Thank you. That the  
24 Federal government become a signatory on the MOA  
25 between the State of Alaska and the Sitka Tribes. And  
26 that these closures would happen, would not affect  
27 Federally-qualified subsistence users, that they would  
28 still be able to harvest herring and/or eggs in the  
29 closed area as rural users.

30

31 CHAIRMAN ADAMS: Okay. Anything else  
32 or is that it?

33

34 MR. HERNANDEZ: If nobody else has  
35 anything, I think that's it.

36

37 CHAIRMAN ADAMS: That's it. Okay. Is  
38 this in the form of a motion, Donald, as you wanted to  
39 do it, we'd have to amend the.....

40

41 MR. HERNANDEZ: This would be a motion  
42 to amend the proposal.

43

44 CHAIRMAN ADAMS: Okay. Okay. So we  
45 have a motion then to amend the proposal as was  
46 described here, is there a second.

47

48 MR. BANGS: I'll second that motion.

49

50 CHAIRMAN ADAMS: Okay. So, Mr. Larson,

1 would you please go over the amendments, if you would  
2 please to make it clear, not only for us but for the  
3 audience.

4

5 MR. LARSON: Mr. Chairman. My  
6 suggested language for the Council's consideration  
7 would read:

8

9 Section 27.113 xxv, that would be the  
10 section number that would be  
11 referenced, and, furthermore;

12

13 The Federal public waters in the  
14 Makhnati Island area near Sitka, as  
15 described in 36 CFR 242.3 Part (b)(5)  
16 and 50 CFR 100.3(b) Part (5) are closed  
17 to the harvest of herring and herring  
18 spawn except for subsistence harvest by  
19 Federally-qualified users when the  
20 forecast spawning biomass for the Sitka  
21 Sound herring spawning area is less  
22 than 35,000 tons or when the amounts  
23 necessary for subsistence as  
24 established by the Alaska Board of  
25 Fisheries was not reached for two  
26 consecutive years.

27

28 Is that essentially.....

29

30 MR. HERNANDEZ: And I think the other  
31 part of the proposal was that the -- we would be a  
32 signatory to the MOA, memorandum of agreement.

33

34 MR. LARSON: And, Mr. Chairman, I do  
35 have a question regarding that. Is this regulation,  
36 dependent upon that? And the reason I ask that is the  
37 MOA would need to be approved by the Alaska Board of  
38 Fisheries, they won't meet until January of 2009. And  
39 actually we could submit a proposal to that body but we  
40 would require some contact and negotiations with the  
41 Alaska Department of Fisheries and probably would not  
42 be in effect prior to the 2010, maybe, season.

43

44 We actually have no real control over  
45 the Alaska Board of Fisheries and how they would react  
46 to our proposal.

47

48 MR. HERNANDEZ: Okay.

49

50 MR. LARSON: So I would just need to be

1 clear whether or not this suggested language is  
2 contingent upon action by the Board of Fisheries or  
3 not.

4

5 MR. HERNANDEZ: Mr. Chairman.

6

7 CHAIRMAN ADAMS: Uh-huh.

8

9 MR. HERNANDEZ: Okay. So it sounds  
10 like that aspect of it, that should be dealt with as a  
11 separate matter, it's not part of this proposal then,  
12 in order for that to actually have a chance of that  
13 actually happening -- probably not in the timeframe  
14 that we're dealing with for this closure proposal, it  
15 probably would not happen, so we should probably deal  
16 with that in a different way then.

17

18 MR. LARSON: Mr. Chairman. My  
19 suggestion would be to include it as an agenda item in  
20 the February 2008 meeting, where we develop fisheries  
21 proposals, and at that time we could produce a letter  
22 of support or a proposal to the Alaska Board of  
23 Fisheries.

24

25 CHAIRMAN ADAMS: Yeah, that looks like  
26 the most logical thing to do right now.

27

28 MR. HERNANDEZ: Okay. So then I would  
29 withdraw that portion of it from this proposal then if  
30 that's -- if there's no other objections.

31

32 CHAIRMAN ADAMS: Okay, Mr. Bangs, do  
33 you agree with that, you were the second.

34

35 MR. BANGS: Yes, I would agree.

36

37 CHAIRMAN ADAMS: Okay. So that's what  
38 we'll do.

39

40 Yes, go ahead, Donald.

41

42 MR. HERNANDEZ: So for discussion on  
43 that, Bob, your wording on dealing with the portion of  
44 it, which if the subsistence need is not met in two  
45 consecutive years, you used the wording, tying that to  
46 if the amount necessary for subsistence was not  
47 reached. I guess I'd have some discussion on that and  
48 maybe Mr. Kitka might weigh in on this.

49

50 Harvey, do you think that that number

1 they have, amounts necessary for subsistence, that's a  
2 Board of Fish determination, do you think that would --  
3 is that accurate in assessing whether or not your needs  
4 are met? Would you think that would be a good criteria  
5 to use?

6

7 MR. KITKA: Mr. Chair.

8

9 CHAIRMAN ADAMS: Mr. Kitka.

10

11 MR. KITKA: Don, the criteria for the  
12 State, I think, is 105,000 pounds of herring eggs,  
13 subsistence that were taken and that was -- that was  
14 kind of the bottom edge of our needs, of what we  
15 figured we needed. And, yeah, if it wasn't met, I  
16 think that would.

17

18 MR. HERNANDEZ: Okay. So I guess my  
19 only other question there, Mr. Chairman, is the 35,000  
20 ton threshold number that I threw out, I don't know if  
21 any other Council members have any discussion about  
22 that number.

23

24 CHAIRMAN ADAMS: Any other Council  
25 members, any questions about that.

26

27 MR. DOUVILLE: Yes.

28

29 CHAIRMAN ADAMS: Michael.

30

31 MR. DOUVILLE: I feel it's a good  
32 number, Mr. Chairman, because it falls slightly just  
33 below the 10 year average and I think it's a good  
34 number to start with.

35

36 CHAIRMAN ADAMS: Okay. Michael.

37

38 MR. BANGS: Thank you, Mr. Chair. I  
39 think it would be good -- if that number that the Board  
40 of Fish has set for the threshold, or the amount  
41 necessary to meet subsistence, if that was addressed by  
42 possibly the Sitka Tribe or individuals, to go to the  
43 next Board meeting with a proposal to increase that  
44 based on what has been harvested and has been necessary  
45 in recent times. That would probably help our proposal  
46 out.

47

48 CHAIRMAN ADAMS: I think that's an  
49 excellent idea, Mike, thank you. Okay, what kind of  
50 caucus is going on over here.

1 (Laughter)

2

3 MR. LARSON: Mr. Chairman. Whether or  
4 not the word, previous, is, in fact, a better pronoun  
5 than the -- if it contributes to the understanding of  
6 exactly what the proposal is and I believe it does.  
7 And in that case the proposed language, if we include  
8 the word, previous, or prior, would read:

9

10 The Federal public waters of Makhnati  
11 Island and go down to the 25,000 tons  
12 or when the amounts necessary for  
13 subsistence was not reached in the two  
14 previous consecutive years.

15

16 CHAIRMAN ADAMS: Is that okay?

17

18 MR. HERNANDEZ: I think so, yes.

19

20 MR. DOUVILLE: Yeah.

21

22 MR. BANGS: Yes.

23

24 CHAIRMAN ADAMS: Just the matter of  
25 changing a word there.

26

27 MR. LARSON: Yes.

28

29 CHAIRMAN ADAMS: I think it clarified  
30 it a lot better. All right, any other things, any  
31 other discussion or amendments.

32

33 Donald.

34

35 MR. HERNANDEZ: Maybe a question, do we  
36 need to -- does authority need to be delegated to the  
37 Federal manager to institute this closure or is that  
38 already in place, or do we need to do that.

39

40 CHAIRMAN ADAMS: That's a good  
41 question, I don't think I have an answer for that.  
42 Steve, do you want to address that.

43

44 MR. KESSLER: Thank you, Bert. Steve  
45 Kessler. I'm not quite sure I understood the question.  
46 Is there the authority to implement this closure, the  
47 authority comes through this regulation.

48

49 MR. HERNANDEZ: Does it go to Terry  
50 Suminski there in Sitka, is he the one who's authorized

1 to do that or do we need to address that or is that in-  
2 season manager, so does he have the.....

3

4 MR. KESSLER: The way that I understand  
5 it is that the in-season manager would close the area  
6 based on this regulation if the ANS were not met for  
7 two consecutive years or if the forecasted tonnage was  
8 35,000 or less, so at that point the -- it -- it's just  
9 an action of the regulation.

10

11 CHAIRMAN ADAMS: Thank you, Steve. We  
12 have another caucus going on over there.

13

14 (Laughter)

15

16 MR. DOUVILLE: So the Federal  
17 government becoming a signatory is like a request,  
18 right, that's just something we're asking for.

19

20 CHAIRMAN ADAMS: Yeah. I don't know  
21 whether it's a request or not, I think we need to be a  
22 little bit stronger than that. But, you know, going  
23 back to the authority, it is -- this is Federal water  
24 so we do have the authority to use our in-season manger  
25 to do what he needs to do.

26

27 In regards to, you know, the Federal  
28 person becoming a part of the MOA, MOU, I don't think  
29 it's a request that we're asking, I think we're saying  
30 that they should be a part of the MOA -- should be or  
31 shall, okay.

32

33 MR. HERNANDEZ: Okay.

34

35 MR. DOUVILLE: Mr. Chairman. Is our  
36 wording in place, I believe it needs -- he made a  
37 motion to amend.

38

39 CHAIRMAN ADAMS: Yeah.

40

41 MR. DOUVILLE: It's not been seconded  
42 yet.

43

44 CHAIRMAN ADAMS: It has been seconded.

45

46 MR. DOUVILLE: Okay, it has.

47

48 MR. HERNANDEZ: Mike seconded it.

49

50 CHAIRMAN ADAMS: So we're in discussion

1 right now.

2

3 MR. HERNANDEZ: Yeah.

4

5 CHAIRMAN ADAMS: So are we ready to  
6 vote on the amendment.

7

8 (No comments)

9

10 CHAIRMAN ADAMS: I'm assuming you are,  
11 so all in favor -- Lee.

12

13 MR. WALLACE: Mr. Chair. Before we do  
14 I think it's pertinent that we go through the criteria  
15 and I think with going through that criteria, what's  
16 stated in the criteria and why we went with the  
17 criteria, it will give documentation of why our  
18 judgment and our vote would be sound. And if I recall  
19 on the last motion that we made, I don't think the  
20 criteria was mentioned on that last proposal, I might  
21 be wrong, but I think we skipped over that.

22

23 CHAIRMAN ADAMS: You're right, it  
24 wasn't, we were waiting, we were going to delay the  
25 criteria part of it until we got to this portion of the  
26 proposal. So are you prepared to.....

27

28 MR. WALLACE: No, the one I'm speaking  
29 about is the last proposal, I think it was 02.

30

31 CHAIRMAN ADAMS: Yeah.

32

33 MR. WALLACE: Yesterday's.

34

35 CHAIRMAN ADAMS: I think we did. We  
36 did, Tina, right.

37

38 REPORTER: (Nods affirmatively)

39

40 CHAIRMAN ADAMS: We did it as an  
41 afterthought, for the record, we didn't do it when we  
42 were going through the process of discussing voting on  
43 it, after we voted I brought it up as a matter of  
44 record and so I can't remember who went through the  
45 process but for the record, you know, we had Tina  
46 address that into that document.

47

48 But we do need to go through the  
49 criteria and if someone would like to do that, that  
50 would strengthen our proposal quite a bit.

1 MR. WRIGHT: Mr. Chair.  
2  
3 CHAIRMAN ADAMS: It looked like Merle  
4 was going to volunteer because she was going like this.  
5  
6 (Laughter)  
7  
8 CHAIRMAN ADAMS: Got to be careful what  
9 you guys do over there, you know, with this -- yes, go  
10 ahead.  
11  
12 MR. WRIGHT: Mr. Chair. I'm not going  
13 through the criteria. I think that the proper way would  
14 be to adopt the amendment first and then go through the  
15 criteria. If I'm wrong, if there's a parliamentary  
16 in here because I think.....  
17  
18 CHAIRMAN ADAMS: Our parliamentary  
19 thinks it's appropriate. He's got the Robert's Rules  
20 of Order book there.  
21  
22 (Laughter)  
23  
24 CHAIRMAN ADAMS: Okay.  
25  
26 MR. HERNANDEZ: We should vote to  
27 accept the amendment first.  
28  
29 MR. LARSON: Yes.  
30  
31 CHAIRMAN ADAMS: Yeah.  
32  
33 MR. HERNANDEZ: And then -- yeah, I  
34 think he's right.  
35  
36 CHAIRMAN ADAMS: yeah, just like we did  
37 yesterday with Proposal No. 2, we'll do it after the  
38 fact.  
39  
40 So are you ready to vote on the  
41 amendment.  
42  
43 (Council nods affirmatively)  
44  
45 CHAIRMAN ADAMS: Let's do a roll call  
46 vote, Harvey.  
47  
48 MR. KITKA: Frank Wright, Jr.  
49  
50 MR. WRIGHT: Here. Yes.

1 (Laughter)  
2  
3 MR. KITKA: Michael Douville.  
4  
5 MR. DOUVILLE: Yes.  
6  
7 MR. KITKA: Harvey votes yes. Bert  
8 Adams.  
9  
10 CHAIRMAN ADAMS: Yes.  
11  
12 MR. KITKA: Donald Hernandez.  
13  
14 MR. HERNANDEZ: Yes.  
15  
16 MR. KITKA: Merle Hawkins.  
17  
18 MS. HAWKINS: Yes.  
19  
20 MR. KITKA: Joe Hotch.  
21  
22 MR. HOTCH: Yes.  
23  
24 MR. KITKA: Michael Bangs.  
25  
26 MR. BANGS: Yes.  
27  
28 MR. KITKA: Lee Wallace.  
29  
30 MR. WALLACE: Yes.  
31  
32 MR. KITKA: Mr. Chair. The yes' have  
33 it.  
34  
35 CHAIRMAN ADAMS: Thank you. Now we are  
36 back to the main motion ladies and gentlemen.  
37  
38 MR. DOUVILLE: Move to adopt the main  
39 motion as amended, is that correct.  
40  
41 CHAIRMAN ADAMS: We've already amended  
42 the main motion, we just need to vote on the main  
43 motion.  
44  
45 MR. BANGS: And go over the criteria.  
46  
47 CHAIRMAN ADAMS: But I think we need to  
48 address the criteria as well.  
49  
50 MR. KITKA: Mr. Chairman.

1 CHAIRMAN ADAMS: Yes, sir.  
2  
3 MR. KITKA: I'll make an attempt to go  
4 through the four.  
5  
6 Does the recommendation present a  
7 conservation concern. It does in some ways, it will  
8 protect an area and a certain amount of fish, that for  
9 ever herring that spawns there's an awful lot of eggs  
10 and a bigger percentage of those survive, then if we  
11 allowed them to be seined and things, that would  
12 probably cause a detriment to the amount of stock. So  
13 it does, in a way, conserve population of herring.  
14  
15 The recommendation, is it detrimental  
16 to subsistence users, no, it's not. Any time you save  
17 some herring it's far better for the subsistence users.  
18  
19 Does the recommendation affect non-  
20 subsistence users, no, it doesn't. The fishery is only  
21 about one percent of their fishery within that area.  
22 So I don't see where one percent would not change the  
23 amount of how much they take.  
24  
25 And substantial evidence over the years  
26 of what has been taken, I think, is why this is being  
27 recommended.  
28  
29 Thank you.  
30  
31 CHAIRMAN ADAMS: Thank you, Mr. Kitka.  
32  
33 MR. BANGS: Question.  
34  
35 CHAIRMAN ADAMS: Question's been  
36 called. Let's do roll call again, Mr. Kitka.  
37  
38 MR. KITKA: Frank Wright, Jr.  
39  
40 MR. WRIGHT: Yes.  
41  
42 MR. KITKA: Michael Douville.  
43  
44 MR. DOUVILLE: Yes.  
45  
46 MR. KITKA: Harvey Kitka votes yes.  
47 Bert Adams.  
48  
49 CHAIRMAN ADAMS: Yes.  
50

1 MR. KITKA: Donald Hernandez.  
2  
3 MR. HERNANDEZ: Yes.  
4  
5 MR. KITKA: Merle Hawkins.  
6  
7 MS. HAWKINS: Yes.  
8  
9 MR. KITKA: Joe Hotch.  
10  
11 MR. HOTCH: Yes.  
12  
13 MR. KITKA: Michael Bangs.  
14  
15 MR. BANGS: Yes.  
16  
17 MR. KITKA: Lee Wallace.  
18  
19 MR. WALLACE: Yes.  
20  
21 MR. KITKA: Mr. Chair. The yes' have  
22 it.  
23  
24 CHAIRMAN ADAMS: Thank you, Mr. Kitka.  
25 The motion is carried. Good work you guys.  
26  
27 Thank you.  
28  
29 I see we had some students just walk  
30 in, are there going to be some more -- are you it --  
31 okay, well, welcome. We are happy that you're here.  
32 We really want to make you aware of some of the  
33 important things that are going to be effective to your  
34 future and I'm happy that, you know, the school has  
35 seen fit to send you here, it's your future that we are  
36 working with right now and subsistence, as you know is,  
37 pretty important in your community and it's this body  
38 here that recommends regulation to change or to make  
39 new regulations in regards to our subsistence use. So  
40 I hope that you gain a lot from this experience and if  
41 you have any questions, you know, we would be open to  
42 it.  
43  
44 If you ask me a question, I have a  
45 policy, don't ask a hard one because I don't like to  
46 answer hard questions.  
47  
48 (Laughter)  
49  
50 CHAIRMAN ADAMS: How long are you going

1 to be here for?

2

3 UNIDENTIFIED VOICE: For the afternoon.

4

5 CHAIRMAN ADAMS: For the whole  
6 afternoon, okay, good. Thank you. Welcome.

7

8 So, folks, let's move on.

9

10 You know for your information we just  
11 got through with a very important issue here and it  
12 has to do with the fisheries on the Makhnati Island in  
13 Sitka. The Sitka people felt that that particular area  
14 needed to be closed off to commercial fishing because  
15 Sitka people weren't getting their herring roe needs  
16 met so this body just spent a lot of time going over  
17 that proposal and making an amendment to it so that we  
18 can be assured, you know, that that area will be  
19 protected for the herring roe and the subsistence  
20 users. Not only for Sitka but as you know Sitka  
21 supplies a lot of their herring to all parts of Alaska  
22 and even outside of Alaska. So there is a very  
23 important, you know, fishery there, you know, that we  
24 all benefit from.

25

26 So this, to me, is a real big landmark  
27 piece of legislation -- or regulation that will go into  
28 effect, we hope, you know, after it goes to the Federal  
29 Subsistence Board. We do this part of it here, you  
30 know, and then it will go up to the Federal Subsistence  
31 Board and they're the ones who determine whether this  
32 is a good regulation or not. If they vote in favor of  
33 it, it will become regulation, if not then it will be  
34 status quo.

35

36 But, anyhow, again, just appreciate  
37 your being here and hope you enjoy your time.

38

39 Let's move on then to Item No. 3.

40

41 MR. KITKA: Mr. Chairman.

42

43 CHAIRMAN ADAMS: Yes, Mr. Kitka.

44

45 MR. KITKA: Before we move on, do we  
46 need to address Don's recommendation to the Staff for  
47 the MOA.

48

49 CHAIRMAN ADAMS: I think we've already  
50 determined we're going to put it on the next agenda,

1 right?

2

3 MR. LARSON: Yes. And you can just  
4 direct me to investigate that, the proper procedure for  
5 doing that.

6

7 CHAIRMAN ADAMS: So directed.

8

9 (Laughter)

10

11 CHAIRMAN ADAMS: I love to delegate.

12

13 (Laughter)

14

15 CHAIRMAN ADAMS: Okay. Proposal FP08-  
16 03, Mr. Robert Larson, there he is right there.

17

18 (Laughter)

19

20 MR. CASIPIT: Thank you, Mr. Chair.  
21 For the record my name is Cal Casipit, I'm the  
22 subsistence Staff biologist in Juneau, regional office  
23 of the Forest Service.

24

25 Your executive summary for this  
26 proposal begins on Page 63 and continues to 64 and the  
27 actual analysis begins on Page 65.

28

29 Proposal FP08-03 was submitted by Mr.  
30 John Murgas and he requests two changes to the  
31 management of the Stikine River Federal subsistence  
32 salmon fishery.

33

34 1. Would allow subsistence fishing  
35 between August 1 and August 14;

36

37 2. Make subsistence fishing  
38 permits valid for the entire  
39 fishing season.

40

41 Subsistence fishing seasons on the  
42 Stikine River for chinook, sockeye and coho salmon are  
43 the result of proposals submitted to the Federal  
44 Subsistence Board and coordinated with the Pacific  
45 Salmon Commission through the TransBoundary River  
46 Panel. Since the original Stikine River subsistence  
47 fishery was approved for sockeye salmon in 2004, the  
48 chinook and the coho fisheries were added and the  
49 starting date of the sockeye salmon season was moved  
50 forward from July 1 to June 21st. The change in

1 season starting dates allowed continuous fishing  
2 between the chinook and sockeye salmon fisheries.

3

4                   The proponent believes that the present  
5 August 1 through 14 fishing closure is unnecessary and  
6 does not allow subsistence fishermen the opportunity to  
7 harvest the later portion of the sockeye return or the  
8 early portion of the coho salmon return.

9

10                   Eliminating the closure would provide  
11 subsistence fishermen an opportunity for continuous  
12 fishing during a time when sockeye, pink, chum or coho  
13 salmon may be present. The preference of the proponent  
14 is to change the opening date of the subsistence coho  
15 salmon season to August 1 rather than changing the  
16 season dates for the sockeye salmon season.

17

18                   Currently subsistence fishing permits  
19 are valid for only one of eight two week fishing  
20 periods. This provision was originally implemented in  
21 Federal regulation to provide Federal fisheries  
22 managers a mechanism to track participation and obtain  
23 in-season harvest estimates for a subsistence fishery  
24 of an unknown size. Due to the relatively low levels  
25 of effort and harvest observed during the past three  
26 years there is a very low probability of the  
27 subsistence fishery exceeding the guideline harvest  
28 levels for any of the species. Adopting this proposal  
29 would not change the requirements contained within the  
30 U.S./Canada Pacific Salmon Treaty that directs the  
31 Federal program to submit weekly subsistence harvest  
32 reports to the State of Alaska and Canadian fisheries  
33 managers.

34

35                   I think the Council is aware of the  
36 existing Federal regulations and the proposed Federal  
37 regulation appears on Page 66 in about the middle of  
38 the page.

39

40                   Under existing State regulations there  
41 is not a Stikine River chinook sportfishery because  
42 Southeast Alaska sportfishing regulations prohibit  
43 fishing for chinook salmon in freshwater. The Stikine  
44 River and its tributaries are open to sportfishing for  
45 sockeye, pink, chum and coho salmon with a harvest  
46 limit of six fish daily and 12 in possession. The  
47 State has made a positive customary and traditional use  
48 determination for salmon in the Stikine River and no  
49 subsistence fishery is authorized.

50

1 I would call your attention to the maps  
2 on Page 68 and 69, which shows the area that's in  
3 question for this fishery and where our Federal  
4 jurisdiction is.

5  
6 The customary and traditional use  
7 determination for the Stikine River is for residents,  
8 residents of drainages flowing into District 6 north of  
9 the latitude of Point Alexander, which is ion Mitkof  
10 Island, residents of drainages flowing into Districts 7  
11 and 8, including the communities of Petersburg,  
12 Wrangell and residents of the community of Meyers  
13 Chuck, and they all have a positive customary and  
14 traditional use finding for salmon, Dolly varden,  
15 trout, smelt and eulachon.

16  
17 For regulatory history. The Pacific  
18 Salmon Commission established by treaty the U.S. and  
19 Canada in 1985, they address management of  
20 TransBoundary salmon stocks, including those of the  
21 Stikine River. The TransBoundary River Panel approves  
22 a joint management plan for enhancement and harvest of  
23 chinook, sockeye, and coho salmon populations and each  
24 year the TransBoundary Technical Committee meets prior  
25 to the season to update joint management and  
26 enhancement plans, develop run forecasts and determine  
27 new parameters for input to the in-season run forecast  
28 model referred to as the Stikine Management Model.

29  
30 Regulations for fisheries targeting  
31 Stikine River salmon stocks are contained in Annex 4 of  
32 the U.S./Canada Treaty.

33  
34 So I guess what we want to point out  
35 there is that, you know, any changes to this fishery  
36 would have to be coordinated through the Pacific Salmon  
37 Commission and the Treaty process.

38  
39 On Table 1 on Page 71 displays the  
40 permit issued and the resulting harvest from this  
41 Federal subsistence fishery. As you can see, we have  
42 not -- we haven't really come close to the guideline  
43 harvest levels for any of the three species covered by  
44 the Annex and our Federal fishery.

45  
46 The effects of this proposal would be  
47 that the U.S./Canada Pacific Salmon Treaty -- effects  
48 of the proposal. The U.S./Canada Pacific Salmon Treaty  
49 in its Annex's to do not specifically address Federal  
50 fishery management restrictions, including the

1 subsistence fishing permit. The two week permit is  
2 only required by the Federal Subsistence Management  
3 Program. Annex 4 of the Treaty specifies guideline  
4 harvest seasons and a weekly and annual reporting  
5 requirement, however, the Annex regarding salmon  
6 fisheries on the Stikine River requires any changes to  
7 the Federal fishery regulations be reviewed by the  
8 TransBoundary River Panel and the Pacific Salmon  
9 Commission.

10  
11 If this proposal is adopted, there  
12 would be no requirement to revalidate permits every two  
13 weeks and subsistence fishing permits would need to be  
14 only returned at the end of the season. Currently  
15 harvest is reported when the permit is revalidated at  
16 the end of the season.

17  
18 The proposed reporting at the end of  
19 the season is not appreciably different than the  
20 current situation because subsistence users usually do  
21 not revalidate permits once fishing efforts have  
22 concluded for the season.

23  
24 Based on recent fishery performance,  
25 guideline harvest limits are not likely to be reached  
26 and the end of season harvest reports are adequate for  
27 management.

28  
29 This proposal does not request a change  
30 in the obligations by Federal subsistence fisheries  
31 managers to provide a weekly effort and harvest report  
32 to the Canadian and ADF&G fish mangers.

33  
34 Alternate and possibly more accurate  
35 methods of estimating harvest in-season may include,  
36 but are not limited to, telephone interviews, volunteer  
37 reporting or field observations.

38  
39 Adopting this proposal would also  
40 eliminate the August 1 through 14 closed season and  
41 allow a continuous subsistence salmon season for the  
42 Stikine River between May 15 and October 1. Any change  
43 to the dates of the coho salmon season will require  
44 amending the Treaty Annex and the current Annex is due  
45 to expire after the 2008 season and is currently the  
46 subject of negotiations between the U.S. and Canada.

47  
48 Amending the Annex to start the coho  
49 season on August 1 will be part of negotiations and  
50 will require coordination and cooperation between the

1 Federal Subsistence Board and the Pacific Salmon  
2 Commission. The letter sent to Mr. Bedford of the  
3 Pacific Salmon Commission seeking direction on this  
4 issue and Mr. Bedford's reply are included in the  
5 Appendices A and B in your report.

6

7                   Eliminating the August 1 through 14  
8 closed period allows subsistence fishers the  
9 flexibility to fish according to individual  
10 preferences, respond to variable river conditions and  
11 increase opportunities to harvest sockeye, pink, chum  
12 and coho salmon.

13

14                   There is some variability in the timing  
15 of both sockeye and coho salmon returns to the Stikine  
16 River but we expect that the last portion of the  
17 sockeye salmon run and the first portion of the coho  
18 salmon run would be available for harvest.

19

20                   And you can see in Table 3 the weekly  
21 salmon catches from the District 108 commercial drift  
22 fisheries for 2003 as an example of run timings by  
23 week, by species.

24

25                   Our preliminary conclusion is to  
26 support Proposal FP08-03 with modification to move the  
27 starting date of the subsistence coho season to August  
28 1 and not change the season dates for the subsistence  
29 sockeye season. Again, adoption of this amended  
30 proposal would require approval of the Pacific Salmon  
31 Commission and the proposed regulation is shown there  
32 at the bottom of Page 72 and the top of Page 73.

33

34                   Our justification is that amending the  
35 starting date of the coho salmon fishing season to  
36 August 1 from August 15 benefits subsistence users by  
37 allowing continuous subsistence fishing on the river.  
38 Sockeye, pink, chum and coho salmon would be available  
39 for harvest during this time. Any harvest of sockeye  
40 would be recorded on subsistence fishing permits and  
41 reported. Adoption of this regulatory change would  
42 satisfy the intent of the U.S./Canada Treaty process by  
43 promoting efficiency in the U.S. subsistence fishery  
44 while providing for a manageable fishery. There are no  
45 conservation or fisheries management concerns with this  
46 regulatory change. And adopting this proposal would  
47 not change the overall guideline harvest for each  
48 species, which is at this point, 125 chinook, 600  
49 sockeye and 400 coho salmon.

50

1                   A two week subsistence fishing permit  
2 is not necessary for conservation of the stocks or  
3 management of the fisheries. A two week permit is an  
4 unnecessary burden to subsistence users and is costly  
5 to administer by the Federal subsistence fisheries  
6 managers. The two week permitting and reporting  
7 requirement was designed to allow in-season managers an  
8 opportunity to identify unanticipated large increases  
9 in efforts and harvests. However, observations of  
10 fishing effort and harvest patterns have indicated a  
11 very low probability of exceeding the guideline harvest  
12 of any species. In-season harvest information for the  
13 Inter-Agency weekly catch and effort report can be  
14 obtained by alternative methods. Fishing effort would  
15 indicate the intensity of in-season monitoring and  
16 monitoring the Federal subsistence fishery could  
17 include, but is not limited to, telephone interviews or  
18 field observations. And adopting this proposal would  
19 not change the Federal Subsistence Program's obligation  
20 to provide a weekly catch and effort report to the  
21 Canadian and ADF&G managers.

22  
23                   I'd be happy to answer any questions at  
24 this point.

25  
26                   CHAIRMAN ADAMS: Any questions.

27  
28                   MR. BANGS: Mr. Chair.

29  
30                   CHAIRMAN ADAMS: Michael, go ahead.

31  
32                   MR. BANGS: Thank you, Mr. Chairman.  
33 Mr. Casipit. If the sockeye season ends on July 31st  
34 and the coho season starts on the 1st of August and you  
35 happen to gillnet a sockeye, the way I read it, you're  
36 not supposed to keep them or.....

37  
38                   MR. CASIPIT: Oh, no, we allow catch,  
39 you can keep anything you catch. It's just that it has  
40 to be reported on your permit.

41  
42                   MR. BANGS: Right. But.....

43  
44                   MR. CASIPIT: So if you're fishing in  
45 August -- between August 1 and August 14th, and you  
46 catch a sockeye you can still retain it you just have  
47 to record it on your permit.

