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EASTERN/WESTERN INTERIOR FEDERAL SUBSISTENCE
REGIONAL ADVISORY COUNCIL JOINT MEETING

Fairbanks, Alaska
October 8, 2002
9:00 o'clock a.m.

COUNCIL MEMBERS PRESENT:

Gerald Nicholia, Chairman
Sue Entsminger
Allen Stevens
Virgil Umphenour
Tricia Waggoner
Jim Wilde

Regional Coordinator, Donald Mike

COUNCIL MEMBERS PRESENT:

Ronald Sam, Chairman
Angela Demientieff
Benedict Jones
Jack Reakoff
Michael Stickman
Robert Walker

Regional Coordinator, Pete DeMatteo

P R O C E E D I N G S

(Fairbanks, Alaska - 10/8/2002)

(On record)

CHAIRMAN SAM: If our Council members will make it up to the table. Eastern Interior has a quorum. Western Interior is expecting one this afternoon. So just a few quick announcements. I talked with our recorder, she asks that all Council members turn on their mike whenever we speak and that goes for the Staff that's present with us and all the people that want to testify.

Since I don't have a quorum I would just like to say in opening that I'd like to thank Eastern Interior for accepting us at the last moment. As many of you know, Western Interior's Council meeting was scheduled in Holy Cross but due to a funeral within that area it was cancelled. And Eastern Interior accepted our presence here at their scheduled meeting because of both the State Department Staff and Federal OSM Staff. So at this time I would just like to turn it over to Gerald.

CHAIRMAN NICHOLIA: Yeah, thank you, Ron. Just to establish my quorum, I'd like Tricia to call out who's all here, we've got four members for a quorum.

MS. WAGGONER: Craig Fleener.

CHAIRMAN NICHOLIA: Oh, wait, wait, sorry about that.

I'm missing something here. I just lost one of my elders and I want Paul Williams to come up and give the invocation before we start.

MR. WILLIAMS: (Invocation - In Native Language)

CHAIRMAN NICHOLIA: Okay, I'd just like to mention that I'd like to have a moment of silence for my uncle John Starr. He's the one that inspired me to be on this Council here, he talked me into it. And this last past week we just lost him and so I'd like a moment of silence and prayer for the family, they're going home from here to Manley, then Manley to Tanana by boat.

(Moment of Silence)

CHAIRMAN NICHOLIA: Thank you guys. Okay, we'll establish a quorum here and then we'll try to move on to -- we're going to have kind of like a floating agenda today because Western didn't have a quorum.

MS. WAGGONER: Okay, Craig Fleener. Jay Stevens.

MR. STEVENS: Present.

MS. WAGGONER: Sue Entsminger. Jim Wilde.

MR. WILDE: Here.

MS. WAGGONER: Tricia Waggoner. Here. Gerald Nicholia.

CHAIRMAN NICHOLIA: Here.

MS. WAGGONER: Virgil Umphenour.

MR. UMPHENOUR: Here.

MS. WAGGONER: Quorum is established.

CHAIRMAN NICHOLIA: All right, thanks.

CHAIRMAN SAM: Yeah, just for the record, the record will reflect present we have here Robert Walker of Anvik, Angela Demientieff of Holy Cross, Benedict Jones of Koyukuk and myself from the Western Interior.

Thank you.

CHAIRMAN SAM: Yeah, you just heard all my Council members and I'd like to move on to an introduction of agency and Staff and honored guests or whatever. Just go like around the room and introduce yourselves.

MR. DeMATTEO: I'm Pete DeMatteo with the Office of Subsistence Management out of Anchorage. I'm the wildlife biologist for the Western and Eastern Interior regions. And also for the purposes of this meeting I'll be filling in for Vince Mathews who could not be at this meeting so I'll be acting coordinator.

Thank you.

MR. MIKE: Donald Mike, Office of Subsistence Management. Eastern Interior Regional Advisory Council coordinator.

MR. BERG: I'm Jerry Berg. I'm the fisheries biologist for the Kuskokwim area out of the Office of Subsistence Management.

MR. ROGERS: Randy Rogers, wildlife planner for Department of Fish and Game here in Fairbanks.

MR. RIVARD: Don Rivard. Division Chief, Fish and Wildlife Service, Office of Subsistence Management.

MR. CRAIG: I'm Tim Craig. I'm a wildlife biologist for BLM in the Dalton Highway Management Unit.

MR. McSWEENY: Ingrid McSweeny, BLM.

MS. WHEELER: Polly Wheeler, Fisheries Information Service, Office of Subsistence Management.

MS. FOX: Peggy Fox, Office of Subsistence Management. Deputy Assistant Regional Director.

MR. KRON: Tom Kron, OSM. Fishery biologist. I've also been helping to start up the Partners Program.

MR. SMITH: Mike Smith, Tanana Chiefs Conference. Director of Subsistence Resource Management.

MS. HILDEBRAND: Ida Hildebrand. BIA Staff Committee member.

MS. SIMMONS: Rod Simmons, Fish and Wildlife Service, Staff Committee member.

MR. CAMPBELL: Rod Campbell, Fish and Game. Division of Commercial Fisheries.

MR. DENTON: I'm Jeff Denton. Wildlife Biologist, Anchorage Field Office, BLM.

MR. FLIRIS: Bill Fliris, Copper River Drainage Fishermen's Association.

MS. ELKIN: Kimberly Elkin, fisheries biologist Tanana Chiefs.

MS. DEMIENTIEFF: Clara Demientieff, RIT, Nowitna Wildlife Refuge, McGrath.

MS. FRIEND: Connie Friend, RIT, Tetlin Refuge.

MR. SHULTS: Robert Shults. Refuge Manager, Kanuti Refuge.

MS. MALANOUSKI: Jodi Malanouski, Park Ranger, Kanuti Refuge.

MR. RABINOWITCH: Sandy Rabinowitch, National Park Service, Staff Committee to the Federal Board.

MS. BRAZE: Audra Braze, Alaska Department of Fish and Game, Commercial Fisheries here in Fairbanks.

MR. VANIA: Tom Vania, Alaska Department of Fish and Game, Commercial Fisheries down in Anchorage.

MR. SANDONE: Gene Sandone, Department of Fish and Game, Comm Fish in Anchorage.

MR. BUE: Fred Bue, Department of Fish and Game, Comm Fish here in Fairbanks.

MR. MADROS: Pat Madros, Jr., RIT with the Koyukuk Refuge.

MR. BEYERSDORF: Jeff Beyersdorf with the Koyukuk Nowitna Refuge. I'm a subsistence coordinator based in Galena.

MR. HOLDER: Russ Holder, Fish and Wildlife Service based in Fairbanks. In-season manager for the Yukon River.

MR. WISWAR: David Wiswar, Fish and Wildlife Service, fisheries biologist here in Fairbanks.

MR. HEUER: Ted Heuer, Refuge Manager, Yukon Flats National Wildlife Refuge.

MR. NALALEN: I'm Roy Nalalen with Alaska

Department of Fish and Game in Fairbanks. I'm the management coordinator for Interior.

MS. BROWN: Wennona Brown. Refuge subsistence coordinator for Yukon Flats, Kanuti, Arctic National Wildlife Refuges.

MR. WILLIAMS: I'm Paul Williams, RIT.

MR. BOUDREAU: Toby Boudreau, Alaska Department of Fish and Game, McGrath area biologist.

MS. PETRIVELLI: Pat Petrivelli, anthropologist, Office of Subsistence Management.

MR. ZUREY: Stan Zurey, Yukon River Drainage Fisheries Association, Tanana. I live in Tanana.

CHAIRMAN NICHOLIA: All right, thank you. Ron.

CHAIRMAN SAM: Yeah, thank you, Gerald. Just for the Western Interior Council members, I had asked Pete DeMatteo to look into a spare room some place else in case we have to go to an evening session. We may be looking at an evening session tonight or tomorrow to go through the agenda. And I would also like to thank Don Rivard and Pete DeMatteo for putting this meeting together with short notice.

Thank you.

CHAIRMAN NICHOLIA: On the pat that we review of the joint meeting agenda is that we're just going to have to have a floating one and I'll let Donald take over from here.

MR. MIKE: Thank you, Mr. Chair. Donald Mike, Office of Subsistence Management. On the agenda, we neglected to include one more item and that would be meeting locations and that could be under agency reports.

CHAIRMAN NICHOLIA: I noticed that we didn't have introduction of Office of Subsistence Management and Council member comments here.

MR. MIKE: Mr. Chair, we can do that, Council member concerns, we can do that during our break out sessions. I think that would be more useful for our

time here.

The other -- we have to look at the agenda for, on the fisheries proposals, Pat Petrivelli from OSM needs to catch a plane and be out of here by noon so under fisheries proposal, I think the Council might want to look at moving her up as the first person giving the Staff analysis on Fisheries Proposal 11 and 13.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: Go ahead with it.

MR. MIKE: So are you adopting the agenda with these added items?

CHAIRMAN NICHOLIA: Yeah, I think what I mentioned earlier is that it's going to be a floating agenda so why even adopt it.

MR. MIKE: Okay, so you want to go with the fisheries proposal with Pat Petrivelli?

CHAIRMAN NICHOLIA: Yeah.

CHAIRMAN SAM: Yeah, I agree with Gerald, a floating agenda, take it as it comes. We don't have much choice since we're compressing two meetings into one.

Thank you.

CHAIRMAN NICHOLIA: So Donald you said you wanted to do a Proposal 11-13 first, right?

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

CHAIRMAN NICHOLIA: Okay, then do we got the people here for that?

MR. MIKE: Yes, Pat Petrivelli's here to present the Staff analysis.

MS. PETRIVELLI: Mr. Chairman, thank you very much for making an exception. And the analysis is -- my name is Pat Petrivelli. I am an anthropologist for the Southcentral region and for the Kodiak/Aleutians. The proposal analysis begins -- the actual analysis begins on Page 61 but it deals with two proposals,

Proposal 11 and Proposal 13.

Proposal 11 was submitted by the Board and it dealt with adding the residents of the Delta Junction area to the list of communities having a customary and traditional use determination for salmon in the Chitina subdistrict of the Copper River.

Proposal 13 was submitted by the Lake Louise non-profit corporation, Gary Howard's their executive director and it requested customary and traditional use determination for salmon in the Glennallen and Chitina subdistrict for the residents of Lake Louise.

With Proposal 11, that resulted from comments last year from Mr. Good who, during consideration of adding communities to the Chitina subdistrict, he asked that Delta Junction be added and then the Board asked that it go through the regular Council review process. So that's how this ended up getting delayed to this year.

First George Sherrod did an analysis of the Delta Junction area communities and I did the Copper Basin communities. And then we realized to simply the issue and deal with one, the use determinations we would combine the proposals and then also we were asked to look at all the potential users of this district -- or of the salmon in these two districts. So the analysis took a look at the different areas of use. So this proposal analysis has been combined and we looked at use theoretically of all the potential users of the Chitina and Glennallen subdistricts in the Copper River.

The Federal waters involved are just the mainstem of the Copper River and I apologize that there's no maps, there's map references in the analysis but there's no maps. But basically, the Chitina subdistrict is the 10 mile branch from the Haley Creek to the Chitina bridge. And then the Glennallen subdistrict is from the Chitina bridge up to the Slana River. So it's just the mainstem of the Copper River and that's what this would deal with, this analysis.

In the communities with the existing customary and traditional use determinations, in 1999 when Federal government assumed management of the fisheries, at that time the State had a subsistence fishery in the Glennallen district in a personal use

fishery in the Chitina district. So those were the regulations that we adopted. Since that time in December of 2000, the State made the Chitina subdistrict subsistence and then the Federal Subsistence Board added communities to this Chitina subdistrict. So on Page 62, has all the existing communities with customary and traditional use determinations and so 25 communities and areas have been added to the Chitina subdistrict. And then for the Glennallen subdistrict, the determination made in 1999 was the residents of the Prince William Sound Management area. And since then the Federal Subsistence Board added other communities and then those are also listed. But they've added 12 communities and areas to the Glennallen subdistrict which included some communities from the Upper Tanana River drainage.

So more communities have been added since 1999.

In looking at potential users of these two subdistricts, the data we had available were some Fish and Game studies done in 1982 and 1987 for the Copper River Basin. And then there was household surveys done in 1987 of the Parks Highway Communities and then in Nenana there was a household survey done in the 1980s. But other than that the permit data from the historical salmon harvest data base which lists all the permits and use. And those are listed by communities only from 1988 to the present where we have it identified as community breakdown. And on Page 64, there's a statement in there where it says Fish and Wildlife harvest statistics collected by ADF&G are available for all communities, that should say are not available for all communities.

Because the paragraph goes on to notice how there are small communities within the study area that don't have separate mailing addresses. So such as Lake Louise, there's no evidence of them obtaining permits in the Chitina district because they get their mail at Glennallen and there's a number of communities and areas who don't have a separate post office so we have no permit data for them at all. So in the sentences after that statement go on to say that. So -- but it should -- and it mentions all the residents that live along the highway that get their mail at other places but they're not truly members of the community. But those were our sources of data. Those ADF&G household studies and then also the permit data for those districts. And.....

In the communities -- in looking at the ones who had shown some level of use who didn't have a C&T, we lumped those areas into three groups. The Copper River Basin communities, the Delta Junction area communities and the Parks Highway. And those are described in tables on -- in -- on 67 and then on 71. For the Copper Basin, the communities that don't have C&T, they're listed on 68, it's Lake Louise, Paxson, Sourdough, Chickaloon and then there's the East Glenn Highway area and the West Glenn Highway area and what those are, are residents that live along the highway. And then for the Delta Junction area, those are -- and those are listed on Page 71 is Big Delta, Delta Junction, Deltana, Dry Creek and then Ft. Greeley. And even though they're listed here, all the data that -- they're only listed here just to indicate that they're in that area but they're not considered elsewhere -- where the Federal Subsistence Board has made customary and traditional use determinations for this area, we've excluded Ft. Greeley resident because their residency in Ft. Greeley is of a temporary nature so there's no evidence of them establishing long term use of the resource. So the Ft. Greeley residents are excluded from that Delta Junction area.

For the Parks Highway area, the communities are Mt. McKinley Village, Healy, Anderson, Clear and Nenana. Nenana's the only traditional community in there and then another note should be made about McKinley Village, that is the residents of the community outside the Park area. And so there's a few places where it refers to McKinley Park but it's really -- we're making reference in the ADF&G subsistence survey included Mt. Mckinley Village and the Park residents are excluded because they're also of a temporary nature. The data that we're making reference to are only residents of McKinley Village.

So -- but basically in those three groups of those three areas, the community characteristics, if there could be said -- I'll start with the Copper River Basin, Chickaloon is the only one that has a tribal government and the -- in the Copper River Basin and the rest are loosely incorporated as non-profit corporations and they're small residents that are -- essentially they came about as a result of transportation corridors or recreational facilities mainly for Paxson and Sourdough and, of course, west Glenn Highway and the East Glenn Highway are the communities that live along the highway. Chickaloon was -- has some traditional residents but also has another non-profit community and -- that became

1 established as a result of mining activities.
2
3 In the Big Delta Junction area -- or the
4 Delta Junction area communities, those, also have a
5 pattern of settlement in relation to the transportation
6 corridor between Fairbanks and Valdez and mining
7 activities and military activities. The same is true of
8 the Parks Highway communities except for Nenana. Nenana
9 is the only one with a traditional component.
10
11 So when we looked at other communities
12 that might have a potential use of the districts --
13 subdistricts, their use was minimal enough that these
14 were the only three areas considered to look at the eight
15 factors. So the rest of the analysis with the eight
16 factors just deals with these three areas.
17
18 And so in -- and the level of use of
19 salmon for these three areas, it's shown on Page 69 for
20 the Copper River Basin communities. The existing level
21 of use for salmon -- there's data relating to two types
22 of use. One is the number of households, the percentage
23 of households that use salmon and that's the third column
24 where it says percentage, household use. And for the
25 communities that -- consideration without C&T, from 64 to
26 87 percent of all the households use salmon as part of
27 their subsistence use of resources which falls in the
28 range of the communities with C&T. In the percentage of
29 salmon as part of their per capita usage -- because the
30 per capita pounds goes from 92 pounds a year of
31 subsistence resources up to 289 in Paxson, the percentage
32 that salmon makes of those per capita pounds ranges from
33 one percent in Lake Louise to 55 percent on the East
34 Glenn Highway. And that percentage of it being part of
35 their overall resource reflects the distance from the
36 Copper River. Because Lake Louise is -- well, is farther
37 away from the Copper River and also they have a
38 significant amount of freshwater fish resource but then
39 the East Glenn Highway area is the closest to the Copper
40 River and it reflects the same percentages up at the top
41 for those communities that are close to the Copper River.
42
43 That data for the other communities is
44 only available for the Parks Highway and that's on Page
45 72 and it shows the household percentage of use and also
46 the significance of salmon in those per capita uses.
47
48 For -- the only other factor -- well,
49 from the Delta Junction area on Page 74 is where we show
50 -- actually that's -- it shows with the Delta Junction

area, just showing from permits, how much salmon that they used for the past 10 years and I -- let's see, and then in looking at the specific use tables six through nine, shows Parks Highway communities with permit data.

And then for the -- but I'll go back to just in factor four -- well, the data shows that these three areas have used salmon but then specifically to the Copper -- to the Chitina subdistrict and the Glennallen, the data we had for the Copper River Basin, there was mapping of use areas and those are listed on Page 75 and then the permit data which is on Page 79, the only communities that had permit data in the Copper River Basin were Paxson and Chickaloon. And for comparison purposes, the same permit data for the existing C&T communities are up above in -- and -- and as I said before, six through nine shows permit data for those -- for the other communities and then there's the Delta Junction area.

Besides showing levels of use because -- well, because the numbers -- it's kind of -- I guess in comparison in -- and because the analysis were combined, what you have to go is for -- is by community harvests and yearly averages for the Copper Basin and then for the Parks Highway communities there is mean fish per permits so there's different units of measures but what they do show is people have used those fish to one degree or another.

On Page 80, there's a table that shows the distances from the Copper -- or the communities from the Copper River Basin. We didn't do it for the Copper Basin communities because they are in the Copper River Basin part of the study. But for the Delta Junction area communities, it ranges from 227 miles to 262 distance and then the Parks Highway communities goes from 291 to 428 miles, which would relate to the efficient use of a resource and the level of use and -- and so -- and then the distance and -- and right below it is the table showing the number of permits obtained by those two areas, Delta Junction, on average has received 9.9 permits per residences and then Healy, Anderson and Nenana have gotten between three -- well, actually rom zero to 4.4, if you include Mt. McKinley Village, 4.4 permits per 100 residents.

And essentially -- and then there's a salmon harvested in Table 13 which ranges for Delta Junction area, 182 salmon per 100 residents and then for

the Parks Highway communities from zero to 167 salmon per 100 residents.

Basically in reviewing all this -- these different sources of data even though they're uneven, a recommendation was made but -- oh, but I guess before I do the recommendation, Page 84 has the effects of the proposal and in looking at the actual effects of the proposal from the original proposal, for Proposal 11, to add Delta Junction area it's -- that -- the effect of the proposal is no biological impact is anticipated if the proposal is adopted as written. The residents of the Delta Junction area have a history of fishing in both the Glennallen and Chitina subdistrict while under Federal fishing subsistence regulations, fishwheels may be used by the Chitina subdistrict, the terrain greatly limits the use of this technology.

For Proposal 13, currently the customary and traditional use determinations for salmon in the Upper Copper River district include 25 communities and areas for the Chitina subdistrict and 29 for the Glennallen subdistrict. Adoption of the proposal recognizing Lake Louise in these two subdistrict would have minimal effect in -- and one thing that I -- oh, I didn't cover, is the idea of this seasonally occupied -- but there are seasonally occupied homes in -- that was discussed but an adoption of recognizing Lake Louise or Paxson which has a high degree of seasonal occupation would only recognize the residents who declare those communities as their permanent place of residency. And all the data in the analysis relates to those communities, the ADF&G studies interviewed only the year-round residents of those areas.

And also in looking at the Copper River Basin, those additional communities and areas that were recognized, if that proposal is adopted to add those communities, the recommendation to add those as adopted, Staff would recommend that the determination be made just recognizing the residents of the Copper River Drainage above Haley Creek. And that would minimize the number of communities listed and recognize the communit -- the residents of -- who -- the use of residents who live along the road areas in between the named communities that are listed in the various studies and analysis.

And those named communities are the Copper River drainage above Haley Creek, that is listed on Page 88 -- well, actually I have to apologize -- or --

1 is most of the communities on Page 88, it would --
2 there's a few that would be left out here but there --
3 they're listed here in the -- on Page 84, the actual
4 communities that would be recognized, I think.
5
6 So if you have any questions, that
7 completes my analysis.
8
9 CHAIRMAN NICHOLIA: Yeah, I have a couple
10 questions here. This Proposal 13 -- if we -- it says
11 here, no action is required on Proposal 11 if we adopt
12 Proposal 13 and Proposal 13 was -- and it says Proposal
13 13 here was put on by the Federal Office of Subsistence
14 Management.
15
16 MS. PETRIVELLI: Uh-huh.
17
18 CHAIRMAN NICHOLIA: And this was a
19 request through Nat Good?
20
21 MS. PETRIVELLI: Well, 11 was by the
22 Office of Subsistence Management through a request by Nat
23 Good. And 13 was by Lake Louise. And actually if it's
24 -- if 13, as modified is adopted. And the recommendation
25 for 13 as modified is on Page 85.
26
27 CHAIRMAN NICHOLIA: Yeah, I see that. I
28 agree with that including the Delta Junction area,
29 excluding Ft. Greeley, I like that part right there.
30
31 MS. PETRIVELLI: Yeah. And I apologize
32 because I didn't read the Staff recommendation.
33
34 But for -- on Page 85 is the Staff
35 modification, recommended. And it would add Chickaloon,
36 Delta Junction area, Lake Louise, and then residents
37 along the Glenn Highway from Mile 90 to 137 to the
38 Chitina subdistrict and it would also make that
39 modification redescribing the communities.
40
41 And then for the Glennallen subdistrict,
42 it would add Chickaloon, Delta Junction area, excluding
43 Ft. Greeley, Lake Louise and residents that live along
44 the Glenn Highway to Mile -- from Mile 90 to 137 to the
45 Glennallen subdistrict.
46
47 And the justification is below. And the
48 Parks Highway Communities were left out due to their
49 distance from the subdistricts, due to their lower levels
50 of use of salmon in those districts. So the evidence of

use of those two subdistricts - -so we recommended not including Parks Highway communities in the customary and traditional use determinations.

I apologize for not finishing.

CHAIRMAN NICHOLIA: Okay, yeah, this ain't going to have no more adverse affect on the resource that it already is is it?

MS. PETRIVELLI: At this time because the uses are occurring under State permits anyway, so there was no biological impact anticipated to make these customary and traditional use determinations now.

CHAIRMAN NICHOLIA: Does my Council have any questions. Go ahead, Virgil.

MR. UMPHENOUR: Who made the decision to exclude the Parks Highway communities in this recommendation?

MS. PETRIVELLI: As Staff analysis, we made that recommendation looking at the data and the distances from the highway. So that's our recommendation at this time. And it's just the Staff recommendation, it's the preliminary Staff conclusion. Based upon.....

MR. UMPHENOUR: Well, I would move that we include them in the determination.

CHAIRMAN NICHOLIA: Before we do anything, I'd like to hear something from the State, if the State Department is here.

MR. CAMPBELL: Yes, Mr. Chairman, Council members. For the record my name is Rod Campbell, Alaska Department of Fish and Game, Division of Commercial Fisheries. I was hoping there would be someone here from our Subsistence Division but there isn't.

In your booklet on Page 90 it does have ADF&G Staff comments and basically those deferred our comments until we had a little bit more time for the Subsistence Division to review these. However, the Subsistence Division did provide just a couple of -- a little bit of information I'd like to present now I'd just mention for the record if that's okay.

CHAIRMAN NICHOLIA: Yeah, go ahead.

MR. CAMPBELL: The Subsistence Division noted that on Page -- I believe it's Page 61 in this analysis. Fish and Game does disagree with the statement by Mr. Good that the Richardson Highway once the Valdez Trail has connected Delta Junction to the Chitina area for almost 100 years. As I said Fish and Game does disagree with that statement. Chitina was not on the Fairbanks to Valdez trail and it is not the Richardson Highway as far as that's our understanding of that.

Also one other note said, although that dipnetting in the area by a few people from the Fairbanks or Delta Junction -- or Fairbanks area, excuse me, dates back to the 1940s we have not found any evidence of 100 years of use of the Chitina area by Delta Junction residents. It's our belief that this is mostly a product of the last 30 years.

And just as a general statement and I believe that Pat has incorporated that in the Staff recommendations, the State does support an area versus community approach to the C&T determinations. It's our feelings that this does avoid or at least try to minimize leaving islands or kind of a checkerboard pattern where there's areas of ineligible users within an area. And like I said, I believe that that was incorporated in the Staff recommendation.

That's all I have unless there's someone else from the Subsistence Division that would like to add something, Mr. Chairman.

CHAIRMAN NICHOLIA: Yeah, Pat. What he just he mentioned, was that incorporated?

MS. PETRIVELLI: Well, through the use of the Copper River drainage concept and then also the idea of the Delta Junction area.

CHAIRMAN NICHOLIA: And if we do what Virgil intended to do, would including the Parks Highway put anymore weight or burdens or over use on this Copper River/Chitina River area?

MS. PETRIVELLI: I guess -- well, as an anthropologist with the -- making C&T determinations -- well, because of existing -- it's based upon past use, but the biological impact is difficult to assess because as they -- they could harvest salmon under State regulations and they have been harvesting salmon under

State regulations.

So -- but -- and I guess -- oh, when -- with the customary and traditional use determinations -- the comments on Page 86 just say -- as far as the Parks Highway communities going -- or is concerned -- in looking at the eight factors involved in making determinations, it says that while -- it shows that they've had a consistent pattern of use of Copper River salmon, the idea of reasonably accessible might be questionable and I guess that's where you would have your comment and then the idea of community level of participation, but biological impact, I -- I don't think there's -- there would be any since they would also be able to harvest under State regulations.

MR. WILDE: Mr. Chairman, we have a motion on the floor and I'd like to second that so it can be discussed.

MR. MIKE: Mr. Chair, I think it's premature to go through final Council deliberations. We still have tribal governments and other agency comments, Fish and Game Advisory Committee comments and summary of written public comments, public testimony and the final item would be Council deliberations.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: Yeah, I'd like to follow that format. I'd like to listen to all the information before I make a decision on anything. Because it's -- I just don't like to -- one thing that I'd like to mention here now is what that State person mentioned is that I don't like to create little islands of C&T use for one community when it excludes another community. We went into too much heavy discussions two years ago on this C&T determinations and I'd like to just hear all the information, if possible.

