

LIMITED
ENTRY
PUBLIC
PROPOSALS

M E M O R A N D U M

S. B. 39 H. B. 126

Proposed Amendments

Frank Flavin - Attorney for the Village of South Naknek

Attached find proposed amendments to the Governor's limitation of entry into the fisheries plan. These proposed amendments reflect the desire by many fishermen for more specificity in the commission's powers and duties as well as well as more fishermen input.

The amendments further seek to remove potential economic coercion over indebted fishermen who hold permits by tightening transfer provisions in the bill. Without some amendment the current bill would lead to an eventual migration of permits from indebted fishermen to those fishermen with great personal wealth or strong corporate backing.

Finally, the amendments proposed seek to establish the basis for an "apprenticeship pool" which could provide a crew member or "second son" a chance to eventually gain a permit. This amendment (sec. 260) avoids prior legal problems with this type of plan by putting it in State control and adding training aspects. The addition of this plan could conceivably constitutionally strengthen the original bill by extending the basis for the original granting of permits into the future. Abandoning such criteria and allowing free transfer makes the initial utilization of participation and dependency criteria suspect.

A more detailed memorandum will be forthcoming.

7

Sec. 16.43.050 QUALIFICATIONS Commission members shall have been commercial fishermen in Alaska.

Sec. 16.43.200 ENTRY PERMIT QUALIFICATIONS

(a) Following the establishment of the maximum number units of gear pursuant to sec. 160 of this chapter, the commission shall adopt regulations for entry permits for each administrative area and for each type of gear. The regulations shall define six priority classifications, with reasonable subclassifications, of similarly situated potential applicants based upon a reasonable balance of the two following standards of preference:

- (1) Degree of economic dependence upon the fishery including, but not limited to, considerations of: percentage of income derived from the fishery, alternative occupations held and additional sources of income available, character of alternative occupations, and investment in vessels, gear, equipment and property.
- (2) Extent of past participation in the fishery to determine the length, degree, and character of participation in the fishery including subsistence activities.

(b) The commission shall classify applicants on a gear to gear basis within the administrative area and rank each applicant within one of the following six priority classifications based upon the character of the applicant's involvement in the fishery:

- (1) Career Fishermen-The fishery constitutes the primary subsistence and/or income source, excluding public assistance income.
- (2) Career Fishermen-The fishery constitutes a necessary and substantial subsistence and/or income source.
- (3) Alternative Occupation-The fishery provides a substantial income supplement.
- (4) Alternative Occupation-The fishery provides a minor or incidental income.
- (5) Hobby or Sport-Commercial-The fishery provides an incidental income
- (6) Merch License Holder-Essentially no participation in the fishery.

Sec. 16.43.220 ISSUANCE OF ENTRY PERMITS

...
...
...

(b) The commission shall issue entry permits, for an administrative area and a type of gear, first to all qualified applicants in the highest priority classification, and then to all qualified applicants in each descending priority classification, until the number of entry permits issued equals the maximum number of units of gear established pursuant to secs. 160-170 of this chapter for the administrative area and the type of gear. Except that no applicant falling within the first two priority classifications set out in sec. 200 (b) shall be denied a permit and no applicant falling within the third priority classification shall be denied a permit unless there is a prior determination by the commission, the Commissioner of Fish and Game, and the Board of Fish and Game that biological and economic factors justify denial of permits in these classifications. No permit shall be issued an applicant unless he has the present ability and intent to participate actively in the fishery.

Sec. 16.43.230. TERMS AND CONDITIONS OF ENTRY PERMIT

...
...
...

(c) Each entry permit is issued for an initial term of one year, and confers upon the permitted a permanent right of renewal. Failure to renew an entry permit annually does not result in the loss of the right to renew the permit upon payment of all accrued annual fees, except that failure to renew an entry permit for a period two years from the date of last renewal shall result in a forfeiture of the entry permit except as waived by the commission on an area basis, or in the case of an individual for good cause shown.

(d) The commission shall establish terms and conditions upon which entry permits may survive the death of the permittee.

(d) An entry permit may not be pledged or hypothecated and is not subject to attachment, distraint, or sale on execution of judgment.

Sec. 16.43.250-260 ALTERNATIVE I.

Sec. 16.43.250 TRANSFER OF ENTRY PERMITS.

