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FEDERAL SUBSISTENCE BOARD
RURAL DETERMINATION PROCESS PUBLIC COMMENT
BEFORE HEARING OFFICER
ORVILLE LIND

Naknek Native Village Council Hall
Naknek, Alaska
February 24, 2015
7:00 o'clock p.m.

Presenter: Robbin LaVine
Office of Subsistence Management

Recorded and transcribed by:
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1 P R O C E E D I N G S

2
3 (Naknek, Alaska - 2/24/2015)

4
5 (On record)

6
7 MR. LIND: Good evening, everybody. My
8 name is Orville Lind. I am the Native liaison for the
9 Office of Subsistence Management. And tonight I'm
10 going to be your facilitator.

11
12 I want to thank everybody for attending
13 tonight's public meeting. I know there's another
14 meeting happening tonight, but I appreciate the public
15 folks showing up.

16
17 And this is an opportunity for you to
18 provide input to the Federal Subsistence Board's rural
19 determination process. Specifically the Board at the
20 direction of the Secretaries of the Interior and
21 Agriculture is seeking your comment on the proposed
22 rule on how the Board will make rural determinations in
23 the future.

24
25 The Board is not currently seeking
26 comment on which communities are rural or nonrural.
27 That part of the process will not come until after this
28 rulemaking is completed.

29
30 The Board is accepting comments on this
31 proposal rule -- or the proposed rule until April 1st,
32 2015. But tonight you'll be -- there will be an
33 opportunity for you to provide oral or written
34 comments.

35
36 And so I'd like to introduce some of
37 the folks here, and after this introduction, I would
38 like the people on line to please state their name and
39 the tribe that they represent or agency.

40
41 Anyway, my name is Orville Lind, and
42 again I'm your facilitator for the Office of
43 Subsistence Management for the Fish and Wildlife
44 Service. And?

45
46 MS. LAVINE: Good evening. I'm Robbin
47 LaVine. I'm an anthropologist for the Office of
48 Subsistence Management.

49
50 MR. JENNINGS: I'm Tom Jennings from

1 the Office of Subsistence Management in Anchorage.

2

3 MR. SUMMERS: Clarence Summers,
4 National Park Service, Alaska regional office,
5 subsistence manager.

6

7 MR. MIKE: Donald Mike, Office of
8 Subsistence Management.

9

10 MR. CATO: Brian Cato, King Salmon
11 resident, subsistence user.

12

13 MR. KLUTSCH: Joe Klutsch, King Salmon
14 resident, hunting and fishing guide, subsistence user.

15

16

17 MR. LIND: Quyana. Thank you, folks.
18 As a reminder, also we have blue cards in the back. If
19 you want to give a testimony tonight, go ahead and fill
20 that out.

21

22 And also the folks on line, if you
23 would please introduce yourselves, state your name and
24 who you represent?

25

26 MS. COFFER: This is Gerta
27 (indiscernible) Port Heiden.

28

29 MR. LIND: I'm sorry. I didn't get
30 that.

31

32 MS. COFFER: This is Gerta Coffe (ph).
33 I represent the Native Village of Port Heiden.

34

35 MR. LIND: Oh, great. Thank you,
36 Gerta. Thank you for calling in.

37

38 Anybody else.

39

40 MS. CARTER: Hello, Orville. This is
41 Courtenay Carter at BBNA.

42

43 MR. LIND: Good evening, Courtenay.
44 Thank you for calling in.

45

46 MR. SHARP: Yeah, Orville, this is Dan
47 Sharp with Bureau of Land Management. Good evening.

48

49 MR. LIND: Thank you, Dan Sharp.

50

1 Anyone else.

2

3 (No comments)

4

5 MR. LIND: Okay. Hearing none, as we
6 go through this I will be checking periodically and see
7 if anybody's on line.

8

9 Anyway, tonight it's my job as a
10 facilitator is to make sure that everyone here has an
11 opportunity to make oral or written comments the
12 proposed rule. And we have been scheduled to go until
13 9:00 o'clock tonight. And so you have plenty of time.

14

15 During the comment portion of the
16 meeting, we'll not be answering any questions, allowing
17 us time to listen to hear your comments, and those
18 comments will then be forwarded to the Board.

19

20 Okay. We can go ahead and do the
21 presentation. And at this time I know you folks on
22 line will not be able to see the slideshow, but you can
23 listen in, and we'll hear your comments or questions
24 after.

