

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 29, 2005

8:56 a.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Bill Thomas, Co-Chair
Representative Jim Elkins
Representative Peggy Wilson
Representative Woodie Salmon

MEMBERS ABSENT

Representative John Harris
Representative Mary Kapsner

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Board of Fisheries

Rupert Andrews - Juneau
John Jensen - Peterburg
Melvan Morris - Kodiak

- CONFIRMATION(S) ADVANCED

Alaska Commercial Fisheries Entry Commission (CFEC)

Peter Froehlich - Juneau

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to report.

WITNESS REGISTER

JULIE KAVANAUGH
Kodiak, Alaska

POSITION STATEMENT: Posed questions and comments to the
appointees.

CARL CROME

Petersburg, Alaska

POSITION STATEMENT: Testified in support of reconfirmation of John Jensen and Mel Morris.

RUPERT ANDREWS, Appointee

to the Board of Fisheries

Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Fisheries.

JOHN JENSEN, Appointee

to the Board of Fisheries

Petersburg, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Fisheries.

MELVAN MORRIS, Appointee

to the Board of Fisheries

Kodiak, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Fisheries.

PETER FROEHLICH, Appointee

to the Commercial Fisheries Entry Commission (CFEC)

Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Commercial Fisheries Entry Commission.

ACTION NARRATIVE

CO-CHAIR BILL THOMAS called the House Special Committee on Fisheries meeting to order at [8:56:12 AM](#). Representatives Thomas, LeDoux, Wilson, and Elkins were present at the call to order. Representative Salmon arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Board of Fisheries

CO-CHAIR THOMAS announced that the only order of business would be the confirmation hearings for four of the governor's appointments to various boards as listed above in the committee

calendar. He stated that the committee would hear public testimony first before addressing the nominees.

[8:56:46 AM](#)

JULIE KAVANAUGH asked the Board of Fisheries members if the board would continue exclusively using its subcommittee on Gulf of Alaska groundfish rationalization as the board's sole resource for guidance, "or will this board take advantage of its local advisory committees [on] which the board has depended on in the past for advice and local insight?" She continued:

I also was interested in an opinion from the [Board of Fisheries] on the existing examples of unequal shares - one example has been presented as a setnet shore lease - due to the fact that these sites are historically better producing than others. It is well noted that a site lease does not predetermine a specific amount of catch or imply that a claim, prior to catching it, is there. Hard work, skill, [and] weather factor into this. The failure of equipment and lost opportunity can prevent any shore lease from producing. Maybe [the Board of Fisheries] could explain how a predetermined claim to a resource is different than a special privilege.

MS. KAVANAUGH continued:

I would also wonder how this [Board of Fisheries] considers consolidation benefiting the fixed gear fleet and small boat fleet. ... I was wondering if this [Board of Fisheries] could expand on the difference between limiting the access rights under the limited entry versus assigning allocations of resource by history.

[8:59:37 AM](#)

CARL CROME stated that he has been commercially fishing for 45 years. He testified in support of the reconfirmation of John Jensen and Mel Morris to the Board of Fisheries. He commented that Mr. Morris and Mr. Jensen "bring lots of expertise and experience to the board; they can be very objective and open-minded on matters before the board."

[9:01:47 AM](#)

RUPERT ANDREWS, Appointee to the Board of Fisheries, presented his background information to the committee. He explained that he is finishing his first three-year term on the board. He came to Alaska in 1959 to work with the Alaska Department of Fish & Game (ADF&G), where he worked for 23 years. He stated:

I consider working on the Board of Fisheries sort of finishing up a wonderful career in fisheries in Alaska. But it's also a real honor to be able to represent the resource and the users, and to see what I can do to help them, using my experience and my long time in Alaska. I think the last three years [were] ... the most important of my life and I learned so much. There are new fisheries going on now that weren't when I was in the department. And I consider it a fascinating thing to do. It's also an important thing. ... There's some grim things happening out on the coastal communities of Alaska, and that is they're disappearing one person by one person because they can't make a living. And I think that the board ... can play a bigger part in improving the quality of the fisheries in getting a better price to the fishermen, if possible. And I think we can do that through the regulatory means.

