

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 4, 2007
8:43 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Kyle Johansen
Representative Craig Johnson
Representative Gabrielle LeDoux
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 16

"An Act providing for an effective date by delaying the effective date of repeal of the authority of the Commercial Fisheries Entry Commission to maintain the vessel-based commercial fisheries limited entry systems for the Bering Sea Korean hair crab and weathervane scallop fisheries, and the effective date of conforming amendments related to the repeal of those systems."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 16

SHORT TITLE: EXTEND LIMITED ENTRY SUNSET: CRAB/SCALLOP

SPONSOR(S): REPRESENTATIVE(S) SEATON

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	FSH, RES
04/04/07	(H)	FSH AT 8:30 AM BARNES 124

WITNESS REGISTER

FRANK HOMAN, Commissioner
Commercial Fisheries Entry Commission (CFEC)
Juneau, Alaska
POSITION STATEMENT: During hearings on HB 16, provided background information and responded to questions.

BOBBIE MINIO, Crew Member
F/V Provider
Bellingham, Washington
POSITION STATEMENT: Testified during hearings on HB 16.

JOHN LAMAR, Captain
F/V Ocean Hunter
Steilacoom, Washington
POSITION STATEMENT: Testified during hearings on HB 16.

MARK KANDIANIS, Captain
F/V Last Resort
Ferndale, Washington
POSITION STATEMENT: Testified during hearings on HB 16.

JERRY MCCUNE, President
United Fishermen of Alaska
Juneau, Alaska
POSITION STATEMENT: Testified with neutrality on HB 16.

TERESSA KANDIANIS, President
North Pacific Scallop Coop
Partner/Manager, F/V Provider
POSITION STATEMENT: Testified in support of HB 16.

JIM STONE
F/V Ocean Hunter
Lakewood, Washington
POSITION STATEMENT: Testified in support of HB 16.

TOM MINIO, Skipper
F/V Provider
Bellingham, Washington
POSITION STATEMENT: Testified in support of HB 16.

THOMAS N. MINIO, Mate
F/V Provider
Maple Falls, Washington
POSITION STATEMENT: Testified in support of HB 16.

ROBERT WILLIAMS, Deputy Director
Coastal Villages Region Fund
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 16.

JULIE KAVANAUGH
F/V Sylvia Star
Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to HB 16.

ALEXUS KWACHKA
Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to HB 16.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:43:00 AM](#). Representatives Johnson, Johansen, and LeDoux were present at the call to order. Representatives Wilson, Holmes, and Edgmon arrived as the meeting was in progress.

HB 16-EXTEND LIMITED ENTRY SUNSET: CRAB/SCALLOP

[8:43:11 AM](#)

CHAIR SEATON announced that the only order of business would be HOUSE BILL NO. 16, "An Act providing for an effective date by delaying the effective date of repeal of the authority of the Commercial Fisheries Entry Commission to maintain the vessel-based commercial fisheries limited entry systems for the Bering Sea Korean hair crab and weathervane scallop fisheries, and the effective date of conforming amendments related to the repeal of those systems."

[8:43:52 AM](#)

CHAIR SEATON stated his intent to move HB 16 today, following public testimony.

[8:44:44 AM](#)

CHAIR SEATON explained that HB 16 differs from the limited entry act by allowing permits to be issued to vessel owners. The limited entry act requires that the permit be held by a natural person, who is on the fishing grounds, and operating the gear as

an active participant in the fishery. This vessel based program is an alternative that allows the fishing privileges to be allocated to the vessel owner/investor; defined as a natural person or a corporation. The requirement to be participating on the fishing grounds does not apply. This is the policy up for review. Further, he said that there has been significant contraction allowed in these fisheries. One has been the Bering Sea Korean hair crab fishery, closed for the last five years due to a collapse in the stock. The other is the weathervane scallop fisheries, which has been operating under a voluntary coop, effectively restricting the number of vessels participating. The question arising from this is how much of a consolidation of a fishery is advisable for the state. Should one vessel or three be harvesting a stock before it is considered a special right of fisheries. The sunset extension is an opportunity to review the public policy issues, and establish how to balance the management, participation, and vessels involved.

[8:48:41 AM](#)

FRANK HOMAN, Commissioner, Commercial Fisheries Entry Commission (CFEC), stated that this is a simple bill, to extend the dates of limitation for the vessel licensing of the scallop fishery and Bering Sea hair crab fishery. In 2002, a special authorization allowed a limitation for these two fisheries only, for conservation purposes. The traditional limited entry system was developed for the owner/operator salmon fishery. Several years ago, as the scallop fishery developed, it was noted that the increasing pressure was reaching a proportion where a limitation might be in order. Using the traditional method was not deemed appropriate, for the hair crab or scallop fisheries, as multiple skippers tend the vessels. Utilizing the traditional method, each skipper would be eligible for a permit, resulting in too many permits being allotted; negating the conservation effort.