25

26 MS. LAVINE: Good evening. This is
27 Robbin LaVine again with the Office of Subsistence
28 Management.

29

30 I'll talk you through a brief
31 PowerPoint presentation that we have here. I gave it
32 earlier today, but for those of you on line or in the
33 audience who did not have a chance to listen to the
34 PowerPoint, I will run through it again.

35

36 So over the course of the last three or
37 so meeting cycles, the Board received 475 substantive
38 comments from various sources, including individual
39 citizens, members of the Regional Advisory Councils,
40 tribes, Alaska Native corporations, and other entities
41 and organizations such as boroughs and city governments
42 on the rural determination process.

43

44 You are being asked to consider whether
45 you agree or disagree with changing the current
46 regulations on rural determinations as proposed by the
47 Secretaries. The rule would be affective statewide.

48

49 After the Board meets in June of 2015
50 and makes its recommendations to the Secretaries, a

1 final rule will be published which may or may not
2 differ from the proposed rule which is currently in the
3 Federal Registry.

4
5 This proposed rule was initiated based
6 on the findings of the Secretarial review of the
7 Federal Subsistence Management Program. Rural
8 determinations are important, because only residents of
9 areas identified as rural are eligible to harvest under
10 Federal subsistence regulations on Federal public lands
11 in Alaska.

12
13 Under the current regulation, the Board
14 aggregates communities or areas that economically,
15 socially, and communally integrated, and evaluates a
16 community's rural or nonrural status using guidelines
17 defined by the Secretaries such as population
18 thresholds and economic development.

19
20 Under the proposed regulations, the
21 Board would evaluate a community's nonrural status
22 using a broad array of relevant information and rely
23 heavily on the recommendations of the Regional Advisory
24 Councils. Again, the Board would evaluate a
25 community's nonrural status using a broad array of
26 relevant information and rely heavily on the
27 recommendations of the Regional Advisory Councils. In
28 doing so, the Board would recognize regional
29 differences. The proposed regulatory change would
30 increase flexibility in the decisionmaking process and
31 recognize the unique nature of Alaskan communities.

32
33 Now, the slide I'm showing at the
34 moment, for those of you listening on line, is more of
35 a demonstration. It is the old rule which with all its
36 considerations takes up an entire page, as opposed to
37 the proposed rule which is just made up of a few
38 sentences, and I'll go into that in a moment.

39
40 So instead of using only population
41 thresholds, rural characteristics, aggregation of
42 communities, varying information sources and attempting
43 to apply those standards statewide, the Board would
44 rely on the Councils and the public to provide
45 information to the Board and make rural determinations
46 on a regional level. The proposed rule will eliminate
47 the mandatory 10-year rural review cycle. Instead,
48 changes to rural status would be based on proposals
49 submitted to the Board.

50

1 This is the new regulation proposed by
2 the Secretaries. (A) The Board determines which areas
3 or communities in Alaska are nonrural. Current
4 determinations would be listed at subpart .23. And
5 these are then the determinations that are currently in
6 the record. And (B) all other communities and areas
7 are therefore rural. So I'll read that once again.
8 The rural determination process would be defined as (A)
9 The Board determines which areas or communities in
10 Alaska are nonrural. Current determinations would be
11 listed here. And (B) all other communities and areas
12 are therefore rural.

13

14 So do you agree with these changes? If
15 so, why? Do you disagree with these changes, and if
16 so, why?

17

18 So we are here to hear your public
19 comments on this proposed rule, and I will pass the mic
20 back to Orville.

21

22 MR. LIND: Thank you. Again, because
23 of the importance of your comments, you know, it's
24 necessary that we follow certain procedures during the
25 meeting. And I want to remind everybody that, please,
26 if you haven't signed in at the front of the room,
27 please do so. And also again I'd like to emphasize
28 that the principle purpose of this public comment
29 period is that, you know, the part of this meeting, is
30 to receive information and comments from you, and that
31 it's listed on record.

32

33 So as I call the folks here, please
34 come up, state your name and which agency or
35 organization you're affiliated with, and speak clearly
36 into the mic. And the first person I have on the list
37 is Mr. Joe Klutsch.