MR. UMPHENOUR: I'll withdraw my motion until after all the -- until the appropriate time on the agenda.

MR. WILDE: Withdraw.

MR. MIKE: Mr. Chair.

CHAIRMAN NICHOLIA: Go ahead, Donald.

MR. MIKE: Proposal review and procedure calls for tribal government and other agency comments.

CHAIRMAN NICHOLIA: Is there anyone from TCC or tribal governments who want to make a comment on this Proposal 11 and 13?

MR. SMITH: My name is Mike Smith, Tanana Chiefs Conference.

In regards to this proposal, I mean it goes to a general concern we have as to the extension of C&T and customary and traditional use determinations, that those determinations might be getting watered down a little bit and that we need to be relatively careful on extending those determinations to communities that may or may not have met the standards and we're not real sure that these communities have met those standards yet.

CHAIRMAN NICHOLIA: Excuse me, do you have any back up information other than what you mentioned?

MR. SMITH: No, sir, we don't have nothing written right now on this although we could certainly develop a position paper on it. We weren't really anticipating getting too heavily involved in this right now. But we could certainly generate a position paper on it and submit it to the Council.

CHAIRMAN NICHOLIA: So clearly, what is TCC's position today, oppose this proposal or do they support it or are they neutral?

MR. SMITH: Right now we would -- we generally oppose it because we don't think the determinations have been met in regards to the C&T determinations.

CHAIRMAN NICHOLIA: Go ahead Virgil.

MR. UMPHENOUR: Thank you. I don't know whether Tanana Chiefs has considered this or not but they might consider that the fish stocks in the Yukon River have been severely depressed in recent times and that the people that live in Nenana, of which, a large number of them are members of Tanana Chiefs may not get to go subsistence fishing in Nenana however, they can go subsistence fishing in Chitina and a number of them, in deed, do that anyway. And so to me, I think maybe Tanana

Chiefs ought to consider that fact.

Have you considered that fact, Tanana Chiefs?

MR. SMITH: Yeah, Virgil, we have. And we think that a majority of the subsistence fish that get caught out of Nenana are done in the local areas. That the few people who do go down to Chitina can certainly avail themselves of that resource per the State permit requirements.

MR. UMPHENOUR: Thank you.

CHAIRMAN NICHOLIA: If there's no more comments from tribal governments, entities, we'll move on. Ida, you want to say something?

MS. HILDEBRAND: Thank you, Mr. Chairman. Ida Hildebrand, BIA Staff Committee member.

For your information, I believe the Southcentral Council voted these proposals down stating that they did not meet the eight criteria to establish C&T for these communities. But you might request clarification from someone who was there.

Thank you.

MR. MIKE: Mr. Chair, thank you. Just for the record, when we have speakers, please state your name and your agency you represent. Thank you.

CHAIRMAN NICHOLIA: What was that Donald?

MR. MIKE: When we have people coming up to the mike, please state your name and agency you represent. Thanks.

MS. FRIEND: Mr. Chairman. I'm Connie Friend with Tetlin Wildlife Refuge. I attended the Subsistence Resource Commission meeting in Tok the 25th and 26th of September. I know that they opposed the addition of Delta Junction for reasons that have been stated, that they didn't feel that they had enough evidence of C&T but I believe that they wanted to include people along the highway who were nearer to Glennallen and I believe Chickaloon but I can't say definitively.

That was their position to the best of my

knowledge.

CHAIRMAN NICHOLIA: Go ahead, Virgil.

MR. UMPHENOUR: Did they consider that a commercial fishery of which about 45 percent of the people don't even live in this state harvest in excess of a million of those fish a year?

MS. FRIEND: I can't speak for them. We were discussing the three percent for subsistence and that was their comments, their position.

MR. UMPHENOUR: So you don't know whether they even considered that in their deliberations or not?

MS. FRIEND: (Shakes head negatively)

MR. UMPHENOUR: Was it even brought to their attention in a Staff report?

MS. FRIEND: They were deliberating on subsistence and I don't believe -- I don't remember their saying anything about the commercial fisheries. It wasn't about commercial fisheries at that point.

MR. UMPHENOUR: Thank you. Mr. Chair.

CHAIRMAN NICHOLIA: You know, since this Federal system, the Office of Subsistence Management only has control over subsistence fisheries within Federally-controlled waters, they don't have control over sport or commercial, just the State does. We could make recommendations and support their positions and stuff but we can't really do anything within the sport or commercial fisheries arena from our perspective. So I wanted to put that straight out.

What's next Donald?

MR. MIKE: Mr. Chair, I handed out an orange colored folder and in it on the top is the Wrangell-St. Elias Subsistence Resource Commission recommendation for Proposal 11 and 13.

For Proposal 13, the Subsistence Resource Commission Wrangell-St. Elias National Park, their recommendation is to revise C&T use determinations for salmon in the Chitina subdistrict of the Upper Copper River district to include the residents of the Cooper

River drainage above Haley Creek, Chickaloon, Delta Junction area excluding Ft. Greeley, Lake Louise, Mile 90 to Mile 137.

The Wrangell-St. Elias Subsistence Resource Commission opposes this proposal on the basis that the proposal does not adequately consider which communities are truly local to resources in consideration. We recognize that many Alaskans use the Chitina subdistrict fisheries as State users and the communities listed in the proposal can still exercise that opportunity.

The SRC strongly feels that it is important to be careful in expanding C&T and granting the Federal subsistence priority. The SRC also feels that the communities involved need to be consulted.

Thank you, Mr. Chair.

Mr. Chair, there was no summary of written public comments received for Proposals 11 or 13.

MS. PETRIVELLI: And Mr. Chair, the Southcentral Council did move to -- or vote to oppose these proposals. So that's just to echo what Ida said.

CHAIRMAN NICHOLIA: Yeah, I passed through Delta before and we had meetings there and stuff and I'm kind of like -- I don't like to exclude people but I'd like them to have come up with more evidence to me, more use determinations that they could prove, you know, to say that they had been there a hundred years or something. And then it comes from the Office of Subsistence Management and they're kind of always doing this to us.

I don't really like to include -- I don't really like to give another opportunity to -- like what I consider, Delta, as a non-rural area to my point of view. It may not be to my Councils but that's my point of view from just living there -- or I mean just being there and having the meetings there and stuff. I'll leave it up to my Council but I'm going to oppose this Proposal 13 and 11 from my perspective.

Because it's going to put another use -- even if the Office of Subsistence Management says that it's not going to burden the other users, like in the Copper River drainage, it does. It may just -- they do

studies out of these offices at Fairbanks and Anchorage but they have to go out there and actually live, the person that really does the subsistence living in the rural area.

It's time to move something.

MR. UMPHENOUR: Yeah, I don't know where we are exactly in the agenda. But the way I feel about this, beings you've stated your feeling, I would be in favor of this and there's a number of reasons for it.

I know that the body that we're sitting on here, we can't make any regulations except for -- or recommendations to the Federal Subsistence Board except for Federal subsistence users. But you have to look at the total use of the fish, the total number of fish harvested, that means the number of fish that get killed by humans. And when you look at the total number of fish that get killed by humans it's a gigantic amount and the majority of them are killed by a commercial fishery.

The purpose for subsistence regulations in the first place is to give the subsistence user priority over all other users because they're the people that depend on those fish for personal and family consumption, primarily. And the fish we're talking about are primarily sockeye salmon. There's no place in the Interior where you can get a sockeye salmon other than the Copper River unless you want to go all the way down to the Kenai River. That's the only other place in the state that any resident of the Interior can go get a sockeye salmon to eat.

There's been a number of times in recent times where the Yukon River drainage subsistence fisheries have been restricted or closed. When these fisheries are restricted or closed, the only other option for personal and family consumption for all the people of the Interior, whether they're a Federally-qualified subsistence user or not is the Chitina fishery. And so to not pass this is telling the people who live in Nenana and Delta Junction and every place else these two proposals would cover is that, you people aren't as good as those guys that live in Bellingham, Washington that come up and catch over a million fish a year after the Copper River, they have priority over you. To me that's what it's saying when you reject this proposal. So I am definitely in favor of the proposal because the subsistence law states that subsistence users have

priority over commercial users and so, therefore, I'm in favor of it because the commercial users do harvest, on average, over a million sockeye salmon a year and when you combine that with the coho salmon and the king salmon, 50, 60,000 king salmon a year down there where under the State rules, the subsistence only gets one king salmon for his whole family a year -- under the subsistence rules for the Federal Board they get more. But I'm not about to ever give a commercial fishery priority over subsistence fishery no matter what.

That's how I feel about it.

Thank you.

CHAIRMAN NICHOLIA: Donald.

MR. MIKE: Mr. Chair, we did not receive any public testimony forms. The next item on the proposal review and procedure is the Council deliberation, recommendation and justification on Proposals 11 and 13.

MS. WAGGONER: Yeah, I spoke with Chuck Miller last week who sits on the Wrangell-St. Elias Resource Commission. Personally my first input was, yeah, to approve it the way it stood. It affects my family that live in -- my portion of the family that lives in Delta Junction who utilize the resource.

But after talking with Mr. Miller and looking at making a C&T determination for subsistence, especially in times of shortage, the way the proposal's written it would encompass a huge geographic area. It would encompass very recent immigration, immigrants to the region that have only been here for the last three or four years.

And as we discussed last week, if the resource is at a point where subsistence priority, you know, where you shut down commercial and only residents with C&T determination could be fishing on the Chitina River for salmon, then individual communities or individual people would be able to obtain C&T at that point in time. But giving broad sweeping geographic C&T determination for Chitina salmon is, you know, in his point of view and changing my point of view, would be too broad of a sweep and therefore I am opposing the proposal as written.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: Thank you. C&T findings are made on the fish stock they're not made on the people harvesting the fish stock. It's made on the community and the area that the people live in and whether those stocks have been used by the people in that area for multi-generations. And these areas, such as Nenana, Delta, any of them, all fall in that category. They go back to the turn of the century with the gold rush when White men first came here and the whole Copper River was actually in famine because of the Carlile Packing Company's commercial fishing operation down at the mouth of the Copper River. There was a high degree of famine in the Copper River Basin because they caught too many fish and a lot of people starved to death.

But anyway, the determination -- the demographing of the people as far as how long they've lived there, that is not to be used in the determination of whether you have a positive C&T finding or not, it's the use of the stocks by the people in the area.

If you look at number 1, long term consistent pattern of use excluding interruptions beyond the control of the community or area, you're talking about the community, the area, you're not talking about some people that just recently moved to the area. To penalize the people that have lived there all their life for multi-generations because a few people moved from California or wherever they come from to the area is not in keeping with the spirit of the criteria.

Thank you.

CHAIRMAN NICHOLIA: Yeah, I think this thing right here, is a long term consistent pattern and use by who and control in what area? Consistent pattern use, the area can't use the -- the area can't use the area, the people use the area.

MS. WAGGONER: I think what we need to look at, though, in making C&T, is that, we need to provide that protection of the subsistence resource for the people that have been there and if it means limiting it to smaller communities and providing a checkerboard area then, you know, that's the way we need to look at it or individual C&T determinations. But making broad, sweeping geographical areas, I don't think is in the spirit of providing a subsistence priority to the

residents that have the customary and traditional use of the resource.

CHAIRMAN NICHOLIA: Another thing, too, is that all the fish in Alaska are going to disappear. I mean we just got to face the fact that if we make a broad sweeping area just in this Copper River, it's going to end up like the Yukon and there's just no question about that. So that's why I'm really opposing this.

MR. UMPHENOUR: When I look at this proposal, the only thing the proposal is doing is including some other communities. And you take the Parks Highway communities, for instance, if someone made a determination that it's too far away, it depends on the individual as to whether it's too far away or not and it depends on whether they wanted to eat salmon or not.

But I think some people are forgetting that what this -- the effect of this is. In times of shortage, what this is saying, is in times of shortage then the highest allocation goes to the subsistence user. If there's no shortage then there's no problem. But when there is a shortage, the allocation would go to the subsistence user, not the commercial fisherman.

And unless you can visualize how many fish these commercial fishermen are catching and they're catching them to make money, to sell them. I can remember the Chairman of the Copper River Advisory Committee saying at a Board of Fisheries meeting one time, if the people in Fairbanks or Palmer or Anchorage want Copper River salmon they can go buy it in the grocery store at $10 per pound, they don't need to be able to go down and catch one theirself for their family to eat.

Now, to me, what you're saying if you reject this is, fine, people that live in Nenana can go to Safeway and they can pay 9.99 a pound for a Copper River salmon that some guy from California or Washington caught. That's what you're saying to me.

But I am definitely in favor of this proposal.

Thank you.

CHAIRMAN NICHOLIA: Ida.

MS. HILDEBRAND: Thank you, Mr. Chairman. I ask for a waiver of the rules for a moment, I know you're in Council deliberations. But I would like to clarify that part of the reasoning in Southcentral was if when the Federal government doesn't give C&T everyone is eligible, that -- unless there's a restriction. Therefore, under the current law those people that Virgil are speaking about can still fish under the State law.

Thank you, Mr. Chairman.

CHAIRMAN NICHOLIA: Yeah. What I'm afraid of is if we do this there are going to be two avenues -- we're going to create two avenues for non-subsistence people to go out there and have two avenues where a truly subsistence person doesn't really have those two avenues because of their location right by the river. And if we make a board sweeping area, we're going to create more hardship for that little subsistence user by the river by all this big broad sweep of an area. That's what I don't want.

We're here to protect that little guy and not to help the big guy.

MS. WAGGONER: I think partly, too, here is that Nenana was not added in this and I would wholly support adding Nenana but I am still in disagreement with adding the Delta Junction area and I think maybe it would be best for the Staff or the affected communities to look within their own communities and revise it as to the residents that would be eligible.

CHAIRMAN NICHOLIA: So what you're asking for is a deferral?

MS. WAGGONER: Yeah. I think it needs more analysis. I would like to see maybe a more comprehensive analysis of the use data. You know, because long term pattern of use but quite a bit of the data is only in the last 10 to 15 years and if we could get some more, maybe traditional, historical knowledge of the use pattern of the Chitina district would help to provide some better information.

CHAIRMAN NICHOLIA: Yeah, I would like to see more information on this just like for the Delta Junction -- I don't like to exclude areas but I don't like to make a decision where I'm going to have to come back on it in the next two years and find out that I did

the wrong thing. I already experienced that and I don't like to make a broad sweeping deal, where we did that before, me and Craig Fleener, where it backfired on ius and I don't like that.

Go ahead, Virg.

MR. UMPHENOUR: Thank you. I have looked at this, extremely extensively. And I know that the records go back to statehood. And I know that in -- I believe 1961, I could be a little bit wrong and Ms. Wheeler in the audience can maybe correct me if I'm wrong, but I know that I think in 1961 there was just shy of 800 people that went down to Chitina subsistence fishing, this is in 1961 that were from the Fairbanks, Delta and Nenana area. I know that was in Dr. Falls report to the Board of Fisheries three years ago. And she can correct me if I'm wrong, I might be off by 20 people or so. But the records go back -- and actually counting people, too, I think 1961 -- however -- and part of it's in this report, the records go back to around 1910 is when the fishwheel was brought there by some gold miner.

And so this has already been done, there's no sense in inventing the wheel. You either decide. The question before us is do we think that the commercial fishermen, of which 45 percent of them are not even residents of this state have priority over harvesting fish in the Copper River over the people that live in Delta and Nenana and these other places. That's the question before us in times of shortage.

To me, there's no question about it. Those people that live in Delta Junction or Nenana and I know Nenana got thrown out but they, to me, should have a higher priority than a commercial fisherman from Bellingham, Washington. That's a simple question to me.

We're not going to put more pressure on the resource. The only time this would ever be used to allocate would be in times of shortage. And if times of shortage come then, I don't think that fishermen from Bellingham, Washington should have priority over someone catching a fish to feed his children that lives in either Nenana or Delta Junction.

Thank you.

I might ask, maybe we could ask Ms.

Wheeler that's sitting in the audience who works for the Office of Subsistence Management if, what I just got through saying is halfway close to correct.

MS. WHEELER: Thank you, Mr. Chair. Polly Wheeler, Office of Subsistence Management. I think it's probably halfway correct.

It's -- if my memory serves which is sometimes questionable, but if my memory serves then the figures that you mentioned are correct or were in Dr. Fall's report.

MR. UMPHENOUR: I'll call the question.

CHAIRMAN NICHOLIA: How can you call the question when you withdrew your motion?

MR. UMPHENOUR: I move to add the Parks Highway communities, including Nenana back in the proposal.

CHAIRMAN NICHOLIA: Is there a second. You could either vote this up or down, but we need a second to get this up.....

MS. WAGGONER: Second.

CHAIRMAN NICHOLIA: Questions.

MR. UMPHENOUR: I don't believe these people are second class citizens and I'm in favor of my amendment.

Thank you.

CHAIRMAN NICHOLIA: Okay, Donald, I'd like a roll call vote on this.

MR. MIKE: Thank you, Mr. Chair. I'm sorry, I missed the original motion, can someone restate it, please?

MR. UMPHENOUR: The motion is to add the Parks Highway communities back into the proposal which would be Nenana, those places down -- between there and Cantwell.

MR. MIKE: Thank you. This will be a roll call vote. Virgil.

MR. UMPHENOUR: Yes.

MR. MIKE: Jim Wilde.

MR. WILDE: No.

MR. MIKE: Jay Stevens.

MR. STEVENS: I'll oppose.

MR. MIKE: Tricia Waggoner.

MS. WAGGONER: Oppose.

MR. MIKE: Gerald Nicholia.

CHAIRMAN NICHOLIA: Oppose for the reasons I stated earlier.

MR. MIKE: Thank you, Mr. Chair. There's one yes and four no's.

CHAIRMAN NICHOLIA: Motion doesn't carry.

MS. WAGGONER: I move to adopt.....

CHAIRMAN NICHOLIA: So we're done with this 13 and 11, right?

MS. WAGGONER: No. No, that was the amendment.

CHAIRMAN NICHOLIA: That was an amendment, right. Okay.

MS. WAGGONER: I move to adopt Proposal 11 and 13 as amended.

MR. UMPHENOUR: Second.

CHAIRMAN NICHOLIA: Okay, Donald do another roll call vote. It's been seconded. Roll call.

MR. MIKE: There's a motion to adopt the proposal as amended. Virgil.

MR. UMPHENOUR: Yes.

MR. MIKE: Jim.

MR. WILDE: Yes.

MR. MIKE: Jay.

MR. STEVENS: Yes.

MR. MIKE: Tricia.

MS. WAGGONER: Oppose.

MR. MIKE: Gerald.

CHAIRMAN NICHOLIA: I oppose.

MR. MIKE: Mr. Chair, you have three yes votes and three no's -- or two no's.

CHAIRMAN NICHOLIA: I'd like to state for the record that I opposed it.

MR. MIKE: Mr. Chair, the first motion was to add the Parks Highway -- residents of the Parks Highway, was that the original motion.

CHAIRMAN NICHOLIA: No, that was the amendment to the motion.

MR. MIKE: Amendment to the motion, okay.

MS. WAGGONER: Donald.

MR. MIKE: Yes.

MS. WAGGONER: The first motion was to add the Parks Highway communities and that was shot down. The second motion that I made was to adopt Proposals 11 and 13 as written.

MS. PETRIVELLI: The Staff -- as amended.

MS. WAGGONER: Oh, I'm sorry, as amended by OSM in their recommendations.

MS. PETRIVELLI: Yeah. So is that what was adopted, the recommendation on Page 85?

MS. WAGGONER: (Nods affirmatively)

MS. PETRIVELLI: So maybe you should clarify that.

MS. WAGGONER: Okay. My motion was to adopt Proposals 11 and 13 as amended on Page 85 for the residents -- to give C&T for the residents of Copper River above Haley Creek also adding Chickaloon, Delta Junction and Lake Louise and the Parks Highway from Mile 90 to Mile 137 and then going down, Delta Junction, the same thing for the Glennallen district and that was what my motion was for, was for that amended proposals.

CHAIRMAN NICHOLIA: Go ahead, Don.

MR. RIVARD: Don Rivard, Office of Subsistence Management. I just wanted to, for clarification sake, as you'll see on the top of Page 85, under the preliminary conclusion, the Staff is recommending support Proposal 13 with the modification and at the end of the -- the next sentence after that long paragraph, if you do adopt 13 per above then no action is required on 11. And with your motion, Tricia, you said both 11 and 13. So it's one or the other, it would not be both.

Does that clarify things a little bit?

MS. WAGGONER: (Nods affirmatively)

MR. RIVARD: Okay.

CHAIRMAN NICHOLIA: We may need a little clarification here. It says -- we thought we were going to vote on 13 or 11 or -- we'll just rescind what we did earlier. Go ahead.

MR. UMPHENOUR: I don't know who answers the procedure questions here but the way I look at it and the way her motion was was to vote on 11 and 13 as amended. However, taking -- I had already read this this morning so I fully understood what we were doing. To me it seems like the motion we made and that we voted on is an appropriate motion. Because even though you have a no action is required on 11 if 13 is adopted, it doesn't seem to me like it makes any difference one way or the other.

Can someone answer that question? Do we have a Department of Law type person or someone here?

MS. PETRIVELLI: I'll have to admit I can't answer the question. But maybe you could revote and if you could decide if you accept the Staff

modification and then you could just clearly say that, yes, you accept the Staff modification and that's what you're voting on. Whether it's 11 or 13, I don't think it really matters. Would that be true.

It would just be -- because the Staff modification doesn't -- 11 asks for C&T for residents of the Delta Junction area, 13 asks for C&T for Lake Louise, for the various subdistricts. The Staff modification, and if we could be -- we could say, as the proposal is modified on Page 85 and then we would clearly -- as it would read -- and then you could revote and say, as modified -- or the modified language on Page 85 and whether you want to say 11 or 13 then we would know clearly that that was the modification you were referring to.

So if you would vote over again we would know one way or the other.

CHAIRMAN NICHOLIA: Tricia, do you want to vote over?

MR. MIKE: Mr. Chair.

CHAIRMAN NICHOLIA: Go ahead, Donald.

MR. MIKE: Before we get any further, I'd like to get some parliamentary procedures clarified. Maybe I could ask the assistance of Ida on the first two motions that were voted on and see where we can go from there after we get a clarification.

MS. HILDEBRAND: Mr. Chairman. Ida Hildebrand, BIA Staff Committee member. The intent of the motion was to, I believe to defeat the motion but that wasn't stated. And to go back to a vote that you've already cast would require a motion for reconsider on your vote on 11 and 13. And when anybody makes a motion, please state your intent.

For instance, I make a motion to support X, Y, Z and my motion is, when I'm through stating my motion then I state to you, that I intend -- or if there's a second, then I state that I intend to vote against the motion or I intend to support the motion and my reasons for it.

Thank you, Mr. Chairman.

MS. WAGGONER: I move to reconsider the vote on the motion to enable to clarify the motion.

MR. STEVENS: Second.

MS. WAGGONER: Question.

CHAIRMAN NICHOLIA: It's been moved, seconded and question. All those in favor signify by saying aye.

IN UNISON: Aye.

CHAIRMAN NICHOLIA: Those opposed same sign.

(No opposing votes)

CHAIRMAN NICHOLIA: Okay, it's back on for reconsideration.

MS. WAGGONER: Okay, thank you, Ida for your help there.

Okay, so revising the motion regarding Proposals 11 and 13. Okay, looking at 13 as adopted -- or looking at Proposal 13 as revised on Page 85 -- Ida I'm going to need your help on this.

I move to not adopt Proposal 13. Is that going to.....

MR. UMPHENOUR: Point of order. Mr. Chairman, point of order.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: A motion is always made to the affirmative then you can speak to the motion, you might oppose it, but all motions should be made to the affirmative.

MS. WAGGONER: Okay. I move -- that's what I had originally said was, I move to adopt Proposal 13 as revised by OSM on Page 85.

MR. UMPHENOUR: Second.

CHAIRMAN NICHOLIA: It's been moved and seconded. Discussion.

MR. UMPHENOUR: Thank you. I am going to support the Staff's recommendations. I want to reference my previous comments on this subject. I don't really think there's much else to say that in times of shortage I feel the subsistence should have priority over all other users which include a gigantic commercial fishery that harvests in excess of a million of these fish a year for profit.

Mr. Chair.

MS. WAGGONER: Question.

MR. UMPHENOUR: You can't call the question you made the motion.

MS. WAGGONER: Okay.

MR. STEVENS: Question.

CHAIRMAN NICHOLIA: It's been moved, seconded and question called. Don, I'd like a roll call vote on this.

MR. MIKE: Thank you, Mr. Chair. There was a motion on the floor to adopt Proposal 13 as revised by the Office of Subsistence Management, Page 85 of the Council book. Virgil.

MR. UMPHENOUR: Yes.

MR. MIKE: Jim.

MR. WILDE: Yes.

MR. MIKE: Jay.

MR. STEVENS: No.

MR. MIKE: Tricia.

MS. WAGGONER: No.

MR. MIKE: Gerald.

CHAIRMAN NICHOLIA: No.

MR. MIKE: Mr. Chair, there's two yes and three no's.

CHAIRMAN NICHOLIA: Proposal 13 is opposed by this Council. And if we didn't do nothing with -- if we didn't pass 13, do we have to deal with 11 -- well, it says right there no action is required on Proposal 11 if 13 is adopted, so what are we going to do here?

MS. PETRIVELLI: Well, I guess since you didn't adopt it, you could take action just to have the record clear. You could give your recommendation on 11.

MR. UMPHENOUR: Move to adopt Proposal 11.

CHAIRMAN NICHOLIA: Is there a second.

MR. WILDE: Second.

CHAIRMAN NICHOLIA: Discussion. Virg.

MR. UMPHENOUR: There is a little bit of different discussion on this one because there is absolute positive proof and records of how many people that lived in Delta Junction went to Chitina subsistence fishing in 1961, that's part of the State records. So we have proof that that's multi-generations. So the people that live in Delta Junction have been participating in this fishery for sure, that there's records of since 1961. I believe the road was built in 1959. I'm not sure what year it was built. But anyway, the records go back to statehood and a C&T determination, I want to remind everyone that we're supposed to be making a determination on the use of the stock, not whether we have a bunch of aliens that have moved into Delta Junction from Russia. Which I think is what some people might be worried about.