[9:04:51 AM](#)

CO-CHAIR LEDOUX asked Mr. Andrews to comment on Ms. Kavanaugh's questions regarding the use of local advisory committees, rather than the groundfish stakeholders committee, in the discussion of groundfish rationalization.

[9:05:59 AM](#)

MR. ANDREWS replied:

[The state only has] authority out to three miles, and then rationalization has been a federal program, not only in bottom fish but in crab. And so we don't really get involved in that. But within the three-mile limit we do. And we use all the information that we possibly can and we seek it constantly from advisory committees, and any other committee too that happens to be formed for the purposes of professing and pushing our fisheries in some way that's going to be productive. ... But we only get involved in rationalization as a partner ... through our board

committee with the ... North Pacific Fishery Management Council.

CO-CHAIR LEDOUX commented, "You're probably going to be getting pretty involved with that in the next couple of years as the [North Pacific Fishery Management Council] goes ahead with their groundfish rationalization programs. Are you familiar with SB 113?"

MR. ANDREWS replied that he was not.

CO-CHAIR LEDOUX explained that SB 113 would give the Board of Fisheries and the Commercial Fisheries Entry Commission (CFEC) the legal authority to create [dedicated access privileges (DAP)] regarding the fish within the three-mile limit.

[9:08:01 AM](#)

MR. ANDREWS remarked, "That sounds logical to me."

CO-CHAIR LEDOUX continued:

The question is, if you are given the authority to [create DAPs] within the three mile limit, will you be working with the ... fisheries advisory committees in the local communities, as opposed to strictly the groundfish stakeholders committee, which I think was set up through the [North Pacific Fishery Management Council].

MR. ANDREWS responded:

A committee set up by the North Pacific Fishery Management Council probably would take a situation of advisory to us on the board, and we would work more with the state advisory committees, which we have. It's a matter of record at every board meeting that the recommendations and suggestions of the advisory committees are well considered and for the most part are taken into the final deliberations and wind up in the final solution. So I'm not sure how we would fit in with the federal rationalization committee. We consider anything between the beach and three miles out as state water....

[9:10:00 AM](#)

CO-CHAIR LEDOUX asked Mr. Andrews if he has any feelings about limited access and programs like the Individual Fishing Quotas (IFQs) within the three-mile limit.

MR. ANDREWS answered:

No, I don't. I think that the IFQs, from my viewpoint in what I've seen so far, in the halibut fisheries work very well. Halibut is now being fished 10 or 11 months out of the year. You buy fresh halibut on the market in Alaska, it's \$10 a pound; that's the highest I've ever seen since 1949. So I think that IFQs are working for the fishermen and for the industry. Obviously, the public is doing the buying and wanted fresh fish. And the IFQs did away with the salmon derby-type of mentality and people are able to fish in more moderate weather; there's a safety factor also involved in that. So I think that they've worked really well for the halibut fisheries, and I don't see how it wouldn't work the same way for other IFQs, whether you're talking crab or whatnot. And the village communities have also received IFQs, too, so it's worthwhile for the remote coastal communities.

[9:11:29 AM](#)

CO-CHAIR LEDOUX related her understanding that only the smaller villages have received IFQs. She asked Mr. Andrews, "How do you feel that the IFQ program has worked as far as larger communities are concerned, and your whole feeling about consolidation to communities, for example, that might not be buying IFQs?"

MR. ANDREWS asked for clarification of what was meant by "larger communities."

CO-CHAIR LEDOUX used Kodiak as an example of a larger community.

MR. ANDREWS replied, "I think the definition so far would not fit a situation like Kodiak."

CO-CHAIR LEDOUX commented, "I know it doesn't fit Kodiak, so my question for you is, 'How do you feel that consolidation of the fisheries are affecting coastal communities such as Kodiak? Do you think [consolidation] is a good thing or do you think this is a bad thing?'"

9:13:17 AM

MR. ANDREWS responded that he cannot give Representative LeDoux an answer to that until he had given it more consideration.

CO-CHAIR LEDOUX asked, "Is that one of the things that you're going to be considering when you consider [DAPs] vis-à-vis groundfish rationalization - the effects on communities?"

MR. ANDREWS replied, "Again, I can't answer that either for the simple reason that that ... would be up to the chairman of the board to see how that would be brought up. And then we'd have to have a lot of testimony on it before we could make a decision."

