

1 SOUTHCENTRAL FEDERAL SUBSISTENCE
2 REGIONAL ADVISORY COUNCIL MEETING

3
4 PUBLIC MEETING

5
6 VOLUME I

7
8 Anchorage, Alaska
9 October 16, 2007
10 9:00 o'clock a.m.

11
12
13 COUNCIL MEMBERS PRESENT:

- 14
15 Ralph Lohse, Chairman
16 Doug Blossom
17 Tom Carpenter
18 Richard Greg Encelewski
19 Chuck Lamb
20 James Showalter
21 Gloria Stickwan
22 Tricia Waggoner
23 Dean Wilson
24
25 Regional Council Coordinator, Donald Mike

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44 Recorded and transcribed by:

45
46 Computer Matrix Court Reporters, LLC
47 700 W. 2nd Avenue
48 Anchorage, AK 99501
49 907-243-0668
50 jpk@gci.net/sahile@gci.net

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

P R O C E E D I N G S

(Anchorage, Alaska - 10/16/2007)

(On record)

CHAIRMAN LOHSE: I'd like to call this fall meeting of the Southcentral Alaska Subsistence Regional Advisory Council into session. At this time I'd like Donald Mike to make a roll call and see if we have a quorum.

MR. MIKE: Thank you, Mr. Chair. My name is Donald Mike, Regional Council coordinator. We have two vacant seats from the Southcentral Council.

Pete Kompkoff.

(No comments)

MR. MIKE: Mr. Chair. Mr. Kompkoff called and stated to me that, you know, due to tribal administrative business he couldn't be here today.

Doug Blossom.

MR. BLOSSOM: Present.

MR. MIKE: Greg Encelewski.

MR. ENCELEWSKI: Here.

MR. MIKE: Tricia Waggoner.

MS. WAGGONER: Here.

MR. MIKE: Chuck Lamb.

MR. LAMB: Here.

MR. MIKE: Gloria Stickwan.

MS. STICKWAN: Here.

MR. MIKE: Dean Wilson.

MR. WILSON: Here.

MR. MIKE: James Showalter.

1 MR. SHOWALTER: Here.
2
3 MR. MIKE: Ralph Lohse.
4
5 CHAIRMAN LOHSE: Here.
6
7 MR. MIKE: Tom Carpenter.
8
9 MR. CARPENTER: Here.
10
11 MR. MIKE: Fred Elvsaas.
12
13 (No comments)
14
15 MR. MIKE: Mr. Chair. Mr. Elvsaas, due
16 to medical conditions, he couldn't be here today. He
17 was ordered by the doctor to stay at home.
18
19 Mr. Chair, you have a quorum.
20
21 CHAIRMAN LOHSE: Thank you, Donald.
22 With that we'll proceed. I'd like to welcome everybody
23 that's here. I don't see a lot of guests and visitors
24 but I'd like to welcome all the members of the Council,
25 too, I hope you had a good summer, and I hope you're
26 looking forward to -- well, I guess we've already had
27 our good fall and we're going into a good winter,
28 maybe.
29
30 So with that, what I'd like to do is
31 I'd like to have everybody introduce themselves. I
32 think we pretty much all know each other. I think
33 there's one person that I can see that I don't know off
34 the top of my head, so we'll just start with the
35 Council and go around and introduce ourselves, who we
36 are and where we're from and then just zig zag back
37 through the rows and we'll all, at least for those of
38 us that don't know each other, we'll know who we are.
39
40 So, Chuck, do you want to start.
41
42 MR. LAMB: I'm Chuck Lamb from Hiline
43 Lake.
44
45 MR. BLOSSOM: Doug Blossom from Clam
46 Gulch.
47
48 MR. ENCELEWSKI: I'm Greg Encelewski,
49 I'm from Ninilchik.
50

1 MR. SHOWALTER: James Showalter from
2 Sterling.
3
4 MS. STICKWAN: Gloria Stickwan from
5 Tazlina.
6
7 CHAIRMAN LOHSE: Ralph Lohse from
8 Cordova and Chitina.
9
10 MR. CARPENTER: Tom Carpenter, Cordova.
11
12 MS. WAGGONER: Tricia Waggoner from
13 Palmer.
14
15 MR. WILSON: Dean Wilson from Kenny
16 Lake.
17
18 MR. MIKE: Donald Mike, OSM.
19
20 MR. BERG: Good morning everybody.
21 Good to see everybody here, Jerry Berg, Staff Committee
22 member with Fish and Wildlife Service.
23
24 MR. PAPPAS: George Pappas, Department
25 of Fish and Game, Subsistence Liaison Team.
26
27 MR. FRIED: Steve Fried, OSM, U.S. Fish
28 and Wildlife Service, Anchorage.
29
30 MR. PROBASCO: Good morning, Ralph.
31 Pete Probasco, Assistant Regional Director for OSM.
32
33 MR. ZEMKE: Steve Zemke, Chugach
34 National Forest here in Anchorage.
35
36 MS. KENNER: Pippa Kenner, OSM.
37
38 MS. WHEELER: Polly Wheeler, OSM.
39
40 MR. LAWLES: Kevin Lawles, Chugach
41 National Forest in Seward.
42
43 MR. BRYDEN: Jeff Bryden, lead law
44 enforcement officer, Chugach National Forest.
45
46 MR. CHAN: Mark Chan, Forest Service,
47 Juneau.
48
49 MR. KESSLER: Steve Kessler,
50 InterAgency Staff Committee representing the Forest

1 Service here in Anchorage.

2

3 MR. GOLDBERG: Gary Goldberg, OSM,
4 Subsistence Policy Coordinator.

5

6 MR. ARDIZZONE: Good morning, Chuck
7 Ardizzone, Bureau of Land Management. I'm also an
8 InterAgency Staff Committee member.

9

10 MR. NELSON: Good morning. Dave
11 Nelson, fisheries biologist with the National Park
12 Service here in Anchorage.

13

14 MR. VEACH: Good morning. Eric Veach,
15 Wrangell-St. Elias National Park and Preserve, Copper
16 Center.

17

18 MR. WILLIAMS: Darrel Williams,
19 Ninilchik Traditional Council.

20

21 MR. EASTLAND: Good morning. I'm
22 Warren Eastland, InterAgency Staff Committee with the
23 Bureau of Indian Affairs based out of Juneau.

24

25 MR. VON DER BROOK: Good morning.
26 Keith von der Brook with the Native Village of Eyak in
27 Cordova.

28

29 MR. JOYCE: Good morning. I'm Tim Joyce
30 and I'm from the Cordova and Fish Board Service with
31 subsistence fisheries.

32

33 MR. RISDAHL: Greg Risdahl, OSM,
34 wildlife biologist.

35

36 MR. STARKEY: Sky Starkey, legal
37 counsel, Ninilchik.

38

39 CHAIRMAN LOHSE: Okay. Welcome again
40 to all of you and with that we'll go on and look at our
41 agenda. We'll review the agenda and see if there's any
42 additions or changes that would like to be made.

43

44 Donald and I talked about a couple of
45 additions that we'd like to bring before you before we
46 go on and if anybody else has anything that they would
47 like to add or change we can do that at that time too.
48 Donald, do you want to hit the two that we were talking
49 about -- three that we were talking about.

50

1 MR. MIKE: Thank you, Mr. Chair. The
2 reason the Council has a blue folder that I provided
3 for each one of you and for the public, the blue
4 folder, we have copies on the table, so if you need
5 copies, you can find yourself to the tables and get
6 copies. In the Council's blue folder we have this
7 yellow document, it's a potential development for a
8 subsistence dipnet fishery and that can, Mr. Chair, my
9 suggestion is to place that under agency reports under
10 15C, Item No. 15C.

11
12 CHAIRMAN LOHSE: Okay. We'll add that
13 to 15C from the Office of Subsistence Management,
14 right?

15
16 MR. MIKE: That's correct, Mr. Chair.
17 And also in your blue folder we have this green sheet,
18 it is a Board of Game proposal that has to do with
19 wildlife refuge in Unit 13 and one of our Council
20 members requested that the Regional Advisory Council
21 bring this up and provide a position or comment on it.
22 And, Mr. Chair, my suggestion would be under other
23 business under No. 16.

24
25 Thank you, Mr. Chair.

26
27 CHAIRMAN LOHSE: If there's no
28 objection to that we'll put that under other business
29 then.

30
31 (No objections)

32
33 CHAIRMAN LOHSE: And I think Gloria
34 will probably speak to that one, will you, Gloria, when
35 the time comes.

36
37 MS. STICKWAN: (Nods affirmatively)

38
39 CHAIRMAN LOHSE: Okay.

40
41 MR. MIKE: And, finally, Mr. Chair, we
42 had two positions we received from AVCP in August and
43 they requested that the Advisory Councils statewide
44 address the petitions they provided to the Secretary
45 Dirk Kempthorne. And one of the petitions is the
46 petition calling for change in the appointment process,
47 and the second petition is a petition that the
48 Secretaries of Interior and Agriculture extend Federal
49 jurisdiction to ensure subsistence needs are met on
50 Alaska Native corporation lands.

1 And, Mr. Chair, my suggestion would be
2 to place that under the agency reports, Tribal Agency
3 Reports.

4
5 Thank you, Mr. Chair.

6
7 CHAIRMAN LOHSE: If I don't hear any
8 objections we'll do that.

9
10 (No objections)

11
12 CHAIRMAN LOHSE: Hearing none, we'll
13 put it under tribal and non-governmental organizations
14 then.

15
16 MR. MIKE: That concludes my
17 presentation, Mr. Chair.

18
19 CHAIRMAN LOHSE: Thank you, Donald.
20 Does anybody else have anything that they would like to
21 change the order of or add to our agenda.

22
23 MR. CARPENTER: Mr. Chairman. I move
24 we adopt this agenda.

25
26 CHAIRMAN LOHSE: Do I hear a second.

27
28 MR. BLOSSOM: Second.

29
30 CHAIRMAN LOHSE: It's been moved and
31 seconded that we adopt the agenda as amended. All in
32 favor of -- or question.

33
34 MR. CARPENTER: Question.

35
36 CHAIRMAN LOHSE: Question's been
37 called. All in favor signify by saying aye.

38
39 IN UNISON: Aye.

40
41 CHAIRMAN LOHSE: All opposed signify by
42 saying nay.

43
44 (No opposing votes)

45
46 CHAIRMAN LOHSE: Motion carries. At
47 this point in time let's look at our minutes on Page 5,
48 minutes from our last meeting, and we need a motion to
49 adopt the minutes and then we'll have discussion and
50 vote on that. So do I have a motion on the table.

1 MR. CARPENTER: Mr. Chairman. I move
2 we adopt the minutes from the March 13th through 16,
3 2007 Southcentral RAC meeting.

4
5 MR. BLOSSOM: I second it.

6
7 CHAIRMAN LOHSE: It's been moved and
8 seconded that we adopt the minutes from the March 13th
9 through 16th 2007 meeting.

10
11 Does anybody have any discussion,
12 changes, additions, corrections that they've seen when
13 they looked at them.

14
15 (No comments)

16
17 CHAIRMAN LOHSE: Hearing none,
18 question's in order.

19
20 MR. CARPENTER: Question.

21
22 CHAIRMAN LOHSE: Question's been
23 called. All in favor signify by saying aye.

24
25 IN UNISON: Aye.

26
27 CHAIRMAN LOHSE: All opposed signify by
28 saying nay.

29
30 (No opposing votes)

31
32 CHAIRMAN LOHSE: Motion carries. Okay.
33 With that we go on to the Chair's report.

34
35 If you take a look on Page 14 you see
36 our .805 report that we made and following that you'll
37 see the actions of the Board on the proposals that we
38 made, pretty much went along with most of our
39 recommendations.

40
41 What I do have to report is I did go to
42 the meeting in September when they had the motion for
43 reconsideration on Ninilchik's C&T on the Kenai River.
44 At that time, against the Council's clear -- I won't
45 say instructions, but our clear feelings on it, and the
46 objections of the Chair, the Board chose to revote on
47 it and drop C&T for Ninilchik on the Kenai River. This
48 basically means that Proposal FP08-10, we can't act on
49 today, because it deals with Kenai River drainage for
50 Ninilchik and Ninilchik currently does not have C&T and

1 won't have C&t or doesn't have C&T until either another
2 motion comes before the -- another proposal comes
3 before the Board or something like that. At that point
4 we could act on that proposal.

5
6 So that's basically the gist of my
7 report, that's basically the thing that probably has
8 the most impact on us, that we've worked on it for a
9 long time and I think we made clear our feelings on it
10 and I tried to really convey the Council's feelings to
11 the Board and our position on it and, yet, the Board
12 chose -- it was a tie vote and by tie vote motion
13 failed, so Ninilchik no longer has C&T on the Kenai
14 River at this point in time.

15
16 Tom.

17
18 MR. CARPENTER: I'm just curious how,
19 if you recall, which Board members voted what way.

20
21 CHAIRMAN LOHSE: I recall.

22
23 (Laughter)

24
25 MR. CARPENTER: Could you please state
26 it for the record so I.....

27
28 CHAIRMAN LOHSE: Pete is that a point
29 of order?

30
31 MR. PROBASCO: I'm not going to address
32 who voted what but I just want to clarify your
33 statement, Mr. Chair.

34
35 CHAIRMAN LOHSE: Okay.

36
37 MR. PROBASCO: You said all C&T, there
38 would be no C&T for Ninilchik for Kenai River, it's for
39 -- they have C&T for salmon but for the other species
40 there won't be.

41
42 CHAIRMAN LOHSE: Okay, for the other
43 species, my fault. Thank you for clarifying that,
44 Pete.

45
46 Does your question still stand, Tom, it
47 really doesn't make any difference.

48
49 MR. CARPENTER: It doesn't make any
50 difference, I was just curious.

1 CHAIRMAN LOHSE: Yeah, I just as soon
2 not, you know, because they voted as a Board and they
3 voted as a tie vote, you know, and it's a matter of
4 record, you can look it up.

5
6 MR. CARPENTER: Okay.

7
8 CHAIRMAN LOHSE: Any other questions.

9
10 (No comments)

11
12 CHAIRMAN LOHSE: With that, let's go on
13 to Council member reports. Have any of the Council
14 members got anything that they would like to report
15 from their area or from something that they've seen or
16 done or they'd like to put into the record.

17
18 (Pause)

19
20 MS. STICKWAN: I have something.

21
22 CHAIRMAN LOHSE: Gloria.

23
24 MS. STICKWAN: I don't know if this is
25 the appropriate time, but we had a meeting last week,
26 the Board of Game had a meeting on non-subsistence
27 areas and was passed by one to not forward the
28 proposal, it was supposed to be forwarded to the next
29 Board of Game -- I mean the Board of Game meeting in
30 October to review the non-subsistence areas in Unit 13
31 and it didn't go forward, which was good for us.

32
33 But the one thing I wanted to bring up
34 was that nobody from the U.S. Fish and Wildlife office
35 was there. I think somebody should have been there to
36 monitor that because Unit 13 is a big area for us,
37 that's where we do most of our hunting, and I just
38 thought somebody should have been there.

39
40 CHAIRMAN LOHSE: I think that would
41 have been a good idea if they could have had
42 representation there, at least, just to bring the
43 information back to us. So they voted not to forward
44 it so they won't be dealing with it then?

45
46 MS. STICKWAN: No.

47
48 CHAIRMAN LOHSE: Okay.

49
50 MS. STICKWAN: By one vote.

1 CHAIRMAN LOHSE: Uh.
2
3 MS. STICKWAN: By one vote. Donald.
4
5 MR. MIKE: Yeah, Mr. Chair, recently
6 one of our wildlife biologist re -- what do you call
7 it, retired, that's right.
8
9 (Laughter)
10
11 MR. MIKE: And that's why we didn't
12 have Staff at the Board of Game meeting.
13
14 Thank you, Mr. Chair.
15
16 CHAIRMAN LOHSE: Okay. So kind of it's
17 -- normally you would have had somebody there, right,
18 Donald?
19
20 MR. MIKE: That is correct, Mr. Chair.
21
22 CHAIRMAN LOHSE: Okay, thank you. Any
23 other Board comments or reports that you'd like to
24 make.
25
26 (No comments)
27
28 CHAIRMAN LOHSE: Hearing none, we'll go
29 on to administrative business. Donald
30
31 MR. MIKE: Thank you, Mr. Chair. This
32 morning I went over with you the folder that I provided
33 for the Council and that's the extent of the
34 administrative business that I have. But I want to
35 remind the Council, when you speak, please make sure
36 your microphone is on and when we have folks presenting
37 your analysis or presentations, please make sure your
38 microphone is on. And that is it, Mr. Chair, thank
39 you.
40
41 CHAIRMAN LOHSE: Okay. Our next is
42 public testimony.....
43
44 REPORTER: Ralph.
45
46 CHAIRMAN LOHSE:and I only have
47 one green sheet at this point in time.
48
49 REPORTER: Ralph. Ralph.
50

1 (Laughter)

2

3 CHAIRMAN LOHSE: I heard Donald just
4 remind us to turn our microphone on and the first thing
5 the Chair does is not turn his microphone on.

6

7 (Laughter)

8

9 CHAIRMAN LOHSE: Okay. We're on public
10 testimony at this point in time and I only have one
11 green sheet. If anybody wants to testify they need to
12 put a green sheet in. And I have Darrel Williams from
13 the Ninilchik Traditional Council.

14

15 Darrel.

16

17 MR. WILLIAMS: Mr. Chairman. Members
18 of the Board. Good morning. I thought this morning
19 I'd like to take a minute to be able to talk about an
20 interesting development that we're looking at in this
21 Federal process.

22

23 My understanding is that they're
24 looking at making the process a little longer, even
25 having the RAC meeting annually and the Federal
26 Subsistence Board every other year. It's going to
27 cause some serious delays in a lot of these issues.

28

29 The issue that I really wanted to put
30 on record and discuss a little bit, as a matter of
31 record building, was the brown bear hunt this last fall
32 on the Kenai Peninsula that we went over, that was
33 closed because of defense of life and property. There
34 is -- I don't think we can really address it. I
35 thought I'd like to talk to everybody about it, if
36 nothing else, it'd be really good food for thought.

37

38 Apparently the allocation wasn't enough
39 or it wasn't divided enough to where after so many
40 bears were taken, they closed the brown bear season, to
41 make a long story short. I actually brought the
42 emergency order with me if anybody would like to see it
43 or if everybody knows about it or not.

44

45 At any rate, so I looked at this a
46 little bit and tried to see what we could do and how we
47 could look at this and have a scope and direction to
48 look at. And, you know, when I was going through CFR
49 50 and I was looking at pretty closely at who's doing
50 what and it kind of ties into some of the other stuff

1 we're going to be doing today with the -- or sometime
2 during this meeting, with the customary and traditional
3 use process at the Federal Subsistence level. You know
4 CFR 50 100.10 under the powers and duties of the
5 Federal Subsistence Board Roman Numeral Number IV
6 through VII, I'm going to read it off:

7

8 IV. Delegate subsistence uses of
9 fish and wildlife populations
10 on public land.

11

12 V. To ensure that the taking on
13 public lands of fish and
14 wildlife for non-wasteful
15 subsistence uses shall be
16 accorded priority over the
17 taking of such lands of fish
18 and wildlife.

19

20 VI. Other purposes.

21

22 VII. Close public lands to the non-
23 subsistence taking of fish and
24 -- in the taking of fish and
25 wildlife, establish priorities
26 for the subsistence taking of
27 fish and wildlife on public
28 lands among rural Alaskans.

29

30 You know when I read that it seems a
31 little bit clear that maybe as an allocation issue we
32 might be able to look at the brown bear population, we
33 had discussed that in depth. And I remember we looked
34 at allocating the animals according to Federal public
35 lands that would actually have these kinds of
36 resources. And I'm not sure what we're going to do
37 about it but my other fear is that in the emergency
38 order it also says there will be a spring bear hunt and
39 it raises some questions that, you know, just for
40 everybody, because if there is some sort of concern
41 that may be conservation based or not or whatever the
42 concern is and they close the fall season and in the
43 emergency order they're saying they're going to have
44 the spring season for sure, where is that going to
45 leave all the subsistence users when they want to be
46 able to try to harvest.

47

48 And I'm not sure what we can do about
49 it, I wanted to bring it up and let everybody know.

50

1 And that's really all I have to say,
2 are there any questions.

3
4 CHAIRMAN LOHSE: Darrel, would you
5 clarify something for me just so it's on the record.
6 Basically what you're saying is that part of that
7 allocation, if I remember right, is there's a certain
8 amount of bears that are allowed to be taken per year,
9 that includes the bears that are taken for the spring
10 season, in defense of life and property and if there
11 are still bears left then there are subsistence bears
12 in the fall and/or another hunt in the fall, but that
13 the subsistence hunt does not take place in the spring.

14
15 MR. WILLIAMS: Mr. Chairman. What I
16 have here in front of me, just to kind of clarify it,
17 the human caused mortalities cannot exceed 20 bears or
18 exceed 8 female bears older than one year old, from
19 January 1st through December 31st of the current year.
20 Honestly I don't know about -- I'm not comfortable in
21 saying that there will be a spring bear hunt at this
22 rate, I imagine there will be but when we look at the
23 timeline and how many bears have already been taken, I
24 don't know if that's going to carry over. Because this
25 was issued -- the actual written document came out in
26 August so does that number still cumulate for the reset
27 of the year, and will that count towards the spring
28 season or not, and so my concern as a subsistence user,
29 I have the emergency order here that says, that this is
30 for resident open season, subsistence and general
31 hunts, and it also says the people who receive permits
32 will be allowed to hunt during the spring portion,
33 April 1st, 2008 through June 15th, 2008 of these hunts.
34 All other brown bear hunting regulations are not
35 affected by the emergency order.

36
37 So it creates a real concern. And then
38 as a subsistence user in Ninilchik, and with the
39 discussion about extending the periods of times where
40 the subsistence users can enter into the Federal
41 process it's even kind of more of a concern and it kind
42 of brought up the urgency for me to want to at least
43 put it on the record and discuss it at this point in
44 time with the RAC.

45
46 Does that answer your question, Mr.
47 Chairman.

48
49 CHAIRMAN LOHSE: I think you clarified
50 something, Darrel. If I understand right from what you

1 read right there, the spring hunt will include both
2 subsistence users and other people who have permits at
3 this point in time for the fall season, they will be
4 transferred over to the spring season.

5
6 MR. WILLIAMS: Mr. Chairman. Members
7 of the Board. I believe that's right and I guess to
8 summarize, my single biggest concern is from when this
9 time this emergency order was posted, does that number
10 of DLPs and human caused mortalities, do they
11 accumulate and will that count towards the next year.
12 Because, you know, what I'm afraid of is the same
13 thing, we have this hunting season in Alaska every
14 year, it's called DLP, so what I'm afraid of if that's
15 going to become a standard, gosh, what are the
16 subsistence users are going to do. And that's when I
17 went to the Code of Federal Regulations and I looked up
18 and that's where it's very, very clear on the powers
19 and duties of the Federal Subsistence Board, and I kind
20 of emphasize the duties part, that they are supposed to
21 give priority and they also close public lands to non-
22 subsistence taking of fish and wildlife, it's very
23 clear.

24
25 And I'm not saying that this should
26 turn into a power struggle between the Federal
27 management and the State management. I guess what I'm
28 worried about is the -- how are we going to do this,
29 I'm not sure.

30
31 CHAIRMAN LOHSE: Correct me if I'm
32 wrong then, though, if there are sufficient DLPs there
33 is no season for anybody.

34
35 MR. WILLIAMS: Mr. Chairman. That's my
36 understanding also. So if there's sufficient DLPs, can
37 we provide a subsistence season or not, or what are we
38 going to do and -- yeah.

39
40 CHAIRMAN LOHSE: If -- Tom.

41
42 MR. CARPENTER: Yeah, I would think,
43 Darrel, that if the State closes the season because
44 there's too many DLPs and the Refuge manager concurs
45 that they can't have a spring season or a fall -- you
46 know spring season, I would assume that if they're
47 going to open up the spring season, the State's going
48 to open the spring season, that the Refuge manager,
49 through the order that the Board passed in regard to
50 this brown bear, would have to keep a specific amount

1 of allocative bears for the Federal subsistence user.
2 And I'd have to go back and read specifically what we
3 did but I think this RAC was very adamant that
4 Ninilchik to have the opportunity to harvest a
5 reasonable, and I don't remember if we put a number on
6 it, it was either one or two, and the Refuge manger at
7 the time seemed pretty -- he was pretty adamant to the
8 Board that he would be able to take care of the
9 subsistence user. So I would hope that maybe you could
10 talk with the Refuge manager and that if the State does
11 plan to open the season that he would at least tell you
12 that there will be, at least, a percentage of those
13 bears allocated to Ninilchik for the subsistence hunt.

14
15 It may be just a procedural thing. I
16 think the manager must have the ability to do that.

17
18 CHAIRMAN LOHSE: The other thing,
19 Darrel, on the problem that you're talking about, that
20 if there are too many DLPs and there's no season at
21 all, then that comes under the management plan for the
22 bears and then I think it would be out of our hands if
23 there -- if there's no season for the bears because of
24 conservation concerns then there'd be no season for
25 subsistence users either, you know, that would be my
26 understanding on it. But if there was a season, then
27 the subsistence user should have the priority. And, at
28 least, a percentage -- or, you know, at least a
29 reasonable percentage like Tom was saying.

30
31 But I can see your problem, with the
32 growing population and the increase of bears on the
33 Kenai coming through people's windows and into people's
34 yards and stuff like that, DLP is going to go up
35 immensely and the odds are pretty good that under our
36 current management plan the DLPs will always exceed the
37 threshold level for any season. And you can't harvest
38 -- you can't salvage anything off of a DLP, I don't
39 think.

40
41 MR. WILLIAMS: Mr. Chair. Members of
42 the Board. That's exactly what I am worried about.
43 And I think one of the points I wanted to make was just
44 to be able to put it on the record and be able to
45 discuss it a little bit so we're all aware of this.

46
47 We did have an interesting development
48 here last spring, Jeff Sellenger called our office and
49 wanted to know if we wanted to collect two different
50 DLP bears. It's very -- it was really interesting,

1 I'll just take a moment, one of them was in Seward and
2 one of them was in Sterling, both of them had been dead
3 for more than 12 hours. We were not allowed to harvest
4 the hide or the claws or any other craft type items
5 from the bears. And after a bear had been dead for
6 over 12 hours and not been taken care of we had to
7 decline. I mean there was actually nothing to salvage
8 and we couldn't go and do it for them so to speak. So
9 it left us in a position, scratching our heads, going,
10 gosh, you know, it was an interesting gesture but it
11 didn't really pan out. And I think some of the people
12 are feeling the pressure there and a lot of people, I
13 think are also worried, that, with this discussion
14 about extending the period of time for meetings and
15 being able to bring stuff to the Federal level from the
16 subsistence users, there's even more concern because an
17 example would be like the C&T determination on the
18 Kenai, we may be looking at two years before we could
19 even discuss it, not just the next cycle. So it
20 becomes a more aggravated issue, so to speak.

21

22 Mr. Chairman, thank you.

23

24 CHAIRMAN LOHSE: Thank you, Darrel. I
25 don't know, from what I've been hearing from people on
26 the Kenai, I think one thing that might have to be done
27 is be some pressure to revisit the management plan for
28 brown bears on the Kenai and a reassessment of what the
29 bear population is on the Kenai, and what a reasonable
30 take would be.

31

32 I mean it sounds to me like you're
33 seeing the same thing that we're seeing in the Cordova
34 area, a drastic increase in bears popping up
35 everywhere, you know, in town and o ut of town and it's
36 possible the bear population's a little healthier than
37 what is currently assumed in the management plan.

38

39 MR. WILLIAMS: Mr. Chairman. I think
40 you're absolutely right, there are a lot of bears, and
41 there is something that supports the DLP. so to speak,
42 that there are that many bears and there's that many
43 incidences with people and it's not all about
44 development.

45

46 I know down in our area we have a lot
47 of bears, everywhere you look darn near you see bear
48 tracks and bear scat, you know, there's a quick and
49 dirty scat and track survey, we have a large population
50 down there. So it's a little concerning when we're --

1 the way it's being addressed, and as far as the
2 management plan, gosh, guys, I don't know where they're
3 going to go with that, but I think it's a very good
4 point, Mr. Chairman, thank you.

5
6 CHAIRMAN LOHSE: And what I'm bringing
7 that up for is there is a venue then to address the
8 situation and it's not through this Council, the venue
9 would be for people on the Kenai to, through their AC,
10 and through proposals to the Board of Fish and to their
11 biologists and stuff like that, to address the concerns
12 in that management plan, both as subsistence users and
13 just as residents of the Kenai Peninsula, and try to
14 somehow or another get across to them that possibly
15 this management plan needs revisited and the numbers in
16 it need looked at because things have changed
17 drastically and they can change drastically in just a
18 few years.

19
20 MR. WILLIAMS: Mr. Chairman. I guess
21 why, please bear with me for a second, I guess kind of
22 why I brought up the CFR thing is because the way I
23 read the CFR, I actually believe that the Federal
24 management agency should be playing a role in that.
25 You know, we've all seen the letters that come in of
26 supporting and opposing all our proposals and you've
27 seen where Ninilchik has not done well with others in
28 trying to interact in that agency, and that's what the
29 Federal process is supposed to be for. The CFR's are
30 very clear on what's supposed to be done. It's
31 supposed to be for the rural users. And, you know,
32 honestly guys, gosh, I don't really care who's on the
33 AC down there doing whatever, that's why I come here
34 and I talk to other people so we can avoid these really
35 bad conflicts and mudslinging and that kind of thing
36 and actually kind of get down to the root of the matter
37 and then try and get some management done. And I'm not
38 sure if it's really the best way or the right way or
39 what not, but it's the process we have to work through.
40 So this is how I'm trying to approach it.

41
42 Thank you, Mr. Chairman.

43
44 CHAIRMAN LOHSE: Thank you, Darrel.
45 Tom.

46
47 MR. CARPENTER: Yeah, just one quick
48 question, Darrel, the Kenai Management Plan for brown
49 bears, is that a State policy or a Refuge policy, is it
50 a combination of all of them, do you know?

1 MR. WILLIAMS: Mr. Chairman. Mr.
2 Carpenter. When I talked to Robin West, what I
3 understood, as he explained it to me is basically the
4 State does the management and the Refuge kind of
5 follows along with what the State does.
6

7 The problem is, is when you have an
8 area like the Kenai Peninsula, essentially it's kind of
9 like an island, to think of it that way as far as
10 population. So these animals roam in and out of
11 different agencies that are managing the populations
12 and so they try to work it -- work it as a holistic
13 approach, and that was my understanding when I talked
14 to Robin West about it.
15

16 MR. CARPENTER: I guess the reason I
17 asked that was is that if -- I mean if it is a State
18 policy in regards to harvest spring and fall brown
19 bears, the amount harvested, it seems to me like -- I
20 mean I think Ninilchik has stressed that they currently
21 don't have the ability to harvest something that they
22 desire to harvest. Now, granted we can't always
23 harvest things if the populations are in jeopardy, but
24 I think maybe you need to stress to the Refuge manager
25 in a more stringent manner that you really want to
26 harvest some of these bears in the spring if there's an
27 open season and I think that he has the ability to do
28 that.
29

30 So, thanks.
31

32 MR. WILLIAMS: Mr. Chairman. Mr.
33 Carpenter. Thank you. I'll do that.
34

35 CHAIRMAN LOHSE: Any other questions.
36 Doug.
37

38 MR. BLOSSOM: Yeah, Mr. Chair. Darrel,
39 it would behoove you to come to the local advisory
40 committee meetings and help us out. Our advisory
41 committee has recommended upping that limit to 50 bear
42 a year and that's from long experience living in the
43 area, so we need help, we're trying to up that limit
44 and because the State does all the managing of bear, it
45 falls on deaf ears there. Maybe the Federal management
46 should step in and look at how many bear we have
47 instead of just the State doing it.
48

49 CHAIRMAN LOHSE: Thank you, Doug.
50 Darrel.

1 MR. WILLIAMS: Mr. Chairman. Mr.
2 Blossom. Absolutely I'd be more than happy to do that.
3 It's just been a -- the whole thing's just been a real
4 interesting development and I'm a little anxious to see
5 what's going to happen here in the future.

6
7 CHAIRMAN LOHSE: Greg.

8
9 MR. ENCELEWSKI: Mr. Chairman. Darrel,
10 I got a question. I mean my understanding that defense
11 of life and property, I mean you've got the 15A, B and
12 C, is there any provision for splitting that out, I
13 mean Ninilchik is wanting to hunt bear in 15C and most
14 of the defense of life and property kills are in A and
15 B that I know of.

16
17 MR. WILLIAMS: Mr. Chairman. Mr.
18 Encelewski. There have been DLPs. from my
19 understanding in A, B and C, and when I talked to Robin
20 West here about this, he was really kind of still
21 sticking with the whole thing about they want to manage
22 it as one whole area. And that's like the trouble we
23 ran into with the black bear when we were doing the
24 black bear proposals, same thing, because they have a
25 large migratory pattern and what not and they roam
26 large areas, it's hard to manage it with the
27 checkerboard pattern of management.

28
29 MR. ENCELEWSKI: Thank you.

30
31 CHAIRMAN LOHSE: James.

32
33 MR. SHOWALTER: Yes. My question is,
34 do you have any idea or know how they do the count on
35 brown bear.

36
37 MR. WILLIAMS: Mr. Chairman. Mr.
38 Showalter. My understanding is that they've been using
39 double blind aerial surveys. Here two years ago I had
40 talked with Jeff Sellenger and I know they were trying
41 to do some DNA, some actual genetic testing on the bear
42 population using hair traps. Now, from what I heard,
43 they ran out of funding and they weren't able to do
44 that. My understanding is they set up the barbed wire,
45 they put out the bait, it takes a little time and man
46 hours and then it's about \$500 a test to be able to get
47 a sample large enough to determine a population. It's
48 a much better way than the double blind aerial survey
49 where you have two people sitting in fro -- behind each
50 other in an airplane trying to identify bears and both

1 people have to see the bear to mark it as a positive
2 sighting.

3
4 MR. SHOWALTER: Okay. The reason why I
5 asked that is I do believe moose count, they do an
6 aerial count and do an average per, say, acre, or mile
7 or whatever, if they do that for one specie, why can't
8 they do that for the other.

9
10 Thank you.

11
12 MR. WILLIAMS: Mr. Chairman. Mr.
13 Showalter. You know, I think that's kind of why I'm
14 leaning a little more towards the Federal management
15 because it's my understanding and I could be mistaken,
16 I don't think I am, my understanding is that OSM
17 provides the State of Alaska a lot of money to do these
18 things. My personal favorite is the Fall survey and we
19 spent days on Falls survey and we pointed out several
20 different things, however, the Falls survey is still
21 cited and quoted as gospel when it's not. And I really
22 am thinking that maybe the Federal management may have
23 to sit back and look at doing some true management on
24 some of these issues, and if they're footing the bill
25 on different things maybe they should dictate more on
26 how this money's spent. If they want a population for
27 brown bears and they want to have DNA testing, maybe
28 they should mandate that with that funding.

29
30 Mr. Chairman.

31
32 CHAIRMAN LOHSE: Thank you, Darrel.

33
34 (No comments)

35
36 CHAIRMAN LOHSE: I think, Darrel, that
37 probably our Staff and everything has heard what you
38 said, too and so they probably will take that under
39 consideration in some of their discussions in the
40 future, so, thank you for bringing it up.

41
42 MR. WILLIAMS: Mr. Chairman, thank you.

43
44 CHAIRMAN LOHSE: Thank you for putting
45 it on the table. Sky Starkey.

46
47 MR. STARKEY: Thank you, Mr. Chairman.
48 For the record my name is Sky Starkey, I represent the
49 Ninilchik Traditional Council. I only testify at this
50 point because I'm unclear and according to the agenda,

1 whether there will be an opportunity to testify later
2 on the draft customary and traditional use policy and
3 the annual report.

4

5 Will there be further opportunity as
6 the agenda progresses to testify on those issues?

7

8 CHAIRMAN LOHSE: Yes. If you have some
9 specific things you'd like to testify to, Sky, we'll
10 give -- we always have made opportunity to testify on
11 the issues as we deal with them.

12

13 MR. STARKEY: Thank you, Mr. Chairman.
14 Then I'll just limit my testimony at this point to the
15 Federal Board's action to rescind the traditional --
16 customary and traditional use finding for Ninilchik for
17 freshwater fish on the Kenai River drainage and the
18 waters to the north on the Kenai.

19

20 Mr. Chairman. Regardless of what the
21 Board did or didn't do in terms of the merits of its
22 decision, Ninilchik's concern and one that I hope this
23 Council will share is the lack of deference and
24 consideration the Federal Board is giving Regional
25 Councils on customary and traditional use findings.

26

27 The Federal Board has never been clear
28 as to whether or not it owes deference to the RAC on
29 making customary and traditional use findings. ANILCA,
30 Section .805 of ANILCA, which defines the deference for
31 the RACs says that the Federal Board shall consider the
32 recommendations on the takings, takings being the key
33 word, of fish and wildlife within the region under the
34 Regional Council's jurisdiction. Takings is defined in
35 ANILCA as it is in most statutes as capture, the
36 attempt to capture, trap, et cetera, fish and wildlife.
37 Well, the problem with the way the Federal Board is
38 narrowing things is, of course, in order to take fish
39 and wildlife you have to, under their regulations,
40 establish customary and traditional use, so it's not
41 really a very logical system where they, in order to
42 take something you've got to establish customary and
43 traditional use, so why wouldn't the Councils be given
44 deference. And from a subsistence user's standpoint,
45 since the Regional Council's are their voice to the
46 Board, it's critical across the state, not just here,
47 but across the state, the Regional Council's be
48 deference on issues of customary and traditional use.

49

50 And this issue will -- well, you know,

1 you've heard of and gotten briefings on the Chistochina
2 case and what not, you all were involved in that as was
3 one of the other Regional Councils, but this issue is
4 going to continue to come up. So what I'm urging is
5 that you be very aware that the Federal Board did not
6 give this Council any deference at all in its
7 determination on customary and traditional use and, in
8 fact, I was at the meeting and I've been at these
9 meetings forever, and my impression is that the Federal
10 Board has paid very, very little attention to what this
11 Council did. Their discussions have gone off in
12 directions looking at the State's analysis about, you
13 know, how many percentage of fish were taken here and
14 there and on and on and given very, very little
15 deference to this Council.

16

17 So I would really ask and urge this
18 Council to do a couple of things.

19

20 One thing that I think the Council
21 could do and I would urge the Council to do, under the
22 Federal Board's regulations any time the Federal Board
23 does not follow the recommendations of this Council, it
24 is supposed to provide in writing to the Council its
25 reasons for rejecting the Council's recommendation and
26 to the best of my knowledge, and I have not seen your
27 book so I don't know, but to the best of my knowledge
28 the Federal Board has not done -- even done that in
29 this case. And if this Council doesn't stand up for
30 itself and require and ask that at least this Council
31 believes its recommendations on customary and
32 traditional use deserve deference and ask that the
33 Federal Board provide it in writing why it did not
34 follow the recommendations of this Council on customary
35 and traditional use, I guess it would be our position
36 that this Council would be, not only letting down those
37 that it serves in the Southcentral, but be setting a
38 bad precedent for other Councils across the State on
39 these similar issues.