This country is made up of people, a whole bunch of us came from someplace else originally. By law, we're supposed to make a determination on the use of the stock, not who's harvesting it and their ethnic background. So I am definitely in favor of this.

Mr. Chair.

CHAIRMAN NICHOLIA: So do you move to adopt, is there a second? Jim, did you second?

MR. WILDE: Yes, I seconded it.

MR. UMPHENOUR: I'll call the question then.

CHAIRMAN NICHOLIA: It's been moved, seconded and question. Again, I'm going to state my position on this.

I think that Delta already has an avenue to go down there within the State. Because the Copper River Delta, it's Federal on one side and State on the other side of the river. I think they do have opportunity and so I'm going to oppose it.

MR. UMPHENOUR: Okay. When it's State land on one side of the river and Federal land on the other side of the river, such as it is at Kaltag, for instance, because we have the Innoko Refuge on one side and State land on the other side, then the Federal rules apply for all the fish on both sides of the bank, even though only one side of the bank is Federal lands. And so there again, the only time any of these regulations are going to cause allocation is in times of shortage. And again, I'm going to say that the law is very clear that subsistence takes priority over harvest over a commercial fishery. So I will never ever vote any other way and by law, we can't, and so I'm in favor of this proposal.

Mr. Chair.

Question.

CHAIRMAN NICHOLIA: It's been moved, seconded and question called. Donald, again, I'd like a roll call vote on this.

MR. MIKE: Mr. Chair, it's been moved to adopt Proposal 11. Virgil.

MR. UMPHENOUR: Yes.

MR. MIKE: Jim.

MR. WILDE: Yes.

MR. MIKE: Jay.

MR. STEVENS: Oppose.

MR. MIKE: Tricia.

MS. WAGGONER: Oppose.

MR. MIKE: Gerald.

CHAIRMAN NICHOLIA: Oppose.

MR. MIKE: Mr. Chair, the vote was two yes, three no's.

CHAIRMAN NICHOLIA: Okay. Proposals 13 and 11 are opposed by the Eastern Interior Council, it was almost a split Council here. It's been requested that since we already gave our recommendation to the Board just now, this is -- we have a request from Randy Mayo, about one half hour, he wants to give public testimony on the Federal FACA issue -- yeah, I accept that if he's here.

MR. MAYO: Thank you, Mr. Chair, Board. It's a tough job here you folks have as I used to sit on the Eastern Interior Board. But I wanted to speak to this issue that came on the radar screen.

CHAIRMAN NICHOLIA: Could you state your name.

MR. MAYO: Sorry. Randy Mayo, Stevens Village Tribal Council, Council member here speaking on behalf of our tribal government.

I wanted to speak to the issue of, you know, this change in the make up of the Board to add sport and commercial representation. You know, I used to sit on the Eastern Interior Board, although ANCSA and ANILCA, you know, the Federal legislation that had really , you know, diminished the tribal governments role in, you know, a lot of the management issues out there on our traditional lands and that, you know, I just wanted to speak to that a suggestion that a tribally elected official from one of the tribal councils also be included, you know, if the Board make-up is going to expand for a lot of different reasons.

Not just for political reasons but also that, you know, like in Stevens Village we have been developing a tribal natural resource office and there's some folks, you know, sitting on the board here, I've known Virgil for a number of years and, you know, I think he understands what I'm talking about because he's knowledgeable about how tribal governments work into

1 resource issues. You know, we talked about it at one
2 point, you know, concerning a tribe in Arizona, although
3 we don't have trust lands up here.
4
5 And also some of the State and Federal
6 guys in the audience, you know, we have been working with
7 them and entering into a lot of studies, you know, Jay
8 Stevens is our deputy natural resource director. So it's
9 based on a lot of technical and biological studies that
10 we had been engaged with with the State and Federal
11 agencies out there.
12
13 So, you know, we're building our
14 infrastructure out there. We have two Federally-funded
15 tribal police officers. And, you know, there's just the
16 absence of State and Federal enforcement folks out there,
17 you know, the dollars are really limited we know and so
18 what I'm talking about is that -- I think that it's
19 really essentially now that a lot of other tribes besides
20 ours are really looking at this as, you know, the state
21 gets more crowded, there's more competition for a limited
22 resource that in a lot of areas like ours, you know, the
23 only government out there is the tribal government. And,
24 you know, when I'm speaking about tribal government like
25 being the only government out there we also in our
26 community, you know, serve non-tribal members also, being
27 the only government out there, there's no State -- you
28 know, we're not a second class city or nothing like that
29 but -- so, you know, it's just a suggestion right now.
30
31 I come out of a regional conference that
32 was held here about a week ago and that's on the minds of
33 a lot of the tribal leaders in the Interior region, you
34 know. Traditional use areas as opposed to the instituted
35 State and Federal game management units and the real need
36 for the tribal councils to start developing their
37 technical and biological infrastructure right in their
38 communities and run under the authority of their tribal
39 councils, you know, be it through tribal code or
40 ordinance or what not.
41
42 So that's what I want to work towards. So
43 that's my testimony. I'll be putting it in written form.
44 And start working with -- you know, through some of the
45 organizations, CATG or TCC and really put this on the
46 radar screen, you know, the need to start putting the
47 tribal governments back up where it belongs. You know, I
48 find a lot of shortcomings with the existing Federal
49 legislation that has put the tribal councils at the
50 bottom of the heap. The land owner out there, you know,

is our Native corporation but through our land use plan, you know, our tribal council really looks out for the land around us and so I just wanted to speak to that.

Thank you.

CHAIRMAN NICHOLIA: Do we have any questions for Randy. Go ahead, Virg.

MR. UMPHENOUR: Thank you. Randy, I have one question I'd like to ask you and that is, as you well know, I don't know how many villages there are in this RACs area but there's a number of them and we only have X number of seats on the RAC so how would you determine which village's tribal council would get membership or would you just have Tanana Chiefs represent -- have a seat or how do you see this could be worked out?

MR. MAYO: Well, I was just sitting back there in the audience and, you know, it quickly came to my mind that how many RACs are there, 12 or so?

MR. UMPHENOUR: 10.

MR. MAYO: You know, I would suggest that a tribally elected official from one of the tribal councils from each region, you know, have a seat at the table also. So say if it's Eastern Interior and if the tribes got together and selected a tribally elected official, meaning that they sit on the tribal council, they're elected by their membership. Organizations such as CATG and TCC, you know, they work for the tribes but, you know, it should be a tribally elected official, a true representative of their membership. That would be my suggestion, you know, that as many regional advisory councils there are from Eastern, Western, Arctic Slope or Southcentral, that a tribally elected official from each region, you know, be represented.

MR. UMPHENOUR: Thank you. Mr. Chair.

CHAIRMAN NICHOLIA: What you're talking about, Randy, is even if it's like the Tanana Tribe, from that like one chair -- one council member from the Tanana Tribe will represent the whole Eastern Interior region?

MR. MAYO: Well, from any one of the communities in these regions, you know, be it Tanana, Rampart, Stevens Village or on the western side, Galena or Huslia. I would, you know, what came to my mind is it

would be a consensus -- you know, based on consensus representation, you know, by the communities.

CHAIRMAN NICHOLIA: Any more questions. Thank you, Randy.

MR. MAYO: Yeah, thank you, Mr. Chair.

MR. UMPHENOUR: We've been at this for almost two hours without a break, could we have maybe a 10 minute break?

CHAIRMAN NICHOLIA: Granted.

MR. MIKE: Mr. Chair, before we go on a break, the rest of the proposals are going to be dealing with both the Western and Eastern regions and I've spoken with both Council Chairs and they've agreed we'll wait until we get a quorum for Western and deal with the fisheries proposals this afternoon. In the meantime, the Chair's have agreed to go into agency reports. And if Mr. Mayo would be willing to sit in on this discussion, we're going to be discussing the FACA compliance on Council make-up.

Thank you, Mr. Chair. And I'd like to thank the public for their patience on the agenda changing, the public was forewarned that this is a floating agenda.

Thank you.

CHAIRMAN NICHOLIA: I'd like the Western Interior Advisory Council to join us even if they're short members. The Chair will do.

(Off record)

(On record)

CHAIRMAN NICHOLIA: I'd like to start off with agency reports starting with Peggy, is it the FACA?

CHAIRMAN SAM: Yeah, before we begin, I had more or less excused the Western Interior Council members until 1:00 but I just got a message from Pete DeMAtteo that we do have a meeting room for tonight and tomorrow at the Springhill Suites for the Western Interior to catch up if we have to, if we establish a quorum. If not, we will go into all the stuff that does

not need action from the Western Interior over at the hotel and try to finish up.

Sorry for the inconvenience.

CHAIRMAN NICHOLIA: Go ahead, Peggy.

MS. FOX: Thank you, Chairs of Eastern and Western Interior Council. In response to your comments there, Ron, we will provide this briefing again for the rest of your members and any other briefings that they may miss prior to their return at 1:00 o'clock. So we will review that because they need to hear the discussion and have an opportunity to offer comments as well.

But in the meantime, we'll go ahead with the Eastern Interior and yourself.

My name is Peggy Fox. I'm the Deputy Assistant Regional Director with the Office of Subsistence Management and I'm going to be providing some talking points on FACA compliance.

In your booklet under Tab G there is a fact sheet called Regional Advisory Councils that touches no the topic of the review of Regional Council composition for compliance with FACA. For this briefing, I'd like to present an overview and then open it up for comments or questions.

Earlier this year, you received a copy of the letter from the Department of the Interior. The letter is now referred to as the Griles' letter. It spoke to departmental concerns about the membership balance of the Regional Advisory Councils. The Councils are subject to the requirements of the Federal Advisory Committee Act referred to as FACA. FACA requires the membership of an advisory committee to be fairly balanced in terms of points of view represented and the functions to be performed by the advisory committee.

The Department asked the Board to review procedures used to select members for the Councils. And I'd like to add that this review was requested as a component of a nationwide review of Federal Advisory Committees and so it may appear as though our program has been singled out that is not the case.

Recently, the Chair of the Federal

Subsistence Board, Mitch, was interviewed by the Alaska Public Radio Network. He stated that the Regional Councils have been very successful and well accepted throughout the state. He added that, as with any program, there can always be room for improvement.

The Board recently completed its proposed changes to the Council composition and you received a copy of the August 26 letter from the Board to Mr. Griles. And the report which explains the changes in depth. On September 17th our office received a letter from Mr. Griles which stated that the Board's recommendations are to be implemented without delay. He said that the Board's recommendations will strengthen the program to the benefit of all residents of Alaska.

The changes approved by the Office of the Secretary include, increased membership on most Councils. The Yukon/Kuskokwim Delta and Southcentral Councils will increase their membership from 11 and seven respectively to 13 in each Council. The Southeast Council will remain at 13. The remaining Councils will increase their membership to 10. Larger Councils will allow additional opportunities for representation of other directly affected interests, recreational, sport and commercial uses that have a direct and legitimate interest in subsistence allocations.

Another change that was approved had to do with the specific composition of the Councils. Councils will now have designated seats. 70 percent will be designated for representatives of subsistence interests and 30 percent for representatives of recreational, sport and commercial interests.

For the seven Councils with 10 members, three seats will be designated to recreational, sport and commercial interests. On the three Councils with 13 members, four seats will be designated recreational, sport and commercial interests.

For those Councils then with, I think the Western Interior has nine members, for example, that Western Interior will go to a total of 10. Again, the three seats for recreational, sports and commercial interests will be designated where two will represent one interest group and one another and these interests groups can include sportfishers, sport hunters, guides, transporters, commercial fishers, it could be a number of them.

All Council members will continue to be residents of their Council region as required by Title VIII of ANILCA. And all members must be knowledgeable about subsistence uses of fish and wildlife within the region. Council members may either be rural or non-rural residents of their regions. Again, along with the fact that they are a resident of the region.

Some Councils have alternates on their Councils as a way to assure obtaining a quorum. Alternates will be allowed to complete their terms but alternates will be discontinued in future years.

The report that accompanied the August 26th letter explains changes to the nominations process and although I won't address them in my opening remarks here I will be glad to take questions on them following my comments.

These changes will be phased in over three years beginning with the application and nomination process in 2003. Full implementation of the new composition of the Councils must be completed by 2006.

Before we open this up for questions I would like to refer you to the September 26th letter from Mitch Demientieff addressed to the Regional Advisory Council members. Each one of you should have received one by now in the mail. I'm not sure if they're in the Council books or not. Perhaps someone else knows -- no, they're not in the books -- well, you should have received them. Mitch stated that while the Councils serve to ensure that the subsistence priority in ANILCA is preserved, the Board also wants to ensure that the question of membership balance is in compliance with the Federal Advisory Committee Act.

He stated that the Board does not believe that these two laws are in conflict but, in fact, will help the Board make well informed decisions. He stated, quote, compliance with ANILCA protects the subsistence priority and compliance with FACA ensures that all interests directly affected by the Board's regulatory decisions are involved in the process. He encouraged the Council members to work with the Board as these changes take place.

That concludes my comments and I'd be glad to take questions or people can offer comments.

Thank you.

CHAIRMAN NICHOLIA: Peggy, I have a question for you. You notice how vacant my Council has been for the last three years, how -- when you can't even fill nine seats in the Eastern Interior Region, how do you think you're going to fill 10?

MS. FOX: Well, I guess we need to do a better job of outreach, of trying to get a lot more people to come and apply or be nominated. I mean certainly organizations can nominate people as well as individuals can apply. And then we need to be very careful when we do interview people and interview references and try to make sure that people can commit to coming to the meetings. We'll just have to do a much better job of screening and making sure that people can come to the meetings.

MR. DEMIENTIEFF: Maybe, Peggy, I can add to that. Gerald, one of the things that the Board wanted to do once we got beyond the FACA compliance issue is to.....

MR. RIVARD: Will you identify yourself.

MR. DEMIENTIEFF: Oh, I'm Mitch Demientieff.

(Laughter)

MR. DEMIENTIEFF: Let me see where the heck was I?

Anyway, one of the things that we want to do once we get beyond the FACA compliance issue is to streamline the Board replacement policy and that is, where we get a vacancy and what we're going to try to achieve is to have the Board have the authority as opposed to going to the Secretary when a vacancy occurs in the Council. So that will be one of the things that's next on the Board's horizon is to try to resolve that issue when there are vacancies that do occur.

And in particular, Eastern region but it's also been a problem in some of the other regions where we have to wait and get clearance from Washington to replace -- so that is going to be a new Board initiative to try to resolve that issue so that at least we can expeditiously and within the state come up with

some temporary replacement until that seat becomes vacant again and would go through the normal process. So we're hoping to do that Gerald and that will be -- that's directly on the Board's horizon here.

CHAIRMAN NICHOLIA: And then I guess, Peggy, you heard the comments from Randy Mayo?

MS. FOX: (Nods affirmatively)

CHAIRMAN NICHOLIA: You notice that like Michael Stickman and Benedict Jones are on the Koyukuk and Nulato tribal councils, I don't see nobody here that's representing a tribal council -- I may represent a tribal council but I'm a staff employee I'm not an elected official.

MS. FOX: We would welcome nominations from tribal councils for participation on the Council. That's definitely one of the audiences that we're going to target to try to get tribes to nominate people and that then they can be considered for selection and sitting on a seat for a Council. We welcome that.

CHAIRMAN SAM: Yeah, when this Griles' letter came out it really bothered me and it still does. As you know, our subsistence Councils were formed to protect subsistence issues. Has our solicitor at OSM gone over that fact and in any way disputed the need for 30 percent representatives of sportfishing and commercial interests? Has that been addressed?

MR. DEMIENTIEFF: Yes, Ron. You know, the thing to remember is this is part of a national review and it doesn't only focus on the Federal Subsistence Board. And that's -- it's they're referring all advisory panels to DOI nationwide for compliance for FACA.

And, yes, in fact, Keith Goltz has been very much involved with it to make sure that we are in compliance and he has raised many issues. In fact, he has chaired the task force that we had specifically assigned within Staff to look at the FACA compliance. He actually chaired that particularly task force that I appointed so he's been very involved with it.

But again, we have to keep in mind that this is a national thing it's not just the Federal Subsistence Board specifically.

I understand nationwide that there have been, in a variety of advisory panels that there have been quite a few issues raised with regard to Federal advisory committees throughout the nation so it is a nationwide thing and that's very important to keep in mind.

MS. FOX: I'd like to add something to what Mitch has said as well. And that is in other situations where advisory committee's function there isn't necessarily and often not at all a percentage, you know, an allocation, if you will, to certain interests. In fact, many are designed so that there isn't any majority.

For example, the BLM regional advisory council here in the state has three members from the State, three from Federal agencies and three from what they call non-governmental organizations, could be environmental groups for example so there isn't any single majority at all. And where the solicitor has been particularly helpful in our case is the balance that is struck between ANILCA and FACA and our means of protecting the subsistence priority and the subsistence interests is that the majority of the seats on our Councils are going to be represented by people who represent subsistence users. And the minority,if you will, by designated seats for sports and commercial uses. So that's a little different, a little unique to our program and provides added support to accomplish Title VIII.

CHAIRMAN NICHOLIA: Wait. I know that you said that there's sport and commercial and other interest groups, could you define other interest groups for me?

MS. FOX: Well, the list that we're working off of is sport hunters, sport fishers, transporters, guides, commercial fishers, that's about it. These need to be interest groups that are directly affected by subsistence so it wouldn't be groups who are like the Sierra Club or watchable wildlife groups, those types of things. They would definitely be groups that are involved in the take of resources.

CHAIRMAN NICHOLIA: That's what I was just getting at. Go ahead, Jim.

MR. WILDE: I'm going to step on some feet but I'm 62, I figure I deserve it once in a while.

I hear what you would like to have on here and you just turned one down that roped me in here two years ago and I lean on him a lot. He was willing to reapply and he did. And all I can surmise in my own estimation is that it was purely personal. And I'd like to, off the record, have somebody tell me why.

Thank you.

MS. FOX: Are you talking about selections that were made the last go around for Eastern Interior?

MR. WILDE: A selection that wasn't made.

MS. FOX: Well, okay, let me first of all indicate that it's the Secretary's decisions. We recommend, the Board recommends to the Secretary and that process is considered somewhat confidential in terms of the development of those recommendations. So you're talking to people who have made recommendations, I don't know that I can -- I certainly can't provide the rationale. I don't know if Mitch can.

MR. DEMIENTIEFF: Yes, Jim, we'll look into that. But I do believe that the Board recommended him for reappointment but we will confirm that and get back to you with some correspondence as a follow-up. But again, as Peggy pointed out, all we do is recommend to the Secretary and the Secretary at the national office makes -- actually does the appointing and we have nothing to do with that. But we will confirm whether or not it's -- because I believe our recommendations are a matter of public record. But then -- so we will confirm that. But again, we don't make those choices, that is solely at the discretion of the Secretary. And does actually relate to what I was talking about earlier, in terms of getting some authority from the Secretary to appoint vacancies as they occur mid-term, which is the question which Gerald raised -- or the issue that Gerald raised a little bit earlier. So hopefully we'll be able to do that.

MS. WAGGONER: I'd actually like to further extend, hopefully your guy's response, I don't remember the exact number, I think there was actually 13, 15 or 18 applications for the seats, three were -- four were appointed and we still have two vacancies. So I mean there was applicants for this board and the board wasn't filled. It would be nice to get a response as to why, you know, because that puts more weight on each of

the members that are here to make decisions when we have vacancies.

And then my second question is, under FACA is there going to be a rural/urban split on the Board? I mean we could basically -- don't get me wrong here Virgil, but we could have 70 percent subsistence users, you know, subsistence users apply from Fairbanks or Southcentral could have their 70 percent component from Anchorage, is there someway that there's going to be guidelines for that determination?

MS. FOX: Yes. First of all let me respond to your earlier comments with regard to the selections and so on. We will go back and reconstruct the process and provide a response for you, you know, with the full scope, not just one member -- or one nominee but the full scope, be glad to do that.

With regard to representation from urban areas, there isn't any designated number but it is one of those factors where certainly people from Anchorage or Fairbanks, within their respective regions are affected by subsistence decisions so they do have some legitimate interest in being represented on the panel. But that doesn't mean it goes with a certain numbers. There are no designated seats from urban people. It could be a subsistence user who is an urban resident and we have those on the Councils already. As a matter of fact, Bill Thomas, Chair of Chairs is an urban resident the way we categorize things. Anyway, so we will be looking at that as -- after we look at the basic five criteria. All candidates that will be nominated have to be highly qualified and they have to be highly qualified that they are knowledgeable of subsistence, they're knowledgeable of the fish and wildlife resources in the region, they're knowledgeable of the customary and traditional uses of those resources, they exhibit leadership skills and abilities and they exhibit good communication skills. Those are the five basic criteria and we're always looking for highly qualified candidates no mater where they come from. Okay subject to the things I said earlier about subsistence and other directly affected interests.

Now, once we get a pool of candidates that are highly qualified, we try to look around the region and get some geographic distribution, you know, so that they don't all come from one area or just a portion of a region but we try to -- if we have a highly number

of qualified candidates to select from, we try to identify ones that will then represent a spectrum of the region, including non-rural, rural residents and as many different -- if there are different cultures involved and, you know, different portions of the region. So there are a number of things that are applied after people make basic -- make the basic criteria and are determined to be highly qualified and then we swift through those with these other considerations in mind.

CHAIRMAN NICHOLIA: I'd just like to mention that you be very careful with this Eastern Interior region because we have the Yukon River, the Tanana River and this highway here and it's truly -- where you guys have truly control over there is in the Yukon Flats area and I only see one person from there here. And this is where you guys have regulations that you could enforce and you don't have regulations that you can enforce around Tanana where I'm from because it's all State. I'd like to see more representation from the areas that you have control from not just from other groups or other things like that.

CHAIRMAN SAM: We do not have many commercial or sportfishers represented on the Western Interior but we do have some subsistence guides if -- if people like Jack Reakoff go put down as their primary occupation as a commercial fisherman, which he is or once was and a few others change their primary occupation, would then -- would that then meet the FACA criteria?

MR. DEMIENTIEFF: Yes, very much. And I just completed a meeting with -- yesterday afternoon with the Assistant Secretary for Alaska and with the -- I think Drew Pearce was there from the National Office and some of the OSM staff people and it was, you know, gone over again, which we have before but they have reassured me that the Department is going to be very flexible in people changing their hats. And it's within all of the Councils, very many of us know that that people's primary source of income, which may be commercial fishing but they also commercial fish in many areas in order to be able to afford to subsidize subsistence fishing. It's a very common practice.

So again, I've been assured, again, as recently as yesterday afternoon that DOI is going to be very flexible in terms of people just simply declaring what their primary interests are and there's no doubt that that does go on. If you have assistant guides,

1 those kind of things in your villages, well, you know
2 where your food on your table comes from and you know
3 basically where your income comes from and if that's a
4 viable income stream for particular individuals, then I'm
5 sure they're going to be working to protect that source
6 of income. So there is --there will be that people
7 simply declaring what interests they're actually
8 representing.
9
10 So that's a very important part of the
11 process and the Department will be very flexible in
12 recognizing that.
13
14 CHAIRMAN NICHOLIA: Well, I'd hate to see
15 this composition for RACs break down to so much that it's
16 other interest groups besides subsistence users because
17 you might be opening the door here to misrepresent the
18 subsistence users and I'd like to let you guys know that
19 you have to be very careful of what you're doing here.
20
21 MS. FOX: I'd like to add to what Mitch
22 said and to what Gerald is pointing out. And you know,
23 our process remains pretty much in tact. And what we
24 have done is when we get applications and we get
25 nominations, we interview candidates and we interview
26 references but we also go a step further, there a list of
27 key contacts that are identified for each region. And
28 those are -- you know they can be all kinds of
29 organizations, but ones that have some kind of interest
30 in fish and wildlife resources, they could be a Refuge,
31 it could be a Native corporation, a list exists for each
32 region. We're going to be expanding that list to the
33 sports and commercial interests but we will be asking
34 these people, you know, to substantiate that these are
35 legitimate -- I don't want to say legitimate necessarily,
36 but that they will do a good job of representing
37 subsistence interests or sports or commercial, whatever,
38 this has always been a part of our process. I'm just
39 indicating that it will be expanded a bit.
40
41 And we try to do as thorough a job as
42 possible to find very highly qualified candidates. And I
43 think the success of our Councils is reflective of a very
44 strong process. So I'm hoping that we are simply going
45 to add to the success of the Councils, not change them.
46 Certainly, it's no one's intent to turn them upside down.
47 I would -- unless people decide not to reapply, I would
48 expect the Councils to be composed of a great number of
49 the same people that are already here and we have a
50 normal amount of turnover every year and we will

hopefully use those seats as an opportunity to fill with other interests.

Thank you.

MR. DEMIENTIEFF: I think a key component to that is we, you know, I insisted upon and the Board endorsed and was finally ultimately accepted by DOI that we have a three year transition. And the reason for that in very many of the regions we have people who are serving on the RACs that have been involved with the program since its inception. And, you know, we don't want to lose those senior RAC members which will allow us the opportunity to keep our long-term valued brain trust of the Councils within each respective region.

The other thing that I think is important is the point that you raised, Gerald, I think is a two-way street. As the tribes, what-not, different organizations nominate people for RAC appointments, I think it is incumbent upon those nominating entities to make sure that they're nominating people who are going to get to the meetings. Years ago I served as the regional coordinator in the State system for the State regional council system and there was a mix of subsistence advisory committees, I think Ronnie served at that time on that regional council as well and a few others, quite a few others of us around the region and it was all one region, the interior region was all one region at that time. And there was about a 70/30 split amongst the advisory committee chairs. And there was several of those committees in particular that were very -- it was during all the subsistence votes within the state and all that was going on, and very many of those were very non-subsistence interests that we sat and worked out as a regional council. And, you know, that's why I say it can be a very positive thing, in that case it was.

In that case all of our advisory committee chairs from the subsistence interests made sure that they attended every meeting. And thus subsistence votes carried the weight of every day.