9:14:19 AM

REPRESENTATIVE WILSON asked Mr. Andrews how often he has not been able to testify at a Board of Fisheries meeting due to a conflict of interest.

MR. ANDREWS replied that he has never recused himself.

9:14:50 AM

CO-CHAIR THOMAS pointed out that [HB 241] would allow commercial fishermen to participate in discussion regardless of whether they have a conflict of interest. He asked Mr. Andrews if he supported this idea.

MR. ANDREWS responded, "It's not a matter of whether I support or reject it. We work for the legislature; you extend your authority to us. If you pass the bill, that's exactly what we'll do...."

CO-CHAIR THOMAS asked Mr. Andrews if he thought the board had the ability to make positive decisions without the input from commercial fishermen on fishery issues.

MR. ANDREWS replied:

Yes, sure. ... In my experience on the board, every single board member has always done their best to look at all the facts and whatever the situation is. ... I think you have to keep in mind also ... the public views our actions closely, and they must have a lot of confidence in the actions of the board. And if they

feel that because members have conflicts and they're still voting, [the public] may not have the same level of confidence in our decisions.

9:16:49 AM

CO-CHAIR THOMAS pointed out that the Alaska Supreme Court recently ruled against the allocation of salmon in the Chignik fishing cooperative. He asked Mr. Andrews if the board will review that issue again, or if the board has given up on that idea.

MR. ANDREWS answered:

It is my understanding that we will try to resolve that question by emergency order. There's fifty-five families out there that, if [the board doesn't] do something soon, ... will completely go under, and I can't stand to see that happen to Alaskans. And it will happen. The supreme court, in our view, made an error in judgment and the error was they used the limited entry law to say that the Board of Fisheries had no authority to regulation [cooperatives]. It even goes a little bit farther than that: there is, as you know, a legislative committee to restructure the salmon fisheries in Alaska. And we just lost one of our important tools; we've lost authority. And I hope that we get that back in legislation next year. But for this year, it's a very serious matter to the people in Chignik. We [the Board of Fisheries] will probably be meeting in the next five to ten days, or as soon as possible, to try to resolve the situation for those 55-60 families out in Chignik.

9:18:38 AM

CO-CHAIR THOMAS noted that United Fishermen of Alaska (UFA) and Alaska Trollers Association (ATA) have submitted letters of support for Mr. Andrews.

9:18:53 AM

JOHN JENSEN, Appointee to the Board of Fisheries, presented his background information to the committee. He said that he was born and raised in Petersburg, and has fished commercially for 40 years. He noted that he is finishing his first three-year term on the board, which has been a "very intense learning

experience." He commented, "I'd like to see a strong, healthy, sustainable fishery for the future for all user groups, and I enjoy dealing with the issues...."

[9:20:43 AM](#)

REPRESENTATIVE WILSON asked Mr. Jensen how many times he has been conflicted out on the board so that he was not allowed to testify.

MR. JENSEN replied:

I couldn't give you a number right now, but it seems like ... I end up sitting on the bench quite a bit, and it's fairly frustrating, especially when, during deliberations they start working on the fine points and I'm not able to offer my expertise on different subjects that come up. ... It's just real hard for me to sit out in the audience and not be able to help with the small details, for instance, like cotton twine in crab pots, etcetera. ... Some of the board members aren't familiar with it; it's hard for them to understand, and I have a hard time sitting out there and not being able to explain it to them.

[9:21:57 AM](#)

MR. JENSEN, in response to Representative Wilson, explained that board members are allowed to give three minutes of public testimony, but members are not put on subcommittees if they have been conflicted out on the issue.

[9:22:56 AM](#)

CO-CHAIR LEDOUX, regarding SB 113, asked Mr. Jensen if the Board of Fisheries would gather public testimony from the communities to be affected by the DAPs.

MR. JENSEN replied that he had heard about SB 113, and he commented, "We do listen to the advisory people very closely when they're talking about something very close to their homes."

CO-CHAIR LEDOUX asked if Mr. Jensen has any preconceived feelings about DAPs in state waters.

MR. JENSEN responded, "I'm a little bit nervous about dedicated access privileges.... There's both good and bad points on the

quota shares that have happened ... since [1988 or 1989]. I've seen both positives and negatives. It's good biologically for the stocks, but it hasn't been all that great for some of the coastal communities, especially the one that I live in. There's been some definite set-backs."