48  
49                   The difference for he Federal manager  
50 is that between August 1 and August 14, the focus is on

1 coho management and so, you know, we would be making  
2 in-season management decisions based on the coho  
3 fishery, not on sockeye catches.

4  
5 Is that right, Bob.

6  
7 MR. LARSON: (Nods affirmatively)

8  
9 CHAIRMAN ADAMS: Is he doing okay?

10  
11 MR. LARSON: He's doing just fine.

12  
13 (Laughter)

14  
15 CHAIRMAN ADAMS: Any other questions.  
16 Donald.

17  
18 MR. HERNANDEZ: What was the original  
19 reason for that two week period when it was closed in  
20 August?

21  
22 MR. CASIPIT: Well, if I remember right  
23 back then -- the way it was originally done, we didn't  
24 have -- at the beginning we didn't have the chinook  
25 season, we had a sockeye season that happened in June  
26 and then we had this coho season that happened  
27 afterwards, but a couple years ago when we brought in  
28 the chinook season, there was a change in the sockeye  
29 season at the same time so that there could be  
30 continuous fishing in May and June and basically what  
31 this proposal does is, is it's almost a follow up to  
32 that to allow continuous fishing between the end of the  
33 sockeye season and the beginning of the coho season.

34  
35 I'm not sure of the rationale for why  
36 there was a two -- why the proposal that was submitted  
37 way back when had that closure period in there.

38  
39 MR. HERNANDEZ: It doesn't sound like  
40 it's really necessary though.

41  
42 MR. CASIPIT: Not to our Federal  
43 managers, no, it doesn't seem necessary at all.

44  
45 CHAIRMAN ADAMS: Joe has a question.

46  
47 MR. HOTCH: Thank you, Mr. Chairman.  
48 I'm wondering if they're having any problems with  
49 Canadians. Because we're in the same position as  
50 Wrangell, here in Chilkat. The Canadians come down and

1 take vans and they have canneries set up right in the  
2 vans and when they get a permit for subsistence then  
3 it's accounted to Klukwan and as you might see in some  
4 report that Klukwan has only 90-some population, but  
5 sometimes when I look at Fish and Game regulation it  
6 says 300-some permits were given to Klukwan, there's  
7 some people -- a lot of people from Canada and  
8 Anchorage, Fairbanks, and the only place they could  
9 qualify is under Klukwan, sometimes in Haines but  
10 that's harmful to a community in many ways. So I'm  
11 wondering if they're having that problem in Wrangell.  
12 It's a little town that I see here, the high count is  
13 in July.

14

15 MR. CASIPIT: The permits that are  
16 issued for the Stikine River fishery are Federal  
17 permits, and currently the only people who have a  
18 customary and traditional use determination for the  
19 Stikine River are basically residents of Petersburg,  
20 Wrangell, and Meyers Chuck and the people that live on  
21 the River itself.

22

23 I'm not aware of any Canadians being  
24 able to obtain a United States Federal subsistence  
25 fishing permit. I know there are Federal -- or I know  
26 there are Canadian food fisheries on the Canadian side  
27 of the border, but that's way beyond our jurisdiction  
28 and generally we don't get involved -- we, the Federal  
29 program don't get involved in what goes on above the  
30 border.

31

32 But I can assure you that the only  
33 people getting these Federal permits are people that  
34 should be getting them, which are residents of  
35 Petersburg, Wrangell, Meyers Chuck and people that  
36 actually live on the River.

37

38 MR. HOTCH: Yeah, I think I need to  
39 know how we could qualify for those Federal permits in  
40 Klukwan. Because it's pretty hard fighting big number  
41 of people.

42

43 MR. CASIPIT: Mr. Chair. Mr. Hotch.  
44 The area around the river here is beyond the exterior  
45 boundary of the Tongass National Forest and therefore  
46 beyond the reach of the Federal Subsistence Program.  
47 All subsistence fishing that occurs on the river is  
48 done under State management, under State jurisdiction.

49

50 MR. HOTCH: Yeah, the U.S. Coast Guard

1 classifies the Chilkat River as navigable waters. They  
2 said they found a reef at 21 Mile, that's what makes it  
3 qualified. So it seems like it would qualify us for  
4 those permits because it's Federal waters once it  
5 becomes U.S. Coast Guard. We need to look at that.

6

7 MR. CASIPIT: Mr. Chair. Mr. Hotch.  
8 That is way beyond my expertise, you know, I know where  
9 we have asserted -- where the Federal Program has  
10 asserted jurisdiction and currently our assertion does  
11 not include the area up here. Now, the issue of  
12 navigable waters and things like that and what the  
13 Coast Guard has done, again, I'm not really familiar  
14 with all that. I just know where we've asserted  
15 jurisdiction in our regulations and at this point in  
16 time it's not included.

17

18 CHAIRMAN ADAMS: Is that under Bob  
19 Larson's expertise or is his mouthpiece.....

20

21 MR. LARSON: He's doing just fine.

22

23 CHAIRMAN ADAMS: Okay.

24

25 (Laughter)

26

27 CHAIRMAN ADAMS: Okay, thanks.

28

29 MR. HOTCH: Gunalcheesh.

30

31 CHAIRMAN ADAMS: Any other questions.

32

33 MR. WRIGHT: Mr. Chair.

34

35 CHAIRMAN ADAMS: Frank, go ahead.

36

37 MR. WRIGHT: If I'm reading in the  
38 right place it says, each Stikine River permit will be  
39 issued to a household, why is just a household?

40

41 MR. CASIPIT: Mr. Chair. Mr. Wright.  
42 All our Federal permits in Southeast Alaska are issued  
43 to a household, that's just the way we've implemented  
44 the program.

45

46 MR. WRIGHT: Okay. Mr. Chairman. Then  
47 another question is it says all salmon harvested,  
48 including incidentally taken salmon, will count against  
49 that guidelines for that species; what's that mean?

50

1                   MR. CASIPIT: We have guideline harvest  
2 levels for three species in regulation, that is  
3 sockeye, chinook and coho salmon, and we've committed  
4 that we would manage our fisheries to -- we've  
5 committed to the Pacific Salmon Commission that we  
6 would manage this fishery to stay within those  
7 guideline harvest levels and we've been fairly  
8 successful at that for these amount of years. But what  
9 that says is, is that, you catch a fish, you retain,  
10 you know, retain it, you got to report it on your  
11 permit and we account for that when we send our in-  
12 season reports to the Canadian and Fish and Game  
13 managers.

14  
15                   CHAIRMAN ADAMS: Okay. On Page 66,  
16 Cal, under titled existing State regulation, that last  
17 sentence I don't quite understand. It says the State  
18 -- oh, this is probably a question to ask of the State,  
19 too, but I'll have you respond to it as well.

20  
21                   It says the State made a positive  
22 customary and traditional use determination for salmon  
23 in the Stikine River but no subsistence fishery is  
24 authorized. Is there a reason for that, or George you  
25 might come prepared for that, you know, when it's your  
26 time also.

27  
28                   MR. CASIPIT: Mr. Chair. You're  
29 bringing up something -- thank you, Mr. Chair. You're  
30 bringing up something that we've talked about in the  
31 past. And let me just tell you what happened, I'll be  
32 honest with you with what happened there.

33  
34                   CHAIRMAN ADAMS: We appreciate honesty.

35  
36                   (Laughter)

37  
38                   MR. CASIPIT: As you know we began  
39 working on this issue early on and when we asserted  
40 jurisdiction I think Mr. Stokes was the first person to  
41 bring it up back in the year 2000 and we started  
42 working on the issue and trying to provide a Federal  
43 subsistence fishery. About the same time when we were  
44 working this out by coming up the regulations,  
45 providing the customary and traditional use  
46 determination under the Federal Program, the State did  
47 the same thing on their side. They provided a  
48 customary and traditional use determination for Stikine  
49 River salmon and our C&T is specific to communities,  
50 they just found that Stikine River salmon were

1 customary and traditionally used under the State  
2 system.

3

4 Our Federal fishery was approved and we  
5 started implementing that Federal fishery. And I  
6 think, Mr. Adams, this is where your question comes in,  
7 I know this Council, at the urging of Federal Staff  
8 submitted a proposal to the State Board of Fish to  
9 provide for a subsistence fishery on the Stikine River.  
10 At that point in time there wasn't -- you know the  
11 Board of Fish had gone through and provided a customary  
12 and traditional use determination for that stock. When  
13 the Council submitted that proposal to the Board of  
14 Fish they were going to go through, you know, and  
15 evaluate that and provide for that fishery, however, if  
16 you recall, the State came to us, Federal Staff, and  
17 asked us to ask you to withdraw that proposal because  
18 if it did go through the Board of Fish, the Board of  
19 Fish would have to provide for that fishery and the  
20 resulting confusion and problems in coordinating that  
21 with the Canadians could complicate some other issues  
22 that the State was working on with the Canadians in  
23 regards to the Pacific Salmon Treaty. So if you recall  
24 the State asked me to ask you to basically withdraw  
25 that proposal and there might have been some behind the  
26 table discussions at the -- basically the Council  
27 agreed to do that and that was withdrawn from the Board  
28 of Fish and there was no State fishery provided at that  
29 point.

30

31 Anyway, that's kind of how that  
32 happened and, you know, I take full responsibility for  
33 bringing that to you and asking you to withdraw it.

34

35 CHAIRMAN ADAMS: You mean Mr. Larson  
36 didn't have anything to do with it?

37

38 MR. WRIGHT: Is that the truth.

39

40 (Laughter)

41

42 CHAIRMAN ADAMS: Okay. Thanks, Cal.  
43 Any more questions from the Council.

44

45 (No comments)

46

47 CHAIRMAN ADAMS: Great, thank you, Cal.  
48 State of Alaska.

49

50 MR. CASIPIT: Thank you.

1 MR. PAPPAS: Yes, for the record my  
2 name is George Pappas, Department of Fish and Game.  
3 And the handout that was passed out yesterday, FP08-03  
4 Stikine River and I'll try to jump through some of the  
5 parts that's been mentioned previously here.

6  
7 This proposal requests the elimination  
8 of the August 1 through 14 Federal subsistence fishing  
9 closure window and of the requirement to revalidate the  
10 Federal permit every 15 days. These proposals will  
11 necessitate changes to the text of the Annex of the  
12 International Treaty between the United States and  
13 Canada governing the TransBoundary Stikine River salmon  
14 stocks after by the TransBoundary River Panel and  
15 action by the Pacific Salmon Commission. These salmon  
16 stocks are fully utilized and their management is  
17 conservation based and highly complex. The August 1  
18 through 14 Federal subsistence fishery closure was  
19 implemented in 2004 after several years of  
20 international negotiations by the Panel and Commission  
21 as a protective window to allow a certain small stock  
22 of sockeye salmon to migrate through the fisheries.  
23 The Federal permit revalidation requirement is used to  
24 collect in-season Federal subsistence harvest  
25 information necessary to provide weekly reporting  
26 required by the Treaty in order to closely track  
27 harvests of small fish stocks with small harvest  
28 quotas. Federal Staff supported the closure windows  
29 and revalidation requirement adopted by the Federal  
30 Board in 2000 -- in the year 2000 for conservation and  
31 fishery management purposes. Federal Staff supports  
32 the proposed change to the reporting requirements for  
33 administrative convenience and does not expect  
34 increased harvests for the small stocks -- of the small  
35 stocks.

36  
37 Current restrictions do not restrict  
38 opportunity because the majority of targeted  
39 subsistence fish stocks pass before the closure window.  
40 Revalidation does not significantly burden subsistence  
41 users because it only requires a simple contact, such  
42 as a phone call, VHF or single sideband radio, email or  
43 fax. These restrictions were implemented for  
44 conservation and management purposes, and changes to  
45 that result in harvest -- result in harvests that  
46 exceed the quotas could impact small fish stocks,  
47 eventually resulting in additional subsistence  
48 restrictions.

49  
50 A regional personal use and subsistence

1 fishery allows harvest of 25 sockeye salmon per  
2 household per year under the State of Alaska  
3 regulations. Permits are not issued for chinook salmon  
4 or steelhead or rainbow trout, although these species  
5 may be retained as incidental catch. Subsistence  
6 permits may be issued throughout the Southeast region  
7 for directed harvest of coho salmon though. Annual  
8 harvest reporting is required. State permits are  
9 available to subsistence fish for salmon in marine  
10 waters near the Stikine River. Under the permit  
11 system, State managers have the authority to establish  
12 or change open fishing periods, possession and annual  
13 limits, gear types or gear configuration, and to open  
14 and close time and areas in order to provide escapement  
15 and harvest as part of sustainable fisheries  
16 management. State managers will not authorize permits  
17 for subsistence fishing in freshwaters of the Stikine  
18 River due to insufficient run sizes as long as the  
19 Federal subsistence fishery occurs in the river.

20

21 Conservation issues. The Federal Staff  
22 analysis in 2000 supported the August 1 through 14th  
23 closure window for conservation reasons and it was  
24 adopted by the Federal Subsistence Board. And there's  
25 a footnote on this page, it explains, verbatim, of what  
26 actually took place during that timeframe.

27

28 I'll skip to, in contrast, Federal  
29 Staff concluded in the 2006 season summary for the  
30 Stikine River subsistence salmon fishery published on  
31 December 8, 2006, there is no management or  
32 conservation issue that requires this closure and it is  
33 not the benefit -- is not to the benefit of the  
34 subsistence users. Federal Staff analysis Page 72  
35 similar states, that's in the main book here: There  
36 are no conservation or fisheries management concerns  
37 with the regulatory change. Here are a list of the  
38 reasons for the August 1 through 14th closure window  
39 that were in the treat:

40

41 Focus on the minor stock.

42

43 Decrease the harvest of dark fish,  
44 watermark fish and chums.

45

46 Assure that the late part of the  
47 fishery does not target chinook salmon  
48 or cause mortality of chinook salmon  
49 that might be balled up off the mouth  
50 of a few of the tributaries.

1                   And also provides distinct fishing  
2                   seasons, i.e., king season which  
3                   initially went until June 20th and a  
4                   sockeye season in July and a coho  
5                   season in mid-August.  
6

7                   Windows of opportunity to allow harvest  
8 of chinook, sockeye and coho salmon were written into  
9 the treaty which is set to expire in 2008 and here is a  
10 list of what's actually in the Treaty for dates and  
11 harvest limits et cetera.  
12

13                   Any changes which result in  
14 reallocation of fish or adjustments to the fisheries  
15 covered under the Treaty must be presented to the  
16 TransBoundary River Panel and of the Pacific Salmon  
17 Commission. Provisions of these -- Treaty Annex state,  
18 you know, if you have a -- if you want to make a change  
19 you have to bring it in front of the TRB Panel and be  
20 approved by the Pacific Salmon Commission. The current  
21 reporting requirement for this fishery shall be weekly  
22 and include all -- tags recovered shall be returned to  
23 the Department of Fish and Game.  
24

25                   In the 2006 season summary the Stikine  
26 River subsistence salmon fishery from the December  
27 2006, the Federal Staff states that in-season reporting  
28 from 22 Federal subsistence fishing permit holders is  
29 burdensome to administer and implies that the Stikine  
30 River Federal subsistence fishery does not need in-  
31 season management through harvest reporting. This was  
32 written before the most recent Federal analysis update  
33 which includes laying out a few options for reporting,  
34 such as telephone calls, voluntary reporting or folks  
35 on the ground, so I'll adapt this.  
36

37                   But revalidation of the Federal permit  
38 for the Stikine River subsistence fishery is completed  
39 by basically contacting Staff and indicating if you  
40 want to continue or not. It also currently assists the  
41 in-season management of the fishery with providing  
42 updated information, in-season, that is. And in-season  
43 reporting is particularly important for fisheries  
44 managed for small quotas, for example, fish quotas of  
45 less than one thousand fish. This is -- Department of  
46 Fish and Game statewide and many fisheries that do have  
47 small quotas, what have you, they have actually more  
48 active reporting than weekly, sometimes it's every  
49 several days, if you're having that small of a quota in  
50 an area with such contention for allocation issues.

1                   The Department would be interested in  
2 hearing from the in-season designated individuals about  
3 the alternative methods and how those would work for  
4 determining in-season harvest and a few of those were  
5 listed in the Federal Staff analysis.

6  
7                   The preliminary Federal Staff  
8 conclusion, Page 72, supports modifying only the start  
9 of the coho season and not changing the end date of the  
10 sockeye season, however, since the Federal subsistence  
11 user is allowed to keep incidentally caught sockeye  
12 salmon, the resulting regulation would have the same  
13 effect as proposed by the proponent to change both  
14 season dates.

15  
16                   Jurisdiction issue on Page 68 of the  
17 Federal Staff analysis has a couple of maps, No. 1 and  
18 2 and they illustrate the boundaries claimed by the  
19 Forest Service to be under Federal subsistence  
20 fisheries jurisdiction, the State disputes the Federal  
21 jurisdiction exists in all waters, including marine  
22 waters that are depicted within the claims on Map No.  
23 2. The Department requests an explanation for the  
24 basis of each claim. The boundary line drawn on Map 2,  
25 Page 69 shows the mouth of the Stikine River for the  
26 purposes of Federal subsistence jurisdiction,  
27 incorporates waters below the line of mean high tide,  
28 which is the boundary of the Tongass National Forest,  
29 in fact, the line is seaward of low tide line navigated  
30 by marine vessels. The Federal permit and maps need to  
31 clarify that persons participating in the Federal  
32 subsistence fishery cannot do so while standing on  
33 State or private lands, for example, the setnets from  
34 shore must be located on Federal lands within the  
35 Tongass boundary and the Federal Staff analysis, Page  
36 67 also needs correction that only Federal lands are  
37 included in the all portions of the Stikine watershed,  
38 and the United States are part of the Stikine-LeConte  
39 Wilderness area. Actually congressional wilderness  
40 does not apply to non-Federal lands such as private  
41 inholdings and State navigable waters.

42  
43                   And that concludes my comments, sir.

44  
45                   CHAIRMAN ADAMS: Thank you, George.  
46 Questions from the Council.

47  
48                   (No comments)

49  
50                   CHAIRMAN ADAMS: Cal gave a real long

1 dissertation on the question I asked about the State,  
2 you know, would you like to elaborate on that a little  
3 bit.

4

5 MR. PAPPAS: I did talk to the -- Mr.  
6 Chair. I did talk to the area manager of that area and  
7 the comment was in recent times the numbers of fish in  
8 the runs, they're not very large and folks that -- they  
9 just won't basically issue State subsistence permits  
10 for that area, the freshwaters at least, the runs  
11 aren't large enough to provide for everybody.

12

13 CHAIRMAN ADAMS: Okay.

14

15 MR. PAPPAS: And as a matter of fact I  
16 believe the folks from Petersburg and Wrangell, those  
17 are the main participants in that fishery, and they  
18 just obtain a Federal subsistence permit to do so.

19

20 CHAIRMAN ADAMS: Okay, thank you. Any  
21 other questions.

22

23 Michael.

24

25 MR. DOUVILLE: Does the Department  
26 support or oppose this proposal?

27

28 MR. PAPPAS: The Department supports  
29 in-season active management of fisheries, however  
30 that's done, whether it's every two weeks with the  
31 revalidation period, whether it's a creek survey in the  
32 field, a valid means of ensuring that allocations  
33 aren't exceeded, harvest limits aren't exceeded. This  
34 is a very complex situation because it's international  
35 and I've been made aware that this is a very minor part  
36 of a very complex issue so the Department would support  
37 active in-season management and also would support not  
38 having exploitation on spawning grounds or in areas in  
39 times where fish might be wasted because of the wrong  
40 color, the wrong condition or the wrong species, so  
41 that's what we support.

42

43 How this proposal, if it's adopted, or  
44 amended, what have you, the importance is the in-season  
45 management part, having a good grip on what's going on  
46 with the low number of fish and ensuring that the fish  
47 aren't wasted.

48

49 CHAIRMAN ADAMS: This revalidating  
50 permits every two weeks, is that a critical thing or is

1 it okay to do that at the end of the season?

2

3 MR. PAPPAS: For a low -- it's a  
4 successful means of in-season management, having a grip  
5 on what's going on, a firm grip of what's going on.  
6 Is it necessary to manage the fisheries in-season,  
7 there's a lot of fisheries that the Department manages  
8 that don't have two week validation periods so the  
9 answer to your question is, it's a strong tool in  
10 regulation that does work.

11

12 CHAIRMAN ADAMS: Donald.

13

14 MR. HERNANDEZ: Thank you, Mr.  
15 Chairman. This any changes to regulation have to be  
16 approved by the Pacific Salmon Commission, who  
17 advocates for subsistence users on that panel, is there  
18 a Federal member or would that be left to the -- for  
19 Dave Bedford for the State, is he the one who would be  
20 a proponent for this regulation change before the  
21 Pacific Salmon Commission -- Mr. Chairman, you might  
22 know the answer to that as well, I'm not sure.

23

24 CHAIRMAN ADAMS: I don't know, I can't  
25 answer that.

26

27 MR. HERNANDEZ: In order for this  
28 regulation change to be approved by the Pacific Salmon  
29 Commission, which it does have to be approved by them,  
30 correct, in order for this to be implemented, right?

31

32 MR. LARSON: Mr. Chairman.

33

34 CHAIRMAN ADAMS: Yes.

35

36 MR. LARSON: The answer is yes and  
37 maybe.

38

39 (Laughter)

40

41 MR. PAPPAS: We'll take the maybe.

42

43 MR. LARSON: And let me explain. The  
44 proposal has two parts, one is to change the Annex, the  
45 governing management of the fisheries on the Stikine  
46 River, TransBoundary River, and that is the -- the  
47 Annex, in reference, is a Treaty between the United  
48 States and Canada, that -- changing the Treaty involves  
49 coordination with Canada and it's a fairly formal  
50 process and it's being negotiated as we speak and it

1 will require a concurrence with both the TransBoundary  
2 River Panel, which includes members of the U.S. and  
3 Canada. In addition it will require approval by the  
4 Pacific Salmon Commission.

5  
6 The Annex is being renegotiated now and  
7 it may or may not be approved. It will be at least  
8 aired, the U.S. positions and the Canadian positions,  
9 this spring, which would be during their February  
10 meeting.

11  
12 The portion of the question you have in  
13 the proposal regarding changes to the Federal  
14 requirement for having a two week fishing period,  
15 having a subsistence fishing permit that's only valid  
16 for two weeks, now that is an internal Federal  
17 requirement, it is not part of the Annex. The  
18 discussions that I've heard to-date, from the U.S.  
19 Section, and the U.S. Section, I might add, met on the  
20 20th and 21st of this month, what I've heard from the  
21 U.S. Section is that they view that as a housekeeping  
22 measure for internal use of the Federal government.

23  
24 Now, that will be on the agenda for  
25 their discussions with their Canadian counterparts on  
26 October 20th. And in the discussions I've had with  
27 them is that they would be able to provide us with a  
28 clear answer prior to the InterAgency Staff Committee  
29 on November 12th. So we don't know whether or not the  
30 Pacific Salmon Commission is at all interested in  
31 having this second portion on their agenda. They might  
32 very well might conclude that that's an internal issue  
33 for the Federal Program and they don't want to discuss  
34 it.

35  
36 CHAIRMAN ADAMS: Okay, thank you, Bob,  
37 for that yes and maybe answer.

38  
39 George.

40  
41 MR. PAPPAS: And as mentioned several  
42 times within the Federal Staff analysis, the proposal  
43 does not waive the requirement to report weekly to both  
44 the committees and the Department of Fish and Game.

45  
46 CHAIRMAN ADAMS: Donald.

47  
48 MR. HERNANDEZ: Then the second part of  
49 the proposal is a change in the season, would that be  
50 viewed differently by the TransBoundary Commission or

1 do they also view that as kind of an internal  
2 housekeeping measure, that seems like that would be a  
3 change to the fishery that might be a bigger issue.

4  
5 MR. LARSON: Mr. Chairman. If I could  
6 address that directly.

7  
8 The proposal to change a season, which  
9 would result in changing the Annex, would be generated  
10 by the Federal Program. So it would be up to this body  
11 to determine whether or not they wanted to change the  
12 season or not and if they wanted to adjust either the  
13 coho season or the sockeye season, you know, whatever  
14 form that they want to propose this action in is up to  
15 this body, the Council. But because it involves  
16 changing the Annex, which is included in the season,  
17 the Annex includes season, year, and guideline harvest,  
18 so any changes to those three aspects would need to be  
19 -- they will need to be agreed upon by the  
20 TransBoundary River Panel and approved finally by the  
21 Pacific Salmon Commission. Clearly the Treaty is  
22 beyond our scope of influence.

23  
24 MR. HERNANDEZ: So who is our  
25 representative to the TransBoundary Panel?

26  
27 MR. LARSON: The Federal.....

28  
29 MR. HERNANDEZ: Do we have a Federal  
30 person on there?

31  
32 MR. LARSON: We do. The Federal  
33 government has a member of the TransBoundary Panel and  
34 his name is Pete Hagan. He is not a voting member but  
35 he does participate fully. He's a member of the -- or  
36 is employed by the NOAA.

37  
38 MR. HERNANDEZ: Okay.

39  
40 MR. LARSON: And our representatives  
41 are actually the Department of Fish and Game.

42  
43 MR. HERNANDEZ: That was my question.

44  
45 MR. LARSON: Yes.

46  
47 MR. HERNANDEZ: So is the Department of  
48 Fish and Game prepared to, you know, advocate for this  
49 proposal, should we pass it or are we going to pass it  
50 and Fish and Game not support it before the

1 TransBoundary Commission or do you not know?

2

3 It sounds like you weren't in favor of  
4 it, of changing the season and you're our -- the State  
5 would be our proponent before the TransBoundary  
6 Commission so I just.....

7

8 MR. PAPPAS: Mr. Chair. Mr. Hernandez.

9 There's been a firestorm of discussion about this in  
10 the last two weeks because -- in preparation for the  
11 discussions for the TransBoundary meetings, what have  
12 you, from the Department's perspective it's important  
13 to maintain the ability to manage in-season, it's  
14 important not to waste fish and what has to be  
15 evaluated is the harvest information that's been  
16 collected. The only information we have is harvest  
17 information collected by the Federal Subsistence  
18 Program, and my assumption is they're going to look at  
19 these numbers and make a logical decision based on what  
20 they see.

21

22 So I'm not giving you a solid answer of  
23 yes or no, what they're going to support, the internal  
24 situation for reporting weekly, that's -- you said  
25 that's an internal process, but for the actual two week  
26 period break there, I can't speak for my bosses on  
27 that, I have not heard on that situation -- I have not  
28 heard significant opposition, I have not heard  
29 significant opposition on this and that this is a very  
30 minor part of the big picture of the TransBoundary so  
31 maybe they're just not allocating enough time to  
32 explain it to me.

33

34 I can make a call during the break and  
35 after lunch I can get back to you. If we had strong  
36 opposition to this I would assume that it would have  
37 been on a piece of paper and have it in front of you.

38

39 CHAIRMAN ADAMS: Mr. Hernandez.

40

41 MR. HERNANDEZ: Well, Mr. Chairman, I  
42 would agree, that we're talking about a very, very  
43 small component of, you know, what happens with that  
44 TransBoundary fishery, you know, the majority of the  
45 discussions are going to be with commercial issues and  
46 if you look at the numbers, you know, there is single  
47 digits, you know, that are caught during that time  
48 period.

49

50 CHAIRMAN ADAMS: Bob has a comment also

1 but I'm kind of concerned about where this proposal  
2 would go if we went ahead and passed it, you know, I  
3 think we need to be pretty sure what's going to happen  
4 afterwards.

5

6

Go ahead, Bob.

7

8

MR. LARSON: Mr. Chairman. As I  
9 mentioned before, the U.S. Section that is charged with  
10 drafting any changes to the Annex has -- and I'm not  
11 privy to all of their discussions, but I did get a call  
12 from that body immediately prior to this meeting and  
13 the proposed Annex language includes changes to the  
14 policies for the Federal Subsistence Program. So the  
15 proposed language right now, the ones that they're  
16 going to give to the Canadians would have the coho  
17 season start on August 1st. So they did that in  
18 anticipation that this would be adopted.

19

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50

Now, if it's not adopted, then that  
would be amended, their Annex, proposal would be  
amended to take that piece back off the table, but  
right now it's in the proposal to the Annex language.

CHAIRMAN ADAMS: Okay.

MR. PAPPAS: Mr. Chair. Mr. Larson. I  
would assume the team put that language together, the  
folks that are representing America put that together  
and submitted that, correct?

MR. LARSON: That's correct.

MR. PAPPAS: So then there must have  
been some agreement along the lines there between the  
different folks involved.

MR. LARSON: That's the U.S. Section's  
position.

MR. PAPPAS: U.S. Section.

MR. LARSON: Their position, yes.

CHAIRMAN ADAMS: Okay.

MR. LARSON: And as I said before the  
U.S. Section position also is that the two week permits  
is an internal Federal position and they don't want to  
become involved.

1 MR. PAPPAS: Okay.

2

3 CHAIRMAN ADAMS: Okay. Michael.

4

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

6 In reference to Mr. Douville and Mr. Hernandez'

7 comments about whether the State supports or doesn't

8 support a proposal is something that we've discussed at

9 other meetings. I looked through the comments and some

10 have a definite support and some allude to the fact

11 that you may or may not support but it's really helpful

12 to me, and I don't know about the rest of the Council,

13 but when we make a decision it's helpful to know what

14 the State's position is going to be when this comes to

15 the Federal Board.

16

17 And I just have trouble with that, we

18 just don't know what you're really thinking, and it

19 seems like you have ample time to come up with comments

20 but if you know whether you support it or not it's

21 helpful.

22

23 I just wanted to make that point.

24

25 CHAIRMAN ADAMS: I think all of the

26 Council members, you know, have that concern, George,

27 you know, like I mentioned my concern is if we went

28 ahead and adopted this proposal, you know, where is it

29 going to go after this because there's so many players

30 in the thing.

31

32 So it would be nice to know where the

33 State stood on this.

34

35 Go ahead.

36

37 MR. PAPPAS: Yes, Mr. Adams. Mr.

38 Bangs. I had the same question about a week ago, you

39 know, shouldn't we go forth, clear, concise and the

40 answer that I received from my supervisors was, no, we

41 want to hear what everybody has to say, you know, we

42 might be swayed here. We don't want to walk into a

43 meeting with a firm position right off the bat without

44 hearing all the experts, the folks that actually do

45 have many years of experience in the local issues that

46 we might not fully understand.

47

48 I was approached earlier on the same

49 issue, saying well why does the Makhnati proposal have

50 a strong -- well, it's because we submitted the same

1 comments last year. But as you see these comments have  
2 -- our comments have been distilled, they do not  
3 contain a position, they contain the information that  
4 we specifically are very interested in seeing adopted  
5 or amended into the proposal.

6

7 I understand what you're saying and I  
8 could make a telephone call to say yes or no for the  
9 eight proposals to find out what the supervisors are  
10 looking for but the whole idea of it here was to take  
11 away what was learned here, for me to distribute to all  
12 the subsistence team to make the decision of where the  
13 Department wants to stand.

14

15 CHAIRMAN ADAMS: Michael.

16

17 MR. DOUVILLE: In the past the State  
18 has not always agreed with what we do and vice versa,  
19 but this RAC is a stepping-stone for the next process.  
20 Any information that is not presented here cannot be  
21 withheld and presented farther down the road. That's  
22 unethical and past Chairmans have not allowed that to  
23 happen.