So again, it's incumbent upon the -- you know, it's a two-way street, we got to make sure we nominate people that are going to get to the meeting or do their very level best, obviously weather and those things aside. So it is a two-way street. But I think with even the current formula erases the national compliance issue with FACA and it assures that if the

1 people get to the meeting that subsistence interests are
2 going to carry the day as far as any vote that may come
3 down at the Regional Council level.
4
5 CHAIRMAN NICHOLIA: Any more questions.
6 Thank you.
7
8 MR. DEMIENTIEFF: Thank you.
9
10 CHAIRMAN NICHOLIA: Okay, we got Don
11 Rivard, statewide rural determinations. Go ahead, Don.
12
13 MR. RIVARD: Good morning again, Council
14 members. My name is Don Rivard with the Office of
15 Subsistence Management. And I'm just here to give you an
16 update on the status of the rural determination process.
17 This is not an action item so it doesn't require any
18 action by the Councils. I'll refer you to, in your
19 books, for Eastern Interior, Tab G, Page 197 and for the
20 Western Interior it's Tab J, Page 265. Under that, in
21 your books, basically it's a fact sheet on rural
22 determinations and we'll go over some of the highlights
23 of it.
24
25 Title VIII of ANILCA requires that
26 subsistence priority for rural residents as we all know.
27 And when the Federal Subsistence Management Program began
28 in 1990, the Federal Subsistence Board made rural
29 determinations at that time which we still have in place.
30 The Federal subsistence regulations require a review of
31 these determinations every 10 years after a US census is
32 done and thus, with the census data now compiled it is
33 time to review the original determinations.
34
35 Additionally, in the late 1990s, the
36 Board received requests to explore the methods that were
37 used to determine which communities are considered rural
38 and non-rural.
39
40 The Federal Subsistence Board decided
41 that they needed to do this through a third-party
42 contract and the Institute of Social and Economic
43 Research, also known as ISER was contracted along with
44 Dr. Robert Wolfe and Associates to develop scientific
45 methods in order to make sound decisions on rural
46 determinations.
47
48 ISER has done a number of things to date,
49 including a comprehensive literature review. They have
50 performed some statistical assessments of the community

to determine the best measures to qualify communities as either rural or non-rural. They've also visited eight areas in Alaska and held some focus group meetings. And that basically was to ask people what rural means to them and what would be widely accepted as definitions as rural versus non-rural.

Now, next month, November 2002, ISER's final report is due along with at least two proposed methodologies on how to determine rural versus non-rural. And as you see in your booklets, some of the next steps the Federal Subsistence Board is going to have their public meeting on January 14th and 15th, 2003 to decide which of the proposed methods, if any, they will go forward with for additional review by the public and Regional Advisory Councils. And then in February, during your next round of meetings, you'll have a chance to look at them and provide recommendations to the Board and any comments that you have.

The Board decision right now is slated for May 2003 to make a final decision on which method they'll use to conduct these 10-year reviews. From June 2003 through May 2004, the selected method will be used in analyzing the 2000 census data and other relevant data from Alaska communities. The public and Regional Advisory Councils will be asked to review and comment on the findings of this analysis. And then right now, envision that in May 2004 there will be final rural determinations made.

That's the conclusion of my presentation. I'm willing to entertain any questions or comments you may have.

Thank you.

CHAIRMAN SAM: Yeah, have you received any kind of positive feedback from any one of these meetings, these focus group meetings because the one I attended didn't get anywhere.

MR. RIVARD: Ron, our office hasn't -- we'll know when the public knows basically when ISER releases their report next month. And all that information will be provided. Right now it's intentionally been kept together, everything that they've done and not released as they go along, they wanted to release all of their information and their report all at once. So I don't have any specific information on

feedback on the focus groups.

CHAIRMAN SAM: The reason I asked that is that it started out nice enough and the goals weren't clearly identified, I think, and what our focus group turned out to be, ended up more or less a shouting match and I don't think that was helping anything.

CHAIRMAN NICHOLIA: I have an easy question for you Don. What happens to a rural area after we make all kinds of C&T determinations and we give them allocations of subsistence resources and then that area is determined urban after -- what happens to those determinations -- all that work we did for them, it'll be just shot down or what?

MR. RIVARD: Well, I don't know if I have a real good answer for that, Gerald, but if there -- if a community goes from being rural to non-rural then they're no longer going to be getting the subsistence priority. There will be a five year waiting period before the changeover takes place.

CHAIRMAN NICHOLIA: Any more questions for him.

MR. UMPHENOUR: Are there areas that have a positive C&T for game and a negative for, say, salmon?

MR. RIVARD: I don't know the answer to that.

MR. UMPHENOUR: Well, then I can ask you another question then, is Nenana positive for game, because we just turned them down for fish?

MR. RIVARD: Donald Mike's looking that up right now. Thank you.

CHAIRMAN NICHOLIA: I don't think we really did turn them down, it's that we just -- they could come up to us with a better proposal with more information that provides history because what we tried to do earlier is we tried to make a decision without being really informed. Because when I was working with this full board here we had more information, like just for the Tok area that time, we had more information from both the Federal and the State Staff, so we had clearly a better picture of what was customary and traditional and what was urban. I mean you could see it.

From all this information that was presented earlier, I couldn't get a clear picture. We didn't really turn nobody down, they could always come back.

Is that it for questions for Don.

Thank you.

MR. RIVARD: Thank you, Mr. Chair.

MR. KRON: Mr. Chair, members of the Regional Councils. I will be addressing the Partners for Fishery Monitoring Program which is in your books. In the Western Interior Book it's under Tab J and the Eastern Interior Book it's under Tab G and it's just a one page summary.

The Partners for Fishery Monitoring Program is a new program.....

MR. RIVARD: State your name.

MR. KRON: My name is Tom Kron from the Office of Subsistence Management.

The Partners for Fishery Monitoring Program is a new program that helps local and tribal organizations hire fishery biologists and social scientists. The intent is to build capacity in these rural and tribal organizations. These new Staff will assist rural and Alaska Native organizations to collect and share information about subsistence fishery harvest and fish populations. These partners positions will work to ensure the success of studies already funded through the Fishery Resource Monitoring Program.

About a year ago there was a call for proposals that went out statewide asking for organizations that were interested in participating to submit proposals. Those proposals came in, they were reviewed last winter and then this past spring the Federal Subsistence Board made decisions to fund seven of those proposals. These partners positions are full-time year-round biologists or social scientists positions. In each region Partners funding also includes resources for a student intern so that the tribal and rural youth can be trained to do fisheries work.

The current $900,000 Partners Program

includes six fishery biologist, 1.3 social scientist and seven student interns and support resources for these positions.

To quickly go through where these positions are located, the Association of Village Council Presidents has two fishery biologists, one for the Yukon and one for the Kuskokwim. Bristol Bay Native Association has a fishery biologist Partners position. The Council of Athabascan Tribal Governments has a fisheries biologist position. The Kuskokwim Native Association has a fisheries biologist position. The Native Village of Eyak has a social scientist position. And Tanana Chiefs Conference here in Fairbanks has a fisheries biologist position.

Maybe I could briefly explain the .3 social scientist, the AVCP proposal in addition to the two fisheries biologist has two-tenths of a position for the Yukon as a social scientist and one-tenth for the Kuskokwim as a social scientist.

The Partners agreements may last as long as five years depending on annual reviews and availability of funding. An additional Partners position may be established in the future.

Partners provide needed skills to help rural and Alaska Native organizations to accomplish a number of things. It will help to plan and conduct fishery monitoring studies and subsistence fishery harvest assessments. To provide technical support and coordination of subsistence fishery monitoring activities. To identify subsistence issues. To conduct community outreach, training and education.

The agreements for all seven of these relationships are now in place. They were worked out and signed this past summer. The last one was signed in early September. And already the organizations, again, with the 7.3 Partners position possible under the agreements, four of the positions have been filled at present. There are differences between the various agreements based on the proposals that came in and in some cases circumstances.

Mike Smith from TCC is here and, again, we have a relationship with TCC, they have a fisheries biologist position and they have just recently hired a person for that position. The young lady's name is

Kimberly Elkin, she is also here at this meeting and I wanted to give them an opportunity to come up and provide some comments, introduce themselves to you because, again, I think each of you as Council members will be working with these people more in the future and wanted to get you to know them and develop a relationship with them.

Also, again, CATG has a fishery biologist position, they are recruiting for that position currently. I know there are people here from CATG as well and would welcome them to come up and provide their perspectives if they would like to do that.

Thank you, Mr. Chairman.

CHAIRMAN NICHOLIA: Before you go, Tom. I'd like to see if my Council has questions for you.

MS. WAGGONER: Tom, basically there's a lack of qualified people out there to fill these positions is OSM assisting these organizations in recruitment?

MR. KRON: Mr. Chair. Ms. Waggoner, yes, we are attempting to work with them. In the case of the TCC selection, I assisted with the interview process on that. Again, these positions, you know, they work for these rural and Alaska Native organizations, they're not Federal government positions. They're not my employees. So it's up to that organization to make the decision ultimately, you know, within the scope of the agreement. But again, we're here to help make recommendations, suggest ways to find people but you're exactly right. In the case of fisheries biologists, you know, we've seen that there's a very limited pool of qualified individuals out there.

And again, there are three positions currently that are not filled. The one position with CATG and Ft. Yukon and the two fishery biologist positions in Bethel, one for the Yukon and one for the Kuskokwim. But again, already -- and again, I think it is very positive that it's a brand new program, agreements were just signed this summer and already four of the positions have been filled, but, again, it is a challenge. There's a limited pool of qualified applicants out there but, again, we will be helping the organizations and we'll continue to do that.

Thanks.

MR. SMITH: My name is Mike Smith of Tanana Chiefs Conference. And like Tom was saying, we're one of the new partners with the Fish and Wildlife Service in this program. We're certainly excited about the possibilities of this or the -- well, we're certainly excited about the possibilities of this program and look forward to working with them in the development of this.

We think that this program goes a long ways in establishing a closer working relationship with the rural people of the state and the fishery people -- the people who rely upon the fishery industry. And that this fosters a cooperative arrangement with both the Feds and ultimately the State because often times these projects will be in conjunction with State fisheries biologists as well.

I think one of the more important things that this program offers is the educational aspects. Often times and certainly at your meetings and Federal and State meetings as well, we get lost in the terminology and the amount of data and certainly the biological science stuff can often times be confusing to say the least. We certainly hope that this program will foster an educational program that would better allow the people who are directly affected by fisheries management regimes, whether it be the State or the Feds to better understand exactly what's going on.

Additionally, we feel that this process will allow the tribal governments and the village councils and the people in the rural areas to participate in the process a little more so that they have a sense of ownership in the process. One of the more interesting aspects, of course, is the collection of traditional ecological knowledge. All of us, I'm sure can agree to the fact that there is a lot of knowledge out there that is not biological in nature and that that knowledge needs to be utilized in the development of rules and regulations around fish and game.

We certainly hope to expand in the future this type of activity, not only to fisheries but hopefully to game animals as well to develop a more closely working relationship with the various departments and agencies and we just think that it's a very positive approach and we look forward to working with it.

Like Tom was saying, we just recently signed our contract and Tricia, I think you're correct in trying to find qualified individuals, we just went through that process and we understand what you're saying because trying to find a fish biologist -- an available fish biologist in Alaska is really hard right now because they're in high demand and I think if you're a fish biologist you pretty much can write your own ticket in this state. But we did manage to hire a fish biologist, her name is Kim Elkin, like Tom was indicating. She has a master's in -- I can't even say the word, but fisheries, and at this time I'd like to go ahead and bring her up and maybe she could talk a little bit about the proposals that she's going to be working on in the future and certainly proposals -- I mean I think that needs a little clarification. We, as Tanana Chiefs and our fisheries biologist will come up with proposals on our own, but I think we also need the input of you people and all other users in the development and the parameters of those proposals. We think that there are issues out there that may or may not be being addressed by State and Federal biologist and that we certainly have the ability now to focus on those issues that are more specific in nature and we look forward to your input into the development of our proposals and certainly we'll be disseminating our information to you folks.

So with that I'd go ahead and bring up Kim Elkin and she'll talk a little bit about the proposal that she's working on now. Granted, she's been on board for just a very short period of time but she's done a good job already in developing proposals and I think she's going to do good work for us.

Kim.

CHAIRMAN NICHOLIA: I'll give her about three minutes because I think it's lunch time. Come on.

MS. ELKIN: That's good, I don't have to talk very long. I'm Kim Elkin and I just got hired two weeks ago as the fisheries biologist for TCC and so I'm trying to kind of get oriented with the way things work and all the regulations as far as Federal and State regulations.

One of the proposals I am working on is for the Yukon River Panel, the restoration enhancement proposal. And so basically from my understanding I'm hoping to be working on developing enumeration projects

for chinook and chum salmon in the middle Yukon River. It could vary, some of the tributaries around there. But I'm willing and definitely capable of working with the local villages in trying to get any ideas and suggestions that I can possibly can to serve those people that are in their communities.

Also I'm going to be working on a couple more proposals come November with AYK Coalition and then there's one that I just heard about the North Pacific Research Board.

So whatever information you guys could provide for me will help out because I've only been here for a couple weeks. So that's all I have.

CHAIRMAN NICHOLIA: Go ahead, Donald.

MR. MIKE: Thank you, Mr. Chair. I just got word that Jack Reakoff is en route and Pete DeMatteo's picking up Mr. Reakoff from the airport. So if the Council Chairs, if you'd like to resume going over the fisheries proposals after lunch and then after that we can get into customary trade. It's up to the Council Chairs.

CHAIRMAN SAM: Yeah, Gerald, I would like to see Western Interior Council members present for the next -- and for the RAC charters, too.

CHAIRMAN NICHOLIA: Yeah, what time do you want to come back, 1:00, 1:30.

CHAIRMAN SAM: 1:00 and then we might be started up by 1:30.

CHAIRMAN NICHOLIA: Okay, 1:00 o'clock it is.

(Off record)

(On record)

CHAIRMAN SAM: If Council members could find there way back to their seats we'd like to reconvene. For the public's information, Western Interior now has a quorum with the presence of Jack Reakoff. We will go into evening session over at the Springhill Suites at 7:00 o'clock. We have a room there for tonight and tomorrow. This is for the Western

Interior Council to catch up since we didn't have a quorum. And the Chair will declare the Western Interior with a quorum.

Thank you, Gerald.

CHAIRMAN NICHOLIA: Thank you, Ron. Thank Jack and Sue for showing up. Donald wants to say something.

MR. MIKE: Thank you, Mr. Chair. Just a reminder, if you haven't signed up already, please sign up at the sign in sheet that's on the table. And I forgot to mention this morning, if you want to testify please fill out these green sheets and give them to me and I'll give them to the Council Chair so that he'll know you want to testify. And when you're getting up to speak please state your name and agency you represent.

Thank you.

CHAIRMAN NICHOLIA: Since we're back together with the two Councils and two quorums I'd like to go back to the proposals. We will follow this proposal review and procedures, introduction of proposal and analysis by OSM Staff, then we'll go to ADF&G comments, tribal government, other agencies and on down the line. The first one would be fish proposal 03-27, Jerry Berg.

Jerry.

MR. BERG: I'm sorry, Mr. Chairman, I was paying attention to some other details there. Did you want to start off with Proposal 28?

CHAIRMAN NICHOLIA: 27.

MR. BERG: 27, okay. Mr. Chairman, members of the Council, members of the public. For the record my name is Jerry Berg. I'm a fishery biologist for the Office of Subsistence Management. And I'll be covering Proposal No. 27 for George Sherrod, he's not able to be here today but he did do the Staff work on this proposal.

Fishery Proposal 27 was submitted by our office, the Office of Subsistence Management and it requests that the Federal Subsistence Board establish a statewide regulation allowing the take of fish for

1 religious and ceremonial potlatch purposes.
2
3 While Federal subsistence regulations
4 allow for the taking of wildlife outside of proposed
5 seasons and harvest limits for ceremonial purposes,
6 currently no such provision exists for the taking of
7 fish.
8
9 Go ahead, Ron.
10
11 CHAIRMAN SAM: Yeah, Jerry, just for
12 Western Interior, we're under Tab D, Page 45.
13
14 MR. BERG: Thanks, Ron, sorry. I should
15 have pointed that out.
16
17 So basically this proposal is to try to
18 bring the fishery portions of the regulations into
19 alignment with the wildlife side for the ceremonial
20 harvest of fish. It should be noted though that for most
21 fish species the existing open seasons and harvest limits
22 already provide an opportunity to take fish that may be
23 used in ceremonial or religious activities. So this
24 would be at times when the season is closed or you need
25 to take a moose for a potlatch when the season is closed
26 or take more game than what is currently allowed then you
27 would need to go through this process.
28
29 Under the history of this regulation, the
30 first Federal subsistence regulations contain provisions
31 allowing the Board to authorize the taking of fish and
32 wildlife outside of prescribed seasons and harvest limits
33 for special purposes including ceremonies and potlatches.
34 So the Board clearly had the authority. And since that
35 time the Board has on a case by case basis implemented
36 unit specific provisions either through regulatory
37 changes or special actions allowing the taking of
38 wildlife for cultural educational and religious programs
39 and ceremonies.
40
41 As of 2002/2003 regulatory year such
42 provisions exist for roughly half of the wildlife
43 management units, 13 out of 26 wildlife management units
44 around the state. Although there are not regulations
45 allowing for the take of fish for ceremonial purposes,
46 the Board has on three occasions authorized such taking
47 via special action. For example, the Board permitted the
48 harvest of 50 coho salmon for a memorial potlatch in
49 Sitka last year.
50

While there is variation between these unit specific regulations, the Board has required that first of all, the harvesting of the resource does not violate principals of fish and wildlife conservation and that the following be provided to the appropriate Federal land manager prior to taking the resource.

First of all, the information about the activity and in the case of a funerary or mortuary ceremony, the name or names of the decedents, reporting of the species, sex, number, location and timing of the harvest, the name and address of the harvesters. And again, that was taken from the existing wildlife permitting process that we have.

Furthermore, the Board has required that the harvester be a qualified rural subsistence user for the species and area in which the harvest occurs. Additionally, in most cases, the appropriate Federal manager must be notified prior to attempting the resource.

As far as the background information, we recognize that surveying of fish and wildlife is central to Alaska Native ceremonial feasting. Such foods reaffirm ethnic identity and the tie to the land and resources. Fresh salmon and steelhead are available only part of the year for many Alaska Natives, when available they are an important food source for funerary or mortuary cycles including memorial potlatches.

Most ethnographic descriptions of potlatches focus on the ritual behavior of the distribution of material wealth. Detailed documentation of foods provided is rare. One exception is, Rifles, Blankets and Beads by William Simeone. Simeone recorded the offerings of pans of Copper River salmon at a Tanacross Potlatch in the 1980s.

All fishing management areas have harvest limits, time restrictions or both for some species of fish. Statewide, most fish can be harvested by subsistence users without restrictions and would not require the use of this proposed revision if you can take the fish and game under the existing regulations. The proposed limit on salmon and steelhead would not equally affect subsistence users in all parts of the state because of the temporal and geographic distribution. Steelhead have been documented along the Aleutian Chain but data for their distribution in the Bering Sea is

limited. Salmon are rare north of the Kotzebue Sound and both are available in freshwater seasonally.

So under the effects of the proposal, adoption of this proposed regulation change should have minimal impacts on the salmon and steelhead populations.

So the preliminary Staff conclusion is to support the proposal and the proposal would read, as it does read in your book, and I would like to point out that there's been one change made to the very first sentence and that being you replace the word, and, with or in the first sentence, so that it reads the taking of fish from Federal waters is authorized outside of published open seasons or harvest limits if the harvested fish will be used for food and traditional religious ceremonies, et cetera. So change that and to or.

That's all I have. I'd be happy to try to answer any questions if I can, Mr. Chair.

CHAIRMAN NICHOLIA: Do we have any questions for Jerry. I have a sense that we probably would all support this proposal but I would like to hear from the following, following our thing right here, ADF&G, the State's comments on this.

MR. CAMPBELL: Mr. Chairman, members of the Council. Again, for the record my name is Rod Campbell, Alaska Department of Fish and Game, Commercial Fisheries Division. On Proposal 27, our original Staff comments are under Tab C, Page 42 in the Eastern Interior booklet and I believe they're on Tab D, Page 56 under the Western Interior Booklet. What I have to add to the record is slightly different from that since these comments were originally issued a couple months ago, I believe.

Fish and Game, neutral on this proposal. However, we would recommend that ceremonial harvest would still be subject to some regulatory controls for conservation purposes, perhaps a harvest limit by species or time and area, along with some kind of timely reporting mechanism. We certainly encourage timely reports and limits, again they could be adjusted but we feel it's important.

I'd also like to note, since this is a statewide proposal, that it seems that in most areas, at least statewide, fish can be harvested by subsistence

users without restriction and would not require the use of this proposal. I believe in most places in the state they're able to get ample supply.

So those are all the comments that we have, sir.

CHAIRMAN NICHOLIA: Okay. I believe this would apply on the Yukon River because we're always being restricted. No questions for the State person -- go ahead, Benedict.

MR. JONES: Yeah, Benedict Jones, Koyukuk. Under that proposal we didn't know that the tribal -- the Koyukuk Tribal didn't know it was in effect or proposed and during the funerary potlatch we asked to harvest some fall chums and at the teleconference we were denied that.

CHAIRMAN NICHOLIA: You got a response for that?

MR. BERG: Yeah, I wasn't at that teleconference. I don't know, was there a specific request made to the Federal Subsistence Board for the take of fall chum? Maybe Russ can add more specifics on that. But if there wasn't, that's one option that you could make a specific request through a special action or if this proposal goes through then you could make a special request for a permit. Do you have anything to add Russ?

MR. JONES: Yeah, we asked the fish managers the request for that taking of fish but we were denied. Somebody told us just go ahead and do it and we went out and -- but there was no fall chum at that time.

MR. HOLDER: Mr. Chairman. Mr. Benedict. My name is Russ Holder, Federal fisheries manager on the Yukon River. Under the State regulations that could not be provided for. And under the Federal regulations your request was submitted to the Federal Subsistence Board and my best recollection is that that was provided for. It did take a couple days in order to get that process to occur and what I recall happening is that a letter was faxed to Koyukuk authorizing the take of fall chum salmon. I believe three individuals were named as authorized fishermen to take fish and there was only one -- I believe one of the fishermen harvested one or two fall chum salmon, it was not very many.

But this proposal that's before you right now is to try to address so that the manager has the ability to respond versus having to -- when I was called, then having to send on your request to the Federal Subsistence Board and having them react to it.

Thank you.

CHAIRMAN SAM: Yeah, Russ. Don't you have the power to go ahead and authorize anything such as this taking, harvesting, outside of the rules and regulations?

MR. HOLDER: Mr. Chairman. Mr. Sam, at this time I do not have the authority to authorize the ceremonial taking of salmon during a closed time period. That has to be -- at this time period, the way the regulations are, that has to be acted on by the Federal Subsistence Board.

CHAIRMAN SAM: Doesn't someone on the river -- can't anyone on the river just go ahead and make the call? I thought we already had that. I know we have it for emergency closures but I thought there was someone on the Yukon River, too, that could just make the call and say just go ahead. I thought that was in place, isn't it?

MR. HOLDER: Mr. Chairman. Mr. Sam, that's what this proposal is trying to address. Because currently that provision is not provided for and the way this proposal is trying to address your concern so that the in-season manager is able to make that call. Right now, the in-season manager cannot do that.

CHAIRMAN SAM: So if people just don't get the call they can just go ahead and fish anyway because that's what I'm going to recommend to them, I won't wait for anything, because heck, it's an emergency and it doesn't last very long.

CHAIRMAN NICHOLIA: I think we're out of order here you guys, we're supposed to adopt this.

MR. UMPHENOUR: Move to adopt.

MR. WILDE: Second.

CHAIRMAN NICHOLIA: Okay, is there any other tribal governments or other agencies that want to

comment to this. Go ahead Chuck.

MR. MILLER: Yeah, most of you already know me and Tina, too.

REPORTER: (Nods affirmatively)

MR. MILLER: But the only comment I had was the numbers, I didn't hear nothing mentioned on it but the original proposal was like 25 salmon, is that still what they have in this proposal too or is it?

MR. BERG: Yes, Miller, that's correct. It's for 25 salmon or five steelhead would be what -- that's what's currently being proposed through this proposal is to set that limit at being 25 salmon or five steelhead.

MR. RIVARD: State your name.

MR. MILLER: Okay, just for the record my name is Charles Miller. And the Wrangell SRC, when we had our meeting last week, we had a little difference there on the numbers. I mean most potlatch, 25 salmon aren't going to go too far and I think we uped it to like 50 or 100, and I was just wondering how come it's not in the book.

MR. BERG: Well, like I said, George Sherrod did the Staff work on this and I don't know where he came up with the 25 salmon or the five steelhead. And you know it's certainly within the authority of the Councils to make their recommendations to whatever they feel like if they agree with those limits or if they think the limits should be different.

CHAIRMAN NICHOLIA: Most potlatches that I attend and put up, there's more than 25 salmon. It depends on how much moose meat you get, how much fish you have to cook. And I'd say that Chuck Miller's request to us could be forwarded to the Board.

MR. MILLER: Thank you, Gerald.

MR. SMITH: Yeah, Mike Smith. Tanana Chief's Conference. I think we can all pretty much safely assume that the ceremonial taking of fish and game is central to the culture and the religious practices of Alaska Natives. And I think to unduly restrict that or make it a burdensome process should be the last resort of

infringement upon those religious freedoms and religious rights.

Having said that, specifically in regards to this proposal in front of us, if we are to go ahead and go outside the seasonal limits, you know, just a couple of points I guess I'd like to make.

One, you know, why not the methods and means and areas as well. I mean assuming -- Ron had mentioned that there might not be some chums in that particular area, maybe they need to go elsewhere to get them, but the -- so if we're going to go ahead and go outside the seasons then also the means and the areas, we might consider changing those as well.

Another thing that occurs to me is that certainly the prior notification is contrary to numerous cultural practices of certainly people from my area, the middle Koyukuk River or middle Yukon River and Nulato areas. We generally don't talk about going and getting fish and game because it's contrary to our beliefs and we believe has a tendency to hamper our luck in regards to the taking of those species.

Additionally, we feel that the State of Alaska is currently going under this same -- is struggling with this same issue right now in regards to the taking of game. Trying to -- and it would seem logical to go ahead and try to come up with a proposal that would fit both the Federal schemes and the State scheme as well.

It also occurs to us that should somebody -- and it kind of goes back to the idea that we think it should probably be a tribal reporting requirement. If the State is actually -- if their main concern is the information as to what species, how many and where it was got, that reporting can be done afterwards. It's our understanding that this is primarily an enforcement issue that the enforcement people have a problem with investigating possible poaching activities or illegal fishing activities as this case may be. We think that in rural areas that could be easily remedied by a simple call to the village council, the village council could tell them if there was a ceremonial potlatch going on or somebody has died and we're getting ready for that.

In regards to the urban areas, it might be a little more difficult but we think that that's

probably the majority of where these violations -- or these proposed viol -- or perceived violations occur. If that is the case then we don't think that it's too burdensome for the Fish and Wildlife enforcement officers to travel out to Chena Hot Springs Road where somebody has dropped a moose and ask them what, exactly what's going on.