(a) Entry permits are nontransferable except that the holder of an entry permit may apply to the commission to transfer his permit to a spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and reissue the entry permit to the transferee.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall take into account the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260. NEW ENTRY. Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, the commission shall adopt regulations consistent with the purposes of this chapter, providing for the issuance of such permits.

Sec. 16.43.250-260. ALTERNATIVE II

Sec. 16.43.250. TRANSFER OF ENTRY PERMITS.

(a) Entry permits are nontransferable except that :

- (1) The holder of an entry permit may apply to the commission to transfer his permit to his spouse or children if the proposed transferee falls within the highest priority classification pursuant to sec. 200 (a) of this chapter and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee. The holder of an entry permit may apply to the commission for the sale of his permit which may include any reasonably associated vessel, gear, equipment, and property or lease right pursuant to sec.260 of this chapter.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260. NEW ENTRY.

(a) Following the issuance of entry permits pursuant to sec.220 the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- (3) Present ability and intent to participate actively in the fishery.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

Sec. 16.43.250-260 ALTERNATIVE III

Sec. 16.43.250. TRANSFER OF ENTRY PERMITS.

(a) Entry permits are non-transferable except that

- (1) The holder of an entry permit may apply to the commission to transfer his permit to spouse or child if the proposed transferee can establish present ability and intent to participate actively in the fishery, and the proposed transfer is otherwise consistent with the purposes of this chapter, the commission shall approve the transfer application and re-issue the entry permit to the transferee.
- (2) The holder of an entry permit may apply to the commission for the sale of his permit which may include any reasonably associated vessel, skiff, gear, equipment, and property or lease rights pursuant to sec. 260 of this chapter.

(b) When otherwise consistent with the purposes of this chapter, the commission may adopt regulations providing for the transfer and reissuance of entry permits within a given administrative area from one type of gear to another type of gear. The regulations shall reflect the relative differences in average efficiency of different types of gear and shall establish transfer ratios between types of gear which will maintain a stable level of fishing within that administrative area.

Sec. 16.43.260 APPLICANT POOL.

(a) Following the issuance of entry permits pursuant to sec. 220 of this chapter the commission shall adopt regulations setting forth the qualifications for applicants for permit transfers or any new entry. The regulations shall define reasonable priority classifications of similarly situated potential applicants based upon a reasonable balance of all the following standards of preference:

- (1) Extent of past and present participation in the fishery.
- (2) Training pertaining to commercial fishing.
- (3) Present ability and intent to participate actively in the fishery.

(b) Whenever additional entry permits become available for issuance, either due to an increase in the maximum number of units of gear pursuant to sec. 170 of this chapter or the forfeiture of existing entry permits pursuant to sec. 230 (c) of this chapter, these permits may be allocated within the highest priority classification by lottery.

(c) Whenever an additional entry permit becomes available through an application for transfer and sale pursuant to sec. 250 (a) (2) the commission shall sell, pursuant to regulations adopted by the commission, the permit and any reasonably associated vessel, skiff, gear, equipment

and lease or property right to the highest bidder upon sealed bid among the highest priority classification of applicants. Except that no such sale shall be consummated unless the highest bid price exceeds the fair market value of the property offered for sale.

(d) The commission shall prescribe an appropriate fee for sales pursuant to (c) of this section. This fee shall be subtracted from sale proceeds which shall then be dispensed to the transferor.

Bud Morris

River Proposal 1973

6-7321

8-9688

RECOMMENDATIONS OF THE COMMITTEE FOR AN EQUITABLE LIMITED ENTRY PROGRAM

We are not satisfied that Senate Bill 39 meets the needs of the people of Alaska.

It creates a new commission with new regulations based on nebulous definitions and vague terms.

It will work to the detriment of resident Alaskans by taking them out of the fishery
and yet allow non-residents to fish. ^{EQUITABLE} It does not provide for reimbursements to

fishermens' gear and boats if he cannot qualify. ^{SB 39 will} It gives the commission power to

regulate entry based on their own conclusions or definition, with little recourse to rectify injustices. It does not let us know in advance where we stand in the fishery.

It would be almost impossible to reword Senate Bill 39 and still come up with the answers that we believe are necessary. It is our belief that the Limited Entry concept, approved last year, meant to most people "No more gear", not "Knock residents out of the fishery and keep them out".

