

1 SOUTHCENTRAL FEDERAL SUBSISTENCE
2 REGIONAL ADVISORY COUNCIL MEETING

3
4 PUBLIC MEETING

5
6 Anchorage, Alaska
7 August 24, 2006
8 9:00 o'clock a.m.
9

10
11 COUNCIL MEMBERS PRESENT:
12

13 Ralph Lohse, Chairman
14 Doug Blossom
15 Tom Carpenter (Telephonically)
16 Robert Churchill
17 Richard Greg Encelewski
18 James Showalter
19 Gloria Stickwan
20
21
22 Regional Council Coordinator, Donald Mike
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P R O C E E D I N G S

(Anchorage, Alaska - 8/24/2006)

(On record)

CHAIRMAN LOHSE: Good morning everybody. I guess we're all in our places with bright shiny faces. At least I saw some people laughing out there so it can't all be that dead serious. Anyway, we'll call this Southcentral Subsistence Regional Advisory Council special meeting into session. It's been called for a number of items as all of you have the agenda in front of you and you can see that. At this point in time I would like to have the roll called and see what kind of a quorum we have.

Donald, could you do that for us.

MR. MIKE: Thank you, Mr. Chair.
Donald Mike, Council coordinator.

Mr. Robert Churchill.

MR. CHURCHILL: Here.

MR. MIKE: Pete Kompkoff.

(No comment)

MR. MIKE: Pete wasn't able to make this meeting. Mr. Doug Blossom.

MR. BLOSSOM: Here.

MR. MIKE: Mr. Greg Encelewski.

MR. ENCELEWSKI: Here.

MR. MIKE: Mr. Gilbert Dementi. Mr. Chair, Gilbert called and said he would be resigning from the Council and I haven't received.....

CHAIRMAN LOHSE: So he's resigning?

MR. MIKE: Right. I haven't received a letter.

CHAIRMAN LOHSE: For health reasons?

1 MR. MIKE: But -- Ms. Gloria Stickwan.
2
3 MS. STICKWAN: Here.
4
5 MR. MIKE: Mr. Dean Wilson.
6
7 (No comment)
8
9 MR. MIKE: He wasn't able to make this
10 meeting also due to work schedule conflicts.
11
12 Mr. James Showalter.
13
14 MR. SHOWALTER: Here.
15
16 MR. MIKE: Mr. Ralph Lohse.
17
18 CHAIRMAN LOHSE: Here.
19
20 MR. MIKE: Mr. Tom Carpenter.
21
22 (No comment)
23
24 MR. MIKE: He wasn't able to make it
25 due to work conflicts also.
26
27 Mr. Chair, you have six Council members
28 and you do have a quorum, thank you.
29
30 CHAIRMAN LOHSE: We have a quorum?
31
32 MR. MIKE: Yes.
33
34 CHAIRMAN LOHSE: Okay, it's amazing
35 that we got six together this time of the year with
36 everything going on that's going on.
37
38 Okay. With that I'd like to introduce
39 everybody that's here. And what we usually do is we go
40 around the room and everybody introduces themselves.
41 But we'll start with Council, and James, if you want to
42 start, we'll just go around the table and we'll go
43 aisle by aisle and go back and everybody can introduce
44 themselves and tell who they are and who they
45 represent.
46
47 MR. SHOWALTER: Yes, this is James
48 Showalter of Sterling and of course I'm on the RAC
49 board.
50

1 MR. BLOSSOM: Doug Blossom, Clam Gulch.
2 I'm on the Southcentral RAC.
3
4 MR. CHURCHILL: Robert Churchill,
5 Anchorage. Southcentral RAC.
6
7 MR. ENCELEWSKI: I'm Greg Encelewski
8 from Ninilchik and I'm on the Southcentral RAC.
9
10 CHAIRMAN LOHSE: Rob Lohse from Chitina
11 and Cordova, Southcentral RAC.
12
13 MS. STICKWAN: Gloria Stickwan from
14 Tazlina, Southcentral RAC.
15
16 MR. MIKE: Donald Mike, regional
17 coordinator.
18
19 MR. KRON: Tom Kron, Office of
20 Subsistence Management, Fish and Wildlife Service.
21
22 MR. KNAUER: Bill Knauer, Office of
23 Subsistence Management, Fish and Wildlife Service.
24
25 MR. STARKEY: John Sky Starkey. I'm
26 the legal counsel for Ninilchik Traditional Council.
27
28 MR. ZEMKE: Steve Zemke, Chugach
29 National Forest.
30
31 MR. KESSLER: Steve Kessler with the
32 Forest Service.
33
34 MS. CLARK: Maureen Clark, Office of
35 Subsistence Management.
36
37 MS. WILLIAMS: I'm Liz Williams with
38 the Office of Subsistence Management. I'm the new
39 anthropologist and I'll be working with the
40 Southcentral Council.
41
42 MR. CAMPBELL: Rod Campbell. I'm with
43 the Office of Subsistence Management.
44
45 MS. WRIGHT: Sherry Wright with the
46 Alaska Department of Fish and Game, Southcentral
47 coordinator.
48
49 MS. WILKINSON: Ann Wilkinson, OSM.
50

1 MS. PETRIVELLI: Pat Petrivelli, I'm
2 the Bureau of Indian Affairs anthropologist.
3
4 MR. FRIED: Steve Fried, Fish and
5 Wildlife Service, Office of Subsistence Management.
6
7 MR. KLEIN: Steve Klein with the Office
8 of Subsistence Management.
9
10 MS. MCCALLVALENTINE: My name is Erica
11 McCallValentine, and I'm the Southcentral social
12 scientist with the Partners for Fisheries Program.
13
14 MR. OVIATT: George Oviatt with the
15 Bureau of Land Management.
16
17 MR. ARDIZZONE: Chuck Ardizzone with
18 BLM.
19
20 KEVIN: (Indiscernible - away from
21 microphone, not signed in) Chief of Staff, Mayor
22 Williams Kenai Peninsula Borough.
23
24 MAYOR WILLIAMS: Mayor Williams, Kenai
25 Peninsula Borough.
26
27 MR. BERG: Good morning everybody.
28 Jerry Berg, fishery biologist with Fish and Wildlife
29 Service.
30
31 MR. RABINOWITCH: Sandy Rabinowitch,
32 Board Staff Committee, Park Service.
33
34 MR. ENCELEWSKI: Ivan Encelewski,
35 Ninilchik Traditional Council.
36
37 MR. CRAIG: John Craig, AHTNA Region.
38
39 JEFF: (Indiscernible - away from
40 microphone) I'm Jeff, Division of Sportfish.
41
42 MR. LINGNOW: Tracey Lingnow (ph),
43 Department of Fish and Game, Commercial Fisheries.
44
45 MR. NELSON: Dave Nelson, National Park
46 Service.
47
48 MS. COHEN: Janet Cohen, National Park
49 Service.
50

1 MS. TYONE: Linda Tyone, AHTNA.

2

3 MR. WILLIAMS: Darrel Williams,
4 Ninilchik Traditional Council.

5

6 CHAIRMAN LOHSE: Thank you. I have a
7 bunch of requests here for testimony and I was just
8 wondering if the people who put their name in for
9 requests, I see John mostly it's you, I see now that
10 you have three requests. Would you like to speak ahead
11 of time or would you like to speak when the subject
12 comes up?

13

14 MR. WILLIAMS: When the subject comes
15 up would be my preference.

16

17 CHAIRMAN LOHSE: Okay. How about John
18 Craig.

19

20 MR. CRAIG: When the subject comes up.

21

22 CHAIRMAN LOHSE: When the subject comes
23 up, okay. And if I miss it when the subject comes up,
24 don't hesitate to hold your hand up and remind me that
25 you wish to speak.

26

27 Oh, we've got two more people that just
28 walked in, Donald, you were going to say something?

29

30 MR. MIKE: Yeah, Mr. Chair, Donald
31 Mike. I provided a folder for Council members for
32 discussion on the meeting and in it is has an agenda
33 for today's meeting. That includes the information on
34 the Kenai Peninsula Regional Advisory Council -- Kenai
35 Peninsula Council and the status report on the
36 Ninilchik's request for reconsideration and request for
37 a special action request for Kenai Peninsula Council
38 and in addition we received some written comments on
39 the Eyak Tribe commenting on a Kenai Peninsula Council,
40 and an affidavit from Mr. Robert Wolfe just received
41 for your information.

42

43 Thank you, Mr. Chair.

44

45 CHAIRMAN LOHSE: Thank you, Donald. I
46 don't know if the rest of the Council's had a chance to
47 look at everything that's in their packet. We may want
48 to take a short break in a little while once we get
49 started and read through it or if something like this
50 is pertaining to a certain subject, we can stop and

1 read through it at that point in time, too. I know I
2 haven't seen the one from Eyak and the last one yet.
3 So I'd like to have a chance to look at it before the
4 subject comes up.

5
6 We had a couple more people come in.
7 At this point in time if we could get them to introduce
8 themselves and then we can go on with our meeting. So
9 the last people that just walked in, I think there was
10 two of them.

11
12 JEFF: Jeff (Indiscernible - away from
13 microphone, not signed in) Fish and Game.

14
15 CHAIRMAN LOHSE: Fish and Game.

16
17 DEBBIE: Debbie (ph) (Indiscernible -
18 away from microphone, not signed in), Fish and Game.

19
20 CHAIRMAN LOHSE: Okay. And that was
21 it. Okay, thank you. Okay, Linda, for your testimony,
22 do you wish to wait until the subject comes up or do
23 you want to testify ahead of time?

24
25 MS. TYONE: When the subject comes up.

26
27 CHAIRMAN LOHSE: When the subject comes
28 up, thank you. With that, we're going to go and take a
29 look at our agenda, review and adopt the agenda. Do
30 all of you have a copy of it?

31
32 (Council nods affirmatively)

33
34 CHAIRMAN LOHSE: A motion to adopt the
35 agenda is in order before we.....

36
37 MR. CHURCHILL: So moved.

38
39 CHAIRMAN LOHSE: It's been moved, do we
40 have a second.

41
42 MR. BLOSSOM: Second.

43
44 CHAIRMAN LOHSE: Okay, been moved and
45 seconded. Any comments on the agenda as it sits before
46 us. Any additions or corrections or anything else
47 you'd like to put on it.

48
49 (No comments)

50

1 CHAIRMAN LOHSE: Hearing none, the
2 question's in order.

3
4 MR. CHURCHILL: Call the question.

5
6 CHAIRMAN LOHSE: Question's been
7 called. All in favor of the agenda as it sits before
8 us signify by saying aye.

9
10 IN UNISON: Aye.

11
12 CHAIRMAN LOHSE: All opposed, signify
13 by saying nay.

14
15 (No opposing votes)

16
17 CHAIRMAN LOHSE: Motion carries. So
18 we're going to go on to our first item on the agenda,
19 which is establishment of Kenai Peninsula Subsistence
20 Regional Advisory Council. And I think Bill and Ann
21 are going to bring us up to date on where that's at at
22 this point in time. And this is not an action item on
23 our part but it is an opportunity for us to comment on
24 it and we could take an action, we could make a
25 recommendation one way or another, as a Council, if we
26 so wish. We don't have to, we can just make comments
27 on the record or we can make a recommendation.

28
29 With that, Bill, I'll turn it over to
30 you.

31
32 MR. KNAUER: Thank you, Mr. Chairman.
33 My name is Bill Knauer. I'm the policy regulations
34 specialist for the Office of Subsistence Management.

35
36 The idea of a separate Regional Council
37 subsistence resource region for the Kenai Peninsula is
38 something that has been talked about for many, many
39 years, not just recently. And this morning I heard
40 somebody say something and it was likened to me sort of
41 like a family out in the Bush with the leaking roof and
42 the snowmachine's not working and the Permanent Fund
43 comes in and they've got to decide which to spend their
44 money on, they don't want their second cousin from
45 Anchorage who is a stockbroker telling them that they
46 really ought to put it in stock options, that they'd
47 like to make the decision themselves. And essentially
48 that's the whole idea behind a Council for the Kenai
49 Peninsula.

50

1 Procedurally, a direct final rule and a
2 proposed rule were published in the Federal Register on
3 August 14th. Now, what that direct Final Rule is is a
4 rule that can become effective if there are no
5 significant adverse comments on it without the
6 publication of an additional rule. The comment period
7 for that rule closes on September 18th.

8
9 If we receive no significant, and I
10 must emphasize the word, significant adverse comments,
11 then the rule becomes effective on September 29th.
12 That establishes the region, which is under the purview
13 and authority of the Federal Subsistence Board. There
14 has to be a region before there can be a Council.

15
16 I'll turn it over to Ann to tell you
17 now about the procedures in the establishment of a
18 Council and appointment of members.

19
20 MS. WILKINSON: Good morning, Mr.
21 Chairman. Council members. For the process of
22 building a new Council we need to get Secretarial
23 approval. And basically the process is the same one we
24 use every time, every year when we are replenishing
25 Council members. We advertised this summer, let people
26 know that there was going to be a new Council and asked
27 for applicants and we received 12 applications and then
28 there were three from people that had applied for the
29 Southcentral Council but they live on the Kenai
30 Peninsula so I just moved them over to that pile. And
31 basically we just did the same exact process of
32 interviewing them and their references and key contacts
33 and then the Board will make recommendations to the
34 Secretary and that meeting is going to be tomorrow, as
35 a matter of fact. Then we'll send a packet down to the
36 Secretary along with the charter for the new Council
37 and with an amended charter for this Council, which
38 will show a reduction of membership from 13 members to
39 10. Kenai Peninsula and Southcentral will each have 10
40 members. And then the Secretary will review the
41 packet, look at all the members and the information we
42 send about them and make a decision about who will be
43 actually sitting on the new Council, and he will
44 approve or not approve the charter, depending. And we
45 expect to hear back from him on which Council members
46 are appointed in early December probably.

47
48 And that's it for the process, but if
49 you have other questions I'm glad to answer.

50

1 CHAIRMAN LOHSE: Any questions for Ann.
2 Doug.

3
4 MR. BLOSSOM: Mr. Chairman. I guess
5 just one question to start this off. Why wasn't this
6 discussed publicly at the last Federal Subsistence
7 Board meeting, you know, that wasn't that long ago?
8 Why wasn't this discussed there publicly, why did it
9 happen after that meeting was over?

10
11 MS. WILKINSON: At the May Board
12 meeting, you mean, why wasn't it discussed then?

13
14 MR. BLOSSOM: Yes.

15
16 MS. WILKINSON: Well, Mr. Chairman, at
17 the May Board meeting, if I'm not wrong, isn't that the
18 one where they had thought -- oh, just a minute.

19
20 (Pause)

21
22 MS. WILKINSON: Yes, at the May Board
23 meeting they had thought the Council was going to form
24 a committee, wasn't that that one or was that the
25 January meeting, I'm sorry, that was the January
26 meeting. I'm sorry. And then they met with the
27 Southcentral Council later. I'm not privy to what the
28 Board's decision-making process is for that, but I was
29 at the meeting on May 24th when they decided to do it
30 and they had a discussion. It's the Board's
31 prerogative to form a new Council, but why they didn't
32 come to you at that time, I don't know, frankly.

33
34 CHAIRMAN LOHSE: James.

35
36 MR. SHOWALTER: Yes, good morning. Two
37 part question. Are you on the State or Federal
38 employee, and with this information you brought us, are
39 you just bringing it through your division or
40 department for information for us or are you speaking
41 basically on your own?

42
43 MS. WILKINSON: No, sir, I work for the
44 Fish and Wildlife Service in the Office of Subsistence
45 Management, and I oversee the Regional Advisory Council
46 system as a whole, and so I'm not speaking for myself.

47
48 MR. SHOWALTER: Is that State or
49 Federal?

50

1 MS. WILKINSON: It's Federal.
2
3 CHAIRMAN LOHSE: When you put an ad out
4 for applicants, it still is an if or a maybe, I mean it
5 doesn't mean that there is a final decision made but
6 there's a strong enough decision made that you had to
7 go through that kind of process?
8
9 MS. WILKINSON: Yes, that's correct.
10 It's a proposed Council still up until the time the
11 Secretary signs off on the charter.
12
13 CHAIRMAN LOHSE: So it's a proposed
14 Council, a proposed charter and proposed members for
15 the Council?
16
17 MS. WILKINSON: That's correct.
18
19 CHAIRMAN LOHSE: And so then the
20 decision as to whether or not it will be a Council
21 still rests with the Secretary?
22
23 MS. WILKINSON: That's correct.
24
25 CHAIRMAN LOHSE: And that comment
26 period is open until September 18th?
27
28 MS. WILKINSON: Yes.
29
30 CHAIRMAN LOHSE: Thank you, Ann. Any
31 other questions for Ann? Gloria.
32
33 MS. STICKWAN: What decision did you
34 say would be made tomorrow?
35
36 MS. WILKINSON: That's when the Federal
37 Subsistence Board meets to make its recommendations on
38 applicants that they'll put forward to the Secretary
39 for the Council membership.
40
41 CHAIRMAN LOHSE: Greg.
42
43 MR. ENCELEWSKI: Yeah, I got a question
44 I'm not sure who to address it to, Bill or Ann. But I
45 guess my question is the first I've ever heard about it
46 and I've been on the Southcentral RAC for several
47 years, was when the Clarion called me about questions
48 of forming a new Kenai Peninsula RAC. I have concerns
49 about it. I don't think that there was a process and
50 especially I was concerned that none of us on the RAC

1 here, to my knowledge, were notified about it. And I
2 just wondered how it came about, you know, we've always
3 been able to take care of the business for the Kenai
4 RAC. We've got a lot of Kenai RAC members from that
5 area on that, so it just seems like a strange decision
6 to me. But I'm just trying to find out a little more
7 how it came about.

8

9 CHAIRMAN LOHSE: Ann or Bill can -- I
10 mean did it initiate with the Board itself?

11

12 MS. WILKINSON: Yes.

13

14 MR. KNAUER: It did initiate with the
15 Board itself and it's something that, like I said, has
16 been talked about over the years. I think the first I
17 heard some rumblings were way back in the early '90s
18 about whether or not the Kenai Peninsula should have
19 been a separate Council. And the talk over the years
20 has cycled, you know, at some points it looks like it's
21 going to happen and other times it doesn't. I don't
22 think that this is anything new. I'm sure Ralph's,
23 being one of the members that's been on the Council the
24 longest, has probably heard discussions at various
25 times over the course of his tenure on the Council.

26

27 CHAIRMAN LOHSE: Thank you, Bill. And
28 you're right, it has -- it's never come up as an actual
29 proposal that we do it. The suggestion has been made a
30 number of times and with all of the hassles on the
31 Kenai Peninsula, it's sometimes been welcomed by people
32 who aren't on the Kenai Peninsula and other times it
33 hasn't been. I know my initial reaction was that that
34 sounds like a good idea, that gets one more thing out
35 of my hair.

36

37 (Laughter)

38

39 CHAIRMAN LOHSE: But I can also see the
40 problems with it. But like I said, I know my initial
41 reaction was well, that sounds like a good idea. But I
42 do think, like everybody else, that we haven't as a
43 Council sat down and really looked at the issue from
44 the standpoint of what kind of effect does it have on
45 subsistence users and that's what I'm hoping we can do
46 this morning. And either as a Council make a
47 recommendation or, at least, as individuals on the
48 Council make a recommendation and hear from the public
49 on the subject so it at least gets on the record
50 between now and September 18th.

1 So anybody else have a question for Ann
2 or Bill or a comment that they'd like to make, and
3 don't be afraid to put a comment on the record.

4

5 MR. BLOSSOM: Mr. Chairman.

6

7 CHAIRMAN LOHSE: Doug.

8

9 MR. BLOSSOM: I'm going to ramble a
10 little bit. There's several issues involved here, you
11 know, my first issue I think is that you should have
12 made it a public process. You should have talked about
13 it at the last Federal Subsistence Board meeting. You
14 didn't. And shortly afterwards you did this. I'm
15 opposed to it. I mean I'll serve if that's what you do
16 but I'm opposed to it for several reasons, and let's
17 see if I can start off by -- one of the classic things
18 I see is as soon as subsistence fisheries came up in
19 Cook Inlet, the Federal Board wanted to form this task
20 force, and I think there's a parable there.

21

22 This Southcentral Council is like a
23 mediator or a task force looking at a problem for one
24 area. And so I think it serves much better than trying
25 to boil this down to the adversaries fighting each
26 other. So that, to me, is a real important part of
27 this why we shouldn't have a Cook Inlet region. I
28 think this bigger area works much better because you
29 have the outside people mediating and helping put fresh
30 information in. And I think your own Board, your own
31 Federal Board should see that.

32

33 The next thing is we're serving really
34 a very small population. And you're forming this
35 special Council just to serve a few people that I think
36 can be served just as well by this Council we presently
37 have.

38

39 And so those are two big issues I think
40 that the Secretary should hear about, and I'll stop at
41 that for now.

42

43 CHAIRMAN LOHSE: Thank you, Doug. Any
44 other comments from anybody or anything that they'd
45 like to put on the table or questions they'd like to
46 ask?

47

48 Greg.

49

50 MR. ENCELEWSKI: Yeah, I'll just go to

1 make a comment. I feel like Doug also. I'm opposed to
2 the formation for basically the same reasons. I think
3 this Southcentral Advisory Council has always dealt
4 with the issues of the Kenai and other areas, we never
5 put them off, we've had some long meetings. I don't
6 think we've actually even went much over our allotted
7 time. I think it has a diverse make up of subsistence
8 users as well as sports, commercial for the
9 geographical region, that inter-tie, that -- I mean the
10 people from here don't just -- you know, they use the
11 Ninilchik area, they use the other areas, Cordova, all
12 over.

13

14 So I would be opposed that the public
15 process wasn't addressed for forming a new RAC, as well
16 as I think it's not necessary.

17

18 CHAIRMAN LOHSE: Thank you, Greg.
19 James.

20

21 MR. SHOWALTER: Yes. Just like Ralph
22 indicated at first, you know, to begin with it sounded
23 good, sounded great, then I got reconsidering and
24 talking to the people that put me on the Council here
25 and with under the situation just for the RAC for the
26 Kenai Peninsula, that wasn't the greatest outcome of
27 the information I got from the people. So I also was
28 thinking on the same lines, I reconsidered my thoughts
29 and told people I talked to, I don't think we should
30 have a strictly Kenai Peninsula RAC and go with the
31 existing one now.

32

33 Thank you.

34

35 CHAIRMAN LOHSE: Thank you, James.

36

37 MS. STICKWAN: Is the Federal Advisory
38 Committee Act, is that a possibility that could -- to
39 form a committee, is that a possibility that we could
40 bring that up and talk about that or is that just
41 something that's not on the agenda that we can't talk
42 about or what?

43

44 CHAIRMAN LOHSE: Ann, can you answer
45 that question?

46

47 MS. WILKINSON: Well, the Federal
48 Advisory Committee Act.....

49

50 MS. STICKWAN: Is it a committee.....

1 MS. WILKINSON:was not the
2 problem -- you mean having this Council form a
3 subcommittee at this time? Certainly you can suggest
4 that to the Board. And we'll make sure, you know,
5 Donald and I will make sure that all your comments and
6 your recommendations will be put before the Board, and
7 if you want to do that and take a vote and make that
8 your recommendation then certainly that will carry more
9 weight than if you just make a comment about it.

10

11 MS. STICKWAN: I had another question.

12

13 CHAIRMAN LOHSE: Thank you, Gloria.

14

15 MS. STICKWAN: What about this 70/30
16 rule, how did that come about and who gave the Board
17 the authority to do that?

18

19 CHAIRMAN LOHSE: Bill.

20

21 MR. KNAUER: That came about as a
22 result of a lawsuit that started back a number of years
23 ago. And what happened is the Regional Councils,
24 although they're required under ANILCA, also must meet
25 the requirements of the Federal Advisory Committee Act.
26 The laws must be read in concert. And that Act says
27 that there must be -- that the Federal Advisory
28 Committees or Councils, must have a balanced
29 representation on them. And so just before there was a
30 ruling that the Councils were not -- the courts never
31 actually made a ruling that the Councils were not
32 balanced, but they said that they should include
33 representation from other consumptive user groups to
34 assure the balance. And the Secretary asked the
35 Federal Subsistence Board to look at options to assure
36 continued balance on the Councils and as a result of
37 that review, the Board and the Secretaries adopted a
38 goal of having 70 percent subsistence representation,
39 30 percent sport and commercial representation on the
40 Councils. And that would apply to all the existing
41 Councils as well as any new Council that was formed.

42

43 You know, part of the idea is to better
44 insure that the residents of the Kenai Peninsula area
45 will have a meaningful role in the subsistence
46 management on Federal lands in their area.

47

48 Certainly administratively there's a
49 few Council members for meetings on the Council have to
50 travel hundreds of miles to get there so this -- that's

1 also part of it.

2

3 CHAIRMAN LOHSE: Thank you, Bill.

4 Doug.

5

6 MR. BLOSSOM: Mr. Chairman. That
7 brings up another, I think, very important thing. I'm
8 looking at these maps of this new proposed Council
9 area. If you were going to do indeed what you said,
10 shouldn't you have drawn the line up through the
11 Turnagain Arm and just made the Peninsula a Council by
12 itself then?

13

14 CHAIRMAN LOHSE: Bill.

15

16 MR. KNAUER: Mr. Chair. Mr. Blossom.
17 One of the things that we've tried to do on the -- all
18 of the Regional Councils is follow Game Management Unit
19 boundaries wherever possible. Most -- it's a little
20 different with fish because they don't follow Game
21 Management boundaries, but most of the regulations, the
22 wildlife regulations are on a Game Management basis and
23 we, in examining it, we believe that that is not going
24 to adversely impact any decisions or recommendations
25 relative to fisheries. So that's why the
26 recommendation is to have Unit 7, 15, and 14(C) be
27 included in this Council.

28

29 MR. BLOSSOM: Yeah, I see no reason, I
30 mean that is a Game Management boundary right in
31 through there. At any rate, what you have done is
32 you've taken part of the Kenai Borough and cut them out
33 of our district, part of what we have home rule on, all
34 the west side of Cook Inlet, Tyonek, that's all Kenai
35 Peninsula Borough, that surely should have been into
36 this new district if that's what you intend to do. And
37 if you formed this for fish and game, it definitely
38 needs to go up the highway past Talkeetna to the border
39 there because that's all part of the same scenario.
40 It's all part of the same watersheds, the Susitna
41 River, all that runs into Cook Inlet, it's all part of
42 Cook Inlet. Anything that happens down here in Cook
43 Inlet ends up in the Susitna Valley.

44

45 So if that's what your intention was
46 then you've drawn the boundaries way wrong, you know,
47 you need to put that boundary right up the highway
48 system clear up to the border of the Southcentral RAC
49 up here up to the Park. And so I think that's an
50 important thing for the Secretary to look at also.

1 CHAIRMAN LOHSE: Thank you Doug. Bill.

2

3 MR. KNAUER: Mr. Chair. Mr. Blossom.
4 That was one of the alternatives considered, is looking
5 at that. And a number of factors entered into the
6 Board's recommendation that that not be the boundary.