[8:51:59 AM](#)

REPRESENTATIVE LEDOUX asked if using a point system was considered.

COMMISSIONER HOMAN responded that this was not done because of the need for conservation. He explained that it may have taken a number of years for the adjudication process to settle. During those years, the fishery would have been submitted to continued pressure, causing further stock depletion.

8:53:46 AM

REPRESENTATIVE LEDOUX inquired whether the adjudication process is governed by statute or regulation.

COMMISSIONER HOMAN answered, "Statute."

REPRESENTATIVE LEDOUX asked if amending the statute had been considered, regarding these fisheries, and expediting the appeals process.

COMMISSIONER HOMAN explained that he was not on the commission at that time, and could only speculate on why that action would not have been favored.

8:55:16 AM

REPRESENTATIVE LEDOUX asked whether someone from legal could provide the answer. She opined that such action would have acted like a temporary restraining order.

8:55:53 AM

COMMISSIONER HOMAN explained how the process works: The first applicants to a fishery are processed by a hearing officer. The process may take about a year, and depending on the outcome, the applicant may appeal the decision. These hearing officers work in a back log, with perhaps 100 or more applications and appeals to be handled. There are at least five levels for appeal, all the way up through the court system, which can take years to pursue.

REPRESENTATIVE LEDOUX maintained her interest in why legislative intervention was not sought, or considered a viable option.

COMMISSIONER HOMAN responded that if an exception were made for this fishery it may have effected other fisheries.

CHAIR SEATON interjected that the question will be held for legal response. However, he pointed out, statute was made specific to these two fisheries. The question appears to be whether other changes should have been included to make the system/statute work better.

COMMISSIONER HOMAN because of the conservation issues involved, the vessel license permit system was implemented. The

department supported this action, and it received legislative approval.

[8:59:36 AM](#)

CHAIR SEATON recalled that there had not been openings in the hair crab fishery, neither were any expected. This was the complexion of the fishery at the time that this measure was implemented. The hair crab fishery involved larger vessels operated by someone other than the owner, and he asked if that was another reason for entering into this type of management.

COMMISSIONER HOMAN said it was done with the scallop fishery to reduce the number of units of gear; considering that each vessel could have had three skippers, each with their own unit of gear to work. This may have been true for the hair crab fishery, as well.

[9:01:09 AM](#)

REPRESENTATIVE LEDOUX granted that the pressure on the scallop fishery was understandable, but with regards to the crab fishery, it was closed, neither was it expected to be opened in the immediate future. The argument that too many people would be fishing during mitigation does not hold up, she insisted.

COMMISSIONER HOMAN justified that the limitation might have allowed an opening.

REPRESENTATIVE LEDOUX argued that this enactment is now four years old, and asked if there is an estimation of when this fishery will open.

COMMISSIONER HOMAN deferred to the biologists for a response.

[9:02:53 AM](#)

COMMISSIONER HOMAN explained that when these fisheries were limited, concern was expressed for the possibility of corporations holding the permits. Some of the partnerships that own these permits have formed small corporations, but there are no large corporations involved. In the hair crab fishery, for example, the qualified permits are 75 percent owner/operator. In the scallop fishery 3-4 of the 8 vessels have owner/operators on board.

[9:05:08 AM](#)

CHAIR SEATON asked if the concern for issuing these permits was not based on the size of a corporation, but the loss of the participation requirement.

COMMISSIONER HOMAN agreed. He continued, stating that the biologists will testify how the scallop fishery is well managed, exceeding by-catch limit concerns, orderly, and within harvest guidelines. The hair crab fishery remains closed. Extending the sunset date provides another five years of status quo, at which time it will be reviewed again by the legislature.

[9:08:25 AM](#)

CHAIR SEATON opened public testimony.

[9:08:50 AM](#)

BOBBIE MINIO, Crewman, F/V Provider, introduced herself as a generational fisherman, and stated support for HB 16.

CHAIR SEATON asked how long the scallop season runs.

MS. MINIO responded that it can depend on the weather, usually about eight months. To a follow up she said it begins in the summer and runs through winter.

[9:10:38 AM](#)

JOHN LAMAR, Captain, F/V Ocean Hunter, as a co-owner of the vessel he does not feel that it would be fair to his partners, if he were the sole permit holder. On his own he would not be able to afford the boat and equipment, although he is the primary operator.

CHAIR SEATON asked what is the size of the F/V Ocean Hunter.

MR. LAMAR responded that it is 100 foot, with a crew of 6-12, operating a 15 foot dredge.

CHAIR SEATON requested that he describe the dredge equipment for the benefit of the committee.

