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ALASKA MIGRATORY BIRD CO-MANAGEMENT COUNCIL
EXTENSION OF THE MIGRATORY BIRD SUBSISTENCE SEASON

SPECIAL MEETING, VOLUME II

DIMOND CENTER HOTEL
Anchorage, Alaska

SEPTEMBER 25, 2009

- Doug Alcorn, U.S. Fish and Wildlife Service, Chair
- Dale Rabe, Alaska Department of Fish and Game
- Sandy Tahbone, Kawerak, Incorporated
- Peter Devine, Aleutian/Pribilof Islands
- Joeneal Hicks, Copper River Native Association
- Molly Chythlook, Bristol Bay Native Association
- Mike Pederson, North Slope Borough
- Lisa Kangas, Tanana Chiefs Conference

- Fred Armstrong, Executive Director

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P R O C E E D I N G S

(On record - 9:00 a.m.)

CHAIRMAN ALCORN:a number of things we need to get accomplished today before everybody starts having to depart. Typically the last day of the meeting people need to depart a little earlier, so we're going to try to be as prompt as we can. I'm going to turn it over to Cathy. I don't see anyone new, so I don't see the need for introductions.

Just for the record, I'm going to name folks. We'll start with Mike Pederson, Molly Chythlook, Austin Ahmasuk, Sandy Tahbone, Fred Armstrong, Donna Dewhurst, Dale Rabe, Doug Alcorn, Lisa -- I don't know your last name, Lisa.

MS. KANGAS: Kangas.

CHAIRMAN ALCORN: Kangas. And Cathy Rezabeck, Dan Rosenberg, Russ Oates, Dave Sharp and Jerome Ford and our record keeper Nathan. Those are the folks that are here in the meeting to start with at 9:00 a.m. and I'm going to turn it over to Cathy.

MS. REZABECK: Good morning. I'm hoping that we all put some thought into all the conversation that we had yesterday and to look ahead towards next week. I guess the idea would be to try to move forward on this whole discussion, this whole issue next week at your meeting in Nome. I guess I'd ask you all what you would like to have ready for Nome. In other words, what do we need to accomplish today in order to be ready to move forward in Nome. I have a few thoughts on that matter, but I thought I might ask you first.

Yes, go right ahead.

MR. AHMASUK: Austin Ahmasuk. Well, I think some kind of bullet point narrative needs to be compiled with some of these talking points so that in the future the Co-Management Council can provide enough information for some kind of either proposal or something of that nature.

MS. REZABECK: Yes, we will capture everything we had up on these sheets for you and that will be available for Nome. Beyond that, are there

1 some actions that you might like to take in Nome that
2 we need to prepare for?

3

4 Sandy.

5

6 MS. TAHBONE: It's kind of early in the
7 morning to hit me with that question. I think as we
8 move forward I think we'll have maybe by midmorning or
9 before we break for lunch we could ask that question
10 and make sure we have it by the close of day today.

11

12 MS. REZABECK: What would you like to
13 have by the close of day?

14

15 MS. TAHBONE: Some form of action that
16 will be taken next week regarding this issue. Some
17 positive steps forward to see that we get a fall
18 subsistence hunt for the Native people of Alaska.
19 Excuse me. The indigenous people of Alaska.

20

21 MS. REZABECK: Yes, Dave.

22

23 MR. SHARP: Just one thought. It's
24 where I ended yesterday, so I didn't do a lot of
25 thinking last night. I was more eating and stuff. But
26 I still believe very strongly and where I left last
27 night was a very clear articulation of the problem. I
28 really believe that's helpful before you can actually
29 come up with your actions that you're going to propose
30 in Nome and beyond in terms of trying to fix this
31 problem. I think it would help everyone that's going
32 to be involved as you go down the road because I sense
33 this is not going to be an easy trip for you.

34

35 The better you can do that in terms of
36 articulating exactly what the problem is, then the
37 actions that you're going to propose starting today to
38 take care of that action, that will help everyone
39 understand where you're going, especially if there's
40 political interests down the road. They're going to be
41 necessary. I believe they will be, especially just to
42 educate those on the outside.

43

44 Maybe at Nome you don't need that and
45 maybe everyone there knows exactly what's happening,
46 but I would start to think bigger. I would start to
47 encapsulate this as more of a bigger problem and I
48 think some kind of background and articulation of
49 specifically what the problem is and how your actions
50 will help you resolve that problem. I think that's

1 going to be very helpful from a communication
2 standpoint.

3

4 MS. REZABECK: Okay. Thank you. Other
5 thoughts. Russ.

6

7 MR. OATES: Russ Oates, Fish and
8 Wildlife Service. I regret that I'll be unable to
9 attend the meeting next week in Nome, but I would
10 recommend that next week there be discussions that will
11 at least conceptualize what's going to need to be done
12 for development of proposals to be submitted up through
13 the process. That is going to take place in the spring
14 meeting typically is where those originate from, but
15 I'm talking about parallel proposals. One submitted
16 directly by the AMBCC as through the normal process.
17 One to be submitted by the State of Alaska through the
18 early season regulations process.

19

20 That seems to me to kind of cover both
21 bases of the existing regulations process, the AMBCC
22 covering the spring and summer subsistence part of the
23 calendar and the Flyway covering the balance of the
24 calendar for the fall season. That way you'll have
25 them both in the mix and at least theoretically one of
26 them will meet the criteria for consideration by the
27 highest levels of the Department of Interior should it
28 go through the process.

29

30 Another concern about whether or not
31 the State of Alaska feels that it can support because
32 of the conflict with the constitution, but I'm thinking
33 something can be crafted. You know, I pledge my group
34 to work with the State of Alaska to see if something
35 couldn't be crafted that doesn't make those
36 distinctions that cause that problem. To see if we
37 can't get something, I propose that the group pick one
38 species or maybe a couple of species whose population
39 is in very good shape, non-controversial population
40 status, non-controversial methods and means.

41

42 But address the issue of bag limits at
43 least initially and the not needing the bag limits for
44 the fall season. Just kind of as a trial balloon and
45 just see which process will work. Once you learn which
46 process will work, then you know where you need to go
47 for future proposals. Just my thoughts.

48

49 MS. REZABECK: Yes, Austin.

50

1 MR. AHMASUK: Austin Ahmasuk. There
2 was one point made yesterday regarding when birds
3 leave, I think it was either Fred or Ms. Dewhurst,
4 indicated that most bird species are gone by September
5 1st. That's not the case. They have begun to start to
6 leave by September 1st, but most bird species are still
7 present in our area. Flightless young swans are still
8 present. Young geese can fly now. Of course, all the
9 small shore birds and things like that.

10
11 By September 1st most large shore birds
12 are certainly getting ready to go and they're the first
13 to leave. So this idea of bird hunting opportunity
14 after September 1st it exists for quite a while until
15 the latter part of this month, like it does in the
16 spring and summer. Most bird species are still there
17 with the exception of the large shore birds.

18
19 The one thing for our region is that we
20 have a very unique regulation where we use live birds
21 as decoys on the islands in the fall time. I don't
22 know how prevalent that practice is, but that practice
23 would not be legal, and the practice of plugs in
24 shotguns, bag limits and shooting times and shooting
25 hours. Those are ideas and those are proposals -- or I
26 believe at least those are some of the issues that our
27 region has proposed to the AMBCC to change. They were
28 at least discussion topics in our Regional Council
29 meetings, shooting times, shooting hours, things like
30 that.

31
32 So this rapid methods and means change
33 doesn't affect all of subsistence for our island
34 communities, it would affect them pretty drastically
35 because we have this unique regulation of live birds as
36 decoys. A major point is after September 1st we still
37 have major bird hunting opportunities.

38
39 MS. REZABECK: Thank you, Austin. Are
40 there comments? Yes, Doug.

41
42 CHAIRMAN ALCORN: Thank you. I've
43 talked to Paul Schmidt, who chairs the SRC, about
44 issues that arise out of the AMBCC process. In the
45 context of some of our more questionable proposals that
46 we've submitted and we've submitted some proposals that
47 the SRC has mulled over and thought about and some
48 they've approved, some they've rejected.

49
50 What Paul Schmidt has told me after the

1 meeting is over and the record is off, Paul says the
2 Fish and Wildlife Service in the region needs to
3 coordinate with the Washington office and to let the
4 AMBCC know what the position that the Service likely
5 will take on some of these issues at this level so as
6 not to create an expectation that because we have voted
7 to forward it through the process, that the expectation
8 is that the SRC is going to support it. His point
9 being that if there are things that might be
10 questionable or difficult for the SRC to approve, he
11 would like the discussion at this level and to work out
12 the difficulties.

13
14 I'll give you an example of the
15 difficulties. If, for example, we submit a proposal
16 for the fall regulation and our attorneys -- I'll be
17 frank. Our attorneys have told us that it's outside
18 the AMBCC's purview. So we have a solicitor that has
19 told us, who was part of the original negotiating team,
20 that the intent of the protocol was to open the
21 formerly closed season. If the SRC were to approve our
22 proposal, even if it went through the political process
23 that the Flyway Council approved it, our solicitor
24 would not advise the director at this point that it is
25 within the purview of the AMBCC to recommend that
26 regulation, but the Flyway Council certainly could.
27 The Flyway Council can consent to our request and
28 submit through their process. It doesn't create a
29 legal problem.

30
31 The point I'm making, I guess, is once
32 the SRC has made a decision and they run it up the flag
33 pole, before it goes to the director it goes to the
34 Solicitor's Office and the solicitor comes back and
35 advises the SRC. We can submit something as an AMBCC
36 proposal for that. Even if the SRC approves it, it
37 doesn't mean it's a done deal because the solicitor is
38 the one that advises the director independent of the
39 SRC. So even if we go through these processes I don't
40 want to create expectations that it's a done deal even
41 with SRC approval because the solicitor advises the
42 director in a very strong way.

43
44 What Paul's advice to me was is he's
45 saying don't create expectations at the AMBCC level
46 that might not be satisfied. So I want you all to
47 realize that. Even if we do establish recommendations
48 and we do choose to go through one, two or even three
49 of these processes that it's a done deal. It's a long
50 way from being done. I don't mean to be a wet blanket

1 on this.

2

3 MS. REZABECK: Thank you, Doug. Patty.

4

5 MS. BROWN-SCHWALENBERG: Thanks, Doug.

6 As always, yes, you are the wet blanket.

7

8 (Laughter)

9

10 MS. BROWN-SCHWALENBERG: I guess I do
11 take a little exception to Paul's remark about don't
12 create expectations because we're not a bunch of little
13 kids here. We're adults and we know the process and we
14 know that the Solicitor's Office has not been friendly
15 to the Native portion of the AMBCC. We know that. If
16 the solicitor has already made a decision on that, then
17 my suggestion is let's figure out how we can do this.

18

19 If we believe that this is something
20 that needs to be done, there's got to be a way to do
21 it. If it's not AMBCC, I don't know. State of Alaska
22 with their constitution might not be the way either,
23 but I don't know if you can circumvent Alaska and go to
24 the other states and the Flyway for support. I have no
25 idea. But I don't think that we should dwell on this
26 news. I think we should move forward and figure out
27 how we can get it done.

28

29 MS. REZABECK: Thank you, Patty. In
30 the spirit of getting it done -- yes.

31

32 MR. AHMASUK: Thank you. Austin
33 Ahmasuk. If all we have to do is propose a package of
34 things, they should be called subsistence, but some
35 tweaks and some changes to the package of regulations
36 is what needs to be changed, so why can't -- I didn't
37 quite understand why the AMBCC can't say something
38 about something other than subsistence regulations.

39

40 MS. REZABECK: Thank you. Doug.

41

42 CHAIRMAN ALCORN: It's very simple.
43 When you go back to read the authorizing language, our
44 solicitor's office, both offices, we have a regional
45 solicitor's office and we have a Washington solicitor's
46 office. Both offices have interpreted the law to say
47 that the AMBCC's role in all of this regulation-setting
48 process is to recommend policy, recommend regulations
49 that affect the spring and summer season.

50

1 Now if we go forward with a
2 recommendation to the SRC to establish a regulation for
3 the fall, the SRC will ask the first question, is this
4 within your authority or your purview and have you
5 coordinated with the Flyway Council. That's what they
6 will ask. The first question is, is this within your
7 authority. The answer from the solicitor is, no, it's
8 not within our authority. So then it defaults to the
9 second question, have you coordinated with the Flyway
10 Council and is the Flyway Council making this a
11 recommendation to the SRC. That's who the SRC listens
12 to for recommendations for regulations in the fall and
13 winter season. It is their turf so to speak.

14
15 Our turf is spring and summer. The
16 Flyway Council's turf is fall and winter, so the SRC is
17 not going to get into the middle of splitting the baby
18 as Solomon was asked to do in the Biblical story. So
19 they're not going to make that decision. The answer
20 would be -- I'm just being frank here. The answer from
21 the SRC would be -- they would say have you gone back
22 to the Flyway Council and do you have the Flyway
23 Council's -- is the Flyway Council in agreement with
24 this recommendation. If the Flyway Council supports
25 it, then we are within the processes that are already
26 designed. So we wouldn't be breaking with the legal
27 authorities that are already established if we followed
28 what we've defined here as process two, which is the
29 Flyway Council process.

30
31 MS. REZABECK: Okay, Austin.

32
33 MR. AHMASUK: I understand there's not
34 a framework for us to be operational in the fall
35 system, but does that necessarily limit us from saying
36 something else? I've not been aware that we're limited
37 in our ability to freely say something or develop an
38 opinion.

39
40 CHAIRMAN ALCORN: Can I respond?

41
42 MS. REZABECK: Yes.

43
44 CHAIRMAN ALCORN: I see where you're
45 going now, Austin. You're saying we would say -- let
46 me see if I'm reading you correctly. We would say we
47 understand that the way the legal interpretation is
48 from the department right now is that our purview ends
49 for recommending regulations for the spring and summer
50 season. That summer season ends August 31st. But we

1 also have interest in the fall and winter months and we
2 would like the SRC to consider these provisions for the
3 regulations as they hear from the Flyway Council to
4 consider equally these provisions that we would
5 recommend for this fall and winter months.