One other thing is that if somebody was to get arrested for a violation of this and claim it to be a ceremonial taking for a moose -- a ceremonial taking for a potlatch, the determination as to legitimacy of that ceremony would be up to the tribe and the tribe makes that determination and therefore we think that it's probably the tribe that should do the reporting requirements on it as well.

Now, Fish and Game or the enforcement officers have often said, well, you know, people don't report when they go do this and so we don't really know what's going on. I think that if you put the burden on the individual people who are doing the hunting that that's not going to improve the situation. We feel that the tribe who would oversee such activities is in a better position to provide a consistent information back to the various departments on what was taken and where it was harvested.

With that all in mind, I guess we would once again just to reiterate, prior notice is contrary to a lot of our religions. We think that the ceremonial taking of fish and game for ceremony purposes is a determination of the tribal councils and should be in their hands. Additionally, we think also that it should be a comprehensive proposal that is statewide, that would fit both the State and Federal regulatory schemes.

What this is going to end up being, in our view, is kind of a hodgepodge method of determining what is or is not a ceremonial taking. Certainly the State requirements are now gearing -- headed toward the establishment of specific ceremonies that are going to be allowed under this. We see it in the game regulations where they allow moose for Necheloya and Stickdance and so it's more of a specific okay for the tribes to take game. And we don't think that that's necessarily the correct way to approach this in the sense that many cultures are -- our cultures are evolving, that to have the State authorize a ceremonial activity within State statutes is contrary to the rights of tribes to self-

determination and the practice of their religious freedom.

And with that, I guess also we have developed a specific proposal because we're trying to develop one that would fit both the State and Federal schemes. And trying to do that is, of course, as you can imagine is relatively rough but we're trying.

CHAIRMAN NICHOLIA: Go ahead, Tricia.

MS. WAGGONER: I appreciate your comments, Mike. I'd like you to encourage expand your definition. A discussion came up last week on steambath rocks and other subsistence resources for ceremonial purposes, so I'd like to see, you know, if you guys move forward and expanding that even further.

MR. SMITH: Well, I mean I think that's kind of the point, is, we're kind of doing this by species specific efforts when, in fact, we probably should do it on a more broad scale because not only the rocks, but we're talking shellfish activities, other marine mammals possibly, other fish and game, caribou, you know, the whole nine yards. So a more comprehensive approach should be undertaken to try to come up with a statewide position that we can both live with in the State and Feds.

CHAIRMAN NICHOLIA: Excuse me, we'll just stay to the fisheries subjects.

MR. SMITH: Yes, sir.

CHAIRMAN NICHOLIA: I believe we could say that for the, especially in the Yukon area, that it's going to take more than 25 salmon to feed a hundred, 200, 300 and 500 people for a potlatch. Especially for the one that's going on in Tanana right now. A lot of people are going to be giving up their winter fish for this potlatch and it's not going to be looking good for -- I wish this would have come out a year ahead, before or something.

But mentioning something before you do to hunt, we don't usually do that in our culture. We understand that, I think most of these two boards understand that.

What Chuck Miller said earlier is that

it's going to take more than 25 fish. And so if it was to be any recommendation of mine to the Federal Subsistence Board, 25 plus fish, especially for the Yukon area, because it will be up -- it may be up to the tribal council or something. There's a difference between Tanana and Rampart, there's more people in Tanana. Maybe Rampart might need 25 fish but I don't think Tanana will be able to put on a two day potlatch with just 25 fish. Because it's too hard to get everything -- other kind of resources to put it on.

That would be my recommendation. Go ahead, Virg.

MR. UMPHENOUR: I'd like to ask the Staff at the top of Page 38 where it says no more than 25 salmon or five steelhead may be taken, what if that part was just deleted, everything after that semicolon that says will occur, unless you want to leave the five steelhead in? On the Eastern Interior book it would be at the top of Page 38 where it describes -- well, actually it starts at the bottom of Page 37 where it says, A, the person or designee and then it -- down at the bottom it says, the species and the number of fish to be taken, they want that to be in the -- whenever they request this permit or whatever you're going to call it, you've got there the number of fish taken and then at the end of it you say no more than 25 salmon or five steelhead may be taken. I think each individual potlatch is going to require a different number of fish and so what if you just deleted that part and left the number of fish to be taken because they'll have an idea of how many fish they want to take. Would that cause any heartburn?

MR. RIVARD: Don Rivard, Office of Subsistence Management. What this proposal is doing is it's not limiting the number of fish that you can request to be taken. What this is doing is putting a limit on the number that the Federal in-season manager can authorize without having to go through the Board on his own. If it's more than 25 then it has to go through the current process of going to the Board for approval.

So we're not -- it's not an intent to limit the amount of fish that's requested for a ceremonial purpose, it's just saying that the Federal in-season manager, for example, Russ, you could go directly to him and he would have the authority to authorize up to 25. Again, if it goes beyond that then it has to go through the regular process of going through the Board

and the Board would approve the number of fish or disapprove, whatever they may decide.

Does that help clarify things?

MR. UMPHENOUR: Well, I understand what you just said and I already understood that. I think that the in-season -- my question is this, why can't the in-season manager just authorize how many they need, maybe it's 50 fish, why do you have to go through the extra bureaucracy of taking it before the Federal Subsistence Board, especially in a situation where it would depend on the potlatch, but in a situation where you have time restraints because someone just died and they're going to have a potlatch for them and you need to go catch fish right then, you don't have time to wait to go through the bureaucratic pile of whatever you're going to have to do to get special action requests done.

I mean he should have the emergency order authority to just do it.

MR. BERG: Peggy's getting up to the table, I don't know if she wants to comment, too. I mean those are good comments and your Council is certainly welcome to make a recommendation what you think is appropriate. I do have some recommendations that came from some of the other Councils that have already met on this issue if you'd like to hear those, I'd be happy to share those with you.

MR. UMPHENOUR: Well, to stimulate discussion and find out what everyone here thinks about it. I would like to make a motion and that would be to delete the part that says no more than 25 salmon or five steelhead may be taken.

CHAIRMAN SAM: I second it.

CHAIRMAN NICHOLIA: Could you take a friendly amendment?

MR. UMPHENOUR: Take a friendly amendment.

CHAIRMAN NICHOLIA: It says to delete that part and then leave it up to the village tribal council. Because take Tanana as an example, we send three groups of hunters out, they all got three moose and they were going to send more out but we stopped them.

1 See, our tribal council pretty much takes care of what's
2 going on. And I think it should be noted in here
3 somewhere, since it's mostly tribal people that put on
4 these funerary potlatches, this way with moose and fish,
5 tribal councils should be included in here somewhere.
6 Leave it up to the tribal council, because they know how
7 much people is coming and they know how much people is
8 going to be sitting there at that potlatch. That's how
9 we prepare for it, like that. And just delete that part
10 and leave it up to the individual tribal council to see
11 how much fish should be allowed.
12
13 MR. MIKE: Thank you, Mr. Chair. Just in
14 fairness to the public process, I think we need to stick
15 with the proposal review and procedures. We haven't gone
16 through any other agency comments or advisory committee
17 comments and public and written public comments and the
18 Council have a chance to deliberate and made
19 recommendations and justifications at the end.
20
21 Thank you, Mr. Chair.
22
23 CHAIRMAN NICHOLIA: So Jerry, we would
24 like to hear those other comments.
25
26 MR. BERG: Okay, Mr. Chairman. The
27 Bristol Bay Council, Proposal 27 was adopted by the
28 Bristol Bay Council. The proposal would allow the harvest
29 of fish outside of open seasons for traditional
30 ceremonies. And it doesn't look like they made any
31 changes. They just adopted it as you see it there.
32
33 The Kodiak/Aleutians Council did
34 something similar to what you're talking about right
35 here. They removed the provision to require that you
36 name the decedents, the nature of the ceremony, the
37 parties and/or clans involved, the species and the
38 numbers of fish to be taken. They struck all that out
39 and they struck the last sentence that Virgil also just
40 mentioned. They struck that out in this. And then
41 that's under A, the portion A. And then under C, they
42 struck out again, the requirement to name the decedent
43 and so that was their recommendation.
44
45 Northwest Arctic Council took no action
46 on this proposal because they did not see a need for it
47 in their region.
48
49 North Slope Council, motion to support
50 the Staff recommendation and the motion carried. So they

supported it as you see it written there.

So two Councils supported it, Bristol Bay and North Slope. Kodiak/Aleutians took action to do something similar to what you're talking here but they went a little bit further. And there was no action by Northwest Arctic.

So that's it, Mr. Chair.

CHAIRMAN NICHOLIA: I'd like to recognize that Micky Stickman showed up. So we had a motion and a second, do we have to vote on that friendly amendment to the motion or just adopt it like that?

CHAIRMAN NICHOLIA: Go ahead, Donald.

MR. MIKE: Mr. Chairman, we haven't gone through any other public comments, we have other agency comments. Particularly the Wrangell-St. Elias SRC, summary of written public comments to be read into the record and any public testimony.

But anyway, that's -- I think we'll need to discuss the motion we have on the table right now.

CHAIRMAN NICHOLIA: Question hasn't been called yet.

MR. MIKE: Okay.

CHAIRMAN NICHOLIA: We can listen to the agency comments and the St. Elias now.

MR. MIKE: Okay. Mr. Chairman. The Wrangell-St. Elias Subsistence Resource Commission, they sent a letter on the proposal and it's part of your packet, the ones that I passed out this morning.

On Proposal 27, the Wrangell-St. Elias National Park Subsistence Resource Commission supports this proposal with modification, that the organizer or designee of the ceremony request the number of fish needed from the in-season manager. The in-season manager will consider the guidelines of the proposal.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: And that's all the other agency comments, Subsistence Resource comments we

have?

MR. MIKE: Yes, on Proposal 27.

CHAIRMAN NICHOLIA: And there's no public written comments?

MR. MIKE: Mr. Chairman. Public written comments is found in your Eastern Interior book on Page 42. Written public comments received from the Cordova District Fishermen United. They support with modification. To enable enforcement and to account for resource removals, CDFU supports modification of Section D to require a permit specifying the harvesters name and address, the number and species of fish to be taken, the date and location of the harvest as well as the name of the decedent for each person harvesting under this regulation. This would result in the need to delete Section C. Harvest reporting should be required within a reasonable period of time and there should be a limit of one permit issued for each specific traditional religious ceremony.

That's all the written public comments.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: Is there any public testimony? I don't see none up here. Go ahead, Virg.

MR. UMPHENOUR: Thank you. Your friendly amendment, Mr. Chair. If you look on Page 37, A, it says the person or designee organizing the ceremony and so that could be the tribal representative or it could be anyone, it's whoever's going to organize the ceremony. So I don't know if we need the friendly amendment or not. And so I just wanted to point that out.

CHAIRMAN NICHOLIA: It is mostly the tribal people that mostly take care of this stuff. Like in the Tanana area it is.

MR. UMPHENOUR: Right, I know that. But I don't know if it's necessary to say that or not because of the way that it's already worded is the only thing I was pointing out.

CHAIRMAN NICHOLIA: Because some people misunderstand these regulations. Some people don't really understand the Athabascan culture, it has to be

1 written right in there sometimes, the person, designee or
2 organization or tribal government that is organizing the
3 ceremony. Because it has to be in there, if it ain't in
4 there they're just going to manipulate that tribal
5 government. It wouldn't be the agency from the Federal
6 or a State agency, it would be another person who totally
7 doesn't understand our culture and there area a lot of
8 them out there.
9
10 MR. UMPHENOUR: Do you have exactly
11 substitute language that you want then worked out?
12
13 CHAIRMAN NICHOLIA: Right there, the
14 person or designee or tribal government organizing the
15 ceremony contacts the appropriate State land -- Federal.
16
17 CHAIRMAN SAM: Then it would read the
18 person or designee or tribal councils?
19
20 CHAIRMAN NICHOLIA: Tribal government.
21
22 CHAIRMAN SAM: Tribal government.
23
24 MR. UMPHENOUR: Question on the
25 amendment.
26
27 CHAIRMAN NICHOLIA: It's been moved,
28 seconded, question, all in favor of the amendment signify
29 by saying aye.
30
31 IN UNISON: Aye.
32
33 CHAIRMAN NICHOLIA: All opposed same
34 sign.
35
36 (No opposing votes)
37
38 CHAIRMAN NICHOLIA: The amendment passes,
39 we'll deal with the proposal as amended.
40
41 MR. UMPHENOUR: Okay, procedurally, that
42 was a friendly amendment to my amendment and so we just
43 voted on the amendment to the amendment so now we need to
44 discuss and vote on my amendment which was to delete
45 everything after that semicolon in paragraph A, which
46 reads the part that would be deleted would be no more
47 than 25 salmon or five steelhead may be taken. So my
48 amendment is to delete that part of it and allow the area
49 manager, Mr. Holder in this case for the Yukon, he would
50 be the person that would determine or would approve the

permit for however many salmon are necessary for the ceremony and not have to go through the Federal Subsistence Board; that's what that would do and eliminate a bunch of bureaucracy.

CHAIRMAN SAM: With the consent of the second, yes, I go along with that. Again, whenever you attempt to micro-manage you create problems, you know. It should be a given, I think that you allow this harvest and anytime you micro-manage, you start going to area to area and then village to village, I think that number should just totally be deleted and that's the way I'm voting.

Thank you.

Question.

CHAIRMAN NICHOLIA: It's been moved, seconded, question. All those in favor of Virgil's amendment signify by saying aye.

IN UNISON: Aye.

CHAIRMAN NICHOLIA: All opposed same sign.

(No opposing votes)

CHAIRMAN NICHOLIA: Okay, now we do the proposal itself.

MR. UMPHENOUR: I'll be in support of the amended proposal No. 27.

Thank you.

CHAIRMAN SAM: Wasn't there a prior one?

CHAIRMAN NICHOLIA: Virgil moved and you seconded and then the question.

CHAIRMAN SAM: Second and call for the question.

CHAIRMAN NICHOLIA: It's been moved, seconded, question. All those in favor of the amended Proposal 27 signify by saying aye.

IN UNISON: Aye.

CHAIRMAN NICHOLIA: All opposed same sign.

(No opposing votes)

CHAIRMAN NICHOLIA: Motion carries. The proposal is adopted. We'll move to Proposal 28.

MR. BERG: Mr. Chairman, you'll find Proposal 28 on Page 57 in the Western Interior book and Page 43 on the Eastern Interior book. Now, if I can just find my notes for this one.

Fisheries Proposal No. 28 was submitted by the Office of Subsistence Management and it would streamline the Federal Subsistence Board's special action process for in-season fisheries special actions. This is the same process that was used on both the Yukon and Kuskokwim Rivers this past season for the first time. Under this proposal the in-season special actions would be issued only when Federal management actions differ from State management actions. This allows State emergency orders to also apply to Federal waters in instances where the State and Federal managers are in agreement on management decisions.

Federal in-season managers would retain the authority to issue special actions for different management actions on Federal waters if needed at any time.

The Regional Councils, coordinating fisheries committee and the public would continue to be involved in the Federal decision-making process. A designated Federal fisheries manager would continue to consult with Council members and others involved with in-season fisheries when developing management recommendations for all State issued emergency orders. Additionally, Regional Advisory Council members or the public can appeal management decisions at any time if they feel it's necessary.

So why do we want to streamline our in-season fisheries action process? One reason is that it would eliminate redundancy in issuing special actions which basically say the same thing, that's already said in an EO. A joint new release would still be issued with ADF&G and Fish and Wildlife Service logos on it. So

we're just trying to minimize the amount of paperwork and redundancy in the process.

The normal special action process requires that each change made in fishery management occurs through issuing a special action. On the Yukon River, for example, in the 2001 season 27 special actions were initiated by the Federal managers, 26 of these were identical to the State emergency orders. However, in the trial year, this past season, there were over 50 news releases issued in the Yukon area and five joint news releases issued in the Kuskokwim area, just for the trial season for the streamlining process. And so that was 50 special actions that didn't have to be written on the Yukon alone due to this trial year that we had.

Another reason to use this streamlined approach is to reduce confusion. There was some confusion during the 2001 fishing season with rapidly evolving fisheries. At times one special action was being published when another one was going into effect just because of the timing that it took to get all the paperwork done.

Adopting this proposal would prevent us from having to write and publish unnecessary fisheries special actions when we all agree with the State issued emergency order. It saves time and effort that could be better spent elsewhere. And as you know, in 2002 the Federal Subsistence Board approved a temporary one year streamlining of special action process on the trial basis for both the Yukon and the Kuskokwim.

Last year we came to all three Councils on the Yukon and Kuskokwim and asked if you would support this streamlining effort and last year all three Councils did agree with this approach and the Federal Subsistence Board approved it for this past season only.

Informal consultation with in-season managers for the Yukon and Kuskokwim Rivers indicates that the streamlined special action approach is working well and it appears that the coordination and cooperation between Yukon areas State and Federal managers is in place and the streamlining is working.

For other areas of the state, this streamlining process may be premature. One reason some folks have given us that the statewide proposal may be premature is that currently there is a Federal/State

working group working on developing a protocol for handling in-season fisheries special actions based on the streamlining efforts used on the Yukon and Kuskokwim this past year. Results from the 2002 fishing season have not been fully evaluated but the hope that is that the success of what has happened on the Yukon and Kuskokwim can be built into the protocol by the 2003 fishing season.

So the preliminary Staff conclusion is to support the proposal with the modification to maintain the streamlining process only for the Yukon and Kuskokwim regions at time because we have seen that it works here and we'd like to go ahead and implement that on a permanent basis for those two systems and then move forward from there for the rest of the state.

And so that's all I have, Mr. Chair, I'd be happy to try to answer any questions. And I think Russ Holder may have a few comments on how it has worked, in his opinion this past season.

CHAIRMAN NICHOLIA: Yeah, go ahead Russ.

MR. HOLDER: Thank you, Mr. Chairman. My name is Russ Holder. I'm the Federal fisheries manager for the Yukon River for Fish and Wildlife Service. Thank you for the opportunity to comment on Fisheries Proposal 28.

As the Federal fisheries manager for the Yukon River, I support this regulatory proposal. During this era of dual management authority, State and Federal managers have worked hard to decrease public confusion regarding fishery management actions. This cooperation is seen by the public when we issue joint news releases announcing agreed upon management actions. The Federal legal document, which actually temporarily changes the regulations being announced in the news release are the Federal special action which is similar to the State emergency order.

One issue being addressed by this proposal is when State and Federal managers are in agreement about a management action, the Federal special action process is largely a duplicate administrative record and the general public doesn't see or really care about the legal documents. The typical time frame doesn't allow for the required newspaper publication and the publication of the action in the Federal Register is

often weeks or months after the action occurred thereby not fulfilling the purpose of informing the public at large in a timely manner.

A second issue is a large amount of Staff time required both management and administrative Staff to process Federal special action. In testing out the streamlining approach during the 2002 fishing season, my assistant and I were able to spend more time actually focusing on assessing the salmon runs and working with State managers on solving fishery issues.

The streamlining approach still requires an administrative record be produced by the Federal manager but the record is more of a memorandum of concurrence to the file rather than a legal document.

Changing the Federal administrative requirement as proposed does not alter, change or in any way diminish Federal management authority. A Federal special action could be issued if Federal and State managers disagree. The basis for disagreement would likely be based on providing for either escapement objectives or the subsistence needs of Federally-qualified users fishing inn Federal waters.

It is my request that you support Fisheries Proposal 28 as recommended and modified by Staff limiting the acting portion of this to the Yukon and Kuskokwim Rivers. The streamlining process worked well during the trial period of 2002. It reduced confusion for subsistence fishers. It allowed more productive use of Staff time and I believe it has assisted in improving our working relationship with our State counterparts.

I did want to clarify one statement Mr. Berg made, in that, the 50 joint news releases which were issued this year probably would have equated out to close to 30 special actions having to be written. It would not have been actually 50 special actions to be written there.

That concludes my comments.

Thank you very much.

CHAIRMAN NICHOLIA: Before we go any further, is anybody's going to adopt this proposal?

MR. UMPHENOUR: Move to adopt.

CHAIRMAN SAM: Second.

CHAIRMAN NICHOLIA: Any questions for these two. Go ahead, Ron.

CHAIRMAN SAM: Again, Mr. Holder, going back to our last proposal which we just passed, why wasn't there authority to grant stuff like that when you can grant other stuff on this proposal, you know? But I am in favor of getting more power and authority to in-season managers. That's what I was going for in the last proposal so I intend to support this proposal.

CHAIRMAN NICHOLIA: Okay, it's moved and seconded. Just moving from the start, is with the Staff recommendation -- I mean I'm asking my motion mover?

MR. UMPHENOUR: Well, it's a Staff proposal, so naturally they support it and I support it as well.

CHAIRMAN NICHOLIA: I mean Virgil, is that, you move to support this proposal with the Staff recommendation?

MR. UMPHENOUR: Well, I just put the proposal -- I moved that we adopt the proposal because that's what we have to do by procedure. But I do support the proposal.

CHAIRMAN NICHOLIA: Go ahead, Jerry.

MR. BERG: There is a difference between what the proposal is for a statewide adoption of the streamlining process. The Staff recommendation is to adopt the proposal but only for the Yukon and Kuskokwim areas at this time.

MR. UMPHENOUR: So do we need to make an amendment then?

CHAIRMAN SAM: I don't think so. I think you would just make your motion to adopt Staff recommendation only Yukon and Kuskokwim.

CHAIRMAN NICHOLIA: Go ahead, Jack.

MR. UMPHENOUR: Yeah, I think I already

made the motion to move to adopt, I'm not sure.

CHAIRMAN NICHOLIA: There's a big difference when you say you move to adopt the proposal, you're adopting it without the Staff recommendation, you're adopting the whole proposal as it is written with not the Staff recommendation. That's why I brought that up.

MR. UMPHENOUR: Well, someone here must be the procedure expert and we either need to adopt -- just adopt the proposal or we need to amend the proposal and then adopt the amended proposal, one or the other. So I don't know who.....

CHAIRMAN NICHOLIA: Ida, get up there.

(Laughter)

MS. HILDEBRAND: Thank you, Mr. Chairman. Ida Hildebrand, BIA Staff Committee member. The motion is to adopt the proposal. But the mover can, you can amend your own motion that -- or clarify your motion that you are moving to adopt the proposal as modified in the Staff recommendation and that would take care of the vote in one motion, if that's your intent.

MR. UMPHENOUR: Thank you. That's my intent.

CHAIRMAN SAM: And the second's.

CHAIRMAN NICHOLIA: Jack.

MR. REAKOFF: It's all clear.

CHAIRMAN SAM: Question.

MR. REAKOFF: Question.

CHAIRMAN NICHOLIA: It's been moved, seconded, question's called. All those in favor of Proposal 28 as recommended by the Staff, signify by saying aye.

Yeah.

MR. CAMPBELL: Yes, Mr. Chairman, Council members. Again, for the record my name is Rod Campbell. Alaska Department of Fish and Game, Division of

Commercial Fisheries.

And since we're in the clarification mode, I'd just like to make a comment. We have -- our Fish and Game comments in the Eastern Interior booklet are under Tab C, Page 52, I believe and under the Western Interior, Tab D, Page 66. And those comments -- the first point of clarification is that they were written based on and pertain to the original proposal, as written, for statewide implementation. So if there is some wording in there that may not seem to fit that's what those comments were geared for.

With that said, the Department does support streamlining special action processes where these special actions would only be issued by the in-season Federal managers if these actions differed from the State. Again, I think that would relieve a lot of confusion with the public and all the user groups. Again, under this proposal, State emergency orders would apply to Federal waters in instances where the State and Federal managers agree, only where they agree on subsistence fishing management actions.

Again, as Russ pointed out, this would encourage a more coordinated management approach for both the State and Federal managers and it would reduce the duplication of effort and confusion for the public and for the Staff and we certainly do support that. And, again, just to reiterate that this would be only for identical management actions. Again, if there was a difference between the State and Federal actions, our understanding is the Federal managers would issue their own special actions.

And also just to add to the clarification, there is a second paragraph on our comments that does expand some of our comments a little broader approach to this for you to read. For my comments to the record I will just stick with the comments to this specific proposal and certainly appreciate your time.

CHAIRMAN NICHOLIA: Any questions for him. Do we have any tribal governments or agencies that want to comment to this proposal? Fish and Game Local Advisory Committees -- what's up Donald?

MR. MIKE: Yeah, the Wrangell-St. Elias Subsistence Resource Commission comment on Proposal 28. This proposed regulation would streamline the Federal

special action process. In-season special action would only be issued in cases where Federal management action differ from State management actions.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: Okay, we don't got no comments from any local advisory committees. Looks like we have one written public testimony here, Donald.

MR. MIKE: Thank you, Mr. Chair. The Cordova District Fishermen United supports this proposal in the interest of clarity and consistency. This regulation will require collaboration and cooperation between State and Federal managers resulting in benefits to the resource, managers and users.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: We already deliberated on this, it's already been seconded, already the question's been called. All those in favor of adopting this Proposal 28 as modified by the Staff Committee signify by saying aye.

IN UNISON: Aye.

CHAIRMAN NICHOLIA: All opposed same sign.

(No opposing votes)

CHAIRMAN NICHOLIA: Motion carried. Now, do we have a motion to adopt Proposal -- Fisheries Proposal 03-2.

MR. UMPHENOUR: Move to adopt.

MR. BERG: Yes, Mr. Chairman, I'll be addressing this proposal as well. Proposal 2 can be found on Page 75 in your Western Interior book and Page 91 in your Eastern Interior book.

Fishery Proposal 03-02 was submitted by the Association of Village Council Presidents. And it requests the use of rod and reel to harvest salmon in Yukon River tributaries 24 hours a day, seven days a week unless already specifically restricted in regulation.

This proposal would allow the use of rod

and reel to harvest salmon in Federal waters of Yukon River tributaries during scheduled closed periods for subsistence salmon fishing. This would apply to both the subsistence schedules surrounding commercial openings and the relatively new subsistence schedules put into place over the past couple of years.

In October of 1999 the Federal Subsistence fishing regulations were established from existing State subsistence fishing regulations except that Federal regulations also allow the use of rod and reel as legal method in most areas. Prior to 2001, subsistence fishing in the Yukon River drainage was generally open seven days a week until the commercial fishing season opened. Once the commercial fishing season opens, subsistence fishing was either closed before, during or after commercial periods such as in Districts 1 through 3 and 4A or subsistence fishing was concurrent with commercial fishing periods in subdistricts 4B and C and 5A, B and C. These regulations continue to apply in-season when commercial fishing periods are announced.