7

8 First off the folks over in Tyonek and
9 on the west side of the Inlet generally harvest their
10 resources from the west side of the Inlet, most of them
11 are not regularly utilizing the resources of the Kenai
12 Peninsula. Most of them, in fact, do not use Federal
13 lands or waters over there. As far as the north area
14 up the highway, the Mat-Su area, you say that that area
15 drains into Cook Inlet, it certainly does but most --
16 well, all of Cook Inlet is not in Federal waters so
17 that's not a real consideration there. Plus, although
18 we know that some of the people utilize the Kenai
19 Peninsula, in the examination of the records and
20 talking with various folks, most of them tend to go
21 either to harvest in the Mat-Su area itself, up the
22 highway or out towards Glennallen as opposed to
23 concentrating on the Kenai Peninsula.

24

25 So that's why the Board accepted the
26 recommendation to limit it to 7, 15 and 14(C).

27

28 CHAIRMAN LOHSE: Thank you. Doug.

29

30 MR. BLOSSOM: Mr. Chair, just one
31 follow up then. The west side of the Inlet, we've
32 already been managing that through our RAC, Kaligin
33 Island, all this area, Tyonek, they're all part of the
34 Kenai Borough, and day to day that's part of what we
35 all get involved with. These people all come over to
36 our side, they all do things here and why would
37 Anchorage be more interested in the Kenai than Wasilla.
38 There's far more people in Wasilla and those areas that
39 fish on the Kenai and hunt on the Kenai than Anchorage.
40 Anchorage goes the other way just as much as they do.
41 So I don't buy the argument that Anchorage should be
42 included and not the Valley.

43

44 CHAIRMAN LOHSE: Thank you, Doug, and
45 Bill. And I think that brings up the issue that's been
46 brought up this morning, and it's been brought up in a
47 lot of our discussion, is the speed with which this was
48 done, didn't allow for public comment to the point
49 where some of these issues could have been laid on the
50 table. And I really think that, you know, I know I was

1 asked what I thought on it and I thought this looked
2 pretty reasonable because like I said most of the
3 people I knew in that other area hunted in the other
4 direction. But he's probably right, just as many
5 people from Anchorage hunt in the other direction as
6 people from Wasilla, and just as many people from
7 Wasilla probably hunt on the Kenai as people from
8 Anchorage.

9

10 So, again, this is one of the reasons
11 that the fact that this was done with this kind of
12 speed and with such lack of public comment, it's
13 probably going to either take a lot of tweaking after
14 it's done or it's just plain not going to work or it's
15 going to work in a way that's not going to accomplish
16 what it was expected to accomplish. And I guess my
17 objection at this point in time would probably be the
18 speed with which it's done, whether or not it's a good
19 idea or not, I'll hold that off for the rest of the
20 Council.

21

22 But we've been discussing this, we
23 don't have a motion on the table. We've been
24 discussing what Bill and Ann have presented to us. We
25 have a few people that would like to speak on the
26 subject. With the Council's deference right now I'd
27 like to call on public comment on this so that we can
28 have that and then we either need a motion on the table
29 or something on the table so we can actually sit and
30 discuss it as a Council.

31

32 At this point in time normally we ask
33 for other government agencies. And do we have -- we've
34 pretty well heard from the Feds, from the OSM, is there
35 any other of the Federal agencies that wish to speak on
36 the subject that we're talking on right now which is
37 the formation of another Kenai Council?

38

39 (No comments)

40

41 CHAIRMAN LOHSE: If there isn't, we'll
42 go to State agencies, and then we'll go to tribal
43 councils and then we'll go to individual testimony and
44 borough governments and things like that.

45

46 And if you do -- I just got something
47 explained to me, administratively, and I know that I'm
48 a little loose at times, but if you do come up and
49 speak and I'm not going to cut you off or not give you
50 an opportunity to speak because you haven't filled one

1 of these out, but if you do come up and speak, please,
2 fill one of these out so that they have a record of it
3 and they can use it and have the information from it.

4

5 So with that I'm going to ask, is there
6 anybody from Fish and Game that wishes to comment on
7 this. Does Fish and Game have a position or anything.

8

9 (No comments)

10

11 CHAIRMAN LOHSE: No, okay. Then in
12 that case any other government entities. We have
13 Borough and we have tribal council, take your pick
14 whoever wants to come first. You're up. And like I
15 said, don't forget to fill out your green form.

16

17 MR. WILLIAMS: I got one. Mr. Chair.
18 Members of the Board. It's good to see you all again.
19 I'm glad everybody made it okay. I'm going to be real
20 quick, we've talked about this before.

21

22 I'd like to note the previous testimony
23 that we've given on this by myself and Ninilchik
24 Traditional Council.

25

26 The interesting thing I'd like to point
27 out to you on the map, Mr. Blossom pointed it out, I
28 find it really interesting when I look at what is truly
29 considered rural within that boundary. The people who
30 actually have rural determination to be able to utilize
31 vehicle issues. It's a very small area. I'm pretty
32 sure, you know, it's Cooper Landing, Ninilchik, and
33 Happy Valley and that's it. And Anchorage is an awful
34 long ways away for non-rural users to be determining
35 the needs of rural users. And I find that just very
36 interesting and I just wanted to note that and thank
37 you very much.

38

39 Does anybody have any questions for me?
40 Yes, Gloria.

41

42 MS. STICKWAN: Could you repeat those?

43

44 MR. WILLIAMS: I'm sorry?

45

46 MS. STICKWAN: Could you repeat those
47 communities again?

48

49 MR. WILLIAMS: That would be Cooper
50 Landing, Hope, Ninilchik, and Happy Valley. All other

1 areas have lost their rural determination and are not
2 eligible to be vehicle users.
3
4 MR. BLOSSOM: Seldovia and Nanwalek.
5
6 MR. WILLIAMS: Oh, Seldovia and
7 Nanwalek, I'm sorry.
8
9 CHAIRMAN LOHSE: And how about the
10 Russian community, is that out now?
11
12 MR. WILLIAMS: Nickoli.
13
14 CHAIRMAN LOHSE: Nickoli. And I'm
15 trying to think of the one that's up towards Happy
16 Valley.
17
18 MR. WILLIAMS: Okay.
19
20 CHAIRMAN LOHSE: The one that's got the
21 school and everything.
22
23 MR. WILLIAMS: By Happy Valley?
24
25
26 CHAIRMAN LOHSE: Or maybe it's not by
27 Happy Valley, I'd have to go back and look at it.
28
29 MR. WILLIAMS: You're looking at
30 Nikolaevsk, but it's pronounced Nickoli.
31
32 CHAIRMAN LOHSE: Okay.
33
34 MR. WILLIAMS: Yeah, it's written --
35 yeah, so it's a little confusing.
36
37 CHAIRMAN LOHSE: Okay.
38
39 MR. WILLIAMS: I'm sorry, Gloria, I was
40 just looking at our little direct thing that we were
41 worried about.
42
43 CHAIRMAN LOHSE: Yeah. Yeah.
44
45 MR. WILLIAMS: That's true. Yeah,
46 there are some others, but, yeah, I was just looking at
47 the map and I thought that was just really interesting,
48 it's an awful long ways to go.
49
50 CHAIRMAN LOHSE: Basically what you're

1 saying there's very few rural residents in that area?

2

3 MR. WILLIAMS: Very few rural users and
4 I just thought I'd point that out. Doug had touched on
5 it and I thought it's a great point and I thought I'd
6 just say that.

7

8 CHAIRMAN LOHSE: Boy, you were right,
9 you said you were going to be short, I've never seen
10 you that short in any.....

11

12 MR. WILLIAMS: I know.

13

14 CHAIRMAN LOHSE:in any meeting
15 I've ever been to.

16

17 (Laughter)

18

19 MR. WILLIAMS: Thank you.

20

21 CHAIRMAN LOHSE: I'm sure you'll have
22 something to say later.

23

24 (Laughter)

25

26 CHAIRMAN LOHSE: Greg.

27

28 MR. ENCELEWSKI: No. I was going to
29 say we asked him to be short this time.

30

31 CHAIRMAN LOHSE: Oh, you asked him to
32 be short, okay.

33

34 (Laughter)

35

36 CHAIRMAN LOHSE: Okay. And I think the
37 Kenai Borough is another government agency and then
38 we'll go on to individual testimony.

39

40 MAYOR WILLIAMS: Thank you, Mr.
41 Chairman. Members of the Board. My name is John
42 Williams. I'm the Borough Mayor of the entire Kenai
43 Peninsula Borough.

44

45 We're just coming up to speed on this
46 whole issue of this advisory board as a Borough
47 government entity and it comes to my mind that what
48 we're talking about here is an area that encompasses
49 virtually the entire Kenai Peninsula Borough. Quite a
50 bit of it, as Mr. Blossom pointed out, is left out of

1 the proposed management area. But it does draw to mind
2 the question of why there wasn't a broader input of
3 public comment. And I think that here before this
4 Board today that's been pretty well shown to be part of
5 the problem with this whole process as it's taken
6 place, and that is the lack of public comment.

7
8 So I won't be able to make too many
9 comments with regards to the yea or nay of it, there
10 are good points to having a local board but then in
11 other cases, in this particular instance, they're very
12 limited. I would point out with regards to the
13 discussion about Nickoli, we do have five Russian
14 speaking villages, rural villages on the Peninsula
15 separate from one another that include Razdona,
16 Voznasinka (ph), Kachemaksalo (ph), Nikolaevsk and one
17 other one that's just off to the side of the Nickoli.

18
19 I guess part of the problem that we
20 face on the Kenai Peninsula, especially when it comes
21 to public hearings of this nature by the Federal
22 government or other large boards is the lack of
23 visibility of the board on the Peninsula itself. We
24 have to travel all the way up here, of course, to
25 attend these meetings and the question comes about as
26 to whether whole groups should have to travel all the
27 way up here or whether a limited number should travel
28 to the Peninsula.

29
30 The other thing that really strikes me
31 as odd about creating what we would call this Kenai
32 Council -- Regional Advisory Council is the fact that
33 it does take in areas like Anchorage. If you're going
34 to talk about subsistence fishing on the Kenai
35 Peninsula why would you include the entire population
36 base of the Anchorage bowl, if you will, within that
37 area. Anchorage has 250,000 people live totally in it,
38 a great number of them may very well be eligible for
39 issues surrounding subsistence lifestyles and
40 subsistence hunting and fishing.

41
42 So basically our comments are, one, we
43 believe that there was very, very limited and
44 insufficient amount of public input and ability to have
45 that input. Two, we believe that the boundaries are
46 tremendously skewed if you're going to talk about a
47 Kenai Peninsula Council. And, three, we believe that
48 the larger board, as has been pointed out by Mr.
49 Blossom and Mr. Showalter probably serves the purpose
50 just as well as any.

1 So thank you very much, and I'd take a
2 question if requested.

3

4 CHAIRMAN LOHSE: Thank you. Doug.

5

6 MR. BLOSSOM: Mr. Chairman. Mayor
7 Williams. You attended a meeting fairly recently at
8 the Cook Inlet Aquaculture Building where our
9 Commissioner of Fish and Game made some statements
10 about this issue coming up, what did he say about it?

11

12 MAYOR WILLIAMS: Well, I believe
13 overall he was opposed to the idea of the board coming
14 in there because it does mix the issues of several
15 subsistence-type users within this group. Now, you're
16 talking about one subsistence group here. But we have
17 a half a dozen subsistence user groups scattered
18 throughout the Peninsula, varieties, not just Native
19 subsistence but other subsistence as well. Homeland
20 grown subsistence and so forth, and they include such
21 things as, you know, this personal use fishery, dip net
22 fishery, educational fisheries with the local Native
23 groups and subsistence use fisheries as well.

24

25 MR. BLOSSOM: The reason I asked that
26 question is this room was -- oh, probably had 200
27 people in it and he was very concerned about it and I
28 just find it interesting that the Department doesn't
29 even want to come up and talk about it now.

30

31 MAYOR WILLIAMS: I think the Department
32 should and probably would if they probably had a little
33 more understanding of why the board is trying to be
34 formed, you know, but I think we should hear from the
35 Department as well.

36

37 Thank you.

38

39 CHAIRMAN LOHSE: Thank you. So
40 basically if I'm going to -- I'm going to try to
41 summarize what I think.....

42

43 MR. CHURCHILL: Ralph.

44

45 CHAIRMAN LOHSE: Bob.

46

47 MR. CHURCHILL: Through the Chair.
48 Mayor Williams thank you for coming up. If there were
49 to be a Kenai Peninsula RAC created, how would you draw
50 those boundaries?

1 MAYOR WILLIAMS: Well, this is my own
2 opinion, of course. But I definitely believe that we
3 should eliminate the Anchorage bowl portion of it, and
4 as Mr. Blossom pointed out, take in the west side of
5 the Peninsula. That is governed by, of course, the
6 Kenai Peninsula Borough, does have many, many issues of
7 subsistence living in that area, and the Borough does
8 have ties, not only educationally and culturally but
9 through our education system and so forth to the west
10 side as well plus we own a lot of lands to around where
11 WilliamsPort and that area is.

12
13 MR. CHURCHILL: Without putting words
14 in your mouth then, I'm hearing you say you would add
15 at least 16(B), Game Management Unit 16(B)?

16
17 MAYOR WILLIAMS: Parts of 16(B), not
18 the entire 16(B).

19
20 MR. CHURCHILL: Okay, thank you very
21 much. That's all I have.

22
23 CHAIRMAN LOHSE: Thank you, Mayor
24 Williams. And if I understand right, basically you're
25 echoing what I've heard from a lot of the Board members
26 is that, you know, one of the things, the biggest
27 problem with this is that there wasn't time for good
28 public comment on it.

29
30 And the other thing that I find
31 interesting and I can understand very clearly and I
32 think that would even have a direct impact on a lot of
33 the subsistence users on the Kenai's concern, and I
34 might be wrong on that, I might be putting words in
35 their mouth, but the fact that if you include Anchorage
36 with the Kenai, you've included a lot of -- I'll just
37 say a lot of population that actually overwhelms the
38 interest of the Kenai.

39
40 MAYOR WILLIAMS: Oh, absolutely. You
41 know when the dip net fishery opened, for example, in
42 the city of Kenai it overwhelmed the city of Kenai to
43 the point where they had to reach out and ask for
44 financial help as well as other physical help in order
45 to deal with the issue.

46
47 Mr. Chairman, if I might for just a
48 moment, too, there are in this room today at least four
49 different people that I know of representing groups
50 that deal in the fisheries itself. And I bring that

1 point up because virtually everything that happens on
2 the Kenai Peninsula with regards to subsistence
3 hunting, fishing, whether it be sportfishing,
4 commercial fishing, subsistence fishing, eventually
5 winds up on the desk of the Mayor. It is absolutely
6 amazing when these things come about how they gravitate
7 to the Borough government because we are the
8 established and stable government of the Kenai
9 Peninsula. So, therefore, I believe it's more than
10 mandatory that the Borough be advised and be aware of
11 these meetings and be aware of all of the facets of
12 these meetings as they take place so that we can become
13 a participant in them.

14

15 Thank you.

16

17 CHAIRMAN LOHSE: Can I ask you one
18 other question and this is just off the top of your
19 head, and can't be held to it. But do you think if the
20 Kenai Borough, if the RAC was limited to the Kenai
21 Borough, do you think that the Kenai Borough itself
22 would be a strong enough advocate for the Federal
23 Subsistence users that they wouldn't have to feel the
24 same kind of threatening that they have if they have
25 Anchorage and the Mat-Su mixed in with them?

26

27 MAYOR WILLIAMS: Boy, that's a tough
28 one. That's a tough one.

29

30 (Laughter)

31

32 MAYOR WILLIAMS: You know, I don't know
33 how many times over the last 40 years that I've asked
34 myself why we even involved ourselves with the Feds to
35 begin with, you know, they have been another way, but I
36 don't think I can answer that one right now.

37

38 CHAIRMAN LOHSE: Thank you. Gloria.

39

40 MS. STICKWAN: When you say parts of
41 16(B), which -- how far north were you thinking of?

42

43 MAYOR WILLIAMS: Okay.

44

45 CHAIRMAN LOHSE: How far does the
46 Borough go in 16(B)?

47

48 MAYOR WILLIAMS: It goes right to the
49 middle of Turnagain Arm. The Borough boundary is the
50 middle of Turnagain Arm, comes back down around --

1 excludes Whittier, picks up, of course, Seward, across
2 the Bay, it goes in behind Tyonek, picks up the
3 Kuskitan (ph) Ridge, runs all the way down past
4 WilliamsPort and Pile Bay to the boundary of, I
5 believe, I don't know which management unit that is,
6 it's just below St. Augustine, it comes back, of
7 course, and takes in the lower Peninsula. It's 26,000
8 square miles and is as big as the state of South
9 Carolina to get an idea.

10

11 CHAIRMAN LOHSE: So when you go into
12 16(B) you're going -- if I'm looking at this map and I
13 can kind of figure out where a ridge would be, you're
14 probably going into it like about 20 miles on the.....

15

16 MAYOR WILLIAMS: I think the Kuskitan
17 Ridge probably is about 15 miles inland.

18

19 CHAIRMAN LOHSE: Fifteen miles inland.

20

21 MAYOR WILLIAMS: To the backside.

22

23 CHAIRMAN LOHSE: So it would be like
24 you would be taking the coast of the west side all the
25 way down to basically Unit 9?

26

27 MAYOR WILLIAMS: Right. It takes in
28 past, for example, Chisik Island is within that
29 boundary.....

30

31 CHAIRMAN LOHSE: Uh-huh.

32

33 MAYOR WILLIAMS:all the way down
34 to below St. Augustine.

35

36 CHAIRMAN LOHSE: Right. And then cuts
37 across.....

38

39 MAYOR WILLIAMS: Uh-huh.

40

41 CHAIRMAN LOHSE:and then goes
42 over and catches the corner of the Seward and comes on
43 up by Whittier?

44

45 MAYOR WILLIAMS: Right.

46

47 CHAIRMAN LOHSE: Whittier is not in.

48

49 MAYOR WILLIAMS: Whittier is out.

50

1 CHAIRMAN LOHSE: Yeah, Whittier is not
2 in it.....
3
4 MAYOR WILLIAMS: That's correct.
5
6 CHAIRMAN LOHSE:but it would kind
7 of come down. It would catch that little corner down
8 at the bottom where the bay is where Seward is.
9
10 MAYOR WILLIAMS: Yes.
11
12 CHAIRMAN LOHSE: Which is in Unit 16 --
13 oh, good, okay, that's what I thought.
14
15 Thank you. Any other questions for
16 Mayor Williams.
17
18 (No comments)
19
20 MAYOR WILLIAMS: Once again thank you
21 for your time.
22
23 MR. BLOSSOM: Thank you.
24
25 CHAIRMAN LOHSE: Thank you. Bill, did
26 you have something you wanted to ask him, just a
27 comment uh?
28
29 MR. KNAUER: Bill Knauer. Mr.
30 Chairman. One thing that I've heard a couple times is
31 Anchorage and concern about Anchorage dominating a
32 Council. A couple of things, one, we all know that
33 Anchorage residents do have a major impact on resource
34 use on the Kenai Peninsula. I think there's no one in
35 this room that would deny that. However, two things,
36 relative to the Council, make a strong difference.
37 One, under the goal of having a 70/30 representation,
38 there can't be any more than 30 percent non-subsistence
39 users on the Council, that's the Secretary and Board's
40 goal. And secondly, Ann mentioned that the applicants
41 for a new Council, there were, I think, 12 of them, and
42 she said -- I just asked her, she said of those 12
43 there were none from Anchorage. That would mean if a
44 new Council was formed and the ones in what are
45 proposed to be in the current area moved over there
46 would be one Anchorage resident on the Council, and he
47 currently sits on this Council, Mr. Churchill.
48
49 CHAIRMAN LOHSE: Thank you, Bill. And
50 that does bring up a question that I'll ask. Now, if

1 70 percent have to be subsistence users, does that mean
2 they have to be Federally-qualified subsistence users?

3

4 MR. KNAUER: We're only talking about
5 the Federal program. Under the State program everybody
6 in the state qualifies for subsistence so we're using
7 the Federal definition.

8

9 CHAIRMAN LOHSE: Right.

10

11 MR. KNAUER: And it's a goal of 70 and
12 30.

13

14 CHAIRMAN LOHSE: Right. Right.

15

16 MR. KNAUER: It's not a hard and
17 fast.....

18

19 CHAIRMAN LOHSE: It's not a hard line,
20 but when you say subsistence users, you mean Federally-
21 qualified subsistence users, in other words they're
22 going to basically be rural residents in order to meet
23 that qualification; am I correct?

24

25 MR. KNAUER: Yes.

26

27 CHAIRMAN LOHSE: Thank you, Bill.

28 Doug.

29

30 MR. BLOSSOM: Mr. Chairman. You're
31 misconstruing what I said. Either we go to a Kenai
32 Peninsula Borough circumference and exclude Anchorage
33 or we take in Anchorage and the Susitna watershed.
34 Because if you take in Anchorage, that Susitna
35 watershed is just as important as Anchorage. So if
36 you're going to take in Anchorage you definitely need
37 to take in 16(A) and part of 14(B) it's part of the
38 watershed. It's part of what happens because it all
39 goes to Cook Inlet, and that's where it all starts.

40

41 So I wasn't excluding Anchorage because
42 of the people there, it's just either you stick to this
43 subsistence area which is the Kenai Borough or you
44 include the rest of this because it's all part of Cook
45 Inlet.

46

47 CHAIRMAN LOHSE: Thank you, Doug. And,
48 I think, Bill, that's bringing out, again, what's been
49 brought up time and time again, there just wasn't much
50 discussion on this and it's going to be a very

1 controversial issue until people would actually sit
2 down and discuss things as to where, why and how and I
3 kind of think that that's what we're going to run into.

4

5 Any other comments, Bill.

6

7 MR. KNAUER: No, Mr. Chairman.

8

9 CHAIRMAN LOHSE: Thank you for that
10 information. At this point in time I've got a bunch of
11 people in front of me. I'm just going to grab them as
12 I get them off the stack off here, there's no special
13 order.

14

15 Darrel Williams, you already talked,
16 that's right, my fault.

17

18 Sara, were you expecting to talk on
19 this one?

20

21 MS. GILBERTSON: If you don't mind.

22

23 CHAIRMAN LOHSE: I don't mind at all.
24 In fact not only don't we mind we're trying to get
25 information on the table.

26

27 MS. GILBERTSON: Good morning. Well,
28 this is my first RAC meeting so I apologize for not
29 coming forward before. My name is Sara Gilbertson, I'm
30 the new subsistence and Federal issues coordinator for
31 the Alaska Department of Fish and Game. And I'm here
32 today, and I'm here all day, because I believe that
33 what you're doing is very important.

34

35 And so while the State doesn't have any
36 comments in particular on the creation of the new RAC,
37 I want to let you know that I am here, I am here all
38 day, I'm happy to speak to any issues that you're
39 concerned about. I know the Commissioner sent quite a
40 few letters recently about subsistence on the Kenai.
41 I'm happy to address those as well.

42

43 So I wanted to speak because Doug
44 mentioned that the Commissioner was on the Kenai
45 Peninsula and made some comments, and as far as I know
46 the Commissioner's comments were the Federal system is
47 talking about the creation of a new RAC down here,
48 they're talking about potential Federal subsistence
49 fisheries down here, and given all the different user
50 groups and the many different uses, that people should

1 just be aware of that, and choose to become involved if
2 they so choose.

3

4 So I didn't mean any disrespect by not
5 coming forward before, it's just that this is a
6 decision that you all have input into, that the Federal
7 Board will decide and the State, we don't have any
8 comments as to whether or not there should be a new
9 Kenai RAC at this time.

10

11 Thanks.

12

13 CHAIRMAN LOHSE: Thank you, Sara. Any
14 questions for Sara.

15

16 Sara, yeah, like you said you haven't
17 been at one of our meetings before. One of the things
18 that we always do is after we have a presentation on it
19 we give the other government agencies a chance to make
20 comments and Fish and Game is usually the first agency
21 we ask because they're directly involved with the
22 State. So on any issue that we discuss we will give
23 the Fish and Game an opportunity to present information
24 because we feel that it's valuable and a lot of that
25 information, I know, we even help them to collect, or
26 finance some of the collecting. So with that thank you
27 muchly for coming forward.

28

29 MS. GILBERTSON: Thank you.

30

31 CHAIRMAN LOHSE: Bill, did you want to
32 say something to Sara or to me?

33

34 MR. KNAUER: Actually, Mr. Chairman, I
35 have to make a slight correction. The question was
36 whether the 70 percent are Federally-qualified
37 subsistence users, what that 70 percent is are
38 individuals that represent the subsistence interests.
39 For example, in the Kenai Peninsula there are some non-
40 rural areas, but, yet, there are individuals that have
41 a very strong subsistence background living in some of
42 those non-rural areas. For example members of the
43 Kenaitze Tribe in the Kenai area. And so it's not
44 whether the individuals are Federally-qualified for
45 subsistence it's which interests they can represent.
46 So I apologize for that.

47

48 CHAIRMAN LOHSE: Thank you, Bill.
49 That's what I was trying to bring up before and I
50 didn't mean to put you on the spot with it, but I

1 recognize that in the past that we've always, no matter
2 what other interests people have had, we've recognized
3 that they also had to have a knowledge of the
4 subsistence uses around them, you know, and from that
5 standpoint I wanted to get that out.

6

7 Thank you.

8

9 Okay, with that, John Starkey -- is it
10 Starkey?

11

12 MR. STARKEY: It is.

13

14 CHAIRMAN LOHSE: Okay.

15

16 MR. STARKEY: For the record, I'm John
17 Sky Starkey, legal counsel for the Ninilchik
18 Traditional Council.

19

20 I do have a bullet presentation, a
21 summary of my testimony that's being printed now that I
22 will get to the RAC members. I apologize about not
23 having Robert Wolfe's, Dr. Robert Wolfe's affidavit
24 before, but it was the first opportunity that I could
25 get to get it signed since he had been out of the
26 country for the previous time, so I would have been
27 able to get it signed, I would have gotten it to you
28 earlier. And as you can imagine things have been
29 unfolding very quickly in terms of Ninilchik's request
30 for special action reconsideration and other things.

31

32 I wanted to say that I'm really pleased
33 to be here. I've only gotten to read the transcripts
34 of this RAC, and I must say your work and the
35 leadership of your Chairman is very gratifying to read
36 and you do an excellent job and I really appreciate the
37 work that you do, and thank you for calling this
38 special meeting and allowing us an opportunity to get
39 these issues up.

40

41 It's interesting to note that the
42 original comment period for the creation of this RAC
43 was August 25th. If Ninilchik wouldn't have written
44 requesting a special meeting, this RAC wouldn't have
45 even gotten to comment on whether or not there should
46 be another RAC. The Federal Subsistence Board has
47 never met in public to discuss the creation of this
48 RAC. It's been all in executive session. When Mr.
49 Knauer sits up here, with all due respect, what you're
50 hearing is his representation of what he's heard in

1 executive session, unless I'm wrong, I mean this is to
2 the extent that I know and I've been following it
3 closely, the Board has never allowed any public, even
4 witness, to their discussion about this RAC. So how is
5 this RAC, how is Ninilchik, how is the public, the
6 Borough, the State, how is anybody supposed to
7 understand what the decision is?

