

1 SOUTHCENTRAL FEDERAL SUBSISTENCE
2 REGIONAL ADVISORY COUNCIL MEETING

3
4 PUBLIC MEETING

5
6 VOLUME II

7
8
9 Homer, Alaska
10 October 18, 2006
11 9:00 o'clock a.m.

12
13
14 COUNCIL MEMBERS PRESENT:

15
16 Tom Carpenter, Chairman
17 Doug Blossom
18 Greg Encelewski (telephonic)
19 James Showalter
20 Gloria Stickwan
21 Dean Wilson

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25 Regional Council Coordinator, Donald Mike

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P R O C E E D I N G S

(Homer, Alaska - October 18, 2006)

(On record)

CHAIRMAN CARPENTER: Good morning everybody. Welcome back to day 2 of the Southcentral Regional Advisory Council fall meeting.

Are you going to make that phone call, Donald, and we'll get Greg on the line.

We'll reconvene this meeting. It's 9:02 a.m. on Wednesday.

Donald's going to make a connection with Greg up on the North Slope so he can participate in the Ninilchik proposals. And I believe the first order of business that we'll take up once we get him on the phone is the winter subsistence gillnet fishery on the Tustumena Lake, so as soon as we get him on the phone, we'll get started.

(Pause)

MR. MIKE: Mr. Chair, Greg Encelewski is on the line.

CHAIRMAN CARPENTER: Okay. Greg, welcome. Hope you can hear us okay.

MR. ENCELEWSKI: I can hear you, Tom, not too good, but I'm hearing you.

CHAIRMAN CARPENTER: Okay. Well, I know you're tired, so hang in there.

MR. ENCELEWSKI: Yeah. You bet.

(Pause)

CHAIRMAN CARPENTER: Are you okay there? Can you hear me now, Greg?

MR. ENCELEWSKI: Yeah, I hear you a little better now. I can hear you pretty good, Tom.

CHAIRMAN CARPENTER: Okay. Sounds good. Okay. It was brought to my attention by Mr. Blossom that

1 he would like to -- before we start the Tustumena Lake
2 proposal, he would like to talk about -- there was a
3 letter that was submitted by Greg to the Chairman, Ralph
4 Lohse. There's copies of the letter back on the table.
5 I had thought we had discussed it yesterday, but I'll let
6 Doug speak to this letter if he wants to.

7

8 MR. BLOSSOM: Yeah, Mr. Chair.

9

10 Greg, in reading your letter, I see that
11 your bottom intention was to have a Southcentral RAC
12 meeting before our spring meeting. We kind of overlooked
13 that last night. Is that your intention?

14

15 MR. ENCELEWSKI: Yeah, that was clearly
16 the intention there. I believed what had happened, and
17 I'm not sure I know what all happened, but somehow when
18 we called for all proposals, what my intention was is to
19 get them all in by the 20th when -- and go through them
20 prior to the Federal Subsistence Board meeting this
21 January. So originally our meeting was scheduled for
22 this following week, next week, and that would have kept
23 us from having that special work session on that. So
24 that was the intention. And the only way I can see to
25 rectify the matter is to have a short meeting for a day
26 prior to the Federal Board in January and go over these
27 proposals.

28

29 MR. BLOSSOM: Yeah. Mr. Chair. In
30 hearing that then, I guess I as a Board member would
31 request that we ask the Federal Board for a special
32 meeting prior to their January meeting to discuss these
33 fish proposals that should all be in by the 20th or so of
34 October.

35

36 CHAIRMAN CARPENTER: Okay. Pete, could
37 you maybe come up here for a second. I had a question in
38 regards to that. I know the deadline for the fisheries
39 proposals that we had set last fall is relatively soon,
40 another week or so. Do you anticipate that the Staff
41 would be able to deal with these proposals by the time --
42 these fishery proposals, these out-of-sight proposals by
43 the time of the Federal Board meeting in January would
44 take place.

45

46 MR. PROBASCO: Mr. Chair. For Staff to
47 -- the process of dealing with proposals is a very long
48 drawn out process. It's simply not just receiving the
49 proposal and the Council reviewing the proposals and
50 making the recommendation. As you know, there's a

1 process where Staff will draft Staff analyses.

2

3 At this time we don't know how many
4 proposals they'll receive on these. We know we've got
5 four in the hopper. Based on phone calls, questions, et
6 cetera, I'd anticipate we're going to get more than four.

7

8

9 Doing Staff analyses is not something
10 that you do overnight. You just don't spend a day and
11 develop them. We work very closely with the proponent.
12 We work very closely with the biologists, both State and
13 Federal, in developing our analyses. And then there's a
14 review process before they're released out to the public.

15

16 Also on our plate is already the proposal
17 process that we have to deal with in November. And on
18 top of that we have the rural issue that we're dealing
19 with.

20

21 So in a nutshell, I can't say it's
22 impossible, but it would be very difficult for me to
23 carve out Staff time to deal with these proposals and go
24 through the public process which is required of you as
25 Council members in announcing a meeting, and have this
26 all done before the early January Federal Subsistence
27 Board meeting. It would be very difficult for us to do
28 that.

29

30 CHAIRMAN CARPENTER: I guess the other
31 question I had -- that was one concern. I mean, I
32 understand Greg's intent here with this letter, and I
33 don't disagree with his intent. I just don't know if the
34 time allows this whole process to move forward the way he
35 wants it to myself, at least right now I don't.

36

37 The other question I had was in regard
38 to, you know, public participation after these proposals
39 were reviewed by Staff and the analysis was done. Is
40 there enough time after that's completed that the public
41 and different governmental agencies would have time to
42 review those? Is there a time limit that they have to
43 have?

44

45 MR. PROBASCO: Mr. Chair, I believe what
46 you're referring is that a Regional Advisory Council
47 meeting has to be public noticed, and you have to provide
48 30 days for that type of notice.

49

50 Is that correct, Donald, for this type of

1 meeting?

2

3 MR. MIKE: Yes, 30 days, so you can do
4 it.....

5

6 MR. PROBASCO: So you'd have to have a
7 30-day notice. Behind the scenes in doing the Staff
8 analyses, once we present it to the Council, then it goes
9 back and we work, redraft, based on Council comments,
10 based on public comments, and it's redrafted and goes
11 before the Staff Committee. And then the Staff Committee
12 works on their recommendation, and then we take all this
13 information and take it before the Federal Subsistence
14 Board.

15

16 You're trying to take an unknown number
17 of proposals on a potentially very contentious issue and
18 trying to jam it into about -- maybe we've got two months
19 on top of everything else that's on our plate.

20

21 CHAIRMAN CARPENTER: And then I guess
22 finally my question is, even if we were to try and do
23 this and Staff were to, you know, get the analysis done,
24 that doesn't necessarily mean that the Federal Board will
25 take the proposals up at their meeting, or will they?

26

27 MR. PROBASCO: The Federal Board would
28 have to put out a notice that they were going to add to
29 their agenda, get that information out, and that doesn't
30 mean the Board would necessarily do that. The Board sets
31 the agenda. You are advisory to the Board. So they
32 would take your consideration, your information into
33 consideration, but that doesn't mean they'll necessarily
34 take it up.

35

36 CHAIRMAN CARPENTER: Okay. Thanks, Pete.
37 I don't know if Doug has any questions, or, Greg, I don't
38 know if you have any questions for Pete in regards to
39 just some of the comments that I made or something that
40 he said. Please speak up if you have something.

41

42 MR. ENCELEWSKI: Yeah, Tom. I just have
43 one comment. And my comment would be at a very minimum
44 some of these proposals from Ninilchik, these four
45 proposals that's been in forever certainly should be
46 acted on, and most of that should have some work done on
47 it already, so -- but I think at the very minimum those
48 proposals of Ninilchik should be acted on.

49

50 CHAIRMAN CARPENTER: Okay. Thank you,

1 Greg.

2

3 Maybe getting back to what he just said,
4 Pete, what is your perception that the proposals that
5 have been put in previously that staff analysis has been
6 done, would that be a possibility for something in
7 regards to what he's talking about.

8

9 MR. PROBASCO: Would Staff -- has there
10 been Staff analysis on some of them? In part, correct.

11

12 I guess I just take the Council back to
13 what the Board has said this past year as far as dealing
14 with issues related to Kenai Peninsula, and most recently
15 the decision that the Board made on the special action
16 request from Ninilchik. The Board even though it wasn't
17 unanimous in that decision wants to look at the slate of
18 issues, and not -- in other words, they want to have it
19 done in a process where all the public is reviewing all
20 issues that affect the Kenai Peninsula. And then the
21 Board would address all those issues at the same time.

22

23 CHAIRMAN CARPENTER: Thanks, Pete. I
24 participated on the phone in the last special meeting
25 that the Board had in regards to the coho fishery that
26 Ninilchik was asking for this winter which the Board
27 denied to take the proposal out of cycle.

28

29 And one of the interesting things that
30 the new Chairman of the Federal Board said was that he
31 didn't consider that this proposal be taken out of cycle,
32 because he didn't feel that it was in the nature of an
33 emergency. And he went into some background as to why
34 what was.

35

36 And so I -- and my personal feeling is
37 not that I disagree with what you're trying to do, Greg.
38 It's that I don't think that the Federal would let this
39 proceed, because they want to hear all these proposals
40 together.

41

42 Pete.

43

44 MR. PROBASCO: Mr. Chair. Another
45 comment. The questions that I've received on the phone
46 from some of the Kenai residents that are concerned,
47 Kenai Peninsula residents, is if the Board addresses
48 Kenai Peninsula fishery issues in May, what does that
49 mean for the 2007 fishery season. I took those questions
50 to the Solicitor's Office, and Ken is here. The Board

1 will act in early May on these fishery proposals. And
2 once the Board acts, we have the ability to implement
3 those regulations almost immediately. And so whatever
4 decision is made by the Board in May will be made in time
5 to address when the stocks are showing up and the
6 fisheries can continue. So that's not going to delay --
7 here's not going to be some 30, 60-day delay after a
8 Board's decision. It would almost be immediately. Mr.
9 Chair.

10
11 CHAIRMAN CARPENTER: Thank you, Pete. I
12 think that's a good piece of information for everybody to
13 know.

14
15 Do you have anything else, Doug.

16
17 MR. ENCELEWSKI: Tom, if I could just
18 make one last comment.

19
20 CHAIRMAN CARPENTER: Sure. Go ahead.

21
22 MR. ENCELEWSKI: I mean, there's no
23 question that the federal Board will delay Ninilchik's
24 proposals if possible. And that's one reason I'm trying
25 to get around this, that these proposals have been out
26 there for a long time. But, you know, it was clearly the
27 intent to get these moving on, and they've been in the
28 hopper for a long time. I personally feel we still need
29 to act on them. A lot of our actions that we've been
30 passing on to the Board, they haven't taken them. We are
31 advisory, but I don't think they're doing their duty on
32 that, but neither here nor there. I still vote to have a
33 special meeting. Thank you.

34
35 MR. BLOSSOM: Yeah, Mr. Chair. I see a
36 hand waiving in the audience, do we have someone that's
37 interested in the audience say something on this? They
38 must have some interest.

39
40 CHAIRMAN CARPENTER: I don't see why we
41 can't. Is this who wants to speak right now?

42
43 (Whispered conversation)

44
45 CHAIRMAN CARPENTER: Okay. Is there
46 somebody in the audience that would like to comment on
47 this. Sir.

48
49 MR. STARKEY: Thank you, Mr. Chairman. I
50 did sign up to testify on this issue when it was added to

1 the agenda. John Sky Starkey, representing the Ninilchik
2 Tribe.

3
4 I just wanted to point out that with all
5 due respect to the acting director and their attorney,
6 they seem to have found Staff time adequate enough to try
7 to push through a new Kenai RAC on this Peninsula and in
8 front of this RAC. It's a little -- it takes away some
9 of the credibility of their argument for Ninilchik people
10 at least that Staff can find time to hold two public
11 meetings on the Kenai. If there were 30 days notice for
12 those meetings, it was just 30, it wasn't any more than
13 30, on an issue as important as the Kenai RAC. Now, that
14 is also a controversial issue. Staff has made it a
15 priority. The Federal Board's made it a priority. Their
16 lawyers have made it a priority to try to get that
17 through. That wasn't on the recommendation of this RAC,
18 this particular RAC that they do that.

19
20 All Ninilchik is asking is a little
21 balance here. The Federal Staff will do what they do
22 with your recommendation. The Federal Board will do what
23 they do with your recommendation. And Ninilchik's had
24 their proposal deferred for seven years. How would
25 people in each of your communities feel if their moose
26 hunt had been deferred for seven years. Or their
27 fishery. They'd want it up.

28
29 Why is Ninilchik's proposal and the Kenai
30 Peninsula's fishery proposals the only ones that are
31 being deferred from the January cycle?

32
33 Yeah, will people be able to fish in May?
34 Well, they'll get a decision sometime in May. Then
35 they'll know whether and how they can fish.

36
37 The history of this controversy has been
38 that the Federal Board hasn't agreed with this Council's
39 recommendations or Ninilchik's proposals, then leaving
40 Ninilchik in May with the option of having to go through
41 a request for reconsideration, which they put in last May
42 and haven't got a decision yet until November. That's a
43 whole another season if you have to go through a request
44 for reconsideration. Well, if I'm force to take it to
45 court, I have to do that in days in order for them to get
46 a king fishery. How much time do I have? If I've got
47 January, I've got a little more time to get them relief.
48 I mean, there are some serious time constraints here.
49 And why? Why is it being -- again, why is it being
50 deferred?

1 When this Council voted in March to deny
2 the stakeholders group, and Greg made this motion, you
3 all did not know that they were going to try to push
4 through a Kenai RAC. There's been a lot of things that
5 have changed since that period of time.

6
7 And Ninilchik would just urge you to do
8 -- if you feel like you could hold a special meeting,
9 that you do your part and look at these proposals. If
10 it's only Ninilchik's proposals that you can take at that
11 period of time, to do that, and then let the Federal
12 Board do what they need to do. But we could at least
13 appreciate this RAC taking the proposals up in a timely
14 fashion so that we can try to get a fishery out there.

15
16 Thank you, Mr. Chairman.

17
18 CHAIRMAN CARPENTER: Thank you, Mr.
19 Starkey.

20
21 Any questions for -- Gloria.

22
23 MS. STICKWAN: Now many proposals do you
24 guys have?

25
26 MR. STARKEY: Well, Ninilchik -- through
27 the Chair. Ninilchik timely submitted a proposal to this
28 RAC. The proposal deadline was I think June for fishery
29 proposals. Ninilchik did their part. They put in a
30 fishery proposal, just like everybody else in the State,
31 and expected the same regulatory cycle as everyone else.
32 So there's a proposal there for Ninilchik.

33
34 Now Ninilchik is going to put in another
35 more defined proposal by the October 20th deadline, and
36 that will be one proposal, but it will be a proposal that
37 will combine fishing for the Kasilof and the Kenai.

38
39 The problem is we don't -- Ninilchik
40 doesn't know whether it's going to get to fish on the
41 Kenai, because the Federal Board has yet -- November --
42 they decided in January, and it's November, and we're
43 still waiting for, you know, a decision on the request
44 for reconsideration.

45
46 If there is customary and traditional use
47 on the Kenai, which they'll decide by November 16th, then
48 the fishery proposal will include both the Kenai River
49 and the Kasilof River. If the Federal Board doesn't
50 grant customary and traditional use on the Kenai, then it

1 will just be the Kasilof River I assume.

2

3 CHAIRMAN CARPENTER: Thank you. Any
4 other questions. Do you have anything, Doug.

5

6 (No comments)

7

8 CHAIRMAN CARPENTER: Thank you, sir.

9

10 MR. STARKEY: Thank you.

11

12 MR. BLOSSOM: Yeah. Mr. Chair. That's
13 the dilemma I hear is the Ninilchik Tribe is having
14 problems getting old fishery proposals heard. And we're
15 in the middle.

16

17 And I guess I don't see any problem with
18 this Southcentral RAC having a meeting prior to the
19 Federal Board's January meeting and taking up these
20 proposals. That doesn't mean the Federal Board has to do
21 anything. We just do our part. And I guess that's in
22 Greg's letter. That's what he states is that he would
23 like us to try to have a special meeting before the
24 Federal Board meeting in January to look at some of these
25 proposals that have been here -- I didn't know for seven
26 years. I thought five years. But I think we at least
27 ought to be able to see them. We haven't been able to
28 see them yet.

29

30 CHAIRMAN CARPENTER: I think we might
31 have a comment from the Solicitor's Office.

32

33 MR. LORD: Thanks, Tom. There is one
34 other point of consideration that hasn't been raised
35 here. When you had your meeting in March and the
36 decision was made that the deferred proposals and any new
37 proposals would be considered during the wildlife cycle,
38 and we went through the transcript yesterday, the Staff
39 acted accordingly. There were news releases released,
40 and there was a Federal Register notice that called for
41 proposals both of which said that the comment period on
42 those proposals wouldn't be closed until the end of
43 January. The public comment period. So we've advised
44 the public that they would have 30 days beyond the
45 publication of the proposal booklet which would lead us
46 to the end of January to comment on any proposals that
47 were received and the deferred proposals.

48

49 So we're in a dilemma now at this point.
50 The wheels are in motion, and we've got this problem of

1 having told the public that they would have this comment
2 period. And I don't know how we back off on that now if
3 we try to shift at this late date into some different
4 cycle of review. So it would be a problem for the
5 program.

6

7 And I just wanted to raise that point.
8 if there are any questions, I'm happy to answer them.

9

10 CHAIRMAN CARPENTER: I guess one question
11 I would have is if we decided last spring to set the
12 deadline for deferred proposals and new proposals to be
13 held at the wildlife cycle, October 20th or whatever it
14 is, who decided to make the comment period till the end
15 of January?

16

17 MR. LORD: It's part of the normal cycle.
18 We wait -- we have a deadline for receiving the
19 proposals. They then have to be -- there's the process
20 that Pete talked about where Staff confers with the
21 proponent, and then those proposals are published in a
22 booklet. And our standard operating procedure is once
23 that booklet is published, the public has 30 days to
24 comment on those, to get that booklet and comment on
25 those proposals. So that would lead us to the end of
26 January just in the normal scheme of things.

27

28 CHAIRMAN CARPENTER: Okay. Thank you.

29

30 MR. LORD: You're welcome.

31

32 CHAIRMAN CARPENTER: Doug.

33

34 MR. BLOSSOM: Yeah, Mr. Chair. I've got
35 another question for you now that you brought it up,
36 because you've got the normal procedures on how it's all
37 done, so is it right then -- is what Pete said, that in
38 their May -- yeah, they'll act on our proposals we do in
39 March in May, and normal procedures, there will be time
40 to have a fishery then if the Federal Board designates
41 one by next summer?

42

43 MR. LORD: That's right. The Board can
44 make it's proposals effective immediately on their
45 action, which -- and the Board's meeting is now scheduled
46 for May 8th through 10th. So any fisheries proposals
47 could be immediately effective on May 10th. And at least
48 for the upper reaches of the Kasilof, the chinook don't
49 arrive until the first or second week in June typically.

50

1 I understand Mr. Starkey's concerns as
2 far as, you know, if there's legal action necessary, but
3 in terms of simply getting the fishery going, we can do
4 that.

5
6 CHAIRMAN CARPENTER: Thank you, sir.

7
8 Is there anything else. Come on up, sir.
9

10 MR. WILLIAMS: Mr. Chair. Members of the
11 Board. Darrel Williams. I work for Ninilchik
12 Traditional Council. This is a really complex issue, and
13 there are a couple of other things that are going to play
14 into this.

15
16 One is, I'm sure as we all know, there's
17 been some court stuff on this, and Judge Sedwick, one of
18 his opinions when he wrote that was this should be
19 handled by the end of the annual cycle, or it should --
20 or it could be considered arbitrary and capricious, which
21 kind of puts into another dilemma that we're looking
22 until March. So if we do have this extended public
23 comment period through January, we'd probably have
24 another meeting on top of that to be able to review that
25 public comment. Excuse me. So it's getting even more
26 and more complex. And we are -- the clock's ticking.
27 We're on a time limit.

28
29 So these are all real questions about now
30 can Federal Staff get this done. When in public comment
31 period going to be.

32
33 My personal opinion on this is we've been
34 going at this a long time, guys, and where has the public
35 been? Generally they're -- up until the last meeting,
36 the last special meeting you had, there was no public
37 opposition. And it's starting to look like a tactic to
38 rally negative support.

39
40 Those are my comments. Does anybody have
41 any questions.

42
43 CHAIRMAN CARPENTER: Thank you, Darrel.

44
45 MR. WILLIAMS: Thank you.

46
47 CHAIRMAN CARPENTER: Any questions for
48 Darrel.

49
50 (No comments)

1 CHAIRMAN CARPENTER: Well, it's obvious
2 that the RAC has been put into a dicey situation, and
3 that's fine. We're all getting paid the big bucks to sit
4 up here and make these decisions.

5
6 (Laughter)

7
8 CHAIRMAN CARPENTER: But at least myself,
9 I understand Ninilchik's situation. I would totally, if
10 I was living in the community of Ninilchik, not like to
11 be put in the situation that they've been put in for the
12 last five or six years. And I think that this RAC has
13 shown in the past that it has been more than willing to
14 push the proposals and try to push the proposals through
15 for Ninilchik, because we felt that that was the right
16 thing to do.

17
18 Unfortunately, in this situation I think
19 we have legal parameters that we have to follow in regard
20 to public notice, public participation, understanding
21 that the public's had plenty of time to comment on this
22 the last five or six years, there's still legal
23 parameters that we've been told about. And I think we
24 have to follow them.

25
26 I would like to say that I would take the
27 word of the solicitor that if these proposals were pushed
28 through in May that the Federal Board would enact these
29 seasons immediately. We can say, or he can't say for
30 sure if they will do that. I would hope that if they
31 took the time to deal with these that that would be one
32 means of relief for Ninilchik to enact the season as soon
33 as possible after the Board made a decision one way or
34 the other.

35
36 So in that regards, those are kind of my
37 comments. I think it - I would leave it at that. If
38 somebody would like to put a motion on the floor from the
39 Council to bring this up for a vote, they're more than
40 welcome to, but that's kind of my position.

41
42 Doug.

43
44 MR. BLOSSOM: Yeah. Mr. Chair. I'll
45 retract my request to do that, after hearing all this.

46
47 The problem I have, and I guess I want it
48 on record, is I think that we're a lot better qualified
49 to deal with these issues fairly than the courts. And I
50 feel that when it gets into court, we as other users

1 lose. And so I was hoping that we could get enough group
2 interest that we could deal with it as people and not in
3 a court, because I don't like to see this stuff go to
4 court.

5
6 CHAIRMAN CARPENTER: Thank you, Doug.
7 Yeah, I would also say that I agree with you there. This
8 is a public forum, and I would much as soon have these
9 decisions made by the general public and Staff and people
10 like that instead of a couple of lawyers and a judge in a
11 courtroom. That's just my personal opinion. I think
12 we've tried to push the process forward to let that
13 happen.

14
15 Unfortunately this Council has been
16 hamstrung. And I think we're just going to have to let
17 the process go forward the way it is right now. At least
18 that's the only -- the way I can see it right now.

19
20 Any other comments. Gloria or Dean or
21 James, do you have any comments.

22
23 MS. STICKWAN: There's a hand back there.

24
25 CHAIRMAN CARPENTER: What's that? Did
26 somebody else have a comment over there? If you'd like
27 to comment quickly, sir. Thank you.

28
29 MR. STARKEY: Well, first of all, I just
30 want to say that all of us would rather see things done
31 in public by reasonable people who would agree to provide
32 subsistence fisheries and other things for people.

33
34 And I as a lawyer don't like to go into
35 court either. But none of you would be fishing on public
36 waters if it wasn't for the Katy John case. So there are
37 times when that's necessary.

38
39 And Ninilchik unfortunately finds itself
40 in that situation. So I hope you'll all understand that.
41 Litigation is no one's first choice. In fact, Ninilchik
42 did everything they could to stay out of court. They
43 came in front of you guys and came with a modest 500 fish
44 proposal that everyone agreed on. Staff agreed on.
45 Everyone agreed on. Three people on the Federal Board
46 agreed on it. And they couldn't even get that.

47
48 My only suggestion to you as a possible
49 way to compromise is to hold -- to agree to hold a
50 special meeting at the end of January or the beginning of

1 February when the comments are in, following all the
2 legal processes, and request the Federal Board to hold
3 their meeting as soon as possible after that after you've
4 have had a chance to look at the proposals. That would
5 advance the process by a month or two which could be
6 meaningful. Although I know that for you -- I mean, it
7 may not be -- I mean, it's a lot to ask. I know that
8 it's a lot to ask for you to come in and have another
9 meeting in February when you're already going to meet in
10 March. And frankly, I mean, if you don't think that
11 that's worth it, then that's okay. But that's the only
12 way I could see out of this.

13 So, thank you.

14

15 CHAIRMAN CARPENTER: Thank you, sir.

16 Dean.

17

18 MR. WILSON: I don't think that it's a
19 matter of thinking whether it's worth it or not, and I
20 don't think that that's point that the Council has taken
21 a look at at this point. I think it's more looked at,
22 we're hearing that it's not going to fit into a
23 scheduling commitment that the Staff is telling us at
24 this point, and also some notification things. And
25 although this has been notified on for years, there's
26 still some procedural things that I think we're looking
27 at from here. At least that's what I'm thinking about
28 right now. And I know we don't want to overstep that
29 stuff. We can't -- we still have some procedural moves
30 that we have to make prior to doing that.

31

32 But I don't -- we don't want to demean
33 your court cases or any importance that you guys are
34 throwing there either. We understand that it wasn't a
35 quick jump right into court immediately when you didn't
36 get your way. You know, this has been a move that's
37 moved it's way through the RACS and on it's way up. And
38 then this is something you guys feel is the last resort
39 as well.

40

41 MR. STARKEY: Thank you. And I didn't
42 mean to say that it was a -- would be a matter of
43 convenience. I was just saying that, you know, February
44 -- I don't know when your March schedule is, but the 1st
45 of February is only 30 or 45 days before that, so it may
46 be meaningful and it may not. And I can't tell you that
47 it would but.

48

49 And I understand, you know, it's -- the
50 unfortunate thing about this whole process really is that

1 the RACs are throughout the State often caught in a
2 situation where they are between the processes demanded
3 by the Federal system, and what users need. And I hope
4 as we begin to work together and we try to work to make
5 this RAC system more meaningful that we can hopefully
6 alleviate some of those situations where you are caught
7 in the middle.

8

9 Thank you.

10

11 CHAIRMAN CARPENTER: Thank you, Mr.
12 Starkey.

13

14 I would just reiterate that I hope that
15 the Ninilchik Traditional Council looks at this RAC as
16 being one that has tried to help in every manner that we
17 can and could in the past. I think we're just caught
18 between a political machine and a legal machine right
19 now. And there are certain guidelines that we have to
20 follow, and I think that's -- we're going to have to take
21 what was said on the record in regards to the Federal
22 Board putting and acting on these proposals in May and
23 putting then into law immediately, and hopefully this
24 won't have to go back to court again, and hopefully the
25 seasons will be enacted on shortly after the meeting.

26

27 So if there's nothing further, or if
28 nobody would like to.....

29

30 MR. ENCELEWSKI: Tom, could I have a
31 question?

32

33 CHAIRMAN CARPENTER: Yeah, you sure can,
34 Greg. Go ahead.

35

36 MR. ENCELEWSKI: One question, you know,
37 they're pushing this Kenai RAC very hard and so if the
38 Kenai RAC is established, then does that put us into a
39 whole another cycle and a whole another process years
40 down the road.

41

42 CHAIRMAN CARPENTER: That's a very good
43 question, Greg. Maybe we can get some expertise up here
44 to answer that.

45

46 MR. PROBASCO: Mr. Chair, the decision on
47 the 11th Council is yet to be made, but regardless of
48 what that decision is, if there's a new Council or if the
49 Southcentral will remain in the area that it currently
50 has, the proposals that are going to be received by

1 October 20th, regardless of what the status is of the
2 Councils, will be addressed this winter cycle, so they
3 will not be delayed, and the Board will act on those in
4 May.

5
6 CHAIRMAN CARPENTER: Does that answer
7 your question, Greg?

8
9 MR. ENCELEWSKI: It answers my question.
10 I just hope I can believe it. Thank you, Pete.

11
12 CHAIRMAN CARPENTER: Okay. Thank you,
13 Pete.

14
15 Anything further. Did you have a comment
16 in regards to the Ninilchik proposal?

17
18 MS. REBNE: Yes.

19
20 CHAIRMAN CARPENTER: Okay.

21
22 MS. REBNE: Thank you, Mr. Chair.
23 Committee members. Brenda Rebne for the AHTNA Tene Nene'
24 Subsistence Committee. I apologize for not having my
25 comments in writing. I am -- I just want to for the
26 record say that the AHTNA Region and its tribes supports
27 Ninilchik's efforts in opening a subsistence fishery, and
28 we think that this is a very small piece of the pie.

29
30 And it immediately brings to mind the
31 Memorial Day opening where the places -- God only knows
32 how many thousands of people go down there. This is such
33 a small fishery.

34
35 What we hadn't discussed at our meetings
36 was that this was a seven-year old process, and I will be
37 reporting that back to my Board, and we will submit
38 something in writing as well. But please, for the
39 record, the AHTNA Region does support Ninilchik's
40 efforts, and that is representative of eight Federally
41 recognized tribes.

42
43 CHAIRMAN CARPENTER: Thank you, Brenda.

44
45 If there's nothing further, I think we'll
46 move on to the next item on the agenda.

47
48 Greg, are you going to stay on the phone
49 with us through these are or you going to sleep?

50

1 MR. ENCELEWSKI: Tom, I'd like to go to
2 sleep. I'd like to just state, you know, on the request
3 for reconsideration there, option A, of course, I support
4 it, and I know our RAC has supported it in the past. I
5 see no difference to change now.
6
7 CHAIRMAN CARPENTER: Okay. Greg, thanks
8 very much. And that.....
9
10 MR. ENCELEWSKI: Yes. Thank you. Thank
11 you all. I'm sorry I couldn't be there.
12
13 CHAIRMAN CARPENTER: Okay. Have a nice
14 sleep.
15
16 MR. ENCELEWSKI: Yeah.
17
18 CHAIRMAN CARPENTER: Good night.
19
20 MR. ENCELEWSKI: 'Bye.
21
22 CHAIRMAN CARPENTER: Okay. Moving on,
23 we're going to go to -- I think Doug McBride's going to
24 present us with the proposal and analysis. This is
25 going to be the winter subsistence gillnet fishery,
26 through the ice in Tustumena Lake.
27 MR. MIKE: Mr. Chair, the special action
28 was mailed out along with your meeting material book, but
29 if you don't have a copy, I think -- I'm sure we have
30 copies available, right?
31
32 MR. McBRIDE: It should look like this,
33 Mr. Chairman. It says draft staff analysis, request for
34 temporary fishery special action.
35
36 (Pause)
37
38 CHAIRMAN CARPENTER: Whenever you're
39 ready, Doug, go ahead.
40
41 MR. McBRIDE: Mr. Chairman, do you want
42 to want until you have copies in front of you?
43
44 CHAIRMAN CARPENTER: Okay. Donald, you
45 have any more copies of this information?
46
47 MR. MIKE: Mr. Chair. Yeah, copies are
48 being made right now for Council members.
49
50 CHAIRMAN CARPENTER: Okay. We'll take

1 five minutes and get the copies and we'll reconvene at
2 9:50.

3

4 (Off record)

5

6 (On record)

7

8 CHAIRMAN CARPENTER: We'll call the
9 meeting back to order. It's 9:50.

10

11 And we're going to be presented 06-01,
12 winter subsistence gillnet fishery through the ice,
13 Tustumena Lake by Doug McBride.

14

15 MR. McBRIDE: Mr. Chairman. Members of
16 the Council. For the record my name is Doug McBride.
17 I'm with the Office of Subsistence Management.

18

19 You normally see me up here as also --
20 the organization in OSM that I belong to is Fisheries
21 Information Services or FIS for short. So normally what
22 I'm talking about is the monitoring program. However,
23 Staff does other things, including regulatory analyses.
24 And I'm here to present the Staff assessment of this
25 special action request.

26

27 Mr. Chairman, just as a matter of
28 background, the special action request that we received
29 from the Ninilchik Traditional Council in August of 2006
30 had two parts to it. The first part was the coho
31 fishery, the dip net coho fishery. You talked about that
32 earlier this morning. That has already been acted on by
33 the Board, but the second part of this, or the (b) part
34 of it was for a winter fishery in Tustumena Lake, and
35 that's what we're going to discuss here today.

36

37 In subsequent discussions with the
38 proponent, this special action request is for both a
39 gillnet and a jig fishery, both of those through the ice.
40 What I would like to do, Mr. Chairman, is in the analysis
41 that you have in front of you, I would like to skip ahead
42 past all the regulatory stuff, and come back to that at
43 the end so that you can see, there's a whole bunch of
44 pieces to this proposed regulation, and so we can discuss
45 those. But you can see where these come from when we
46 discuss them. So what I'd like to do is just skip ahead
47 to Page 4 right in the middle of the page where it says
48 extent of Federal public waters.

49

50 Mr. Chairman. This proposal is specific

1 to Tustumena Lake. And if you look at the -- there's a
2 map of that on Page 2. And so this is about the lake
3 waters of Tustumena Lake, not about the upper part of the
4 Kasilof River. Because if you look at the extent of the
5 Federal public waters, and I think if you remember from
6 the coho discussion, the refuge boundary goes down about
7 seven miles down to a place called Hong Kong Bend. And
8 then obviously the Federal waters would also include the
9 tributaries of Tustumena Lake, but this proposal is
10 specific to the lake waters of Tustumena Lake, so
11 excluding the upper Kasilof and excluding the tributaries
12 to Tustumena Lake.

13

14 The next thing I'd like to touch on is
15 the customary and traditional use determinations. I
16 think you're very aware last January the Board acted on
17 customary and traditional use determinations, and the one
18 that is pertinent to this proposal is that residents of
19 the Community of Ninilchik have a positive customary and
20 traditional use determination for the waters of the
21 Kasilof drainage within the Kenai National Wildlife
22 Refuge.

23

24 Moving into the regulatory history, we've
25 got this divided up into three parts. I think as you're
26 very well aware of, there has not been -- or there's not
27 been a legal subsistence fishery in the fresh waters of
28 the Kenai Peninsula, except for the recent action by the
29 Federal Board in 2002 dating back to 1952.

30

31 As far as contemporary state fisheries,
32 what is available currently in these waters is the State
33 sport fishery, and then I'll go back and touch briefly
34 again on the Federal subsistence fishery that was enacted
35 in 2002.

36

37 In this section we also talk about
38 personal use fisheries and educational fisheries. They
39 all exist. I wasn't going to spend really any time on
40 those. Those fisheries all occur outside of Federal
41 waters and they are all directed at salmon.

42

43 As I mentioned earlier, there is an
44 existing Federal subsistence fishery, but that fishery
45 mirrors State sport fishing regulations. So I'll say for
46 all intents and purposes what exists here currently are
47 State sport fishing regulations.

48

49 Moving on to the bottom of Page 5, the
50 biological background and harvest history, when we look

1 at what we know about fish abundance, fish distribution,
2 and sustained yield from the populations of fish within
3 Tustumena Lake, you really have to look. There's what we
4 know about sockeye salmon, and there's what we know about
5 everything else.

6
7 This proposal is for a winter fishery,
8 and so the salmon species really aren't part of this to
9 any meaningful degree, if at all. This fishery would
10 clearly be targeting Dolly varden, lake trout, and
11 rainbow trout.

12
13 So what we know about those species
14 really is very limited. There have been some really very
15 sporadic and very limited studies of these species, and
16 in fact, we don't have any actual abundance estimates or
17 anything like that. What we know about those species is
18 that Dolly varden are very likely the most abundant of
19 those three species, probably followed by lake trout with
20 rainbows being the least abundant. We obviously know
21 when these fish spawn. Dollies and lake trout are
22 shelvalinis (ph) species. They're fall spawners.
23 Rainbows are spring spawners. And these species, both to
24 spawn and to feed likely concentrate at various times of
25 the year and may very well -- and likely concentrate off
26 of some of the tributary mouths to Tustumena Lake.

27
28 Really what we know about these species
29 is -- in terms of what is likely sustainable for harvest,
30 really comes from the existing sport fishery, and that
31 was the model, if you will, that we used to try to look
32 at sustainable boundaries for this fishery.

33
34 If you look ahead to Page 8 -- excuse me,
35 Pages 7 and 8, you will see a table there, Table 1, and
36 what's in that information are estimates of both harvest
37 and catch, and catch includes both what's harvested and
38 then what is released, by species for Tustumena Lake.
39 This comes from the Alaska Department of Fish and Game,
40 Division of Sport Fisheries, and it comes from their
41 postal surveys. And there's actually a pretty extensive
42 harvest and catch history for this area dating back to
43 1983.

44
45 And what we see here is a couple things.
46 First of all, by any measure this is a very, very small
47 sport fishery. The first column -- well, actually it
48 would be the second column after years, is angler days
49 fished. Those are estimates of effort. Those are very
50 low numbers, particularly by Kenai Peninsula standards.

1 So this is a very small fishery. And when you look at
2 the data for rainbow trout and lake trout, which are at
3 the far right-hand side of the table on Page 7, and then
4 Dolly varden which is the first species on the left on
5 Page 8, what we see is just harvest and catches, too, for
6 that matter, that number in the hundreds of fish, and
7 over a 20-plus year period of time, excuse me, just
8 bounce around with no discernible pattern. They're not
9 going up, they're not going down, they're just kind of
10 bouncing around.

11
12 And as a biologist, former fishery
13 manager, the way I would certainly look at this data is
14 that there's not a lot of information known about these
15 species, but at least at these harvest levels, this looks
16 very sustainable. I mean, this has been going on for
17 over 20 years. Tustumena Lake is a very large place.
18 And we would look at these data as a good surrogate, if
19 you will, of as sustainable harvest level given what we
20 know about the information -- or given the information
21 that we know about these species today, which is really
22 very, very limited.

23
24 So we used these data to come up harvest
25 levels, just harvest guidelines, harvest caps, however
26 you want to use the term, for these species.

27
28 I would also add, Mr. Chairman, that we
29 did exactly the same thing for the coho analysis. We
30 ended up in exactly the same place. We didn't have
31 estimates of abundance. We didn't have escapement goals.
32 So we looked at the coho data which is on here as well,
33 and did exactly the same thing for the coho proposal.

34
35 So this is where we got the harvest
36 levels that you're going to now see in regulation.

37
38 Mr. Chairman, just one other comment
39 before I go back in this analysis, and then step through
40 the proposed Federal regulation for this. This is a
41 temporary special action. So this is outside of a normal
42 proposal, so this is a request for a fishery for this
43 year. So if this is enacted, this would be a fishery
44 that would only occur this year. Any further fishing
45 would be the result of a subsequent proposal which you
46 just discussed at length here this morning.

47
48 So with that, Mr. Chairman, what I'd like
49 to do is then step through the proposed Federal
50 regulation. I mean, obviously our Staff assessment is to

1 support this proposal, and this is the proposed
2 regulations on this. We would recommend them to you and
3 to the Board.

4
5 I'm looking now at the bottom of Page 3,
6 and I'm looking at the information that's in bold. So
7 you would just simply take the existing Federal
8 regulations, which is the regulations that mirror State
9 sport fishing regulations. That would all remain in
10 place. But additionally for Tustumena Lake, (A) it would
11 allow a gillnet fishery and a jig fishery through the ice
12 under the authority of a permit, a Federal permit, and
13 the total annual harvest quota for this fishery then
14 would be 200 lake trout, 200 rainbow trout and 500 Dolly
15 varden. And those numbers come from the information in
16 Table 1 that I discussed earlier. They're just numbers
17 that we pulled out of just -- they're within the range of
18 what we saw in the sport fishery that has occurred there
19 for over 20 years. That's where those numbers come from.

