



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Commercial Fisheries Entry Commission

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To: Representative Louise Stutes, Chair  
House Special Committee on Fisheries

Date: 15 February 2017

From: Benjamin Brown, Commissioner *BB*  
Bruce Twomley, Chairman

Subject: statutory fee ceiling on  
CFEC permit fees

We are sending this information to you and the members of the House Special Committee on Fisheries in preparation for the hearing to be held on Thursday the 16<sup>th</sup> of February 2016. As we have discussed with you, although there is currently no proposal before the Legislature to remove or otherwise change the statutory fee ceiling in the Limited Entry Act, it is reasonable to anticipate that a proposal to do so may emerge at some point as the Legislature continues its work trying to close the deficit in the State's operating budget. The Alaska Commercial Fisheries Entry Commission (CFEC) is committed to working with you and your legislative colleagues to ensure that you have current and pertinent information to inform your dialogue and any decisions that may be made regarding CFEC's statutory fee ceiling.

The current fee ceiling was enacted by the passage of Senate Bill 93 in the 24<sup>th</sup> Alaska State Legislature. This bill was introduced by Senator Ben Stevens of Anchorage; there was no House companion bill. In its initial form, SB 93 removed the ceiling of a limited entry permit renewal fee or interim-use permit fee, which at that time was \$300.<sup>1</sup> While the legislation as initially drafted set a floor of \$30 for permit fees, it set no corresponding ceiling for such fees. At the point when it was first introduced, SB 93 was described by its sponsor as necessary to prevent a foreseeable situation when CFEC would cease to generate adequate revenues to fund its operations. Even prior to SB 93, the Limited Entry Act called for fees to reasonably reflect the different rates of economic return for different fisheries, and the \$300 cap was characterized by Senator Stevens's staff as artificial, because it caused participants in some fisheries with very high economic returns to pay fees that were disproportionately low. Former CFEC Commissioner Frank Homan testified in support of SB 93 at several key points as it moved through the legislative process, and noted that there was a strong likelihood that the agency would find itself unable to cover its operating expenses without an increase in permit fees. Mr.

<sup>1</sup> SB 93 also adjusted CFEC's vessel license fees, but as there has been no indication of any interest in changing these, this memorandum does not address that component of the past legislation.

Homan noted that the decision of the Alaska Supreme Court in the *Carlson* case had deprived CFEC of the ability to charge non-residents three times as much as Alaskans for permit fees, creating a budgetary challenge for the agency.

In its first committee of referral, SB 93 drew criticism for the potential effect of the proposed .4% rate of a limited entry permit's value, or the gross earnings of an interim-use permit, being used to set annual fees. A representative of the Alaska Draggers Association noted that because some of its members with gross earnings of \$200,000 annually would see those earnings averaged with fishermen with gross earnings of \$30 million annually, the potential for increased fees for some of these fishermen when aggregated as a group might not be sustainable. The same concern about the averaging of these gross earnings appears to persist today.

When SB 93 was before the Senate Finance Committee, a maximum amount, or ceiling, of \$3000 for limited entry and interim-use permit fees was added, and this provision stayed in the bill through the ensuing legislative process and in the final form that became law. SB 93 passed both the Senate and House without any votes cast in opposition, and was signed into law by Governor Murkowski in May 2005.

During the 29<sup>th</sup> Alaska Legislature, there were several pieces of legislation which contained provisions pertaining to the \$3000 ceiling on permit fees in the Limited Entry Act. None of these bills made it out of committee. Interim-use permit fees continue to be set based on the average gross earnings of all permits in each discrete category. Because the individual gross earnings in some open-access fisheries range across a very wide spectrum of dollar amounts, the facts remains that the mathematical average of gross earnings is much higher than the actual earnings of those at the lower end, and much lower than the actual earnings of those at the upper end. CFEC does not have a position in support or opposition to the potential removal of the \$3000 fee ceiling, but would note, as an agency, that the current cap does lead to approximately \$2.2 million in revenues that would otherwise be collected by the agency annually.