MR. LAMAR explained that, sometimes called a drag or a rake, it is an "A" shaped main frame, with an attached bag made of four inch steel rings crimped together. To further committee

inquiry, he said that the by-catch escapes through the top stretch mesh and the rings.

[9:13:44 AM](#)

REPRESENTATIVE LEDOUX asked how it would work for him if he did not own part of the vessel but acted as a hired captain in the partnership.

MR. LAMAR said he wouldn't have entered the partnership given that scenario.

[9:15:33 AM](#)

MARK KANDIANIS, Captain, F/V Last Resort, reported that he has skippered scallop boats since 1980. He described the evolution of the Alaskan scallop fishery over the years. Some years he was the only boat fishing scallops, other years boats came from the east coast and over capitalized on the fishery. Working with various agencies including the North Pacific Fishery Management Council (NPFMC), Alaska Department of Fish & Game (ADF&G), Board of Fish (BOF), and CFEC a management plan was established for the fishery. He described the trying times that occurred as the fishery stabilized. Further, he described the fishery as a success story that could be held up as a model; a culmination of 27 years of work. He expressed concerned that failure of HB 16 could see the coop go by the way side.

CHAIR SEATON asked him to explain the coop.

MR. KANDIANIS said that the coop was created for biological and economic reasons. The F/V Provider gave up half of their catch history to encourage the captains of the other boats to join the coop. During the season, the boats are competitive, however, they work together to avoid by-catch and provide other fishery support and camaraderie.

[9:22:10 AM](#)

CHAIR SEATON questioned what giving up half of their catch history was based on.

MR. KANDIANIS stated that this was based on the average of their historic catch of 300,000 pounds. As Captain of the Provider he agreed to harvest 150,000 pounds to allow other vessels to harvest. The harvest was mutually agreed on.

CHAIR SEATON asked about the level of boat participation in the coop.

MR. KANDIANIS responded that in the original coop there were four or five vessels involved.

CHAIR SEATON said he is interested in whether all of the members of the coop participate, or do some of them have their share harvested for them.

MR. KANDIANIS answered that a few may, but not many.

[9:25:20 AM](#)

CHAIR SEATON asked what is the size of the F/V Provider.

MR. KANDIANIS reported that it is registered at 117 foot, with an overall length of 123 foot; fishing two 15 foot, New Bedford style dredges.

[9:25:59 AM](#)

CHAIR SEATON clarified that there are two scallop programs: a limited entry fishery governed by NPFMC, for the federal waters; and the limited entry in the state waters. HB 16 only effects the state waters.

MR. KANDIANIS said that the scallop beds are considered a near shore fishery, but they do crossover into federal waters. For management purposes it may be difficult to monitor the crossover areas without transponder equipment or onboard observers. The cost of observers can be prohibitive. Additionally, he reported on how boats not in the coop have been given opportunities to fish.

[9:27:44 AM](#)

CHAIR SEATON queried whether they are required to have a VMS (vessel monitoring system) on board.

MR. KANDIANIS said no but that they would be willing to carry one.

[9:28:00 AM](#)

JERRY MCCUNE, United Fishermen of Alaska, stated a neutral stance for this bill, and reported that there have been no

complaints received on this policy. Many members were nervous when it was implemented, he said, but this small fishery has been "OK." It would be objectionable to have it extended beyond this scope.

[9:29:49 AM](#)

TERESSA KANDIANIS, President, North Pacific Scallop Coop; Partner/Manager, F/V Provider, urged passage of HB 16, and referred to her written statement in the committee packet providing crew member and harvest statistics. Further, she referenced a graph indicating the by-catch rate both pre and post coop. Since the inception of the coop, the by-catch rate has gone down significantly. Another major change has been the increase in the number of days fished; from 500 to 1,200. This longer season, with a limited number of boats, creates a smaller ocean bottom foot print. She pointed out that the bottom is fished heavily, but the impacts are closely monitored, along with the by-catch. There are three ways to alleviate pressure on the scallop fishery: closed areas, gear modification, and effort reduction. She explained the coop's efforts, in each of these areas, in detail and said that the national and state scientists tout this coop as a model scallop fishery. Steps taken by the coop have provided a healthy, high quality, safe fishery. The reputation of this fishery is to produce premiere scallops. There is no control over the non-coop boats, however. The smallest license is for a 70 foot boat. The smaller vessels cannot pull against the tides or fish in foul weather. The longer season has helped these boats to be more selective, take better care of the environment, and produce a higher end product.

[9:39:27 AM](#)

REPRESENTATIVE JOHANSEN asked her to speak to the open season changes and the effects on the ports of call that the boats frequent.

MS. KANDIANIS reported that the season cost to operate one vessel is approximately \$500,000. Crew members will each earn close to that in wages, shares, and benefits. Calling into a port, the crew typically check into hotels and enjoy their time; spending as much as \$3,000 per day.