[9:24:50 AM](#)

CO-CHAIR LEDOUX asked Mr. Jensen if he would envision formulating a DAP program in conjunction with the fisheries advisory communities, or if he would rely mostly on the groundfish stakeholders committee.

MR. JENSEN answered that all participating people would need to be involved.

[9:25:55 AM](#)

CO-CHAIR THOMAS noted that UFA and ATA endorsed Mr. Jensen.

[9:26:12 AM](#)

MELVAN MORRIS, Appointee to the Board of Fisheries, stated that he grew up in Kodiak and still resides there. He has a degree in wildlife management and worked in fisheries management. He currently owns a small seafood marketing company. He commented:

I've enjoyed the two and a half years that I've spent on the Board of Fisheries; it's been an opportunity to sort of extend my career a little bit. ... It's interesting to go around the state and meet old friends and find out what the issues are with other people and try to deal with issues that are critical to them. It's been a good experience working with the board. I think we work well together. Obviously [we] don't always agree; in fact [we] don't agree most of the time, but we hear all sides of every issue and are able to participate in critical issues that will form the future of our fisheries.

MR. MORRIS pointed out that he participates in the joint protocol committee, which is a committee of three board members and three North Pacific Fishery Management Council members. He also is a member of the Gulf of Alaska Groundfish Rationalization Committee and the Crab Rationalization Committee, and he is chair of the Prince William Sound

Allocation Committee. He said, "I feel there is some work left to be done; I'd like to be a part of it."

9:29:40 AM

CO-CHAIR LEDOUX asked Mr. Morris to answer the same questions she had posed to the previous nominees.

MR. MORRIS replied:

In reference to your first question, what sort of help we would be looking for in making decisions, supposing that SB 113 is turned into [law]: we would certainly be looking for participation from all parties, as we have with the committee that we now have. We have been open to testimony and we've actually received a good deal of it. Whether the committee could be restructured or whether we would be looking at setting up separate meetings; all these things ... would be pretty much at the forefront with what the chairman felt we could do with the time constraints and the fiscal constraints that might be upon us. But certainly we would be looking ... to comments, advice, anything that might pertain.

As to the impact of IFQs on communities: it is a difficult social issue. Certainly the people who live in the communities that are now getting \$3.50 a pound for halibut could probably relate back to the days ... [when prices were lower]. There's a big difference; there's been some marketing improvements over the years. This was done, I think, because there was an IFQ program that allowed people to bring in fresh fish pretty much year-round....

As far as DAPs, we're not talking about an IFQ program; we're talking perhaps about a version, but dedicated access privilege means only that the person would have the opportunity to lease the resource from the state. There'd be no ability to take the [DAP] and go out, like you can with an IFQ, and sell it. And I think this is especially beneficial to the communities because certainly ... you have the ability to reward owner on board as opposed to just an owner perhaps buying all the IFQs. ... And of course at some time the DAP would have to be renewed under the

provisions of a renewable lease. And so I think there's some significant differences.

MR. MORRIS continued:

We all know that the program has not been worked out to its finality. There's a lot of things to be asked and answered. The people who are especially concerned about their history in state waters that would like to see it being allocated to them under federal terms, permits, quite frankly, I can understand their frustration and their desire to see that. But we don't have the authority to do that, and the [federal government doesn't] have the authority to take it away from the state waters fishery to give it to them. And so we're proposing what we think is the best possible solution, and that is to look at history that's been generated in state waters and say, 'We can develop some sort of a semi-seamless approach to federal and state waters that does give you history.' ...

Twenty years ago there was no market for bottom fish.... And in the last 20 years this fishery ... has just blossomed, it's exploded exponentially every year. ... As the fisheries developed we could process pretty much year-round. We could develop sort of a business plan, although we had to develop marketing concepts over the years. We're down to a few days of fishing in just about all of our fisheries. In my opinion ... is that without some sort of restriction, some way to put an end to put a race for fish, the derby-style fishery ... we'd be looking at something like we ended up with in the crab fisheries, where every year the board was trying to make it less efficient by cutting the pot limits and restricting everything, and we still were down to an 80 hour fishery in the Bering Sea this year.... I don't see the state being able to afford a buy back program, and ... I don't see us being able to sit here and hope that things will get better. ... I think we have to have this bill in order to be doing our job as a board.