6

7 I guess we've never tried that and
8 that's a little different twist. I guess we could try
9 that if that's what this Council desires to do. I
10 think it's going to confuse the process, but that
11 doesn't mean it can't be done.

12

13 MS. REZABECK: Okay. Dale.

14

15 MR. RABE: Austin, I'm wondering what
16 the hope or the gain would be in putting a proposal
17 forward that would knowingly be outside of the
18 authority of this group other than to further make the
19 point that there's a very strong belief that the
20 structure of the current authority isn't sufficient to
21 meet what have been traditional methods and means and
22 time frame for hunting.

23

24 MS. REZABECK: Yes.

25

26 MR. AHMASUK: The point would be to
27 convey something and it would certainly confuse the
28 process. But the Board of Game, they write nasty
29 letters to DOT when they misplace a culvert or do
30 something like that. Is that the right way to correct
31 a problem? It may not be. It's a tool that the various
32 -- like the Board of Game or Federal Subsistence Board
33 utilize from time to time when another agency or
34 another regulatory framework does something not
35 satisfactory.

36

37 I guess the point would be that we
38 don't completely understand how this body can propose
39 any kind of regulation, so we need to test all those
40 waters, which we haven't. I mean this process is only
41 seven years old. The Board of Game has been around for
42 a long time, since Statehood, so you have a lot of
43 experience in how you've been able to deal with
44 problems. We don't have that experience.

45

46 I guess that would be the point and it
47 would take time to establish how we do get involved
48 because currently, one perspective, we're not involved.

49

50 MS. REZABECK: Thank you. I guess I'd

1 like to encourage other conversation because we need to
2 probably begin to develop where you would like to take
3 this. We talked yesterday about the three different
4 possibilities and is this a fourth? Yes.

5
6 CHAIRMAN ALCORN: Actually I don't
7 think it is. The way I described what I heard Austin
8 say, if that were to occur, it would be actually using
9 the second process. It would be working with the
10 Flyway Council to achieve the end that the AMBCC agrees
11 whatever that end would be.

12
13 MS. REZABECK: Okay. Yes.

14
15 MR. RABE: I think, at least from my
16 perspective, I see sort of two approaches. One is to
17 articulate the issues as has been said earlier by Dave
18 and get those on the table and then see whether
19 existing systems allow a pathway to solve at least a
20 portion of that realm of need that's been identified
21 and then work within the existing process. That's one
22 strategic approach to this.

23
24 The other is to look at all the
25 existing processes as they're currently structured and
26 say there is no reasonable path. Then that would seem
27 to lead to an approach to say, well, let's not try and
28 solve our problem within the current structure. We
29 have to change the structure to be able to create a
30 path to address the problems.

31
32 MS. REZABECK: Go ahead, Doug.

33
34 CHAIRMAN ALCORN: I'm wondering if we
35 were to try to articulate the problem. What I've heard
36 is that the fundamental problem is that the fall and
37 winter regulations don't accommodate the needs of the
38 subsistence hunting activities. They're not
39 consistent. As a suite of bullets under that, if
40 that's the fundamental problem, it seems to me that's
41 what I've heard, you can specify what those regulations
42 are and how they're not meeting the needs. I mean
43 Austin talked shooting hours and methods and means.
44 There may be others. There's limits.....

45
46 MR. AHMASUK: Species.

47
48 CHAIRMAN ALCORN: Yeah, species
49 identified so not all species that are present that are
50 traditionally hunted are available after September 1 by

1 regulation. So there's a suite of problems that are
2 associated with that general statement but they're not
3 consistent and those could be specified.

4
5 What Russ I think was suggesting is you
6 pick, you high-grade those and you pick those that you
7 think you can be successful at in the given processes
8 that we have in the example Dale is talking about.
9 That's one way to approach it. It would take time and
10 it would be very methodical.

11
12 MR. AHMASUK: Maybe just one more
13 point. Ms. Kangas. You mentioned something about law
14 enforcement. In our region, we did ask enforcement to
15 clearly articulate what their plan is. Their plan is
16 that the Fish and Wildlife Service person will enforce
17 what they're responsible for and that the State person
18 will not enforce the duck stamp issue. So there is an
19 abrupt enforcement change that occurs on September 1st
20 and it is very abrupt in our region. September 1st,
21 the State guy is out there in his truck checking
22 everybody. How many citations does he issue? Not very
23 many, but he issues other things in addition to
24 checking, you know, boat registration and things like
25 that. So there's a very abrupt enforcement change from
26 spring/summer to fall.

27
28 MS. REZABECK: Thank you, Austin. We
29 hadn't contemplated that yet. Other thoughts. Yes,
30 Dale.

31
32 MR. RABE: I was just going to add that
33 if we go back and look at all of the traditional
34 methods and means and traditional ways and then
35 struggle with the question of how much of that needs to
36 be re-established to make the system whole from the
37 perspective of everybody here. I think that kind of an
38 analysis would be helpful to decide whether or not we
39 can make significant grounds within an existing
40 structure or we might work in that arena, in other
41 words trying to find some of the approaches that have
42 been suggested that Russ put forward.

43
44 Take a particular problem and if we can
45 get through the State constitution so the State could
46 put it on the table, things like that, then that's
47 fine. But if that is ultimately going to continue to
48 be a frustration that you're not gaining back all of
49 the things that are expected or designed truly in the
50 end, then it's worth recognizing that as maybe a short-

1 term approach, but there's still a need to change the
2 process so that you can address the full suite of
3 issues.

4

5 MS. REZABECK: Thank you. I guess we
6 need to decide what next step we would like to take
7 this morning heading towards Nome next week. Once
8 again, I don't think any of us need to rush this, but
9 you are meeting again next week. We'd like to make
10 today as useful as possible in preparation for that.
11 Yes, Dale.

12

13 MR. RABE: I guess a question for the
14 group as a whole in terms of expectations for the
15 meeting next week. I think there's been a lot of
16 ground that's been covered, a lot of new insights that
17 we've all gained and certainly a report of all this can
18 be assembled to advance the understanding of those that
19 are not here that are part of the broader set of the
20 AMBCC that need to be up to speed on that.

21

22 It wasn't clear to me at the beginning
23 whether or not it was the desire of this group to just
24 do that fact-finding and then leave any type of
25 evaluation of which of these might be something that
26 the group as a whole wants to pursue or whether or not
27 at that meeting the intent was to just continue with
28 some of the same type of discussion with additional
29 membership presumably there or whether or not this is
30 supposed to be functioning as a subcommittee that
31 reports back and actually has a recommendation.

32 If it's the latter, then I wonder if
33 it's worth the time of the group to go through the
34 analysis of the three approaches that were discussed
35 and either prioritize or remove things from further
36 consideration that for whatever variety of reasons just
37 don't seem to be feasible. Some things like that to
38 make the value of these two days relative to the next
39 meeting useful so that we don't just repeat this a week
40 from now.

41

42 MS. REZABECK: Thank you, Dale, for
43 that. Doug.

44

45 CHAIRMAN ALCORN: I think that's a good
46 idea. However, I think if we're going to depend on
47 Staff to do that, logistically we just can't get it
48 done. Number one, we have two people on Staff and
49 they're going to be hard pressed just to get our
50 binders made because we all travel Monday afternoon.

1 Donna is traveling Monday morning. I'm not inclined to
2 work tomorrow and Sunday just to generate a report. I
3 don't see that we actually have to make the decision
4 next week.

5
6 I think what I've learned in this
7 discussion to this point today is that these processes
8 are very complicated and these are really complicated
9 issues to resolve and to try to resolve them in a one-
10 week timeframe is just not going to happen. These
11 processes are institutional and affecting these
12 processes and the outcomes of these processes is going
13 to take a lot of thought. It's going to take a lot of
14 political discussion. Myron talked about that
15 yesterday.

16
17 I think perhaps if we could spend the
18 time today sort of understanding these processes and
19 maybe prioritizing them and making a recommendation or
20 at least kind of agreeing on the best approach that
21 next week we can effectively make the decision to
22 proceed in those ways. One might be to get the
23 analyses completed and farm it out to a committee.
24 Farm it out to a contract. I mean we could contract
25 the work and have somebody analyze these three
26 processes and what steps need to be taken, what needs
27 to be done. There's lots of ways we can do that.

28
29 I think for the revelation that I've
30 had this week is that we are not at a decision-making
31 point other than to decide on which strategy to go
32 forward with. We're certainly not at a point, I don't
33 believe, where I, as an agency representative, could
34 support a recommendation to a Flyway Council or even
35 make a decision as an AMBCC for a regulation
36 recommendation simply because we haven't vetted any
37 regulation proposal or particular strategy.

38
39 If we spent the rest of the day maybe
40 thinking through these processes and which of these are
41 probably the most workable, which of these have the
42 short-term benefits and those that might have longer-
43 term benefits. Pursue those in a more methodical way.

44
45 MS. REZABECK: Okay. Thank you. Other
46 thoughts about how to proceed. Patty.

47
48 MS. BROWN-SCHWALENBERG: It probably
49 would be a good idea to do some brainstorming, but the
50 only two ways I see to proceed are either submit a

1 proposal through working with the State of Alaska
2 through the Pacific Flyway Council and each individual
3 state. It might take a lot of work. We'd have to work
4 with each individual state to get them to understand
5 what we're trying to do and support it or start the
6 process of trying to amend the CFR to broaden the scope
7 of AMBCC. It's going to take time. All of it's going
8 to take time.

9

10 Those are the only two solutions that I
11 can see clearly right now unless anybody else has some
12 other suggestions.

13

14 MS. REZABECK: Thank you. Any other
15 suggestions. I guess I would ask you, is that how you
16 would like to proceed today, is to look at those two
17 possibilities and not re-discuss them but to analyze
18 them and perhaps figure out what you need to know and
19 do in order to come to a conclusion about whether to
20 proceed with one or both of them? Yes.

21

22 MR. AHMASUK: I agree, right now it's
23 one of the two options.

24

25 MS. REZABECK: Thank you. I guess I
26 would ask if anyone does not agree that it's one of the
27 two options, we need to move forward probably. Do you
28 feel comfortable moving forward? I don't know if this
29 needs a vote or not.

30

31 CHAIRMAN ALCORN: No, we're not making
32 a decision this week. The decision will be next week.

33

34 MS. REZABECK: Yes, Sandy.

35

36 MS. TAHBONE: That's one of the things
37 I think we need to consider and it's one of the things
38 we have to deal with. We're a consensus decision-
39 making body and I guess the bottom line is what will
40 the Federal representative go for and what will the
41 State representative go for. I mean it's unfortunate,
42 but that's how decisions are made. I think that needs
43 to be identified. I'm not sure what either of your
44 positions are. We'll be putting a lot of work into
45 this and when it comes to a vote, so I'd really like to
46 get an answer.

47

48 MS. REZABECK: Yes.

49

50 CHAIRMAN ALCORN: I think that's a fair

1 question and I think I made it clear earlier, even
2 though I'm a wet blanket. I think the Federal position
3 is it's outside of our purview for us to begin to make
4 recommendations for seasons outside. However, the
5 caveat notwithstanding, I think we could suggest to the
6 SRC that changes need to be made to the fall seasons
7 and those changes could be what we lay out and that the
8 SRC could consider those changes through the other
9 process. That's a position that I think the Feds could
10 support.

11
12 MS. REZABECK: The other process
13 meaning?

14
15 CHAIRMAN ALCORN: The other process
16 meaning the Flyway Council process. The existing
17 processes that are in place now, we wouldn't be
18 circumventing those processes and I think we would
19 support that. Either the devil's in the details on
20 what those actual recommendations would be and we need
21 to have that discussion. To answer Sandy's question,
22 what would we support, I'm confident that my bosses
23 would support that approach, working through the Flyway
24 Council.

25
26 MS. REZABECK: Sandy.

27
28 MS. TAHBONE: How about a proposal to
29 amend the regulation in order to provide us with this
30 authority.

31
32 MS. REZABECK: The AMBCC?

33
34 MS. TAHBONE: Correct.

35
36 MS. REZABECK: Any response to that?

37
38 CHAIRMAN ALCORN: I don't know the
39 answer to that. The reason for that is because it is a
40 complex issue and it was negotiated over time and I
41 don't know the history. Dave might be able to tell us
42 the history, but when the AMBCC was first envisioned
43 and there were discussions at the Department level and
44 the Fish and Wildlife Service level, I suspect there
45 were discussions with Flyway Councils to talk about the
46 politics associated with it, the turf associated with
47 it. I suspect there were discussions with the
48 Association of Fish and Wildlife Agencies, but I don't
49 know that for a fact.

50

1 I can't say whether the agency would
2 support an amendment to the existing regulation that
3 specifies our purview. Dave might have a better feel
4 for that.

5
6 MS. REZABECK: Dave and then back to
7 Sandy.

8
9 MR. SHARP: During the development of
10 the process in terms of where it was at, there was a
11 series of public meetings. I conducted one of those in
12 Denver and I accepted testimony and actually, as I
13 recall, my memory gets a little blank at times, very
14 few comments from the public at these public meetings,
15 but we typically don't see a lot of comment on other
16 similar issues. But I do recall the Central Flyway
17 spending quite a bit of time articulating their
18 response. It was delivered at this public meeting. It
19 was quite long in terms of where it was at, but it all
20 focused in on the traditional closed period of time.
21 There was support. There's clearly support among that
22 flyway.

23
24 I didn't look at the testimony of the
25 other flyways, but I gather there was support from the
26 other flyways at that point, but they were dealing with
27 the cards that were on the table, the proposal that was
28 there. I don't recall any kind of response to
29 authorities that went out beyond what was defined in
30 that proposal at that point, the open comment period.

31
32 My guess is, and I'm just going to
33 guess here, and I can probably only guess from the
34 flyway that I'm most intimately involved with, the
35 flyway would embrace any kind of an effort to work
36 together on setting regulations during the period of
37 time of which they have purview, September 1 on. I
38 have never seen them turn a cold shoulder to anyone in
39 the public. They have a view. They have a right to
40 bring that view forward. It doesn't always make it as
41 we talked about yesterday, but it's a pretty open
42 process and my guess is it's very open in the other
43 flyways also.