In addition to these scheduled closures in both State and Federal regulation, the Alaska Board of Fisheries adopted a reduced subsistence fishing schedule in January of 2001. This new schedule also applies to Federal waters and includes all methods as agreed to under the terms of the Federal/State interim memorandum of agreement. This new reduced subsistence fishing schedule has been implemented in late May and is applied chronologically by district consistent with the migration of salmon. Both schedules apply to all methods including rod and reel.

While subsistence fishing schedules close the harvest of salmon by all methods, sportfishing for salmon in the Yukon River tributaries is generally allowed seven days a week with various bag limits for salmon throughout the drainage.

Yukon River chinook, summer chum and fall chum salmon have been identified as stocks of concern by the Alaska Board of Fisheries. Under the Yukon River king salmon management plan, salmon are being managed according to the reduced subsistence fishing schedule. The intent of the schedule is to provide closed periods during which salmon can pass with reduced fishing pressure to spread subsistence fishing opportunity throughout the drainage and to improve escapement.

Similar reductions in subsistence fishing time have been implemented in the Kuskokwim River drainage but the schedule there only applies to nets and fishwheels, subsistence fishing with rod and reel in the Kuskokwim River drainage is allowed seven days a week, 24 hours a day in both State and Federal regulations.

There are a few specific Federal regulatory restrictions in place for various headwater streams within the Yukon River drainage. This proposal would not change these restrictions for areas where salmon spawn and generally have easy access that could lead to greater conservation risks.

The average annual subsistence harvest over the past 10 years in the Alaska portion of the Yukon River was almost 278,000 salmon. It's not known how many of these salmon are caught by rod and reel but it's likely a very low percentage of the overall harvest. Yukon River residents have traditionally harvested salmon using rod and reel, however, the vast majority of salmon in the Yukon River are harvested using drift and set gillnets and fishwheels.

If adopted, this proposal would benefit subsistence fishermen who use rod and reel to harvest an occasional fresh salmon in Federal waters of Yukon River tributaries. Subsistence fishermen using rod and reel in Federal water tributaries would be allowed to harvest salmon with rod and reel during the subsistence fishing scheduled closures.

Although chinook, summer chum and fall chum are being managed conservatively to help rebuild the runs in the Yukon River, the few salmon likely to be taken by rod and reel would not likely result in a substantial increase in the overall harvest of these fish. The scheduled closures by district are most applicable to subsistence net and fishwheel fisheries used by the vast majority of subsistence fishermen.

If this regulation were only applied to the tributaries to the Yukon River drainage it would create a more complicated and confusing set of regulations. There is little, if any, rod and reel subsistence fishing in the mainstem of the Yukon River, however, allowing rod and reel use throughout Federal waters in the entire drainage, including the mainstem would make regulations easier for everyone to understand. This proposal, if adopted, would create a difference

between Federal and State subsistence regulations for the Yukon. A proposal could be submitted to the Board of Fisheries to address this issue in State regulations.

The proposal may help bridge the gap between subsistence and sport user groups. The proposed regulation would allow subsistence fishing with rod and reel seven days a week similar to the State's sportfishing regulations, except that subsistence fishermen would not be subject to the harvest limit unless superseded by a separate special action in-season.

If adopted, it is recommended that a system be established to monitor the subsistence salmon harvest by gear type similar to the harvest data collection methods used in the Kuskokwim River area. This would help assess any potential concerns, especially if salmon harvested by rod and reel become large enough to adversely impact small discreet stocks in tributary streams.

The Staff recommendation is to support the proposal with the modification to include all Federal waters in the Yukon River drainage not just the tributaries, so it would apply to all Federal waters in the Yukon River drainage.

That's all I have, Mr. Chair. I'd be happy to try to answer any questions any of you may have.

CHAIRMAN NICHOLIA: Are there any questions. ADF&G.

MR. VANIA: Thank you, Mr. Chairman. My name is Tom Vania with Alaska Department of Fish and Game, Commercial Fisheries Division providing comments on Proposal No. 2. ADF&G comments are for the Eastern RAC, Tab C, Page 97 and for the Western RAC, they're on Page 81.

The Department is neutral on this proposal at this time but we do note the concern that it would cause further diversions between State and Federal regulations. I say further in that State regulations now only allow rod and reel to be used in the AVCP region only and not all waters statewide. So there is a little bit more of a divergence there.

But under coordinated management, they should be aligned as much as possible.

At this time, of the comments, we had not received any ACRs or petitions to the Alaska Board of Fisheries but that has changed, in that, there is currently an ACR before the Board of Fisheries which will address it at the work session here, I believe next week. So right now there currently is an ACR to try to align as far as seven days a week fishing but there is no proposal at this time for extending rod and reel gear to all State waters, it's just currently in the AVCP region.

And currently all subsistence fishing in the lower river is separated from commercial fishing periods in order to prevent subsistence caught salmon from entering the commercial market. So if the proposal is adopted, the Department would recommend that this fishery be monitored by the appropriate Federal agency.

Thank you, Mr. Chair.

CHAIRMAN NICHOLIA: Yeah, go ahead, Sue.

MS. ENTSMINGER: I guess I'm a little new at all this. How much of the water are we talking about is State and how much is Federal?

MR. VANIA: Well, currently where the State allows in the AVCP region is pretty much all Federal waters at this time anyways, from the Paimuit on down to the mouth which is all Federal waters anyway. The rest of the waters, I think State -- Federal waters cover about, what, about 60 percent of all fishable waters in the Yukon area. But then State waters for District 4 is kind of a hodgepodge. All of District 6 is basically State waters. Most of District 5 is State waters as well except for subdistrict 5D, which contains quite a large portion of Federal waters. Up beyond Circle, then it becomes State waters again. So it's kind of a hodgepodge.

But as far as extending this to the drainage compared to the tributaries makes more sense anyway, in that, if you're fishing in the drainage you're on more of a mixed stock which is preferable than being up into the tributary in the spawning areas just hammering on a single individual stock. The Federal manager does have bag limits that he could enact in case there does become a concern that the subsistence fishery does start to get into a conservation concern on a particular stock. So that's a really good check to have in there when you're fishing into the tribs for rod and

reel.

CHAIRMAN NICHOLIA: To further comment on this, most of our region in the Eastern Interior that is Federal waters is the Yukon Wildlife Refuge, Yukon-Charley and there's little areas in there that's BLM land and it looks like all that pink area and blue area right there.

MR. WILDE: You stated above Circle was State waters, why is that?

MR. VANIA: That Eagle area there is State waters.

MR. WILDE: Yes. Eagle and above but up above Circle is all Federal.

MR. VANIA: I think Federal waters extend just beyond Circle and it runs out somewhere around there. It's -- I always ask Federal managers where their land is and they say look at the map.

MR. WILDE: Okay, thanks. Tom, also why is rod and reel just in the lower and not above?

MR. VANIA: That's the only place that it's been put in for proposal before the Board of Fisheries.

MR. WILDE: Okay, thank you.

CHAIRMAN NICHOLIA: Tricia.

MS. WAGGONER: My question is actually for Jerry. How would you define between a sportfisherman and a subsistence fisherman in some of these tributaries, you know, especially in times where you've closed sportfishing? You know, if this is opened up in the entire drainage, what would limit somebody from going up and sportfishing with a rod and reel and saying, no, I'm subsistence fishing?

MR. BERG: Well, I guess that's basically it, the fisherman would have to declare themselves, whether they're sportfishing or subsistence fishing. And of course, under the Federal regulations, if this were approved, you know, you would not be required to have a sportfishing license. And if you claimed that you were a subsistence fishermen, then you're subsistence fishing.

So there's really, you know, no specific checks other than what the fisherman claims that they are fishing under, either sport or subsistence fishing regulations. Which is currently the situation that we're in on the Kuskokwim right now. It's really up to the fisherman to determine what they're -- what kind of regulations they're fishing under. If they're a rural resident, they only qualify, you know, you couldn't go out there -- an Anchorage resident couldn't go out there, of course, and claim to be subsistence fishing under our regulations. They could under State regulations in the Kuskokwim.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: That's what I was going to point out. The only people that this has an effect on, if the State adopts it, is in the AVCP area, the only people that can't go out and subsistence fish for king salmon are non-residents. If you're a resident of Alaska under State regulation you can.

And so if the Board of Fisheries adopts the agenda change -- if we adopt this and say the Federal Subsistence Board adopts it and the State Board of Fisheries adopts it, what that does is eliminates non-residents from fishing with a rod and reel is the only thing it does in times of conservation whenever they would invoke emergency orders for, you know, sportfishing. They could still subsistence fish unless it was so bad they closed subsistence fishing as well. So the only people that get eliminated in this whole process is non-residents.

If I'm wrong someone correct me, but I think I'm right.

CHAIRMAN NICHOLIA: Go ahead, Tricia.

MS. WAGGONER: Okay. I'm just trying to get this clear in my head. So basically being a resident of the region, I could go with rod and reel to Clearwater Creek and go fishing, subsistence fishing for coho 24 hours a day, seven days a week unless that.....

MR. VANIA: No.

MS. WAGGONER: .....was stopped?

MR. VANIA: No, because that's State waters.

MS. WAGGONER: But if Clearwater Creek or Chandalar, say, or somewhere like that that's Federal waters then you could, right?

MR. VANIA: Yes.

CHAIRMAN NICHOLIA: Any comments from tribal governments and other agency comments.

MR. MIKE: Mr. Chair, there's no other agency comments.

CHAIRMAN NICHOLIA: Fish and Game local advisory committees.

MR. MIKE: Mr. Chair, there was no written public comments received on this proposal. Thank you.

CHAIRMAN NICHOLIA: Public testimony. Nothing. So if there's no public testimony, RAC deliberation. We pretty much deliberated and then the mover -- it wasn't seconded -- it wasn't seconded, if the mover of this, Virgil, if you want to just vote on the proposal -- move to vote on the proposal as is or do you want to take the Staff recommendation?

MR. UMPHENOUR: What I wanted to do was discuss it a little bit more. I wanted to point out some -- because I've been through this issue before in the AVCP area as a Board of Fisheries member and so I just want to point out some things that would happen here is all I want to do.

CHAIRMAN NICHOLIA: Go ahead.

MR. UMPHENOUR: And that is fishing with a rod and reel for subsistence, if a person catches the wrong fish they can, of course, release it unharmed. When you throw a gillnet in the water you might catch a whole bunch more fish than you need or you might catch the wrong kind of fish and so it can be selective and from a conservation viewpoint I think it's a good thing. A majority of the waters that we're talking about are State waters and so it would -- you know you would go by State regulations anyway, but this is -- from what I understand what Mr. Vania said, the Board of Fisheries is going to address this in a week or two, I don't know what they'll do, but anyway, I just wanted to point out some of the ramifications of doing the rod and reel that way.

And the other thing that was pointed out in the Staff comments was that the fishing schedule on the Yukon River, that it changed in January of 2001 where windows were put in place and that was to allow passage of fish up the river to give people more reasonable opportunity for subsistence up river and also to improve the quality of escapement on the spawning grounds which means get the big female fish on the spawning grounds, don't catch all of them in the Lower Yukon with large mesh gillnets because that's what was happening with seven days a week subsistence, very few large fish getting on the spawning grounds. And, in fact, I can say this from personal experience from being the person that buys all the king salmon whenever there is a commercial fishery in the Tanana River, is that, in the last two times that we've had a commercial fishery which was this year and then four years ago, I think, only about 10 percent of the commercial harvest of king salmon, the ones actually caught were females and about 90 percent were males and a majority of that 90 percent are nothing more than jacks, horny teenage boys that contribute nothing to the spawning grounds.

And so that subsistence schedule was put in place to improve the quality of escapement on the spawning grounds. That's the main reason. That and give people up river a chance to catch a few large king salmon once in awhile and have a reasonable equitable opportunity to catch subsistence fish, the larger ones.

And so allowing the rod and reel subsistence would allow people, if they just want to go catch a fish to eat, go catch one fish or two fish or whatever they need, especially if they're targeting king salmon.

And as I said, most of the king salmon spawning rivers are State waters, they're not Federal waters. The only one I can think of that is would be the Nulato River maybe which is BLM land. The majority of the rest of them where you might go catch a king salmon are State waters.

Mr. Chair.

CHAIRMAN NICHOLIA: Thank you. Ron.

CHAIRMAN SAM: Yeah, did you move to adopt this as recommended by Staff recommendation on the whole Yukon River drainage?

MR. UMPHENOUR: That's correct.

CHAIRMAN SAM: Is there a second?

MR. REAKOFF: Second.

CHAIRMAN SAM: You will?

MR. REAKOFF: Yeah, I'll second.

CHAIRMAN SAM: Okay.

CHAIRMAN NICHOLIA: Do you want to say something, Ron.

CHAIRMAN SAM: Yeah, just for your information, any time you introduce subsistence opportunities along the drainage you know that the Western Interior will go for it because we deliberated this action or some actions before and we fought for this proposal because for a good part of our district, sportfishing was allowed when subsistence fishing wasn't allowed, while it was closed. But this helps alleviate that problem or correct the problem.

And then one final comment, if I'm that hungry there's no such thing as a wrong fish to -- and I intend to support this proposal.

Thank you.

CHAIRMAN NICHOLIA: Further discussion.

MS. WAGGONER: Question.

CHAIRMAN NICHOLIA: It's been moved, seconded and question. All those in favor of this proposal as modified by Staff recommendation, signify by saying aye.

IN UNISON: Aye.

CHAIRMAN NICHOLIA: All those opposed same sign.

(No opposing votes)

CHAIRMAN NICHOLIA: Motion carries. We will go onto Proposal 03-03. Remove restrictions -- or did we go past two hours yet, Virg?

MR. UMPHENOUR: It's probably time for a break. I can't find this one in the book.

CHAIRMAN NICHOLIA: Okay.

MR. MIKE: Mr. Chair, this proposal 03-03 does not affect the Eastern Interior it affects the Western Interior.

CHAIRMAN NICHOLIA: Okay. Then we'll take a break.

(Off record)

(On record)

CHAIRMAN NICHOLIA: I'd like to call this meeting back to order.

(Pause)

CHAIRMAN NICHOLIA: The next subject we're going to discuss here, we're going to go right down our agenda list, 03-03 is the Western Interior proposal so we'll move to Section 7, customary trade and I think that's Peggy -- or Pete.

MR. DeMATTEO: Mr. Chair, before Peggy gets rolling I just want to clarify where the agenda will lead for everyone's understanding here. Customary trade will be handled by Peggy Fox as you just mentioned and then after that, Don Rivard will cover future meeting locations. And then after that will be an overview of the post-season salmon fisheries by Russ Holder. Just for everyone's clarification.

Thank you.

CHAIRMAN NICHOLIA: Peggy.

MS. FOX: Thank you, Mr. Chair. Again, for the record my name is Peggy Fox. I'm with the Office of Subsistence Management. I'm going to cover a few talking points on customary trade. Now, I'm unclear with regard to the agenda as to whether or not you're going to -- your Councils are going to take action on this at this time or in your breakout sessions and you might think about that. You have the option of listening to the briefing and asking questions and so on and then, you know, developing your final recommendation on this issue

1 or doing that independent. I'm just unclear myself.
2
3 CHAIRMAN NICHOLIA: From my point of
4 view, my Council, I'd like to do it separately, how we
5 make our own recommendation.
6
7 CHAIRMAN SAM: Ditto. Same.
8
9 CHAIRMAN NICHOLIA: Go ahead.
10
11 MS. FOX: Okay, great, thank you. And so
12 I will proceed and take your questions at the conclusion
13 of my comments. And I'm going to ask that you follow
14 along with me in the supplemental material that should be
15 in front of you somewhere in your stack.
16
17 MR. MIKE: Mr. Chair, for the Eastern
18 Interior folks, I have it in this orange booklet and it's
19 in the back. And the Western Interior should have one
20 handed out to them.
21
22 MS. FOX: If there's any extras, there
23 may be some people in the audience who would like to have
24 copies.
25
26 MR. DeMATTEO: There's a pile on the back
27 table.
28
29 MS. FOX: Oh, great. Thank you, I didn't
30 see that.
31
32 In response to public and Council
33 requests, the Board, during their May 2002 meeting
34 deferred action on the proposed rule for customary trade
35 until January of 2003.
36
37 This decision provides for an extended
38 review opportunity for the Regional Advisory Councils,
39 the public, tribal organizations and Federal and State
40 agencies. Since this meeting, the Board has been
41 analyzing public and Council comments and agency comments
42 received to date. The supplemental materials provided
43 for your review are the results of this analysis.
44
45 I'd like to review with you the reasons
46 why the issue of customary trade is before you. Title
47 VIII of ANILCA specifically identifies customary trade as
48 a recognized part of subsistence uses. The term
49 customary trade is defined in regulation as the cash sale
50 of fish and wildlife resources to support personal or

1 family needs and does not include trade which constitutes
2 a significant commercial enterprise.
3
4 It is important to know the distinction
5 between the terms customary trade and barter.
6
7 Customary trade is the exchange of
8 subsistence resources for cash. Barter is defined as the
9 exchange of subsistence resources for something other
10 than cash and is provided for in Title VIII.
11
12 While exchange of subsistence resources
13 as customary trade may involve fish, shellfish or
14 wildlife resources, this proposed rule only covers the
15 customary trade of fish resources.
16
17 The Federal Subsistence Board has found
18 that the term significant commercial enterprise to be
19 unclear. The lack of a definition is hampering effective
20 law enforcement to prevent abuses. The Board wants to
21 preserve traditional customary trade practices and
22 recognize regional differences while preventing abuse.
23 The proposed rule adopted by the Board in 2001, and I'll
24 refer you to Page 1 of the briefing document, it's behind
25 the letter from the Chair, the proposed rule recommends
26 that no dollar limit be set on exchange for cash of
27 subsistence caught fish, parts or eggs between rural
28 residents. The proposed rule prohibits such exchanges
29 for fisheries businesses whether rural or non-rural.
30 However, the exchange for cash between rural residents
31 and others, that is from non-rural areas, would be
32 allowed as long as the exchange does not make up a
33 significant commercial enterprise.
34
35 Public comments received on this proposed
36 rule generally fell in three categories or alternatives
37 and those begin on Page 3 of the document. The bulk of
38 the comments that we received supported either
39 alternative one or alternative two. Alternative three is
40 the result of the recommendations developed during public
41 meetings held by the 10 Regional Advisory Councils this
42 past winter.
43
44 Let me briefly summarize each of the
45 alternatives.
46
47 Alternative one, again beginning on Page
48 3, would maintain the status quo which permits customary
49 trade unless it results in a significant commercial
50 enterprise. In the future any perceived abuses would be

1 addressed on only on a case by case basis, with
2 appropriate regulatory language. This would be
3 responsive to comments questioning the need for any new
4 regulation or change to present regulations regarding
5 customary trade.
6
7 Alternative two, which begins on Page 4
8 would prohibit subsistence caught fish from entering into
9 the commercial market while permitting customary trade
10 practices between individuals to continue. This option
11 would be responsive to comments that the primary concern
12 is to prevent subsistence caught fish from entering
13 commercial markets.
14
15 Alterative three, which also begins on
16 Page 4 would respond to comments that differing regional
17 practices and needs must be provided for and would
18 prohibit subsistence caught fish from entering into the
19 commercial market. To be effective a system of record
20 keeping would need to be instituted if regional
21 regulations limit the amount of fish exchanged for cash
22 or the amount of cash exchanged. In this case we haven't
23 identified what that system of record keeping would be
24 but some kind of permits or harvest calendars or harvest
25 records of some sort would be required where people would
26 have to keep track of either the amount of fish that they
27 sold in a customary trade action or the amount of money
28 they received for the amount of fish, that type of thing.
29
30
31 On Page 9, I want to show you where we're
32 at in the current process relative to making a decision
33 on proposed changes to the regulations. We are now at
34 step number 3, where we are briefing the comments on the
35 results of public comments and asking the Councils to
36 give us a final recommendation. And then the public
37 comment period ends November 1st, people still have until
38 then to submit written comments to us and then we will
39 summarize those comments, develop Staff Committee
40 recommendations to the Board. The Board will meet in
41 public in January, on January 14th and make a decision on
42 a final rule. The final rule will be published probably
43 February and effective April 1st of next year.
44
45 So in summary, the Board is requesting
46 the Councils to review the material that is provided and
47 specifically make recommendation that would assist the
48 Board in defining customary trade. The Councils are
49 requested to review your earlier recommendation and it's
50 all written out in this document as well, towards the

last half of it each Councils comments are provided so you can review that and let us know whether or not that remains your recommendation or if you'd like to modify it.

That concludes my comments and I'd be glad to take questions on the process or otherwise at this time.

I'd also like to encourage other members of the public to offer comments as well for the record who may be here today.

Thank you.

CHAIRMAN NICHOLIA: Are there any questions for Peggy. Will you please sit there while I have these other two gentleman that want to come up and comment. I would like them to come up here and comment now. The first one would be Bill Fliris.

MR. FLIRIS: Thank you, Mr. Chairman. My name is Bill Fliris. I'm here on behalf of YRDFA, the Yukon River Drainage Fishermen's Association and also for Tanana/Rampart/Manley Advisory Committee.

I live in Tanana. I've been a subsistence and commercial fisherman on the Yukon since 1975. And I'd like to first of all thank you guys for all being here and I know how hard it is to listen to all these complicated problems and come to a decision and I think this is one of the most complicated of all of them.

This is a very important issue for people in my area because customary trade is a big part of the reason why people in my area are out on the river and staying at their fish camps. Without customary trade I really feel that there wouldn't be much of a fishery up in the Yukon these days. There certainly isn't much of a commercial fishery going on anymore. And even when there was it didn't contribute enough money to people to meet their expenses and needs to be out there on the river doing what they want to do.

So I'd like to start out by saying that we reviewed these comments that were made by the Eastern Interior Council at YRDFA at Nenana last winter. And in a nutshell, what the YRDFA felt was that this whole process is going just a little bit too fast to have it

done correctly. There hasn't been enough legitimate research out there into what customary trade really is on the Yukon. Not enough elders have been contacted, there hasn't been anything formal where people can look at it and say, you know, what I have done and what I'm going to talk about will make a difference here.

It seems as though everything is being pushed by law enforcement needs. And while I can appreciate that, in our area I, personally haven't seen any sign of abuse where the resource is threatened by customary trade. So I really have to question why this has to be done so quickly.

And along that line I'd like to recommend that this Council take alternative one which basically doesn't change anything. That gives an opportunity, I think, for more questioning to go on, more research until we can understand what's going on. Because one of my greatest fears is that if more restricted language is put in place what's eventually going to happen is somebody's going to end up in court for having been pinched for doing something that they've been doing all their life like selling salmon strips. And then the courts are going to have the chance to define what customary trade is and I don't think that's the way it should be done. I think this body, the Federal Subsistence Board, all of us working together should have an opportunity to do that.

And so alternative number 1, I think is the best option for the time being to take a look at this.

I'd like to go through a few of the comments that this the Eastern Interior Council made last year just to point out some of the differences in opinion that are really evident here.

I think we all concurred with Part C which is transactions between rural residents and the parts that you struck out which was basically the language, or their eggs, but permitting transactions between rural residents to continue at the level that they have in the past is good.

Then on subpart 12, transactions between a rural resident and others, there's quite a bit of controversy there. For instance, no consensus on dollar value and does not exceed $200 per person per year. I think it needs to be pointed out that $200 is really

relatively an insignificant amount of money these days. It doesn't buy you much. And it's something like 15 pounds of smoke salmon strips. So it isn't going to help anybody out at that level.

There is something in here about the possibility that the level of customary trade allowed may exceed the value of some commercial fisheries. Well, that wouldn't take much these days when we don't have any commercial fishing to speak of. If people are out there on the river waiting for a commercial opening to pay their bills it's just not going to happen. We're not having good salmon returns anymore and we don't know when we'll get them back. So any level of customary trade is going to exceed the value of a commercial fishery at this point.

It says here the Council also discussed the idea that harvest for customary trade should not be the primary goal of subsistence harvest. And that may seem reasonable in some circumstances, but at other times maybe it isn't.

I've seen situations arise where people are harvesting fish for one purpose like commercial fishing but are also catching a lot of fish that are not commercially salable and need to do something with those fish, like jack king salmon which the buyers won't buy. Sometimes you capture hundreds of those in a day in a fishwheel when there's a lot of jacks. They're very good little fish, there's nothing wrong with them except that they're small. What do people generally do with them, in our area, in every fish camp that I know of has a smokehouse and that's where they end up if people can keep up with it and cut that many fish they put them in the smokehouse and what are they going to do with them later on, well, they're going to eat some of them, but probably a lot of them are going to end up spread around the village and probably a lot of them will end up in Fairbanks, maybe even Anchorage. Because there's an extended trade network that goes on in the villages.

And a person that maybe you sold 10 pounds of strips to in Tanana in one year, the next year is calling you from Fairbanks and saying, send them out here I'm working out here now or Anchorage. They may be even out of state. But nevertheless they want to get those fish and it's part of the local economy.

Another comment that Eastern Council made

was when the preseason forecast indicates that a run will not provide for escapement and full subsistence harvest, even with restrictions on non-subsistence uses, then customary trade on that run will be prohibited.

I think that that kind of language is going in the wrong direction.

It seems to me that there's adequate regulations in place to manage the fishery in times of low returns to protect the resource. And that's what it's really all about, is protecting the resource, not managing the way people behave.

I think it's unrealistic to assume that because one person catches a fish and uses it in one way and another catches it and uses it in another way that we should have to try to determine what's the proper way to use this fish just because we're having a poor run. And as far as I know, legally, too, I don't think it's possible to regulate it that way. So I think that's the wrong direction to go.

And then there was a comment about if regulations that ensure if the level of subsistence harvest increases dramatically then some actions would be taken to then restrict customary trade so that it does not expand subsistence harvest into a type of commercial fishery.

There again, I think that, you know, on a case by case basis you could look at things but to make an overall regulation that limits one aspect of subsistence harvest is not the right way to go.

Then the last part is Part 13, no purchase by fisheries businesses. As far as I ever understood this part was intended to keep whole subsistence fish out of the commercial fish market. Here, it's been kind of expanded into the idea that people who are taking fish for dogs may be a business, a fisheries business. I think, just as another example of where you're trying to overregulate something.

For instance if there's a guy out there who's trapping, has a dog team and he's feeding fish to those dogs but he also has to buy other things for that dog team, like commercial dog fish and he gets an Alaska business license so he can write off his expenses against his taxes, he's got a business license and then he would

be singled out and say, you cannot, you know, take subsistence fish as customary trade because you have this business license.