20
21 Moving on into the proposed regulations,
22 (A)(1) you may harvest fish under the ice only in
23 Tustumena Lake. And then this part also specifies that
24 the tributaries are closed, and that there are --
25 gillnets are not allowed within a quarter mile of an
26 tributary or outlet stream of Tustumena Lake. And gain
27 this goes back to what we discussed earlier about
28 spawning and feeding concentrations of those species.

29
30 (A)(2) speaks to the need for permits.
31 It would require a permit issued by the Federal fisheries
32 manager. The in-season manager for this area is Mr. Gary
33 Sonnevil, and he is here in the audience if you have
34 questions for him. The permit would be valid for this
35 year, so it would be a one-year permit, the 2006/2007
36 winter season, unless the season was closed by special
37 action. And if it was to be closed it would be because we
38 bumped up against one of those harvest limits that I
39 spoke about earlier.

40
41 To have a timely reporting of harvest,
42 moving on (A)(3), the harvest must be reported within 24
43 hours to the Federal fisheries manager. And we're -- we
44 would require information about the number of species
45 caught, and in addition information about the gear being
46 used. And that's what you see there in (A)(3).

47
48 Moving on to the top of Page 4, (A)(4),
49 gillnets must be checked at least every 48-hour period.
50 These are gillnets set through the ice by any measure,

1 that's a lot of work and a lot of effort. And when you
2 fish gillnets through the ice, I mean, obviously there
3 needs to be some kind of an adequate soak time to, you
4 know, have some probability of catching fish. So this is
5 kind of a trade-off if you will between allowing an
6 adequate soak time and then making sure that the nets are
7 checked on some kind of a meaningful periodic basis.

8

9 (A)(5) is just simply about marking the
10 gear. That's I think pretty straight forward.

11

12 (A)(6) talks about incidentally caught
13 fish. There are species present in Tustumena Lake. I
14 mean, I would guess species like white fish. They may
15 also bump into a coho salmon or a steelhead. We don't
16 think that it's going to be -- that's going to be a
17 significant part of the harvest. But if they are, I
18 mean, again you've got to remember this is a gillnet
19 fishery through the ice, and I don't think there's going
20 to be any meaningful release of those fish, so basically
21 if the fish are caught, they're legal to retain them.
22 but we do require that they be recorded on the permit so
23 that we know what the harvest of those fish were.

24

25 (A)(7), I'll just read it. Use of
26 aircraft and off-road vehicles is subject to the special
27 Kenai National Wildlife regulations. Regulations
28 provide that the refuge manager may open snowmachine
29 access to Tustumena Lake between December 1 and April
30 30th when there is adequate snow and ice cover. And then
31 there's contact information about the refuge. The refuge
32 manager is Mr. Robin West. Again he is present here as
33 well, Mr. Chairman. And there are refuge regulations
34 about stating when there's adequate ice to go out there
35 and do various activities. So the permit would be good
36 for the 2006/2007 season, but subject to when the refuge
37 manager says that there's adequate ice cover.

38

39 And then finally -- that actually says
40 (A)(6), that should have been (A)(8), but it just talks
41 about the need to return the permits, that that is
42 required, and we'd certainly be working with the
43 residents of the community to make sure we got accurate
44 and timely reporting of their information.

45

46 Mr. Chairman, that concludes my summary
47 of this.

48

49 Actually I think I will just mention one
50 more thing. We received one comment, just actually a

1 question from the State about this, and the question was,
2 did we view this fishery -- since we're using the sport
3 fishing information, did we view this -- these harvest
4 levels as in place of the existing sport fishery or along
5 with the existing sport fishery, and our answer to that
6 is very much the second, along with the existing sport
7 fishery. These harvest levels as we've defined them are
8 certainly -- they're not the highest harvest levels we
9 saw in the sport fishery. They're near the upper end of
10 what we've seen there, but adding that level of harvest
11 to the existing harvest history I don't think, and
12 certainly as far as Staff, we don't think would
13 meaningful change anyone's assessment of the total
14 harvest coming out of Tustumena Lake. It would still
15 number in the hundreds. It would still be viewed as
16 sustainable, and so the intent here is to do it along
17 with the existing sport fishery.

18

19 Mr. Chairman.

20

21 CHAIRMAN CARPENTER: Thank you, Doug.

22

23 Any questions. Mr. Blossom.

24

25 MR. BLOSSOM: Mr. Chair. Yeah, I've got
26 several. First of all, on Page 4, can you explain to me
27 the contemporary State fisheries? This is asked of me
28 all the time. Is this considered subsistence or not?

29

30 MR. McBRIDE: Mr. Chairman. Mr. Blossom.

31 No. Well, I mean, under contemporary State fisheries,
32 no. The answer would be no. What we were looking at
33 here is simply what exists for contemporary fisheries in
34 -- roughly in this area. As I tried to go through
35 earlier, the fisheries that are in place for the area
36 that we're talking about, Tustumena Lake, is a sport
37 fishery, and then a Federal subsistence fishery that
38 mirrors those regulations. That's what exists in these
39 waters. There are personal use and educational
40 fisheries, not in these waters per se, but close to that,
41 and available to the community of Ninilchik, but those
42 fisheries are completely about salmon. So we were trying
43 to give, you know, what we thought was a reasonable look
44 at the fisheries that are in place in this area. Outside
45 of the Federal subsistence fishery that mirrors State
46 sport fishing regulations, there are no subsistence
47 fisheries in this area.

48

49 MR. BLOSSOM: Mr. Chair. So in reality
50 these are considered the same as a sport fishery or a

1 commercial fishery then? There's no priority to those,
2 they're just another fishery, another method of catching
3 fish. So we shouldn't construe this as a subsistence
4 fishery.

5
6 MR. McBRIDE: Mr. Chairman. Mr. Blossom.
7 No, there was never any intent to construe these as
8 subsistence fishery. They are simply contemporary State
9 fishery as they exist now. But you are correct. These
10 are not subsistence fisheries and they have no legal
11 priority.

12
13 MR. BLOSSOM: Yeah. Mr. Chair. Thank
14 you. That is thrown at me all the time at home. Well,
15 they can catch them here and they can catch them there,
16 and now in reality those fisheries don't involve
17 subsistence per se. And that's what I wanted to bring it
18 out so the whole world knows this.

19
20 My next question is closing. Say you get
21 to this limit and close it. What does that mean to the
22 sport fishery for next year? Does that mean then that
23 subsistence, because they got closed, they're going to
24 have to probably close the sport fishery, too.

25
26 MR. McBRIDE: Mr. Chairman. Mr. Blossom.
27 The way we would look at this is the subsistence fishery
28 would occur in two parts. The gillnet fishery and the
29 jig fishery. If the fishery bumped up against one of the
30 harvest levels that are talked about there, the part of
31 the Federal subsistence fishery that would close would be
32 the gillnet fishery. For all practical purposes, there's
33 not going to be any release out of a winter, a through-
34 the-ice gillnet fishery. There would still be the jig
35 fishery available. So our interpretation of how this
36 would actually work is if one of those harvest limits was
37 attained, that what the manager, the in-season manager
38 would likely do then is close the gillnet fishery and
39 maintain the jig fishery where you could reasonably
40 release any of the species.

41
42 Mr. Chairman.

43
44 MR. BLOSSOM: Yeah, Mr. Chair. My worry
45 there was or thought is, is that, you know, I want to see
46 the sport fishery continue, but also we have to realize
47 that subsistence in that area has a priority. So what
48 you're saying is when they attain this cap, because we've
49 set the cap ahead of time, is that that portion will
50 close, and it isn't done based on conservation or

1 anything like that. It's just a part of the agreement.

2

3 MR. McBRIDE: Mr. Chairman. Mr. Blossom.
4 I mean, these harvest levels are designed -- they're all
5 about conservation. They're simply out level of
6 knowledge of what we think is sustainable at this time
7 based on the information that we have, which is virtually
8 nothing other than the harvest history out of the sport
9 fishery. So the harvest levels are all about
10 conservation. But they're the best we can do with what
11 we have right now.

12

13 MR. BLOSSOM: Yeah. Mr. Chair. My next
14 question, did you talk with the proponents of this about
15 a length limit on the net? You know, seeing it's through
16 the ice, I guess I would like to see to start off with
17 for this first one is like a 10 fathom which is kind of
18 recognized all over as a net to use, because they're
19 going to walk this under the ice. I mean, you can get
20 those talking things and do it. But I wondered if you'd
21 talked to them about maybe having that this first time so
22 they can carry it up there good on a snow machine and try
23 it out just for this first fishery.

24

25 MR. McBRIDE: Mr. Chairman. Mr. Blossom.
26 I don't know that we specifically talked about length
27 limits of the nets with the proponent. It certainly
28 received a lot of discussion amongst the Staff. And in
29 fact originally we were talking about, you know, about
30 putting length limits, mesh limits that kind of stuff.
31 But we looked around at other winter gillnet fisheries
32 around the State either on the Federal or the State side,
33 and we couldn't find any other length limits on the
34 gillnet gear. And basically what we ended up is we
35 thought that the sideboards on conservation were best
36 served by harvest limit, and then I think to be quite
37 frank just setting them through the ice is probably going
38 to limit the size of the net. I mean just dragging a net
39 up there in the winter and then physically setting it
40 under the ice is going to be pretty limiting in terms of
41 how much gear you can put out there. But we didn't feel
42 that we had a lot of -- you know, a lot of reason to then
43 insist of length limits as a permanent stipulation in
44 regulation.

45

46 Mr. Chairman.

47

48 MR. BLOSSOM: Yeah. Mr. Chair. That
49 does bother me though. I've commercial fished for 60
50 years, and I could rig up real easily a mile long net. I

1 could put a mile long net out there through the ice, and,
2 you know, I think that somewhere we ought to be
3 reasonable on all this and make sure they get their fish
4 and we do it in a proper method. So that does bother me.

5
6 CHAIRMAN CARPENTER: Thank you, Doug. I
7 think you'll have more than ample opportunity to amend
8 this if you think that's necessary later.

9
10 I had just a couple -- one -- I had a
11 similar question in regards to the closure. Granted,
12 it's only for one year, but my question was, if you
13 reached a harvest limit say on Dolly varden, but the
14 other two species weren't met, would you restrict the
15 fishery, the gillnet fishery by mesh size possibly or
16 something like that so that the gillnet fishery could
17 still be open, but let's -- you know, you could use a
18 larger mesh size, say, for the lake trout to still
19 harvest the number of fish that was allotted, but you're
20 not going to harvest the Dolly varden, because they're
21 going to escape. I was just curious if that was maybe a
22 possibility. And that's, you know, obviously left up to
23 the manager.

24
25 And the other question was, was the
26 limits -- I was reading in here about the exploitation
27 rate on lake trout, which is pretty significant. Well, I
28 know it is in the Copper area anyway. Were the numbers,
29 the harvest levels for like lake trout, were those -- was
30 the 200 fish, was that exploitation rate figured in with
31 the sport fish harvest or was it in addition to?

32
33 MR. McBRIDE: Mr. Chairman. I'll take a
34 shot at answering those questions.

35
36 In terms of the first question, I don't
37 think there was a lot of Staff discussion of going down
38 the path that you laid out, you know, trying to adjust
39 mesh size. And the reason for that is -- for a couple
40 reasons. We're talking about species, these three
41 species are -- a lot of them will overlap in length, but
42 there can be a lot of divergence of sizes as well. And,
43 of course, in the gillnet it's not length, it's girth
44 that will, you know, be the major parameter of terms of
45 whether they wedge i the net and all that kind of stuff.
46 And, you know, I mean, when you look at like salmon
47 fisheries, I mean, there's been a lot of work done on,
48 you know, size of the mesh, and, you know, how to do mesh
49 size for various species of salmon and that kind of
50 stuff. And that body of knowledge is not readily

1 available obviously for these species. I mean, this is
2 not a real common thing.

3
4 In fact, you know, when agencies go out
5 and gillnet for these species, trying to learn stuff
6 about them, they go out with what are called experimental
7 gillnets which are gillnets of all different meshes so
8 that they can get some idea, you know, of what's out
9 there.

10
11 So we didn't really get into that,
12 because we just didn't have much of a basis for doing it.
13 And like I say, our thinking on it is if we do bump up
14 against one of these harvest limits by species, then we
15 basically simply have to close the gillnet fishery and
16 maintain the jig fishery.

17
18 Could you repeat your second question,
19 Mr. Chairman?

20
21 CHAIRMAN CARPENTER: Well, it had to do
22 with the exploi -- I was worried about the lake trout in
23 regards to was the 200 fish number, was that number
24 derived at using a combination of that number and the
25 sport fish number for the total exploitation rate, or
26 maybe if you could tell me how you got that.

27
28 MR. McBRIDE: Yes. Okay. I'm sorry.
29 Thank you, Mr. Chairman.

30
31 Yeah. Lake trout, they are what we would
32 certainly classify as a long-lived, slow growing species.
33 And what you see in the harvest history in here, I didn't
34 really mention it when I went through my oral summary,
35 but lake trout in the Copper Basin, and the Tanana Basin,
36 have a very well documented history of severe over-
37 exploitation, and there have been a lot of conservation
38 measures that were enacted back in the late 80s and early
39 90s for lake trout and also lake populations of burbot at
40 the same time. But it was all about some very severe
41 over-exploitation.

42
43 So, we mention that in there, because
44 it's something we need to be very concerned about. Lake
45 trout just don't have a real high sustainable
46 exploitation rate.

47
48 Now, we have no idea at this point what
49 kind of exploitation is being exerted by the existing
50 sport fishery. We suspect it's low. In fact, it would

1 have to be low to be sustainable. But we have no idea
2 what that exploitation rate is. So what we simply did is
3 we simply went into the harvest history and because of
4 the way those harvest numbers bounce around, if we took
5 -- if we had this fishery and let's say we harvested 200
6 lake trout in this fishery, the total harvest, both the
7 sport harvest and now the subsistence harvest, would
8 still be basically within the range of what we've seen in
9 the past. So it's not in place of that sport harvest, it
10 is along with that sport harvest.

11
12 But again, we really don't know what
13 exploitation that is other than right now we presume that
14 it's low, but it needs to be low to be sustainable.

15
16 Mr. Chairman.

17
18 CHAIRMAN CARPENTER: Okay. Thanks very
19 much. And then my last question is, if the lake doesn't
20 freeze, do they get to still use gillnets?

21
22 MR. McBRIDE: Mr. Chairman, I believe the
23 answer to that would be no. The request was very
24 specifically for a fishery through the ice. And
25 obviously jigging is through the ice as well as the
26 gillnet. So if there is no ice, if we have one of these
27 weird El Nino warm winters where there is no ice, then
28 there wouldn't be a fishery that's proposed here.

29
30 Mr. Chairman.

31
32 CHAIRMAN CARPENTER: Okay. Thank you.

33
34 Anybody else have any questions for Doug.
35 Dean.

36
37 MR. WILSON: Doug, a couple of questions
38 here. I guess back to Tom's questions, so if -- I just
39 didn't understand your answer for it. If somebody
40 catches a couple hundred fish, lake trout or rainbow
41 trout, is the whole fishery going to shut down at that
42 point, gillnet-wise?

43
44 MR. McBRIDE: Mr. Chairman. Mr. Wilson.
45 Yes. There is -- as a practical matter, there would be
46 no way to continue to prosecute a gillnet fishery and not
47 kill the species in question. So the way we would
48 implement all of this is the Federal manager would close
49 the gillnet fishery and maintain the subsistence jig
50 fishery.

1 MR. WILSON: Okay. And another one is,
2 I'm not familiar with the access into that lake that
3 well. But it's mentioned off-road and flying in and snow
4 machining. But under (A)(3) all harvest must be reported
5 within 24 hours to the Federal fisheries manager. That's
6 within 24 hours of what? Of catching it? Of checking
7 it? Of leaving the area? Or getting home? Or when is
8 that?

9
10 MR. McBRIDE: Mr. Chairman. That would
11 be within leaving the area. And a couple of things
12 happen at that point. I mean, obviously there's a
13 provision in here to allow up to a 48-hour soak on the
14 gillnet.

15
16 The way the permits work is you have to
17 record on your permit before you leave the fishing area.
18 So they could set a gillnet, they could check it every 48
19 hours, but then when they leave -- when they're done with
20 the trip if you will, and they're leaving the area, they
21 would have to record on their permit, and then within 24
22 hours of leaving the area then report it to the Federal
23 fisheries manager.

24
25 CHAIRMAN CARPENTER: Anything further.

26
27 (No comments)

28
29 CHAIRMAN CARPENTER: Thank you, Doug.

30
31 Alaska Department of Fish and Game.

32
33 MS. GILBERTSON: Thanks, Mr. Chairman.
34 Council members. Sarah Gilbertson with Fish and Game.

35
36 And I wanted to start by asking some of
37 the same questions that you all have just been talking
38 about, specific to this special action request. We
39 wanted to in particular confirm what Federal Staff was
40 just mentioning and also what's on Page 6 about if these
41 harvest numbers are taken, then the harvest that's
42 achieved -- that achieves the recommended levels would
43 not cause other fisheries to close. And so that is to
44 say that this harvest is in addition to what's currently
45 taking place in the recreational fishery.

46
47 We also wanted to ask for clarification
48 under jigging gear, how many lines and hooks could be
49 used, whether the lines have to be closely attended,
50 whether mechanical devices such as tip-ups could be used.

1
2 Some of the other conversations that you
3 all were having about the length of the gillnet and what
4 happens when the quotas are exceeded, those are all
5 issues and items that we would like to be -- that we
6 would like to be in permit stipulations or specified
7 further in regulation, not left up to the refuge manager.
8

9 And finally we had a question about how
10 the permits would be distributed, because you've got -- I
11 don't know how many in particular, but several hundred, I
12 think around 700 residents of Ninilchik, and you're only
13 allowing a certain number of fish to be taken under this
14 proposal. And so the question that arises from the
15 State's perspective is whether the Board can legally
16 constrain the number of permits to be issued and provide
17 a subsistence preference to only a subset of Federally
18 qualified subsistence users within Ninilchik without
19 going through the Section 804 process under ANILCA land
20 the regulatory requirements of 50 CFR 100.116.
21

22 And I know those are not questions that
23 you all can answer, but I just want to put it out there
24 as the concern from the State and then better explain why
25 the State opposes this request for special action.
26

27 And in doing so, I'm going to pass out
28 some of the documents that I talked to you about in
29 August when I testified during your special meeting in
30 Anchorage, and those are the State's requests for
31 reconsideration both on the customary and traditional
32 determination for Hope and Cooper Landing on the Kenai
33 River, and our request for reconsideration with respect
34 to Ninilchik on the Kasilof River. And at that meeting
35 it was brought to my attention that the Council members
36 hadn't seen those RFRs and I think that Donald may have
37 mailed them to you, but I brought them just in case.
38

39 The other documents that I brought are
40 letters from the Commissioner and Attorney General from
41 August 8th and September 1st. And those documents oppose
42 the previous special action request, the one from
43 Ninilchik with respect to the Kasilof River. And those
44 are important, because they're background and they're
45 context for the remarks that I'm about to make.
46

47 So I'll go ahead and give those to
48 Donald, and enter them into the record.
49

50 The State of Alaska opposes this request

1 for special action because of the very foundation upon
2 which it's built, and that is the customary and
3 traditional use determinations made by the Board in
4 granting Ninilchik C&T use of the Kasilof River for all
5 the reasons that we articulate in our RFR. And we have
6 extra copies of those or can make extra copies for folks
7 in the audience.

8
9 We also continue to contest the customary
10 and traditional determinations made by the Board for
11 Cooper Landing and Hope on the Kenai River for all the
12 reasons articulated in the RFR filed with the Board on
13 this issue.

14
15 In both cases, the Board made a decision
16 to grant C&T without information supporting the eight
17 factors listed in Federal regulation and without
18 demonstrating a long-term consistent pattern of use. The
19 State views these C&T determinations as arbitrary and
20 capricious and in violation of the law. And even though
21 the Federal Board may not have accepted our RFRs, these
22 still remain concerns with the State, and in our mind
23 they're still valid questions.

24
25 Moving on, the State asserts that the
26 Board should follow its own regulations. Action on a
27 special action request is only appropriate if there are
28 extenuating circumstances necessitating the regulatory
29 change before the next regulatory cycle. That's under 50
30 CFR 100.19(d). Extenuating circumstances include unusual
31 and significant changes, or unusual conditions affecting
32 harvest opportunities that could not have been reasonably
33 anticipated, and that could have significant adverse
34 affects on the health of fish and wildlife populations or
35 subsistence uses. The Federal regulations clearly
36 indicate that requests for special action that do not
37 meet these conditions will be rejected.

38
39 Nothing has changed the Board's January
40 2006 meeting to warrant acceptance of an RSA under 50 CFR
41 100.119. Or, excuse me, 100.19. There have been no
42 significant changes in resource abundance or unusual
43 conditions affecting harvest opportunities that could
44 have significant adverse effects on the health of fish
45 and wildlife populations or subsistence uses. There's no
46 new information indicating that subsistence needs are not
47 being met by or through existing harvest opportunities.

48
49 There are several opportunities that are
50 provided by the State. The State of Alaska provides

1 substantial opportunities for residents of Ninilchik to
2 harvest fish for personal use and for cultural and
3 educational purposes. Residents of Ninilchik can and do
4 harvest fish a number of ways as sport fishermen,
5 commercial fishermen, with personal use permits, or using
6 educational permits.

7

8 In the case of the educational permit,
9 the currently allowed harvest for the three Ninilchik
10 educational permits is 1,950 total salmon. It appears
11 that more fish could be harvested, because the largest
12 annual harvest to date has been 1,508 in 2001.

13

14 There's no information that suggests that
15 the Community of Ninilchik's needs are not being met.

16

17 And so I will need it at that, unless Tom
18 Vania with the Division of Sport Fish has anything to
19 add. But the State of Alaska is opposed to this special
20 action request.

21

22 CHAIRMAN CARPENTER: Thank you, Sarah.
23 Did you have anything, Tom.

24

25 MR. VANIA: Yes, Mr. Chair. I could just
26 address the current sport fishing that goes on in the
27 lake. It is a bag limit of two a day, over 20 inches,
28 and 10 a day for under 20 inches. And then that would be
29 the same for the Federal subsistence fishery which is
30 occurring in those same waters there. They would have
31 those same limits using the same gear, which through the
32 ice would be up to two lines, closely attended.

33

34 Doug did mention about the harvest
35 numbers, how they bounce around, and typically what you
36 see when you look at these numbers is probably the reason
37 they're bouncing around has more to do with the number of
38 responses that we receive in our statewide harvest survey
39 rather than really a reflection of what the harvest is.
40 There are few respondents there. You're looking at in
41 the 30s down to the teens for respondents, so there's not
42 a lot of good clarity with harvest information from year
43 to year. You'll see these numbers bounce around like
44 that. It's probably less of a reflection of what the
45 harvest is really doing. It's more what we're getting
46 for respondents.

47

48 Which gets you back towards the we have
49 no idea what the exploitation rate is problem that we're
50 facing here. You look at lake trout. There was a high

1 of 700 -- or 473. That seemed to be an unusual year.
2 That was way back in 1988. You know, since then really
3 the harvest has probably averaged about 150 fish that's
4 there. What does that mean for exploitation? You know
5 there was good information on -- you can see lake trout,
6 there area conservation issues with it in regard to
7 exploitation rates. Ten percent's not a lot. The 10
8 percent that we're looking at on those drainages, and you
9 apply that to Tustumena, which is a very milky water
10 system. It's not very productive for those resident
11 species. We see that in our length of the fish. You
12 look at these fish, they're stunted fish. They're very
13 widely dispersed. They're not really concentrated. That
14 10 percent probably is a little high for Tustumena. It
15 would probably be on the upper end of it. Just based on
16 the characteristics of that lake compared to those lakes
17 in which you have seen those studies on. So, you know,
18 exploitation may be even a little less than 10 percent.
19 And again we don't know where we're at with it.

20

21 So you're looking at potentially
22 increasing exploitation, doubling the exploitation rate
23 as to what it has been going. So there is concern with
24 that. And it's reflected in the Staff analysis, talking
25 about how you don't want to have gillnets near the outlet
26 of the lake where they could be congregating. You could
27 have an over-harvest issue with gillnets.

28

29 So I mean, that concern about potential
30 over-exploitation with the lake trout stock, it's
31 reflected there in the Staff comments. And I just wanted
32 to point that out there to be very careful of a gillnet
33 fishery within that lake. You leave that net go for 48
34 hours, you come back, there could be a winter storm that
35 happens, that net could be soaking for longer than 48
36 hours. The net could get lost. I mean, you know, they
37 have to sink these nets. This lake is 1200 feet deep in
38 areas. These trout are going to be hanging out on the
39 bottom of the lake in the middle of the wintertime.
40 You're going to have to sink nets 400 feet, 500 feet
41 deep. They're not going to be hanging out in the
42 shallows. Ice probably doesn't form there really until
43 January. December is real iffy. It's a harsh fishery
44 that takes place there.

45

46 The harvest surveys that we have, we
47 don't know if that harvest is taking place all in the
48 wintertime or in the summertime. You see some years like
49 in 2000 the harvest jumped up a little bit. It could be
50 a reflection of what their salmon fishery was doing. If

1 your salmon fisheries are closed in 2000, as they were,
2 there was a lot of restrictions, people could be shifting
3 efforts towards the summertime -- other opportunities. I
4 don't know.

5
6 But there is that concern of lake trout.
7 It's very slow growing in that lake, very stunted, widely
8 dispersed.

9
10 You know, how many fish are they going to
11 catch with a gillnet under the ice down deep? You know,
12 I don't know. It won't be an easy fishery.

13
14 Jig fishery, you know, there's probably
15 fewer concerns with the jig fishery, you know. I mean,
16 you're closely attendant. You're there all the time.
17 It's a lot easier to control that. You know, the stakes
18 are less likely to happen on a stock, particularly with
19 this lake trout.

20
21 CHAIRMAN CARPENTER: Thank you, sir.

22
23 Doug, do you have a question.

24
25 MR. BLOSSOM: Mr. Chair. No, I wouldn't
26 have a question. I've got several.

27
28 First of all, do you recognize that
29 Ninilchik has a C&T finding for Tustumina Lake?

30
31 MS. GILBERTSON: I would answer that by
32 saying the RFR that you have before you addresses the
33 State's opposition to the C&T finding for Ninilchik on
34 the Kasilof.

35
36 MR. BLOSSOM: Yeah, I see that. But I
37 see it as a gripe, but I don't see you winning that
38 argument. Do you think you could win the argument that
39 they don't have C&T?

40
41 MS. GILBERTSON: Mr. Chairman. Council
42 members. I can't say whether the State's going to win
43 that. You know, and it just is. It's a concern. It's
44 something that we all disagree on. And that's as far as
45 I can go.

46
47 MR. BLOSSOM: Yeah. I guess, Mr. Chair,
48 that's the crux of the whole thing. And as I look at it,
49 I think the Federal people have ruled and that's where it
50 stands, so that's how I'm going to have to assess this.

1 So next of all, I hear you saying the
2 same thing the Feds do. They talk about these personal
3 use fisheries. Do you regard those as subsistence or
4 just another fishery like a personal use, sport fishery,
5 or commercial.

6
7 MS. GILBERTSON: Mr. Chairman. Council
8 members. The State -- under the State system, this is a
9 nonsubsistence area. And so having said that, the
10 question is, are the needs being met in Ninilchik. And
11 that's the question that the State asks when we're play
12 -- when we're looking in the Federal Subsistence Board in
13 this arena.

14
15 And I guess in the State's view, we
16 haven't seen any information that suggests that
17 subsistence -- that needs are not being met in Ninilchik.
18 And, you know, if there are no subsistence fisheries,
19 we're looking at the numbers and we're saying they
20 haven't taken all the fish that they could take in the
21 educational fisheries. We do know that residents of
22 Ninilchik participate in the personal use fisheries. So
23 we haven't seen any information that suggests that needs
24 in the Community of Ninilchik are not being met.

25
26 MR. BLOSSOM: Mr. Chair. But it's very
27 important that I hear you answer. Is this just another
28 fishery like a sport fishery, commercial fishery, or is
29 it a special fishery that you consider subsistence.

30
31 MS. GILBERTSON: Mr. Chairman. For
32 clarification, you're talking about the personal use
33 fishery.

34
35 MR. BLOSSOM: Yes.

36
37 MS. GILBERTSON: The personal use fishery
38 is a personal use fishery, and we believe that needs are
39 being met via that personal use fishery and educational
40 permits and sport fishing regulations.

41
42 MR. BLOSSOM: So then I guess I look at
43 it this way. If it's just another fishery, if you're
44 assessing Ninilchik's needs, why didn't you assess
45 Anchorage's? I don't think Anchorage would ever agree
46 that their needs are being met. And, you know, so that's
47 why it's important. I think we either take these
48 fisheries that the Federal people say aren't subsistence.
49 They're just another fishery like personal use or sport
50 or commercial, and I don't think you'll get anyone in

1 Anchorage to agree that they're getting their needs met
2 now. So it's just -- we can't ever meet all their needs.
3 So if this isn't a special fishery for subsistence, we
4 need to quit talking about it. It isn't part of
5 subsistence.

6

7 CHAIRMAN CARPENTER: Thank you, Doug.

8

9 Any other questions.

10

11 I had one question, but now I forgot.
12 Oh. Would you assume from the State's perspective that
13 most of the lake trout that are harvested are harvested
14 during the spawn when they come to the shallows in the
15 sport fishery?

16

17 MR. VANIA: Mr. Chair. No, I wouldn't
18 assume that.

19

20 CHAIRMAN CARPENTER: Okay. And the
21 reason I was asking is I know that they're easily
22 exploited during the spawn in certain areas, and if that
23 were the case, then -- I didn't really realize that that
24 lake was that deep. I would assume that it would be a
25 lot harder to exploit these fish in the winter time with
26 a gillnet even, especially if there was a size limit than
27 it were a lot shallower. But -- okay.

28

29 Thank you.

30

31 Anybody else have any questions for the
32 Department. Dean.

33

34 MR. WILSON: Yeah, I've got a question
35 I'm that familiar with gillnetting especially at 400
36 feet. Is there -- do you guys have any experience with
37 that? Has that been done out there by the Department for
38 any studies that you guys have done, or do you have any
39 documentation of any kind of monitoring on that lake
40 using gillnet?

41

42 MR. VANIA: Mr. Chair. Mr. Wilson.
43 There was in the past after World II in the early 50s
44 where they has some commercial gillnet fisheries going on
45 underneath the ice there. This is where we obtained some
46 of our information was the guys that had personal
47 experience with doing so. It was tough, it was
48 difficult, and they were certainly making us aware of
49 that if you're going to catch fish in the wintertime at
50 Tustumena Lake, you're fishing deep water. Yeah, and

1 they did sink nets.

2

3 The Department, no. We're not crazy
4 enough to try to go sink a net 400 feet in the middle of
5 wintertime on Tustumena Lake looking for lake trout.

6

7 MR. WILSON: So the documentation that
8 you saw wasn't just gillnetting under the ice, it was
9 actually 400 feet deep?

10

11 MR. VANIA: It was a verbal communication
12 that we had.

13

14 MR. WILSON: That they were 400 feet
15 deep?

16

17 MR. VANIA: Uh-uh. (Negative)

18

19 MR. WILSON: Okay.

20

21 MR. VANIA: Yeah.

22

23 CHAIRMAN CARPENTER: Okay. Thank you.

24

25 If no one has any questions.

26

27 (No comments)

28

29 CHAIRMAN CARPENTER: Thanks a lot. Other
30 Federal, State, tribal agencies. You do? Doug has a
31 question.

32

33 MR. BLOSSOM: Yeah. Mr. Chair. I
34 definitely want to hear the refuge people come and tell
35 us what they think, because they manage the area we're
36 talking about. They're more knowledgeable than anyone on
37 that area.

38

39 CHAIRMAN CARPENTER: I'm sure we
40 could.....

41

42 MR. WILSON: The refuge manager.

43

44 CHAIRMAN CARPENTER: Do you mind waiting
45 for a second, Darrel and then coming on up.

46

47 MR. WEST: Mr. Chair. Council members.
48 I'm Robin West, refuge manager. Joined by Gary Sonnevil,
49 who is our in-season fisheries manager.

50

1 And we're familiar with the area. We
2 can't say we're familiar with the proposed fishery as
3 it's obvious, you know, that this really hasn't existed
4 in some time. However, diaries from homesteaders in the
5 area and so forth that kept good notes 100 years ago or
6 so indicate that this kind of fishery existed in some
7 form to supplement food in the winter, people who lived
8 around the lake and so forth. So people have done it in
9 the past in some form with success given those diaries.

10

11 As the manager, you know, we hear all of
12 the public's interest, concerns and so forth routinely,
13 and like anything on the Kenai, this proposal and any
14 future ones we see surrounded by a certain amount of
15 controversy.

16

17 Focusing just on two things as
18 management, in management though, one is on
19 administration of the fishery, safety, and those kind of
20 things. We're fairly pleased, with, you know, with what
21 we've seen in terms of communications with the proponent,
22 OSM, Staff comments, and our ability to work on permit
23 stipulations, and that kind of thing. So it's something
24 we could administer.

25

26 From conservation interests, which is
27 paramount, anytime there's a gillnet involved, there's
28 red flags. But as has been pointed out here, a winter
29 fishery is going to be difficult, and it's a huge lake,
30 it's a deep lake. It's a one-year thing we're looking at
31 in terms of, you know, if there's considerable
32 information that we just -- conservation concerns in the
33 future, we certainly could make amendments. So just
34 based on, you know, that kind of professional judgement,
35 I think that, you know, we're fairly comfortable in terms
36 of conservation on starting something like that. And all
37 other arguments aside.

38

39 But I think Mr. Blossom's comments on
40 length of the net, whether that's an issue or not, is not
41 an unreasonable thing to work with the proponent on
42 something.

43

44 But I'll just leave it at that. I think
45 that, you know, we're not uncomfortable with the proposal
46 in terms of management or conservation at this time.

47

48 CHAIRMAN CARPENTER: Did you have another
49 question, Doug.

50

1 MR. BLOSSOM: I guess I'd like to hear
2 from the fisheries side, too, what you've seen. You've
3 got a lot of years up in that lake. Are you happy with
4 this? Can you live with it? Let's hear it.

5
6 MR. SONNEVIL: Well, Mr. Chair. Mr.
7 Blossom and other Council members. We have some
8 experience with the Tustumena Lake. We did sample
9 Tustumena Lake in the late 1980s specifically looking to
10 see what we could find, looking for lake trout, looking
11 for rainbow trout, Dolly varden. That fishing activity
12 with variable mesh gillnets took place I believe in May
13 and June. We wanted to sample prior to the arrival of
14 the sockeye salmon. We had no desire to start filling a
15 gillnet full of sockeye, but we wanted to look for those
16 resident species and see what we found. We found a very
17 slow growing population of lake trout. I don't think we
18 saw anything much over about 24 inches in length.

19
20 We just completed some sampling Skilak
21 Lake back in July, working with some lake trout
22 biologists from the Great Lakes area. They brought their
23 equipment. We went out, worked with them. Again we saw
24 nothing over about 24 inches, and that was the biggest
25 fish, and only 1, weighing about four and a half pounds.
26 We saw those fish maturing at about 15 inches. We don't
27 have the aging information back from those folks yet, but
28 we're excepting it probably this spring when the submit a
29 final report to us. So we're we're not dealing with
30 monster lake trout that we're aware of out there. There
31 may be a few, but they're few and far between.

32
33 The folks that -- and I wasn't in the
34 office when we sampled back in the last 1980s. I arrived
35 just after that time period, but I did participate on the
36 Skilak. And the folks that we went out with definitely
37 knew how to capture lake trout, and this was the same
38 gear that they've used in lakes in Canada and the Great
39 Lakes systems as well.

40
41 The largest mesh size as I recall that
42 they were fishing was four and a half inches stretched
43 mesh. So we're not talking large mesh nets, and most of
44 the fish were caught in the smaller mesh sizes and most
45 of the fish caught were smaller, up to about 15, 16
46 inches.

47
48 CHAIRMAN CARPENTER: Thank you. Dean, do
49 you have a question.

50

1 MR. WILSON: Yeah. Based on the amount
2 of feedback that you've heard, or you've gotten back from
3 the locals in that area, what kind of participation are
4 you guys going to expect to be involved with this
5 fishery?

6
7 MR. SONNEVIL: Mr. Chair. Mr. Wilson. I
8 have no idea, to be honest with you. Fishing a gillnet
9 under the ice would be sort of an interesting experience,
10 but it's going to take some time. It also is going to
11 take some gear. And the amount of interest and
12 participation, I just have really no feel for it.

13
14 MR. WILSON: If you get a lot of
15 participating and it starts looking like you're going to
16 get more than you expected, do you guys have any
17 safeguards or any plans that you're going to put in place
18 to try to regulate the amount of participants, or are you
19 just going to be spending more time out there trying to
20 ensure that your limits aren't going to be breached or
21 that the take isn't too much?

22
23 MR. SONNEVIL: Well, Mr. Wilson, each
24 permit that is issued will be issued to an individual.
25 Any other family members wishing to participate will have
26 their names on the permit as well, as well as their
27 address and phone numbers. So if I haven't heard from
28 anybody in regards to their fishing efforts, and we've
29 had safe ice conditions say whenever, January 1, sometime
30 in December, then I'll start calling some of the permit
31 holders to see just if they've had an opportunity to fish
32 and where we're at with it. And I would imagine that the
33 refuge would have some patrol presence on the lake as
34 well. And we'll see how many people actually are
35 interested in getting a permit.

36
37 This past year was the first year that I
38 haven't issued a Federal subsistence permit. In previous
39 years it's just been very limited. But, of course, we're
40 talking a whole different fishery here now, and we're
41 talking on Tustumena Lake, so that -- we could have quite
42 an interest in the Community of Ninilchik.

43
44 CHAIRMAN CARPENTER: Okay. Any other
45 questions for the refuge. Doug.

46
47 MR. BLOSSOM: Yeah. Mr. Chair. I see
48 one part of this is what vehicles can go in and can't go
49 in. For instance, can an airplane land on the ice and
50 fish this or is that going to be considered something --

1 and I don't fly any more, so don't look at me, but I just
2 wondered, is that going to be a method that can be used
3 once you open it, or when the ice forms? I guess it
4 would be the ice form for the airplane thing.

5
6 MR. WEST: Yeah. Aircraft can legally
7 land on the lake year round.

8
9 CHAIRMAN CARPENTER: Okay. Thank you,
10 guys.

11
12 Let's see, Darrel, were you going to
13 comment for Ninilchik.

14
15 MR. WILLIAMS: Mr. Chairman. Members of
16 the Board. Again I'm Darrel Williams with Ninilchik
17 Traditional Council. And this is Sky Starkey. I think
18 everybody's met him.

19
20 For the sake of time I'm not going to do
21 a lot of commenting. Some of the things that I would
22 like to address is directly related to this educational
23 fishery that Mr. Blossom brought up.

24
25 The educational fishery does not meet
26 subsistence needs. And it's really interesting the way
27 this is panning out. In Ninilchik specifically there are
28 three educational permits. Ninilchik Traditional Council
29 holds one, Ninilchik Native Descendants holds another,
30 and the fire department holds another.

31
32 Now, why would the fire department need
33 to meet subsistence needs? That's a really good
34 question, but I don't hear anybody bringing that one up.

35
36 When you read through some of these
37 analysis, what you're seeing is they're saying, they're
38 not filling their educational permit harvest. They're
39 not using all their fish. And if you break it down
40 permit by permit, NTC uses all of their fish. Probably
41 for the last four years they've completely exhausted the
42 allocation for kings. They've come nearly close to
43 exhausting the entire allocation for silvers. And I'd
44 say about 70 percent for red salmon.