40

41 So we would strongly urge that this
42 Council, by motion, put its feelings, its belief about
43 the Council being due deference on customary and
44 traditional use determinations and ask, formally
45 request from the Federal Board in writing why it did
46 not follow their recommendations.

47

48 Thank you, Mr. Chairman.

49

50 CHAIRMAN LOHSE: Thank you, Mr.

1 Starkey. Any questions for Sky. Tom.

2

3 MR. CARPENTER: Yes, Sky, thanks. I
4 agree with you somewhat.

5

6 You know one of the things that I've
7 always thought in regards to the Federal process, and
8 some may seriously disagree with me, but I've always
9 believed this, is that the biggest problem with C&Ts is
10 that every single RAC and every single proposal that
11 comes before a RAC could be completely interpreted
12 differently by the Board because the eight criteria are
13 so -- I don't want to say nonchalantly used in coming
14 up with a C&T determination, but there is no specific
15 method that has been formulated and directed by the
16 Board for the RACs to use and there has been no policy
17 in my consideration that the Board has come up with to
18 be very specific in the way C&T determinations are
19 made.

20

21 And the reason I say that is I had an
22 interesting conversation this winter with somebody on
23 the Southeastern RAC and they told me that the
24 Southeast RAC, which I must admit, I don't pay a whole
25 lot of attention to, they are very stringent in
26 recommending to the Board that a C&T be given to a
27 community. And they told me, this individual told me,
28 that the interpretation of the eight criteria are very
29 strictly enforced by the Southeast RAC compared to most
30 other RACs. So I look at the situation we have and
31 we're supposed to -- all the RACs are supposed to be
32 trying to, you know, formulate and good recommendations
33 to the Board and I don't necessarily know that the RACs
34 can do that the way the system is set up right now.
35 Because the way I look at the eight criteria and the
36 governance that ANILCA gives the RAC to a certain
37 degree, I don't see how it's possible you could ever
38 turn down a C&T. So what really is the point of having
39 the whole discussion, and the Staff do all the
40 background work if the eight criteria are so loosely
41 interpreted that where are we actually trying to get
42 to.

43

44 And so my question to you is, would you
45 not think that it would be a smarter position to take
46 that either the Federal Board direct the RAC or come up
47 with a policy itself, that there be a specific way to
48 interpret the eight criteria so that the C&Ts that the
49 RACs recommend to the Federal Board are in a more
50 formal manner and it's very logical to interpret the

1 outcome of the C&T, if you understand my question.

2

3 MR. STARKEY: I do, Council member
4 Carpenter, through the Chair. And this is something
5 that I hope we'll be able to address more as we talk
6 about the policy, but just to give you some things to
7 think about in the interim until we reach there.

8

9 First of all it would be really, I
10 think, helpful, and it would have been helpful for the
11 RACs to understand how the eight criteria were
12 developed, which, they were developed on the Kenai
13 Peninsula. They were developed before the McDowell
14 Decision, they were actually developed before the first
15 subsistence law, or the interim between the first
16 subsistence law and the amendments. But the issue, of
17 course, was when the State decided to allow subsistence
18 use for all Alaskans, people on the Kenai wanted
19 subsistence use of salmon and there were a lot of
20 people -- and, of course for 50 years there were no
21 subsistence uses and so when the State started to allow
22 that, the Joint Boards met and they decided, well, we
23 can't -- you know this is the Kenai Peninsula, we can't
24 have everybody having access to subsistence here, that
25 would be too much of a disruption on our commercial
26 fisheries and our sportfisheries and so they developed
27 these 10 criteria, there were 10 criteria then, to
28 actually try to identify -- and one part that was
29 actually good was to try to identify groups and
30 communities and areas and so they could have actually,
31 under their format, you know, separated like smaller
32 groups, like the Kenaitze and Ninilchik out of larger
33 communities, but in any event, the whole purpose was to
34 try to restrict subsistence uses, it wasn't to try to
35 allow subsistence uses, it was to try to restrict
36 subsistence uses. So, you know, the development of the
37 eight criteria had absolutely nothing to do with ANILCA
38 or anything else. It was, in fact, a way to try to
39 knock subsistence use out of the Kenai Peninsula.

40

41 And I mean you're all familiar with the
42 McDowell -- the first case was the Madison case, and
43 then there was McDowell and, you know, we have this
44 history in Alaska. Well, the Madison case was actually
45 over the eight criteria, or the 10 criteria, where the
46 Alaska Supreme Court said, you cannot use these
47 criteria to judge which users have subsistence uses.
48 And so you are -- you know, the Federal Board, and as
49 RACs you are trying to use tools that were never
50 developed to do what you try to do with them. They

1 were never developed for that. And the only reason
2 that the Federal government ever adopted them was
3 because they never believed that you would be sitting
4 here today managing subsistence, they adopted the eight
5 criteria as a tip of their hat to the State saying, you
6 know, we're not going to disrupt your system too much
7 because we don't think we're going to be in this
8 business very long. So here we are all these years
9 later trying to use these criteria to define
10 subsistence uses for a purpose which was never really
11 intended in ANILCA.

12
13 And so I sympathize with what you're
14 saying and there is ways to make a lot of sense out of
15 what ANILCA says in terms of customary and traditional
16 uses of subsistence resources for subsistence rather
17 than making subsistence users go through this drill of
18 trying to show that they used a particular stock on a
19 particular river in a particular area at a particular
20 time in order to be able to do that.

21
22 Having said that, you know, that's the
23 next step that hopefully we'll all be looking at in
24 revising this customary and traditional use criteria in
25 the next step that we go through on the line here,
26 that's I think the answer to your question.

27
28 But I would still come back to where we
29 are now.

30
31 And where we are now is we're in a set
32 of Federal regulations which require this absurd
33 finding and the only way to make any sense out of it is
34 for the RACs, which are the people who are most
35 familiar with the resource use in the area to look at
36 the general use patterns and say is there customary and
37 traditional use and you are the people who are most
38 knowledgeable and in the best position to make that
39 recommendation. It's not the subsistence division of
40 the State, you know, it's not -- you know, what do
41 anthropologists do, they come out and look at the
42 knowledge that you already have and try to put it into
43 writing and so, you know, from a subsistence user's
44 standpoint it is the RACs, if they're going to make
45 these determinations, that have the best knowledge,
46 that are in the best position to make recommendations
47 to the Federal Board, without all the politics and
48 everything else that go into it.

49
50 And so given where we are, given where

1 we were, given the process that was in place when this
2 was made, again, we would really urge you to require
3 deference to your decision that was made under the
4 policy that was in place then and to require in writing
5 why they didn't follow your recommendations. And as we
6 go forward and talk about the policy perhaps we can get
7 to a place where we won't find ourselves in the same
8 position in the future.

9

10 CHAIRMAN LOHSE: Tom.

11

12 MR. CARPENTER: Well, I mean I
13 appreciate your answer and I think you understand, at
14 least, from my perspective that the RAC's kind of in a
15 difficult situation. I mean respectful of the decision
16 of the Board to overturn the RAC is that in my opinion,
17 this RAC could sit here for a week and we could listen
18 to testimony, we could listen to all the most
19 knowledgeable people about whatever subject and we
20 could consider the eight criteria as management tools
21 to come up with the best decision to put forward a
22 recommendation to the Board for C&T. The Board could
23 look at completely different criteria, they could -- we
24 could say that two, three and four of the eight
25 criteria really show and really support the idea and
26 the Board could look at those and say, no, we don't
27 think that that has -- we like five, six and seven, you
28 know, we're using five, six and seven. So basically it
29 leaves the RAC in a position to where it's, you know,
30 it's in a real -- it's impossible for us to make a true
31 recommendation so that if the Board does overturn
32 something that the RAC does, at least if we have a
33 clear idea of how we came to the conclusion that a C&T
34 be forwarded, that we understand completely why the
35 Board overturned the RAC's decision. And right now
36 there is absolutely no way that that can be done. And
37 until there is a set policy that is very specific, with
38 some leniency towards, you know, the Federal process, I
39 don't think that we're ever going to have a C&T process
40 that is very good.

41

42 MR. STARKEY: Mr. Chairman, if I could
43 just respond to that.

44

45 CHAIRMAN LOHSE: Yes.

46

47 MR. STARKEY: And I guess that's the
48 point in asking them, in writing, to tell you why they
49 didn't accept your recommendation because the only way
50 you're ever going to get clarity is for them to have

1 said exactly what you said. There's only three grounds
2 that they can turn down your recommendation, you know,
3 substantial evidence, violates principles of fish and
4 wildlife management or is going to deny opportunity for
5 subsistence uses and, of course, in this case they're
6 not going to say you denied opportunity for subsistence
7 uses, it's not going to be against recognized
8 principles of fish and wildlife, so the only thing that
9 they can come back and send to you in writing is that
10 they don't believe that your recommendation was
11 supported by substantial evidence. And that's where,
12 for Mr. Carpenter, satisfaction and hopefully for this
13 RAC and for all RACs, the Federal Board is at least
14 going to have to respond to Mr. Carpenter's concerns
15 and say, no, no we found based on one, four, seven that
16 there wasn't substantial evidence in your decision and
17 at least at that point you know the next time the
18 process goes through what your burden is. At this
19 point who knows. And the Board is completely failing
20 this RAC, all subsistence users and its own process by
21 not even providing you, in writing, what they decided.
22 Because I was at all the meetings and frankly I can't
23 tell you and perhaps the Chairman can, but the process
24 needs -- it needs this RAC to stand up to the Board and
25 say, you know, at least provide us in writing why you
26 didn't accept our recommendation.

27

CHAIRMAN LOHSE: Thank you. Doug.

28

29

30

MR. BLOSSOM: Yeah, Mr. Chair.

31 Starkey, I want to ditto what you just said. I went
32 through that whole State scenario because I was on the
33 advisory committee all those years, I still am, the
34 whole eight criteria was designed not to help
35 subsistence, it was to eliminate it, and especially on
36 the Kenai. I mean the entire process, that's what it
37 was about, it wasn't for it, it was against it. And,
38 you know, I think at some point here, not now, but
39 somewhere during our meeting we need to make a
40 resolution and says that the Federal Board should look
41 at ANILCA and use those findings and come up with a
42 criteria.

43

44

Thank you.

45

46

47

48

49

50

CHAIRMAN LOHSE: Thank you, Doug. Any
other comments for Sky.

(No comments)

1 CHAIRMAN LOHSE: Sky, I agree with you
2 100 percent on the fact that we need to require it in
3 writing. I was there, I still am not, in my own mind,
4 I am not clear why they turned it down. In my own mind
5 I am totally convinced that, like the rest of this
6 Council, that Ninilchik should have had, at least as
7 far as I know, like this Council presented, that they
8 should have had C&T for freshwater fish. I also agree
9 that the Councils are representative of the people who
10 are the users and have a better understanding of what
11 actually happens that -- and we've said before, it
12 doesn't all have to be down on paper, we deal with
13 people, not paper, and I, myself, the only thing that I
14 can feel on that decision was that it was political, I
15 can't feel that -- I thought that there was much data
16 presented for that as any C&T finding that the Board
17 ever had and that they gave C&T for a lot of other uses
18 that had a lot less information than that, and so there
19 was no consistency to me. And that's my opinion.

20

21 And I think you're right, I think we
22 need to, as a Council, ask for it, in writing, so that
23 we have it in front of us, why our C&T recommendation
24 was turned down and I'll go along with that.

25

26 Any other things for Sky.

27

28 (No comments)

29

30 CHAIRMAN LOHSE: Thank you.

31

32 MR. STARKEY: Thank you, Mr. Chairman.

33

34 CHAIRMAN LOHSE: Okay, then we have

35 Ricky Gease.

36

37 MR. GEASE: Good morning. My name is
38 Ricky Gease, I'm the executive director of Kenai River
39 Sportfishing Association. And Chairman is this the
40 right time to do public comment on the fishery
41 proposals?

42

43 CHAIRMAN LOHSE: Yes, it sure is.

44

45 MR. GEASE: Okay.

46

47 CHAIRMAN LOHSE: Unless you wish to
48 reserve them for when that proposal comes up, you can
49 take that opportunity if you wish.

50

1 MR. GEASE: Yeah, I can do that.
2
3 CHAIRMAN LOHSE: Would you prefer to
4 speak when the proposal comes up?
5
6 MR. GEASE: Yeah, I think so.
7
8 CHAIRMAN LOHSE: Okay.
9
10 MR. GEASE: Okay. Just a couple
11 comments. I agree with the comments that there should
12 be written policies and procedures for doing C&T
13 determinations. I think it was, on all sides of the
14 issue, very confusing, where Board members lie on
15 issues and what their reasonings are. And it was very
16 interesting that you could have different perspectives
17 on the same information. So there's not necessarily a
18 need to have the same perspective, you have different
19 agencies, but it was definitely unclear as to why
20 certain things were approved and why certain ones
21 weren't.
22
23 I thought for this -- for the RAC here
24 one of the interesting things in terms of the C&T for
25 the -- the rationale for approval of C&T for salmon,
26 where it was harvested on State lands, I think, was an
27 interesting one that you should be questioning whether
28 a fish stock -- harvest patterns on State lands of a
29 fish stock that then migrate into Federal lands
30 qualifies as State stuff. Because I think that was one
31 of the rationales that was used for the resident
32 species not being harvested, not going outside the
33 Kenai River drainage. So that was an interesting one
34 that I think may come up with, does that just pertain
35 to migratory fish or does that also pertain to
36 migratory wildlife, and if it pertains to migratory
37 wildlife then does your harvest on State land for
38 bears, we were talking about bears earlier, then
39 qualify for State subsistence on Federal lands.
40
41 So thanks.
42
43 CHAIRMAN LOHSE: Doug. Do you want to
44 ask -- Ricky.
45
46 MR. BLOSSOM: Mr. Chair. Ricky.
47
48 CHAIRMAN LOHSE: Ricky, sorry, you
49 didn't turn your mic off anyhow, so.....
50

1 MR. BLOSSOM: We're not going to let
2 you get away that easy.

3
4 Yeah, you bring up the interesting part
5 because you were at the Federal meeting, you know, they
6 gave C&T to Hope for the Kenai River drainage, what was
7 the rationale that you hear there that was different
8 than Ninilchik?

9
10 MR. GEASE: For Cooper Landing and Hope
11 I didn't hear a lot of rationale but I also didn't hear
12 a rationale why they didn't get C&T for the Kasilof
13 River. So there was no clear definition of why Hope
14 and Cooper Landing were given C&T for the Kenai River
15 but not the Kasilof, and then the only rationale that I
16 heard for -- it seemed like it was location driven, if
17 you're proximal to a resource then you would
18 automatically qualify for it.

19
20 But for Ninilchik on the Kenai River it
21 seemed like if the -- there was a conversation between
22 two of the Board members that Ninilchik harvested most
23 of their salmon resources in the Ninilchik area but
24 those were fish that were migrating towards Federal
25 lands and spawning in Federal lands so that qualified
26 them for the -- for salmon species, but since the
27 resident species were not out in the Cook Inlet waters,
28 that same pattern of use then did not qualify them for
29 resident species. That was basically the logic of it.

30
31 MR. BLOSSOM: One more.

32
33 CHAIRMAN LOHSE: Doug.

34
35 MR. BLOSSOM: Yeah, Mr. Chair, Ricky,
36 that's one thing I want you to look at, our RAC record,
37 we never once in my recollection used State waters as
38 any reason why they should have C&T. All of our
39 studies and all of our work was in the drainages, in
40 the Kasilof, in the Kenai. I don't ever recall -- I
41 heard at the Federal level they did do that but we
42 never did that. Our total conversation was in the
43 system, so I just want to make sure, you know, look at
44 our records and I think you'll find that's what we did.

45
46 MR. GEASE: Well, that's what's
47 confusing about it is because you followed one set of
48 policies and procedures here as the RAC but then when
49 you migrate to the next level, they may or may not
50 follow that same logic and they may or may not follow

1 that reasoning and they may or may not look at your
2 process and your record. So that's where, I think, on
3 all levels it behooves the Federal process, you know,
4 whatever the history has been, to get policies and
5 procedures in place that when you review a record you
6 understand it and as you're building your record you
7 understand what you're building and why you're building
8 it.

9

10 CHAIRMAN LOHSE: Tom.

11

12 MR. CARPENTER: So, Ricky, you would be
13 in favor of both the RAC and the Federal Board
14 following identical policies for coming up with the
15 same determination or the Board reinforcing the RACs
16 determination in regards to C&T?

17

18 MR. GEASE: Yeah, I think if you're
19 going to have criteria that you're going to apply that
20 it should be clear as to how the criteria apply and why
21 they apply so that everybody's playing off the same
22 page because currently right now whereas you didn't do
23 anything on State lands, the Federal Subsistence Board
24 did. So is that -- where's -- so should you now be
25 looking at the record on State lands when, if there are
26 future C&T determinations that come before you, because
27 that's what they did on the fisheries. Should you also
28 do that for game, for migratory animals, that go State
29 lands, Federal lands.

30

31 MR. CARPENTER: Thank you.

32

33 CHAIRMAN LOHSE: Thank you, Ricky.
34 That concludes our public testimony, unless somebody
35 else wants to quickly put a green card in.

36

37 (No comments)

38

39 CHAIRMAN LOHSE: At this point in time
40 we're going to take a coffee break or an uncoffee
41 break, whichever one you want and we'll be back in 10
42 minutes and we're going to go on to fishery proposals.

43

44 (Off record)

45

46 (On record)

47

48 CHAIRMAN LOHSE: If everybody can take
49 their seats we'll see if can call this meeting back
50 into session.

1 (Pause)
2
3 CHAIRMAN LOHSE: Donald.
4
5 MR. MIKE: Thank you, Mr. Chair.
6 Before we get into fisheries proposals, I passed out
7 this morning copies of the State Fish and Game's
8 comments on the fisheries proposals and it's a white
9 paper. It's draft ADF&G comments for FP-08, 09 and 10.
10
11 Thank you, Mr. Chair.
12
13 CHAIRMAN LOHSE: Okay, we're back in
14 session. We're on Item No. 10 on our agenda which is
15 the Fisheries Proposals. I'll give you a little
16 rundown on our procedure that we go through on them.
17
18 We'll have an introduction to the
19 proposal and analysis.
20
21 Then we get the Alaska Department of
22 Fish and Game comments.
23
24 We're open for Federal, State and
25 tribal agency comments.
26
27 InterAgency Staff Committee comments.
28
29 Fish and Game Advisory Committee
30 comments.
31
32 Then we look at our public written
33 comments.
34
35 We listen to public testimony.
36
37 And then the Regional Council will
38 deliberate, recommend and justify one
39 way or the other what their action is.
40
41 So with that we're going to go on, if
42 you look on Page 2 of your agenda, we're going to go
43 onto Cook Inlet area Fisheries Proposals 2008/2009. We
44 have three of them, and we'll start with FP08-08, and
45 at this point in time we'll have an introduction to it.
46
47 And I have a question on that, I think
48 there is a management plan for the Kenai River that
49 precludes this proposal but maybe if somebody gives me
50 an introduction they can address that, so who's doing

1 the introduction, Donald.

2

3 MR. MIKE: Mr. Chair. That would be
4 Mr. Steve Fried.

5

6 CHAIRMAN LOHSE: Steve.

7

8 MR. FRIED: Good morning, Mr. Chairman
9 and Council members. My name is Steve Fried with the
10 Office of Subsistence Management and I'll give you a
11 summary of the three proposals and take questions after
12 that.

13

14 The first one is FP08-08 and the
15 information in your books begins on Page 25. And
16 essentially this proposal was submitted by Ninilchik
17 Traditional Council and it requests that the salmon
18 dipnet fishery in the Moose Range Meadows area of the
19 Kenai River be allowed to occur from the shores as well
20 as from a boat, and if you'll recall the regulations
21 for the Kenai River that the Council recommended last
22 year and actually the Board passed this one also,
23 included a site for dipnetting. If you'll look at the
24 map on Page 28 at Moose Range Meadows and basically
25 this site goes from about River Mile 26.5 to River Mile
26 29, kind of a complicated map but there's a lot that
27 goes on in this area. The grey shaded area is
28 basically the Fish and Wildlife Refuge lands and you
29 can see that on the bottom of your -- on the southern
30 bank there it's mostly Refuge lands, on the top it's
31 actually very little Refuge lands within that area, it
32 actually belongs to -- it was originally Moose Range
33 Refuge land that was given to Salamatof Corporation.
34 It's currently -- it's basically a large subdivision
35 basically with residences and bed and breakfasts. You
36 can see there's some public easements as part of that
37 agreement with Salamatof that allows people to gain
38 access to the river to fish. There's a place that has
39 fishing platforms and there's a boat launch. And
40 essentially when this area came up for discussion as
41 inclusion for a Federal subsistence dipnet site, the
42 fact came to mind, and not only is there limited actual
43 Federal shore in this area, and mostly the Federal
44 jurisdiction is for the river and the islands, but the
45 banks that are under Federal jurisdiction are actually
46 closed to bank fishing from July 1 to August 15th.

47

48 So you can see in that whole section
49 that really the only place to fish from shore would
50 either be from the fishing platform where there's a

1 little tiny piece of land off a public easement that's
2 just down stream of River Mile 27 that's not closed,
3 you know, from July 1 to August 15. The other areas in
4 there are either public property, where you couldn't
5 stand on the shore, you can just use it to access.

6
7 So after, you know, a lot of discussion
8 the regulations were recommended and passed as fishing
9 only from a boat with a dipnet.

10
11 And I guess you can make the argument
12 that, you know, should allow dipnet use from the
13 platforms or maybe dipnet use from that little tiny bit
14 of land, you know, south of that boat launch. And we
15 discussed it quite a bit, you know, with the Staff at
16 OSM, with the InterAgency Staff Committee from the
17 various agencies and basically we actually considered a
18 whole bunch of different things. I mean if you're
19 going to put dipnets on those fishing platforms,
20 obviously you just can't mix dipnets and rod and reel
21 fishermen, so you'd either have to have some sort of an
22 area, time restrictions where you'd separate the two
23 groups and it just didn't sound like a real wonderful
24 idea to a lot of people, we really couldn't reach any
25 consensus on that, and so in general what our
26 preliminary conclusion was, was to oppose the
27 proposal.

28
29 You know, recognizing that restricting
30 dipnetting from a boat would make it difficult for some
31 people. There are other sites to dipnet. If you want
32 to use rod and reel gear under Federal subsistence
33 regulations you can use the platforms.

34
35 And also this next proposal will be in
36 reference to the use of fishwheels on the Kenai and
37 Kasilof, that would also be another Federal subsistence
38 fishing opportunity.

39
40 So in general our conclusion was just
41 to oppose this, keep it the way it is, fishing -- you
42 know, dipnetting only for boats. And I don't know I
43 guess we decided we'd leave it up to the Council and
44 the Board to decide whether or not they wanted to try
45 to do some sort of area time restrictions for use of
46 the platforms, and currently I think there's only one
47 platform that's even useable because the ice jam last
48 winter took out the other one and I'm not sure when the
49 other one's going to be put in, so just in general
50 there's very little public -- Federal public lands that

1 people could fish on the bank in this area so we're
2 recommending that it just stay the way it is.

3

4 CHAIRMAN LOHSE: Any questions. Doug.

5

6 MR. BLOSSOM: Mr. Chair. Steve. The
7 way the Federal Board passed the fishing from the boat,
8 can they tie their boat to shore and stand in the boat
9 and fish right by the bank?

10

11 MR. FRIED: Actually, Mr. Chairman,
12 Doug, the Federal and State regulations, when they
13 closed the banks, actually restrict you from fishing or
14 anchoring a boat within 10 feet of the shore, I
15 believe, so that really wouldn't help. And I'm not
16 sure, after speaking to the Refuge manager if there's a
17 lot of places where you can actually stand on the river
18 or stand on the bank and fish, there's a lot of shallow
19 areas and a lot of rapids. It sounds like where the
20 platforms are is actually the best place.

21

22 CHAIRMAN LOHSE: Doug.

23

24 MR. BLOSSOM: Mr. Chair. My questions,
25 I know what the regulations are, but I didn't know if
26 they'd passed that 10 foot thing to so it sounds like
27 they did, okay.

28

29 CHAIRMAN LOHSE: James.

30

31 MR. SHOWALTER: Yes, on that boat
32 launch area that's also grey, would that be accessible
33 for, let's say, your dipnet fishery there?

34

35 MR. FRIED: That area, if you look at
36 the dotted lines, that boat launch area that's grey, is
37 closed to bank fishing from July 1 to August 15th. I
38 guess the other thing to consider, I suppose, people
39 have asked, why don't you open it before July 1 and why
40 can't you have the bank fishing after August 15th, but
41 otherwise -- but, you know, for a bulk of the fishing
42 it's closed so that really doesn't help.

43

44 CHAIRMAN LOHSE: James.

45

46 MR. SHOWALTER: Now, is that Federal
47 land there or dedicated to the Federal or what is it?

48

49 MR. FRIED: Well, yeah, my knowledge is
50 that from the boat launch up to, you know, where River

1 Mile 28 is, you can see that that's Federal -- a piece
2 of Federal land that's in there, so yeah it is Federal
3 land but it's closed to bank fishing July 1 to August
4 15th.

5

6 CHAIRMAN LOHSE: Steve, is that a joint
7 habitat management plan that the State and the Federal
8 has together, I mean was that a joint agreement for
9 habitat concerns that that was put in effect?

10

11 MR. FRIED: I think to some extent it
12 was. There's actually an existing Federal regulations
13 and it's on Page 25 -- no, it's on Page 27 -- Page 27
14 is the State regulations and, yeah, the public use one
15 is on Page 26 -- it's that 50 CFR 36.39 from July 31 --
16 public may not use or access any portion of the 20 foot
17 wide public easement, so I mean the Federal -- the
18 Refuge actually has a regulation in place that does
19 that. There's easements but you can't fish from the
20 bank in those areas and the State already has that.

21

22 And they've done -- you know, the State
23 has done, you know, a lot of studies that the near
24 shore areas is pretty important habitat for, you know,
25 particularly for juvenile chinook salmon rearing but
26 also other fish use it also and that once it's diluted
27 of vegetation then it's prone to sloughing off and so
28 that's some of the reasons so I don't know if that
29 answers your question, I'm not sure who did it first or
30 if it was jointly done but, you know, there was some
31 problems with access in that whole area as the fishery
32 developed.

33

34 CHAIRMAN LOHSE: So it was put in place
35 for habitat and conservation reasons, then, the idea of
36 protecting the bank right there.

37

38 MR. FRIED: That's correct.

39

40 CHAIRMAN LOHSE: Okay.

41

42 MR. FRIED: And then there's the other
43 thing that complicates it, is that, you know, a lot of
44 it now is public lands so it's just access.

45

46 CHAIRMAN LOHSE: Uh-huh. The other
47 question I had is are there any restrictions on
48 anchoring a boat in that area?

49

50 MR. FRIED: Well, during the bank

1 closure you can't anchor it within 10 feet of shore.

2

3 CHAIRMAN LOHSE: Yeah, I realize that
4 but are there any other restrictions on anchoring a
5 boat 10 foot out?

6

7 MR. FRIED: Not to my knowledge unless
8 somebody else from another agency knows about it, I
9 don't think so.

10

11 CHAIRMAN LOHSE: Yeah. Okay. Doug.

12

13 MR. BLOSSOM: Mr. Chair. Steve. How
14 did the fishery go there this year, did you go there
15 and watch it, did it happen, what do we know about it?

16

17 MR. FRIED: Well, I think the manager
18 is going to provide a short report on how the fishery
19 went. I'm not sure if there was a lot of effort in
20 that area, there were some fish reported harvested from
21 there. I think most of the effort was up at Russian
22 River Falls for salmon.

23

24 CHAIRMAN LOHSE: Any other questions
25 for Steve.

26

27 (No comments)

28

29 CHAIRMAN LOHSE: Thank you, Steve.
30 Alaska Department of Fish and Game.

31

32 MR. PAPPAS: Good morning, Mr. Chair
33 and members of the Council. Basically what I handed
34 out here this morning, yes, FP08-08, October 8th, 2007,
35 I'll be reading this into the record. The Department's
36 preliminary comments.

37

38 If adopted, Proposal FP08-08 would
39 allow Federally-qualified subsistence users to stand on
40 shore in waters that flow through the Moose Range
41 Meadows area while fishing with dipnets or rod and
42 reel. Current Federal regulations authorize fishing
43 from boats only in this area due to the following
44 reasons discussed at the '07 FSB meeting.

45

46 The entire shore of the Federal lands
47 identified as the Moose Range Meadows
48 areas is closed to all fishing within
49 10 feet of shore of the waterline from
50 July 1 to August 15th.

1 Lands in which there is Federal
2 interest, including trails, banks,
3 catwalks have legal easement that
4 preclude these activities to protect
5 riparian habitat, participants could be
6 cited under both Federal and State law.

7
8 Private lands in the area are not
9 subject to Federal subsistence
10 jurisdiction.

11
12 Adoption of this proposal would create
13 conservation, enforcement and confusion issues.

14
15 The Kenai River is located in the
16 Anchorage, Mat-Su, Kenai non-subsistence area
17 designation under State law. The State provides a
18 broad array of personal use, recreational, educational
19 fisheries to meet the needs for personal and family
20 consumption as well as cultural purposes. The personal
21 use and educational fisheries provide for more
22 opportunity to harvest salmon more efficiently and
23 closer to home than is used and adequate opportunities
24 to harvest for rainbow and steelhead trout, lake trout,
25 Arctic char and Dolly Varden occur under State
26 recreational fishing regulations.

27
28 Adoption of this proposal would result
29 in the impact on fish and their habitat in two ways.

30
31 1. Allowing fishing from shore will
32 impact the riparian habitat closure
33 areas from July 1 to August 15th. The
34 shoreline, of course, which is defined
35 to include 10 feet into the water and
36 up land measured at -- from the river's
37 waterline, is closed to any fishing
38 activity in order to protect riparian
39 habitat. These dates were selected to
40 protect the shores from human impact
41 during the majority of the sockeye
42 salmon run returning to the Kenai River
43 and the late chinook salmon run. Also
44 this time period may be the most
45 important part of vegetation growth --
46 growing season. Fishing related
47 activities including storage of
48 equipment related to fishing that a
49 person carries and uses to fish. The
50 riparian habitat zone is important for

1 productivity and the health of
2 anadromous river ecosystem. The
3 regulations developed to protect these
4 fragile zones from trampling and long-
5 term damage due to concentrated --
6 concentrated and repetitive impacts to
7 the vegetation and soils.

8
9 2. Potential over-exploitation of
10 Kenai River fish stocks, which is
11 inconsistent with conservation purposes
12 of the Federal lands and State
13 management for sustainable fish. The
14 Department is concerned that the
15 Federal subsistence harvest levels may
16 not commensurate with the availability
17 of fish and their ability to withstand
18 harvest. In particular, the harvest
19 levels for late-run Kenai chinook
20 salmon and coho salmon are quite high
21 comparison to their abundance in that
22 area. No stock assessment information
23 exists for lake trout or Dolly Varden
24 and information has not been collected
25 recently for rainbow trout below Skilak
26 Lake. Given the lack of ongoing stock
27 assessment programs, stock declines
28 could not be identified in a timely
29 enough fashion to prevent serious,
30 possibly irretrievable depletion of the
31 stocks.

32
33 The Department requests detailed maps
34 showing the boundaries within which Federal regulations
35 would apply and the justification for claiming those
36 boundaries. All of the shorelines on both sides of the
37 Kenai River in this area proposed for the State,
38 Federal -- excuse me, the Federal dipnet and rod and
39 reel fishery is either closed to fishing within 10 feet
40 of shore from July 1 to August 15th, including standing
41 in the water, or is not on Federal land. The area in
42 which there is Federal interest that are not closed to
43 fishing within 10 feet of shore have existing public
44 easements which do not allow fishing activities. No
45 fishing is allowed from a 17(b) easement on private
46 land granted for public access. Fishing under Federal
47 regulations cannot occur while the user is standing on
48 State or private land. Federal subsistence users can
49 access the river through Kenai Borough Property Parcel
50 No. 13526401, and that is that boat ramp that you were

1 talking about earlier on Page 28 of the map of your
2 meeting book here, yeah, it's up river from that boat
3 ramp is -- is Federal property but also cannot legally
4 fish while standing on the easement or standing within
5 10 feet of shore, including storage of tackle,
6 equipment, fish, et cetera, anything involved with
7 fishing. The Kenai River shoreline from River Mile 28
8 and 29 is private property and is downstream of the
9 Refuge lands so no claim to Federal reserved water
10 rights can exist in this stretch, and the Secretary of
11 Interior would have to impose extraterritorial
12 jurisdiction for Federal subsistence use in that portion
13 of the river and shorelines.

14

15 Further comments. The mixing of gear
16 types and user groups would likely cause elevated
17 social conflicts, enforcement issues, and current user
18 displacement. Two small sections of shoreline in the
19 Moose Range Meadows area that have been identified in
20 the Federal Staff analysis that could be used to
21 conduct a Federal subsistence fishery from shore but
22 also are currently used by thousands of anglers
23 annually.

24

25 And the Department's position is --
26 recommendation is to oppose this proposal.

27

28 Thank you, sir.

29

30 CHAIRMAN LOHSE: Tom.

31

32 MR. CARPENTER: Yeah, thank you. Do
33 you know if the State and the Federal agencies have a
34 memorandum of agreement or a signed agreement in
35 regards to the critical habitat area in the Moose
36 Meadows?

37

38 MR. PAPPAS: Mr. Chair. Mr. Carpenter.
39 At this time I'm not aware. I know -- I believe it was
40 agreed upon in the '90s. I believe Dave Nelson's here
41 and he was involved in that process, he might have a
42 better idea of the history of how it came together. I
43 do know the Department has it in State regulations and
44 we have a lot of signs posted down there that we have
45 to replace every year because they get taken down by a
46 lot of folks.

47

48 Mr. Chair.

49

50 MR. CARPENTER: Thank you.

1 CHAIRMAN LOHSE: Any other questions.
2 Dean.

3
4 MR. WILSON: I'm familiar with this
5 area here. How much pressure do you feel it actually
6 gets in that little shore, we're only two and a half
7 miles, here.

8
9 MR. PAPPAS: Mr. Chair. The pressure
10 that I have -- that I believe the Refuge has made
11 estimates of 20 to 30,000 people use the small
12 boardwalks, just the small boardwalks themselves.

13
14 From shoreline pressure, well,
15 currently it doesn't receive much in the closed areas
16 because you have to go 10 feet out to fish and a lot of
17 times that just drops off.

18
19 Boat pressure, there is a continuing
20 population of king fishermen that fish up there
21 sometimes. I've seen 30 or 40 boats from the
22 powerlines down, which I believe on your map is just
23 about where the Refuge ends in the Moose Range Meadows
24 area. A lot of private property.

25
26 I've worked with the Staff running up
27 and down the river, there's a significant amount of
28 pressure but since it's private or you can't fish from
29 there, most of that pressure has been transferred
30 somewhere else. I believe the studies in the '90s, the
31 Department has work that indicates how many anglers
32 fished per square foot or pre linear yard, I don't know
33 exactly what it is, and before it was closed there was
34 a significant amount of pressure and a lot of those
35 banks were just polished mud.

36
37 Mr. Chair.

38
39 CHAIRMAN LOHSE: Doug.

40
41 MR. BLOSSOM: Mr. Chair. What would be
42 wrong with putting the subsistence users in that 10
43 foot section with a boat, that way they could separate
44 out from the other users and they wouldn't hurt the
45 riparian habitat or anything.

46
47 MR. PAPPAS: Mr. Chair. Mr. Blossom.
48 Are you talking about actually putting the dipnetters
49 or anybody, the Federal subsistence users within 10
50 feet of shore?

1 MR. BLOSSOM: Mr. Chair. Yes. But
2 still in a boat.

3
4 MR. PAPPAS: Oh, in a boat.

5
6 MR. BLOSSOM: So they don't get out and
7 hurt the habitat, they could have their boat inside of
8 there and then they'd be out of the way of the other
9 users and probably cause less conflict than anything.

10
11 My second question is, is there a
12 conservation concern?

13
14 MR. PAPPAS: Mr. Chair. Mr. Blossom.
15 First question, within 10 feet of shore, I'm trying to
16 think of the issues -- some of the issues that I've
17 seen where folks do anchor within 10 feet of shore in
18 other areas that are closed in 10 feet of shore,
19 there's a pioneering effect where you see one boat,
20 another boat, and all of a sudden you have nine or 10
21 boats tied up to shore, the DNR Parks Ranger comes
22 down, writes citations or warnings and the folks just
23 -- the folks disperse and within 20 minutes later
24 somebody else comes in and a lot of the folks on the
25 Kenai River are new or don't fully understand where all
26 the areas -- we're talking about sportfishermen, where
27 you can fish and you can't fish, and they'll put right
28 into the same spot not understanding that you're not
29 supposed to fish within 10 feet of shore, even after
30 they hang their jackets on top of the signs on shore,
31 now, I don't have an answer for you if it would be an
32 issue between 10 feet of shore and out, I assume part
33 of the anchoring might be an issue in the shallow area
34 which is excellent habitat for juveniles.

35
36 Conservation issue, as I understand
37 when they established that whole closure there was some
38 conservation issues involved with that, yes, there was
39 concerns for the conservation of that particular
40 habitat because it's so protective -- or excuse me,
41 productive for the salmon stocks.

42
43 Did I answer your question.

44
45 MR. BLOSSOM: Mr. Chair. I guess you
46 must be talking about king and coho, is that where the
47 conservation is, it can't be on sockeye?

48
49 MR. PAPPAS: Mr. Chair. Mr. Blossom.
50 You are correct, I don't believe any of the stocks are

1 a conservation concern in the Kenai right now. The --
2 recently the coho was removed from the conservation
3 concern issue -- or status of conservation. So I don't
4 have a solid answer for you except for the habitat is
5 very productive and it does help out the entire
6 populations of migrating fish through the juveniles
7 resident species that do live in the Kenai there.

8

9 Mr. Chair.

10

11 MR. BLOSSOM: Yeah, one more follow up,
12 Mr. Chair.

13

14 CHAIRMAN LOHSE: Doug.

15

16 MR. BLOSSOM: I guess then what I hear
17 is that if the boats were allowed to be in that 10 foot
18 section, they probably wouldn't do any damage then for
19 habitat. You would have confusion with other users so
20 that's where I see the difference.

21

22 MR. PAPPAS: Mr. Chair. Mr. Blossom.
23 I guess the concern would be the anchors. If you're
24 anchoring in in three feet of water, that might cause
25 some disturbance to the near shore habitat, that's the
26 only thing I could see unless -- well, what I have seen
27 in other areas, people do anchor 10 feet off shore and
28 continual boats going by swinging up into the bank
29 sometimes, if you don't have an off anchor for your
30 stern, you know, one anchor out front that'll hold you
31 in place but I have seen them crush into the bushes,
32 not intentionally because of other boat traffic, that
33 the wake's pushing them over.