38

39 MR. KLUTSCH: Thank you, Orville. My
40 name is Joe Klutsch. I reside in King Salmon. As I
41 stated earlier, I'm a hunting and fishing guide, also a
42 subsistence user as requires. I've lived here for I
43 guess 42, 43 years. I've been a member of the
44 Naknek/Kvichak State Fish and Game Advisory Committee
45 for 35 consecutive years. And so that kind of dates
46 me.

47

48 I really haven't had opportunity to
49 digest this thoroughly. The regulation books, I was
50 not included on the mailing list. I was aware that

1 this was happening, but I listened carefully today, and
2 hopefully I can provide some comments that will be
3 beneficial.

4

5 As I understand this, as it was
6 explained earlier, you wouldn't -- based on information
7 and recommendations made by the Regional Councils, the
8 Federal Board would make and give heavy deference to
9 their recommendations to determine what is nonrural. I
10 listened to testimony today by the RAC members, and I
11 sense some reservation on the part of some members, and
12 I thought that was quite interesting.

13

14 Member Dunaway made a comment that he
15 was concerned that without a set of standards or a set
16 of objective criteria, it would be difficult to make
17 those recommendations. And I tend to agree with that.
18 Perhaps setting -- developing a set of criteria in
19 advance of making those recommendations would be in
20 order.

21

22 I should say also at the onset I think
23 the bottom line for all of us involved in this process
24 is to see to it that the true subsistence way of life
25 and lifestyle is preserved, and that it will be there
26 for future generations. That's certainly my hope and
27 desire in participating in this process.

28

29 The idea of the determining what is
30 nonrural, if I can use maybe an analogy here, there are
31 a number of communities now that have evolved over the
32 last 10-year period that have a completely different
33 character than what they did 10 years ago. They've
34 grown substantially. They have access to new lines of
35 communication, services, et cetera. And some of these
36 areas that I've been in look far more, from my
37 estimation and my perspective, look far more urban than
38 they do rural, yet they qualify as rural.

39

40 The dilemma I see facing -- beside the
41 procedures and the process of making these
42 determinations -- for the Board is that ultimately
43 you've groups of people now who are on the boat and
44 people are not allowed on the boat. And you can very
45 well find yourself, as these communities evolve to
46 become more urban, some of them, of having to tell
47 people, you can't be on the boat any more. That's
48 going to be a lot more difficult than telling people
49 who already aren't allowed on the boat, have been
50 living with it for a number of years and may not like

1 it, but at least they're living with it. Any time you
2 deny somebody access to something that they think they
3 ought to have an opportunity to be part of, whether for
4 constitutional reasons, or equal protection, or
5 whatever, they're not going to like it. So this is in
6 some respects unpleasant business.

7
8 I know that with those criteria,
9 development of criteria, I think the evaluation process
10 would be made a lot easier and less subjective in
11 nature. And make it more defensible if you will. I
12 know of -- I've watched Kodiak change since the early
13 70s, for example. It's always been a fairly well-
14 developed seaport in my time in Alaska, and it's grown
15 considerably and it has new demographics, population
16 demographics.

17
18 And I know, and I was in the Department
19 of Fish and Game, and the Fish and Wildlife Service
20 where people who are U.S. citizens by a little over a
21 year, had jobs at Walmart, were in getting goat
22 permits. They're qualified. But I know a Native young
23 man in Anchorage who I talked to about this, who grew
24 up in a village, but is living in Anchorage, resides in
25 Anchorage now, by choice, and he's not qualified. He
26 made a comment to me, he said, well, let's just turn
27 this around and let the -- some of the urban people
28 decide what's rural, instead of the other way around.
29 But just to put a light on a perspective on it.

30
31 I don't envy the job of the RACs and of
32 the Board in having to make these determinations. It's
33 time consuming. It's in a lot of respects very tough
34 work to make these decisions, but in the interest of
35 preserving the lifestyle and subsistence, you've got to
36 press on.

37
38 I like the idea of having the input
39 from the RACs. The extent to which the main Board
40 gives deference to them I'm still a little uncertain
41 about. But it seems to make -- this seems to make
42 sense to me.

43
44 But again I think you've got to have a
45 set of standards and objective criteria, and have it
46 very carefully outlined before you proceed to make
47 these determinations.

48
49 And without somebody asking me
50 questions, I guess I'll have to conclude my comments on

1 this. I appreciate the opportunity to talk to you and
2 work with you in the future, and hope we can bring this
3 to a successful result.

4
5 Thank you.

6
7 MR. LIND: Thank you, Mr. Klutsch.