45
46 It's just the semantics of how this is
47 being addressed that really hits home. We have asked
48 several times for allocations to be addressed. And the
49 answer is usually, you guys haven't used your allocation.
50 Well, the fire department doesn't really need to meet

1 their allocation, and we're still confused about why the
2 fire department has an educational fishery. If they like
3 to teach their kids, whatever, that's cool. But when it
4 gets pulled into the realm of subsistence here at a
5 Federal meeting, guys, it's just really rough, you know.
6 I mean, I have to look at it and really put it into
7 context. And it's being delivered very, very far out of
8 context.

9

10 This particular proposal is a start.
11 It's somewhere to start and get this thing going. We've
12 been working on it for a long time. Everybody is fairly
13 happy with the way it's written., There are some minor
14 things that people would like to see changed that they've
15 expressed to me.

16

17 One is also the reporting period. I
18 think another thing we need to put back in context is
19 this is about a rural community. We can't jump on the
20 bus and run down to the refuge, and it is a long trip. I
21 personally would like to see that time limit extended a
22 little further for reporting, especially within the
23 regulations it says that we may be issued citations for
24 not getting that done. That's a pretty hard standard for
25 a subsistence user I would believe.

26

27 Back to the allocation issue, I hit a
28 bump there. But we're going to get into that more later.
29 And I'm trying to think on how to address this. We've
30 asked a lot for allocation pertaining to the educational
31 fishery. It has not happened. One of the other things
32 we've done in order to use these resources is that we've
33 pursued the subsistence fishery, and we all know where
34 that's got us so far. So it's really a difficult time to
35 be able to get this done. I believe that if we start
36 here, it will be a positive start.

37

38 Oh, and the other note I have here, too,
39 as far as access. Somebody was asking about access to
40 Tustumena. That goes across CIRI's property, Cook Inlet
41 Regional Corporation. They have the property there, the
42 easement that goes down there, and that would be the
43 primary access to the boat launch and all that kind of
44 stuff.

45

46 So that's really all I had to comment on.
47 Are there any questions for me?

48

49 CHAIRMAN CARPENTER: Thank you, Darrel.
50 Dean.

1 MR. WILSON: I've got a couple. You
2 mentioned the 24-hour reporting. I brought that up
3 earlier to someone about the 24-hour reporting portion
4 under (A)(3), all harvest must be reported within 24
5 hours to the Federal fisheries manager. What would you
6 like to see that, understanding that this is a gillnet
7 fishery, so I think that the concern is that going over
8 the limit with too many folks out there fishing, they
9 want to be a little more hands on, but what would be your
10 recommendation?

11
12 MR. WILLIAMS: Mr. Chair. Mr. Wilson. I
13 would like to see something up to -- anywhere from 72
14 hours to maybe 7 days personally. And I say that because
15 after listening to how many permits have been issued this
16 year for subsistence use on Tustumena Lake from the
17 refuge folks, the fishing pressure on this stock seems to
18 be very low. That's why I would say that.

19
20 MR. WILSON: Is it more of an
21 inconvenience to go 48 hours or something like that? I'm
22 just thinking about coming from the aspect of avoiding
23 too long and then several people have some pretty big
24 catches in there. I mean, the annual -- total annual
25 harvest really isn't that big, and if you're going to
26 wait too long -- seven days seems like a long time in
27 consideration there, but I just don't know what the
28 participation is going to be from the Ninilchik folks in
29 this fishery.

30
31 MR. WILLIAMS: Mr. Chair. Mr. Wilson. I
32 believe in the past the reporting requirements from
33 Ninilchik have been fairly good. There are some issues
34 that come with enforcement issues. If Mr. Encelewski was
35 here, he would also pipe in on this. We've had
36 considerable issues in Ninilchik when it comes to this.
37 When there is a threat so to speak in the regulation,
38 people get scared and they don't want to use it. So part
39 of what we were talking about, we were discussing, was
40 trying to make this more user friendly.

41
42 Soldotna is not that far away, that is
43 very true. What we were thinking and discussing was if
44 somebody were to go out and spend the day fishing, for
45 example, it was a weekend, for example, the refuge isn't
46 open. It's going to cause some confusion on how to get
47 the reporting back to the manager specifically. What if
48 it's a long holiday? What if it's Christmas vacation
49 where they want to take the kids out and go do this kind
50 of stuff.

1 And that's where we got really kind of
2 concerned about how are we going to make this reporting
3 really work and make it effective. Because the reporting
4 is really important. We need more information about this
5 particular fishery.

6
7 So in order to make it more practical and
8 to remove this fear so to speak of losing, I believe it
9 says, you may actually lose your subsistence privileges,
10 or future permits, a lot of people were really concerned
11 about that. My understanding is that there are some
12 people who are close to this issue who have received
13 letters before about not filling out their reporting
14 requirements. And I guess I'd rather see a fishery where
15 it's -- people are able to participate and they're able
16 to get this information in. And that's just kind of
17 scary.

18
19 I think a trip to the refuge and filling
20 out the paper is not an unreasonable request, but think
21 that sometimes within 24 hours, that's just a pretty
22 short time period.

23
24 MR. WILSON: Yeah. I agree with you on
25 that. I'd hate to set somebody up for failure on this
26 one, and then we're going to scare all those folks off.
27 And I know a lot of times people are going to be involved
28 with this fishery -- that would be involved with this
29 fishery are doing other things out there other than just
30 fishing as well, so trying to get back after they leave
31 the fishery site might be a challenge.

32
33 And your recommendation again was 72
34 hours on up to a week is your.....

35
36 MR. WILLIAMS: (No audible answer)

37
38 MR. WILSON: Okay. One more follow up on
39 that if I can, Tom, here.

40
41 The annual harvest quota, 200 lake trout,
42 200 rainbow trout, 500 Dolly varden that the Staff has
43 inside of their portion. Kind of a two-part thing. Is
44 that adequate, and how many folks will that supply for?
45 How many folks will that provide for if that take is
46 achieved?

47
48 MR. WILLIAMS: Mr. Chair. Mr. Wilson.
49 It's kind of a long answer, so please bear with me.

50

1 To kind of get started, no, it is not
2 adequate. This is a temporary fishery, and this is just
3 a start. We're not even sure if we're going to be able
4 to perform this harvest. This has come up before.
5 Tustumena Lake is not like a lake out in the Swanson
6 River system where you can go out and you can do
7 activities. It is a treacherous lake. It is huge. It
8 is a large mass of water with a catabataquin (ph) that
9 comes out across it. It is an extreme environment.

10
11 Now, when the Federal Subsistence Board
12 delineated the proposal and changed it into this, this
13 was their wishes and their desires to see this happen.
14 Now, we keep coming back to these things like
15 circumstances beyond the control of the users. Now, when
16 the Federal Subsistence Board changes a proposal from
17 what it was into something else, that is out of our
18 control. We can't do anything about that. But then the
19 State will sit here and say, there's no circumstance like
20 that that exists. They haven't done this in 52 years.
21 Well, these people are still trying.

22
23 And, you know, for the sake of time, one
24 of the things we've done is we've tried to collaborate
25 our efforts, and send just a few of us in here to address
26 the RAC. And the RAC, the Southcentral Regional Advisory
27 Council, has done an outstanding job. They ask the right
28 questions, they're interested, they're attentive, they
29 listen to the users. And you guys have really done a
30 fantastic job. And we're very satisfied with that.

31
32 But what seems to have happened on this
33 is there's been so many changes, the learning curve is
34 high. We didn't ask necessarily in the original proposal
35 to do 400 feet ice fishing through the ice net type
36 stuff. One of the original things that we had asked for
37 originally was the Kenai River system, the Swanson River
38 system, to be able to go ice fishing and things like
39 that. That was part of what we did. People do want to
40 use the Tustumena Lake for these activities, don't take
41 me wrong. But what happened was is we got -- this whole
42 thing has been brought down to a very small area, and
43 there are some real questions on it where we're not 100
44 percent sure.

45
46 It's a good place to start. That seems
47 to be the attitude of what everybody has. And being as
48 this is a temporary proposal, it's a very temporary
49 thing. There's going to be more work to be done on it.
50 We think it might be the best place to start.

1 There's a whole bunch to the issue. I
2 hope that answers your question.

3
4 MR. WILSON: Not really, but we could
5 probably just -- real quickly, any idea how many folks
6 that that annual quota is going to provide for.

7
8 MR. WILLIAMS: Mr. Chair. Mr. Wilson.
9 As a rough guess, off the top of my head, I would assume
10 probably -- as far as household numbers, I would be
11 estimating probably within 100 households that would be
12 utilizing that kind of fish.

13
14 Today I brought with me -- I don't
15 remember if everybody remembers, the PowerPoint
16 presentation we did I think about a year ago, maybe a
17 year and a half ago that actually has the figures from
18 our survey information on that. And I'll distribute that
19 to you guys here in just a minute. But it definitively
20 breaks down the type of subsets that the users -- or the
21 group of users in the subsets who use what kind of
22 resources. It might help answer the question.

23
24 CHAIRMAN CARPENTER: Thank you, Darrel.
25 I think your assumption is correct. This is probably a
26 good starting point. The levels are reasonable. It is
27 for one year. I think there will be some good
28 information gained. If you all hopefully are -- can make
29 this fishery work this winter, if you have good ice and
30 the weather conditions are good. Hopefully you can make
31 it work, and take the information forward in the future,
32 and derive different proposals from that.

33
34 So if no one else has any questions.
35 Doug.

36
37 MR. BLOSSOM: Mr. Chair. Thank you. My
38 one concern that I voiced earlier was length of net. For
39 this experimental fishery, and the first time doing it,
40 would you folks be willing to go with like a 10 fathom
41 net, just for this thing to try it. You know, I'm not
42 saying that has to be the final, but I would like to see
43 it so that it's feasible to try, because if there's no
44 net length, somebody will go out there and try to put
45 something in he can't handle, and so I'd like to see --
46 if we're going to do this, I'd like to see it work. And
47 I guess I'm asking you folks what you think of that.

48
49 MR. WILLIAMS: Mr. Chair. Mr. Blossom.
50 Yeah, my understanding was that we were going to start

1 looking with a 10 fathom net, and we were going to try to
2 see how this whole thing develops.

3

4 CHAIRMAN CARPENTER: Good enough, Doug?

5

6 Did you have something, Mr. Starkey.

7

8 MR. STARKEY: Thank you, Mr. Chairman. I
9 did.

10

11 A couple of things. Darrel can confirm
12 this I think, but I wanted to point out that -- on this
13 whole issue about the educational fishery, I hope that as
14 the Tribe and their representatives come before you, that
15 we will be presenting evidence and statements that you
16 find credible, and that you find to be supported by what
17 we provide.

18

19 I would like to point out that the
20 State's information about educational permits is based on
21 the accumulation of the three educational permits that
22 they issue. And, of course, the Tribe has no control
23 over them issuing an educational permit to the fire
24 department, and has no control over how the fire
25 department handles their educational permit.

26

27 The genuine information would be how many
28 fish the Tribe catches compared to how many are allowed
29 under their educational permit. And the fact is that for
30 the important species for the Tribe, chinooks and cohos,
31 the Tribe fills their quota and asks for more and is
32 denied. The Tribe also asked for a simple catch for a
33 ceremonial potlatch, and the reply they got back from the
34 State was, no, just take it out of your educational
35 permit. So that's kind of what's going on with the
36 educational permit.

37

38 I would like to encourage the Regional
39 Council, if you agree that this is a good proposal, and
40 should be acted on as a special action request, to also
41 specifically find that you believe there are extenuating
42 circumstances that meet the criteria in the regulation.
43 That you believe that the finding of customary and
44 traditional use at the last cycle, combined with the lack
45 of opportunity to get a fishery proposal before the Board
46 for this year and the long delay in having any
47 subsistence fishery for Ninilchik rises to the level of
48 an extenuating circumstance. That would be very helpful,
49 because there's been a lot of confusion about that. The
50 Council didn't make that recommendation the last time

1 around specifically, and it would be helpful to Ninilchik
2 if you feel that way to include that in your record.

3

4 And I guess the last point that we would
5 like to make is that the State has provided nothing in
6 terms of information, aside from what they say about the
7 educational permits to demonstrate their statement that
8 Ninilchik's subsistence needs are being met. On the
9 other hand, this Council has a long record of people from
10 Ninilchik coming before you saying they're not. There's
11 an affidavit from Bob Wolfe, who is probably the more
12 respected subsistence researcher that's come out of the
13 State, that was submitted in August, that demonstrates
14 his view as an anthropologist that subsistence needs are
15 not being met.

16

17 And if the State was genuine and sincere
18 about finding out if subsistence needs were being met, it
19 would seem reasonable that the first step would be to
20 come to the Tribe and say, are your needs being met? And
21 that hasn't happened.

22

23 Thank you very much.

24

25 CHAIRMAN CARPENTER: Thank you, Mr.
26 Starkey.

27

28 Any questions. Doug.

29

30 MR. BLOSSOM: I guess, Mr. Chair, I've
31 got one because you brought it up again. What does
32 educational fishery permits have to do with subsistence?
33 I thought I kind of got it established through the
34 Federal boys, and even with the State somewhat that an
35 educational fishery is just another fishery. It's not a
36 priority like subsistence. So I don't see how you can
37 even use that as meeting subsistence needs.

38

39 MR. STARKEY: Thank you, Mr. Blossom,
40 through the Chair. You're absolutely right. And our
41 point was not that the two fisheries should be confused,
42 but more to the point that I think that when we come in
43 front of you, or anyone comes in front of you, we have an
44 obligation to try to present evidence that is forthright
45 and that gives the full picture of what's going on. And
46 for the State to bring the evidence in and lump
47 everything together to try to demonstrate that
48 Ninilchik's not getting its -- that there's plenty of
49 fishing in Ninilchik is just -- we just object to it,
50 because the tribe has a history of using whatever they

1 can get and asking for more. And that we feel like is
2 the relevant piece of information here.

3

4 CHAIRMAN CARPENTER: James, did you have
5 a comment.

6

7 MR. SHOWALTER: Yes. Mine was basically
8 the same as Doug's, is we don't want to confuse
9 subsistence with the State educational net, because
10 educational net is just that, ed. And because they don't
11 give us subsistence. They're against it. And so they
12 give out subsistence permits. And what we're looking at
13 is Federal subsistence.

14

15 CHAIRMAN CARPENTER: Thank you, James.

16

17 If there's no other comments.

18

19 (No comments)

20

21 CHAIRMAN CARPENTER: Thanks guys.

22

23 MR. WILLIAMS: Thank you.

24

25 CHAIRMAN CARPENTER: InterAgency Staff
26 Committee comments.

27

28 MR. BERG: Thank you, Mr. Chair. Jerry
29 Berg, Fish and Wildlife Service, InterAgency Staff
30 Committee member.

31

32 The InterAgency Staff Committee doesn't
33 have any additional comments. I think you've heard most
34 of the issues raised here, and we'll just be interested
35 to hear your recommendation on the proposal.

36

37 Thank you.

38

39 CHAIRMAN CARPENTER: Thank you, Jerry.

40

41 Is there any fish and game advisory
42 comments.

43

44 (No comments)

45

46 CHAIRMAN CARPENTER: Summary of written
47 public comments, Donald.

48

49 MR. MIKE: Mr. Chair, we did not receive
50 any written comments on this special action.

1 CHAIRMAN CARPENTER: Thank you. Is there
2 any additional public that would like to comment on this.

3

4

5 Darrel, is there anybody else from
6 Ninilchik that wants to comment public, or were your
7 comments adequate.

8

9 MR. WILLIAMS: Mr. Chair. Members of the
10 Board.

11

12 What we tried to do, the same kind of
13 thing. Since this is a temporary fishery, we tried to
14 consolidate everything together in one testimony for the
15 sake of time.

16

17 CHAIRMAN CARPENTER: Thanks very much for
18 doing that.

19

20 Okay. If there's no further comments.

21

22 (No comments)

23

24 MR. MIKE: Mr. Chair.

25

26 CHAIRMAN CARPENTER: Yes.

27

28 MR. MIKE: The State wanted to comment.

29

30 CHAIRMAN CARPENTER: The State would like
31 to comment again. Okay.

32

33 MS. GILBERTSON: Thanks, Mr. Chairman.

34

35 Perhaps just to clarify. I was not
36 saying that the educational permits that we issue are for
37 subsistence fisheries. Quite to the contrary. According
38 to our Staff, they go to great lengths to make sure that
39 what we're doing when we issue an educational permit is
40 to teach a way of harvest. And in talking to Nicki
41 Szarzi who is here with us, and she could speak at great
42 length about what she does when she issues these permits
43 and how she issues them, it's clear to me and I don't
44 think that I said that when I was up here, that these are
45 not subsistence fishing permits.

46

47 What I did say is that from the State's
48 perspective, the question is, you know, having said and
49 recognized that this is a nonsubsistence area, when we
50 then come into the Federal Subsistence Board arena, are

1 the needs being met. And I think that perhaps Mr.
2 Starkey has mischaracterized my previous comments and
3 what the actual numbers are with respect to educational
4 permits.

5
6 And when we look at all the opportunities
7 for the Community of Ninilchik, not just Ninilchik
8 Traditional Council, when we look at the Community of
9 Ninilchik, they're very active in our personal use
10 fisheries. They go dipnetting, they go sport fishing.
11 They use educational permits. They're very active
12 harvesters. And all the State is saying is that there's
13 no information that we're aware of that suggests that
14 needs are not being met, and therefore the Federal
15 Subsistence Board needs to take action.

16
17 So hopefully that clarifies my previous
18 remarks. I don't mean to engage in a debate on this
19 issue. I just want to clarify what I was saying
20 previously, because I believe it has been slightly
21 misconstrued.

22
23 Thank you.

24
25 CHAIRMAN CARPENTER: Thank you, Sarah.
26 Doug.

27
28 MR. BLOSSOM: Yeah. Mr. Chair.

29
30 So you would agree that my commercial
31 fishery entry permit is much the same as an educational
32 fishery permit. It's a permit the State issues to do an
33 activity?

34
35 MS. GILBERTSON: Mr. Chairman. Mr.
36 Blossom. I'm not prepared to comment on your commercial
37 fishery permit.

38
39 But, you know, the point here is that we
40 issue a whole range of permits and licenses, and in this
41 case we don't have any information that suggests that
42 needs are not being met in the Community of Ninilchik,
43 and therefore that the Federal Subsistence Board would
44 need to take action.

45
46 Thank you.

47
48 CHAIRMAN CARPENTER: Thanks a lot.

49
50 Okay. If there's no further comments.

1 (No comments)

2

3 CHAIRMAN CARPENTER: We'll go into
4 Regional Council deliberation. The Chair would accept a
5 motion to put Special Action 06-01 on the table. Dean.

6

7 MR. WILSON: Mr Chair. I would ask that
8 we put Special Action 06-01 be adopted for our Council.

9

10 CHAIRMAN CARPENTER: It's been moved.
11 Has it been seconded.

12

13 MR. BLOSSOM: Second.

14

15 CHAIRMAN CARPENTER: It's been moved and
16 seconded. Discussion. Doug.

17

18 MR. BLOSSOM: I guess I can start it. I
19 think I've got most of my questions answered by
20 testimony. It sounds to me like the refuge people who
21 are going to be in charge of this are fairly comfortable
22 with it. I am more comfortable with it now that I hear
23 the proponents are willing to have a net length limit. I
24 just couldn't abide by that no limit. I think it's
25 possible to do, and I think it's going to be a one-year
26 thing to see how it works, and that will make us a lot
27 smarter. And so I guess unless I hear something
28 different, I'm going to be for this.

29

30 CHAIRMAN CARPENTER: Thank you, Doug.
31 Dean.

32

33 MR. WILSON: I wanted to see if we can
34 ask one more question of the fisheries refuge manager.

35

36 CHAIRMAN CARPENTER: I think he's here
37 still. There you are.

38

39 MR. WILSON: I have a couple of ques --
40 well, one specifically. Back to the 24-hour reporting
41 portion. That's what's written in there right now. If
42 that was moved to 72 hours, which would accommodate more
43 of the folks that are gone the entire weekend, or even
44 longer than that, do you see any issues with that?

45

46 MR. WEST: Well, I'll let Gary speak in a
47 minute, Mr. Chair and Mr. Wilson, but the 24-hour
48 requirement was one of two reporting requirements that I
49 read in the proposed regs for this action. It was the
50 one that as soon as you're done fishing and have filled

1 out your information on your permit and begin to transfer
2 them back, that then you had 24 hours to contact the
3 fishery. And that can be made by phone. It doesn't have
4 to be in person. That was done I believe just to ensure
5 that there wasn't an over-harvest. Certainly the longer
6 you delay that, if there are a number of people fishing,
7 and they're successful with gillnets, then it's more
8 likely that you will exceed your quotas at any given time
9 before you know you did.

10

11 It's about 20, 30 minutes from the
12 landing to, you know, a pay phone. There's cell phone
13 coverage on the lake. You know, no more than an hour or
14 two to residences from the fishing area once you've
15 actually departed, and, you know, a call can be made.

16

17 So, you know, that was I think the issue.
18 Maybe there's some concern there that may not be
19 warranted from a practical standpoint.

20

21 The other part of the reporting
22 requirement had to do with actually returning your
23 written report at the end of the fishing report, and that
24 is done in May. And that's where actually action would
25 be taken if people don't. Those kind of requirements
26 have been in place for trapping permits, bear baiting
27 permit type things for years, very similar to that. And
28 there's always a reminder sent before any action is
29 actually taken.

30

31 Thank you.

32

33 MR. WILSON: Just to follow upon that. I
34 see what you're getting at as far as it's close to town,
35 they can get there and call. But I'm trying to
36 accommodate a weekend in there. If somebody's going to
37 leave, and I don't want somebody to get involved with
38 this fishery and then because of circumstances they can't
39 follow this, and they're going to get cited specifically
40 because of the way that this is worded, so I'm trying to
41 eliminate that. If it is pushed off to 72 hours, then
42 that would accommodate people getting back, let's say if
43 they fished during the middle of the week, that would
44 give them Saturday, Sunday and into Monday before they
45 would be able to report their harvest. And if we do
46 anything less than that, the 24 hours, we're potentially
47 going to be putting some folks in a citation.

48

49 MR. WEST: And correct me if I'm wrong,
50 Gary, but, Mr. Chair, Mr. Wilson, the 24-hour reporting

1 clock wouldn't start ticking until they actually finished
2 their fishing, and so if they're out there for one day or
3 two days camping on the lake or a three-day weekend, they
4 wouldn't have to start until they actually had finished
5 their fishing for that period and are leaving the area.

6

7 MR. WILSON: Yeah. It actually doesn't
8 talk about that in this report that I'm seeing. It
9 doesn't define that. I guess that can be defined if it
10 was worded that way, but what about the weekend. How
11 would they report on the weekend?

12

13 MR. SONNEVIL: Well, Mr. Chair, Mr.
14 Wilson, I anticipated that the reporting would just
15 simply be a phone call to my office. That number will be
16 listed on the permits. The difference between 24 and 48
17 hours isn't very significant. Obviously if somebody
18 finishes fishing on a Saturday, we're not going to be
19 open until Monday at 8:00 a.m. We do have answering
20 machines on our phone lines as well, so that's a
21 possibility, too.

22

23 In terms of actual submitting the permits
24 at the end of the season, if an individual is done early
25 and they don't anticipate fishing, then we'd appreciate
26 to get those permits, the paper permit in as soon as
27 possible. But after the reporting requirement comes to
28 an end, if I don't have a permit from people, then I just
29 give them phone calls and ask them how they did, did they
30 fish, could you sent the permit in. If you didn't fish
31 at all, that's fine, I record it. But we're not in the
32 business to really be out there trying to harass them and
33 write citations. We just want to follow this fishery and
34 see what the harvest is and the participation is, and
35 take it from there.

36

37 MR. WILSON: Okay. And one last thing if
38 I can, Tom. And I guess what I'm getting at is 24, 48
39 hours, 72 hours, whatever it is, let's say if they do
40 call quickly and they get to your recorder on the
41 weekend, it's highly unlikely that you're going to shut
42 the fishery down on the weekend anyhow, because you're
43 not going to be there. So if we had an up to three-day
44 requirement for them to get in there, that would also
45 protect the user from getting cited. And they can --
46 they could also give them a little bit of -- the user a
47 little bit of time to call in rather than worrying about
48 a citation every time, correct?

49

50 MR. SONNEVIL: Mr. Chair. Mr. Wilson. I

1 wouldn't object to that. That would be fine.

2

3 I also would possibly anticipate some
4 phone calls from people that have acquired a permit just
5 to see if they don't know what's going on, what I've
6 heard, and what success has been occurring. So, I mean,
7 we're more than open for that. And I intend to do that
8 when we start issuing these permits, to spend some time
9 talking with the people and explaining this.

10

11 CHAIRMAN CARPENTER: Okay. Thank you,
12 guys.

13

14 Pete, do you have something.

15

16 MR. PROBASCO: Mr. Chair and Board
17 members. Council members. Since you're in your
18 deliberations, and this -- your recommendation will be
19 given to the Federal Subsistence Board, it's important
20 that in your discussion, and this was pointed out to me
21 by Mr. Kessler, that when you go down this path in your
22 deliberations, and you've been talking about it prior to,
23 in your questions prior to the deliberations, is that you
24 need to talk about the conservation of healthy fish and
25 how you view this special action may or may not affect
26 that population. And you also need to have in your
27 deliberations a discussion on would this or would this
28 not be detrimental to long-term subsistence use of these
29 resources. And also in your deliberations discuss if
30 this regulation is adopted, does it put any unnecessary
31 restrictions on nonsubsistence users. So those three
32 elements as you discuss your deliberation, you may want
33 to highlight that.

34

35 If you would go to Page 3 of Mr.
36 McBride's analysis, I just wanted to clarify this. Some
37 people in the audience have asked questions, this special
38 action deals with Tustumena Lake. And as everybody's
39 aware, we currently have Federal subsistence fisheries
40 that mirror the sport fish fisheries. And the important
41 issue here is if you go to subpart (A)(1), the second
42 sentence, it says the Kasilof River and tributaries of
43 Tustumena Lake are closed to harvest. This is a
44 subsection of (A) which deals only with Tustumena Lake
45 and the gillnet and jigging fishery. This has no effect
46 on the other Federal subsistence fishery which mirrors
47 the sport fisheries, so Federal subsistence users still
48 could fish in the Kasilof River with the gear under those
49 type of regulations.

50

1 So, Mr. Chair, this clarification is for
2 your deliberations.
3
4 CHAIRMAN CARPENTER: Thank you, Pete. I
5 think those are some good recommendations. And.....
6
7 UNIDENTIFIED VOICE: (Indiscernible, away
8 from mic)
9
10 MR. PROBASCO: I'm sorry?
11
12 UNIDENTIFIED VOICE: The third issue.
13
14 MR. PROBASCO: The third issue is the
15 same thing that the Board has to deal with when they
16 adopt regulations. If they adopt a regulation, they have
17 to take into consideration -- they can't adopt a
18 regulation that puts an unnecessary restriction on other
19 users. So they have that.
20
21 The other issue, Mr. Blossom, that you
22 brought up relates to the use and length of gillnets.
23 It's very important that you make your clarification of
24 what you want as a Council. And Mr. Sonnevil, if the
25 Board agrees with that, would make that as a permanent
26 stipulation. It wouldn't be in this reg, but it would be
27 on the permit. Mr. Chair.
28
29 CHAIRMAN CARPENTER: Do you have
30 something else, Doug.
31
32 MR. BLOSSOM: Pete, so we don't put that
33 as an amendment to this then?
34
35 MR. WILSON: Yeah.
36
37 MR. PROBASCO: You can do it one of two
38 ways. You can make an amendment to your motion or you
39 can make it a separate motion, saying that our intent is
40 to require gillnets to be defined as X on the permit.
41
42 MR. BLOSSOM: To make one motion
43 including the time change (indiscernible, mic not on),
44 just make one amendment.
45
46 CHAIRMAN CARPENTER: Okay. Dean.
47
48 MR. WILSON: Pete, those requirements
49 that you just read to us, those three things that we
50 should address. Those aren't for every proposal are

1 they?

2

3 MR. PROBASCO: Those are for the special
4 actions that we're dealing with.

5

6 MR. WILSON: Okay. All right.

7

8 MR. PROBASCO: Thank you.

9

10 CHAIRMAN CARPENTER: Thank you, Pete. Is
11 there anything else? Did you have anything else?

12

13 (No comments)

14

15 CHAIRMAN CARPENTER: Okay. Thanks.
16 Doug, did you have something.

17

18 MR. BLOSSOM: Yeah. Mr. Chair. So I did
19 ask these questions and I think I got them answered. As
20 for conservation, I think we had it from both State and
21 Federal people that they felt this amount of fish could
22 be taken without hurting the conservation of the lake
23 trout, rainbow or Dolly varden or whatever. So I think
24 that was answered in our questioning.

25

26 Harm to other subsistence fishing. I
27 don't see that as a problem. I think they pretty well
28 agree that this could take place without harm to other
29 fishing, whether it be sport, commercial, subsistence.

30

31 And I think it's a chance I guess for
32 subsistence to have another way to get their resource.

33

34 I think all those questions were answered
35 in talking to the agencies and the public. And so I
36 think all that has been fulfilled.

37

38 CHAIRMAN CARPENTER: Thank you, Doug.

39

40 There was the point that you brought up
41 in regards to gillnet length, and Dean had a question
42 about reporting time. So the motion is on the table for
43 consideration as written in front of us. So if either
44 one of you gentlemen would like to amend that to include
45 the two changes that you talked about with the Staff and
46 the Tribe, then this would probably be the appropriate
47 time to do it.

48

49 MR. WILSON: I haven't really looked at
50 the location to enter the 10-fathom net, but under (A)(3)

1 all harvest must be reported within 72 hours. I think
2 that would be the place to put that. As for the 10-
3 fathom net.....
4
5 MS. STICKWAN: Could we add in there that
6 it's after they quit fishing.
7
8 MR. WILSON: Oh, the 72 hours from the
9 time they leave the fishing location, like we have on
10 fish wheels? Yeah. All harvest must be reported within
11 72-hours to the fishery manager upon leaving the fishery
12 location.
13
14 CHAIRMAN CARPENTER: So your amendment
15 would read -- could you repeat that back for the record.
16
17 MR. WILSON: Under (A)(3) all harvest
18 must be reported within 72 hours to the Federal fisheries
19 manager upon leaving the fishery location.
20
21 CHAIRMAN CARPENTER: And did your
22 amendment also include a length limit for the gillnet,
23 you just weren't sure to include that into the.....
24
25 MR. WILSON: Yeah, if you guys see
26 another location, put that in.
27
28 CHAIRMAN CARPENTER: I think under (A)(3)
29 where it says reported information shall include number
30 of species -- well, that's not. I think you could just
31 put it in there anywhere you want it, Dean. I think you
32 could just state for the record, maybe before we finalize
33 this amendment, Doug would say something.
34
35 MR. McBRIDE: Mr. Chairman. If you want
36 to add a 10 fathom gillnet, my suggestion would be right
37 under (A), the big (A) right at the top of all that. You
38 may take fish in Tustumena Lake with a 10-fathom gillnet.
39 Just put it right there. Mr. Chairman.
40
41 CHAIRMAN CARPENTER: Thank you, Doug, for
42 the help there.
43
44 Dean.
45
46 MR. WILSON: With a gillnet no longer
47 than 10-fathom, Doug? Okay.
48
49 CHAIRMAN CARPENTER: So there's an
50 amendment on the table to read two things, that a gillnet

1 no longer than 10 fathoms may be used, and that all
2 harvest must be recorded within -- or must be reported
3 within 72 hours after leaving the fishery. Am I correct?

4

5

6 Is there a second to the amendment.

7

8 MR. BLOSSOM: Second.

9

10 CHAIRMAN CARPENTER: It's been moved and
11 seconded on the amendment.

12

13 Is there any discussion on the amendment.

14 James.

15

16 MR. SHOWALTER: Yes. There should be
17 unless it's on the beginning as it says temporary fishing
18 for this one-year period.

19

20 CHAIRMAN CARPENTER: Just to clarify,
21 this is a special action request, which means it's only
22 temporary. Am I correct? Yes. So it's understood that
23 it's just for this year, James.

24

25 So is there any other discussion on the
26 amendment.

27

28 (No comments)

29

30 CHAIRMAN CARPENTER: The Chair would
31 accept a call of the question on the amendment.

32

33 MR. BLOSSOM: Question.

34

35 CHAIRMAN CARPENTER: The question's been
36 called on the amendment. All those in favor of the
37 amendment signify by saying aye.

38

39 IN UNISON: Aye.

40

41 CHAIRMAN CARPENTER: All those opposed
42 signify by saying nay.

43

44 (No opposing votes)

45

46 CHAIRMAN CARPENTER: The amendment
47 passes. We have an amended motion on the floor.

48

49 Is there any other discussion of the
50 amended motion. Dean.

1 MR. WILSON: Okay. So we're on the final
2 motion then. Okay.

3
4 I just wanted to make sure that we get
5 everything clarified here. From listening to all the
6 Staff and the agencies, the State side, and the Federal
7 side, as well as the Ninilchik folks, it looks like this
8 is a good fishery. There is a lot of regulations that
9 are on it right now. And it looks like the quota is down
10 significantly from what they would like, but the
11 fisheries manager seems -- doesn't see any problems with
12 handling it.

13
14 I don't think this is going to put any
15 undue restrictions on any other users as well.

16
17 Conservation concerns seem to be taken
18 care of.

19
20 And I'll come out in support of this.

21
22 CHAIRMAN CARPENTER: Likewise I would
23 reiterate, you know, what Dean and Doug have said.

24
25 I think some of the conservation concerns
26 that I was worried about in regards to the lake trout are
27 not as significant now that I know that the lake is 1200
28 feet deep. We have a net restriction which -- and when
29 you take into the conditions, the weather conditions, and
30 we still have to have the lake freeze before this fishery
31 can even be utilized, so I think the -- that was my
32 concern, and I think that's been answered, so I will also
33 support this.

34
35 So if there's no other discussion.

36
37 (No comments)

38
39 CHAIRMAN CARPENTER: The question's in
40 order.

41
42 MR. WILSON: Question.

43
44 CHAIRMAN CARPENTER: The question's been
45 called. All those in favor of Special Action Request 06-
46 01, signify by saying aye.

47
48 IN UNISON: Aye.

49
50 CHAIRMAN CARPENTER: Opposed.

1 (No opposing votes)

2

3 CHAIRMAN CARPENTER: Action carries.
4 Let's see. It's about 11:35. We have a request for
5 reconsideration and a call for comments. Doug has a
6 resource monitoring report to give us. And then maybe a
7 couple people from the National Park Service if they're
8 here with the agency report.

9

10 So why don't we take lunch. And, I don't
11 know, we'll make it quick. Maybe we can try and get done
12 today. We'll come back at 12:30. So any objection.

13

14 (No comments)

15

16 CHAIRMAN CARPENTER: Okay. Council in
17 recess until 12:30.

18

19 (Off record)

20

21 (On record)

22

23 CHAIRMAN CARPENTER: If everybody would
24 take a seat, we'll get the meeting going here in just a
25 minute.

26

27 Okay. We'll call the Southcentral
28 Subsistence Council meeting back to order at 12:43.

29

30 And next on the agenda, we're going to
31 have a request for reconsideration analysis and proposal
32 by Helen Armstrong. Helen. Or, Pete, did you have
33 something first?

34

35 MR. PROBASCO: Mr. Chair. Before we
36 start on this RFR, I thought it important I just say a
37 couple words as we deal with this RFR. A lot of it's in
38 response to questions, comments we received from the
39 public on this RFR analysis in the last couple days.

40

41 As you know, and as you go through the
42 RFR, and you come towards the conclusions, you see that
43 there's two options, option A and option B. Now, in many
44 of our proposal analysis, this is not unique, but it's
45 not something that we do on a very frequent basis. But
46 it is something that we utilize when we get to issues
47 such as this that are difficult to work through.

48

49 And when I say that, as we deal with this
50 RFR, we're going to be dealing with the topic of

1 subsistence uses and what constitutes a degree of
2 significant uses that would capture a C&T type of
3 finding. And this analysis gets to the whole gamut, if
4 you will, on both sides of the issue, and we hope you
5 take a look at that. And the staff has come in here with
6 these two options.

7

8 We don't have a recommendation. It will
9 be up to the Council and respectively the Board to figure
10 out what constitutes a subsistence use and a C&T finding
11 at the end.

12

13 Mr. Chair, and I'll turn it over to
14 Helen.

15

16 CHAIRMAN CARPENTER: Thank you.

17

18 MR. MIKE: Mr. Chair.

19

20 CHAIRMAN CARPENTER: Yes, Donald.

21

22 MR. MIKE: Before we get started. During
23 break time at lunch I handed out three documents. One is
24 titled Subsistence Use areas of Ninilchik by Dr. Robert
25 Wolfe dated October 17th, 2006. And the second document
26 is an affidavit of Robert Wolfe. And that was dated July
27 2006. And the third document is Mapping Use Areas of the
28 Ninilchik Community: Methodological Considerations by
29 Dr. Robert Wolfe. And that's date June 28, 2006.

30

31 And in your purple folder we have a
32 document by James Fall titled Estimated Percentage of
33 Ninilchik Households Fishing in the Kasilof River
34 Drainage, the Kenai River Drainage, and the Swanson River
35 Area.

36

37 Thank you, Mr. Chair.

38

39 CHAIRMAN CARPENTER: Thank you, Donald.

40 Okay. Helen.

41

42 MS. ARMSTRONG: Thank you, Mr. Chair. My
43 name is Helen Armstrong. I'm an anthropologist with the
44 Office of Subsistence Management.

45

46 This analysis is not in your book. It is
47 one that was -- it was additional to the book. You
48 should have received it in your packet.

49

50 I wanted to just clarify that there are a

1 few copies in the room that have a date of October 12th
2 on them. They are the same analysis that you'll find
3 that were in the packet, the same one that was emailed
4 to people, and the same one that's on the web page. And
5 the web page has a little bit of a different look,
6 because it was getting prepared for the Board book. But
7 all of them have the same analysis.

8
9 This is a really lengthy analysis as you
10 can see, and I'm not going to go through all of it,
11 because it will take me too long, and I'm going to try to
12 focus on where I really think the new information is.

13
14 The complete analysis I am submitting for
15 the record, and if you have questions as I go through,
16 because I'm going to skip over some sections, then just
17 let me know.

18
19 This is an -- we call it an RFR. It's a
20 request for reconsideration. We don't get a whole lot of
21 these, but -- I mean, we get a lot, but whether or not we
22 address them is another question. And the F in front of
23 the RFR stands for fish, so it's a fish RFR. And this
24 analysis addressed three of them, 02, 03, and 08.

25
26 They are requesting that the Board
27 reconsider it's determination that they made in January
28 2006 on Proposal FP06-09 that was submitted by the
29 Ninilchik Traditional Council, Steven Vanek, Fred Bahr
30 and Henry Kroll.

31
32 FP06-09 requested C&T for all residents
33 of the Cook Inlet area for salmon, Dolly varden, trout,
34 char, grayling and burbot in the Cook Inlet area. A
35 positive C&T for all residents west of a line due
36 southeast of the Crescent River mouth and intersecting
37 another line drawn northeast of the south side of Tuxedni
38 Bay for herring, smelt, white fish, and salmon in Tuxedni
39 Bay. None of the RFRs addressed the Tuxedni Bay portion
40 of the Board's decision, so therefore it is not included
41 in this analysis.

42
43 The RFR 02 and 03 were submitted to us by
44 the State of Alaska, and 08 -- RFR06-08 was submitted by
45 the Ninilchik Tribal Council -- Traditional Council.

46
47 A threshold analysis was prepared on
48 these three requests and was reviewed by the Board on
49 August 31st, 2006 to determine if it would be accepted
50 for reconsideration. And the Board accepted four claims

1 from the RFRs. They did not accept all of the claims,
2 only four.

3

4 There are criteria that have to be
5 fulfilled in our regulations in order to accept an RFR.

6

7 And Criteria 1, information previously
8 not considered by the Board. There was claim 1.1 from 02
9 and 03 from ADF&G. They requested that we review new
10 information provided by ADF&G's Division of Subsistence
11 regarding the subsistence use of fish on the Kenai
12 Peninsula. And I'll talk about that in a minute.