24

25 So what we want to see is all your  
26 information and your opinion here as it would be wrong  
27 for you to present it farther down the road in this  
28 process and that's -- I'd like to make that clear.

29

30 MR. PAPPAS: Fully understood.

31

32 CHAIRMAN ADAMS: Thank you. Thank you,  
33 George. Other Federal, State and tribal agency  
34 comments.

35

36 (No comments)

37

38 CHAIRMAN ADAMS: Steve.

39

40 MR. KESSLER: Mr. Chairman. I was  
41 going to say that there will be Staff Committee  
42 comments on this one, and Mr. Buklis will be giving  
43 those.

44

45 CHAIRMAN ADAMS: Very good. We'll  
46 listen to that next, okay, Larry, welcome to the mic.

47

48 MR. BUKLIS: Thank you, Mr. Chairman.  
49 Larry Buklis with the Office of Subsistence Management  
50 and I serve as the Chair of the Staff Committee.

1                   We didn't have any formal comments  
2 prepared on this proposal and analysis to this point,  
3 but in hearing and reading the State comments we had a  
4 few points we felt needed to be made to assist the  
5 Council as they deliberate with this.

6  
7                   I had a role with the Stikine River  
8 issue over the years. I was asked to coordinate the  
9 Federal Program effort in relation to the State and  
10 with the TransBoundary Panel. As you know this issue,  
11 as has been described, has emerged throughout our  
12 fisheries jurisdictional period, since 2000, and I  
13 think Dick Stokes was the significant proponent behind  
14 the start of this fishery and when the fishery began  
15 there was a lot of uncertainty expressed by Canada and  
16 the State as to what it might become and what kind of  
17 fishery would need to be factored into the negotiations  
18 and management of the TransBoundary stocks. And so  
19 there were questions today about some of the futures of  
20 the fishery and why were some of these windows between  
21 seasons imposed and, you know, the pretty strict  
22 turnaround time permit revalidation. And I think some  
23 of those features were built into the fishery to  
24 provide assurance as to the controls on the fishery,  
25 quite uncharacteristic of many subsistence fisheries.  
26 It's quite rigorously and prescriptively described in  
27 the regulations especially when you consider its size  
28 relative to the commercial fisheries around it. And I  
29 think it's because of the uncertainty surrounding it  
30 and needing to provide assurance to the negotiators as  
31 to this fishery's size in relation to the others.

32  
33                   Now, that we've had some historic  
34 experience with the fishery we're getting proposals in  
35 to make, what might be seen as minor adjustments, to  
36 relax some of those features, and you're seeing a  
37 couple of those here.

38  
39                   I think we have worked well together,  
40 all parties, the Council, the proponents, the Federal  
41 Program, the State and the Canadians to get this  
42 fishery under way and to have it managed by the field  
43 delegated manager, the Forest Service.

44  
45                   The only specific comments I wanted to  
46 make about what we've heard is that these comments we  
47 received yesterday and that were delivered to you today  
48 raise some points we wanted to just bring your  
49 attention to, we're not here to debate the points and  
50 we're not here to talk about minor points. But a few

1 larger points were made that we think we need to speak  
2 to.

3

4                   We agree with the comment the State  
5 made about this fishery in context with the others, is  
6 a very minor part, I think I heard said, that this is a  
7 very minor part of the big TransBoundary picture and we  
8 think we would concur with that and that that needs to  
9 be kept in perspective.

10

11                   There's a comment on impacts on  
12 subsistence users in the written comments stating that  
13 changes that result in harvest that exceed the quotas  
14 could impact small fish stocks eventually resulting in  
15 additional subsistence restrictions. We think that  
16 that perhaps is an overstatement and we don't  
17 anticipate subsistence restrictions in the context of  
18 small stock impacts. When you consider the other  
19 fisheries operating on these stocks, and as Mr.  
20 Hernandez mentioned about the size of the subsistence  
21 fishery and the dozens of fish for some species and the  
22 few hundreds for sockeye, this is not the scale that's  
23 going to kick in subsistence fishery restrictions due  
24 to stock impacts.

25

26                   Secondly, in the opportunity provided  
27 by the State comment, it said that State managers will  
28 not authorize permits for subsistence fishing in  
29 freshwaters in the Stikine River due to insufficient  
30 run sizes. We understand the history behind the  
31 proposal to the State system for a State managed  
32 subsistence fishery here and we were understanding some  
33 of the concerns they expressed and the preference they  
34 had for the Federal Program to manage the in-river  
35 Federal subsistence fishery and that is what we have  
36 but to now characterize it as insufficient run sizes to  
37 maintain both or to have a State managed subsistence  
38 fishery confuses us.

39

40                   It was also mentioned orally, I don't  
41 know if it's in here, but about wasting fish, I'm not  
42 sure what's being said there but we have no experience  
43 in the management of this fishery to-date of the  
44 wasting of fish and we know how the Council would feel  
45 about that kind of comment being said about the  
46 subsistence fishery.

47

48                   And, finally, on Page 4 where it gets  
49 into jurisdiction, there's a number of points I could  
50 make here but I'll stick to the main points as I said I

1 would. The areas within the external boundaries --  
2 exterior boundaries of the Tongass National Forest, and  
3 for that reason it's within Federal Subsistence ANILCA  
4 fisheries jurisdiction. Whether a fisherman was  
5 standing on State lands or not at the time, that's not  
6 relevant to our fisheries jurisdiction. It's not like  
7 the implementation of hunting regulations in terms of  
8 land ownership and the patchwork nature of some of the  
9 land ownership with inholdings. There are trespass  
10 issues with private lands, we understand that. But in  
11 terms of State or Federal lands, if you're within the  
12 exterior boundaries of the Tongass National Forest in  
13 this area, it's in our jurisdiction for the fishing on  
14 the Stikine River.

15  
16 And then in terms of the map referenced  
17 on Page 69, those jurisdictional descriptions have been  
18 used to describe this fishery all along and what's  
19 before you now shouldn't be confounded with some  
20 dispute from the State over that jurisdiction, which we  
21 feel is well established. The main point here is the  
22 permits and whether they are to be revalidated or not,  
23 which Mr. Larson described is sort of an internal  
24 management housekeeping issue. And then the season gap  
25 or window of closure between sockeye and coho. That's  
26 the issue before you. Ongoing or new jurisdictional  
27 point is not really relevant to the main points for the  
28 regulations here. And on the jurisdiction we don't  
29 agree.

30  
31 That's what I had, Mr. Chairman.

32  
33 CHAIRMAN ADAMS: Thank you, Larry, for  
34 clarifying a lot of that for us. Any questions for Mr.  
35 Buklis.

36  
37 You go ahead.

38  
39 MR. HOTCH: Me.

40  
41 CHAIRMAN ADAMS: You, uh-huh.

42  
43 MR. HOTCH: Mr. Chairman. Do you have  
44 funding to visit communities. I think there's a lot of  
45 confusion here that I see from my point that there's a  
46 Federal and a State. And within a week or so we're  
47 going to be meeting in Kake, ANB/ANS Convention, and I  
48 don't want to see Klukwan or Haines going to Kake and  
49 opposing something that's going to benefit all of us.  
50 We need to know where we're at, Federal and State. So

1 I'd be hurting my own friend because I don't understand  
2 the Federal and State, where the help comes from.

3  
4                   It's pretty confusing there. I've been  
5 on other boards here and fisheries, there's a lot of  
6 change, and whoever takes over after me will have a  
7 harder time if I don't start telling them which way to  
8 go.

9  
10                   So I'm just asking, is there any  
11 funding for you to make visits to different communities  
12 in Southeast, subsistence issues only.

13  
14                   MR. BUKLIS: Mr. Chairman. Mr. Hotch.  
15 The Forest Service has Staff assigned to the Tongass  
16 National Forest that manage and assist with the  
17 Subsistence Program so it might not be me, personally,  
18 and I can't speak to the specific meeting you're  
19 talking about. But here in Southeast, the Forest  
20 Service does have Staff that have knowledge of the  
21 Subsistence Program and have knowledge about the  
22 jurisdictions and the resources, and they personally or  
23 materials they have could help various meetings you're  
24 involved with.

25  
26                   So I don't know what I could commit to  
27 you directly but maybe during the breaks and other  
28 times, you, and others of us can talk about the  
29 meetings you're facing and the kind of help you need.  
30 It is complicated. In the big picture it can be made  
31 fairly direct and simple. If you're within the Forest  
32 boundaries, you're within the fishery jurisdiction.  
33 But when you get into specific issues and streams there  
34 are some disputes over where the lines are drawn. But  
35 I think Staff can help you with that.

36  
37                   MR. HOTCH: Okay, thank you. I think  
38 where my problem comes in is where the State or Federal  
39 depends on Sealaska as the spokesperson for us, T&H is  
40 the same thing, it doesn't really come from us when you  
41 go to Sealaska or Tlingits and Haida Central Council,  
42 they're just looking at paperwork, they're probably  
43 looking at what's put together here and they're not  
44 looking at us really as the local people, not only  
45 Klukwan but throughout Southeast Alaska and when they  
46 go to Washington, D.C., also they speak for Klukwan  
47 when we don't even know what they're talking about. So  
48 it's pretty hard for me, as a Tlingit person, to really  
49 get out there. When I find out what's going on then I  
50 can involve myself fully. But as long as they're

1 paying attention to more, other people, it's difficult  
2 for me to get involved.

3

4 So thank you for your answer.

5

6 CHAIRMAN ADAMS: Thank you, Larry. You  
7 know I think a real good link here, and I know this is,  
8 you know, pretty prevalent in other communities, like  
9 for instance, Yakutat, is to have the Forest Service or  
10 the, you know, Federal government, Rangers, whoever  
11 they may be have a good working relationship with the  
12 tribal governments that way, you know, issues like Joe  
13 has been addressing here can be taken care of, you  
14 know, a little closer to home on an individual basis.  
15 But through an organization such as tribal government  
16 or an advisory committee, you know, would be a real  
17 good avenue for that.

18

19 Just a thought. I think that's a good  
20 way to address that.

21

22 Any other questions for Larry.

23

24 (No comments)

25

26 CHAIRMAN ADAMS: Thank you, sir,  
27 appreciate it.

28

29 MR. BUKLIS: Thank you.

30

31 MR. HOTCH: My stomach says it's 12:00  
32 o'clock.

33

34 CHAIRMAN ADAMS: Joe.

35

36 MR. HOTCH: My stomach says it's 12:00  
37 o'clock.

38

39 (Laughter)

40

41 CHAIRMAN ADAMS: We're going to go  
42 through a couple things here. Any Fish and Game  
43 Advisory Committee comments.

44

45 (No comments)

46

47 CHAIRMAN ADAMS: Written comments.

48

49 MR. LARSON: There are no written  
50 comments.

1 CHAIRMAN ADAMS: Okay. Public  
2 testimony.  
3  
4 (No comments)  
5  
6 CHAIRMAN ADAMS: Let's break for lunch  
7 and then we will go into deliberations after that.  
8 Frank, when does your airplane leave?  
9  
10 MS. HERNANDEZ: He needs to be down  
11 there at 3:30.  
12  
13 CHAIRMAN ADAMS: 3:30. So what we want  
14 to do right after we take care of this issue after  
15 lunch is go into the Juneau road proposal so that he  
16 could be involved in that before he goes.  
17  
18 1:15.  
19  
20 (Off record)  
21  
22 (On record)  
23  
24 CHAIRMAN ADAMS: We're back in session.  
25 We're on Proposal No. 6. And if the Council thinks  
26 that this is going to be a no brainer and we're going  
27 to get through it right away, you know.....  
28  
29 REPORTER: Three.  
30  
31 CHAIRMAN ADAMS: Uh?  
32  
33 REPORTER: Proposal 3.  
34  
35 MR. WRIGHT: We're still on 3.  
36  
37 MS. HAWKINS: 3.  
38  
39 CHAIRMAN ADAMS: I'm sorry, three.  
40 We're going to do No. 6 after No. 3, sorry.  
41  
42 (Laughter)  
43  
44 CHAIRMAN ADAMS: No, I'm going to  
45 change that, too, we're going to do No. 4 after No. 3,  
46 my numbers are goofed up here.  
47  
48 If this is going to be a no brainer, I  
49 know, you know, Frank has a plane that's going to leave  
50 here at 3:00 o'clock, is it, Frank.

1 MS. HERNANDEZ: It's going to leave at  
2 4:00 and he needs to be down there at 3:30.

3  
4 CHAIRMAN ADAMS: You need to be down  
5 there at 3:30, okay.

6  
7 I want to get a couple of those  
8 proposals that are going to affect, you know, you and  
9 your area and that'll be up, Proposal No. 4, Juneau  
10 road system and Proposal No. 6 because it has to do  
11 with a member of your community submitted a proposal so  
12 we'd like to have you be here for those two. So we'll  
13 go ahead and have Bob make comment about Proposal No. 3  
14 and then we'll go into deliberations.

15  
16 So, Bob, go ahead.

17  
18 MR. LARSON: Mr. Chairman. In response  
19 to the questions regarding the State's testimony it's  
20 my suggestion and with concurrence with the Council,  
21 that I write an amendment to our Staff analysis that  
22 would address some of those issues that were a little  
23 unclear, essentially regarding the size of the stocks  
24 in the Stikine River, addressing the small stock size  
25 reference. And get an idea of the scope of both the  
26 subsistence fishery and the commercial fishery and the  
27 escapement, total run size.

28  
29 And this is information that the  
30 Council has seen before but I think it would be  
31 advantageous for those bodies that are going to review  
32 this proposal after this to see just a big more  
33 information regarding the Stikine River and the salmon  
34 resources.

35  
36 CHAIRMAN ADAMS: Okay. If the Council  
37 feels okay with that, so be it.

38  
39 (Council nods affirmatively)

40  
41 CHAIRMAN ADAMS: Thank you. We're now  
42 in deliberations for No. 6.

43  
44 MS. HAWKINS: Three.

45  
46 MR. WALLACE: Three.

47  
48 CHAIRMAN ADAMS: Okay. Mr. Bangs.

49  
50 MR. BANGS: It's not on the table yet.

1 CHAIRMAN ADAMS: No.  
2  
3 MR. BANGS: Okay. I move to adopt  
4 Proposal FP08-03 as written on Page 63, the regulation  
5 written as proposed. And should I go over the  
6 criteria?  
7  
8 CHAIRMAN ADAMS: Yes, please, I'd  
9 appreciate that.  
10  
11 MR. BANGS: Okay. I.....  
12  
13 MR. LARSON: Has it been seconded?  
14  
15 CHAIRMAN ADAMS: Seconded. Tina.  
16  
17 REPORTER: (Shakes head negatively)  
18  
19 CHAIRMAN ADAMS: Go ahead, go over the  
20 criteria. Go over the criteria.  
21  
22 MR. DOUVILLE: Is it seconded yet?  
23  
24 MR. BANGS: I feel that there is no  
25 conservation concerns presented in the literature that  
26 we were given from Staff, that there doesn't appear to  
27 be a conservation concern.  
28  
29 And it is not detrimental to  
30 subsistence uses, on the contrary, it helps subsistence  
31 users.  
32  
33 And this will not affect non-  
34 subsistence users that I can find any information that  
35 says that it would adversely affect them.  
36  
37 And there is substantial evidence for  
38 the recommendation as we haven't been reaching our  
39 guideline harvest and this will increase the  
40 availability of the user to catch more.  
41  
42 CHAIRMAN ADAMS: Thank you, Mr. Bangs.  
43 We need a second.  
44  
45 MR. WALLACE: Second.  
46  
47 CHAIRMAN ADAMS: Moved and seconded.  
48 We're now in discussion.  
49  
50 MR. HERNANDEZ: Mr. Chairman.

1 CHAIRMAN ADAMS: Mr. Hernandez.

2

3 MR. HERNANDEZ: Thank you, Mr.

4 Chairman.

5

6 In addition to what Mike commented  
7 there on the criteria, I think it would be useful  
8 information to know that, you know, the person who  
9 submitted this proposal is an individual and he's one  
10 of the people that lives on the river up there and he's  
11 very active -- has been very active in the subsistence  
12 fishery. I think he, you know, has a real good idea of  
13 how that fishery works, you know, for the people that  
14 are using it up there.

15

16 And just another factor, you know, with  
17 the changing of the seasons, in a fishery like that,  
18 you know, I think it's pretty beneficial to the people  
19 that are trying to fish up there, that they have this  
20 flexibility in their seasons because, you know,  
21 conditions change from year to year, run timing varies  
22 from year to year and in a river like that it can  
23 really be influenced by a lot of factors. Just as an  
24 example, this year saw record high river levels all  
25 through July, extremely heavy snow pack up in the  
26 Interior, the river was at all time record highs and it  
27 stayed that way all through the, what is the normal  
28 fishing period, through July. So that definitely had  
29 an impact on people's ability to catch fish so, you  
30 know, being flexible with the season, allowing it to  
31 take place a little later, if necessary, not having  
32 that closed period, I think, would definitely be  
33 beneficial to the subsistence users.

34

35 CHAIRMAN ADAMS: Thank you, Donald.

36 Any other comments.

37

38 (No comments)

39

40 CHAIRMAN ADAMS: What's the wish of the

41 Council.

42

43 MR. KITKA: Call for the question.

44

45 CHAIRMAN ADAMS: Question's been called  
46 for. All in favor, please signify by saying aye.

47

48 IN UNISON: Aye.

49

50 CHAIRMAN ADAMS: Opposed.

1 (No opposing votes)  
2  
3 CHAIRMAN ADAMS: Motion carries. Thank  
4 you. Thank you.  
5  
6 The next thing we want to go into is  
7 Proposal 08-06.  
8  
9 MS. H. ARMSTRONG: Four.  
10  
11 CHAIRMAN ADAMS: Sorry, four, I've got  
12 six on my mind.  
13  
14 (Laughter)  
15  
16 CHAIRMAN ADAMS: Proposal 04. No  
17 subsistence priority for the Juneau road system, Helen  
18 Armstrong. I forgot to recognize you yesterday when  
19 you came in, in the afternoon, Helen, so we're going to  
20 recognize you right now.  
21  
22 MS. H. ARMSTRONG: Thank you. Thank  
23 you, Mr. Chair. My name is Helen Armstrong. I'm with  
24 the Office of Subsistence Management. And I wanted to  
25 just make a thank you to the Council. This is actually  
26 the first time I have ever been to a Southeast Council  
27 meeting despite the fact that I have been with OSM  
28 longer than anyone else.  
29  
30 CHAIRMAN ADAMS: We are the best.  
31  
32 (Laughter)  
33  
34 MS. H. ARMSTRONG: And -- well, I've  
35 always heard that. So that's why it's really an honor  
36 to be here, today.  
37  
38 Thank you.  
39  
40 CHAIRMAN ADAMS: Thank you.  
41  
42 MS. H. ARMSTRONG: And that's because  
43 Bob Schroeder has retired so they needed some  
44 anthropological assistance.  
45  
46 This proposal, Proposal FP08-04,  
47 appears on Pages 78, starting with the executive  
48 summary and then 79 for the analysis in your book. And  
49 the proposal was submitted by the State of Alaska,  
50 ADF&G, and it requests that a fisheries, no Federal

1 subsistence priority customary and traditional use  
2 determination be made for the Juneau road system area,  
3 all waters crossed by roads connected to the city and  
4 borough of Juneau, of the Juneau road system.

5  
6           The Juneau road system is within  
7 Fishing Districts 11 and 15, you'll see that in Map 1  
8 on Page 80. Currently the Districts 11 and 15 have no  
9 community specific customary and traditional use  
10 determinations for fish falling within the remainder of  
11 the Southeastern Alaska area.

12  
13           The proponent is concerned that the  
14 Juneau road system, being a non-rural area, should not  
15 be included in an area with a positive C&T  
16 determination.

17  
18           I wanted to also make a note of the  
19 Federal jurisdiction in this area, particularly because  
20 there are comments from the State about this, the  
21 Federal jurisdiction is:

22  
23           The Federal waters comprise all fresh  
24 waters draining into Fishing District  
25 11 and those freshwaters draining into  
26 Fishing District 15, south of the  
27 Chilkat Peninsula near Haines, but also  
28 including the eastern side of Chilkoot  
29 Inlet north to Skagway all within the  
30 exterior boundaries of the Tongass  
31 National Forest.

32  
33           These waters include: all streams  
34 crossed by roads connected to the city and borough of  
35 the Juneau road system.

36  
37           I don't have a map in the book showing  
38 that, where the Federal jurisdiction is, but in your  
39 regulation books, if you have it or if you look at Map  
40 14 up here, on all of our Federal maps, when you see  
41 the black line that goes around the exterior boundaries  
42 of Federal land, that's where, within that black line  
43 is where our Federal jurisdiction is for waters, since  
44 there was a -- I think there was a question by the  
45 State on that issue.

46  
47           Dolly Varden, trout, smelt and eulachon  
48 are the only species in this area that have a customary  
49 and traditional use determination of all rural  
50 residents of Southeast Alaska and the Yakutat area.

1 There is no -- no customary and traditional use  
2 determination has been made for all other fish in  
3 Districts 11 and 15 and consequently all rural  
4 residents of Alaska are eligible to harvest salmon in  
5 these districts.

6  
7 I also wanted to just make a note that  
8 we did do some extensive regulatory history on this  
9 proposal to figure out when decisions had been made in  
10 the past and why it was made, and when the Federal  
11 Subsistence Board made the C&T determination for Dolly  
12 Varden, trout, smelt and eulachon, it was actually a  
13 conscious decision of theirs, it was their intent to  
14 make it a broadbrush C&T and that was also agreed upon  
15 by the Council, that it was -- it wasn't that this was  
16 something that got leftover, it was something that was  
17 consciously done.

18  
19 It should also be noted that this C&T  
20 determination for all rural residents of Alaska for  
21 salmon in Districts 11 and 15, that that was one that  
22 we adopted from the State when we took over fisheries  
23 management in the Federal Program.

24  
25 I wanted to explain a little bit, too,  
26 about how C&T determinations are made in the Federal  
27 Program.

28  
29 When the Board makes a C&T  
30 determination they do it on the uses of the area, they  
31 analyze those uses and in this case the specific local  
32 raised as concern by the proponent is the Juneau road  
33 system, situated within Fishing Districts 11 and 15.  
34 But districts are typically the geographic descriptor  
35 for which the Board has made C&T in Southeast in the  
36 past.

37  
38 There are some location specific C&T  
39 determinations that occur in the Federal regulations in  
40 Southeast, but those have been adopted from the State,  
41 those weren't any that the Federal Subsistence Board  
42 made. The Board really doesn't have to do these really  
43 specific location C&Ts and chooses not to do that in  
44 the Southeast, or it has in the past chosen not to. So  
45 the other thing that we were looking at is that the  
46 Juneau road system is only less than 10 percent of the  
47 area of the fishing districts and so it's a really  
48 small area as well.

49  
50 As you know the Juneau area is

1 designated as non-rural in its Federal Subsistence  
2 Management Program and so Juneau residents aren't  
3 eligible to harvest fish under Federal management.  
4 However, the proponent is concerned that fish stocks in  
5 the Juneau area streams could be impacted even if a few  
6 eligible rural residents choose to travel to Juneau and  
7 subsistence fish on the Juneau road system. There are  
8 Federal permits, those were created in 2002 for Federal  
9 subsistence salmon and trout harvest in Districts 11  
10 and 15 that include the Juneau road system but to-date  
11 no harvest have been reported under the Federal system  
12 in the Juneau road system area. So as far as we know  
13 there aren't people taking -- people who have C&T are  
14 not harvesting fish with a Federal permit on the Juneau  
15 road system so the harvest would be really minimal.  
16 The other thing that we looked at was, and this is not  
17 in your analysis, but we asked the State if they could  
18 tell us from their sportfish records how many people  
19 have taken fish in the Juneau road system. I just got  
20 that information last night electronically and hardcopy  
21 today and it's not -- I mean it's useful but it's not  
22 as useful as we would like it to be because the  
23 information can't -- they can't give us an expansion  
24 factor so I can only tell you what they found. And  
25 from 1996 to 2006 for freshwater fish in the Juneau  
26 road system there were 32 entries in 10 years of people  
27 harvesting fish who were not from Juneau, and who lived  
28 in the Southeast, and those communities were Skagway,  
29 Sitka, Wrangell, Pelican, Gustavus, Ketchikan and  
30 Haines. So only 32 entries. Now, we know that there  
31 were probably more -- some factor more than that  
32 because they don't survey everybody, and then they  
33 don't get all the responses back but that gives you  
34 some idea.

35

36                   And to compare it to Juneau residents,  
37 there were approximately 1,200 entries. So you  
38 definitely get the idea that there aren't a lot of  
39 people, there are some people harvesting fish in the  
40 Juneau road system who don't live there.

41

42                   So what we've done is we've looked at  
43 who uses Districts 11 and 15 and what do they use, we  
44 did the eight factors with those communities. And  
45 instead of looking at the Juneau road system,  
46 specifically, because it's our approach that we look at  
47 it by district, and the communities harvesting fish  
48 from what our research showed in 11 and 15 were  
49 Skagway, Klukwan, Haines, Tenakee Springs, Petersburg  
50 and Wrangell.

1                   We also looked at Angoon, Hoonah,  
2 Gustavus, Excursion Inlet and we didn't find any  
3 individual or community harvest records but it's  
4 possible that the harvest did occur there and, if  
5 anybody has information that they'd like to share on  
6 that, you know, we would certainly welcome it.

7  
8                   I'm not going to go through all of the  
9 information on the eight factors because, you know, it  
10 is part of the record and I know we're limited on time,  
11 but we do have a number of pages where we have maps  
12 with harvest use areas in 11 and 15 and then tables and  
13 citations of where we got information of the uses of  
14 those communities, but we did find that those  
15 communities do fulfill the eight factors.

16  
17                   So the effects of this proposal. If  
18 this proposal is rejected effects on fish stocks and  
19 populations are not anticipated. No change in  
20 subsistence harvest are anticipated. We don't think  
21 that there are a lot of harvest occurring anyway.

22  
23                   The status of the population of stock  
24 is not really relevant in the context of customary and  
25 traditional use determinations. We make the  
26 determination to decide who's harvested what  
27 customarily and traditionally and when and how much and  
28 all of that and then you -- after that you put your  
29 season and your harvest limits on something, but you  
30 don't do that first.

31  
32                   We do have the permits that are  
33 currently used in the Juneau road system to effectively  
34 address any conservation concerns.

35  
36                   If this proposal were to be adopted  
37 then there would be affects on subsistence users  
38 because a no Federal subsistence priority -- I mean no  
39 -- yeah, a no Federal subsistence priority  
40 determination specifically for the Juneau area would  
41 not provide Federally-qualified subsistence users with  
42 a meaningful subsistence priority.

43  
44                   The proposal, if adopted, would apply  
45 to all roads connected to the Juneau city and borough  
46 road system.

47  
48                   The OSM preliminary conclusion is to  
49 oppose this proposal.

50

1                   The justification is that, as I said,  
2 when the Board makes a customary and traditional use  
3 determination, they make them on a district basis and  
4 not a specific locale basis and because of that they  
5 don't generally make these types of determinations.  
6

7                   The residents of the Juneau road  
8 connected area live in the area determined non-rural by  
9 the Federal Subsistence Board and therefore are not  
10 Federally-qualified subsistence users. Although Juneau  
11 residents do not have eligibility under ANILCA Title  
12 VIII to fish under Federal subsistence regulations due  
13 to their non-rural status, there are other Federally-  
14 qualified rural residents who do. Data presented in  
15 the analysis show that there is use of fish in  
16 Districts 11 and 15 by Federally-qualified subsistence  
17 users, including at least users from the nearby  
18 communities of Klukwan, Haines, Skagway, Tenakee  
19 Springs, Petersburg and Wrangell.  
20

21                   Review of Council and Board  
22 transcripts, regulatory proposals and Council  
23 recommendations indicate that the inclusion of the  
24 Federal public lands and waters of the Juneau road  
25 system, among other remainder areas open to subsistence  
26 for Federally-qualified rural residents of Southeast  
27 Alaska was a conscious intent of the Council and the  
28 Board for Dolly Varden, trout, smelt and eulachon, it  
29 was not incidental inclusion. ANILCA, Title VIII,  
30 Section .804 provides that the taking on public lands  
31 of fish and wildlife for non-wasteful subsistence uses  
32 shall be accorded priority over the taking on such  
33 lands of fish and wildlife for other purposes so long  
34 as it is customary and traditional, meeting the  
35 definition of subsistence. And as we've shown in the  
36 analysis, the information addressing the eight factors  
37 shows that use of fish by some communities in Districts  
38 11 and 15 is customary and traditional.  
39

40                   There is also no apparent benefit to  
41 management by making a customary and traditional use  
42 determination in a subportion of a district when there  
43 has been little or no subsistence harvest by Federally-  
44 qualified users fishing under Federal regulation. If  
45 Federal subsistence harvest were to increase on the  
46 Juneau road system measures are in place, permit  
47 reporting, to indicate that change. There also are no  
48 conservation concerns with the current situation. If  
49 concerns arise permit stipulations can be added or  
50 modified on the Federally-required permit to address

1 them. Furthermore, conservation concerns would not be  
2 a reason to a modify a customary and traditional use  
3 determination.

4  
5 This proposal should be opposed to  
6 allow eligible rural residents using Districts 11 and  
7 15 to continue their subsistence priority and to fish  
8 from Federal public waters, if desired, under Federal  
9 regulation as provided by ANILCA, Title VIII.

10  
11 Thank you, Mr. Chair. That concludes  
12 my analysis.

13  
14 CHAIRMAN ADAMS: Thank you, Ms.  
15 Armstrong. Questions for Helen. Yes, sir. Make it a  
16 good one.

17  
18 MR. HOTCH: Uh.

19  
20 CHAIRMAN ADAMS: Make it a good one.

21  
22 MR. HOTCH: Okay. Are they using any  
23 Hawaiian throw nets in this area?

24  
25 MS. H. ARMSTRONG: Hawaiian.

26  
27 MR. HOTCH: Yeah, they got nets that  
28 you throw and it's getting big -- it's pretty harmful  
29 in our area here in Chilkat. It's increasing pretty  
30 heavily here. I see Klukwan on there but it's really  
31 Haines, Four Mile, or Eight Mile is where the eulachons  
32 come up. And ever since they started using the  
33 Hawaiian throw net, it's chasing the eulachons back.  
34 We never used to even dip one dipnet before it got to  
35 Six Mile. As far as it used to go is Eight Mile. And  
36 then we get in there and use the old fashion dipnet and  
37 the old ladies used to make it out of flour bags, you  
38 unstrand them and then make -- then use the deer --  
39 deer -- one of the deer bones to make an even mesh. I  
40 washed and I was taught to unravel the bags.