8
9 It there anybody new on line?

10
11 (No comments)

12
13 MR. LIND: Hearing none, would anybody
14 like to make comments on line.

15
16 MS. COFFER: This is Gerta in Port
17 Heiden.

18
19 MR. LIND: Yes, Gerta, go ahead.

20
21 MS. COFFER: This rural preference, I
22 think it's really hard for us to (indiscernible -
23 breaking up) because we can only identify where we're
24 from, in our area, and Alaska is a big area, so.
25 Sorry, I have a really bad echo.

26
27 MR. LIND: I can still make you out,
28 Gerta. Maybe not so close to the mic.

29
30 MS. COFFER: Can you hear me any
31 better?

32
33 MR. LIND: Yeah, I do.

34
35 MS. COFFER: Okay. I understand that
36 anyone, people come in, and Native people can't come
37 and hunt. And, well, that I think that if you're going
38 to live in a village, you should have right to be a
39 part of that. I mean, if you've given up those rights,
40 than better or not there, you know. Because people are
41 living in these communities, these small communities,
42 (indiscernible - breaking up). We judge it -- I judge
43 it from that standard, but when you talk to the people
44 that live by a road that say that they don't have no
45 rights, because they're next to a road and they no
46 longer can hunt, and they've hunted for thousands of
47 years, you know. I talked to a guy also that he'd got
48 -- I guess it made me listen. I didn't think of it
49 from that point of view before. I've always judged it
50 from my own point of view and how we view it out here

1 in our area, you know. You chose to live here, you
2 should have the right to hunt and fish here whether you
3 moved here a year. And we have people that come in
4 from Anchorage and, you know, they don't have that
5 right, because we did the labor of living here for all
6 the time.

7
8 It will be interesting to hear, and I'm
9 hoping to learn more about this process and would like
10 to have a lot more information that I could share with
11 my community.

12
13 MR. LIND: Thank you very much, Gerta,
14 for your comments.

15
16 Is there anyone else on line that
17 wished to make a comment?

18
19 MS. CARTER: Hi, Orville, this
20 Courtenay. Can you guys hear me all right?

21
22 MR. LIND: I can hear you Courtenay.

23
24 MS. CARTER: Okay. Great. I guess
25 for the record this is Courtenay Carter with the
26 Bristol Bay Native Association. I've made some notes,
27 and then I think after I go through those, I'd like to
28 run through the slides, because Pippa thankfully
29 emailed them today, and I do have a couple comments
30 there that I might get to in the brief outline that
31 I've made.

32
33 First, I think it's really important to
34 recognize the hard work of the Board and the Staff who
35 have compiled over a year's worth of comments from
36 numerous public media and different individual comments
37 -- what did you say, over 475 -- into three lines of
38 regulation. That is pretty remarkable. I think they
39 did a really great job in simplifying that. And it
40 also really I think shows the Board's intention is all
41 around in many of the actions they've had lately in
42 trying to reduce the amount of complications and
43 restrictions that define our rights as citizens to
44 harvest under Federal subsistence management.

45
46 If you look at the slides and the
47 comparison in the previous language to what the new
48 proposed rule is, it's pretty apparent. We hear people
49 talking left and right about Federal over-reach these
50 days, but (indiscernible) really looks like a classic

1 example of that, and (indiscernible - cuts out)
2 proposed regulation shows an absolute reduction in
3 language, and I think also a barrier to our ability to
4 harvest based on our rural or nonrural status.

5
6 At the same time, however, without
7 clearly understanding or having a defined set of
8 criteria to measure this rural versus nonrural status
9 on, that's not necessarily in the public's best
10 interest, and I think it would be appropriate to
11 include not only those (indiscernible - cuts out)
12 proposed regulatory cycle.

13
14 The new proposed regulation would
15 eliminate the 10-year review period, but as we heard in
16 public comment earlier today, or RAC discussion with
17 the Board, we don't know if that's going to be if
18 people can submit a proposed change for their community
19 or region status every Board cycle or what, just like
20 we have a regulatory cycle set up for fisheries and
21 wildlife regulations, and even rural determination
22 based on the 10-year cycle that is current. We need to
23 have that timeframe and the public should be allowed to
24 make comment on it.