13

14 Claim 1.2 from RFR 02 and 03 from ADF&G
15 and RFR06-08 from the NTC, Ninilchik Traditional Council,
16 requested further analysis of the studies conducted by
17 NTC in 1994 and 1999. And NTC did provide us with new
18 information regarding their methodology of the research
19 they conducted for those studies.

20

21 Criteria number 3, the Board's
22 interpretation of information, applicable law, or
23 regulation is in error or contradictory to existing law
24 -- contrary to existing law.

25

26 Claim 3.7 was fulfilled under this
27 criteria. That was from RFR06-08 from NTC and it claimed
28 that the Board needed to take affirmative action towards
29 establishing a Kenai River subsistence fishery for
30 Ninilchik. Addressing these RFRs, we are taking
31 affirmative action.

32

33 The other proposals that are coming in,
34 this was discussed earlier today, are going to be
35 addressed in time for the 2007 fishing season.

36

37 Claim 3.8 from RFR06-08 from NTC claimed
38 that there is not statistical threshold that a community
39 must reach in order to have a C&T. And to date the Board
40 has not relied upon an absolute standard to define use,
41 but rather has examined use in the context of the eight
42 factors.

43

44 So those were the basis for why we are
45 accepting this. And then I'll discuss what the new
46 information that was brought to us.

47

48 There were two sources of new
49 information.

50

1 There was information from ADF&G
2 regarding the estimated percentage of Ninilchik
3 households fishing in the Kasilof and Kenai River
4 drainages and the Swanson river in their lifetimes.
5 These data were collected for the study done in 2002/2003
6 by the ADF&G Subsistence Division survey that was done
7 by Dr. Jim Fall and others. And I'm going to just refer
8 to this report often and Fall's report, but it was a
9 collection of people, and it was done by ADF&G. The
10 survey was of 100 randomly selected year-round households
11 of Ninilchik.

12
13 This information did not appear in the
14 written report that was produced by Dr. Fall and it was
15 additional information. They had a long survey and not
16 everything was in the report, but they gave us this
17 additional information to use and readdress the C&T
18 determination. They provided the draft of this
19 supplemental information to the Board in August of 2006.
20 A final was received October 6th, but it was after I had
21 completed this analysis, and the analysis was sent to the
22 Council on October the 3rd.

23
24 That one is the pink paper, and I am
25 going to refer to this a few times so that you know that
26 this is what we call the Fall 2006 report.

27
28 The new ADF&G data from Fall that's in
29 this on the lifetime uses of the Kasilof River drainage
30 and Tustumena Lake area indicated 30 percent, which is
31 estimated 173 households, of Ninilchik households had
32 fished in some portion of the Kasilof River drainage
33 within the Kenai Refuge in their lifetime.

34
35 The Board had already decided in January
36 that Ninilchik had a positive C&T for fish in the Federal
37 public waters of the Kasilof River drainage. There was
38 no additional information that would suggest that the
39 determination should be changed. So this new
40 information, while it strengthens the Board's
41 determination that there has been long-term use of the
42 Kasilof River drainage, it didn't change that. So no
43 further analysis of the Board's decision on Ninilchik's
44 use of the Kasilof will be included in this analysis.
45 It's not required.

46
47 Additionally, the Board determined in
48 January of 2006 that Hope and Cooper Landing had a
49 positive C&T for the Kenai River area. And there was no
50 new information concerning Hope and Cooper Landing from

1 either NTC or ADF&G, so therefore no further analysis of
2 the C&T determination for Hope and Cooper Landing has
3 been done.

4
5 In January of 2006 the Board found that
6 Ninilchik did not have a positive C&T for the Kenai River
7 area, and new information from ADF&G provides information
8 on lifetime uses of Ninilchik households on the Kenai
9 River area that contributes to reconsideration of that
10 decision. That was in a claim from the RFR06-08.

11
12 NTC also provided supplementary new
13 information regarding NTC's research conducted in 1994
14 and 1999, and that information validated the methodology
15 used by NTC in conducting their research, as well as
16 provided copies of the original individual use area maps
17 and survey responses from their research. We had this
18 information when we did the analysis that you heard last
19 fall of 2005, but there was some question, because all we
20 had were results in tables, and we didn't have the
21 methodology, so that was provided to us by Dr. Robert
22 Wolfe. So it doesn't -- the NTC new information doesn't
23 change the existing C&T for the Ninilchik in the Kasilof
24 River drainage, but it strengthens the Board's decision.

25
26 So in summary, there is no new
27 information regarding Hope and Cooper Landing's uses.
28 There's no new information warranting a new analysis of
29 Ninilchik's uses in the Kasilof River drainage. And thus
30 Hope and Cooper Landing's existing C&T in the Kenai River
31 area and Ninilchik's C&T for the Kasilof River drainage
32 will not be re-analyzed. New information was provided by
33 ADF&G and NTC that warrants further analysis of
34 Ninilchik's uses of fish in the Kenai River area.

35
36 So the only community under consideration
37 in this analysis is Ninilchik, and only in the Kenai
38 River area.

39
40 I have the, you know, what's the existing
41 regulation. I wanted to explain that there is not a
42 proposed regulation in here, because this is a request
43 for reconsideration, and the claimants don't actually say
44 what it is they want proposed. They just want it
45 reconsidered. And since we had two different opposing
46 viewpoints, multiple requesters, I didn't put in a
47 proposed regulation.

48
49 The waters that are affected by this
50 proposal are the Federal public waters of the Kenai

1 Peninsula District within the Kenai National Wildlife
2 Refuge and the Chugach National Forest. There's a map in
3 the analysis that shows the area under consideration.

4
5 I'm going to use the phrase Kenai River
6 area as a short way of talking about the Federal public
7 waters north of and including the Kenai River drainage
8 and the Kenai Peninsula District.

9
10 I'm not going to go through all of the
11 information in the history section. You've heard this
12 before.

13
14 But I just wanted to point out and remind
15 people that until 1952 freshwater streams in the Kenai
16 Peninsula were open to subsistence fishing, but
17 commercial fishing decimated the salmon populations and
18 salmon stocks began a steady decline, which then in 1952
19 all streams and lakes of the Kenai Peninsula were closed
20 to subsistence fishing under State regulations.

21
22 After 1952, subsistence salmon users in
23 the Cook Inlet area harvested fish under personal use and
24 sport fish regulations alongside allocations, priorities
25 directed toward the recreational fisheries in the
26 chinook, sockeye and coho runs, and the commercial
27 fisheries for the sockeye, chum and pink run fisheries.

28
29 In the section on Federal Subsistence
30 Board regulatory history, I'll just briefly go through
31 that. That in 2001 the Board considered Proposal FP02-
32 11a. That was also submitted by NTC, Stephen Vanek, and
33 Fred Bahr, and they requested a C&T for all fish and
34 shellfish. The Board deferred making decisions on the
35 use of fish until the completion of the Fish and Wildlife
36 Service funded study that Jim Fall and others did, the
37 2002/2003 study, the Cook Inlet C&T subsistence fisheries
38 assessment, because the Board wanted to gather more
39 historical, contemporary, community and area specific
40 harvest use information that they felt they needed to
41 properly analyze C&T patterns of use in the Cook Inlet
42 Region.

43
44 There also was a proposal, FP01-13/33,
45 that was on C&T for salmon only. And in December of 2001
46 related Proposals FP02-11b through 14b requested seasons
47 and harvest limits for fish harvest in the Cook Inlet
48 area. And at that time the Board did make -- rather than
49 deferring it, the Board did adopt regulations that would
50 allow the take of salmon, Dolly varden, trout, and char

1 with seasons, harvests and possession limits and methods
2 and means that would be the same as taking fish under
3 State of Alaska sport fishing regulations. And that,
4 because there wasn't a C&T done, it was for all residents
5 of -- all rural residents of Alaska.
6

7 In January 2006, the Board proposed --
8 considered Proposal FP06-09, which was the deferred
9 proposal that is being reconsidered here. During
10 consideration of FP06-09, both ADF&G and NTC indicated
11 that they could provide new information, relevant
12 information and -- which is why the Board portrayed the
13 current C&T determination as interim. And the intent of
14 using the word interim, because we don't really have
15 interim determinations, was just to signal to everybody
16 that we're not done yet, and I'm quoting from the
17 transcript, we're just starting, and that's all it was
18 meant to do. So I guess this is the continuation of what
19 was begun.
20

21 So for community characteristic, the only
22 community under consideration as I said is Ninilchik. In
23 the 2000 U.S. census, Ninilchik had 772 residents. And
24 in subsistence use studies conducted on Ninilchik, the
25 Happy census designated place was also included, and
26 there were 489 residents.
27

28 I'm going to go through the eight factors
29 of the C&T determinations, but I'm not going to go
30 through every single one of them, because we probably
31 need to get on to hearing people's comments and listening
32 to your discussion.
33

34 The long-term consistent pattern of use,
35 excluding interruptions beyond the control of the
36 community is factor number 1. When making a C&T use
37 determination, one of the factors considered by the Board
38 is the long-term consistent pattern of use excluding
39 interruptions beyond the control of the community or
40 area. This is an important point to consider, because
41 interruptions beyond the control of Ninilchik residents
42 could affect their harvest and use of fishery resources
43 in Federal public waters.
44

45 Since subsistence fishing was prohibited
46 after 1952 until the Board created the subsistence
47 fishery in 2002 which mirrored the State sport fishing
48 regulations, and since statehood legal availability of
49 fishery resources in Federal public waters has been
50 defined by State sport fishing regulations, these

1 regulations do not provide for a harvest of all species
2 or harvest by traditional methods and means.

3
4 I'm not going to go through all of the
5 brief history of fishing on the Kenai Peninsula. I just
6 wanted to emphasize a couple of points.

7
8 That there was some discussion at one
9 point, people have talked about the fact that the
10 Dena'ina, the Kenaitze, were the people who settled in
11 the Kenai area, and there was some reference that has
12 been made to me that it's not -- that the Dena'ina
13 weren't the people who -- the Ninilchik people weren't
14 made up of the Dena'ina. But the thing that people often
15 forget is that ANILCA requires us to look at the uses of
16 the area, and not the users. And the people of Ninilchik
17 were -- their foundation was, they were based on people
18 from Russia as well as the Alutiq, the Sugpiaq and then
19 there's been intermarrying with Kanaitze. And they've
20 adopted many of the uses that were -- originally came
21 from the Dena'ina.

22
23 One portion of that section that is new
24 is that there was some documentation on the uses of water
25 in the Kenai Refuge before 1952 from a 1994 subsistence
26 survey, which mapped resource use over an individual's
27 lifetime. And we have the methodology as well as the
28 actual -- the maps provided to us by NTC. Those maps
29 showed use areas for salmon and nonsalmon that covered
30 the entire Kenai Peninsula and represented use in the
31 respondent's lifetime. The research was conducted with
32 25 NTC households whose heads of households were tribal
33 members. Respondents marked areas used during their
34 lifetime for particular subsistence resources.

35
36 These maps were combined to create a map
37 with all of the use areas combined. This is a technique
38 used by the ADF&G Subsistence Division to create use area
39 maps of communities.

40
41 These lifetime uses present patterns
42 which are similar to those of other rural communities in
43 Alaska in that the use areas are contiguous to the
44 community and accessible by boat and ground travel rather
45 than aircraft, showing an efficiency and economy of
46 effort.

47
48 Use areas are not always constant. They
49 adapt to new transportation networks, i.e., the
50 construction of roads, which can become a more efficient

1 means for accessing subsistence resources. And that
2 certainly has happened in the Kenai Peninsula.

3
4 Prior to 1952 active Ninilchik households
5 reported annual harvest per household as high as 30 chum
6 salmon, 200 coho salmon, 40 chinook salmon, 100 pink
7 salmon and 100 sockeye salmon. And then an average
8 household harvester reported harvesting 23 chum salmon,
9 68 coho salmon, 19 chinook salmon, 34 pink salmon and 48
10 sockeye salmon.

11
12 After 1952, with restrictions on
13 subsistence fishing, these harvests decreased
14 substantially. In 1999, NTC reported that the average
15 harvest for a fishing household in the Ninilchik Tribe
16 for the five-year period 1996 to 1999 dropped to 2 chum
17 salmon, 8 coho salmon, 5 chinook and 3 pink salmon and 23
18 sockeye salmon.

19
20 There also were some case studies
21 conducted in 1980 by ADF&G Subsistence Division which
22 documented the efforts made by families to procure salmon
23 in the absence of stable subsistence fisheries and their
24 difficulties harvesting adequate supplies of salmon. The
25 case studies showed shifting harvest techniques from year
26 to year, responding to changing restrictive regulations
27 while at the same time competing with thousands of
28 recreational visitors to the Kenai Peninsula. Adaptive
29 strategies included commercial fishermen retaining fish
30 from their commercial catch for home use, and some
31 families participated in the State personal use dip net
32 fishery. There also were some families who harvested
33 fish outside legal restrictions. And there were fish
34 obtained through educational fisheries.

35
36 In the 2002/2003 study by Fall, they
37 conducted a survey of 100 households selected at random,
38 constituting a 17 percent sample of the 577 known
39 permanent households in that community. Based on the
40 survey data, Fall and his co-authors at ADF&G Subsistence
41 Division described the community's pattern of use in
42 terms of percentages of households. Community estimates
43 were made using the findings from the random sample,
44 expanding them to account for that fraction of the
45 community that was not surveyed. Thus one survey
46 household constitutes one percent of the sampled
47 households and represents an estimated 5.77 households.

48
49 In my analysis, I made sort of a big deal
50 about this, because I found that people were saying, oh,

1 1 percent of 100 households, that's only 1 household.
2 But it's not actually 1 household. There is the weighted
3 factor that you have to take into consideration.

4
5 So, for example, if in the survey three
6 households took a moose, and you multiply that by 5.77,
7 it would not be three moose, but 17 moose. So you have
8 to look at the total numbers, and not just the percentage
9 of the random sample.

10
11 The same method was used in Fall's 1998
12 research that he did on Ninilchik as well.

13
14 So in Fall's 2002/2003 study, and this
15 I'm taking from -- it's page 6, Table 3 of the pink
16 paper. There were 28 percent of the households had
17 fished in their lifetimes in portions of the Kenai River
18 Drainage, or the Swanson River Drainage. And 28 percent,
19 if you multiply that by 5.77 equals 162 households, which
20 is the percentage of all households at 17 percent. So
21 it's not a small number.

22
23 But the other interesting thing in this
24 table is that there was -- there's a line that says the
25 percentage of users with frequent use. And so they also
26 didn't -- they didn't just ask how many house -- did you
27 harvest fish in your lifetime, but how often did you
28 harvest fish. And in the Kenai River area -- he breaks
29 it down by Kenai River, Swanson River, and then any
30 Federal waters -- there were actually 60 percent of the
31 21 households out of the 100 interviewed who had fished
32 in their lifetimes in Federal waters did it every year.
33 Or about every year. So that number is equivalent to 121
34 -- or 73 households, which is 13 percent of all the
35 households in Ninilchik. It's not a really -- not a
36 small number. I mean, we're not talking about just one or
37 two households.

38
39 Another 20 percent had intermittent use,
40 and that was on and off over the years, and another 20
41 percent had one or -- infrequent use, one or two years.

42
43 In the Swanson River area, 75 percent of
44 households, which is the equivalent of 56 households, and
45 is 10 percent of all Ninilchik households, have frequent
46 use.

47
48 So it's apparent from that information
49 that we got from Dr. Fall that salmon have consistently
50 been used by the residents of Ninilchik in the Kenai

1 Peninsula area. And there -- I'm sorry. There's no
2 question that Ninilchik residents harvest salmon and
3 nonsalmon. I think that's a given. The question really
4 is, where are they harvesting them. All of the studies,
5 Dr. Fall's study, NTC's study, they've all demonstrated
6 that salmon was harvested the most, nonsalmon, such as
7 Dolly varden, rainbow trout and pike, and some reference
8 to grayling, were harvested.

9
10 Although there are limitations to using
11 single years of data, when we only have one year that
12 we're using, there's some limitations to that, it is
13 clear that Ninilchik has a pattern of harvesting fish.
14 And what we don't know is what the effect of the
15 prohibition of subsistence fishing has had on Ninilchik's
16 fish harvest.

17
18 Under seasons of use, the season openings
19 have been regulated by the State of Alaska regulations.
20 And I'm not going to go through all of those, but that
21 information is provided in the analysis, as well as
22 methods and means, that there's information provided.
23 And if you want me to go over any of that, I'm happy to.

24
25
26 I think the area of use, and I've already
27 talked about some of the lifetime uses.

28
29 I think another thing that's interesting
30 is that when you compare Jim Fall's study from 1988, and
31 you compare it to 2002/2003, there were a lot of
32 consistencies in what he found. And it's also not far
33 off from what NTC had in their report as well.

34
35 We also supplemented the information with
36 historical information and public testimony that was
37 provided last fall at the Council meeting as well as at
38 the Board meeting. And NTC provided maps of the harvest
39 areas.

40
41 We know that the harvest of nonsalmon
42 species by Ninilchik residents generally occurs in lakes,
43 creeks and rivers near the community or area, and unless
44 it's associated with hunting or other harvesting
45 activities. And this pattern of use where multiple
46 activities occur, you may fish for Dolly varden or
47 rainbow trout while you're out berry picking or out
48 hunting, it's a common pattern you see in subsistence
49 communities throughout Alaska.

50

1 In the lifetimes of Ninilchik residents,
2 there's no doubt that the hunting and fishing subsistence
3 use patterns for Ninilchik residents has changed because
4 of the influx of people and the influx of sport
5 fishermen. There also have been changes in the long-term
6 Ninilchik residents, and their families now live in
7 permanent homes, and they no longer move seasonally to
8 hunt and fish.

9
10 There -- in looking at specifics of where
11 people have harvested, in Fall's 2002/2003 study, I went
12 over the lifetime use. There were also in 1998 his
13 study, and in this one that he did, he didn't specific
14 reference to drainage. He had a map where he had the
15 units. They did it from wildlife units. And so it's not
16 clear whether it's on Federal waters or State waters.
17 But it does give you some sense of what was harvested.
18 And in 15A on the Kenai Refuge, 2 percent of Ninilchik
19 households harvested salmon, 3 percent harvested salmon
20 in Units 16B on the Refuge and 2 percent Unit 7 on the
21 Kenai Refuge, and the Chugach National Forest.

22
23 In 2002/2003, 4 percent of Ninilchik
24 households harvested sockeye salmon in the Russian River,
25 and an estimated 1 percent harvested rainbow trout and
26 lake trout in the Kenai Lake or Kenai Mountain streams on
27 the Kenai Refuge. Chinook and coho salmon and Dolly
28 varden were also taken from Ninilchik River and Deep
29 Creek, both under State management and close to
30 Ninilchik. Most Ninilchik residents took sockeye salmon
31 from the lower Kenai River and sockeye salmon were taken
32 from the Kasilof and Ninilchik Rivers. All of these
33 fishing locations are outside of Federal jurisdiction.

34
35 There also were questions in that survey
36 about what a potential site for Federal subsistence
37 fisheries should be. And people noted -- 1 to 8 percent,
38 they noted Kenai Refuge. They wanted fisheries in Kenai
39 Refuge, Kenai Fjords National Park, which is closed to
40 subsistence fishing, Kenai River Skilak Lake, Chugach
41 National Forest, Kenai Lakes, lower/middle Kenai River,
42 Swanson Lake, Johnson Lake, and the Russian River. So
43 there was some interest in having some fisheries there,
44 although it was -- the percentages were somewhat lower.

45
46 As noted, the NTC conducted research of
47 select NTC members' subsistence uses of fish and wildlife
48 in 1999. They did face-to-face household surveys of 20
49 randomly selected Ninilchik tribal members out of an
50 estimated 61 households. That was 61 households with

1 tribal members. Respondents were asked to draw use areas
2 for subsistence harvest, such as chinook salmon and other
3 salmon, and nonsalmon fish during the last five years,
4 1995 to 1999. And the methods they used were consistent
5 with other ADF&G subsistence research.

6
7 In NTC's study, they found that 32
8 percent, which was approximately 20 households, harvest
9 salmon, 28 percent harvest nonsalmon, 16 percent harvest
10 chinook salmon. And Skilak Lake was used by 20 percent.
11 I'm sorry, what I had just read off, that was in the
12 upper Kenai River, Kenai Lakes were used by those
13 percentages I just read. And the Skilak Lake was used by
14 20 percent to harvest salmon and 16 percent to harvest
15 nonsalmon.

16
17 One thing that I want to point out as
18 well is that anthropologists know when they go into
19 subsistence communities and do household research, they
20 know that there's an inconsistency in where people go.
21 Not everyone goes to the same place all the time. And we
22 have something called the 30/70 rule, and Dr. Wolfe is
23 actually the one who promoted this concept a number of
24 years ago. That 30 percent of the households produce
25 about 70 percent or more of the community's harvest. So
26 we wouldn't expect to find that there would be a really
27 large percentage of people going up to the Kenai River
28 area since it is farther from the community as well.

29
30 As I said, single use -- single year
31 studies have some limitations, but the thing that comes
32 through in Fall's two years of research and in NTC's
33 research that that it has done, is that they all indicate
34 that there is some level of use. And we could argue
35 about what the level of use is, and whether or not that
36 use is significant or not. But there's no doubt that
37 there is some use of the Kenai refuge for harvesting
38 salmon and other nonsalmon freshwater fish.

39
40 These data combined with the lifetime use
41 data from Fall in 2006 and supplemented by public
42 testimony all indicate some level of use by Ninilchik
43 residents for harvesting fish in the Kenai River area.
44 While Ninilchik's harvests are lower in the Kenai River
45 area than in other areas closer to the community, it has
46 been noted in a legal opinion stated in a letter to the
47 State of Alaska from the Secretary of the Department of
48 the Interior, that there are no unimportant uses,
49 subsistence uses in ANILCA.

50

1 I'm not going to go through all the rest
2 of the eight factors, handling, preparing, preserving and
3 storing, handing down of knowledge of fishing, sharing,
4 or the reliance upon a wide diversity of fish and
5 wildlife resource, but if you have questions again, let
6 me know.

7
8 The effect of the proposal is that a
9 positive C&T for the residents of Ninilchik for all fish
10 in the Kenai River area would qualify them to harvest
11 fish under Federal subsistence regulations. Any changes
12 to existing seasons, methods and harvest limits would be
13 considered by the Board at a later date, and any
14 conservation issues would be addressed at this time. So
15 all this is doing is making a C&T determination.

16
17 Preliminary conclusions. So as Pete
18 said, we have two possible options for this.

19
20 And I neglected to say earlier that Doug
21 McBride and I worked on this together. We always have a
22 team of a biologist and an anthropologist on our
23 analyses. And I'm going to present option A and he's
24 going to present option B. But there is -- the
25 information that came right after the preliminary
26 conclusion is the prelude for both options and serves for
27 both.

28
29 So to summarize what we have and what we
30 know, there's a substantial body of information, as you
31 can see from the length of this analysis, for the
32 original proposal analysis. It's supplemented by some
33 new information for this RFR and it is more than
34 typically is available for C&T use determinations for
35 other resources in other areas.

36
37 The available information includes all
38 sources of information recognized for C&T use analysis,
39 including ethnographic accounts, map data, household
40 harvest survey data, and nonpublished sources. The
41 information was provided from ethnographic information
42 regarding Ninilchik's pattern of use through interviews
43 with key respondents, discussions with NTC members,
44 public testimony at the Southcentral Federal Subsistence
45 Regional Advisory Council meeting and the Board meeting
46 in January, as well as multiple reports regarding
47 Ninilchik's resource use.

48
49 Specific harvest information came from
50 Fall's 2000 and 2004 reports and NTC's 1994 and 1999.

1 There was also information from Braund in 1980 and
2 Georgette in 1983.

3
4 The new information regarding lifetime
5 uses by Ninilchik residents was provided by Fall and
6 others in August 2006.

7
8 And in summary, there were similar levels
9 of use by the community of Ninilchik for the Federal
10 public waters of both the Kasilof River and the Kenai
11 River drainages. In general, for both areas, 30 percent,
12 which is 173 households, of Ninilchik households fished
13 during their lifetime in either of -- in both of these
14 areas while use during 2002/2003 for either area was 4
15 percent of households. Fall's new information indicated
16 that 21 percent of households had fished in their
17 lifetimes in the Kenai River and 75 households had fished
18 in the Swanson River area, which was 13 percent of the
19 households, within the boundaries of the Kenai River
20 (sic).

21
22 The new information from NTC largely
23 addresses question regarding methodology, and the results
24 of their surveys remain unchanged.

25
26 To date, the Board has not relied upon an
27 absolute standard to define use, but rather has examined
28 use in the context of other factors.

29
30 A review of all sources of information
31 indicated that Ninilchik has a pattern of use of salmon
32 and nonsalmon on the Kenai Peninsula. Ninilchik
33 residents have harvested fish in the Kenai Peninsula
34 since the community was settled in the mid 1800s. It is
35 clear that Ninilchik has used fish resources in the Kenai
36 River area historically and has some use today, and that
37 most of Ninilchik's current use of fish resources occurs
38 outside of Federal public waters.

39
40 The question for the Board, and I think
41 this is really the crux of the question that the Board
42 has to address, is where the fish harvest have occurred,
43 that is in the Kenai River area, and whether or not
44 Ninilchik's fish harvest is the consistent harvest and
45 use of fish and wildlife as related to past methods and
46 means of taking near or reasonably accessible from the
47 community or area as well as whether or not Ninilchik's
48 use of fish today is a long-term consistent pattern of
49 use excluding interruptions beyond the control of the
50 community.

1 So this gets us to Option A. Option A is
2 to modify the existing regulation to add Ninilchik to the
3 communities with a C&T for all fish in the Kenai River
4 area, which is the waters north of and including the
5 Kenai River drainage within the Kenai National Wildlife
6 Refuge and the Chugach National Forest.

7
8 The justification for this is all the
9 information I gave you above indicated that there is use,
10 lifetime use. 73 households had frequent use of the
11 Kenai River. 56 households had frequent use of the
12 Swanson River. Frequent being every year, about every
13 year. And that NTC's study and Fall's studies have
14 documented the use and harvest patterns of fish in the
15 Kenai River area.

16
17 Those -- the research for NTC and Fall
18 also indicate some level -- all indicate some level of
19 use for harvesting salmon and nonsalmon and freshwater
20 fish.

21
22 It is true that Ninilchik's uses in
23 2002/2003 in Fall's study were less than their uses in --
24 in the Kenai River area were less than those in the State
25 waters; however, there are on unimportant subsistence
26 uses in ANILCA, and, therefore, given that the Kenai
27 River is used every year by 73 households and the Swanson
28 River by 56 households, this should constitute a pattern
29 of use.

30
31 The other factor to take into
32 consideration is that the residents of Ninilchik have
33 been prohibited from engaging in subsistence fishing
34 activities since 1952. Because such a prohibition
35 constitutes an interruption beyond the control of
36 Ninilchik residents, they cannot be expected to
37 demonstrate the same level of use today as they did pre-
38 1952, because they have not been allowed to fish in the
39 Kenai River area under subsistence regulations.

40
41 Fishing with a rod and reel is not a
42 method and mean of harvest characterized by efficiency
43 and economy of effort and cost. Ninilchik residents have
44 noted that it's not worthwhile for them to travel to the
45 Kenai River area to compete with the thousands of sport
46 fishermen only to be able to harvest two fish.

47
48 The nature of subsistence harvest is that
49 harvests are opportunistic and do not target a specific
50 species, thus no distinction should be made to specify

1 which co-resident fish species are eligible to harvest
2 under Federal subsistence regulations.

3
4 In summary, Ninilchik residents have been
5 prohibited since 1952 from subsistence fishing in the
6 Kenai Peninsula, and as a result their long-term,
7 consistent pattern of use has been interrupted beyond the
8 control of the community.

9
10 Ninilchik residents have demonstrated
11 fulfillment of all of the eight factors determining C&T
12 uses and should have a positive C&T for the Kenai area.

13
14 Thank you, Mr. Chair. Bearing with me,
15 I'm going to turn this over to Doug McBride to go through
16 Option B.

17
18 MR. McBRIDE: Mr. Chairman. Members of
19 the Council. I'm Doug McBride, fishery biologist with
20 OSM.

21
22 And as Helen indicated, we've got a
23 substantial body of information here to look at. And as
24 her MP indicated, with all this information, we found
25 that -- Staff thought it was reasonable that you could in
26 fact reach two different conclusions looking at this
27 information, so that's what Option B is about.

28
29 Without question there is some use of the
30 fishery resources of the Kenai River area by the
31 community of Ninilchik. At question is whether it
32 demonstrates a long-term consistent pattern of use, which
33 would be required to get a positive C&T finding.

34
35 Also as was pointed out I think very well
36 by Helen, this whole thing is complicated by the 1952
37 regulatory closure to net fishing and a subsequent
38 reliance of State of Alaska sport fishing regulations in
39 the area at question.

40
41 However, since this is about the use, not
42 the users, what unfortunately we're simply left with is
43 what have been the use patterns since this time. And
44 it's not an inconsiderable of time. It's in excess of 50
45 years.

46
47 If you look at Page 21 then, and look at
48 I guess what I'd call the middle three paragraphs, the
49 one that starts estimates of lifetime and single season
50 use by Ninilchik residents, those paragraphs basically

1 pull together where the Board was at in January. They
2 were largely relying on the results of the Fall study as
3 well as the NTC information which basically complemented
4 the Fall study, and so they largely looked at the results
5 of the 2002/2003 survey. And what they found there was
6 that the Community of Ninilchik's use was substantially
7 less than the use of the other communities of question,
8 which were Hope and Cooper Landing. And I won't go
9 through the numbers, but you can see in there that, you
10 know, 4 percent of Ninilchik households fish for sockeye
11 salmon, 1 percent in some of the streams and lakes of the
12 area, and then you compare that to the percentages that
13 were fished by Hope and Cooper Landing. And obviously
14 those are much, much more by location and by species.

15
16 In the Fall study, that inset paragraph,
17 what that's all about is that 2002/2003 was not just a
18 year's worth of information and everything was based on
19 one year of information. As part of that survey,
20 respondent's were asked, does this year -- is this
21 typical of your recent history. And the overwhelming
22 answer was, yes. There was nothing unusual for the
23 respondents about the 2002/2003 year. It did typify
24 their recent pattern of use. And that was pointed out
25 very explicitly in the Fall study.

26
27 In addition, there were prior studies, if
28 I remember right, it was a '98 study that Fall and the
29 Subsistence Division Staff conducted, and the data from
30 2002/2003 was very similar, as Helen pointed out, to that
31 study. And also when you look at how the NTC study was
32 conducted, when you look at just a percentage of a select
33 number of households and you expand that to the
34 community, you'll get similar kinds of answers. So all
35 of the data was very consistent with recent patterns of
36 use. It wasn't just a single pattern of use.

37
38 Also as was pointed out in the analysis
39 that Helen summarized, Ninilchik's -- the Community of
40 Ninilchik's use of Kasilof was more than their use of the
41 Kenai area. That's not surprising, it's geographically
42 much closer. And that information comes out both in the
43 ADF&G studies, and in the NTC data as well.

44
45 Again, that was the information that the
46 Board had at their disposal last January, and they based
47 their assessment on at that time.

48
49 So then we come to the RFR, new
50 information was provided, so then the question becomes

1 does the new information, you know, lead us to a
2 different conclusion than the Board reached last January.
3 And so largely what we have is the lifetime use
4 information. And so what we tried to do was put that
5 into context. And we weren't really given anything else
6 to put it into context to. For instance, comparative
7 information with again the other communities that already
8 have C&T for this area, being Hope and Cooper Landing.

9
10 However, what we do have is the
11 information from the 2002/2003 study, and the estimates
12 of lifetime use for the community of Ninilchik, which is
13 on the order of 30 percent are similar to or in many
14 cases less than estimates of use for individual species
15 and individual locations within the Federal public waters
16 of the upper Kenai and Swanson River drainages by Hope
17 and Cooper Landing. So if we had estimates of lifetime
18 use for those communities, they would undoubtedly be much
19 higher than those for Ninilchik.

20
21 In summary, the comparisons of the
22 mapping and harvest survey data between communities
23 provides context for these use patterns during the 54
24 years since the closure to net fishing. The level of use
25 by Ninilchik of the Kenai River area has not been
26 consistent during this time and does not demonstrate a
27 long-term consistent pattern of use.

28
29 Mr. Chairman, that concludes our
30 presentation. We'll be happy to answer questions.

31
32 CHAIRMAN CARPENTER: Thank you, Doug.
33 Thank you, Helen.

34
35 Do you have a question, Doug?

36
37 MR. BLOSSOM: Yeah, Mr. Chair. I guess
38 my first question is, how important is it that they
39 closed subsistence fishing in 1952? Is it important for
40 us then to look before that time, because they were
41 denied since that time?

42
43 MS. ARMSTRONG: I think it is important
44 to look at all of the information, the historical
45 information as well as the current use patterns. But I
46 think you do have to put that into context of they were
47 denied harvesting fish under subsistence regulations
48 after 1952.

49
50 MR. BLOSSOM: Okay. Mr. Chair. I guess

1 my answer to that then is I see a real blank spot in this
2 data. Prior to 1950, Ninilchik's river of choice was the
3 Kenai River, because there was no road. They got in a
4 boat and the Kenai River was much easier to traverse than
5 the Kasilof. I mean, that's a history lesson for you,
6 because I know. I lived there then. And that isn't in
7 any of this data. So if we go back to when they were
8 allowed to subsistence fish, the Kenai River was their
9 river of choice, not the Kasilof. It flows much slower.
10 They could go up it. They poled up to Skilak Lake and
11 spent sometimes a month and a half up there.

12

13 So that's just a little history for you.
14 It depends then if we're going to look at present day or
15 back -- you know, through to Ninilchik in about 1951 or
16 '50. 1950 is when we actually had a road there.

17

18 CHAIRMAN CARPENTER: Gloria.

19

20 MS. STICKWAN: I was just going to ask if
21 their recent use is because of the crowding of fishermen,
22 and I know in our area, you know, we've had people
23 traditionally use the Chitina Subdistrict area. Because
24 of crowding we have been forced to move somewhere else,
25 and I was wondering if that was the problem here.

26

27 MS. ARMSTRONG: There was a study done by
28 Susan Georgette in 1983 I think, where they asked those
29 questions. And that is, in fact, what they found was
30 that people not going up there. Plus they couldn't --
31 they can only take fish with rod and reel, and it wasn't
32 efficient enough for them. So their patterns of use
33 shifted.

34

35 CHAIRMAN CARPENTER: Did you have
36 anything else, Doug or Gloria? Dean, do you have any
37 questions.

38

39 MS. STICKWAN: Yes, I had something else.

40

41 CHAIRMAN CARPENTER: Go ahead, Gloria.

42

43 MS. STICKWAN: I know that when you say
44 that certain people went to fish and it's opportunistic,
45 I don't what their culture is like, but I know what our
46 culture is like. And not everybody in the community goes
47 out and hunt and fish. We have certain families that
48 have hunters in their families who do the hunting for the
49 rest of us. So even though it looks like on paper, when
50 you read it, like where only two people went out hunting,

1 we don't see it that way. I mean, they're hunting for
2 all the rest of us. And it's been that way for --
3 traditionally for -- it's been our tradition passed down.
4 That's just how it's been since -- and I'm thinking maybe
5 this is how it is with them, too, because some of our
6 cultures are the same. And we have the same patterns of
7 use.

8

9 CHAIRMAN CARPENTER: Doug.

10

11 MR. McBRIDE: Mr. Chairman. Ms.
12 Stickwan. I'm certainly aware of I believe it's called
13 the 70/30 rule or analysis as pointed out by Dr. Wolfe.
14 I would also point out though it's -- applying that here,
15 I think it's in part applicable, but in part at question,
16 and the reason for that, actually just within the last
17 month Dr. Wolfe came to OSM and presented -- I mean, he's
18 got a study that is being published, and it's all about
19 exactly that. And he presented the data and the
20 conclusions. But one of the questions that Staff had for
21 him is that what is the application, because his
22 assessment was that this rule -- all the data and
23 everything was about Alaska Native communities. So the
24 question became, well, what's the applicability of that
25 rule if you will. And his answer was, and the data is
26 completely based on small, predominantly Alaska Native
27 communities. And so -- and the data came from places
28 like Deering and Igiugig, I mean, you know, Angoon, those
29 kind of places all around the State. And as he explained
30 it to the Staff then, the application of that rule to
31 communities that become larger and that are not
32 predominantly Alaska Native, then it becomes fuzzier if
33 you will. So the rule most likely does apply within the
34 Alaska Native portions of communities like that, but
35 trying to apply that to the community as a whole would be
36 a less solid conclusion than it would be for let's say
37 for a very small, isolated, predominantly Alaska Native
38 location say like Deering.

39

40 Mr. Chairman.

41

42 CHAIRMAN CARPENTER: Thank you, Doug.

43

44 Anybody else have any questions.

45

46 I would just make one comment. I think
47 this might be the first time I've ever seen two options
48 offered by Staff with now foregone conclusion as to which
49 way they thought the Council should react. But seeing
50 that there are many variables in play, I can understand

1 why.

2

3 You know, these C&T determinations for me
4 have been a little bit difficult, because I'm not -- and
5 maybe that's what makes these Regional Advisory Councils
6 somewhat diverse, because I'm used to liv -- I live in a
7 place where you don't have 12 percent of the community
8 fishing in one place and 14 -- 90 percent of harvest is
9 done here, and 100 percent of harvest is done there, and
10 it's an overwhelming factor as to, yes, it's quite
11 obvious that that's where you harvest. But this is a
12 different type of an area here, and there's a lot more
13 communities involved.

14

15 And in my estimation, when you look at
16 the percentages, it's hard for me to justify maybe saying
17 that Ninilchik had a customary and traditional use in
18 Kenai. But when you take the circumstances beyond their
19 control in regards to regulations, there's no doubt, and
20 also in regards to what Doug said, there is no doubt that
21 they were forced out somewhat from using some of the
22 areas that they once used. And in today's world, with
23 the amount of influx in to the Kenai area in regards to
24 the commercialized sport fishing industry, I mean, I can
25 totally understand why they're less likely to use that
26 area. I mean, if I was them, I'd be more keen to go to
27 Adak and look for a place to fish, rather than have to go
28 stand next to 14,000 people on the Russian River.

29

30 So I think the percentages -- you can
31 look at percentages, but you also to look at other
32 circumstances. So we can save that for our -- but I was
33 just curious if maybe if either one of you had a -- if
34 there was a reason why there was not -- wasn't a foregone
35 conclusion as to what the recommendation was from Staff
36 in regard to this. Was it just there was too many
37 circumstances or -- okay.

38

39 Thank you. Is there any other -- James,
40 you've got a question?

41

42 MR. SHOWALTER: No, I've got a comment.
43 Going back to subsistence, which this is, and the use of
44 the Kenai River and from Ninilchik. As you said past
45 history of it, prior to the restrictions and regulations,
46 the Kenai River used to be subsistence outside, inside
47 the river, up the river into the lakes. Because I've
48 done it myself until we were regulated out of this
49 fishery. So there has been consistent use of the area by
50 Ninilchik and the rest of the Peninsula until were

1 regulated out of the usage of the area, until now which
2 we have rural and nonrural areas, only able to fish on
3 Federal lands and waters.

4
5 CHAIRMAN CARPENTER: Thank you, James.
6 If there's no other comments.

7
8 (No comments)

9
10 CHAIRMAN CARPENTER: Thank you, Helen.
11 Thank you, Doug.

12
13 Alaska Department of Fish and Game
14 comments.

15
16 MS. GILBERTSON: Thank you, Mr. Chairman.
17 This is Sarah Gilbertson with the Alaska Department of
18 Fish and Game.