34

35 Mr. Chair.

36

37 CHAIRMAN LOHSE: Doug, any other
38 questions.

39

40 MR. BLOSSOM: (Shakes head negatively)

41

42 CHAIRMAN LOHSE: Any other questions.
43 James.

44

45 MR. SHOWALTER: Yes. Okay, what I'm
46 hearing is this is a dipnet fishery -- well, restricted
47 back to a dipnet fishery because originally it was
48 wanted for a short net in the river and so that was
49 kind of blown out, so to speak, out of the water, and
50 going back to a dipnet fishery and now you're saying

1 you can't use a dipnet fishery from that area within 10
2 feet of the bank. Okay, as far as I know they've
3 fished the river for year upon years and now they've
4 just come into regulations as you indicated in the
5 '90s, for this, so to me it looks like this game of
6 eliminating subsistence fisheries, and with that you
7 say a boat 10 feet off the bank, who all has and can
8 afford a boat and motor to go there for subsistence
9 fishery to fish that area whereas they could, let's
10 say, drive to there and dipnet from the bank.

11

12 Thank you.

13

14 CHAIRMAN LOHSE: Thank you, James. Any
15 other questions.

16

17 (No comments)

18

19 CHAIRMAN LOHSE: I've got a couple.
20 When you say all fishing is closed within 10 feet, can
21 people who are outside of the 10 feet cast into that 10
22 feet, I mean is it closed to fishing or is it just
23 closed to trespass on the habitat and storing of
24 equipment and everything else, I mean can they actually
25 fish in that 10 feet?

26

27 MR. PAPPAS: Mr. Chair. No, as I
28 understand, you can ac -- actually you can walk through
29 the property, you can walk down past the waterline, out
30 10 feet and fish and fish all you want but not casting
31 back in towards that 10 feet. I don't understand --
32 excuse me, I wasn't around when they established why it
33 was 10 feet but it is to prevent -- if you're out,
34 let's say you're three feet or four feet, you catch a
35 fish, most people back up on shore, they want to club
36 it, put it on the string or what have you, just the
37 activities associated with it does cause damage,
38 especially when you get the large numbers of people
39 involved.

40

41 But, no, to answer your question
42 directly you couldn't park your boat at 11 feet and
43 cast back in toward shore.

44

45 CHAIRMAN LOHSE: Okay. So you can't
46 have -- you can't have -- it says any fishing activity
47 and that's what I was wondering is whether or not
48 somebody that's out in a boat can cast back into that
49 10 feet or somebody that's out in a boat could go by at
50 10 feet and dip into that 10 feet, I mean, because I

1 look at the length of the handles on the nets on the
2 Copper River and you could be 20 feet from shore and
3 still be fishing the shoreline, you know, with no
4 problem at all.

5

6 (Laughter)

7

8 CHAIRMAN LOHSE: So basically the 10
9 foot of habitat is totally off limit to any kind of
10 fishing activity including casting into it and catching
11 fish.

12

13 MR. PAPPAS: That is correct, Mr.
14 Chair.

15

16 CHAIRMAN LOHSE: Okay. Now, I see
17 there's private property along the river, just down
18 stream from the area that we're talking about, there is
19 no 10 foot riparian habitat protection in that private
20 property, is there?

21

22 MR. PAPPAS: No sir, I don't believe
23 the Department has the authority to put such a closure
24 on private property.

25

26 CHAIRMAN LOHSE: It's against the
27 authority -- for the State to close 10 foot of
28 navigable waters on private property? I mean I can't
29 -- to me if they can close 10 foot of waters on Federal
30 property I would sure think that they could close 10
31 foot of navigable waters on private property because
32 private property starts from the high water mark up, it
33 doesn't go out into the river and so I would think if
34 there was a habitat concern in that 10 feet that that
35 would be closed also on the private property.

36

37 MR. PAPPAS: And the 10 feet is both
38 ways from the shoreline, 10 feet up and 10 feet out.

39

40 CHAIRMAN LOHSE: Right.

41

42 MR. PAPPAS: I don't have an answer for
43 that question. Yeah, that's a very good question, I
44 can get the answer for you by the end of the day, sir.

45

46 CHAIRMAN LOHSE: Okay. The other
47 question I had is, the fishing platforms in question,
48 if I understand right were built with EVOS money to
49 specifically mitigate some of the loss in recreational
50 fishing, if I understand right that was a recreational

1 fishing mitigation project and consequently had no
2 connection at that time with subsistence and the monies
3 were specifically allocated to recreation. Am I
4 correct on that?

5
6 MR. PAPPAS: I don't know at this time.
7 I believe there's plenty of Staff here that might be
8 able to answer that question for you, sir.

9
10 CHAIRMAN LOHSE: Steve.

11
12 MR. FRIED: Steve Fried. That's
13 correct. But according to some discussions I had with
14 the Solicitor's office, that really wouldn't stop
15 subsistence use, it's just that it so happened at that
16 time, that was the main use and that was what the money
17 was for. But you shouldn't, you know, that really
18 shouldn't influence any decision, it wouldn't be
19 illegal to allow subsistence users on there, it's just
20 a problem as to how you'd do that.

21
22 CHAIRMAN LOHSE: Okay. Any other
23 questions.

24
25 (No comments)

26
27 CHAIRMAN LOHSE: Okay. Yes, George.

28
29 MR. PAPPAS: One clarifying comment,
30 through the Chair, yes, sir, talking about opportunity
31 and who can afford a boat, there is the Russian River
32 dipnet fishery available for folks on foot. But that
33 was part of our original comments that we removed
34 because that's obvious, but I fully understand the
35 perspective what you're talking about, that's another
36 50 miles up the road or what have you.

37
38 Mr. Chair.

39
40 CHAIRMAN LOHSE: Doug.

41
42 MR. BLOSSOM: Mr. Chair. I got one
43 more question and then I think maybe we should have
44 Dave Nelson come up, I think he could probably shed
45 some history on that because he was the area biologist
46 when a lot of that went in.

47
48 My question to you is, I see here part
49 of it, you say, is opportunity. Personal use,
50 recreational and educational fisheries, how does that

1 have anything to do with subsistence?

2

3 MR. PAPPAS: Mr. Chair. Mr. Blossom.
4 Though subsistence is a much more complex issue, part
5 of subsistence is obtaining nutrition and this would
6 provide an opportunity to obtain nutrition from wild
7 stocks, that is part of the equation.

8

9 MR. BLOSSOM: Yeah, Mr. Chair, so I
10 guess I would submit if you're going to -- the State
11 keeps writing this commercial fishing is another way
12 for opportunity, so if you're going to include those
13 opportunities, then why doesn't it include them all.
14 But I really believe that subsistence is different than
15 these opportunities and we can't grade these
16 opportunities against subsistence.

17

18 CHAIRMAN LOHSE: Thank you, Doug. Any
19 other questions, comments.

20

21 (No comments)

22

23 CHAIRMAN LOHSE: Thank you.

24

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

26

27 CHAIRMAN LOHSE: Who were you
28 recommending calling up, Doug.

29

30 MR. BLOSSOM: Mr. Chair. Dave Nelson.
31 I think he probably would.....

32

33 CHAIRMAN LOHSE: Would you like to call
34 him up as a Board member, would you?

35

36 MR. BLOSSOM: Please.

37

38 CHAIRMAN LOHSE: Okay. Dave Nelson.

39

40 MR. NELSON: Yes, good morning, Mr.
41 Chair, Members of the Council, and Mr. Blossom. Could
42 you ask once again, specifically, Doug, what it is
43 you'd like.

44

45 MR. BLOSSOM: Mr. Chair. Dave. I'm
46 sure you were around when a lot of this got put in
47 place, you were the area biologist then for the State.
48 Tell us why there's a 10 foot spot here and no other
49 place and let's hear some history on it.

50

1 MR. NELSON: Thank you, Mr. Blossom.
2 Mr. Chair. I can just give you the general broad brush
3 overview of how these bank closures came into effect.

4
5 When we go back and look at the history
6 of the Kenai River sockeye salmon fishery, we can go
7 back to the late 1970s and beginning in the early 1980s
8 this fishery really began to, in quotes, take off. A
9 tremendous amount of public participation occurring,
10 most of that participation occurred during a relatively
11 short timeframe of about, oh, July 1, the early part of
12 July through the end of July, so roughly about a month,
13 perhaps at the most, five weeks, but the point here is
14 that these folks that were fishing for Kenai River
15 sockeye salmon, the vast majority of them were fishing
16 from the bank because sockeye, as we all know, are very
17 bank oriented.

18
19 So what gradually occurred is as the
20 number of participants continued to increase, it became
21 very evident that there was being some very serious
22 done to the banks of the Kenai River, especially in
23 certain given areas. And I could characterize, for
24 example, two areas, if you take a look at the -- I'll
25 move up to the Russian River, for example, in the clear
26 waters of the Russian, up around the falls, that's
27 simply rock. It simply is not degraded by fishermen.
28 If you go down into the Moose Range Meadows area,
29 further down stream and into some of those other areas,
30 we have a grassy bank right up to the water line and
31 during July the water is really too high in many places
32 for folks to stand in the river so they stood on those
33 grassy banks in the matter of that monthly period of
34 fishing became very degraded and they just turned into
35 mud. And as Steve has said, we have rearing king
36 salmon and rearing coho that depend upon those grassy
37 banks for their habitat.

38
39 So in response to what was obviously
40 this habitat degradation occurring from sportfishermen,
41 the State moved forward to identify these areas and
42 this happened over a period of time, in which these
43 areas were closed to sportfishing from the bank, during
44 that sockeye -- during the period the sockeye salmon
45 were there and, once again, the purpose was to protect
46 those riparian habitat areas from trampling and,
47 therefore, protect the habitat primarily for chinook
48 and coho salmon.

49
50 So these banks closures that you'll

1 read about in the State Sportfish Division booklet, it
2 didn't all come about at once. I mean it started with
3 one or two areas and then gradually as, quite frankly,
4 as the problem increased, so did the areas that were
5 closed.

6
7 Now, in regards to the 10 foot closure,
8 I really can't give you a good solid answer as to why
9 it's 10 feet, you know, or why isn't it six feet or why
10 isn't it 12 feet, but if I recall correctly going back
11 it was felt that if people would not fish within that
12 10 foot area it would be protecting the bank. That was
13 the entire reason for this closure. And from my memory
14 I'm going to have to say the 10 foot is probably a
15 little arbitrary. It is 10 feet on either side. So,
16 once again, to protect the bank, a person could fish
17 there, but you're going to -- if you're going to have
18 to have public easements you're going to have to be 10
19 feet back from the water line and you're going to have
20 to throw out more than 10 feet into the water to be
21 legally fishing, then once that fly or lure swings back
22 into the 10 feet then you'd be illegally fishing.

23
24 So the whole idea was to protect the
25 bank habitat for resource conservation.

26
27 I realize that's a very broad general
28 description. I hope it answered your question, and if
29 there's any other comments I'd be glad to respond.

30
31 CHAIRMAN LOHSE: Comments. Tom.

32
33 MR. CARPENTER: Yeah, Dave, would you
34 say that the Moose Range Meadows, the habitat along the
35 bank where we're talking about is pretty significant
36 coho and chinook rearing habitat?

37
38 MR. NELSON: Thank you, Mr. Chairman.
39 I would have to say that the answer is yes. And when I
40 say that I'm going to have to qualify it in saying that
41 all of that riparian or bank associated habitat is
42 important habitat for chinook and coho.

43
44 MR. CARPENTER: Thank you. And just to
45 follow up, and I asked this earlier, do you know if --
46 you know, this is obviously a pretty important piece of
47 habitat or else I don't think that these regulations
48 would be in existence, I mean I know there's a lot of
49 regulations on the Kenai but do you know if there's an
50 officially signed memorandum of agreement between the

1 Federal and State governments in regard to this
2 critical habitat.

3

4 MR. NELSON: Mr. Chairman. I honestly
5 don't recall whether there is or not. But what I do
6 know is that the State government and Federal worked
7 very, very closely on this issue so it was certainly an
8 interagency effort.

9

10 MR. CARPENTER: Okay, thanks.

11

12 MR. NELSON: And I'd just like to add
13 one other point that was brought up. When you're
14 looking at habitat issues along the Kenai River and
15 you're -- you know, the question that was asked, is
16 this an important area for chinook salmon and coho
17 rearing, I mean the answer is yes, but what's this
18 likened to many times is when you're looking at
19 habitat, you're looking at basically the rivets that
20 are holding an airplane wing on. And if you go ahead,
21 if you degrade a small area of habitat on the Kenai
22 River, I mean does this mean that your chinook and coho
23 populations are going to crash, well, no, it doesn't,
24 you've lost this small piece here, there's one rivet.
25 Okay, so people many times will move from fishing where
26 they used to fish into another area, I've heard the
27 term, pioneering, okay, so that becomes degraded. Is
28 the run going to, you know, simply be decimated because
29 of that, well, probably not, that's the second rivet.
30 Well, at some point you're going to reach a point where
31 you take that last rivet out and the airplane wing
32 falls off. In this case there is a decline in
33 abundance due to habitat loss in the Kenai River.

34

35 That's about the best way I could
36 explain it.

37

38 CHAIRMAN LOHSE: Dave can I ask one
39 question. Do you have any -- is there any reason that
40 the State didn't consider extending that 10 foot below
41 the high water mark into the river up and down the
42 Kenai, including the Park that's private property,
43 which since private property doesn't go into the river?
44 I mean if you're protecting riparian habitat and
45 rearing areas for the cohos and the king salmon it
46 seems like it would be just important, since the State
47 has -- since I think the State has the jurisdiction
48 over that water, or I think there's some argument
49 between the State and the Feds on that, but between the
50 two of them, it would seem like it would be just as

1 important to extend that same protection within 10 foot
2 of the bank even if it wasn't State or Federal land,
3 since that is under their jurisdiction.

4

5 MR. NELSON: Yes, thank you, Mr. Chair.
6 Certainly the, and in this particular situation, our
7 rearing chinook and coho that we're protecting, they
8 don't care whether that bank is Federally managed,
9 State managed or privately managed. What has been done
10 and I'm just -- and I'm not totally familiar with this,
11 but if you were to take a boat trip down the Kenai
12 River past Federally managed lands, past State managed
13 lands and past privately owned lands, you'll see a
14 tremendous number of boardwalks out there now and these
15 are also only privately owned lands. And I know that
16 there is an issue by, I'll say a cooperate effort
17 between government and private land owners to protect
18 riparian habitat on private land. And just from my
19 personal observation I think it's definitely a step in
20 the right direction, they're doing a good job.

21

22 And I don't know if that totally
23 answers your question but that's about all the
24 information I could provide.

25

26 Mr. Chair.

27

28 CHAIRMAN LOHSE: Thank you. James.

29

30 MR. SHOWALTER: Yes. I just got a
31 comment. What it is, is you're saying, I could see
32 protecting the river bank real well, yes, but what I
33 hear is the increase of usage of sportfishing along the
34 river bank which is the cause of the erosion and damage
35 and now along with that the subsistence users are
36 penalized.

37

38 Thank you.

39

40 CHAIRMAN LOHSE: Dean.

41

42 MR. WILSON: At the time that that 10
43 foot out of bounds are for fishing was put in, it was
44 because of thousands of people that were degrading the
45 bank in a short amount of time, the proposal that comes
46 in here, I don't think it's going to be that level of
47 people that are going to be working the banks. Any
48 idea, you know, there's still going to be people going
49 up and down the river, I don't think it's out of bounds
50 to walk on that area, but how many people are we

1 looking at for this subsistence proposal, that are
2 going to be actually working that area, any idea?

3

4 CHAIRMAN LOHSE: Steve.

5

6 MR. FRIED: Kind of hard to say since
7 they're not allowed to do it. I mean I don't think
8 there's very many people that fish from a boat in that
9 area for dipnetting, so -- like I said the most popular
10 place this last season was the Russian River Falls, and
11 it wasn't -- and I'm not sure how many people you'd see
12 fishing at a time, there'd probably be groups of two,
13 three, one, I mean it wasn't like it was hundreds of
14 people. Now, that doesn't mean that once you open a
15 fishery it's not going to grow over time but, you know,
16 it's hard to predict. You know there's certainly not
17 as many Federally-qualified subsistence users as there
18 are sportfishermen so it's only a smaller subset of
19 people.

20

21 But, you know, like I said it's just
22 hard to say how many people.

23

24 CHAIRMAN LOHSE: Any more questions,
25 Dean.

26

27 MR. WILSON: Yeah, just a follow up. I
28 guess that's a point that I'm trying to make, is I
29 don't know what a subsistence user is going to have on
30 that bank in comparison to the actual 10 foot, the
31 reason that that 10 foot was put in. I don't think
32 you're going to see thousands of people, I'm thinking
33 off the top of my head here, but I don't really -- if
34 you've got a very few amount of subsistence users that
35 were in a boat last year, you still have people walking
36 up and down the bank right now throughout the whole
37 season, I don't think that's out of -- against the law,
38 it's just actually fishing, so I'm just trying to get
39 an idea, how much of an impact we're actually looking
40 at on this bank.

41

42 MR. FRIED: Yeah, I mean part of the
43 problem is actually, one, there's very little Federal
44 land, actually in the area, and, two, there's actually
45 very little Federal land you can actually access
46 without a boat and if you look on the north bank, I
47 mean there's some -- you know there's some public
48 access, you can get to the fishing platform and then if
49 you go down towards River Mile 27 there's a little
50 chunk of public land, and if you go up to the boat

1 launch, you know, there's a chunk of public land there.
2 Accessing any of the land on the other bank is harder
3 because, you know, the roads aren't that close and then
4 there's public land that the public easement ends, it
5 looks like about -- well, you can't, you'd be
6 trespassing to get onto that -- I guess there isn't a
7 public easement that attaches to it so you'd have to
8 either use Funny River Road and walk in, I don't know
9 how long that would take but -- so I mean it's just not
10 all that easy to access except for the north bank and a
11 few different places and a couple of areas, and I don't
12 really know what the dipnet fishing conditions would be
13 like in those areas, if they're good or not. Maybe
14 somebody from the Refuge has an idea but I didn't think
15 that they were real wonderful looking spots except for
16 the fishing platform spot.

17
18 CHAIRMAN LOHSE: Dean just brought up a
19 question that I've got written down here that I forgot
20 to ask before. Currently is that bank only closed to
21 fishing or during that time period, is 10 foot from
22 that bank closed to trespass or access. I mean can you
23 walk that bank to go grouse hunting, can you walk that
24 bank to go berry picking, can you walk that bank to go
25 for a walk?

26
27 MR. FRIED: Well, on the public
28 easement on the private land, no, it's closed July 1 to
29 August 15th.

30
31 CHAIRMAN LOHSE: Uh-huh.

32
33 MR. FRIED: But on the Federal land,
34 it's closed to bank fishing so I'm not sure if you
35 couldn't be walking or doing other things.

36
37 CHAIRMAN LOHSE: So basically it's just
38 closed to fishing activities, not to the use of the
39 bank, I mean you could use the bank for other purposes.
40 You could use the bank to go jogging or you could use
41 the bank to go berry picking or grouse hunting or
42 something like that. I'm not saying that you'd want to
43 but you could.

44
45 MR. FRIED: I guess somebody in the
46 Refuge might be able to answer it more, you know, I --
47 I think you could, I don't know. I wouldn't think
48 you'd go hunting on the bank, I mean it's kind of close
49 to houses and boats and stuff but I suppose if you
50 wanted to just take a walk, I suppose you could just

1 walk down the bank I guess if you weren't fishing.

2

3 CHAIRMAN LOHSE: Well, I mean it's not
4 close to houses and boats on that Federal land, I mean
5 you could -- I mean you could hike that if you wanted
6 to if it's accessible. I just didn't know whether it
7 was a bank closure to trespass and access on the bank
8 or it was just closed to fishing.

9

10 Dave.

11

12 MR. NELSON: Thank you, Mr. Chair.
13 There might be someone in the room that could correct
14 me if I'm off base on this one, but to the best of my
15 knowledge that area, it is closed to fishing, there's
16 no reason that a person couldn't go down there and go
17 berry picking if they wanted to.

18

19 I mean the point being with the Kenai
20 River, the draw is the fish, the draw is the fish.

21

22 So if a few people want to go down
23 there in July and walk along the bank I don't believe
24 that there would be any degradation occurring or it
25 would be so insignificant you can't even measure it.
26 It's the draw of the fish that brings those tremendous
27 numbers of people that results in habitat degradation
28 and, of course, the potentially negative effect on coho
29 and chinook.

30

31 Thank you.

32

33 CHAIRMAN LOHSE: Gloria.

34

35 MS. STICKWAN: Does anybody know why
36 the Refuge manger isn't here?

37

38 MR. FRIED: Well, I actually think
39 there is somebody from the Refuge here, it's just not
40 the manager. I think there's some Refuge Staff.

41

42 MS. STICKWAN: Okay.

43

44 MR. FRIED: But.....

45

46 MS. STICKWAN: Shouldn't they be up
47 here answering the questions then, that seems like they
48 would have more answers than -- better answers.

49

50 CHAIRMAN LOHSE: Tricia.

1 MS. WAGGONER: Yes, Mr. West [sic], I
2 was just looking through the transcripts because we
3 talked a lot about habitat at the last meeting and you
4 indicated last fall that the Federal closure applies to
5 all Federal lands, it's closed, you can't play
6 volleyball, you can't walk your dog, you can't fish,
7 and then.....

8
9 MR. WILSON: That's not Mr. West.

10
11 MS. WAGGONER: Okay, I am sorry. So
12 Mr. West, I apologize, had said that it's closed to
13 everything and you guys have indicated that there's
14 other uses, is there any way we can get a clarification
15 from someone on this issue.

16
17 MR. FRIED: Well, I know the easements
18 are closed, for sure.

19
20 MS. WAGGONER: So they're closed.....

21
22 MR. FRIED: I mean the public easements
23 are closed during July 1 to August 15th, they're
24 closed.

25
26 MS. STICKWAN: Can we get those guys up
27 here, whoever they are, to answer questions.

28
29 CHAIRMAN LOHSE: The Refuge manger?

30
31 MS. STICKWAN: Whoever's here from the
32 Refuge.

33
34 CHAIRMAN LOHSE: Do we have somebody
35 from the Refuge here that could answer these questions.

36
37 (Pause)

38
39 CHAIRMAN LOHSE: Thank you.

40
41 MR. BYERSDORF: Mr. Lohse. Members of
42 the Council. My name is Geoff Byersdorf. I'm the new
43 subsistence biologist down on the Kenai Refuge. Robin
44 is not here, he is at a project leader's meeting in
45 town this week. And as I've said I'm fairly new to the
46 Refuge I don't have an answer to your question in
47 regards to whether those lands are closed for all uses
48 during those time periods. I don't know if Gary has
49 further information.

50

1 MR. SONNEVIL: Yes, Mr. Chair, I'm Gary
2 Sonnevil, I'm the field supervisor of the Kenai Fish
3 and Wildlife Field Office and also the in-season
4 Federal fisheries manager. In regards to the easements
5 in Moose Range Meadows, those were retained when those
6 lands were transferred to the Salamatof Corporation so
7 in effect, as stated before, they're really not Federal
8 lands. The easements are closed during that time
9 period to any public activity. Now, the private land
10 owner, that's his or her's property and there are bed
11 and breakfast in that area that have clients, that they
12 allow their clients to go down and fish off the bank,
13 which is quite legal. But it's a public access thing
14 so -- they also provide fishing platforms along -- most
15 of those people do, not all of them, these grated
16 walkways that the people often times fish from, that in
17 itself is legal there too from there. But for the
18 public access it is closed.

19
20 And from the Refuge perspective it's
21 closed to public access until that closure's lifted
22 August 15.

23
24 The actual closures on Refuge or
25 Federal lands, my guess is that it's closed to fishing,
26 but, again I'm not the Refuge manager and I honestly
27 don't know. We can attempt to find that out for you
28 today.

29
30 CHAIRMAN LOHSE: Well, I was just
31 sitting here looking at this map right here and I
32 notice that from the Funny River Road, basically you
33 got a half a mile walk to the river at both ends, and I
34 know from what goes on on the Copper and other places,
35 a half mile isn't very much to some people. It's a lot
36 to some people and not so much to others. And my
37 question was, whether that chunk of land between the
38 Funny River and the -- the Funny River Road and the
39 Kenai River was closed to other activities or whether
40 people could just walk in there and like I said, go
41 berry picking, you could do anything else, in that case
42 if they were doing that as a subsistence user, they
43 would not be competing with the thousands and thousands
44 of tourists who are going to basically have access off
45 the road system simply because they're not going to
46 walk in the half mile to go sportfishing in there and
47 it's closed to sportfishing, it's closed to fishing
48 activities. Where if somebody wanted to walk in that
49 half mile and go berry picking and dipnet a salmon and
50 shoot a grouse or something like that, of course,

1 grouse season doesn't open down there until 15th of
2 August not the 1st of August so that would be out, I'm
3 just wondering what kind of an impact that would have
4 because we're not dealing with thousands and thousands
5 of people, we're probably dealing with -- probably as
6 many as people would walk in there to go catch a salmon
7 as would walk in there to go berry picking and at this
8 point in time from what I've seen not too many are
9 going to walk a half a mile to go do it, you know.

10

11 MR. BYERSDORF: Mr. Chair. Members of
12 the Council. This last Thursday I was in Ninilchik to
13 issue hunting permits and while I was there several
14 elders ended up approaching me in regards to some
15 aspects of this proposal and some of the comments that
16 were brought forth and I think you'll see some of this
17 in some of the fisheries information Gary's going to
18 give you later, but in regards to a dipnet fishery in
19 that area they really conveyed to me that it's a rocky
20 substrate, it's clear water, it's deep water, not very
21 far off from there and as far as a meaningful
22 opportunity to them they really didn't feel that that
23 was something that they could utilize. And in regards
24 to rod and reel fishing there, there were a couple of
25 individuals who did try and use the platforms this last
26 year in that area for rod and reel fishing and they
27 found that that particular platform a very difficult
28 one to use and be able to actually land a fish.

29

30 The one that the other -- the other
31 platform that's up river from there which was damaged
32 and hasn't been repaired at this point, is one that has
33 been utilized successfully in the past. And there were
34 several comments in regards to when that would be
35 repaired and they could then utilize that for a rod and
36 reel fishery.

37

38 CHAIRMAN LOHSE: Any other questions or
39 comments. Doug.

40

41 MR. BLOSSOM: Mr. Chair. Gary, I
42 wasn't meaning to slight you, I thought Dave might come
43 up with some history. Do you see if they were to take
44 a boat and put it in there and then fish up against a
45 bank, would they do damage that you think would be
46 improper or do you think that would be a possibility?

47

48 MR. SONNEVIL: Mr. Chair. Mr. Blossom.
49 I feel that if you were to anchor a boat in there
50 within 10 feet and attempt to dipnet or at the 10 foot

1 line, and attempt to dipnet from it, I think it would
2 be fairly -- I think it would be fairly unsuccessful
3 simply because of the speed of the current that we have
4 there and the water depth.

5
6 We also -- there is a fair number of
7 people that fish up through the end of July, fishing
8 for chinook salmon from boats so you'd have quite a bit
9 of boat traffic going back and through that area and
10 the boat wakes would move a boat around too, unless, as
11 Mr. Pappas said, you put out a stern anchor. Without
12 that I think it would be difficult to avoid ending up
13 into the bank. The current is strong. I personally,
14 from my efforts of anchoring a boat during coho season,
15 I try to avoid any area that you have very much current
16 because usually we have rocky enough bottom, it's
17 difficult to get an anchor to set and to hook in where
18 you want to be so we typically end up probably closer
19 to seven or eight feet from the bank.

20
21 CHAIRMAN LOHSE: Doug.

22
23 MR. BLOSSOM: Mr. Chair. Gary,
24 wouldn't it be easier fishing for sockeye in that area
25 though versus 10 foot on out?

26
27 MR. SONNEVIL: Mr. Blossom. I suspect
28 it would but, again, it's never really been tried to my
29 knowledge with a dipnet in that Moose Range Meadows
30 area just because during July and August the water is
31 up high, it's difficult to even wade from shore because
32 of that. I just -- it's nothing like what you get in
33 the lower river in the personal use dipnet fishery
34 where you've got very turbid conditions, a lot slower
35 current there and you got the tidal influence too.

36
37 We did have one report from an
38 individual who claims to have dipnetted sockeye salmon
39 but unfortunately he was out of season so we haven't
40 finished our investigation with this individual as to
41 whether he was fishing from a boat or whether he was
42 fishing from a platform. But other than that the only
43 reports that I've had so far from the permits that have
44 been turned in and I've been out of the office for this
45 past week so I haven't seen the latest returns, is we
46 had three individuals report fishing rod and reel from
47 the one platform and then this one report of a dipnet
48 activity that unfortunately is beyond the dipnet season
49 so we'll be following up to find out what's going on
50 with that individual.

1 CHAIRMAN LOHSE: Dean.

2

3 MR. WILSON: You mentioned that you met
4 with some of the folks from Ninilchik when you were
5 handing out permits there recently, did you get a
6 feeling for how much impact they plan on using the
7 future as far as dipnetting in that area?

8

9 MR. BYERSDORF: The sense that I got
10 from people that I spoke with there was that they
11 really didn't feel that they'd utilize that as a dipnet
12 fishery. That, as Gary said, the current's strong,
13 it's clear water, it's a pretty rocky substrate right
14 there and it drops off pretty significantly. So as far
15 as -- there were safety concerns. And as far as
16 actually being able to actually catch fish during that
17 time period, they didn't feel that they could be
18 successful during that.

19

20 CHAIRMAN LOHSE: Dean.

21

22 MR. WILSON: You know, being from near
23 the Copper River if it's rocky and if it's deep and if
24 it's fast that's typically a pretty good area to
25 dipnet. So I'm wondering why -- I don't know if they
26 -- but I don't know if they're just unsure that they
27 want to get that type of dipnet or maybe they've got a
28 different type in there, it's too big, or what, I'm
29 unsure. But I know for safety reasons, dipnetting from
30 a boat is much less safe than dipnetting from the bank.
31 It takes some coordination to dipnet from a boat and it
32 takes at least a couple of people. And coming out from
33 the bank is much, much safer. And typically more
34 successful, the fish, you get plenty of them along side
35 the shore, right in there, so just a comment on that.

36

37 If they can get in there, that's --
38 with those conditions, it sounds -- you know, I haven't
39 been there but it sounds like that's decent dipnetting
40 conditions.

41

42 CHAIRMAN LOHSE: Thank you, Dean.

43 Greg.

44

45 MR. ENCELEWSKI: Yeah, I just had a
46 comment. The gentleman here that he said he met with
47 the guys in Ninilchik, I haven't heard about this
48 forum, I was wondering who you met with and under what
49 forum and who it was.

50

1 MR. BYERSDORF: We were issuing the
2 Federal subsistence moose permits, I'd have to look at
3 my notes for all the names but two of them that come
4 off the top of my head are Dick Peta, Robert Welsh and
5 Eric Ellsworth, I believe his name is.

6
7 MR. ENCELEWSKI: Yeah, through the
8 Chair. Yeah, my comment is I just was wondering
9 because there's no one there, you mentioned from the
10 Council, and there aren't many people that put in for
11 the fishery so I was just wondering who they were, so,
12 thank you.

13
14 CHAIRMAN LOHSE: Thank you. Okay, any
15 other questions.

16
17 (No comments)

18
19 CHAIRMAN LOHSE: We should go on to
20 Federal, State and tribal agency comments. We've had
21 our -- some of this is Federal comments that we've been
22 having. Do we have any tribal agencies that wish to
23 speak to this issue and/or any other Federal agencies
24 that wish to speak to this issue, this proposal.

25
26 (No comments)

27
28 CHAIRMAN LOHSE: Tribal.

29
30 MR. WILLIAMS: I know we're pushing
31 lunchtime I'll try to be quick.

32
33 I think I'm going to start here with a,
34 kind of a knee-jerk reaction to all the stuff we just
35 heard. And I'd like to say one thing, geomorphology is
36 a process. There is a lot of factors that play in that
37 process. The agency that participates in a lot of that
38 is the Kenai River Center and it's a multi-agency
39 agency, and there's even some controversy about their
40 methods. Putting a root wad in a stream bank and
41 calling it habitat for fish is not always productive.
42 Erosional events are a natural occurrence in the stream
43 that provide for deposition of in-stream habitat. To
44 my knowledge nobody, no agency participates in in-
45 stream habitat.

46
47 Down in America, the Lower 48 states,
48 they all participate in in-stream habitat because
49 that's where the fish live. If this single two and a
50 half mile stretch of river was the single most

1 important critical habitat area on the Kenai River
2 there would be fences in place, it would be protected,
3 you would have people hazing moose and bear to keep
4 them out of there. What are they going to do if a
5 moose goes in and eats the willows along the creek.
6 It's to the point where we need to keep this realistic.

7

8 I heard the number 3,000 people. There
9 aren't 3,000 subsistence users. And I think we need to
10 get back to the root of where we're at.

11

12 Gary Sonnevil has some information
13 that's on the table back there about how many permits
14 were issued and the type of people who fished. I don't
15 have it in front of me but that's some really, really
16 good information to look at to make some of these
17 judgments by.

18

19 And I had to get that out first, sorry,
20 guys.

21

22 However, we are asking for a positive
23 determination on this proposal that we had put in.

24

25 Changing the regulation from boat or no
26 boat and even the impacts the subsistence may or may
27 not have really offers no management benefit. If there
28 was something in place where there was active
29 management going on other than a closure, for example,
30 if there were fences up for keeping whatever may pass
31 through there off there, that'd be a little easier to
32 believe.

33

34 Fishing from the bank could be more
35 effective than fishing from a boat. Personally, as a
36 Federally-qualified subsistence user I don't have a
37 boat. But now if they're going to make them available
38 I might be more interested. But I'm pretty sure that
39 OSM or the Alaska Department of Fish and Game are not
40 going to come and give us boats.

41

42 I think something that we need to
43 consider is part of the eight factors when we're
44 looking at this. Meaning a pattern of use, consisting
45 of methods and means of harvest, which are
46 characterized by the efficiency and economy of effort
47 and cost. Telling me as a subsistence user, working
48 from a rural economy, telling me I need to buy a boat
49 and a Honda four-stroke engine to be able to go and get
50 a fish, well, that really destroys the whole economical

1 benefit of subsistence. It doesn't just destroy it, it
2 alienates it, I can't believe we're even discussing it.

3
4 One of the things that I think
5 everybody needs to remember is we've worked on this for
6 years now. This was a place to start. This was what
7 we had set it up for. And if -- a lot of questions
8 come up now because if this was such a big deal, why
9 did we start here. It's almost being set up to fail.
10 And as a subsistence user, I know a lot of people from
11 the community, which they were just talking about, they
12 don't understand the process, they don't understand
13 coming here and participating in the Federal process
14 and what the RAC does and what the Board does and
15 writing proposals, so it makes it more difficult.

16
17 The Ninth Circuit Court has interpreted
18 the language of ANILCA meaning that a subsistence
19 living is not statutely required to completely
20 eliminate other uses of fish and wildlife. And in that
21 statement it's the same thing, it shouldn't be a battle
22 between sportsmen and subsistence users and commercial
23 users and all that, there's fish to go around and
24 everybody should be able to participate in that.

25
26 When I read the analysis, I do have
27 some questions that I think that it may be a really
28 good time to address this at the level of the RAC.
29 When it talks about the Federal subsistence fisheries
30 in the Cook Inlet, you have where it states, that,
31 Federal subsistence regulations were first established
32 in 1999. In the next paragraph it says Federally-
33 qualified rural communities are interested [sic] in
34 much larger non-rural -- or I'm sorry -- inter-spread
35 among much larger non-rural communities and freshwater
36 subsistence fisheries have not been allowed to operate
37 for 50 years. Well, which is it, was it 1999 or has it
38 been 50 years; it's kind of fuzzy math. And it's a
39 bold move to put that in writing and bring it before
40 the Southcentral Regional Advisory Council, it's got to
41 be one or the other. If we don't make some
42 determinations on what these things are, you know, I'm
43 just surprised we're still talking about these kind of
44 things.

45
46 But it's what we were talking about
47 earlier, I believe Mr. Carpenter brought it up, if we
48 don't set some standard and look at what things are for
49 what they are, it leaves questions and when it goes to
50 the next level these questions bring up more questions

1 and it makes the process much more difficult.

2

3

4 The Kenai River is 82 miles long and
5 just for simplicity sake, let's just double that and
6 say there's a stream bank on each side and it's
7 straight and so we'll call it 164 miles of river bank
8 and we're talking about, and to be very generous, we're
9 talking about maybe five miles of total river bank that
10 may or may not be affected by a very small number of
11 people. I think that controls could be put in place to
12 be able to avoid these kind of damages. We have an
13 incredible permitting system that we're participating
14 in right now. I've got a pile of permits at home for
15 fishing and hunting and what not, it would be a lot
16 simpler if we had like one permit that subsistence
17 users could get to be qualified to participate, but
18 permitting could do a couple of different things. One,
19 it could restrict the amount of use and it could be
20 monitored and then the Refuge manager could step in in
21 the case of some drastic event. And, two, kind of
22 going back to the Kenai River Center there, the multi-
23 agency organization, in managing land down on the Kenai
24 Peninsula one of the things that we have found out is
25 that trying to prevent stream crossing has turned into
26 a very challenging task. For example, a person drives
27 their four-wheeler across the Ninilchik River and the
28 other end of the gambit is a person drives their four-
29 wheeler across the Ninilchik River on the beach. Now,
30 if you were to give somebody a citation for that and if
31 you were to take it to court, what happens is, is could
32 this person have gotten a permit to do that through
33 this multi-agency organization and the answer is, yes.
34 So the standards between one organization and another
35 are somewhat different.

35

36

37 But I think we need to get back into
38 something where we need to set a standard on the
39 subsistence level on what we're going to follow. And
40 that's worked pretty good for those guys and it may be
41 a good model to look at.

41

42

43 Gary Sonnevil brought in the
44 information from the permitting and it's a lot of good
45 information and I really would hope that people take
46 note of that. I have here in my notes 29 Ninilchik
47 residents obtained permits.

47

48

49 I also think it's important to consider
50 the gentleman who was here from the Refuge that there
are still people who feel that this is not a meaningful

1 preference and is not a very good way to get fish and
2 it kind of brings it back to the beginning where we
3 thought this was a place to start and it's starting to
4 kind of look like this is the place where we're going
5 to finish and it's not a real comfortable feeling from
6 a subsistence standpoint.

7

8 That's all I had, Mr. Chairman.

9

10 CHAIRMAN LOHSE: Any questions for
11 Darrel. Tom.

12

13 MR. CARPENTER: Yeah, Darrel, thanks.
14 You know looking at the analysis here there were very
15 few people from Ninilchik that even participated in the
16 Kenai River fishery and, you know, of the ones that did
17 most of the fish were harvested at the Russian River
18 Falls, not down at the Moose Meadows area. I agree
19 that there's probably not going to be that many people
20 participating in this particular area. You know, I
21 think the big question for me is, is irregardless of
22 subsistence fishing, at some point in time the State
23 and the Federal government both thought that this
24 stretch of river was critical enough habitat that they
25 closed it during a specific period of time.