[9:42:16 AM](#)

JIM STONE, F/V Ocean Hunter, paraphrased from a prepared statement, which read as follows [original punctuation provided]:

You will hear plenty of testimony from both fisheries management and industry, about the license limitation program as it relates to conservation and sustainability to both scallops and by-catch. This will all show that we have become good stewards to our fishery and the ones we by-catch.

What I am beginning to understand is that this is more an issue of philosophy whether licenses should be given to boats or people. Compare apples to apples. When I think of state licenses issued to natural persons, I think of salmon and herring. Vessel owned licenses, I think of larger offshore operators. Smaller salmon and herring vessels are typically a much smaller investment than larger off-shore rigs. Our boat was bought by five professional lifetime Alaska fishermen. Yet only one of us buys the \$2,000 annual state permit card.

Salmon and herring typically have two week to two month seasons; the scallop season lasts seven months.

Salmon and herring do not have observers; scallops have mandatory observers costing \$350.00 per day.

Salmon and herring crews are one-four; a scalloper twelve.

Salmon and herring deliver their catch to a processor; a scalloper processes onboard.

Salmon and herring have no DEC or health department issues; a scalloper has rigorous regulations and regular inspections.

Salmon and herring have minimal Coast Guard regulations; a scalloper has strict regulations and inspections.

Salmon and herring insurance costs are relatively small; a scalloper has large insurance costs.

Salmon and herring have easy maintenance with little equipment to service; a scalloper requires long hours of maintenance and has much more equipment to service.

Salmon and herring need few on-shore logistics; a scalloper has involved logistics such as lining up freighters, cover charges, regulatory inspections and reporting, and marketing analysis.

Salmon and herring harvest 100% of their catch in state waters; a scalloper harvested only 20-25% in state waters.

Please analyze the differences. Perhaps form an advisory panel that includes current active industry participants.

[9:47:26 AM](#)

TOM MINIO, Skipper, F/V Provider, introduced himself as a permit holder and scalloper since 1980. He reported on the changes that he has observed in his 27 years of fishing. The by-catch levels are significantly lower. He said, "We'd like to see it continue this way for a while longer."

[9:48:58 AM](#)

REPRESENTATIVE LEDOUX asked what the scallop permits are worth.

MR. MINIO reported that they can be as much as \$200,000.

REPRESENTATIVE LEDOUX observed that he was not an owner of the vessel when this legislation was implemented. The owners of the vessel were given the permit and he had to buy into it.

MR. MINIO said that is correct, however, prior to that, the owners were paying 250,000 per year to operate the boat.

[9:50:29 AM](#)

THOMAS N. MINIO, Mate, F/V Provider, introduced himself as a third generation scalloper, who has witnessed many ups and downs in the fishery. In the last five years the fishery has stabilized, he reported.

[9:52:12 AM](#)

CHAIR SEATON clarified that he had lived in Kodiak and now lives in Washington State.

MR. MINIO explained that the boat is maintained in the Seattle boat yards, which is why he moved south.

[9:53:18 AM](#)

REPRESENTATIVE WILSON asked how many members of the crew are Alaskan residents.

MR. MINIO answered four or five. If this bill does not pass, there will likely be a flurry of hiring from the east coast, as there are not that many Alaskan's that know how to do the work of a "fast cutter".

[9:54:21 AM](#)

ROBERT WILLIAMS, Deputy Director, Coastal Villages Region Fund, stated support for HB 16. He said that he represents a western Alaska CDQ [community development quota] group that owns two of the hair crab permits. The group is working to build a similar fishing tradition, when the hair crab fishery reopens.

[9:55:28 AM](#)

REPRESENTATIVE WILSON asked how many boats are in the hair crab fishery.

MR. WILLIAMS testified that there may be 16-18 permits. To a follow up question he answered that he does not know how many of the permit holders reside in Alaska.

[9:56:07 AM](#)

JULIE KAVANAUGH, F/V Sylvia Star, stated concern for HB 16, and said that, due to the Grunert Supreme Court decision, this bill is constitutionally questionable. Using this as a model for other fisheries, she noted that it has improved conservation, but cautioned that similar legislation should not be used as a marker for new management tools or regimes. This legislation has led to extreme consolidation, and this type of system allows for no entry level.

[9:58:12 AM](#)

ALEXUS KWACHKA stated opposition to HB 16, and stated concern for this style of management; it sets a bad precedent. Further, he said that he questions how many out of state vessels are receiving benefits from this fishery. He stated a firm belief that east coast corporations may be benefiting from this fishery and style of management. This "is an onion" and one layer may not be too bad, but putting the layers together, creates a problem, he finished.

[10:00:31 AM](#)

CHAIR SEATON announced that HB 16 would be held for further consideration.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:00 a.m.