44
45 So, as Doug said, that's a mechanism.
46 That's a way to get there. But I go back to what I
47 said this morning. Just because you can go through
48 that process doesn't mean it's going to solve the
49 problems that you have. If you articulate your
50 problems and from a species standpoint, from a methods

1 and means standpoint, from just the requirements of
2 having duck stamps, and I don't know what your problems
3 are, but if they don't help you get there, then that's
4 not your problem. Your problem is somewhere else and
5 that's why I say it's very important to articulate
6 where your problem is. Just because there's a means,
7 just because there's a way to get there, if you can't
8 solve your problems, you're getting nowhere.

9

10 Anyway, it was a very open process and
11 it was public. We had public meetings. I know one was
12 held in Denver because I conducted that one. I believe
13 there was one conducted in Sacramento. I don't have
14 the list of them, Doug. They're published in terms of
15 where they were at, but there were comments that did
16 come in.

17

18 MS. REZABECK: Thank you, Dave. Sandy.
19 No? Okay. Yes.

20

21 MR. AHMASUK: Maybe a question. So
22 they understand the nature of our regulations and how
23 we've established subsistence use areas. Would they,
24 if you were to bet, take those things into
25 consideration and look at a package of regulation
26 changes that could be specific to the subsistence use
27 areas?

28

29 MR. SHARP: I'm probably not the best
30 one to answer that because it probably primarily is
31 going to go to the Pacific Flyway Council, but this
32 much I can tell you. I'm positive that they will hear
33 you, they will listen as much as they can and where
34 you're going to get hung up is there tends to be a
35 strong feeling within the flyways that there is a
36 certain resource out there and when that source is
37 distributed among the users, whether they be
38 subsistence or harvest, there should be some rights in
39 terms of both of those avenues. It never gets stacked
40 up in one side. It doesn't always say that all the use
41 goes here, all the use goes there.

42

43 Probably the most divisive factor I
44 have ever heard discussed in flyway meetings is what I
45 call allocation of harvest. That is where one state,
46 one entity is pitted against another in terms of
47 dividing up that resource. Those are the most divisive
48 arguments I have ever heard at flyway meetings. I've
49 been there 20 years in the Central Flyway Council. It
50 almost ripped them apart in terms of them trying to

1 work together.

2

3 In one flyway, it did. It was the
4 Mississippi Flyway and they actually ended up
5 separating into a northern and a southern regulation
6 part of the flyway, which remains to this day. Those
7 of you that were at the SRC meetings this year might
8 have heard some of that. They actually have two
9 different regulations committees that come forward.
10 That's how divisive some of those become.

11

12 That's a flag I'm putting up the pole
13 for you and that's the way it is.

14

15 MS. REZABECK: Thank you. It appears
16 to me, listening, that there still are two
17 possibilities on the table. One through the AMBCC
18 process and the other through the State and Flyway
19 process. Yes.

20

21 MS. TAHBONE: It might be a good
22 exercise to follow Dave's recommendation and just start
23 listing the problems that the hunters see just so that
24 we can have them written down.

25

26 MS. REZABECK: Yes, I'd be happy to do
27 that. Another way to think about it is issues, not
28 always problems. Did you have something, Fred?

29

30 MR. ARMSTRONG: In listening to all the
31 things that were brought up this morning I think
32 there's a couple options and you probably have to
33 pursue it two ways. First is to develop an issue paper
34 regarding subsistence harvest in the fall and request
35 the SRC or powers to be to look at these issues and
36 perhaps submit a response to the Council articulating
37 some options they could pursue.

38

39 The other I think is a good idea is
40 working within existing frameworks through the Pacific
41 Flyway Council, writing a proposal, species specific,
42 liberal harvest limits and see where that goes. I
43 think you had a good idea listing those issues first
44 and maybe then you can begin working on a proposal.

45

46 Dave's right, Doug's right, we have to
47 educate people about the problems. The Alaska Natives
48 never viewed calendar days or anything associated with
49 the subsistence lifestyle. It's there for them to rely
50 on that. Even the government we deal with, they don't,

1 and that's really the big issue.

2

3 MS. REZABECK: Yes, Doug.

4

5 CHAIRMAN ALCORN: I don't mean to
6 change the tone of where we're going here, but I did
7 want to just say for the record -- I wanted to thank
8 Dave Sharp for coming. As the Flyway Council
9 representative for the Central Flyway, I think he's
10 offered some pretty good insight, some good history.
11 He came up when Bob Trost was not able to make it at my
12 request and he's going to be flying out. He's got a
13 flight because he's got conflicting travel plans. So
14 thank you, Dave, on the record for coming up and
15 helping us with this discussion.

16

17 Appreciate it.

18

19 MS. REZABECK: Thank you very much. So
20 would you all like to go to developing the main points
21 of the issue statement? In other words, identifying
22 basically what you would say to educate in terms of
23 background on what the issues are? Why you are seeking
24 this change. This can be an open conversation. I'll
25 try to record the main points. If you'd do me a favor
26 and if I do not record them correctly, let me know.

27

28 So we're going to start with the
29 statement that the fall/winter regs do not accommodate
30 subsistence needs, is that correct? That's the main
31 thing. As other important points that you would want
32 these folks to know about, what would you say?

33

34 MR. AHMASUK: There's methods and means
35 restrictions.

36

37 MS. REZABECK: Would you like to
38 elaborate a little bit?

39

40 MR. AHMASUK: Shooting hours, plugs for
41 shotguns, things like that.

42

43 MS. REZABECK: I know nothing about
44 this.

45

46 MR. AHMASUK: Plugs. Timing. Bag
47 limits. And then species restrictions. That's it.
48 And then the other thing is that there's an abrupt
49 enforcement change. I've got to go. I'll be back.

50

1 CHAIRMAN ALCORN: I'd like to let the
2 record show that we thank Austin also for coming down.
3 He's been a Council member.....

4
5 MS. CHYTHLOOK: He's coming back.

6
7 CHAIRMAN ALCORN: Oh, okay. Then
8 forget it.

9
10 (Laughter)

11
12 MS. REZABECK: What else do we need?
13 Yes.

14
15 MS. BROWN-SCHWALENBERG: Like what
16 Molly was talking about yesterday, the improper
17 reporting of harvest data or inaccurate I guess we
18 could say.

19
20 CHAIRMAN ALCORN: Is it inaccurate,
21 Molly? That's not what I heard.

22
23 MS. CHYTHLOOK: No, it's not
24 inaccurate, it's -- you know, the season ends in
25 September 1, but due to climate change and all the
26 changes that is going on, species staying late, right
27 now in Platinum there's a whole host of geese over
28 there that the village people wish that they'd go away
29 because they're eating the blackberries and dropping
30 all over the berry patches and the geese will probably
31 be there until the end of the month. They're arriving
32 from somewhere. They're not permanent. They haven't
33 been there since they arrived from Lower 48. They're
34 just migrating south from somewhere and they're resting
35 there eating.

36
37 I guess the question that I have
38 regarding cutting off period. We can encourage people
39 to report after -- because they are harvesting. They
40 are harvesting beyond September 1. Is to have them not
41 report after September 1 or, you know, just continue to
42 report until they quit hunting. I don't know what to
43 do with this here.

44
45 I think to keep the people that are
46 harvesting and they're not harvesting because they want
47 to break the regulations, they're harvesting by the
48 seasons of the migrating birds and that's how we live.
49 We live with the seasons of animals. When they're
50 available, we harvest them until they're not available,

1 until they leave. Each one of our animals have a
2 season and we harvest by season of the animals.

3

4 Thank you.

5

6 MS. REZABECK: Doug, if we could go
7 back to Patty. This apparently was not quite right,
8 the inaccuracy. Is it more like inconsistency of
9 reporting?

10

11 MS. BROWN-SCHWALENBERG: Maybe that's a
12 better word because yesterday you were talking about
13 people, you know, if they report, then that's showing
14 they broke the law, and if they don't report, then
15 you're not getting the data you need. I think that was
16 an issue you were talking about yesterday.

17

18 MS. CHYTHLOOK: You know, when I worked
19 for State of Alaska and was involved in doing surveys,
20 I guess our survey data, our baseline data for
21 subsistence resources that we collected from the
22 communities weren't really accepted by Board of Fish,
23 Board of Game, because they thought that people were
24 underreporting. When the harvesters get acquainted
25 with regulations and realize that there's enforcement
26 to regulate these species, then they try to comply with
27 the regulations because they're not afraid, but
28 intimidated by enforcement. It's hard for me to explain.
29 I know the agencies want the correct harvest data, but
30 on the other hand there's a regulation and if the
31 season ends at a certain time, even though
32 traditionally we harvest by resource seasons and not by
33 regulation, it's intimidating to the harvesters and
34 puts fear of reporting after a certain date.

35

36 MS. REZABECK: If it's inaccurate or
37 incomplete.....

38

39 MS. CHYTHLOOK: Probably incomplete
40 harvest data.

41

42 MS. REZABECK: What I also want to say
43 is that the Board of Game may not believe the data
44 because it's perceived to be incomplete.

45

46 MS. CHYTHLOOK: I don't know if it
47 could be Board of Game. I guess it could be any
48 agencies that has any interest in correct data of not
49 only birds but any resource.

50

1 MS. REZABECK: I think Doug had
2 something.
3
4 CHAIRMAN ALCORN: I think she said that
5 one well. The next one I thought I heard was that the
6 fixed dates in the regulations don't really match the
7 movement of the birds and the subsistence activities,
8 is that right, Molly?
9
10 MS. CHYTHLOOK: Well, not anymore. You
11 know good and well the climate change has changed the
12 migration of resources, including berries. It's not
13 just birds. Birds don't have dates. They don't leave
14 September 1. As long as the food is available. I think
15 birds and people historically migrated where food is
16 available and it's just as true today.
17
18 MS. REZABECK: Thank you, Molly. Lisa.
19
20 MS. KANGAS: This is Lisa Kangas. I
21 have a question. Is it possible to extend the summer
22 season past September 1 and not worry about the fall
23 season?
24
25 MS. REZABECK: Yes.
26
27 CHAIRMAN ALCORN: I think that's just a
28 different way of asking is it possible to extend our
29 purview and that goes back to what Patty said, we would
30 have to make a change in the regulation, the procedure
31 regulations based on our interpretations of the law.
32 So the law, in effect, would have to be changed.
33
34 MS. KANGAS: Oh, no, I don't mean
35 change it to fall. I mean since the climate change is
36 making the birds stay longer can't you just extend the
37 summer season past September 1?
38
39 CHAIRMAN ALCORN: The way the Migratory
40 Bird Treaty Act is written -- in 1918 when they passed
41 the Act, 1916 when they signed the treaty. When
42 Congress passed the Act, they said migratory birds
43 shall not be hunted before September 1st or after March
44 10th. Those dates are fixed in law, so it would
45 require a change in law.
46
47 MS. KANGAS: Thank you.
48
49 MS. REZABECK: Yes, Sandy.
50

1 MS. TAHBONE: There's other traditional
2 methods and means, so I would leave that kind of open.
3 We've focused our efforts regarding our -- with the
4 development of our spring and summer harvest
5 regulations, we've focused on that time of year how we
6 harvest traditionally, and there's different methods
7 and means regarding fall harvest. Certain species are
8 harvested differently, so some kind of a -- it's just
9 not limited to those methods and means that you have
10 listed there.

11
12 MS. REZABECK: Other means for species.
13 Yes, Doug.

14
15 CHAIRMAN ALCORN: There's another issue
16 that I heard yesterday and I'm not going to -- I don't
17 want me to say it. I'd like for the regional
18 representatives to say it, but I recall there being a
19 discussion of when the fall season starts any state
20 resident can go anywhere within the state and hunt
21 under statewide regulations. Under the spring and
22 summer regulations those are managed and established at
23 the regional level. So there is a disparity between
24 statewide opportunity and regional opportunity when you
25 transition from the spring season and summer season to
26 the fall and winter season. It changes September 1st.
27 I can go out to Cold Bay and I can harvest ducks in
28 Cold Bay under the fall regs. I can't do that in the
29 spring and summer regs.

30
31 MS. REZABECK: All right. We'll
32 articulate. Donna, did you have something?

33
34 MS. DEWHURST: Yeah, I think I want to
35 clarify that one. Under the original -- well, how the
36 regs were established and how they read is if you are a
37 resident of the original north and west of the Alaska
38 range, the original area that was given, you can hunt
39 anywhere in that are. So somebody like Austin or Sandy
40 could go to Cold Bay and hunt. The only places that
41 were restricted from that were the new areas we added,
42 like the Copper River folks. It says specific in
43 regulation they can only hunt in these game management
44 units. But the original folks now they cannot go into
45 excluded areas.

46
47 So Sandy could not come to Anchorage
48 and hunt, but she could hunt legally in any area that
49 was already included, so Sandy could go to Cold Bay
50 legally under our regs. It very rarely happens, but it

1 is legal. But she would be restricted to included
2 areas. So she couldn't go to Fairbanks or Anchorage or
3 the excluded areas. So it isn't purely statewide, but
4 they do have a broader range than their specific
5 region.

6
7 CHAIRMAN ALCORN: But my point is they
8 are different.

9
10 MS. REZABECK: Yes. So how should we
11 articulate this.

12
13 CHAIRMAN ALCORN: That's why I wanted
14 the regional representatives to say what the real issue
15 is for them in those regions.

16
17 MS. REZABECK: Anyone want to take a
18 stab at this? Yes, Dale.

19
20 MR. RABE: Let me just throw one word
21 out and see whether or not that stimulates a
22 conversation. Is competition for harvesting resources
23 in the fall an issue?