26

27 You know we've heard all kinds of
28 different answers as to why that was.

29

30 I think we got to -- you know, we
31 talked last year about, you know, we had to start
32 somewhere, like you'd said, I think this RAC showed
33 through giving a C&T recommendation that Ninilchik
34 deserved some preferential treatment in regards to
35 subsistence fishing. I think we've opened a couple of
36 opportunities last year for you, this being one of them
37 in a small area. I think we have a proposal that's
38 before us after this in regards to something that I
39 think that Ninilchik really wanted which was the
40 fishwheel, which would probably provide more
41 opportunity to a larger and more diverse group of age
42 between the Ninilchik community and we also have an
43 issue that we talked about in regards to harvest of
44 fish at the Hidden Falls area, which is something that
45 -- so I think there are some things on the burner, I
46 don't want -- I hope you don't think that the RAC or
47 the Staff is trying to impede Ninilchik's ability to
48 harvest fish. But one of the things that's always been
49 important to me, at least, is habitat, you've got to
50 have habitat, if you don't have habitat, you're not

1 going to have any fish. And in my eyes, this is a very
2 small piece of Federal land with probably a very, very
3 small amount of people using it, utilizing it, is it
4 worth the controversy and is it worth, you know,
5 spending this much time when there are much bigger and
6 greater and more opportunistic ways for you to harvest
7 fish potentially?

8

9 MR. WILLIAMS: Mr. Chairman. Mr.
10 Carpenter. Thank you. I understand what you're
11 saying. I am an environmental scientist. I have a
12 background in this. I look at it and I do take it very
13 seriously. But I guess the part where I do raise an
14 eyebrow is if this is a very critical -- if this is a
15 critical habitat area, show me an area that's not, for
16 one. For, two, if this is a critical habitat area, how
17 come residents above and below it have catwalks built
18 along the bank. These are stream structures which
19 cause erosion on the down hill side, which causes
20 increased turbidity, increased stream temperature and
21 on and on and on. These are detrimental processes.
22 And that's where I get very, very concerned where
23 people play off the semantics of, oh, we're doing a
24 really, really good thing to people who don't have an
25 incredible amount of knowledge about it, because it
26 takes a lot of knowledge. I did my thesis in Cooper
27 Landing on volcanic depositions, which are glacier
28 floods, I'm fairly checked out on geomorphology, which
29 impacted the Kenai River and why you have the different
30 kinds of stratigraphy along the way.

31

32 So, to me, from a habitat perspective,
33 it's more important to do it right than it is just to
34 say we're doing something, you know, I really
35 appreciate the organizations like the Kenai River
36 Center, for example, because right, wrong or
37 indifferent, controversial or not, they're watching,
38 and they're saying, hey, guys, we got a problem, let's
39 all work on it, which is a cool deal, you know, I
40 appreciate that. But there's these other concerns that
41 worry me greatly. And I shouldn't have to take this to
42 the nth degree, so to speak, and I'm really afraid to.
43 And I guess, what I go back to and what I think about
44 is going down to the Kasilof River with a dipnet,
45 getting so darn frustrated that I quit doing it. And
46 I'm sitting here thinking, you know, we could
47 postulate, we could postulate, we worked, we worked, we
48 tried, you know, we're trying to work with everybody
49 and that was just -- to me I didn't -- it didn't work
50 very well, let's just put it that way, and I was very

1 frustrated, you know, and then I think about where even
2 the people who are permitted right now, a lot of the
3 folks who are looking at this are sharing that
4 frustration thinking, gosh, you know, I can catch just
5 as many fish with a rod and reel as fast as that
6 because that's so difficult and the areas that we're
7 having to do and having to go get a boat and all that,
8 it's making it to where it's a really difficult
9 process.

10
11 So I think there's a lot of things in
12 here, but, you know, it was a start and I think that we
13 still need to move forward to be able to have a start
14 and I think we should be able to allow people to fish
15 from the bank and if nothing else, from a safety
16 perspective. I don't want to get in the water and slip
17 and fall down and get hung up in a net and something
18 bad happen and I wouldn't let my children go out and do
19 it. So there's those concerns, too.

20
21 And I'd just like the Board to consider
22 some of these things and deliberate on it and maybe we
23 can all come up with some really good answers.

24
25 Mr. Chairman, thank you.

26
27 CHAIRMAN LOHSE: Tom.

28
29 MR. CARPENTER: Just one follow up,
30 Darrel. At least this is the understanding that I
31 have, you know, speaking to you representing Ninilchik
32 there were only a very few people from Ninilchik that
33 participated but we also have to take into
34 consideration that this rule change would not only
35 apply to Ninilchik, it would apply to all qualified
36 rural users. So we're not talking -- you know speaking
37 to you, I'm looking at a very few people, speaking to
38 the proposed rule change, I'm speaking quite a few more
39 people, potentially, because there are probably going
40 to be more people from Cooper Landing, at least, from
41 what it appears, that utilized the fishery this year,
42 than there may be from Ninilchik, but we are talking
43 about all rural qualified users.

44
45 Thank you.

46
47 MR. WILLIAMS: Mr. Chairman. Mr.
48 Carpenter. You know, and that's something that we've
49 kind of touched on here at the RAC before and I'd like
50 just everybody to kind of take a second and remember we

1 had talked about the people who show up and ask and I'm
2 here, and I've been here and been here and been here
3 and the same thing, when we've been giving C&T
4 determinations to Hope who didn't show up or didn't ask
5 for it, they weren't here and so now I'm sitting here
6 and we're having to evaluate in Ninilchik how come Hope
7 has resident species and Ninilchik doesn't when they
8 have to travel just as far and this geography was some
9 sort of a factor and it's making some really grey areas
10 so it's really turning into a tough one.

11

12 But, Mr. Chairman, thank you very much.

13

14 CHAIRMAN LOHSE: Tom, one more.

15

16 MR. CARPENTER: And, Darrel, I agree
17 with you 100 percent. And I think that's why, exactly
18 for what you said, the C&T process has to change
19 completely because of my own personal belief if you
20 don't show up or request something from this RAC and
21 the Board then you really don't think it's important
22 enough, and when you do think it's important enough you
23 will show up. And I don't think we'd even be having
24 this discussion about this little chunk of land if we
25 were only talking about five people using it. But
26 since we're talking about all qualified rural residents
27 it totally changes the landscape of the idea.

28

29 So, thank you.

30

31 CHAIRMAN LOHSE: Don't run off Darrel.

32

33 MR. WILLIAMS: Okay.

34

35 CHAIRMAN LOHSE: Anybody else have
36 questions for Darrel.

37

38 (No comments)

39

40 CHAIRMAN LOHSE: I have two. I've been
41 sitting here looking at this map, Darrel, have you got
42 the map in front of you, do you have a copy of the map?

43

44 MR. WILLIAMS: I don't have it in front
45 of me, Mr. Chairman, but maybe I could answer your
46 question.

47

48 CHAIRMAN LOHSE: Maybe Donald could
49 give you a copy of the map.

50

1 MR. WILLIAMS: Thank you.

2

3 CHAIRMAN LOHSE: And two things come to
4 my mind when I look at this map and possibly you can't
5 answer but maybe somebody else could answer it for you.
6 I notice that the closed to bank fishing from July 1st
7 to August 15th on this map only applies to Federal
8 land, it doesn't extend off into State land or private
9 land so evidently this chunk of Federal land right here
10 is the critical habitat for that, I was just wondering,
11 has this same thing happened in other places on the
12 Kenai River or is this the only area that has the 10
13 foot closure, are there other places, too?

14

15 MR. WILLIAMS: Yeah, Mr. Chairman,
16 members of the Board. There are several places along
17 the Kenai River that they have bank and boat closures,
18 we have to stay off the bank and they're posted along
19 the river.

20

21 CHAIRMAN LOHSE: The other thing I was
22 going to ask you, Darrel, when I look at this chunk
23 right here and you're talking about the fact that you
24 don't have a boat and the idea is that the boat is too
25 expensive for subsistence uses. What would be your
26 feeling how would subsistence users access the bank in
27 this portion of Federal land? If they wouldn't use a
28 boat they wouldn't get on the south bank or do you feel
29 that they would actually make that half mile walk in
30 and do their fishing that way or walk down -- or walk
31 up from the boat landing right there for that half mile
32 chunk that's right there?

33

34 MR. WILLIAMS: Mr. Chairman. Members
35 of the Board. I can actually say that if you look at
36 this map and you follow Funny River Road back down past
37 Man Road and down before it makes the -- it makes a
38 little S curve there, right underneath the letters
39 RM26, River Mile 26.

40

41 CHAIRMAN LOHSE: Uh-huh.

42

43 MR. WILLIAMS: Right in there, there's
44 a large parking lot and if you go there in about July
45 15th of every year, that parking lot which is probably
46 about as big -- I don't know, as big as the parking lot
47 next door at Wal-Mart there, it is door to door of RVs
48 and there's a steady beaten trail of people who go back
49 and forth right next to the Kenai River Center down to
50 the catwalks and they fish. And it really is, it's a

1 sight to see, it's its own small little city. I
2 guarantee and I actually know for a fact because I've
3 gone down there and fished, that people go down there
4 and fish. The hike's not that hard, it's a safe place
5 to go, it's not that far out of the way. People will
6 make that commute, and it's probably -- I think it's
7 probably about a half -- maybe a quarter of a mile
8 right there, it's not too far but people will go down,
9 they'll catch their fish, they bring them back, they
10 clean them, they do all these activities. And this is
11 an area where as a point in fact, you're talking about
12 more sportsmen than you are about subsistence users,
13 but I've done it myself so subsistence users do utilize
14 these same kind of areas and they do make that commute.

15
16 But it's just the same thing, I think
17 we need to keep in perspective, it's not hundreds of
18 subsistence users, it's a small number of subsistence
19 users.

20
21 CHAIRMAN LOHSE: Darrel, but that's not
22 Federal land.

23
24 MR. WILLIAMS: Right.

25
26 CHAIRMAN LOHSE: That's land that
27 currently isn't closed to bank fishing and that's land
28 that doesn't have catwalks, that's just land that's
29 there.....

30
31 MR. WILLIAMS: Right.

32
33 CHAIRMAN LOHSE:right, I mean
34 they can just walk down to the bank and go fishing
35 right in that area where that parking lot is?

36
37 MR. WILLIAMS: Right, Mr. Chairman, I
38 was just using that as an example of what people will
39 do as a real good example.

40
41 CHAIRMAN LOHSE: Right.

42
43 MR. WILLIAMS: I believe if the access
44 issue is clarified people will be more comfortable
45 going there. I think that's part of the problem right
46 now. I don't like to trespass, you know, when it comes
47 to trespass issues I usually tell people if they don't
48 know and they don't know that they have permission to
49 be there, don't do it. People who own riverfront
50 property along the Kenai River, especially in this

1 area, are getting much more resistant to trespass, even
2 people coming down and walking along their banks
3 because then they get notifications from people like
4 the Kenai River Center who say your bank's tore up, why
5 don't we do something about it and then they look at it
6 as this expense and this project and this heartache
7 that they have to go through as a land owner. So I
8 think if the access issue gets resolved, I think you're
9 going to see a lot of traffic in there. But then,
10 again, if you can -- people may just rod and reel from
11 the bank, but trying to dipnet, god, I just don't see
12 how it's going to happen, you know, and I don't see
13 people hauling boats in there to do it.

14
15 CHAIRMAN LOHSE: Well, that's what I'm
16 getting at, though, is what I would like to know is,
17 if, if the Federal land was open, where would be, for
18 the non-boat operating subsistence user, where would be
19 their access and, again, that RM26 parking lot accesses
20 State water so that doesn't count.

21
22 MR. WILLIAMS: Uh-huh.

23
24 CHAIRMAN LOHSE: You're talking about
25 if you're going to access anything you're going to have
26 to access waters that are going through Federal lands
27 and where and how and how easy would it be for a
28 subsistence user -- see I don't know what the country
29 looks like down there, if I took off from -- if I took
30 the survey line or whatever you wanted to call it,
31 between State, private and Federal land right there,
32 between 26 and 27 and I went off the Funny River Road
33 and I tried to hike into the Kenai River, what would I
34 be hiking through?

35
36 MR. WILLIAMS: A lot of black spruce,
37 fairly level terrain, it's not a bad walk.

38
39 CHAIRMAN LOHSE: Long?

40
41 MR. WILLIAMS: A little long. When you
42 go out further out Funny River Road, you know, that way
43 you start getting into more rolling hills but down by
44 the airport there, it's fairly flat. It's not a tough
45 hike at all.

46
47 CHAIRMAN LOHSE: So a Federally-
48 qualified subsistence user could, for all practical
49 purposes, stay on Federal land?
50

1 MR. WILLIAMS: Uh-huh.

2

3 CHAIRMAN LOHSE: I don't know if there
4 is a trail at that point or if there's a slash trail or
5 something to mark the border or what, but a Federally-
6 qualified subsistence user could stay on Federal land,
7 hike to Federally-qualified riverbank and do it
8 reasonably but not without a fair amount of effort,
9 it's enough effort that you're not going to have every
10 Federally-qualified user doing it, especially if --
11 that's the other question I was going to ask, is this
12 Refuge land closed to RV -- I mean not RV, but ATV?

13

14 MR. WILLIAMS: My understanding is that
15 all wheel vehicles are closed on the Refuge -- or not
16 allowed on the Refuge.

17

18 CHAIRMAN LOHSE: So this is strictly a
19 walk in area?

20

21 MR. WILLIAMS: This is strictly a walk
22 in. And I do believe it's somewhere where you could
23 actually walk in and walk out.

24

25 CHAIRMAN LOHSE: Yeah.

26

27 MR. WILLIAMS: That's my opinion.

28

29 CHAIRMAN LOHSE: Well, I'm just
30 thinking of human nature and I don't know how many
31 people -- I know there are people who will walk in a
32 half a mile to go fishing and then walk a half mile
33 down the bank to go fishing but there aren't a real lot
34 of them, whether they're subsistence users or non-
35 subsistence users and they wouldn't be -- the area is
36 already off limits to sportfishermen so they wouldn't
37 be competing with sportfishermen if I'm looking at it
38 correctly.

39

40 Dean.

41

42 MR. WILSON: That parking lot that
43 you're talking about, Darrel, a subsistence user would
44 be able to park there even though it's on State land
45 and walk over to Federal land; is that correct?

46

47 MR. WILLIAMS: Mr. Chairman. Mr.
48 Wilson. My understanding is that's actually private
49 land and the gentleman who owns it allows people to
50 park there, he's just letting them do it out of the

1 goodness of his heart because he's another person who
2 found that it was just easier to let people do it and
3 cooperate and get the cooperation in return than it was
4 to tell them, no, you can't be here. And so, you know,
5 the same thing there could be some -- you know, if that
6 were to change there could be some parking issues and
7 there could be some more access issues. I'm not 100
8 percent sure what would happen on that.

9

10 Mr. Chairman.

11

12 CHAIRMAN LOHSE: Okay. Any other
13 questions for Darrel.

14

15 (No comments)

16

17 CHAIRMAN LOHSE: Let's go on to
18 InterAgency Staff Committee comments.

19

20 A break, a break has been requested,
21 what time is it?

22

23 MR. WILSON: 12:10.

24

25 CHAIRMAN LOHSE: 12:20. 12:12. 12:10.
26 12:15, we'll call it. Let's break until 1:15, does
27 that sound good to everybody.

28

29 (Council nods affirmatively)

30

31 CHAIRMAN LOHSE: Well, it's lunch hour
32 so we'll take a lunch hour to 1:15, is that agreeable
33 to the rest of you.

34

35 (Council nods affirmatively)

36

37 CHAIRMAN LOHSE: Okay.

38

39 (Off record)

40

41 (On record)

42

43 CHAIRMAN LOHSE: I'd like to call this
44 fall meeting of the Southcentral Alaska Federal
45 Regional Advisory Committee back into session. We were
46 discussing Proposal FP08-08. It was brought to my
47 attention that Robin was here and that he could fill us
48 in with some data on land ownership and some of the
49 other questions that we've been asking people that
50 weren't sure of everything so Robin West if you could

1 come forward. Tom will be right back but we can get
2 started without him after everybody gets in their seats
3 and that and then we'll open it up to questions from --
4 you can give us kind of an overview and then questions
5 from the Council.

6

7

MR. WEST: Okay.

8

9

CHAIRMAN LOHSE: People have probably
10 thrown some of the questions at you while we were
11 waiting for lunch to be over so you probably know where
12 to start Robin.

13

14

MR. WEST: All right. Mr. Chair.
15 Members of the Council. I'm Robin West, the Refuge
16 manager of Kenai National Wildlife Refuge. I'll give
17 you just a couple minutes of background of the Moose
18 Range Meadows land ownership for history and kind of
19 refreshing and be happy to answer any questions that
20 you might have regarding its management and concerns
21 and so forth.

22

23

It's a very complex land status area
24 that used to be part of the Kenai National Moose Range
25 in 1941, there wasn't any community developed around
26 it. As part of the Native Claims Settlement Act in the
27 early '70s, Salamatof Native Corporation selected the
28 land from the Refuge and it remains within the
29 boundaries of the Refuge but once conveyed it became
30 private land where they selected it. The selections
31 from Salamatof were negotiated so they weren't straight
32 formula conveyances because of the desire by Salamatof
33 to have free and clear title and all that really means
34 is that under the Native Claims Settlement Act lands
35 removed from Refuges had covenants on them in general,
36 under Section 22(g) and they couldn't be developed in
37 certain ways. Salamatof chose to take less acreage so
38 those covenants were eliminated. And, indeed, once
39 they were finally conveyed, maybe a decade after the
40 Settlement Act, Salamatof started developing a
41 subdivision on both sides of the river there and
42 selling lots.

43

44

There are two sets of easements that
45 overlay most of the property. The first one was an
46 easement that was retained by the United States when
47 the land went to Salamatof. That's a 25 foot easement
48 on both sides of the river for public access, it can't
49 be developed in terms of removing brush or putting
50 things on it but it was meant for people to be able to

1 walk along the river and fish and that kind of thing.

2

3 The second easement, when Salamatof was
4 developing the land, at the time and it was before my
5 time, they took gravel to develop the roads and pads
6 and building sites and so forth which was viewed
7 trespass because they didn't have the mineral estate.
8 And rather than any civil action there was a negotiated
9 settlement on that. A second easement comes from a
10 result of that. It's part of the deeds there now and
11 it's a non-development easement and it's variable width
12 but roughly 50 feet on most of the properties in that
13 area.

14

15 Two other things that are kind of
16 important for history. One is that up stream of the
17 roaded access which is Keystone Drive to the north,
18 Johnson Drive to the south, the Refuge also reacquired
19 from Salamatof in the mid-90s parcels with Exxon Valdez
20 Oil Spill trust money significant amount of acreage.
21 Those properties have covenants on them for
22 conservation and can't be developed for habitat
23 reasons. So we can't build roads, trails, platforms,
24 cabins, parking lots, anything on those lands, they're
25 to be left alone. The public access easement itself,
26 which is what's been mostly controversial as people
27 started building homes and bed and breakfast and guide
28 businesses and so forth along there, the land was not
29 used much in the '80s until folks really started
30 discovering how to catch sockeye salmon in the lower
31 river, not going all the way up to the Russian, same
32 techniques on the second run proved very fruitful.
33 Most of that's very wet and the habitat was being
34 destroyed. The airport property just down stream that
35 the city of Soldotna owns was the first to close to
36 protect habitat and once that was closed people started
37 doing a little research and found the Moose Range
38 Meadows public access easements and started flooding in
39 there. And a lot of trespass concerns, because people
40 were going over the private property to get to the
41 river. And then in about 1995 we had a 100 year flood
42 event and it had been a wet year anyway, lots of
43 fishermen in there, had been trampling the banks and it
44 was starting to wash out and we put in permanent
45 seasonal closures to limit public access along the
46 river there from July 1 to August 15th, which is when
47 the sockeye are moving through.

48

49 As part of that there was an
50 environmental assessment done that -- and money was

1 given to us by Congress to mitigate the loss to
2 sportfishing to that access and we put in two
3 facilities for people to fish off of. We actually
4 bought the parcels and developed limited access on
5 walkways and so forth there and we've managed them ever
6 since. Last year, however, we had an ice event and
7 both of them were destroyed. We were able, before
8 fishing started this year, to repair one of them by
9 cannibalizing the other one. And the up stream one
10 still is in quite disrepair and it's estimated it needs
11 about \$300,000 to fix so I don't know when we'll get
12 that one done.

13

14 The only other thing that complicates
15 this a little bit more is that the State is looking
16 very closely at this chunk of property when the Board
17 of Fish in the mid-'90s granted the Alaska Department
18 of Fish and Game authority to close public lands to
19 protect habitat. They had proposed to close all of
20 this area to fishing from the banks because of its
21 value. There was a study done, I think it was in the
22 late '80s that basically ranked all of this habitat and
23 this section of the river as the highest quality king
24 salmon rearing habitat on the Kenai and it had already
25 estimated we lost five percent of it or something just
26 in the time that they had been studying, from public
27 use. And so they were ready to close it all. Given
28 the politics, frankly, on where we held the easements
29 over the public lands, a lot of people bought property
30 in there so they'd have fishing access, what we
31 proposed to do is close it just to all public use,
32 whether it's fishing or walking or picnicking or
33 whatever, seasonally close that. That was acceptable
34 ultimately.

35

36 Up stream, however, on the non-
37 developed portions that we reacquired under the Exxon
38 Valdez, the State then closed that to fishing within 10
39 feet of shoreline to the same time period July 1 to
40 August 15th.

41

42 Very complicated land ownership where
43 the boundaries are and all that kind of thing is
44 probably the primary reason that last year when folks
45 were looking at this portion of the river we didn't
46 really go there in trying to provide opportunity for
47 new fisheries there. When there was generated
48 interest, though, then we went along with a dipnet
49 fishery from a boat which is no private land issues,
50 subsistence authority and we had jurisdiction and so

1 forth there.

2

3 And that brings us up to date,
4 basically, Mr. Chair.

5

6 CHAIRMAN LOHSE: Thank you, Robin.
7 Questions. Tom.

8

9 MR. CARPENTER: Yeah, Robin, thanks.
10 I'm glad you could stop by and answer some of these
11 questions for us.

12

13 First it was interesting to have you
14 say that you and others consider this one of the
15 highest king salmon rearing habitat areas. One
16 question I have is if this proposal were to go forward
17 and we would suggest to the Board that this be open for
18 subsistence fishing, do you, as a Refuge manager, have
19 to open the land or could you continue to close it even
20 though fishing was a legal means, but could you also --
21 could you basically close this just like you do the
22 brown bear hunt because of DLPs even though the season
23 could theoretically be open?

24

25 MR. WEST: Tom, I think the -- I mean
26 the answer is yes. Obviously we have regulations that
27 will allow us to restrict for cause, whether it's
28 administration, safety, resource threat or whatever,
29 you know, whether it's sport or subsistence, that the
30 land manager has. There is provisions, you know, that
31 basically they would be temporary closures just to meet
32 certain needs. I'm not sure where you're going with
33 it, because if it like started getting trampled that
34 we'd go out and close it or.....

35

36 MR. CARPENTER: Well, my question
37 really is if this were to be open next year for
38 subsistence in these areas that are now closed, do you
39 feel that the habitat is critical enough that you would
40 refuse to open the land for access because of that?

41

42 MR. WEST: Well, I think that there's
43 three parts maybe to a proposal, or there are three
44 locations and again, you know, one thing that I've
45 heard is that where we have road access, where we have
46 the easement is where there's interest and that one is
47 not possible because of jurisdiction. You know we have
48 an easement but we don't have fee title and my
49 understanding is that it's not Federal public lands and
50 so most of the area along there where we have private

1 land with a Federal access easement we could not open
2 to a subsistence fishery shore based anyway, we just
3 don't have the jurisdiction.

4

5 MR. CARPENTER: Right.

6

7 MR. WEST: Then there's the walkways
8 themselves, which we do own, only one's functional. We
9 get about 30,000 people using them right now. Like
10 last year when people asked about using them, a few
11 folks asked to use them and we said it's fine with
12 sportfishing tackle but not a different gear type, it's
13 just too crowded, and it's fast water, you know, it's
14 fast and deep so a dipnet, people using different gear
15 types we'd have safety concerns and we could put life
16 jackets out there for kids and all that but it's
17 literally, you step off of it, all except one end of
18 one stairway on the one platform and you're in over
19 your head. And so we would have concerns over
20 administering different fisheries on those real limited
21 sites with the crowds that we have. So that would be
22 an issue if we were trying to fish off a walkway with a
23 net. That would cause us concerns. It doesn't cause
24 us concerns if folks are using double bag limits with
25 traditional tackle. Then the area that, I guess, and
26 maybe the final one if you're not looking at the
27 islands, which are another option, is the up stream
28 portions that don't have access to them.

29

30 And, you know, I'm going to just be
31 honest, I understand the value of the habitat, I don't
32 know the threshold of protection and the State's the
33 one that put in the seasonal closure, they're the ones
34 that did the 309 study on the habitat, how much use,
35 you know, before it causes a problem, I'm not going to
36 pretend to be the expert there, I know it's a concern
37 but that's the other option.

38

39 The very best solution, if folks are
40 interested in this site in the long haul is yet a
41 fourth one that's not on the table because it cost
42 money but in my opinion, this section of the river has
43 a lot to offer in terms of catching fish as they move
44 up stream before they disperse into tributaries. It's
45 a difficult place to fish from the shore or from a
46 boat, but if a parcel could be acquired and developed,
47 you know, come into Federal ownership within our own
48 boundaries there, any of the Salamatof parcels, whether
49 they're in currently private ownership or still owned
50 by the Native corporation, if it was acquired and then

1 managed for subsistence access, including perhaps a
2 fishwheel, if that's what folks are interested in as
3 well as dipnetting, that, you know, would be exclusive
4 access managed for subsistence preference, could be
5 sighted well, and it just takes money. But if we're in
6 this in the long haul, that would be the very best
7 solution in my mind.

8

9 MR. CARPENTER: And do you know -- I've
10 asked this to a couple other people, do you know if the
11 State and the State government an officially signed
12 memorandum of agreement that this would not be opened
13 during this particular time?

14

15 MR. WEST: No. The reality is our
16 closure is a permanent regulation to public access but
17 that's on an area we don't have jurisdiction anyway, on
18 the easements for subsistence.

19

20 MR. CARPENTER: Right.

21

22 MR. WEST: The up stream portion closed
23 by the Department of Fish and Game by authority of the
24 Board is enforced by the Refuge, you know, and it's
25 trying to meet the same goal of habitat protection but
26 as far as an MOU that, you know, we enforce all the
27 State regulations, you know, basically.

28

29 MR. CARPENTER: Right.

30

31 MR. WEST: Yeah.

32

33 MR. CARPENTER: Okay, thanks.

34

35 CHAIRMAN LOHSE: Robin, when you talk
36 about the upstream portion, you're talking -- do you
37 have a map in front of you by any chance -- maybe you
38 know it off the top of your head. Are you talking
39 about that portion from 26 and a half mile to about 29
40 Mile when you say up stream portion?

41

42 MR. WEST: Yes.

43

44 CHAIRMAN LOHSE: Okay. Now, is
45 that.....

46

47 MR. WEST: On the north side.

48

49 CHAIRMAN LOHSE: On the north side.

50

1 MR. WEST: Correct.
2
3 CHAIRMAN LOHSE: And from about 27 and
4 a half to 28 Mile on the south side right there.
5
6 MR. WEST: A little more than that but
7 that's correct.
8
9 CHAIRMAN LOHSE: Yeah.
10
11 MR. WEST: Yeah, there's more on the
12 south side than the north.
13
14 CHAIRMAN LOHSE: Uh-huh. But, now, are
15 those under any of these -- you've got non-development
16 covenants from the '90s, a non-development within 50
17 feet, 25 feet on both sides of the river, is that
18 portion under any of those covenants?
19
20 MR. WEST: Yes. It's all of that grey
21 portion that's where the State closure to bank fishing,
22 July 1 to August 15th is restricted from any
23 development by our acquisition agreement.
24
25 CHAIRMAN LOHSE: Okay.
26
27 MR. WEST: It's a conservation area.
28 That was a provision of the acquisition.
29
30 CHAIRMAN LOHSE: Now, those kind of
31 developments, would they also include something like
32 this boardwalk access thing, would that be classed as a
33 development in that area?
34
35 MR. WEST: Yes, any structure, correct.
36
37 CHAIRMAN LOHSE: And so that's
38 precluded by previous covenants then?
39
40 MR. WEST: Yes.
41
42 CHAIRMAN LOHSE: Okay. So it couldn't
43 take place in that area, you'd end up having to buy
44 land in the area that's currently private property and
45 put something in there in order to put a development
46 like what you're talking about?
47
48 MR. WEST: It would be either that,
49 either buying the land as I mentioned earlier, down
50 stream, where you can develop it as you've said, Ralph,

1 or up stream, no development, just a shore based walk
2 in fishery in which, you know, we have an unknown
3 threshold of habitat concerns.

4

5 CHAIRMAN LOHSE: Right.

6

7 MR. WEST: Correct.

8

9 CHAIRMAN LOHSE: Okay. Now, this area
10 from 26 and a half mile to 29 Mile in between the Funny
11 River and the Kenai River, you said that was closed to
12 all access including picnics and everything else
13 basically?

14

15 MR. WEST: No, the up stream portion,
16 what you're referring to is the State closure to
17 fishing within 10 feet of the bank. The down stream
18 area is where all public access is closed in that same
19 time period, July 1 to August 15th.

20

21 So down stream is access limited, up
22 stream is bank fishing limited.

23

24 CHAIRMAN LOHSE: Okay. So there is no
25 limitation on picnics, berry picking, and stuff like
26 that in the section from 26 and a half mile to 29 Mile?

27

28 MR. WEST: Correct.

29

30 CHAIRMAN LOHSE: And is that open to
31 the public or is that just open to subsistence uses?

32

33 MR. WEST: It's open, Refuge lands, for
34 all legal uses.

35

36 CHAIRMAN LOHSE: Okay. And that's on
37 both sides of the river when you get up 27 and a half
38 to 28 Mile, up in that section, there's no difference
39 between the Refuge lands on the north bank and on the
40 south bank, is there, as far as regulations?

41

42 MR. WEST: No.

43

44 CHAIRMAN LOHSE: Okay. So the only
45 thing precluded out of those, those are reacquired
46 lands, the only thing precluded is any kind of
47 development which takes building, either a building or
48 a walkway or a ramp or something like that, or a dock,
49 that's all precluded?

50

1 MR. WEST: Correct.
2
3 CHAIRMAN LOHSE: So the boat launch is
4 just a gravel road going into the river?
5
6 MR. WEST: That's correct. It's
7 actually -- we own the land and the parking lot, the
8 boat launch itself I think is borough owned. And then
9 immediately up stream, we're talking on the north side
10 then.....
11
12 CHAIRMAN LOHSE: Uh-huh.
13
14 MR. WEST:you enter that Exxon
15 Valdez reacquisitioned area.
16
17 CHAIRMAN LOHSE: Okay. Okay. So the
18 boat launch is actually out of the grey land then?
19
20 MR. WEST: Correct. I mean we own the
21 river and bed, it's been our assertion, and that's
22 actually what the language has in the settlement
23 agreement, the State would take exception to that.
24
25 CHAIRMAN LOHSE: Yeah. Yeah, I was
26 under the impression that the land closure was a
27 Federal closure but the 10 foot in the water was a
28 State closure.
29
30 MR. WEST: Yeah, and that's correct
31 it's just at that boat ramp, down stream it's the
32 Federal closure on the easement, up stream is the
33 fishing closure that's State enacted.
34
35 CHAIRMAN LOHSE: Okay.
36
37 MR. WEST: Yeah.
38
39 CHAIRMAN LOHSE: Okay. One last
40 question then, Robin. So if you were going to make
41 some kind of -- and a fishwheel would class as a
42 development, too, to a certain extent, you'd have to do
43 some building, if you were going to make a ramp to have
44 your fishwheel, it would have to be off of the grey
45 land on land that was then purchased from private
46 property, but if you were going to have just a foot
47 access, you could have -- there's nothing to preclude
48 at this time, a foot access, except the State closure?
49
50 MR. WEST: That's correct. I think,

1 you know, two things. One is that a fishwheel would
2 need to be anchored to shore but if it's properly
3 constructed at the right site, I'm not so sure that
4 anyone would say that that's a development on those
5 lands. You know it could be poorly designed where it
6 would cause bank habitat damage and folks would, you
7 know, could reasonably complain but done properly, you
8 know, a fishwheel would mostly be operating in the
9 river. So I wouldn't go so far to say that, you know,
10 that would be a development, it'd be a seasonably
11 placed, anchored to shore, perhaps, maybe not crossing
12 over into development. But the other part then is the
13 shoreline access, it's correct, it's a State
14 restriction. I think we would want to be very
15 comfortable that we wouldn't be damaging the habitat in
16 allowing, you know, shoreline walking and that. And
17 the reality is it doesn't take very many people.....

18

19 CHAIRMAN LOHSE: No.

20

21 MR. WEST:or very much time out
22 there, particularly when it's wet to do the damage.

23

24 CHAIRMAN LOHSE: Yeah. One last
25 question then, if you were going to limit habitat and
26 this is going on a little bit to the next one but I'm
27 not sure you'll be here, if you were going to limit
28 habitat destruction, bank habitat destruction, and you
29 ended up deciding to put a fishwheel in then the proper
30 way probably would be to have your trail to the --
31 because you're going to have to have people have access
32 the fishwheel and haul stuff out of there, your trail
33 would have to be far enough back from the river not to
34 have bank habitat destruction and then come straight
35 into the fishwheel so that you would do as limited
36 bank, you know, impact, as you could because you
37 wouldn't want people -- let's say you decide to put a
38 fishwheel up stream from the boat launch, for example,
39 which would be a logical place, if people walked along
40 the bank to the fishwheel you haven't gained anything,
41 where if they came, you know, if you have the kind of
42 habitat that you could put a trail a 100 yards back and
43 come straight in then you would delete the bank problem
44 that you're talking about.

45

46 MR. WEST: Well, I think we'd have
47 concern in constructing a trail. We already have
48 considerable problems with illegal encroachment with
49 ATVs there now and, you know, a constructed trail would
50 be construction. You know the State operates a

1 fishwheel for coho now up stream of that boat launch
2 fairly successfully and it's boat accessible. Which
3 does two things, one, it protects the habitat and, two,
4 it provides some reasonable security from end of the
5 road vandalism and other things that occur.

6
7 CHAIRMAN LOHSE: But it doesn't address
8 the whole idea that the subsistence community was
9 bringing up, is the fact that they don't all have
10 access to boats and the cost -- the additional cost of
11 a boat makes it prohibitive, you know, if it's a boat
12 access fishwheel you've ended up with -- by the time
13 you got the boat and the fishwheel you've got a \$50,000
14 piece of equipment catching fish or \$20,000 piece of
15 equipment catching fish rather than something that
16 could be done, like Darrel said, economically.

17
18 MR. WEST: Yeah, I agree, I mean a
19 fishwheel could be very expensive in and of itself and
20 operating a boat certainly is an additional expense.

21
22 CHAIRMAN LOHSE: Yeah. Yeah, we have a
23 saying in Cordova, a boat's a hole in the water into
24 which you pour money, you know.

25
26 Okay, any other questions for Robin.

27
28 Doug.

29
30 MR. BLOSSOM: Mr. Chairman. Robin,
31 where is this fishwheel operated at on this map?

32
33 MR. WEST: The State's -- and they've
34 moved it, Doug, over the years, but the last I saw, I
35 think last fall was operated just up stream of that
36 boat launch. You know there's no trail or road in
37 there, it's just a short distance up is where they were
38 operating it.

39
40 MR. BLOSSOM: And what are the
41 parameters of when they operate it?

42
43 MR. WEST: When they can catch cohos so
44 it's a late season operation.

45
46 MR. BLOSSOM: So they install it when?

47
48 MR. WEST: I don't know, George Pappas
49 is probably here, he probably remembers the old days.
50 I don't know exactly when it goes in, I've been by it

1 in September when I know it's out.

2

3 MR. BLOSSOM: But they run it every
4 year.

5

6 MR. WEST: In recent years, yeah.

7

8 MR. BLOSSOM: Yeah. Okay.

9

10 CHAIRMAN LOHSE: James.

11

12 MR. SHOWALTER: Yes. You said from
13 that boat launch up stream, Exxon money bought that; is
14 that correct?

15

16 MR. WEST: It did. It reacquired the
17 land from the Refuge from Salamatof back into the
18 Refuge under certain provisions of the Exxon Valdez
19 Trust.

20

21 MR. SHOWALTER: Okay. Then with that
22 still being in Federal hands, with the minimal amount
23 of traffic by the rural people, say for usage there for
24 a dipnet fishery, what would your opinion be on that?

25

26 MR. WEST: I think it's possible in
27 terms of not doing lots of habitat damage, if only a
28 few people were doing it during drier season, but it
29 takes very few trips when it's wet along the shore
30 working an area back and forth and we'll have the
31 problems that we had previously. Even the land owners
32 that aren't allowing people down on their banks,
33 they're putting in walkways where they have one or two
34 people fishing and they're out there for a week or two
35 at a time and they're losing their bank habitat. So
36 it's a very, you know, it's a tough question. I would
37 say that to be conservative you wouldn't allow very
38 much use there.

39

40 The more practical matter for folks
41 familiar with that is dipnetting from the bank in that
42 whole section of the river is pretty problematic for
43 success. A fishwheel tucked in behind a corner could
44 do very well but it would be tough to dipnet
45 successfully, it really would, the water is moving very
46 fast there and the months when the fish are moving
47 through it the water's high. It would be difficult.

48

49 CHAIRMAN LOHSE: Any other questions
50 for Robin.

1 Dean.

2

3 MR. WILSON: Robin, just a
4 clarification. You said if dipnetting went on near the
5 ramp area where there's walkways, that could cause some
6 problems, what about the rest of it, maybe you
7 mentioned it but I just didn't catch it, are you not
8 against it for the south side of the river and portions
9 on the north end where there's no walkway or I just
10 want to get a clarification on that?

11

12 MR. WEST: Well, it isn't so much for
13 and against it, it's just the realities of the
14 situations. And, again, just to kind of reiterate but
15 make it fairly simple, I guess, all of the road
16 accessible area on north and south side where we have
17 the easements in a significant portion of the river
18 there, except for those two small parcels that we've
19 developed, they're not Federal public lands and so the
20 river bed we've asserted jurisdiction over for this
21 exercise and that's why we allowed dipnetting from
22 boats last year because so it's Federal waters, but the
23 lands are not. Up stream without road access on both
24 sides there's more on the south than on the north, but
25 basically at the end of the roads, those don't have
26 easements on them, they do have State restrictions in
27 place to protect the habitat and for good reason and
28 covenants under the acquisition agreements that we
29 can't develop them. So, you know, use of those lands
30 in any effective way to develop trails or, you know,
31 that kind of thing is problematic too. And dipping
32 from the platforms themselves is not a reasonable thing
33 just because of the safety concerns. So hook and line,
34 yeah, and they're -- they can be really productive at
35 certain times of the year and very crowded.

36

37 So limited opportunity, unless the site
38 is specifically developed in this lower section of the
39 river for this, and with a boat, and that's kind of
40 been the story all along, you know, I know folks are --
41 it's complicated, I don't know how to, you know, really
42 help explain it any better than I have.

43

44 MR. WILSON: Okay.

45

46 CHAIRMAN LOHSE: One last
47 clarification, Robin, and I think that would kind of
48 clarify something Dean was asking. Then in the grey
49 portion of Federal land, that's all reacquired land
50 under the EVOS trust, that's all under non-development

1 covenants and non-development includes developed
2 trails, walkways, ramps, anything like that?