19
20 And I want to talk just for a minute
21 about process. The merits of all of this aside, the
22 State has an issue with process. And maybe you do, too.
23 You know, we got a letter from the Federal Subsistence
24 Board on September 14th, as did David Case who represents
25 the Ninilchik Traditional Council, and from this letter
26 and all of the attachment, there was really no way that
27 we could tell what the topic of conversation would be
28 today, and what the issue, other than we knew that the
29 RFRs related to the Kenai Peninsula would be the agenda
30 at this RAC meeting. And last week I called Acting
31 Assistant Director Pete Probasco and said, you know,
32 what's going to happen next week? I didn't get a good
33 indication from him.

34
35 Finally Monday afternoon the State of
36 Alaska saw for the first time the Staff analysis that's
37 just been presented to you. And I've got to tell you,
38 it's a little bit frustrating to think that the issue --
39 or the RFRs that we filed on the Kasilof and the RFR
40 that's been filed by the Ninilchik Traditional Council,
41 to think that all of this is on the table, and I know
42 that the Board has made some decisions relative just to
43 the points that both of us put in our RFRs, but to think
44 that all of that's on the table, and then come to find
45 out Monday afternoon when you're leaving the next morning
46 at 5:00 a.m. to fly down here that the question's been
47 whittled down to not the RFRs, but the question is now
48 narrowed down to should the Community of Ninilchik have
49 C&T for the Kenai River.

50

1 We've had absolutely no time to prepare,
2 and I don't think you've had that much time to prepare
3 for this huge question that's before you.

4
5 And, you know, in our opinion this
6 question is out of cycle. It's not before you as a
7 proposal that has gone through a public process with
8 significant opportunities for the public to comment.
9 It's one that's being raised through a little known
10 request for reconsideration process. And I know that if
11 we weren't aware of the issue and what was exactly going
12 to be discussed today until Monday afternoon, I know that
13 most people within the Department aren't aware of it.

14
15 And so our comments today are very
16 preliminary, but if you're sensing frustration, then
17 good, because we're definitely frustrated.

18
19 And, you know, by shifting the focus to
20 the Kenai River, using this RFR process, the Federal
21 program is bypassing it's normal public process. There's
22 no time in this for public input. If you make a decision
23 today and the Federal Board takes final action on that in
24 November, there's very little time for public process and
25 involvement. And as you all know, the Kenai Peninsula
26 fisheries, they involve more users than any other fishery
27 in the State. And all these uses will be impacted by any
28 new or expanded Federal subsistence fishery. None of
29 those users are here today, because they don't know to
30 come to a RAC meeting to testify about an RFR that's been
31 put on the agenda.

32
33 There hasn't been any public notice that
34 this issue would come up except to just put the RFR on
35 the agenda. And, you know, that's a problem, because
36 there's no opportunity for these many people who use the
37 Kenai Peninsula and use these drainages to be here to
38 talk to you today about this issue.

39
40 So we're very concerned. And Marianne is
41 going to talk in a little bit more detail about Dr.
42 Fall's report, but we're very concerned that the Board is
43 not following its own regulations, and we're very
44 concerned that we're sitting here today with a potential
45 of yet another decision being made on a customary and
46 traditional use determination when the Board has not
47 followed Secretarial direction to establish any policies
48 and procedures for helping the RAC and the Board through
49 making these complex decisions.

50

1 So in our view, the question before you
2 today, you know, regardless of its merits is premature,
3 because you haven't had time to prepare. You haven't had
4 adequate public involvement. And the Board has not
5 developed any written policies and procedures, and
6 they're under Secretarial direction to do so.

7
8 The State of Alaska continues to believe
9 that the customary and traditional use determinations
10 previously made for Ninilchik, Hope and Cooper Landing
11 are all arbitrary and capricious and in violation of the
12 law, and I said it before today, and I'll say it again.
13 I just enter that statement and those documents into the
14 record, because in our view they're all still very valid
15 and they're all still issues.

16
17 I'd just like to make it clear that we
18 object to those, and I'm betting that we'd object to this
19 one.

20
21 Furthermore, we don't agree with the
22 conclusions that the Federal program is drawing using Dr.
23 Fall's report. That report does not support a long-term
24 pattern of use for the Community of Ninilchik for the
25 Kasilof. And I'll let Marianne go into greater detail,
26 but I just -- you know, from the State's perspective,
27 there was no way to prepare for this. There was no way
28 for public involvement.

29
30 MS. SEE: For the record, my name is
31 Marianne See with the Division of Subsistence, Fish and
32 Game. And as Sarah noted, our discussion here today is
33 quite preliminary in nature especially in regards to the
34 fair amount of detail that was put before you by the
35 Federal analysis.

36
37 As they noted, and as we would note, a
38 really fundamental issue for any analysis of customary
39 and traditional use in terms of the data is whether
40 there's a long, established, consistent pattern of use by
41 a community, and I stress the word community.

42
43 We do know from past studies that some
44 subsistence uses by residents of Ninilchik have been
45 documented, especially areas near to that community, and
46 subsistence is characterized by efficiencies including
47 locally available resources.

48
49 We note, though, that the challenge for
50 the Federal program, and I say program at large, not just

1 this Council is to carefully examine and describe
2 information about current and past practices in light of
3 the question of whether the community, and in this case
4 it's Ninilchik, has customary and traditional patterns of
5 use for particular species, stocks and specific
6 locations. These become interpretive issues, not just
7 for the topic before you today as a Council but for the
8 entire Federal program.

9
10 As noted earlier, we see the analysis of
11 these requests for reconsiderations, or RFRs is now very
12 specifically focused on the question of whether's strong
13 evidence either for or not a long-term consistent pattern
14 of use by the Ninilchik community of land subject to
15 Federal subsistence management authority that are in the
16 Kenai River drainage.

17
18 Now, as Sarah, noted, we didn't see this
19 with a lot of advanced time and that was just one of
20 those things that happened, but because it happened, I
21 consulted with Dr. Jim Fall as quickly as I could on
22 Monday afternoon about this and we looked through the
23 Federal analysis to get a sense of what was put forward
24 and whether or not we had a concerns about it or what
25 they might be. And we've noted that there are some
26 different, maybe apples and oranges is a simplistic way
27 to put it, kinds of information being used here that
28 complicate this.

29
30 The kind of information that was provided
31 by Dr. Wolfe who was an esteemed colleague of ours is in
32 regard to study information developed very specifically
33 to look at tribal members and their histories, their
34 patterns of use, and it was done with methodology that he
35 described is consistent with other kinds of social
36 science methodologies. But it focuses on what we call
37 key respondent interviews, and those are a very important
38 tool in our line of research but they get at the longest
39 pattern of use by very selected individuals to try to get
40 at what that part of the pattern looks like. When you
41 look at the community, and we use that term, advisedly,
42 because that's our understanding of how the Federal
43 program works, as well as how the State looks at these
44 things, the community is the community, it's the
45 resident households of that area, and it includes a lot
46 of other folks. So that was the basis for the study that
47 Dr. Fall was contracted to do by the Federal Subsistence
48 Program, to look at community information, that was the
49 basis of the survey methodology, which was approved by,
50 in fact, the Federal Office of Subsistence Management.

1 And so the kinds of data you're looking at are different.
2 They do represent some of the same people, but they're
3 for different purposes. One is to look at very specific
4 individuals, and one is to look at a cross section of
5 community to get a community based pattern of
6 information.

7
8 And comparing older information that
9 speaks to one set of users with the more recent Fall
10 work, which -- Dr. Fall's work, which looks at the
11 community, gives you some very different numbers, and
12 it's not surprising that that would be true. And there's
13 differences noted now in Wolfe's reports as well as in
14 the Federal analysis that the community of Ninilchik has
15 changed considerably, socially, economically, and
16 demographically since the road was built in 1951, and
17 correspondingly there's been shifts in the way resources
18 have been used.

19
20 We note that the additional information
21 from the Fish and Game study, and, again, that study was
22 undertaken so that there would be a lot of different
23 information that could be pulled out of it for subsequent
24 analysis, just as some of it has been, when specific
25 questions were brought to look at specific kinds of
26 issues about customary and traditional use, and so Dr.
27 Fall did go back to the actual survey data and looked at
28 some of the information, and that's what that kind of
29 pink-colored handout is, is taking a look at that.

30
31 If you look at that, it's important to
32 understand that, again, there's different sets of
33 information you've got but it's important to look at what
34 some of these numbers really do refer to. And Helen
35 Armstrong introduced some of that, in some of her
36 comments so far. But I'll just add another kind of layer
37 to this to help make sure that the numbers are clear.
38 What you do with the numbers is your deliberative
39 process, but I want to make sure that the numbers are
40 clear.

41
42 If, for example, you look at Table 3,
43 which is characteristics of sampled Ninilchik households
44 that have ever fished in the Federal waters of the Kenai
45 River.....

46
47 MS. STICKWAN: What page?

48
49 MS. SEE: It's the pink one. If you look
50 at.....

1 MS. GILBERTSON: It's Page 6.

2

3 MS. SEE:it's a couple pages in,
4 Page 6, Table 3. If you look at that table, and Helen
5 Armstrong referred to this one as well, about half way
6 down there's percentages of users with different
7 categories of use. There's a frequent use category which
8 is defined as about every year, at least one time, it may
9 not be more than one time, but it's at least one time.
10 There are percentages across three categories there, one
11 is for use of Federal waters, Kenai River, one is for
12 Swanson River area and then there's an any category.
13 Those percentages are percentages of an early percent,
14 and this is the kind of thing numbers can really get
15 confusing.

16

17 The second line of the chart talks about
18 percentage of all Ninilchik households and those are
19 percentages working across that row, 21 percent, 13
20 percent and 28 percent; and Helen explained a little bit
21 about what those numbers, estimated numbers of actual
22 households would be if you expand that back out to all
23 households in Ninilchik. But what I want to do is point
24 out that those numbers I started with, the percentage of
25 users who may have gone about at least once in a year
26 time or maybe only once in a year over time, that that
27 number, when you look at what that real percentage is,
28 it's not 60 percent of all households in Ninilchik. For
29 example, that first one, 60 percent using Federal waters,
30 Kenai River actually means 12.6 percent of all households
31 in Ninilchik. And as she noted that's 73 households, but
32 it's 12.6 percent of the community number of households.

33

34 Similarly, if you go to the next in that
35 row, which says 75 percent, using Swanson River area,
36 that percentage becomes just under 10 percent of all 577
37 households that are considered resident households in
38 that study, and that as she noted was 57 households, but
39 it's 10 percent.

40

41 And then similarly if you go over to 62
42 percent, that converts to 17 percent of all 577
43 households.

44

45 So those are percentages that really
46 relate to people who went there one time, possibly more,
47 more or less every year. And those kind of percentages
48 are numbers you should really look at closely. They are
49 -- they get into an area that could be very grey in terms
50 of whether or not that's a significant element of a long

1 established consistent pattern of use by a community.

2

3 We also note that there are some
4 limitations to the overall use of some of these
5 categories and I'll actually -- it's just a couple of
6 sentences, I'll read in this in for the record, it's the
7 first page of the pink fall '06 report, as Helen referred
8 to it, I'll use the same reference:

9

10 There are limitation to these data. For
11 example, these data cannot be used to
12 estimate lifetime usage of upper Kasilof
13 River waters where the Federal
14 Subsistence Program claims jurisdiction
15 since all Kasilof River waters were
16 lumped together as a single reported
17 area.

18

19 And that was for purposes of conducting
20 the survey.

21

22 Neither can the lifetime usage data be
23 used to estimate the proportion of people
24 using any given area annually or the
25 target species, without corresponding
26 detail data on the frequency of the use
27 or the target species by individual
28 households. Little can be inferred about
29 the actual degree and pattern of use.

30

31 So there's limitations on how far you can
32 go with interpreting some of these numbers.

33

34 The point being that, yes, we have
35 information and it's important information to consider.
36 But it requires some really careful examination and we
37 just want to make sure that we've conveyed that point.

38

39 As I said the interpretation of all this
40 really comes down to an exercise that you all will need
41 to go through and ultimately the Federal Board will do
42 that as well. But we want to make sure that the
43 information is clear and there's a lot of it and it may
44 not always be clear.

45

46 We note that, kind of along another point
47 about information, in the Federal analysis where you have
48 two options presented. Option A actually and, again,
49 this is after a pretty quick look at it, but we noticed
50 some errors of fact and incomplete characterization of

1 some of these area categories and we'll have to make
2 detailed notes about this back to the Federal program,
3 but we are concerned about that and we're going to have
4 to get those corrections to them. Option B, which we
5 thought was pretty minimally presented, does, in fact,
6 present the data itself more accurately in our opinion,
7 given, as I noted, that there are some limitations about
8 what you can infer or interpret from some of these kinds
9 of data.

10
11 We'll be looking at this more closely and
12 then we're going to have to revise our comments on this
13 because obviously we think it's pretty complex. There's
14 process issues Sarah has mentioned and that's about as
15 far as we can go at this point in time.

16
17 Thank you, Mr. Chair.

18
19 CHAIRMAN CARPENTER: Thank you, Marianne.
20 Just for the record, could you please, state again when
21 you received notification that this was going to be on
22 the agenda, what date?

23
24 MS. SEE: On the agenda?

25
26 MS. GILBERTSON: Thank you, Mr. Chairman.
27 We knew that the issue was on the agenda, but it did not
28 -- it just said RFRs, and so we did not find out that the
29 question of whether the community of Ninilchik has
30 customary and traditional use for the Kenai River, we did
31 not find out that that was the specific topic of the
32 Staff analysis and discussion today until Monday
33 afternoon when we called Larry Buklis at OSM.

34
35 CHAIRMAN CARPENTER: This last Monday?

36
37 MS. GILBERTSON: Right. Monday, I think
38 it was the 16th, so two days ago.

39
40 CHAIRMAN CARPENTER: Okay, thanks. Did
41 you have something, Doug.

42
43 MR. BLOSSOM: Yeah, Mr. Chair. I am
44 looking at the draft analysis that the Federal government
45 put out and on Page 20, that's the most important thing
46 to me. As I read it, it's 1986, the Federal government
47 told you in a legal opinion that there were no
48 unimportant subsistence uses. No, I guess, since 1986
49 has the State of Alaska challenged that legally, and if
50 they have, I guess, to me that is the most important

1 issue. If they haven't challenged it, then that opinion
2 stands and that's what we need to look at.

3
4 MS. GILBERTSON: Mr. Chairman. Council
5 member Blossom. I'm not aware of that correspondence but
6 it is a legal opinion and a letter to the State of
7 Alaska, once again I'm not up to speed on that, but a
8 legal opinion is not something that's been tested in
9 court, it's just someone's opinion who's an attorney
10 would be my thought.

11
12 MR. BLOSSOM: Yeah, so that's what I
13 wondered, have they challenged it in court and if -- you
14 know, I'd like to know the answer because that's
15 important to us, if they haven't challenged it they must
16 have agreed with it.

17
18 MS. GILBERTSON: Mr. Chairman. Council
19 members. Just because we don't challenge something
20 doesn't mean that we agree with it, and I'm not sure --
21 I'm not sure with respect to this particular question
22 whether we have or have not.

23
24 MS. SEE: We can check.

25
26 MS. GILBERTSON: We can check.

27
28 CHAIRMAN CARPENTER: Gloria, do you have
29 something.

30
31 MS. STICKWAN: So when you say that this
32 information is an interpretation of the data, so it
33 sounds like, you know, it's all an interpretation of how
34 you look at these numbers and it could be interpreted
35 your way and it could be interpreted the Federal way.

36
37 MS. SEE: Mr. Chair. Ms. Stickwan. What
38 I was saying about interpretation was, with regard to the
39 question that I raised at first, the extent to which
40 something constitutes a long-term consistent pattern of
41 use, and ultimately when you look at these kinds of
42 information it's an analysis exercise, it's an
43 interpretative exercise at that point to really try to
44 understand the context for the use and the importance of
45 the use to the community for which the question has
46 arisen. So that's what I was referring to about
47 interpretation. There's a lot of information from which
48 you then make that interpretation, but there are no
49 policies right now under the Federal side that we're
50 aware of that would guide you on this.

1 MS. STICKWAN: So there's never any
2 definition of long consistent pattern term of use, I mean
3 even the State of Alaska, when I went to their meetings,
4 you know, do they have a guideline that says what's the
5 pattern of use, is there a number of years set in stone
6 saying that this is your pattern of use, like 100 years,
7 20 years, is there a number?

8
9 MS. SEE: Through the Chair. Ms.
10 Stickwan. And that's a very reasonable question. There
11 are eight factors which are generally all examined and
12 there's a balancing of information, often we don't have
13 information for all of them, but long-term, and this is
14 based on another factor as well is multi-generational, so
15 that at least puts you into a reasonable interpretation
16 of what multi-generation is, and that can be a matter of
17 decades as opposed to centuries. Obviously the longer
18 set of information you have back in time the better of
19 quality of what you might be able to analyze is going to
20 be.

21
22 MS. STICKWAN: But there's no definition,
23 right, it's not written down somewhere that says it's 10
24 years, it's 20 years, it's 100 years, it's just your
25 interpretation of what's a long-term pattern of use. I
26 mean I see different when I go before the State of
27 Alaska, Board of Fisheries, Board of Game meetings,
28 there's different interpretations, you could just
29 interpret what -- there's no real -- do you understand
30 what I'm trying to say, there's no real written in stone
31 this is the number of years you've used this area, it's
32 not written anywhere, it could be interpreted to be your
33 pattern of use could be like five years ago, you know,
34 because there's nothing written down that says that.
35 Even in the State.

36
37 MS. SEE: Through the Chair. Although
38 there's not a hard set policy through the State, it
39 wouldn't -- five years would not be considered a long-
40 term pattern of use. Again, it relates to a multi-
41 generational standard that's also reflected in other
42 criteria, among the eight. And there's also a body of
43 information on record at Board of Fish and Board of Game
44 on the State side that -- where there's been examples
45 made of what people consider long-term pattern of use,
46 but you're right there's no set hard standard, it's a
47 body of evidence that has to be used and.....

48
49 MS. STICKWAN: So it's an.....
50

1 MS. SEE:the longer the better.

2

3 MS. STICKWAN:interpretation,
4 that's all it is, right?

5

6 MS. GILBERTSON: Well, if I might just
7 add, I think that that's one of the things that the State
8 has been asking the Federal system to define. I mean on
9 the State side, as Marianne said there is this body of
10 evidence, there is record and on the Federal side this is
11 a question that we wrestle with every time a C&T
12 determination comes up is what is it, and what are these
13 eight factors and how does the Federal system apply them.
14 On the State side we have a pretty good idea of how
15 they're applied and.....

16

17 MS. SEE: We have a record.

18

19 MS. GILBERTSON:there's a record
20 and it's consistent and so that's one of the issues that
21 the State has with the Federal system and we've been
22 pushing them pretty hard to come up with what exactly --
23 what are those eight factors, how do you make a C&T
24 determination. They're all very good questions I don't
25 think that there are answers for them.

26

27 MS. STICKWAN: I think a lot of it is
28 just written down how the C&T is written in law, whatever
29 it is, because you can interpret -- I mean the way the
30 C&T is written in law is just, it's very vague, I think,
31 I mean when you look at this eight criteria the wording
32 is very vague, to me it seems to be that way.

33

34 CHAIRMAN CARPENTER: Thanks Gloria. I
35 agree with you, I mean I think there's no comparison
36 between the way the State does a C&T and the Federal
37 Staff does a C&T. Their interpretations of the eight
38 criteria are completely different. I think the State, at
39 least, in the past when I've seen their C&T words done,
40 that they almost make you fulfill all eight criteria to
41 even be considered and that's not the way the Federal
42 Staff interprets that.

43

44 So does anybody else have any questions
45 for the Department.

46

47 Dean.

48

49 MR. WILSON: Just to reiterate what you
50 were mentioning earlier, the C&T status presently for

1 Cooper Landing and Hope, the Department thinks that's
2 capricious and doesn't agree with that presently, right?

3

4 MS. GILBERTSON: Mr. Chairman. Mr.
5 Wilson. That is correct. We do not agree with those and
6 we did file a request for reconsideration with the Board.
7 My understanding is that those have been denied so the
8 Board will not be taking those back up. However, we
9 still oppose those determinations.

10

11 MR. WILSON: So adding Ninilchik to it
12 isn't going to -- certainly isn't going to make you guys
13 even happier as far as that goes. So with you guys
14 having a days notice or whatever, if you would have had
15 more notice, likely you wouldn't have come out in favor
16 of this irregardless, correct?

17

18 MS. SEE: That's premature.

19

20 MS. GILBERTSON: Marianne just said
21 that's premature. I can't say because we don't know.
22 But, you know, judging by what we've had to go from and
23 the amount of time we've had to look at this.

24

25 MR. WILSON: But what you are saying, I
26 guess, is you guys would have just liked to have seen
27 more involvement from Hope or Cooper Landing to be
28 involved with this so they could see how this would
29 affect their C&T presently?

30

31 MS. GILBERTSON: I hadn't even thought of
32 that, Mr. Chairman, Council members. My point, and I
33 think the Commissioner's point is that we had very little
34 notice that this issue was going to be up today. Kenai
35 Peninsula has more user groups than any other fishery
36 and, you know, we spend a lot of time as a Department
37 managing those fisheries, talking to the user groups. I
38 mean when that fishery is in season, and I mean just
39 think of a Board of Fish meeting and how many Cook Inlet
40 proposals there are, there are just so many contentious
41 issues in this fishery, so many different user groups, so
42 many different allocation questions, so the point here is
43 that none of those people are here today. What was
44 noticed on the agenda was RFRs, not that we would be
45 talking today about whether or not Ninilchik should have
46 C&T for the Kenai River or the Kenai River area, so those
47 folks aren't represented here today. My guess is that
48 they didn't even know, I didn't even have time to tell
49 folks within the Department.

50

1 MR. WILSON: Yeah, I understand that and
2 I think that definitely needs to be addressed as far as
3 getting out. The issues need to be passed around to
4 everyone prior to these meetings, so I guess everybody
5 can come prepared.

6
7 But that's kind of what I was getting at,
8 I'm curious whether or not the present C&T residents, if
9 they're going to have any participation here or not, but
10 I'm sure you guys wouldn't know that and if you guys were
11 this late getting it yourself as the Department, I doubt
12 if those residents are going to be involved much as well.

13
14 CHAIRMAN CARPENTER: Thank you, Dean.
15 Just one second, Doug. Before we go any further, I would
16 like to know, maybe from Staff or maybe from the
17 solicitor's office if this was a legal notice, has the
18 Department, has the public been legally and duly notified
19 that this -- and is this all proper before we even go any
20 further?

21
22 MR. PROBASCO: Thank you, Mr. Chair. I
23 think it's very important that we clarify the record.
24 And I also want to be up front that there is a process
25 that Sarah was speaking to that involves the Federal side
26 and the State side, and I'll explain that as well.

27
28 However, as far as the proper of where it
29 was done, we're well within our means and I'll go through
30 the RFR process, it's totally different from proposal
31 process.

32
33 On August 31, the Federal Subsistence
34 Board met to review the request for reconsiderations and
35 as you all know, the first step in an RFR is does it meet
36 the threshold analysis. In this case the Ninilchik's RFR
37 request and the State's RFR request, portions of those,
38 which we call claims, some of those met that criteria.
39 On September 14th a letter was drafted and sent to
40 Commissioner McKie Campbell, this was emailed to Marianne
41 See, and this letter laid out those claims that were
42 adopted and those claims that did not meet the threshold
43 analysis. And also in that letter it explains that this
44 issue will be brought before the Southcentral Regional
45 Advisory Council at their October meeting. That letter
46 was sent on September 14th. Donald Mike works with the
47 Chair, Ralph Lohse, and an agenda is developed. That
48 agenda, along with the news release that's put out in our
49 normal process announcing these meetings. In conjunction
50 with that, the news release and the agenda are placed on

1 our web site. On October 3rd the RFR analysis was sent
2 out and placed on our web site. Some Fish and Game
3 employees were mailed the analysis, and here's where we
4 messed up, specifically Sarah and Marianne, there was a
5 mess up on my Staff, which I take responsibility for,
6 they did not receive an emailed copy which is our normal
7 practice, of that analysis, and they would have got that
8 on October 3rd. So that's where that's messed up, but as
9 far as proper notice on the request for reconsideration,
10 letting the public know the availability of the RFR, our
11 normal proposals and RFR's, any data that's --
12 information that's brought before Councils is posted on
13 the web site. Not every individual person receives their
14 own mailed copy, so you're well within your authority, if
15 you will, to address these issues.

16

17 Mr. Chair.

18

19 CHAIRMAN CARPENTER: Thank you, Pete. I
20 just wanted to get that on the record before we went any
21 further along down this process because I'd hate to have
22 something like this slow up another one of Ninilchik's
23 proposals, at least, to be acted on.

24

25 Donald, do you have something.

26

27 MR. MIKE: Thank you, Mr. Chair. To add
28 to Mr. Probasco's explanation, the fisheries analysis
29 along with the RFR, those two analysis were also posted
30 on our web site.

31

32 Thank you, Mr. Chair.

33

34 CHAIRMAN CARPENTER: Maybe I could ask
35 Donald this, because maybe you handled this, when
36 meetings like this are held in an area like Homer, Kenai
37 or whatever, are notices put in local newspapers, like
38 within the Kenai Peninsula in regards to issues like
39 this?

40

41 MR. MIKE: Mr. Chair. Yes, notices are
42 issued to local newspapers in addition to Anchorage Daily
43 News.

44

45 CHAIRMAN CARPENTER: Okay. I just wanted
46 to put that on there for the record. So Dean.

47

48 MR. WILSON: I think that the main
49 notifications were made as far as the documents that were
50 written up and sent out and different things. But my

1 understanding is that the Fish and Game was trying to
2 call and get a specific items, what were going to be
3 talked about and they weren't getting them from that
4 point. Would the email, would that have been the only
5 place that would have showed the specifics for them to
6 address this issue or is that something that should have
7 been handed out to them earlier?

8
9 MR. PROBASCO: Mr. Chair. Specifically
10 to the RFR analysis getting to Sarah and Marianne, that's
11 where I messed up. Usually our correspondence with them
12 is email. We complete this analysis and we get it out to
13 them. As I looked into this, we found out that some of
14 the ADF&G Staff were mailed the analysis as the same time
15 everybody else, you guys received it on October 3rd,
16 specifically to the State Liaison Team, that's where we
17 fell down. Where I feel comfortable with is our letter
18 on September 14th speaks to those claims that were going
19 to be addressed in the analysis. But the analysis,
20 itself, once we found that out, was sent to Marianne and
21 Sarah on Monday morning via email, as well as a phone
22 call.

23
24 Mr. Chair.

25
26 CHAIRMAN CARPENTER: Thank you, Pete.
27 Anybody else have any questions before we continue on.

28
29 Dean.

30
31 MR. WILSON: One more follow up. And
32 that was to the Fish and Game, the Department, what about
33 to the communities, the other C&T communities that are
34 there, were they going to be -- were they involved with
35 this as well, somehow notified that C&T could be had to
36 Ninilchik.

37
38 MR. PROBASCO: They were notified in our
39 normal process as well as with any other issue this
40 Council deals with, and there is a mailing list that went
41 out on the 3rd of October, now, I don't have that in
42 front of me, but it does not just include Council members
43 and the State, it includes those interested parties that
44 have contacted the person writing the analysis or have
45 contacted the office and want to stay involved in it. So
46 I'm sure we can recreate that mailing list if you would
47 like.

48
49 CHAIRMAN CARPENTER: Is that all you had
50 Dean.

1 MR. WILSON: (Nods affirmatively)

2

3 CHAIRMAN CARPENTER: Okay, thanks Pete.
4 I guess we'll -- if Marianne or Sarah have something to
5 say, come on back up.

6

7 MS. GILBERTSON: Thanks. This is Sarah
8 Gilbertson with Fish and Game. And I don't want to
9 belabor this, but this is an issue of a process and it is
10 a big problem. In the RAC book and in the agenda, it
11 says RFRs, 02, 03, 08, request for reconsideration of the
12 Kenai Peninsula customary and traditional use
13 determination. Okay. And the September 14th letter to
14 Fish and Game to Commissioner Campbell it says -- it
15 basically goes through, it says we accept this claim, we
16 reject this claim and it talks about those particular
17 claims. But it says the Board met on the 31st, the
18 requests received were timely. Based upon our review the
19 Board concluded that two of the nine arguments, it
20 continues on, further Staff analysis will proceed on the
21 accepted claims as noted below. The intent is to have
22 the analysis of accepted claims presented to the
23 Southcentral Alaska Federal RAC at their October meeting
24 and for the Board to reconvene in an open work session,
25 likely in November, to make a decision on these claims.

26

27 Nowhere until Monday afternoon, because
28 OSM's email went down, did we find out that the question
29 is whether or not, you know, Option A or Option B,
30 whether or not Ninilchik has customary and traditional
31 use for the Kenai.

32

33 So, I'm sorry, but this is a problem, and
34 the public is not adequately notified, neither was the
35 Department. And, you know, I don't want to speak for
36 you, but how can you make a decision without all the
37 information in front of you, without all the public
38 testimony in front of you.

39

40 CHAIRMAN CARPENTER: Thank you, Sarah.
41 So I am assuming from what you just said, that when the
42 Commissioner received the letter, or whoever accepted it
43 for the Commissioner, when they found out that some of
44 the claims in regards to the RFR were accepted by the
45 Federal Board, they did not interpret that that this
46 would be revisited at this meeting at all, what did they
47 interpret that to mean?

48

49 MS. GILBERTSON: Well, we knew it -- Mr.
50 Chairman. We knew it was on the agenda because the

1 agenda says RFRs, but Ninilchik's agenda change -- or not
2 agenda change request, but RFR is the one that spoke to
3 the Kenai River so the letter that we got talks about our
4 claims made in our RFR related to the Kasilof and so this
5 will be taken up, an analysis will be written and it will
6 be taken up at the Southcentral RAC meeting, so I think,
7 you know, the Department feels blindsided, and I know the
8 Commissioner does. I called him and told him what we
9 were going to talk about today, I called him yesterday
10 and, you know, we didn't have time to prepare and I just
11 don't think we had adequate time and I don't think the
12 public's aware of this issue.

13
14 CHAIRMAN CARPENTER: Okay, thank you.
15 Any other questions for the Department.

16
17 (No comments)

18
19 CHAIRMAN CARPENTER: Thanks a lot. Let's
20 take a five minute break for a minute.

21
22 (Off record)

23
24 (On record)

25
26 CHAIRMAN CARPENTER: Okay, everybody
27 let's call this meeting back to order. We got to wait
28 for Gloria and James.

29
30 (Pause)

31
32 CHAIRMAN CARPENTER: Okay, we'll call the
33 Southcentral Regional Advisory Committee meeting back to
34 order, it's 2:34. And I hate to stall this process out
35 any longer, but I'd like to ask Pete, if he's here, or
36 somebody from the Staff a question, and maybe Ken it's
37 very possible that you could answer this one.

38
39 MR. LORD: Mr. Chair. Pete had to step
40 out, he's still checking on some of the background and
41 the process we went through and he's making a few phone
42 calls, so maybe I might have to put off the answer to
43 your question, but let's hear it.

44
45 CHAIRMAN CARPENTER: My question is, is
46 that two years ago when the C&T data was brought before
47 this Council in Kenai, we heard all the pertinent
48 information, we heard public testimony from Cooper
49 Landing, Hope, Ninilchik, Kenai, a random assortment,
50 that the State had a position then, the Federal Staff had

1 a position then and this Council took action and
2 forwarded our recommendation to the Federal Board, that a
3 customary C&T be given to C&T for both the Kenai and
4 Kasilof River drainages.

5
6 So if that's the case, that was our
7 position, and as of right now that would still be this
8 Council's position because we haven't acted otherwise,
9 why are we talking about this again, and do we have the
10 ability right now to take no action on this proposal in
11 regards in lieu of action that we took two years ago?

12
13 MR. LORD: You do have that option, Mr.
14 Chair. The issue is back before you mainly because of
15 the new information that came to light. If that new
16 information does not change your view of what the C&T
17 should be for for Ninilchik it is certainly within your
18 purview to stand on your prior decision.

19
20 CHAIRMAN CARPENTER: Okay. And that
21 being said, was there anything that was left out of the
22 record that you know of when we made a positive
23 recommendation to the Federal Board in regards to part of
24 the .805 that disrupted the Board or disallowed the Board
25 from giving Ninilchik a positive C&T because of something
26 that we left out of our discussion?

27
28 MR. LORD: Not that I know of. As you're
29 aware the .805c deference requirement relates to Council
30 recommendations regarding the taking of fish and
31 wildlife, so it clearly applies to things like harvest
32 limits and seasons and those sorts of things. It's a
33 little less clear as to whether it applies to C&T uses.
34 It's an issue that we've left unresolved, the Board
35 prefers to give that deference on C&Ts, and as far as I
36 know has always done so and has a history of doing so,
37 but getting more to your specific question, I am unaware
38 that there is any problem, .805c problem in connection
39 with your recommendation to the Board on this issue.

40
41 CHAIRMAN CARPENTER: Okay, thank you very
42 much. Pete, did you have anything further you need to
43 add right now.

44
45 MR. PROBASCO: (Shakes head negatively)

46
47 CHAIRMAN CARPENTER: All right, thanks.
48 I'd like to hear maybe from other Council members how
49 they want to proceed here. We've had the analysis done,
50 we've had the new information given to us by Staff, this

1 Council's already made a recommendation to the Federal
2 Board. We can follow through with the last four or five
3 different agencies and we can let the tribe speak again
4 in regards to the new information or do you feel that
5 we've made our position clear to the Federal Board in the
6 way that we feel C&T for Ninilchik ought to be dealt with
7 and should we move on.

8

9 So I'm open to suggestions so if you have
10 any, please let me know.

11

12 Gloria.

13

14 MS. STICKWAN: I don't see any
15 information that was -- information that was provided
16 today as additional information. It just enforces that
17 they have C&T, it didn't take away anything to me, my
18 interpretation of the data and my understanding of what
19 was said, it added to it and didn't really take it away.
20 So, you know, that's' my position, it added more to the
21 C&T for the Ninilchik Tribe.

22

23 CHAIRMAN CARPENTER: Okay, Gloria,
24 thanks. Do you have anything Doug.

25

26 MR. BLOSSOM: Yeah, Mr. Chair. I agree
27 with Gloria so far, but I suppose because it's on the
28 agenda, anyone that wants to talk about it should before
29 we close our ears and say anything.

30

31 CHAIRMAN CARPENTER: Then that's the way
32 we'll proceed. I guess we'll go on next to other
33 Federal, State or tribal comments.

34

35 Brenda, from AHTNA.

36

37 MS. REBNE: Thank you, Mr. Chair. Before
38 I start I would like to ask a question. I have multiple
39 comments on other issues in addition to the rural and
40 nonrural determinations, not only just for the --
41 regarding the Ninilchik issue but also rural and nonrural
42 determinations as well, customary and traditional use
43 determinations, composition of RACs, these are works from
44 our subsistence committees and they have put considerable
45 time into that. I don't see anywhere on the agenda where
46 I can have an opportunity to address those issues. Which
47 will you prefer or will you allow me either to read the
48 rest of these comments or would you prefer that I put
49 them in -- that I just turn them over as they are for the
50 record, for the record, in writing. I do have a copy

1 here.

2

3 CHAIRMAN CARPENTER: Brenda, I think to
4 kind of make things, kind of somewhat follow the agenda
5 and kind of keep this in an orderly fashion, you're more
6 than welcome -- you're going to have time to read those
7 into the record. But right now I'd actually prefer if
8 you have a comment in regards to this C&T question, to
9 let those comments come forward, and then after we're
10 done with this we're going to have some time for
11 additional public testimony and then if you're going to
12 be here then you're more than willing to do that then.

13

14 MS. REBNE: I won't be here after today.

15

16 CHAIRMAN CARPENTER: Well, we're going to
17 be finished by this afternoon.

18

19 MS. REBNE: Okay.

20

21 CHAIRMAN CARPENTER: So this will
22 probably be in an hour.

23

24 MS. REBNE: Oh, all right.

25

26 CHAIRMAN CARPENTER: If you're going to
27 be here then, will that be fine.

28

29 MS. REBNE: That will be fine.

30

31 CHAIRMAN CARPENTER: Okay, Dean.

32

33 MR. WILSON: I didn't catch that
34 completely Brenda. The rest of the comments you have
35 besides what we're talking about right now, all of them
36 have to do with rural determination; is that correct?

37

38 MS. REBNE: Customary and traditional use
39 determination, they are composition of RACs and SUAs,
40 subsistence use amounts.

41

42 MR. WILSON: Okay. So it would all fall
43 under the Proposed Rule for rural determinations.

44

45 MS. REBNE: I wouldn't say that they all
46 fall under that, they could be interpreted that way,
47 particularly customary and traditional use
48 determinations.

49

50 CHAIRMAN CARPENTER: I think she has the

1 ability to make comments for the rural determination
2 under that, but after the Resource Monitoring, following
3 the agenda, we are also going to have a couple of motions
4 probably to deal with Council make ups, regarding the
5 70/30 split and the Partners Program, so I think you can
6 make your comments then if that's okay.

7

8 MS. REBNE: Yes, that's okay.

9

10 CHAIRMAN CARPENTER: Okay, thank you.

11

12 MS. REBNE: Okay. My comments regarding
13 the positive C&T finding for the Ninilchik Tribe are
14 based on two things.

15

16 One, I think this is an opportunity for
17 this RAC to correct a wrong, and it's also an opportunity
18 to use as experience for down the future in our area, in
19 AHTNA, we're particularly threatened by being on the road
20 system and the influx of urban residents because of the
21 accessibility, I guess of our villages, which are all on
22 the road system. I think that Ninilchik has fallen under
23 this problem and most of the tribes in this area or at
24 least most of the tribes that are on the road system
25 whose subsistence rights have been negatively impacted
26 due to the influx of other people and other users.

27

28 In this case, I think that it's very
29 clear, it seems very clear that they were prevented from
30 continuing their customary and traditional uses by
31 regulatory actions of the State. And this is
32 particularly frightening for us because of the location
33 of our tribes in our regions and the types of issues that
34 we face.

35

36 So this is almost like a poster child of
37 what could happen to our region so it's very frightening
38 and I'm very heartened to see that you are looking at
39 some of these past -- that you have personal experience
40 with the traditional uses of the tribes here in this
41 area, and so I'm heartened to hear that.

42

43 I do think that this is a big issue. I
44 have brought it to the attention of the Alaska Federation
45 of Natives. The designations for rural and nonrural
46 areas, the C&T findings and the Alaska Federation of
47 Natives will be having a meeting to discuss this issue
48 both on the Federal and on the State side. So I think
49 it's a very, very big issue and it goes far beyond just
50 Ninilchik. I think this is a real wrong that's been

1 done, and it's been done for too long. And so I do want
2 to say that AHTNA would support, and obviously would
3 support Ninilchik's efforts to receive a positive long
4 overdue C&T finding that they're well deserving of.

5
6 Thank you.

7
8 CHAIRMAN CARPENTER: Thank you, Brenda.
9 Appreciate the comments. Any questions for Brenda.

10
11 (No comments)

12
13 CHAIRMAN CARPENTER: Thank you, very
14 much. Darrel, you want to comment now for the Ninilchik
15 Traditional Council.

16
17 MR. WILLIAMS: Mr. Chair. Members of the
18 Board. Darrel Williams.

19
20 You know we have talked about this a lot.
21 And I think it was a really choice what you said, Mr.
22 Carpenter, about the RAC evaluating whether to stick by
23 their decision or not, because we've spent a lot of time,
24 days, on this particular issue to try to sort this stuff
25 out.

26
27 Personally I agree with Board member
28 Blossom and Board member Stickwan, that I don't see any
29 new evidence. We've demonstrated many times that
30 Ninilchik has performed subsistence activities for a very
31 long time. I don't see the other profound changes when
32 the dipnet, or the gillnet fishery went away, all I see
33 is that people try to subsist, they try to use what they
34 could, they kept doing what they could, and there's been
35 some real valuable information with this RAC from Mr.
36 Blossom, and from Mr. Showalter, on their personal use
37 and experiences.

