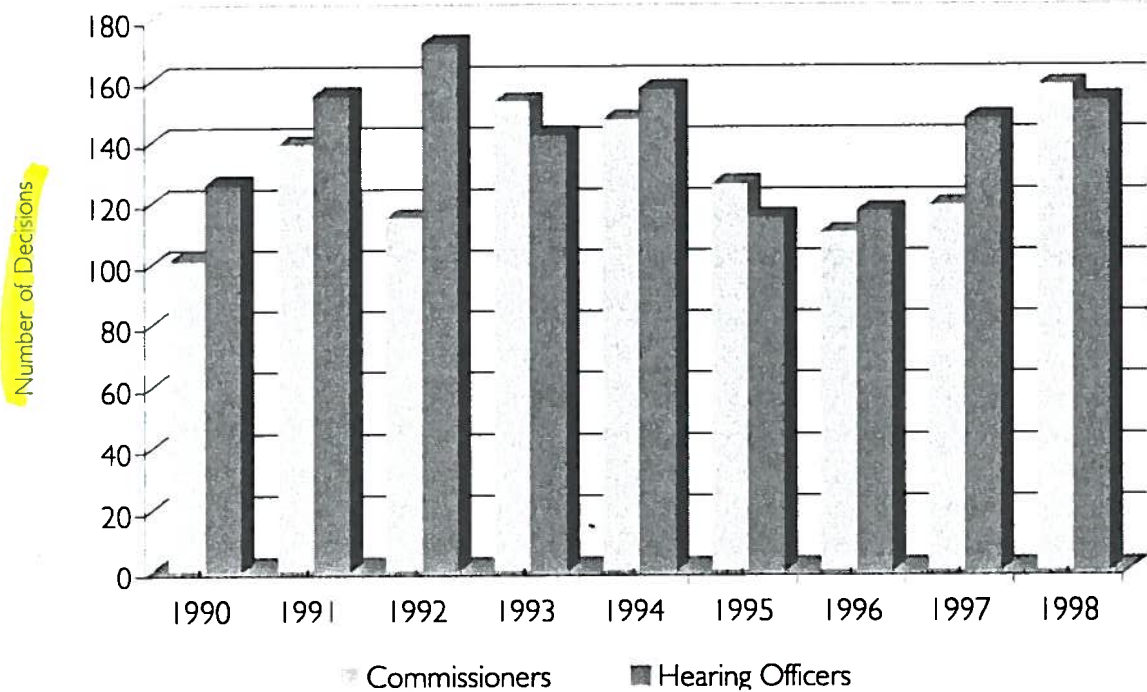


ceeding and six on miscellaneous actions. (The miscellaneous actions were primarily on qualifications for interim-use permits in fisheries subject to moratoria.) At the end of the year, 363 cases were pending before hearing officers.

The Commissioners adjudicated a total of 158 cases during 1998: 105 permit applications, 42 permit transfers, one notice to show cause action and 10 miscellaneous actions. At the end of the year, 227 cases were pending before the Commissioners.

DECISIONS COMPLETED



**THE COMMISSION'S WEB
SITE NOW INCLUDES
INFORMATION ABOUT THE
NUMBERS OF LIMITED
ENTRY PERMIT
APPLICATIONS PENDING
IN THE ADJUDICATION
PROCESS**

The Adjudication Section's staff issued 108 decisions in 1999: 69 on entry permit applications, 33 on permit transfers, five renewal fee cases and one case on an applicant's qualifications for an interim-use permit in a fishery subject to a moratorium. At the end of the year, 323 cases were pending before hearing officers.

The Commissioners adjudicated a total of 127 cases during 1999: 80 permit applications, 41 permit transfers, five renewal fee cases and one moratorium case. At the end of the year, 217 cases were pending before the Commissioners.

The Commission's web site now includes information about the numbers of limited entry permit applications pending in the adjudication process for each fishery. The web site also has synopses of specific Commission decisions on entry permit applications.

JUDICIAL RULINGS AND APPEALS

The Alaska Supreme Court did not issue any decisions on limited entry cases during 1999.

ADMINISTRATIVE PROCEEDINGS AND DECISIONS

During 2000, the Adjudication Section evaluated and classified applications for entry permits in the Southeast Alaska sea urchin dive fishery.

The Adjudications Section's staff issued 84 decisions in 2000: 47 on entry permit applications, 27 on permit transfers, 3 on notices to show cause and 7 on miscellaneous issues. At the end of the year, 291 cases were pending before hearing officers.

The Commissioners adjudicated a total of 103 cases during 2000: 70 permit applications, 25 permit transfers, 3 notices to show cause and 5 miscellaneous issues. At the end of the year, 177 cases were pending before the Commissioners.