3

4 MR. WEST: That's correct. Yeah,
5 roads, structures, trails, all development.

6

7 CHAIRMAN LOHSE: Okay. So if you were
8 going to open that you would have to open it in a non-
9 development way and so people would just trample where
10 they wanted to trample and people are like animals,
11 they'll all trample in the same place.

12

13 MR. WEST: And that is the condition it
14 is right now and that's why the State's closed it to
15 the fishing.....

16

17 CHAIRMAN LOHSE: Right.

18

19 MR. WEST:yeah, correct.

20

21 CHAIRMAN LOHSE: Okay. Does that
22 answer your question, Dean, kind of?

23

24 MR. WILSON: Yeah.

25

26 CHAIRMAN LOHSE: Okay.

27

28 MR. WILSON: Yeah.

29

30 CHAIRMAN LOHSE: Okay. Any other
31 questions.

32

33 (No comments)

34

35 CHAIRMAN LOHSE: Robin, thanks for
36 taking the time to come from where you were to come to
37 address us, I really appreciate that. I was real glad
38 to hear over lunch hour that you were coming and thank
39 you for the information that you shared and we'll go
40 from there.

41

42 Okay. At this point in time I think we
43 were just going on to InterAgency Staff Committee
44 comments when we were requested that we break for
45 lunch.

46

47 InterAgency Staff Committee has no
48 comments.

49

50 MR. BERG: None.

1 CHAIRMAN LOHSE: Fish and Game Advisory
2 Committee comments. Do we have any Fish and Game
3 Advisory Committee comments.

4
5 (No comments)

6
7 CHAIRMAN LOHSE: Hearing none, we'll
8 none, we'll go on to summary of written public
9 comments.

10
11 Donald.

12
13 MR. MIKE: Mr. Chair. You will find
14 your written summary of public comments starting on
15 Page 33. We received three written public comments.

16
17 From the Kenai River Sportfishing
18 Association, Alaska Outdoor Council, and the
19 Kenai/Soldotna Fish and Game Advisory Committee.

20
21 The Kenai River Sportfishing
22 Association opposes the proposal. The
23 issue was considered at the May 2007
24 Federal Subsistence Board meeting and
25 was not adopted for a variety of
26 reasons, including specific legal and
27 land status concerns. No changes in
28 the legal consideration that the Board
29 stated prevented establishment of a
30 Federal subsistence fishery use from
31 shoreline in this region of the Kenai
32 River. Proposal 08 does not warrant
33 further consideration.

34
35 The Alaska Outdoor Council opposes the
36 proposal. Discussions before the
37 Southcentral Regional Advisory Council
38 and the Board revolved around how to
39 minimize the impact of providing some
40 Alaskan residents a fishery priority to
41 a fish stock that was already fully
42 allocated. The subcommittee created by
43 the Board is just a creation of a
44 Federal subsistence fishery on the
45 Kenai Peninsula discussed the
46 consequences of allowing some
47 privileged individuals to displace bank
48 anglers fishing under State
49 regulations. The Moose Range Meadows
50 area was mentioned specifically as an

1 area of high angler use. Adoption of
2 this proposal will escalate user
3 conflicts. The motion made by the
4 proposer that Section .804 of ANILCA
5 makes consideration of sport,
6 commercial use of fisheries resources
7 not applicable for consideration by the
8 Board is good reason for the Board to
9 reconsider the rural determination
10 status of the Kenai Peninsula.
11

12 The Kenai/Soldotna Fish and Game
13 Advisory Committee opposes the
14 proposal. The committee requested and
15 was accepted that dipnetting be done
16 from boats not to mix gear types of
17 subsistence with sportfishing gear.
18 The embankments are wet lands or the
19 front lawn of private homeowners. This
20 was the main reason for keeping the
21 gear types separate and keeping
22 subsistence users from trampling the
23 bank or trespassing over private
24 property. A fishwheel could accomplish
25 the same advantage of dipnetting from a
26 boat as far as giving preferential or
27 priority preference allowing them to
28 use a net. And they asked about the
29 Hidden Creek study, enhancement runs
30 for subsistence, this was another
31 fishery that was intended not to mix
32 subsistence and sport anglers. The
33 subsistence priority has been met by
34 seasons, methods and means, locations
35 of Federal waters, land and given a
36 more ample limit of all species of fish
37 to give subsistence a meaningful
38 preference in and over a fully utilized
39 allocated fishery. 99 percent of the
40 property in that area is closed from
41 June 1 through August 15th to protect
42 riparian habitat.
43

44 Mr. Chair, that concludes the written
45 summary comments.
46

47 CHAIRMAN LOHSE: Thank you, Donald. So
48 basically three that oppose it.
49

50 MR. MIKE: That's correct, Mr. Chair.

1 CHAIRMAN LOHSE: At this point public
2 testimony. I think we have, Ricky, you wanted to
3 testify on this one, right.

4
5 MR. GEASE: Thank you, Mr. Chair. Just
6 to reiterate our public comments here. We oppose the
7 proposal there. I do think opening it up, there's rod
8 and reel which is probably a better method at those
9 public access platforms at the current time. And I do
10 think it would cause user conflicts at that area if you
11 open those to rod and reel and then also dipnet.

12
13 I like Robin's -- after looking at the
14 whole puzzle there, Robin's suggestion of going out
15 and, if this truly is an important area for
16 consideration of dipnetting, I think the best solution
17 long-term, would be to have a private property go into
18 Federal government hands. There are ways to raise
19 money to do that. EVOS could be approached again, they
20 still have funds. There's the Pacific Coastal Salmon
21 Recovery Fund. That could be approached. The State
22 has control of those funds. Their time period where
23 proposals are accepted for that, are -- I think are
24 going to open up November 1 through -- for eight weeks,
25 there are proposals that could be put in for that and I
26 think they actually, between fisheries research,
27 habitat research and habitat restoration will have
28 about \$6 million that go into Southcentral this year.
29 So there are avenues that can go down that fourth
30 strategy that Robin West talked about.

31
32 CHAIRMAN LOHSE: Thank you, Ricky. Any
33 questions for Ricky.

34
35 (No comments)

36
37 CHAIRMAN LOHSE: Thank you, Mr. Gease.

38
39 MR. GEASE; Thank you.

40
41 CHAIRMAN LOHSE: Okay, with that, it's
42 time for Regional Council deliberations,
43 recommendations, justification, but, first, before we
44 do anything we need a motion to put this proposal on
45 the table.

46
47 MR. CARPENTER: Mr. Chairman. I move
48 Proposal 08-08.

49
50 CHAIRMAN LOHSE: Do I hear a second.

1 MR. BLOSSOM: Second.
2
3 MR. WILSON: Second.
4
5 CHAIRMAN LOHSE: It's been moved and
6 seconded to put Proposal 08-08 on the table.
7
8 Prior to having discussion on it, let's
9 have a break to get rid of our lunch hour coffee, 10
10 minutes.
11
12 (Laughter)
13
14 (Off record)
15
16 (On record)
17
18 CHAIRMAN LOHSE: If we could take our
19 seats we'll get back in session.
20
21 (Pause)
22
23 CHAIRMAN LOHSE: Okay, we have FP08-08
24 on the table, it's open for Council deliberations and
25 discussion. Do I have any comments from anybody on the
26 Council.
27
28 Tom.
29
30 MR. CARPENTER: Yeah, I'll make a few
31 comments.
32
33 You know speaking with -- something
34 that I talked about earlier in regard to consistency, I
35 was talking, you know, about the C&T criteria that we
36 try and use, I think speaking to consistency, I think
37 that the one thing that this RAC needs to consider is
38 that we've actually dealt with this proposal and we
39 dealt with it last year and between then and now, I,
40 personally, don't see any serious new information that
41 would justify in my mind how the RAC would change their
42 mind from what they did last year. Last year we gave
43 Ninilchik -- well, actually Cooper Landing and Hope, we
44 initiated the use of rod and reel for subsistence
45 purposes in the Moose Meadow area. I do think that
46 that shows preference over sportfishing in regards to
47 the bag limits.
48
49 I think some of the concerns that I
50 have that were brought up last year that were

1 reinforced this year by several members of the Staff,
2 but mainly from Robin who reinforced it last year to
3 me, was that the State of Alaska and, you know, through
4 an agreement with the Refuge would not close this
5 parcel of property if they did not think that there was
6 potential for serious degradation of the land. He also
7 said that this was one of the most important pieces of
8 king salmon spawning habitat on the Kenai River and
9 when you take, not just subsistence into account, but
10 the whole realm of what goes on on the Kenai Peninsula
11 and what it means to the State of Alaska and to the
12 rural residents that live down there and depend on the
13 salmon, I can't imagine that we would jeopardize
14 potentially the future resource for something that I'm
15 not sure that is going to be, you know, that
16 worthwhile.

17
18 I just think that we need to show
19 consistency and maybe I'm missing something, and if
20 somebody else can show me that I'm seeing something or
21 missing something different from last year when we
22 voted to not allow this to be opened then so be it, but
23 that would be my opinion.

24
25 CHAIRMAN LOHSE: Greg.

26
27 MR. ENCELEWSKI: Mr. Chair. I guess I
28 just want to make a comment. I disagree with Tom. The
29 consistency - I think what we're asking here in this
30 proposal is definitely different from last year, in
31 that, we're looking for a more meaningful preference.
32 It's came to light that, you know, and it's been stated
33 in here that boat access is not the easiest, i.e., as
34 far as conservation in this area, you know, we support
35 that 100 percent but you got to realize, too, all the
36 private land and all the usage in that area and so what
37 we're looking at, with a handful of people in a small
38 area, is a very minimal, in my opinion, impact, and I
39 don't see why we couldn't explore going up from the
40 boat launch in a small area, allowing a limited dipnet
41 fishery and the Refuge manager having the authority to
42 shut that down if it causes problems.

43
44 CHAIRMAN LOHSE: Thank you, Greg.
45 James.

46
47 MR. SHOWALTER: Yes. They're saying
48 that is for the king salmon and rearing, what about the
49 rest of the river, are they forgetting about that, so
50 maybe you could dipnet elsewhere and push out the

1 sportsman because subsistence has got a priority and,
2 you know, they'll say no to that and along with Greg's
3 statement I would say, yes, dedicate a small portion up
4 from the boat launch for a subsistence dipnet fishery.

5

6 CHAIRMAN LOHSE: Gloria.

7

8 MS. STICKWAN: Public testimony was
9 given this morning about having a boat and it's not
10 economically feasible for the subsistence users to buy
11 a boat to fish with, so they wouldn't be able to fish
12 that way at all. I mean most of them wouldn't --
13 probably almost all of them wouldn't be able to.

14

15 CHAIRMAN LOHSE: Tricia.

16

17 MS. WAGGONER: When we considered this
18 proposal to allow dipnetting in Moose Meadows last
19 year, one of the major concerns was habitat and habitat
20 is the basis for having a resource. If we don't have
21 habitat we don't have the resource.

22

23 I'm against this proposal, in that, if
24 we allow people, even a small number, to walk wherever
25 they so choose on sensitive habitat it can be degraded
26 before it can, you know, have a chance of being
27 repaired.

28

29 Everybody takes a hit on the Kenai, you
30 know, we have motor horsepower limits, we have non --
31 there's non-motorized areas, habitat is a big issue on
32 the Kenai and, you know, we've heard nothing really new
33 and I think we still, you know, sound management and to
34 be conscious of conservation of a stock, we need to
35 look at habitat.

36

37 MR. WILSON: You know it never ceases
38 to amaze me how complicated things are on the Kenai
39 compared to the rest of the whole state of Alaska, it
40 absolutely blows me away, I mean we've been talking
41 three hours on a two mile section of land. I hope we
42 never get like that up north but I'm afraid it's
43 probably coming.

44

45 This issue here, it's really
46 complicated to me and I'm torn both ways with it. The
47 one issue that I look at is it isn't safe for everybody
48 to be dipnetting out of a boat, it's just not, besides
49 the economical portion of it, it's just not safe for
50 everybody to be dipnetting out of a boat, dipnetting of

1 the land is safer but turning a dipnetter loose with
2 thousands of anglers around, I'm not too sure how safe
3 that is either. He's going to get whipped to death the
4 first time he walks down there with a dipnet or you're
5 going to have some folks from Germany or wherever else
6 they're coming from, grabbing a dipnet and doing the
7 same thing. That's a concern.

8

9 This is unlike anything I've ever even
10 considered before.

11

12 I think I'm going to come out in favor
13 of opposing this only because of those reasons along
14 with I believe a fishwheel should be the priority, it's
15 safer and it's going to accomplish the same advantage
16 of dipnetting and much much more. I think in the long
17 run a priority or a preference should be put on trying
18 to get a fishwheel or maybe multiple fishwheels for
19 these folks and you can regulate the fish you get as
20 well as be a lot more productive, and it does tend to
21 be more of a community affair compared to dipnetting.

22

23 So that's my comment.

24

25 CHAIRMAN LOHSE: Doug.

26

27 MR. BLOSSOM: Mr. Chair. As I came
28 into this proposal my thought was to try to compromise
29 and put a boat on shore so that we didn't hurt the
30 habitat and it would get their dipnetting a little bit
31 out of the mainstream of fishing but that didn't seem
32 to light a fire under anyone so that was the way I was
33 approaching this.

34

35 It is a habitat problem. And I wish I
36 could find a spot where we could do it but the boat was
37 the way I was trying to come into it and you're saying
38 that's not even safe, I mean I live all my life in a
39 boat so I think they're safe but anyway.

40

41 MR. WILSON: Well, for the right
42 people, I guess

43

44 CHAIRMAN LOHSE: Anybody else. Gloria.

45

46 MS. STICKWAN: Earlier they said that
47 it'd be difficult to put a fishwheel in this area, is
48 that right, to anchor it.

49

50 CHAIRMAN LOHSE: Doug.

1 MR. BLOSSOM: Mr. Chair. Gloria. To
2 answer, Gloria, I think the fishwheel would be the
3 absolute answer but who's going to build it, who's
4 going to pay for it and who's going to run it. If we
5 could solve those three things that's the ideal thing
6 for this spot.

7
8 MS. STICKWAN: Well, I know the tribes
9 can apply for it, it's in regulations right now.

10
11 CHAIRMAN LOHSE: Any comment on that
12 one.

13
14 (No comments)

15
16 CHAIRMAN LOHSE: Well, I basically was
17 with Greg and I honestly thought that when I looked at
18 the map prior to Robin coming here, that we could
19 probably work something out above the boat landing, but
20 I didn't realize that there was a non-development
21 clause on that whole piece of land there. And I
22 wouldn't want to see people just going up there anyway,
23 I would have expected that you made yourself a little
24 trail up there, everybody would have stayed on the
25 trail, they'd have dipnetted in the same area and we
26 could have set a little area aside that was out of the
27 way of everybody else, not cause any conflict, anything
28 else, but if it's true that there's a non-development
29 covenant on that piece of land, then that can't be
30 done.

31
32 And I was under the impression, and
33 correct me if I'm wrong, that for the proposal for the
34 fishwheel, it isn't for Moose Meadows, it's for
35 someplace else, isn't it or is it for Moose Meadows.
36 Because it would seem to me Moose Meadows, from what
37 I've heard, if you've got deep water right close to the
38 bank, wouldn't be the best place for a fishwheel
39 anyhow, because you kind of need -- you need to be able
40 to reach down into the water with a fishwheel, but I am
41 not considering that as part of this proposal, because
42 this proposal was on setting something aside for
43 dipnetting, so with the current land status, unless
44 they could do something like Robin said, acquire some
45 private land and actually set up a -- you know, and
46 Ricky had a good point there is -- if somebody wants to
47 go after those kind of grant fundings and those
48 fundings, there is funding available to literally
49 acquire some private land in an area that you can put
50 development and make a subsistence site out of it and

1 put the kind of bank protection and everything you
2 need. And I don't know, that's not something that's
3 going to be done over night, that's something that
4 somebody's going to have to take and really work on.

5
6 But I guess I'd have to, at this point
7 in time, because of the land status, I'd have to oppose
8 it too.

9
10 MR. WILSON: Question.

11
12 CHAIRMAN LOHSE: Question's been
13 called. Does anybody else have any further discussion
14 they'd like to put on the -- James.

15
16 MR. SHOWALTER: Yes. Also in the --
17 well, this Alaska Fish and Game comments, you know,
18 there's adequate opportunities, and according to this,
19 the law and all that is after 1952 so that river has
20 been used but I can't say it was used for a dipnet or
21 fishwheel because I haven't seen a fishwheel but I have
22 seen nets in the river throughout the whole system, in
23 fact, I've used it myself, that's been years back. And
24 also it states in here that the Kenai River is located
25 in the Anchorage and Mat-Su non-subsistence areas, and
26 why is it for Anchorage and Mat-Su and not for the
27 rural residents of the Peninsula. Like -- well,
28 basically for the Peninsula -- so it's -- for me, right
29 now, it's kind of a yes and no, but that's going to
30 have to be worked out for a location and how to do it.

31
32 So for that and -- I'm going to have to
33 vote for it and let them work out the final decision
34 after that.

35
36 Thank you.

37
38 CHAIRMAN LOHSE: Thank you. Question's
39 been called. I allowed any further discussion if
40 somebody has another comment they'd like to make, since
41 I allowed one I'll allow another one, otherwise --
42 Gloria.

43
44 MS. STICKWAN: Your motion was -- is
45 there a motion on the floor.

46
47 CHAIRMAN LOHSE: No. It's just.....

48
49 MS. STICKWAN: Oh.

50

1 MR. CARPENTER: Yes, there's a motion,
2 isn't there?
3
4 REPORTER: (Nods affirmatively)
5
6 CHAIRMAN LOHSE: There's a motion on
7 the floor.....
8
9 MS. STICKWAN: Just a question.
10
11 CHAIRMAN LOHSE: Yeah, the question's
12 on the proposal.
13
14 MS. STICKWAN: Well, I'd like to say
15 something about the degradation of the bank. You know
16 that should be watched, if we vote in favor of this
17 proposal, that, you know, they watch the -- make sure
18 that it isn't entirely ruined by the subsistence users,
19 and that be monitored and I wouldn't vote in favor of
20 this proposal unless.....
21
22 CHAIRMAN LOHSE: Okay. The
23 question's.....
24
25 MS. STICKWAN: I don't know what I'm
26 voting on. Is this -- you're voting for it, that means
27 that it's.....
28
29 CHAIRMAN LOHSE: You're voting for
30 opening -- like you're voting for the proposal as it's
31 written.
32
33 MS. STICKWAN: For Ninilchik.
34
35 CHAIRMAN LOHSE: That's what's on the
36 table.
37
38 MS. STICKWAN: Okay.
39
40 CHAIRMAN LOHSE: Does everybody
41 understand that, the motion that's on the table is
42 Proposal FP08-08, and with that the question's been
43 called. I think we're almost going to have to do this
44 by a show of hands because it's so close. Donald, do
45 you want to make a roll call vote out of it.
46
47 MS. STICKWAN: Well, I guess I wanted
48 to make an amendment or something that.....
49
50 REPORTER: Gloria. Gloria.

1 MS. STICKWAN:you know, that we
2 watch the -- I think part of his was to -- was that
3 part of the motion, too, is that.....
4
5 MR. SHOWALTER: No.
6
7 MS. STICKWAN:you wanted to make
8 an amendment or.....
9
10 MR. SHOWALTER: No.
11
12 MS. STICKWAN: Oh. I just wanted to
13 make sure that.....
14
15 CHAIRMAN LOHSE: The banks are watched.
16
17 MS. STICKWAN:the banks are
18 protected.
19
20 CHAIRMAN LOHSE: I'm sure that's going
21 to happen, Gloria, one way or the other, that they're
22 not going to -- that's the main issue right here in
23 front of us is the bank.
24
25 MS. STICKWAN: Okay.
26
27 CHAIRMAN LOHSE: Donald, do you want to
28 call roll.
29
30 MR. MIKE: Thank you, Mr. Chair. The
31 motion was made by Mr. Tom Carpenter to adopt Proposal
32 08.
33
34 Mr. Doug Blossom.
35
36 MR. BLOSSOM: Yes.
37
38 MR. MIKE: Mr. Greg Encelewski.
39
40 MR. ENCELEWSKI: I'm in favor of it,
41 yes.
42
43 MR. MIKE: Ms. Tricia Waggoner.
44
45 MS. WAGGONER: No.
46
47 MR. MIKE: Mr. Chuck Lamb.
48
49 MR. LAMB: Yes.
50

1 MR. MIKE: Ms. Gloria Stickwan.
2
3 MS. STICKWAN: Yes.
4
5 MR. MIKE: Mr. Dean Wilson.
6
7 MR. WILSON: Oppose.
8
9 MR. MIKE: Mr. James Showalter.
10
11 MR. SHOWALTER: Yes.
12
13 MR. MIKE: Mr. Ralph Lohse.
14
15 CHAIRMAN LOHSE: No.
16
17 MR. MIKE: Mr. Tom Carpenter.
18
19 MR. CARPENTER: No.
20
21 MR. MIKE: Mr. Chair. You have five
22 yes and three no.
23
24 MR. KESSLER: No, that's not.....
25
26 CHAIRMAN LOHSE: No, it's got to be
27 four no for sure.
28
29 MR. WILSON; Five, four.
30
31 MR. MIKE: Thank you, Mr. Chair. I
32 stand corrected, there is four nay's on the vote.
33
34 CHAIRMAN LOHSE: Okay. Four nays and
35 five yes, the motion carries. So we now put it in the
36 hands of the Board.
37
38 Okay, we will go on to FP08-09. Okay,
39 who is going to do the introduction on FP08-09.
40
41 Steve.
42
43 MR. FRIED: My name is Steve Fried,
44 Office of Subsistence Management, and I will take you
45 through FP08-09 and hopefully do a little bit better
46 job, maybe give a little bit more detail up front so
47 we're not -- don't have so many questions and
48 confusion.
49
50 Basically this proposal, if you recall,

1 is generated by this Council, and the proposal is to
2 allow a temporary community fishwheel in both the Kenai
3 and Kasilof Rivers. And it would be a limited number
4 of fishwheels, requirements for permits, use of live
5 boxes, monitoring, fish marking, detailed reporting,
6 the fishery would have the same seasons and harvest
7 limits used for the dipnet fishery so it doesn't -- it
8 would occur at the same time and it wouldn't increase
9 the annual harvest limit for any of the salmon species,
10 it would just share it with the dipnet fisheries.
11 Incidentally caught rainbow, steelhead trout in both
12 rivers would be released, and on the Kenai River, in
13 addition to the rainbow trout, Dolly Varden and early
14 run chinook salmon would be released.

15
16 The main reason for this is that the
17 Council felt that fishwheels could provide a more
18 effective means for Federally-qualified subsistence
19 users to harvest salmon from these two rivers.

20
21 It wasn't a requested methods and means
22 of fishing for the 2007/2008 regulatory proposals, but
23 basically the -- but prior to the 2007 Board meeting
24 the Council had a subcommittee and the subcommittee
25 actually asked the Office of Subsistence Management for
26 comments on using fishwheels and we did prepare a white
27 paper supplement and provided that to the Council and
28 the Board and essentially the proposed regulatory
29 language in this right now is the same as in the
30 supplement.

31
32 As far as the preliminary conclusion is
33 -- at OSM is to support the proposal with modification
34 so I don't know if it would be easy to kind of run
35 through the main points of the original proposed
36 regulation and then show what we're recommending for
37 modification for it so -- and unless anybody would like
38 some other information, I think I'll try to do that
39 right now.

40
41 Essentially the language on Page 40 is
42 the original proposal. And it would:

43
44 Allow residents of Ninilchik to harvest
45 sockeye, chinook, coho and pink salmon
46 through temporary fishwheel fisheries
47 in Federal waters of the upper main
48 stem of the Kasilof River.

49
50 And for the Kenai River it would allow

1 residents of Ninilchik, Cooper Landing
2 and Hope to harvest sockeye, chinook,
3 coho and pink salmon through a
4 temporary fishwheel fishery in Federal
5 waters of the main stem Kenai below
6 Skilak Lake.

7
8 And Ninilchik residents can retain
9 other species incidentally caught in
10 the Kasilof River except for steelhead
11 rainbow and those must be released, as
12 I mentioned earlier.

13
14 Residents of Hope and Cooper Landing
15 can retain other species incidentally
16 caught in the Kenai River except for
17 early run chinook salmon, rainbow
18 trout, Dolly Varden, Arctic char, which
19 must be released.

20
21 Before leaving the fishing site
22 retained fish must be recorded on a
23 permit.

24
25 They must be marked by removing their
26 dorsal fin.

27
28 The harvest have to be reported to the
29 Federal fisheries manager within 72
30 hours of leaving the site.

31
32 There'd be a requirement that only one
33 fishwheel could be operated in the
34 Kasilof and only one fishwheel could be
35 operated on the Kenai and each of the
36 wheels has to have a live box, it would
37 have to be continuously monitored when
38 it was fishing, it would have to have a
39 means to stop it from fishing when it's
40 not being monitored or used. And it
41 would have to be installed and operated
42 in compliance with any regulations and
43 restricted for use within the Kenai
44 National Wildlife Refuge, I guess where
45 the Federal waters, where these would
46 be operated on, on both rivers.

47
48 There'd be only one permit issued for
49 each river and it would be awarded on
50 the merits of an operating plan. And

1 each of these permits would be issued
2 to an organization that would
3 administer its construction, its
4 installation, its operation, its use
5 and its removal. And as part of the
6 permit, the organization would have to
7 provide a plan that would indicate how
8 fishing time and fish would be offered
9 and distributed among households and
10 residents of the community or
11 communities it represented.

12
13 After the season there would be some
14 sort of written documentation that
15 would evaluate performance, it would
16 include but not be limited to, you
17 know, the number of persons that used
18 it or the households that operated the
19 gear, the hours of operation, the
20 harvest, fish that were retained versus
21 fish released, any type of habitat
22 effects that might have been noticed.

23
24 Fishing would be allowed from June 16th
25 through September 30th on the Kenai
26 River.

27
28 And from June 16th through October 31st
29 in the Kasilof River, unless closed or
30 otherwise restricted by Federal special
31 action.

32
33 Salmon taken in these temporary
34 fishwheel fisheries would be part of
35 the dipnet, rod and reel fishery annual
36 total harvest limits for the rivers in
37 which they're taken. And also the
38 households that participated, the catch
39 from the fishwheels would be included
40 as part of their annual limits for the
41 various salmon species.

42
43 Fishing for each salmon species would
44 end and the fishery would be closed by
45 Federal special action prior to the
46 regulatory end dates if the annual
47 total harvest limit for that species
48 was reached before the end date of the
49 season was reached.

50

1 And essentially that's what the
2 original proposal sets out to do and that's the
3 language.

4
5 And this support with modification
6 regulation that we're proposing, basically it would
7 just clarify some things. It would more clearly
8 describe the responsibility of the Federal fishery
9 manager, the fishwheel owner and the fishwheel operator
10 which really wasn't clearly delineated in the original
11 one. It would indicate that fishwheel fisheries be
12 closed if superseded by special Federal action. And
13 also instead of just saying temporary fishery it would
14 define the duration of what the temporary fishery would
15 be, and we're suggesting three years might be a
16 reasonable length of time considering the financial
17 cost, the effort and, you know, the time it would take
18 to evaluate this method of gear operation in those
19 rivers.

20
21 Basically a lot of the changes we're
22 suggesting would make this similar to the fishwheel
23 regulations on the Copper River.

24
25 So basically it would -- let's see some
26 of the changes would be, the permits would be awarded
27 by the Federal fisheries manager in consultation with
28 the Kenai Refuge wildlife manager based on the merits
29 of an operational plan that would be submitted. So
30 this sort of lines out, you know, how who would select
31 the organization that would operate it and if there
32 were several for each river, you know, it would be
33 based on the merits of the plans each organization
34 submitted.

35
36 As far as, you know, the owner
37 responsibility, they couldn't rent or lease the
38 fishwheel for personal gain. You know as part of the
39 permit, the fishwheel owner would have to -- they would
40 be the ones providing the operating plan to the Federal
41 fishery manager prior to the season including the
42 description, you know, of how they're going to divvy up
43 the catch among the households and the communities and
44 fishing time and things like that.

45
46 It would include how to mark the
47 fishwheel. It would be marked with a plate of either
48 wood, metal or plastic, that has to be a certain, you
49 know, 12 inches high, 12 inches wide, it has to be
50 permanently affixed to the fishwheel, plainly visible,

1 bears the following information in numerals, at least
2 one inch high, just like it is on the Copper, I think,
3 you know permit registration number, the organization's
4 name and address, primary contact, telephone number,
5 just information as to who could be contacted and
6 where. You know, and same, the owner would have to
7 provide the written documentation at the end that
8 summarized who used it, you know, what was caught and
9 those sort of things.

10
11 Also the modification to the regulatory
12 proposal would include what the people who operate the
13 wheel, who might not necessarily be the owner, have to
14 do, and what their responsibilities are. So they would
15 have to have a valid Federal subsistence fishing permit
16 in their possession and if they're not the owner they'd
17 actually have to bring along another plastic plate that
18 would have their name, address and all that information
19 on it. They'd have to remain on the site to
20 continuously monitor the fishwheel and remove all fish
21 at least every two hours, and before leaving the site
22 the people operating the wheel would have to mark all
23 the fish by removing the dorsal fin, record the fish on
24 their permit and then within 72 hours report their
25 harvest to the Federal fisheries manager.

26
27 Now, the owner then who would operate
28 the fishwheel on behalf of the members of the community
29 it represents, would have to, you know, list the
30 households and household members for when the fishwheel
31 is being operated and have to identify a person within
32 the organization who is responsible or the person, you
33 know, that is going to be allowed to use the fishwheel,
34 who's responsible for operating it. It would include
35 provisions for the daily catches, the household the
36 catch was given, any other sorts of information, you
37 know, necessary to evaluate the project.

38
39 So hopefully it would more clearly lay
40 out, you know, what the fishery manager does, what the
41 fishwheel organization does, and what the actual person
42 operating the wheel does.

43
44 And as I mentioned it would be for like
45 a period of three years so the regulation would expire
46 December 31st, 2010 unless it was renewed by the
47 Federal Subsistence Board so they could decide they
48 wanted another year or two or whatever to more fully
49 evaluate it, they could decide that it was a failure
50 and it's not going to work and they don't want to have

1 fishwheels or they could think that this is just a very
2 useful piece of gear for Federal subsistence users in
3 the Kenai and Kasilof and have, you know, authorize a
4 fishwheel fishery instead of a temporary one.

5
6 So there's a lot to be said for at
7 least looking at this gear type. It could provide an
8 effective means of harvesting salmon. And while
9 conserving fish populations and avoiding a lot of
10 mortality to other non-targeted fish. There's some
11 minuses, you know, I think the Council mentioned that
12 fishwheels can be expensive to build, there's going to
13 be some expense to maintain them. They have to be, you
14 know, brought to the site and installed and taken out
15 at the end of the season so there's some minuses also.
16 But, you know, after three years, I mean both the users
17 and the managers should have a good idea as to how
18 effective a means of harvesting fish this would be in
19 both of these rivers.

20
21 So if there's any questions, hopefully
22 I didn't give you too much detail or not enough detail.

23
24 CHAIRMAN LOHSE: Tom.

25
26 MR. CARPENTER: Yeah, thanks, Steve.
27 As I remember it last year when we had this meeting,
28 this proposal, this idea of the fishwheel came up by
29 the RAC and they suggested to OSM to come up with a
30 formula of putting this into existence and the reason
31 we did it was because of the controversy involved in
32 Moose Meadows. And we voted on it to have OSM research
33 it because last year at the meeting we decided to only
34 allow fishing from a boat in Moose Meadows, so now that
35 we've changed what we did last year in regards to Moose
36 Meadows, do you think that we still need to show or to
37 pursue this idea of a fishwheel.

38
39 And, secondly, the real question I have
40 is in one of the points that you came up with as a
41 Staff, is that the fishwheel permit would be given to
42 -- out to a community through a process, an application
43 process. So am I to presume that this permit for a
44 fishwheel could actually be given to a community like
45 Hope, who hasn't even participated in the process
46 because their application was the best, and the people
47 that really are asking for it is Ninilchik and if their
48 application isn't as satisfactory as Hope's, that they
49 wouldn't get the fishwheel?

50

1 MR. FRIED: Okay, let me get back to
2 the first one. I think, actually, this was in response
3 to the request for the use of gillnets on the Kenai
4 River.....

5
6 MR. CARPENTER: You're right.

7
8 MR. FRIED:more than the
9 Moose.....

10
11 MR. CARPENTER: I stand corrected,
12 you're right.

13
14 MR. FRIED: Yeah. And there was a lot
15 of discussion on that point and whether or not a
16 fishwheel was really going to be but, you know, I think
17 that's my recollection of that.

18
19 MR. CARPENTER: Yeah.

20
21 MR. FRIED: And as far as selecting,
22 you know, who gets it, I mean since there's only one on
23 each river in this particular proposal and, you know,
24 the Council could recommend that there be more than
25 that or maybe they don't like the proposal anymore, but
26 there had to be some -- there has to be some way to
27 select, but, yeah, I mean if -- for the Kenai River it
28 could be an organization from Hope, Cooper Landing or
29 Ninilchik and whether or not, you know, one
30 organization decides they're going to support
31 households in all three communities or just one
32 community, I mean I guess that's up to them. For the
33 Kasilof it can only be Ninilchik because they're the
34 only ones with a positive C&T for salmon.

35
36 I mean maybe that whole point needs a
37 little bit more fleshing out, but there does need to be
38 some way to select I mean if there's more than one
39 organization that puts in for a permit.

40
41 MR. CARPENTER: And the final question,
42 is there any restriction on what types of organizations
43 can put in for this, as long as they're in a rural
44 qualified community?

45
46 MR. FRIED: Right now the way, either
47 the original proposal is written or the modifications
48 are, it really doesn't, they just have to be an
49 organization composed of, I guess, Federally-qualified
50 users for the Kenai Peninsula but, yeah, it doesn't

1 really specify whether it has to be a governmental
2 organization or four people that decided to get
3 together to try to do this or whether it'd be Ninilchik
4 Traditional Council or what sort. I guess the State
5 runs an educational fishery and I guess it's sort of
6 the same thing, they give it out to, you know, say for
7 Ninilchik there have been three organizations, and one
8 of them I think has been the Emergency Rescue Team or
9 something that got a permit for awhile. So I
10 think.....

11
12 MR. CARPENTER: Well, the reason I'm
13 asking, you know, is Ninilchik Traditional Council has
14 brought all of these, you know, ideas in regards to
15 subsistence on the Kenai and the Kasilof to the RACs
16 attention, nobody else has done this. Now,
17 understanding that all rural qualified users have to
18 have the ability to participate and that's the RAC's
19 fault for allowing communities into the C&T process
20 that never asked to be put in. We take full -- I take
21 responsibility for that. But the question is, how are
22 you going to, through the application process, how are
23 you going to critique the applications in regards to
24 these few permits, are you going to critique them based
25 on qualifications running fishwheels or are you going
26 to base them on membership, or are you going to base
27 them on -- do you see what I'm saying, I'm not so sure
28 -- I don't understand how you're going to possibly
29 critique the application process and hand out, which
30 could be a very, you know, wonderful permit to have.

31
32 MR. FRIED: No, I agree, I had some of
33 the same questions when we went down this road. And,
34 you know, I think that up to this point that some of
35 the guidance we've gotten was that, for regulation,
36 anyway, it might not be a very good idea to include all
37 those sorts of details but I think we need to have
38 those details, you know, in hand before you would do
39 that.

40
41 As far as whether or not, you know, if
42 you're concerned about Ninilchik Traditional Council, I
43 mean I don't know how you'd do that unless you just had
44 a fishwheel on the Kasilof River and then it would only
45 be Ninilchik residents that could do it. And keep in
46 mind that it's not going to be cheap to build a
47 fishwheel and maintain it, I don't know how many people
48 -- I don't know if Ninilchik Traditional Council's
49 going to want to do it. I don't know. It's not --
50 it's very different than something like, you know,

1 community gillnet which is fairly inexpensive and
2 pretty easy to maintain. A fishwheel is a pretty
3 complex piece of equipment, it's going to cost, I'm
4 guessing several thousand dollars to build it and it's
5 going to cost time and effort and money to maintain it
6 and to operate it.

7

8 MR. CARPENTER: And that actually gets
9 to the crux of my question, is that fishwheels are very
10 expensive and they are hard to maintain and really
11 nobody on the Kenai and Kasilof drainages are -- you
12 know the Yukon River and the Copper River have very
13 traditional uses in regards to fishwheels, there's a
14 lot of people that know about them, that know how to
15 operate them and they can be very expensive.

16

17 And I guess before we get too far into
18 this proposal, are we dealing with a proposal that
19 could be actually -- that we could spend another four
20 or five hours on today and that could potentially be
21 given to somebody that's not going to do it because
22 they don't want to spend the money, so, do you see what
23 I'm getting at.

24

25 I mean this was the RAC's idea to bring
26 this forward and I'm not criticizing OSM, I'm just
27 trying to raise these questions now in regards to how
28 these are going to be handed out. I mean there could
29 only be so many people that could afford to build a
30 \$25,000 fishwheel, let's say.

31

32 CHAIRMAN LOHSE: Gloria, do you
33 have.....

34

35 MR. FRIED: Those are reasonable points
36 and I think everybody's got the same questions and I
37 don't know exactly how much it would cost, I guess it
38 would depend on how big it was and what you built it
39 out of and I suppose if the people wanted to they could
40 speak to people in other communities that operate
41 wheels, I mean they're very effective on the Copper and
42 the Yukon, and it could be done. They don't have to be
43 as big as some of those Yukon.....

44

45 MS. STICKWAN: I have a question.

46

47 MR. FRIED:wheels, but.....

48

49 MS. STICKWAN: I have a question.

50

1 MR. FRIED:I don't know.

2

3 MS. STICKWAN: I have a question. It's
4 possible, too, that you could have the word, two
5 organizations applying for a fishwheel that you could
6 have -- is it possible for them to run it at a certain
7 time and then let other organizations run theirs within
8 the fishing season, you know, share the time limits or
9 equal sharing, I don't know.

10

11 And the other question I had is, would
12 you help an organization to make their plan to be a
13 good one or a better one than -- if it was submitted
14 and not a good one, would you, would the Federal agency
15 help them to rewrite it and make it a better plan?

16

17 MR. FRIED: Good questions. The first
18 one was about two organizations running the same wheel
19 in different rivers or the same river?

20

21 MS. STICKWAN: No, I'm saying if there
22 was two organizations that applied to have a fishwheel
23 in the river, would the agency be willing to let them
24 run the fishwheels at different times, like one could
25 shut one down and then the other one could -- they'd
26 both have a chance to fish but they'd just be doing it
27 at different times. Do you understand what I'm trying
28 to say?

29

30 MR. FRIED: Yeah, I see what you're
31 trying to say, you'd hope they'd be able to work
32 together to maybe come up with a proposal or maybe if
33 we saw if there was -- or maybe if you see there's a
34 proposal like that, you could go back to the two
35 organizations and ask them if they could work together
36 and combine their resources and operate one, but I mean
37 I don't know, I mean off the top of my head, I'd assume
38 you'd want to get an organization that would look like
39 they're taking care of as many households in a
40 community as they could rather than just catching fish
41 for themselves. But other than that I don't know how'd
42 you -- you know as far as financially it goes, I guess
43 they'd have to submit, you know, what they thought it
44 would cost, I mean they'd have to prove that they had
45 looked into it instead of saying, yeah, we want a
46 fishwheel and please give it to us, we're going to do
47 this, I mean they'd have to do their homework and prove
48 -- I think prove to, you know, the manger and the
49 Refuge manager they actually know what they're talking
50 about, looks like they'd have some chance of success.