41  
42 But the other thing is we never had  
43 eulachons in this area and one of our elders way before  
44 my time married a woman from Noss River (ph) and they  
45 just got married and then she spent the first year in  
46 Klukwan and she said to her husband, hey, I was back in  
47 Noss having eulachon and the husband went over and said  
48 I'm going to go talk to the spirit man. So he went  
49 over, what can we do, my wife is hungry for eulachons  
50 and how can we get eulachons up here. So he said I'll

1 tell you when the eulachons arrive in Noss River you  
2 send some men down there in a canoe and you'll tow one  
3 back to Chilkat and that's what they did and that's why  
4 we have eulachons, it just didn't come on its own, we  
5 have to use our wisdom, not mine, but wisdom of other  
6 people in the past.

7

8 We're really concerned about the  
9 Hawaiian nets. It's got a lot of lead on it, the whole  
10 rim and when you throw it you scare most of the  
11 eulachons away. So it's not doing us any good, it's  
12 harming us.

13

14 And the other thing is we're not really  
15 getting eulachon here in this area because the highway  
16 blasted along the main land here, just before eulachon  
17 arrives here, in May, so that's part of the harm that  
18 was done to our eulachon.

19

20 Last year we -- I think a family in  
21 Klukwan was lucky to get a truckload where they usually  
22 get four or five, six truckloads. And the eulachon,  
23 they put together for oil, and when they start making  
24 oil it turned red and our elders knew that if that oil  
25 turned red something is going to happen within the  
26 family, let's say we're a four member family here, one  
27 of us is going to be harmed. That's the signal -- true  
28 signal we get from our resources, not only the  
29 eulachons but other fish and wildlife resources.

30

31 But that net is harmful. If they're  
32 using nets there their eulachons won't last there too  
33 long is what I'm saying.

34

35 Thank you.

36

37 CHAIRMAN ADAMS: That was a good  
38 question and some good comments. Helen, do you have an  
39 answer to that?

40

41 MS. H. ARMSTRONG: I don't know  
42 anything about the Hawaiian nets but I think it's --  
43 but I'm very interested to hear about that, something  
44 to be learning about.

45

46 CHAIRMAN ADAMS: Joe, has there been  
47 any evidence of them using the Hawaiian nets in this  
48 area or not or are you afraid that, if not, that it's  
49 going to come here soon or what?

50

1 MR. HOTCH: It's here.  
2  
3 CHAIRMAN ADAMS: It's here.  
4  
5 MR. HOTCH: Yes.  
6  
7 CHAIRMAN ADAMS: Okay.  
8  
9 MR. HOTCH: Yeah, it's being sold right  
10 here in town and even our own people are using it now.  
11  
12 CHAIRMAN ADAMS: Uh.  
13  
14 MR. HOTCH: But it's pretty harmful to  
15 me. I have two or three sitting there, after I'm gone,  
16 are they going to enjoy the things that I enjoy that my  
17 forefathers enjoyed so I'm trying to preserve as much  
18 as I can for them and their children and grandchildren.  
19  
20 Thank you.  
21  
22 CHAIRMAN ADAMS: Mr. Bangs.  
23  
24 MR. BANGS: Thank you, Mr. Chairman.  
25 Joe brings up a very good point about the -- I've  
26 always heard them called a cast net and I think that's  
27 what he's talking about.....  
28  
29 MR. HOTCH: Yes.  
30  
31 MR. BANGS: .....it has a lead -- is a  
32 Hawaiian cast net or something like that.  
33  
34 MR. HOTCH: Yes.  
35  
36 MR. BANGS: And I notice that the State  
37 is using those cast nets now to take herring samples  
38 out of the spawn and I don't know exactly what they --  
39 you know, they get a count or roe content or whatever,  
40 but they're becoming more and more popular, you know,  
41 among everyone because, you know, they're real  
42 effective at catching fish in shallow water. So it's  
43 something that we should watch out for.  
44  
45 CHAIRMAN ADAMS: Do you think, Mr.  
46 Bangs, do you have the same concern as Joe has, that  
47 they might be detrimental to the herring.  
48  
49 MR. BANGS: You know I don't have an  
50 answer to that. I think it's something that we

1 probably should keep an eye on. I don't know, it must  
2 make the herring scatter just like it does the eulachon  
3 so it's something that they're using now.

4  
5 CHAIRMAN ADAMS: Okay, any other  
6 comments or questions.

7  
8 (No comments)

9  
10 CHAIRMAN ADAMS: Thank you.

11  
12 MR. WRIGHT: Mr. Chair.

13  
14 CHAIRMAN ADAMS: Okay, go ahead, Frank.

15  
16 MR. WRIGHT: I was looking at this  
17 statement here, it says there's no rural communities on  
18 the Juneau road system, however, proponent is concerned  
19 of the fish stock in the Juneau area streams could be  
20 impacted if Federally-qualified rural residents choose  
21 to travel to Juneau and subsistence fish on the Juneau  
22 road system, are you talking about outer communities  
23 like Angoon and Hoonah and those areas because -- and  
24 another part -- another thing is that it says Dolly  
25 Varden, trout, smelt, and eulachon are the only species  
26 in this area that have a positive customary and  
27 traditional use determination, so is this customary and  
28 traditional use determination, you know, because I get  
29 tied up because I'm a tribal member and I know there's  
30 Auke people from Auke Bay that are there and I'm  
31 certain they have more customary and traditional uses  
32 out there so when you just say there's these few things  
33 that are customary and traditional, I beg to differ  
34 because I know, I have friends that go dig cockles and  
35 clams and all this other stuff.

36  
37 MS. H. ARMSTRONG: From?

38  
39 MR. WRIGHT: Auke Bay.

40  
41 MS. H. ARMSTRONG: Auke Bay.

42  
43 MR. WRIGHT: Auke Tribe.

44  
45 MS. H. ARMSTRONG: Well, the way Title  
46 VIII was written it's for rural Federally-qualified  
47 rural residents and the people within the Juneau -- who  
48 reside within the Juneau Borough are not rural so even  
49 if they are Auke Bay and they have traditionally used  
50 the resources, under our program they're not qualified.

1 I am interested though in something  
2 else that you said, we would be interested to know if  
3 there's evidence from other communities, like, for  
4 example, Angoon didn't show up in the maps that we  
5 looked at as having used 11 and 15, but if there's  
6 information anybody on the Council has that would  
7 either substantiate what we already have said in here  
8 about people using 11 and 15 to harvest fish, but also  
9 the communities we didn't find it, if you have some  
10 information that would be useful for us as well.

11

12 MR. WRIGHT: Mr. Chair.

13

14 CHAIRMAN ADAMS: Go ahead.

15

16 MR. WRIGHT: When you -- do you count  
17 for sportfish, do you use that fish that's out in front  
18 of, what do you call those, hatchery fish, I mean, you  
19 know, the sportfishing people off the dock by the  
20 Juneau Empire, I see people fishing down there, do they  
21 use -- do they count that as a sportfishery or a  
22 subsistence fishery?

23

24 MS. H. ARMSTRONG: Well, it doesn't  
25 make a lot of difference to us whether fish are harv --  
26 if it's a Federally-qualified subsistence user from a  
27 rural community and they're allowed to take fish,  
28 whether they do it under a sport permit or they do it  
29 for subsistence, if they're Federally-qualified  
30 subsistence users, it's not that important how they  
31 took the fish, it's that they're taking the fish and  
32 they're eating it and it's the same with any resource.  
33 But my guess is, is people that are taking those fish  
34 are not Federally-qualified users, they're probably  
35 Juneau residents, is my guess.

36

37 MR. KESSLER: And in marine waters.

38

39 MS. H. ARMSTRONG: Oh, and in marine  
40 waters. My lack of knowledge about Southeast shows.  
41 This is my first time I've ever worked on an analysis  
42 here so I'm doing my best.

43

44 CHAIRMAN ADAMS: You'll catch up.

45

46 MS. H. ARMSTRONG: I'll catch up.

47

48 CHAIRMAN ADAMS: You'll catch up.

49

50 MS. H. ARMSTRONG: Yes.

1 CHAIRMAN ADAMS: You'll learn a lot  
2 from these people.  
3  
4 MS. H. ARMSTRONG: I've heard that.  
5  
6 CHAIRMAN ADAMS: Any other questions.  
7  
8 (No comments)  
9  
10 CHAIRMAN ADAMS: All right, thank you,  
11 Helen.  
12  
13 MS. H. ARMSTRONG: Thank you, very  
14 much.  
15  
16 CHAIRMAN ADAMS: State, please.  
17  
18 MR. PAPPAS: Fortunately I found a  
19 four-leaf clover out in the parking lot.  
20  
21 (Laughter)  
22  
23 MR. PAPPAS: For the record, George  
24 Pappas, Department of Fish and Game. In handout FP08-  
25 04 is the Department's comments.  
26  
27 The Department of Fish and Game  
28 submitted this proposal to remove the Federal  
29 subsistence priority for the streams crossing the  
30 Juneau road system within the city and borough of  
31 Juneau. In 2005, the Department submitted FP06-31  
32 requesting the Federal Subsistence Board not to  
33 authorize fishing -- Federal subsistence fisheries in  
34 the freshwaters along the road system within Juneau  
35 city and borough boundaries due to conservation  
36 concerns on these small streams and the small stocks  
37 that are already restrictively managed or closed due to  
38 intensive fishing pressures by the Juneau area  
39 residents. The Federal Subsistence Board analysis  
40 FP06-31 in January of 2006, in the threshold analysis  
41 of the Board's denial of the Department's fisheries  
42 request for reconsideration 06-05 dated August 22nd,  
43 2006, suggested that, instead of changing the Federal  
44 regulation for taking a fish on the Juneau road system  
45 it would be more appropriate for the Board to adopt the  
46 determination of no Federal subsistence priority. The  
47 Department submitted Proposal FP08-04 consistent with  
48 the Federal Board's suggestion to make this area  
49 specific or community based customary and traditional  
50 use determination. No Federal subsistence permits have

1 ever been requested and no prior harvest by rural  
2 residents have been documented for subsistence uses in  
3 the freshwaters of the road system within the Juneau  
4 city and borough boundary.

5  
6                   For the impacts on the subsistence  
7 users. There is no evidence of a customary and  
8 traditional use of fish stocks for subsistence by any  
9 rural resident in the freshwaters across the road  
10 system within the Juneau and borough boundary -- Juneau  
11 city and borough boundary. Most fishing occurs within  
12 the marine waters in the Juneau area just as most  
13 fishing occurs in the marine waters throughout  
14 Southeast Alaska and most marine waters of Southeast  
15 Alaska are not subject to the claim of Federal  
16 subsistence jurisdiction. The existing Federal  
17 subsistence fishery within the streams crossed by the  
18 Juneau road system requires a permit and, once again no  
19 permits have been issued, meaningful subsistence  
20 fishing opportunity for rural residents exists in the  
21 streams that are closer to the respective communities.  
22 Eligible rural residents would have to travel  
23 subsistence -- substantial distances by boat, airplane --  
24 or airplane in order to fish the Juneau road system.  
25 Recognizing that residents of the rural communities may  
26 have to travel some distances to subsistence fish,  
27 rural residents have more readily accessible fish for  
28 subsistence than to travel to fish in the freshwaters  
29 of the road system within the Juneau city and borough  
30 boundaries. Though daily airfare -- though air and  
31 ferry service exists, the Juneau area is not near or  
32 reasonably accessible to rural residents of Southeast  
33 Alaska for the purposes of subsistence fishing.

34  
35                   No evidence has been provided that  
36 shows steelhead, trout, and char in the freshwaters of  
37 Juneau road system have been customarily and  
38 traditionally used  
39 for subsistence by rural residents living outside the  
40 Juneau area. No evidence indicates that subsistence  
41 opportunities along the Juneau road system has been or  
42 would be needed for subsistence by rural residents  
43 living outside the city and borough boundary. Without  
44 such documentation, the Board should exempt the Juneau  
45 city and borough boundary area from the region wide  
46 regulations and this action would have no impact on  
47 Federally-qualified rural subsistence users.

48  
49                   As for the opportunity provided by the  
50 State. State regulations provide for a variety of

1 sportfishing opportunities in the freshwaters and  
2 adjacent saltwater shoreline area of the Juneau road  
3 system. The Department's sportfishery's website for  
4 the Juneau road system lists 15 freshwater streams and  
5 numerous saltwater shorelines -- areas for anglers to  
6 fish. Nearly all freshwater sportfishing activity,  
7 roughly 80 percent along the Juneau road system takes  
8 place in primarily four streams, Cowee, Montana,  
9 Peterson and Fish Creek. The fish populations in these  
10 streams are relatively small and given Juneau's  
11 relatively large human population and road access, the  
12 potential exists for overharvesting local fisheries --  
13 fish resources. As such, several small roadside  
14 streams are closed to sportfishing altogether and  
15 others are closed to salmon or Dolly Varden fishing.  
16 Restrictive bag limits -- bag and possession limits are  
17 in effect for several species as well. The Juneau road  
18 system bag and possession limits and size requirements  
19 differ in several respects from the regional  
20 regulations. Bag and possession limits have been  
21 reduced for coho salmon, sockeye salmon, Dolly Varden  
22 and cutthroat trout size limits are more restrictive.

23  
24           Because Juneau is a non-rural area,  
25 residents of Juneau who historically use this fish  
26 stocks are ineligible to participate in the Federal  
27 subsistence fishery and cannot qualify for Federal  
28 customary and traditional use determination.  
29 Additionally, residents of Juneau could be displaced  
30 from their local fisheries by rural residents from  
31 distant areas if a conservation arises -- concern  
32 arises for any of the District 11 stocks and  
33 preferences -- and preferences are provided for  
34 Federally-eligible rural resident through special  
35 action in times of shortage. Thus, the existing  
36 Federal subsistence regulations could lead to  
37 restrictive -- restrictions on non-Federally-qualified  
38 users, basically Juneau residents, in the non-rural  
39 area along the Juneau road system on Federal lands.  
40 This would also impact the opportunity of previous  
41 rural residents who moved to the -- moved their  
42 residency to Juneau and rely upon the opportunity in  
43 the Juneau area to continue in their fishing  
44 activities.

45  
46           Conservation issues. The Department  
47 has concerns about the sustainability of highly  
48 accessible and liberal Federal subsistence fisheries on  
49 the Juneau road system. The Federal steelhead 30 inch  
50 size limit allows a harvest rate that is unsustainable.

1 The Federal Staff analysis for Proposal FP06-31 at the  
2 January 2006 Federal Subsistence Board meeting, Pages  
3 395 through 400 provided no biological justification  
4 for the 30 inch size limit other than the size limit  
5 was set less than the State's sportfish limit of 36  
6 inches to give Federally-qualified users a subsistence  
7 priority. The State's 36 inch limit and other  
8 regulations are adopted to rebuild depleted stocks and  
9 biological standards to achieve a sustainable harvest  
10 rate. The Department's sportfish cutthroat regional  
11 minimum size limit is 11 inch in length. It was  
12 established to protect about 60 percent of the trout  
13 populations until they can spawn at least one time.  
14 The 14 inch minimum size limit -- length limit for  
15 cutthroat trout was established in high use waters such  
16 as the Juneau road system to allow for the female  
17 cutthroat trout to spawn at least one time. The  
18 Federal regulations allow retention of cutthroat trout  
19 less than 14 inches in length, which may lead to the  
20 harvest of juvenile cutthroat trout in areas of high  
21 use. The State fishing regulations in place for near  
22 or within populated areas of Alaska for fish stocks  
23 exposed to elevated exploitation pressures were  
24 developed to preserve and rebuild a variety of fish  
25 stocks. The current regulation in place that protects  
26 such stocks are successfully developed in utilizing the  
27 most current scientific knowledge and management  
28 methods. With all the require -- required data need  
29 to manage a fishery -- excuse me -- when all required  
30 data needed to manage a fishery is not available or if  
31 a fish stock has been identified as finite, fragile or  
32 of concern the fisheries managed -- the fisheries are  
33 managed conservatively through restrictive regulations.  
34 An absence of critical information about the stock  
35 sizes and harvest rates the State regulations should be  
36 used to help ensure sustainability of the resource.

37

38                   The Federal subsistence permit appears  
39 to be the foundation of the Federal stock conservation  
40 but the reporting requirement may be too little or too  
41 late for small stocks. The Juneau area streams --  
42 support streams -- support small populations of fish  
43 that can be easily accessed by the local road system.  
44 Under Federal subsistence fishing regulations these  
45 fish stocks could be impacted even if a few eligible  
46 residents choose to travel to Juneau to fish for -- or  
47 excuse me, to subsistence fish. These Federal  
48 regulations apply to an area where non-Federally-  
49 qualified Juneau residents and other users subject to  
50 State's -- are subject to State's sports -- State

1 sportfishing regulations. The current Federal  
2 regulations provide for an exemption from State  
3 sportfishing license requirement, allows liberalized  
4 gear, allows liberalized size limits.

5  
6 In summary streams across the road  
7 system within the city and borough of Juneau are  
8 relatively accessible, support small stocks of fish,  
9 receive increased pressure by the residents of the area  
10 and thus necessitate increasing restrictions on size,  
11 gear and limits in order to assure sustainability of  
12 those stocks while retaining an opportunity for the  
13 residents of the area to participate in the fishery.

14  
15 For jurisdiction issues. According to  
16 the Department's Fish and Game's -- fish database --  
17 distribution database the majority of the fish habitat  
18 and documented fish observations in these streams are  
19 not located within Federal lands. Some streams have  
20 relatively inaccessible headwaters on Federal lands but  
21 they flow through State, private and other land  
22 ownership and are not within the Federal -- the Tongass  
23 Forest boundary prior to crossing the Juneau road  
24 systems into marine waters. Other streams along the  
25 Juneau road system flow entirely on non-Federally owned  
26 lands, however, the Federal analysis in the September  
27 RAC Fisheries Meeting materials book on Page 84  
28 incorrectly states, Federal waters comprise of all  
29 freshwaters draining into Districts Fish No. 11 [sic]  
30 and those fish -- freshwaters draining into Fishing  
31 Districts 15 south of Chilkat Peninsula near Haines all  
32 within the exterior boundaries of the Tongass National  
33 Forest. And there is a map that shows that in that  
34 book. These waters include all streams crossed by the  
35 roads connected to the city and borough of Juneau road  
36 system. In order for the rural residents and  
37 enforcement personnel to know where they can legally  
38 participate in the Federal subsistence fishery --  
39 fisheries, the Department requests detailed land status  
40 maps showing the areas and specific boundaries of  
41 waters claim to be within the Federal subsistence  
42 jurisdiction and the basis for those claims. The map  
43 included with the RAC meeting materials is insufficient  
44 to provide this information. Significant portions of  
45 the lands surrounding the Juneau road system are  
46 bordered by State and private lands and there are  
47 either no Federal jurisdiction or where the persons  
48 cannot participate in Federal subsistence fishery while  
49 standing on Federal lands.

50

1 That concludes my presentation.

2

3 CHAIRMAN ADAMS: Thank you, sir.

4

5 MR. PAPPAS: I can take questions.

6

7 CHAIRMAN ADAMS: Any questions of  
8 George from the Council.

9

10 Mr. Bangs.

11

12 MR. BANGS: Thank you, Mr. Chairman.  
13 If the -- if there seems to be a problem with fish  
14 stocks and there is no use by Federally-qualified  
15 people at least as far as I can read, there's been no  
16 permits issued, does the State consider possibly  
17 creating a State permit for those particular streams  
18 that are given problems so that something could be  
19 dealt with because it seems like you're going at the  
20 problem from the wrong end. If there's a problem and  
21 it's not with the qualified subsistence users, it seems  
22 like you'd go attack the problem where the problem is  
23 instead of where there isn't a problem.

24

25 MR. PAPPAS: Mr. Chairman. Mr. Bangs.  
26 In -- and I've actually done this many times myself as  
27 a previous Board of Fish manager and a commercial  
28 fisheries manager, have the ability for in-season  
29 management with emergency orders to close, restrict,  
30 change gear types, make folks -- make all users less  
31 effective and efficient to allow more escapement to  
32 keep the populations healthy. Don't have a permit  
33 issued, the regulations that are in place on the Juneau  
34 road systems are very conservative and does allow for  
35 the exploitation in many areas specifically as it can  
36 be the catch and release mortality. In some areas  
37 where the -- the example where you have an incredibly  
38 high use there's the ability -- excuse me, the  
39 regulations are established to allow some consumption  
40 of, say, some small fish, size limit of 18 fish -- 18  
41 inches on the Kenai River, et cetera, and the  
42 population is seeing so much exploitation per year and  
43 catch and release mortality is involved with that, is  
44 also incorporated in that process for establishing  
45 regulations that are conservative.

46

47 Did that answer your question?

48

49 If you don't have a direct permit to  
50 say on this particular creek only so many people can

1 fish because it only can handle so much exploitation,  
2 either a regulation to establish, it's so conservative  
3 that it's not going to impact the -- the stock itself  
4 or the area's closed.

5  
6 CHAIRMAN ADAMS: Anyone else. Don.

7  
8 MR. HERNANDEZ: Maybe a question for  
9 the Federal Staff in relation to Mr. Pappas was telling  
10 us.....

11  
12 CHAIRMAN ADAMS: Helen, you want to  
13 come up.

14  
15 MR. HERNANDEZ: What are the Federal  
16 permit requirements for fishing in that area now,  
17 what's a person allowed to catch under community  
18 regulation and.....

19  
20 MS. H. ARMSTRONG: I don't -- I don't  
21 have -- yeah, somebody else needs to answer that  
22 question.

23  
24 (Laughter)

25  
26 CHAIRMAN ADAMS: Well, you did such a  
27 good job there -- okay, Ben Van Alen.

28  
29 MR. VAN ALEN: Thank you, Mr. Chairman.  
30 This is Ben Van Alen with the Forest Service.

31  
32 This past year the permit for the  
33 Juneau area read that the regulations were the same as  
34 sportfish regulations in the area with two exceptions  
35 that are noted and that being:

36  
37 The smaller size limit for the  
38 steelhead. That, being, I believe, this last year was  
39 30 inches this last year or 32, -- but anyway -- I  
40 think it was 32 the year before.

41  
42 And the other thing was instead of a 14  
43 inch minimum size limit on the cutthroat and trout it  
44 was 11 inches.

45  
46 MR. HERNANDEZ: So it sounds like  
47 there's been some cooperation in that area on kind of  
48 keeping the Federal permit regulations fairly similar  
49 to what State sportfish regulations are, do I don't --  
50 it kind of leads me to believe that, you know, it's not

1 that big of a difference in the two regulations and,  
2 you know, why does the State have so much problem with  
3 that. I don't know.

4  
5 CHAIRMAN ADAMS: George, do you have a  
6 response to that.

7  
8 MR. PAPPAS: Yes. Well, we have our  
9 resident species and other research and a manager here  
10 that could probably explain to you the difference  
11 between, say, a 30 inch and 36 inch steelhead  
12 regulation on the road system in high use areas or the  
13 difference between 11 and 14 inch. If you want to go  
14 into detail on why these regulations were established  
15 or what conservation benefits they can have, I can  
16 bring them up.

17  
18 MR. HERNANDEZ: So.....

19  
20 MR. PAPPAS: If you'd like to, we can  
21 go into that detail.

22  
23 MR. HERNANDEZ: Well, you say they're  
24 significant, just those two differences alone are  
25 fairly significant?

26  
27 MR. PAPPAS; In a high use area they  
28 can be. As I understand the -- was it less than three  
29 percent of the steelhead in -- in Southeast are -- are  
30 36 inches are larger, so a very small percentage of the  
31 fish can be harvested. Between 30 and 36 inches, I'm  
32 not sure what the percentage would be of the entire  
33 population but in a system where, say, the maximum  
34 exploitation you want to see on a steelhead would be 10  
35 percent, it's probably not too healthy to go above  
36 that. If you -- the more you drop the length -- the  
37 length down on a fish on a -- excuse me, maximum length  
38 -- on the limit -- on a fish down, that becomes  
39 expedient for the percentage of the population  
40 that's represented. So is it five percent, is it 10  
41 percent, I don't know. I could ask the gentlemen back  
42 there if you're interested.

43  
44 It just comes down to high use. And as  
45 you said, you know, just to cross the bay away from the  
46 area the minimum size for cutthroat is 11 inches, but  
47 in town it's -- it's been raised to 14.

48  
49 It can come down to participation if it  
50 makes an impact on it, but currently there hasn't been

1 any participation so the Federal Subsistence Program  
2 does not impact on that stocks because no one  
3 participates.

4  
5 MR. HERNANDEZ: Right. And also a  
6 follow up question. You talked about high use areas  
7 and the high use on the Juneau road system but how much  
8 of that road system is on Federal lands, it seems like  
9 a vast majority of the road system is within city and  
10 probably State boundaries, I need -- I guess I need to  
11 know how much of this high use area actually would be  
12 on Federal lands, which seems like is a very, very  
13 small area where there's actual road system that's on  
14 Federal lands as opposed to State and city lands so, I  
15 guess I need to get some kind of an idea how -- what  
16 the extent of the concern is here. It seems like we're  
17 talking about a very small area actually that could be  
18 impacted.

19  
20 Does anybody have any numbers on miles  
21 of roads within the system that fall within Federal  
22 jurisdiction?

23  
24 MR. CASIPIT: Mr. Hernandez. Mr.  
25 Chair. All the waters in the Juneau area crossed by  
26 the road system are within Federal jurisdiction.  
27 Again, we've asserted jurisdiction on all waters within  
28 the exterior boundaries excluding marine waters and  
29 then we have a definition of marine waters which is a  
30 straight line drawn from headland to headland across a  
31 stream mouth.

32  
33 MR. HERNANDEZ: So in downtown Juneau,  
34 where there is fish streams, Federal jurisdiction  
35 applies even though it's surrounded by city?

36  
37 MR. CASIPIT: Correct.

38  
39 MR. HERNANDEZ: Okay.

40  
41 MR. CASIPIT: Correct. But it's within  
42 the exterior boundary of the Forest.

43  
44 MR. HERNANDEZ: Okay. I was unclear on  
45 that, okay, thank you.

46  
47 CHAIRMAN ADAMS: Any other questions  
48 for Mr. Pappas.

49  
50 MR. WRIGHT: Mr. Chairman.

1 CHAIRMAN ADAMS: Frank.  
2  
3 MR. WRIGHT: Yeah, Mr. Chairman. You  
4 said something about catch and release mortality rate,  
5 do you have any, you know, numbers on that because I'm  
6 sure there's a lot of sportfishermen that go do their  
7 thing in the rivers.  
8  
9 MR. PAPPAS: Let's see here, we  
10 actually have an expert on that there. Do you have the  
11 numbers here.  
12  
13 MR. HARDING: I'm sorry, I was working  
14 on steelhead.  
15  
16 MR. PAPPAS: Catch and release  
17 mortality rates for different species.  
18  
19 MR. HARDING: Sure.  
20  
21 REPORTER: Come on up. Thank you.  
22  
23 MR. PAPPAS: We fortunately have an  
24 expert on that here.  
25  
26 MR. HARDING: Mr. Chairman. The  
27 question was what.....  
28  
29 CHAIRMAN ADAMS: Please state your name  
30 for Tina.  
31  
32 MR. HARDING: Roger Harding, trout  
33 research, Fish and Game. The question was what was the  
34 hooking mortality of the trout for -- maybe clarify?  
35  
36 MR. WRIGHT: Yeah, it's catch and  
37 release of fisheries in the area.  
38  
39 MR. HARDING: Okay. For cutthroat  
40 trout the range with bait is up to 48 percent and it --  
41 so the reason with our bait restriction is, it didn't  
42 make any sense to have a catch and release with bait  
43 because half of them that you release are going to die  
44 so that was the reason behind the no bait limit in  
45 freshwater throughout Southeast Alaska.  
46  
47 If you reduce -- take away the bait you  
48 come in the realm of about five percent for cutthroat  
49 and for steelhead.  
50

1 CHAIRMAN ADAMS: Go ahead, Michael.  
2  
3 MR. DOUVILLE: How old is your study  
4 and what are you basing it on?  
5  
6 MR. HARDING: This is extensive  
7 literature, there's.....  
8  
9 MR. DOUVILLE: I guess how old is this  
10 material?  
11  
12 MR. HARDING: There are numerous  
13 studies for different species of trout. I'll be glad  
14 to provide them for you if you'd like. There was one  
15 meta-analysis done of all the studies and that shows  
16 what the hooking mortality is and what the ranges are,  
17 and I'd be glad to provide that table for you.  
18  
19 MR. DOUVILLE: Can I continue.  
20  
21 CHAIRMAN ADAMS: Yes.  
22  
23 MR. DOUVILLE: I've sat at this table  
24 for quite a few years and we've had this steelhead  
25 debate many, many, many times with different players  
26 from the ADF&G. And the last time that we dealt with  
27 it it was five percent. And I've seen figures where  
28 you say one to three and then you say 48 for bait,  
29 which I totally disagree with. You use the same size  
30 hook for artificial as you do with bait. And with  
31 steelhead, for the most part, you know, you're using a  
32 walnut size clump of eggs so, you know, how is that  
33 juvenile cutthroat going to get that down to where it's  
34 going to cause him mortality, it doesn't happen, you  
35 know, so, you know, I dispute some of the data you  
36 have.  
37  
38 But in any case we're very familiar, at  
39 least, I am with catch and release mortality, because  
40 we've discussed this many, many times with the  
41 Department over the years, if you look back at all the  
42 data that's been presented on these steelhead  
43 proposals.  
44  
45 MR. HARDING: The -- with the  
46 cutthroat, yes, it's how it's -- what ultimately  
47 determines the mortality is the location of the hooking  
48 and so if the fish takes the bait deep then the high  
49 mort -- mortality is much higher versus if it just  
50 hooks in the lip, like with a treble hook or something

1 where it doesn't swallow it. And the -- when I use the  
2 five percent that's kind of -- it's less than one --  
3 three percent for all gear types, not using bait.  
4 There is no significant difference between barbless and  
5 barb or single and treble. There is a little bit of  
6 difference, but it doesn't really gain you much on the  
7 hook type, for the hook and release mortality.

8  
9 MR. DOUVILLE: I understand how hooking  
10 fish works, you know, I'm a full-time commercial  
11 fisherman for the last 35 years so I understand how it  
12 works.

13  
14 CHAIRMAN ADAMS: Frank.

15  
16 MR. WRIGHT: Mr. Chairman. Since the  
17 Juneau road system, you know, probably has a lot of  
18 sportfishermen that go fly fishing and stuff like that,  
19 do you have any idea of the number of people that go do  
20 that because a concern I have is, is how many -- see --  
21 if there's a big flock of people going out there and  
22 just doing hook and release and stuff like that, so how  
23 much fish do you think we're losing because of the  
24 mortality rate because it's.....

25  
26 MR. HARDING: We would have -- Mr.  
27 Chairman. We would have information, I don't have it  
28 available, unless you have the statewide harvest  
29 surveys for the Juneau area and that would give us an  
30 idea of the catch on the road system by various  
31 species.

32  
33 MR. PAPPAS: I didn't bring that.

34  
35 MR. WRIGHT: Yeah, Mr. Chairman.

36  
37 CHAIRMAN ADAMS: Frank, go ahead.

38  
39 MR. WRIGHT: The reason I asked that,  
40 you know, is I don't play with fish, you know, and we  
41 catch them and we take them home and so when people are  
42 playing with them then that's when the mortality rate  
43 happens. So like I said it's the road system from  
44 Juneau and most people in Juneau are sportfishermen so  
45 that -- I'm just curious how much fish are being killed  
46 because of it so -- because, you know, we have to base  
47 our decision on that kind of information.