8

9 It's just a violation of fundamental
10 public policy, which we've heard time and time again
11 and essentially it's all a part of a process that this
12 Board is currently under that is undermining and
13 eroding the RACs authority across the state.

14

15 The 70/30 rule, for example, the most
16 recent court decision that came down struck down the
17 Federal Board, they said you can use a 70/30 rule
18 through these current appointments but only because if
19 you didn't get to do that we wouldn't have RACs. The
20 court said, the Federal Board, because they made these
21 decisions in executive session, they didn't use a good
22 public process, they have to go back and completely
23 open up the rule-making process again on this whole
24 70/30 issue. But the most troubling part of that
25 decision, for me in reading it, and because I'm this
26 big supporter of the RACs is that the Federal Board
27 actually argued in that case that on any issue like
28 this, it's a policy issue, creation of a RAC, the
29 closure policy, customary and traditional use
30 determination policy, the 70/30 policy, any of the
31 issues that subsistence users are vitally concerns with
32 and they want their RACs to be involved with, the
33 Federal Subsistence Board actually argued that they
34 don't even need to consult with the RACs. The only
35 time they need to consult with the RAC is whether or
36 not it directly involves the taking of fish and
37 wildlife.

38

39 This isn't what subsistence users were
40 promised when the Feds took over in '92. When the Feds
41 took over in '92, again, I want to go back to something
42 Mr. Knauer said, not to -- and, again, with all due
43 respect, but Mr. Knauer said, that back in the early
44 '90s the Federal Board had started to talk about a
45 Kenai RAC. Well, what really happened was, the Feds
46 took over, McDowell was '89, the Feds took over in
47 1990, they had temporary regulations, it took them two
48 years to publish their permanent regulations. In that
49 period of time they did an EIS that was a thousand
50 pages long, there were about four issues that were

1 thoroughly analyzed in that EIS. One of those EIS's
2 that took up a lot of pages was, how many Regional
3 Councils should there be, how many members should be on
4 each Regional Council and what the areas should be. It
5 was thought through thoroughly, analyzed thoroughly.
6 If, indeed, the Federal Board had been talking about a
7 Kenai RAC it was analyzed in those EIS's. Now, all of
8 a sudden from going to the place where it was a vital
9 decision to subsistence users on the number and the
10 composition and the geographical area to be covered by
11 a RAC, one of the foremost important issues to be
12 determined, now, all of a sudden we've shifted to a
13 Federal Board that makes the decision about creating a
14 new RAC in executive session with no public record,
15 none of the communities, Tyonek, Talkeetna, none of
16 those communities have been consulted. They don't have
17 any input into this process. So we've gone from one
18 extreme, they're going to analyze everything, now
19 they're not going to do an EIS, they're not going to do
20 an EA, and it's very, very unusual for the Federal
21 government to publish what they call Direct Final
22 Rulemaking, unless someone in the Federal system, and I
23 think a good question for Mr. Knauer would be, what can
24 this Council -- are this Council's concerns enough to
25 trigger significant adverse information? But unless
26 somebody determines that there's significant comments,
27 the public gets no opportunity to comment on this
28 beyond September 18th and it becomes a final rule. And
29 this is, why? I mean what's the rush? What's
30 happening here? I mean it raises questions that people
31 legitimately have when the process is short-changed
32 this way.

33

34 So that's why Ninilchik asked for this
35 special meeting and Ninilchik would suggest it's bad
36 precedent, it weakens all the RACs authorities to let
37 something like this happen to this RAC. That there
38 should be an EIS or an EA, that things should be
39 thoroughly analyzed.

40

41 Again, we totally agree, you know, if
42 the purpose -- if you read the notice in the Federal
43 Register, which is the way citizens are supposed to be
44 notified about their government actions, if you read
45 that public Federal Register notice for this action,
46 you will find out nothing about the rationale for why
47 this RAC is being created except that it's supposed to
48 give people on the Kenai more meaningful input. Well,
49 if that's true, why is Anchorage in?

50

1 You know, the State designed their Game
2 Management Units with some thought. 14 is all a unit,
3 14(C) is a subunit of 14, Anchorage, you know, has a
4 lot of concerns in Southcentral Alaska, the caribou
5 herd, the Nabesna Caribou Herd issues that impact the
6 NANA region. That's a Southcentral issue. So what are
7 Anchorage residents going to do about that? They're
8 not going to be represented on the Southcentral RAC
9 anymore. There's been so little public information and
10 thought put into this that it's almost beyond belief
11 they would be rushing forward with this.

12
13 I guess as a sort of a major question,
14 the Federal regulations would allow the Regional
15 Council -- the Federal Subsistence Board, without going
16 to the Secretary, could create what's called a Federal
17 Advisory Committee, and it would be like a State
18 Advisory Committee but you could -- the RAC would get
19 input into the membership and the composition of that
20 Advisory Committee. If, what the Federal Board really
21 wanted was more input from the Kenai on what went on in
22 Kenai regions they wouldn't need to create a RAC, they
23 could create a Federal Advisory Committee with, and
24 through consultation with this body that would help on
25 some of the issues that they're concerned about. The
26 puzzling thing is is that there's nothing in the record
27 anywhere about why that option wasn't considered. It's
28 not analyzed anywhere.

29
30 So, again, we just would encourage this
31 RAC to get its comments clearly on the record. Try to
32 get assurances that its comments are enough to trigger
33 a full public process of this decision. And we would
34 encourage the RAC to insure that the other RAC Chairs
35 throughout the state are contacted so that they can
36 also communicate their concerns about the lack of
37 public process and the need for the public to be
38 involved, and for other RACs to have an opportunity to
39 be involved, and that needs to happen, I guess, before
40 the September 18th deadline.

41
42 Thank you, Mr. Chairman.

43
44 CHAIRMAN LOHSE: Thank you, John. Any
45 questions for John. Bob.

46
47 MR. CHURCHILL: Thank you, Mr. Starkey
48 for coming. Just a question, I assume, you alluded to
49 the court decision on the 70/30 was Judge Holland's
50 ruling, do you know the status of that, is that in the

1 process of being appealed, is it final, could you share
2 a little light on that for me?

3

4 MR. STARKEY: It's not what we would
5 call final judgment. So it would be -- you would need
6 to take an appeal -- you would need permission to
7 appeal it, you would have to apply to the court for
8 that. In my discussions with the parties, I don't
9 think there's an appeal planned.

10

11 MR. CHURCHILL: Thank you, very much.

12

13 CHAIRMAN LOHSE: Gloria.

14

15 MS. STICKWAN: I didn't understand
16 exactly what you meant by significant comments, could
17 you explain that?

18

19 MR. STARKEY: yeah. And I'm glad you
20 asked that question. The reason a lot of us don't
21 understand is because in my experience I've never seen
22 the Feds push a rule as fast as they're trying to push
23 this one. There's kind of this loophole, you might
24 say, in the regulatory process. I mean normally the
25 Federal government needs to publish a proposed rule and
26 then there's a comment period for that and then the
27 rule becomes final after another period of time.

28

29 What they're proposing to do here is
30 they publish this as a potential Direct Final Rule so
31 they're saying that if they don't receive significant
32 comments that are adverse to the proposed rule, then
33 the rule will become final, a done deal, and there will
34 be no other opportunity for the public to comment.
35 They won't have to respond to comments, they won't have
36 to analyze this Council's comments or any others. Now,
37 what I don't understand is who, in the Federal system,
38 will make the determination as to whether or not there
39 have been significant comments. It would seem that
40 under ANILCA, this Regional Council expressing
41 significant concerns would be enough to trigger a full
42 public process, and I don't know if that's something
43 Mr. Knauer can comment on or not.

44

45 But if it doesn't then basically the
46 comments become meaningless because the Federal
47 government doesn't have to respond to them, they'll
48 just publish the final rule.

49

50 CHAIRMAN LOHSE: Thank you, John.

1 Gloria, another question.

2

3 MS. STICKWAN: I guess my comment is
4 there isn't enough public input because like I heard
5 earlier, a lot of communities, even the Mayor said that
6 he was new to this process from the Kenai Peninsula
7 himself, and he's getting a grasp on this, the tribal
8 communities, I'm wondering if they know about this
9 because I don't see no tribal communities here. I
10 think if they knew about it they would be here
11 commenting on it. So if there isn't enough comments
12 it's probably because they didn't know about what's
13 going on here.

14

15 CHAIRMAN LOHSE: John, have you got an
16 answer for her?

17

18 MR. STARKEY: I think she said it all.
19 I don't think I need to -- is there.....

20

21 CHAIRMAN LOHSE: John, can I ask you a
22 question then.

23

24 MR. STARKEY: Yes.

25

26 CHAIRMAN LOHSE: As what Gloria just
27 brought up, as legal counsel for Ninilchik, have you
28 contacted other tribal governments on a government to
29 government basis and asked them to comment to the
30 Federal government on this proposed Council?

31

32 MR. STARKEY: I have not done that but
33 I'm not sure that the Traditional Council hasn't done
34 that on their own.

35

36 CHAIRMAN LOHSE: Thank you. Bob.

37

38 MR. CHURCHILL: This is just greed on
39 my part but you talk about the EIS that did a real
40 thorough analysis of the RACs structure and composition
41 and geographics, how would a person access those?

42

43 MR. STARKEY: I think they might be on
44 line. They might be in the web site, I'm not sure. I
45 have the actual, original documents.

46

47 MR. CHURCHILL: I can catch you at a
48 break.....

49

50 MR. STARKEY: Okay.

1 MR. CHURCHILL:and we can talk a
2 little bit.
3
4 MR. STARKEY: Okay.
5
6 MR. CHURCHILL: Thank you very much,
7 John.
8
9 MR. STARKEY: Mr. Chairman.
10
11 CHAIRMAN LOHSE: John.
12
13 MR. STARKEY: I did want to respond to
14 your question a little more. The one thing that has
15 happened, the Ninilchik Traditional Council has been
16 working with the Alaska Federation of Natives and many
17 other Alaska Native regional organizations and tribes
18 to try to get meetings with the Fish and Wildlife
19 Service's new director, with the Secretary of the
20 Interior who's coming up here and with other Federal
21 officials to try to raise a lot of the same issues, the
22 Kenai RAC issue is definitely one that's been raised.
23 It will be raised on the 28th, I believe, when the
24 Secretary of Interior is in Fairbanks. It was raised
25 at meetings with the new director of Fish and Wildlife
26 Service and has been raised in letters. So there has
27 been that kind of activism on the parts of the Native
28 organizations around this issue.
29
30 CHAIRMAN LOHSE: Thank you. Any other
31 questions for John.
32
33 MR. STARKEY: Thank you.
34
35 CHAIRMAN LOHSE: Thank you, John. We
36 will be calling on you for the other issues, too.
37
38 MR. STARKEY: Thank you.
39
40 CHAIRMAN LOHSE: Okay. Linda Tyone, is
41 Linda here.
42
43 MS. TYONE: Thank you, Mr. Chair and
44 Council members. My name is Linda Tyone. I am from
45 Gakona Village but currently living in Copper Center.
46 And I'm here today to testify in opposition of the new
47 proposed Kenai Peninsula RAC.
48
49 I believe that there's a public process
50 that needs to be used and making a decision like this

1 in a short time is not a good business practice for the
2 government, I don't think. The planning needs to be
3 thought through thoroughly and the people, subsistence
4 users, don't have a chance to say anything about what's
5 going on here.

6

7 I believe that if Kenai Peninsula is
8 going to be doing this the Federal Fish and Game is
9 going to make this kind of decision for the area, I
10 think the Copper River is the next in line. The fish
11 and my life up there is going to be hit next, and I
12 don't want that to happen to us, so I'm speaking
13 against this because if it happens in the Kenai
14 Peninsula, we're next in line.

15

16 And the subsistence users are the ones
17 that are going to be affected, and the Copper River
18 area it will be affected by Fairbanks, Delta,
19 Anchorage, Wasilla, everywhere. The Kenai is just
20 affected by the Anchorage area and Wasilla, but we're
21 right in the middle, we'll be affected by everybody.
22 So I'm now here to speak on behalf of the AHTNA region,
23 that we feel that there is a public process and if the
24 Federal government is going to go in this route, they
25 must have something hiding behind their closed doors
26 that they don't want to tell the public about. So I am
27 very concerned about this and I am going on record to
28 say that we are in opposition of this, and that I think
29 all the other tribes in the Cook Inlet region need to
30 come forward and start attending meetings to speak up
31 for their subsistence usage. So we had a meeting and
32 we wrote a letter in opposition of this so it's on
33 record, too.

34

35 That's all I have to say, thank you.

36

37 CHAIRMAN LOHSE: Thank you, Linda. Bob.

38

39 MR. CHURCHILL: Linda, thank you very
40 much for coming. And I think I understand but I'd like
41 to broaden a bit. What I hear you saying is you're
42 very concerned with breaking apart this larger RAC
43 area, am I understanding that correctly?

44

45 MS. TYONE; Yes.

46

47 MR. CHURCHILL: And that you also see
48 that if we start -- if we do this, that other areas
49 might start immediately campaigning to say, well, we
50 have a separate identity, too, and it will reduce the

1 value of the broader base of the RAC?

2

3 MS. TYONE; Right. It's not what it's
4 intended for, is to spread it apart.

5

6 MR. CHURCHILL: Thank you. I just
7 wanted to make sure I was clear. I was sure I was and
8 thanks so much for coming.

9

10 CHAIRMAN LOHSE: Thank you. Any other
11 questions for Linda.

12

13 (No comments)

14

15 CHAIRMAN LOHSE: Linda, if I understand
16 right you kind of answered one of the questions I asked
17 John, of whether or not some of the other tribes are
18 going to weigh in and make sure that comments get to
19 the Federal government prior to the date that the
20 closing -- and I understand right, you guys have
21 already made comments to the Federal government?

22

23 MS. TYONE: Right.

24

25 CHAIRMAN LOHSE: Thank you. Thank you,
26 Linda.

27

28 MS. TYONE: Okay, thank you.

29

30 CHAIRMAN LOHSE: John Craig.

31

32 MR. CRAIG: Good morning, thank you,
33 Mr. Chairman, and Council members. I am John Craig
34 with AHTNA, with the AHTNA region, and I'm going to
35 read from a statement that we have.

36

37 We, the AHTNA people, support the
38 Ninilchik Traditional Council's position and their
39 valid concerns. We know that having Southcentral
40 Regional Advisory Council boundaries reduced will be to
41 our advantage by the Council addressing only our
42 subsistence proposals, management policies, management
43 plans, et cetera, however, we still support Ninilchik's
44 position.

45

46 We are concerned about Ninilchik's
47 proposals not being brought before the Federal
48 Subsistence Board this cycle year. They have been
49 granted C&T and their proposals should be addressed by
50 the Board.

1 We are opposed to a newly created Kenai
2 Peninsula Subsistence Regional Advisory Council being
3 proposed by the Board. We think the Ninilchik's
4 concerns about not being heard at the RAC meetings are
5 valid concerns since the participants would be made up
6 of non-rural sports, guides, commercial users, State
7 and Federal agencies. Precedent was set by the Board's
8 actions to create a new RAC in a closed meeting and we
9 are concerned about this. We are concerned that this
10 could happen in our area since the population has grown
11 in the Prince William Sound communities. A newly
12 created Regional Advisory Council could be formed
13 without any input by the AHTNA region. We believe that
14 if an action by the Board and Council directly affects
15 the Federally-qualified subsistence users then the
16 Board and Council should have an open meeting so that
17 we can weigh in on the decisions and make our positions
18 known on a topic of discussion.

19

20 We think that ANILCA must be adhered to
21 and must override any Federal agency regulations. In
22 the National Wildlife Refuge's Federal Register in
23 Section 25.21 it states:

24

25 If conflicts arise ANILCA's purposes
26 will take precedence. The regulations
27 of the National Wildlife Refuge must be
28 certainly secondary to ANILCA.

29

30 Thank you.

31

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

34

35 (No comments)

36

37 CHAIRMAN LOHSE: Thank you.

38

39 MR. CRAIG: Thank you.

40

41 CHAIRMAN LOHSE: Donald, do we have any
42 written public comments.

43

44 MR. MIKE: Yes, Mr. Chair. We received
45 a comment from the Native Village of Eyak and we just
46 received it this morning from the Native Village of
47 Eyak, a Federally-recognized tribe located in the
48 eastern area of the Gulf of Alaska and they have three
49 points they want to comment on. I won't read
50 everything but I just wanted to go on record that we

1 received the letter from the Native Village of Eyak.

2

3 The Native Village of Eyak believes
4 that there are several important issues that must be
5 addressed in any effort to form a new Regional Advisory
6 Council, and these are:

7

8 The Board needs to explain why they
9 established a system that requires membership that are
10 to be 30 percent recreational and commercial users.

11

12 The public process adopted by the Board
13 in forming the Kenai Peninsula Subsistence Regional
14 Advisory Council is not transparent.

15

16 The tribes of the Kenai Peninsula have
17 been marginalized since the Federal government has
18 taken over the management of subsistence fisheries on
19 Federal public lands in 1999.

20

21 And you all have a copy in front of
22 you, Mr. Chair. Thank you.

23

24 CHAIRMAN LOHSE: Thank you, Donald, for
25 summarizing it. It's from Bob Henrichs, a good friend
26 of mine, and if you weren't going to read it in I was
27 going to read it in, I was going to read it in. I
28 thought they did a very good job of addressing some of
29 the issues that have been brought up this morning. And
30 it's kind of an echo of everything that we've heard.

31

32 Hearing -- are there any other people
33 out there that wish to make public comments on this
34 issue that we're discussing right now which is the
35 formation of a new RAC?

36

37 (No comments)

38

39 CHAIRMAN LOHSE: And we have no other
40 written comments?

41

42 (No comments)

43

44 CHAIRMAN LOHSE: Thank you. With that,
45 some kind of motion will put something on the table is
46 in order so that we can discuss this as a Council. We
47 can either put a motion to make a recommendation on it,
48 we can make the motion to comment on it but we need a
49 motion on the table.

50

1 Gloria.

2

3 MS. STICKWAN: You were going to give
4 us a minute to read all this before we discuss this I
5 thought.

6

7 CHAIRMAN LOHSE: That's a good idea.
8 Why don't we break for 15 minutes so that everybody can
9 catch up on all the paperwork that got thrown on their
10 desk real quick. And you guys can do some thinking as
11 to what kind of motion you want to put on the table.

12

13 (Off record)

14

15 (On record)

16

17 CHAIRMAN LOHSE: Okay, I'd like to call
18 this meeting back in session. We were just to the
19 point where we were going to ask for a motion. I've
20 had requests to clarify something on the 70/30 rule and
21 do we have any further comment from any public in the
22 audience that wants to comment on the issue before we
23 make the motion?

24

25 (No comments)

26

27 CHAIRMAN LOHSE: Okay. Ann, would you
28 clarify that 70/30 rule for the Council like you've
29 tried to clarify it for me?

30

31 MS. WILKINSON: Yes, Mr. Chairman, I
32 will give that an effort.

33

34 The 70/30 rule that we had been using
35 for the balance membership plan, the court did say that
36 we were enjoined from using that, we could use it this
37 year and then after that not, but that there was
38 nothing intrinsically wrong with the 70/30 plan, it was
39 just that we didn't show any real body of evidence as
40 to why we chose that method. So we were going to
41 discuss this at the fall Council meetings but I'll give
42 you just a brief overview of what we're going to do to
43 address that.

44

45 And that is, putting in a public notice
46 in the Federal Register seeking comment. It will
47 explain the 70/30 structure and ask for the public to
48 make comments regarding the 70/30 structure and also to
49 offer any other ideas they may have about how to set up
50 the Councils for a balanced membership. And then when

1 those comments are received, those will be given to the
2 Regional Advisory Councils at their winter meetings in
3 2007 and then following that the Board will look at the
4 public comments and the Council's recommendations and
5 comments and then come to some kind of decision about
6 what to use for a balanced membership.

7
8 CHAIRMAN LOHSE: Thank you. Gloria.
9 Yeah, you have a question for Ann?

10
11 MS. STICKWAN: No, not for her.

12
13 CHAIRMAN LOHSE: Oh, not for her.
14 Okay, Ann, so in other words if I understand right
15 then, that 70/30 plan goes out as of this fall and then
16 a call for comments and discussion by RAC and public
17 and everything as to formation of another plan then
18 starts taking place, so what we're looking at is we're
19 looking at a time period of a year or two before we
20 have another plan in?

21
22 MS. WILKINSON: Oh, boy, I hope not.
23 Realistically, realistically it could be as long as a
24 year. If so we're going to have to have some measure
25 for our normal process, but be that as it may we're
26 just starting off this way and we'll see what happens
27 as it goes along.

28
29 If it's possible to get enough good
30 public comment and recommendations from the Councils
31 and the Board to act on it, it's possible that we could
32 get it done by next May or June, don't know for sure,
33 but that's my big hope.

34
35 CHAIRMAN LOHSE: Thank you. Any other
36 questions for Ann.

37
38 (No comments)

39
40 CHAIRMAN LOHSE: Thank you, Ann.
41 Gloria, do you have a question for me?

42
43 MS. STICKWAN: No, I have a question --
44 I was wondering if I could bring up Sky Starkey to
45 explain the 70/30 rule, a legal opinion?

46
47 CHAIRMAN LOHSE: You'd like to ask John
48 some questions on it?

49
50 MS. STICKWAN: Yeah.

1 CHAIRMAN LOHSE: Okay, sure. John.

2

3 MS. STICKWAN: Could you explain the
4 amendments to ANILCA that was made by Senator Stevens
5 on 70/30?

6

7 MR. STARKEY: Mr. Chairman, yes, I can
8 answer that question. Just to clarify one other thing.
9 Although it's true that Judge Holland's decision said
10 that there's nothing intrinsically wrong with the 70/30
11 rule, he also said that neither FACA, nor ANILCA, nor
12 any other law requires it. So he left the ground
13 pretty neutral.

14

15 The Stevens amendments come into play
16 on the 70/30 rule as follows:

17

18 Part of the rationale that the Federal
19 Board has expressed in adopting the 70/30 rule comes
20 from the Stevens amendments. In 19 -- I think it was
21 maybe '99, I lose track, it was during one of the
22 special sessions, Governor Knowles had a subsistence
23 committee, they recommended some ANILCA amendments that
24 were passed by Stevens, by the Senate through Senator
25 Stevens efforts. Those amendments to ANILCA were
26 contingent, they would not come into effect unless the
27 State passed a rural constitutional amendment. That
28 was at the last special session during the Knowles
29 administration. It turned out that the Senate and the
30 House did not pass the resolution for the
31 constitutional amendment, therefore, the Stevens
32 amendments never came into effect.

33

34 However, the Federal Subsistence Board
35 and the Secretaries as part of the rationale, drew from
36 those amendments as follows:

37

38 The Regional Council system was amended
39 in those amendments that never came into be so that
40 there would be 10 members, I'm going from memory but I
41 think this is pretty accurate, there would be 10
42 members, one would be a sport user, one would be a
43 commercial user, four would be nominated by their local
44 -- by tribes within the region, and four would be
45 nominated by other local governments in the region but
46 they must be subsistence users for the four that were
47 nominated by local governments. The part that is never
48 explained by the Federal government and the Federal
49 Subsistence Board is why they selected only part of the
50 Stevens amendments and didn't accept the part that gave

1 a role for tribes and local governments in the Regional
2 Council selection process.

3

4 CHAIRMAN LOHSE: Thank you. Any
5 questions for John?

6

7 Gloria.

8

9 MS. STICKWAN: You say the Federal
10 Board has never said why they haven't?

11

12 MR. STARKEY: I have not seen anything
13 in the Board's record that indicates why they selected
14 only part of the Stevens amendments to adopt as part of
15 their plan for balancing the Councils.

16

17 CHAIRMAN LOHSE: John, can I ask you a
18 question?

19

20 MR. STARKEY: Please.

21

22 CHAIRMAN LOHSE: Did they ever give any
23 rationale that they accepted part of the Stevens
24 amendments or did they just end up using something that
25 was similar to the Stevens amendments?

26

27 MR. STARKEY: They just used something
28 that was similar.

29

30 CHAIRMAN LOHSE: Yeah.

31

32 MR. STARKEY: But as support for using
33 that similarity, they referenced the Stevens amendment.

34

35 CHAIRMAN LOHSE: They did reference the
36 Stevens amendments?

37

38 MR. STARKEY: Right.

39

40 CHAIRMAN LOHSE: Okay. That's what I
41 was asking.

42

43 MR. STARKEY: Thank you.

44

45 CHAIRMAN LOHSE: Any other questions
46 for John.

47

48 (No comments)

49

50 CHAIRMAN LOHSE: Thank you, John.

1 MR. STARKEY: Thank you.
2
3 CHAIRMAN LOHSE: Anybody want to make
4 any comments on what he said, Bill, you got anything to
5 say on that?
6
7 (No comments)
8
9 CHAIRMAN LOHSE: Okay. With that, if
10 there's no other further public comment on it, a motion
11 is in order, does anybody have a motion they'd like to
12 put on the table.
13
14 MR. ENCELEWSKI: Mr. Chairman, I'd like
15 to put a motion on the table. I'd like to make a
16 motion to oppose the formation of a Kenai RAC in light
17 of the significant adverse comments that we've heard
18 here and urge the Secretaries to withdraw both the
19 Direct and Proposed Rules and, further, that before the
20 Secretary pursues formation of any other RACs that they
21 engage in the same level of rulemaking with public
22 process that created the existing RACs.
23
24 Thank you.
25
26 MS. STICKWAN: Can I add something.
27
28 CHAIRMAN LOHSE: Thank you. Gloria.
29
30 MS. STICKWAN: This public process will
31 include an EIS statement as well, I suppose?
32
33 MR. ENCELEWSKI: Yes.
34
35 CHAIRMAN LOHSE: Okay. Okay, do I hear
36 a second.
37
38 MR. BLOSSOM: Second.
39
40 CHAIRMAN LOHSE: It's been moved and
41 seconded that we, and I can't repeat the whole thing,
42 but basically that we oppose the formation of the RAC,
43 and that in light of all that we heard that we -- we'll
44 take it word for word from what you have there, Greg,
45 but -- in fact I'll read it into the record.
46
47 MR. ENCELEWSKI: You might not be able
48 to read it.
49
50 CHAIRMAN LOHSE: Okay, I won't.

1 (Laughter)

2

3 CHAIRMAN LOHSE: But anyhow we heard it
4 and we have a second. Discussion. We have it on the
5 table and we can have discussion at this point in time.

6

7 Doug.

8

9 MR. BLOSSOM: Mr. Chairman. We did not
10 hear from any public or any agency except the Federal
11 Subsistence Board that was in favor of this. I was
12 waiting today to hear someone from the public that was
13 in favor of it. We heard nothing. Everyone was
14 opposed in the whole region and I thought that was very
15 important and the Secretary needs to know that.

