



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Commercial Fisheries Entry Commission

8800 Glacier Highway, Suite 109
PO Box 110302
Juneau, Alaska 99811-0302
Main: 907.789.6160
Licensing: 907.789.6150
Fax: 907.789.6170

29 March 2016

The Hon. Louise Stutes
Representative, District 32
Chairman, House Special Committee on Fisheries
Alaska House of Representatives
Room 415, State Capitol
Juneau, Alaska 99811-1182

In re: letter in opposition to HB 366

Dear Representative Stutes:

We are writing to respond to a question asked by Representative Herron at the hearing of the House Special Committee on Fisheries on Thursday the 17th of March. Toward the end of the hearing, CFEC was asked to provide our perspective on a letter from the United Southeast Alaska Gillnetters (USAG) submitted to the Committee in opposition to House Bill 366, and it was noted that the letter was strongly worded in stating USAG's position on this legislation.

We have reviewed the letter, and would concur that it states USAG's unequivocal opposition to HB 366. From the substantive comments in the letter, we are not surprised that this organization expressed its position zealously. We observe that these are individuals whose livelihoods depend upon predictable and stable functioning of limited entry. In contrast, we commissioners have a duty to implement any alterations of the Limited Entry Act that might be forthcoming from the Legislature.

The letter observes that HB 366 proposes to change the Limited Entry Act (which has worked well for over four decades) to allow limited entry permits to be held by entities that are not individual persons: regional community permit banks. The author states that this change is of such magnitude that it, "... flies in the face of the guiding principle of the Act." As I testified to the Committee, a source of great concern to us in the current version of the bill is Section 24, which eliminates proscriptive language about

many types of entities which are not persons for purposes of holding a permit. Restricting the holding of entry permits to individuals is a crucial component of the Limited Entry Act. It is logical for Alaskans who believe it has worked well since its inception to be concerned about removing the explicit statutory language that enumerates many types of legal entities that can not be considered persons for the purposes of holding a limited entry permit. As you'll recall, I testified that there was likelier a better way to allow for a regional community permit bank to hold a permit without unnecessarily eliminating the statement of other entities that would continue to be unable to hold a permit. Indeed, the bill's sponsor concurred in my assessment, and seemed to indicate that this language would be changed if the bill were to move forward. Thus, this source of concern may be alleviated for those interested in this bill.

As a more general observation, we note that the nature of limited entry permits as a revocable privilege, and the constraints on how limited entry permits can be held and transferred, was very important in CFEC's efforts to avoid their forced sale by the Internal Revenue Service in the case known as *Carle*, CFEC-96-003-P (1996).

The letter next states its author's expectations about what HB 366 would in reality cause to happen if it were to become law. These factual statements and estimations of what may come to pass are particular to the author of the letter, and it is not possible for us to accept or reject them as true or false, accurate or inaccurate. They clearly represent some strongly-held beliefs based on personal experience, as well as some predictions of economic outcomes that would be hard to prove or disprove.

As I attempted to state in my testimony, if legislation allowing for regional community permit banks is to advance through the legislative process on its way toward becoming law, it will be best for there to be a robust dialogue about all of the bill's effects and possible outcomes. This dialogue will certainly need to address the potential challenges that might be raised to the bill regarding its constitutionality under the United State and Alaska Constitutions, so that all sides of the arguments this legislation may well face in the future are considered before the Legislature decides what to enact. The dialogue ought ideally also to consider multiple perspectives of possible effects on existing permit holders, the value of permits, who would likely come out better, and who might suffer. While this conversation may be difficult because it is likely to involve some degree of speculation, a challenging debate that requires some conjecture is preferable to one that does not consider all sides of the argument.

CFEC is not in a position to oppose or support this legislation because it proposes a significant departure from the way the Limited Entry Act has operated for such a long

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time. We certainly support the goal of having as many Alaskans as possible holding limited entry permits and making a good living commercial fishing, especially in rural, coastal parts of Alaska that benefit economically and culturally from this activity. We stand ready to try to provide information as to the potential effects of HB 366, and offer our assistance to you in your continued efforts to do what is best for all Alaskans.

Yours very truly,

COMMERCIAL FISHERIES ENTRY COMMISSION

Benjamin Brown, Commissioner

A handwritten signature in blue ink, appearing to read "B. Brown", with a stylized flourish at the end.