48  
49 So, thank you.

50

1 CHAIRMAN ADAMS: Thank you for your  
2 questions. Any other questions for these gentlemen.

3  
4 (No comments)

5  
6 CHAIRMAN ADAMS: Gunalcheesh. Other  
7 questions from Federal, State or tribal.

8  
9 (No comments)

10  
11 CHAIRMAN ADAMS: InterAgency. Welcome,  
12 Steve.

13  
14 (Laughter)

15  
16 MR. KESSLER: Thank you.

17  
18 MR. WRIGHT: I thought you said you had  
19 nothing to say.

20  
21 (Laughter)

22  
23 MR. HOTCH: He changed his mind.

24  
25 (Laughter)

26  
27 MR. KESSLER: Thank you, Mr. Chairman  
28 and Council. Steve Kessler with the Forest Service and  
29 the InterAgency Staff Committee. Yes, originally I  
30 didn't think I would have any comments on this one but  
31 I believe we've got about five comments now so I hope  
32 that these comments are helpful to you.

33  
34 First of all, I'd like to draw your  
35 attention to that this is a customary and traditional  
36 use determination proposal, it is not a harvest,  
37 methods, means, season type proposal. And, therefore,  
38 although I think that all these discussions are very  
39 interesting, I think the discussion specifically of  
40 customary and traditional use and which communities and  
41 how people from different communities have used the  
42 resources I think would be, perhaps, a better use of  
43 your time on this proposal.

44  
45 There are a couple of different areas  
46 that were discussed and I want to point you to some  
47 other pages in your Council book. First of all on Page  
48 190, there is the District Court's recent decision that  
49 was on June 27th associated with Chistochina and moose  
50 use in Game Management Unit 12. And this is a very

1 important decision that has to do with the area of a  
2 determination that the Board makes. And this has now  
3 been appealed by the State, it was a suit brought by  
4 the State and it has been appealed. We didn't plan on  
5 having any discussion to these specifically, but this  
6 material here was written by one of our solicitors and  
7 you are welcome to read this and I do believe that it  
8 is relevant to this case because it really does get  
9 sort of at the issue of size of customary and  
10 traditional use determinations, do you have to have  
11 proof in the small area of use or do we go to -- can we  
12 go to larger areas like Game Management Unit 12.

13

14 In the situation for fish, we've, in  
15 Southeast Alaska, and I say, we, including the Council  
16 has chose in the determinations to go to Fishing  
17 Districts, which actually are quite a bit smaller than  
18 the Game Management Units that we're talking about  
19 here.

20

21 Anyway, so that's one thing I would  
22 like to call your attention to.

23

24 The second one has to do with the  
25 jurisdiction issues and that's on Page 193. And this  
26 is what we sometimes call the Katie John II case. And  
27 this is specifically about jurisdiction. And so the  
28 State brings up over and over again the jurisdictional  
29 issues, that is all in court right now. If you read  
30 what's here you'll see that a part of that case has  
31 been settled in favor of the Federal government, that  
32 part saying that the Federal government used an  
33 appropriate method for developing jurisdictional area.  
34 The part that is now in front of the court and the  
35 different parties are doing their briefings right now  
36 is the where question, that's in C, the issue remains  
37 as to which particular waters are subject to  
38 subsistence priority and that will probably be settled  
39 sometime in the early part of next year; we should have  
40 a decision on that.

41

42 So those are two items I wanted to  
43 bring to your attention as far as the jurisdictional  
44 issues, as far as right now, it's exactly as Cal  
45 described, it's within the exterior boundaries, those  
46 lines are shown over here on the maps, the black line.  
47 Helen discussed that also.

48

49 And the -- well, two other items. One,  
50 is a parallel to what's happening on the Kenai River

1 right now. Some of you probably know that the Board  
2 has been going through a multi-year process to  
3 establish customary and traditional use determinations  
4 for the Kenai as well as harvest regulations. And that  
5 has temporarily, anyway, drawn to a conclusion, and  
6 there are three sort of key areas for the dipnet  
7 fisheries that have been established on the Kenai River  
8 for rural residents. And this is for rural residents  
9 of Ninilchik, Hope and Cooper Landing. And one of  
10 those is in a non-rural area, that's the  
11 Kenai/Soldotna/Sterling non-rural area, it's called  
12 Moose Range Meadows, and it's one of the key areas for  
13 that dipnet fishery. So, again, we have a parallel  
14 here where we have a non-rural area but we have a  
15 specific fishery that rural residents are qualified to  
16 fish in. So it's similar to this situation.

17  
18 And then finally, and I think you all  
19 know this, that so far on the Juneau road system, there  
20 has been no fishing reported under Federal permits and  
21 so at least under Federal regulations there hasn't been  
22 impact at all and maybe I need to go back and say that  
23 maybe that's not relevant because we're talking about  
24 the customary and traditional use determination, but  
25 it's just something for your information.

26  
27 Any questions.

28  
29 CHAIRMAN ADAMS: Questions anyone.

30  
31 MR. WRIGHT: Mr. Chairman.

32  
33 CHAIRMAN ADAMS: Go ahead.

34  
35 MR. WRIGHT: You said there weren't any  
36 reports, is there a reason why there weren't any  
37 reports that came in or just that no permits are  
38 issued?

39  
40 MR. KESSLER: I believe that there were  
41 no permits issued. Is that correct -- yes, no permits  
42 issued, therefore, no reports.

43  
44 MR. WRIGHT: So, Mr. Chair.

45  
46 CHAIRMAN ADAMS: Yes, Frank, please.

47  
48 MR. WRIGHT: So we really don't know if  
49 any fish have been taken, right?

50

1 MR. KESSLER: Well, we do know that  
2 rural residents are taking fish from the Juneau road  
3 system and that's the data that we have been able to  
4 obtain from the State, from the sportfishing mail out  
5 survey, and that shows that there are -- for the past  
6 10 years, a number of reports, Helen read off the names  
7 of all the communities that have, been shown through  
8 that, to harvest on the Juneau road system. There is  
9 also substantially more use in the marine waters in the  
10 Juneau area, too, by rural residents.

11  
12 CHAIRMAN ADAMS: Mr. Kitka, do you have  
13 something.

14  
15 MR. KITKA: Thank you, Mr. Chairman. I  
16 just have one, kind of a question, and that was  
17 basically how many of these communities know that we  
18 are allowed to go to the road system to fish?

19  
20 MR. KESSLER: I wouldn't know, Mr.  
21 Kitka.

22  
23 (Laughter)

24  
25 CHAIRMAN ADAMS: Okay.

26  
27 MR. KESSLER: I don't know. Well, my  
28 guess is that most people in the different communities  
29 know they're allowed to fish under State regulations,  
30 how many know they're allowed to fish under Federal  
31 regulations I really don't know.

32  
33 MR. KITKA: Thank you.

34  
35 CHAIRMAN ADAMS: Okay. Any other  
36 questions. Lee.

37  
38 MR. WALLACE: Bert, if I might just  
39 chime in on that. If you were of rural status you know  
40 you have that right to go into any other rural or any  
41 area which falls under Federal regulations so I would  
42 guess that any community that's in Southeast who has  
43 rural status knows that we could go to Federal lands  
44 and waters and make use of that Federal land and water  
45 resources.

46  
47 CHAIRMAN ADAMS: Thank you, Lee. Any  
48 other questions of Steve.

49  
50 (No comments)

1 CHAIRMAN ADAMS: Take advantage of him  
2 while he's there.  
3  
4 (Laughter)  
5  
6 MR. CASIPIT: I would.....  
7  
8 CHAIRMAN ADAMS: Cal, you have help.  
9  
10 REPORTER: Cal, come on over.  
11  
12 CHAIRMAN ADAMS: Cal, come on up.  
13  
14 REPORTER: Thank you.  
15  
16 MR. CASIPIT: Cal Casipit. Subsistence  
17 fisheries biologist in Juneau, regional office.  
18  
19 I know this may -- you know, we're  
20 talking about a C&T analysis, but I know there was a  
21 question asked about the numbers of fish, numbers of  
22 steelhead over certain sizes, and I just pulled up  
23 Table 1 from FP05-28, which is a steelhead proposal  
24 from back when, we had a table in there, is looking at  
25 a system on Prince of Wales Island as far as length of  
26 steelhead and percentages of lengths in the population.  
27 But, for instance, for the Juneau road system the '06  
28 and '07 permit stipulate a minimum size of 32 inches,  
29 that would translate to about 16 -- a little under 16  
30 percent of the population being above 32 inches.  
31  
32 CHAIRMAN ADAMS: Thank you, Cal.  
33  
34 MR. CASIPIT: Just to answer that  
35 question. I know it's not really appropriate to the  
36 C&T but the question was asked, I figured I should  
37 answer it.  
38  
39 Thank you.  
40  
41 CHAIRMAN ADAMS: Okay. Any other  
42 questions.  
43  
44 (No comments)  
45  
46 CHAIRMAN ADAMS: Okay. Any other Fish  
47 and Game Advisory Comments.  
48  
49 (No comments)  
50

1 CHAIRMAN ADAMS: Anyone in that  
2 organization.  
3  
4 (No comments)  
5  
6 CHAIRMAN ADAMS: None. Any written  
7 comments, Mr. Larson.  
8  
9 MR. LARSON: There are none.  
10  
11 CHAIRMAN ADAMS: Okay. Public  
12 testimony.  
13  
14 (No comments)  
15  
16 CHAIRMAN ADAMS: There doesn't look  
17 like any out there. We're now going into  
18 deliberations.  
19  
20 (Pause)  
21  
22 CHAIRMAN ADAMS: What's the wish of the  
23 Council.  
24  
25 (Pause)  
26  
27 CHAIRMAN ADAMS: Thank you, Steve, for  
28 reminding us that this is a C&T issue only so we want  
29 to deal with it in that manner.  
30  
31 Mr. Pappas, do you want to grab your  
32 four-leaf clover over there.  
33  
34 (Laughter)  
35  
36 MR. PAPPAS: I'll be back and save that  
37 for the next one.  
38  
39 CHAIRMAN ADAMS: I was going to ask you  
40 if you had a permit for it.  
41  
42 (Laughter)  
43  
44 MR. PAPPAS: It's an invasive species,  
45 sir.  
46  
47 (Laughter)  
48  
49 CHAIRMAN ADAMS: Donald, please.  
50

1 MR. HERNANDEZ: Mr. Chairman. I would  
2 move to adopt Fisheries Proposal 08-04 as written on  
3 Page 78 of our booklets.

4  
5 MR. BANGS: I'll second it.

6  
7 CHAIRMAN ADAMS: Okay. Discussion.  
8 Yes.

9  
10 MR. HERNANDEZ: Question, so we don't  
11 deal with our four criteria on this type of proposal,  
12 we have to look at the eight.....

13  
14 CHAIRMAN ADAMS: Customary and  
15 traditional use, it's the eight criteria, uh-huh.

16  
17 MR. HERNANDEZ: .....so we're looking  
18 at the eight criteria for customary and traditional  
19 use.

20  
21 CHAIRMAN ADAMS: Correct.

22  
23 MR. HERNANDEZ: So we need to review  
24 that then. Where can we find those eight criteria that  
25 we're supposed to be doing.

26  
27 CHAIRMAN ADAMS: You know sometimes  
28 it's  
29 written in the.....

30  
31 MR. HERNANDEZ: I know I saw it  
32 somewhere but I.....

33  
34 CHAIRMAN ADAMS: But can anyone point  
35 us to it.

36  
37 MR. HERNANDEZ: .....so we can have it  
38 in front of us here when we go through this.

39  
40 MS. H. ARMSTRONG: They're actually in  
41 the analysis on Page 95. Would you like me to read  
42 them or not?

43  
44 CHAIRMAN ADAMS: Sure. Why don't you  
45 read them.

46  
47 MS. H. ARMSTRONG: Under eight factors  
48 for determining customary and traditional uses.

49  
50 A customary or area's customarily and

1 traditional use is generally exemplified through the  
2 following eight factors:

3

4 1. A long-term consistent pattern  
5 of use excluding interruptions  
6 beyond the control of the  
7 community or area.

8

9 2. Pattern of use recurring in  
10 specific seasons for many  
11 years.

12

13 3. A pattern of use consisting of  
14 methods and means of harvest  
15 which are characterized by  
16 efficiency and economy of  
17 effort and cost conditioned by  
18 local characteristics.

19

20 4. The consistent harvest and use  
21 of fish and wildlife as related  
22 to past methods and means of  
23 taking near or reasonably  
24 accessible from the community  
25 or area.

26

27 5. A means of handling, preparing,  
28 preserving and storing fish or  
29 wildlife which has been  
30 traditionally used by past  
31 generations, including  
32 consideration of alteration of  
33 past practices due to recent  
34 technological advances, where  
35 appropriate.

36

37 6. A pattern of use which includes  
38 the handing down of knowledge  
39 of fishing and hunting skills,  
40 values and lore from generation  
41 to generation.

42

43 7. A patter of use in which the  
44 harvest is shared or  
45 distributed within a definable  
46 community or persons; and

47

48 8. A pattern of use which relates  
49 to reliance upon a wide  
50 diversity of fish and wildlife

1 resources of the area and which  
2 provides substantial cultural,  
3 economic, social and  
4 nutritional elements to the  
5 community or area.  
6

7 CHAIRMAN ADAMS: Thank you.

8  
9 MS. H. ARMSTRONG: Does that help?

10  
11 CHAIRMAN ADAMS: That helps, thank you.

12  
13 MS. H. ARMSTRONG: Thank you.

14  
15 (Pause)

16  
17 MR. DOUVILLE: Mr. Chairman.

18  
19 CHAIRMAN ADAMS: Do you want an ease.  
20 We'll take a five minute break.

21  
22 (Off record)

23  
24 (On record)

25  
26 CHAIRMAN ADAMS: Okay, we're going to  
27 come back into session. Council, are you ready to deal  
28 with this issue.

29  
30 MR. KITKA: Mr. Chair, do you need a  
31 motion to.....

32  
33 CHAIRMAN ADAMS: Yes, we do.

34  
35 MR. DOUVILLE: We already have a  
36 motion, right.

37 CHAIRMAN ADAMS: Did we, Tina.

38  
39 REPORTER: Yes. Yes, and Mr. Bangs  
40 seconded.

41  
42 CHAIRMAN ADAMS: Okay. So we're on  
43 discussion. Any more discussion.

44  
45 (No comments)

46  
47 CHAIRMAN ADAMS: Okay, it looks like  
48 we're ready to call for the question. We're going to  
49 do roll call on this one, Harvey.

50

1 MR. KITKA: Lee Wallace.  
2  
3 MR. WALLACE: And the vote is -- just  
4 for clarification, again, so a yes vote is.....  
5  
6 CHAIRMAN ADAMS: To accept the  
7 proposal.  
8  
9 MR. WALLACE: .....to accept the  
10 proposal?  
11  
12 CHAIRMAN ADAMS: Uh-huh.  
13  
14 MR. WALLACE: No.  
15  
16 MR. KITKA: Michael Bangs.  
17  
18 MR. BANGS: No.  
19  
20 MR. KITKA: Joe Hotch.  
21  
22 MR. HOTCH: Just a second.  
23  
24 CHAIRMAN ADAMS: Late again.  
25  
26 (Laughter)  
27  
28 MR. KITKA: Merle Hawkins.  
29  
30 MS. HAWKINS: No.  
31  
32 MR. KITKA: Donald Hernandez.  
33  
34 MR. HERNANDEZ: No.  
35  
36 MR. KITKA: Bert Adams.  
37  
38 CHAIRMAN ADAMS: No.  
39  
40 MR. KITKA: Mike Douville.  
41  
42 MR. DOUVILLE: No.  
43  
44 MR. KITKA: Frank Wright.  
45  
46 MR. WRIGHT: No.  
47  
48 MR. KITKA: Harvey Kitka, no. Joe  
49 Hotch.  
50

1 MR. HOTCH: No.

2

3 CHAIRMAN ADAMS: I thought you were  
4 going to vote yes.

5

6 (Laughter)

7

8 MR. HOTCH: Can I change that to no.

9

10 CHAIRMAN ADAMS: Okay, thank you  
11 Council. The next one and we need to do this,  
12 hopefully, you know, before Frank leaves, he's got to  
13 leave here at 3:30, I understand, to jump over to  
14 Proposal No. 6. It has to do with the proposal that  
15 was made by a Hoonah person. So Mr. Ben Van Alen, do  
16 you want to come up and introduce it.

17

18 MR. VAN ALLEN: Thank you, Mr. Chair.  
19 Ben Van Alen with the Forest Service. I guess we're  
20 doing FP08-06. The executive summary is on Page 114.  
21 This one is a proposal submitted by Mr. Thomas Mills,  
22 Sr., from Hoonah. He requested 10 fish daily  
23 possession limit and no annual limit per household on  
24 the subsistence harvest of sockeye salmon in Neva  
25 Creek.

26

27 And there are daily and annual limits  
28 on the subsistence take of sockeye salmon in all other  
29 Southeast Alaska streams. State permits currently  
30 allow a daily and annual harvest limit of 40 sockeye  
31 salmon in the Neva area. The Federal subsistence  
32 harvest limits default to the limits on the State  
33 permits.

34

35 The proponent, Mr. Mills, was contacted  
36 to understand the intent of his proposal and in  
37 discussions with him, he expressed that having a 10  
38 fish daily possession limit and a no annual harvest  
39 limit on sockeye at Neva Creek would not result in an  
40 appreciable increase in the subsistence effort and  
41 harvest. In addition, he feels that few fishers would  
42 be prepared to travel to Excursion Inlet, walk in and  
43 out of Neva Creek or be able to efficiently harvest  
44 sockeye salmon when they're there.

45

46 He assumes that most subsistence take  
47 will continue to be by State permit holders, fishing  
48 nets from boats in marine waters immediately adjacent  
49 to the outlet of South Creek. He considers the Neva  
50 sockeye run healthy enough to support a moderate

1 increase in harvest and subsistence users responsible  
2 enough to only harvest what they need and what the  
3 stock can support.

4  
5           Some Neva Creek -- we might refer to  
6 the map, Map 1 on Page 117, but that's the creek that  
7 goes from Neva Lake to South Creek. It's probably  
8 maybe more of a local name but it's that section, that  
9 creek, that connection between the lake and South Creek  
10 is where he's specifically requesting that there'll be  
11 a 10 fish daily limit and no annual limit on the take  
12 of sockeye.

13  
14           So this system is relatively a small  
15 system. The lake itself is only 64.5 acres large. The  
16 sockeye run into this Neva area has certainly been  
17 larger than we anticipated. We have been doing a  
18 Fisheries Resource Monitoring Program project there and  
19 escapements have -- until this year were between about  
20 5,000 and 11,000. This year it looks like the  
21 escapement might be a little over 3,000.

22  
23           So the effect of the proposal.  
24 Adopting it would make a bit of an unusual Federal  
25 regulation, it signals out a specific location, that  
26 being Neva Creek, where there's no annual limit for  
27 sockeye salmon. There would be an annual limit on the  
28 subsistence take of sockeye salmon in other parts of  
29 the system as well as it is in all other systems in  
30 Southeast Alaska. There'd also be different daily  
31 possession limits for subsistence take of sockeye  
32 salmon from different parts of the Neva system. This  
33 proposed regulation would further differences in State  
34 and Federal subsistence fishing regulations. Signaling  
35 out Neva Creek in Federal regulations could  
36 unnecessarily increase the effort and harvest of Neva  
37 sockeye salmon. This might increase the number of  
38 users choosing to fish with a Federal subsistence  
39 fishing permit in Neva Creek. However, having the 10  
40 fish daily possession limit on sockeye salmon would  
41 likely discourage people not living close to Excursion  
42 Inlet from participating in the fishery.

43  
44           The subsistence harvest limits put on  
45 each stock reflects the amounts considered to best meet  
46 subsistence and escapement needs.

47  
48           The OSM's preliminary conclusion is to  
49 oppose this proposal, FP08-06.  
50

1                   Justification is the current harvest  
2 limits on State permits are relatively high at 40 fish  
3 per year. State managers have the authority to  
4 increase or decrease harvest limits in future years  
5 depending on the status of the stock and intensity of  
6 use. Local State and Federal manager also have the  
7 authority to modify conditions on individual permits if  
8 special accommodations are needed.

9  
10                   The proponent didn't specifically say  
11 that his subsistence needs were not being met. It is  
12 likely that having no annual limit will increase the  
13 subsistence effort and harvest. It is likely that  
14 increases in subsistence effort and harvest will  
15 require harvest limits in the future and a need to  
16 rescind this regulation. Increased effort and harvest  
17 combined with natural variability in the run might  
18 result in fishing into escapement needs. There's also  
19 a concern about specifying conditions, such as no  
20 annual limit, for a specific location, Neva Creek, in  
21 Federal subsistence regulations. Federal subsistence  
22 fisheries seem to be best served when regulations  
23 address general terms and conditions. For instance,  
24 that salmon, trout and char may be harvested, that a  
25 permit is needed, that a permit will list any special  
26 harvest conditions and that you must report harvest on  
27 the permit and return it.

28  
29                   Thank you.

30  
31                   CHAIRMAN ADAMS: Thank you, Ben.  
32 Questions for Mr. Ben Van Alen.

33  
34                   MR. HOTCH: Mr. Chairman.

35  
36                   CHAIRMAN ADAMS: Yeah.

37  
38                   MR. HOTCH: I'm a little bit confused  
39 here. Under discussion it says State permits currently  
40 allow a daily and annual harvest of 40 sockeyes. A  
41 daily, annually, what's the difference, it seems like  
42 if it's going to be just one number, 40, it should be  
43 annual, but it says daily. Is that 40 daily?

44  
45                   MR. VAN ALEN: What it is, is in some  
46 locations there is a daily level, like can't harvest  
47 more than 10 fish in a day, have in possession 10 fish,  
48 but for the whole year, the whole season you could take  
49 up to 40 fish, let's say. In this location, it turns  
50 out that on the permit they're allowing you to take up

1 to 40 fish in a single day but that is all you're  
2 allowed to take for the whole season. So, yeah, it's a  
3 little bit redundant maybe to state both daily and  
4 annual, but the net effect is they're allowing people  
5 to come, to make the trip, say, across from Hoonah or  
6 whatever, to, hopefully take what they need and that  
7 being up to 40 fish for the year and only having to  
8 make the one trip that summer.

9

10 MR. HOTCH: Thank you.

11

12 CHAIRMAN ADAMS: Mr. Douville.

13

14 MR. DOUVILLE: Thank you, Mr. Chairman.  
15 I would like to know the past history, recent history  
16 of harvest methods in Neva Creek or Neva Lake, if there  
17 is one, is it really used that much or, you know, what  
18 is your knowledge of it?

19

20 MR. VAN ALLEN: My observations of that,  
21 the bulk of the subsistence fishing and take does  
22 indeed occur right off the mouth of South Creek in  
23 marine waters and in the intertidal area. So most of  
24 the fish are taken there. And there are individuals  
25 such as Mr. Thomas Mills, Sr., who have a long history  
26 of fishing, specifically in Neva Creek, using a gaff  
27 and Mr. Mills, it's in the proposal write up, review,  
28 he was indeed born there, in Excursion Inlet, and has a  
29 long history of fishing in a specific location in Neva  
30 Creek using these hand constructed gaffs. He has  
31 certain designed for sockeye and another slightly wider  
32 gaff designed for coho. He is quite efficient at  
33 fishing. Other family members, I'm aware, do that  
34 similar method. But it really isn't many people that  
35 have, in my observation, an understanding fished in  
36 Neva Creek. I think there's a little bit more interest  
37 in the last, say, two or three years, on the counts  
38 have -- up through 2003, the harvest limit on the State  
39 permits had been 10 fish per year.

40

41 I guess I would call it a favorable  
42 outcome of our Fishery Resource project is that we  
43 found the escapements were larger than we anticipated  
44 and the run appears quite healthy, could sustain a  
45 higher harvest level, and the State increased the  
46 harvest limits on the permits, first to 25 and we now  
47 have 40 fish a year for the past three years, I believe  
48 it is, and they've also extended the fishing season  
49 into August 15th from an earlier date of July 31st, so  
50 with this listed on the permit, it's actually the

1 highest permitted take on the State permit in Juneau  
2 area, I believe, certainly catches the interest of  
3 those getting and fishing a State permit. In the  
4 analysis I mentioned that all fishing has essentially  
5 been done on State permits with exception of few fish  
6 harvested two years ago on a Federal permit. But  
7 basically all the fishing, State permits are meeting  
8 people's needs for fishing in this location.

9

10 MR. DOUVILLE: Okay, one other  
11 question. So if he wasn't fishing with a permit  
12 system, subsistence, he could still go sportfish six  
13 fish a day?

14

15 MR. VAN ALLEN: Uh-huh.

16

17 CHAIRMAN ADAMS: Does that mean yes?

18

19 MR. VAN ALLEN: Oh. Yes.

20

21 (Laughter)

22

23 CHAIRMAN ADAMS: Okay. Any other  
24 comments, questions. Okay, thank you, Ben.

25

26 MR. WRIGHT: Mr. Chairman.

27

28 CHAIRMAN ADAMS: Frank, please.

29

30 MR. WRIGHT: Has there been any reports  
31 about people using beach seines over there?

32

33 MR. VAN ALLEN: There have been people  
34 that fish with beach seines. I'm not certain how  
35 effective it's been but there's definitely people in  
36 the -- oh, in Neva Creek?

37

38 MR. WRIGHT: Yeah.

39

40 MR. VAN ALLEN: Sorry. Nope, I've never  
41 observed anything and we've never observed anything --  
42 or we do have a weir up stream and quite often can meet  
43 whoever comes to that area to fish and we've never  
44 observed any net fishing besides dipnet fishing in Neva  
45 Creek.

46

47 MR. WRIGHT: Yeah, Mr. Chairman. I  
48 know Neva Creek's way up here and South Creek's here,  
49 but I'm pretty sure that some guys do beach seine at  
50 the mouth of the river.

1 MR. VAN ALLEN: That's correct.  
2  
3 MR. WRIGHT: But the last two guys that  
4 I knew went over there from Hoonah didn't catch  
5 anything. So it's pretty -- sometimes they'll catch  
6 some and sometimes they won't but the last two guys I  
7 know went over there didn't catch anything.  
8  
9 MR. VAN ALLEN: Uh-huh.  
10  
11 MR. WRIGHT: So -- but it's still --  
12 could still be a hardship for even 10 fish, you're  
13 going to go over daily and catch for 10 fish, you're  
14 going across Icy Straits and that's kind of a health  
15 risk.  
16  
17 MR. VAN ALLEN: Uh-huh.  
18  
19 MR. WRIGHT: You never know if you're  
20 going to get stuck there or what's going to happen.  
21 But it's fortunate there's people living there in the  
22 summer but that's about it. But it's still about 20  
23 miles from Hoonah.  
24  
25 MR. VAN ALLEN: Uh-huh.  
26  
27 CHAIRMAN ADAMS: Thank you, Frank.  
28 Some more.  
29  
30 MR. WRIGHT: (Shakes head negatively)  
31  
32 CHAIRMAN ADAMS: Donald.  
33  
34 MR. HERNANDEZ: On the map on Page 117,  
35 does that show a road that goes up to Neva Lake?  
36  
37 MR. WRIGHT: Yes, there is.  
38  
39 MR. HERNANDEZ: There's a road up  
40 there, okay. I was wondering about, you know, access  
41 for fishing, so that makes it a lot easier for people  
42 to come and go with the fishing gear, okay.  
43  
44 MR. VAN ALLEN: It's maybe -- I don't  
45 know, we could measure but it's about a mile and a half  
46 or so from where it crosses the end of the runway -- or  
47 the beach down there to -- up to Neva Lake, a little  
48 over a mile probably to get to one of the fishing holes  
49 in Lower Neva Creek. Yeah, there's a road there but  
50 they might need a vehicle or plan to walk or ride a

1 bike or something.

2

3 MR. HERNANDEZ: It'd be a long pack  
4 with 40 fish on your back.

5

6 MR. VAN ALLEN: Uh-huh.

7

8 MR. HERNANDEZ: Yeah, but if there's a  
9 road it makes it a lot easier.

10

11 MR. WRIGHT: It used to be a military  
12 camp that's why all the roads are there.

13

14 CHAIRMAN ADAMS: Okay. State of  
15 Alaska.

16

17 MR. PAPPAS: Well, Ben stole -- this is  
18 George Pappas, Department of Fish and Game. It looks  
19 like Ben stole most of my thunder so I'll try to skip  
20 through this one.

21

22 CHAIRMAN ADAMS: Okay.

23

24 MR. PAPPAS: Something we definitely  
25 agree with.

26

27 FP08-06. This proposal as published  
28 would decrease the Federal subsistence daily limit from  
29 40 to 10 sockeye salmon and eliminate the annual  
30 household limit in Neva Creek. It's been pointed out  
31 it would put Neva Creek on a pedestal, there'd be  
32 different regulations there than the rest of Southeast.  
33 The proponent originally submitted this proposal  
34 because he's unable to replace the fish stolen by a  
35 bear after the end of the harvest season. The  
36 proponent's desire for additional harvest is already  
37 permissible under State regulations and I believe under  
38 Federal regulations, too, if someone needs more fish  
39 they can ask and there's usually never a challenge.

40

41 Impact on subsistence users. Reducing  
42 from 40 fish to 10 fish a day, it'd impact a lot of  
43 folks that'd want to go that direction just for 10 fish  
44 in a day instead of 40.

45

46 And adopting this, conflicting -- we'd  
47 have conflicting Federal and State harvest limits and  
48 user -- for user groups in the same watershed and it  
49 can cause confusion in users -- in the users and for  
50 enforcement officers.

1                   The subsistence fishing occurs in the  
2 marine and freshwaters under permits issued by the  
3 State. All State residents can fish both fresh and  
4 marine waters under these limits unless the Federal  
5 Subsistence Program closes the Federal lands to non-  
6 qualified subsistence users. Relatively high daily  
7 harvest limits were also -- will also serve as seasonal  
8 limits for this particular system to disperse fishing  
9 effort and prevent over exploitation in small stocks in  
10 other areas. Under the State permit system the  
11 managers -- the State managers have the in-season  
12 authority to establish or change open fishing periods,  
13 possession limits, annual limits, gear types, et  
14 cetera, by emergency order. And the purpose of this is  
15 to allow for managers to provide for an escapement as a  
16 basis for sustainable harvest while liberalizing the  
17 harvest of surplus returns when they occur.

18  
19                   And for conservation issues. The  
20 Fisheries Resource Monitoring Program funded mark --  
21 weir -- mark and recapture project operated on Neva  
22 Creek and is producing escapements of approximately  
23 5,000 to 11,000 annually, between 2002 and 2006. It  
24 appears the sockeye salmon stock returned to Neva Creek  
25 is currently healthy and can provide for a harvestable  
26 surplus for all users if the number of users and the  
27 amount of harvest does not increase significantly.