The Commission's web site now includes information about the numbers of limited entry permit applications pending in the adjudication process for each fishery. The web site (www.cfec.state.ak.us) also has synopses of specific Commission decisions on entry permit applications.

**THE COMMISSION'S
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PERMIT APPLICATIONS
PENDING IN THE
ADJUDICATION PROCESS**

JUDICIAL RULINGS AND APPEALS

The Alaska Supreme Court did not issue any decisions on limited entry cases during 2000.

ADMINISTRATIVE PROCEEDINGS AND DECISIONS

The Adjudications section's staff issued 97 decisions in 2001: 64 permit applications, 25 permit transfers, and 8 miscellaneous issues. At the end of the year, 256 entry permit application cases were pending before hearing officers.

The commissioners adjudicated a total of 108 cases during 2001: 71 permit applications, 27 permit transfers, 1 fee arrearage, and 9 miscellaneous issues. At the end of the year, 166 cases were pending before the commissioners.

The Commission's web site includes information about the number of limited entry permit applications pending in the adjudication process for each fishery. The web site (www.cfec.state.ak.us) also has synopses of specific Commission decisions on entry permit applications.

**THE COMMISSION'S
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PROCESS FOR EACH
FISHERY.**

JUDICIAL RULINGS AND APPEALS

The Alaska Supreme Court issued two decisions on limited entry permit application cases during 2001.

In *Leuthe v. State, CFEC*, 20 P.3d 547 (Alaska 2001), the court upheld the CFEC's refusal to accept a permit application that Leuthe attempted to file three years after the application deadline.

In *Estate of Basargin v. State, CFEC*, 31 P.3d 796 (Alaska 2001) the court affirmed CFEC's denial of Basargin's point claims for unavoidable circumstances, investment in vessel and gear and income dependence. The court also rejected Basargin's claim that he was not given a meaningful opportunity to be heard because he presented his case, with counsel, to a hearing officer and again in oral appearances before the commissioners.

and bait herring trawl fishery. Additional information on these fisheries can be found in the "Decisions and Activities" section of this report.

The Adjudications section's staff issued 81 decisions in 2002: 53 on permit applications, 16 on permit transfers, 4 on assessment of fines, 7 on notices to show cause, and 1 on miscellaneous issues. At the end of the year, 204 entry permit application cases were pending before hearing officers.

The commissioners adjudicated a total of 104 cases during 2002: 75 on permit applications, 16 on permit transfers, 3 on assessment of fines, 7 on notices to show cause, and 3 on miscellaneous issues. At the end of the year, 158 cases were pending before the commissioners.

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The Commission's web site includes information about the number of limited entry permit applications pending in the adjudication process for each fishery. The web site (www.cfec.state.ak.us) also has synopses of specific Commission decisions on entry permit applications.

JUDICIAL RULINGS AND APPEALS

The Alaska Supreme Court issued two decisions on limited entry permit application cases during 2002.

In *Cleaver v. State, CFEC*, 48 P.3d 464 (Alaska 2002), the court upheld CFEC's denial of Cleaver's claim that extraordinary circumstances prevented him from qualifying for participation credit for 1983. Cleaver's attempt to participate in the fishery failed because he used unsuitable equipment, lacked experience and abandoned his intention to participate after some initial difficulties. The court agreed that Cleaver did not encounter an "extensive mechanical breakdown" as required under CFEC's extraordinary circumstances regulation.

In *Crivello v. State, CFEC*, 59 P.3d 741 (Alaska 2002), the court upheld CFEC's decision to give Crivello only three of the six points available for owning a vessel and gear because he shared ownership of the vessel and gear with a partner. The court rejected Crivello's claim that his partner should be able to donate the additional points to him. It also rejected his claim

Adjudications

Overview

The Adjudications Section evaluates, classifies, and adjudicates applications for limited entry permits. Permit applicants are classified and ranked against each other under point systems that measure each applicant's past participation and economic dependence on a fishery. Entry permits are issued first to applicants shown by their point levels to be most dependent on a fishery and then to applicants at successively lower classification levels, until a maximum number of permits for the fishery has been issued.

Adjudication functions are performed by paralegals, hearing officers, and commissioners. Paralegals evaluate entry permit applications and make the initial determination accepting, denying, or classifying each application. An applicant may challenge the denial or classification of an entry permit application by requesting a hearing. Commission hearing officers conduct administrative hearings and issue decisions based on the record.

Hearings may also be requested if the Commission's Licensing Section denies requests for emergency transfers or permanent transfers of entry permits. Emergency transfer hearings are held and decided by paralegals. Permanent transfer hearings are held and decided by hearing officers.