1 As far as helping them write their
2 proposal, I mean I would say at first, probably not, I
3 mean I don't, you wouldn't want to.....

4
5 MS. STICKWAN: No, I meant if they
6 wrote.....

7
8 MR. FRIED:well, you wouldn't
9 want to give somebody an unfair advantage. But I think
10 once.....

11
12 MS. STICKWAN: I'm saying if they
13 submitted one that was poor, would you help them to
14 rewrite it?

15
16 MR. FRIED: Well, yeah, especially if
17 there was no competition, just that one proposal, I
18 suppose you could go back and try to work with them to
19 see if they could get something that was workable.

20
21 But I mean I think even the best one
22 might need some help, who knows. But -- so that's a
23 tough one.

24
25 CHAIRMAN LOHSE: Greg.

26
27 MR. ENCELEWSKI: Steve, I think you did
28 one hell of a great job presenting this and I think I
29 just wanted to make a couple comments, you know, I know
30 there's a lot of talk and concern that we might get all
31 derailed here. But I originally requested that this be
32 looked at because of the gillnets, you're absolutely
33 right, because of the concern everyone is afraid that
34 we were going to put a thousand gillnets in the Kenai
35 River. And I think we're looking at this as a
36 temporary means to see if it actually will work and
37 will pan out. And I do believe that, you know,
38 whatever organization gets this and which I would
39 assure you that Ninilchik Traditional Council will
40 probably be pursuing it, if it passes, would be able to
41 share and work this out.

42
43 And I'll give you some history as to
44 how we work some of these items in the past, is our
45 educational fishery, we work that with various members
46 from all over the place. We set up, we put in the
47 lines, we take care of the nets, we manage it, we do
48 the books, we do the reporting, we do, et cetera, and
49 it's open to the, you know, basically the general
50 people that sign up for it. So I think it could be

1 worked and I think we ought to look at it in that light
2 and see if we can't make something out of it.

3

4 CHAIRMAN LOHSE: Thank you, Greg.
5 Steve, I'd just like to make a comment on it. I would
6 expect, at least, from this Council, I would expect
7 that we would expect that if you were going to pick an
8 organization you would pick an organization that was
9 going to have the broadest representation and not only
10 the broad representation but be willing to help the
11 broadest group of people that you could have and not,
12 like you said, some organization that's looking just to
13 get it for themselves and I think that that would be --
14 that would be my expectation if you were going to issue
15 a permit, that the organization would have to present a
16 plan to help the broadest amount of people that it
17 could and include the broadest amount of people.

18

19 As far as the expense of building a
20 fishwheel, I think Gloria and Dean can both speak to
21 that. A fishwheel can vary from a thousand dollars to
22 \$50,000 depending on what somebody wants to spend. I
23 can remember when, I think we have somebody from Eyak
24 here that when Eyak put their fishwheels in, they did
25 good state of the art fishwheels, they weren't cheap,
26 but when they got up to the other end of the Copper up
27 there and they needed some help, they got Mr. Goodlataw
28 to help them and if I remember right he built some very
29 effective fishwheels for a lot less money. And I know
30 from past experience that, you know, there are some
31 fishwheels on the Copper River that catch a lot of fish
32 that didn't cost very much to make. And there are
33 other ones that don't catch a lot of fish that cost a
34 lot to make.

35

36 (Laughter)

37

38 CHAIRMAN LOHSE: And there's a lot of
39 them in between. So I would think that any
40 organization that was serious about doing it could find
41 the expertise and the funding that it needed to build a
42 fishwheel, so I don't think that's what we need to
43 concern ourselves with because that's going to be left up
44 to the organization. What we need to concern ourselves
45 with is whether or not we figure this is a feasible
46 thing to do and whether we should give somebody the
47 opportunity to do it, not how they're going to do it,
48 with the expectation, again, that with the kinds of
49 things that you've put in place here, that there will
50 be some safeguards to make sure that nobody feels like

1 they're purposely left out. Like everybody has as much
2 of a chance to participate in it as you could possibly
3 have, you know.

4
5 So any other comments from somebody
6 from the Board -- Dean.

7
8 MR. WILSON: Yeah, I'll weigh in a
9 little bit on that. The last few fishwheels that I've
10 built, all of them were less than a thousand dollars.
11 One of them was probably one of the bigger fishwheels
12 on the river, too, and it was catching my limit in 36
13 hours when the runs were coming through, which is 500,
14 so one of them was only a hundred bucks, you know,
15 using scrap wood. So it's all what you make of it, you
16 know, if you want to make it all out of aluminum and
17 corrugated, yeah, you can throw a lot of money into it.
18 So it just takes time and a little effort to find out
19 how to do that stuff.

20
21 I'm actually really surprised something
22 like this proposal hasn't come through a long time ago.
23 This is something that is more in line with subsistence
24 needs on the Kenai as far as getting fish where you
25 don't really have a conservation issue up and down the
26 river, fish right into the hands of elders and all the
27 folks that have lived around there for a long time.

28
29 I am kind of curious, though, as far as
30 the modification that OSM did, why they put in so many
31 regulations, why did they add so many on top of the
32 proposed regulations that came with the original
33 proposal. There was a number of things that came in
34 that I saw that were added to it to regulate it even
35 more.

36
37 Maybe you could shed a little bit of
38 light on that, but this is really -- having a live box
39 on board but yet having somebody stand right there to
40 watch it doesn't make any sense, you might as well have
41 a dry box on there and have somebody right there to
42 watch it to find out exactly where all the fish is
43 going on a proposal that's coming in -- if it's a
44 subsistence user, who cares, if they put in the
45 proposal, who cares. And I know the original proposal,
46 it looks like it went in, went for one fishwheel on
47 each river but I think in my mind I think that should
48 probably be expanded. It takes some effort to find out
49 exactly where to fish on a river, it's not like you can
50 just throw a fishwheel in and hope for the best, you're

1 going to have to do some work to find out exactly where
2 to put these wheels and where the best locations are.

3

4 But at any rate I'm curious about that,
5 maybe you can expand on why the extra regulations on
6 top of the original proposal.

7

8 MR. FRIED: Well, I guess as I went
9 through the review process there were, you know,
10 several people and different agencies and places that
11 were a little concerned about, you know, better
12 explaining, you know, what responsibilities the manager
13 had, what responsibilities the owner had versus what
14 responsibility the people -- the person that might be
15 using the fishwheel but might not be the owner had,
16 just legalities and stuff so that somebody -- you know
17 a household might be using the fishwheel and maybe they
18 did something wrong and, you know, they should be the
19 one cited and not the owner and things like that. I
20 didn't think -- well, they said, well, why don't you
21 just copy the Copper River regs for the most part
22 because that seems to work and that's what happened.

23

24 Now, you know, maybe the Council
25 doesn't think that really doesn't fit or a lot of this
26 isn't necessary so you're certainly welcome to make any
27 changes, this is a Council proposal, this was just, you
28 know, our best take and me trying to synthesize the
29 various agency comments and the field reviewer's
30 comments. So that's basically where it came from.
31 Whether or not it's all necessary, you know, please
32 feel free to weigh in.

33

34 MR. WILSON: Follow up.

35

36 CHAIRMAN LOHSE: Dean.

37

38 MR. WILSON: Yeah, well, the points
39 that I brought up I guess is because these things are
40 different, these regulations are a little bit different
41 than what we have on the Copper. Some of them are
42 similar but some are different.

43

44 MS. STICKWAN: You don't have to watch
45 them every two hours yet.

46

47 MR. WILSON: What?

48

49 MS. STICKWAN: I said we don't have to
50 watch fishwheels every two hours yet.

1 MR. WILSON: Oh.

2

3 (Laughter)

4

5 CHAIRMAN LOHSE: Dean, I think, now --
6 and I'm speaking for the OSM here as if I was there but
7 I wasn't, but I know one of the things we have as part
8 of this proposal is that rainbow trout, steelhead have
9 to be released alive, and I think that was -- to me
10 that would be the two hour thing and that would be the
11 live box thing. You don't have that requirement on the
12 Copper River.

13

14 MR. WILSON: Yeah.

15

16 CHAIRMAN LOHSE: You don't have to
17 release steelhead, rainbow trout alive on the Copper
18 River. If you're going to release steelhead, rainbow
19 trout alive and you're going to do that on the Kenai or
20 the Kasilof you're going to have to be there and you're
21 going to have to have a live box. If we remove that
22 that would be a different story, but at this point in
23 time they have to be released under this proposal.

24

25 Dean.

26

27 MR. WILSON: Yeah, I guess I was
28 thinking more along the lines of a fishwheel can
29 typically be built to allow those fish to leave, with
30 the exception of steelhead, size wise, I'm not sure on
31 those, but certainly trout and Dolly Varden are
32 smaller, you can build a fishwheel to allow those
33 escapement, you know, without even being there.

34

35 CHAIRMAN LOHSE: Thank you, Dean.

36

37 Any other comments.

38

39 (No comments)

40

41 CHAIRMAN LOHSE: Discussion.

42

43 MR. CARPENTER: I've just got one more
44 question.

45

46 CHAIRMAN LOHSE: Tom.

47

48 MR. CARPENTER: Yeah, just one more
49 question, Steve. I'm just trying to think of all the
50 -- you know if we're going to send this forward to the

1 Board I want to try and think this whole thing out.
2 Has there ever been an instance in another area around
3 the state where the RAC has suggested to the Board that
4 they implement a non-traditional method of harvesting
5 fish on a river? I'm just trying to think of all the
6 reasons that they could say, no, this is not a good
7 idea and I know that dipnet, rod and reel and for some
8 instances, you know, we've heard guys in the area talk
9 about gillnets, and James earlier said that he's never
10 heard or seen of anybody using fishwheels and we also
11 heard from the State that they use a fishwheel, but for
12 subsistence purposes, is that going to be a factor that
13 the Board just says no we're not doing it because it's
14 not a traditional means of harvest?

15

16 MR. FRIED: I'd actually asked that
17 same question, I don't recall if it was about the
18 fishwheels but, you know, whether or not a piece of
19 gear had to be used in the past to be considered for
20 use, you know, in a fishery and the answer is no, I
21 don't think there's any such thing in the regulations
22 that would prohibit use of a fishwheel just because we
23 can't find a documented record of somebody actually
24 using it in the Kasilof or the Kenai. So unless I'm
25 corrected by somebody else in the audience, I mean it's
26 my understanding that that should not be a problem and
27 that should not be a basis for saying, you know, we
28 can't adopt this, because nobody's ever used a
29 fishwheel.

30

31 MR. CARPENTER: Okay, thanks.

32

33 CHAIRMAN LOHSE: Any other questions
34 for Steve.

35

36 (No comments)

37

38 CHAIRMAN LOHSE: Thank you, Steve.
39 Alaska Department of Fish and Game.

40

41 MR. PAPPAS: Good afternoon, Mr. Chair.
42 My name's George Pappas, Department of Fish and Game.
43 And I handed out earlier this morning FP08-09 and I'll
44 be reading these into the record.

45

46 Adoption of this proposal would create
47 a temporary fishwheel subsistence fishery in the Kenai
48 and Kasilof Rivers. This proposal would allow for one
49 community operated fishwheel in the Kenai main stem for
50 Cooper Landing, Hope and Ninilchik and one community

1 operated fishwheel in the community for Ninilchik in
2 the upper Kasilof main stem. The proposed also goes
3 over dates, requiring a live box, continuous
4 monitoring, harvest reporting and marking requirements.
5 It also talks about an organization -- specific
6 organization would receive a permit and be responsible
7 for each wheel, preparing an operational plan
8 identifying distribution and usage of harvest among
9 households in the three communities and a post season
10 report.

11
12 I don't want to be too repetitive here.

13
14 And the limits would not -- these
15 limits would be part of the total harvest for the
16 subsistence fisheries, not in addition to. And also
17 not in addition to is the State of Alaska
18 sportfisheries harvest limits.

19
20 Once again, the Kenai River is located
21 in the Anchorage Mat-Su Kenai non-subsistence area
22 designation under State law. The State provides a
23 broad array of personal use, recreational and
24 educational fisheries that provide more opportunity
25 than is used by the communities to meet the needs for
26 personal and family consumption as well as cultural
27 purposes.

28
29 The comments -- this -- we had a fairly
30 extensive set of comments at the last Federal
31 Subsistence Board, those comments about our
32 conservation issues are from the May meeting located on
33 Page 231 through 235 and Pages 264 to 281. In
34 addition, locating a fishwheel near River Mile 46,
35 which is a major late run chinook salmon spawning area,
36 will necessitate the Alaska Board of Fisheries to
37 evaluate whether the late run management plan will need
38 changes. We haven't discussed, so far, I think we've
39 only discussed the Moose Range Meadow area, but part of
40 the proposal is -- actually could be below Skilak Lake
41 in the Kenai Drainage. And the Department has concerns
42 about placing a fishwheel in the vicinity of a
43 tributary -- in the vicinity of a tributary to the
44 Kenai River which might focus the harvest on a
45 particular stock and the Department knows little
46 information about tributary contribution to the Kenai
47 except for the Russian River and recently Gary
48 Sonnevil's shop's been running some projects on the
49 Funny River for kings. I believe they're videotaping
50 every king that goes up the tributary which is actually

1 exciting science.

2

3 Incidental handling of rainbow
4 steelhead trout, Arctic char and Dolly Varden, lake
5 trout and other resident species is a serious concern
6 for the Department. Although harvest of rainbow and
7 steelhead trout will be prohibited in the fishwheels,
8 handling mortality of resident species caught and
9 released from a fishwheel may be greater than caused in
10 the sportfishery in certain instances. And just for
11 information for the Council here the Kenai rainbows and
12 Dollys can get the size of sockeye and larger so having
13 an escape mechanism for all species would not work, you
14 know, size and small ones, yes, but for the adults, I'm
15 not sure -- I'd like to talk to you about that
16 afterwards for some of our other projects for design.

17

18 Operation of a fishwheel for six weeks
19 after the proposed season closure for the retention of
20 chinook salmon may induce unnecessary handling
21 mortality of incidentally chinook salmon that are in
22 spawning phase and fairly weak. The reporting of the
23 number of chinook salmon released during the spawning
24 season should be a permit stipulation in the
25 Department's opinion. And the Department Fish and Game
26 Staff are currently conducting fisheries research
27 projects in the Kasilof River and if a fishwheel was
28 put into the Kasilof River, tagging information and
29 capture -- recapture information would assist
30 everybody involved in the research of the stocks in
31 that part of the -- in that particular system.

32

33 Once again the Department request
34 detailed maps showing the boundaries within which
35 Federal regulations would apply and the justification
36 for claiming those boundaries. A detailed land status
37 map is needed that distinctly illustrates land
38 ownership, easements, and the exact boundaries of legal
39 Federal jurisdiction. Portions of both the upper and
40 lower Kenai River are bordered by State and private
41 lands where there are Federal claims of jurisdiction in
42 those areas. If this proposal is adopted, subsistence
43 users would have to know exactly where Federal
44 regulations apply to install a fishwheel and to keep
45 from violating State regulations.

46

47 The use of community fishwheel raises a
48 number of issues. For example coordination between
49 operators of the community fishwheel and the households
50 receiving the fish will have to be carefully planned to

1 prevent harvesting more fish than is needed at a given
2 time and to ensure the individuals do not exceed
3 household limits. Ensuring that the overall community
4 limits are not exceeded may be difficult even though
5 the rod and reel and dipnet fishermen are required to
6 report harvests in a timely manner. If this proposal
7 is adopted, individuals catching and receiving fish
8 should be issued a Federal fishwheel permit to identify
9 them as Federally-qualified subsistence users.
10 Frequent catch reporting must be required and 72 hours,
11 in the Department's opinion is insufficient. Given the
12 lack of stock status information and the harvest
13 potential of this fishery, the Department recommends a
14 24 to 48 hour reporting requirement.

15
16 Operating a fishwheel on the Kenai
17 River requires permitting and/or written permission by
18 the Kenai National Wildlife Refuge, the Alaska
19 Department of Natural Resources Divisions of Parks and
20 Recreation and Office of Habitat and Permitting.
21 Installing and operating a fishwheel for the specific
22 purpose of subsistence fishing would be illegal if done
23 from non-Federal properties or on 17(b) easements. And
24 fishwheels should not be allowed within areas
25 identified as critical habitat and closed to fishing
26 within 10 feet of the shoreline.

27
28 There is a need to better define
29 cumulative harvest limits between the subsistence
30 fisheries gear types. The proposal presents challenges
31 to a Federally-designated individual regarding the
32 ability to manage multiple gear types with specific
33 harvest limits in a timely manner.

34
35 The Department recommends language be
36 inserted into regulation which would prohibit the
37 installation of a fishwheel within 500 yards down
38 stream of a Department fishwheel. The Department is
39 concerned that if a fishwheel is installed in the
40 vicinity of the Department's fishwheel, research
41 wheels, the migratory patterns may be altered which
42 would impact project results and disrupt long-term data
43 sets.

44
45 In summary, the use of a fishwheel in
46 the Kenai or Kasilof Rivers could create serious
47 conservation problems, social conflicts and enforcement
48 problems.

49
50 And I'd like to answer a couple

1 questions that Mr. Blossom brought up earlier, if you
2 don't mind, sir.

3

4 Through the Chair. Mr. Blossom. You
5 asked about the Department's fishwheels, we've had a
6 couple of them above the bridge in the Moose Range
7 Meadows area. On your map on River Mile -- I think
8 it's 27.9, so I believe it's right below the Refuge
9 boundary -- inside the Refuge boundary, those
10 fishwheels are successful. The problem about
11 maintaining them, you asked earlier, the challenges we
12 face, huge logs, you know, debris coming down, I think
13 they've had a couple problems with motorists running
14 too close, you know, big wakes knocking folks off. I
15 believe in the last 10 or 15 years we've lost one
16 fishwheel, I'm not sure if it was an ice berg that came
17 down, a fall, I can't remember what it was, some debris
18 came down and ripped out its anchors and they had to go
19 down stream and retrieve it. The way they install
20 these fishwheels is with boats, you know, two or three
21 boats, a crew of six to 10, you know, they assemble
22 them on land at the end of that boat launch there, the
23 Redoubt boat launch and then they just tow it all up
24 river, it's not an easy process. It can be dangerous
25 because of the swift moving water in that area and it
26 is deep. The fishwheels that the Department uses have
27 six foot baskets on them and about a 12 to 13 foot
28 radius and they fish from four to six feet deep in the
29 water. They're on 22 foot pontoons which is a little
30 bit overkill but it's more of a safety factor for our
31 technicians. And, yes, they're very expensive. I
32 believe a float alone cost \$2,500 for the aluminum for
33 one float, along those lines. And they do catch fish
34 there.

35

36 Thank you.

37

38 CHAIRMAN LOHSE: Thank you. Any
39 questions for him.

40

41 Doug.

42

43 MR. BLOSSOM: Mr. Chair. On the bottom
44 of your preliminary comments, you say about operation
45 of the fishwheel for six weeks after the proposed
46 season closure, when would you propose that the
47 fishwheel close, say in the Kasilof and when would you
48 want it to close in the Kenai to alleviate that
49 problem?

50

1 MR. PAPPAS: Well, of course the
2 Department's comments are going to be parallel the
3 State sportfisheries regulations, which would be
4 through July in the Kenai and then, what's the late run
5 in the Kasilof, of king -- the king fishing shuts down
6 the end of July also there, above the Kasilof bridge,
7 so I would -- my -- the Department's position would be
8 to parallel the dates that the Department of Fish and
9 Game has set aside for the king salmon run because
10 that's why they are established.

11

12 Yes, sir.

13

14 MR. BLOSSOM: Yeah, Mr. Chair, I guess
15 that then eliminates them using a fishwheel for coho,
16 and I would think that you'd want to leave some
17 reasonable time in there for that so I would think
18 you'd extend it beyond that time. I mean they're not
19 going to retain king salmon anyway by that time, it's a
20 chance for them to catch coho, but I can see your
21 point, it's a long time after most fish runs are
22 through.

23

24 MR. PAPPAS: Mr. Chair. Mr. Blossom.
25 Also by area this identifies one of the areas there, a
26 lot further up stream than the Moose Range Meadows and
27 the spawning area where the fish might be milling
28 about. I would assume over in the Kasilof around Hong
29 Kong Bend some of the folks that have cabins out there
30 say that the fish do -- the spawning kings don't leave
31 that area, they'll mill about, the reds there, spawning
32 spots. The same situation there, possibly, if you have
33 a fishwheel in late in the season, you're targeting
34 fish that are migrating through but there are fish that
35 are milling about right in the same spot, you might end
36 up handling them more often than not if you had it
37 somewhere else.

38

39 Mr. Chair.

40

41 CHAIRMAN LOHSE: Any other questions.

42 Doug.

43

44 MR. BLOSSOM: Mr. Chair. So you're
45 sticking to your end of July date in other words?

46

47 MR. PAPPAS: Mr. Chair. Mr. Blossom.
48 For king salmon, for coho that would be a different
49 situation, you'd -- if the -- if the wheels were
50 located in an area that weren't known spawning beds,

1 which is a lot of the Kenai, I don't have the -- maybe
2 Mr. Nelson could help me out for where the spawning
3 distribution is in the Moose Range Meadows area but if
4 it was in a spot where it would be away from -- to
5 address the concern of, say, milling spawning kings, I
6 would assume the Department would have less concerns.

7
8 MR. BLOSSOM: For instance if the
9 fishwheel was up closer to Skilak Lake that would be
10 removed from the king salmon spawning area somewhat.

11
12 MR. PAPPAS: Well, Mr. Chair. Mr.
13 Blossom. At Mile 46 from our comments, Mile 46 in the
14 river would be a concern to the Department because
15 that's a known late run spawning beds and I don't have
16 a map, a river map -- a mile map but that would be
17 close -- that would be the outlet of -- that would be
18 below the outlet of Skilak Lake.

19
20 CHAIRMAN LOHSE: Thank you. Any other
21 questions. Dean.

22
23 MR. WILSON: Just a comment on that.
24 Like I mentioned earlier with Ralph, a steelhead or any
25 other larger fish you wouldn't be able to build
26 something like that, only for smaller ones, but in the
27 proposed regulation there's a live box in there and as
28 long as they're checked regularly I think you're trout
29 and steelhead and all that will be just fine.

30
31 I had a question for you, and now that
32 I asked you that I forgot what it was, I'll have to
33 come back to you in a minute.

34
35 CHAIRMAN LOHSE: Okay, Dean. Anybody
36 else.

37
38 (No comments)

39
40 CHAIRMAN LOHSE: I've got a question,
41 and maybe this is more to put it on the record than
42 anything else, and this is not putting you on the spot.
43 But I'm looking on your other comments right here.

44
45 And it's always interesting to me that
46 when we deal with the Kenai, it's like a totally
47 different world.

48
49 Now, I know that there's more
50 enforcement on the Kenai than probably any place in the

1 state, we've got more enforcement agents and everything
2 else down there and, yet, we're worried about
3 individuals exceeding household limits, ensuring that
4 overall community limits are not exceeded, frequent
5 catch reporting may be required in 72 hours is
6 insufficient and at the same time given the stock
7 information and harvest potential of this fishery, the
8 harvest potential of this fishery, the Department
9 recommends a 24 to 48 hour reporting requirement. Yet,
10 we live on the Copper River and everybody in the state
11 is qualified to use a fishwheel on the Copper River,
12 and as Dean just pointed out, the limit's 500 which is
13 almost obscene, and, yet.....

14

15 (Laughter)

16

17 CHAIRMAN LOHSE:we aren't worried
18 about harvest potential in that fishery. We don't
19 worry about whether individuals exceed their household
20 limit or overall community limit and we report at the
21 end of the season by -- well, some of us claim by
22 guesstimate. And, yet, as soon as we get on the Kenai
23 we need 24 to 48 hour reporting requirements instead of
24 72 and we're going to have more enforcement running
25 around these guys than the Copper River has seen in 20
26 years, they're going to see that much in one year. And
27 it just really -- I knew that that was -- I knew before
28 I ever read this that this was going to come from the
29 State, that the harvest potential was excessive there
30 and, yet, we have a river that we allow everybody in
31 the state to put a fishwheel on and take an excessive
32 amount of fish and we don't worry about the harvest
33 potential. Not only everybody in the state, we go down
34 to Dawson and we visit somebody in Dawson and we say,
35 where are you from, from Chitina, oh, that's where we
36 go dip our fish, you know.

37

38 (Laughter)

39

40 CHAIRMAN LOHSE: So I mean I really
41 find it hard to believe that you need 24 to 48 hour
42 reporting, to me 72 hours, like Dean says, is almost
43 excessive, but we've put those kind of things in
44 because we want to show that we are trying to keep
45 records and we are trying to build a record and we are
46 trying to be responsible. But at the same time let's
47 not be, and this is not against you, let's not be
48 ridiculous and say, oh, my gosh, all of a sudden we
49 have this excessive harvest potential that we're all
50 worried about and, yet, on another river that supports

1 a lot of people also, you know, we don't worry about
2 the fact that we can take X amount of fish and
3 everybody in the state can take it and they can come
4 from Canada to come and take it, you know, and we don't
5 even send any enforcement up there, you know, I mean it
6 just blows me away sometimes. And I'm sorry, I
7 shouldn't get on my high horse on that.

8

9 MR. CARPENTER: Yeah, you should.

10

11 CHAIRMAN LOHSE: Uh.

12

13 MR. CARPENTER: Yeah, you should.

14

15 (Laughter)

16

17 CHAIRMAN LOHSE: And the other thing I
18 was going to say is it's kind of interesting that
19 you're putting a fishwheel in and it takes nine guys
20 and three boats and it cost that much money because in
21 1968 I worked with Fish and Wildlife Service and Fish
22 and Game and we ran four fishwheels, two at each end of
23 Woods Canyon doing a research tag and release thing,
24 our fishwheels were bit that bit, we put them up on
25 land by using rubber roles to put them up on land, we
26 had four technicians, I was one of them. We were
27 responsible for putting the fishwheels in the river,
28 operating the fishwheels all summer, and taking the
29 fishwheels back out and we had a 22 foot river boat
30 with a 40 horse river kicker, and we operated it at
31 both ends of Woods Canyon. It just shows how things
32 have changed. I mean all of a sudden this fishwheel is
33 this big expensive thing and it takes this big group of
34 people to run it when it really doesn't. It can, but
35 it doesn't. You know, I mean somebody could do this,
36 like Dean, I don't know how many people you have help
37 you put your fishwheel in but I don't think it's very
38 many.

39

40 MR. WILSON: Two.

41

42 CHAIRMAN LOHSE: Two, yeah, you know,
43 and so we -- let's not make this a bigger problem than
44 it is. It can be, you know, we can make it as big as
45 we want to make it or we can make it as simple as we
46 want to make it, you know.

47

48 MR. PAPPAS: Mr. Chair. The fishwheels
49 that the Department uses, definitely a different ball
50 game than killing fish. The folks are out there

1 releasing fish as fast as possible, I think they're
2 manning them 16, 18 hours a day, they're measuring
3 every third or fourth fish, pulling scales, there's a
4 lot more to it, they need a larger work platform, so,
5 yes, you are correct, it doesn't need to be a \$20,000
6 fishwheel to harvest a heck of a lot of fish.

7
8 Two other points, sir, the Copper River
9 and the Kenai River order of magnitude, different in
10 effort and harvest and attention, in my opinion, I
11 don't have the numbers in front of me. Now, I believe
12 we have about seven or eight percent of the entire
13 enforcement effort for the Kenai Peninsula sitting in
14 this room, it's not that many of people for the
15 hundreds and hundreds of thousands, actually millions
16 of people that head that direction. I'm not on a
17 defensive mode here but if there was a concern, the
18 Department had concern about conservation or attaining
19 spawning needs in the Copper River it wouldn't be
20 nearly, as you're saying, maybe not as scrutinized as
21 the Kenai is.

22
23 CHAIRMAN LOHSE: That's true, but the
24 fishwheels we operated, we also measured and tagged all
25 of the fish, we tagged 25,000 fish in the summer.

26
27 MR. PAPPAS: Uh.

28
29 CHAIRMAN LOHSE: And recovered fish at
30 the other end, about the same amount so I think that we
31 were operating on the same kind of a premise that
32 you're operating, it's just that it was a different
33 era. You did more in '68 with less people than you do
34 in 2006, that's all I was pointing out.

35
36 MR. PAPPAS: That's.....

37
38 CHAIRMAN LOHSE: It becomes a bigger
39 project today than it was then.

40
41 MR. PAPPAS: I doubt you had a day that
42 you only worked 7.5 hours back then, sir.

43
44 CHAIRMAN LOHSE: Didn't have what?

45
46 MR. PAPPAS: I doubt you worked a day
47 with less than 7.5 hours in the entire timeframe.

48
49 CHAIRMAN LOHSE: 7.5, you mean 17.5.

50

1 (Laughter)

2

3 CHAIRMAN LOHSE: We were paid by the
4 month, not the day or the hour.

5

6 (Laughter)

7

8 CHAIRMAN LOHSE: Okay. Tricia.

9

10 MS. WAGGONER: Not to kind of beat a
11 dead horse here, but in going back to the whole
12 fishwheel issue and you're talking about incidental
13 take and incidental handling of steelhead rainbows and
14 chinook, fishwheels with a live box, you aren't ever
15 taking that poor fish out of the water but, yet, as a
16 state we promote catch and release fishing. And does
17 the State have an idea of mortality rates, you know,
18 caught and released fish versus fish that are caught
19 and released, I mean you use mark/recapture, you know,
20 fishwheels for scientific research so you know what
21 mortality rates are and fish released -- I mean is that
22 really a concern like it's stated in your paper, I
23 guess, is my bottom line question, you know.

24

25 MR. PAPPAS: Mr. Chair. Council member
26 Waggoner. It's in the summary, the use of fishwheel in
27 Kenai and Kasilof could create serious conservation
28 problems, social conflicts, enforcement problems.
29 We've all -- folks who have been on fishwheels have
30 seen big fish flop out, bounce their head and even die.
31 We've seen fish caught up, we've seen fish spinning
32 through the basket pulling scales and slime off the
33 side. There is the possibility, that does happen. You
34 know, is there a conservation concern, the Department
35 says there could be.

36

37 Mr. Chair.

38

39 CHAIRMAN LOHSE: Doug.

40

41 MR. BLOSSOM: Mr. Chair. Will you
42 please explain that, where is the conservation concern,
43 tell me.

44

45 MR. PAPPAS: Mr. Chair. Mr. Blossom.
46 Let me step back on this one here. Conservation
47 concern about -- well, as the comments indicate, late
48 run chinook, depending on the numbers of harvest,
49 depending on the mortality induced by this, whether it
50 be harvest, whether it be handling mortality, that

1 could be a concern, that could change -- that could
2 require the Board of Fish change the management plan to
3 adapt for that. For -- I guess if you open up the late
4 run chinook plan it opens up just about everybody in
5 Cook Inlet.

6

7 Mr. Chair. Does that answer your
8 question, sir.

9

10 CHAIRMAN LOHSE: Doug.

11

12 MR. BLOSSOM: Follow up here. They
13 already have a harvest limit of kings in the Kenai and
14 Kasilof so once that harvest limit is reached they
15 can't take anymore anyway so then you're the same as
16 hook and release, isn't that true?

17

18 MR. PAPPAS: Mr. Chair. Mr. Blossom.
19 That would be correct, a year of abundance, in a year
20 of non-abundance where the late run kings look like
21 they might not make the goals or they're on the low
22 end, as I understand the harvest limit doesn't change
23 though the in-season designated individual can close
24 these Federal subsistence fisheries, it could, in
25 certain instances, run into an issue of conservation if
26 the return doesn't come back, the effort and interest
27 in these Federal subsistence fisheries really do peak
28 and the harvesting methods and means become very
29 efficient. It all could accumulate and end up in a
30 conservation concern.

31

32 CHAIRMAN LOHSE: Go ahead, Doug.

33

34 MR. BLOSSOM: So you're saying that the
35 present harvest quota they have is not going to happen
36 or, you know, right now there's a quota, I forget how
37 many kings on the Kenai and Kasilof but there's a
38 harvest quota and they're not to exceed it and so after
39 that there wouldn't be any conservation concern because
40 they'd release everything.

41

42 MR. PAPPAS: Mr. Chair. Mr. Blossom.
43 That is correct. If once you reach a maximum or if the
44 Federal in-season designated individual says no more
45 retention of kings because of the concern for the runs
46 but the other species are okay, yes, you've made a very
47 good point.

48

49 CHAIRMAN LOHSE: So your conservation
50 concern was on the take of them, not on the incidental

1 mortality and handling them?

2

3 MR. PAPPAS: That's -- well, that's
4 part of it, too, it's all sources of mortality, it
5 could be take, could be handling mortality, example for
6 steelhead in the Kenai, no one has a good estimate of
7 number of those. I believe I've seen, at least only --
8 I think I've seen one steelhead come through a
9 fishwheel but that was my limited experience out there.
10 Not very many of them come through the fishwheels and
11 one of the defining characteristics is they're covered
12 with sea lice, so they're fresh run from the ocean.
13 You know, if the run's 25 fish and two or three of them
14 are killed, that's over 10 percent exploitation.
15 There's a lot of potential, a lot of unknown here, but
16 that's the Department's position, sir.

17

18 CHAIRMAN LOHSE: Thank you. Tricia.

19

20 MS. WAGGONER: Do you guys have a
21 documented mortality with your fishwheel, with the Fish
22 and Game's fishwheel at Moose Meadows for steelhead,
23 late chinook, coho?

24

25 MR. PAPPAS: Mr. Chair. Council
26 member. I don't know if we have a study on that, I
27 assume that doing the mark recapture work they have an
28 idea which fish -- what the percentage of survival is
29 for fish that are tagged evasively or -- or actually
30 the backpack tags, that's easy to track because they --
31 they just -- if you release them they drop to the
32 bottom and they keep floating down river not going very
33 far, they can figure that out. But for other species,
34 I do not know if there has been a study on that.

35

36 Thank you.

37

38 CHAIRMAN LOHSE: Tricia.

39

40 MS. WAGGONER: I guess what I'm trying
41 to get at is you're stating a concern here of the wheel
42 incidentally killing fish, you know, chinook after the
43 chinook season's ended and steelhead, what I'm asking
44 is how many of those species have you guys -- have been
45 killed in the Fish and Game fishwheel.

46

47 MR. PAPPAS: Chairman. I can't answer
48 that question. There is a cost of doing science to
49 maintain the other stocks for all users, I don't know
50 what that cost is.

1 Mr. Chairman.

2

3 MS. WAGGONER: Okay.

4

5 CHAIRMAN LOHSE: And I think without
6 radiotags or catch and -- mark and recapture, you
7 wouldn't be able to do anything except make an estimate
8 on that anyhow. I know that -- and I think, of course,
9 for me I could mention that we do have a little bit
10 drop back on some of our tagged fish that are done down
11 at Baird's Canyon but the percentage is pretty low if I
12 remember right. And so any time that you handle fish
13 there's an incidental -- there's a possibility of
14 incidental mortality.

15

16 MR. PAPPAS: Mr. Chair. Yes, that's
17 why I moved the fishwheels -- the coho fishwheels up
18 river 15 or 20 miles, they first tried it down below
19 the Soldotna bridge somewhere, mortality was incredible
20 on these coho because the closer you are to saltwater
21 in some systems -- or in a lot of systems, the coho
22 just don't handle being tagged -- they don't live
23 through it very well. They moved them up river to, was
24 it 27.9 and the survival skyrocketed in comparison, so,
25 yeah, it comes down to where you actually put the
26 fishwheel itself, sir.

27

28 CHAIRMAN LOHSE: The scales harden and
29 the slime gets thick.

30

31 (Laughter)

32

33 CHAIRMAN LOHSE: Doug.

34

35 MR. BLOSSOM: Mr. Chair. You operate
36 two fishwheels every year, right, in the Kenai?

37

38 MR. PAPPAS: Mr. Chair. Mr. Blossom.
39 We operate four. Two sockeye ones down at Mile 19
40 where the sonar sites are and then two coho wheels at
41 Mile 27.9 and one's a little bit further lower than
42 that. And we operate two in the Kasilof, too, sir.

43

44 MR. BLOSSOM: And you operate those
45 through September into the timeframe that we're talking
46 about?

47

48 MR. PAPPAS: Mr. Chair. Mr. Blossom.
49 The sockeye ones are pulled out when the one percent
50 rule hits, when it ramps down where they get less than

1 three days in a row and that happens, what early
2 August, if I remember correctly.

3
4 MR. BLOSSOM: But the other ones up
5 river are operated all fall?

6
7 MR. PAPPAS: Mr. Chair. Mr. Blossom.
8 That is correct, they're operated into early fall.

9
10 MR. BLOSSOM: So I guess as I see it,
11 one more fishwheel isn't going to make any difference
12 for the incidental.

13
14 CHAIRMAN LOHSE: Dean.

15
16 MR. WILSON: You know I was just
17 thinking back, out of all the fish I've seen caught, I
18 don't think I've ever seen a fish die that came out of
19 a fishwheel that went into a live box by coming out of
20 the basket and conking itself on the head or something
21 so I don't know how your fishwheel's built or anybody
22 else's is, I'm sure -- I'm sure some of them could get
23 hurt over time but nothing, nothing compared to a catch
24 and release, fly fishermen or sportfishermen, your
25 damage to that fish is, other than giving him a free
26 ride in the air and right back out is very, very
27 minimal.

28
29 One question for you on your comments
30 that you brought for the State, it's obvious the State
31 isn't a supporter of this but could you clarify the
32 enforcement problems that you guys foresee in your
33 summary.

34
35 MR. PAPPAS: Mr. Chair. Mr. Wilson.
36 Enforcement for ensuring that the fishwheel is in the
37 right spot, the users are fishing the right spot, if
38 that's the line we're talking about, that direction, if
39 the fishwheel is anchored up in a spot that is not
40 Federal property but is actually offshore tying a rope
41 into a critical habitat zone would be a citable
42 offense, that would be a situation. Fishwheel tears
43 loose, goes down river and ends up doing some habitat
44 damage, that would be an enforcement situation, is that
45 along the lines, sir.

46
47 MR. WILSON: Follow up, Ralph.

48
49 CHAIRMAN LOHSE: Dean.

50

1 MR. WILSON: Yeah, I was just trying to
2 get an idea where the State was coming up with that.
3 In the summary it says, out of the concerns is
4 enforcement problems and tearing up habitat with a
5 small fishwheel or whatever fishwheel they built
6 compared to the State's wheel with a 22 foot pontoon
7 has got to be very minimal, I mean that's a big
8 fishwheel you guys are running and you've lost it at
9 least once down the river, so I'm just trying to get a
10 clarification how serious that enforcement issue was.

11
12 MR. PAPPAS: Clarification on the loss
13 of fishwheel, that was below the Soldotna bridge in the
14 middle channel so that wasn't compatible but, still,
15 the point I brought up is when you lose a fishwheel it
16 gets very dangerous and it's -- you know, it's 10s of
17 thousands of foot pounds of pressure, it's being pushed
18 -- as that large sail goes through and you're fully
19 aware of that, Mr. Chair.