38
39 When I sat down and tried to decide how
40 to approach this whole topic, one of the things that
41 always comes to light is that I've lived in Alaska here
42 on the Peninsula for over 35 years and a lot of things
43 have changed, and for the folks that have more to offer
44 than that, it's invaluable knowledge, it really is. And
45 when we start looking at a lot of these things, is what
46 makes the RAC so functional and so important, is that it
47 listens to the users. It takes the true peer review
48 process to the level that it should from the real
49 experts. And I appreciate everyone's time and effort in
50 this.

1 As far as we're concerned, we'd like to
2 state that we believe NTC has still demonstrated through
3 all the information that we provided, substantial
4 subsistence use in the Kenai River drainage and in the
5 Kasilof drainage. Earlier I handed out the information
6 that we presented before the PowerPoint presentation that
7 has numbers and figures that you guys can look at
8 whenever you have time.

9

10 That's all I have to say.

11

12 Thank you. Are there any questions.

13

14 CHAIRMAN CARPENTER: Thank you, Darrel.

15 Anybody have any questions for Darrel at this time.

16

17 (No comments)

18

19 CHAIRMAN CARPENTER: Thanks very much.

20 Let's see InterAgency Staff Committee comments, is there
21 any.

22

23 (No comments)

24

25 CHAIRMAN CARPENTER: I guess not. We'll
26 see if Jerry has some when he comes back.

27

28 MS. SWANTON: Jerry's not in the room at
29 all.

30

31 CHAIRMAN CARPENTER: Okay.

32

33 MS. SWANTON: I'll respond on behalf of
34 the InterAgency Staff Committee, and at this time we
35 don't have any comments. We'll look forward to hearing
36 your deliberations.

37

38 Thank you.

39

40 CHAIRMAN CARPENTER: Thank you, very

41 much. Is there any fish and Game Advisory Committee
42 comments.

43

44 Sir. State your name, please, and
45 residence.

46

47 MR. PETERS: Marvin Peters. Chairman of
48 the Homer Fish and Game Advisory Committee.

49

50 We had a meeting last week. I shared

1 confusion about the agenda on this meeting with some Fish
2 and Game Staff. We weren't sure what was going on. So
3 they voted things quite generally just to allow me to
4 speak to the various issues.

5
6 And one of the things that they were
7 unanimous on was opposition to any new C&T findings, new
8 rural findings, and I could go into more specifics if you
9 would like. But on the C&T, you know, I can appreciate
10 what the AHTNA representative just said that it's a risk
11 to tribes on the road system because it makes it more
12 likely that they'll be denied C&T status. But the
13 problem is that if you open up everybody on the road
14 system to rural and C&T status, I mean we've fought
15 vigorously to keep the entire Kenai Peninsula from being
16 listed as rural just to avoid allowing 50,000 new people
17 to become subsistence users. Everybody on the Peninsula
18 can show customary and traditional use of fish and game
19 resources, probably legitimately and probably even meet
20 the Federal criteria. It's just not beneficial to the
21 fisheries or the wildlife resources to do that. And I
22 don't doubt that Ninilchik, the Ninilchik Tribe,
23 especially, would have unquestioned C&T usage of these
24 resources, that's not where we are opposed to it.

25
26 We're opposed to it is everybody else.
27 This Ninilchik area is a big area and it includes a lot
28 of people that don't have any more business C&T finding
29 than I do or than, you know, anybody, anybody from
30 Anchorage. A lot of these people are going to qualify
31 with this are -- maybe they're year-round residents,
32 maybe they're not but they're not long-term subsistence
33 users.

34
35 You know, when you say that it's been a
36 subsistence fishery or a hunt for 50 or 100 years, maybe,
37 but the people that are going to benefit from that are
38 not even distantly related to the people that were doing
39 it 100 years ago. The way this is set up is that it
40 cannot be done fairly or in a way that will really
41 achieve what it's trying to achieve, and our Advisory
42 Committee strongly opposes this.

43
44 CHAIRMAN CARPENTER: Thank you, sir. Any
45 questions for the Homer AC. Doug.

46
47 MR. BLOSSOM: Mr. Chair. I guess the
48 problem we get into, what can we do about it?

49
50 MR. PETERS: That's why our Advisory

1 Committee has not been overly involved in this. You
2 know, if you hadn't suggested that -- since this is on
3 the agenda we should consider it here, I would've known
4 what to do about it, I would have written letters to the
5 appropriate people and said that this meeting was
6 inadequately advertised, because nobody, including Fish
7 and Game Staff knew what it was about, and I would say
8 that the stuff that was on the agenda wasn't dealt with
9 and it would have -- you know, it would have been a
10 success for my committee, because we're trying to avoid
11 new subsistence uses on the Kenai Peninsula.

12

13 We would love to see a good system. I've
14 said this in public meetings in the past, in Mentasta
15 Lake and in Anchorage, if there was a good way to pick
16 out the legitimate users that should qualify for this and
17 let them do it, we'd support it, and we do support, we've
18 always supported Nanwalek, Port Graham, Seldovia, and,
19 you know, long-term traditional users from Ninilchik. We
20 just can't support anybody but the off the road system
21 people without supporting everybody, and we don't, we
22 cannot.

23

24 CHAIRMAN CARPENTER: Dean.

25

26 MR. WILSON: What's to guarantee that the
27 folks that live off the road just didn't move off the
28 road and all of a sudden they have more priority over
29 some of the folks that live in Ninilchik that have been
30 there for 70 years?

31

32 MR. PETERS: Nothing. But Nanwalek, Port
33 Graham, most of those have been there for a long time, I
34 mean hundreds of years. And some from Seldovia have been
35 there for a long time and that's -- that's our whole --
36 that's the basis of our whole argument. When we get down
37 later to talking about Voznesenka and Razdolna, you know,
38 they moved out there 25 years ago, why should they
39 qualify for the same thing that the Kovanikofs do in
40 Ninilchik, they shouldn't, and they're not claiming that
41 they should, but this process brings them in and brings
42 in people that don't have any business being involved in
43 it.

44

45 When the whole issue first came up, we
46 didn't know how to deal with it, you know, we came to
47 meetings and we said, well, if they get it then we want
48 it too. So at first we were in favor of including the
49 whole Kenai Peninsula and then it dawned on us what was
50 going on, and we had to backtrack and we've gone just the

1 opposite, we oppose anything, we oppose everything except
2 across the bay. Just because -- not because it's always
3 going to be fair, but because it's more likely to be fair
4 than including everybody.

5
6 CHAIRMAN CARPENTER: Thank you. Any
7 other questions. Dean you got one.

8
9 MR. WILSON: One more. Notification
10 wise. When did you first find out that this first had to
11 do with the Ninilchik C&T?

12
13 MR. PETERS: Probably yesterday or today
14 it was. And I can't blame that on the notification.
15 It's -- I mean I'm sure I've expressed a little
16 frustration already, we have not paid close attention to
17 this. I may have gotten a notification or I may not
18 have, I'm going to claim that I got the same notification
19 that the Department did and so it's all your fault and
20 not mine.

21
22 (Laughter)

23
24 MR. WILSON: Because my understanding is
25 a lot of these were mailed out to the Advisory Committees
26 a while back, but I'm not sure of that as well.

27
28 Yeah, I'm unsure about the road system
29 portion, you know, a lot of the -- certainly up in our
30 area, a lot of the villages and the communities who are
31 up there, didn't have a say whether or not that road
32 should have been built into their community or not and
33 now because they didn't have a say about that, now they
34 should get excluded, you know, those issues are exactly
35 what's upon the Kenai right now. And I see some real
36 conflicting problems on both ends of that.

37
38 MR. PETERS: We're only applying that
39 road system argument to the Kenai Peninsula. It has
40 always infuriated us to drive through a subsistence area
41 on the way to go shopping. To drive through 40 miles of
42 rural area to get to the nonrural area where we were
43 going to go to the store or 200 miles out of -- we're not
44 trying to apply that to, like, for example, Mentasta
45 Lake, you know, they're on the road system but it's not
46 the same. This is a different area altogether.

47
48 CHAIRMAN CARPENTER: Thank you. Gloria,
49 did you have a question or a comment.

50

1 MS. STICKWAN: Two years ago, were you
2 here two years ago or did you hear about or SRC meeting
3 two years ago?
4
5 MR. PETERS: I don't think I was involved
6 in it.
7
8 MS. STICKWAN: Are you a chair of an
9 advisory committee?
10
11 MR. PETERS: Yes.
12
13 MS. STICKWAN: Did you get information
14 from the State on -- letters from the State on their
15 reconsideration for proposals, this letter here, did you
16 get a copy as the Chair?
17
18 MR. PETERS: I believe I did. Yes. I
19 don't remember this one, you know, I looked at the --
20 well, maybe I did, this is the one about.....
21
22 MS. STICKWAN: But as the chair you would
23 know.....
24
25 MR. PETERS: The.....
26
27 MS. STICKWAN:that you -- you would
28 have gotten that from -- I'm sure they would have shared
29 it with you.
30
31 MR. PETERS: Yeah, we -- this -- you
32 know, we're back into a specific fishery so, yes, I did
33 look at that one and I have further comments on this
34 fishery.
35
36 MS. STICKWAN: So you were aware that the
37 discussion was being on held on Kenai, right, I mean it's
38 been an ongoing discussion.
39
40 MR. PETERS: Right, that's why we're
41 here.
42
43 MS. STICKWAN: It isn't something new to
44 you.
45
46 CHAIRMAN CARPENTER: Any further
47 questions.
48
49 (No comments)
50

1 CHAIRMAN CARPENTER: Thanks a lot.
2 Donald, summary of written public comments.
3
4 MR. MIKE: Mr. Chair. We didn't receive
5 any additional public -- written public comments on the
6 RFR.
7
8 Thank you.
9
10 CHAIRMAN CARPENTER: Is there anybody in
11 the general public that would like to testify on this
12 before we go any further.
13
14 (No comments)
15
16 CHAIRMAN CARPENTER: Seeing none, it
17 brings us to Council deliberation, recommendation,
18 justification. We have the ability to take two options,
19 whatever the pleasure of the Council is.
20
21 Somebody could take a motion to -- we
22 could vote on this again or we can vote to take no action
23 and pass on to the Federal Board that we recommend our
24 previous Board decisions that were passed on in regards
25 to the C&T, so I'd like to hear some questions.
26
27 Doug.
28
29 MR. BLOSSOM: Yeah, Mr. Chair. I guess
30 I've heard all the discussions today as well as we heard
31 it two years ago and I guess I would recommend that we
32 pass on our original decision to the Federal Subsistence
33 Council, that our decision hasn't changed.
34
35 CHAIRMAN CARPENTER: Is that in the form
36 of a motion or is that a recommendation? We should
37 probably put something like that in the form of a motion
38 if that's what you want to do.
39
40 MR. BLOSSOM: Okay. I heard you say to
41 discuss it first, so that's why I didn't.
42
43 (Laughter)
44
45 MR. BLOSSOM: So I'll wait a minute and
46 see what someone else says.
47
48 CHAIRMAN CARPENTER: Okay, yeah, I did
49 say that. You have anything to say, James, on this one,
50 Dean, Gloria.

1 Gloria.

2

3 MS. STICKWAN: We already made a decision

4 on it, I don't know why we have to go back and make

5 another one in a motion. We made a motion on this

6 already I don't know why we have to go back and do it

7 again.

8

9 CHAIRMAN CARPENTER: Okay. Dean.

10

11 MR. WILSON: The motion that was brought

12 up, was that two years ago, or one year.

13

14 CHAIRMAN CARPENTER: One year.

15

16 MR. WILSON: One year ago, right. One

17 year, and at that time we recommended Hope, Cooper

18 Landing and Ninilchik.

19

20 CHAIRMAN CARPENTER: I think so.

21

22 MR. WILSON: Okay. I think the Board

23 hasn't changed much since then, certainly the folks that

24 are here are the same since that time, so I think I'd

25 recommend the same as well. I am bothered to some extent

26 as far as the notification that went out, talking with

27 the State folks and with the local RAC and I think that

28 needs to be addressed, and it sounds like it is, so that

29 was a problem there. I don't believe that that had -- I

30 don't believe it's going to have the impact on the final

31 decision that this Council makes, but it still is

32 something that needs to be addressed that it doesn't

33 happen again, or at least that we have some kind of a

34 notification to all of the folks. Because finding out

35 something on Monday isn't acceptable.

36

37 But, again, I support -- if somebody

38 wants to make a motion for that, I'd support going for

39 the original decision that we had a year ago and pass it

40 again on to the Federal Board.

41

42 CHAIRMAN CARPENTER: Thank you, Dean. I

43 would concur with that. I think we've heard similar

44 information from the public, Staff, Ninilchik. I do,

45 too, apologize to any individuals that didn't receive the

46 type of notice that they're accustomed to. I know

47 mistakes can be made and it's unfortunate, but I'm sure

48 there was no intent there, and I don't believe that I've

49 heard anything that would change my opinion from a year

50 ago when we made the determination to give Ninilchik a

1 C&T for the Kenai drainage.

2

3 So I would also support that, so if
4 somebody would like to make as such we can move forward.

5

6 Dean.

7

8 MR. WILSON: So I'll make a motion to do
9 absolutely nothing on this but reiterate the decision
10 that we made a year ago to include Ninilchik and pass it
11 on to the Federal Board.

12

13 CHAIRMAN CARPENTER: It's been moved to
14 take no action and to pass on our 2005 recommendation to
15 the Federal Board in regards to the positive C&T given to
16 Ninilchik for the Kenai drainage, is there a second.

17

18 MR. BLOSSOM: Second.

19

20 CHAIRMAN CARPENTER: It's been moved and
21 seconded, is there any other discussion.

22

23 (No comments)

24

25 CHAIRMAN CARPENTER: Donald, is that
26 motion clear enough for you.

27

28 MR. MIKE: It is Mr. Chair, thank you.

29

30 CHAIRMAN CARPENTER: Any other
31 discussion.

32

33 (No comments)

34

35 CHAIRMAN CARPENTER: Hearing none,
36 question's in order.

37

38 MR. WILSON: Question.

39

40 CHAIRMAN CARPENTER: Question's been
41 called, all those in favor signify by saying aye.

42

43 IN UNISON: Aye.

44

45 CHAIRMAN CARPENTER: Opposed, signify by
46 saying nay.

47

48 (No opposing votes)

49

50 CHAIRMAN CARPENTER: Motion passes.

1 Thank you all very much. It's 3:00 o'clock. We have a
2 couple more pieces of -- I was told that there will be no
3 Park Service Staff report so we don't have to do those.
4 We have a couple other action items and then we have a
5 presentation by Doug, and maybe a couple additions to our
6 .805c letter to the Federal Board, so let's just keep
7 moving right along here and Pete.....

8

9 MR. BLOSSOM: Is that a presentation by
10 Doug McBride.

11

12 CHAIRMAN CARPENTER: No, I think we're
13 going to go with the call for comments on the Proposed
14 Rural Determinations and Pete's going to give a
15 presentation here.

16

17 MR. PROBASCO: Thank you, Mr. Chair.
18 This is on Page 73, and I'm going to hit the highlights
19 as it pertains to the Southcentral Regional Advisory
20 Council.

21

22 All of you are aware that the Board is
23 going through the Proposed Rule on the review of rural
24 determinations. And this item on your agenda is specific
25 that we need some action from the Federal Subsistence
26 Regional Advisory Councils. The Board is seeking your
27 recommendations and we're also seeking public comments
28 through October 27th on this Proposed Rule that would
29 change rural or nonrural status of several Alaskan
30 communities and areas.

31

32 The Board has held public hearings in
33 Kodiak, Saxman, Ketchikan and Sitka during the latter
34 part of September and through the middle part of October.
35 The Board will make a decision on a Final Rule at a
36 public meeting in Anchorage on December 12th and 13th,
37 public testimony will be taken at that meeting and
38 Council Chairs are invited to attend.

39

40 ANILCA requires that rural Alaskans be
41 given priority for subsistence uses of fish and wildlife
42 on Federal public lands. Only residents of rural
43 communities and areas are eligible for the subsistence
44 priority. The Board initially established what
45 communities are rural at the start of the Federal
46 Subsistence Program in 1990. Again, Federal subsistence
47 regulations require that the rural/nonrural status be
48 reviewed every 10 years beginning with the 2000 census
49 data.

50

1 An initial Staff review completed in July
2 2005 recommended that the rural/nonrural status of most
3 of the Alaskan communities should remain unchanged for
4 the Proposed Rule. Comment period provided at earlier
5 stages in this review process.

6
7 For considering whether communities or
8 areas should be grouped, the Board directed Staff to
9 report on the following three indicators, and those are:

- 10
11 1. Proximity and road-connectedness.
12
13 2. Do they share a high school
14 attendance area.
15
16 3. Do commuting of 30 percent or more of
17 the workers between places of interest.
18

19 The regulations that are in place
20 established guidelines for rural and nonrural status
21 relative to population size.

22
23 A community with a population below 2,500
24 is considered rural unless it possesses significant
25 characteristics of a nonrural nature or is considered to
26 be socially and economically part of a nonrural area. A
27 community with a population of more than 7,000 is
28 considered nonrural unless it possesses significant
29 characteristics of a rural nature. And then for those
30 communities between 2,500 and 7,000, that's where you go
31 into a Staff analysis to be evaluated to determine their
32 rural or nonrural status.

33
34 For evaluating rural/nonrural status of
35 communities or groupings, the method was to first
36 categorize the community or grouping by population size
37 relative to the population thresholds, 2,500 and 7,000
38 and then evaluate community characteristics as warranted.
39 These may include, but they're not limited to, diversity
40 and development of the local economy, use of fish and
41 wildlife, community infrastructure, transportation and
42 educational institutions.

43
44 Now, I'm not going to go through the
45 changes for other areas within the state. Specific to
46 the Southcentral Alaska region is proposed that
47 communities or areas be added to the nonrural, Wasilla,
48 Palmer, Homer, and Kenai areas and thereby change in
49 status from rural to nonrural as follows:

50

1 The Point MacKenzie area should be
2 grouped with the nonrural Wasilla/Palmer area, and
3 available information indicates that Point MacKenzie is
4 economically, socially and communally integrated with the
5 Wasilla/Palmer area.

6
7 The Fritz Creek area, not including, and
8 help me with the Russian Voznesenka, and the North Fork
9 Road area grouped with the nonrural Homer area, so the
10 Fritz Creek East, the North Fork Road area will be
11 grouped with -- is recommended to be grouped with the
12 nonrural Homer area. Again, information indicates that
13 these areas are economically, socially, and communally
14 integrated with the Homer area.

15
16 And then Sterling would be fully included
17 in the nonrural Kenai area. Sterling has been part of
18 the nonrural Kenai area since 1990. For the 2000 census
19 the Sterling area was expanded such that a significant
20 portion now extends beyond the current boundary of the
21 Kenai area. The Board believes that the boundaries of
22 the Kenai area should be adjusted to include all of
23 Sterling. Students in Sterling go to high school in the
24 Kenai area, and the level of commuting is at 61.2
25 percent.

26
27 In summary, Mr. Chair, the Board is
28 asking the Councils to review this and include the
29 rationale for your recommendation on these communities
30 that are recommended to be changed, and the Board will,
31 along with other testimonies they heard, take this into
32 consideration at their December 12th and 13th meeting in
33 Anchorage.

34
35 Mr. Chair.

36
37 CHAIRMAN CARPENTER: Thank you, Pete.
38 Any questions for Pete.

39
40 (No comments)

41
42 CHAIRMAN CARPENTER: So basically the
43 communities that we're dealing with in this area would be
44 Point MacKenzie which would be a change and then the
45 Fritz Creek East and North Fork Road area and then also
46 Sterling; is that correct?

47
48 MR. PROBASCO: That's correct. And all
49 the other communities would remain as they currently are
50 classified.

1 Mr. Chair.

2

3 CHAIRMAN CARPENTER: Okay, thank you.
4 Any questions for Pete right now.

5

6 (No comments)

7

8 CHAIRMAN CARPENTER: Okay, thank you.
9 Does the Alaska Department of Fish and Game have
10 comments.

11

12 MS. SEE: Thank you, Mr. Chair. This is
13 Marianne See with ADF&G. The Department is currently
14 developing comments, the public comment period ends in
15 about a week, I believe, and so our comments are not yet
16 ready at this time.

17

18 Thank you.

19

20 CHAIRMAN CARPENTER: Thank you, Marianne.
21 Is there any other Federal, State agencies that have
22 comments.

23

24 (No comments)

25

26 CHAIRMAN CARPENTER: Tribal agencies.
27 Brenda.

28

29 MS. REBNE: Thank you, Mr. Chairman.
30 Committee members. For the record, Brenda Rebne, the
31 AHTNA 'Tene Nene' Subsistence Committee.

32

33 Rural and nonrural determinations. The
34 criteria and guidelines of the rural and nonrural
35 determinations should have been reviewed by the public
36 and RACs. The guidelines that were determined to make
37 decisions on rural and nonrural are inadequate. Three
38 criterias, along with other guidelines were used to lump
39 communities together for review of rural determinations.
40 Three questions are asked -- just I get a little ahead of
41 myself. I'm going to be discussing the Ft. Greely rural
42 determination because it's an example. Three questions
43 were asked, which are the communities in proximity and
44 road accessible to one another, do they share a common
45 high school attendance area, and do 30 percent of more of
46 the working people commute from one community to another.

47

48 In our area Ft. Greely was given a rural
49 determination because it was linked to the Delta Junction
50 area communities which has a rural determination. In

1 making a rural determination for the Delta Junction area
2 communities use of the resources should have been
3 followed as a guideline in determining rural and nonrural
4 status. In the report rural determination decennial
5 review analysis of communities and areas as assigned by
6 the Federal Subsistence Board it states:

7

8 There is insufficient information on
9 contemporary subsistence harvest by
10 residents of the Delta Junction area to
11 contribute meaningfully to an evaluation of
12 rural/nonrural status.

13

14 This statement admits that the Board made
15 a rural determination without justification in
16 determining Delta area communities to have rural status.
17 There is insufficient information to show that these
18 communities have used the resources.

19

20 Unit 13 is an area that is impacted by
21 Ft. Greely military base and urban users from Anchorage,
22 Fairbanks and Valdez. The Federal lands are extremely
23 small in comparison to State lands and it is impacted
24 during the hunting season severely. It is difficult to
25 harvest a moose or caribou in Unit 13 which has small
26 Federal public land mass. They should not have added
27 military infrastructures and military bases as one of the
28 guidelines in making a rural or nonrural determination
29 when they made the decision to group communities. The
30 reason military bases should not be considered to be
31 rural communities is that this is a separate community
32 unto itself. Ft. Greely is not a truly socially
33 integrated community to the Delta Junction area
34 communities.

35

36 Ft. Greely should not be considered to be
37 a rural community due to the fact that it is a military
38 community. They are not Federally qualified subsistence
39 users. They may reside in a rural area but they should
40 not be considered true subsistence users under Federal
41 management. Ft. Greely is a transient military community
42 and residents are most likely to leave the area when
43 their stint is up or they are reassigned to another
44 military base.

45

46 Their social and communally integrated
47 and interaction with the Delta Junction communities is on
48 a somewhat limited basis. Though, they may employ people
49 on the military base and they may send their children to
50 area high schools, however, they are classified as a

1 military community unto itself.

2

3 Granting a rural priority without
4 adequate harvest data is in non-compliance with ANILCA.
5 Ft. Greely is not a community that depends on the
6 resource or big game and fish that is a main stay of
7 livelihood of that community. Again, the point has to be
8 made on Page 41 of the rural determinations decennial
9 review analysis of communities. It states that there is
10 insufficient information on contemporary subsistence
11 harvest by residents of the Delta Junction area to
12 contribute meaningfully to an evaluation of
13 rural/nonrural status. Since there is insufficient
14 information on harvest data on the Delta communities, the
15 Federal Subsistence Board should have conducted a harvest
16 study before making this rural determination for these
17 communities.

18

19 To go back to something that I mentioned
20 earlier that we discussed as far as being on the road
21 system. There was a comment made yesterday that all
22 communities on the road system should be classified as
23 nonrural. In our region, the AHTNA region, this is
24 particularly troublesome. Those -- we have eight tribes
25 on that land, the AHTNA territorial boundaries
26 encompassed 10 million acres of land. The AHTNA people
27 were there because that is where the game is. The Doyon
28 people are where they're at. The Cook Inlet tribes are
29 where they're at for the same reasons. The point that
30 I'm trying to make here is that the roads are there
31 because we were there. And we were there because the
32 game was there. So things like the transportation
33 system, the hunting on the transportation corridor, we
34 don't hunt there because that's easy access, that's where
35 the game is. And the roads have historically followed
36 all of our old trading, hunting, foot trails. And so
37 when I say that I try to not get too upset, because
38 there's always a sense that we're going to lose all of
39 our inherent and indigenous cultural and traditional
40 subsistence rights, everything that we are because of
41 outside populations encroaching on us, and they're
42 encroaching on us because our areas are easily accessed
43 by a road system that we didn't build. We're not there
44 because of the road system, the road system is there
45 because we were.

46

47 And so I would like to make that point
48 because, you know, I mean speaking as a corporate
49 employee, one of our tasks is to increase employment and
50 sustainability in our villages. And in order to be

1 successful, if we are, and hopefully we will be and we'll
2 be able to provide employment opportunities for our
3 shareholders so that they can raise their families in
4 their villages. We, ourselves, will increase our
5 populations, that should not mean or jeopardize our right
6 to subsist. Subsistence to Native Alaskans, certainly
7 the AHTNA is a way of life, and it's not whether we can
8 go to a grocery store or not.

9

10 So I would just like to make a few of
11 those points and ask if you have any questions on our
12 position.

13

14 CHAIRMAN CARPENTER: Thank you, Brenda.
15 Anybody have any questions for Brenda.

16

17 (No comments)

18

19 CHAIRMAN CARPENTER: Thank you, very
20 much. Oh, you got one Dean.

21

22 MR. WILSON: Just a clarification.
23 Brenda, the rural determination, of course, Delta, I
24 guess would fall under the Eastern Interior RAC, did that
25 just drop into rural status or it was rural before and it
26 stayed rural.

27

28 MS. REBNE: It was nonrural is my
29 understanding.

30

31 MS. STICKWAN: It's rural. It's been
32 rural.

33

34 MS. REBNE: Yeah, I might be getting
35 confused.

36

37 MR. DEAN: Okay.

38

39 MS. REBNE: Delta was rural but Ft.
40 Greely was just given that determination.

41

42 MR. WILSON: Oh, so it was split up
43 there, okay. The Proposed Rule for the review of the
44 rural determinations that we're looking at here, there's
45 some guidelines that they're looking at for going rural
46 and nonrural status. One of them is population, and you
47 mentioned that if one of the villages up in that area or
48 the area, in general, starts getting above a certain
49 amount they could lose rural status.

50

1 MS. REBNE: Exactly.

2

3 MR. WILSON: What's an alternative to
4 that, if you wanted to try to keep some of those folks
5 with their status of rural determination, what would --
6 has AHTNA thought of a plan to -- other than population?

7

8 MS. REBNE: We don't have anything
9 specific but we are working on that and trying to address
10 that issue. Because really we see that when the AHTNA
11 region villages or communities are up on their 10 year
12 cycle, whenever that may be for it to be readdressed with
13 this, if they don't have that population, and they don't
14 meet that particular criteria, it is really only a band-
15 aid fix for us. We're trying to protect a way of life
16 here, not dependent on other populations or population
17 base. We need to address that and we're aware of that.

18

19 I don't have an answer for you. I can
20 tell you that it's something that we're looking at. It's
21 something that I mentioned earlier that AFN was going to
22 be having a subsistence forum. This is going to be one
23 of their agenda items because down the road this will be
24 a statewide issue, not just for the road system villages
25 but the other communities, other Native communities that
26 are maybe not on the road system now, but I think that
27 what we're looking at is down the road presuming that,
28 you know, and looking at big pictures, like Los Angeles,
29 that population grew in 100 years. You know, this,
30 Alaska, we are really burying our heads if we think that
31 the rest of the world isn't eventually going to find us
32 and move here. I mean everybody's rights are going to be
33 -- you know, things are going to change and we'd like to
34 put some protections in for -- this is a cultural issue,
35 this isn't just a -- this isn't an economic or cash-base
36 economy type of issue here, we're talking about a way of
37 life and the loss of culture.

38

39 So it's a big issue. The fact that --
40 well, will we move to just up that number from 2,500,
41 okay, let's make it 4,000, you know what I'm saying is
42 it's just a band-aid. The population in Anchorage, you
43 know, I don't have the specific data, but it grew pretty
44 quickly, you know, 100 years is a very short time. And
45 so I guess my point is what we're trying to do is not
46 lose our culture which, you know, Ninilchik is a classic
47 example of coming very close to losing their cultural
48 heritage.

49

50 CHAIRMAN CARPENTER: Do you have anything

1 further Dean.

2

3 MR. WILSON: No. Probably just a
4 comment, though, somebody gave us a -- maybe it was Pat,
5 a year ago or two, and they talked about the rural
6 determination guidelines that they were using, and if I
7 remember right, it, in a way, until new plans come up,
8 this really was kind of a fix, a band-aid.....

9

10 MS. REBNE: It's a band-aid.

11

12 MR. WILSON:until a better plan
13 comes up. But I don't really remember exactly how that
14 would fall into it but it's something, and I think that's
15 what it is. This is just something that's out there that
16 would give some basic level protection for the rural
17 communities to handle that. But that was just a comment
18 that I was just trying to work through here. Something
19 needs to be done, but what is the answer, you know,
20 that's the question.

21

22 MS. REBNE: It's a good question. And
23 even if we just keep putting more band-aids on it and
24 maybe upping that number, you know, I mean some of those
25 communities if you lump them, you know, who knows how far
26 -- you know, using a shared school system for instance,
27 you could have Gulkana all the way to Copper Center and
28 have people using the same school system. That's, you
29 know, what 40, 50 miles between them, you know, I mean
30 but those communities, they're growing and they should
31 be. And the Native population is growing as well, as it
32 should be. And we shouldn't have this ceiling that we
33 have to look at as, oh, no, we're no longer going to be
34 able to do what we, you know, have an inherent right to
35 continue to do.

36

37 Something that I didn't mention but I
38 would like to do so now, is the Federal protections that
39 we have right now are critical to our subsistence.

40

41 On the State side there's a movement
42 there to have the roads, the Unit 13, that's specific to
43 our area, communities on the road system, to have those
44 areas actually reclassified from subsistence use areas to
45 non-subsistence use, so we are in jeopardy on both ends,
46 losing it on the Federal because of this population, on
47 the State, you know, there's a movement there. So this
48 isn't just limited to this particular forum at this point
49 for our region. We're facing loss of subsistence use
50 area on the State side as well.

1 CHAIRMAN CARPENTER: Thank you, Brenda,
2 for your comments.
3
4 MS. REBNE: Thank you.
5
6 CHAIRMAN CARPENTER: Darrel, do you want
7 to comment for Ninilchik.
8
9 MR. WILLIAMS: Mr. Chair. Members of the
10 Board. Darrel Williams Ninilchik Traditional Council.
11
12 You know, I wasn't going to comment on
13 this but after sitting back and listening to it, you
14 know, I'd like to maybe throw out some food for thought
15 for a lot of folks.
16
17 Dean, when you were talking about the
18 fishwheel process and how it works up where you live and
19 there's a lot of permits where people get it and they
20 share, they go to the same area and use the fishwheel
21 over and over, isn't that how that works, you know, one
22 of the things that I've been hearing some discussion
23 about among some of the different groups is, maybe, if we
24 can get this community defined better, of what
25 constitutes a community, it may help us be able to
26 address some of these subsistence issues of what the core
27 user group is or where the core users use different
28 things.
29
30 It's been -- there's been some talk about
31 it in my area, I know that. And it just kind of struck
32 me in particular when Dean was talking about his
33 fishwheel permitting process up where he lives.
34
35 I just thought I'd put in my two cents,
36 thank you.
37
38 CHAIRMAN CARPENTER: Go ahead, Dean.
39
40 MR. WILSON: One thing I was going to
41 ask, this rural/nonrural determination, I know Ninilchik
42 -- I don't know the population there, do you know off
43 hand?
44
45 MR. WILLIAMS: Mr. Chairman. Mr. Wilson.
46 Off the top of my head, I want to say the population is
47 about 1,200 or so. There's 300 -- or it's 300, maybe 400
48 people in Happy Valley. Happy Valley was up for the
49 rural determination but I understand that now they're
50 not. So we're still pretty far from the threshold.

1 MR. WILSON: Yeah.
2
3 MR. WILLIAMS: And it's a pretty -- you
4 know, the other things is Ninilchik is actually a very
5 well established, very old community there and it just --
6 in that particular dynamics of that population it hasn't
7 grown very fast.
8
9 MR. WILSON: So for the most part the
10 boundaries of Ninilchik are clear?
11
12 MR. WILLIAMS: It seems to be clearer,
13 uh-huh.
14
15 MR. WILSON: Because I know that comes
16 into play with a lot of these areas, you know, it's just
17 unclear. And -- but anyway that was it.
18
19 CHAIRMAN CARPENTER: Do you have anything
20 further?
21
22 MR. WILLIAMS: No, thank you very much.
23
24 CHAIRMAN CARPENTER: Okay, thank you,
25 Darrel. Is there any InterAgency Staff Committee
26 comments on this.
27
28 (No comments)
29
30 CHAIRMAN CARPENTER: No. Pat.
31
32 MS. PETRIVELLI: I'm not on the
33 InterAgency Staff Committee but I'm one of the
34 interagencies. But I just had two comments about, you're
35 right Dean that when we reviewed the criteria a few years
36 ago I know you raised the concern about sharing a common
37 high school attendance, that that was -- but so -- and I
38 know Helen Armstrong with the Office of Subsistence
39 Management has suggested that when the whole rural
40 process is over, that we review the criteria carefully.
41 So I don't know if your Council would want to look at the
42 issue next year or whatever, or if you want us to share
43 the report with you, the review, just so you could see
44 how we reviewed it, and when we assess the public
45 comments that we receive on the report.
46
47 And then the other thing was, with the
48 Delta Area, the Delta issue was included in the big
49 report of the rural determinations, and there were four
50 areas that were recommended for grouping using those

1 three criteria. But as -- with the AHTNA people --
2 that's come up in other parts of the state, about
3 including military, not including, and it raises mixed
4 issues, wherever it's presented. So that probably will
5 be evaluated in the reviews to come.

6

7 So just for your information.

8

9 CHAIRMAN CARPENTER: Thanks for that,
10 Pat. Gloria do you have something.

11

12 MS. STICKWAN: She said, we, I don't
13 understand what she meant by we. You said we are going
14 to review this.

15

16 CHAIRMAN CARPENTER: I think maybe what
17 she was talking about was the Staff was going to review
18 this after this process was over. I think one comment
19 that I would make to that is I would hope that similarly
20 to some of the different groups that they've had meet
21 over the last couple of years, that RAC members be
22 involved, possibly, and some of that were so that the
23 RACs have an ability to comment somewhat during the
24 formative stage.

25

26 MS. STICKWAN: Yeah, I would like to see
27 that done.

28

29 CHAIRMAN CARPENTER: Okay.

30

31 MS. STICKWAN: That the guidelines be
32 presented before us and the criterias.

33

34 CHAIRMAN CARPENTER: Okay, thank you. I
35 got two Fish and Game -- let's see we got Marvin Peters
36 from the Homer Advisory Committee, you want to comment,
37 come on up.

38

39 MR. PETERS: I'm Marv Peters from the
40 Homer Fish and Game Advisory Committee.

41

42 I mostly want to comment on the, I guess
43 Ninilchik and Homer area and the recommendations for
44 inclusion in rural and nonrural, various recommendations.
45 I'll just kind of go down the recommendations here, I'm
46 on Page 35. I'm in this rural determinations book.
47 There are a lot of comments and information before Page
48 35, but I'll probably start with the recommendation
49 section here.

50

1 Starting with Happy Valley, the
2 recommendation is do not include in Homer area. And,
3 again, we're basing these recommendations on the three
4 criteria which is their high school attendance, road
5 access and commuting, I believe, is that what we have,
6 anyway, they're referring here to -- well, this is -- it
7 says, these students are within Ninilchik school, high
8 school attendance area and less than 30 percent of their
9 workers commute to the Homer area, they're saying 14.4
10 percent. Based on those considerations Happy Valley
11 should not be included within the Homer area. That is
12 partially true, and probably partially not true.

13
14 They are in the high school -- the
15 Ninilchik school area, but they're also in the Homer
16 school area, they can go to either school. Quite a few
17 kids from Homer have gone to Ninilchik school, I mean
18 kids that live in Homer have gone to Ninilchik's school
19 just because they could play basketball, and some kids
20 from Ninilchik have come to Homer for one reason or
21 another, maybe they didn't like the teacher. Anyway they
22 can go to whichever school they want to go to in the
23 Happy Valley area, and they go to both. So to just say
24 that they're going to Ninilchik is not really true,
25 especially when you consider other areas where -- I guess
26 what I'm saying is you can't have it both ways. They're
27 either going to Ninilchik or they're not and some of them
28 are and some are not. And that gets back to your last
29 discussion there, what are the boundaries. The
30 boundaries of Ninilchik do not include Happy Valley.

31
32 You know the other thing, I guess,
33 getting back to what I was saying earlier about
34 subsistence areas on the Kenai Peninsula. The Kenai
35 Peninsula is a little different than some places in that
36 the original settlements were small, discreet villages.
37 And they, as such, those small, discreet villages are the
38 areas that should merit subsistence privileges. And a
39 lot of areas, you know, other areas in the state the
40 original inhabitants were scattered all over the place,
41 but not necessarily here, not until homesteading and, you
42 know, when you get to homesteading you're -- you know,
43 after the war, you're almost up to your 1952 subsistence
44 cut off, so really there's very little legitimate
45 customary and traditional use by anyone other than those
46 small discreet areas. Ninilchik Village, I mean if you
47 include Ninilchik Village, and you know say an area
48 within two miles of the mouth of Ninilchik River, you
49 won't get any argument from us and you won't get any
50 argument about Nanwalek and Port Graham or Seldovia.

1 They're small areas, fairly small populations, and we
2 would give up most of our objections to most of this, but
3 here we're trying to include Happy Valley. This is a
4 huge area. It's all fairly recently settled. I mean
5 there were homesteaders there, and they no doubt did
6 subsistence so I mean we're not questioning customary and
7 traditional, that's not the issue. The issue is should
8 they be included with the Homer area and I say, yes.

9
10 They are -- you know the 14.4 percent of
11 people that commute to Homer, I don't know where they got
12 that. I don't know where these people work if they're
13 not going to Homer unless they're just part-time,
14 seasonal, you know, they may be seasonal people fishing
15 out of Ninilchik Harbor, I don't know, but some of them
16 are fishing out of Anchor Point doing guiding or maybe
17 they're school teachers somewhere. But, you know, there
18 is not a major industrial base in Ninilchik. There's not
19 major industrial base anywhere around here but the fact
20 is there are jobs in Homer, and if people really want
21 jobs that's usually where they go. But that's not even
22 my -- anyway our recommendation would be do include Happy
23 Valley in the Homer area, it is still nonrural by any
24 honest application of the standard.

25
26 Then the North Fork Road option, they
27 have both options listed, either do or don't include in
28 Homer area, we, of course, would include in Homer area.
29 Same thing, students have the option of attendance of
30 Nikolaevsk school or Ninilchik or Homer and some exercise
31 this option. Mostly the ones that go to Nikolaevsk
32 school are going to be Russian Old Believers and that's
33 not a question of access or anything else, it's a
34 question of religious holidays. If they go to Homer or
35 Ninilchik, either, they run afoul of religious holidays
36 and they miss a lot of school. The Nikolaevsk school
37 calendar is based on Russian Old Believer calendars and
38 they don't miss school, it's not a question of whether
39 they can't get there or whether they don't get there,
40 it's just a question of religion. And if -- I don't see
41 religion being listed as one of the criteria. There's no
42 -- there really is no industry in Nikolaevsk. Right now
43 the jobs that they have going are, they've got a Federal
44 program doing a water system. Otherwise if you live in
45 Nikolaevsk, you're probably commuting either to Homer or
46 Anchor Point for work. And a lot of -- some people from
47 Homer and Anchor Point are commuting to Nikolaevsk for
48 work -- for either part of this project or school
49 teachers, anyway, same thing.