28  
29                   And the hand out I had yesterday  
30 provided some harvest information and participation  
31 information there, it looks like from '97 to 2006 about  
32 11 permits have been issued there on average, ranging  
33 from six -- excuse me, ranging from four to 22. And it  
34 looks like the average harvest of sockeye over the last  
35 10 years under State permits is -- oh, it looks around  
36 200 fish or so. It doesn't look like a significant  
37 amount of harvest, sir, you were asking earlier.

38  
39                   Jurisdiction issue. Most subsistence  
40 harvest in this area occurs within the marine wat -- in  
41 fresh -- excuse me, the marine and freshwaters not  
42 subject to Federal regulation. Once again, the  
43 Department requests a detailed map showing the  
44 boundaries and areas where Federal regulations are  
45 claimed to apply and justifications of those  
46 boundaries.

47  
48                   If you look on the map on Page 117 in  
49 our handout there -- excuse me, in the Federal Staff  
50 analysis, you'll see most of the land surrounding the

1 South Creek and the outlet of Neva Creek and the  
2 shoreline of Neva Lake are State and private owned  
3 properties -- or private lands. In addition, Neva Lake  
4 is nav -- a navigable waterway so ownership of the land  
5 is transferred to the State with statehood.  
6 Enforcement difficulties and user confusion concerning  
7 where Federal regulations apply that are different than  
8 State regulations will result in -- will result unless  
9 detailed maps and explanations specifically to this  
10 area for the users is provided.

11  
12 And that concludes my presentation,  
13 sir.

14  
15 CHAIRMAN ADAMS: Thank you, George.  
16 Any questions. Mr. Douville.

17  
18 MR. DOUVILLE: So I heard you say that  
19 a person exhausting his permit, say, and there's an  
20 abundance of fish, he could reapply and get another  
21 permit.

22  
23 MR. PAPPAS: Yes. For the State  
24 perspective an area manager -- and this has happened to  
25 me, if someone gives me a call and says, hey, a  
26 relative's in town, that -- had moved in town, I used  
27 it -- I filled up my permit can I get another one, it's  
28 just a quick justification, or an example for this  
29 proponent, a bear stole all of his fish, what do you  
30 do, you have to go out and get more fish and if  
31 you're.....

32  
33 MR. DOUVILLE: So you've done this in  
34 the past.

35  
36 MR. PAPPAS: I have done this in other  
37 areas, it's.....

38  
39 MR. DOUVILLE: Is the Department the  
40 only place you can get that permit, like, for example,  
41 in Klawock, you go to the -- it's like the tribe and  
42 get a permit, it's the same as the ADF&G one, they just  
43 have the power to issue them and so on, so it is -- say  
44 -- most of these people, I assume come from Hoonah,  
45 can you get that permit from there?

46  
47 MR. WRIGHT: Well, I've applied for a  
48 community permit and they issued me one last week in  
49 Excursion Inlet, so.....

50

1                   MR. DOUVILLE: I guess what I'm saying,  
2 so in Klawock you can go to, like -- not the village  
3 council, but there's another portion of it that does  
4 the same thing, they can issue a fishing permit which  
5 is quite handy because you could get it after hours or  
6 on weekends and sometimes you just have a small  
7 opportunity to use but I was just wondering if this was  
8 available and had the same -- with the same advantage  
9 you said, could they reissue another permit having a  
10 person exhausted one and still had a need for more  
11 fish?

12  
13                   MR. PAPPAS: Mr. Chair. Sir,  
14 distribution of subsistence permits would be different  
15 than getting a second one or refilling one. Many parts  
16 of the state they have designated, you know, canneries  
17 where canneries will issue the subsistence permits or  
18 you can get them through the mail or via a Fish and  
19 Game office because of remote areas, you don't have to  
20 show up in Juneau for a permit. Now, if you exhausted  
21 your permit or you had a situation where you needed  
22 another permit, it would take approval of the area  
23 manager so, you know, it could be as simple as a  
24 telephone call, hey, this is what happened, I need  
25 more, and he could call whoever the distribution point  
26 is and say, hey, no problem, give me the number off the  
27 permit, here's another permit, or a replacement permit  
28 or a second permit. I'm not sure of the distribution  
29 down here. I know Southeast is very fragment by water  
30 so I couldn't tell you at this time.

31  
32                   I could find out who distributes them  
33 and where they distribute them but you would have to  
34 make contact with the area manager for approval and I  
35 have not heard of one denied in other areas.

36  
37                   MR. BANGS: Mr. Chairman.

38  
39                   CHAIRMAN ADAMS: Mr. Bangs.

40  
41                   MR. BANGS: Thank you, Mr. Chairman.  
42 You have a couple of things here.

43  
44                   One, I guess in less words than what  
45 your thing here says, the State opposes this proposal.

46  
47                   MR. PAPPAS: Yeah, I would have to say  
48 that it would be more restrictive and probably --  
49 problematic so the information presented here, does,  
50 yes, I'll go on line [sic], yes, we do oppose this

1 proposal.

2

3 MR. BANGS: Okay. Another question on  
4 this jurisdiction issue.....

5

6 MR. PAPPAS: Uh-huh.

7

8 MR. BANGS: .....I think we were just  
9 explained a little while ago, by Mr. Buklis, that as  
10 long as the water, and correct me if I'm wrong here,  
11 I'm not sure, if the water is under Federal  
12 jurisdiction, we can stand on State lands and still  
13 qualify, we're still qualified to harvest under Federal  
14 regulation.

15

16 MR. PAPPAS: Mr. Chair. Mr. Bangs.  
17 That is the Federal opinion at this time and I would  
18 assume a State Trooper would issue you -- cite you --  
19 would issue you a citation if you had different than  
20 State regulation bag limits, gear, seasons, lengths, et  
21 cetera, so my -- as I understand from every  
22 presentation that we've put forth so far, you'd  
23 actually have to be standing in the water or in a boat  
24 to be able to fish in the Federal waters, you couldn't  
25 fish from State or private lands with Federal  
26 regulations, but you could fish in the waters.

27

28 And I believe that's in court right  
29 now.

30

31 MR. BANGS: Okay. Then we couldn't  
32 walk out of the water and -- we'd be illegal, is that  
33 what you're saying?

34

35 (Laughter)

36

37 MR. PAPPAS: Well, that's where the  
38 complication comes for the regulations. If you walk  
39 out of the water and the State regulations say that you  
40 have a possession limit of five fish and the Federal  
41 subsistence regulations say you have possession of 20  
42 fish and you cross the land with 20 fish, it's a.....

43

44 MR. BANGS: Okay. Okay, I understand.

45

46 MR. PAPPAS: You understand.

47

48 MR. BANGS: Yeah, thanks.

49

50 UNIDENTIFIED VOICE: Good luck.

1 CHAIRMAN ADAMS: Thank you, George.  
2  
3 MR. PAPPAS; Thank you, sir.  
4  
5 CHAIRMAN ADAMS: Okay, other Fed, State  
6 or tribal agencies.  
7  
8 (No comments)  
9  
10 CHAIRMAN ADAMS: Our audience is  
11 getting thinner and thinner out there.  
12  
13 (Laughter)  
14  
15 (No comments)  
16  
17 CHAIRMAN ADAMS: InterAgency Staff  
18 Committee comments.  
19  
20 MR. KESSLER: (Shakes head negatively)  
21  
22 CHAIRMAN ADAMS: None. Any public  
23 comments, Mr. Larson.  
24  
25 MR. LARSON: Mr. Chairman. There are  
26 no public comments.  
27  
28 CHAIRMAN ADAMS: Okay. Public  
29 testimony.  
30  
31 (No comments)  
32  
33 CHAIRMAN ADAMS: Okay, let's go into  
34 Council deliberations. We've got a few minutes here  
35 before Frank has to be out to the airport, it's 3:30  
36 you have to be out there, Frank?  
37  
38 MR. WRIGHT: (Nods affirmatively)  
39  
40 CHAIRMAN ADAMS: So if we could handle  
41 this before he goes, we have done well.  
42  
43 What's the wish of the Council.  
44  
45 MR. BANGS: Mr. Chairman.  
46  
47 CHAIRMAN ADAMS: Mr. Bangs.  
48  
49 MR. BANGS: Thank you, Mr. Chairman. I  
50 move to adopt FP08-06 as written on Page 114.

1 CHAIRMAN ADAMS: Thank you. Do I hear  
2 a second.  
3  
4 MR. KITKA: I'll second it.  
5  
6 MR. LARSON: Bangs and who seconded it.  
7  
8 CHAIRMAN ADAMS: Harvey. Discussion.  
9  
10 Mr. Hernandez, go ahead.  
11  
12 MR. HERNANDEZ: Thank you, Mr.  
13 Chairman. I think I'm gong to vote against this  
14 proposal. I guess I can see -- well, first of all  
15 going through the criteria, I don't think we're dealing  
16 a conservation concern here. The stock seems very  
17 healthy. I don't think changing this proposal would  
18 affect that.  
19  
20 I guess I'm not so sure that this  
21 proposal is necessarily beneficial to the subsistence  
22 users. I guess I can see a couple problems with it.  
23 Making this one area where there's a difference between  
24 State and Federal regulations and actually it's  
25 different from all the other Federal permit  
26 stipulations as well, could cause problems and  
27 confusion. I'm not sure that the 10 fish daily  
28 possession limit would be that advantageous to all  
29 subsistence users. I could see where it would maybe be  
30 an advantage to Mr. Mills, who fishes a specific way  
31 there, but for the rest of the users I'm not convinced  
32 it would be that beneficial.  
33  
34 I don't see that it has any adverse  
35 affects on non-subsistence users. But I guess I just  
36 don't see a clear benefit for the subsistence users in  
37 adopting this proposal.  
38  
39 CHAIRMAN ADAMS: Thank you, Donald.  
40 Any other comments.  
41  
42 (No comments)  
43  
44 CHAIRMAN ADAMS: Okay. Just, if you  
45 don't mind I'd like to ask Frank a question. Were you  
46 aware of this proposal and did Mr. Mills, you know,  
47 talk to the people in Hoonah or the area about this and  
48 get some support from some of the user groups and so  
49 forth. I'm curious because I get pretty suspicious  
50 when an individual, you know, submits a proposal and

1 there's no public input from it.

2

3 MR. WRIGHT: I know Mr. Mills pretty  
4 well, no, I didn't see this. He never talked to me  
5 about it or anything so this is on his own. I know he  
6 fishes that area quite a bit. Like Mr. Van Alen said,  
7 he was born there, and he grew up there.

8

9 And I knew he -- two years ago he was  
10 one of the fish counters for the place and I know the  
11 two young men that are working there now. But, no, he  
12 never said anything to me about it.

13

14 CHAIRMAN ADAMS: Okay. Just kind of  
15 curious, thank you.

16

17 MR. WRIGHT: Yeah. I -- Mr. Chairman.  
18 You know 10 fish daily possession I think daily is not  
19 subsistence. If you're going to run across Icy Straits  
20 and go to a place where it could be pretty rough in  
21 between is kind of a waste of time for 10 fish daily  
22 because.....

23

24 CHAIRMAN ADAMS: Uh-huh.

25

26 MR. WRIGHT: .....you know you have to  
27 either go there and then you have to come back, then go  
28 back and that's not really -- the way gas is right now,  
29 now days, it's not beneficial.

30

31 CHAIRMAN ADAMS: Uh-huh, yeah, that's  
32 kind of odd. George, I got a question for you if you  
33 don't mind coming up.

34

35 MR. PAPPAS: Yes, sir.

36

37 CHAIRMAN ADAMS: In Yakutat, you know,  
38 we have a subsistence permit that we go get from the  
39 office at the beginning of the year before the king  
40 salmon runs and it's a form that we fill out and then  
41 we have all of the different species of salmon, you  
42 know, on the top here and we put up on top here how  
43 many king salmon you want, how many sockeyes, how many  
44 other, you know, species of salmon that we want and  
45 we'll plug that in there and then as we go out and  
46 subsistence fish, you know, we fill in the blanks there  
47 and so forth, why is Yakutat so different than other  
48 parts of Southeast Alaska?

49

50 MR. PAPPAS: Mr. Chair. As I

1 understand it from our comments, when we get to the  
2 next proposal, I believe, Yakutat has one of the most  
3 liberal subsistence fisheries in the state, from gear  
4 types, no limits.

5  
6 CHAIRMAN ADAMS: Uh-huh.

7  
8 MR. PAPPAS; I would assu -- the only  
9 assumption I have at this time is maybe it's larger  
10 stocks, larger available numbers of fish in comparison  
11 to some of the smaller populations that are down here  
12 and available where you see some of the runs are 3,000,  
13 4,000, 5,000, 10,000 fish.

14  
15 CHAIRMAN ADAMS: Uh-huh.

16  
17 MR. PAPPAS; That's the only estimation  
18 -- only valid explanation I can come up with right now.

19  
20 CHAIRMAN ADAMS: Okay. Well, I  
21 appreciate that, I was kind of curious. Thank you.

22  
23 MR. DOUVILLE: Mr. Chair.

24  
25 CHAIRMAN ADAMS: Pardon.

26  
27 MR. DOUVILLE: Can I ask a question?

28  
29 CHAIRMAN ADAMS: Sure, you bet.

30  
31 MR. DOUVILLE: I don't know if this  
32 relates to our proposal, but you understand what he's  
33 saying, you got to go 20 miles to go get 10 fish.

34  
35 MR. PAPPAS: Uh-huh.

36  
37 MR. DOUVILLE: You know how much gas  
38 cost and everything and you see what the weather's like  
39 sometimes, is there any way the State can  
40 administratively change that bag limit so you could  
41 take your annual limit like in one set sometimes and go  
42 home and you're done. I mean in the -- just for pure  
43 efficiency alone it makes total sense to me.

44  
45 So does this take Board action or can  
46 you do -- since there is already a 40 fish limit, could  
47 you allow them to take it in a day?

48  
49 MR. PAPPAS: Mr. Chair. Yes, and part  
50 of the process of skipping through the comments, yeah,

1 the current limit right now at Neva is 40 fish per day,  
2 and in possession. So you can go get your annual limit  
3 at one time, you can go get your 40 fish at one time.

4  
5 MR. DOUVILLE: Okay. All right, very  
6 good.

7  
8 CHAIRMAN ADAMS: Thank you. Any other  
9 questions.

10  
11 (No comments)

12  
13 CHAIRMAN ADAMS: Okay, thanks. So  
14 we're in deliberations, right.

15  
16 What's the wish of the Council, do you  
17 want to vote on this now before Frank goes.

18  
19 MR. HERNANDEZ: I'll call for the  
20 question, Mr. Chairman.

21  
22 CHAIRMAN ADAMS: The question has been  
23 called for. All in favor please signify by saying aye.

24  
25 MR. HOTCH: Aye.

26  
27 CHAIRMAN ADAMS: Opposed.

28  
29 IN UNISON: Aye.

30  
31 CHAIRMAN ADAMS: Opposed. The nay's  
32 make it. Okay.

33  
34 Frank I know you have to go and safe  
35 flight, I understand the planes are flying.

36  
37 (Laughter)

38  
39 CHAIRMAN ADAMS: And we appreciate your  
40 attendance here, you know, up to this point and wish  
41 you a safe trip home.

42  
43 Let's take a break.

44  
45 (Off record)

46  
47 (On record)

48  
49 CHAIRMAN ADAMS: Okay, everyone, we're  
50 going to go back into session here.

1 (Pause)

2

3 CHAIRMAN ADAMS: Right now I've got  
4 some of these green slips here which means we've got  
5 some people who want to testify on some issue or  
6 another and we'll take a few of these right now.

7

8 I just want to maybe make everyone  
9 aware that I made it a point to try to get out of here  
10 tomorrow at a certain, I'm not going to tell you what  
11 that time is.

12

13 (Laughter)

14

15 CHAIRMAN ADAMS: But I want you to know  
16 that I have that on the agenda, in my mind's agenda, so  
17 we're going to work real hard to try to meet that. So  
18 if I get kind of pushy, you know, a little bit you'll  
19 know what I'm after.

20

21 I want to take public testimony now.  
22 Peter Gall started a little bit this morning, I'd like  
23 to have him come forward and finish. I think we're  
24 going to give you, you know, each of you five minutes  
25 and then we'll open it up for questions and answers and  
26 so forth, and I think that will help the process in me  
27 meeting my goal tomorrow.

28

29 MR. GALL: You bet. Thank you, Mr.  
30 Chairman. If you'd give me a signal when I hit three  
31 minutes, I'd grateful.

32

33 CHAIRMAN ADAMS: Okay.

34

35 MR. GALL: And I'll make sure I wrap  
36 up.

37

38 I introduced the subject earlier. In  
39 summary, after many, many years of national and state  
40 and local discussion the lands in Haines were  
41 classified. They were classified in a manner that  
42 protected resource development and also protected  
43 subsistence resources. And the way that subsistence  
44 resources were protected was to establish a zone around  
45 Klukwan that is called the Chilkat Bald Eagle Preserve,  
46 which is withdrawn from multiple use under State law,  
47 which means that as it's dedicated to a specific  
48 purpose, the protection of these salmon. Any potential  
49 use, conflict, is simply not permitted.

50

1                   There are a list of purposes, and they  
2 include they include the enjoyment of the area but such  
3 enjoyment, whether private or commercial is only  
4 allowed to the extent that it poses no risk. And I'd  
5 like to just try to maybe pause for a minute to try to  
6 explain what I mean by no risk.

7  
8                   In absolutely every place on the  
9 Pacific Coast of the United States where people have  
10 moved the salmon resource -- let me rephrase. Every  
11 place on the West Coast of the United States since the  
12 period of colonization the salmon resource has  
13 deteriorated as people have moved into the area.  
14 That's because when there's human activity next to  
15 salmon activity the salmon die. They're not able to  
16 spawn successfully. They're not able to rear  
17 successfully. And this is not really subject to  
18 debate. So in order to protect salmon you sort of stay  
19 back from the streams and you don't mess around in the  
20 rearing habitats and you don't stir up the silt.

21  
22                   The issue that was raised by another  
23 person, I believe, yesterday, was that the State of  
24 Alaska is not enforcing this law, is ignoring its  
25 intent and its purpose which was specifically to divide  
26 the area into places where commercial and industrial  
27 use was appropriate and where it was prohibited and  
28 they're allowing this commercial high powered activity  
29 in the protected area.

30  
31                   To sum it up in a sentence, if you take  
32 a 200 horsepower jet drive engine and you put it in  
33 water and you turn it on it make an awful lot of  
34 turbulence and it does it in an area that's pretty  
35 significant. And if you run it through narrow streams  
36 or shallow waters where salmon are spawning and  
37 rearing, you've damaged the habitat. You put one of  
38 these engines in a tank and put a little thrust meter  
39 in there and you can do all the proof that is  
40 necessary. There really isn't a matter of fact.  
41 What's happening is that the State is demanding proof  
42 of actual damage before it intervenes.

43  
44                   Which means, going there and damage the  
45 protected area, show us it's been damaged and then  
46 we'll think about it and this is just totally contrary  
47 to the letter and the spirit of the law and the  
48 regulations.

49  
50                   The regulations do not permit any

1 activity that requires limitation and clearly this  
2 activity that's been discussed before you already  
3 requires limitation, it is illegal.

4  
5                   And my understanding is you don't have  
6 direct authority to intervene because this is an area  
7 that's on State land. There is a debate about that  
8 with regard to the navigability of the waters and  
9 whether or not since they go past Native allotments,  
10 and you have heard about the damage to Native  
11 allotments and so forth, the stream site erosion and so  
12 forth. There are other people who feel that you do  
13 have a right to take a stand on this.

14  
15                   Either way, sir, it would be wonderful  
16 for the salmon resources and the subsistence people of  
17 Haines and Klukwan, were this group to take a strong  
18 position, and make it's position known to the State of  
19 Alaska.

20  
21                   To bring this back to where I started,  
22 this State control of the area only exists today  
23 because of this legal deal made in 1982, otherwise we'd  
24 be part of Glacier Bay National Monument and we'd be  
25 asking you to take control 100 percent.

26  
27                   So I'm happy to have the State do its  
28 job, I just wish it would do its job. I'd be grateful  
29 for your support, letter of support would be nice. If  
30 you want documentation I can provide it. If you'd like  
31 other resources to examine the issue, I can make them  
32 available.

33  
34                   I'll wrap up at that.

35  
36                   Thank you.

37  
38                   CHAIRMAN ADAMS: Thank you, Mr. Gall,  
39 we appreciate your being here and sharing that with us.  
40 Tomorrow we are going to be taking that issue up toward  
41 the end of the agenda and if you'd like to come and  
42 provide some more testimony you're sure welcome to do  
43 that.

44  
45                   MR. GALL: Thank you, very much,  
46 appreciate it.

47  
48                   CHAIRMAN ADAMS: Thank you. Any  
49 questions for Mr. Gall.

50

1 (No comments)  
2  
3 CHAIRMAN ADAMS: Gunalcheesh.  
4  
5 MR. GALL: Keep up the good work, thank  
6 you very much.  
7  
8 CHAIRMAN ADAMS: Thank you.  
9  
10 MR. GALL: Good to see you.  
11  
12 CHAIRMAN ADAMS: Is Larry Edwards in  
13 the house.  
14  
15 (Pause)  
16  
17 CHAIRMAN ADAMS: Mr. Edwards, welcome.  
18  
19 MR. EDWARDS: Thank you, Mr. Chairman.  
20 My name is Larry Edwards. I'm a long time resident of  
21 Sitka. I work there for Greenpeace on Forest issues.  
22 And I just wanted to tell the Committee a little bit  
23 about what I'm working on.  
24  
25 One thing I think is important to  
26 realize in terms of the Tongass Land Management Plan is  
27 the provisions that it has under standards and  
28 guidelines regarding subsistence for deer. There are  
29 basically three sections in there that are pertinent to  
30 that. There's a section on deer. There's a section on  
31 subsistence which, you know, the applicability of that  
32 is pretty straightforward. But the difficulty is that  
33 the language is very general and it's not really  
34 enforceable. The only set of standard and guidelines  
35 in there that deal with subsistence in any way at all  
36 that could be enforced is the wolf standard and  
37 guideline, which has a subsection that establishes 18  
38 deer per square mile and habitat capability is a  
39 requirement to provide, both for wolf viability and  
40 subsistence because wolf viability and subsistence are  
41 tightly intertwined, you have to look at them both  
42 together.  
43  
44 And if you look at how the Forest  
45 Service has been addressing habitat capability in its  
46 timber sale EIS' it has not been using the underlying  
47 science, the best available science as Fish and Game,  
48 for example, says it should be done or if you look at  
49 the lot of the studies that have been. It would be  
50 really instructive to look at the State's comments on

1 the 2007 TLMP Draft EIS where it is very critical of  
2 how the assessments of habitat capability have been  
3 done. And I won't get into all the technical parts  
4 right now but I do have, on my computer here, three  
5 maps, that I can take people aside and show that are  
6 interested in this, perhaps, and address the situation  
7 regarding habitat capability in game management units  
8 1C, 2 and 3. And I think it will show some  
9 difficulties that people I should be aware of here.

10

11 So I'll just leave it at that for now  
12 and I'd like to make a formal presentation if I could  
13 at your meeting in Sitka in February on this.

14

15 CHAIRMAN ADAMS: Sure, we'll be there.  
16 Thank you, Mr. Edwards.

17

18 MR. EDWARDS: Thank you.

19

20 CHAIRMAN ADAMS: Any questions of Mr.  
21 Edwards.

22

23 (No comments)

24

25 CHAIRMAN ADAMS: Okay, thanks. Robert  
26 Sanderson, Jr.

27

28 MR. SANDERSON: Thank you, Mr. Chair.  
29 I appreciate this opportunity to speak and thank you to  
30 the rest of the Council. I am here representing  
31 Tlingit and Haida Central Council. My name is Robert  
32 Sanderson, Jr., I am from the Haida nation, I grew up  
33 in Hydaberg, I now reside in Ketchikan.

34

35 My comments to you, Mr. Chair and to  
36 the rest of the Council are that as a representative  
37 for Tlingit and Haida Central Council Executive  
38 Committee, I would like to offer these comments to you  
39 from our organization to yours.

40

41 All too often those of us that are in  
42 the trenches do not receive support for our efforts or  
43 we either forget why and who we are, therefore, we at  
44 Central Council Tlingit and Haida take full  
45 responsibility for the role or lack of it when it comes  
46 to subsistence. And as one of the newcomers, along  
47 with a new president, we are here to begin the process  
48 of moving into a role that we should have had since we  
49 were created.

50

1 I am here at this time to give you a  
2 perspective from my point of view and our organization  
3 and to offer some insight to you so that you do not  
4 forget why you are here.

5  
6 We represent over 26,000 members,  
7 15,000 which live in Southeast Alaska and they are all  
8 Natives or descendants of Native. We recently created  
9 a subsistence position, one that is responsible for  
10 grant writing, Native subsistence issues, research, it  
11 is our desire from here on out that we'll be advocates  
12 for our people, a position that we should have always  
13 had but did not.

14  
15 As a proud Alaska Native from the Haida  
16 nation and as a representative for the Tlingit and  
17 Haida, I want to express to you my personal opinions,  
18 then Tlingit and Haida's position on the subsistence.  
19 I know that when ANILCA was written and passed it  
20 created a rural preference for all Alaskans on public  
21 lands, it also created Regional Advisory Councils for  
22 Alaska and that subsistence is the highest priority,  
23 not sportfishing or commercial fishing. It empowered  
24 you with an authority to oversee the fish and wildlife  
25 management of Southeast Alaska and authority that will  
26 be beneficial for all of us and that what's to be put  
27 in place to protect our lifestyle from here on out. It  
28 has been very disappointing to see our subsistence  
29 foods become scarcer and I would like to see the  
30 Southeast RAC become more stronger with the Federal  
31 Subsistence Board and the Office of Subsistence  
32 Management. And I'm here to tell you that you are  
33 strong advocates for our people and that you need to  
34 protect, which is important to our people, I say this  
35 because we view you as role leaders and that this  
36 Council always needs to remain strong. And that's  
37 where Central Council's coming from today.

38  
39 So in the past, Mr. Chair, Central  
40 Council has not been in the ball game for a lot of  
41 years for one reason or another, I do not know, but  
42 from here on out we are. And, Mr. Chair, if I may  
43 address Joe Hotch on a couple issues that I heard him  
44 comment.

45  
46 Central Council has been going out to  
47 the communities, having our EC meetings in the  
48 communities and listening to their concerns and we are  
49 acting on a lot of them, we just don't take notes and  
50 push them under the table. This last year the

1 delegation for Central Council replaced the entire  
2 executive committee so with that came new energy. And  
3 so there are a lot of good things happening at Central  
4 Council right now and we'll be having a meeting up here  
5 for the executive council in the Haines area within the  
6 next month or two. So we're going to bring our EC up  
7 here so we can listen to the concerns of the Haines and  
8 Klukwan area.

9

10 So that's where we're at right now.  
11 And we wish to continue to work and dialogue with the  
12 RAC if at all possible.

13

14 There's another concern that the Tribe  
15 has, is the silence of the Governor, on subsistence  
16 issues, that worries us.

17

18 With that, we're just going to continue  
19 to keep forward and doing the best that we can for our  
20 people and that's where we're at right now. So if  
21 there's any questions, Mr. Chair.

22

23 CHAIRMAN ADAMS: Any questions of Mr.  
24 Sanderson. Go ahead, Harvey.

25

26 MR. KITKA: Thank you, Mr. Chair. Mr.  
27 Sanderson, I sit on Sitka Tribal Council in Sitka and  
28 we've been sending letters to T&H asking to meet with  
29 them, we've had some issues over some things and we  
30 definitely want to meet with the executive council at  
31 some time.

32

33 Thank you.

34

35 MR. SANDERSON: I will bring that back  
36 to the body and I will push for that meeting. And  
37 that's one thing that this executive council wants, is  
38 to make ties with their other tribes stronger. You  
39 know, I know there's a lot of tension between the  
40 smaller tribes and Central Council, that's no secret,  
41 that's common knowledge. But it's our goal to start  
42 repairing these relationships with the tribes and  
43 hopefully with some work we'll get that.

44

45 If you have sent letters, I have not  
46 seen them and that's something that I will take back  
47 and I will look into. So I appreciate you bringing  
48 that up.

49

50 CHAIRMAN ADAMS: Thank you, Robert.

1 Any more questions for Robert. Joe.

2

3 MR. HOTCH: Thank you. Thank you for  
4 your comments. But I'm wondering if the Tlingit and  
5 Haida tribal court would make itself available to the  
6 17 tribes that you're looking over. If I get picked up  
7 under State or Federal law, I should have that choice  
8 which court I should go to. I've always explained this  
9 in different meetings. I shouldn't be just told you go  
10 to the State court, I should have the choice to use  
11 Tlingit and Haida tribal court if I want to, or the  
12 Federal court, and this is a question that has been  
13 asked, and Central Council tribal court, it would be a  
14 lot helpful to us.

15

16 MR. SANDERSON: Yes, I appreciate your  
17 comments, Mr. Hotch. Central Council's new court  
18 building and their tribal courts are just starting up  
19 and, again, this is a place that I feel that we should  
20 have been years ago but, again, we have not, and,  
21 again, that comes with new blood. And before I leave  
22 this table, to the members that do belong to Central  
23 Council, that we do not move forward without a lot of  
24 consultation, we put a lot of meaning to our work and  
25 we give special consideration to our elders and to our  
26 children.

27

28 So I'm going to go ahead and leave you  
29 guys a card before I leave here tomorrow and if there's  
30 any questions, please feel free to contact me. Because  
31 I'll be getting back on that and we truly, truly are  
32 here to stay, you know, and, I, for one do not -- I  
33 guess I don't have really no answer why we were never  
34 really involved in subsistence, we were but they were  
35 kind of mute in their efforts but it's not like that no  
36 more. We're going to be at every meeting possible,  
37 whether it be staff or an executive council member.

38

39 The concerns that were brought up here  
40 from the Sitka Tribe and from you, Mr. Hotch, we'll  
41 deal with them at this very next meeting, I assure you.

42

43 MR. KITKA: Thank you, Mr. Sanderson.

44

45 MR. SANDERSON: Thank you. That's all  
46 I have Mr. Chair for now.

47

48 CHAIRMAN ADAMS: Thank you, Robert. We  
49 appreciate, you know, your presence here and we look  
50 forward to Central Council's participation in future

1 RAC meetings.

2

3 Thank you.

4

5 MR. SANDERSON: Thank you. And I  
6 realize you guys are in a position that it takes great  
7 strength to make these decisions and good luck to each  
8 and every one of you.

9

10 This is Carrie Sykes, one of our  
11 technical people we just hired at Central Council, and  
12 she's going to go ahead and explain a lot of the  
13 technical stuff that they've been working on, so, thank  
14 you, Mr. Chair.

15

16 CHAIRMAN ADAMS: We will allow Carrie  
17 to have her say so.....

18

19 MS. SYKES: Hi, I'm Carrie Sykes. I  
20 know many of you. I'm a Haida from Ketchikan, Alaska.  
21 My grandmother was Vesta Johnson. I've been involved  
22 with subsistence all of my life and I've been involved  
23 with the business and economic development department  
24 for quite some time. I've been gone a little bit, I  
25 went back to college and now I came back, I graduated  
26 and so I'm back now and I work with subsistence and  
27 sustainable development.