16

17 CHAIRMAN LOHSE: Bob.

18

19 MR. CHURCHILL: Yes, one of the things
20 that I heard that probably most concerned me. I've
21 always had faith if we have a good process, nine out of
22 10 times we're probably going to come up with a good
23 solution that everybody can live with. And the thing
24 that most concerned me was a strain of the testimony
25 that says if we're breaking this off, and, again, I'm
26 not addressing how it was done, but if we break this
27 off, what precedent are we setting. I heard a lot of
28 happiness with having a RAC that has a broader area,
29 that is able to step back from the issue and by
30 implication may be a little more objective or may be a
31 little more inclined to come solutions that are good
32 solutions. So I guess that, of all the things I heard,
33 most concerns me, if we break apart a process that
34 seems to be working, that seems to be broad based,
35 seems to involve those key people that need to be
36 involved, that's probably the scariest thing for me
37 about this proposal to create the Kenai Peninsula RAC.

38

39 So that's kind of my big -- that is my
40 biggest concern at this moment.

41

42 CHAIRMAN LOHSE: Thank you, Bob.

43 Anybody else, comments. Gloria.

44

45 MS. STICKWAN: I, too, am concerned
46 about the process that the public wasn't involved in
47 this. And the people in the Kenai themselves, I mean
48 you heard the Mayor say he's just catching up to speed
49 on this and, you know, it directly affects Kenai and
50 they don't even have a good grasp of what is being

1 proposed here. And the tribes, I know, some of them
2 haven't heard. I've talked to a heard tribes and they
3 said they read about this in the newspaper and they
4 were still trying to inform an opinion on it and talk
5 about it among themselves so even the tribes haven't
6 heard about this and they don't -- if they haven't
7 heard about it, they won't make any comments on it
8 because they won't know what to say.

9

10 So I'm concerned about the process and
11 I'm opposed to this as well.

12

13 CHAIRMAN LOHSE: Thank you, Gloria.

14 Bob.

15

16 MR. CHURCHILL: Yeah, one other thing
17 I'd like us to explore, it was something Mr. Starkey
18 brought up, was about the creation of a Federal
19 Advisory Committee. And I know I've read something in
20 all the information I got five or six years ago that
21 might be a middle ground that would not create some
22 permanent structure that would erode the RAC but might
23 supplement. I think there may be some tools out there
24 and may even involve getting the State Fish and Game
25 Advisory Committees involved with the RAC if they need
26 a more thorough look at these things. I think there's
27 some positive alternatives out there that if we really
28 are looking for a more focused group of people that we
29 can use without creating an entirely new RAC. So I'd
30 like to see us explore that a little bit.

31

32 CHAIRMAN LOHSE: Thank you, Bob. But I
33 think that you weren't at the meeting where we were
34 asked to set up basically a working group, Advisory
35 Committee, and number 1 we couldn't get anybody from
36 the RAC that wanted to participate in it and number 2,
37 we as a RAC, de -- I mean we had a large -- I think
38 that's where this whole thing of a Kenai RAC came out
39 of, is we, as a RAC opposed setting it up and basically
40 said that we wouldn't have anything to do with setting
41 it up because we felt that the RAC itself could address
42 the issues rather than having to set up another
43 subcommittee. And I think that's where this whole
44 thing came out of.

45

46 So I'm not sure -- we discussed some of
47 the things we discussed on that when we discussed it,
48 was the cost involved and what we were going to get out
49 of it and it still came back to us and so we, as a RAC,
50 figured that if we were going to have to make the

1 decision anyhow it'd be better just to do it that way.
2 But that's something that can be explored. I know that
3 we may run into the same problems that we ran into at
4 the last meeting, which was trying to find somebody
5 who's willing to Chair it, somebody who's willing to
6 sit on it and everything else, since we are dealing
7 with volunteers.

8

9 Any other comments. Gloria.

10

11 MS. STICKWAN: I would like to hear
12 from Ninilchik what they think about an Advisory
13 Committee or an SRAC, if they changed their opinion or
14 what?

15

16 CHAIRMAN LOHSE: I think you're right.
17 Before we would ever make any comment on that or make
18 any decision on something like that we'd have to do
19 that in a public process just like we do anything else.

20

21 MS. STICKWAN: No, I want to hear from
22 them right now.

23

24 CHAIRMAN LOHSE: Oh, you'd like to hear
25 from the right now?

26

27 MR. CHURCHILL: Yeah.

28

29 CHAIRMAN LOHSE: Okay. I guess that
30 would be Darrel or John, one or the other. Could you
31 repeat the question, Gloria, so that.....

32

33 MS. STICKWAN: I just wanted to know
34 what their opinion was in forming a Federal Advisory
35 Committee or staying with the RAC or their thinking.

36

37 MR. STARKEY: Thank you, Mr. Chairman.
38 Member Stickwan. Thank you for the opportunity to
39 further explain it.

40

41 First of all, what the Federal Board
42 asked this group to do in March, as a result of their
43 January meeting, was form a stakeholder's group to so-
44 called integrate the subsistence fishery on the Kenai
45 into the Kenai. Well, of course, that's a lot
46 different than -- and asked for it to be a subcommittee
47 of the RAC and they asked for it to be, you know, the
48 work -- the draft that they put together was, you know,
49 full of invitation for a wide variety of people to
50 participate, and it was rejected. And the tribe

1 strongly felt that that should be rejected because of
2 the way that the Federal Board proposed it, it was
3 proposed primarily as a way -- the tribe viewed it as a
4 way to defer, further defer and delay in giving them
5 subsistence fishery. Chairman Lohse spoke quite
6 eloquently on the record about the way this
7 stakeholder's committee would potentially be -- what
8 did -- what possible standing did Ninilchik have on a
9 stakeholder's committee. Ninilchik thrown in the
10 middle of a group of people who already had an
11 established fishery through State and Federal
12 regulations, commercial fishermen, sportsfishermen and
13 Ninilchik basically with nothing but a bare
14 determination of customary and traditional use and no
15 subsistence fishery at all.

16
17 It was not an attractive option, and
18 Ninilchik was very encouraged by this Regional
19 Council's seeing through that and rejecting it.

20
21 Again, as the Chairman pointed out, now
22 we're here -- well, to finish the story a little bit,
23 and I want to just say this because I want to, again,
24 address the process problem that's going on with this
25 Board and to talk about Member Churchill's statement a
26 little bit, yes, the Federal Board in the past and up
27 through the period of this takeover, has gained some
28 trust and credibility. They are fast losing it,
29 believe me. This is a widespread perception among
30 Alaska Natives and tribes and rural Alaskans, they are
31 fast losing their credibility because of their doing
32 things like this. They came to you in March and said
33 form a stakeholder's group. I read the transcripts.
34 Federal Staff came in and basically told you, you had
35 no choice, you will form a stakeholder's group, the law
36 required it. Well, you said, no. The Federal Board
37 immediately convened an executive session. They flat
38 out violated the law. The Federal Advisory Committee
39 Act that they're defending for the 70/30 rule does not
40 allow them to call an executive session to twist arms.
41 I'm sorry, it just doesn't. That's what happened.
42 Called an executive session, twisted arms, you still
43 didn't change your mind. Next step, the Federal Board
44 again meets in executive session and decides to create
45 a new RAC. Not only do they decide to create a new
46 RAC, they decide to do it in a way where there is
47 absolutely no public process. This RAC was not even
48 given a chance to comment at the beginning. I'm sorry,
49 if you're sitting outside this process and you're a
50 subsistence user, you tell me, are you suspicious, what

1 kind of credibility problems do you have with this
2 system.

3

4 Now, what we said in our comments is
5 this, if there is a legitimate need that is brought
6 forward through a public process for people on the
7 Kenai to be able to sit down and talk about a fishery,
8 if you determine that's needed, if the Federal Board
9 determines that's needed, if Ninilchik determines
10 that's needed, if people determine that that is needed,
11 there is an option that's already in the regulations
12 for Federal Advisory Committees and my god if you're
13 going to jump to the extreme of doing a RAC, don't you
14 think you should at least look at that option, I mean I
15 think that's what we were saying. Not that we're
16 supporting that option, but that it should be one that
17 is thoroughly discussed if there is a need.

18

19 So thank you, Mr. Chairman, and excuse
20 me for going on.

21

22 CHAIRMAN LOHSE: Thank you, John. Any
23 other questions.

24

25 (No comments)

26

27 CHAIRMAN LOHSE: Any other comments.
28 Ann, did you have a comment.

29

30 MS. WILKINSON: I'd just like to say
31 that that option was thoroughly discussed, it was
32 looked at very seriously. The thing is with the
33 Federal Advisory Committee, it would also be subject to
34 FACA laws, it would have to be chartered, and it would
35 end up being basically an Advisory Council with no
36 power. That's all.

37

38 CHAIRMAN LOHSE: So it would basically
39 be identical to a RAC but it would have on deference?

40

41 MS. WILKINSON: That's right.

42

43 CHAIRMAN LOHSE: But would it answer to
44 the RAC then instead of to the Board?

45

46 MS. WILKINSON: Yes, it would.

47

48 CHAIRMAN LOHSE: It would answer to the
49 RAC instead of the Board?

50

1 MS. WILKINSON: Right.

2

3 CHAIRMAN LOHSE: Thank you. Any other
4 comments. Any other discussion.

5

6 (No comments)

7

8 CHAIRMAN LOHSE: I've got only one
9 comment that I can think of making. I, too, think that
10 -- and I probably was involved in it more than the rest
11 of you and I probably even made some mistakes, made
12 some comments on it that -- when I saw that it looked
13 like it was going to be done, I always figure that if
14 something is going to be done you want to make it done
15 in the way that it does the least damage, and Doug and
16 I have talked about that in the past. Sometimes you
17 can't stop something from happening but it's possible
18 that, you know, things can change. My question is
19 going to be is if this Council does take action, and
20 nothing can stop this except a significant objection,
21 if the Council's objection wouldn't be significant,
22 what would be significant and that's a question that
23 we're going to need to ask, you know, if this Council's
24 objection is not significant enough to stop the process
25 then this Council is basically exactly what we've been
26 talking about today. This Council really has no -- and
27 I realize we have no specific authority in this area,
28 except for the fact that we're dealing with subsistence
29 uses in our area.

30

31 MR. KRON: Mr. Chairman. Members of
32 the Council. The Federal Subsistence Board will
33 ultimately be making that determination, what is a
34 significant adverse comment. You have two Federal
35 Subsistence Board members here today. You have George
36 Oviatt from BLM, and Gary Edwards from the Fish and
37 Wildlife Service, so obviously they're very interested
38 in the work you're doing here today.

39

40 I would say, though, and, you know,
41 again, I'm just one staff person in the process, we
42 have not had a chance to talk about it but I guess my
43 opinion, my recommendation is exactly as you said that,
44 you know, if choose to pass the motion before you and
45 this goes forward, it would appear to me -- my
46 recommendation is that this should be viewed as a
47 significant adverse comment.

48

49 Thank you, Mr. Chairman.

50

1 CHAIRMAN LOHSE: Could you identify
2 yourself.
3
4 MR. KRON: Yeah, Mr. Chairman, my name
5 is Tom Kron. I'm the acting Deputy Assistant Regional
6 Director for the Office of Subsistence Management.
7
8 CHAIRMAN LOHSE: Thank you. Gloria, do
9 you have a question for him?
10
11 MS. STICKWAN: No.
12
13 CHAIRMAN LOHSE: No, okay, sorry.
14
15 MS. STICKWAN: I was wondering if we
16 could get a legal opinion, a Federal legal opinion on
17 what is adverse significant comment or whatever?
18
19 CHAIRMAN LOHSE: I don't think we have
20 any legal beagles out there right now, do we?
21
22 (No comments)
23
24 CHAIRMAN LOHSE: No. And I doubt,
25 Gloria, if anybody would give an off the top of their
26 head legal opinion on this. I think what we're going
27 to have to do is we're going to have to take a stand
28 one way or the other and then see what kind of action
29 they take. And then whatever kind of action they take
30 could result in.....
31
32 MS. STICKWAN: Well, could somebody
33 find out what my question is?
34
35 CHAIRMAN LOHSE: Find out what now?
36
37 MS. STICKWAN: What is a significant
38 comment, I mean.....
39
40 CHAIRMAN LOHSE: I don't think
41 significant is a -- and that's the problem, we ran into
42 the same thing with significant use for trade and
43 barter. I think the word significant is not defined in
44 any way and it's going to be, like he said, whether the
45 Board itself decides it's significant. If the Board
46 doesn't decide that a comment from the -- that a motion
47 from the Council is significant, then we're going to
48 have to, as a Council, hold them accountable at the
49 next meeting that we have with that Board and ask them
50 what we have to do to be significant, you know.

1 Thank you, Gloria.
2
3 Any other discussion on the motion on
4 the table.
5
6 Doug.
7
8 MR. BLOSSOM: Mr. Chairman. We could
9 ask the two Federal Board members to come here and tell
10 us if they think it's significant.
11
12 CHAIRMAN LOHSE: Well, we could ask
13 them if they would think from their personal standpoint
14 whether it's significant but they can't speak for the
15 Board.
16
17 MR. BLOSSOM: Right, I understand.
18
19 CHAIRMAN LOHSE: And I don't know
20 whether we gain anything by asking them as individuals.
21 We've just let them know that we think it's significant
22 and they're going to have to carry that back to the
23 Board and at the Board, the Board, itself, is going to
24 have decide whether it's significant or not. I don't
25 know if we gain anything by putting them as individuals
26 on the spot and saying whether they think it's
27 significant or not because they're here.
28
29 MR. BLOSSOM: Mr. Chairman, I just kind
30 of meant.....
31
32 CHAIRMAN LOHSE: They've heard what
33 we've said.
34
35 MR. BLOSSOM:that as a -- I was
36 looking at one of them.....
37
38 CHAIRMAN LOHSE: As an aside, okay.
39
40 MR. BLOSSOM:agreeing and I
41 said.....
42
43 CHAIRMAN LOHSE: Okay, I mean that
44 would be my opinion on it. But if somebody wishes to
45 do that we can, you know.
46
47 MR. BLOSSOM: Yeah, that's okay.
48
49 CHAIRMAN LOHSE: Okay. We have the
50 motion on the table, any other discussion.

1 MR. BLOSSOM: Question.

2

3 CHAIRMAN LOHSE: Question's been
4 called. And I'm going to just basically say that the
5 motion is to oppose the formation of the RAC and
6 request that they follow due process if they're going
7 to form another one and we'll use the wording that
8 you've got there, Greg, I can't repeat it verbatim
9 right now, and does that meet the requirements that we
10 need Donald?

11

12 MR. MIKE: That's correct.

13

14 CHAIRMAN LOHSE: It does, okay. With
15 that, all in favor signify by saying aye.

16

17 IN UNISON: Aye.

18

19 CHAIRMAN LOHSE: All opposed, signify
20 by saying nay.

21

22 (No opposing votes)

23

24 CHAIRMAN LOHSE: Motion carries
25 unanimously. Okay, what time is it?

26

27 MR. ENCELEWSKI: 11:30.

28

29 CHAIRMAN LOHSE: 11:30. Of course the
30 next one is a real short one so.....

31

32 (Laughter)

33

34 CHAIRMAN LOHSE: But actually the next
35 one is a comparatively -- can be a comparatively short
36 one, let me tell you how I read this next one. All we
37 have to do on this next one is decide whether or not we
38 think this request meets the threshold that it can be
39 forwarded to the Board and we can give our opinion on
40 it or we can not give our opinion on it. The Board is
41 going to have to decide whether it meets the threshold,
42 but we can make a motion and have some discussion as to
43 whether or not we feel Ninilchik's request for
44 reconsideration meets the threshold, not deciding on
45 the merits of it, because it has to go before the
46 Board, but whether or not it meets the threshold so
47 that it should be reconsidered.

48

49 And from that standpoint this could be
50 a comparatively short one in comparison to the next

1 one. Does anybody want to deal with this before lunch
2 or shall we deal with this after lunch.

3

4 MR. BLOSSOM: Let's deal with it.

5

6 CHAIRMAN LOHSE: Let's deal with it,
7 okay. With that we'll go on to status report on the
8 Ninilchik request for reconsideration and we don't even
9 have to take action on this, this is a status report.

10

11 So with that, who is going to give the
12 status report?

13

14 Bill.

15

16 MR. KNAUER: Thank you, Mr. Chairman.
17 A request for reconsideration must be filed within 60
18 days of an effective date or date of publication of the
19 notice, whichever is earlier to be considered. That's
20 the first thing. And then secondly, the request for
21 reconsideration must demonstrate that the existing
22 information used by the Board is incorrect, that's
23 essentially one factor, demonstrates that the Board's
24 interpretation of information, applicable law or
25 regulation is in effect, that's another, or provides
26 new information that the Board did not consider.

27

28 That's, in a threshold analysis, what
29 the Board looks at, are those four things.

30

31 And currently the Board has not yet met
32 on this. And if they determine that any of those, it
33 doesn't have to be all of them, but if the 60 day is
34 met and then any of the three factors are met then they
35 will prepare a -- they will direct Staff to analyze the
36 request for reconsideration for fact and impacts to the
37 resource and the subsistence user.

38

39 That is currently where they are right
40 now.

41

42 CHAIRMAN LOHSE: So, Bill, if I
43 understand right this comes before the Board Friday or
44 when the Board's going to be.....

45

46 MR. KNAUER: I believe this becomes
47 before the Board next week, the 31st.

48

49 CHAIRMAN LOHSE: Next week, okay.

50

1 MR. KNAUER: And that will be the
2 threshold analysis.
3
4 CHAIRMAN LOHSE: And at that time they
5 will go through the analysis to see whether they feel
6 that it meets the threshold?
7
8 MR. KNAUER: That's correct.
9
10 CHAIRMAN LOHSE: At this point in time,
11 we, as a Council, can either make no comment on it or
12 we can say that we feel it meets the threshold or we
13 can say it doesn't meet the threshold; am I correct?
14
15 MR. KNAUER: That's correct.
16
17 CHAIRMAN LOHSE: So with that do we
18 have -- that's a pretty short summary, Bill, but there
19 isn't much more to say about it from what I understand.
20
21 Do we have any request for public
22 comment on it, does the State have a comment on this
23 one?
24
25 (No comments)
26
27 CHAIRMAN LOHSE: No. Any other agency
28 have a comment on this one?
29
30 (No comments)
31
32 CHAIRMAN LOHSE: No. Do we have any
33 public out there, other than John, that wants to
34 comment on this one?
35
36 MR. KESSLER: Mr. Chair.
37
38 CHAIRMAN LOHSE: Yep.
39
40 MR. KESSLER: Mr. Chair. My name is
41 Steve Kessler with the Forest Service and the
42 InterAgency Staff Committee. I just wanted to bring to
43 your attention that there are actually three requests
44 for reconsideration associated with the fisheries
45 regulations and the customary and traditional use
46 determination on the Kenai.
47
48 There is the one from Ninilchik. And
49 then there was also two that were received from the
50 State. And I noticed that on your agenda it's just the

1 Ninilchik request for reconsideration, but there were
2 also three of them, so I just wanted to make sure you
3 were aware of that.

4

5 CHAIRMAN LOHSE: All on the same
6 subject?

7

8 MR. KESSLER: Correct. Well, all on
9 the customary and traditional use determination
10 regulation that was put into place for the Kenai.

11

12 CHAIRMAN LOHSE: Okay. Okay, thank
13 you. I was looking for that -- okay, here it is right
14 here, nope, that's a request for a special action. I
15 don't think I have anything on that, do I, Don?

16

17 MR. MIKE: No, we don't.

18

19 CHAIRMAN LOHSE: No. So we don't have
20 that in front of us right now but it's interesting to
21 note that they also have a request. So if it came back
22 up for reconsideration theirs would be addressed at the
23 same time, right?

24

25 MR. KESSLER: Mr. Chairman. The way
26 this works is that the request for reconsideration are
27 looked at by Staff and broken down into individual
28 claims. So each of the claims by Ninilchik are looked
29 at and each of the claims on the other requests for
30 reconsideration are looked at. And each of those
31 claims is then evaluated with respect to the three
32 items that Mr. Knauer talked about. To see if any of
33 those claims meets the threshold for reconsideration.
34 And if any of those claims meets the threshold for
35 reconsideration then the regulation is reconsidered,
36 but it would only be reconsidered for -- in those areas
37 where the claim is met.

38

39 So, for instance, if there's a claim of
40 new information and that's found to be, by the Board,
41 to meet the threshold then that's what the Board will
42 be looking at, the new information. If the claim is
43 that you didn't follow your regulations, then that
44 would be the claim and the Board decided that that met
45 the threshold that's what would be looked at. So it
46 depends -- each of the claims are looked at
47 individually for all the requests for reconsideration
48 and then if any of those meets the threshold, that's
49 what's reconsidered by the Board.

50

1 CHAIRMAN LOHSE: Okay. So then correct
2 my understanding, which must have been wrong, if a
3 request for reconsideration is put in and the motion is
4 put back up for reconsideration, does that put the
5 motion on the table and all things are fair game or
6 only the part that's fair game is the part that met the
7 threshold? I was under the impression that once a
8 motion came back up on the table, that you could
9 address any portion of that motion, but I may be wrong
10 on that.

11
12 MR. KESSLER: I think that in
13 practicality you're probably correct because this is
14 coming back to the Board for reconsideration of the
15 actions that they took.

16
17 CHAIRMAN LOHSE: Right.

18
19 MR. KESSLER: But I think that what the
20 Board would probably -- and I can't speak for exactly
21 how this would occur, but I think what the Board would
22 do, it would particularly look at the claims for which
23 they felt the threshold was met and consider this
24 reconsi -- and then go through, relook at the proposal,
25 redeliberate that, primarily where the threshold was
26 met, but as you say the whole decision is back out on
27 the table.

28
29 CHAIRMAN LOHSE: Yeah.

30
31 MR. KESSLER: So it's -- I don't know,
32 it's probably a little fuzzy is what I'm saying but
33 they do look at the individual claims.

34
35 CHAIRMAN LOHSE: I realize they look at
36 the individual claims but I think that and like I said
37 I may be totally wrong on that, but I think that under
38 Robert's Rules of Order if the motion comes back on the
39 table, the whole motion is subject to reconsideration,
40 every portion of it. And so we'd end up having -- we
41 could end up having to discuss the whole thing. We may
42 not have to because the parties involved may be willing
43 to accept certain parts and reject certain parts.

44
45 So is there anybody who can give me a
46 -- you think that's correct -- okay.

47
48 MR. KESSLER: Mr. Knauer has clarified
49 for me that it looks like all parts are up for
50 discussion.

1 CHAIRMAN LOHSE: Thank you.
2
3 MS. STICKWAN: I'm confused. What do
4 you mean by all parts, all three, the State and
5 Ninilchik?
6
7 CHAIRMAN LOHSE: If we bring this --
8 not we, if the Board brings this up for
9 reconsideration, all parts of the motion that they
10 passed -- it's my understanding, all parts of the
11 motion that they passed are up for reconsideration; if
12 the motion's up for reconsideration. And that's what I
13 was trying to get, and I think I'm correct on that.
14 And I think Ann's nodding her head.....
15
16 MS. STICKWAN: Well, what is all parts,
17 and that's the part I don't understand, what was the
18 motion?
19
20 CHAIRMAN LOHSE: Well, the whole motion
21 that we had, which was the C&T finding on the Kenai
22 River, the C&T finding on the Kasilof, maybe -- Bill,
23 could you explain what the whole motion is to us? What
24 would be the whole motion that would come back on the
25 table? Gloria would like to know what encompass --
26 what whole motion are we encompassing right here, what
27 whole action are we encompassing right here?
28
29 MR. KNAUER: Each of the four RFRs are
30 a little bit different, they address a little bit
31 different things. But what they are challenging, for
32 example, I think the Ninilchik RFR challenges the
33 customary and traditional use determination that was
34 made by the Board relative to the Kenai Peninsula. And
35 so that entire C&T decision relative to the Kenaitze
36 would come back.
37
38 CHAIRMAN LOHSE: Yeah.
39
40 MR. KNAUER: If the threshold is -- if
41 the Board believes the threshold is met.
42
43 MS. STICKWAN: And what about -- didn't
44 -- didn't they say there was a State -- that would be
45 considered -- that proposal as well?
46
47 CHAIRMAN LOHSE: What?
48
49 MS. STICKWAN: What's this about this
50 State proposal, they had a request or a

1 reconsideration, would that, too, be included as part
2 of the motion?

3

4 MR. KNAUER: The State RFR is --
5 they're challenging the two decisions relative to C&T
6 also. So let's assume, and I have not read the
7 threshold analysis so I don't know, but let's assume
8 that one of the analysis says, yes, the information
9 you've presented meets the threshold and it's going to
10 be back for reconsideration; let's say another one on
11 the exact same topic did not, the practical effect is
12 the decision is back before the Board even though one
13 lost and -- you know, one was accepted and one wasn't?

14

15 CHAIRMAN LOHSE: Yeah.

16

17 MR. KNAUER: So the practical effect is
18 that they were both accepted because one was
19 successful..

20

21 CHAIRMAN LOHSE: If I'm correct, Bill,
22 and you can correct me on this and maybe I can explain
23 it in a way that we can understand is, if this motion
24 is accepted for reconsideration, if anybody's motion is
25 accepted for reconsideration, the C&T findings for
26 Ninilchik on the Kenai Peninsula are up for
27 rediscussion, right?

28

29 MR. KNAUER: That is correct.

30

31 CHAIRMAN LOHSE: I see John shaking his
32 head so John you'll have a chance to speak in a second
33 so.....

34

35 MR. KRON: Yeah, Mr. Chairman, Members
36 of the Council. I guess I wanted to explain a little
37 bit about the process here.

38

39 It's basically a two step process
40 before the Board would be looking at, you know, the
41 issue. Currently the determination, as Bill pointed
42 out, it's do we have new information, you know, was
43 there a violation of existing regulations or law, are
44 basically the three criteria, and if the Board
45 determines that one of those three criteria is an issue
46 here then Staff would go back and write a detailed
47 analysis based around, you know, whatever criteria was
48 determined to be needed.

49

50 So, again, when the Board looks at a

1 threshold analysis, you know, they're not going to be
2 making a decision relative to a C&T issue in this case,
3 they would just be determining, yeah, it looks like
4 this has merit and we need to do a detailed analysis on
5 it.

6
7 Now, when Ralph and I were talking with
8 Pete Probasco this morning, you know, he basically said
9 that -- again, if the threshold were met then the
10 detailed analysis would come back before the Council,
11 you'd get a chance to look at it, and then the Board
12 would look at it as well. So basically there's public
13 process around that detailed analysis. Currently
14 they're just deciding whether or not, you know, it
15 makes sense to do that detailed analysis of the issue.
16 So, again, it's a two step process. And the threshold
17 analysis are not complete at this time, I don't have
18 them for you today, they're still being worked on so I
19 don't have those.

20
21 Thank you, Mr. Chairman.

22
23 CHAIRMAN LOHSE: Thank you. Okay,
24 let's hear from John, he's the only one that I've got
25 down on the list for public testimony. And then I'm
26 going to make a suggestion, I'm going to make a
27 suggestion that we break for lunch and that the only
28 information we have is this yellow paper and you guys
29 can take the yellow paper home over the lunch hour and
30 read it and then we can decide whether we want to take
31 action or just sit back and let the Board decide
32 whether there is sufficient information for request for
33 reconsideration.

34
35 And, again, though, this is the first
36 step in a process. If there is reconsideration, then
37 the issue comes back on the table.

38
39 John.