24
25 MR. DEVINE: I would have to say yes
26 because, I mean, Cold Bay, you have a big influx of
27 sport hunters and if you put both groups in the same
28 area at the same time, it's going to cause a mess
29 because how is Fish and Game going to recognize a sport
30 hunter from a subsistence user. That's going to
31 increase enforcement and it's just going to create a
32 heck of a mess. That's why we're asking for separate
33 timeline away from the sport hunt.

34
35 MS. REZABECK: Thank you. Molly.

36
37 MS. CHYTHLOOK: In Bristol Bay, as far
38 as competition for migratory birds, I haven't noticed
39 any competition with the sports hunters coming in to
40 harvest migratory birds. We have a problem with our
41 other resources, like moose and caribou, larger
42 species.

43
44 MS. REZABECK: How would we like to
45 articulate this so we remember it? Yes.

46
47 MS. CHYTHLOOK: I think that needs to
48 be by region. If we articulate that, it's going to
49 stick and all the regions are going to be affected by
50 whatever comes out of that. We just saw the difference

1 between influx, our competition, just between Peter's
2 region and mine.

3

4 MS. REZABECK: So I've put down here,
5 and let me make sure this is going to be worded
6 correctly, by region some competition involved for bird
7 resources. Okay?

8

9 Thank you. Yes, Peter.

10

11 MR. DEVINE: Yeah, like in my region I
12 have three subregions, so I would have to pick dates
13 for each region because of the availability of the
14 birds, you know, they're in seasons. Once it starts
15 freezing, St. George, St. Paul, they won't be able to
16 harvest, so they would have probably an earlier season
17 than we would have down in Cold Bay and Sand Point.

18

19 MS. REZABECK: Yes, Molly.

20

21 MS. CHYTHLOOK: I guess in Bristol Bay
22 too we have two seasons. There's the Alaska Peninsula
23 can harvest through the winter versus the southwest.

24

25 MS. REZABECK: Any other big issues or
26 problems that you would want to make Flyway Council,
27 Agency personnel aware of as a part of this background
28 piece? Yes.

29

30 MS. CHYTHLOOK: I guess my question
31 would be how accurate of harvest data do they want?
32 With the migration changes, in Bristol Bay, because of
33 warmer conditions that we're having, the flightless --
34 I guess that's what they call flightless, the birds
35 that haven't gotten mature enough to fly, the
36 flightless birds are later than they used to be and the
37 majority of the harvesters don't harvest those. They
38 wait for the birds to mature before they start
39 harvesting.

40

41 MS. REZABECK: I think all of those
42 kinds of details could be rolled into an explanation of
43 how climate change is affecting the whole scenario.
44 Let's try to think of any other big things that we're
45 missing here to really articulate what the issues and
46 problems are for you and then we'll take a break.

47

48 Have we got everything that you think
49 would help explain this situation in preparation for
50 making a change so they completely understand where

1 you're coming from?

2

3 MS. TAHBONE: I think that when you add
4 that other means make sure you put traditional in
5 there. It's hard for outsiders, if you will, to
6 understand some of our methods of harvesting food.
7 Some of it's just common sense. So I think it's
8 important that we're articulate when we talk about
9 other traditional methods of harvest.

10

11 MS. REZABECK: Good. Well, I think
12 what I'm envisioning is I'm remembering Austin talking
13 yesterday about the education of managers and others
14 about why these changes are being requested. Once these
15 are developed into basically an issue paper to explain
16 why, it's just the basis of your educating, the
17 beginnings of your educating. Is there anything else
18 you want to say? This is not your last chance, of
19 course.

20

21 (No comments)

22

23 MS. REZABECK: Okay. Why don't we take
24 -- is there something, Molly?

25

26 MS. CHYTHLOOK: I think education to
27 the agencies of our traditional knowledge is important
28 because it seems like so many of our agencies live out
29 of state and they rule from Washington, D.C. or
30 elsewhere and they know probably more about outside
31 activities and probably ruled by the Lower 48
32 regulations more than -- it's probably not more than,
33 but commonly, it appears like, because they don't have
34 any knowledge of our way of life here. The regulations
35 and whatever else, decisions that come out normally
36 apply to their own local knowledge and not the Alaska
37 Native knowledge.

38

39 Thank you.

40

41 MS. REZABECK: Thank you. Donna.

42

43 MS. DEWHURST: Herman is not here, but
44 I remember Herman bringing up something else for Kodiak
45 that he mentioned a couple times. The sport hunt ends,
46 I can't remember, December 15th or January, but there's
47 a certain point where even the winter hunt ends and
48 between that and when April 2nd comes around. So
49 there's like a couple month gap there and that he had
50 mentioned the folks on Kodiak want to keep hunting

1 through the gap, from whenever the fall/winter hunt
2 ends to when our normal subsistence hunt starts. I
3 think there's a two to three month gap there between
4 the two. He always mentioned it would be nice if they
5 could continue. Traditionally they would continue
6 hunting in the winter sea birds and other things that
7 winter around Kodiak.

8

9 So that would be another thing that
10 even the full winter hunt -- there's a gap from when
11 the full winter hunt ends and April 2 comes around and
12 that was another issue with them. It probably is an
13 issue with the Aleutians too, but he mentioned it
14 specifically with Kodiak.

15

16 MR. DEVINE: Back to what Donna said,
17 it does happen in our region too. We do hunt all the
18 way up until March.

19

20 MS. REZABECK: It's a regional thing,
21 isn't it?

22

23 MR. DEVINE: Yeah.

24

25 MS. REZABECK: Thank you. Anything
26 else? This is a really great list of things. Would it
27 make sense now to set this aside and after the break to
28 take a look at this sheet of paper and then this one
29 and come up with questions that we need to get answered
30 in order to decide what to do next? Would that make
31 sense or would you have another thought about what to
32 do next?

33

34 MR. RABE: Take a break and then
35 decide.

36

37 MS. REZABECK: See you back here a
38 little after 10:30.

39

40 (Off record)

41

42 (On record)

43

44 MS. REZABECK:a phone call, but
45 he said let's just go ahead and get started, so that's
46 what we're going to do. I just wanted to -- before we
47 decide what to do next I just wanted to kind of revisit
48 what we did very early this morning and that is -- what
49 Fred and I were talking about at the break was the
50 possibility, since other people might not be able to

1 read my handwriting, I may go ahead and type up the
2 notes from yesterday and today as best I can and on
3 Monday, knowing you all are meeting on Tuesday, email
4 the notes to Fred. I'll do my best and they'll need to
5 be embellished because all of you will remember more
6 than I'm able to type up. They're to help you remember
7 the various points.

8

9 In the spirit of preparing for a
10 positive action in Nome, we've spent a little time
11 articulating the issue. I guess maybe now is the time
12 to figure out what you'd like to do for the remainder
13 of the day in preparation for Nome. We've talked about
14 a couple of things, one of which would be to take these
15 two options, the AMBCC and the Flyway Council, and
16 revisit them with the idea of articulating questions
17 that you need answered in order to proceed.

18

19 Does anyone have another thought about
20 what to do next?

21

22 MR. DEVINE: I think it's good.

23

24 MS. REZABECK: Okay. That's what I was
25 waiting for. Which one would you like to do next? I
26 was thinking it might be best to kind of isolate them a
27 little bit to talk about one and then the other. One
28 idea that we spoke about this morning was the
29 possibility of typing them in. We'll have to decide
30 how much time we want to spend wordsmithing, but for
31 starters to get the questions out there and have a
32 document so that you will have it in Nome. How does
33 that sound?

34

35 One of my difficulties is that I won't
36 be able to kind of move this along and type at the same
37 time. So I'm wondering if there's anyone in the room
38 who might be willing to type words on this keyboard as
39 we go along. So wherever you want to sit.

40

41 I tried to make this type -- tell me if
42 it's big enough for those of you way in the back. Can
43 you read questions to ask? Okay. Which one would you
44 like to do first, this one or the State Flyway Council
45 one?

46

47 MS. TAHBONE: I would like to do the
48 AMBCC.

49

50 MS. REZABECK: All right.

1 (Setting up projector)

2

3 MS. REZABECK: So to briefly revisit
4 and I think we probably talked about this enough, we
5 have here -- this process would be through the AMBCC in
6 your regular regulatory process and this question, can
7 the regulatory proposal come from the AMBCC for
8 regulations for fall and winter. Would you like to
9 start with this?

10

11 MS. TAHBONE: Yeah, I think that would
12 be a question that we would ask of the solicitor and
13 then the follow-up question to that, if the answer is
14 no, then what needs to take place in order for the
15 AMBCC to be able to propose regulations for fall and
16 winter subsistence hunt.

17

18 MS. REZABECK: Maybe we could just
19 indicate the solicitor needs to be asked this.

20

21 MR. DEVINE: Before that can we add or
22 extend the subsistence season or is that going to be a
23 different question?

24

25 MS. REZABECK: What do you all think?

26

27 MS. TAHBONE: It needs to be
28 fall/winter too.

29

30 MR. DEVINE: It needs to be a separate
31 question.

32

33 MS. REZABECK: Okay. Hold that
34 thought. I'm wondering if most of these would be for
35 the solicitor or, if not, we could indicate something
36 else.

37

38 MS. TAHBONE: Make sure you put winter
39 in there too because it's not just for the fall.

40

41 MS. REZABECK: All right. We have can
42 a regulatory proposal come from AMBCC to the SRC for
43 fall/winter hunting period. Solicitor's opinion. Any
44 other comments about that one?

45

46 (No comments)

47

48 MS. REZABECK: Then let's move on to
49 the if no one and then we'll go to the other question
50 that Mike mentioned. If no, what process to help what

1 to do next or what.....

2

3 MR. DEVINE: What needs to be done to
4 extend the season, the current subsistence season.

5

6 MS. TAHBONE: What we want is we want
7 the authority to be able to make proposals.

8

9 MS. REZABECK: Under what authority do
10 we make proposals.

11

12 MS. BROWN-SCHWALENBERG: How about, if
13 no, what process is required to change the regulations
14 to broaden our scope of our roles and responsibilities.

15

16 MS. REZABECK: All right. If no, what
17 process is required to change regulations to broaden
18 scope and authority.

19

20 MR. PEDERSON: In parentheses, put i.e.
21 extend the subsistence season.

22

23 MS. REZABECK: Okay. Time to move to
24 the next one. Mike, would you like to give that to us
25 again?

26

27 MR. PEDERSON: It's right there.

28

29 MS. REZABECK: Oh, I'm sorry. All
30 right.

31

32 MS. TAHBONE: Then I have a question.
33 Is the request going to come from -- can it come from
34 AMBCC because we get up to a point where we have to
35 come to a decision and again we have the Native vote
36 and we have the State and Federal vote and whether or
37 not we're going to be able to have the Federal and
38 State representatives on board in order to move this
39 forward from this body. If we get the response back
40 from the solicitor and the answer is no, we do not have
41 the authority to submit, so this is what you have to
42 do. You have to submit language to change the
43 regulations or to modify, amend the procedural
44 regulations to give you the authority, would the State
45 be on board to say, yes, we agree this body should have
46 the authority to make fall regs, so we vote in the
47 affirmative for that to happen, is my question.

48

49 MS. REZABECK: It also would be a
50 question for the State?

1 MS. TAHBONE: I'm wondering because
2 we'll need to know not only do we have the authority
3 and we'll also need to know what process is required to
4 change the regulations, but who is going to make that
5 request? Is it going to be AMBCC or is it going to
6 have to come outside of the AMBCC because we cannot
7 come to a consensus?
8

9 MR. PEDERSON: Couldn't it come from
10 the Native caucus of the AMBCC? Because remember Sky
11 had warned us at the spring meeting that if Doug posed
12 a question to the solicitor, we all know what the
13 answer would be. So he thought -- I remember him
14 distinctly saying that he thought it would be better to
15 come from the Native caucus, like what we're doing now,
16 posing the question to the solicitor.
17

18 MS. REZABECK: Let's write it down and
19 then you can sort through it later. Is there a hand
20 back in the corner? Please come up.
21

22 MR. DEVINE: Yesterday there was a
23 little bit of discussion on this topic and it was
24 either a regulation change possibility or a law change
25 possibility, so I'm wondering if you should put
26 regulation/law so you have the whole question answered
27 at once.
28

29 MS. REZABECK: Thank you. Back to
30 Sandy here. Am I hearing you wanting -- the Native
31 caucus wanting to ask -- go ahead.
32

33 MS. TAHBONE: I'm just wondering what
34 the benefits are of if the answer is no and we receive
35 the answer back, this is a process required to change
36 either regulation or law to provide us that authority
37 whether it's more beneficial to come from the AMBCC
38 versus the Native community requesting this, but
39 whether or not we would have the backing of our Federal
40 and State partners in making these regulatory or law
41 changes, is my question I kind of had to Dale, whether
42 or not we would have the State agreeing with the
43 Native.....
44

45 MR. RABE: I think I understand now,
46 Sandy, what you're asking for. It's a conditional
47 response, of course. It really would depend on what
48 specifically was being asked in terms of the changes
49 either to regulation or law where the State might come
50 out in terms of being able to support that. I think

1 that may be at a lower level of evaluation than the
2 questions we've been dealing with at this point.

3
4 Of course, you fully recognize there's
5 politics that come in to any of the process change that
6 we've gone over yesterday and today in terms of
7 changing law. Those aren't simple questions
8 particularly in a situation like this where we're
9 already in a very complex set of processes relative to
10 different times of the year where different authorities
11 currently exist, et cetera. I really can't tell you
12 whether or not the State would or would not, Sandy, at
13 this point.

14
15 I wasn't sure, Sandy, when you first
16 posed it if you were asking if there was a change that
17 could be made so that the Native caucus, that
18 membership in AMBCC, would be able to make
19 recommendations and not have the State and Federal
20 representation or votes as part of the process. Is
21 that what you were.....

22
23 MS. TAHBONE: No, but that brings up a
24 -- that's a good idea. I'm just teasing, Dale. No,
25 that's not what I was thinking. I was just thinking if
26 the answer is no and the solicitor says, okay, this
27 regulation needs to be changed or that law needs to be
28 changed, so we get that answer back and then, okay, as
29 AMBCC we say, okay, we're going to put forth these
30 recommendations to make those changes. Are we going to
31 have the support of our Federal and State partners
32 knowing all what we know and all what we've learned the
33 last couple of days regarding the need to change and to
34 provide for a fall subsistence hunt, is basically my
35 question.