20
21 CHAIRMAN LOHSE: Tricia.

22
23 MS. WAGGONER: The concern over about
24 placing the fishwheel on land that isn't Federal land,
25 I think, is taken care of in the proposal, it would be
26 addressed in the operating plan. I'm sure whoever
27 would put forth an operating plan would have to say
28 where they're going to put it and I think the Federal
29 managers would be looking at where they're putting it,
30 that it isn't on State land, so I don't think that
31 really is a valid concern of the State's.

32
33 CHAIRMAN LOHSE: Okay. Any other
34 questions for the State or comments to the State.

35
36 (No comments)

37
38 CHAIRMAN LOHSE: And, again, when you
39 get those kind of comments, don't take them personal
40 there, you're the State's representative and we know
41 that you don't come up with everything that's written
42 down there.

43
44 MR. PAPPAS: Mr. Chair. I was the area
45 manager in Kenai for three years so I can take just
46 about anything, sir.

47
48 CHAIRMAN LOHSE: Okay.

49
50 MR. PAPPAS: Thank you.

1 CHAIRMAN LOHSE: Okay, with that we're
2 going to go on to Federal, State and tribal agency
3 comments.

4
5 Are there any Federal agencies that
6 wish to comment at this point in time.

7
8 (No comments)

9
10 CHAIRMAN LOHSE: Any other State
11 agencies that wish to comment at this point in time.

12
13 (No comments)

14
15 CHAIRMAN LOHSE: Tribal agencies that
16 wish to comment at this point in time.

17
18 MR. STARKEY: Mr. Chairman. Sky
19 Starkey, I'm going to start out for the Ninilchik
20 Tribal Council on this proposal. And I would ask the
21 Regional Council members, what I would like to do is I
22 would like to go through the regulation as proposed in
23 the Federal and draft analysis beginning on Page 45 of
24 the analysis and I would just like to go through that
25 and provide some comments on why and how this
26 regulation needs to be changed.

27
28 So I'm on Page 45, OSM preliminary
29 conclusion, support with modifications. And then I
30 start at H1:

31
32 Only one fishwheel may be operated on
33 the Kasilof and only one fishwheel can
34 be operated on the Kenai River.

35
36 I have listened and I have yet to hear
37 a justification as to why there's one fishwheel
38 permitted for this regulation, especially in light of
39 some of the Council's questions about the authority to
40 -- the unlimited discretion for the Refuge manager to
41 determine, based on criteria none of us know, who will
42 be allowed to operate a fishwheel. It seems to me that
43 one option would be three fishwheels, one per
44 community, would be one way to go there.

45
46 And, so, anyway, I wanted to highlight
47 that, why is it one fishwheel, haven't heard really any
48 justification for that other than this is probably the
49 Kenai River and god knows we can't have too much
50 subsistence fishing there.

1 Second sentence on that same paragraph:

2

3 Each fishwheel must be continuously
4 monitored.

5

6 Now, when you read that as a lawyer,
7 does that mean that your client has to be standing on
8 the fishwheel box watching it turn, continuously, and
9 if they go up on shore to relieve themselves in the
10 trees, they're violating the law. I mean that is just
11 -- that's a ridiculous thing to put into a regulation
12 from any standpoint. So, I mean, it must be monitored
13 would be one thing, that would be, hopefully, have some
14 people reasonably interpreting this, but to have it to
15 be continuously monitored, one wonders what it would
16 take to meet that legal requirement.

17

18 I guess then going on following down
19 that paragraph the last sentence says:

20

21 And be installed and operated in
22 compliance with any regulations and
23 restrictions for its use within the
24 Kenai National Wildlife Refuge.

25

26 Well, if you're writing a regulation
27 for a fishwheel, why do you have in the regulations
28 that you're going to refer to other regulations and
29 restrictions within the wildlife Refuge. If those are
30 part of the regulation they should be in the
31 regulation. Subsistence users, this Council and the
32 Board shouldn't be guessing about what other
33 regulations the wildlife Refuge may create or may be
34 out there, that, to me, is either surplus or raises
35 some real questions about what other hoops and
36 restrictions are going to be involved here to operate a
37 fishwheel.

38

39 Going down to the second subpart under
40 H, the third line down reads:

41

42 Each registration permit will be issued
43 to an organization.

44

45 Well, in the Copper River area, which
46 they're referring to as a model for this proposal, the
47 Copper River area allows organizations to run community
48 fishwheels but there, they at least say village
49 councils and other similarly qualified organizations
50 and one would think that that would be good language to

1 add here because, afterall it is Ninilchik that has
2 been driving this proposal, and there should be some
3 boundaries around what organizations could apply here.
4 So I would suggest inserting that language rather than
5 just organizations.

6
7 Also on that point, I don't really see
8 and maybe I've missed it but on the point of the Refuge
9 manager being the one who determines who gets the
10 permit, it seems like one thing you could do is require
11 at the very least if, for some reason, this remains one
12 fishwheel on the Kenai River rather than three, but at
13 least it seems that rather than leaving that up to the
14 Federal manager, this Council could require that
15 Federal manager to consult with this Regional Council
16 before allowing that decision to move forward. In
17 other words, this Regional Council could insert itself
18 into the process of determining which organization's
19 entitled to a fishwheel on the Kenai if there's only
20 one allowed there.

21
22 Going then onto Page 46, the third
23 paragraph down, little -- which by the way the
24 lettering, there's a typo there, the lettering should
25 be 1, little i, little -- ii, iii, and then here's
26 reversed, you've got 1 and then iii and ii but anyway
27 the one that's designated ii that should be iii; the
28 last sentence reads:

29
30 Operating the gear, hours of operation,
31 number of each species caught and
32 retained or released.

33
34 Now, one would understand why you'd
35 need to account for all the ones you retained but it
36 might be a little more difficult to account for all
37 you've released, you know, you're putting them back in
38 the water, you're not preparing them, you're not
39 cutting off their fins, so it's going to -- it's not a
40 realistic thing to put in, it's not common anywhere
41 else, the ones that -- I'm not sure -- I don't know how
42 the State sportfishing regulations go but I don't think
43 they require a sportfishermen to report every fish that
44 they caught and released. It seems like that's an
45 extraordinary burden to put in there. Moreover, what a
46 subsistence user says I released 20, how's anybody
47 going to know what, 40 or 10, it's really not a very
48 valuable piece of information.

49
50 And then the person has to also report

1 the habitat impacts of the fishwheel, so what's that
2 all about, that's perhaps something that fish and
3 Wildlife Service can be checking on, but that, again,
4 seems, extraordinary and burdensome to the subsistence
5 users.

6
7 Under Subpart 3, and then you've got
8 little iii:

9
10 Remain on site, again, to continuously
11 monitor the fishwheel.

12
13 I would say that continuously be
14 stricken there, again, for the same reasons previously
15 mentioned.

16
17 And then at the very bottom of Page 46,
18 the last sentence says:

19
20 Fishing will be allowed from June 16th
21 through September 30th and from June
22 16th through October 31st on the
23 Kasilof unless closed or otherwise
24 restricted by Federal special action.

25
26 Well, in every other place in the state
27 the seasons are there and the Federal government has
28 certain regulatory emergency closure authority
29 everywhere else, why is it here that it has to be
30 specifically put in regulation. If they exceed the bag
31 limit, something happens, they can close it, but,
32 again, why here; is this particular fishery subject to
33 that particular caution. And not only is it in it
34 once, but it's in it twice because you go to No. 7 on
35 Page 47 and, again:

36
37 Fishing for each salmon species will
38 end and the fishery will be closed by
39 Federal special action prior to
40 regulatory end dates if the annual
41 harvest limit for that species is
42 reached or superseded by Federal
43 special action.

44
45 I think there's a typo in there but,
46 again, it's just redundant and it only recites the same
47 kind of closure stuff that the Federal government has
48 anyway.

49
50 Then No. 8:

1 Three years for a temporary fishery,
2 you know, you're -- well, first of all the way this is
3 written, it assumes that everybody would be able to get
4 it together to have a fishwheel in this year and then
5 it would expire three years from this year, that may or
6 may not happen, depending on how the Federal Board will
7 put their regulation forward, then people will have to
8 motivate it -- let's say that it happens in 2009
9 instead of '08 and then the way this regulation is
10 written, you've got two years, so if it's going to be
11 three years it should be three years from the date the
12 first fishwheel is put in the water. But even more
13 important three years seems like an incredibly short
14 period of time to allow a fishwheel to operate given
15 that subsistence users are going to take a while to get
16 used to it and expenses and all that and it seems like
17 at least five years would be the more reasonable way to
18 go.

19

20 So, thank you, Mr. Chairman.

21

22 CHAIRMAN LOHSE: Thank you, Sky. Any
23 questions for Sky. Dean.

24

25 MR. WILSON: Hey, Sky, were you
26 involved with writing the original proposal, this one,
27 I know OSM recommended it, but were you involved with
28 it?

29

30 MR. STARKEY: No, no, I wasn't.

31

32 MR. WILSON: What's your thoughts on,
33 or any of your thoughts on trying to make this for
34 Ninilchik only?

35

36 MR. STARKEY: Well, I would certainly,
37 you know, think that this Council could do that and
38 make that recommendation based on what you see is as
39 participated based on -- I mean this Council is
40 supposed to operate on their own personal knowledge and
41 the way they see things and one thing that I think, a
42 very legitimate thing for this Council to be doing is
43 to be looking and hearing testimony and saying, that
44 you don't know, because people haven't been before you,
45 as to whether or not Hope or Cooper Landing are getting
46 a meaningful priority, but what you do know is that the
47 Ninilchik Traditional Council and the people it serves
48 is not and that they're the ones who need to be able to
49 utilize this fishery in order to get a meaningful
50 priority and I think you could make that recommendation

1 and pass it up.

2

3 CHAIRMAN LOHSE: Chuck.

4

5 MR. LAMB: I guess this would be more
6 of a question for Dean or somebody that's got
7 experience with fishwheels, but what would be a
8 reasonable length of time to -- for somebody that, like
9 they've used them before, to learn them and to get
10 things set up, would it be three years or five years?

11

12 CHAIRMAN LOHSE: Dean.

13

14 MR. WILSON: Well, I wouldn't know.
15 You know if they got somebody on board that would help
16 them out and you could probably get on it pretty quick,
17 but with one fishwheel playing up and down the river
18 trying to find the right location and stuff, you know,
19 30, 40, 50 feet with a fishwheel makes a big difference
20 sometimes.

21

22 MR. LAMB: That was my follow up.

23

24 MR. WILSON: You know, there's a lot to
25 location and time, you know.

26

27 MR. LAMB: So they would probably need
28 multiple ones just to figure out how to get things
29 going.

30

31 CHAIRMAN LOHSE: Well, I would probably
32 speak against that because from experience we didn't
33 have the alternative to use multiple ones and we had
34 all unexperienced people except for one who had been
35 there the year before and we managed to get four of
36 them going and four of them producing in very short
37 order in one summer, but enough to tag 25,000 fish, so
38 I think that -- I give the people on the Kenai credit
39 that they probably can learn pretty fast. They're
40 going to be limited to where they can put them anyhow
41 because there's only a limited area open and they're
42 fishermen and they will figure it out pretty fast.

43

44 Sky, do you.....

45

46 MR. STARKEY: I was just waiting for
47 questions, Mr. Chairman, I'm done.

48

49 CHAIRMAN LOHSE: Any other questions
50 for Sky.

1 (No comments)

2

3 CHAIRMAN LOHSE: Okay, Darrel.

4

5 MR. WILLIAMS: Thank you, Mr. Chairman.
6 Darrel Williams, Ninilchik Traditional Council.

7

8 I have some other questions and ask
9 next, I wanted to address, I believe that Mr. Blossom
10 hit it right on the head of the nail earlier when he
11 said, who's going to fund it, who's going to run it and
12 who's going to be responsible for it, and those are
13 some pretty big questions.

14

15 And there are some regulatory things
16 that are going to have to get worked out here but the
17 part that I'm really concerned about right now, my
18 understanding is, the Ninilchik Traditional Council
19 thinks this is a good idea, they support it, they would
20 like to support it, what I need from the RAC, though,
21 is I need to know if you guys really, really want it
22 because if we go and look for grant funding, we have to
23 administer that grant and sending a proposal to OSM is
24 not administrating a grant. And I'm not really sure
25 why that was in there, because we would have to seek
26 funding through BIA or some other source to be able to
27 do that and there's responsibilities that will come
28 with that. So I think part of what we have to consider
29 is, is the RAC willing to provide letters of support,
30 would the State of Alaska provide a letter of support,
31 would OSM provide a letter of support to be able to
32 produce this funding to be able to address this
33 project. And with that, we got to define a scope of
34 what we want to do, do we want to only get subsistence
35 fish, is that the end of the scope, is there a baseline
36 data involved, is the State going to provide the
37 baseline from their fishery. I've seen a lot of
38 decisions made here today and I haven't seen any data,
39 that is a risky business. And we're going to start
40 talking about the subsistence users themselves coming
41 forward to try to fund a project, it's a concern.

42

43 However, that's something I'd like you
44 guys to be able to maybe discuss among yourselves, but
45 we are interested in participating in this if it's what
46 the RAC themselves decide that they'd like us to do.

47

48 And I wanted to make a comment about
49 the Hope and Cooper Landing thing, we've discussed it a
50 little bit ago, Hope and Cooper Landing aren't here.

1 Yes, they do have a C&T but so did Ninilchik and we
2 lost our resident fish and we participated. So
3 removing things from people is okay at this point in
4 time, this was the game that's been set, this was a
5 precedence that OSM, the Federal Subsistence Board has
6 made in this Federal process, so please be aware of
7 that.

8

9 Are there any questions for me, Mr.
10 Chairman. Gloria.

11

12 CHAIRMAN LOHSE: Gloria.

13

14 MS. STICKWAN: I don't really have a
15 question but I know in our area we have village
16 councils having community fishwheels and it's not an
17 expensive thing to -- all it is, is just a little
18 paragraph that you kind of write, it's not really an
19 expensive grant that you have to apply for. I don't
20 think that's what they're referring to when they say to
21 do this, it's just a -- the regulations, the way it's
22 written, it's not that hard to do, to write one up.

23

24 MR. WILLIAMS: Mr. Chair. Ms.
25 Stickwan. I guess what I'm concerned about and why I
26 bring that up is when I'm hearing things like 24 hour
27 reporting periods, if the even comes up if the wheel
28 were to come free and end up in a critical habitat
29 area, which is a very grey area at this point in time,
30 today, you know, and then they're saying there will be
31 accountability for that and people will be issued
32 citations for that, would that be myself, would that be
33 the person who's running it. If we have to put
34 nameplates on this fishwheel, who's name goes on it.
35 I'm kind of partial to the Federal Subsistence Board,
36 and, you know, let's have some responsibility and
37 accountability but we've got to define what it's going
38 to be because it's pretty grey right now and I'm
39 hearing two different sides of what we want to do. And
40 if we want to build a proposal and move forward, and
41 really make sure we get this done there's going to have
42 to be some responsibilities, it's kind of like a
43 business thing, so to speak.

44

45 But we can do her if that's what you
46 guys want to do.

47

48 Mr. Chair.

49

50 CHAIRMAN LOHSE: Any other questions

1 for Darrel.

2

3 MR. ENCELEWSKI: No more questions.

4

5 CHAIRMAN LOHSE: Thank you, Darrel.

6

7 MR. WILLIAMS: Thank you.

8

9 CHAIRMAN LOHSE: InterAgency Staff
10 committee comments.

11

12 MR. BERG: Thank you, Mr. Chair. For
13 the record my name is Jerry Berg I sit on the
14 InterAgency Staff Committee for the Fish and Wildlife
15 Service.

16

17 And I just wanted to clarify a little
18 bit some of the discussions that we had at the Staff
19 Committee meeting. It is -- I think it's a well
20 thought out proposal, it's complicated, it's not going
21 to be easy to implement. But one of the key
22 provisions, I think, and it is in the modified
23 recommendation that Steve presented, is that, if
24 there's only one fishwheel in the Kenai River, that
25 fishwheel has to be available to all three communities
26 because you have a pool of users out there that are all
27 three communities and all three have to be -- at least
28 have the capacity to come and sign up to use that
29 fishwheel, otherwise you're moving into what's covered
30 under Section .804 of ANILCA.

31

32 So I just wanted to clarify that. It
33 does complicate matters but that's just the situation.
34 When you have a pool of users that all have C&T for
35 salmon on the Kenai, all three communities would have
36 to have access to that fishwheel. They wouldn't have
37 to use it, maybe they'd choose not to use it but they
38 at least need to have the opportunity to use it.

39

40 Thank you.

41

42 CHAIRMAN LOHSE: Jerry, it's my
43 understanding that any operational plan would have to
44 have in writing how it was going to allow all those
45 different users to use it in order to be an acceptable
46 operation plan, wouldn't it.

47

48 MR. BERG: Yes, that's correct. And,
49 you know, that certainly is not going to be an easy
50 task, you know, we'd probably have to have community

1 meetings and I'm sure there'd be some agency Staff that
2 would help, you know, try to get some of that put
3 together and participate in it and, you know, it's
4 going to take a while to make it work but -- and, you
5 know, my understanding was that this was just going to
6 be a trial period to try to use one fishwheel to see
7 how it worked in one year and certainly that
8 complicates things by having one fishwheel but that's
9 up for the Council -- for you guys to discuss how you
10 feel about that.

11

12 Mr. Chair.

13

14 CHAIRMAN LOHSE: Any other questions
15 for Jerry. Tom. Oh, Tom and then Dean or Dean and
16 then Tom.

17

18 MR. CARPENTER: Go ahead.

19

20 MR. WILSON: That's a little different
21 than the way I was kind of envisioning this, Jerry,
22 just a little bit.

23

24 When a proposal would come in for a
25 fishwheel to be used on the Kenai or Kasilof for
26 subsistence purposes, and they -- let's say it comes in
27 from Ninilchik, they're going to be -- in the proposal
28 it's going to be where they're going to put the
29 fishwheel and obviously they're going to be the ones
30 funding it, whether it's a pool of people that all put
31 in a hundred bucks each or whatever, what right would
32 the other communities have, if they not only didn't
33 even put in the proposal but they weren't even showing
34 up here at the meetings to play a part in any of this
35 and they haven't even asked for it, you would think
36 something like that would be taken care of by the
37 manager of that area just because they have total C&T
38 status. I'm thinking up in our area in the Copper
39 River, we have a number of community fishwheels and by
40 no means would Chistochina be caught jumping on Copper
41 River's fishwheel just because both of them are C&T,
42 each of them is a community and they lay out in their
43 proposal what and who is going to be involved with each
44 fishwheel.

45

46 CHAIRMAN LOHSE: Jerry.

47

48 MR. BERG: Through the Chair. Well,
49 and that's the difference, is on the Copper River
50 anybody who is a qualified user can go and operate

1 their own fishwheel but on the Kenai if you're going to
2 limit it to one fishwheel, all qualified users have to
3 have access to that method of harvest and if there's
4 only one fishwheel then somehow -- and it is going to
5 complicate matters, you know, maybe you would have to
6 have meetings, you know, with the three communities
7 before you even went to build one and say, well, how
8 are we going to work this out together, can we share,
9 you know, resources between the three communities
10 before you even go to build the fishwheel.

11
12 MR. WILSON: Yeah.

13
14 MR. BERG: It certainly does complicate
15 it.

16
17 CHAIRMAN LOHSE: Dean.

18
19 MR. WILSON: Just one follow up on
20 that. Well, if Cooper Landing decided they wanted to
21 get into the fishwheel business and halfway through the
22 season they have to come up with a proposal, they'd
23 have to come up with a fishwheel and they'd have to
24 come up with a plan but just jumping on somebody else's
25 fishwheel, I can't -- I just still can't see that done,
26 even though this proposal, the modification proposal
27 includes only one fishwheel, even though it says only
28 one fishwheel maybe one of them has to be shut down for
29 a period of time, and then the other one would be
30 brought up, I could see that one come on, but to just
31 share the same fishwheel just because we only have one
32 fishwheel allowed on the river at a time, I don't see
33 that flying.

34
35 MR. BERG: Yeah, I don't -- yeah, I
36 guess there's a number of different scenarios of how
37 you could work it, there could be multiple fishwheels
38 and only one runs at a time or it seems like the
39 simplest would be to pool your resources and all work
40 together but, yeah, that certainly would be complicated
41 too, and I guess there could be a number of different
42 scenarios on how it works, but it certainly is going to
43 take a lot of effort, I think, to coordinate it if
44 we're going to stick with one fishwheel.

45
46 CHAIRMAN LOHSE: Tom.

47
48 MR. CARPENTER: Yeah, Jerry, thanks.
49 I'm not quite sure what I think about this. I mean I
50 think the fishwheel idea on the Kenai in theory is a

1 reasonable idea, but I think maybe that we're getting a
2 little bit ahead of ourselves.

3
4 You know, I think the RAC asked Staff
5 last year to come up with a plan or a theory as how to
6 implement the use of fishwheels on the Kenai to
7 alleviate the concerns that we had for the gillnets and
8 I think you did that. And I think you probably came up
9 with every possible sort of safety mechanism and
10 boundary that you could possibly put into place. But I
11 think we're getting into a -- I mean I have some of the
12 concerns that Dean has, but I think we're getting into
13 some pretty grey area in regards to qualified C&T
14 users, qualified communities, limiting the fishwheels
15 to a specific number, trying to come up with community
16 based efforts, having more meetings, you know.

17
18 My idea would be, you know, to take
19 what OSM Staff has come up with and use that as a basis
20 for communities or organizations to put in a proposal
21 using what OSM has laid out for us as guidelines and
22 then they'll have the actual proposals from the
23 communities come to the RAC and let us evaluate them at
24 that time. Because what we're trying to do here in a
25 matter of four or five hours is implement something
26 that's never taken place on the Kenai Peninsula ever,
27 and we're trying to tell Ninilchik or Hope or Cooper
28 Landing, that you got to -- if you want to participate
29 you got to all get together and we're going to have a
30 big community pow-wow and we're going to -- that's a
31 very complicated thing to do as you well understand,
32 we've already went through that about six months ago in
33 regards to the Kenai RAC situation. I mean I kind of
34 understand why I wanted there to be two RACs now.

35
36 (Laughter)

37
38 MR. CARPENTER: But, you know, I think
39 everybody is trying to get to the same goal of trying
40 to allow some of these communities to harvest fish but
41 it's my principle that a community should ask for
42 something. And I know Ninilchik's been asking and I
43 know they've been asking and we've -- you know,
44 basically we've initiated two different fishing
45 opportunities for them in the process, but I do think
46 that they basically should be the one to come up with
47 the proposal that they want us to look at, you know,
48 Mr. Starkey was up here and he went through OSM's
49 criteria and he had six or seven things that, you know,
50 he didn't like, well, that's fine, it's Ninilchik's

1 objective to, you know, come up with the way they want
2 the proposal to be written. But I think we should use
3 the stepping stones that you have provided us and allow
4 these communities to bring a proposal forward in the
5 future.

6

7 I don't know what you think about that,
8 if you think that would cause less confusion and if it
9 would follow the process more, where we did not have to
10 almost get to the point to where we were trying to
11 differentiate between which community had a higher
12 priority of C&T for a fishwheel application. I think
13 we're getting pretty iffy.

14

15 So I'm just curious about your comments
16 there.

17

18 CHAIRMAN LOHSE: Greg.

19

20 MR. ENCELEWSKI: Yeah, if I may, Mr.
21 Chairman. Jerry.....

22

23 MR. CARPENTER: Can I have Jerry reply
24 first Greg.

25

26 MR. ENCELEWSKI: Oh, I'm sorry.

27

28 MR. CARPENTER: That's all right.

29

30 CHAIRMAN LOHSE: Sorry. Sorry, Tom.
31 Jerry.

32

33 MR. BERG: Through the Chair. Well, I
34 think these are the discussions I think the Council
35 needs to have. But, you know, once you have -- you
36 guys supported C&T for all three communities on the
37 Kenai and once you have that pool of users, they all
38 have to have access to the same methods and so going
39 to, you know, a situation where only Ninilchik would be
40 allowed to use that gear type, you're moving into an
41 area that you could only do if there was resource -- a
42 problem with the resource under Section .804 of ANILCA
43 and, you know, we certainly don't have a problem with
44 the resource and so I think you guys need to have that
45 discussion, just some of the ideas that you were coming
46 up with and come up with what the best ideas are from
47 the Council.

48

49 CHAIRMAN LOHSE: Now, Greg, I'm sorry.

50

1 MR. ENCELEWSKI: That's all right,
2 thank you. Jerry, I just wanted to make a point here
3 and I'm trying to clarify where Tom's going there, I
4 think he -- I have a little different understanding but
5 I want to make sure we're right here.

6
7 If we go back to the minutes here, it
8 says Mr. Encelewski moved for a fishwheel subsistence
9 gear type for Federal waters on the Kenai and Kasilof,
10 that's what I moved for, that's what was approved, for
11 the gear type. That was approved and moved forward.
12 Now, we got a proposal before us, a proposal that
13 Ninilchik backs and I think we need to act on that
14 proposal.

15
16 Thank you. I think that's the way I
17 see it.

18
19 CHAIRMAN LOHSE: Thank you, Greg. Do
20 you need to reply to that Jerry?

21
22 MR. BERG: No, I don't think so unless
23 you want me to reply in some way.

24
25 (Laughter)

26
27 MR. ENCELEWSKI: No, I just wanted to
28 clarify.

29
30 CHAIRMAN LOHSE: Jerry, I have one
31 question to ask you then as long as I've got you
32 sitting there.

33
34 Okay, you say on the Kenai, if the
35 fishwheel is on the Kenai all three communities have to
36 have access to it. If the fishwheel is on the Kasilof
37 only Ninilchik has to have access to it, right?

38
39 MR. BERG: That's correct, Mr. Chair.

40
41 CHAIRMAN LOHSE: And Ninilchik is the
42 one that brought this proposal forward. So if
43 Ninilchik would say, okay, let's just have a fishwheel
44 on the Kasilof then all of the problems with the other
45 communities would cease until somebody brought forth a
46 proposal to put it on the Kenai, right?

47
48 MR. BERG: That's correct, Mr. Chair.
49 That must be why you're the Chair.

50

1 CHAIRMAN LOHSE: Thank you. Okay, any
2 other questions for Jerry.
3
4 MR. ENCELEWSKI: Could we have a short
5 break.
6
7 CHAIRMAN LOHSE: You want to take a
8 short break before.....
9
10 MS. STICKWAN: I have one question.
11
12 CHAIRMAN LOHSE: For Jerry.
13
14 MS. STICKWAN: For him.
15
16 CHAIRMAN LOHSE: Jerry, one more
17 question from Gloria.
18
19 MR. BERG: Yes.
20
21 MS. STICKWAN: Did the InterAgency
22 Staff talk about more than one fishwheel, was that even
23 considered?
24
25 MR. BERG: I don't remember us talking
26 about more than one fishwheel and I'm looking back to
27 my other Staff Committee members and I can't even see
28 them back there. Yeah, I don't think we discussed more
29 than one fishwheel in our meeting.
30
31 MS. STICKWAN: Was that because just
32 Ninilchik wanted one fishwheel?
33
34 MR. BERG: That was what was in the
35 proposal and so I don't think we really discussed, you
36 know, whether there should be more than one.
37
38 CHAIRMAN LOHSE: Any other questions
39 for Jerry. Dean.
40
41 MR. WILSON: I better ask Jerry a
42 question here before he leaves us. I'm completely
43 unfamiliar with subsistence fish on the Kenai and I'm
44 trying to kind of match things up with the Copper
45 running fishwheels versus down there. You guys put in
46 the proposal for a two hour check or somebody
47 consistently right there at the wheel. Is there fish
48 from the -- is there fish runs consistently coming
49 through from June 16th to September 30th, so at any
50 given time is there always going to be fish pretty much

1 every day in that wheel if it's in the correct area or
2 is there days and weeks at a time where, like we have
3 up in the Copper, where if your wheel is running and
4 you had a two hour check you could be pretty lonely for
5 a long time.

6

7 (Laughter)

8

9 MR. WILSON: And a two hour check, man,
10 that's amazing to have somebody just pegged right on
11 that up in our area but I don't know is it different
12 down there, is there consistently fish to keep somebody
13 busy all summer?

14

15 MR. BERG: No, I don't think it's
16 drastically different. There is distinct runs coming
17 into the Kenai similar to the Copper. I think the --
18 my understanding of the reason and maybe Steve can
19 clarify, for the continuous checking of the fishwheel
20 was for incidental caught rainbows or other fish so
21 that they could just be taken out of the box and let go
22 and instead of keeping them in that box, it certainly
23 does stress fish out to keep them in that box for very
24 long.

25

26 MS. STICKWAN: I have a question.

27

28 CHAIRMAN LOHSE: Gloria.

29

30 MS. STICKWAN: Is there any reason why
31 you guys went from -- because I'm pretty sure it says
32 village councils in our -- for the Copper River, any
33 village council can apply for community fishwheel, is
34 there any reason why you guys changed to organization?

35

36 MR. BERG: I think they just wanted to
37 leave it as broad as possible so that it didn't have to
38 be a village council, it could be any organization. I
39 don't think there are any village councils in Hope or
40 Cooper Landing that I'm aware of, so I think they
41 wanted to leave it as broad as possible so anybody
42 could apply and put in an operational plan that they
43 thought would work.

44

45 CHAIRMAN LOHSE: Jerry, one comment to
46 clarify something that Dean asked. That wheel does not
47 need to be continuously checked every two hours all
48 summer, it only needs to be checked continuously when
49 it's in operation, right?

50

1 MR. BERG: That's correct, while it's
2 operating.

3
4 CHAIRMAN LOHSE: Okay. One more
5 question for you Jerry.

6
7 MS. STICKWAN: Is there a conservation
8 concern, is that why you guys wanted for -- is it just
9 the steelhead you're concerned about?

10
11 MR. BERG: I think the primary concern
12 would be the larger rainbow trout that are the -- the
13 spawning population for the rainbow trout in the river.

14
15 CHAIRMAN LOHSE: Thank you, Jerry. I
16 think this time we can let you go and it was suggested
17 that we have ourselves a short break at this point in
18 time.

19
20 We have the Fish and Game Advisory
21 Committee comments, the summary of written public
22 comments and public testimony and then we'll go on to
23 deliberations.

24
25 (Off record)

26
27 (On record)

28
29 CHAIRMAN LOHSE: At this point in time
30 I'd like to call the Southcentral Alaska Subsistence
31 Regional Advisory Council back into session and I'm
32 going to ask the rest of the Council if we could at
33 least continue today until we finish this proposal that
34 we're on because Polly Wheeler, who is going to be
35 presenting the thing on C&T has to leave to go back
36 east right after noon for her dad's operation, and I
37 would like to get on to that C&T thing in the morning
38 while she's still here. That, and the fact we have two
39 Council members who are also going to be leaving right
40 after noon. So if it's okay with the rest of you I'd
41 like to -- we're almost through the presentation and
42 I'd like to see if we can't go through this proposal
43 before we adjourn for the day.

44
45 So with that, we're on to Fish and Game
46 Advisory Committee comments. Do we have any Fish and
47 Game Advisory Committee comments.

48
49 (No comments)

50

1 CHAIRMAN LOHSE: Hearing none, we're on
2 summary of written public comments.

3
4 Donald.

5
6 MR. MIKE: Thank you, Mr. Chair. The
7 written summary of public comments starts on Page 49.
8 There were three written public comments received and
9 all opposing the proposal FP08-09.

10
11 The Kenai River Sportsfishing
12 Association opposes this proposal and they will
13 speaking on their comments.

14
15 The Alaska Outdoor Council opposed the
16 proposal.

17
18 The Kenai and Kasilof Rivers are not
19 suffering from lack of fish stock.
20 Opportunity to harvest salmon species
21 abound. A temporary fishwheel fishery
22 would only increase the divisiveness
23 among those Alaskan's living in
24 Federally-qualified subsistence areas
25 on the Kenai Peninsula and those who
26 don't. The Council has proposed one
27 fishwheel permit be made available for
28 the Kenai River and one for the Kasilof
29 River. These two permits would be
30 issued to an organization that would
31 then be responsible for determining
32 who, among, all the Federally-qualified
33 Alaskan residents living in the areas
34 could use it. The Board could not
35 delegate [sic] the authority of who can
36 participate in the fishwheel fishery to
37 one organization when the Federal
38 subsistence priority is afford to all
39 Federally-qualified Alaskan residents.

40
41 And Mr. Keith Phillips opposes the
42 proposal.

43
44 Thank you, Mr. Chair.

45
46 CHAIRMAN LOHSE: Thank you. With that
47 we have some public testimony. Ricky, if I remember
48 right you wish to testify on this one.

49
50 MR. GEASE: Yeah, hi, my name is Ricky,

1 again, Kenai River Sportfishing executive director.
2 This issue came up in terms of, I think the Council
3 would need to talk about it a little bit more. When we
4 were in the subcommittee we talked about the -- if you
5 approve a methods of means, can you restrict it to one
6 site or to one organization or one user group, if you
7 had another user group come to you with a proposal or
8 an interest, can you restrict that. Let's take the
9 simplest example, you brought up the Kasilof River, can
10 you even restrict it to one fishwheel there, for
11 example, Ninilchik has the opportunity to do
12 educational, cultural nets in State waters. There have
13 been three, at least I think there have been three
14 organizations, three different organizations that have
15 applied and utilized that resource as such. So I think
16 when you work through your criteria, very specifically
17 and thoroughly, what justification are you going to use
18 one over the another, and then to say well why can't --
19 why don't you just have two or three or four, and that
20 was one of the concerns that we had as an organization,
21 is that, if you can figure out how to restrict
22 something to just one site, that may be a good
23 solution. But we don't. legally see how you could do
24 that and it would open the door to wide spread use of
25 fishwheels. Specifically on the Kenai River and also
26 the Kasilof.

27
28 Now, on the Kasilof River I think
29 that's the simplest situation. If you're looking to do
30 a test run some place, that's probably the easiest
31 situation to do something because you just have one
32 community and you don't get involved in the other
33 issues of, for example, how -- if I'm a person living
34 in Cooper Landing and, for example, an organization in
35 Ninilchik comes and operates a fishwheel in Moose Range
36 Meadows -- or let's make it more, I'm in Hope, how am I
37 going to get my fish. Am I going to drive to Moose
38 Range Meadows. Is somebody going to be there just to
39 operate it and then you have to come pick up your fish
40 up. Do I need to be there while the fish are being
41 caught. At the educational fisheries, you sign up for
42 a tied or a time period, and that permit transfers from
43 person to person, so I think that's an issue that we
44 haven't really talked about, is bringing people to that
45 site, are you going to have somebody overseeing that
46 person, training them to run the fishwheel.

47
48 I know at the educational fisheries,
49 you typically -- some person on site that helps prep
50 and introduce people who may or may not have been there

1 before, how to use it, what the rules and regulations
2 are so things are done properly. So those are some
3 things that, I think, more consideration needs to be
4 given to.

5
6 Seeing as how this is something that's
7 generated from OSM, I think that you do want to keep it
8 as broad as possible to the different types of groups
9 that can apply for it.

10
11 We've heard a lot about Cooper Landing
12 not participating in the process itself for setting up
13 the regulations but the participated the most this year
14 in the actual fisheries that were created, so I don't
15 think you can just discount the fact that there may be
16 organizations in Cooper Landing and/or Hope that would
17 want to operate a fishwheel on the Kenai River. If I
18 was Princess Lodge of Gwen's Lodge or one of the groups
19 that -- maybe Alaska Wild Land Adventures, as a
20 business person I'd think long and hard and I'd think,
21 well, \$25,000 investment or a 10,000 or a \$5,000
22 investment, why not put one in, why not take on the
23 responsibility for operating it. For that matter, our
24 organization, we probably wouldn't expand our mission
25 to include that, but it's something that we could
26 consider. We have members from Cooper Landing as well
27 as Ninilchik. I mean the borough operates as a borough
28 government, so I think if you try and restrict
29 something just to village councils, I think you're
30 closing the net prematurely on -- and I think that
31 choice of where you make the decisions should be an
32 open process and based on criteria that's available to
33 everybody to apply for.

34
35 I think before you do something today,
36 too, it would be interesting to look on -- take, for
37 example, the Kasilof River, the Federal -- it would be
38 interesting to me to figure out where you're going to
39 put it, is it going to be -- which side of the river
40 can you going to put it on, I haven't heard that issue
41 yet. Would you have to take a boat across to the other
42 side if you're going to attach it. It's going to be on
43 land, that's where you could put it on land, on the
44 Refuge side, which is on the far side, you'd have to
45 take a boat across there, there's some logistics there,
46 that would be interesting to try and figure out. Would
47 you have to bring your own boat, if you're somebody,
48 just to get across to that fishwheel site or is that
49 going to be a community boat in addition to the
50 community site there.

1 Doing some simple math, the other issue
2 that I think you could quickly run into when you get
3 into a fishwheel and you didn't require somebody to
4 come to the fishwheel site itself, and you just ran it
5 and had people sign up for fish without actually going
6 to the site and participating, I think you can then get
7 into the issue of, is it first come, first serve, do I
8 just sign my name up and I get my fish or how -- then
9 how do you prioritize amongst the people who get fish.
10 Because if you have, let's say a thousand households in
11 those three communities, for example, you have a 4,000
12 cap on sockeyes, that you're going to quickly run out
13 of your household limits before you run out of people.
14 So I think there needs to be some working through some
15 issues of is this just sign up for 25 fish because we
16 have a fishwheel or is it more than that, what level of
17 participation is going to be required if there is going
18 to be a community thing.

19
20 And then also are there going to be
21 fees involved. We heard about a grant, but what if
22 somebody comes out of pocket for \$25,000 or \$10,000 or
23 \$5,000, do they have the opportunity to recoup their
24 costs, can they charge a fee for that. It's not their
25 personal gain because they're just recouping their
26 loss, so is that just an option there.

27
28 CHAIRMAN LOHSE: Thank you, Ricky.
29 I've got a couple things I wrote down real quick but
30 I'll start on that last one.

31
32 If I take somebody out fishing in my
33 \$25,000 boat am I allowed to recoup the cost of that
34 \$25,000 boat by charging them fees if I don't have a
35 Coast Guard license and I don't and I'm not registered
36 as a charter boat operator.

37
38 MR. GEASE: You can definitely share
39 with gas.

40
41 CHAIRMAN LOHSE: Yes, but you can't
42 recoup the cost of the \$25,000 boat, Ricky.

43
44 MR. GEASE: Right.

45
46 CHAIRMAN LOHSE: Anyhow, so what I was
47 going to say is I thought you brought something very
48 good up and that's the educational net program that
49 they've had down there on the Kasilof and the fact that
50 it's worked and that groups have worked together on it

1 and they have had to participate in it to take part of
2 it. And I noticed that when I read the regulations
3 that OSM talked -- that they wrote up, they were
4 talking about other people coming and operating the
5 wheel and I would look at this wheel as not just a fish
6 catcher, but also like the educational net, an
7 educational process, and I would expect that anybody
8 that was going to take fish from it, other than an
9 elder, which could be worked out some way or another,
10 that they would have to take part in the work and to be
11 there, not just sign a name and have somebody deliver
12 fish to their door, they'd have to take part in it just
13 like in the educational net system. And it has worked
14 and they have managed to operate that educational net
15 fishery and include other people. And I see the same
16 problem that you do, is that, even if you limit it to
17 the Kasilof it's not just Ninilchik Traditional Tribal
18 Council that is qualified for those fish. But they're
19 not the only ones qualified for fish out of the
20 educational net fishery, too, and they've managed to
21 include other people, haven't they?