40
41 MR. STARKEY: Thank you, Mr. Chairman.
42 Again, John Sky Starkey, legal counsel for the
43 Ninilchik Tribal Council talking about the request for
44 reconsideration.

45
46 First of all, I would have this view on
47 the question that the Chair asked, and I'm going to be
48 very specific. There are three relevant requests for
49 reconsideration -- or two relevant requests for
50 reconsideration, the State -- there are three actually.

1 The State requested reconsideration on
2 two Board actions. One finding customary and
3 traditional use for Cooper Landing and Hope on the
4 Kenai drainage. The second one, finding customary and
5 traditional use for Ninilchik on the Kasilof. Those
6 are the two requests for reconsideration.

7
8 Ninilchik has one request for
9 reconsideration with two parts. First part, requesting
10 reconsideration of the Board's decision not to
11 implement a subsistence fishery on the Kasilof River
12 this fall but instead to wait for a stakeholder's
13 group. First one, very specific. Second, challenging
14 the Board's decision not to grant Ninilchik customary
15 and traditional use on the Kenai River. Okay, that's
16 the ground.

17
18 The regulations for the Federal Board
19 are pretty specific. You have to file a request for
20 reconsideration naming the specific action you want
21 reconsidered within 60 days. If, I want to talk about
22 the Kasilof, because this is the one that is the most
23 pressing at this point in time. If the Federal
24 Subsistence Board were to grant the State's request for
25 reconsideration on the Kasilof, yes, the entire
26 decision would be back open for discussion. If the
27 Federal Subsistence Board were to deny the State on
28 their threshold analysis for the Kasilof the whole
29 issue would not come back up. The only issue that
30 would come back up on the Kasilof would be what
31 Ninilchik has requested and that is should the fishery
32 be implemented as soon as possible. Not the entire
33 issue. The Federal Board does not go back over the
34 customary and traditional use determination for the
35 Kasilof, the only issue is should they wait for a
36 stakeholder's group to implement the fishery.

37
38 That's my view of how this works.

39
40 So I really don't want the RAC to be
41 concerned if they decide to support the Ninilchik
42 proposal that they would be putting either the RAC or
43 Ninilchik at risk of going through another whole C&T
44 use determination on the Kasilof, the issue would be
45 rather, should there be a subsistence fishery.

46
47 Okay.

48
49 Really this issue should be pretty
50 short for the RAC. The RAC recommended to the Federal

1 Board that there be a positive customary and
2 traditional use determination for Ninilchik on both the
3 Kasilof and the Kenai River. Since that time there has
4 been more evidence put into the record in support of
5 this Regional Council's recommendation and it's really
6 too bad the way this process is working.

7
8 Mr. Chairman, the way the regulations
9 read for the Federal Subsistence Board, they read as
10 follows, and this is Par 100.20:

11
12 If a request -- okay -- upon receipt of
13 a request for reconsideration the Board
14 shall transmit a copy of such request
15 to any appropriate Regional Council and
16 the Alaska Department of Fish and Game
17 for review and recommendation. The
18 Board shall consider any Regional
19 Council and ADF&G recommendations in
20 making a final decisions.

21
22 Recommendations. You have the
23 authority to make recommendations, not only on a
24 threshold issue but whether the Board should grant the
25 request for reconsideration or whatever you think they
26 should do with it. You're not limited to a threshold
27 issue.

28
29 The problem with what's happening here
30 is Section .805 of ANILCA, if only were fully
31 implemented, we would be so much better off, but it
32 says in one section that the Regional Councils shall be
33 provided all the Staff and information necessary to
34 make their decisions and recommendations. Well, you
35 know, it's really a little frustrating here, okay, the
36 Board makes its decision and you shall get in your
37 request for recommendation [sic] within 60 days, well,
38 you submit it and, the end of May, June, July, August,
39 90 days and they still don't have a threshold analysis
40 out. You're the Regional Council, you're supposed to
41 make recommendations, where is the Staff, where is the
42 analysis, how come you don't have information to work
43 with? If you had the information I wouldn't have to
44 sit here and tell you this.

45
46 Since the recommendation, I don't know
47 if you -- I mean I'm sure you all remember this, your
48 meeting, you had a meeting in October, at that meeting
49 you viewed a couple studies. You saw Dr. Wolfe's --
50 Dr. Fall's study and you saw a study that Ninilchik had

1 completed. The Federal Board at their meeting
2 questioned the Ninilchik study because they didn't
3 think that it was fully documented or whatever.

4
5 Since that time and as part of the
6 request for reconsideration, and I wish that Federal
7 Staff were here to report it, Dr. Bob Wolfe, who is
8 probably the most eminently qualified subsistence
9 researcher in the state of Alaska has submitted on
10 behalf of Ninilchik support for their study,
11 acknowledging its validity, the rest of the surveys,
12 all the raw data has been provided to the Federal
13 Staff, there is significant new information supporting
14 your original recommendation for customary and
15 traditional use. The Ninilchik -- all Ninilchik really
16 is asking the Regional Council to do is to reaffirm its
17 original decision that they recommend customary and
18 traditional use finding for the Kenai Peninsula.

19
20 Section .805 of ANILCA says that the
21 Federal Board shall accept the recommendations of the
22 Regional Council unless they lack significant evidence.
23 It's really -- it's difficult to see how the Federal
24 Board came to that conclusion in rejecting this
25 Regional Council's recommendation for this reason; a
26 majority of the Federal Staff agreed with the Regional
27 Council that there should be customary and traditional
28 use based on the evidence. There was on dissent on the
29 Federal Staff. If all the Federal Staff, all the
30 anthropologist and the people who are professionals
31 agreed that there was substantial evidence, that there
32 was enough evidence to find customary and traditional
33 use, how does the Board start questioning the Regional
34 Council's recommendations? Again, it's part of this
35 eroding away of the Regional Council's authority. And
36 we would just hope that the Regional Council would
37 reaffirm its original recommendation and say, yes, we
38 recommend that the Federal Board not only agree to
39 reconsider it but grant the request and find Federal
40 customary and traditional use.

41
42 On the Kasilof proposal, Mr. Chairman,
43 the Wolfe affidavit that you have in front of you, and
44 Ivan will be up here to testify as well after lunch,
45 will demonstrate to you, hopefully, something that you
46 already know and some of your Council members probably
47 know and that is that people in Ninilchik, and in
48 particularly tribal members are suffering great
49 hardship by not having a subsistence fishery. A
50 sportfishery is not a subsistence fishery. For 50

1 years Ninilchik has not had a subsistence fishery. The
2 time has come for Ninilchik to be able to catch some
3 fish. And if the Regional Council agrees with that
4 principle, that it is time for Ninilchik to be able to
5 stick some fish in their smokehouses and be subsistence
6 users then you will support the request for
7 reconsideration. It's that simple.

8

9 Thank you, Mr. Chairman.

10

11 CHAIRMAN LOHSE: Thank you, John. Any
12 questions for John. Bob.

13

14 MR. CHURCHILL: We can call him back
15 after lunch?

16

17 CHAIRMAN LOHSE: We can call him back
18 after lunch.

19

20 MR. CHURCHILL: Yeah, thank you.

21

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

23

24 CHAIRMAN LOHSE: Thank you, John. Are
25 there any other -- Mr. Williams.

26

27 MAYOR WILLIAMS: Thank you, Mr.
28 Chairman. Members of the Board. I beg your indulgence
29 with regards to the oncoming lunch hour.

30

31 The Borough is hard pressed at this
32 point in time to get involved in the question and
33 discussion of whether or not reconsideration of this
34 issue should be made, but in testifying before the
35 Board a certain paper has come to my attention, an
36 affidavit by one Robert J. Wolfe, that the Borough does
37 take some exception to their writings and I would like
38 for the record to correct the Borough's position with
39 regards to those writings.

40

41 Mr. Wolfe is employed as a research and
42 head and sole proprietor of his own group located in
43 San Marcos, California, they do research work and so
44 forth and so on and he was formerly with the state of
45 Alaska in their groups. But on Page 3 of Mr. Wolfe's
46 paper, we take some exception to the discussion
47 relative to the Ninilchik Tribal government being the
48 only local government in the Ninilchik area and the
49 comment that there is no local municipal government.
50 Now, we have been struggling with this for some time

1 because, of course, the Kenai Peninsula Borough
2 government is a local municipal government by all
3 intents and purposes covering some 26 enclaves within
4 the Peninsula and six incorporated communities. We are
5 the local municipal government for all of them, albeit
6 we are not a unified municipal government such as
7 traditionally looked at as Anchorage and Eagle River
8 and so forth where the unified municipal government
9 goes. But we do feel that in these discussions, and
10 this was one of the things that brought us to the table
11 with this whole issue to begin with and that is the
12 Borough's involvement, where we should be, how we
13 should be looked at, and why we should be looked at in
14 this particular sense, and why we should be noticed
15 whenever these types of hearings regarding Ninilchik or
16 any other enclave or community, again, as I say there
17 are some 26 on the Peninsula are included. Well, why
18 should we be noticed, because in the Ninilchik request
19 for subsistence use they include the Kasilof River and,
20 of course, the Kenai River. The Kenai River and the
21 Kasilof River both have their headwaters and their
22 ending waters, the mouths of the rivers totally,
23 totally within the boundaries of the Kenai Peninsula
24 Borough, which is that municipal government that
25 controls all of that. So what happens in Ninilchik
26 with regards to subsistence fishing and the issues of
27 all other fisheries on the Peninsula truly affects the
28 entire Borough all the way to the headwaters of the
29 Kenai and so forth.

30
31 You've had comments from up as far away
32 as the community of Hope, which is an enclave of ours,
33 that they're not interested in a subsistence fishery,
34 and yet, we haven't heard any statements with regards
35 to the villages of Razdona and Voznasinka and those as
36 to whether they are interested in these kinds of
37 fisheries. So the whole issue of subsistence fishery
38 for one area, who claims itself to be completely
39 separated from the rest of the Borough by not being a
40 part of and involved in its municipal government is
41 totally in error. And I think that's part of the
42 thing, as I say, that brought us all to the conclusion
43 that we should be testifying here because of the
44 location of the rivers, because of the boundaries of
45 the Borough, because of the fact that under Title 29 of
46 state law we are a recognized municipal government.

47
48 Now, earlier I made a comment to the
49 effect that I had struggled for 40 years over the issue
50 of our relationship with the Federal government and

1 whether they ever should have been there or not, you
2 know, local government is what really is closest to the
3 people and next to the people. The people, when they
4 can't get a hold of Boards and Commissions of State and
5 Federal use always wind up at the local government's
6 level. So I explore you to rethink at least that
7 paragraph, include in this paragraph on the top of Page
8 3, considerations for the municipal government in which
9 the Ninilchik Tribal government is a part. The
10 Ninilchik Tribal government people who own property
11 within that Borough who pay taxes. They send their
12 children to the schools that are regulated by the
13 taxes. We have just spent a tremendous amount of State
14 money and local money putting in a gas system in this
15 village. So, you know, there are areas there that we
16 don't want to have the municipal government of the
17 Kenai Peninsula shortchanged. So please consider Mr.
18 Wolfe's comments in that particular area to be invalid.

19

20 Thank you.

21

22 CHAIRMAN LOHSE: Thank you, Mr.
23 Williams. Any questions for him.

24

25 MR. ENCELEWSKI: Yes.

26

27 CHAIRMAN LOHSE: Greg.

28

29 MR. ENCELEWSKI: Yeah, John, I just
30 have kind of a clarification question. I mean I
31 certainly respect and understand you as Mayor of the
32 Kenai Peninsula Borough, but I would also invite you to
33 come to a traditional council meeting, which the
34 Ninilchik Traditional Council is the governing body for
35 600 and some members and does a lot of the government
36 activities in the Ninilchik area, and I don't think
37 that you've worked close enough to understand how that
38 government to government relation should work.

39

40 Thank you.

41

42 MAYOR WILLIAMS: Yes, thank you very
43 much, and I appreciate that invitation and I will. As
44 you know I'm new in office at the Borough Mayor
45 position. I do refer back to another point there where
46 they talk about the separation of the 652 tribal
47 members, some 37 percent live elsewhere in Alaska such
48 as Kenai city to the immediate north. Again, recognize
49 they live within a municipal government area of the
50 Borough, yet still within the Borough so they're all

1 citizens of the Kenai Peninsula Borough. And I will
2 take you up on your invitation and be to a meeting.

3

4 Thank you.

5

6 MR. ENCELEWSKI: Thank you.

7

8 CHAIRMAN LOHSE: Thank you, John. With
9 that do we have any other public testimony that wishes
10 to speak on this issue before we retire for lunch, and
11 what time do we have, does somebody have a watch on, I
12 don't?

13

14 MR. ENCELEWSKI: High noon.

15

16 CHAIRMAN LOHSE: High noon. Do you
17 think we can be back by 1:15 or do we need an hour and
18 a half -- 1:30, does that sound good -- we need to be
19 -- we'd like to be finished with this by -- does
20 anybody have to leave early this afternoon?

21

22 MR. SHOWALTER: I do.

23

24 CHAIRMAN LOHSE: James.

25

26 MR. SHOWALTER: Yes, I got two doctors
27 appointments coming up right shortly and I'd like to be
28 excused.

29

30 CHAIRMAN LOHSE: Okay. Does that
31 affect our quorum then for taking any action, Donald?

32

33 MR. MIKE: I believe we established a
34 quorum and if we can clarify with Ann or Bill.

35

36 CHAIRMAN LOHSE: James, when is your
37 doctor's appointment?

38

39 MR. SHOWALTER: The doctor's
40 appointment is at 2:30 and I got to be there by 1:30 to
41 get some blood draws.

42

43 CHAIRMAN LOHSE: Well, I'm just
44 wondering if what we should do is at least go through
45 this issue before we break for lunch so that he can
46 leave and then go to his doctor's appointments and so
47 the odds are pretty good that you won't be back in time
48 to take action on the last proposal then.

49

50 What's the thoughts of the rest of the

1 Council -- would you prefer at least to go ahead and
2 finish this one off so that.....

3

4 MR. CHURCHILL: Well, it seems pretty
5 clear, my memory is unless we have a sitting majority
6 we're out of business and if we're going to take action
7 on this we better do it before James leaves. And of
8 course one of the things you suggested is that we take
9 no action but I don't think we're going that direction.

10

11 CHAIRMAN LOHSE: Well, if that's the
12 case, James, you say you have to leave by 1:30, no
13 later than quarter to 2:00?

14

15 MR. SHOWALTER: I've got to be there at
16 1:30.

17

18 CHAIRMAN LOHSE: You've got to be there
19 at 1:30.

20

21 MR. SHOWALTER: An hour.

22

23 CHAIRMAN LOHSE: That gives us an hour.
24 With the acceptance of everybody else out in the
25 audience, although that really doesn't make much
26 difference, but, still.....

27

28 (Laughter)

29

30 CHAIRMAN LOHSE:I think that
31 we'll rescind our motion for adjournment for lunch and
32 we'll continue at least on this subject and maybe even
33 get started on the other subject before you go, James,
34 would that be okay with you?

35

36 MR. SHOWALTER: Yes. But I'm going to
37 have to leave by 1:00 o'clock.

38

39 CHAIRMAN LOHSE: You're going to leave
40 at 1:00 o'clock, that gives us an hour, let's see what
41 we can do in an hour.

42

43 We've heard all the testimony on this
44 one. a -- let's take a five minute break, go get
45 yourself a cup of coffee.....

46

47 MR. CHURCHILL: Or get rid of a cup of
48 coffee.

49

50 CHAIRMAN LOHSE:or get rid of a

1 cup of coffee, if you want to skim through this, I've
2 read this, I don't know if you all have read this
3 yellow page or not, it's from Ninilchik.

4

5 (Off record)

6

7 (On record)

8

9 CHAIRMAN LOHSE: Okay, we've heard all
10 of our public testimony. I don't think we have any
11 written testimony. At this point in time, like I told
12 the Council before, there's three actions we can take,
13 we -- Bill, do you have something you want to say -- we
14 can take no action, we can make a recommendation for
15 reconsideration or we can make a recommendation against
16 reconsideration.

17

18 I think John did a good thing of
19 pointing out the fact that we were the original ones
20 that recommended it and if nothing else, you know, we
21 could make a motion that we still concur with our
22 original decision but I'll leave that up to the
23 Council. If somebody wishes to make a motion to put
24 this on the table, fine, if nobody makes a motion we'll
25 just let the subject sit where it's out and go from
26 there.

27

28 Greg.

29

30 MR. ENCELEWSKI: Yeah, Mr. Chairman, I
31 would make a motion to go ahead and continue to support
32 our original recommendation for this issue and support
33 the request for reconsideration and also support
34 granting a fishery.

35

36 CHAIRMAN LOHSE: Thank you. Do I hear
37 a second.

38

39 MR. SHOWALTER: Second.

40

41 CHAIRMAN LOHSE: It's been moved and
42 seconded. I saw a Fish and Game person that would like
43 to say something to us right now if that's okay with
44 the rest of the Council.

45

46 (Council nods affirmatively)

47

48 MS. GILBERTSON: Thank you. It was
49 brought to my attention during the break that not all
50 of the members of the RAC have seen the two requests

1 for reconsideration that were put forward by the State.
2 They're fairly lengthy and I apologize, I didn't bring
3 copies, and being new to all of this I didn't realize
4 that I had to ask to put it on the agenda.

5
6 So I guess in talking to Doug I'm not
7 sure whether all of you received the RFRs. It's my
8 understanding that once the State submits those that
9 the Federal Staff distributes those to the RACs. So I
10 guess I would just ask that if you haven't had the
11 opportunity to review the State's RFRs, that you would
12 consider not taking any action at this time.

13
14 Thanks.

15
16 CHAIRMAN LOHSE: Thank you.

17
18 MS. STICKWAN: I have a question.

19
20 CHAIRMAN LOHSE: Gloria.

21
22 MS. STICKWAN: It's not related to
23 this, but you said you were with the State, are you
24 replacing Terry Haynes?

25
26 MS. GILBERTSON: I am not replacing
27 Terry Haynes. I am the new liaison to the Federal
28 Subsistence Board. Marianne See has been doing a lot
29 of that work and I'm continuing to work very closely
30 with her but I'll be the liaison team leader.

31
32 CHAIRMAN LOHSE: Thank you. Bob.

33
34 MR. CHURCHILL: Yes, Sara, through the
35 Chair. Can we pick those up on a web site or.....

36
37 MS. GILBERTSON: I can distribute them
38 or give them to the appropriate Federal Staff and make
39 sure that you receive those.

40
41 MR. CHURCHILL: Are you in the
42 Raspberry building?

43
44 MS. GILBERTSON: Yes.

45
46 MR. CHURCHILL: So if a person slid by
47 there they could pick up a copy.

48
49 MS. GILBERTSON: Yes. They're.....

50

1 MS. STICKWAN: Can't you.....
2
3 MR. CHURCHILL: Thank you.
4
5 MS. GILBERTSON:not on.....
6
7 MS. STICKWAN:just.....
8
9 MS. GILBERTSON:not on our web
10 site.
11
12 MS. STICKWAN: Could you just give it
13 to us, mail it to us?
14
15 CHAIRMAN LOHSE: That's what she said
16 she'd do.
17
18 MS. GILBERTSON: Yes.
19
20 CHAIRMAN LOHSE: She can get them
21 mailed to us. You have all of our addresses. I think
22 I've seen them.
23
24 MS. GILBERTSON: Okay.
25
26 CHAIRMAN LOHSE: I'm pretty sure that
27 I've read them but I didn't know if they had gone out
28 to the rest of the Council, I'm not positive. I knew
29 that the State did have a request for reconsideration
30 in but that wasn't on our agenda because we didn't get
31 it in time to put it on the agenda.
32
33 MS. GILBERTSON: Right.
34
35 CHAIRMAN LOHSE: So at this point in
36 time this is what we do have on the agenda, and I don't
37 know if any action we take on this actually affects the
38 State's request for reconsideration. I think that's a
39 separate issue that will be addressed on its own
40 merits.
41
42 The motion that's in front of us is
43 that we support our original actions is basically what
44 it boils down to.
45
46 Doug.
47
48 MR. BLOSSOM: Mr. Chairman. And I
49 guess I'm going to vote in favor of this and one of the
50 reasons is, is whether we act on this one or not the

1 State ones are going to go before the Federal
2 Subsistence Board. So I think the best way to get this
3 matter out in the open, seeing as we didn't even get
4 the copies of that is to be in favor of this and let it
5 all go before the Federal Subsistence Board and they'll
6 have all the facts and let them decide it.

7

8 CHAIRMAN LOHSE: Did we get a second on
9 that one?

10

11 REPORTER: Yes.

12

13 CHAIRMAN LOHSE: James seconded it,
14 okay. So we have a motion on the table. Do we have
15 any other discussion on this motion. Bob.

16

17 MR. CHURCHILL: Yeah, I feel, one, I
18 was one of the dissenters on the original discussion on
19 this, on the C&T finding, which is at the heart of
20 this. But I haven't had a chance to as thoroughly go
21 over the paper that's been submitted on this, which I
22 think is well written and has a lot of information.
23 There's some issues there about certain species, kings
24 and cohos, I notice reds aren't mentioned leave me with
25 a lot of questions. I, at best, am going to abstain
26 from voting on this.

27

28 And the other thing, I really wish we
29 would have seen the documents from the State.

30

31 CHAIRMAN LOHSE: Any other discussion.

32

33 (No comments)

34

35 CHAIRMAN LOHSE: Bob, if I understand
36 right from what I remember reading the documents from
37 the State, the State's documents deal with the C&T
38 finding strictly on both the Kasilof and the Kenai.
39 And I'm just going to state for the record that I felt
40 that we had more information supporting C&T on those
41 things for both those cases than we've had for most of
42 the C&T findings that we've ever made and I mean that's
43 my own personal feeling on that one there. And I may
44 be wrong on that, I'd have to go back and look at
45 things statistically, but I felt that we were very
46 correct in supporting a C&T finding for both of those
47 rivers.

48

49 Gloria.

50

1 MS. STICKWAN: Well, I guess I have a
2 question, why are we voting again when we already said
3 yes and we stated our position before, why are we -- I
4 don't mind doing it again, it's just.....

5
6 CHAIRMAN LOHSE: I think what we're
7 doing, Gloria, what the motion on the table basically
8 says is we support our original decision.

9
10 MS. STICKWAN: Yeah, I know, I'm just
11 asking why are we doing it again?

12
13 CHAIRMAN LOHSE: That's a good
14 question. Because we like to be heard.

15
16 With that, is there any other
17 discussion.

18
19 (No comments)

20
21 MR. CHURCHILL: Question.

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

25
26 IN UNISON: Aye.

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

30
31 (No opposing votes)

32
33 CHAIRMAN LOHSE: All abstentions
34 signify by saying nay.

35
36 MR. CHURCHILL: Nay.

37
38 CHAIRMAN LOHSE: We have one abstention
39 and the rest of them are in favor.

40
41 Okay. Now, we have in front of us --
42 dealing with what we dealt with on the Kenai Peninsula,
43 we have in front of us a special action request for a
44 subsistence fishery on the Kasilof River. And at this
45 point in time does Staff have a presentation on it that
46 they can give us?

47
48 Don.

49
50 MR. MIKE: Thank you, Mr. Chair.

1 Before we go any further, I contacted Mr. Tom
2 Carpenter, one of our Council members in Cordova, he
3 said he's be available to participate in this
4 discussion so we can maintain a quorum.

5
6 CHAIRMAN LOHSE: Good. So we'll put
7 him on line?

8
9 MR. MIKE: If you wish to have him on
10 line we can give him a call.

11
12 CHAIRMAN LOHSE: Could you do that,
13 please?

14
15 MR. MIKE: Yes, I can.

16
17 (Connecting Mr. Carpenter)

18
19 CHAIRMAN LOHSE: Okay, who is making a
20 presentation for the Staff.

21
22 MR. KRON: Mr. Chairman. Members of
23 the Council. Staff currently are working on an
24 analysis of this request for a special action. We
25 don't have it completed as yet. A number of Federal
26 Staff met with representatives from Ninilchik on August
27 10th, as has been mentioned. We have Gary Sonnevile
28 here from the Kenai and also Jerry Berg here, they were
29 both there at that meeting is my understanding. It
30 would probably be helpful to share a little bit of
31 basic information about the fish in the area and I
32 think they could provide some summary information
33 similar to what was explained there at that meeting on
34 August 10th.

35
36 Again, we're just in the process of
37 reviewing the request for special action, the detailed
38 request for special action and we don't have that
39 analysis completed at this time but we're working on
40 it.

41
42 Thank you, Mr. Chairman.

43
44 CHAIRMAN LOHSE: Thank you. And can I
45 ask you a question.

46
47 MR. KRON: Yes.

48
49 CHAIRMAN LOHSE: So basically, again,
50 this is another thing that comes before the Council

1 that we can either take no action on, we can support
2 Ninilchik's request or we can deny Ninilchik's request,
3 but it's still going to go forward to you through a
4 complete analysis and it's going to go forward to the
5 Board. So what we're just basically going to do is
6 either recognize the validity of their request, we're
7 not going to be doing anything as far as bag limits or
8 seasons or anything like that, or we're going to say
9 that the request is not valid or that we take no
10 position on it; am I correct?

11

12 MR. KRON: Yes, Mr. Chairman, I believe
13 that's correct. I guess another issue for your
14 consideration, there are two parts that we can see in
15 the request, one involves coho salmon, the other
16 involves lake trout through the ice. And I think,
17 again, the one that we are pushing really hard, we want
18 to have the analysis on this completed in a week, it
19 hasn't been scheduled for consideration by the Board
20 yet, but, again, obviously with the salmon season in
21 progress, you know, coho entering the system already
22 there's some urgency to making a decision relative to
23 coho and doing it soon.

24

25 The lake trout issue, a different issue
26 through the ice, I think there's more time for that.
27 So, again, the issue that we're focusing on, that Staff
28 is focusing on right now for the analysis is the coho
29 issue. And, again, I just wanted to point that out.
30 But, again, I think it would be helpful if Gary and
31 Jerry, you know, could provide some of that basic
32 biological information around the issues in this
33 request.

34

35 Thank you, Mr. Chairman.

36

37 CHAIRMAN LOHSE: Well, can I ask you a
38 question then.

39

40 MR. KRON: Yes.

41

42 CHAIRMAN LOHSE: As far as the lake
43 trout issue is concerned, that can be brought before us
44 at our fall meeting, which is in October, because there
45 won't be any ice on the lake prior to that anyhow.

46

47 MR. CHURCHILL: You are an optimist,
48 no.

49

50 (Laughter)

1 CHAIRMAN LOHSE: Well, maybe there will
2 this year as cold as it's been. So the issue that's of
3 vital importance right at the moment is whether or not
4 we support a coho fishery, and the lake trout issue we
5 could address at a later time. The Board is probably
6 not going to make an immediate decision on the lake
7 trout fishery anyhow, but they have only a limited time
8 to make a decision on the coho fishery.

9
10 MR. KRON: Mr. Chairman. I think
11 that's a correct assessment. Again, I think Ninilchik
12 will be providing comments as well but our assessment
13 is that we need to move forward quickly and we are
14 doing the analysis right now on the coho issue and hope
15 to have it done in a week, so we're moving ahead very
16 quickly on that.