36
37 MR. RABE: Let me go back to that.
38 I'll put on the wet blanket momentarily here. By
39 example, let me try and answer that question. If some
40 of the changes that were being requested were those
41 that included exclusivity in terms of who was to
42 benefit from the regulation, which would clearly put
43 the State into the same conflict in terms of the
44 constitution. As an example, that's a pretty clear
45 answer in terms of where the State would come down on
46 it.

47
48 By example, that's all I'm trying to do
49 is to illustrate as a continued member of the process.
50 I, as a State representative, want to remain completely

1 open-minded, but I fully recognize that there are
2 sideboards given to me in my position on this group
3 because of the constitution and state law and that
4 doesn't even get down into the political area in terms
5 of other policies that can be more easily changed. So
6 that's where it's so difficult to say, whether or not
7 as a follow up to the general question, whether or not
8 there would be support from the State. It depends. I
9 hate those kinds of answers, but that's the reality. It
10 just depends.

11
12 MS. REZABECK: I think Jerome had a
13 comment and then Patty.

14
15 MR. FORD: Thanks, Cathy. I guess from
16 the Service standpoint we would be pre-determining what
17 our answer would be. We have to get something back from
18 the solicitor, understand what the change is, before we
19 could sit down and analyze and know what they are
20 before we can decide that. So I guess today I wouldn't
21 be able to say, Sandy, if we would or if we wouldn't.
22 Sort of like Dale. It all depends on what the outcome
23 or what the solicitor's opinion would be. But to ask
24 the question, I think the Service would definitely
25 support that from the AMBCC. That's an appropriate
26 action to take. But until we know what the solicitor's
27 opinion would be we couldn't answer that question.

28
29 MS. REZABECK: Thank you, Jerome.
30 Patty.

31
32 MS. BROWN-SCHWALENBERG: Dale, since
33 the State can't support some of the things that have
34 specific benefits for certain populations of people,
35 how does the State justify voting on our regulations in
36 this process?

37
38 MR. RABE: That was determined when the
39 treaty amendment was ratified that said that it would
40 create an oversight group to be able to make
41 recommendations about regulations and in that amendment
42 it specifically said that the membership in that group
43 would be the State, the Federal government and the
44 Native membership. So that's incorporated into the law
45 that provides structure and limitations to the group.
46 So, at that higher authority again we'd have to make a
47 change. You'd have to go back and revisit that element
48 of the enabling legislation to say maybe the State
49 shouldn't be a part of that or maybe the Federal
50 government shouldn't be a part of that.

1 MS. BROWN-SCHWALENBERG: That wasn't
2 what I was getting at. What I was getting at was --
3 well, I guess I was kind of wondering how that could be
4 that way, so that was in the process -- the procedural
5 regulations where it said the partners and because it's
6 in the Federal Register the State has to participate
7 even though it goes against their constitution. Is
8 that accurate? I'm just trying to understand.

9
10 MR. RABE: Well, we may be getting into
11 an area where I, in fact, need to get some legal
12 opinion in terms of some of that. I don't claim to
13 have all the answers in terms of how -- maybe I can
14 rephrase your question. In the sense, the State of
15 Alaska, under its current constitution, would not be
16 able to create regulations similar to those that exist
17 through the Federal authorization and the AMBCC because
18 it, in itself, is a conflict with the constitution.

19
20 If your question is how can the State
21 sit at the table when that process exists, I'm not so
22 sure I understand a legal interpretation of what
23 enables us to do that. I'm willing to take that back
24 as a question to say why were we named as one of the
25 three elements that constitute that group. Now that
26 Doug is back maybe he has some additional historical
27 insight on that. But that is a good question to the
28 State.

29
30 MS. BROWN-SCHWALENBERG: Not to say we
31 don't want the State's involvement. I want to make
32 that clear. All I'm questioning is it seems kind of
33 contradictory that you can vote on the regulations that
34 we're putting forward as a body as one of the partners,
35 but when this kind of issue comes up, then you have to
36 vote no. Do you understand what I'm saying?

37
38 MR. RABE: I think so. This is
39 speculative on my part in terms of the thinking of the
40 Congress when struggling with how to make the kinds of
41 changes that they have made. It's a recognition that
42 the Federal government has long-standing authority over
43 migratory birds generally and from that standpoint
44 needs to be part of the equation for how this activity
45 goes forward. The other element of consideration would
46 be that the uniqueness of where these hunts occur is in
47 the state of Alaska.

48
49 So, from that standpoint, the State
50 would have an interest in also being part of that

1 discussion even though the constitution, as I said,
2 would not allow us to create the hunts the way they're
3 currently created. But that doesn't say that the State
4 doesn't have an interest in the activities. There
5 certainly are decisions that the State has and will
6 continue to be able to make for the perpetuation of
7 this activity, these kinds of hunts, that aren't in
8 conflict with the constitution recognizing that it
9 really isn't an issue of State law that we're butting
10 up against.

11
12 Now it might be if we move over into
13 that Flyway Council activity because that's a different
14 element where we now have that issue of everybody
15 having equal access to the resource.

16
17 Did that help any?

18
19 MS. REZABECK: Did you have something,
20 Austin?

21
22 MR. AHMASUK: Thank you. Like what
23 happened in the past when it came to voting on
24 subsistence areas, I seem to recall that the State
25 abstained on those kinds of questions, but on the
26 seasons, April to whatever, they could vote on that.
27 They could vote on species. But back when we were
28 deciding all these exclusive questions the voting came
29 out State abstention and Federal, Native voting as
30 positive.

31
32 So, in the future, if and when the
33 process is developed, we would expect maybe similar
34 sorts of voting behavior, that the State would abstain
35 on certain issues, but would be able to vote on other
36 issues.

37
38 So that's how I recall how it happened.

39
40 MS. REZABECK: Thank you. So we have
41 something typed in here, will the State/Federal
42 partners support proposed regulatory legal changes.
43 Would we like to leave that or remove it?

44
45 MR. AHMASUK: I think it should remain.
46 It just needs some wordsmithing. So the question would
47 be what language is required so that we could go
48 through the process of developing a framework. I
49 didn't say that right. Whatever happened back when we
50 were developing all this there were certain -- we

1 established the procedure regulations first. So those
2 went out for a 90-day comment period and then OMB got
3 involved and all that kind of stuff.

4
5 The question would be how can a new
6 process be structured or worded so that we can
7 establish the fall framework like the spring and summer
8 framework?

9
10 MS. REZABECK: Austin, is that similar
11 to this question?

12
13 MR. AHMASUK: That question says how do
14 we broaden the scope. This question would be how do we
15 establish the regulatory process.

16
17 MS. REZABECK: For the fall subsistence
18 hunt. Who would be asked this question?

19
20 MR. AHMASUK: The procedural regs are
21 issued by the Service, right?

22
23 CHAIRMAN ALCORN: Yes.

24
25 MR. AHMASUK: So it would be they can
26 initiate a procedural regulation.

27
28 MS. REZABECK: So it would be the
29 Service's solicitor.

30
31 CHAIRMAN ALCORN: I apologize for being
32 gone. I think what we're talking about is revising the
33 procedural regulations, going through this process. I
34 think that AMBCC could ask the Service to rethink the
35 regulation where we say in the regulation that we
36 interpret the law to be the authority of the Council to
37 make regulations for -- to make recommendations for the
38 fall or the spring and summer.

39
40 The request could be we think that
41 maybe this could be broadened. That's going to
42 translate into asking the solicitor could these
43 authorities be broadened. If so, how. I think I know
44 what the answer is right now. But that would be the
45 question.

46
47 MR. AHMASUK: We should prepare our
48 minds that like what happened in 2003, prepare our
49 minds that the State won't be able to vote positively
50 on some issues, but it will be able to vote positively

1 on others.

2

3 MS. REZABECK: Do we want to ask the
4 State -- you have a solicitor, I imagine.

5

6 MR. ROSENBERG: We have the attorney
7 general.

8

9 MS. REZABECK: Do we want to ask the
10 Attorney General is it clear to you what the State can
11 and cannot do?

12

13 MR. AHMASUK: It's clear to me. It
14 will just be double confusion if we get more people
15 involved.

16

17 MS. REZABECK: So if we could go back
18 to that third one there. How do we establish, revise
19 the regulatory process for the fall/winter subsistence
20 hunt. Ask the solicitor if these authorities can be
21 broadened and by why process.

22

23 What else is important here? I was
24 looking back to our notes from yesterday and there was
25 a question here that Patty brought up. We were reading
26 part of the procedural regulations where there is a
27 statement among other things. Would this apply to the
28 fall harvest? Do you remember that?

29

30 MS. BROWN-SCHWALENBERG: Yeah, I
31 remember it. I just don't know if it's relevant now
32 that Doug has mentioned that the solicitor he thinks is
33 already going to say it doesn't.

34

35 MS. REZABECK: Well, okay. Yes, Sandy.

36

37 MS. TAHBONE: It should be ask
38 solicitor how these authorities, not if, because we're
39 already asking in the first question.

40

41 MS. REZABECK: Thank you. Dan, let's
42 scroll up to the very beginning. The regulatory
43 proposal we're talking about is for procedural
44 regulations? What are we talking about?

45

46 MS. TAHBONE: What we're talking about
47 is, just as Kawerak submitted a special action request
48 to provide for a fall subsistence hunt so we would
49 be.....

50

1 MS. REZABECK: Can regulatory proposal
2 come from the AMBCC to the SRC for fall/winter hunting
3 period. The second question, if no, what process is
4 required to change regulations or law to broaden the
5 scope and authority by extending the subsistence season
6 of the AMBCC roles and responsibilities. Then the
7 third one, how do we establish or revise the regulatory
8 process for the fall/winter subsistence hunt. Ask the
9 solicitor how these authorities can be broadened and by
10 what process.

11
12 CHAIRMAN ALCORN: Can I ask a question?

13
14 MS. REZABECK: Yes.

15
16 CHAIRMAN ALCORN: It seems like that's
17 very closely related to the second question. Is the
18 third question, if the answer is like I presume the
19 answer to be, it's going to require a change in the
20 law. If that's the answer, then is this third
21 question, given the law as it currently exists, given
22 the interpretation as it currently exists, are there
23 opportunities for us to play in that fall and winter
24 arena? Isn't that kind of what the question is? If
25 the second question is can the law be changed or how
26 can we get engaged in that process and if the answer is
27 it requires a law change, there may be other ways to be
28 involved. That's what I'm thinking.

29
30 MR. AHMASUK: Cathy. It got more from
31 -- a thought that Sandy had is will the Federal, will
32 the State support, you know, decisions, I guess, that
33 we might entertain in the fall time. I guess the
34 original thought was if we do all this, will the State
35 and Feds even support it. If there's a regulation on
36 the books, the Feds, of course, won't support it.
37 Then, like we expect, the State will maybe support some
38 of it or just not be able to vote on other aspects of
39 it.

40
41 I might have a third question. So we
42 ask all these questions and then this person lays out
43 stuff that legally needs to be done. So maybe we
44 should ask the solicitor what operational frameworks do
45 we need to have in place to do all this.

46
47 CHAIRMAN ALCORN: Can I offer
48 something. Again, I apologize for being gone. We're
49 sort of tracking this first option of functioning
50 within the current AMBCC process or a revised one.

1 MS. REZABECK: Correct.

2

3 CHAIRMAN ALCORN: It seems to me then
4 part of what we -- or maybe an additional question
5 would be given the processes that are in place that
6 compliment one another, the two processes, what could
7 the Council do to engage the Flyway Council to make
8 recommendations that accommodate these needs. Maybe
9 it's an obvious question already and we may be getting
10 there when we get to the second suite of questions for
11 the second process.

12

13 It seems to me that whoever would be
14 advising this group and the Flyway Council, there are
15 rules of engagement that Dave Sharp was talking about
16 with the Flyway Council and how you submit proposals
17 and how you make your case. Maybe we don't need legal
18 advice. But that is a question and maybe it's not of
19 the solicitor. Maybe it's of the Fish and Wildlife
20 Service Washington office who sort of runs the SRC
21 process. What is the best way to engage the SRC for
22 fall and winter regulations given the current processes
23 that exist?

24

25 MS. REZABECK: Let's articulate then
26 this is a question for the Flyway Council, the Service
27 folks.

28

29 CHAIRMAN ALCORN: Well, the Service who
30 runs the Flyway Council process. What is the best way
31 for us to engage -- given that suite of issues we've
32 identified, what's the best way for us to engage
33 policymakers with these two processes that are already
34 in place.

35

36 MR. ROSENBERG: So policymakers, which
37 includes.....

38

39 CHAIRMAN ALCORN: Includes the Fish and
40 Wildlife Service in consultation with the Flyway
41 Councils.

42

43 MS. TAHBONE: Would you read it.

44

45 MS. REZABECK: Yeah, let's re-read it.
46 Given current processes, what options does the AMBCC
47 have to engage policymakers (Fish and Wildlife, SRC,
48 Flyway Councils) for the fall/winter regulatory
49 process. Basically you're seeking their support.

50

1 CHAIRMAN ALCORN: You are seeking their
2 support, but the obvious answer when you ask a general
3 question, how do we get their support, the answer is
4 going to be depends on what the regulations and the
5 recommendations are.

6
7 So I think the fundamental question is
8 a process question, what's the best way to engage them
9 so that we can accomplish the end result that we're
10 looking for.

11
12 MS. REZABECK: Yes.

13
14 MS. TAHBONE: I have a question, but
15 I'd like to have a Native caucus to see if the Native
16 caucus even wants to form the question, but I'd like to
17 if we could have a Native caucus.

18
19 MS. REZABECK: Sure. Why don't you all
20 stay here and we'll leave the room.