[9:37:18 AM](#)

REPRESENTATIVE WILSON asked Mr. Morris if he has ever been conflicted out during a meeting and why.

MR. MORRIS replied:

Yes, I have been disqualified in a couple of different meetings. And to explain what we have to do now under the Ethics Disclosure Act: we have to evaluate that personally and decide whether there's a potential for ethics disclosure and for conflict of interest. And so it's left up to the individual, and I always take the conservative approach and say that ... I don't want anything to happen that might turn into a lawsuit later that we can't defend. So I've taken that approach, and one major issue was the Cook Inlet fisheries.... As I mentioned, I [market] a small amount of sockeye there.... And I think I have a lot to offer, particularly as it relates to quality of the products and what is good for the fisheries. But I feel like I shouldn't be excluded from those comments and I certainly have missed hearing from [Mr. Jensen] on his issues. ... I support [HB 241].

[9:40:56 AM](#)

CO-CHAIR THOMAS noted that UFA and ATA endorsed Mr. Morris.

Alaska Commercial Fisheries Entry Commission (CFEC)

CO-CHAIR THOMAS turned the committee's attention to the appointee to the Commercial Fisheries Entry Commission.

[9:41:13 AM](#)

PETER FROEHLICH, Appointee to the Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), commented that he retired [as a District Court Judge for Juneau, Alaska] in January. He stated:

I'm excited about being on the verge of starting a new career. I've always been interested in fishing generally. ... I earned my way through law school in the Kodiak area, crab fishing and salmon tendering, and dabbled in hand trolling here in Southeast Alaska.... I've been interested in the commercial fishery entry system, sort of academically; it's a pretty unique ... model that's been looked to even by other nations. It's been adapted in different forms by other states, other countries, and the federal

government in the IFQ system. And I feel that I'm pretty uniquely qualified to work as a limited entry commission because of my fishing experience on the water, my experience advising and representing the limited entry commission in the late 70s, when things were really churning....

I was involved in working with limited entry commission issues as an attorney in the attorney general's office for several years and after that I was working in the AG's office with all agencies' regulations and bill proposals ... so I still worked with limited entry quite a bit then, because ... every time they adopt a new fishery, they have to adopt a new big set of regulations....

[9:44:27 AM](#)

MR. FROEHLICH continued:

I think that my experience as a judge has given me some practice with dispute resolution and adjudication, and the commission does act as an adjudicatory body sometimes on appeals. And basically I'm interested in this because I feel like I'm ready for a change of pace, a change of career....

If any of what's being proposed with the [Gulf of Alaska] groundfish situation or any other fisheries [that are going to have] maximum numbers set, I would hope that I would be able to travel ... around the state for hearings.

[9:46:39 AM](#)

CO-CHAIR LEDOUX asked if Mr. Froehlich thought the Board of Fisheries has the authority to overrule the Alaska Supreme Court through an emergency regulation in the Chignik fishery.

MR. FROEHLICH replied, "I'm not sure, of course, but my gut reaction was that it would take a legislative fix because ... the court was interpreting the legislative grant of authority in the first place. So I think that the issue is probably in the lap of the legislature more than the board."

[9:48:11 AM](#)

CO-CHAIR THOMAS expressed concern for people who had not been issued limited entry fishing permits, although he felt they ought to have.

MR. FROEHLICH responded:

I hope that that can be moved. ... One of the big issues for limited entry and for fishing management in general is what they're calling restructuring; I understand there's some sort of legislative committee looking at that. ... Reducing the amount of gear in the water and being more efficient with it, [and] buyback is another way to do it, but that takes some bucks. But one of the easiest ways is just resolving these [interim use permit (IUP)] appeal things.

[9:50:54 AM](#)

REPRESENTATIVE WILSON moved to forward the names of Rupert Andrews, John Jensen, Melvan Morris, and Peter Froelich to the joint session of the House and Senate for confirmation. There being no objection, the confirmations of Rupert Andrews, John Jensen, Melvan Morris, and Peter Froelich were advanced from the House Special Committee on Fisheries.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at [9:52:12 AM](#).