17
18 Again, this hasn't been scheduled with
19 the Board but the coho issue, I think, is the issue
20 that I would recommend you focus on here today. And,
21 again, I think relative to your assessment is correct
22 relative to lake trout. That could be addressed at
23 your Council meeting in October. And, I think, again,
24 we haven't discussed a schedule for Staff analysis but,
25 you know, we're taking things one step at a time but I
26 think, again, it's reasonable to think that we could
27 get the analysis on that part of it done by that
28 meeting. But, again, we haven't even discussed that
29 with Staff yet.

30
31 Thanks, Mr. Chairman.

32
33 CHAIRMAN LOHSE: Well, what I was going
34 to request then since we're on kind of a time crunch
35 with James is that possibly when they make the
36 presentation on the fish, that we limit our
37 presentation at this point in time to the coho fishery
38 so that -- if we have the opportunity to make a
39 decision before James leaves, if we get the information
40 before James leaves we can.

41
42 Thank you. Donald.

43
44 MR. MIKE: Mr. Chairman. We have Mr.
45 Tom Carpenter on line. Tom, can you hear us?

46
47 MR. CARPENTER: Yeah, I can hear you.

48
49 CHAIRMAN LOHSE: Thank you, Tom.
50 Thanks for coming on line. We're going to discuss the

1 special action request for subsistence fishing on the
2 Kasilof River for coho salmon this fall and that needs
3 to be done, if it's going to happen it needs to be done
4 in a hurry, so they're going to present us with the
5 information right now. James has to leave by 1:00
6 o'clock so we're going to try and take care of this
7 issue by that time.

8

9 MR. CARPENTER: Okay, that sounds real
10 good. I'm at work. I may have to step away from the
11 phone occasionally but I'll be here most of the time.

12

13 CHAIRMAN LOHSE: Yeah, put it on
14 speakerphone.

15

16 MR. CARPENTER: Yeah, I will.

17

18 CHAIRMAN LOHSE: Okay, thank you, Tom.
19 Yeah, just in case James has to leave before we finish
20 this issue it would be nice to have your vote.

21

22 MR. CARPENTER: Sure.

23

24 CHAIRMAN LOHSE: Okay. Jerry.

25

26 MR. BERG: Thank you, Mr. Chair. Jerry
27 Berg, fishery biologist with Fish and Wildlife Service.
28 And in-season manager Gary Sonnevill out of the Kenai
29 Fish and Wildlife office.

30

31 Yeah, we did go down and meet with
32 Ninilchik at their request on August 10th, that was the
33 outcome of kind of an informal meeting that the Federal
34 Board had a field trip down on the Kenai in late July
35 and Doug Blossom and James Showalter were able to sit
36 in on that meeting in Ninilchik with the Federal
37 Subsistence Board, and out of that meeting we agreed to
38 come down and meet with them to discuss some of the
39 potential concerns we might have for a fishery on the
40 Kasilof and so that's what you see before you is this
41 special action for a coho fishery.

42

43 And we did identify at that meeting
44 some concerns we had, basically with late run chinook
45 and the small populations of steelhead that are in the
46 upper Kasilof River drainage. That's basically where
47 our Federal jurisdiction is, is in the upper Kasilof
48 River drainage and then Tustumena Lake.

49

50 So I think they've tried to address

1 most of the concerns and discussions we had there. We
2 often times meet with, you know, different proponents
3 that want to discuss different proposals around the
4 state, and so I think we had a pretty open and frank
5 discussion in Kenai on the 10th and like I say they've
6 addressed, I think, a lot of concerns that we did have
7 at that meeting. We're still trying to work out some
8 of the details, I think, about, you know, how that
9 special action request -- some of the details about how
10 it might work and so that the Staff analysis can
11 address those specific details.

12
13 I don't know if there's other specific
14 questions you have or if Gary wants to add specific
15 information about biology, I'm not sure what the
16 Council really wants at this point.

17
18 CHAIRMAN LOHSE: Thank you. I know my
19 concerns would be in your discussion with the kind of
20 fishery that was being asked for, the biological part
21 is what I would like to hear as to whether or not you
22 were dealing with a population that could take what was
23 being asked for, and recognizing that, you know, if
24 it's a legitimate subsistence fishery and the
25 population wouldn't take that fishery, that possibly
26 other actions would have to be taken on Federal land to
27 assure that there was something there for subsistence.
28 But I would like to hear the biological part of the
29 fishery that we're talking about right now.

30
31 MR. SONNEVILLE: Mr. Chair. Members of
32 the Board. Gary Sonnevillie with the Kenai Fish and
33 Wildlife Field Office and also your in-season manager
34 for the Kenai Peninsula.

35
36 The biology of the coho we don't know a
37 whole lot about, the size of the run that comes back
38 into the Kasilof. In the last couple of years we've
39 been operating in conjunction with the Alaska
40 Department of Fish and Game a video system at Crooked
41 Creek, which is a tributary to the lower Kasilof. We
42 were interested in the returns of steelhead but we've
43 continued running that, in fact, Fish and Game was
44 counting chinooks with it, and we continued running
45 that video through the season for coho just out of
46 curiosity to see what we might see there. We seen
47 around 5,000 coho last year through Crooked Creek, but
48 that's one year's count. We'll be operating -- we are
49 operating it now with the assistance of fish and Game
50 so we'll get another year's data.

1 There is a sportfishery. I think the
2 request of 500 fish is probably reasonable at this
3 point. We don't have all of the coho spawning areas
4 documented in the Tustumena Lake system. There's at
5 least three or four tributaries that are not documented
6 under the anadromous stream catalog. My office is
7 intending to go out and do some foot surveys and add to
8 that information this coming fall.

9

10 So we don't know an awful lot about it.

11

12 The other thing that concerned us with
13 that area from Tustumena Lake down the first five, six
14 miles, seven miles of the Kasilof is we also have a
15 late chinook run in there spawning so we've got late
16 spawning chinooks. We have an outlet spawning
17 population of sockeye. We have steelhead coming in the
18 system that we feel overwinter in the Kasilof River and
19 then enter Crooked Creek and also Nickoli Creek. So
20 it's a little bit of a mix there. And that's where we
21 were discussing with the folks from Ninilchik about the
22 fact that, you know, we wanted to take this cautiously.
23 We understand the interest of the subsistence fishery
24 but we also understand we've got these other species in
25 there too and we don't know that much about them.

26

27 The biology, the more we learn the more
28 questions we have Mr. Chairman, but that's kind of it
29 in a nutshell, and I understand we're kind of on a time
30 crunch here.

31

32 CHAIRMAN LOHSE: Thank you, Gary. It
33 seems like with coho the more you investigate them the
34 more you find them in places you never expected to find
35 them. I mean it's been amazing to me to find them on
36 some little muskeg pond up on some meadow on a
37 mountainside that you don't even have a creek coming to
38 and then you realize they went there underground to get
39 there, you know, and up above beaver dams that you
40 never see how they possibly could get across. They're
41 amazing fish.

42

43 For my information, the counter that
44 you had at Crooked Creek, did you have it in Crooked
45 Creek or did you have it in the Kasilof River at
46 Crooked Creek?

47

48 MR. SONNEVILLE: No, it's actually at the old
49 hatchery site or the existing hatchery site that's been
50 decommissioned by Fish and Game right in the raceway

1 (ph) system.

2

3 CHAIRMAN LOHSE: So it's in Crooked
4 Creek itself?

5

6 MR. SONNEVILLE: Yes. And everything
7 has to go through it essentially.

8

9 CHAIRMAN LOHSE: Yeah, but basically
10 Crooked Creek turns off prior to the fishery that we're
11 talking about?

12

13 MR. SONNEVILLE: That's right.

14

15 CHAIRMAN LOHSE: So what we're looking
16 at there is we're looking at Crooked Creek's cohos, not
17 what -- that doesn't give us any indication of what's
18 going up the Kasilof past that?

19

20 MR. SONNEVILLE: That's correct.

21

22 CHAIRMAN LOHSE: Yeah.

23

24 MR. SONNEVILLE: And the only reason I
25 bring up that, the Crooked Creek, is the fact that we
26 do have that many coho in the system and I'm sure we've
27 got coho obviously going up the Tustumena but the
28 numbers, we have no idea.

29

30 CHAIRMAN LOHSE: Uh-huh, that was the
31 next thing I was going to ask you. When it comes to
32 available spawning area, which has more spawning area,
33 the Tustumena system or the Crooked Creek system?

34

35 MR. SONNEVILLE: Well, I think
36 Tustumena probably has more spawning area just simply
37 because of all of the tributary streams coming into it,
38 but Crooked Creek is a fairly long system to so.....

39

40 CHAIRMAN LOHSE: Uh-huh. It doesn't
41 take much of a stream for cohos that's for sure. Is
42 there a -- on the Kasilof is there a comm fish on
43 cohos? Do they have a commercial fishery on the cohos
44 in the Kasilof?

45

46 MR. SONNEVILLE: Well, it's not
47 targeting cohos, it's targeting sockeye and basically
48 it wraps up in early August and so there are cohos that
49 are caught in the commercial fishery certainly.

50

1 CHAIRMAN LOHSE: Uh-huh.
2
3 MR. SONNEVILLE: But there's no
4 targeted commercial fishery.
5
6 CHAIRMAN LOHSE: But not after the
7 major run of cohos start?
8
9 MR. SONNEVILLE: No.
10
11 CHAIRMAN LOHSE: Yeah. But is there
12 much sportfish pressure on the Kasilof for cohos?
13
14 MR. SONNEVILLE: Yes, there's some.
15 The Kasilof itself is only about -- the river's about
16 35 miles long or so so most of it takes place below the
17 bridge, there is some above from the lake on down.
18
19 CHAIRMAN LOHSE: Uh-huh.
20
21 MR. SONNEVILLE: And the information
22 that we have there is basically from the Alaska
23 Department of Fish and Game's postal harvest survey.
24
25 CHAIRMAN LOHSE: Uh-huh. I was just
26 wondering how major of a sport place is -- I was told
27 there was a ramp up there where the road comes to the
28 Federal land up at Lake Tustumena, that people put
29 their boats in for floating down.
30
31 MR. SONNEVILLE: Yes.
32
33 CHAIRMAN LOHSE: Are there a lot of
34 guides that operate out of there or are there -- come
35 this time of the year is it like everywhere else,
36 there's not quite as much going on?
37
38 MR. SONNEVILLE: Well, there's
39 certainly some guides that do target the Kasilof River
40 and undoubtedly work on the cohos. Sportfish harvest
41 between 2000 and 2004 based on the postal survey, the
42 annual mean was about 4,134 so about 4,100 coho. Most
43 of those I would assume, Mr. Chairman, are caught from
44 the Sterling Highway down south but there are guides
45 that do put in and private parties as well, up at
46 Tustumena and float down, it's a nice float if you've
47 never done it.
48
49 CHAIRMAN LOHSE: Yeah, it sounds like a
50 nice float. In your discussion with Ninilchik, I

1 noticed in their proposal they came up with the idea of
2 using dip nets, was that basically based on the idea
3 that they'd be able to release fish that were non-
4 target species?

5
6 MR. SONNEVILLE: Yes. And in our
7 discussions we talked about the different gear types,
8 what our concerns were having a lethal gear type where
9 you couldn't release non-targeted species and so dip
10 nets were one of the gear types that we talked about,
11 yes.

12
13 CHAIRMAN LOHSE: And it was felt that
14 that could be handled that way without much damage to
15 the other species because of the rapid release, you
16 wouldn't even have to take them out of the water?

17
18 MR. SONNEVILLE: Right. Yes.

19
20 CHAIRMAN LOHSE: I'll just ask you a
21 personal question. With the kind of fishery that was
22 proposed, do you see any problems, conservationally, or
23 conflict, you know, in that area that's right up there
24 at -- because, you know, the only area that's available
25 is right up by Tustumena Lake, you know, for like you
26 said the first seven miles?

27
28 MR. SONNEVILLE: Yes, Mr. Chair, that's
29 correct. Down to Hong Kong bend.

30
31 CHAIRMAN LOHSE: Down to Hong Kong
32 bend?

33
34 MR. SONNEVILLE: They call it Hong Kong
35 bend.

36
37 CHAIRMAN LOHSE: Okay. That must be
38 where they were doing goldmining in the old days.

39
40 MR. SONNEVILLE: May have been.

41
42 CHAIRMAN LOHSE: So I mean that was
43 just a personal question.

44
45 MR. SONNEVILLE: Given what's being
46 proposed, I don't think it's going to be a conservation
47 problem with that stock at this point. I'm not sure
48 just how much of an interest there is to participate in
49 that fishery. That, I guess, we will also learn.

50

1 CHAIRMAN LOHSE: That's the thing that
2 we found in the past is, you know, a lot of times it
3 doesn't turn out to be as big of a problem as we
4 foresee.....

5
6 MR. SONNEVILLE: Uh-huh.

7
8 CHAIRMAN LOHSE:you know, I mean
9 we have a tendency to look at things from the worst
10 case scenario and a lot of times our worst case
11 scenario it doesn't turn out. If it would turn out to
12 be a worst case scenario we'd affect one year of cohos,
13 which have a slight overlap but not quite the same kind
14 of overlap that king salmon have, you know, I mean
15 there's -- but we could also -- I noticed in their
16 proposal it would be open to in-season management and
17 if the manager perceived a problem it could be closed
18 like if the run was weak and stuff like that. Do you
19 think that would be sufficient protection?

20
21 MR. SONNEVILLE: I think for this year
22 it would be, yes. Mr. Chair and the Board, I would be
23 in favor of supporting it as far as that and see how it
24 develops. Again, we have no idea how much interest
25 we're going to have in this fishery. I have yet to
26 issue a permit this year for the Kenai Peninsula for a
27 Federal subsistence fishery.

28
29 CHAIRMAN LOHSE: Well, I think, you
30 know, from a Council's standpoint the thing that we
31 have to address is the questions that have been raised
32 by Ninilchik, is in light of the decisions that have
33 been made is opportunity being given. And if that's
34 the case is this a legitimate opportunity for a trial.
35 And I think we'll wait and hear our public testimony
36 and then we can make the decision as to how we're going
37 to take action on it.

38
39 Any questions for the biologists. bob.

40
41 MR. CHURCHILL: I think you already
42 answered it, I just want to be sure. You're saying
43 that you don't anticipate any significant impact on
44 other users?

45
46 MR. SONNEVILLE: I suspect that there
47 probably won't be. At this point I'm not sure exactly
48 how much activity takes place during that time of year
49 with people floating down, guides and private parties
50 fishing on the Kasilof, I'm sure there's some but it's

1 a fairly limited area in which the Federal subsistence
2 user could fish. So I suspect there probably won't be
3 but.....

4

5 MR. CHURCHILL: Thank you.

6

7 CHAIRMAN LOHSE: Can I ask a question.
8 If you put in at the ramp and you float down to Hong
9 Kong bend, is there a place to take out at Hong Kong
10 bend?

11

12 MR. SONNEVILLE: No, there's not. You
13 have two options. You can go all the way down to the
14 Sterling Highway bridge where State Parks has a ramp
15 there, or if you have enough water level and depending
16 upon if you're running a jet unit or a prop you can
17 motor back up to the ramp there just down below
18 Tustumena Lake.

19

20 CHAIRMAN LOHSE: Okay. How about, can
21 you drive to Tustumena Lake and put in and float down
22 to the ramp?

23

24 MR. SONNEVILLE: You can drive to
25 Tustumena -- well, you can drive to the ramp, which is
26 actually about a mile downstream of Tustumena Lake
27 itself.....

28

29 CHAIRMAN LOHSE: Okay.

30

31 MR. SONNEVILLE:you can't drive
32 to the lake per se.

33

34 CHAIRMAN LOHSE: Okay.

35

36 MR. SONNEVILLE: And then the next
37 ramp, there's that ramp there that's sitting about a
38 mile below the outlet of the lake and then the next
39 ramp is down stream at the Sterling Highway bridge.

40

41 CHAIRMAN LOHSE: Well, that's what I
42 was wondering. This is a question, I wish we had some
43 legal person here, what happens if somebody is drifting
44 the Federal waters up there with a dip net and takes a
45 limit of 20 cohos but they can't take out until they
46 get down to Sterling and once they've drifted out of
47 Federal water they're drifting in State water all the
48 way down to Sterling which is closed to subsistence
49 fishing with a dip net and has a limit, I think, of
50 three silvers.

1 MR. ENCELEWSKI: As long as you're not
2 dipping.

3
4 CHAIRMAN LOHSE: You don't foresee any
5 legal problem with that?

6
7 MR. BERG: They'd have to have their
8 permit with them that says that they were subsistence
9 fishing under Federal regulations and that permit would
10 have to be on their person and they'd have to have
11 recorded that they harvested however many fish that
12 they have in possession.

13
14 CHAIRMAN LOHSE: Yeah. The problem I
15 could see is where somebody else is drifting on the
16 lower river would say that they had used the dip nets
17 after they got lower than the Federal water, then you
18 could end up with a problem from that.

19
20 Bob.

21
22 MR. CHURCHILL: One other, just kind of
23 a follow up, and if I'm understanding this right, this
24 is only going to be open to people actually living in
25 Ninilchik, it isn't the folks up in Kenai, it's just
26 residents that are living full-time in the community of
27 Ninilchik?

28
29 MR. SONNEVILLE: Yes, that's correct.

30
31 CHAIRMAN LOHSE: Doug.

32
33 MR. BLOSSOM: How far from the ramp
34 down river is it to the Refuge border?

35
36 MR. SONNEVILLE: It's approximately
37 seven miles, Doug, but I.....

38
39 MR. BLOSSOM: Below the ramp?

40
41 MR. SONNEVILLE: Yes. It's what they
42 call Hong Kong bend.

43
44 MR. BLOSSOM: Okay, I didn't know they
45 could go that far down river. I was going to suggest
46 because the ramp is in what we call slack water, that
47 you did the fishing from there toward the lake because
48 then you can motor up and down, you don't have any
49 rapids or anything to fight with. But if it's seven
50 mile then that's a considerable area.

1 CHAIRMAN LOHSE: Yeah.
2
3 MR. BLOSSOM: My next question, is this
4 going to be allowed in Tustumena Lake?
5
6 MR. SONNEVILLE: Mr. Blossom. At this
7 time the request is just for the river is my
8 understanding.
9
10 MR. BLOSSOM: Okay. The reason I ask
11 is me and Tom Mears, a former executive director of
12 Cook Inlet Aquaculture, we counted 10,000 coho in
13 Indian River -- Indian Creek, four or 5,000 in Nickoli
14 Creek and so, you know, there are cohos in a lot of
15 streams on Tustumena and I just wondered if the fishery
16 was taking place in the lake or in the river.
17
18 CHAIRMAN LOHSE: You had the same
19 question I had, Doug, and I wasn't so much concerned
20 about the lake as I was concerned about the little
21 tributaries that go into the lake because.....
22
23 MR. BLOSSOM: Well, yeah, and that's
24 what I'm talking about because, you know, Indian Creek
25 you can wade across it.
26
27 CHAIRMAN LOHSE: Uh-huh.
28
29 MR. BLOSSOM: Nickoli, you can -- it's
30 a little deeper, but you could wade across it. I'm
31 just curious where the fishery is going to take place.
32
33 CHAIRMAN LOHSE: But if what you're
34 saying is correct then you've got at least going
35 through that portion of the Kasilof River on the year
36 that you were looking at, you'd have had to have at
37 least 15,000 fish go through that portion.
38
39 MR. BLOSSOM: Oh, I agree there's plent
40 -- I don't dispute their fact that there's no
41 conservation problem, I'm just trying to -- I've got
42 some concerns on the Kasilof. Right around slackwater,
43 in that area there is where the late run king salmon
44 spawn, and as long as they use dip nets or some method
45 where they don't disturb those spawning kings is fine
46 with me. I'm just trying to get the area pinned down,
47 where you're going to do the fishing.
48
49 CHAIRMAN LOHSE: Jerry.
50

1 MR. BERG: Well, we had some of those
2 same questions and that's some of the discussions that
3 we're having now to try to clarify with the proponent
4 exactly what did they mean and I think that we are
5 talking about just the main stem Kasilof River. I
6 think that's still -- we're still trying to clarify
7 that with the proponent, but I believe that that's what
8 we're trying to clarify that that would be just for the
9 main stem Kasilof River. So it would not include the
10 lake is what we're trying to clarify.

11
12 MR. BLOSSOM: Or Crooked Creek?

13
14 MR. BERG: Yeah, it would not include
15 the lake where any tributaries -- well, Crooked Creek,
16 our only jurisdiction is way in the headwaters so we
17 wouldn't have any jurisdiction down in the lower part
18 of the river that's really accessible.

19
20 MR. BLOSSOM: Right. But you could go
21 to the Refuge border and fish Crooked Creek, I'm just
22 asking? I'm just -- I'm not for it or against it, I'm
23 just trying to figure out so we know -- we don't all of
24 a sudden get a call and there's a bunch of people
25 fishing and they're doing it illegally and everybody's
26 bellyaching, I'm just trying to.....

27
28 MR. BERG: No, I think -- yeah, that's
29 a.....

30
31 MR. BLOSSOM:keep it in order.

32
33 MR. BERG:good question.

34
35 MR. SONNEVILLE: And, yes, Mr. Blossom,
36 you're right, you could access the Refuge on Crooked
37 Creek. It's a bit of an effort to do it because it is
38 up stream but it is possible. But what we're talking
39 about and what the discussions we had with Ninilchik
40 was simply the main stem of the Kasilof River, from
41 Tustumena Lake down. And we have -- believe me we have
42 the same concerns about those late run chinook spawning
43 and also that unique population of outlet spawners of
44 sockeye. The fact that we do have steelhead probably
45 in that stretch of river overwintering at that time.

46
47 CHAIRMAN LOHSE: Doug.

48
49 MR. BLOSSOM: Yeah, Mr. Chair, that's
50 my concern is there's a lot of different fish there and

1 as long as we can pick out the species they want,
2 that's great.

3

4 CHAIRMAN LOHSE: Jerry.

5

6 MR. BERG: Yeah, I just wanted to point
7 out, you know, kind of where that 500 fish number came
8 up with and that was, you know, the average
9 sportharvest we know for the Tustumena Lake has been
10 about 350 fish over the past few years so we know
11 that's a sustainable harvest number because the stocks
12 are still in good condition. And then of course you
13 have some sort of -- we don't know what the proportion
14 of the Kasilof River fish that are below Crooked Creek
15 coming up stream, we don't really know what proportion
16 of that harvest below Crooked Creek really is of those
17 fish going into Tustumena, so that's kind of where that
18 number of 500 I think came into play.

19

20 And really, you know, later in the
21 season we're not going to have any more information to
22 assess, well, can you harvest more fish than 500, you
23 know, we're just basing that number off of what the
24 historical sportharvest has been and that's been a
25 sustainable fishery. So beyond that we really don't
26 have any information -- any more information now and
27 we're not likely going to have any more information in
28 October to say whether we can have any more harvest
29 beyond 500 or not. That's the only information we have
30 to work with this year until we start getting more
31 assessment projects in place, either a weir, a sonar, a
32 mark/recapture study.

33

34 CHAIRMAN LOHSE: Jerry, if there is a
35 fishery there will that be impetus to go out and look
36 at some of the other streams and kind of get an
37 estimate of what kind of fish there are available in
38 the Tustumena? I mean sometimes you don't have any
39 impetus to do the work unless there's a fishery there
40 that's directly affecting them.

41

42 MR. SONNEVILLE: That's correct, Mr.
43 Chairman. And, in fact, we are going to be doing some
44 surveys on these tributaries to Tustumena that are not
45 documented as coho spawning waters. So we suspect that
46 they probably are but the issue with Tustumena in the
47 past has been focused on sockeye salmon enhancement and
48 not so much coho.

49

50 CHAIRMAN LOHSE: Yeah. Okay, any other

1 questions. Bob.

2

3 MR. CHURCHILL: Let's say, Gary, we
4 have a problem getting the 500 fish, do you anticipate
5 an impact on the sportfishery, shutting it down below
6 the subsistence fishery in order to increase returns?

7

8 MR. SONNEVILLE: Well, the only we
9 could actually shut it down would be from Hong Kong
10 bend up stream to be honest with you, Mr. Churchill,
11 simply because that's the Federal water. So, you know,
12 affecting the sportfishery down below that is out of
13 our jurisdiction.

14

15 MR. CHURCHILL: Okay, thank you. And
16 Bob's just fine, by the way.

17

18 CHAIRMAN LOHSE: Okay. Any other
19 questions for the biologists.

20

21 (No comments)

22

23 CHAIRMAN LOHSE: Thank you, gentlemen
24 for your information.

25

26 Darrel.

27

28 MR. ENCELEWSKI: Are we going to.....

29

30 CHAIRMAN LOHSE: It depends on how long
31 Darrel takes.

32

33 MR. CHURCHILL: Gee, nothing like
34 putting the pressure on the guy.

35

36 (Laughter)

37

38 MR. WILLIAMS: Mr. Chairman. Members
39 of the Board. I will try to be quick again. I know
40 some other people would like to be able to have time to
41 testify and I know we're in a time crunch. I'll be
42 real, real succinct on the couple points I'd like to
43 make on this.

44

45 One is, how long has this proposal been
46 in process and why isn't the work done? And that's
47 what I really need to relay to everybody. You know, I
48 think this is year seven and in seven years they
49 couldn't go and look at this information, that's --
50 it's kind of a red flag and I just wanted to express

1 that to everyone. And it's a serious question.

2

3 That's really all I had to address. I
4 know you're going to get an earful here pretty soon so
5 anybody have any questions?

6

7 CHAIRMAN LOHSE: I have a question,
8 Darrel.

9

10 MR. WILLIAMS: Yes, sir.

11

12 CHAIRMAN LOHSE: Do you feel that the
13 proposal that's before us is a reasonable start?

14

15 MR. WILLIAMS: I believe it's a
16 reasonable start. I think the key here is that it is a
17 place to start. I don't think it's going to satisfy
18 the entire needs or any part of anything but I think
19 it's a good place to start and see if we can make
20 something successful and make it work.

21

22 Got to start somewhere.

23

24 You know some of the concerns that a
25 lot of people have had is that it's August, you know,
26 this year's almost over. We got a C&T last year and
27 same thing, that this interim decision, and all these
28 semantics that got thrown into the whole thing, the
29 proposal got chopped apart and turned into, you know,
30 there's all these things that happened and now we need
31 to get a starting point and actually start doing some
32 things. A lot of people are, they are upset because
33 they feel like they haven't had the opportunity to be
34 able to still go fishing, and that's where we're at. I
35 think it would be a good place to start.

36

37 Thank you.

38

39 CHAIRMAN LOHSE: One other question.
40 Do you feel that if this propo -- if a proposal similar
41 to this or an action similar to this took place, do you
42 think that the actions that would take place would end
43 up addressing the fears on both sides of the question?