28

29 I just wanted to let you know a little  
30 bit about what we're doing with subsistence.

31

32 You know, we agree that subsistence is  
33 very important, it's something that Central Council has  
34 a little lapse in. We used to have a person that was  
35 devoted to subsistence and now we ran out of funds for  
36 that position, but now we have funds again so I'm going  
37 to be working on this and we realize that we all need  
38 to work together, you know, work cooperatively with the  
39 tribes and take collective action so that's our plan,  
40 is to work with the Southeast tribes and also working  
41 with the Alaska Council of Village Presidents to  
42 identify some top issues in the State and also at the  
43 Federal arena.

44

45 But with State management issues right  
46 now, we had a meeting with -- or actually AVC [sic] had  
47 a meeting in June 4th, that was before I started and  
48 they identified 30 top concerns to do with subsistence  
49 and this was in preparation for a meeting with Governor  
50 Palin and that meeting never happened. We called and

1 they said that we were on her schedule and then at the  
2 last minute we weren't able to meet with her so we want  
3 to pursue this but we want to do it with a plan. And  
4 right now the purpose is to bring these State issues to  
5 the table and also to see how she interprets ANILCA,  
6 Title VIII, and, you know, see how it's going to be to  
7 work with her.

8  
9                   What we've done so far is we took the  
10 work that AVCP did in June with their top 30 issues and  
11 I sent out a letter under the signature of President  
12 Martin and attached to it is a ballot and it has the  
13 top 10 State concerns that were identified from AVCP's  
14 30 identified issues. And what we're trying to do is,  
15 one, identify the top one or two issues and we want to  
16 get with the Governor and try to start working with  
17 her, build a relationship, we don't want to bombard her  
18 with a whole bunch of issues at once, we want to try to  
19 take a bite out of the elephant a little bit at a time  
20 and make some progress that way and then we'll work on  
21 additional issues. But that's our plan of action right  
22 now is to do that.

23  
24                   But this letter and this ballot and  
25 packet of information went to all of the Southeast  
26 tribes -- or all of the tribes in Alaska and we've  
27 asked them to return their ballots to me and right now  
28 I'm working on tallying up all of their votes and  
29 figuring out what issues the tribes want us to work on  
30 first. And so that's kind of what we're going to do,  
31 even though we realize that there are region specific  
32 concerns, we think that we need to band together and  
33 talk to the Governor and see what we can do to try to  
34 get more Native representation and try to get more  
35 done.

36  
37                   In any case the next step is to  
38 coordinate a subsistence forum at AFN and that will be  
39 in Fairbanks very soon, so I'm going to be working on  
40 that with the Council of Village Presidents.

41  
42                   On another note with Federal  
43 management, we had a meeting in Anchorage not very long  
44 ago, I think that was at the beginning of the month and  
45 the people included Hans Neidig, the DOI solicitor,  
46 AFN, we had staff members from Representative Stevens,  
47 Young and Murkowski's office. We also had Fish and  
48 Wildlife there, people from their Office of Subsistence  
49 Management, and we also had a member from the Federal  
50 Subsistence Board, along with people from the Bristol

1 Bay Native Association, Kawerak and other Native  
2 organizations. We realize that there's a lot of issues  
3 and so we're really trying to coordinate and see how we  
4 can move forward on this.

5  
6 Right now I'm still working on my  
7 learning curve, there's a lot to learn about  
8 subsistence and so Central Council will be taking all  
9 these proposals and we're going to review them all and  
10 go before the executive council, we always have to go  
11 for direction from them and we'll be commenting --  
12 providing formal comment and public testimony at the  
13 Federal Subsistence Board meeting in December. There's  
14 lots of issues and we look forward to working with the  
15 Southeast RAC and supporting tribes on rural and --  
16 supporting tribes and the rural subsistence users.

17  
18 CHAIRMAN ADAMS: We appreciate your  
19 presence here, Carrie and Robert.

20  
21 MS. SYKES: Thank you, Mr. Chair.

22  
23 CHAIRMAN ADAMS: Is there any questions  
24 to either of these people.

25  
26 (No comments)

27  
28 CHAIRMAN ADAMS: Well, we sure thank  
29 you and look forward to seeing you at future RAC  
30 meetings.

31  
32 Lee.

33  
34 MR. WALLACE: I just had a question to  
35 Carrie, I asked her, once that survey went out, I was  
36 interested in what your -- you were saying the top two  
37 issues, what are the currently top two issues right now  
38 that you've had with all the data you've received?

39  
40 MS. SYKES: I'm working on tallying  
41 them so I could have like pie charts and show from  
42 different areas, which ones showed up as the most  
43 important, but just from going through them is more  
44 Native representation on boards and councils so that we  
45 can have a voice at the table. That's the one that has  
46 been consistently number 1.

47  
48 MR. WALLACE: Thank you.

49  
50 CHAIRMAN ADAMS: He wants to know if

1 it's your intent to share those 10 points, you know.  
2  
3 MS. SYKES: Yes, oh, yes, in fact I was  
4 going to say I'll make copies of this.  
5  
6 CHAIRMAN ADAMS: You'll make copies of  
7 it.....  
8  
9 MS. SYKES: Yes. And I'll have this  
10 available tomorrow.  
11  
12 CHAIRMAN ADAMS: .....and do that  
13 through Robert.  
14  
15 MR. LARSON: Yes.  
16  
17 MS. SYKES: Thank you, because I was  
18 going to say that.  
19  
20 CHAIRMAN ADAMS: Thank you.  
21  
22 MR. SANDERSON: Thank you, Chairman.  
23 And when it's time for everybody to travel we wish you  
24 well, to get home.  
25  
26 CHAIRMAN ADAMS: Thank you.  
27  
28 MR. SANDERSON: Thank you, very much.  
29  
30 CHAIRMAN ADAMS: Thank you, much. Lee  
31 Heinmiller, is he in the house.  
32  
33 MR. HEINMILLER: Thank you. My name is  
34 Lee Heinmiller, I'm a local resident of the Chilkat  
35 Valley, I was born and raised here. I've lived here  
36 rapidly approaching 55 years. For the last 30 years,  
37 at least, I've subsistence fished in saltwater,  
38 I've.....  
39  
40 CHAIRMAN ADAMS: Excuse me, Mr.  
41 Heinmiller.  
42  
43 MR. HEINMILLER: Yes.  
44  
45 CHAIRMAN ADAMS: You came in kind of  
46 late, we put a five minute time limit on the  
47 testimony.....  
48  
49 MR. HEINMILLER: Sure.  
50

1 CHAIRMAN ADAMS: .....so if you'd like  
2 to honor that we'd sure appreciate it.

3  
4 MR. HEINMILLER: No problem, I can do  
5 that easy. I've subsistence fished in saltwater, drift  
6 fishing since the mid-70s and I've fished some in the  
7 river along that -- I have watched the subsistence  
8 fishing gradually decline over the last 30 years. This  
9 year was probably the slowest fishing year ever in  
10 order to get my 50 sockeye for subsistence fishing, I  
11 went fishing 17 times this year. I compared it with my  
12 notes from the last 10 years and there were times where  
13 I caught as many fish as I caught all year in one time  
14 in the last, you know, 10 years, and in the last few  
15 years, especially on the Chilkat run it's just been  
16 declining, you know, more and more.

17  
18 I watched the logging develop in this  
19 area in the early '70s and stuff and basically the  
20 fishery slowly declined from that.

21  
22 I had the opportunity to get into  
23 fishing in the early '70s, Bill Sparks offered to sell  
24 me his permit and his boat when I was going to have to  
25 make the big choice to go to college or just stay home  
26 and fish, I went to college, I don't think it did me a  
27 whole lot more good.....

28  
29 (Laughter)

30  
31 MR. HEINMILLER: .....and the years of  
32 fishing when I would have made any money were those  
33 early years in the '70s.

34  
35 And I just wanted to speak to the issue  
36 that I think fisheries definitely have declined and the  
37 priority of subsistence fishing is something that I  
38 think we really need to maintain.

39  
40 I'm the Chair of the local planning  
41 commission and, of course, in that we've done the  
42 comprehensive plan in the last few years for the  
43 borough. In the course of that we found that one of  
44 the things that was still self-evident in the  
45 subsistence fishery is that the protein value of the  
46 subsistence fishery in the Chilkat Valley is 126  
47 percent of the food requirement for the entire Valley's  
48 population today. And I know in the past it was much  
49 greater than that. Klukwan had a subsistence fishery  
50 or a fishery that developed a resource that gave them

1 the ability to trade for many generations with a  
2 surplus of food and at this point I think the gradual  
3 decline of the fishery, including the subsistence  
4 fishery is something that really needs to be addressed  
5 and the more that we can do to protect that fishery,  
6 including the subsistence hunting in Icy Straits area  
7 for people that live in Lynn Canal, for deer, is of the  
8 utmost importance to all of us, I believe.

9

10 Thank you for your time.

11

12 CHAIRMAN ADAMS: Thank you. Any  
13 questions of Mr. Heinmiller.

14

15 Donald.

16

17 MR. HERNANDEZ: Do you do most of your  
18 subsistence fishing on the Chilkat River runs or.....

19

20 MR. HEINMILLER: I do. And I took Fish  
21 and Game's advice this year when they said the fish  
22 weren't showing up and I quit fishing for three weeks  
23 and by the time I decided to go back out fishing  
24 everybody in Klukwan told me that all the Chilkat Run  
25 sockeye had managed to arrive in Klukwan just like they  
26 expected. They'd been drifting for the last couple of  
27 weeks there and I still think that one of the most  
28 important things that they could do for the fishery is  
29 to utilize the subsistence fisheries fishing  
30 information along the course of the year.

31

32 I think that subsistence fishermen  
33 should turn in the details of their catch to Fish and  
34 Game every week because at the end of the year it  
35 doesn't do them a lot of good to know when the fish  
36 were on the Chilkat side when the only wheels they had  
37 were up at Nine Mile and the fish are in saltwater long  
38 before that. And I don't think that the subsistence  
39 fishermen would mind having to call in once a week and  
40 say where the fish were but I think the subsistence  
41 fishermen in saltwater have a pretty good idea where  
42 the fish are when no one's commercially fishing in that  
43 same area yet. And as it is now there haven't been any  
44 commercial boats in the area that I fish, near  
45 Letnikof, at all, this season because they haven't let  
46 them up the river that far. But if they used it as a  
47 tell-tale sign of where the fish were and when they  
48 were coming, I think it would really help Fish and  
49 Game.

50

1 CHAIRMAN ADAMS: Mr. Bangs.

2

3 MR. BANGS: Thank you, Mr. Chairman.  
4 That planning commission that you're on, does it have  
5 any say in these high powered jet boats or could you  
6 have an influence on that?

7

8 MR. HEINMILLER: We have a little bit  
9 of influence in the fact that we're only land use  
10 planning for the borough but it's area wide now and so  
11 because of that we also do -- are the group that  
12 addresses coastal zone management and because of that  
13 coastal zone management and we've just asked to extend  
14 the purview of the borough under coastal zone  
15 management from being what was the town site area to  
16 being the entire borough because we think that the  
17 watershed up Tisanki (ph) and the Chilkoot area and all  
18 the way over to Excursion Inlet and everything else  
19 that's in the borough is something that, as the  
20 planning commission from here, we should weigh in about  
21 as far as protecting those resources. And that will  
22 really come up when we redo the comprehensive plan,  
23 which we do every two years, which will basically be  
24 redone again for next year.

25

26 MR. BANGS: Thank you.

27

28 CHAIRMAN ADAMS: Okay. Thank you, sir,  
29 appreciate it.

30

31 MR. HEINMILLER: Thank you.

32

33 CHAIRMAN ADAMS: Okay, we're going to  
34 move right into Proposal No. 08-05 now. Mr. Ben Van  
35 Alen.

36

37 MR. VAN ALEN: Thank you. Mr. Chair.  
38 Ben Van Alen with the Forest Service in Juneau. The  
39 executive summary for FP08-05 is on Page 108 in your  
40 booklet. This is a proposal submitted by the Southeast  
41 Regional Advisory Council. It seeks to clarify the  
42 times and places when Federal subsistence users may  
43 harvest salmon when there are commercial set gillnet  
44 openings in Yakutat area rivers and bays.

45

46 The proposal specifically seeks to  
47 remove the prohibition against subsistence fishing 48  
48 hours before and after commercial fishing periods.  
49 Federal subsistence users managers, the enforcement  
50 officers have been uncertain how to interpret and

1 comply with the Federal subsistence regulation which:

2

3                   You may not take salmon during the  
4                   period commencing 48 hours before a  
5                   State opening or of commercial salmon  
6                   net fishing season and ending 48 hours  
7                   after the closure.

8

9                   This applies to each river or bay  
10 fishery individually.

11

12                   Also with the accompanying regulation  
13 which reads:

14

15                   When the length of the weekly State  
16                   commercial salmon net fishing period  
17                   exceeds two days in any Yakutat area  
18                   salmon net fishery the subsistence  
19                   fishing period is from 6:00 a.m. to  
20                   6:00 p.m. on Saturday in that location

21

22                   So those two regulations were copied  
23 nearly verbatim from State regulations which restrict  
24 fishing where and when there are commercial set gillnet  
25 openings. And both the State and Federal subsistence  
26 fishing regulations prohibit the commercial sale of  
27 salmon taken in subsistence fisheries and offsetting  
28 the subsistence and commercial fishing times reduces  
29 the likelihood that this will occur.

30

31                   So neither the State or Federal  
32 regulations restrict subsistence fishing in other parts  
33 of the river during commercial openings. But kind of a  
34 tradition in Yakutat is a few subsistence fishers have  
35 chosen to subsistence fish anywhere in a system when  
36 part of it is closed due to a commercial opening. So  
37 there are Federal and State fishing regulations, like I  
38 mentioned, that prohibit the commercial sale of  
39 subsistence taken fish and the regulations that require  
40 the marking of -- a fin clip marking of subsistence  
41 caught salmon. Both those regulations are intended  
42 directly to keep subsistence taken fish out of  
43 commercial markets, from being sold commercially.

44

45                   So this proposal questions the need of  
46 having this 48 hour subsistence closure in Federal  
47 regulations and also whether a subsistence priority is  
48 being provided when Federal subsistence fisheries are  
49 closed while State subsistence and commercial fisheries  
50 are open.

1                   In all areas the State subsistence  
2 regulations apply to both marine and freshwaters while  
3 Federal subsistence regulations apply only to  
4 freshwaters. So nearly all the subsistence take of  
5 salmon in the Yakutat area is done on the authority of  
6 a State subsistence fishing permit and, in fact, is  
7 done in State marine waters where the commercial set  
8 gillnet fishing is also done. In Yakutat, annually,  
9 about 3,500 sockeye are caught and about 3,000 of  
10 those, or most of those are caught from the Situk  
11 River, and particularly from the Situk/Ahrnklin  
12 estuary.

13  
14                   Last year, in 2006, it was the first  
15 year that any Federal subsistence fishing permits were  
16 issued and fished in Yakutat. There was reported  
17 harvest of 59 sockeye by two permitholders.

18  
19                   So this proposal, again, would  
20 eliminate those Federal subsistence fishing regulations  
21 that close Federal subsistence fishing for specific  
22 periods of times or days and locations that State opens  
23 for commercial set gillnet fishing. Federal  
24 subsistence users would not be affected by these State  
25 commercial fishery openings in associated closed waters  
26 or times. There's not a problem now with illegal  
27 commercial sale of subsistence taken salmon and this  
28 regulation change is not likely to cause illegal sales  
29 to occur.

30  
31                   Other Federal subsistence fishing  
32 regulations directly prohibit the commercial sale or  
33 purchase of subsistence taken fish and the regulation  
34 requiring subsistence caught salmon to be fin clipped  
35 limits the mixing of subsistence, Alaska Department of  
36 Fish and Game and sport taken fish. The State  
37 commercial set gillnet fishery occurs mostly in State  
38 marine waters and Federal subsistence fishing only  
39 occurs in Federal freshwaters. And this 48 hour  
40 closure regulation does not apply to fisheries in  
41 different locations and is confusing to users, managers  
42 and enforcement. Lastly, this proposal would keep  
43 Federal subsistence fishing regulations from being more  
44 restrictive than State subsistence regulations.

45  
46                   So the preliminary conclusion is to  
47 support this proposal FP08-05.

48  
49                   Justification. Adopting the proposal  
50 will simplify Federal subsistence fishing regulations

1 and remove an unnecessary restriction on Federal  
2 subsistence users. There is no pattern of subsistence  
3 caught fish being sold commercially now and it is  
4 unlikely that eliminating the 48 hour closure  
5 regulation from Federal regulations will increase  
6 illegal sales of subsistence caught salmon in the  
7 future. There's little overlap in Federal subsistence  
8 and State commercial fishing locations. And few  
9 Federal subsistence permits are issued and few salmon  
10 are harvested. Other Federal regulations directly  
11 prohibit the commercial sale and purchase of  
12 subsistence taken fish and require subsistence fishers  
13 to immediately mark the subsistence caught salmon so  
14 they are not easily mixed with commercially caught  
15 salmon.

16

17 Thank you.

18

19 CHAIRMAN ADAMS: Thank you, Ben. Is  
20 there any questions from the Council in regards to this  
21 proposal.

22

23 Donald.

24

25 MR. HERNANDEZ: Thank you, Mr.  
26 Chairman. Yeah, I was -- this sounded fairly complex  
27 when I read through it, I mean it sounds like Yakutat  
28 has a lot different situations than most of us here in  
29 Southeast are used to and -- but so Mr. Van Alen, would  
30 you say that's the main reason for this permit  
31 stipulation to begin with, the 48 hour period, was that  
32 mostly to deal with that situation with trying to  
33 prevent commercial sales, is that the main reason for  
34 it?

35

36 MR. VAN ALLEN: Yes, as I understand it,  
37 the pattern has been that most subsistence taken fish  
38 are caught by fishermen that are also commercial  
39 fishermen and they're fishing in the same place, same  
40 boat, same gear as they would commercially, in  
41 particular, at the Situk/Ahrnklin estuary there, one of  
42 the closest fisheries to the community of Yakutat. And  
43 so the intent of the regulation was to provide a  
44 separation in time between the subsistence fishing  
45 period and the commercial fishing period so it'd be  
46 pretty clear when people were there for subsistence  
47 fishing and when they're they're there commercially,  
48 avoid any mixing of the fish, that kind of stuff.

49

50 MR. HERNANDEZ: And that situation

1 you're referring to, that's mostly a State permitted  
2 fishery, right, in the marine waters?

3

4 MR. VAN ALEN: That's correct. In fact  
5 I'm pointing out that still, to this date, nearly all  
6 fishing -- all take of salmon is on State permits.

7

8 MR. HERNANDEZ: Yeah. There's just a  
9 small amount that's started to be taken just recently  
10 by Federal permits in the freshwater?

11

12 MR. VAN ALEN: Yeah. We've had permits  
13 for a number of years but last year was the first year  
14 that any permits were issued, we issued three and two  
15 of them were indeed fished.

16

17 MR. HERNANDEZ: And then also did I see  
18 in here that there is some commercial setnetting in the  
19 Federal waters as well, a small amount?

20

21 MR. VAN ALEN: Yes, there is, in  
22 various locations. In Dangerous River, the commercial  
23 fishery that occurs is up by -- just down stream of  
24 Forest Highway 10 so well up in the river. When I  
25 spoke with the local manager he had never seen anybody  
26 subsistence fishing in that area, ever. The fishery on  
27 the Alsek River also extends up into freshwater, I  
28 would say, up in the river, so there's another location  
29 where they overlap in space.

30

31 MR. HERNANDEZ: That's quite a bit  
32 different than anything we have to deal with in  
33 Southeast so, yeah, okay, I've got a little bit better  
34 idea here.

35

36 CHAIRMAN ADAMS: Any other questions or  
37 comments or clarifications, this is a complex  
38 situation, you know, so I want you to be completely  
39 clear when you deliberate on it.

40

41 (No comments)

42

43 CHAIRMAN ADAMS: Thank you, Ben.

44

45 MR. VAN ALEN: Thank you.

46

47 CHAIRMAN ADAMS: You're next, sir.

48

49 MR. PAPPAS: For the record this is  
50 George Pappas, Department of Fish and Game.

1                   You are correct this is complex and  
2 this is longstanding. I tried to do some homework and  
3 figure out where this regulation began and I came up  
4 with some sources back to the '30s, something like this  
5 has been around, so we don't actually have where it  
6 started but it's been around for a long time since  
7 before statehood.

8  
9                   Proposal FP08-05 is intended to  
10 eliminate the prohibition on taking salmon for  
11 subsistence with nets during the 48 hour period before  
12 and after each State commercial salmon net fishery. If  
13 adopted, this prohibition would no longer apply to  
14 Federal subsistence fishing with nets in freshwaters  
15 above mean high tide within Federal land, but would  
16 remain in effect for all State subsistence fishers in  
17 freshwater and for all subsistence fishers in marine  
18 waters below mean high tide. The present 48 hour  
19 prohibition has been in effect throughout most of  
20 Southeast Alaska since long before statewide to prevent  
21 the user group conflicts, illegal sales of subsistence  
22 caught salmon and prospecting prior to a commercial  
23 fishery opening under the guise of subsistence. The  
24 proponent desires to separate the Federal and State  
25 fisheries by space and location, however, the 48 hour  
26 prohibition would still apply to the same locations in  
27 freshwater above mean high tide within Federal land  
28 unless freshwaters within Federal lands are closed to  
29 the non-Federally-eligible fishers.

30  
31                   A lot of this is based around  
32 enforcement issues. If adopted the inability to  
33 determine where the boundary is above mean high tide in  
34 estuarine areas where most commercial fisheries occur  
35 will occur -- excuse me -- where most commercial  
36 fisheries occur will increase user conflicts. If  
37 adopted, there would also be a potential migration of  
38 subsistence caught fish into the commercial markets  
39 which has been a recurring problem in many of Alaska's  
40 fisheries where subsistence and commercial users target  
41 the same stocks in the same location with the same gear  
42 and relatively close or concurrent fishing periods.  
43 Enforcement efforts to prevent this migration of  
44 subsistence caught salmon into the commercial markets  
45 can be very difficult as many subsistence users are  
46 also commercial users. Frequently, these users are  
47 utilizing the same gear, same boat, same area for the  
48 same -- for both fisheries. The 48 hour subsistence  
49 fishery closure in Yakutat area prevents these problems  
50 and there currently are no problems with the migration

1 because this regulation does work. During years when  
2 abundant runs allow longer commercial fishing openings  
3 State officials modify the 48 hour closure regulations  
4 by emergency order.

5  
6 If this proposal is adopted, a  
7 Federally-qualified fisherman that is also a licensed  
8 commercial fisherman could fish in freshwater Federal  
9 subsistence fisheries under the guise of subsistence  
10 move into adjacent waters open to commercial fishing  
11 and continuing to fish during the commercial fishing  
12 period and deliver the blended catch to the commercial  
13 market. Illegal prospecting prior to a commercial  
14 fishing period has significant financial incentives for  
15 commercial fishermen to find the fish and reduce the  
16 amount of time necessary to search for productive  
17 fishing sites. In addition, the 48 hour closure window  
18 following a commercial fishing period prevents  
19 commercial fishermen from illegally harvesting more  
20 fish under the guise of subsistence fishing and  
21 blending illegal catch with a load of market bound  
22 commercial catch. If this proposal is adopted  
23 additional regulations will be needed to distinguish  
24 Federal subsistence fishers from commercial fishermen,  
25 for example, marked gear or registration in order to  
26 make the regulations enforceable.

27  
28 The State subsistence fishery  
29 regulations in the Yakutat area are some of the more  
30 liberal in the state of Alaska. State subsistence  
31 regulations in this area provide for harvest of salmon  
32 with gear types listed in the State regulations which  
33 include gillnet, purse seine, beach seine, hand purse  
34 seine, power gurdy troll gear, hand troll gear,  
35 fishwheel, trawl unless restricted under the  
36 subsistence permit. I'm not sure if anybody's been  
37 using Hawaiian toss nets down there, I do know they use  
38 those up in Port Moller, though, that's a new gear that  
39 people have been using for subsistence salmon in Port  
40 Moller. That's off topic but I thought I'd bring that  
41 up, sir.

42  
43 Current State permit conditions do not  
44 establish a daily or annual limit for subsistence  
45 harvest of sockeye salmon. Many subsistence fishing  
46 households in Yakutat are also commercial fishing  
47 households and the fishers have the options to retain  
48 fish during the commercial period for personal use or  
49 to share their harvest.

50

1                   The jurisdiction issue. The Department  
2 requests detailed maps showing the boundaries of where  
3 this Federal regulation would apply in freshwaters,  
4 particularly those at the mouth of the rivers above  
5 mean high tide in order to -- in order that the  
6 Federally-eligible fishers will know that where they  
7 cannot subsistence fish in adjacent waters that are  
8 closed under State regulations before and after  
9 commercial openings. This would be a very important --  
10 will be very important for enforcement of Federal and  
11 State regulations where fisheries occur in estuarine  
12 areas.

13

14                   Other comments. I've talked to the  
15 area managers there for both sportfish and commercial  
16 fisheries and this is a complex issue and it is  
17 restrictive on fisher -- it is restrictive on the  
18 subsistence users. Most Yakutat commercial fisheries  
19 are open by regulations two and a half days -- excuse  
20 me -- most Yakutat commercial fisheries are open by  
21 regulation for two and a half days, 6:00 a.m. Sunday  
22 through 6:00 p.m., Tuesday. The State regulations  
23 preclude subsistence fishing for 48 hours before and  
24 after commercial fishing periods so when a commercial  
25 fishing period -- fishery is open longer than 48 hours,  
26 the closure overlaps with the commercial openings,  
27 subsistence fishers have the only guarantee of a 12  
28 hour opening on Saturday from 6:00 a.m. to 6:00 p.m.  
29 That's if they have extensions during the week. For  
30 the past three years due to abundant salmon returns,  
31 the Department's commercial fisheries managers have  
32 written emergency orders to extend the subsistence  
33 fishing period from 6:00 a.m. Friday to 6:00 p.m.  
34 Saturday instead of 6:00 a.m. to 6:00 p.m., Saturday,  
35 it starts the previous day, Friday morning to Saturday  
36 night. When escapement goals are met and there are no  
37 conservation concerns commercial fisheries are extended  
38 to seven days and subsistence fishing is also extended  
39 for seven days per week. The user groups in the  
40 Yakutat area would likely support an additional  
41 moderate liberalization in the subsistence fishery --  
42 fisheries by reducing the 48 hour subsistence closure  
43 to 24 hours. A less than 24 hour closure to  
44 subsistence fishing before and after commercial fishing  
45 periods is very challenging to -- very challenging for  
46 enforcement officers. I've actually talked to several  
47 of them and they said any time before -- or less than  
48 24 hours it gets more and more challenging.

49

50                   The proponent is encouraged to submit

1 such a recommendation, a proposal, to the Alaska Board  
2 of Fisheries to reduce the closure window to 24 hours  
3 before and after a commercial opening instead of 48  
4 hours for the Yakutat area.

5  
6 The Regional Advisory Council should  
7 consider opposing this proposal that would only apply  
8 to Federal subsistence fishermen in freshwaters within  
9 Federal lands and instead support a proposal to the  
10 Alaska Board of Fish that would apply to all  
11 subsistence fishermen in all waters.

12  
13 That's my conclusion, sir.

14  
15 CHAIRMAN ADAMS: Thank you. Any  
16 questions of George.

17  
18 (No comments)

19  
20 CHAIRMAN ADAMS: Yes, go ahead.

21  
22 MR. PAPPAS: I do have one other piece  
23 of information from another area. In the Chignik  
24 Management Area when a commercial fishermen or a --  
25 excuse me -- a commercial fishing license holder or a  
26 commercial fisheries entry commission, a CPC permit  
27 holder, wants to subsistence fish during a commercial  
28 fishery with the same gear and the same place they can  
29 call up Fish and Game and register and say I'm going to  
30 make some sets, going to pick some fish up, when they  
31 do pick the fish up, when they're done, they call back  
32 up on the radio and say I'm done. That is to prevent --  
33 that's to prevent some of the, I believe, back and  
34 forth of subsistence fish in the commercial markets.  
35 That's been on the record for many years and it wasn't  
36 a burden to do because the participation is very low.  
37 Most commercial fishermen are commercial fishing during  
38 commercial fishing openings. So that's another piece  
39 of information.

40  
41 CHAIRMAN ADAMS: Thank you. Questions,  
42 comments.

43  
44 MR. DOUVILLE: I just have a question.

45  
46 CHAIRMAN ADAMS: Uh-huh.

47  
48 MR. DOUVILLE: So these subsistence  
49 fish have to be marked.

50

1 CHAIRMAN ADAMS: Yes.  
2  
3 MR. DOUVILLE: The fins have to be cut.  
4 At what point when you catch them do they have to have  
5 the fins removed, immediately?  
6  
7 MR. PAPPAS: For the State regulations  
8 before you remove them from site so if you're going to  
9 throw them in a cooler or throw them in a bag they have  
10 to be clipped before they removed from site, or removed  
11 -- or when you leave -- before you leave the fishery.  
12 So if you're out in the river, you get your 100 fish  
13 all day long, of course the Troopers recommend, from  
14 the State's perspective to clip your tails or clip your  
15 fins as you come on the boat, but as far as I'm aware  
16 before you remove them from plain site or you leave the  
17 fishing site.  
18  
19 MR. DOUVILLE: And you also have to  
20 fill out a permit that logs the fish that you take.  
21  
22 MR. PAPPAS: Correct. And the  
23 regulations on -- the ones that I'm familiar with,  
24 before you leave the fishing site, to fill out your  
25 permit, because if you're going to catch 100 fish, you  
26 can't write that one at a time while you're bringing  
27 them in your boat.  
28  
29 CHAIRMAN ADAMS: Okay. Any other  
30 comments, questions.  
31  
32 (No comments)  
33  
34 CHAIRMAN ADAMS: Thank you, sir. Any  
35 other Federal agencies, State or tribal organizations  
36 would like to testify.  
37  
38 (No comments)  
39  
40 CHAIRMAN ADAMS: InterAgency Staff.  
41  
42 MR. KESSLER: (Shakes head negatively)  
43  
44 CHAIRMAN ADAMS: Advisory Committees.  
45  
46 (No comments)  
47  
48 CHAIRMAN ADAMS: Public comments,  
49 written.  
50

1 MR. LARSON: There are none.  
2  
3 CHAIRMAN ADAMS: Public testimony.  
4  
5 (No comments)  
6  
7 CHAIRMAN ADAMS: Okay. We are now  
8 under Council deliberation. Let's deliberate.  
9  
10 (Pause)  
11  
12 MR. BANGS: Mr. Chairman.  
13  
14 CHAIRMAN ADAMS: Mr. Bangs.  
15  
16 MR. BANGS: Thank you. Mr. Chairman. I  
17 move to adopt Proposal FP08-05 as written on Page 108.  
18  
19 CHAIRMAN ADAMS: Thank you, sir. Do I  
20 hear a second.  
21  
22 MR. KITKA: Second.  
23  
24 CHAIRMAN ADAMS: It's been moved and  
25 seconded, now we are under discussion.  
26  
27 MR. BANGS: Mr. Chairman.  
28  
29 CHAIRMAN ADAMS: Mr. Bangs.  
30  
31 MR. BANGS: Thank you, Mr. Chairman.  
32 I'm not familiar as you are with this fishery at all.  
33 I have been up there when they've been fishing but I  
34 haven't participated in that fishery and I'm wondering  
35 how you, as a subsistence fishermen up there, would  
36 feel about the 24 hour versus the 48 hour, how do you  
37 feel about that?  
38  
39 CHAIRMAN ADAMS: It wouldn't make any  
40 difference to me at all, you know, whether it's 48  
41 hours or 24 hours. I think what the real concern here  
42 is, you know, are you out there subsistence fishing or  
43 are you commercial fishing, and, you know, the clipping  
44 of the fins, you know, is required by subsistence users  
45 so that they can separate that from the commercial.  
46  
47 There is a time when the fishing, you  
48 know, when the escapement has been met, they'll open up  
49 the commercial for seven days and at the same time the  
50 subsistence fishermen can fish for those seven days as

1 well and that's where that, you know, marking of the  
2 fins, you know, takes place and that's for the purpose  
3 of separating the commercial from the subsistence  
4 users.