50

1 There's no reason to not include
2 Nikolaevsk in the Homer area. The whole North Fork
3 should be included in the Homer area.

4
5 It gets back to the original, you know,
6 it goes back to the same thing every time, you want to
7 include everybody. These are people that didn't ask to
8 be given rural status and they -- but they'll -- you
9 know, they'll use it. The people in Nikolaevsk are
10 really capable of hunting and fishing and they have a lot
11 of kids, they use a lot of meat and fish.

12
13 I guess I combined Nikolaevsk and North
14 Fork together and they should be together in Homer,
15 they're all part of the Homer area. Same, of course,
16 with Fritz Creek East, and I'll include Voznesenka.
17 Voznesenka is the same thing, they have a school, I don't
18 know if it goes to high school or not but if the students
19 are not Russian Old Believers in that area they come into
20 Homer to go to High School. It's not -- I mean, you
21 know, we're not considering religion as a criteria, and
22 that's the difference there. If they're -- if you want
23 to consider religion then I guess we can start ANILCA all
24 over again, we could make it really exciting. But this
25 is a real mistake to include Voznesenka in the rural
26 area, it should be included as part of the Homer area.

27
28 It's all good road, they drive it
29 everyday. I work in a store out on the east side of
30 Homer and we have customers from Voznesenka that come in
31 everyday to work but, you know, their place of business
32 will probably be listed as Voznesenka, even though they
33 do their work in Homer because they're doing contract
34 work or they're doing boat repair work or they're working
35 in a store.

36
37 When I looked at the figures here of
38 where the jobs were and -- in some of these areas, I
39 couldn't believe it, I couldn't see where you could come
40 up with some of these numbers. The people in these
41 areas, if they have jobs, they're in Homer or they're
42 related to Homer. There are people -- a lot of people
43 from Homer go everyday to Voznesenka, not a lot, there
44 aren't that many people in the school but some go
45 everyday and -- and certainly vice versa, they come back.
46 People from Voz work in Homer.

47
48 Fox River and -- so that's Kachemak Selo
49 and Razdolna. Razdolna, especially is clearly on a road
50 and they're just like Voznesenka, it's a farther drive,

1 but they drive in everyday. I've known people from
2 Razdolna that ran their own businesses in Homer and came
3 in everyday. So to try to claim that it's an off the
4 road system thing is just simply not true. The same
5 could be said of Kachemak Selo, it's not a maintained
6 road to Kachemak Selo but at least half the year you can
7 drive a highway vehicle down there and people do it,
8 school teachers go there everyday and back. We get
9 customers constantly from Kachemak Selo. Some of our
10 best customers, I'll see them, you know, in the store, if
11 they've got a project going I'll see them everyday, so to
12 say that they can't commute to work or that they work out
13 there is simply not true.

14

15 I will not say that there is not reason
16 for it to appear that way because they don't have steady
17 jobs in Homer but they're doing their work in Homer and
18 they're part of the Homer community and they have no more
19 business being -- you know, it's a community that's been
20 there at most 35 years, so, you know, if we're going to
21 establish new little communities and then say that
22 they're rural, I've said this before, too, why don't I
23 just get my own little hippie commune and go out and make
24 one. I think that if you really look at this situation
25 you'd see that all of these areas should be included in
26 the Homer nonrural area. Nonrural, yes. I think I've
27 got that right.

28

29 Anyway, that's it.

30

31 CHAIRMAN CARPENTER: Thanks very much,
32 Marvin. Is there any questions for Marvin.

33

34 Doug.

35

36 MR. BLOSSOM: Mr. Chair. I guess the
37 main thing I would stress is go to the Anchorage meeting
38 and tell them when this is coming up. I mean that's your
39 last chance to holler and the louder you holler the
40 better off you're going to be. I don't know what else to
41 tell you, I didn't help with any of this, we've just got
42 to true to direct it.

43

44 CHAIRMAN CARPENTER: Any other questions.

45

46 (No comments)

47

48 CHAIRMAN CARPENTER: Okay, Marvin,
49 thanks. I have one more public comment, Thomas Hagberg,
50 is he here.

1 (No comments)
2
3 CHAIRMAN CARPENTER: Oh, he testified
4 yesterday, that's right.
5
6 Okay, is there anybody else in the public
7 that didn't fill out a green card that wants to testify
8 on this.
9
10 (No comments)
11
12 CHAIRMAN CARPENTER: Hearing none, is
13 there any summary of written comments, Donald.
14
15 MR. MIKE: There's none, Mr. Chair.
16 Thank you.
17
18 CHAIRMAN CARPENTER: Thank you. If
19 there's no more public testimony, the Council can go into
20 deliberation, we can put a motion on the table and we can
21 -- my suggestion would be to look at the three areas that
22 are in our region that are up for change and make
23 comments and recommendations to the Board.
24
25 Dean.
26
27 MR. WILSON: Yeah, I'll propose that we
28 adopt the rural determinations Fall 2006 action item and
29 discuss it as a Council.
30
31 CHAIRMAN CARPENTER: It's been moved, is
32 it seconded.
33
34 (No comments)
35
36 CHAIRMAN CARPENTER: Do you want to
37 second first and then discuss it or, what, did you second
38 Gloria?
39
40 MS. STICKWAN: Second.
41
42 CHAIRMAN CARPENTER: Gloria seconds it.
43 It's moved and seconded. Discussion. Go ahead, Gloria.
44
45 MS. STICKWAN: I just want to say that,
46 you know, the concern that the AHTNA people had was that
47 military bases are considered to be a part of the Delta
48 communities and that while I don't -- you know, we didn't
49 -- the population of the area, like Brenda says is
50 growing, and the community bases -- military bases are

1 quite large, and I don't know if they're going to be a
2 part of the population that -- you know, what I'm saying,
3 that could be used.

4
5 Even though Delta's not a part of our
6 area, they do hunt and fish in our area, you know what
7 I'm saying, they're not a part of our community but they
8 do hunt and fish in our area. And for us that was --
9 it's an impact -- it's impacting our lands and that's why
10 the concern was about that. So hopefully we will be able
11 to look at the guidelines and try to come up with better,
12 I don't know, if we can improve on it so that communities
13 on the road system will be able to keep our subsistence
14 that's a concern for the AHTNA people.

15
16 CHAIRMAN CARPENTER: Yeah, I mean that's
17 a good comment. I have personally always been quite
18 amazed not to offend any Federal employees how a Federal
19 employee that receives a cost of living allowance
20 adjustment from the government could qualify in the same
21 community under the subsistence guidelines but they do.
22 So that is something -- that, in particular, and several
23 other things, in regards to military bases and situations
24 like that, I think that some of these guidelines need to
25 be reviewed in the future and hopefully we can have some
26 sort of participatory action in that.

27
28 I think getting back to the motion, we
29 have basically four communities. We have Point
30 MacKenzie, which is in Wasilla/Palmer; we have Fritz
31 Creek North Ford Road area and Sterling, and I guess, you
32 know, maybe Doug and James, you two live on the Peninsula
33 here, maybe you could kind of give the Board some
34 direction maybe as to what you think about the
35 recommendations for these areas.

36
37 Doug.

38
39 MR. BLOSSOM: Mr. Chair. I guess I share
40 Marvin's frustration that I don't think the criteria is
41 right, but being what it is I don't know what else we can
42 do about it. With the criteria that we have, I guess I
43 have to pretty much agree with what they've done, but I
44 don't like the way they judge it.

45
46 So that's my comment right now.

47
48 CHAIRMAN CARPENTER: Thank you. Do you
49 have anything James.

50

1 MR. SHOWALTER: Yes. I've always
2 disagreed with the way they have come up with nonrural.
3 They've got aggregation as lumping everybody into one
4 area to come up with a given number, and now they're
5 coming up with the road system which is going to affect a
6 lot of people. And now they're saying you're using the
7 high school in this given place, well, you're nonrural.
8 Like I say, I've -- personally I haven't agreed with this
9 myself from day one, but it looks like I'm out voted and
10 I'll have to live with it.

11
12 Thank you.

13
14 CHAIRMAN CARPENTER: Thank you, James. I
15 suppose this Council also has the ability to not approve
16 these recommendations, based on the idea that we don't
17 agree with the criteria that they used to come up with
18 these changes.

19
20 I mean we have that ability to forward
21 our concerns that way to the Board. And maybe if that
22 happens, maybe -- maybe the Board will suggest that the
23 criteria be reviewed before we go any further. I'm not
24 sure that's going to happen but we did hear some
25 testimony that -- from the Homer Advisory Committee, that
26 at least the communities or areas that are under
27 consideration here, Fritz Creek East and North Fork Road
28 area, that they felt that they should definitely be
29 nonrural. He also said that -- and this Staff analysis
30 does not include Voznesenka, but the Homer Advisory
31 Committee said that they -- he thought that they ought to
32 be included as nonrural so it's an interesting scenario.

33
34 Dean.

35
36 MR. WILSON: Yeah, that's a point you
37 made about whether we can just deny this proposal, based
38 upon the criteria that they're using. I think that's a
39 good plan if we have a back up -- something to put in its
40 place. But as soon as we say that, what are we saying,
41 everybody's going to be nonrural, everybody's going to be
42 rural at that point. We have something to put in its
43 place if we're going to come out and just say that we
44 don't like the criteria so we're done with it.

45
46 So again this is a band-aid, for my
47 understanding, until some better plans can be put in
48 place, we need to go with that.

49
50 That's what I think, personally.

1 As for the folks that are going to get
2 moved around, Point MacKenzie, grouped with the nonrural
3 Wasilla, Palmer area, I'd agree with that as well as
4 Sterling. It looks like there's enough criteria and
5 information and data supporting that.

6
7 Fritz Creek East and North Fork Road,
8 again, I'm not that familiar with this area but we did
9 have somebody here from the local area, Marvin Peters,
10 and he did want to see Voznesenka included and I don't
11 know if we have somebody from Voznesenka here to testify
12 on their behalf, but that would be good if that was
13 included. If not, if they don't care or whatever, you
14 know, we have some information from someone that lives
15 right here that is contradicting some of the information
16 that we're finding in here as far as the amount of folks
17 that are relying upon Homer that live there. So unless
18 we see anything different, wouldn't that area be included
19 as well, into the Homer region.

20
21 I mean you guys can deliberate.

22
23 CHAIRMAN CARPENTER: Doug.

24
25 MR. BLOSSOM: Yeah, Mr. Chair. Maybe we
26 could get a clarification from Staff in regards to this
27 book here, I think this is current, and if that is so it
28 shows Happy Valley, Nikolaevsk, Fox River, all those
29 communities being nonrural. And so some of them are
30 going out and some are coming in.

31
32 MR. WILSON: Which page are you on?

33
34 MR. BLOSSOM: I'm on this book here that
35 was handed out to us.

36
37 CHAIRMAN CARPENTER: Yeah, maybe we do
38 need clarification. I was under the impression that the
39 only communities that we are to act on are the ones
40 actually in this book, there's only three of them. Those
41 are in the Staff -- Pat, maybe you can explain what I'm
42 trying to say.

43
44 MR. BLOSSOM: I guess I'm curious why all
45 these others are in our area, why we don't act on those,
46 that's why I want clarification.

47
48 MS. PETRIVELLI: Are you looking at the
49 map on Page 32?

50

1 MR. BLOSSOM: Yes.

2

3 MS. PETRIVELLI: Okay. That map on Page
4 32 in the full report, part of the process was to look at
5 any areas that had changed since the year -- since when
6 the original rural/nonrural determinations were made.
7 And what you see outlined there are the CDPs that were
8 made in the year 2000. So in evaluating the current
9 nonrural areas, we looked at all the areas adjacent to
10 it, or very close to it. So Happy Valley is right next
11 to the current nonrural area and that's in the ridged
12 area, so that Staff looked at that area and they used the
13 three criteria that were outlined.

14

15 The Fritz Creek CDP keeps going and
16 there's that line there in between, like right by the
17 word, Voznesenka, so here's Fox River CDP and there's
18 the east end of Fritz Creek, and that's what's being
19 proposed to be added.

20

21 Now, what was used to make -- in the
22 Staff analysis, it was data gathered by the census about
23 where workers, and it's true, workers, people that are
24 working, and the data from the census shows that -- I
25 think it was 22 percent of the people in Fox River work
26 in the Homer area. Now they may -- this is just from the
27 census and it was picked as a way of evaluating
28 consistently, unless it was blatantly shown to be
29 inaccurate. And as far as we know the data, like that
30 was used for Happy Valley was confirmed by an ADF&G study
31 when they did their study in the year 1998, they asked
32 people where they worked and there's a comparison there
33 in the report, comparing the census data with the ADF&G,
34 where they asked did you work in the Homer area or didn't
35 work, and it was somewhat comparable, so that data was
36 used in this report -- or in the recommendation about
37 where people worked and where they didn't.

38

39 And I suppose this -- the testimony of
40 Marvin Peters will be forwarded to the Federal Board, any
41 testimony here will be forwarded and then Staff will have
42 to evaluate and research, you know, how valid, who's data
43 will be considered about employment, but the employment
44 is just one of three criteria and the other criteria is a
45 shared high school attendance area. And so those were
46 the basis for the recommendations.

47

48 And the Board looked at all the data in
49 the separate report and made that Proposed Rule, and
50 that's what you have before you, about Point MacKenzie,

1 Fritz Creek East, North Fork Road and Sterling. So those
2 are -- after they evaluated the report, they -- those are
3 the changes they're proposing in the rural determinations
4 for the Southcentral area. Now, it's true there are
5 other options in the report and if you want to report any
6 of the other options based upon the testimony you heard,
7 or other information you could bring to it then you could
8 say that and forward that to the Board if you felt
9 strongly that local knowledge doesn't back up what has
10 been proposed.

11
12 CHAIRMAN CARPENTER: Thank you, Pat.
13 Doug.

14
15 MR. BLOSSOM: Yeah, Mr. Chair, thank you.

16
17
18 CHAIRMAN CARPENTER: I guess, I mean
19 myself, you know, based on the criteria we have I mean I
20 would just have to take it -- take Staff's
21 recommendations about these communities, I guess the --
22 you know, this is a strange area down here, you have all
23 these small little communities that are in between
24 communities that are nonrural and some are rural and I
25 don't understand about this Voznesenka. I just -- to me,
26 where you look where it's positioned compared to some of
27 these other communities that they're suggesting be
28 grouped in with Homer, I don't understand how this one
29 can't be. But maybe somebody that's -- I mean we heard
30 that public testimony too. Maybe Doug you can explain it
31 better to me, but I can't figure that one out.

32
33 MR. BLOSSOM: Mr. Chair. I guess what I
34 see we should do is we should go ahead and pass the
35 Staff's recommendations, but I guess I would like to add
36 an added sentence that we think they should review their
37 determination criteria and try to do some changing.

38
39 CHAIRMAN CARPENTER: Is there any other
40 discussion about this. Gloria, do you have anything
41 else.

42
43 (No comments)

44
45 CHAIRMAN CARPENTER: James.

46
47 (No comments)

48
49 CHAIRMAN CARPENTER: Well, there's a
50 motion on the table to approve the communities listed on

1 Page 74, Point MacKenzie, Fritz Creek East, North Fork
2 Road area and Sterling. If there's no further discussion
3 question is in order.

4
5 There's already a motion on the table but
6 I think we can vote on this and then we can also put into
7 the record what Doug said afterwards.

8
9 MS. STICKWAN: Question.

10
11 CHAIRMAN CARPENTER: Question's been
12 called, all those in favor of the rural determinations as
13 proposed by Federal Staff to make Point MacKenzie, Fritz
14 Creek East, North Fork Road area and Sterling communities
15 that would change to nonrural signify by saying aye.

16
17 IN UNISON: Aye.

18
19 CHAIRMAN CARPENTER: All those opposed
20 signify by saying nay.

21
22 (No opposing votes)

23
24 MR. SHOWALTER: I'll have to abstain from
25 this.

26
27 CHAIRMAN CARPENTER: Motion carries.
28 You're abstaining, would you like to comment on why or
29 no?

30
31 MR. SHOWALTER: No, not at this time,
32 thank you.

33
34 CHAIRMAN CARPENTER: Okay. Donald, just
35 for the record, I think we would like it noted in the
36 comments to the Federal Board that we feel that the
37 criteria used to determine rural status should be
38 reviewed and.....

39
40 MS. STICKWAN: And the guidelines as
41 well.

42
43 CHAIRMAN CARPENTER:and the
44 guidelines as well.

45
46 Okay.

47
48 MR. MIKE: Mr. Chair.

49
50 CHAIRMAN CARPENTER: Donald.

1 MR. MIKE: Just for the record, are you
2 going to take any action on the Kodiak/Aleutians region
3 and the Southeast regions; the Council can move to make a
4 motion to defer to the home region or adopt their
5 recommendations.

6
7 CHAIRMAN CARPENTER: Are you talking
8 about the communities for rural status?

9
10 MR. MIKE: Right. In the
11 Kodiak/Aleutians and the Southeast Alaska region.

12
13 CHAIRMAN CARPENTER: I think -- would we
14 have to bring that back up for reconsideration or could
15 we just put a motion on the table to defer to the home
16 regions in regards to the communities outside of our
17 area.

18
19 MR. WILSON: Yeah, I'd recommend -- I'd
20 propose that we defer back to the home region for both
21 the Adak and the Kodiak area.

22
23 CHAIRMAN CARPENTER: It's been moved to
24 defer on the rural status for the Adak, Kodiak area, is
25 there a second.

26
27 MR. SHOWALTER: Second.

28
29 MR. BLOSSOM: Are you talking Prudhoe
30 too.

31
32 CHAIRMAN CARPENTER: And Prudhoe. It's
33 been moved and seconded. Pete.

34
35 MR. PROBASCO: Mr. Chair. I don't know
36 if your motion is all inclusive of all the areas that are
37 proposed for change and outside of Southcentral, that
38 would include Prudhoe Bay, Kodiak/Aleutians, Adak, and
39 Ketchikan, Saxman area. So if you're all inclusive on
40 deferring to the home region for all those areas, I just
41 wanted to point that out.

42
43 Mr. Chair.

44
45 CHAIRMAN CARPENTER: Okay, thank you,
46 Pete. We did actually specify in our original motion the
47 four communities we were voting on too so I'm not sure if
48 it makes a difference one way or the other. But there is
49 a motion on the table to defer to the home region for
50 these other communities, it's been moved and seconded.

1 Is there discussion.
2
3 (No comments)
4
5 CHAIRMAN CARPENTER: Dean.
6
7 (No comments)
8
9 CHAIRMAN CARPENTER: No discussion. Any
10 other discussion.
11
12 (No comments)
13
14 CHAIRMAN CARPENTER: Question's in order.
15
16 MR. WILSON: Question.
17
18 CHAIRMAN CARPENTER: Question's been
19 called, all those in favor of deferring to the home
20 region for the other communities listed for rural
21 determination signify by saying aye.
22
23 IN UNISON: Aye.
24
25 CHAIRMAN CARPENTER: All those opposed.
26
27 (No opposing votes)
28
29 CHAIRMAN CARPENTER: Motion passes. I
30 believe we have one more action item and then Doug's
31 going to give his Fisheries Monitoring Program, and I
32 think that's about all we have left to do.
33
34 MR. BLOSSOM: I got one thing that I had
35 on the agenda.
36
37 CHAIRMAN CARPENTER: Right. I was going
38 to do that after Doug's
39
40 So let's go on agenda Page 3, under No. 4
41 there's a -- let's see Southeast Alaska Subsistence
42 Regional Advisory Council request for us to review and
43 consider their draft petition to the Secretaries to
44 remove the requirement for hunting licenses. It is an
45 action item, it is on Page 108. And I don't know if
46 there's somebody here from Staff that was going to
47 comment on that for us or if that was just something we
48 just needed to look at.
49
50 Do you know, Donald.

1 MR. MIKE: Mr. Chair. Mr. Steve Kessler
2 from the Forest Service was going to present a briefing
3 on that and we had some comments from other Councils that
4 made comments on these -- on the Southeast petition for
5 hunting license so I'll pass those comments out.

6
7 CHAIRMAN CARPENTER: Okay, thank you.

8
9 MR. PROBASCO: Mr. Chair, please bear
10 with me and I'll try to take us through this. The
11 Southeast Regional Advisory Council has been addressing
12 the issue of hunting licenses and had asked the Federal
13 Subsistence Board to share with all Councils, all 10, the
14 other nine Councils, their letter which is found on Page
15 109. And they are recommending, from their viewpoint to
16 draft a petition to the Secretaries concerning hunting
17 licenses as far as currently the requirement for
18 subsistence hunters is to have a Fish and Game hunting
19 license.

20
21 All Councils to date have dealt with
22 this, the recommendations have varied from agreeing to
23 disagreeing. I think it would be appropriate after I'm
24 done presenting this issue is to ask the Department on
25 the importance of hunting licenses and how those fees are
26 utilized. But what the Board is looking for is your
27 specific Council comments on the issue of petitioning the
28 Secretary to remove the hunting license requirement for
29 subsistence.

30
31 Mr. Chair.

32
33 CHAIRMAN CARPENTER: Thank you, Pete.
34 Any questions for Pete on this. Donald handed out some
35 comments that the other RACs have, the ones that have
36 taken action on this. If there's no other comments,
37 maybe we can get, I think, Sarah, from the Department,
38 wanted to comment on the fishing license issue. So come
39 on up if you want, Sarah.

40
41 MS. GILBERTSON: Thanks, Mr. Chairman.
42 My name is Sarah Gilbertson with the Department. And
43 before I was working on subsistence issues, my job was
44 legislative liaison for the Department so I was actually
45 the person who was trying to sell the hunting license fee
46 increase in the Legislature and I can tell you from
47 personal experience it didn't go very far.

48
49 But one of the things that I learned
50 throughout, working on this issue, is the importance of

1 hunting license revenues to the state of Alaska, and so
2 that's what I wanted to talk to you about today.

3
4 When you buy a hunting license, which is
5 \$25, these days it cost more to fill up your gas tank,
6 but when you buy a hunting license in Alaska, in most
7 cases you don't have to buy tags. That \$25 will allow
8 you to take a moose, will allow you to take, you know,
9 depending upon the different limits and areas, you can
10 take a lot for \$25. And when you purchase that license,
11 that \$25 comes back to the state, to the Alaska
12 Department of Fish and Game, and is deposited in one of
13 the only Constitutionally allowed dedicated funds in the
14 state of Alaska, and what that means is that that \$25 is
15 not going to the general fund, it's not going to pay for
16 education, it's not being taken to buy computers for
17 State employees, it's not taken for anything other than
18 it goes to the Department. And it doesn't go to
19 Sportfish, it doesn't go to manage fisheries, it goes in
20 particular to the Division of Wildlife Conservation.

21
22 And probably most of you are familiar
23 with that Division, but those are the guys who fly the
24 surveys. They count the wildlife. They manage big game
25 populations in the state and they do so in terms of
26 flying these surveys and doing the research and the
27 counts. You know, they work with their Federal
28 counterparts on those kinds of things and often times we
29 do that work in partnership. The importance of that work
30 is that if you don't know how many moose are in this
31 unit, you have to guess. And all of you have been before
32 the Board of Game, probably or the Board of Fish, when
33 you don't know the population size, you have to manage
34 more conservatively. So if we don't have the money to be
35 out there flying the surveys, counting the populations
36 then it impacts the users in an adverse way because Fish
37 and Game, the Board of Fish, the Board of Game, in this
38 case, will be forced to manage more conservatively
39 because they just don't know how many animals are out
40 there. So your money goes straight to Fish and Game.

41
42 The other important thing I wanted to
43 address that's not raised in this petition and I brought
44 this issue up last week in front of the Southeast RAC,
45 and that is when you buy ammo, you're taxed, I think it's
46 about 10 or 11 percent, it's a Federal tax, that money
47 goes back to Washington, D.C., and then it's distributed
48 out back to the states, and it's distributed back to the
49 states based upon our area, so our size, and Alaska is
50 huge, so we get a lot of money just based upon that size

1 of that excise tax revenues. It's also based upon
2 license sales. So if we're decreasing license sales in
3 this case because we're saying this group of Alaskans
4 should no longer have to purchase a license then that
5 number goes down decreasing the amount of money that we
6 get from the Federal government.

7
8 So from the Department's viewpoint we
9 would lose a lot and I think Alaskans would lose a lot
10 because we have a long history in this state of paying
11 for wildlife management and doing so through the purchase
12 of a hunting license. And as to whether or not that
13 license will-- you know, whether the next Governor will
14 want to try to pursue that, I have no idea, but I do know
15 that right now a license cost \$25 and that gets you very
16 far and that money goes back to the Department for on the
17 ground management.

18
19 The one statement in here that's
20 incorrect, is on Page 115 that says:

21
22 License fees also support some
23 construction of facilities to support
24 hunting and fishing. These facilities
25 may include boat ramps, viewing stations
26 or firing ranges, and the Council
27 believes that facilities partially
28 supported by State license fees,
29 generally are not used by, nor serve the
30 interests of rural subsistence users.

31
32 And I pointed that out last week in
33 Southeast. That is not the case. Like I said, this
34 money goes straight to the Division of Wildlife
35 Conservation. It does not go for any boat ramps, it
36 doesn't go for anything having to do with fishing. And
37 as far as firing ranges and that kind of thing, we've
38 worked really hard and if Representative Seaton's in the
39 room, he will know, to try to get general fund dollars to
40 pay for those type of things, so that hunter dollars
41 aren't going to fund a shooting range in Fairbanks, for
42 example.

43
44 So the money is very important to the
45 Department, it's very important to Alaskans because it is
46 what funds your wildlife conservation in this state, and
47 I would just encourage your continued support of that
48 through the support of continued purchase of license
49 fees.

50

1 And I had one more thing but I can't
2 remember what it was. So if you have any questions I'm
3 happy to answer them.

4
5 CHAIRMAN CARPENTER: Thank you, Sarah. I
6 think those comments are important. I think the
7 Department relies heavily upon the sale of fish and game
8 licenses to support their projects and their research.
9 In the last 10 year alone, I mean their budgets have been
10 cut dramatically and without this money it would be kind
11 of impossible for them to try and do the quality of work
12 that they're doing now. And I also know that the
13 Pittman-Roberts money is very important to this state,
14 too, and it would cut that in the long run.

15
16 So I think that the State license, if you
17 actually go and look at how much it cost to hunt and fish
18 in the state of Alaska, it's relatively inexpensive
19 compared to the rest of the northwest states, especially
20 for what you can do. And the State does have -- they do
21 make available licenses for low income so there is
22 opportunity there still.

23
24 So thanks for your comments.

25
26 Anybody else have a question for Sarah.

27
28 MS. GILBERTSON: Thank you.

29
30 CHAIRMAN CARPENTER: James.

31
32 MR. SHOWALTER: Yes. If this did go, say
33 you didn't have to buy a license, you have any idea how
34 many licenses wouldn't have to be boughten?

35
36 MS. GILBERTSON: Thank you, Mr. Chairman.
37 No, you know, we've been talking about that internally,
38 and because it's -- it's very difficult because often --
39 I mean this would say that if you're going to hunt on
40 Federal lands you do not have to purchase a State
41 license, but a lot of people hunt on both State and
42 Federal lands, so it would get really complicated to both
43 administer and enforce very quickly. And so right now
44 there's no way for us to know, I don't think how -- what
45 the numerical impact of this would be, other than it
46 would be huge, I know to our bottom line, both because it
47 would decrease Federal funding and the amount of funding
48 that comes directly to the Department.

49
50 And as the Chairman was saying, that was

1 the point that I forgot. And that is that this Division,
2 in particular, has gotten very little general fund
3 dollars from the State Treasury. That is to say that
4 it's been surviving off of hunting license revenues for
5 the past, I mean I want to say, decade, and I know that
6 that's, you know, inaccurate, it's even longer than that.
7 It gets very little support from the State coffers.

8

9 MR. SHOWALTER: Okay, thank you. I was
10 just wondering.

11

12 MS. GILBERTSON: Okay, thanks.

13

14 CHAIRMAN CARPENTER: Any other questions.

15

16 (No comments)

17

18 CHAIRMAN CARPENTER: Okay, thanks a lot.
19 I guess one thing I've always wondered is why you can
20 subsistence fish on Federal land without a State fishing
21 license but you can't hunt on Federal lands without a
22 State hunting license. No, that's fine, I actually know
23 the answer to it, but I just like to bring it up.
24 Similar to why you can fly into a National Park and
25 subsistence fish, but not hunt. It's a very similar
26 situation.

27

28 Anything further in regards to this or
29 somebody could make a motion and take it up as an action
30 item.

31

32 Dean.

33

34 MR. WILSON: Yeah, I move that we adopt
35 this item brought up by the Southeast Alaska Regional
36 Advisory Council.

37

38 CHAIRMAN CARPENTER: It's been moved, is
39 there a second.

40

41 MR. BLOSSOM: Second.

42

43 CHAIRMAN CARPENTER: It's been moved and
44 seconded. Any further discussion.

45

46 Dean.

47

48 MR. WILSON: Yeah, I'm a big supporter of
49 what the hunting licenses -- State hunting licenses funds
50 do for, not only all the state residents and all the

1 monitoring its done, but also for we use State
2 information all the time to make Federal decisions, so
3 I'm completely against eliminating hunting licenses for
4 several different reasons, a whole slough of them. But
5 one being the confusion already is at an all time high if
6 you want to hunt and trying to enforce with five or six
7 different permits in your pocket and now to make two
8 different hunting licenses or make one and then decide we
9 don't need one for the Federal area, whatever, would just
10 add to the confusion.

11
12 So the hunting licenses, the funds from
13 those, the revenue from those go towards a good cause and
14 they benefit, certainly all the hunters and subsistence
15 users that I can see.

16
17 CHAIRMAN CARPENTER: Anything further.

18
19 (No comments)

20
21 CHAIRMAN CARPENTER: I'd also reiterate,
22 there's a lot of dual management that goes on in today's
23 world and it's important that the Department keep that
24 funding source and I don't think it's been too big of an
25 inconvenience to most people. So, I, would too vote
26 against this idea and if there's no further discussion
27 the question's in order.

28
29 (No comments)

30
31 MR. WILSON: Question.

32
33 CHAIRMAN CARPENTER: Question's been
34 called on removing the requirements for hunting licenses
35 on Federal land as presented by the Southeast Alaska
36 Regional Advisory Council, all those in favor of this
37 proposal signify by saying aye.

38
39 (No aye votes)

40
41 CHAIRMAN CARPENTER: All those opposed.

42
43 IN UNISON: Nay.

44
45 CHAIRMAN CARPENTER: Motion fails. I
46 think that's the last action item. We do have two things
47 and we could -- if you want to make a motion right now
48 about the Council make up, the 70/30 split and the
49 Partner's Program, about recommending that that continue
50 to be funded we could make a motion to lump those two,

1 just a recommendation to the Federal Board that that
2 continue.

3

4 Is that something that you want to do,
5 that that language be included in our .805 letter; is
6 that what you wanted to do, Gloria?

7

8 I'll make the motion and Donald you can
9 keep track of this. That this Council recommends that
10 the 70/30 split, that determine the make up of this
11 Council, is something that this Council recommends the
12 Federal Board keep, and that we also encourage the
13 Federal Board to look at the Partner's Monitoring Program
14 and that this Council recommends that that be fully
15 funded in the future because it's been an important
16 resource to this Council.

17

18 Is there a second.

19

20 MR. WILSON: Second.

21

22 CHAIRMAN CARPENTER: It's been moved and
23 seconded. Is there any further discussion.

24

25 (No comments)

26

27 CHAIRMAN CARPENTER: This language would
28 just be included in our letter to the Federal Board. If
29 there's no further discussion, then the question's in
30 order.

31

32 (No comments)

33

34 MR. WILSON: Question.

35

36 CHAIRMAN CARPENTER: Question's been
37 called, all those in favor of including the language
38 stated about the 70/30 split and the Partner's Program
39 for our .805 letter signify by saying aye.

40

41 IN UNISON: Aye.

42

43 CHAIRMAN CARPENTER: All those opposed.

44

45 (No opposing votes)

46

47 CHAIRMAN CARPENTER: Motion passes. So I
48 think, Doug, if you want to come on up now and we got the
49 Fisheries Resource Monitoring Program which would be the
50 '07 fisheries plan, review and recommendations and you

1 have the floor.

2

3

MR. MCBRIDE: Thank you, Mr. Chairman.
4 My name is Doug McBride, fishery biologist with OSM. Mr.
5 Chairman, the information I'm going to cover is for the
6 Draft 2007 Fisheries Resource Monitoring Plan, it's in
7 your book and it starts on Page 84. And I just one other
8 note here, Mr. Chairman, this will be an action item for
9 the Council. We are looking for a Council recommendation
10 on the TRC recommendation.

11

12 Mr. Chairman. I think this Council's
13 very well versed about the Fisheries Resource Monitoring
14 Program so I think I can keep my comments about it very
15 brief.

16

17 The purpose of the Monitoring Program, I
18 think you're.....

19

20

MR. SHOWALTER: What page?

21

22

MR. MCBRIDE: Page 84 is where it starts,
23 James, and then the actual verbiage starts on 85. And
24 just as a matter of background, the Monitoring Program
25 was put into place to provide information for the Federal
26 Subsistence Program, and we can talk about some of the
27 specifics for the Southcentral region in a bit.

28

29 Turning to Page 86, just in terms of the
30 whole process that's put in place, we do an annual
31 monitoring plan. We put out a call for proposals for
32 2007, we received proposals last winter. FIS Staff along
33 with our InterAgency Staff Committee, which we just call
34 the TRC, we met, reviewed those proposals and forwarded
35 most of them on for investigation plan, and then those
36 investigation plans came in, they were again evaluated by
37 Staff and the TRC this past July, and then those
38 recommendations are what is contained in your book. Now,
39 when proposals and investigation plans are evaluated, if
40 you look at the information on Pages 86 and 87, you'll
41 see the factors that we use to evaluate all the studies
42 at question.

43

44

45 The first one is strategic priority and
46 we underwent a, I think pretty intense and rigorous
47 strategic planning exercise in 2004 and 2005, in fact,
48 Mr. Chairman you and Gloria were the Council members on
49 that working group. And what that exercise was all about
50 was fine tuning and trying to clearly articulate what the
Monitoring Program priorities were for this region. I

1 guess just one comment I would make about that is that
2 was done for the Copper River and Prince William Sound,
3 and as we move on in to the future, we very specifically
4 did not include Cook Inlet because of the hiatus with the
5 regulatory proposals. But at some point how Cook Inlet
6 phases into all that will have to be dealt with. But for
7 now I think we've very clearly articulated the priorities
8 for Copper River and Prince William Sound, and we used
9 that in our call for proposals. So when we get to the
10 plan, I mean what you're going to see is the proposals
11 address, I think, the very high priority information
12 needs, and that was not an accident.

13

14 We also look at technical and scientific
15 merit, that's the second factor, and I think that pretty
16 much speaks for itself. In other words, when we have a
17 study we need to make sure it's technically sound and it
18 does what the objectives are for the proposal. We also
19 look at the investigator ability and resources. If I had
20 to pick one of these factors as being the least important
21 at this time I'd say it was this one. The program's been
22 in place since 2001 and our investigators, I think, are
23 pretty well known and they come with a lot of
24 credentials. The final factor we look at is whether the
25 project promotes partnership and capacity building, and
26 we really look at that and there's two primary things
27 that we look at. We're looking to see are there
28 meaningful partnerships with Alaska Native and/or rural
29 organizations, in other words, that this is not just a
30 complete agency thing.

31

32 Some of the projects are largely an
33 agency project and usually that's because that's the only
34 obvious option, but most of the projects have either a
35 meaningful partnership with an Alaska Native or a rural
36 organization and in some cases, and you'll see it here,
37 the Alaska Native or rural organization is the primary
38 investigator.

39

40 I guess the last thing I'll say, just as
41 a matter of overview, if you look at Pages 88 and 89,
42 that Table 1 at the bottom, you can see on a statewide
43 basis what was in front of the TRC and then what the
44 recommendations were by geographic region and data type,
45 remember we have two types of projects, SST, stock,
46 status and trends and harvest monitoring TEK projects.
47 And then there's a pie chart at the top of Page 89. The
48 TRC recommendation, and this gets at that partnership
49 capacity building factor, the TRC recommendation on a
50 statewide basis, if that TRC recommendation was accepted

1 that's how the money would break out by State agencies,
2 Federal agencies, Alaska Native organizations and then
3 other rural organizations. That's how the money would
4 break out on a statewide basis.

5
6 Mr. Chairman, with that as a general
7 background, let's go right into the Southcentral region
8 overview and the recommendations from the TRC.

9
10 Issues and information needs, again, that
11 all comes out of the strategic planning exercise. We,
12 very specifically highlighted Copper River salmon, Copper
13 River fresh water species as what we were interested in,
14 and not surprisingly that's what we got back, but that
15 all came out of that strategic planning exercise. I
16 think another really important thing to just pay
17 attention to, if you look at Pages 91 and 92, that's
18 Table 1, that's the history of the Monitoring Program in
19 the Southcentral region. That's all the projects that
20 we've funded, who was doing those projects and then the
21 years they were funded. And so what we got -- what we're
22 going to be discussing here is the 2007 Monitoring Plan.

23
24 So one of the things we have to look at
25 is what prior obligations do we have for the year 2007
26 from the prior Monitoring Plan, and so that's the very
27 right-hand column of that table. It says 2007 at the
28 top. And there's only one, albeit it's a pretty
29 expensive one, but there's just one project that's a
30 prior funding commitment. If you look at the far right-
31 hand side on Page 91 under 2007, you go down you'll see
32 that number down there, 225.2, that's \$225,200, that's
33 the third and final year of the spawning distribution and
34 run timing of Copper River sockeye salmon. That's one of
35 the projects that constitutes the Native Village of
36 Eyak's project, I think you're all very familiar with on
37 the Copper River. It's the fishwheel project, it's a
38 very large tagging project. What this part of it is
39 about is the radiotagging that's going on for sockeye
40 that's giving us the distribution and timing of sockeye
41 stocks throughout the Copper River drainage. So we'll be
42 entering our third and final year of that, that's a prior
43 funding commitment. So the way we administer the program
44 and figure out how much money is available, is we look at
45 our money statewide, we look at then -- we have a model
46 that breaks that out by region and then we take that and
47 we subtract any prior funding commitments, so that's the
48 math that we do. And in this case, the only one we're
49 subtracting is that one, there are no other prior funding
50 commitments for this region.

1 So what are we actually looking at, if
2 you turn to Page 93, right in the middle of the page
3 you'll see four projects listed, these are the projects
4 that were forwarded for investigation plan for this
5 region and, again, I think you're very familiar with all
6 of these.

7
8 The first one 07-573 is Copper River
9 chinook and sockeye salmon abundance. This is really the
10 guts of that Native Village of Eyak fishwheel project.
11 This is the part of it that estimates abundance. We've
12 been estimating chinook abundance now, we started in
13 2001, it took us a couple years to establish the
14 feasibility, but we've been annually estimating chinook
15 abundance in the Copper River, that's what this funds.
16 It also funds, only in the first year of study, an
17 abundance estimate for sockeye, which we're doing to help
18 validate the research that's going on at Miles Lake for
19 the sonar program there. So that's what that project's
20 all about.