44

45 MR. WILLIAMS: I believe there'll be a
46 lot to learn on this Ralph. There are so many grey
47 areas that come up on this. You know one of the
48 concerns that's been expressed to me is how are these
49 people going to get their fishing permit, do they need
50 to drive to Soldotna, do they need to go to Homer or

1 are they going to have to go to Anchorage if they do
2 this new Kenai RAC to be able to get their permit? It
3 kind of makes more sense that the rural user should be
4 able to pick up a permit where they're at. Even for
5 the subsistence moose hunting permits, for a lot of
6 folks to be able to go up to the Refuge, it's not
7 always easy when you're trying to take care of
8 everything else. Commercial fishing is just getting
9 over with. A lot of people are busy, they're still
10 trying to take care of all the stuff they have to do in
11 the summertime. It makes it more difficult.

12

13 The Refuge did have two separate
14 permits this year, which may turn out to be a good
15 thing, we'll see what happens in the later season, if
16 it's easier for people once things kind of wind down
17 and fishing gets over and that kind of stuff, that's
18 one of the problems I see in this particular fishery
19 that will have to be sorted out. There are some good
20 models to work from on that and we actually discussed
21 that at the meeting before.

22

23 But I believe it would be a good place
24 to start.

25

26 CHAIRMAN LOHSE: Thank you. Any
27 questions for Darrel. Doug.

28

29 MR. BLOSSOM: Mr. Chairman. Should
30 these fish be marked in any way so that it's identify,
31 do you think that would be a smart idea, you know, like
32 in a personal use they cut the tail? Do you think we
33 should mark them so that that way there wouldn't be an
34 argument later?

35

36 MR. WILLIAMS: I have a few concerns
37 and I'll just touch on that because I believe some of
38 the other people who are signed up to testify want to
39 address that. My first concern on that is we had NOAA
40 enforcement officer at the boat dock in Ninilchik
41 handing out tickets to people who had their subsistence
42 halibut card saying, no, you weren't subsistence
43 fishing, you were sportfishing, seized their fish and
44 wrote them a \$600 ticket. Now, how can an enforcement
45 officer at a boat dock determine that. We have
46 profound concerns over enforcement, and you guys have
47 heard me say this before. They don't get a pass on
48 enforcement, they need to do their job. But, you know,
49 if the enforcement officer would have said, you know,
50 gosh you were a quarter of a mile from where you should

1 have been, you're in the wrong area, I'm writing you a
2 ticket, that's one thing. But to sit at the boat dock
3 and give tickets. When you brought up the point about
4 when you're drifting out of Federal waters down to the
5 State waters, that is, we've had some issues with it
6 before so it may be something that will need to be
7 addressed. I'm not sure how to go about that.

8

9 CHAIRMAN LOHSE: Doug.

10

11 MR. BLOSSOM: You didn't answer my
12 question yet.

13

14 MR. WILLIAMS: Oh, I'm sorry.

15

16 MR. BLOSSOM: Do you think we should
17 mark them or not?

18

19 (Laughter)

20

21 MR. WILLIAMS: Oh, as far as marking
22 them, it would probably a good idea to do something.
23 I'm not sure because I'm trying to avoid that confusion
24 because then what's going to happen is the same thing,
25 the guy drifts out of the Federal waters to go to the
26 boat launch. And, I mean, you know, gosh Doug, even if
27 they're marked or not marked if we have that kind of
28 enforcement happening I don't know what the difference
29 would be so it's real confusing.

30

31 I'm not sure what we can do to fix it.

32

33 CHAIRMAN LOHSE: Well, I know, Darrel,
34 that we've had them -- in the Copper Basin we've had
35 them marked and I'm not sure that it does a lot of good
36 but it does separate them from sportfish.

37

38 MR. WILLIAMS: Does it, okay.

39

40 CHAIRMAN LOHSE: And I think, like
41 Doug, I think that that should be a part of -- it
42 should be a part of any permit, there should be some
43 kind of accountability, some kind of marking and some
44 kind of keeping record, you know.

45

46 MR. WILLIAMS: Yeah, so I wish I had a
47 better answer guys, that's just the experience that
48 we've had so far.

49

50 CHAIRMAN LOHSE: That's why I asked the

1 question before.

2

3 MR. WILLIAMS: It's a good question.

4

5 CHAIRMAN LOHSE: Thank you, Darrel.

6

7 MR. WILLIAMS: Thank you.

8

9 CHAIRMAN LOHSE: Ivan.

10

11 MR. ENCELEWSKI: Thank you, Mr.
12 Chairman. Members of the Council. My name is Ivan
13 Encelewski, I've testified before. I'm the executive
14 director for the Ninilchik Tribe.

15

16 I wanted to speak in regards to our
17 request for a special action as well as correlate some
18 of the hardships that are currently going on in regards
19 to the amount of fish that are available to some of our
20 people down there.

21

22 First of all as you know the long
23 history, this proposal has been going on for over six
24 years now and we've been granted C&T on the Kasilof but
25 as is pointed out a sportfishery is not a subsistence
26 fishery. And as you're well aware and we've discussed,
27 this Council has supported us on two occasions now as
28 well as the request for reconsideration. The one that
29 we filed on the Kasilof asked to expedite the process
30 so that we would have some sort of methods and means
31 and to develop an actual subsistence fishery. That
32 request for reconsideration, as you're aware, is being
33 just a threshold analysis will be determined, my guess
34 at the end of this month, but that will only be a
35 threshold analysis, it will be no more of a detailed
36 analysis, which simply won't allow the opportunity to
37 actually implement a subsistence fishery this fall.

38

39 With that being said, just to identify
40 some of the needs, I think this year has been one of
41 the most extreme years for our people, we've had a
42 commercial fishery that was one of the worst seasons in
43 history, and people and I own a set net permit in our
44 family, in reality we lost thousands of dollars, and it
45 was very difficult to even try and take some fish home
46 from the commercial fishery which some people have to
47 do. The elder are hurting. I see a lot of people on a
48 daily basis as the executive director of the tribe, I
49 deal with a lot of people. I had an elder in my office
50 crying the other day trying to get fish, anything,

1 saying that she was pulling the last pack of fish out
2 of the freezer to smoke, just to try and give it away
3 to some of the elders who hadn't received any fish. On
4 our own family's side, we only put up one batch of
5 bleek (ph) this whole year and half of them were pink
6 salmon. It's been a very difficult year for the
7 people.

8

9 Our elders, we have elder's meetings.
10 They've all identified the serious, serious needs of
11 our people, the Ninilchik people, to have fish to be
12 able to put into the freezer. I can personally tell you
13 I'm going to have go through the winter with the last
14 12 cans of canned fish that I had from last year.

15

16 This special action request is, as it's
17 outlined in the request, in the blue paper you have, is
18 a proposed temporary subsistence fishery that will
19 provide some limited subsistence opportunity this year.
20 This will not eliminate the hardships. It will be a
21 start to provide some food for this winter, and that
22 the tribe is requesting this temporary special action
23 request so that we can get some fish, some coho fish
24 this fall. And then in 2007 and the ongoing year we
25 plan on submitting, you know, a long-term proposal that
26 really actually meets the subsistence needs for our
27 people.

28

29 With that being said, I agree that I
30 don't believe that there's a conservation concern. We
31 have a lot of sportfishing where you get three silvers
32 a day. I think it's a start and I think it will be a
33 great benefit to our people as a beginning point. And
34 as Darrel mentioned there will be concerns over the
35 subsistence fishery with law enforcement, you know, and
36 drifting down. We've had tribal members with the
37 Federal halibut subsistence fishery issued tickets, you
38 know, and we anticipate potentially some of those
39 issues. But like I said our people are hurting and
40 salmon is one of the main staples of the original
41 people in Ninilchik, I mean it affects their physical,
42 spiritual and mental well-being, and these people -- we
43 have a lot of elders and people that don't have fish
44 and we really, really need this as a start, as a
45 temporary start to help relieve some of those issues
46 and, again, thank the Council for their continual
47 support of our C&T.

48

49 And that we actually get something
50 implemented as a result of it because what we've seen

1 is simply the delay, delay. Finally after six years,
2 granted a C&T on the Kasilof but it essentially is not
3 a meaningful preference under ANILCA. And, we, again,
4 thank you for your work and for your support.

5
6 I'll take any questions.

7
8 CHAIRMAN LOHSE: Any questions for
9 Ivan. Bob.

10
11 MR. CHURCHILL: Yeah, thank you for
12 coming. A rough idea of how many people were ticketed
13 on the halibut, the subsistence halibut fishery?

14
15 MR. ENCELEWSKI: I'm aware of at least
16 two or three. And what had happened -- as a little
17 background to that is that NOAA had finally implemented
18 a subsistence fishery for our tribal members in
19 Ninilchik and other subsistence fisheries around the
20 state. Well, they originally had a broader area, of
21 fishing area, and they restricted that area way back as
22 of a year ago, without even going through a public
23 process or anything like that. A lot of people weren't
24 even aware. But what is happening is these people, you
25 know, you have to go so far off technically to be in
26 the subsistence waters and subsistence fish but they're
27 coming back from subsistence fishing, and there's NOAA
28 officers that have no idea where they were, they're
29 just coming on the dock and issuing tickets and saying
30 you're sportfishing. And we've tried to address it
31 with NOAA to no avail. But it sets the potential up
32 for a concern, as well, when we deal with this
33 subsistence fishery say on the Kasilof drifting down
34 and I don't know exactly how to.....

35
36 MR. CHURCHILL: No, no, I understand.
37 I just was kind of curious on the numbers.

38
39 MR. ENCELEWSKI: Yeah.

40
41 MR. CHURCHILL: Thank you.

42
43 MR. ENCELEWSKI: Uh-huh.

44
45 CHAIRMAN LOHSE: Greg.

46
47 MR. ENCELEWSKI: Yeah, Ivan, I got one
48 and just maybe ask you for an explanation, a lot of the
49 people may not realize, you know, what does Ninilchik
50 have for fish for its people, how do they get their

1 fish to their elders and the people of the community?
2 Yeah, I mean they can sportsfish but maybe you could
3 just explain because a lot of people probably don't
4 realize there is no means to get any fish for them.

5
6 MR. ENCELEWSKI: Yeah, there are very
7 limited means. Of course those of us that commercial
8 fish can sometimes bring home fish but, you know, in a
9 hard year, I mean you can't afford to take fish home, I
10 mean you got to sell them just to lose money. And
11 there's limited opportunities in the rivers, you know,
12 there's some sportfishing in the rivers, king, I think
13 it's open three or four weekends a year but there's
14 very limited opportunities.

15
16 We have a small educational net, which
17 is an educational net, not a subsistence net and people
18 really, I mean unless are brought fish from
19 sportfishing or really, really limited means they have
20 no fish available and a lot of people in our community
21 rely on other people to get them fish because they
22 can't, especially the elderly population and
23 unfortunately what it's done is in the few fish that we
24 get out of the educational fishery have been mostly
25 allocated towards the elders and disabled and so it
26 still leaves a lot of people, younger generation people
27 without fish as well.

28
29 CHAIRMAN LOHSE: Any other questions
30 for Ivan. Doug.

31
32 MR. BLOSSOM: Mr. Chairman. Wouldn't
33 it be wise for this year to not them drift on down the
34 river, just fish in that slackwater area and come back
35 to the ramp, that way they don't -- that's a wild ride
36 down that river, you know, I can't imagine a lot of
37 people even wanting to make that trip, so wouldn't it
38 be wiser for this year to try to confine the fishing to
39 the slack water area from the mouth of the lake down to
40 just below the ramp?

41
42 MR. ENCELEWSKI: I think -- you know I
43 agree with your concerns that there are going to be
44 several people that may have difficulties, you know,
45 one with the boat and getting in that area, but I also
46 think having that available to those that do have boats
47 and that are familiar with the area and that would be
48 willing to not only go get some fish but be able to
49 distribute them to other people would still be
50 beneficial to at least have that available. I think

1 that you're right in that you're not going to find near
2 as many users that would be going down, like you say,
3 further. But I think it would still be beneficial to
4 have that available for the few people that have that
5 capability and the willingness and we do have a lot of
6 people that are willing to go, you know, to go fishing,
7 you know, we've tried to get people to go out halibut
8 fishing, you got to go below Seldovia now, you know,
9 for subsistence fishing but I think there are people
10 that do have those capabilities that would be willing
11 to go, you know, and get the 20 fish and help
12 distribute those to some of the people. So I think it
13 would still be beneficial to have it but it wouldn't be
14 necessarily utilized near as much.

15

16 CHAIRMAN LOHSE: Ivan, I'd like to ask
17 you a question if I may, how far is it from Ninilchik
18 to that ramp?

19

20 MR. ENCELEWSKI: You're looking at
21 about, to the turn off towards -- turn off there
22 Tustumena, I don't know what it is it, about 25 miles,
23 maybe something like that, and then maybe about four or
24 five miles in, so.....

25

26 CHAIRMAN LOHSE: Oh, it's only four or
27 five miles in from the main road on the gravel road?

28

29 MR. ENCELEWSKI: Yeah, on the gravel
30 road.

31

32 CHAIRMAN LOHSE: Okay. So you're
33 looking like 25 miles from town?

34

35 MR. ENCELEWSKI: Well, 30 miles, yeah.

36

37 CHAIRMAN LOHSE: Thirty?

38

39 MR. ENCELEWSKI: Yeah.

40

41 CHAIRMAN LOHSE: Okay, 30 miles, even
42 with a truck pulling a boat, that's only three gallons
43 of gas, that's only six gallons of gas for round trip.

44

45 MR. CHURCHILL: Just under a hundred
46 bucks.

47

48 (Laughter)

49

50 CHAIRMAN LOHSE: At Cordova prices that

1 puts you at -- I'm sure it's a little cheaper on the
2 Kenai, but I'd hate to tell you what that is at Cordova
3 prices.

4

5 (Laughter)

6

7 CHAIRMAN LOHSE: But anyhow, it's
8 within reason to go there to get 20 fish is what I was
9 getting at?

10

11 MR. ENCELEWSKI: Oh, yeah, well, within
12 reason, yeah.

13

14 CHAIRMAN LOHSE: Okay, that's what I
15 was going to ask you. I don't have any other further
16 questions.

17

18 James, if you have to go, you have to
19 go, we'll excuse you. You can make a comment on this
20 if you'd like before you leave on which direction you
21 think we should go.

22

23 MR. ENCELEWSKI: Are you done with me
24 then?

25

26 CHAIRMAN LOHSE: Yes.

27

28 MR. ENCELEWSKI: Thank you.

29

30 MR. SHOWALTER: Yes, I think, you know,
31 as you indicate it's subsistence and I think as
32 indicated subsistence has first priority right. And
33 with the numbers going up the Kasilof, the Crooked
34 Creek, I think with this, what is it a 500 number, and
35 larger numbers they had going up there, at this time I
36 don't -- with the report given, it shouldn't be any
37 impact on it so I'm in favor.

38

39 CHAIRMAN LOHSE: Thank you, James.
40 Okay, Roland Maw.

41

42 MR. MAW: For the record my name is
43 Roland Maw. I live at Kasilof.

44

45 CHAIRMAN LOHSE: Push the button.

46

47 MR. MAW: Oh, push the button, okay, I
48 can do that. My name is Roland Maw, I live at Kasilof,
49 Alaska. I've lived there on and off for about 30 years
50 and I'm also currently the executive director for

1 United Cook Inlet Drift Association. And I hadn't
2 anticipated giving any testimony today but, you know,
3 as the day has unfolded felt that on behalf of my board
4 I did have to make some comments. And I certainly want
5 to put into the record that some of the people who
6 would benefit from the subsistence fishery are members
7 of our association. And so I'm somewhat sensitive to
8 that and I'll try to respect their will as well.

9
10 I guess what I heard concerning this
11 fishery and I certainly can identify with the angst and
12 the anxiety about the timelines and its number of years
13 down lines and those sorts of things but I'm also
14 hearing that there's a fair degree -- I'm hearing, a
15 fair degree of biological uncertainty here. I think --
16 I feel, nobody as of yet, to this panel, has laid any
17 data on the table that, in fact, tells you whether
18 500's acceptable or not and how it will impact those
19 species, those runs. And that data may not even be
20 there, well, we have some data for one year, partial
21 data for one year and there's an analysis that's
22 coming. So I see that there's a bit of a rush to
23 action here with -- in my mind, with a fair bit of
24 biological uncertainty. There's certainly some
25 anecdotal data and I certainly have that as well. I
26 heard the number of 5,000 cohos into Crooked Creek but
27 there was no timeframe put on that, and we have no idea
28 of whether that was from early spring to late fall and
29 I would be interested in hearing that.

30
31 I've also heard this is a good start
32 but a good start to where?

33
34 No one's answered that question and I
35 certainly have that on my mind as it impacts, not only
36 the members who would benefit from this but other
37 members of our association as well.

38
39 I hear we are asking you to make a
40 decision and then you'll get the data next week. It
41 seems to me like that's just a little bit backwards and
42 I appreciate the angst of this has been a long time,
43 and certainly would share that angst. And I do share
44 that angst, you know, I wish we did have some data.

45
46 So it puts us, as UCIDA, in a very
47 awkward position that -- like right now when the
48 analysis comes out we're going to have to have a look
49 at that and it's a very short timeframe from there to
50 the point we get to where we may be in front of the

1 Federal panel or back in front of this panel.

2

3 I also share the same concern that one
4 of the members shared that reds are not mentioned in
5 this. We've gone through a very long process and have
6 a long history in lower Cook Inlet, Kenai Peninsula of
7 doing enhancement up there, but, yet, I don't know how
8 enhancement would play or have any play in this at all.
9 If 500 is a good start, are we going to end up at
10 20,000 and, you know, where is the end of this, where
11 is the goal of this? And if that number goes beyond
12 500 are you willing to support enhancement of those
13 stocks in order to support the subsistence use? And I
14 certainly don't -- it's not a philosophical issue for
15 me, personally, and I don't think it's a philosophical
16 issue for our board, it's just a very practical one is
17 how are you going to do it and how are you going to do
18 it in the absence of data. And philosophically, you
19 know, I don't have a concern if it would even go to
20 20,000 cohos or it goes to cohos -- some other
21 combination of species, but will the stocks withstand
22 that. We've gone through a long legal process and
23 ANILCA certainly makes provisions for the Refuge to be
24 opened up for enhancement if that would be necessary in
25 order to support some of these activities.

26

27 So, anyway, you know, I have some
28 concern. I appreciate the other executive director
29 that was just ahead of me, limited opportunities, you
30 know we have had a very long, extended personal use dip
31 net fishery on the Kasilof River. I participated in
32 it, my family has, not only at the mouth but all the
33 way up to the Sterling River bridge for several miles.
34 There is an educational fishery, there's a
35 sportfishery, there's commercial fishery and then the
36 PU, that gillnet fishery, so I don't think the
37 optionees are quite as limited as the gentlemen was
38 saying.

39

40 But, anyway, I guess my bottom line is
41 without having some biological information and I hear a
42 rushed action I just would caution you in both of those
43 areas. And if we have to wait another year, that would
44 be tough but we just may have to.

45

46 Thank you.

47

48 CHAIRMAN LOHSE: Thank you, Roland.

49 Question, Doug.

50

1 MR. BLOSSOM: Mr. Chairman. Just one
2 statement, that Crooked Creek really means nothing.
3
4 CHAIRMAN LOHSE: Yeah.
5
6 MR. BLOSSOM: Because those fish aren't
7 even going to be into this mixture so, you know, we
8 don't care if there's 10,000 in there, that doesn't
9 show us any biology for the main stem. So I agree with
10 you there, I'm just -- so I don't even know why Crooked
11 Creek was brought up.
12
13 MR. MAW: Yeah, I found that to be
14 quite an odd comment.
15
16 MR. BLOSSOM: Yeah. As long as it
17 isn't in the fishery that's going to take place we
18 don't even need to talk about it.
19
20 MR. MAW: If the 5,000 was some kind of
21 evidence that the main stem could withstand that other
22 fish -- you know, withstand the fishery, I just don't
23 connect those dots.
24
25 MR. BLOSSOM: No.
26
27 MR. MAW: I think we need that on the
28 main stem itself and those headwater streams and, you
29 know, you've certainly been up there much more than I
30 have.
31
32 But, anyway, thank you.
33
34 CHAIRMAN LOHSE: Thank you.
35
36 MR. ENCELEWSKI: Mr. Chairman.
37
38 CHAIRMAN LOHSE: Greg.
39
40 MR. ENCELEWSKI: Yeah, I got a question
41 for you, you say you lived there 30 years, certainly
42 anecdotally you have a lot of information on the amount
43 of silvers there. I personally have drifted it myself
44 and I know. But what do you feel that the sportsmen
45 take out of there?
46
47 I know I'm kind of putting you on the
48 spot.
49
50 MS. MAW: I know.

1 MR. ENCELEWSKI: I'm trying to make a
2 point and I'm also saying if that be the case, should
3 we shut down commercial fishing and sportsfishing and
4 have a preference for the subsistence first?

5
6 MR. MAW: Well, the way the statewide
7 harvest survey collects that data, I have some degree
8 of angst about that number.

9
10 (Laughter)

11
12 MR. MAW: I've filled out those surveys
13 on and off over the years relative to my own fishery on
14 the Kasilof, and to tease out a number that would
15 represent anything relative to this area that's being
16 described is -- you know, that one mile from the ramp
17 up to the lake, I think that's a real stretch. I don't
18 think there's any data, really, that represents what,
19 in fact, goes on in that one mile stretch. And I guess
20 that's my concern.

21
22 MR. ENCELEWSKI: Thanks.

23
24 CHAIRMAN LOHSE: Thank you, Roland.
25 Okay, Sara.

26
27 MS. GILBERTSON: Thank you. For the
28 record, Sara Gilbertson with Fish and Game. And the
29 State of Alaska, both the Department of Fish and Game
30 and the Department of Law have numerous concerns.
31 Both, in general about the creation of subsistence
32 fisheries on the Kenai Peninsula and for those of you
33 who haven't read it, that's evident in our RFRs that
34 are currently before the Board where we're challenging
35 the customary and traditional use findings.

36
37 We also have particular concerns
38 related specifically to this request for special
39 action.

40
41 According to 50 CFR 100.19(d), action
42 on a special action request is only
43 appropriate if there are extenuating
44 circumstances necessitating the
45 regulatory change before the next
46 regulatory cycle.

47
48 And so one of the questions that arises
49 in our mind is what sort of extenuating circumstances
50 do we have that necessitate the Federal Subsistence

1 Board to take action out of its normal regulatory
2 cycle. And I guess that's just a question that I'll
3 put out there and know that it's a concern from our
4 end.

5
6 In our opinion, nothing's changed since
7 the Board's meeting in January of 2006 and there have
8 been no significant changes in resource abundance or
9 unusual conditions affecting harvest opportunities that
10 could have significant adverse effects on the health of
11 fish and wildlife populations over subsistence uses.
12 There's no new information indicating that subsistence
13 needs are not being met, or through existing harvest
14 opportunities.

15
16 And I already mentioned that we're
17 challenging the customary and traditional use
18 determinations so we would just argue that this
19 question and the request needs to go through the
20 Board's normal public process.

21
22 And for those of you who haven't seen
23 it, I was just reading from an August 8th letter
24 addressed to Mr. Ron McCoy, the Federal Subsistence
25 Board Acting Chairman from both Attorney General David
26 Marquez and McKie Campbell, the Commissioner of Fish
27 and Game.

28
29 And then just some other questions that
30 we have, based upon testimony this morning and
31 questions we came up with prior to hearing that
32 testimony. There's a lot that needs to be fleshed out
33 regarding the -- it's not an actual proposal but
34 they're requests that you have before. For instance,
35 for the coho dip net fishery there's a proposed limit
36 of five permits issued per day, there's no criteria
37 that are established for deciding who receives the
38 permit other than they need to be Ninilchik residents.
39 So we're wondering is there first come, first serve, is
40 there an application process, I think that there's just
41 a lot that needs to be fleshed out before action is
42 taken on this.

43
44 Other questions are, would more than
45 one person in a family receive a permit? We had other
46 questions related to if a permit holder does not reach
47 their allocation in a day when the permit's valid, can
48 they go back and get a subsequent permit and take more
49 fish? So just a lot of questions related to the
50 permits that, in our mind, really need to be worked

1 out.

2

3

4 Related to the 500 coho I now
5 understand where that came from after the Federal Staff
6 testified, but I guess from the State's perspective we
7 would say, what is the actual need? Where is the
8 evidence that the needs are not being met? And how
9 much fish do we need, rather than just saying well the
10 take in the sportfishery is 500 so let's make this
11 number 500.

12

13 You all talked about enforcement issues
14 this morning or earlier on this issue, and I thought
15 that those issues really do need to be addressed and
16 those questions do need to be asked. It is possible, I
17 guess, to mark the fish but there will be enforcement
18 issues and it will cause confusion for enforcement
19 officers.

20

21 Also the personal use dip net fishery,
22 I wanted to make sure that you all were aware that
23 there are personal use opportunities on the Kasilof,
24 and that a lot of folks do take advantage of that. I
25 do have biological Staff from Fish and Game with me if
26 you have further questions. But some of the issues
27 that they raised, in particular, are about the -- if
28 chinook salmon and steelhead trout are to be released,
29 then the mesh size of the net used on the dip net
30 should be small enough so as not to gill steelhead
31 trout. They also raised concerns about the lack of
32 escapement monitoring. We don't currently have
33 established escapement goals on the system for coho so
34 to say that Federal fishery biologists would be able to
35 determine if the harvest could and should continue is
36 not necessarily accurate because we don't have those
37 numbers.

38

39 And then finally we do have some
40 concerns of possible negative impacts to chinook and
41 coho salmon in spawning beds if fishermen are dip
42 netting from shore.

43

44 So those are the State's comments and
45 I'm happy to answer any questions.

46

47 CHAIRMAN LOHSE: Thank you. Doug.

48

49 MR. BLOSSOM: Mr. Chairman. Because
50 you're new I'll be gentle on you.

51

1 MS. GILBERTSON: Thank you.

2

3 MR. BLOSSOM: Most of those issues you
4 raised are the reason why we should have it. I mean
5 you don't question how many fish the commercial guys
6 should get or how many fish the sport guys should get
7 and you're questioning how many the subsistence people
8 -- you're using the wrong argument and you need to look
9 at all those things you just brought up and they're all
10 reasons why we should go ahead and have the subsistence
11 fishery. I'm not saying I agree with it, but your
12 reasons are wrong. Look at them carefully. You're
13 arguing against subsistence and that's the wrong
14 argument you should be taking here.

15

16 What's the conservation, how many fish
17 do we have, do we have a conservation concern on the
18 Kasilof for coho?

19

20 MS. GILBERTSON: Mr. Chairman, and
21 Doug, I'd like to ask some of the biologists to come
22 forward and help answer that, but if.....

23

24 MR. BLOSSOM: I mean we're not
25 curtailing sport or commercial, are we, on the Kasilof,
26 so we must not have a conservation concern. So, you
27 know, whoever wrote those things for you, boy, they
28 used the wrong arguments.

29

30 MS. GILBERTSON: May I respond, Mr.
31 Chair.

32

33 CHAIRMAN LOHSE: Yes, Sara.

34

35 MS. GILBERTSON: I am new but I didn't
36 write these comments, these are Department comments
37 that both are articulated in a letter from the
38 Commissioner and the Attorney General and also were
39 raised by Staff within the Subsistence Division, within
40 all divisions at Fish and Game. And so I am new and
41 these may -- you may not like these comments but
42 they're the Department comments and they came from the
43 Division.