21
22 (Off record)

23
24 (On record)

25
26 MS. REZABECK: We will be waiting for
27 your discussion at next week's meeting in Nome. We'll
28 just continue with what we were doing. It was my hope
29 -- it's five till 12:00. Would you like to try to
30 finish questions on this particular method and then
31 take lunch? Do you have other questions? Would you
32 like to review the questions again? I know it's
33 difficult to see them all at once because we needed to
34 make it big enough so those in the back could see them.

35
36 MR. AHMASUK: So if we establish this
37 process, we also have to establish a way to visit
38 seasonal regulations, right? What frameworks need to
39 be established to visit seasonal regulations that might
40 come as a result of these things?

41
42 MS. REZABECK: Okay. There's a
43 question. Thank you. Other questions. Doug.

44
45 CHAIRMAN ALCORN: Just a question for
46 Austin. When you use the word frameworks, the way the
47 word frameworks is used in the context of the Federal
48 regulation setting, frameworks are the broadest
49 regulations that states can establish within their
50 State boundaries. So those are the frameworks. Is

1 that the framework you're talking here?

2

3 MR. AHMASUK: No, I'm talking about the
4 procedure regulations that give us the power to do
5 this. That's a provision, I guess, right?

6

7 CHAIRMAN ALCORN: A provision, correct.

8

9 MS. REZABECK: All right. Thank you.

10 Doug.

11

12 CHAIRMAN ALCORN: I realize this is
13 somewhat probably redundant given the context, but
14 really the provisions we're talking about are what
15 regulatory provisions or regulation-setting provisions.

16

17 MS. REZABECK: Okay. Just write in the
18 word regulatory. There we go.

19

20 CHAIRMAN ALCORN: Then the question I
21 have is who is the audience for the question or who do
22 you want to send that to.

23

24 MR. AHMASUK: So that's more of a --
25 it's, of course, legal, but how do we go about
26 implementing it. I suppose it could be both internal.
27 So when we propose something, the Service posts it in
28 the Federal Register certain things which have a
29 certain day, period, comment requirements, things like
30 that. Is there necessarily a problem with how all that
31 is interpreted necessarily? It's a matter of setting
32 who writes the Federal Register notice, I guess.

33

34 CHAIRMAN ALCORN: The Fish and Wildlife
35 Service writes the Federal Register notice and once the
36 Federal Register notice is drafted, before it's
37 published it gets legal review. If we're asking what
38 regulatory provisions do we need in place, if we were
39 to ask the Fish and Wildlife Service, probably managers
40 would turn around and probably ask the solicitors.
41 This is a legal question. So I'm thinking the
42 solicitors are probably who we would turn to.

43

44 So before the Council then is do we
45 want to ask the Department of Interior's solicitor
46 directly or do we want to ask the Service. You can ask
47 the State if you want. You can ask the Flyway Council.

48

49 MR. PEDERSON: I would suggest the
50 Interior solicitor, at least from my point of view,

1 because we know what the Fed -- what your solicitor is
2 going to say.

3

4 CHAIRMAN ALCORN: Yeah, I misspoke.
5 The Department of Interior solicitor is the Fish and
6 Wildlife Service's solicitor. It's a Department office
7 and each group of attorneys has a certain agency or
8 agencies within their area of responsibility. So we
9 have by name a suite of attorneys that we work with.
10 So it's still the DOI solicitor's office. We have
11 specific names that we deal with.

12

13 MS. REZABECK: Doug was explaining to
14 me out in the hallway that it goes to our regional
15 solicitors first for approval from our Washington
16 solicitor. Other questions.

17

18 MS. TAHBONE: Do you want anything
19 regarding law enforcement?

20

21 MS. REZABECK: What are you thinking
22 about?

23

24 MS. TAHBONE: Within our bylaws, I'm
25 just wondering how we can -- I'm not really sure what
26 the question would be. Maybe that's for another day.

27

28 MS. REZABECK: Okay. I know this is
29 hard to do it like this and I know it's going to take a
30 lot of reflection before we think to get it right,
31 before it's sent to these people. We're doing the best
32 we can. We'll need to print it out for. I know that
33 I'm visual, so I would assume that some of you would
34 benefit from having a piece of paper with these on it
35 before Nome, so we can do that. We're trying to get
36 the ideas down here with refinement.

37

38 Are you all ready for lunch? What
39 time?

40

41 CHAIRMAN ALCORN: How about 1:15.

42

43 MS. REZABECK: Yes, we'll be here at
44 1:15, ready. Have a good lunch.

45

46

47 (Off record)

48

49 (On record)

50

1 MS. REZABECK: All right. Well, we are
2 creating more questions this afternoon for
3 consideration for Nome. I guess before we move on to
4 the next set of questions, would you like to revisit
5 what we did later in the morning, the questions that we
6 had, just to make sure that there aren't any others
7 that you'd like to add or would you like to move right
8 on to the State Flyway Council questions.

9
10 MS. TAHBONE: I've got a question
11 before we move on to the next. So how are we going to
12 frame the action item regarding these questions?

13
14 MS. REZABECK: Good question. Doug.

15
16 CHAIRMAN ALCORN: It seems to me coming
17 out of this meeting we have the suite of questions
18 we've sort of discussed at length, these three
19 different options we've got on the board. Now we're
20 going through this sort of methodical process asking
21 ourselves what are the questions we need answers to to
22 actually make something happen under one of these given
23 processes.

24
25 The way I read the motion, the motion
26 was to have these discussions and to come back to a
27 decision-making meeting ready to take action on your
28 proposal because it was tabled and have these issues
29 that we've identified, have a course of action to
30 address these issues to either get answers or to
31 actually take action to implement, do something.

32
33 MS. TAHBONE: My question is what's the
34 motion -- what's our motion going to be is my question
35 in order for this action to take place. Who is going
36 to be directed to draft the letter and what type of
37 process is that letter going to be vetted, if you will,
38 before it is sent off? What's the nature of our motion
39 that will be before us next week?

40
41 MS. REZABECK: Thank you. Doug, do you
42 want to take a stab at it.

43
44 CHAIRMAN ALCORN: Sure. The way I
45 guess I would envision it is that the Council would say
46 if this process, this meeting results in a suite of
47 questions and we've identified the audience and we then
48 make a decision to forward those questions on, we would
49 instruct Staff to draft a letter for the chair's
50 signature and review by either the executive committee

1 or the full Council, it's up to the Council, but we do
2 have an executive committee, which is the three voting
3 entities.

4
5 Staff would draft the letter, put it on
6 our letterhead, address it to the proper recipients
7 that we've identified and the motion would be to
8 instruct Staff to draft letters that ask these
9 questions that we agree to and have it reviewed by
10 either the executive committee or the Council.

11
12 MS. REZABECK: Does that answer your
13 question? Okay. Would you like to look at what we did
14 this morning or just move on?

15
16 CHAIRMAN ALCORN: I think we've
17 exhausted a lot of good thought on this and without me
18 being able to see the suite of questions, it's hard for
19 me to think through do these make sense in a sequential
20 or comprehensive way.

21
22 It would help me if we were able to see
23 these on a piece of paper. So I would suggest we move
24 to the next process and go through the same exercise
25 and then you told me you would type these up Monday and
26 we could get them out electronically to the AMBCC
27 members. So we would have these to look at and then we
28 can discuss or refine at the AMBCC meeting if the
29 desire is to come out with an action and a motion as I
30 described earlier.

31
32 MS. REZABECK: We could move on to the
33 next set of questions. Donna or Fred, do you know if
34 we could take a jump drive down to the front desk and
35 have them printed out. It would be nice for you all to
36 go home with these to look at. Okay. What we'll do
37 before we print it out is we'll make the words, you
38 know, so we don't waste paper.

39
40 Okay. We're looking at another
41 alternative mechanism through the State and Flyway
42 Councils. Are there a different suite of questions
43 that need to be answered, get our heads around this a
44 little bit. What barriers or questions exist in this
45 process that we need to learn more about?

46
47 MS. TAHBONE: Probably the first
48 question is, is there a process to submit proposals
49 that would address our subsistence needs? There have
50 been proposals submitted in the past to the Board of

1 Game. So is there and what is that process I would
2 think would be one of the questions.

3

4 MS. REZABECK: For a subsistence hunt.
5 Because there is a process in place, but I guess you're
6 wondering if there's a specific process.

7

8 MS. TAHBONE: They've got to have some
9 way that they make their regulations for their fall
10 sport hunt.

11

12 MS. REZABECK: Yes.

13

14 MS. TAHBONE: From what I'm hearing is
15 that process is not made available to the public to
16 propose regulatory changes. So what process do they
17 use and how can we access it and could that process be
18 used to provide for subsistence needs.

19

20 MS. REZABECK: Doug, did you have
21 something?

22

23 CHAIRMAN ALCORN: I do. I think we
24 heard Dave say that there is a process, so the answer,
25 I think, is yes. So maybe the more fundamental
26 question is, and Sandy asked it, what is the process.

27

28 MS. REZABECK: What is the process.

29

30 CHAIRMAN ALCORN: Yeah, what is the
31 process for the AMBCC to engage the Flyway Council to
32 consider the fall/winter regulations that would meet
33 the needs of subsistence hunters in Alaska.

34

35 MS. REZABECK: What is the process to
36 engage Flyway Councils to address proposals to
37 accommodate subsistence needs for fall hunters.

38

39 CHAIRMAN ALCORN: Close enough.

40

41 MS. TAHBONE: I'm also really concerned
42 regarding the discussions around submitting proposals
43 that are narrow that will not address the needs,
44 testing the water so to speak. I don't think that's
45 going to work, not from my region anyway. I think it
46 will be more meddlesome, more cumbersome, more
47 restrictive, more regulations.

48

49 So I think we need to -- the process or
50 the level of understanding of our actual needs and what

1 will work that will help our people meet their
2 nutritional needs, needs to be addressed. It's really
3 fine for somebody from outside to say, well, this is
4 all we can do or we've got to do it this way first in
5 order to see if it works. We need more commitment to
6 meet our needs. I don't know if that makes any sense.
7 It's like if we're going to just try it for like one
8 species, I don't think that's going to work.

9

10 MS. REZABECK: Okay. Comments.

11

12 CHAIRMAN ALCORN: A question of you,
13 Sandy. So are you thinking that we ask the question of
14 the Flyway Council or whomever this question is
15 addressed to to make a decision on meeting all of the --
16 satisfying all of those issues that we've identified
17 today sort of in one fell swoop?

18

19 MS. TAHBONE: No. What I'm looking for
20 is that we have meaningful discussion on providing for
21 a fall subsistence hunt, which would, in my opinion,
22 bring into play management plans. How we can work with
23 them to insure that the species that need to be either
24 closed or if there's going to be bag limits involved,
25 that we're a part of that process.

26

27 So you have, for instance, the role
28 that the Alaska Eskimo Whaling Commission captains play
29 in their co-management regime. Because they are so
30 involved in that process, they enforce, they stand by,
31 they back up, you know, what the rules and regulations
32 are. I think we need to -- instead of shoving
33 something down our hunters' throats and something that
34 they have to accept because that's the only way they're
35 going to be legal, I don't think that's the road we
36 want to take. I think we need to have the support of
37 our hunters and we need to understand what their needs
38 are, is what I'm getting at.

39

40 MS. REZABECK: Dale.

41

42 MR. RABE: I guess, Sandy, I'd like to
43 try and re-ask the question because it's not entirely
44 clear from your answer if Doug understood or I
45 certainly didn't understand. Russ brought a suggestion
46 to the table early that said we could take a very
47 abundant species and start small, sort of as a trial
48 balloon, and see how the process worked. I think I'm
49 hearing you say that's not the approach you would want
50 to use. That might be more frustrating than

1 beneficial. I'm struggling to figure out how large of
2 a scope is included in meeting the needs that we would
3 be asking whomever this question goes to to evaluate.
4 You said it wasn't the full scope that Doug had asked.

5
6 MS. TAHBONE: Well, there's a lot of
7 questions that this approach comes into play. There's
8 the whole who are we. We're talking about the
9 indigenous inhabitants, are we talking about all
10 residents and how that's going to play into -- you
11 know, all those questions need to be asked. There
12 seems to be more questions than this approach than the
13 previous approach.

14
15 MS. REZABECK: Would you like to get
16 those questions down?

17
18 MS. TAHBONE: I mean they're going to
19 have to be asked.

20
21 MS. REZABECK: Dale, did you have a
22 comment.

23
24 MR. RABE: So, for example, in the
25 discussion before lunch, we did have some examples that
26 were put forward about the potential issue of
27 competition and what the implications were from some
28 hunters hunting groups showing up in certain locations
29 at certain times and the interference that it caused.
30 That would be an example of something that I think
31 would need to be evaluated whether or not that's
32 important enough that it's part of the package of
33 conditions that you're looking for or not included in
34 that as we're trying to get a full scoping of how big
35 the needs are.

36
37 MS. TAHBONE: Even questions like if
38 we're -- the State has different tiers, different ways
39 of setting the amount necessary for subsistence with
40 certain species? I think there's a whole lot of
41 questions that would need to be asked. If we would
42 propose using the current methodology or current way of
43 formulating putting together proposals regarding our
44 traditional ways of harvesting, if our current process
45 that we used within AMBCC would that be an acceptable
46 process to use in order to accomplish our needs, to get
47 to our needs. I mean would that be a question? We
48 have a process in place. Do we need to tweak it or can
49 we tweak it?

50

1 MS. REZABECK: Patty.

2

3 MS. BROWN-SCHWALENBERG: So what I
4 think you're saying is that when we started the AMBCC
5 we had each region identify their species, identify
6 their seasons, their closed areas, whatever, and then
7 we all came together and we put those forward. We did
8 not go species by species. The question then is can
9 that process be used for the fall/winter rather than
10 going species by species?

11

12 MR. RABE: Can I try asking that
13 question maybe slightly differently.

14

15 MS. REZABECK: Yeah.

16

17 MR. RABE: Is a question of relevance
18 to say would this Flyway Council process be able to
19 consider all of the elements of the current AMBCC
20 regulations being carried forward into a fall hunt.
21 That's assuming that everything that's in the current
22 structure regulation by region and otherwise they are
23 meeting the needs.