5  
6 To me, you know, the State program is  
7 working and all I think we're doing is asking for the  
8 Feds to do the same thing.

9  
10 MR. DOUVILLE: Mr. Chairman.

11  
12 CHAIRMAN ADAMS: Mr. Douville.

13  
14 MR. DOUVILLE: I'm reading this and it  
15 sort of says the same thing.

16  
17 CHAIRMAN ADAMS: Uh-huh, it is.

18  
19 MR. DOUVILLE: So what are we doing?

20  
21 CHAIRMAN ADAMS: We're just doing it  
22 for the -- it's making it a Federal regulation under --  
23 for Federal jurisdiction.

24  
25 MR. DOUVILLE: I still don't have a  
26 handle on it somehow.

27  
28 (Laughter)

29  
30 CHAIRMAN ADAMS: Mr. Ben Van Alen --  
31 and I didn't know this until I got here, said that  
32 there were three permits and they were issued this past  
33 year and I guess 57 fish were caught, you know, but as  
34 more and more people get wind of this, that they can do  
35 this, you know, there'll probably be more, I don't  
36 know.

37  
38 So it's your call, you know, what you  
39 want to do with this.

40  
41 (Pause)

42  
43 CHAIRMAN ADAMS: If you remember a few  
44 years ago this issue, you know, was discussed, you  
45 know, with this body here because there was a concern  
46 that -- well, let's take myself, for instance, you  
47 know, I don't commercial fish anymore but I do a lot of  
48 subsistence fishing but there was a time when I did  
49 both, okay, and I had a fishing camp out at the Situk  
50 River and early in the year I'd go out there and I'd

1 use that fishing camp and a boat and my gear to  
2 subsistence fish, and then when the commercial opened I  
3 would use my camp, my skiff, and gear to do commercial.  
4 And, you know, this came up as a concern and so I think  
5 that's the result of what we have before us now, that  
6 we should also mirror the State regulations with a  
7 Federal regulation.

8

9 (Pause)

10

11 CHAIRMAN ADAMS: Cal, you have  
12 something to add to that.

13

14 MR. CASIPIT: Ben can come up here as  
15 well. The way the Federal regulations are now is that,  
16 just like the State, we have a prohibition against  
17 sport -- subsistence fishing 48 hours before and 48  
18 hours after an opened commercial -- or during or after  
19 an opened commercial fishery, what this proposal does  
20 is eliminates that closure so that in Federal  
21 jurisdiction, under a Federal permit, you don't have  
22 to worry about whether or not you're fishing 48 hours  
23 before or 48 hours after, if you're a Federally-  
24 qualified user using a Federal permit fishing in  
25 Federal jurisdiction, it doesn't matter what the  
26 commercial fishery is going on, you can subsistence  
27 fish in our jurisdiction. That's what this proposal  
28 does.

29

30 It actually -- we actually would be  
31 different from State subsistence regulation, in that,  
32 we would allow subsistence fishing whenever people  
33 needed to fish.

34

35 MR. DOUVILLE: Mr. Chairman.

36

37 CHAIRMAN ADAMS: Uh-huh, I was reading,  
38 go ahead.

39

40 MR. DOUVILLE: So you're kind of  
41 focused on -- I guess maybe I'm focused on commercial  
42 fishermen being a subsistence fishermen but there are  
43 other fishermen that are subsistence users that are not  
44 commercial fishermen that are restricted because of a  
45 commercial opening.

46

47 MR. CASIPIT: Correct. What this does  
48 is that if you're a Federally-qualified user with a  
49 Federal permit you can fish in our Federal jurisdiction  
50 without worrying about whether or not there's a

1 commercial fishery going on.

2

3 MR. DOUVILLE: Right. But in this case  
4 there could be no direct connection between commercial  
5 and subsistence because this person may not be a  
6 commercial fisherman.

7

8 MR. CASIPIT: In fact probably the  
9 three permits that were issued probably were people  
10 that were not commercial fishermen. I don't know that  
11 for a fact but I would guess that.

12

13 MR. DOUVILLE: But without this change  
14 they would not be able to fish because there's a  
15 commercial opening.

16

17 MR. CASIPIT: Correct.

18

19 MR. VAN ALEN: I have to say incorrect.

20

21 (Laughter)

22

23 MR. VAN ALEN: It's amazingly -- it's  
24 not as complex as it is but with the State permit you  
25 can still fish up in freshwater while a commercial  
26 fishery is occurring in that river. Both the State --  
27 well, the State regulations say this applies to each  
28 river or bay fishery individually, the area, the  
29 fishery area. Like in the Situk River, the fishery  
30 occurs, the commercial setnet fishery occurs in the  
31 estuary, it's not in Federal waters, it's not in  
32 freshwater and a person with a State permit can fish up  
33 Nine Mile Bridge for subsistence on it and while the  
34 fishery is occurring or within the 48 hour window,  
35 legally. It's not -- there's a tradition in Yakutat to  
36 not do that, so people don't usually do that. Most  
37 subsistence fishing does indeed occur in marine waters  
38 in the estuary whether or not you're a commercial  
39 fishermen or not, most of it does happen down there but  
40 not within 48 hours of a commercial opening. That's  
41 what most -- the pattern is now.

42

43 And so let me see we're not really  
44 making any big change aside from a little bit of  
45 clarifying it, making it less confusing. That if you  
46 have a Federal subsistence permit, you are indeed  
47 restricted -- only allowed to use it in freshwater but  
48 you no longer have to concern yourself with whether a  
49 fishery is open or been opened in a district down in  
50 marine waters. You're able to fish it, you know,

1 whenever you want to get your fish.

2

3 Does that make any sense at all?

4

5 MR. DOUVILLE: That part did but the  
6 part where you said that with a State permit you could  
7 fish up the river.....

8

9 MR. VAN ALLEN: Uh-huh.

10

11 MR. DOUVILLE: .....during the time  
12 that there's a commercial opening. So that contradicts  
13 this 48 hours thing I see the State has.

14

15 MR. VAN ALLEN: Well, if you look at  
16 both those State regulations and the Federal  
17 regulations were copied nearly verbatim, the sentence,  
18 this applies to each river or bay fishery individually  
19 and it applies to in that location and it's  
20 interpreted, you know, is when I talked with the area  
21 management biologist with commercial fisheries, that,  
22 yes, indeed, it applies just to that area, that  
23 location but he stated that the tradition is people do  
24 not fish within that 48 hour time for subsistence.

25

26 So it's -- anyway.

27

28 MR. LARSON: Could I interject  
29 something just to keep us focused on the issue.

30

31 CHAIRMAN ADAMS: Yes, go ahead.

32

33 MR. LARSON: Is that really what we're  
34 talking about is a potential fishery on the Dangerous  
35 River and a small piece in the Alsek River because  
36 those are the only places where there's potential for  
37 having a concurrent commercial fishery and a  
38 subsistence fishery under Federal regulations. So it's  
39 not all of Yakutat, it's just those places where there  
40 may be a possible commercial fishery in waters under  
41 Federal jurisdiction.

42

43 Now, nothing in this regulation affects  
44 State regulations. There is, of course, a State  
45 regulation that says if you're going to go commercial  
46 fishing, you can't go subsistence fishing. We're  
47 talking about a rod and reel fisherman and that's  
48 primarily what we're talking about. In those two  
49 places where there's some potential of having a future  
50 commercial fishery because we have no control over the

1 commercial fishery, that's a State function.  
2  
3 So there's the scope of the discussion.  
4  
5 MR. DOUVILLE: Okay, I'm ready to vote  
6 now.  
7  
8 (Laughter)  
9  
10 CHAIRMAN ADAMS: Thanks, Robert. Okay.  
11 Mr. Douville said he's ready to vote now so what do you  
12 want to do, what's the wish of the Council.  
13  
14 MR. HERNANDEZ: We don't have a motion  
15 on this one yet, do we?  
16  
17 CHAIRMAN ADAMS: Yes, we do.  
18  
19 MR. HERNANDEZ: We do, okay.  
20  
21 CHAIRMAN ADAMS: It's been moved and  
22 seconded, and we're under discussion.  
23  
24 MR. HERNANDEZ: Okay.  
25  
26 MR. BANGS: Mr. Chairman.  
27  
28 CHAIRMAN ADAMS: Mr. Bangs.  
29  
30 MR. BANGS: Thank you. I'd like to go  
31 over the four criteria so that we can vote on this.  
32  
33 CHAIRMAN ADAMS: Okay.  
34  
35 MR. BANGS: Unless anybody else has  
36 some discussion.  
37  
38 (No comments)  
39  
40 CHAIRMAN ADAMS: Go right ahead.  
41  
42 MR. BANGS: Okay. No. 1, I don't feel  
43 that there is a conservation concern with any of the  
44 fish stocks and this isn't detrimental to subsistence  
45 users, it actually will help. And it doesn't affect  
46 non-subsistence users because it wouldn't be in the  
47 same area in general and there is substantial evidence  
48 that this will make things more clarified to the  
49 subsistence user.  
50

1 CHAIRMAN ADAMS: Thank you. Okay. Are  
2 you ready for the question.  
3  
4 MS. HAWKINS: Question.  
5  
6 CHAIRMAN ADAMS: Let's do a roll call  
7 vote, Mr. Kitka.  
8  
9 MR. KITKA: Lee Wallace.  
10  
11 MR. WALLACE: Yes.  
12  
13 MR. KITKA: Michael Bangs.  
14  
15 MR. BANGS: Yes.  
16  
17 MR. KITKA: Joe Hotch.  
18  
19 MR. HOTCH: Yes.  
20  
21 MR. KITKA: Merle Hawkins.  
22  
23 MS. HAWKINS: Yes.  
24  
25 MR. KITKA: Donald Hernandez.  
26  
27 MR. HERNANDEZ: Yes.  
28  
29 MR. KITKA: Bert Adams.  
30  
31 CHAIRMAN ADAMS: Yes.  
32  
33 MR. KITKA: Harvey Kitka, yes. Mike  
34 Douville.  
35  
36 MR. DOUVILLE: Yes.  
37  
38 MR. KITKA: Frank Wright, Jr., is gone.  
39 The yes' have it.  
40  
41 CHAIRMAN ADAMS: The yea's have it,  
42 this motion is passed. Let's go on and finish up the  
43 last proposal for today, FP08-07, Terry Suminski.  
44 Terry, you are in the hot seat.  
45  
46 MR. SUMINSKI: Thank you, Mr. Chairman.  
47 Council members. I have a thinner folder on this one.  
48  
49 (Laughter)  
50

1 MR. SUMINSKI: But you'll find your  
2 executive summary starts on Page 121. I'm Terry  
3 Suminski with the Forest Service. Staff analysis  
4 starts on Page 122.

5  
6 Proposal FP08-07 was submitted by Mr.  
7 Eric Morisky of Sitka. It would close the Federal  
8 subsistence steelhead fishery on Admiralty, Baranof and  
9 Chichagof Islands in Southeastern Alaska Federal  
10 subsistence fishing area.

11  
12 The proponent believes that the Federal  
13 subsistence fishery for steelhead will lead to  
14 overfishing and extinction of small steelhead stocks on  
15 the ABC islands. He believes that subsistence needs  
16 are adequately met by other species of fish such as  
17 chinook and sockeye salmon and that steelhead should be  
18 left for sportfishing.

19  
20 The Federal Subsistence Board adopted  
21 FP05-28 resulting in a Federal subsistence fishery for  
22 steelhead in Southeast Alaska in 2005, excluding Prince  
23 of Wales and Kosciusko Island where there was an  
24 existing Federal subsistence fishery.

25  
26 If you look at Page 127, Table 2  
27 displays the reported harvest of Federal steelhead --  
28 or reported harvest of steelhead in the Federal  
29 fisheries on Admiralty, Baranof and Chichagof Islands;  
30 2005 there was one steelhead reported taken on Baranof,  
31 one on Chichagof for a total of two fish; 2006 there  
32 were three steelhead taken -- reported taken on Baranof  
33 and six on Chichagof for a total of nine, and this last  
34 year there were zero taken on Admiralty, three on  
35 Baranof, three on Chichagof for a total of six, we had  
36 100 percent reporting on all permits for all three  
37 years.

38  
39 The OSM preliminary conclusion is to  
40 oppose this proposal.

41  
42 The justification is that the  
43 participation and reported harvest of steelhead is very  
44 low on the ABC Islands and a conservation based closure  
45 is not warranted at this time. Closing the Federal  
46 subsistence fishery for steelhead on the ABC Islands  
47 while other steelhead fisheries remain open does not  
48 recognize subsistence uses as a priority over other  
49 uses as required in ANILCA. Local Federal managers  
50 have the authority to manage the Federal subsistence

1 steelhead fishery by permit stipulations and in-season  
2 action. The proposal would create an unnecessary  
3 regulation.

4  
5 Thank you, Mr. Chairman.

6  
7 CHAIRMAN ADAMS: Thank you, Terry. Any  
8 questions.

9  
10 (No comments)

11  
12 CHAIRMAN ADAMS: Thank you, sir.

13  
14 MR. SUMINSKI: Those are those easy  
15 questions.

16  
17 (Laughter)

18  
19 CHAIRMAN ADAMS: This looks like this  
20 might turn out to be a no brainer. State, George.

21  
22 MR. PAPPAS: I'll pull this closer.

23  
24 (Laughter)

25  
26 MR. PAPPAS: FP -- George Pappas,  
27 Department of Fish and Game. FP08-07 steelhead  
28 proposal.

29  
30 This proposal would eliminate the  
31 Federal subsistence harvest of steelhead, trout in  
32 freshwaters within the Federal lands of the ABC  
33 Islands. The steelhead could be retained under the  
34 State of Alaska sportfishing regulations.

35  
36 Based on Federal Staff analysis only 17  
37 steelhead were harvested -- reported steelhead were  
38 harvested under Federal subsistence permits in the last  
39 three years. Adoption of this proposal would have no  
40 impact on subsistence since the low level of  
41 participation indicates that communities do not exhibit  
42 a pattern of customary and traditional use of steelhead  
43 and the subsistence priority for fish is already  
44 provided for by other fisheries.

45  
46 The Department of Fish and Game cannot  
47 issue a permit for subsistence harvest of steelhead  
48 trout but steelhead trout taken incidentally by gear  
49 operated under the terms of a subsistence permit for  
50 salmon may be legally harvested and possessed for

1 subsistence purposes. The holder of a subsistence  
2 salmon permit must report any steelhead incidentally  
3 taken in this manner on his or her permit calendar.  
4 The State has a comprehensive package of sport,  
5 personal use, commercial and subsistence regulations  
6 that work together to conserve steelhead and provide  
7 for subsistence harvest. These include a 36 inch size  
8 limit, bait and snagging prohibitions, restrictions on  
9 harvest in net fisheries that reduce both -- excuse me  
10 -- that reduce bycatch of steelhead and the authority  
11 to require commercial catch reporting through emergency  
12 order and this spring a statewide regulation was  
13 adopted that requires reporting of steelhead retained,  
14 but not sold. The State regulations successfully  
15 reversed the earlier 1990s decline in the steelhead  
16 populations in Southeast.

17  
18                   The proponent accurately -- the  
19 proposals proponent accurately recognizes that the  
20 current Federal subsistence regulations and permit  
21 conditions are not conservative enough to ensure  
22 conservation of steelhead trout stocks in Southeast  
23 Alaska freshwater systems especially smaller, easily  
24 accessible systems that may receive more intensive  
25 pressure. Steelhead fisheries with less conservative  
26 regulations than current regionwide sportfisheries  
27 steelhead regulations are not sustainable. Population  
28 declines were evident in Southeast Alaska prior to '94  
29 under sportfish regulations which were similar to the  
30 current Federal subsistence regulations. In '94 the  
31 Board of Fish enacted conservative regulations for  
32 steelhead in Southeast Alaska which helped rebuild the  
33 depressed stocks and created a sustainable steelhead  
34 fishery.

35  
36                   Most steelhead populations contain less  
37 than 200 -- excuse me -- most steelhead populations  
38 contain 200 or fewer spawning adults with only half of  
39 those systems that regularly receive an annual  
40 escapement of over 500 adults in Southeast. Most of  
41 these steelhead populations are extremely difficult or  
42 impossible to assess and monitor on a regular basis.  
43 Steelhead populations in Southeast can be sustained  
44 only with very low harvest rates of less than 10  
45 percent. History has shown that the level of harvest  
46 opportunity provided by the Federal regulations cannot  
47 be sustained in the absence of intensive stock  
48 assessment programs.

49  
50                   The Department urges the RAC to respect

1 the Department's concerns for stock conservation.  
2 Federal subsistence limits and regulations are creating  
3 the potential to unnecessarily impact the  
4 sustainability of steelhead. Stock assessment and  
5 stock status data for the numerous small steelhead  
6 stocks are necessary before authorizing Federal  
7 subsistence use. For example, in the case of the  
8 Baranof Island, three streams containing steelhead runs  
9 are crossed by the Sitka road system, with the  
10 exception of a few isolated steelhead escapement  
11 surveys, no consistent escapement information and no  
12 population estimations have been generated for these  
13 streams. Forest Service Staff believes the escapement  
14 in these streams range from 10 to 200 fish per stream.  
15 As another example one of the more extensively studied  
16 steelhead systems of larger than average size in  
17 Southeast is the Sitkho Creek located on Chichagof  
18 Island. Adult steelhead returning to Sitkho Creek were  
19 counted through a weir on the creek during 11 years and  
20 the escapement ranged from 395 to 1,100 with an average  
21 run size of 705 fish. A preliminary estimate of 460  
22 fish, which falls below the average run size migrated  
23 Sitkho Creek during 2007. Any targeted subsistence  
24 harvest on these fish would significantly impact the  
25 sustainability -- its sustainability and would be not  
26 reported until after the fact.

27  
28                   The Federal authorized opportunity for  
29 subsistence use of steelhead should only be authorized  
30 in waters with stock assessment programs and documented  
31 ability to withstand increased harvest using the best  
32 available estimates of harvest in-season. The Federal  
33 authorization to use bait for steelhead and requiring  
34 that steelhead caught with bait be retained effectively  
35 results in there being no minimum size limit. Use of  
36 bait may also significantly increase the harvest of  
37 steelhead smolt as they emigrate through saltwater in  
38 contrast to the State regulations that protects nearly  
39 all the steelhead smolt under the minimum size limit of  
40 11 inches and incidental mortality is low because no  
41 bait is allowed. Although Federal officers --  
42 officials, excuse me, are currently attaching  
43 stipulations to permits that match the State  
44 regulations concerning size limits and prohibiting the  
45 use of bait, the regulation itself is consistent with  
46 sound management of fisheries populations and will  
47 eventually result in unnecessary restrictions on other  
48 users.

49  
50                   Enforcement issues often create

1 conservation issues and there remains a question  
2 whether the Federal permit system reflects actual  
3 participation and harvest of steelhead throughout  
4 Southeast Alaska. Low numbers of permits issued may be  
5 due to lack of compliance with permit requirements and  
6 permit stipulations do not address the biological  
7 concerns related to the many small populations of  
8 steelhead. It appears that not all subsistence uses --  
9 subsistence users are obtaining permits so permit  
10 stipulations, if they were well designed may not be  
11 effective. The permit stipulations and restrictions  
12 are and will continue to be ineffective until a  
13 concerted effort is exercised to issue permits to all  
14 active subsistence users and ensure stipulations are  
15 followed.

16  
17                   And for jurisdiction issues. Large  
18 amount of non-Federal land on Admiralty, Baranof and  
19 Chichagof Islands. Many streams on these islands that  
20 support steelhead runs flow through non-Federal lands.  
21 In addition, the State disputes that Federal reserved  
22 water rights exist for all these waters and, therefore,  
23 disputes a Federal subsistence jurisdiction over these  
24 streams. Details -- detailed maps are needed of land  
25 where Federal jurisdiction is claimed and the basis for  
26 each claim. In addition, fishermen need these detailed  
27 maps because they cannot participate in a Federal  
28 subsistence fishery while standing on non-Federal land.

29  
30                   Other comments. There are competing  
31 purposes of ANILCA such as conservation of fish and  
32 wildlife, rural subsistence preference and recreation.  
33 The responsibility of the Board is to balance those  
34 competing purposes. Given the extreme low  
35 participation levels and the harvest reported by the  
36 Federal Subsistence Program for the ABC Islands, it is  
37 obvious that the use of steelhead is not customarily  
38 and traditional and is recreational. Subsistence  
39 priority use -- or users -- uses are provided by for  
40 other fisheries without endangering the small, less  
41 productive stocks and potentially causing unnecessary  
42 restriction on other users.

43  
44                   The preliminary Federal Staff  
45 recommendation is to oppose the proposal based on the  
46 belief that conservation based closures in regulation  
47 is not warranted due to the low reported participation  
48 and low reported harvest levels. The Regional Advisory  
49 Council needs to support adoption of this proposal in  
50 order to be consistent with the authorities and

1 responsibilities under ANILCA to balance competing  
2 purposes, such as conservation of fish and wildlife,  
3 rural subsistence preference and recreation. State and  
4 Federal regulations provide a preference for the  
5 subsistence users [sic], and there is no need to  
6 authorize Federal subsistence use of steelhead that  
7 jeopardizes the sustainability of these stocks.

8

9 And that's the conclusion of these  
10 comments, sir.

11

12 CHAIRMAN ADAMS: Thank you, George.  
13 Questions for George. Mr. Bangs.

14

15 MR. BANGS: Thank you, Mr. Chairman.  
16 Yes, George, do you have any numbers on the amount of  
17 sportfishermen that do the catch and release on Sitkho  
18 Creek?

19

20 MR. PAPPAS: The statewide harvest reg  
21 for Sitkho Creek, I do not have on me, let me ask  
22 Staff, please, give me a second.

23

24 MR. BANGS: The reason I bring that up  
25 is because I look at the low numbers of harvested  
26 steelhead through the permit system and even if it was  
27 low because of non-compliance with getting permits, I  
28 think that the catch and release mortality, alone,  
29 because I know that stream is heavily fished by  
30 sportsfishermen, I would say that it probably is much  
31 greater than the fish actually harvested by subsistence  
32 fishermen and, you know, I don't think we should be as  
33 concerned with that as the State is.

34

35 Thank you.

36

37 CHAIRMAN ADAMS: Go ahead.

38

39 MR. PAPPAS: Mr. Chair. Mr. Bangs.  
40 Yeah, all sorts of mortality must be taken into account  
41 for managing a fishery, especially with a sensitive  
42 fishery with low expectation rates that could be  
43 allowed. You are correct, catch and release mortality  
44 is incorporated into the management of an area and  
45 restrictions are applied if they feel there's too much  
46 catch and release mortality or too much -- excuse me --  
47 cumulative exploitation.

48

49 So I don't have that information in  
50 front of me, I could get that and find out what they

1 believe the numbers might be for total dead fish  
2 including harvest, that would take me -- I'd have to  
3 get it for you tomorrow, sir, by tomorrow.

4

5 MR. BANGS: I'm wondering, you have  
6 emergency order authority, so that if you feel like  
7 there's too many fish being caught and released and  
8 you've kind of figured the numbers out and it looks  
9 like, you know, they're killing too many on, let's say,  
10 for instance, the Sitka Road System, you would close  
11 the stream for sportfishing?

12

13 MR. PAPPAS: The least restrictive  
14 method -- or excuse me, yeah, it'd go to most  
15 restrictive and -- before closing and if you went to a  
16 single hook, minimum size, you know, 1/8th -- you know,  
17 quarter inch gap, or 3/8th inch gap or, you know,  
18 because bait's already gone, you'd work your way down  
19 maybe to have windows closed for seasons to reduce half  
20 the exploitation.....

21

22 MR. BANGS: But.....

23

24 MR. PAPPAS: .....but finally, the  
25 eventual answer is, yes, you would close it.

26

27 MR. BANGS: Has the State ever proposed  
28 any restrictions that you know of?

29

30 MR. PAPPAS: Let me grab our regional  
31 coordinator here for a second. Thank you.

32

33 CHAIRMAN ADAMS: Okay, here's the guy  
34 with all the answers.

35

36 MR. CHADWICK: Bob Chadwick, Mr. Chair.  
37 Mr. Bangs, in answer to your question, when I was on  
38 Prince of Wales I think it was '96 or '97, I'll get  
39 back to you on that, we actually closed Luck and Eagle  
40 Creek to fishing for steelhead because of our concerns  
41 over -- our steelhead counts were below average and  
42 also we saw evidence of a lot of snagging and bait  
43 fishing taking place and so there was an EO that  
44 actually closed that drainage to fishing for that  
45 spring.

46

47 MR. BANGS: But on the ABC Islands,  
48 you've never experienced that problem yet that you've  
49 been aware of that you haven't really had a  
50 conservation concern yet?

1 MR. CHADWICK: Well, prior to these  
2 current regulations that we have, we had concerns all  
3 over and there was fisheries closed in 43 streams, I  
4 think, around the region which encompassed, you know,  
5 streams that were on those two islands, three islands,  
6 so we have taken action.  
7  
8 MR. PAPPAS: Prior to '94.  
9  
10 MR. CHADWICK: Prior to '94.  
11  
12 MR. BANGS: Thank you.  
13  
14 CHAIRMAN ADAMS: Anyone else.  
15  
16 (No comments)  
17  
18 CHAIRMAN ADAMS: Thank you, gentlemen.  
19 Any other State, Federal or tribal agency comments.  
20  
21 (No comments)  
22  
23 CHAIRMAN ADAMS: InterAgency Staff.  
24  
25 MR. KESSLER: (Shakes head negatively)  
26  
27 CHAIRMAN ADAMS: Okay. Fish and Game  
28 Advisory Committee.  
29  
30 (No comments)  
31  
32 CHAIRMAN ADAMS: Any written comments,  
33 Mr. Larson.  
34  
35 MR. LARSON: There are none.  
36  
37 CHAIRMAN ADAMS: Okay, public  
38 testimony.  
39  
40 (No comments)  
41  
42 CHAIRMAN ADAMS: None. Okay, we're  
43 under Council deliberation.  
44  
45 (Pause)  
46  
47 MR. BANGS: Mr. Chairman.  
48  
49 CHAIRMAN ADAMS: Mr. Bangs.  
50

1 MR. BANGS: Thank you, Mr. Chairman. I  
2 move to adopt FP08-07 as written on Page 121.

3  
4 CHAIRMAN ADAMS: Thank you. Do I hear  
5 a second.

6  
7 MR. KITKA: I'll second it.

8  
9 CHAIRMAN ADAMS: It's been moved and  
10 seconded by Mr. Bangs and Mr. Kitka. Now we're under  
11 discussion.

12  
13 MR. KITKA: Mr. Chairman.

14  
15 CHAIRMAN ADAMS: Mr. Kitka.

16  
17 MR. KITKA: For discussion purposes.  
18 These places have been open for Federal subsistence and  
19 they've been open for a few years now and before we can  
20 close these areas it seems like we'll have to do  
21 something with the sportfish, in other words, you'll  
22 have to close the sportfishing since subsistence has  
23 priority.

24  
25 Thank you.

26  
27 CHAIRMAN ADAMS: Thank you. Any other  
28 comments.

29  
30 (No comments)

31  
32 CHAIRMAN ADAMS: Does someone want to  
33 go through the four criteria. Mr. Bangs.

34  
35 MR. BANGS: Thank you, Mr. Chairman.  
36 From the information that I've read and the analysis I  
37 don't feel that there's a conservation concern at the  
38 present time. And the proposal, if adopted, would be  
39 detrimental to subsistence uses. And I don't think  
40 that by not accepting this proposal we would be  
41 affecting non-subsistence users at the present level of  
42 fishing. And I think there's substantial evidence that  
43 says there's not a problem right now so I think it's  
44 not a problem.

45  
46 CHAIRMAN ADAMS: So I'm assuming you're  
47 going to oppose it.

48  
49 MR. BANGS: Yes, I'm going to oppose  
50 this proposal.

1 CHAIRMAN ADAMS: Yeah, okay. Any other  
2 comment. Are you ready for the question.

3

4 MR. WALLACE: Question.

5

6 MS. HAWKINS: Question.

7

8 CHAIRMAN ADAMS: The question's been  
9 called for. All in favor please say aye.

10

11 (No aye votes)

12

13 CHAIRMAN ADAMS: Opposed.

14

15 IN UNISON: Aye.

16

17 CHAIRMAN ADAMS: Motion fails. Okay.  
18 I think we're going to take our break now. I had a  
19 little discussion with Mr. Larson who thinks that we  
20 can go through the rest of the agenda tomorrow by my  
21 deadline, you know, still my secret, but we've got --  
22 let me just maybe forewarn, the process here, I'd like  
23 to maybe offer, you know, when it comes down to the  
24 organization reports, that if you can take 15 minutes  
25 each, you know, to do that, we would appreciate it and  
26 it would help me meet my goal. And so keep that in  
27 mind as you, you know, deliberate on what your  
28 presentations are going to be tomorrow.

29

30 So we'll pick up Item No. 13 first  
31 thing in the morning, and then we have a teleconference  
32 that involves the Chatham Strait report, we're going to  
33 do that at 9:00 o'clock. We'll try to set it up  
34 with.....

35

36 MR. LARSON: Scott Kelly.

37

38 CHAIRMAN ADAMS: Scott Kelly. So we'll  
39 see you all in the morning, 8:30 p.m., or a.m.

40

41 (Laughter)

42

43 CHAIRMAN ADAMS: Good evening.

44

45 (Off record)

46

47 (PROCEEDINGS TO BE CONTINUED)

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3  
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C E R T I F I C A T E

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

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

THAT the foregoing pages numbered 158 through 335 contain a full, true and correct Transcript of the SOUTHEAST FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCIL MEETING, VOLUME II, taken electronically by Computer Matrix Court Reporters on the 25th day of September 2007, beginning at the hour of 8:30 o'clock a.m. at Haines, Alaska;

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

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

DATED at Anchorage, Alaska, this 8th day of October 2007.

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