And another thing and the last comment that I have, people who have commercial fishing licenses could also be considered, under this statute, to be a fisheries business and a lot of the people on the Yukon who are subsistence fishermen also have commercial fishing licenses.

So for all those reasons I think the best option at this time is to just go with alternative number 1.

Thank you.

CHAIRMAN NICHOLIA: Do we have any questions for Bill. The next person that I wanted to have comment is Stan Zurey.

MR. ZUREY: Thank you, Mr. Chair. My name is Stan Zurey. I'm from the village of Tanana. I was sent here by the Yukon River Drainage Fishermen's Association. I'm a State -- no the State advisory -- one of the State advisory Council members. Let's see most of these comments are my own however, except for one last one.

Anyway, I'm going to start off with a few facts that, although they don't specifically concern customary trade and barter, they point to a disturbing trend and condition which I feel is to a significant degree the fault of the ever increasing regulations, permits and reporting requirements being placed on legitimate subsistence users.

I do this in the hopes that people hearing this will take seriously any further restrictions, permits or reporting requirements that they're considering at this time. And then after I'll talk about specifics on the customary trade issue. I got four little facts here.

In the last six years we, Tanana, we have lost one-half of the functioning fish camps run out of the Tanana area. Thirty years ago when I came to Tanana the ages of people running these camps varied from many, like myself in their early 20s to 70 years of age. Presently the youngest person running a camp in the

1 Tanana area is approximately 45 years old. There is
2 nobody younger than him running a camp out of the Tanana
3 area right now. In the winter of 1996, prior to the 1997
4 adoption of the Federal policy enforcing a raft of
5 permits and fees concerning the sale of fur by trappers,
6 a Tanana tribal council survey showed 20 trappers selling
7 fur in the village. Between 1997 and 2002, two legal
8 sales of fur have been documented out of the village of
9 Tanana.
10
11 Okay, that's what I -- some of those
12 above are almost entirely the result of regulations and
13 permits and reporting requirements. Some of the others
14 are the function of just the way society is changing.
15 But some of that is, probably 90 percent the cause of --
16 anyway.....
17
18 Anyway, now on the customary trade, a
19 little more specific here. Putting regulations on the
20 long practiced rural to urban sale of fish strips, et
21 cetera, I see that as just a way to further destroy one
22 of the last reasons for a lot the people I know to be at
23 fish camp. Some subsistence fishers in our area --
24 fishermen in our areas sell the majority of their strips
25 in urban areas. Of course, there's so few people doing
26 this anymore and selling strips, it is a noticeable fact
27 that you almost don't have to go out of the village
28 anymore to sell almost your entire amount of fish but I
29 don't see that as a good reason to say, oh, okay, that's
30 okay, let's just go put regulations on rural to urban
31 sales.
32
33 But there are elders in our village who
34 sell the majority of their fish and a lot more than $200
35 worth every year and have been doing it almost their
36 entire life, just like their fathers were doing to urban
37 areas. It's a longstanding practice.
38
39 And as Bill mentioned, there is some
40 wording and I see it's been changed in some of these
41 alternatives here about -- originally there was wording
42 that persons engaged in -- persons licensed by the state
43 of Alaska who engage in a fisheries business, you know,
44 basically couldn't subsistence trade and barter and stuff
45 like that. And that -- some of that language has been
46 changed in some of these alternatives. And I'd just like
47 to -- you know, this has been popping up over the years
48 over and over again and we keep pointing out that, you
49 know, we did get a legal opinion from Bill Caldwell of
50 Alaska Legal Services and I know the intent of that

wording was not to stop limited entry -- or people with fishing licenses from engaging and trading and barter but legally that's what it means. And so I'd just like to steering away from that exact language. Some of the language here is, you know, looking at lot better. But it seems like every time we come up with different language and I've worked with OSM on different language before, back many years ago and then all of a sudden this other language just pops up again.

So I'd like to just -- you know, because if that ever happened -- almost every person, even back 10 years ago, almost every person who runs a fish camp in the Tanana area has a limited entry permit, it's just what you do. I mean it's just another way you can make a couple thousand bucks if they open up a commercial. I mean so that's what people do.

The addition of this dog team stuff in some of this language is kind of disturbing. Considering a dog team commercial because of leasing and selling dogs while having a business license would label the majority of dog teams, including my own as commercial and deny me the right to feed dogs subsistence salmon. I mean, you know, you can put it in language and we can do it anyway and be illegal just like all the rest of this stuff, we're going to do it anyway until we get busted but, you know, really why does it need to be in there? What's going to be solved by this?

You know, the original problem behind this whole thing was -- behind this whole customary trade thing being brought up and I've talked to agency people about this, it's whole salmon being shipped out of the Yukon. I'm well aware of -- I've heard a lot about it. I've known people directly who have seen it and stuff like that, I do not agree with it, YRDFA members do not agree with it. I don't know if any fisherman that agrees with it, you know, shipping whole fish to processors and stuff. It's like this whole thing has shifted now, what I see happening is not an attempt to deal with that problem anymore, we're just shifting the whole burden on subsistence users and it's not going to even solve the problem, I mean it's not even shifting the burden, it's like, you know, too much trouble to attack that real problem because it is a hard problem to deal with, so let's just make a whole bunch of regulations against subsistence users because that's easier or something.

But anyway, I have no problem with

enforcing the present regulations and making further regulations against the sale of subsistence whole salmon or any products to processors or businesses. The above possible regulations to -- or proposed regulations do nothing to cure the real abuse of the whole subsistence salmon sold to processors which I believe triggered the proposal rules to begin with.

We see over and over traditional practices being eliminated by the regulations and the burdens of permits and reporting, yet, the initial perceived or real problem that started the issue doesn't get addressed.

And thank you very much.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: Thank you. Stan, do you have any suggestion on this alternative one, take no action?

MR. ZUREY: Uh-huh. Do I have any.....

MR. UMPHENOUR: Well, my question is this.

MR. ZUREY: Yes.

MR. UMPHENOUR: Do you have any suggestions on how to figure out what is a significant commercial enterprise? And do you think that people should be totally unlimited on customary trade? It's kind of a two-part question. First we have to figure out what is a significant commercial enterprise and no one that I know of has come up with a definition of what that is.

CHAIRMAN NICHOLIA: I'll answer that for you. A significant commercial enterprise is defined in a dictionary as selling fish to a commercial business. And I don't see why we have to put so many regulations on these people who I represent in my Tanana area and in the RAC area. That's why I said there's going to be a big difference between the road system and the river system. These people have been living their lives -- these two people right here they've learned from people along the rivers that's been doing this for the last many years. They may have not had fishwheels a couple hundred years but they've been doing it.

The trade and barter system from the Tanana area goes all the way to the Anchorage area and all the way to the Kobuk River area. That was our barter and trading system a long time ago.

And if we're going to a significant commercial enterprise of selling those subsistence fish to a commercial business and that should be defined as that way. If you're going to regulate these people and take their lifestyles away that they try so hard doing there, then let me ask this to Stan, how far is $2,000 going to go in building a fish camp.

MR. ZUREY: Yeah, and I'd like to point out that, you know, that's gross and if you run a hardware store and you have sales of whatever, $100,000 in a year, that's your gross and it's the same in a fish camp. If you make $1,000 -- or $2,000 selling fish strips to somebody in Fairbanks or a number of people in Fairbanks, that's your gross, you got nothing to show at the end of the season for $2,000, you have nothing.

But I'm glad Gerald talked there because it gave me a second to come up with an answer to Virgil, not so much like on an amount that would constitute a significant commercial enterprise but the only way an individual can make over what even a reasonable person would think is a significant amount of money, you know, commercial enterprise, the only way he can do that is basically selling whole fish, you know, the problem that this whole thing was brought up over.

Like you take -- like I'll take an example, I've used the man before, I don't have to say his name, but Gerald will know who I'm talking about -- well, you know who I'm talking about, he's one of the few elders who's at the fish camps. And this summer he -- he might have -- I don't know, he might have put up, you know, five, might have put up $8,000 worth of fish, you know, chum, dry fish, strips and the whole bit. He worked all summer long doing that. But he had another woman there who worked with him and I don't know just what she got out of the deal but she was working right with him, so that gets split two ways. Then there was a young man there with them all summer long and I don't know what he got out of the deal, you know, probably not as much as Lester because he's running the camp, it's his boat, his gas, his, you know, equipment but he was supported by that whole thing and he went home with some money. Okay. And then Lester also had -- or excuse me.

(Laughter)

MR. ZUREY: This guy had the help of his son and his sister-in-law for a good bit of the summer, too, this year, sometimes it's one son or another but he also raised 12 kids doing this sort of stuff, you know. So that's what he had this summer so he might have made that amount of money and I don't really know if that amount of money would be considered a significant commercial enterprise but he worked his butt off all summer long and that's about the money he made and that's, as you know, you know like some of the big strip camps, you know -- you know, when they make that kind of money it's more than one person who's doing that and so that gets divided that many times. So what's that amount of money, you know, over a course of a whole summer, somebody being there.

You know, kind of like, as long as somebody's processing the salmon, turning them into strips, turning them into what's traditional and customary, as long as it's that kind of products and stuff, it's self-regulating. It's like Sidney found out, you know, he kind of even put up strips down there, commercial, it's not even worth it, you know, he had to make the fillets, that was the only thing that barely paid, you know, strips wasn't worth it, you know. And it's the same in the subsistence lifestyle, you know, strips don't -- they don't pay out money that you're going to be buying -- nobody I know who runs a strip camp in the Tanana area is buying any motors or boats with that money. You know, there hasn't been anybody I know buy any boats and motors with, you know, from their fishing because there's been no commercial fishing. And so the problem is, you know, if you were a single -- the way a single individual can abuse it and make what would be considered significant commercial amounts of money is buy doing something that's illegal so let's go after the problem.

I mean let's forget about this. You put reporting requirements on people at camps, I mean how many more camps are we going to lose, you know, that's what I see.

It's like the whole potlatch issue here that was being discussed earlier, I mean people don't go and ask -- or tell Fish and Game they're going to go out and shoot moose every time somebody dies. I mean there's something that happens in the village every time -- every

time there's a death, people just go out and they get the game and they bring it in and they have a potlatch and I don't know, you know, I mean all it's doing is making people criminals, you know, I mean it's just like the trapping thing, we're all poachers now. We all black market fur, you know, that's all the regulations have done.

CHAIRMAN NICHOLIA: Anymore questions. Yeah, go ahead, Peggy.

MS. FOX: I just want to add a little bit to the discussion. I think it's been very good discussion with the public comment and Council comment. The proposed rule is proposing that transactions can occur with businesses as long as they're not fisheries businesses, in other words, a restaurant or a store, that would be permitted under the proposed rule.

Now, the Councils, through a task force process have come up with a number of different ideas that are documented here as to how to define a significant commercial enterprise. Again, it can be just as a fisheries business, licensed by the state of Alaska, that simply or an amount of money per household and an amount of money per household member or the number of fish or the percentage of fish that are taken. So there are a variety of different ways that the regions are considering regulating this.

One Council that I discussed this with, just for your information, I think most of the Councils are going along with their previous recommendations but I do know that in my discussions with Kodiak/Aleutians that they're concerned that we haven't heard much from the tribes on this, that they've been rather silent about it and asked if this regulation, if passed, is something that could be reconsidered in a year and the obvious answer to that is yes, subpart C, any part of subpart C and D can be reconsidered on an annual basis. Because they thought they would check with the tribes and see how they felt about -- especially the permitting, the record keeping aspect of things.

One of the other wrinkles in this is that the fish have to come from Federal public lands. Otherwise, if they come from State waters, you know, that's prohibited. So it is kind of complex.

Thank you very much.

CHAIRMAN NICHOLIA: Go ahead, Ron.

CHAIRMAN SAM: Yeah, thank you, Peggy. Just for your information I'm just going through the next step, extended comment period ends on November 1st -- just for your information we do have a subregional meeting set up to discuss this issue. I don't know if I'll be there but I think it's leading up to the AFN Convention which will just give us barely enough time to make that extended comment period. But at this time, I'm just hesitant to make any more comments or make any more recommendations until we have these meetings out there in the villages. There's about 10 or 15 villages getting together to discuss this issue along with other business.

And that's just for your information. And that's why I'm hesitant to make any kind of recommendations at this time.

Thank you.

MS. FOX: Just for a point of clarification, the proposal comment period ends November 1st, however, we will still be taking testimony at the Board meeting in January.

CHAIRMAN SAM: Okay.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: Thank you. I heard you say something and I didn't quite understand it, about restaurants and stores, could you say that again, please?

MS. FOX: Yeah, let's look at the same thing. On Page 1, under the proposed rule, if you look at Section 12 it talks about transactions between a rural resident and others. And it says that customary trade for fish, their parts or their eggs legally taken under these regulations in this part from a rural resident to commercial entities other than fisheries businesses or from a rural resident to individuals other than rural residents is permitted as long as the customary trade does not constitute a significant commercial enterprise and then the last paragraph says no purchases at all by fisheries businesses.

That's what I was referring to. So it does allow some transaction with some commercial entities.

MR. UMPHENOUR: Okay, you said restaurants and stores. And so that means that they could be sold to restaurants and stores under here?

MS. FOX: That's correct. The only thing that's prohibited under the proposed rule is a sale to a fisheries business as licensed under the state of Alaska.

MR. UMPHENOUR: Well, what about the.....

MS. FOX: If a restaurant has a fisheries license then that wouldn't work.

MR. UMPHENOUR: What about the USDA regulations that stipulate that all fish which is going to be fed to the public, exchanged to the general public have to meet DEC and US -- and FDA regulations which I meet because I am a fish processor and it costs me thousands and thousands and thousands of dollars to meet those regulations, to be bonded to carry a couple of million dollars worth of product liability insurance in case someone gets sick off my fish. The Department of the Interior has under it the Department of Agriculture, correct?

MS. FOX: No, they're independent departments there.

MR. UMPHENOUR: Okay. Well, how can one government agencies promulgate a regulation that is in direct violation of another government agency and me, as a fish processor, this aggravates the hell out of me because it costs me lots and lots of money. I have inspectors coming into my place at any time, the Army even inspects me for cleanliness. I have to meet all these standards. I don't know if you've ever heard of the HACCP, Hazard, Analysis, Critical Control Point, they drive you crazy with that. How can all that be just pitched out the window and Stan can go catch a bunch of fish, haul them in here and sell them to any restaurant he wants or any store that wants to buy them and serve them to the public? How can they do that, that's my question?

MS. FOX: Well I wasn't a part of the task force. I know that we had some representation there from the solicitor's office and I don't know what their comments were. Perhaps we'll hear more about, in answer to your question as this unfolds. So I don't know from their standpoint, you know, how they see this. I do know

that the intent is to continue existing customary trade practices and it's recognized that that is a continuing practice, has been a practice for a number of years.

But, you know, we'll have to see how this plays out.

CHAIRMAN NICHOLIA: I think this provision came from the Northwest region where they do -- where the fisheries -- where the store does put jars of fish on their shelves for the locals to buy them. That's where this provision -- that Bert -- who were sitting on that customary trade task force or whatever. This is where -- this is just another example of things that's being regulated that's being blown out of proportion.

MR. UMPHENOUR: Thank you.

CHAIRMAN NICHOLIA: Any more questions. Thank you Peggy. Next Donald.

MR. MIKE: Mr. Chair, the next item on the agenda is the post-season subsistence salmon fisheries overview. Russ Holder will be presenting the post-season report.

CHAIRMAN NICHOLIA: Aren't we going to do the meeting locations for the Eastern and Western Interior tonight -- before we do the post-season deal, I thought that's what was going to happen?

MR. DeMATTEO: Mr. Chair, the meeting for this evening will begin at 7:00 p.m., over at the Springhill Suites Hotel on the first floor in the meeting room and it's my understanding it's just for the Western Interior Council.

CHAIRMAN SAM: Yes, and that was just to catch up and put everybody in perspective and on the same page. And at that time we will try to deal with strictly Western Interior issues.

Thank you.

CHAIRMAN NICHOLIA: Okay. We'll take on post-season summary with Federal and State in-season managers, Russ Holder and Tom Vania.

MR. HOLDER: Mr. Chairman, it will just take a couple minutes here to get things set up.

CHAIRMAN NICHOLIA: A couple minute break.

(Off record)

(On record)

CHAIRMAN NICHOLIA: Go ahead.

MR. DeMATTEO: Mr. Chair, just keep in mind that we have to quit this meeting at 5:00 p.m. today and be out of here by 5:30, that means break everything down and get out. Just a reminder. And also we broke stride here, after Russ Holder is finished we still have to cover the future meeting locations which will be handled by Don Rivard.

Thanks.

CHAIRMAN NICHOLIA: Go ahead.

MR. HOLDER: Mr. Chairman, Council members and audience. My name is Russ Holder. I'm with U.S. Fish and Wildlife Service.

Sitting to my right is Fred Bue with Alaska Department of Fish and Game who manages the fall season. To his right is Tom Vania, the summer season, Alaska Department of Fish and Game manager. Handling the slides for me is Ray Hander, my assistant. Would you just raise your hand, Ray and Brandy Berkbigler, back here, if you'd just raise your hand, Brandy, also assisted me this summer with getting information to Regional Council members.

Going into this fishing season, a joint information sheet, which you can see the first page of on the overhead here, which consisted of five pages was jointly developed by US Fish and Wildlife Service and the Alaska Department of Fish and Game and was mailed to all Yukon River commercial and subsistence fishing households. The information sheet was also provided as a handout at preseason fishermen's meetings informing them of the outlooks, subsistence salmon fishing schedule and management strategies for the 2002 season. The preseason salmon outlook for chinook, summer chum and fall chum salmon were all anticipated to be below average to poor in strength in large part due to the low productivity trends of recent years. This was the second fishing season in which subsistence users fish the regulatory

windowed subsistence salmon fishing schedule. The handout also identified the management strategy this season was to wait until near the quarter point of each salmon run to implement a reduction of the subsistence salmon fishing schedule, if necessary, while also agreeing to wait until near the midpoint or later of the chinook salmon run to determine if the run size was sufficient to allow commercial fishing.

As the chinook and summer chum salmon runs developed, they were assessed to be average in run timing but below average in abundance. However, if enough fish were available to allow subsistence fishing to continue -- excuse me let me start again there -- however, enough fish were available to allow subsistence fishing to continue at the maximum allowed by the regulatory schedule. Near the mid-point of the summer season managers assessed that the run abundance of both species appeared adequate to provide for escapement, continued subsistence fishing and a small commercial chinook salmon harvest. The Alaska Department of Fish and Game provided small commercial fishing opportunities in nearly all fishing districts, although lack of buyer participation or limited sales opportunities resulted in no fish being commercially sold in some areas.

Preliminary escapement and subsistence information indicate that the chinook salmon run appeared consistent with mid-season assessment. Although the 2002 chinook salmon run was below average, most of the escapement objectives were met, subsistence users have generally reported meeting their needs and there were enough fish to have a small commercial fishery.

The 2002 summer season salmon run, in-season, appeared sufficient to meet most escapement objectives, allow scheduled subsistence fishing and provide for a small commercial harvest. Even though the 2002 summer chum salmon run was a little more than one million fish, it still represents a below average return. Even so, it was encouraging to see this years return being more than double the run size experienced in 2001.

Entering the fall season, a projected fun size of 500,000 to 600,000 fall chum salmon was based on the preseason projection and on the strong performance relationship to summer chum salmon returns. Unfortunately, near the midpoint of the fall chum salmon run it became apparent that the trend of poor production was continuing as indicated from the Emmonak, Mountain

Village and Kaltag drift gillnet test fisheries, Pilot Station Sonar and subsistence fishing reports. At that time the overall run of fall chum salmon was projected to be less than 350,000 fish. Together with the Alaska Department of Fish and Game and Federal managers announced subsistence salmon fishing closures for the Lower Yukon area on August 9th and closures for the Upper Yukon area on August 11th. Subsistence fishing with limited gear types for non-salmon species remained open. The salmon fishery remained closed until late August, when the subsistence fishery was progressively reopened once it was assessed that the majority of the migrating fall chum salmon were beyond a fishing district. Subsistence fishermen in most areas did not have adequate opportunities to fish for fall chum salmon and we know fishermen did not get enough fall chum salmon to meet their subsistence needs. Preliminary escapement information for the Tanana River, Chandalar River and Canadian border indicates those areas received just enough fish to reach their objectives although the Sheenjek and Fishing Branch River system did not reach their objectives.

The coho salmon run was assessed to be near average in run strength and timing this year. Unfortunately, the overlapping run timing of coho salmon with fall chum salmon resulted in missed coho salmon harvest opportunity due to the closures to protect fall chum salmon. Although, where possible, managers tried to provide opportunities to harvest coho salmon.

In summary, after the second year of implementing the regulatory subsistence salmon fishing schedule, it continues to appear that this windowed approach has allowed for most subsistence users to meet their needs, while accomplishing the goals of increasing the quality of escapement, spreading harvest throughout the run and spreading subsistence harvest opportunities among users in the lower, middle and upper Yukon River.

The commitment of fishermen in following the announced management actions has been appreciated, especially during these years of reduced salmon returns. While it is encouraging to see the chinook and summer chum salmon run strength at least stable or improved from the 2001 run, it is discouraging to see the continued poor productivity shown by fall chum salmon. The outlook for 2003 will be prepared after escapement information and age composition analysis are completed over the next several months.

This concludes my overview of the 2002 salmon season. Both Fred Bue and Tom Vania have provided comprehensive handouts in the back but are not planning to provide oral presentations at this meeting.

So we're available to answer your questions. Thank you.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: Thank you, this should be directed at Mr. Vania, I think, but the Salcha River on about the 20th of August, I think, was passing 20 times the normal amount of water and I don't know if anyone drove across that bridge on the Salcha River about then but I did. And so I'm wondering, do you think that any of the fish that spawned in the Salcha River, that they spawned successfully.

MR. VANIA: I don't really have a comment for that Virgil, I hadn't heard about the water levels on the Salcha, recently there in August. But, you know, like any year they're always subject to various environmental conditions and we can hope for the best for the Salcha. I know escapements that we saw into the Salcha for the amount that they counted, they were out of the water quite a bit during the peak time of escapement for chinook salmon but minimum counts that we have in there puts the estimate on the Salcha, I believe, at over 8,000 which is well above the escapement goal range for that river.

So no, I can't answer as to what the condition of the eggs are going to be for the future for that river.

MR. UMPHENOUR: Thank you. Mr. Holder, did your department do any analysis on that or have any idea what is going to be the result of that?

MR. HOLDER: Mr. Chairman. Mr. Umphenour, no, we did not.

MR. UMPHENOUR: Thank you. Mr. Chair.

CHAIRMAN NICHOLIA: Go ahead, Jack.

MR. REAKOFF: Did you do any ichtephonus analysis and have you decided on what kind of reduction in the spawning females have been reduced through

ichtephonus as of yet.

MR. HOLDER: Mr. Chairman. Mr. Reakoff, the ichtephonus research did continue this past year being led by Dr. Cosan from the University of Washington and I believe -- I mean it's ongoing research and we have not established addressing specifically loss of salmon due to ichtephonus. We're not prepared to do that at this time and information regarding what the actual affects of that proteus are on chinook salmon are still being researched.

CHAIRMAN NICHOLIA: Go ahead, Tricia.

MS. WAGGONER: Throughout the season, there in August there was several comments during the weekly YRDFA teleconferences regarding the actual run timing, the fall chum run versus the summer chum run, and has that been taken into account in your post-season analysis as for the actual overall strength of the run?

MR. BUE: Yeah, Mr. Chairman for the record, since it's my first time speaking, my name is Fred Bue and I'm with the Alaska Department of Fish and Game.

I'm not really certain on your question but the overall run time for fall chums and I think you're referring to the window of time appeared to be normal but it was loaded heavy towards the second half of the run. We're not certain how that will play into our future projections but we do look and see where those fish are bound to, which tributaries they're going to and the distribution of the fish. And it's not so much run timing but run abundance when they reach those tributaries that that plays into our projection.

MR. VANIA: Genetics are.....

MR. BUE: Oh, genetics are.....

MR. VANIA: Right. The genetics that they do every year to determine summer chum versus fall chum, they take it down to Pilot Station every year. Generally they start at the first of July, I believe, is when they begin collecting their genetic samples there. That hasn't been worked up yet. I'm not sure whether it's going to be done before the end of the year or not but they generally put out a report to us every year as to letting us know what the percent going by Pilot

Station that they feel, genetically that they sample, and we can look at it then. We've been doing that for how many years now, genetics, three.....

MR. HOLDER: Three.

MR. VANIA: .....three years, looking at the percent summer chum, fall chum. That date that we chose for July 16th for Pilot Station project, so that all goes towards that research there, is that a good date to pick to begin fall chum management so we don't have the results of the genetics yet.

CHAIRMAN NICHOLIA: You keep mentioning the Pilot Station Sonar, is that thing stuck in the mud sometimes?

MR. VANIA: No, you're referring to one time back in '94 where there was some problems with project operations where they had a pouring and the Department's gone through a lot of analysis of that, a lot of oversight of that project to try to ensure that a mistake of that magnitude doesn't happen again.

But that's not to say that Pilot Station is infallible. It does have some problems. It has problems with chinook. There's an apportionment issue that we're trying to deal with, trying to understand the problem with trying to apportion chinook.

So it's the only project really for summer season, for chinook and summer chum that actually can give us a number so a lot relies on that number so we're trying to work out all the issues and problems we have with Pilot Stations. But the issues are there, the problems are there and there's a lot of oversight into the project trying to make it the best that it can and trying to make it useful for management.

CHAIRMAN NICHOLIA: And another thing is that why do you put so much emphasis and stuff on the Pilot Station Sonar, is that -- do you know how deep it is there? Do you know what the contour of the river there, to put so much emphasis to cut the people that I represent off all the time, every year for the last three years?

MR. VANIA: Yeah, there's -- they do bottom profiles at Pilot Station every year so they're well aware of what the bottom is, how deep it is.

They're not counting the whole river. There is a lot of emphasis on Pilot Station for assessment of chum salmon. IT has been proven to be more reliable for chum salmon than it has for chinook salmon.

Throughout the summer I continually reminded people the problems that we have with Pilot Station in regards to chinook salmon and to be very careful on how you use that information from Pilot Station regarding chinook. Summer chum salmon -- the reason why Pilot Station tends to be a little better for chum salmon is one, probably just the migration pattern of chum salmon where they're a little more bank orientated than chinook are which tends to make things a little easier when we're trying to apportion. But we also have checks, we have other projects which are given us an abundance number for chum salmon. For fall chum, you know, you have Rampart tagging project. You have tagging projects that are in the Tanana. For summer chum salmon you have the Anvik River Sonar Project which has been in place since 1980 and that's a major producer. IT produces about 50 percent of the run that goes by so you can use that as a gage to see how Pilot Station is doing as well. We don't have those for chinook salmon, it becomes a little more difficult.