Commissioners review each paralegal and hearing officer decision and may order further review and hearings on their own motion or upon the request of an affected party. Commissioners may also take formal action to modify, reverse, or affirm the decisions.

Hearing officers also preside over hearings that arise from enforcement proceedings, where the Commission may impose fines, revoke, or suspend permits of those who attempt to mislead the Commission with false information. These hearings are held in the presence of the commissioners.

COMMISSION HEARING OFFICERS CONDUCT ADMINISTRATIVE HEARINGS AND ISSUE DECISIONS BASED ON THE RECORD.

Administrative Proceedings and Decisions

The Adjudications staff issued 38 decisions in 2010, 7 permit applications, 30 permit transfer requests, and a miscellaneous matter (fee refund). At the end of the year, 13 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 46 cases during 2010; 14 permit applications, 31 permit transfers, and a fee refund. At the end of the year, 26 entry permit applications were pending before the commissioners.



Adjudications

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Administrative Proceedings and Decisions

The Adjudications staff issued 31 decisions in 2011: 4 permit applications, 26 permit transfer requests, and 1 miscellaneous matter (demerit points). At the end of the year, 9 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 30 cases during 2011: 5 permit applications, 24 permit transfers, and 1 demerit point case. At the end of the year, 26 entry permit applications were pending before the commissioners.



Adjudications

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Adjudication functions are performed by paralegals, hearing officers, and commissioners. Paralegals evaluate entry permit applications and make the initial determination accepting, denying, or classifying each application. An applicant may challenge the denial or classification of an entry permit application by requesting a hearing. Commission hearing officers conduct administrative hearings and issue decisions based on the record.

Hearings may also be requested if the Commission's Licensing Section denies requests for emergency transfers or permanent transfers of entry permits. Emergency transfer hearings are typically held and decided by paralegals. Permanent transfer hearings are held and decided by hearing officers.

Commissioners review each paralegal and hearing officer decision and may order further review and hearings on their own motion or upon the request of an affected party. Commissioners may also take formal action to modify, reverse, or affirm the decisions.

Hearing officers also preside over hearings that arise from enforcement proceedings, where the Commission may impose fines, revoke, or suspend permits of those who attempt to mislead the Commission with false information. These hearings are held in the presence of the commissioners.

Administrative Proceedings and Decisions

The Adjudications staff issued 29 decisions in 2012: 2 entry permit applications, 22 permit transfer requests, and 5 miscellaneous matters (fees and residency status). At the end of the year, 7 entry permit application cases were pending before hearing officers.

Commissioners adjudicated a total of 19 cases during 2012: 3 entry permit applications, 9 permit transfers and 7 miscellaneous cases. At the end of 2012, 25 entry permit applications were pending before the commissioners.

By the end of 2012, commissioners and hearing officers had made substantial progress reducing the Commission's adjudication caseload. Looking back to 1990, as the result of the *Wassillie* settlement (authorizing hundreds of new applications in the salmon fisheries) and a series of Alaska Supreme Court cases during the 1980s, the Commission's caseload had risen to nearly 900 cases.

Additionally, since 1990, the Commission has been required by statute to limit 26 additional fisheries generating thousands of new applications for entry permits. From 1990 through 2012, the Commission issued more than 2,100 final decisions, thereby deciding cases at a rate faster than applicants filed new appeals and reducing its overall caseload to 32.

Commission decisions implementing the Limited Entry Act and their review by the Alaska Courts have generated a unique body of law characterized by one Alaska Supreme Court Justice as "arcane".

Louie Flora

Subject:

FW: 2013 adjudications, cfec

From: Glass, Frank A (CFEC) [<mailto:frank.glass@alaska.gov>]

Sent: Monday, March 17, 2014 4:17 PM

To: Louie Flora

Cc: Twomley, Bruce C (CFEC); Brown, Ben (CFEC)

Subject: 2013 adjudications, cfec

Mr. Flora:

I obtained the numbers of adjudicative decisions at the CFEC during calendar year 2013. Using the format from CFEC annual reports:

"The adjudication staff issued 41 decisions in 2013: 1 entry permit application, 34 permit transfer requests, and 6 miscellaneous matters. At the end of the year, 7 entry permit application cases were pending before hearing officers.

"Commissioners adjudicated a total of 6 cases during 2013: 3 entry permit applications, 2 permit transfers and 1 remand to the adjudication section. At the end of 2013, 22 entry permit applications were pending before the commissioners."

Do not hesitate to contact me if you have questions or need more information.

Frank Glass
CFEC Adjudications
790-6926