25
26 Also, if the Board is going to consider
27 proposed language change, I know -- it would be nice
28 for the public to be able to provide comment on that if
29 they're going to go with the Southeast Council -- or,
30 I'm sorry, the Southcentral Council's recommendation to
31 provide deference and include that in the language, the
32 public should also be able to provide that comment.

33
34 I think it's important that in the
35 proposed rule itself it says this is the proposed rule.
36 What comes out next will be the rule, whether not it is
37 as is before you. So what we see at the end of this
38 process may very well be completely different than what
39 we're commenting on today, and it's beyond April 1st.
40 And I would I guess urge, throw in a caution there that
41 hopefully the proposed -- or the new reg -- the new
42 rule comes out much more -- or at least incorporate in
43 so many of these comments, just like this proposed rule
44 incorporated so many comments before it into similarly
45 clear language.

46
47 Other than that, I think the deference
48 to the Councils, I think we would have to agree with
49 the Southcentral recommendation to put that into the
50 proposed rule, because as we see now, although the

1 Board claims to or in some future gives deference to
2 RACs in some instances, we also have many instances
3 where the Board acts in a completely different
4 direction than the RAC supports either in research or
5 regulatory proposals.

6
7 Those are basically the general
8 comments that we have. I know we'll working with our
9 tribes to help get comments from the tribes on this,
10 and help them understand it better.

11
12 But also as an individual I reviewed my
13 testimony that I gave before the RAC October 30, 2013,
14 which went through the old criteria and highlighted on
15 many different sections of it, and again this new
16 proposed rule really incorporates a lot of comments not
17 only of myself as an individual, but the organizations
18 and tribes around the State, took their time to provide
19 comment on back in 2013.

20
21 And then I'll just end with hoping that
22 tribal consultation is occurring not only in Bristol
23 Bay, but throughout Alaska. And I'm glad that you guys
24 are taking time to have hearings during the RAC
25 meetings. I know there's a lot of different proposed
26 rules that I work with OSM or Fish and Wildlife Service
27 on that sometimes don't go through the RAC meetings,
28 and I'm always making sure to incorporate in our
29 comments that the Fish and Wildlife or whatever Federal
30 service that isn't out meeting with local harvesters
31 and our local research managers at the RAC meetings,
32 because it's such an important time for sharing.

33
34 And again my apologies for not being in
35 the room this evening, but thank you for the
36 opportunity to telephone and testify.

37
38 MR. LIND: Thank you very much,
39 Courtenay for your comments.

40
41 At this time has anyone else come on
42 line who wished to give a comment.

43
44 (No comments)

45
46 MR. LIND: Hearing none, I would like
47 to give another opportunity to those folks that are
48 here, the public that are here, if you hadn't desired
49 to present an oral comment, but wish to do so now,
50 you're welcome to come forward now.

1 (No comments)

2

3 MR. LIND: And again you may submit
4 written comments after this meeting up until April 1st,
5 2015. And also the address and instructions for
6 submitting comments are included in some of the
7 handouts we put out, and also the flyers.

8

9 So thank you very much for calling in
10 and giving us your comments. The Federal Subsistence
11 Board is looking forward to the comments on this issue
12 from the tribes and also ANCSA corporations and the
13 general public. And all the comments are received --
14 when they are received, they're reviewed and evaluated.
15 And the final rule on rural determination process will
16 be adopted by the Secretaries of the Interior and
17 Agriculture. The next step will be where the Federal
18 Subsistence Board makes the rural determination based
19 on the final rule.

20

21 Quyana.

22

23 Thank you for all coming in and calling
24 in tonight.

25

26 (Off record)

27

28 (END OF PROCEEDINGS)

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C E R T I F I C A T E

UNITED STATES OF AMERICA)
)ss.
STATE OF ALASKA)

I, Salena A. Hile, Notary Public, State of Alaska and reporter for Computer Matrix Court Reporters, LLC do hereby certify:

THAT the foregoing pages numbered 2 through 14 contain a full, true and correct Transcript of PUBLIC HEARING IN RE: FEDERAL SUBSISTENCE BOARD RURAL DETERMINATION PROCESS, taken electronically by Computer Matrix Court Reporters on the 24th day of February 2015 in Naknek, Alaska;

THAT the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed under my direction to the best of our knowledge and ability;

THAT I am not an employee, attorney, or party interested in any way in this action.

DATED at Anchorage, Alaska, this 6th day of March 2015.

Salena A. Hile
Notary Public, State of Alaska
My Commission Expires: 9/16/18