22

23 MR. GEASE: Well, in the instance, the
24 only one I fish is KITs and you do have to be a tribal
25 member to fish that one and I'm not sure with CES, how
26 they -- I think if you get an educational fishery you
27 can set up your own criteria of who's in and who's out.

28

29 CHAIRMAN LOHSE: And see that's what's
30 going to have to happen on something like this, is
31 that's just like how, whether the boat's going to be
32 there for everybody or you furnish your own boat,
33 that's going to have to be part of the operational plan
34 that's presented and approved, and that operational
35 plan is going to have to include as many people as
36 possible and go through -- I think it has to -- like
37 you, I think it has to go through some kind of a review
38 process and whether we can just leave it up to the
39 Refuge manager or not, at this point I'm not sure.

40

41 But the idea behind it is that it's
42 there for the community and it's up to them, whoever
43 wants to do it, to come up with an operational plan
44 that shows how they're including the community in that
45 operational plan. And I think it's possible, just like
46 the educational net thing and I think that was a real
47 good example.

48

49 Doug.

50

1 MR. BLOSSOM: Mr. Chair. Ricky, who
2 has the educational permit for the Kenai River?
3
4 MR. GEASE: Currently there's one and
5 that's the Kenaitze Indian Tribe.
6
7 MR. BLOSSOM: Just one though?
8
9 MR. GEASE: Yeah. And I believe
10 they.....
11
12 MR. BLOSSOM: They've declined all the
13 others, haven't they?
14
15 MR. GEASE: I don't know if anybody
16 else has put one in.
17
18 MR. BLOSSOM: And you're familiar with
19 that because you participate in it, right?
20
21 MR. GEASE: Yes, I do.
22
23 MR. BLOSSOM: So tell us.....
24
25 MR. GEASE: So there's four sites.....
26
27 MR. BLOSSOM: So tell us how you do it
28 so everybody gets along.
29
30 MR. GEASE: So what they do is it's --
31 there are four sites that can be fished, one's at the
32 WarNames Bridge (ph) just above the WarNames Bridge.
33 One is at Kalifornsky -- two sites down off Cannery
34 Road. One, there's a tribal property right there and
35 then they've built up infrastructure there so they have
36 restroom facilities, they have a fish cleaning station,
37 they have electricity there, they have water there.
38 And those three sites, if you get your fish, typically
39 people will go there and clean their fish there.
40
41 On the Kasilof, there's a site down
42 there but I don't know how much that one is fished, and
43 then also up on the Swanson, I believe, you can use a
44 fish trap and I think that's been done a couple times.
45
46 So then at some point at the beginning
47 of the year I think it's -- fishing would start May 1
48 and people can side up for a tide, basically you can
49 sign up for one or two times when -- it's a six hour
50 period of time basically. The tribe employees, I

1 believe, three people to monitor the nets that are
2 used, although -- so there's a community net that
3 somebody can make use of, but you can bring your own
4 net if you want. They put the buoys out, they watch
5 the lines going in and out and make sure people can get
6 their fish in and out, provide any assistance, and then
7 to make sure -- they went to hiring three people to --
8 and have those people live on site because of security
9 issues and vandalism. So you live on the Kenai
10 Peninsula, in the summertime there's a million people
11 who are on the Peninsula, gets a lot of use and people
12 do vandalize things down there so that's -- in their
13 operational plan that evolves over time, they built
14 that up and they had to have somebody on site 24 hours
15 a day. And then I think when somebody has not signed
16 up for a time, then that time slot is fished by the
17 tribe and then those fish are typically distributed
18 amongst the elders.

19

20 CHAIRMAN LOHSE: Doug.

21

22 MR. BLOSSOM: Mr. Chairman, a follow
23 up. So I guess what I'm getting at is you participate
24 in that fishery and that works, I don't see this one
25 being much different, they're just going to have to set
26 up rules and regs and management just like you've done
27 in your educational fisheries.

28

29 MR. GEASE: There -- yeah, there's an
30 infrastructure that needs to develop over time and
31 probably will develop over time with rules and
32 regulations that's easy with the tribe because you have
33 to be a tribal member, basically to participate, in the
34 fishery so it's a self-contained unit of, I don't know
35 1,200 people, a similar number of people I would
36 imagine, that are eligible for subsistence fishery on
37 the Kasilof or the Kenai in those households that are
38 in the three communities there.

39

40 CHAIRMAN LOHSE: Thank you. Any other
41 questions for Ricky.

42

43 Did you want to ask Ricky a question or
44 did you want to comment on what he said?

45

46 MR. PAPPAS: Clarify.

47

48 CHAIRMAN LOHSE: Clarify, okay. Thank
49 you, Ricky, and thank you for that information.

50

1 MR. PAPPAS: For the record, George
2 Pappas, Department of Fish and Game. I was involved
3 intragally involved with the educational fisheries for
4 the Fish and Game part of the equation, there are --
5 there's additional -- a lot of folks don't know about
6 this additional educational permit at Moose Point and
7 that the application was placed by an individual who
8 wanted to pass along the educational aspect of fishing
9 prior to statehood. The way the individual signed up
10 was signed up by head of household, that's how his
11 permit come out, I'm not sure he had 20 or 30 head of
12 households sign up and how they distribute the fish and
13 how it all comes together is up to -- we haven't seen
14 the final report from this first year, but just to give
15 you a head's up that might be a means of determining
16 interest in who's going to participate by head of
17 household and their needs for numbers of fish, that
18 could be part of the planning process, sir.

19
20 CHAIRMAN LOHSE: Thank you. Any
21 questions.

22
23 Doug.

24
25 MR. BLOSSOM: Yeah, who has the permit
26 on the Kasilof, I didn't know there was one there?

27
28 MR. PAPPAS: Mr. Chair. Mr. Blossom.
29 Well, on the Kasilof both the Ninilchik and the
30 Kenaitze are allowed -- or have their permits and
31 that's part of -- I think -- I believe the Kasilof was
32 added this year for Ninilchik so.....

33
34 MR. BLOSSOM: They can put a net in.

35
36 MR. PAPPAS: In the saltwater, yes.

37
38 MR. BLOSSOM: Oh.

39
40 CHAIRMAN LOHSE: Thank you. Okay, with
41 that, do we have any other public testimony.

42
43 (No comments)

44
45 CHAIRMAN LOHSE: I have no other green
46 sheets. At this point in time a motion to put FP08-09
47 on the table is in order so that we can discuss and
48 deliberate it as a Council.

49
50 MR. CARPENTER: Mr. Chairman. I move

1 08-09.

2

3 MR. WILSON: Second.

4

5 MR. BLOSSOM: Second.

6

7 CHAIRMAN LOHSE: It's been moved and
8 seconded to put 08-09 on the table. We've had a lot of
9 discussion on it already with a lot of people, does any
10 members of the Council have anything they'd like to
11 say.

12

13 Doug, were you holding up your hand.

14

15 MR. BLOSSOM: Mr. Chair. I would
16 prefer that we use the OSM conclusion, is there a
17 problem with that, to amend it to use their.....

18

19 CHAIRMAN LOHSE: Their final
20 recommendation, you mean?

21

22 MR. BLOSSOM: Yeah.

23

24 CHAIRMAN LOHSE: Yeah.

25

26 MR. BLOSSOM: Rather than go through
27 all the other one and -- because I've looked through
28 it, all the way through, with some changes in this it'd
29 be quicker I thought than trying to do the first one.

30

31 CHAIRMAN LOHSE: Yeah. No, that's a
32 totally legitimate amendment to make.

33

34 MR. BLOSSOM: Tom's got a problem
35 there.

36

37 CHAIRMAN LOHSE: Tom.

38

39 MR. CARPENTER: Yeah, Mr. Chairman,
40 yeah, I was considering OSM's conclusion too with a few
41 changes so I had an amendment that I would offer up and
42 I guess we could go from there.

43

44 So I'd move to amend.....

45

46 CHAIRMAN LOHSE: You want to make a --
47 wait a second, Doug, did you want to put a.....

48

49 MR. BLOSSOM: Do you want me to start
50 it and then.....

1 CHAIRMAN LOHSE: Do you want to put an
2 amendment on the table first because you were on the
3 table here.

4
5 MR. BLOSSOM: Yeah, okay.

6
7 MR. CARPENTER: Okay.

8
9 MR. BLOSSOM: As we go through the OSM
10 conclusion I want to go with the -- on the third line,
11 the residents of Ninilchik and then we strike until we
12 get to may harvest sockeye, chinook, coho and pink
13 salmon and you go through with that and then you get
14 down to the seventh line down, you strike residents of
15 Hope and Cooper Landing, you strike the rest of that
16 paragraph and then we go on, continue through, and on
17 the second page under the double little ii, we strike
18 habitat effects, and we get down into three iii, we
19 strike continuously, and I guess at this point I would
20 make the amendment to read that way.

21
22 CHAIRMAN LOHSE: Okay, we have an
23 amendment on the table, do we have a second for that
24 amendment.

25
26 MR. BLOSSOM: You're not going to
27 second it, okay.

28
29 MR. ENCELEWSKI: I'll second it.

30
31 CHAIRMAN LOHSE: Okay, we have a second
32 on that amendment.

33
34 Okay. So basically discussion on the
35 amendment.

36
37 Tom.

38
39 MR. CARPENTER: Yeah, Mr. Chairman, I
40 guess I -- I guess I have a legal question and
41 unfortunately I don't know if we have anybody here
42 that's going to be able to answer this question, but if
43 we amend the proposal that way which theoretically I
44 don't disagree with, but legally, do we have the
45 ability to exclude Hope and Cooper Landing, which have
46 a customary C&T on the Kenai River in this proposal.
47 I'm not -- I just don't know if that will go on legal
48 merit, but I have no idea.

49
50 CHAIRMAN LOHSE: Tom. My feeling on it

1 would be no, but Doug, you were going to say something.

2

3 MR. BLOSSOM: Mr. Chair. The reason I
4 did it that way is I've been advised that it is legal
5 and I thought that at worse scenario the Federal Board
6 can strike that part or put it back in otherwise the
7 OSM modification, I agree with, I think they've put it
8 in there so that they could try to distribute the fish
9 fair and equitably, whoever gets it is going to have to
10 build and pay for and all this stuff that I was worried
11 about, so I see it as something we don't have to fight.
12 It sets up the mechanism and someone's going to have to
13 come up with a plan and all to do it.

14

15 CHAIRMAN LOHSE: Gloria.

16

17 MS. STICKWAN: On the Copper River we
18 have village councils and the Federal management just
19 adopted what the State had in regulations and it's on
20 the Federal management, they have fishwheel that say
21 village councils, they're the ones that manage it, even
22 though it's the Community of Copper Center, it's the
23 council that actually applies for it and they manage it
24 for their village and so far we haven't had a problem.

25

26 CHAIRMAN LOHSE: Thank you, Gloria.

27 Tom.

28

29 MR. CARPENTER: Yeah, I understand
30 where you're coming from. I mean I obviously haven't
31 been advised legally. My idea was, was -- my amendment
32 was similar to yours for discussion, but my amendment
33 would do exactly the same thing as yours except it
34 would only allow for a fishwheel for Ninilchik on the
35 Kasilof River for three years. And what that would
36 have done, in my opinion, was you would have taken the
37 whole legality out of did you discriminate or did you
38 differentiate an opinion between Ninilchik, Hope and
39 Cooper Landing, you would take it completely out of the
40 equation because the only people who have a C&T on the
41 Kasilof is Ninilchik. And then in the three year
42 period, while they have that fishwheel we're going to
43 see how the process works, if the fishwheel works, you
44 know, all the problems and successes involved and in
45 the meantime if Hope and Cooper Landing want to
46 participate in this process, which very rarely they do,
47 they could put a proposal into this RAC asking that
48 they get to put a fishwheel on the Kenai River.

49

50 But what it also does, it would also

1 give Ninilchik the ability to put their own proposal in
2 for the Kenai and then we would not be trying to
3 differentiate and share between fishwheels because they
4 would all have individual proposals which the RAC would
5 address individually and I just think it would be less
6 complicated. So I'm not voting against your amendment,
7 I'm just trying to say that's where I was going to go
8 because I still don't know if the legality thing is
9 there.

10

11 But Larry's coming up, he's probably
12 going to tell me I'm right, wrong or something, so
13 that's it.

14

15 CHAIRMAN LOHSE: Thank you, Dean.

16

17 MR. WILSON: Can we get a reading on
18 this from the solicitor's office for tomorrow?

19

20 CHAIRMAN LOHSE: We could.....

21

22 MR. WILSON: I mean I would think if we
23 can get that taken care of ahead of time, before this
24 proposal leaves our hands and goes on to the Federal
25 Board, that'd be the best option because, you know,
26 we're six months at a time, a year at a time, we're
27 wasting a lot of time here, it'd be good to get that
28 and then try pushing it on through.

29

30 CHAIRMAN LOHSE: Larry.

31

32 MR. BUKLIS: Mr. Chairman. My name is
33 Larry Buklis. I'm the Deputy ARD for subsistence and
34 the Chair of the Staff Committee, I'm not an attorney.

35

36 I think the Council has two options at
37 this point in the meeting, it's about 5:00 p.m., and if
38 you wanted to put this item down and pick up other work
39 or adjourn, however you want to manage your meeting, we
40 could try to obtain for you some solicitor advice on
41 these questions. If you want to press ahead, I would
42 say that to this point in time we -- again, not
43 attorney advice I'm giving you, we have been conducting
44 this analysis with an approach that if a gear type
45 opportunity was going to be provided for fishwheels
46 here, we would provide that opportunity for all the C&T
47 holders. That's been the frame of reference we've been
48 using in conducting the work. Now, we can get a check
49 on that for you with the solicitor's office tomorrow if
50 you'd like. But if you're going to press ahead, that's

1 -- I wanted you to understand how we approached it.

2

3 And then, secondly, there was some
4 discussion about how the Council might make its
5 recommendations and what the constraints are on that.
6 The process is probably best served if you don't wait
7 for further advice, to express what your recommendation
8 is, given latitude, what you would prefer it be, and
9 not try to conform to advice that isn't present to you.

10

11 CHAIRMAN LOHSE: Thank you, Larry. Any
12 other comments from Council members.

13

14 Tom.

15

16 MR. CARPENTER: Well, in lieu of what
17 Larry said I would propose an amendment to the
18 amendment that would strike in Section H of the OSM
19 preliminary conclusion -- the amendment would read:

20

21 Residents of Ninilchik may harvest
22 sockeye, chinook, coho, pink salmon
23 through temporary fishwheels in Federal
24 waters of the upper main stem of the
25 Kasilof.

26

27 And I would strike the next line which
28 says:

29

30 Residents of Ninilchik, Cooper Landing,
31 and Hope may harvest sockeye, chinook,
32 coho, pink salmon through temporary
33 fishwheel in the main stem Kenai below
34 Skilak Lake.

35

36 The rest of the amendment that Mr.
37 Blossom proposed I would leave as he had presented it
38 to us.

39

40 CHAIRMAN LOHSE: Okay, we have an
41 amendment. Now, I need to ask a procedural question,
42 can we make an amendment to the amendment before we
43 vote on the amendment or do we vote on the amendment
44 first and then we can add an amendment to the
45 amendment, or do the makers of the amendment which to
46 concur with the suggested secondary amendment. I don't
47 know, at this point in time, I'm not sure which way you
48 -- I don't know if you can make an amendment to an
49 amendment if the amendment hasn't passed.

50

1 (Laughter)
2
3 MR. BLOSSOM: Was there a second to
4 this.....
5
6 MR. CARPENTER: Yeah, you can.
7
8 CHAIRMAN LOHSE: You can, are you sure.
9
10 MR. CARPENTER: You just have to vote
11 on them backwards when you go back.
12
13 CHAIRMAN LOHSE: So you.....
14
15 MR. CARPENTER: We'd need a second on
16 my amendment to the amendment first and then if there's
17 a second then we would take up a vote on that amendment
18 and if that passed, then we would have to vote on the
19 original amendment and then back to the main motion.
20
21 CHAIRMAN LOHSE: Okay. That's kind of
22 what I thought but I wasn't sure.
23
24 Do I hear a second to Tom's amendment.
25
26 MS. WAGGONER: Second.
27
28 CHAIRMAN LOHSE: Okay, it's been moved
29 and seconded. And if I understand your amendment
30 correctly, to limit this to residents of Ninilchik and
31 limit this to the Kasilof River.
32
33 MR. CARPENTER: Yes, that would be the
34 only correction to Mr. Blossom's original amendment.
35
36 CHAIRMAN LOHSE: Tricia, you're the
37 second.
38
39 MS. WAGGONER: Well, I just wanted to
40 make it clear because there's a couple other places, if
41 we hold with this amendment of limiting just to the
42 Kasilof River, Section 1 would need to be amended but I
43 think OSM Staff, if we vote on this, and approve it, I
44 think we'd just need to make that clarification clear
45 that they would amend it throughout.
46
47 MR. CARPENTER: The intent of my
48 amendment was to eliminate the Kenai drainage from the
49 equation and that the fishwheels would only be operated
50 on the Kasilof River for the residents of Ninilchik for

1 three years, including the small amendments that Mr.
2 Blossom already said in regard to some language that he
3 eliminated throughout OSM's conclusion.

4

5 CHAIRMAN LOHSE: Any -- Gloria.

6

7 MS. STICKWAN: So if we do these and
8 pass these, we won't be able to look at this for
9 another two years, right?

10

11 CHAIRMAN LOHSE: That's right.

12

13 MR. ENCELEWSKI: That's right.

14

15 CHAIRMAN LOHSE: That means it would be
16 two years before anybody else could put a proposal in
17 for on the Kenai.

18

19 I'll speak to this one as Chair, I have
20 a feeling that if we would do this one it would be
21 supported, I have a feeling it would be supported by
22 the Board, where if we do the broad one it won't.

23

24 To me, this would be a good trial.
25 It's going to be enough of an effort to learn how to
26 put one fishwheel in and run an organization that
27 distributes the fish on one river without having to do
28 it for two rivers.

29

30 I, myself, I'm planning on voting in
31 favor of this amendment because I think it's a good
32 one. I think it solves a lot of the issues that have
33 been brought up. It limits it to the people who've
34 asked for the thing and it limits it to the one that
35 they can do the least argument about because it's on
36 the river that's next to home, you know, they've -- the
37 Board's showed us with what they did to us when we
38 started asking for resident species on the Kenai River
39 and I'm afraid that if we make this so broad and
40 general the Board will do the same thing again.

41

42 Gloria.

43

44 MS. STICKWAN: I don't think it solves
45 the problem. I think the Kasilof people -- different
46 organizations in Kasilof itself could come forward and
47 say, well, we want a fishwheel that's different from
48 Ninilchik so you still have that same problem there on
49 the Kasilof, I mean another organization could come
50 forward and say that, too, am I not making sense or

1 what, I don't know.

2

3

CHAIRMAN LOHSE: Doug.

4

5

MR. BLOSSOM: Mr. Chair. Gloria, I think the thing we've solved there is we've said we want one fishwheel and they're going to have to decide who gets it, we haven't said we're going to have two or three or four, as a RAC we've stated one fishwheel, so I think that solves that problem. Whoever gives the best program or bid on it is going to be the one that'll operate it.

13

14

CHAIRMAN LOHSE: For the residents of Ninilchik, that's what it says.

16

17

MS. STICKWAN: And why are we just saying one fishwheel?

19

20

CHAIRMAN LOHSE: Well, that could be another amendment but that's what the proposal reads.

22

23

Dean.

24

25

MR. WILSON: I've got a series of questions, just some clarification if I can just talk straight to Doug and Greg. Some portions I missed, I was trying to keep up with you during the amendment here, but would we leave it up to the fisheries manager as far as harvest limits, is that going to be left up to them and discussed later.

32

33

CHAIRMAN LOHSE: Harvest limits. Doug.

34

35

MR. BLOSSOM: We're just talking -- we've already set a quota for both rivers so they've got a quota.....

38

39

MR. WILSON: Okay.

40

41

MR. BLOSSOM:it's just of how to catch them. So I forget what the quota in the Kasilof is, 3,000 sockeye is it, yeah, there's already been -- last year we already set quotas.

45

46

MR. WILSON: Okay. So it would be -- that's what we're going by then.

48

49

MR. BLOSSOM: Yeah, it's already been set so we don't have to do any of that.

50

1 MR. WILSON: The portion on the second
2 page that discusses the continuously monitoring, I
3 heard you wanted to clear that out of there.
4
5 MR. BLOSSOM: I struck continuously and
6 I struck habitat effects.
7
8 MR. WILSON: Okay. So how often would
9 the fishwheel be checked then, do you have a checked
10 time?
11
12 MR. BLOSSOM: I haven't, you're a
13 fishwheel expert, not me.
14
15 MR. WILSON: Well, I think our area is
16 10 hours. What we have right now, I think 12 hours
17 makes more sense, I think.....
18
19 MR. BLOSSOM: Instead of two.
20
21 MR. WILSON: Instead of two, yeah. Of
22 checking it, you mean, checking it, is that what
23 you're.....
24
25 MR. BLOSSOM: I would guess that
26 they're going to be on site, why couldn't they check it
27 every couple.
28
29 MR. WILSON: Well, if they are. The
30 concern is if there's no run, you have somebody sitting
31 there checking on this wheel continuously and if you
32 don't even have anything coming in there.....
33
34 MR. BLOSSOM: Don't you just close it
35 when you're not.....
36
37 MR. WILSON: Well, then how do you know
38 the run's coming in?
39
40 MR. BLOSSOM: Oh, in the Kasilof River,
41 that sonar down river tells them when everything's
42 coming.
43
44 MR. WILSON: So you know exactly when
45 they're showing up, okay, all right. So it would stay
46 at two hours then, that's your proposal?
47
48 MR. BLOSSOM: That's what I thought.
49
50 MR. WILSON: Okay.

1 MR. BLOSSOM: Okay.
2
3 MR. WILSON: And what did you strike
4 right below that, was it list of household members, did
5 that get thrown out as well, it's got in here list of
6 household and household members, it seems like that's
7 getting fairly specific data that they want to put in
8 here, did you want to keep that in there as well? Are
9 you guys good with that?
10
11 MR. BLOSSOM: I didn't strike that.
12 The one thing I didn't mention, I guess, I forgot there
13 was number 8, the very last thing, it should be three
14 years from the date the fishwheel's installed. But I
15 left that other alone, I don't know.
16
17 MR. WILSON: Yeah, I was just thinking
18 more along the lines for a community fishwheel like
19 this to actually put down the names of everybody and,
20 you know, if they hand a fish to somebody else that
21 they forgot on the list are they going to get in
22 trouble for it, you know, typically things like this
23 that are done, they leave it up to the -- at least up
24 in our area they leave it up to the community or the
25 village that puts in for it, to distribute the fish as
26 best they need to, rather than giving a list of
27 acceptable names. I would think that that should be
28 struck.
29
30 CHAIRMAN LOHSE: Tom.
31
32 MR. CARPENTER: To make matters a
33 little bit speedier, I would accept that language as
34 being struck as a friendly amendment if the second
35 would concur, just so we can -- the language that Dean
36 wanted to strike in regards to No. 4 i, list all
37 household and household members whom the fishwheel is
38 being operated for, and also I would accept the amended
39 language as friendly to three years from the time that
40 the fishwheel is put in the water for the first time.
41
42 CHAIRMAN LOHSE: Does the second
43 concur?
44
45 MS. WAGGONER: The second concurs.
46
47 CHAIRMAN LOHSE: Okay. So that's an
48 amendment on the amendment to the amendment, okay.
49
50 MR. CARPENTER: Friendly amendment.

1 CHAIRMAN LOHSE: Friendly amendment to
2 the amendment on the amendment, okay, now.....

3
4 MR. CARPENTER: Could I just speak to
5 one more thing.

6
7 CHAIRMAN LOHSE: Okay.

8
9 MR. CARPENTER: Not to belabor this and
10 I hope -- I mean I'm not trying to step on anybody's
11 toes from the Kenai Peninsula, I want you all to know
12 that, I'm not trying to be difficult, but what I am
13 trying to do is I've thought back about moose proposals
14 that were put in by people on the Kenai Peninsula and
15 they were deferred and they were deferred and they were
16 deferred and it went on for six or seven years before
17 the people of Kenai and Ninilchik got an answer to
18 their question and I've paid attention enough to the
19 way the Board reacts to certain situations and I just
20 don't think that the original proposal that came from
21 OSM or the amended proposal that included the Kenai
22 River is going to get anywhere. And I think what would
23 happen is, is you're going to be waiting, the people
24 from Ninilchik will be waiting for three more years
25 before they'd even have the ability to put another
26 proposal in because of the cycle changes that are
27 taking place now.

28
29 I do believe that this proposal for the
30 Kasilof does show and give precedence to the people of
31 Ninilchik for the fish of the Kasilof and I do think it
32 will pass the Board, and that's the only reason I'm
33 making the amendment.

34
35 To me, personally, it has no real merit
36 or being. I don't participate in it. But I think when
37 you send things to the Board, you have to send them
38 there with the assumption that you think they're going
39 to pass and in light of some of the things that have
40 happened most recently, I think we need to take those
41 things into consideration. So I just would go from
42 there and that's all I have.

43
44 CHAIRMAN LOHSE: Greg.

45
46 MR. ENCELEWSKI: Yeah, Mr. Chairman,
47 and fellow Council members. I guess I've got a couple
48 comments. I'm opposed to this amendment to the
49 amendment to the amendment, but I'm opposed because No.
50 1, I haven't heard here that Ninilchik lost its C&T on

1 the Kenai. We have a C&T for salmon on the Kenai,
2 therefore, I think it should be treated equally, until
3 the time we lose that, then that's another story.

4

5 No. 2, I don't think that we need to
6 concern ourselves how we make our proposals for the
7 Federal Board to react to them, we're here to act in
8 the best interest of the subsistence user, provide a
9 meaningful preference for them for subsistence use.

10

11 Thank you.

12

13 CHAIRMAN LOHSE: Thank you. Doug.

14

15 MR. BLOSSOM: Mr. Chair. On No. 4, i,
16 I guess I was listening to Ricky Gease and it sounded
17 like, you know, coming up with a list and that ahead of
18 time made it more palatable because everybody could
19 look at the list, that's why I didn't take it out.

20

21 I just -- there needs to be some way
22 ahead of the fishing season that if your name isn't on
23 the list, you either get it on or it's your tough luck,
24 you know, and that's what I thought why the list might
25 want to stay there because if they posted it in the
26 post office or wherever, if you want to get on this
27 list you got to sign up. I thought it might be
28 important to leave that, but that's just my opinion.

29

30 CHAIRMAN LOHSE: Thank you, Doug. I
31 think that, you know, that that's probably going to be
32 expected as part of the operational plan anyhow. So I
33 mean if somebody's going to make up an operational plan
34 that's going to fly they're going to have to show who's
35 using it and how they're going to be dividing it. So I
36 don't think it has to be in -- I'm like Dean, I don't
37 think it has to be in regulation.

38

39 So any other question, any other
40 discussion on the amended amendment to the amendment.

41

42 MR. CARPENTER: Somebody call the.....

43

44 MS. STICKWAN: I want to make sure,
45 please tell me what it is again.

46

47 CHAIRMAN LOHSE: Okay. What we're
48 basically voting on is the language that Dean brought
49 forward which drops 4i and 8 and then the idea that --
50 the basic idea that this applies to the Kasilof River

1 and not the Kenai River and it applies to Ninilchik and
2 not Cooper Landing and Hope.

3

4 MS. STICKWAN: So you strike -- so
5 strike this, all this so it's going to be struck?

6

7 CHAIRMAN LOHSE: No, just 4i, the four,
8 the first one, yeah, that whole line, where it says
9 list the family members and everything, household
10 members.

11

12 MS. STICKWAN: Just strike that one?

13

14 CHAIRMAN LOHSE: Strike that one and
15 change this to three years from the time the first
16 fishwheel is put in.

17

18 MS. STICKWAN: And that's it?

19

20 CHAIRMAN LOHSE: That's it except for
21 we're striking everything that deals with any other
22 community other than Ninilchik and deals with the
23 Kasilof River, so anything that deals with the Kenai
24 River or Hope or Cooper Landing is struck. Am I
25 correct in my summary.

26

27 (Council nods affirmatively)

28

29 CHAIRMAN LOHSE: Is that what everybody
30 understands.

31

32 (Council nods affirmatively)

33

34 CHAIRMAN LOHSE: Okay. Tricia.

35

36 MS. WAGGONER: In response kind of to
37 Greg's comment, I think in thinking of just putting
38 this on the Kasilof is we have so many land issues, so
39 many other issues with the Kenai and I just feel that
40 it's conserving the stocks, being more responsible to
41 look at the Kasilof, give it a try for two years and
42 see what happens. It's kind of that conservative point
43 of view, you know, we looked that same way with Moose
44 Meadows for dipnetting, you know, with the Kenai I just
45 think we need to go a little bit slower and
46 unfortunately, no, it doesn't provide the opportunity
47 that they should have but it's an opportunity that they
48 didn't have earlier.

49

50 So I think it's a step in the right

1 direction. I wish we could go further. But not only
2 just because of how the Federal Subsistence Board's
3 going to react but all the issues that come with land
4 use and access on the Kenai that we don't have control
5 over, I think, is justification to drop the Kenai from
6 consideration.

7

8 MR. CARPENTER: I call the question on
9 the second amendment.

10

11 CHAIRMAN LOHSE: Dean you had his hand
12 up before you called, Tom.

13

14 MR. CARPENTER: That's fine.

15

16 CHAIRMAN LOHSE: Dean.

17

18 MR. WILSON: Just a little more
19 discussion, just real brief. As far as I would -- I
20 don't know, my thinking on this is who -- it doesn't
21 matter at the point -- we're putting in this proposal,
22 it wouldn't matter what the Federal Subsistence Board
23 thinks when we don't even have a clue whether they're
24 going to pass it or not pass the Kasilof, I haven't
25 heard any indicator which way they're going to vote
26 either way. We're pretty much, it seems we're
27 unanimous in the thinking that Ninilchik showed up for
28 this proposal, they're supporting it, they've got
29 support from a lot of other folks, to use this fishery,
30 but we haven't heard anything from Hope and Cooper
31 Landing once again.

32

33 And I'm all for trying to get a reading
34 from the solicitor's office and going forward with the
35 original that was brought up by Doug.

36

37 There's such a big advantage to having
38 a fishwheel like this in your area and to help out your
39 communities, I think it should be a priority. I'm
40 surprised, like I said earlier, it hasn't been
41 implemented years ago, it should be a priority over the
42 top of your sportfishing fisheries. But, you know,
43 it's coming in after the gun but I would against
44 modifying -- the amendment to the amendment and I'd
45 support the initial amendment that Doug came up with.

46

47 CHAIRMAN LOHSE: Okay, question.....

48

49 MS. STICKWAN: I have something

50

1 CHAIRMAN LOHSE: Okay, Gloria.
2
3 MS. STICKWAN: I, too, would be opposed
4 to it. We went through a lot and a lot of discussions
5 on this C&T and now we're saying we're going back on
6 what we're saying on letting them fish after we made a
7 decision to give them C&T, I just don't think we should
8 be going backwards instead of forwards, and we already
9 made a decision for C&T.
10
11 I see this as us looking at there's a
12 problem here, when we know if there's even going to be
13 a problem. I mean we thought the customary and
14 traditional use for wildlife was going to be a problem
15 and we worked on those proposals and later on we found
16 out there wasn't even a problem with it, I mean there
17 was no problem with what we decided. So we're trying
18 to make a problem when there isn't a problem right now.
19 So I'm going to vote for Doug's.
20
21 CHAIRMAN LOHSE: Okay, question's been
22 called -- should we do it by roll call or should we do
23 it by.....
24
25 MR. CARPENTER: Voice is fine.
26
27 CHAIRMAN LOHSE:voice and start
28 off and.....
29
30 MR. BLOSSOM: And this is the second
31 amendment.
32
33 CHAIRMAN LOHSE: The amendment to the
34 amendment.
35
36 All in favor of the second amendment
37 signify by saying aye.
38
39 IN UNISON: Aye.
40
41 CHAIRMAN LOHSE: Opposed by signify by
42 saying nay.
43
44 MR. ENCELEWSKI: Nay.
45
46 MS. STICKWAN: Well, I guess I'm
47 confused.
48
49 CHAIRMAN LOHSE: Wait a second, I think
50 we better make a roll call because it didn't -- I think

1 there was some misunderstanding. But if you're voting
2 for this one, this is the amendment to the amendment,
3 it says, basically the changes in the language and
4 limiting it to Ninilchik and the Kasilof River, that's
5 what we're voting on at this point in time.

6

7 So, okay, now, roll call, Donald.

8

9 So if you're in favor of this, that's
10 what you're in favor of.

11

12 Doug.

13

14 MR. BLOSSOM: I thought we had to start
15 from the bottom and work back up.

16

17 CHAIRMAN LOHSE: Yeah, that's what we
18 are, we're starting from.....

19

20 MR. BLOSSOM: So don't we want to start
21 with 4 i and eight?

22

23 CHAIRMAN LOHSE: They took that in as a
24 friendly amendment.....

25

26 MR. CARPENTER: I took that in as a
27 friendly amendment.

28

29 CHAIRMAN LOHSE:and they put that
30 on their amendment.

31

32 MR. BLOSSOM: Okay.

33

34 CHAIRMAN LOHSE: So we can take that
35 all as an amendment.

36

37 MR. BLOSSOM: Okay. So now -- okay.

38

39 CHAIRMAN LOHSE: So we have the second
40 amendment right now that we're voting on. Is that all
41 understood.

42

43 (Council nods affirmatively)

44

45 CHAIRMAN LOHSE: Okay, Donald, all
46 roll.

47

48 MR. MIKE: Mr. Chair. This is a roll
49 call for an amendment to amendment.

50

1 Mr. Doug Blossom.
2
3 MR. BLOSSOM: No.
4
5 MR. MIKE: Mr. Greg Encelewski.
6
7 MR. ENCELEWSKI: No.
8
9 MR. MIKE: Ms. Tricia Waggoner.
10
11 MS. WAGGONER: Yes.
12
13 MR. MIKE: Mr. Chuck Lamb.
14
15 MR. LAMB: No.
16
17 MR. MIKE: Ms. Gloria Stickwan.
18
19 MS. STICKWAN: No.
20
21 MR. MIKE: Mr. Dean Wilson.
22
23 MR. WILSON: No.
24
25 MR. MIKE: Mr. James Showalter.
26
27 MR. SHOWALTER: I'll have to vote yes
28 the way I understand it.
29
30 MR. MIKE: Mr. Ralph Lohse.
31
32 CHAIRMAN LOHSE: Yes.
33
34 MR. MIKE: Mr. Tom Carpenter.
35
36 MR. CARPENTER: Yes.
37
38 MR. MIKE: Mr. Chair, there's five no's
39 and four yes's.
40
41 CHAIRMAN LOHSE: The amendment fails so
42 therefore we're back to the original amendment as
43 presented by Doug and Greg, which basically just
44 eliminated, if I remember right, Hope and Cooper
45 Landing and pretty much left everything else the same.
46
47 MR. BLOSSOM: And some wording.
48
49 CHAIRMAN LOHSE: And some wording, and
50 the wording.

1 MR. WILSON: Question.
2
3 CHAIRMAN LOHSE: We need another roll
4 call vote, Donald.
5
6 MR. MIKE: Mr. Chair, a roll call vote
7 on Mr. Blossom's amendment. Mr. Doug Blossom.
8
9 MR. BLOSSOM: Yes.
10
11 MR. MIKE: Mr. Greg Encelewski.
12
13 MR. ENCELEWSKI: Yes.
14
15 MR. MIKE: Ms. Tricia Waggoner.
16
17 MS. WAGGONER: Yes.
18
19 MR. MIKE: Mr. Chuck Lamb.
20
21 MR. LAMB: Yes.
22
23 MR. MIKE: Ms. Gloria Stickwan.
24
25 MS. STICKWAN: Yeah, I guess so.
26
27 MR. MIKE: Mr. Dean Wilson.
28
29 MR. WILSON: Yes.
30
31 MR. MIKE: Mr. James Showalter.
32
33 MR. SHOWALTER: Yes.
34
35 MR. MIKE: Mr. Ralph Lohse.
36
37 CHAIRMAN LOHSE: No.
38
39 MR. MIKE: Mr. Tom Carpenter.
40
41 MR. CARPENTER: No.
42
43 MR. MIKE: Mr. Chair. There's seven
44 yes's and two no's.
45
46 CHAIRMAN LOHSE: So the amendment
47 carries. The motion -- the amendment carries and now
48 we need to vote on the motion as amended. So now we
49 have the original motion to accept FP08-09 as amended
50 on the table.

1 MR. CARPENTER: Mr. Chairman.
2
3 CHAIRMAN LOHSE: Tom.
4
5 MR. CARPENTER: I move we table this
6 motion until 9:00 a.m., tomorrow. so that we can hear
7 an opinion from the solicitor's office.....
8
9 MR. WILSON: Second.
10
11 MR. CARPENTER:if this proposal
12 will be able to even go forward so that we don't have a
13 deferred proposal sitting on the table for Ninilchik
14 for three years.
15
16 CHAIRMAN LOHSE: Do I hear a second to
17 that.
18
19 MR. BLOSSOM: He seconded it so it's
20 got to be voted on.
21
22 CHAIRMAN LOHSE: Uh.
23
24 MR. BLOSSOM: So we've got to vote.
25
26 CHAIRMAN LOHSE: Yeah, he seconded it,
27 right there.
28
29 Okay. The motion to defer this until
30 9:00 o'clock tomorrow morning so we can get a
31 solicitor's opinion is on the table.
32
33 I think we can do this by voice, can't
34 we, all in favor signify by saying aye.
35
36 IN UNISON: Aye
37
38 CHAIRMAN LOHSE: Motion carries. So
39 this will be the first item of business we take up
40 tomorrow morning, after, which we're going to jump
41 ahead in our agenda and we're going to take the C&T
42 thing presented by Polly Wheeler so that she can leave
43 to go to her dad's operation and if that's okay with
44 the rest of the Council that's how we'll proceed.
45
46 (Council nods affirmatively)
47
48 CHAIRMAN LOHSE: Doug.
49
50 MR. BLOSSOM: What's the understanding

1 about No. 10, we're not going to take it up at all?

2

3 MR. MIKE: Mr. Chair, can you.....

4

5 CHAIRMAN LOHSE: We can't.

6

7 MR. BLOSSOM: But then I would request

8 that -- I have a resolution drawn up requesting a

9 written reason from the Board, so I'll bring that up

10 tomorrow then, you know, instead of doing that I want

11 to put this resolution in.

12

13 CHAIRMAN LOHSE: Thank you, Doug. The

14 meeting is recessed until tomorrow morning at 9:00

15 o'clock.

16

17 (Off record)

18

19 (PROCEEDINGS TO BE CONTINUED)