24

25 MS. TAHBONE: Well, we would have to
26 identify -- like I stated earlier this morning, that we
27 have certain traditional ways of hunting in the spring
28 and I'm sure there are traditional ways that need to be
29 considered for a fall hunt. What those are I couldn't
30 tell you right now. And then timing would be another
31 issue. Each region would have to address the fall
32 hunt.

33

34 MR. RABE: I'm making some headway. I
35 mean in terms of the timing, what I thought I was
36 detecting, at least from some of the conversation, was
37 that people were explaining that those traditional
38 activities continued as long as the birds were
39 available. So, in essence, we're not necessarily just
40 talking about adding a month, although a month or two
41 months might work in some of the regions, the request
42 would be to take the calendar out of the equation and
43 just say for any time during the year. But then that
44 still doesn't address whether or not there are methods
45 and means or other ways of hunting that are unique in
46 the fall that aren't currently provided for in the
47 spring/summer time period. I don't know how to get to
48 an answer to that question other than to talk to the
49 users.

50

1 MS. CHYTHLOOK: In some areas,
2 especially in Bristol Bay, right now we literally have
3 one season and that's the spring season because we
4 don't hunt during the summer when we're busy -- during
5 the eggging and then after the flightless birds are
6 mature. With the climate change and, like I stated
7 earlier, the flightless birds are maturing later
8 because the birds are nesting later. So come September
9 the fall season is over and we still have birds
10 available to harvest. In some areas that don't have
11 the full scope of harvesting seasons will have just one
12 season to harvest.

13

14 MS. REZABECK: Thank you, Molly. Yes.

15

16 MR. RABE: I guess another follow up
17 for Sandy in terms of thinking about this. I'm asking
18 these questions because I suspect, although I don't
19 know, that trying to move the AMBCC process into the
20 flyway -- mesh it with a flyway authority or process
21 and then getting an answer to a question and have the
22 answer come back, yes, we can help, may be dependant on
23 how big and complex the set of requests are for the
24 amount of change that is being requested itself.

25

26 In other words, the amount of species,
27 any changes in methods and means, if they're all
28 imbedded in one question, I think it increases the
29 likelihood that whoever is responsible for answering
30 that question when they try and sort through all of the
31 ramifications of that complex set of requests in one
32 proposal, it increases the chances that some element
33 will cause the answer to become a no. The process
34 won't work if that's the question that's really being
35 asked.

36

37 I think that goes back to what I think
38 Russ was putting forward, is to say that as a starting
39 point, even though it's not acceptable in terms of
40 meeting all of the needs, if the question were tightly
41 defined and very limited in scope and with the help of
42 people who have worked in that system for a long time,
43 there's a much greater likelihood that it can be
44 constructed so that it would increase the chances that
45 the answer back would be yes.

46

47 MS. TAHBONE: I'm just trying to
48 envision myself going back to the hunters and saying,
49 okay, we've got a subsistence fall hunt, but it's only
50 for cranes and you also have to -- there's a bag limit

1 and you also have to -- you can only hunt them this way
2 with -- I mean it's like -- how would you respond to
3 that, Austin, if I was to come back and tell you that
4 as a hunter?

5
6 MR. AHMASUK: I guess my response would
7 be that it's very limited, of course, and it would not
8 fit or would not jive with actual subsistence needs.
9 As a subsistence user, you could easily say that it
10 doesn't meet subsistence needs. I guess if a person
11 really wants to exercise a real limited right, they
12 might be satisfied with something like that, but I
13 think the most -- I don't see that anyone would be
14 satisfied with an offering of subsistence that was as
15 limited as you mentioned.

16
17 MS. REZABECK: Thank you. Patty, was
18 there something that you might share with us?

19
20 MS. BROWN-SCHWALENBERG: I was just
21 talking to Dan and the questions. There might be some
22 misunderstanding. What I was trying to put down on
23 paper, what we were trying to put down on paper, what
24 Sandy was saying was not that we want to go forward
25 with one huge proposal willy-nilly, not vetted, just go
26 to the PFC. I mean obviously we go through our same
27 process with the State biologist, the Federal
28 biologist, make sure the science is sound and there are
29 good decisions and it would be proposals, not just one,
30 but it would be each proposal from each region, just
31 like we did way back in the beginning.

32
33 The Chugach region submitted a proposal
34 and they said these we want to be hunting. We all
35 agreed totally on methods and means and these are the
36 birds we hunt in this region, so on and so forth. So
37 it would be identified by region, so there would be
38 several proposals, not just one and they would all be
39 peer reviewed and scientifically reviewed at this level
40 with the Staff we have available to us before it even
41 gets to the Flyway Council.

42
43 I just don't want to make it sound like
44 we just want to run to Seattle or wherever and say we
45 want the sky but we don't have any backup for it, just
46 the fact that we've always done it, you know.

47
48 MS. REZABECK: Thank you.

49
50 MS. BROWN-SCHWALENBERG: So I don't

1 know if this question clearly illustrates what I just
2 said.

3

4 MS. REZABECK: Yeah. One thing that
5 was confusing to me is the elements and structure.
6 Maybe it's obvious to you all, but it's not to me.

7

8 CHAIRMAN ALCORN: I think I'm beginning
9 to see kind of where we are in this and what Austin and
10 Sandy are saying is these incremental approaches, while
11 they may be feasible in this process are not going to
12 satisfy the need. What Patty is saying is perhaps
13 rather than send one proposal and with all of the needs
14 that we send a package of proposals. Is that what I
15 hear you saying? That each region sort of develops a
16 package and we submit them all under say one letter
17 from the AMBCC asking the Flyway Council to consider
18 those needs. Then that sort of alleviates some of
19 Dale's concern that it's not one yes or no question,
20 it's a suite of proposals that the Flyway Council would
21 say, well, based on all of these proposals we might be
22 able to accept this one, recommend this one to the SRC,
23 but this one maybe not, this one maybe yes.

24

25 Is that kind of the strategy you're
26 talking about, Patty?

27

28 MS. BROWN-SCHWALENBERG: Yes. That's
29 exactly what we did in the very beginning when we were
30 first developing the regulations. That's exactly what
31 happened.

32

33 MR. RABE: I'm sorry that in asking the
34 questions I created confusion. I was just trying to
35 gain understanding in my own mind exactly -- you know,
36 between sort of two extremely different approaches,
37 where everything is thrown into one big pot versus very
38 small pieces and maybe an aggregation of a lot of small
39 pieces to get to that point, I was trying to figure out
40 -- I guess I would go back in response to what Patty
41 has suggested. If there were a lot of small pieces and
42 each one is evaluated independently, then my guess is
43 the answers would be yes for some and maybe no for
44 others maybe for a lot of different reasons. But they
45 would be definitive based on particular sets of
46 circumstances.

47

48 Now the question maybe back to Sandy is
49 if there were no's coming back for some portion of that
50 package, is that satisfying to the need of your hunters

1 or is that still frustrating because it doesn't
2 reinstate all of the traditional hunting practices?

3

4 MS. TAHBONE: What I was -- my first
5 question was does our current process, and that's what
6 Patty and Dan have formulated the question, what I was
7 heading for is if we proposed within our region to our
8 current process and it went through, like Patty said,
9 which is the review, the biology, all that and it got
10 past this body, then it would be forwarded on to the
11 flyway and then to the SRC and through that process,
12 you know, we have received no's. We live with those
13 types of decisions every day, so of course we would be
14 satisfied if it went through the process.

15

16 If the current process that we use to
17 establish spring and summer regulations, if we could
18 just use that same process. Would we be able to. I'm
19 sure there's going to have to be some kind of tweaking.
20 I mean use it as a starting point or discussion point.

21

22 CHAIRMAN ALCORN: I have a question for
23 maybe Sandy. So if the Council were to send a letter
24 or send a question say to the Flyway Council and say,
25 look, we want to engage with you on fall and winter
26 regulations because we feel like there's a need not
27 being met and we would like to present to the Flyway
28 Council a suite of recommendations or a suite of
29 proposals that we believe would help us meet our
30 subsistence needs. We're wanting you to tell us how
31 you would like to receive those. Is that kind of the
32 fundamental question? How would the Flyway Council
33 like to get this information from us?

34

35 MS. TAHBONE: Yeah, that could be one
36 of the questions, but we already have a process in
37 place that's working, so it seems that we should be
38 able to utilize that same process.

39

40 CHAIRMAN ALCORN: That's the AMBCC
41 process.

42

43 MS. TAHBONE: Correct.

44

45 CHAIRMAN ALCORN: If you go back and
46 look at our AMBCC process questions, we're asking them
47 that very question. We're saying how can we use the
48 existing process to engage the flyway to make
49 recommendations for the fall and winter months and I
50 think it leads to what may have been the second or

1 third question, was how can we engage the Flyway
2 Councils. So we're kind of asking the same exact
3 question it seems to me.

4
5 MS. REZABECK: Dan, would you just put
6 down Flyway Council for this one. Austin.

7
8 MR. AHMASUK: Thank you. So I finally
9 got to a point where maybe there's something else we
10 can consider too. So the Alaska Migratory Bird Co-
11 Management Council is a legitimate legalized management
12 partner. We are not a stakeholder necessarily in the
13 Flyway Councils, so the question could be why. A
14 couple of you folks already know why. What this body
15 under this topic could benefit from is an answer as to
16 the hows and whys and wheres of us not being a
17 stakeholder in the Flyway Council process. So why
18 aren't we a stakeholder in the Flyway Council process.

19
20 MS. REZABECK: Is there a suggestion
21 about who these questions would go to for the Flyway
22 Council?

23
24 CHAIRMAN ALCORN: I think that question
25 would go to the Fish and Wildlife Service, but possibly
26 the SRC, because Austin said he thinks some of us knows
27 the answer and I think I know the answer to that. I
28 think the answer is this. The fall and winter
29 regulations, the Flyway Council process, the
30 stakeholders are involved in this process through their
31 State representatives. I understand Austin's question
32 because this has its own standing. This Council has its
33 own standing. It goes back to the purview of this
34 Council and the legal opinion on what the purview of
35 this Council is. The purview at the current
36 understanding by our legal counsel is the purview of
37 the Council is the spring and summer. Flyway Councils
38 are fall and winter.

39
40 So, as a stakeholder in that process we
41 would go through the existing channels of
42 communication, which is through your State
43 representative. So, as a stakeholder, we, as a body,
44 would engage the State as a representative on the
45 Flyway Council. In fact, the AMBCC is functioning like
46 a Flyway Council. We have the same standing. When we
47 go to the SRC and we make recommendations to the SRC
48 for the spring and summer months, spring and summer
49 seasons, we have the same standing that Flyway Councils
50 have and they also go to the SRC.

1 Flyway Councils are advisory and they
2 advise the SRC on what regulations they would like to
3 see for fall and winter and we're advisory to the SRC
4 on what we would like to see the regulations for spring
5 and summer. The difference being that Sandy mentioned
6 that on this board we have a State and a Federal and a
7 regional representative voting as equals. On the
8 Flyway Councils, the Federal government doesn't have a
9 vote. We're advisory at that level. All those
10 recommendations come from the consortium of the states
11 to the SRC.

12
13 MR. AHMASUK: I think we should change
14 why aren't we a stakeholder in the fall/winter process.

15
16 MS. REZABECK: Okay. Thank you.

17
18 MR. RABE: The answer back from the
19 Flyway Council to that question could be you are a
20 stakeholder, but it may not be in the context that you
21 were asking the question because everybody who hunts
22 waterfowl in aggregate is represented through the
23 process, so nobody is excluded. Granted through the
24 AMBCC process there are a lot of people who hunt
25 waterfowl that are excluded. So it may be a confusing
26 question the way it's constructed and it may not get
27 the answer you're looking for without a little more
28 amplification.

29
30 MR. AHMASUK: Whatever the answer might
31 be and I'm not looking for something specific, but if
32 it adds dimensions to us being able to think more
33 clearly about how we can be engaged, I think it would
34 help. I don't anticipate knowing what they might say,
35 but whatever dimensions they could add would probably
36 help.

37
38 MR. ROSENBERG: Would the question be
39 how does the AMBCC get greater representation at the
40 Flyway Council level or is there a way to do that as
41 opposed to why you're not there.

42
43 MR. AHMASUK: Yeah, stakeholder
44 representation are maybe two different ideas maybe.
45 We're obviously represented through the State person,
46 but we cannot initiate an action. We can't initiate a
47 motion.

48
49 MR. RABE: You know, I'm new to the
50 flyway, so I'm a little reluctant and I'd rather have --

1 and I may be putting Dan on the spot because I don't
2 think he's worked in it and Russ is -- we don't have
3 anybody else here I guess with the specific flyway
4 experience, although I know we've got people with a
5 greater understanding. I do think that the process as
6 I understand it is open, that anybody can submit a
7 request for consideration of something and I say that
8 simply because in the last meeting -- the first and
9 only meeting I've attended with that group thus far,
10 there was a request that came in from an individual and
11 was seeking a split in the season for Mergansers and it
12 was considered, discussed by the group. My current
13 understanding is I don't think the process has a
14 limited avenue for entry to get ideas in front of the
15 group for consideration. Now, I may be wrong on that.

16

17 MR. AHMASUK: I think you're probably
18 right. I think we'll all benefit from knowing what the
19 process is. I'm sure we'll get to a good satisfactory
20 answer. A couple years ago we figured out how a person
21 asks for changes to the fall season. I found out by
22 going to the Board of Game and realizing this isn't the
23 place.

24

25 MS. REZABECK: Russ, did you have
26 something?

27

28 MR. OATES: Yeah. Russ Oates, Fish and
29 Wildlife Service. I do remember that individual came
30 to the study committee meeting and I believe the
31 proposal was developed by a private individual
32 representing a group of Merganser hunters, but if I'm
33 not mistaken I think one of the states actually
34 sponsored the proposal. It's a very rare occurrence.
35 There is a process where it's not just agency conceived
36 ideas that are brought before the Council as long as it
37 can be put forward in that format, I think it can be
38 brought forward. You just have to find somebody
39 willing to do it. I believe that's the way it works.