21
22 There are two sockeye weir projects in
23 here, in fact, Molly McCormick yesterday spoke to both
24 of these, and, again, these are projects that have been
25 going on for some time in this region. The Tanada Creek
26 salmon weir, and the Long Lake salmon weir. Those are
27 both weirs on tributaries to the Copper River and they're
28 estimating sockeye escapement into those systems. And I
29 think they largely speak for themselves. I guess the
30 only thing I would add is that Tanada Creek salmon weir,
31 that's our most direct management tool used to manage the
32 Batzulnetas subsistence fishery.

33
34 And then the final project, it's actually
35 the third one on that list, Tanada and Copper Lake's
36 burbot abundance, again, Molly spoke to that. This would
37 be a new project that would be estimating the abundance
38 of burbot in Tanada and Copper Lakes. Both of those
39 lakes are on -- are within the Wrangell-St. Elias
40 National Park. Burbot, maybe even more so than lake
41 trout that we talked about earlier in the Copper Basin
42 has a very definite history of over exploitation, there's
43 been a lot of effort that was put out by the Department
44 of Fish and Game to do assessment of lake populations of
45 burbot, both of these lakes have not been assessed, but
46 they are definitely within Federal jurisdiction. There's
47 at least some level of subsistence fishing on these lakes
48 so going out and estimating the abundance in these lakes
49 would actually be a very timely thing to do. And from a
50 technical standpoint, the methodology for this is all

1 based on what the Department of Fish and Game came up
2 with to do their assessments over the last 15 years, and
3 it's very well documented and technically very sound.

4

5 Mr. Chairman. If you'd turn to Page 94
6 you'll see Tables 2 and Table 3. As I mentioned earlier
7 these are the breakdowns of the budget that we look at to
8 look at partnership and capacity building. On Table 2,
9 you can see the breakdown for each of these projects in
10 terms of where the money would go. It's broken out by
11 Alaska Native, State agency, Federal agency and other.
12 And then Table 3, the first thing that's looked at there
13 is local hire. Again, that's another measure we use for
14 capacity building, how much of the money would be going
15 towards local hire. And then the other thing that we
16 look at and very much encourage with our investigators is
17 to bring something to the table, something real and
18 financial to the table in a proposal and that's what the
19 matching funds are. This is monetary resources that
20 they're bringing to this project that helps -- the fact
21 that they have matching funds reduces the financial
22 obligation to the Monitoring Program.

23

24 Mr. Chairman. I guess going into the
25 summary of all this, which is on Page 95, this is the TRC
26 recommendation for funding, it's contained in Table 5,
27 and to be quite frank it's very easy this year. We have
28 sufficient funds to fund all four of these projects and
29 that is the TRC recommendations.

30

31 These projects are strategically
32 important as laid out by our strategic plan. They're
33 technically sound. They do promote capacity building and
34 some of them very significantly, for instance the Copper
35 River chinook and sockeye salmon abundance, the Native
36 Village of Eyak is the principal investigator and has
37 been on that project from the get go, and it's certainly
38 the TRC and FIS recommendation that all four of these be
39 funded.

40

41 I would ask for the Council to weigh in
42 on that funding recommendation.

43

44 Mr. Chairman.

45

46 CHAIRMAN CARPENTER: Thank you, Doug. I
47 think we've all seen at least three of these
48 recommendations before, I think they're all very
49 important to the management and survival of the salmon on
50 the Copper River. The burbot, I would agree also has

1 been -- they've been -- it'd be interesting to know some
2 of the abundance levels of those fish.

3

4 Does anybody have any questions for --
5 Gloria.

6

7 MS. STICKWAN: You have 2008 there,
8 you're asking for two years, on Page 95?

9

10 REPORTER: Microphone.

11

12 MS. STICKWAN: You have 2008 figure --
13 number down here, Page 95, you're asking for two year
14 funding or what's the column 2008 for?

15

16 MR. MCBRIDE: Mr. Chairman. The
17 Monitoring Program allows up to a three year funding
18 commitment. So this is all part of the -- those columns
19 are wrong, I can't believe this. This is all supposed to
20 be -- that's supposed to be 2007, 2008 and 2009. But we
21 allow up to a three year funding commitment. And so what
22 we would be committing to here is funding these projects
23 over the three years, obviously pending the availability
24 of funds in the other years. But if you remember back
25 when we talked about Table 1, I talked about prior year
26 funding commitments, the out years on this, years two and
27 three of these projects would become prior funding
28 commitments when we do this again next year for 2008, and
29 then the next year in 2009.

30

31 So I guess in answer to your question,
32 Gloria, yes, they're asking for funding out to three
33 years for all three of these projects, and we think
34 that's appropriate.

35

36 CHAIRMAN CARPENTER: Okay, thanks for the
37 correction there. Dean.

38

39 MR. WILSON: Doug, just a clarification.
40 I've never really heard the plan for the Copper River
41 chinook and the salmon -- the sockeye abundance program
42 that they're using with the two fishwheels up and down.
43 What's the long range plan with that, is there going to
44 be some other studies done for sockeye or is 2009 going
45 to be it or do you have an answer to that.

46

47 MR. MCBRIDE: Mr. Chairman. Mr. Wilson.
48 For sockeye, I mean without question, the primary
49 assessment tool for sockeye is the sonar at Miles Lake.
50 What's going on here for sockeye are two different

1 things.

2

3 We're doing radiotagging, that was that
4 prior year commitment and we're entering the third and
5 final year of that to look at distribution and timing of
6 the stocks throughout the drainage. Obviously the sonar
7 at Miles Lake says nothing about that. The abundance
8 part of this, which we're doing right now and actually
9 this project would only fund one more year of that in
10 2007 just in the first year, the other two years is
11 chinook only for this project, is an abundance estimate
12 based on tagging so that you get independent verification
13 of the information you get from the sonar. And the
14 reason for that is a couple fold. Miles Lake does not
15 differentiate between species so even though sockeye,
16 without question, the most abundant species, there's at
17 least some confusion going on between species, they're
18 going to new and improved gear, they've moved away from
19 the Bendix gear, they're testing out and going to new
20 DIDSON sonar so you've got a technological changeover
21 going on there and it's certainly, I think, been the
22 experience of the Department, that I have some history
23 with, that having some independent verification of a
24 sonar program, which is what went on for the Kenai
25 chinook program was a very valuable thing to do, so
26 that's what's going on here.

27

28 So in terms of this project for sockeye,
29 unless we find something extraordinary from this year's
30 results and next year's results, our guess is that we
31 would not continue tagging sockeyes beyond 2007, but that
32 we -- the plan, at least through -- at least through 2009
33 would be to continue with the chinook part of the
34 program.

35

36 MR. WILSON: Okay. Now, what's the plan
37 for the chinook, just 2009 and then after that, depending
38 on findings, it would go beyond that, right?

39

40 MR. MCBRIDE: That's correct. Again, we
41 allow up to a three year funding commitment, we think
42 that's a good trade off between stability and then
43 reviewing what our needs are again when this comes up and
44 so we need to look to see, you know, do we -- does this
45 program want to continue to have abundance estimates and
46 are we willing to pay for it.

47

48 CHAIRMAN CARPENTER: Is there any other
49 questions for Doug.

50

1 Doug.

2

3 MR. BLOSSOM: Mr. Chair. How does a
4 person get on to this list, I mean it sounds like we
5 might, in the future, need a study of trout in Tustomena
6 Lake, how do you start proceeding to get on the program?

7

8 MR. MCBRIDE: Mr. Chairman. Mr. Blossom.
9 The way we would do that is we annually put out a call
10 for proposals. And that -- that's the entry point into
11 consideration here.

12

13 To be quite frank, what we've done here
14 now since -- I think since 2002, is we have specifically
15 excluded any project proposals for Cook Inlet because we
16 were in this period of waiting, we -- we had the -- the
17 -- you know, we were waiting for the results of the Fall
18 study and then action by the Board on customary and
19 traditional use findings and then looking at then -- then
20 -- what -- what the fisheries end up looking like,
21 because our need for information is driven by really the
22 intensity of the fisheries.

23

24 So to date, beyond the information that
25 we've gotten through the Fall study there really hasn't
26 been any need for information about, you know, abundance
27 and those kinds of things. So what we're going to need
28 to figure out then is whether we're going to then include
29 Cook Inlet as part of our call for proposals and if so,
30 specifically, what -- what are we asking for.

31

32 CHAIRMAN CARPENTER: Anything further.

33

34 (No comments)

35

36 CHAIRMAN CARPENTER: Thanks, Doug. This
37 is an action item so the Chair would accept a motion to
38 recommend to the Federal Board that the Technical Review
39 Committee proposals or projects 501, 502, 503 and 505 be
40 fully funded.

41

42 If somebody would like to make that a
43 motion.

44

45 MR. WILSON: I'll make a motion to -- I
46 want to bring this up -- discussion -- you actually want
47 to bring a.....

48

49 CHAIRMAN CARPENTER: You could make a
50 motion and second nit and then we could bring it up for

1 discussion.

2

3 MR. WILSON: Okay. All right. Well,
4 I'll make a motion to bring up these priorities [sic] for
5 funding 07-501, 07-502, 07-503 and 07-505; is that
6 correct?

7

8 CHAIRMAN CARPENTER: Yes. It's been
9 moved, is there a second.

10

11 MR. BLOSSOM: Second.

12

13 CHAIRMAN CARPENTER: It's been seconded.
14 Discussion. Dean, did you have a question about it.

15

16 (No comments)

17

18 CHAIRMAN CARPENTER: Is there any other
19 questions in regards to this.

20

21 (No comments)

22

23 CHAIRMAN CARPENTER: I did participate in
24 the workshop where we came up with the whole process to
25 figure out how these projects were funding and then it
26 was kind of a ranking, actually Gloria did -- was there
27 too, and it was an interesting workshop, and three of
28 these projects have been done in the past and they are
29 all very good projects.

30

31 I know the one project in particular, the
32 chinook and sockeye abundance projects, the information
33 that has been derived from that, it's been invaluable.
34 It's been information that the managers have never had
35 before, to compare with sonar, and I think that it's
36 definitely something that needs to continue.

37

38 Dean.

39

40 MR. WILSON: Yeah, I'll mirror that. I'm
41 familiar with several of these projects that are being
42 worked on. And the Copper River chinook and the sockeye
43 salmon abundance, I'm very familiar with it, I stop in
44 there regularly throughout the year and see them when I'm
45 on the river. I like to stop in at least once a year. I
46 haven't been up there this year yet. But I am familiar
47 with some of the folks out there, they're doing a really
48 good job, they're really -- they're very creative in the
49 way that they're handling things out there and if we have
50 any way of continuing the funding for what they're doing

1 it'd be good to keep them on a roll, too, so if there's
2 any other items that need to be checked out while we're
3 out there, I know we kind of moved from the sockeye thing
4 -- I mean from the chinook thing over into the sockeye
5 thing now, and that's going to continue to 2009, but if
6 there's any good information that can be derived from
7 them out on the river, I think that ought to be looked
8 into as well.

9

10 But I'm in support of all that those
11 folks are doing out there and projects that are also done
12 in the Wrangell-St. Elias National Park.

13

14 CHAIRMAN CARPENTER: Any other
15 discussion.

16

17 (No comments)

18

19 CHAIRMAN CARPENTER: If none, the
20 question's in order.

21

22 MR. WILSON: Question.

23

24 CHAIRMAN CARPENTER: Question's been
25 called on recommending to the Federal Board that the
26 TRC's recommendation projects 501, 502, 503 and 505 be
27 fully funded, all those in favor signify by saying aye.

28

29 IN UNISON: Aye.

30

31 CHAIRMAN CARPENTER: Opposed.

32

33 (No opposing votes)

34

35 CHAIRMAN CARPENTER: Motion passes. I
36 think we have -- what do we got here, okay, I think maybe
37 before we go any further we have a request from
38 Representative Seaton to comment on the rural
39 determination. Sir, if you'd like to come up and testify
40 you're more than welcome.

41

42 REPRESENTATIVE SEATON: Thank you, Mr.
43 Chairman and Committee. Appreciate you taking time to be
44 here in Homer. For the record my name is Paul Seaton,
45 58395 Bruce Avenue, Homer, Alaska. I'm the State
46 Representative for the southern Kenai Peninsula, just
47 north of Anchor Point, Sturiski Creek, the North Fork
48 Road, Out East End Road on around Seldovia over to
49 Seward, Moose Pass, Cooper Landing, so a number of the
50 issues that you've been talking about here, you know, I'm

1 intimately involved with those committees.

2

3 And I share your consternation for the
4 guideline criteria that are being used, and I just want
5 to put on the record a little bit more information on
6 that. And that is that the southern Peninsula here,
7 Anchor Point, Homer, and out East End Road, is really an
8 economic unit, and I think the criteria of jobs of where
9 people are employed misses a lot of the economic
10 integration of this whole area because it's a fishing
11 community. And so if you talk about somebody being
12 employed, nobody from the fishing community, whether it's
13 a deckhand or a boat owner is going to answer that
14 they're employed in Homer, but all of their boats are in
15 Homer and all of their deckhands are in Homer, but
16 they're not employees, they're self-employed individuals
17 that live at home, but this is their economic base. This
18 is where the boats are, this is where the fish are
19 delivered, this is where the ice is bought, this is where
20 the grid and, you know, all the paving and all of the
21 work transpires here. And so I think that hopefully this
22 information will also go up to the Federal Board, that if
23 they're looking at communities on the coast, they also
24 need to look at vessel ownership and deckhand employ --
25 not employment because they're not employed, you know,
26 they're just -- you know if you're a deckhand you get a
27 1099, you're self-employed individual, you're not
28 employed out of Homer, you are a self-employed
29 individual.

30

31 So hopefully they will expand their
32 criteria out and then I think you will see that in these
33 kind of areas you will have a lot more economic and
34 social integration in the area then will appear if you're
35 just using the question of are you employed in Homer, and
36 the answer to that is no but do you base your boat and is
37 this where you leave out of, is this where you bring your
38 product, the answer to that question is yes.

39

40 And so I just wanted to share that with
41 you, and I could tell your frustration in that criteria
42 as being the determiner of that rural/nonrural status.
43 And so hopefully that will get passed on and can, you
44 know, kind of tweak that determination so you can see a
45 social and economic integration of an area better in the
46 future.

47

48 So appreciate your time and letting me
49 have the opportunity to testify.

50

1 CHAIRMAN CARPENTER: Thank you,
2 Representative Seaton. I personally think that's a very
3 good explanation of what has taken place -- of what is
4 going on down here because this is kind of a unique area
5 in regards to it is a fishing community, it's kind of a
6 spread out rural community but a main portion of the
7 business, like you say, is an economic unit that actually
8 happens in Homer, and I think that's some interesting
9 information that should be passed on to the Federal
10 Board. I agree with you there.

11
12 Is there anybody else who has anything,
13 questions.

14
15 Doug.

16
17 MR. BLOSSOM: Mr. Chair. Maybe just a
18 comment. It's good to see you here. Is the State doing
19 anything to try to reconcile this Federal/State
20 difference or are you folks just giving up on it and
21 letting it stay that way, that the Federal manage all the
22 Federal land and you manage the rest, or what's
23 happening?

24
25 REPRESENTATIVE SEATON: Well, it's hard
26 for me to talk about the whole State and what they're
27 doing. But predominately in the Legislature subsistence
28 has been a very low key issue. The issue spr -- you
29 know, I've been in the Legislature four years, and
30 previous to that it was a very hot topic, since I've been
31 there there really -- other than I sit on the Fish and
32 Game Finance Subcommittee in the House, and we've had to
33 fight pretty hard against a few people that wanted to cut
34 all of the funding out of the Subsistence Division and
35 we've been successful in getting some of that restored,
36 but the issue really is very low key at this time in the
37 State and there hasn't been any proposals to make any
38 changes at all while I've been in the Legislature the
39 last four years, and I really don't see any ground swell
40 from my constituents talking to me other than, you know,
41 I mean I was at the Fish and Game Advisory meeting, it
42 was pretty unanimous that they were talking about the
43 same kind of thing, about people on the road system, on
44 the Kenai Peninsula specifically, you know, being kind of
45 similar.

46
47 But as far as anyone bringing anything to
48 me and asking us to do anything on subsistence there has
49 been basically none.

50

1 CHAIRMAN CARPENTER: Thank you, sir.
2 Dean, you have something.

3
4 MR. WATSON: Yeah, I've got just, I
5 guess, a comment and a question. I think a good share of
6 the information that we got for the rural determination
7 came out of a census that was done in 2000, I believe. I
8 think if the information you have and if it was passed on
9 to the Federal Board, I think it would be pretty valuable
10 in comparison to that census because of the way that
11 those questions are asked among the folks in the
12 community.

13
14 Like you said several of these folks in
15 the outer lying areas, they have boats and they base
16 their whole show out of here, out of Homer, but yet they
17 live in other areas, they live close by, they call them
18 other areas, so I think that's kind of the problem. But
19 I think it would be good if -- I know you're busy, but if
20 you had time or if you had somebody else that had time
21 that could forward these on to the Federal Board, I think
22 that would help. Because this is the kind of things that
23 they're looking for, other than just going from one
24 document, a census document, and then trying to pull up
25 some information out of it.

26
27 REPRESENTATIVE SEATON: And, Mr.
28 Chairman, you know, I think that's right, and I think two
29 pieces of information here in this area can be easily
30 obtained, and that is one the Harbormaster has the
31 documentation of all the people that have slips in the
32 harbor and transient slips and has their residence
33 address. So if the Staff wanted to find that information
34 they could go to the Harbormaster and find out who has
35 boats and what are the residence addresses of those
36 people that have boats in the harbor, both transient,
37 because a lot of people have year-round transient or six
38 months transient.

39
40 And then the other portion is there is a
41 Northern Enterprises Dryland Marina, where all of the
42 boats are pulled out in the winter, and again they have
43 residence address of all of the boats that stored in
44 there, I mean there are hundreds of boats stored there.
45 And so -- and that Northern Enterprises is also where,
46 you know, they have the boat bays where all that work is
47 done, where all the painting, all the welding, all those
48 kind of things are done.

49
50 So those two pieces of information are

1 available for, you know, the Federal Staff to take a look
2 at and expand their database.

3
4 But, again, like I say, the criteria of
5 employee totally distorts the basis of what you're really
6 asking on the Kenai Peninsula or any area that has a
7 fishing community because the IRS specifically says
8 you're not an employee.

9
10 So that's a criteria there, so those two
11 sources, I would suggest and hopefully this is -- if the
12 transcript goes up there, you know, I really don't --
13 you know, it's going to take the Staff to frame the
14 direct question and seek and get the information, but I
15 suggest that wherever you're making considerations where
16 there's a fishing community, whether it's here or
17 Southeast, or anywhere else where you have this spread
18 out area, those two pieces -- kinds of information could
19 really help your determinations.

20
21 CHAIRMAN CARPENTER: Thank you, sir.
22 Comments are appreciated.

23
24 So I think Donald, was the other thing
25 that you were talking about on the agenda was the --
26 Doug, was the Kenai Peninsula RAC.

27
28 MR. BLOSSOM: Yeah.

29
30 CHAIRMAN CARPENTER: So did you want to
31 comment on that or make a motion or what did you want to
32 do.

33
34 MR. BLOSSOM: Mr. Chair. I have two
35 items I want to discuss in regards to that.

36
37 First of all I'd like us to -- I'd
38 request that we reiterate our statement in opposition to
39 the Southcentral RAC being split up and a Kenai RAC being
40 formed. We did that, but I think that should go again to
41 the Federal Board that this group is opposed to that, so
42 I would make that into a motion.

43
44 CHAIRMAN CARPENTER: It's been moved that
45 the Council reiterate to the Federal Board that we do not
46 believe that the Southcentral Regional Advisory Council
47 should be split and made into two Councils, one being the
48 Kenai Regional Advisory Council, is there a second to
49 that motion.

50

1 MR. SHOWALTER: Second.
2
3 CHAIRMAN CARPENTER: James seconded. Is
4 there any discussion, would you like to speak to that
5 Doug or Dean.
6
7 MR. WILSON: Now, is this going to be in
8 addition, a new forward on to the Federal Board or is
9 this what we already said last spring and just move it
10 forward again?
11
12 CHAIRMAN CARPENTER: So the motion is
13 just to reiterate what we said last spring, pass that on
14 to the Board again that that is our position; is that
15 correct?
16
17 MR. BLOSSOM: Yes, Mr. Chairman. And the
18 reason I say we should do this is because they're still
19 continuing with trying to set up this Kenai RAC, and so I
20 think we should again tell them that we disagree with
21 that.
22
23 CHAIRMAN CARPENTER: Is there anybody --
24 Gloria, or Dean or James, did you have any comments in
25 regards to that.
26
27 (No comments)
28
29 CHAIRMAN CARPENTER: If there's no
30 comments.
31
32 MR. WILSON: Question.
33
34 CHAIRMAN CARPENTER: Question's been
35 called, all those in favor of the motion signify by
36 saying aye.
37
38 IN UNISON: Aye.
39
40 CHAIRMAN CARPENTER: Opposed.
41
42 (No opposing votes)
43
44 CHAIRMAN CARPENTER: Motion carries.
45
46 I believe we can just include that
47 language in our letter to the Board, Donald, is that just
48 a -- our position remains the same?
49
50 MR. MIKE: Yes, Mr. Chair. We can

1 include that language. In addition to that I'll include
2 the original recommendation that was developed by the
3 Council. And the Ninilchik Tribe had some comments on
4 the 11th Region so if you want to give an opportunity for
5 the tribe to present their comments.

6

7 CHAIRMAN CARPENTER: Okay, very good.
8 Mr. Starkey, did you want to comment on this letter, is
9 that what you wanted, on the.....

10

11 MR. STARKEY: No. I think the letter
12 speaks for itself.

13

14 CHAIRMAN CARPENTER: Okay.

15

16 MR. STARKEY: Do I need to be on record
17 to say that?

18

19 CHAIRMAN CARPENTER: No, I think the
20 letter speaks for itself.

21

22 Doug, did you have something else.

23

24 MR. BLOSSOM: Yes, Mr. Chair, I said I had
25 two items. The second part of the item is on Page 35 of
26 our subsistence charter, it talks here in H about provide
27 recommendations or establishment and membership of a
28 Federal local advisory committee.

29

30 And I would make a motion that this
31 Council request the Federal Board explore this option
32 before they start any more things on a Kenai RAC. I
33 think this would be a more desirable -- but anyway, the
34 motion is I think they should explore this option.

35

36 CHAIRMAN CARPENTER: I guess I'm unclear
37 of what your motion is trying to do, Doug, maybe it's
38 5:00 o'clock and I can't think straight, but maybe you
39 could speak to that, I'm not sure what your motion is
40 trying to do.

41

42 MS. STICKWAN: Second.

43

44 CHAIRMAN CARPENTER: It's been seconded
45 by Gloria. Would you like to speak to that Doug.

46

47 MR. BLOSSOM: Mr. Chair. What this would
48 do, instead of having a Kenai RAC they would set up an
49 advisory committee that would advise us on some of these
50 issues and that would give us, as I understand this, this

1 would give us the chance to who should be on that
2 advisory committee and they have to report to us and to
3 me, it's a compromise on our part to, you know, they
4 wanted to set up this working group, and instead of
5 having a working group, I think our charter says we can
6 do this. So I would rather do this instead of having
7 another RAC developed, and I think it would accomplish
8 the same purpose.

9

10 So I think the Federal Board should
11 explore this option fully before we go any farther.

12

13 CHAIRMAN CARPENTER: So the way I
14 understand it is like currently right now the State has
15 -- the State might have, what, five or six advisory
16 committees on the Peninsula or something like that, what
17 would your recommendation be to the Board, how many
18 Federal advisory committees would report to this Council,
19 would there just be one for the entire Peninsula, or
20 would it be similar to the State Advisory Committee
21 Program?

22

23 MR. BLOSSOM: Mr. Chair. I guess I would
24 envision it being one. They wanted to form a working
25 group down here and we had no control over that where in
26 this we will, we'll be able to listen to them and
27 participate, and so I would think that in the
28 Southcentral region, under this scenario, I guess they
29 could have one in Cordova, too, I mean it would be an
30 advisory committee to help the Southcentral RAC. And I
31 think this is a more desirable option than a new RAC
32 being set up.

33

34 CHAIRMAN CARPENTER: Gloria.

35

36 MS. STICKWAN: If this committee's going
37 to be formed, it should be made up more of subsistence
38 users, than the commercial sport users, so I want that
39 emphasized in there.

40

41 CHAIRMAN CARPENTER: Okay. Did you have
42 something Ken.

43

44 MR. LORD: Yes, Mr. Chairman. I suspect
45 there's a little confusion here over the kinds of
46 committees that are available to the program. There are
47 three different kinds, one is a Regional Advisory
48 Committee, such as yourselves, which is allowed for by
49 ANILCA. ANILCA also allows the Board to set up a local
50 advisory committee. The Board has never done that. If

1 it chose to it would be a committee that reported to the
2 Board and it would be set up to address a specific issue
3 or a specific region, something more focused than what a
4 Regional Advisory Committee does and presumably with a
5 limited life span to address that particular issue. The
6 third option is a subcommittee, the Federal Advisory
7 Committee Act allows an advisory committee, such as
8 yourselves, to set up a subcommittee to address specific
9 issues, and that was what the Board was asking you to do
10 with the working group, to set up a subcommittee that
11 would report to you and then you would pass on or make
12 your own recommendations to pass on to the Board, and
13 that subcommittee would have been yours to deal with and
14 to set up.

15

16 So I got the sense that maybe we're
17 mixing up some of those concepts.

18

19 CHAIRMAN CARPENTER: Do you have a
20 question Gloria.

21

22 MS. STICKWAN: Is it a subcommittee to
23 (indiscernible - no microphone on)

24

25 MS. LORD: Yes. And I also should have
26 added, if the Board did ever set up a local advisory
27 committee, that would also be a separate, it would also
28 be controlled by FACA, it would require a FACA charter,
29 it would be sort of a lengthy process to set it up, and a
30 little onerous, and the Board was trying to do something
31 more quickly in terms of getting local participation and
32 local involvement in Kenai Peninsula issues, and so was
33 steering away from that particular option.

34

35 CHAIRMAN CARPENTER: Do you have anything
36 else, Doug.

37

38 MR. BLOSSOM: Mr. Chair. That's exactly
39 what I'm requesting, is that we have a local advisory
40 committee from the Kenai Peninsula because that's where
41 the problem is, as the Federal Board sees it, and so I'm
42 backing off a little and saying, okay, if you want us to
43 have some help here's a way to do it and I want them to
44 explore that.

45

46 MR. WILSON: So my understanding, so the
47 portion here under H, the Federal Advisory -- the Federal
48 Board, if there was a recommendation and a Federal
49 Advisory Committee was established, that would answer
50 directly to the Federal Board and not to the committee,

1 not to our Council.

2

3 MR. LORD: That's correct.

4

5 MR. WILSON: Yeah. So the working group
6 would be under us or the subcommittee would be under us
7 the way you're saying it?

8

9 MR. LORD: Correct. The subcommittee
10 under -- the FACA subcommittee would be under you.

11

12 MR. WILSON: But if we actually went
13 through H, that would answer directly to the Federal
14 Board.

15

16 MR. LORD: Correct.

17

18 MR. BLOSSOM: Mr. Chair. And not to us
19 at all, I understood that it went through us, even then.

20

21 MR. LORD: Well, certainly the
22 information and the recommendations or the information
23 collected by that local advisory committee and it's
24 recommendations would come to you, you know, and it would
25 be used accordingly but it wouldn't report to you, it'd
26 be up to the Board as far as when it was formed, when it
27 was dissolved, what it's mission was, all that would be
28 controlled by the Board.

29

30 MR. BLOSSOM: Mr. Chair. And that's what
31 I am asking them to research.

32

33 CHAIRMAN CARPENTER: Gloria.

34

35 MS. STICKWAN: What's the difference
36 between a stakeholder/s committee and what they propose,
37 when the Federal first came to us, they said they wanted
38 us to form a stakeholder's committee and that
39 stakeholder's committee would come to us and we would
40 take their recommendation into consideration, and then we
41 would make the final decision, so I don't understand how
42 that's different from what he's proposing.

43

44 CHAIRMAN CARPENTER: Ken.

45

46 MR. LORD: You're right, Gloria, it's
47 unfortunate we've used different terms for the same
48 thing. Stakeholder's committee, the working group, FACA
49 subcommittee, they're all different names for the same
50 thing that the Board was asking you to do earlier this

1 year. A local advisory committee, which is what Doug is
2 talking about is a separate entity formed by the Board
3 under ANILCA rather than under FACA.

4

5 CHAIRMAN CARPENTER: Doug.

6

7 MR. BLOSSOM: Mr. Chair. As I read H,
8 it's our job to recommend how you establish this local
9 advisory committee and the membership on it, or -- and
10 this working group that was being formed, we had no -- it
11 was -- you know, the first day it already had 20 people
12 signed up on it and that's the difference as I see it.

13

14 The working group is from everywhere, the
15 local advisory committee that I'm recommending or
16 requesting, we recommend how you set it up and also the
17 membership on it.

18

19 MR. LORD: I think that's actually a
20 little back -- you're right in that your charter allows
21 you to make recommendations to the Board on how it should
22 be set up and who should be on it. If you had chosen to
23 set up a subcommittee you would have had complete control
24 over that, the Board would have had no control over who
25 was on it or even what it's mission was.

26

27 CHAIRMAN CARPENTER: Doug.

28

29 MR. BLOSSOM: I guess, Mr. Chair, I have
30 to disagree with you because the first day of that
31 meeting there was already a list back in the back of the
32 room of people that were going to be on that subcommittee
33 and we haven't even talked about it yet so it looked to
34 me like that was immediately going to be a huge
35 subcommittee and we weren't even discussing it yet. So I
36 guess that's my problem and I see this is something the
37 Board should explore before we go to this Kenai RAC,
38 that's my request.

39

40 CHAIRMAN CARPENTER: Dean.

41

42 MR. WILSON: If a subcommittee was
43 formed, like we were talking, that would be very similar
44 or the same as the working group that we were talking
45 with last year, with the exception of the Council would
46 be able to decide who was on it, versus last year, I
47 believe, the Staff was looking at who would be on that
48 working group; is that correct?

49

50 MR. LORD: The legal mechanism is the

1 same. Both of those would be a FACA subcommittee,
2 whether you call it a working group or you call it a
3 subcommittee and what the Staff was working on was a list
4 of propos -- or recommended subcommittee members for your
5 consideration. I don't think they were trying to impose
6 that list on you.

7

8 MR. WILSON: And then final decision for
9 each member would be decided upon by who?

10

11 MR. LORD: If it's a subcommittee, by
12 you, as the Council.

13

14 CHAIRMAN CARPENTER: I think that was
15 part of the confusion last year and that's what offended,
16 unfortunately offended some of the members of the RAC,
17 was that this committee list was formed already before we
18 had even decided, and some members of the RAC felt that
19 we had lost all control of who was going to be on that
20 subcommittee even before it happened.

21

22 And unfortunately now I see us going
23 exactly back to the place that we were last year when we
24 told the Federal Board, no, we're not going to do what
25 you want. And personally I don't feel that we should do
26 that. We told the Federal Board then that we wanted the
27 proposals to come to us from the public, the public
28 process to work and that we would forward our
29 recommendations on to them, you know, I think we're still
30 there. I'm not saying that the Kenai Peninsula doesn't
31 need help, I'm not saying that other places around the
32 state don't need help, but my opinion is that I think we
33 need to let this process work for a little bit longer and
34 see how it turns out.

35

36 Doug.

37

38 MR. BLOSSOM: Yeah, Mr. Chair, after
39 hearing all the explanation from the solicitor's office,
40 I would withdraw my request if the second would agree.

41

42 CHAIRMAN CARPENTER: Does the second
43 agree, Gloria, to withdraw?

44

45 MS. STICKWAN: What was it, to have --
46 yes.

47

48 CHAIRMAN CARPENTER: Okay, the proposer
49 and the second have withdrawn their motion to forward
50 that information to the Board.

1 Ken, I appreciate your help with some of
2 the confusion here, all the lingo.

3

4 Donald.

5

6 MR. MIKE: Mr. Chair. I'd just like to
7 go on record that a resident from the Ninilchik
8 Traditional Council submitted a testimony on the
9 potential 11th Regional Advisory Council continuing to
10 oppose the formation of a new Regional Council.

11

12 Thank you, Mr. Chair.

13

14 CHAIRMAN CARPENTER: Thank you for
15 putting that on the record, and I'm sure that that will
16 be forwarded to the Federal Board for their
17 consideration.

18

19 Donald, I'm looking at the agenda here
20 and I think the only thing that we basically have left to
21 do is No. 15, do we have to put out a call for proposals
22 to change, what is it, the wildlife proposals.

23

24 MR. MIKE: Mr. Chair. That's just
25 informational. It's a reminder for a call for proposals
26 to be ending Friday, October 20th, call for proposals on
27 fisheries and wildlife regulations, Mr. Chair. And we
28 have wildlife forms on the back table for anybody that
29 wishes to submit a fisheries or wildlife proposal or they
30 can give our office a call and we can assist.

31

32 Thank you, Mr. Chair.

33

34 CHAIRMAN CARPENTER: Okay, thank you. If
35 anybody's interested, October 20th is the deadline for
36 wildlife proposals to be considered.

37

38 Is there -- I think under other business,
39 is there any topics that this Council would like to put
40 on the agenda for our winter meeting that they can think
41 of now or something they would like, maybe, life Staff to
42 look into. I know we've given them quite a few things
43 the last two days to consider, so -- Donald.

44

45 MR. MIKE: Under other business, Council
46 topics for winter Federal Subsistence Board meeting, this
47 is an opportunity for the Council to bring up topics to
48 the Board on issues that cannot be addressed through the
49 normal regulatory process, so this is an opportunity for
50 the Councils to bring forward their concerns to the Board

1 in their winter meeting.

2

3 Mr. Chair.

4

5 CHAIRMAN CARPENTER: I think maybe I
6 won't speak for the rest of the Council but we have put
7 several things into our letter to the Board that were
8 concerns of ours, there were at least three or four that
9 were going to be included, and so I don't know if there's
10 anything else that anybody has.

11

12 Gloria.

13

14 MS. STICKWAN: Could you just say it
15 again just so -- say it again.

16

17 CHAIRMAN CARPENTER: Yeah, I believe in
18 our letter we've put comments in there about the Council
19 make up, the 70/30 split; also the recommendation that
20 the Partner's Program be funded again; I would have to go
21 back -- those are the two that I can think of for sure.
22 We also put in there a comment about -- I can't think of
23 exactly but I know that there's one more.

24

25 MR. WILSON: The rural determination.

26

27 CHAIRMAN CARPENTER: The rural
28 determination. So if anybody has anything else.

29

30 (No comments)

31

32 CHAIRMAN CARPENTER: If not, then we'll
33 move on. Item B, future meeting plans we just have to
34 confirm that March 13th through 16th, '07 in Anchorage
35 will be our winter meeting. Does that still look good,
36 Donald, everything's going on good there.

37

38 MR. MIKE: Yeah, that's still good if the
39 Council wishes to keep those dates.

40

41 CHAIRMAN CARPENTER: Is there any
42 objection to keeping those dates the same, any member of
43 the Council.

44

45 (No comments)

46

47 CHAIRMAN CARPENTER: If not we will
48 assume that that's going to happen then. And we have to
49 look at our calendar, I guess.

50

1 MR. MIKE: Mr. Chair. In your folder,
2 your purple folder there's a fall Regional Advisory
3 Council meeting window.

4
5 CHAIRMAN CARPENTER: Purple folder. Did
6 you have any recommendations on where that meeting was
7 going to be Donald or -- there is none.

8
9 MR. MIKE: There's none currently. It's
10 up to the Council where they want to have their next fall
11 meeting and a place and time and date, Mr. Chairman.

12
13 CHAIRMAN CARPENTER: Well, we've had the
14 last two on the Peninsula here, right, here and we were
15 going to have one in Seldovia and we had one in Kenai,
16 we've had one in Soldotna. We had one in Cordova a few
17 years ago. I don't know, the -- I'm not sure about the
18 availability but I'm not sure when the last time there's
19 been one up in the Glennallen or the -- yeah, it doesn't
20 really matter to me, we could have it in Anchorage for
21 that matter.

22
23 MR. WILSON: How about Cordova, are
24 things shut down that time of year.

25
26 CHAIRMAN CARPENTER: It's -- this time of
27 year it's pretty shut down. That's the problem, it's
28 kind of like Seldovia. There are hotels you could stay
29 at but most of the restaurants have closed and -- Gloria.

30
31 MS. STICKWAN: I think there just might
32 be public that want to attend so maybe it should be in a
33 central place.

34
35 CHAIRMAN CARPENTER: More like Anchorage,
36 if that's -- I mean that's fine with me. Do you have a
37 problem with Anchorage?

38
39 MR. WILSON: We may be looking at a lot
40 of fisheries issues.

41
42 CHAIRMAN CARPENTER: There's going to be
43 a lot of fisheries issues next year and I think it is
44 easier, and I think most of them are going to be probably
45 from this area so it would be a centrally located place,
46 maybe this time around, to have the fall meeting be --
47 that everybody can get to pretty easily, so do you have a
48 problem with Anchorage, Doug.

49
50 MR. BLOSSOM: No.

1 CHAIRMAN CARPENTER: So we just need to
2 pick the dates. Later in the month is better for me,
3 like now, but.....
4
5 MR. BLOSSOM: How about the 16th, 17th,
6 18th, they're open.
7
8 CHAIRMAN CARPENTER: That would be good
9 for me. Do you have any problem with that Gloria.
10
11 MS. STICKWAN: No.
12
13 CHAIRMAN CARPENTER: What about you,
14 Dean?
15
16 MR. WILSON: No, I can attend.
17
18 CHAIRMAN CARPENTER: 16th, 17th, how
19 about you James.
20
21 MR. WILSON: October.
22
23 CHAIRMAN CARPENTER: October.
24
25 MR. WILSON: What month is that?
26
27 CHAIRMAN CARPENTER: Next October, it'd
28 be the middle of October in Anchorage, the 16th.
29
30 MR. WILSON: If it's long, it could go
31 into the 19th.
32
33 CHAIRMAN CARPENTER: Yeah, I see that --
34 what would happen there, Donald, the fisheries cycle
35 meeting window closes -- if we have our meeting, is that
36 a regulatory date or if it goes over a day it's okay?
37
38 MR. MIKE: (Nods affirmatively)
39
40 CHAIRMAN CARPENTER: Okay. So let's go
41 ahead and set our meeting for Anchorage October 16th
42 through the 18th or 19th, whatever, depending on how many
43 fisheries proposals we get.
44
45 Do we need that in the form of a motion
46 or is that clear enough.
47
48 MR. MIKE: That's clear enough, Mr.
49 Chair.
50

1 CHAIRMAN CARPENTER: Okay. Is there
2 anything else, anything anybody in the Staff has or
3 anything you have Donald.
4
5 MR. MIKE: (Shakes head negatively)
6
7 CHAIRMAN CARPENTER: Pete.
8
9 MR. PROBASCO: Mr. Chair. I just wanted
10 to clarify that the October 20th deadline that's coming
11 up is also for that call for proposals for the Kenai
12 Peninsula, you just said wildlife, I think it's important
13 that the public and Council members understand that the
14 Board did have a special call that closes on the 20th.
15
16 Thank you.
17
18 CHAIRMAN CARPENTER: Thank you, for
19 clarifying that. and I'm sure that you are quite aware
20 of that deadline, right.
21
22 (Council nods affirmatively)
23
24 CHAIRMAN CARPENTER: If there's nothing
25 further I would entertain a motion to adjourn.
26
27 MR. SHOWALTER: So moved.
28
29 CHAIRMAN CARPENTER: It's been moved.
30
31 MR. WILSON: Second.
32
33 CHAIRMAN CARPENTER: And seconded. All
34 those in favor.
35
36 IN UNISON: Aye.
37
38 CHAIRMAN CARPENTER: Thanks everybody, I
39 hope it was entertaining.
40
41 (Laughter)
42
43 CHAIRMAN CARPENTER: See you next time.
44
45 (Off record)
46
47 (END OF PROCEEDINGS)