44

45 CHAIRMAN LOHSE: Sara, we recognize
46 that because they're the same comments that we get.....

47

48 (Laughter)

49

50 MR. BLOSSOM: We knew they weren't

1 yours.....

2

3 (Laughter)

4

5 MS. GILBERTSON: Okay.

6

7 CHAIRMAN LOHSE: We're not blaming you.

8

9 (Laughter)

10

11 CHAIRMAN LOHSE: I think what Doug was
12 saying is that it goes back to what we're having to
13 deal with right here on this Council which is under
14 ANILCA on Federal land having a subsistence priority.
15 And at this point in time I didn't expect this Council
16 to take any decisions as to what kind of season, what
17 kind of methods, what kind of means or anything like
18 that. Because like that was told to us, that's all
19 under discussion, that's all something that they're
20 trying to collect information on.

21

22 Basically what this Council would have
23 addressed and what this Council will probably address
24 one way or the other is whether or not we think that
25 they should do everything in their power to have a
26 subsistence fishery on the Kasilof this fall to answer
27 our recommendations that we made in our original
28 recommendations that there was a C & T and there should
29 be a subsistence fishery there.

30

31 MS. GILBERTSON: Uh-huh.

32

33 CHAIRMAN LOHSE: I agree with you, we
34 have a lot of concerns on it and that's what I'm
35 hoping, is, between the managers -- between State
36 managers and Federal managers and Ninilchik, they can
37 get together and they can say how can we do this to
38 assure that there's no adverse impacts if -- if the
39 Board, we don't make the decision as to whether there's
40 a season or not, but if the Board would decide that
41 there should be a season this fall I would expect them
42 to sit down and work together so that they would have
43 the least adverse impacts.

44

45 Now, one of the questions that's come
46 up is the fact that we have no escapement data for the
47 Kasilof. The only escapement data we have is for
48 Crooked Creek which doesn't mean a thing because it's
49 prior to the area that we're in. So the only thing
50 that we can do then as a Council and what we're asked

1 to do is we're asked to go on knowledge of Council
2 members of the situation in the area, and that's what
3 we've had to rely on in the past when there is no Fish
4 and Game information, there is no Federal information,
5 we have to go to the Council members who are supposed
6 to be knowledgeable about the resources in their area
7 and we have to ask, you know, what is your -- as a
8 Council member that knows that area, and we have a
9 couple here that do, what is your feeling on that, what
10 do you know about escapement in the area, do you feel
11 that this would have an adverse impact and if this has
12 an adverse impact, if this 500 fish or 400 fish or 300
13 fish or whatever they decide to have has an adverse
14 impact then obviously the fisheries prior to that have
15 an adverse impact also and under Federal law we'd have
16 to adjust those fisheries. Now, as has been pointed
17 out the only place the Federal can adjust those
18 fisheries is in that seven miles and for all I know,
19 because I don't know the area, there isn't enough
20 sportfish take in that seven miles to even amount to
21 anything, you know, and then again it may be like
22 Cordova where the sportfish fishery takes an awful lot
23 of fish and a lot of them are, like Roland said, you
24 know, they're on creel surveys and they're not very
25 accurate as far as how many fish are taken.

26

27 So I mean that's what we're going to
28 have to deal with, but Doug was not jumping on you
29 personally for those comments.

30

31 MS. GILBERTSON: No, I understand, fair
32 enough.

33

34 CHAIRMAN LOHSE: He was just stating
35 those are the kind of comments that we get but with
36 what we're having to deal with here, as a Regional
37 Council, under ANILCA, is there subsistence priority on
38 Federal land and are we doing what we can to provide
39 that subsistence priority. And, you know, we recognize
40 that that's going to conflict sometimes with other --
41 and we're supposed to do it with the least impact
42 possible, you know, so thank you Sara.

43

44 MS. GILBERTSON: Thank you.

45

46 CHAIRMAN LOHSE: And, Doug, be gentle.

47

48 (Laughter)

49

50 CHAIRMAN LOHSE: Bob.

1 MR. CHURCHILL: No.
2
3 CHAIRMAN LOHSE: No. Tom.
4
5 MR. CARPENTER: Yes.
6
7 CHAIRMAN LOHSE: Do you have a comment?
8
9 MR. CARPENTER: No, I'm just trying to
10 gather my thoughts here, I'm just listening to what all
11 the discussion is that's taking place and I don't have
12 a comment at this time.
13
14 CHAIRMAN LOHSE: Okay, thank you, Tom.
15 Okay, we have one more request for testimony, Ricky
16 Deets (ph) -- no, we have two more, I've still got
17 yours John. We may have to take a break.
18
19 MR. DEETS: Hi, my name is Ricky Deets,
20 I'm the executive director of Kenai River Sportfishing
21 Association. I'm also about a 14 year resident of
22 Kenai and I participate both in the personal use
23 fishery, the Kenaitze Educational Fishery, the
24 sportfishery and sometimes when my father-in-law is
25 generous, with his commercial catch, sometimes the
26 commercial catch also that he brings home.
27
28 It's interesting starting, I think what
29 you're doing here is important for this year because I
30 think it's going to set a precedent for your long-term
31 planning. On the State side, I've participated both in
32 the personal use fishery which is more of an individual
33 based fishery and then also the Kenaitze Educational
34 set net fishery off K-Beach Road, which is more of a
35 community-based subsistence fishery. And I think one
36 of the things that you're grappling with right now, one
37 of the things that I'd ask you to consider is when you
38 set up your subsistence-based fishery on the upper
39 Kasilof is it going to be more of a community-based
40 fishery around one type of gear type where a community
41 takes responsibility for a specific area or is it going
42 to be more individual-based, where individuals go file
43 permits, go get their fish and bring it back. And what
44 I've seen in the personal use fishery, just
45 participating in that, is I go down, I get a permit, I
46 go get my fish and I take it home and I clean it. I
47 don't really interact with too many members of my
48 community when I participate in personal use fishing.
49 When I go down to the Kenaitze Educational fish net
50 fishery, it's a place, it's a tribal place, I

1 participate in that and there's a sense of place there
2 that has been developed over the last, since I've been
3 fishing there, they've put in water, they've put in
4 electricity, they've put in places where you can clean
5 fish, discard waste, fresh -- you know, over time
6 there's a sense of place that's developed there.

7
8 So I think one of the things that
9 you're looking at is -- and why I think this decision
10 is important as you start out this fall is you're going
11 to set the precedence, you're going to follow the more
12 personal use, individual-based or are you going to
13 follow more of a community, communal, one place, one
14 gear type, type fishery. I do think on the Kenaitze
15 limits, I think they have about 10,000 for reds, they
16 have about a thousand for cohos and they have about 100
17 for chinook. I'd just say anecdotally, each fishery is
18 different, but usually on escapement goals the Kasilof
19 is about half the size of productivity as the Kenai at
20 least for red salmon that's the case and it seems
21 anecdotally that's the case for kings. I would imagine
22 the same thing is for coho. So if you have a
23 community-based education fishery on the Kenai that has
24 a limit of a thousand coho, I personally, not speaking
25 for the organization, but personally I find it
26 acceptable that you would start a subsistence fishery
27 based upon the target of 500 coho, and I don't think
28 that would cause a conservation concern.

29
30 I do echo some comments and concerns
31 reading through the proposal about who is going to get
32 the permits, how that's going to be divvied out. The
33 proposal does come from the tribal entity in Ninilchik
34 but there is, you know, about a quarter of the
35 residents in that region there, do the other 75 percent
36 of the residents living in that community have the same
37 access, where are you going to file for the permits?
38 At the educational fishery it's first come, first
39 serve. If those permits all get filled up then, you
40 know, tough luck you got to come back next year, is
41 that the process that you're going to follow on that?
42 And those are some nuts and bolts questions that I
43 think you need to grapple with and make sure that
44 whatever process that is set up that it's a fair
45 process. I know if somebody has not had a chance to
46 fish at the Kenaitze fish tribe and somebody's on their
47 second opportunity they may get bumped to give that
48 person an opportunity or if they have a tough day
49 fishing and they don't catch any fish, you get kind of
50 a bennie or a chip to go on another opportunity to go

1 fishing so it's tried to be -- kind of a social system
2 has developed to make it fair so that everybody who
3 really wants an opportunity gets an opportunity for
4 that.

5
6 CHAIRMAN LOHSE: Thank you, Ricky. Any
7 questions. Greg.

8
9 MR. ENCELEWSKI: Mr. Chairman. I just
10 got a comment. I thought that was a very good
11 statement you made on that, you know, community-type of
12 gear or individual. I, too, have participated with the
13 educational fishery and it works good, but I know for a
14 whole community it's going to be pretty tough, so I'm
15 not so sure what the answer to that is, we have to work
16 on it.

17
18 Thank you.

19
20 CHAIRMAN LOHSE: I'd like to ask Gloria
21 a question because I've got to refresh my memory, but I
22 think that some of our Copper River subsistence permits
23 are handled through the communities, aren't they, or
24 are they all -- do they all have to go to the Park
25 Service to get them? But you have some subsistence
26 permits that are handled right through the communities,
27 don't you?

28
29 MS. STICKWAN: That's through the
30 State, they have community fishwheels that.....

31
32 CHAIRMAN LOHSE: That's through the
33 State?

34
35 MS. STICKWAN: Uh-huh.

36
37 CHAIRMAN LOHSE: Okay. Any other.....

38
39 MS. STICKWAN: It's not on the Federal
40 though.

41
42 CHAIRMAN LOHSE:questions. Bob.
43 Uh?

44
45 MS. STICKWAN: It's not on the Federal.

46
47 CHAIRMAN LOHSE: It is not.

48
49 MR. CHURCHILL: Just to make sure,
50 I.....

1 MS. STICKWAN: I think they did -- they
2 did go through the Federal, too, though, did they --
3 I'm not sure but I think they did.

4
5 CHAIRMAN LOHSE: I thought they did,
6 too, okay. Thank you, Gloria. Bob.

7
8 MR. CHURCHILL: Yeah, through the
9 Chair. Just to make clear what I hear you saying is
10 you don't see any biological problem with approval of
11 taking 500 cohos out of this fishery at this point?

12
13 MR. DEETS: Just kind of echoing what
14 the biologists are saying for Fish and Wildlife
15 Service, is that if they -- I don't see any information
16 contradicting what the biologists have said about 500.
17 If you look at -- I know there were a lot of concerns
18 when the Kenaitze Educational Fishery started up, I
19 don't think those concerns over the last 10 years have,
20 in my opinion, really dissipated. It's a community-
21 based fishery. They -- if you look at the numbers of
22 the Kenaitze Indian Tribe there's about 1,200 members
23 that participate in that. I would imagine a similar
24 number of memberships or even less than that are going
25 to participate out of Ninilchik, and I think those
26 limits of -- or those -- it's not a bag limit, but it's
27 a community limit basically in terms of an overall
28 fully allocated fishery, have not really upset the
29 apple cart, basically in those fisheries.

30
31 MR. CHURCHILL: Well, just as aware --
32 of explanation -- when traveling in whaling villages,
33 so we're not worried about bag limits up there, it is a
34 communal fishery for those things.

35
36 MR. DEETS: Right. Right.

37
38 MR. CHURCHILL: So how would you advise
39 us, both Sara and yourself have said, we need to be
40 thoughtful in how we set up a system to issue permits
41 and I'm hearing that on a couple different levels?
42 One, is to insure that we don't end up with hostilities
43 with one another, but also to meet the need that's been
44 expressed so articulately about insuring the elders and
45 that's what I've heard repeatedly, are going to be the
46 ones that are really going to benefit from this
47 fishery, how would you guide us in putting some boards
48 on those permits and how we issue them?

49
50 MR. DEETS: Well, I think you have to

1 put trust in the system of the people who live in
2 Ninilchik that they're going to be sharing their
3 resource. I mean I don't think it's for you to dictate
4 but I just say in your indications that you want a fair
5 process and you want to make sure that needs are met
6 and, you know, if there's a priority given that
7 traditionally both in, I think the Kenaitze culture and
8 Ninilchik culture that your elders get preference and
9 deference in terms of fish that are brought to the
10 table.

11
12 MR. CHURCHILL: And I'm hearing you
13 also say that that educational fishery might provide us
14 some models in terms of how it's developed to look at?

15
16 MR. DEETS: Yeah, I mean I think you
17 have some -- I'll get to some process issues here right
18 now and this is, I think, one of the reasons why I
19 think it's nice to have Roland here or myself here in
20 terms of bringing some other voices to the table, that
21 you do have fully established fisheries on the Kenai
22 Peninsula and I don't think anybody within Roland's
23 organization and UCIDA and the commercial fishery or in
24 the sportfishery or personal use fishery is going to
25 say that people don't have the right to go subsistence
26 fishing, I think that's an absolute right and people
27 have that right. What you want to do is to make sure
28 that when you integrate a new fishery into the
29 establishing fisheries that you minimize the wake that
30 causes in -- in everybody else. You can use the
31 Kenaitze Educational Fishery as a model of one that has
32 been integrated into fully allocated fisheries in the
33 '90s and that it does provide for the needs of the
34 community there, it's community-based, it's one place
35 based, they have a couple different nets, you sign up,
36 and it allows a community then also to develop some
37 infrastructure potentially on the Federal property
38 where if you forget your, you know, cooler or something
39 else, or your knife that there's something there. And
40 there's also an opportunity then -- you know, we hear a
41 lot that there's not a lot of scientific-based, you
42 know, information so if you develop a community-based
43 one, you can also follow models that are in the Harbor
44 Seal Commission and the Sea Otter Commission where you
45 start taking, you know, ASL measurements, you start
46 taking genetic samples, and you pair up people, maybe
47 from within Ninilchik who want to go into a career in
48 Fish and Game or Fish and Wildlife, allow them to
49 figure out how to sample the fisheries and you start
50 getting some data and start forming some partnerships

1 with Fish and Wildlife and Fish and Game in terms of
2 collecting the conservation data that's necessary. And
3 that way if it's community-based, then all your data is
4 running through a community point then you can start
5 getting some accurate scientific information and some
6 baseline data.

7

8 I think the thing, if you do it kind of
9 more personal use model, everybody's an individual, you
10 sign up for a permit, go there, don't necessarily have
11 to share with everybody, then it's going to be more
12 difficult to integrate in if you wanted to down the
13 road, some scientific data collection type stuff. So
14 if you had one point where people could come in, these
15 are the average weight of these fish, you can have a
16 fish weigh system there, tape measure, whatever you
17 want and you can actually get some viable information
18 and start building that up over the long-term.

19

20 MR. CHURCHILL: Thank you, that was
21 really helpful and I agree with you. I've been
22 involved with some community-based conservation efforts
23 to enhance moose populations and things and they've
24 worked amazingly well. They've really been impressive
25 in their results.

26

27 Thank you.

28

29 CHAIRMAN LOHSE: Thank you, Bob. Any
30 other questions for Ricky.

31

32 (No comments)

33

34 MR. DEETS: Thank you for the
35 opportunity.

36

37 CHAIRMAN LOHSE: Thank you for your
38 testimony, too. Okay, what time are we getting?

39

40 MR. ENCELEWSKI: 1:40.

41

42 CHAIRMAN LOHSE: Twenty to 2:00. Let's
43 have John testify and then let's take our break and
44 come back and do any deliberation, that way we'll have
45 all the public testimony. We're going to be an hour
46 late for lunch but then I'm worried about Tom being
47 able to hang on until we can -- unless the Council
48 decides after hearing him that we'll just go on and
49 finish it, which we could also do.

50

1 John.

2

3 MR. STARKEY: Thank you, Mr. Chairman.
4 Your notion of endorsing the need for the Board to take
5 action on a special action request as soon as possible
6 in order to satisfy -- to help satisfy some immediate
7 needs is enough.

8

9 CHAIRMAN LOHSE: Yeah.

10

11 MR. STARKEY: Ninilchik is not asking
12 you or the Regional Council at this point in time to
13 get involved in all the details.

14

15 CHAIRMAN LOHSE: Right.

16

17 MR. STARKEY: But I will say this, in
18 discussions today with the Federal fishery managers,
19 the following have been resolved and I think we're very
20 close to a place where we agree on what the foundations
21 for fishery are.

22

23 One, to clarify some of the things in
24 the proposal. We are talking about the main stem of
25 the Kasilof.

26

27 Two, we're talking about a dip net
28 fishery that uses the standard dip net as already
29 defined in regulations. Talking about a dip net from
30 boat and shore and in terms of all the permits and the
31 limits and all that, it's too complicated. And so what
32 the Federal fishery managers have suggested and
33 Ninilchik is fine, is there just won't be a limit on
34 the permits. If you apply for a permit you'll get to
35 go fishing until the limit's caught. So I think the
36 Federal fishery people would confirm that.

37

38 The whole foundation from this, from
39 Ninilchik's point is that really 500 fish is barely
40 going to put a dent in their need but it's something.
41 It's very important to understand that this is a
42 temporary fishery request and that in October we will
43 be discussing and we will be bringing forward more
44 permanent positions on what a fishery should be, but
45 this will get things started and put some fish in the
46 freezer. And the whole thing is based on Ninilchik's
47 belief that there will be a good faith effort after 500
48 fish are caught to sit down and see whether that's the
49 end, or there'll be an opportunity to catch some more
50 fish. We'll just have to see what the data does, but

1 it's all based on what, thus far, has been a good faith
2 effort between Ninilchik and the Federal fishery
3 people.

4

5 Thank you, Mr. Chairman.

6

7 CHAIRMAN LOHSE: Question, John. When
8 you were talking about a question as to whether after
9 the 500 fish were taken, whether there would be an
10 opportunity to take more fish, you're talking about in
11 the future, not this year, right?

12

13 MR. STARKEY: Well, it's possible that
14 it could be this year, I mean there will be people on
15 the ground, there will be some monitoring. If the run
16 comes in and it looks really strong, the Federal
17 fishery people are out there, there may be some
18 opportunity to take some more fish and we would hope
19 that that would -- if that's the way things look that
20 there will be. Because when you look at 500 fish and
21 you look at 330 something tribal members living in
22 Ninilchik, that's not very many fish.

23

24 And so that's the hope and that's the
25 way the proposal was designed, is that, you know,
26 Federal fishery people will be there and that there
27 will be a good faith effort to look and see what's
28 there and see whether or not they can allow some more
29 fishing.

30

31 CHAIRMAN LOHSE: But I think you
32 addressed one point that I've been trying to get
33 across, too, and that is within the ramifications --
34 the general ramifications of what we're asked, we
35 haven't got on the table in front of us, how to make
36 the fishery happen. What we're basically being asked
37 is with the other decisions that we made, do we feel
38 that a subsistence fishery should be put in as soon as
39 possible to give them an opportunity or should we say
40 that it can wait until there's more hearings and more
41 other decisions? I think between the managers and
42 Ninilchik, they can come up with a reasonable, like you
43 said, a good faith effort to come up with a season that
44 doesn't hurt anything, and I don't think I need to
45 direct how the permits are given out or anything like
46 that.

47

48 But the question in my mind is do we
49 feel like we should support their opportunity to have a
50 subsistence fishery this fall.

1 MR. CHURCHILL: I have a question.
2
3 CHAIRMAN LOHSE: Bob.
4
5 MR. CHURCHILL: Yeah, when you say
6 unlimited number of permits, that would still be the
7 permit would be good only for the day it's issued?
8
9 MR. STARKEY: That would be our
10 understanding but I think, you know, these are the kind
11 of details that we'll work through for the next week or
12 so.
13
14 MR. CHURCHILL: Thank you, John.
15
16 CHAIRMAN LOHSE: I understand what
17 you're looking at, Bob, that way you would keep very
18 close track as to what's being taken.
19
20 MR. CHURCHILL: Uh-huh.
21
22 CHAIRMAN LOHSE: Doug.
23
24 MR. BLOSSOM: Mr. Chairman. I guess I
25 would prefer that we take their proposal for this year
26 and kind of act on that rather than -- the long-term
27 thing we'll do in October, I would just as soon prefer
28 that we take this request, it's a dip net, I don't want
29 to.....
30
31 CHAIRMAN LOHSE: Okay.
32
33 MR. BLOSSOM:you know -- I have
34 heartburn with other types of gear and so if we take
35 this request it pretty well lays it out. This is a
36 special request and in October we'll take up the longer
37 thought of what goes on in the future.
38
39 CHAIRMAN LOHSE: A motion can be made
40 to that order. A motion's available to anybody on the
41 Council to make.
42
43 MR. BLOSSOM: We're not done with the
44 public yet.
45
46 CHAIRMAN LOHSE: Yeah, when we're done
47 with the public, yeah. But that was my understanding
48 is that all we would deal with is the other, but if
49 somebody on the Council wants to make a different
50 motion that's perfectly okay.

1 Any questions for John.
2
3 (No comments)
4
5 MR. STARKEY: Thank you, Mr. Chairman.
6
7 CHAIRMAN LOHSE: Thank you.
8
9 MR. STARKEY: Thank you, Council.
10
11 CHAIRMAN LOHSE: Well, with that we can
12 either take a break or we can take a motion.
13
14 MR. BLOSSOM: Mr. Chairman, I make a
15 motion that we take the request here in blue and
16 support that paper the way it is written and it's up to
17 the Federal people to add to it, but we can support
18 this part of it.
19
20 CHAIRMAN LOHSE: That's for the coho
21 fishery?
22
23 MR. BLOSSOM: For the coho fishery
24 only.
25
26 CHAIRMAN LOHSE: Okay.
27
28 MR. BLOSSOM: Yeah, the coho fishery
29 only.
30
31 CHAIRMAN LOHSE: The coho fishery only,
32 okay. Do I hear a second.
33
34 MR. ENCELEWSKI: Second.
35
36 CHAIRMAN LOHSE: Okay.
37
38 MS. STICKWAN: I have a question.
39
40 CHAIRMAN LOHSE: Gloria.
41
42 MS. STICKWAN: For the other part of
43 the question for the lake trout, are you saying that we
44 would take that.....
45
46 MR. BLOSSOM: No, we'll just take the
47 coho now, we'll do the lake trout in October, I think.
48 I don't think we should do that now.
49
50 CHAIRMAN LOHSE: They should be able to

1 -- if they know it's going to be on the agenda in
2 October, they should be able to bring us more
3 information.

4

5 MR. BLOSSOM: Yeah.

6

7 CHAIRMAN LOHSE: Okay. So we have a
8 motion on the table, it's been made and seconded. Tom,
9 did you hear the motion?

10

11 MR. CARPENTER: Yes, I did Ralph. I
12 did have a question though.

13

14 CHAIRMAN LOHSE: Okay.

15

16 MR. CARPENTER: I guess the only
17 question I had, you know, just listening to the
18 comments from the biologists and Council member and
19 people from that area, it doesn't sound like there's a
20 conservation problem, we're only dealing with the main
21 stem of the Kasilof. I did have one -- and I'm not
22 sure that it's a critical thing, but, you know, from a
23 commercial standpoint, I think that these fish that are
24 taken in the subsistence fishery should be marked
25 somehow, and I don't know if that's something that the
26 managers could, you know, fill in when they hand the
27 permits out but just a point. Other than that I don't
28 have much worry about this.

29

30 CHAIRMAN LOHSE: Tom, would you like me
31 to read to you the whole proposal that was put before
32 us, I don't think you have a copy of it because it just
33 got on our table today, or does Tom have a copy of it
34 Don?

35

36 MR. MIKE: I emailed him a copy.

37

38 CHAIRMAN LOHSE: Okay, you have a copy?

39

40 MR. CARPENTER: Yeah, I have it.

41

42 CHAIRMAN LOHSE: Okay. Yeah, I think
43 that that was brought up before and I think I know I
44 totally concur with that and in the Copper Basin we've
45 stressed that quite a few times that, you know, we
46 wanted to be able to keep things separate that way so I
47 think the idea -- but like I said, I think the details
48 are going to have to be worked out by the Board but we
49 could definitely put that in for a suggestion or since
50 it's in our minutes they can recognize it as a

1 suggestion from us.

2

3 MR. CARPENTER: Right. I just think
4 that should be something that should be included or at
5 least recommended that they consider.

6

7 CHAIRMAN LOHSE: Yeah.

8

9 MR. CHURCHILL: Question.

10

11 CHAIRMAN LOHSE: Bob.

12

13 MR. CHURCHILL: Yeah, I think we ought
14 to really make note and I know you'll pass this on that
15 my belief is I'd like to see this community-based. I
16 think we've had some great testimony from people here
17 on cautions we should take with it, but as a first
18 step, we may be able to learn quite a bit from this
19 fishery this fall.

20

21 So it will take some good -- some faith
22 on both sides and we can learn from this. But I think
23 it's critical on how the permits are issued, that it's
24 community-based, and that we keep focused that the
25 testimony has been that the elders are not getting the
26 fish that they need to get so we need to make sure that
27 this happens out of this.

28

29 So with that I'm certainly willing to
30 support this.

31

32 CHAIRMAN LOHSE: Any other discussion.

33

34 (No comments)

35

36 CHAIRMAN LOHSE: Question's in order.

37

38 MR. CHURCHILL: Call the question.

39

40 CHAIRMAN LOHSE: Question's been
41 called. All in favor of the motion as it sits on the
42 table signify by saying aye.

43

44 IN UNISON: Aye.

45

46 CHAIRMAN LOHSE: All opposed signify by
47 saying nay.

48

49 (No opposing votes)

50

1 CHAIRMAN LOHSE: Motion carries
2 unanimously. And this is a recommendation is what
3 we're voting on right here. It's a recommendation to
4 the Board.

5
6 Okay, at that point in time we finished
7 that, we have an opportunity for other public testimony
8 if anybody out there wishes to say something, we won't
9 throw any tomatoes at you.

10
11 MR. CHURCHILL: Notice you didn't
12 mention any other fruit, but.....

13
14 (Laughter)

15
16 (No comments)

17
18 CHAIRMAN LOHSE: Hearing none, do we
19 have any other Council comments or recommendations to
20 be made?

21
22 (No comments)

23
24 CHAIRMAN LOHSE: I'll just make a
25 comment. I think that for a short-term meeting called
26 as short as it was, with the information we had, we did
27 a fairly decent job on it. And I really appreciated
28 the material that was presented to me from both the
29 Staff and from Donald and from Ninilchik, and I look
30 forward to hoping that this alleviates some fears
31 instead of build some fears, we'll see what happens at
32 the end of the year.

33
34 And I also hope that our action that we
35 took on the other one is considered significant.

36
37 With that.....

38
39 MR. CHURCHILL: I'd like to move we
40 adjourn.

41
42 CHAIRMAN LOHSE: The meeting is
43 adjourned.

44
45 MS. STICKWAN: I have a question.

46
47 CHAIRMAN LOHSE: Oh, Gloria.

48
49 MS. STICKWAN: Are we going to have
50 input on that 70/30 rule then?

1 CHAIRMAN LOHSE: Yes, definitely.
2 That's all going to be brought back before us.
3
4 MS. STICKWAN: Okay.
5
6 CHAIRMAN LOHSE: Okay. No further
7 questions.
8
9 (No comments)
10
11 CHAIRMAN LOHSE: Meeting is adjourned.
12 Thank you all.
13
14 (Off record)
15
16 (END OF PROCEEDINGS)