40

41 MS. REZABECK: Doug.

42

43 CHAIRMAN ALCORN: Can we go back up to
44 the first question, Dan, for this particular process.
45 So how would the Flyway Council process incorporate all
46 the elements structure -- that's the second question.
47 There's one above it. What is the process to engage
48 Flyway Councils to address proposals to accommodate
49 subsistence needs for fall/winter.

50

1 I think that's going to answer the
2 latter question that we've been discussing. Why can't
3 the Council be a stakeholder. I think that's going to
4 help answer that. Maybe we could blend those two to
5 say what is the process for the AMBCC. I think they're
6 very similar questions. It's basically how does the
7 Council engage and weigh in on fall and winter
8 regulations so that the subsistence hunters needs can
9 be met in the Flyway Council process.

10
11 So the first question, what is the
12 process to engage Flyway Councils to address proposals
13 to accommodate subsistence needs. We might just say
14 what is the process for the AMBCC to engage Flyway
15 Councils and then that basically inserts us as a
16 council into that process of engagement with the Flyway
17 Council. The answer then coming back might be you
18 would submit proposals either through your board
19 directly to the Technical Committee or through the
20 State or whatever the answer is, that might be one of
21 the responses we would anticipate.

22
23 MS. REZABECK: Okay. Would it be
24 helpful at this point to be the time to try to get this
25 on paper so we can look at it all together. Why don't
26 we stop and get that done. We'll take 10 minutes and
27 try and get these papers printed.

28
29 (Off record)

30
31 (On record)

32
33 MS. REZABECK: Would you like to spend
34 a minute going over these as a group and look at any
35 duplication or consolidation needs or better ways to
36 say questions. Yes.

37
38 MR. AHMASUK: I was just thinking if
39 this is the form, you know, that the solicitor receives
40 these questions, it seems to me the two subject areas
41 need like a description of our mode of thinking. Why
42 did we ask these questions under the subject of AMBCC.
43 Why did we ask these questions under the subject of
44 Flyway Councils. So I guess I would say the AMBCC
45 questions, those seven questions that relate to
46 changing AMBCC established regulations and the Flyway
47 Council several questions there are how do we engage or
48 be part of the process that they have.

49
50 MS. REZABECK: Okay.

1 MR. AHMASUK: I guess some of those
2 questions ask that, but if this is all we give them.

3
4 MS. REZABECK: No, no, no. That's a
5 good point. There needs to be that background.

6
7 **MS. BROWN-SCHWALENBERG: It kind of
8 gets back to Fred's suggestion of doing a position
9 paper or a white paper. Maybe we can have someone take
10 a stab at that and bring it next week. We've got the
11 gist of it and we need someone that's willing to and
12 can write put it into a format that's going to be
13 acceptable to at least review next week. That's what I
14 would suggest.**

15
16 MS. REZABECK: Okay. Is that possible?
17 You're meeting on Tuesday?

18
19 CHAIRMAN ALCORN: We are. Actually
20 Tuesday 1:00 o'clock is the start of our workshop, so
21 that gives us the morning to work on this. If there's
22 a place we can work at, an office space or cubicle,
23 I'll commit Fred and I to get together and see if we
24 can draft something and bring it to the workshop and
25 then later on to the meeting. Maybe the workshop will
26 give us a chance to tweak it. I think we might be able
27 to get the essence of these questions worded in a way
28 that's more consistently worded and what the proper
29 context provided.

30
31 It seems to me that we all understand
32 the nuance of these because we've asked them in so many
33 different ways, but if I were someone on the outside
34 reading these, they all seem very similar. So if it
35 were the solicitor or somebody working for the Flyway
36 Council that got these they'd say, gosh, it's all
37 pretty much the same answer.

38
39 MS. REZABECK: Would it be helpful in
40 that document, Doug, as background -- I mean you're
41 preparing this basically for solicitors or Flyway
42 Council members to have some of the items we talked
43 about this morning. In other words, what the main
44 issues are, kind of right up front. Then we discussed
45 these two alternatives and describe what each of them
46 is, and then get to the questions. I guess I'll leave
47 the rest to you. Molly.

48
49 MS. CHYTHLOOK: It seems like the
50 simplest process would be Sandy's question. If the

1 process worked for spring and summer, could we use that
2 same process and do we need to go to all these other
3 entities to get that information? I know we've done a
4 lot of discussing here and it's been educational for
5 me, but it seems like to simplify all this -- if my
6 understanding is correct, it seems like one of the main
7 things we are striving to accomplish here is to further
8 accomplish the fall and winter to match or continue the
9 spring and summer. Maybe I'm mistaken, but it seems
10 like that's all the discussions we are striving for. I
11 don't know. Maybe I'm mistaken.

12
13 CHAIRMAN ALCORN: Molly, I think you're
14 right, that's what we are striving for, but I think
15 what's at least become clear to me in the discussion is
16 it's such a complex question and the desired outcome
17 has so many potential pitfalls politically and legally
18 that the request is very easily dismissed when it's
19 asked in total. From the Federal side, the answer is
20 we believe it's outside the purview of the Council.
21 From the State side, it's outside the provisions of the
22 constitution. So, in general, the answer is very
23 easily no and no from both of those processes.

24
25 So I think if we were to ask why can't
26 the Council develop regulations for the fall and winter
27 months just like we do for the spring and summer, the
28 answers would be pat answers. It's outside the purview,
29 it's against the constitution, thank you but no thank
30 you. I think that would be a predictable response.

31
32 I think what we're doing here is we're
33 saying we understand those limitations, but we think
34 there may be a way to rethink the processes or to
35 engage in the existing processes to still accomplish
36 that end and we would like to explore those to the
37 degree that we can exercise those processes. That's
38 the way I'm understanding this discussion.

39
40 MS. CHYTHLOOK: Well, isn't that the
41 process that was accomplished to get the spring and
42 summer regulations in place? So I know that the State
43 has a lot -- would probably have a lot of concerns, but
44 to get started it seems like it would be good to follow
45 the existing processes. If there's any extra processes
46 that needs to take place, then work with those.

47
48 MS. REZABECK: Thank you.

49
50 CHAIRMAN ALCORN: So it seems like

1 that's what we're doing. I hear what you're saying,
2 Molly, and this issue has been around for 85 years
3 before it finally ended up in 1996 as an amended treaty
4 and 1997 as a ratification by the Senate, in effect a
5 change in the law that allowed us to get to this point.
6 It may be by us asking these questions that it will
7 culminate in a change in the law that would change the
8 pat answer that we would anticipate from the Department
9 or it will culminate in a change in the constitution of
10 the state and it would change that predictable answer.
11 Ultimately that may happen and it may happen over time.
12 Now where I think we are, at least in my mind, can we
13 use existing processes to get there, so I think that's
14 where we are in the process.

15
16 MS. REZABECK: Okay. I think Jerome is
17 going to have to be leaving pretty soon. Did you want
18 to say anything, Jerome?

19
20 MR. FORD: Yes. Never miss an
21 opportunity to speak to a microphone. I commend you
22 guys for the hard word you've done here in the last
23 couple days. I think you're a lot closer than you
24 probably imagine at this point.

25
26 Just keep something in mind and I've
27 shared it with a couple of you. Let's not try to eat
28 the whole pie at one time. Just take a slice at a
29 time. It actually tastes better when you eat it a
30 slice at a time. But I think you are where you need to
31 be, at least from my perspective. I have a better
32 grasp of what the issues are. I would definitely be
33 able to articulate what this body is going through at
34 this point. If something comes across our desk in
35 D.C., I can articulate what those issues are and help
36 those folks back there get through the issues.

37
38 So keep working hard like you are, but
39 I think you're a lot closer than you probably could
40 imagine and getting the right things done. But we've
41 got to ask the right question. We talked about
42 strategizing. I think Dale mentioned that. I think
43 that's the best approach. You're going to have to have
44 a strategy to get what you want. It may not happen
45 today, it may not happen tomorrow, but definitely keep
46 that in mind. Small bites and good strategy and you'll
47 be right where you need to be before you know it.

48
49 Again, I enjoyed it. I look forward to
50 coming back and keep working hard on these issues.

1 Thank you.

2

3 MS. REZABECK: Thanks, Jerome. Okay.
4 Have we got any other business or next steps here
5 today? Is there anything you have to do before you go
6 to Nome to prepare for that?

7

8 (No comments)

9

10 MS. REZABECK: I guess not. One thing
11 I just wanted to mention. I do outreach work in our
12 communications office and what I've been thinking about
13 this entire time is how valuable to the various levels
14 of management it will be for you to get your story out
15 to tell folks what it is and why and to tell it
16 hopefully yourselves, not through a Fish and Wildlife
17 bureaucrat. So that was a little outside my facilitator
18 purview, but I couldn't help myself.

19

20 MR. RABE: If I may, Doug was just
21 whispering in my ear and he actually did ask a
22 question, whether or not it would be worth putting some
23 elements in here to the State and he specifically had
24 mentioned the State constitution, which has been
25 referenced a couple times. I think everybody here is
26 probably fully aware of that history, probably better
27 than I am because most of you probably lived through
28 that period and we're all living with it today.

29

30 We could pose that as a question back.
31 I'm not sure. I think we all have an expected answer
32 that would come from that, but one of the things I am
33 interested in doing and will do regardless of whether
34 we formalize it or not is to formulate and investigate
35 a series of questions about elements of law or
36 regulation beneath the constitution that might also
37 present obstacles depending on the package of proposals
38 that has been discussed as a way of going forward
39 within the State's flyway process. So when we get
40 down, as Jerome said, back into the weeds and talking
41 about specifics, that I will be better prepared with
42 advice from the legal folks within the State to help
43 with that discussion at that point in time.

44

45 So whether you guys want to formalize
46 that as a request back to our attorney general office
47 or assistant attorney general, I can do that, but I
48 plan to follow up on some of that independently.

49

50 MS. REZABECK: Thank you. Other

1 comments.

2

3 MS. TAHBONE: Yeah, I would hope one of
4 your questions would be why doesn't the State provide
5 for a fall subsistence on migratory bird hunt.

6

7 MR. RABE: I certainly don't want to be
8 casual about my answer, but it goes back to what Austin
9 said, is that it does provide.....

10

11 MS. TAHBONE: No, it doesn't. It
12 provides for a sport hunt. I mean there's differences.
13 We have sportfishing, we have commercial fishing and we
14 have subsistence fishing. There's a sport hunt for
15 large game animals and there's a subsistence hunt. So I
16 mean there's differences and the language is real
17 specific when it comes to subsistence within the state.
18 So we have a fall sport hunt for migratory birds, but
19 we do not have a fall subsistence hunt for migratory
20 birds.

21

22 MR. RABE: My point was I do understand
23 the real essence of your question and I will pursue
24 that. I would have to be very careful in asking that
25 question of our legal folks so that I made sure that I
26 didn't get the easy answer back, which I started to
27 give to you tongue in cheek, which was they are
28 providing for all of the users in the state. That's
29 what the constitution requires.

30

31 MS. TAHBONE: Well, I would just like
32 to add so does our spring and summer. We provide to
33 all the users of Alaska too with the exception of those
34 that don't fall within the excluded areas.

35

36 MS. REZABECK: Thank you. Okay. Maybe
37 what I should do is turn this back over to our Chair to
38 close.

39

40 CHAIRMAN ALCORN: Thanks, Cathy. I'd
41 like to go on the record thanking you for helping us
42 get through this discussion and helping us organize our
43 thoughts and to come out with an outcome I think might
44 be useful for us next week, so I appreciate that.

45

46 We're back on the agenda now and it
47 takes us down to agenda item five, the last bullet,
48 next steps. I think the next steps are what we
49 described. Fred and I will do some Staff work on this.
50 We will get back together as a Council off the record

1 in the workshop. We will have the opportunity to talk
2 about that product that we end up with and maybe make
3 revisions and potentially adopt something during the
4 course of the business meeting that we have the
5 subsequent two and a half days and then we'll take
6 action.

7
8 I will remind the group, I was remiss
9 when I was suggesting that the Council would actually
10 send a letter to the solicitor. The solicitor works
11 for the Service, so the tasking of the solicitor's
12 offices comes from either the director or through the
13 chain of command. In our case, it's our regional
14 director. So the way the Council would engage in that
15 is the Council would agree and on letterhead we could
16 send a letter to my regional director asking that these
17 questions be answered and then we do the Staff work and
18 translate it into a memo from the Service regional
19 director to the solicitor's office asking that the
20 AMBCC's questions be answered and that's just a process
21 thing. The Council doesn't necessarily ask the
22 question directly of the solicitor because we don't
23 have the authority to task them with their workload.
24 So it's a process kind of an issue.

25
26 So that's kind of my thinking about
27 next steps. Anybody have any other next steps, ideas,
28 that might streamline this or make it productive?
29 Patty.

30
31 MS. BROWN-SCHWALENBERG: If you need
32 any help on Monday, let me know. I'll be around.

33
34 CHAIRMAN ALCORN: So you'll be there
35 Tuesday then? Okay. We'll call you. This takes us to
36 item six, public comments. I do not see anyone from
37 the public here, so we will forego that opportunity.

38
39 It takes us to closing remarks, item
40 seven. Is anyone on the board sitting around the table
41 have closing remarks?

42
43 (No comments)

44
45 CHAIRMAN ALCORN: Seeing none. I will
46 just offer mine and say thank you for coming. These
47 meetings I sense are long and we make small steps,
48 incremental progress towards an outcome, but it's one
49 of those very deliberative processes and I appreciate
50 your time. I appreciate you sitting here for two days

1 and I appreciate the willingness to share your ideas
2 and to listen. For me, it's been very helpful and very
3 constructive and I appreciate it.

4

5 Those are the closing remarks of the
6 Chair and I will adjourn the meeting on the 25th at
7 five minutes to 3:00 o'clock. Thank you very much.

8

9 (Off record)

10

11 (END OF PROCEEDINGS)