So kind of trying to remind people to be very careful on how you use the Pilot Station information.

And like it or not, we have management plans in place on chum salmon, both summer chum and fall chum salmon that are based on Pilot Station. So we try to use all the information we have, not just Pilot Station but we use all the assessment projects that we have, all the tools that we have out there, all the subsistence harvest information to try to verify the Pilot Station which the management plan is based upon.

CHAIRMAN NICHOLIA: Did you guys follow those suggestions from TCC and Gilbert Huntington and them to have another sonar station on -- there's some kind of bluff, you know, Kaltag, they mentioned that to me, did you guys take that suggestion or you just ignored it?

MR. HOLDER: Mr. Chairman. I had not heard on that suggestion but I can tell you that the amount of money and individuals invested in sonar programs is very expensive and doing one in the middle

river there, basically additional monies and personnel would need to be found. And I guess what I would -- as Mr. Vania and Mr. Bue have indicated to you, we're not solely relying on Pilot Station. That is one of the reasons that the Office of Subsistence Management has been providing additional funds to start up some of these additional assessment projects on the tributaries to actually help us get a better picture of what is going on. And unfortunately Pilot Station is one of the closer ones and one of the earliest ones that gives us an idea of what's going on with the salmon run with it being at Mile 123 basically river mile on the river and it takes a little additional time, it can take a week, two weeks, three weeks to get additional information from some of these up river projects. But we are looking for consistency and from the information that's coming back from these other projects and so as other managers have indicated, it's not solely the indication that we're looking at but we do place a large emphasis on it because it does give us numbers and it is one of the earliest pieces of information that we're getting besides the Emmonak test fishing information and in the fall time, the Mountain Village test fishing information.

CHAIRMAN NICHOLIA: Since you mentioned the Emmonak test fishery and the Mountain Village fishery, did you guys ever take John Hanson's and Harry Wilde's suggestion to change your set net locations because of sand build up in certain eddies?

MR. VANIA: The general locations stay the same but from year to year we do shift based on how the sand bars are moving and how the eddies are shifting. We do shift within the general location that we're at from year to year.

CHAIRMAN NICHOLIA: Go ahead.

MR. WALKER: Yes, Mr. Vania, Mr. Bue. Robert Walker. I have one question here on your Pilot Station Sonar is, how much did the drift on the river -- does it add to your count, does it interfere with your fish count, you got an answer?

MR. VANIA: Yeah, the drift doesn't affect them, say, this log here is a fish, it won't affect counts that way. As the traces appear on a chart, debris is very easily discerned from a fish trace. Where debris could affect a project would be if it knocked a tripod over or if it tore a cable or just physically

hitting the equipment. But to count a log as a fish, they're very easily discernible on the charts so it's generally not a problem.

CHAIRMAN NICHOLIA: Go ahead, Micky.

MR. STICKMAN: Yeah, Michael Stickman from Nulato, Western Interior Advisory Committee Member. Thank you, Mr. Chair.

You know, just talking about the in-season management and the teleconferences this summer, I always brought up the subject of allocation or, you know, I guess the one -- well, fishing season's over now so I guess the one question that I would have is in the commercial openings, I think approximately about 22,000 chinook salmon were harvested in commercial fishing openings, did you guys separate those out to, I mean male or female -- how many thousands were male, how many thousands were female?

MR. VANIA: In the summary, if you look at Page 7 of the summer season of the commercial fishery summary, midway down it shows what the age composition of the commercial harvest was for the samples that were collected. And for the commercial harvest, the samples that were collected in the lower river were -- actually I think this was for the entire lower and upper river combined was 54.7 percent females and 45.3 percent males for the commercial harvest.

The total commercial harvest was about, just over 24,000 chinook and about 13 and a half thousand summer chum salmon.

MR. STICKMAN: The reason why I bring that up is because, well, like I've said through the summer in the teleconferences, that, you know, those commercial fishermen with their fishing gear type, the majority of the fish that they caught, well, like you said, 55 percent were female, well, those were like the biggest females out there because of the net gear type, so I was just wondering, you know, as far as conservation is concerned, it seemed like having those commercial openings was like a step backwards because, you know, half the fish they caught were female and like I said, the gear type is -- they take the bigger fish and those are the fish that are primarily going to make it to the spawning grounds.

MR. VANIA: Well, certainly the gear type that they use is going to target larger fish but as you can see larger fish are also made up of males as well. You know, they had -- 45 percent of them were males as well. So they do catch both males and females. It's not 100 percent females that they're catching.

They are pulsed, they do -- they only catch 22,000, 24,000 fish, half of them are females. You know, likely you look at your subsistence harvest and anybody's that's fishing big mesh gear along the way is going to be similar. We look up into our escapements and we see how the escapement levels are doing. This year a lot of the sex ratio information isn't in yet but this year it appears that the females on the spawning grounds are probably not as good as last year but a lot of that probably can be contributed to a large component of jacks that were coming into the river this year. We had a much higher percentage of jacks that returned this year, which necessarily isn't a bad thing. As you look at a large portion of jacks coming in, that gives us reason to be optimistic for next year that when they return as five year olds, that there should also be a larger proportion of those that maybe had a better survivability of that parent year.

So the problem with gear is if you want to start targeting smaller fish you start targeting chum. There's no commercial market for chum salmon and in the past few years chum salmon were worse off than chinook salmon so it becomes a matter of where you want to direct a commercial harvest.

We did manage the season to be based on similar to last year and we saw that looking at last year's season we could have harvested at least 20,000 chinook salmon and still met all our escapement objectives and provided for subsistence.

Going into the season this year, the run was developing very similar to last year so we proceeded as we had planned and harvested about 20 to 25,000 chinook salmon. We were able to provide for subsistence and we also met a lot of our escapement objectives. The escapements probably weren't quite as good as last year but last year was exceptional for escapements.

So we're happy with what we saw except for maybe the Koyukuk. For one reason or another, which is typical from year to year, one area is good and some

areas don't do as well. And for some reason this year the Koyukuk -- but we see in Gisasa and Hanshaw and what not, for some reason just wasn't quite as good for chinook this year.

CHAIRMAN NICHOLIA: Well, I have one comment to say about that. You know, the more big fish you take out of one, say for chinook salmon, the less big fish you're going to have, you need big fish on the spawning ground. So I suggest next year there be no commercial openings. You let it -- just let it try to build itself. You listen -- I said this last year, too, don't listen to the legislature or the push -- every year, man, we get misallocated.

I'm not trying to pit up river against down river but I want my people to meet their needs sometimes, you know what I mean?

MR. VANIA: So are you saying that up river didn't meet their chinook salmon needs this year?

CHAIRMAN NICHOLIA: Not just that chinook salmon, I got one chinook salmon in my freezer, last year I had six.

Go ahead, Jack.

MR. REAKOFF: I see the escapement for the Canadian portion is 28,000, what's the required escapement passage into Canada?

MR. VANIA: The escapement right now is preliminary and that's just based off of preliminary border passage estimate with the Canadian DFO provided us of -- the last one I got was 36,400. The way they tend to do their border passages, they quit giving us updates about the beginning of August and then come late October here they'll likely adjust it down a bit. So then what I did was I took the 36,000 for the estimate border passage and added up what their preliminary harvest was which was about 8,000. So 28,000 was the agreed upon escapement goal this year to allow for a commercial fishery.

Now, if we didn't commercial fish we could have fished it down to about 25,000 chinook salmon on the US side so we were able to meet our obligations to put fish across the border.

CHAIRMAN NICHOLIA: Benedict.

MR. JONES: Yeah, commercial fishing part. You took all the big females, those are reproductive. And I would like to see closure to five year periods for the next five years to commercial fishing to rebuild our stock. Because 30 years ago there was no commercial fishing on the Yukon River and we had a healthy stock return every year of chinooks. And since the commercial opening it's going down, down, down all the time and never rebuilds.

So I'd like to see -- and for test fisheries, a lot of people doesn't like the tagging operation of the king salmon, human handling.

And also another part, too, I've noticed that on the weir steel -- like on the Gisasa River, ever since you guys put in the weir, the -- we're getting less fish going back into the Gisasa River to the spawning grounds every year.

Thank you.

MR. VANIA: Well, you know, one thing that I noticed this year that I took a look at was the average weight of chinook salmon caught in the lower river commercial fishery. There's about 19 and a half pounds, I think, this year for just the lower river.

Then I pulled out some fish tickets for subdistrict 5B, C, commercial period and all gear types combined, the average weight was, oh, I think over 16 pounds. Then I took the fishwheel's out and looked at the one net fisherman that they had up there and the fish that he delivered, the average weight of him was 18.7 pounds. He was just over a half pound less than what they were fishing down in the lower river.

So to say that all the big fish are being caught down in the lower river for six commercial periods is not true. Big fish make it through. There's periods of time where there's no fishing at all. That was the basis of the window subsistence fishing schedule. Is you create windows of time where you're not fishing, when you're not fishing fish aren't being caught, fish are going to be passed. Now, they might be caught up river but you're putting more fish up there. It's more likely that these big fish are going to make it through. That was the whole idea behind the subsistence window schedule and that's how commercial fishing works, too. They don't fish seven days a week, 24 hours a day commercial

fishing. They fish one period -- two periods a week in one district and two periods a week in another district. And the same goes as the fish go up river. There's periods of time where we fish and we don't fish.

That was the concept of getting big fish up there rather than doing a gear reduction and redirecting harvest to other species.

CHAIRMAN NICHOLIA: I think what Benedict was trying to say is that the big fish have been targeted for the last 20 years since commercial has been opening. We're not thinking six years, we're thinking 20 years ago when State management took over. Every year it's been going on, that's what he just said.

MR. VANIA: Yes, you're right. And the Department, when we have large summer chum salmon runs and we have a market for summer chum salmon, I mean that's good because then we have some restricted six periods which will target a whole age class of chinook salmon. I mean ideally that's what would be nice, is if you could fish a whole suite of different mesh sizes on the commercial fleet, on the subsistence fleet to where you could target all age classes and not just one age class but it's not just the commercial fishery that is targeting large fish.

I mean it is net fishermen all through up the river from, you know, the mouth of the river to the headwaters in Canada. I mean they're going to catch the biggest fish that they can catch. I mean everybody targets them, that's a prized fish. And that's why, management wise, we try to create windows of time to where we can allow fish to pass through.

I mean it's market driven, you have escapement goals and if you meet these escapement goals and you allow other fish to go through of all age classes and different sizes, genetically you should be okay and that's something that the genetics at the Anchorage office continually tries to present is you create windows of time that fish aren't being caught.

MR. STICKMAN: Yeah, I don't know, I just can't, you know, another thing that I brought up was as far as fishing -- as far as these windows and the fishing schedules was, you know, I don't want to say up river and down river but it's got to be that way because you see Districts 1 and 2 where they get 22,000 chinook and

they're getting 22, 24,000 you said -- 24,000 of the biggest ones and where you see the subsistence harvest of probably less than 6,000 along the whole river but then you see one little area getting 24,000, you know, I don't think that's fair.

CHAIRMAN NICHOLIA: Go ahead.

MR. WALKER: Thank you, Mr. Chairman. Just adding on to what Micky had to say, it seems like every year, year after year after year for the last eight years that Y1 and Y2 is favored over 4, 5 and 6. Even Y3 doesn't fish. I mean why is that? Do they have a lot more money? Do they have a lot more status quo or Lower Yukon has more power than the Upper Yukon or what? I mean there's got to be some kind of answer here. I don't know if Fred could answer that, either.

Thank you.

MR. VANIA: Well, Robert, are you talking commercial or are you talking subsistence?

MR. WALKER: I'm talking commercial, then subsistence is second.

MR. VANIA: Well, commercial through the Board of Fish process, 90 percent of the harvest is allocated to the Lower River. So they're going to get 90 percent of the harvest. So that's an allocation issue that's been gone through the Board of Fisheries.

For subsistence they're in -- these times of years when we've had poor returns prior to the subsistence schedule being put into place, it was more of a matter of we were used to having these large returns and then all of a sudden we're in a year where we expect a large return to come so we're doing status quo, everybody's going to fish, we're doing normal subsistence with the commercial fishery, even before the returns started to diminish we wouldn't commercial fish until we had about a seven day build up which would, on average, provide for escapement and subsistence needs. When we had good years of good returns, that's all it took. A week of fish going by the lower river we could start commercial fishing and that was all the fish that upper river and escapement needed.

Well, now we have years of poor return and this year we decided to wait until the mid point of

the run before we were confident enough that the run was good enough to allow for commercial. So we have these mechanisms in place to provide for fish to put them up river, pass the commercial before we start fishing.

For subsistence we went through the Board of Fisheries to try to determine -- try to spread it equally, the opportunity out and not have seven day a week fishing in the lower river at the beginning of the season. So we're trying to come up with an optimum schedule and we know the schedule has some problems. The Department has submitted an ACR as well as -- Mr. Umphenour has also submitted an ACR to the Board of Fisheries to give some clarity on the subsistence fishing schedule.

So these are things that we're trying to work out and trying to make it to where everybody has an equal opportunity to get their subsistence needs met.

MR. WALKER: Yes. But I just really feel that we're being discriminated against. Because you -- the Fish Board and the biologist here favors Y1 and Y2 and I just really feel that, you know, you people are not doing a very good job, period.

Thank you, Mr. Chair.

MR. VANIA: Well, I mean that's a Bard of Fishery issue, when we're dealing with allocations. But what we do see is in years of high summer chum salmon returns, I mean that's District 4's fish, this summer fish, I mean that's your fishery. You know, especially subdistrict 4A, that's not a king fishery there, they fish with fishwheels, they target summer chum salmon and there's no buyers for chinook salmon. So I mean that's not a discrimination thing, that's just a reality of what you catch, what's the market for and it's a Board of Fish process on allocating the harvest. I mean the Department just -- we have to go with what the Board of Fish does, the Department doesn't allocate the fish.

MR. STICKMAN: But you can change all that.

MR. WALKER: One more, question, Mr. Chair.

CHAIRMAN NICHOLIA: Go ahead.

MR. WALKER: And it just shows through that, you know, last winter when we had a meeting last year we were specified Y4 and 5, that we were not going to fish at all, period, and so was not 1 or 2 and 3 and come June Fish and Game started calling around and said, you know, you guys want to fish, we got an excess amount of dog fish -- summer chums, rather. I said, how are we going to fish, we don't have a buyer, nobody's geared up because you specified, you told us we're not going to have any fishing. That's my last question.

MR. VANIA: Yeah, Robert. And, you know, the summer chum surprised us all. We went from 450,000 fish to over a million fish. And the Department, we're always trying to be prepared for the unexpected and with summer chum salmon, you know, we didn't expect enough fish to come by -- to have enough for a commercial fishery. And when they did come back, yeah, we were scrambling, we were going to do what we could to provide for a commercial fishery of summer chum salmon for that area.

Likely when we're coming off a years of very bad returns, we're going to be behind the eight ball just like we were when we came off of years of good returns going into bad returns and we were overfishing. Likely it's going to be the same way the other way around, we're going to be behind the eight ball trying to catch up to runs that come in unexpected.

And if you guys have any ideas on how to change that.....

CHAIRMAN NICHOLIA: Excuse me, we may be running out of time here.

MR. JONES: Yeah, you didn't answer my question on the weir. Another thing is that we expect 2006 and 2007 that we'll have a poor run if this -- if we had a poor run this last two years on chinook and fall chum; is that correct?

MR. BUE: As far as Gisasa weir?

MR. JONES: (Nods affirmatively)

MR. HOLDER: Mr. Chairman. Mr. Jones. The Gisasa weir, I believe what you're referring to these times of low productivity, Gisasa weir has had it's counts go down but I do not believe that that is in any

way, shape or fashion, a function of the weir itself that -- I mean we have been seeing , you know, reduced returns that have been coming back for several years and basically I'm thankful that we've had those escapement projects in there to give us a realistic picture of what kind of numbers we are getting out to the spawning grounds. But I do not believe it is a function of those projects actually operating reducing fish numbers in any way.

CHAIRMAN NICHOLIA: Go ahead, Virg.

MR. UMPHENOUR: Thank you. On your summer report on Page 7, halfway down you say that the composition of the harvest in the commercial fishery in the Lower Yukon was 54.7 percent females and then on Page 10, up at the very top it says, the sex composition of the samples in the Upper Yukon from the commercial fishery is 30.5 percent females. My question is, of these sample -- fish that were sampled, how many of them were sampled from 5B and C and how many from 6 or were they lumped together or how was that done because I know they were sampled from both districts.

MR. VANIA: Yeah, Virgil, if you look on Page 8 under the header districts 1 through 3, the last paragraph, the last sentence, the sex composition of samples for the commercial catch there was 56.2 percent females.

MR. UMPHENOUR: That's for District 1, 2 and 3.

MR. VANIA: Correct. And then so you're looking at.....

MR. UMPHENOUR: The top of Page 10.....

MR. VANIA: You want to know what that is between.....

MR. UMPHENOUR: Well, it says.....

MR. VANIA: .....5 and 6?

MR. UMPHENOUR: Yeah, it says it was 30.5 percent females and 69.5 percent males.....

MR. VANIA: Right. I don't think that was.....

MR. UMPHENOUR: .....from the Upper river's commercial harvest.

MR. VANIA: .....broken down between -- I don't think that's broken down between Districts 5 and 6. I think that's combined.

MR. UMPHENOUR: Okay. Because I don't think it was that high in the Tanana. I know because I -- all those fish were sampled at my plant.

MR. VANIA: Right. Probably not. It was all pretty much fishwheel there on the Tanana.

MR. UMPHENOUR: Thank you.

MR. REAKOFF: And looking at the proof in the pudding on the spawning grounds, the numbers of females on the spawning grounds, I'm looking at this escapement numbers is 13 percent to 30 percent females. And I asked that same question last year about this ichtephonus and it was all in the mulling over stage. That 28,000 escapement over Canada, that directed fishery on chinook was directed at that Canadian component. And without increasing this escapement goal, with these -- the lower numbers of females, I'm telling the Federal program it's my deep concern that there are -- the Federal program should start looking at these escapement numbers for these females that are actually on the spawning grounds.

Two or three years later we're letting less and less females get over up onto the spawning grounds. In the Chena River, the Gisasa, all these weir projects are showing very low escapement numbers of females on the spawning grounds and I'm stating to the Federal program right now I'm very concerned with that. I do not think that a commercial fishery was warranted this year, especially targeting $3.37 a pound seems to be the driving force of directing a fishery like that up river component and without bolstering these escapement numbers after these crash years, I'm very concerned about that.

These numbers are showing there's something wrong here and you better start looking at these escapement numbers on -- these female numbers on the spawning grounds.

MR. SANDONE: Yeah, my name is Gene Sandone and I'm the regional supervisor for AY-K

Commercial Fisheries Division. We're going to -- we have some money to look specifically at ichtephonus research next year and I think one of the things that we will be doing is looking at infection rates on the spawning grounds. So the JTC is in the planning stages on that research and I think we'll be probably starting next year.

MR. VANIA: Mr. Chairman. Mr. Reakoff. I wouldn't say that the commercial fishery was directed at the Canadian component this year. On the contrary, waiting to the mid point of the run, likely we let a lot more of the Canadian component of the run go by than what has been done in the past. The Canadian component of the run generally is at the front end of the run, although it does extend through to the end of June but also later into June you also have a larger middle and lower river component that's starting to build up. So the harvest really wasn't geared towards the Canadian component of the run.

And I am sorry but I don't have a table that shows historic sex ratios at the various escapement projects as well as a commercial harvest. But I think you'll find that sex ratios do fluctuate from year to year. Now, a lot of it is driven basically on what the age composition of your run is. If you have a lot of four year olds coming through, you're going to tend to have a year where you're going to have a higher male proportion of your run jut in itself. So you wouldn't expect to see a 50 percent male/female ratio on your spawning grounds, just even in a naturally spawning area that has no exploitation at all.

MR. REAKOFF: Might I restate, the directed fishery was targeted at the fatter component fish. The up river stocks. We know the Koyukuk came in flat. We know that the up river -- I consider that Canadian escapement as a very low number, myself. And it was -- I listen to that YRDFA teleconference when you were having your second opening and people were wanting to commercial fish down there and you stated that nobody wants the down -- the Andreafsky fish, they don't want the down river chinooks, they want the up river fish, that fishery was directed at the up river fish. And these up river fish have been taking a beating. These up river fish have got real low escapement female ratios, I'm saying this has to be looked at not next year, this has to be started to looked at right now. This is two years. This is two years into some data that's very eye-

opening.

I feel that these low numbers of female on the spawning grounds is something to be reckoned with.

CHAIRMAN NICHOLIA: Go ahead, Tricia.

MS. WAGGONER: Is there any work that's being done to look at the actual percentage of fish that are making it to the spawning grounds that are able to spawn? I know they're doing some work down in Southeast about that. That they're getting fish up on the spawning grounds but they just don't have enough oomph left to spawn and I think, you know, the ichtephonus and everything else that's going on maybe that's -- has that been looked at all on the Yukon?

MR. HOLDER: Mr. Chairman. Ms. Waggoner. I don't believe there's specific research going on addressing your concern of fish getting back to the spawning grounds and being unable to physically spawn.

MR. SANDONE: Yeah, I just want to chime in here, this is Gene Sandone again. We do carcass surveys on some streams where we get our standards for our scale pattern analysis. And I don't believe -- and we usually collect fish that are spawned out or dead to take the scales off of and I don't believe in my experience that we've seen a high number of fish or even relatively a high number of fish that didn't spawn. They're mostly spawned out.

CHAIRMAN NICHOLIA: I think this will be the last of the comments on the post-season, I think we better move on to the coordinated fisheries committee or if Jill Klein wants to come up here and say something to us, let her do it.

MS. KLEIN: Thank you, Mr. Chair. Okay, I'm going to just briefly talk about the teleconferences. And for the record my name is Jill Klein with the Yukon River Drainage Fisheries Association. And as many of you know and have been speaking about, YRDFA hosts in-season management teleconferences during the summer fishing season. These teleconferences are sponsored and facilitated by YRDFA through various funding sources.

For the past two years, the teleconferences have been held on a weekly basis, mainly for about an hour in duration. The purpose of the calls

is to enable fishermen from the Yukon River to speak with each other as well as with personnel from the State and Federal agencies that manage the fishery.

It's not only a YRDFA board of directors teleconference, which many people tend to think it is, it's for all interested people on the river and most people tend to participate when the fish are in their region.

YRDFA is always looking for new ways to maximize participation from the fishermen and others that do participated during the teleconferences. We would like to work with the coordinating fisheries committee and the Regional Council members to do this to try to increase participation and some of you do regularly participate.

Over the course of the season YRDFA does receive many comments from both fishers and managers that tend to get frustrated by the discussions that take place and the decisions that are made. Many concerns are raised during the season and as you know, the calls are about an hour and it's hard to get through those concerns and fully discuss them in that time period with the various parties on line.

So I do welcome your comments and ideas that can work to positively address these concerns as the previous conversation has been doing as well as to figure out new ways of how we can communicate and how we can make decisions during the in-season. This, I think, would lead to greater participation in the teleconferences and greater understanding by the fishermen and the managers.

Many of the members of our board of directors are lifelong fishermen living along the Yukon River. This wealth of experience and knowledge continues to make us an effective organization for working on the in-season management and the management plans as well as regulatory decisions that take place.

As mentioned before, the decisions do need to take place in a timely manner as earlier proposals today have discussed. In light of this, we hope to come up with a way to get the appropriate information during the season out to fishermen before decisions are being made. This will help keep people informed, keep them a part of the process and as well,

help increase their understanding of how management decisions are made. So we hope to combine our experience with the Regional Councils and try to utilize the teleconferences as best as we can and that it's not just a phone call but it's really the forum where management takes place and it can really affect how management takes place.

So that's all I have to say about it at this time. I'm open to any questions.

Okay, thank you.

CHAIRMAN NICHOLIA: I think for the Yukon coordinating fisheries committee members is that you've already heard our comments. Most of my comments were directed to Fred Bue and Tom Vania in the coordinated fisheries committee, but if you have any speak -- Micky. Benedict.

MR. JONES: What?

CHAIRMAN NICHOLIA: Do you have any comments as a coordinated fisheries committee member?

MR. JONES: I really appreciate you keep us updated on the fish, the timing of the fish, you know, all that and the people from the villages just know about the day to go out fishing so it helps the subsistence fishermen to harvest during those periods.

CHAIRMAN NICHOLIA: What next Donald?

MR. MIKE: Mr. Chair.

CHAIRMAN SAM: I got a quick question. As a coordinating fisheries committee member, do you feel you have any power or people listen to you down in Anchorage or at OSM? Do you feel that you're contributing to the conservation efforts, anyone that.....

CHAIRMAN NICHOLIA: Yeah, I'm a coordinating fisheries committee member, I don't have no power but I do get a lot of input from the people I represent on fisheries and I do speak up once in a while, but not all the time. I can't stick my neck in everything.

Virg.

MR. UMPHENOUR: Thank you. I do know that I was contacted by Mr. Holder several times during the season concerning potential management actions, you know, before we had our special meetings and I appreciated that and I feel that he listened to my input.

Thank you.

CHAIRMAN NICHOLIA: Trish.

MS. WAGGONER: Yeah, I was going to make the same comment. I really appreciated the managers at least contacting us ahead of time. You know, at least a heads up when people that we know called and screamed and yelled, we knew about it ahead of time and so that was really good, you know, that you guys did that as much as possible.

CHAIRMAN NICHOLIA: What time is it?

MR. MIKE: It's five to 5:00, Mr. Chair. We have to clear out of here by 5:30, so I'd kindly ask all the Council members please take all your meeting materials with you. And the Western Interior Regional Advisory Council will be meeting at Springhill Suites at 7:00 o'clock. And we'll reconvene here tomorrow at 9:00. The Eastern Interior Council will meet on the other end and the Western Interior will meet here on this end at 9:00 o'clock tomorrow.

CHAIRMAN NICHOLIA: Okay. Bill, did you want to make a comment to these guys? You raised your hand there -- were you raising your hand to me or were you just scratching your head? All right, then we'll reconvene until tomorrow.

(PROCEEDINGS TO CONTINUE - IN BREAKOUT SESSIONS)

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THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by under my direction and reduced to print to the best of our knowledge and ability;

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DATED at Anchorage, Alaska, this 21st day of October 2002.

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