We hereby affirm our belief in the Limited Entry concept and wish to submit for your consideration the following ideas based upon what we feel would result in a more just and equitable Bill to all concerned.

As we understand it, the State is faced with legal problems in instituting a Limited Entry proposal unless it contains provisions that do not:

1. Discriminate between residents and non-residents.
2. Discriminate between various types and classes of people.
3. Provide for a "Closed To Entry" class of fishermen.

On Page 15 of the cover letter, the Governor states "Any license freeze will PROBABLY be struck down in the courts because the effect is to create a completely closed class of fishermen for a substantial period of time" and with that statement, throw out the freeze proposal.

On Page 14 he states, "The court will also look unfavorably upon any regulatory system which creates a completely closed class of fishermen. Some new entry must be permitted. Therefore I am proposing the administratively controlled transfer or sale of entry rights, which will permit new entry while allowing fishing effort to be held at

constant levels". Unquote.

It would therefore appear that a license freeze proposal which incorporates a means of new entry, should be equally acceptable. We therefore wish to reinstate this concept and suggest the following ideas.

ENTRY PERMIT QUALIFICATIONS

1. An entry permit will be issued upon application only to those who:
 - a. Has grossed at least \$100.00 per year in the commercial fishery in 1970, 1971 and 1972 fishing seasons. (This will eliminate paper licenses)
 - b. Are ready and able to continue fishing.
 - c. Or can prove he has an investment in commercial fishing gear prior to December 31, 1972 exceeding \$500.00.

2. Permits for more than one type of gear shall be issued upon application providing the fisherman can qualify for each type of gear in paragraph 1 above.

3. We suggest that this Act be administered by an existing State Agency even if it means creating a new Department within such Agency.

4. Permit quotas shall be established by providing the maximum number of permits until it can be shown that either of the following limits is about to be exceeded:
 - a. The fishery can no longer be managed on a sustained yield basis.
 - b. The average seasonal gross income from the top 50% of the permit holders falls below that of a base level. This base level for each area and each type of gear shall be between 5% and 25% above the three year average seasonal gross income of the top 50% of the fishermen in each area for each type of gear for the 1970, 1971 and 1972 fishing seasons, depending upon the depressed condition of the fishery.
 - c. The permit quotas for each area shall in no case fall below 66% of the three year average number of gear licenses issued from 1970 through 1972 in each area without the express permission of the Alaska State Legislature.

5. Each Entry Permit is issued for an initial term of one year, and confers upon the Permittee a permanent right of renewal.

6. Permits must be renewed annually.

CLOSED CLASS

7. Permits are not transferable and must be fished by the holder, except a permit is not required of a crewman or other person assisting in the operation of a unit of gear engaged in commercial fishing.

8. The Permittee must have the Entry Permit in his possession at all times when commercial fishing.

9. The Department is charged with record keeping of issued and returned Permits. All Permits revert back to the State in the following events, (except that immediate dependent family (Husband/wife - Son - Daughter - Stepson - Stepdaughter) has the option to retain if it can be shown they are ready, willing and able to continue in the fishery):

- a. The Permittee dies.
- b. After 2 consecutive years of non-use, unless it can be shown it was caused by circumstances beyond his control.
- c. If the holder is convicted three times of illegally fishing. (In this event, immediate family clause does not qualify).

large burden on Dept.

10. By May 1 of each year the Alaska Department of Fish and Game shall publish a statistical report on the salmon fishery of the preceding season including the range of income and the average gross income of the top 50% of permit holders for each type of gear in each area. The report shall also include data concerning escapement, the health of the run, the relative effects of one type of gear on another and other data pertinent to the control of the fishery.

11. Fishermen and persons outside the fishery may present their views to the Alaska Board of Fish and Game in the interest of the best use of the resource.

NEW ENTRY

1. Permits returned to the Department by normal attrition and other, shall be released on a 50% basis of permits turned in, - on the type fishery basis, until such time as the unit quota for that type fishery is reached. At that time, all permits will be issued up to said quota for said fishery. The Permit (s) will be issued annually.

2. Permits to be re-issued will be awarded to the applicants with the highest sealed bid.

3. If it is desirable to accelerate the attrition rate, we suggest one or both of the following:

- a. The State can offer to purchase the Permittees' fishery investment. In this case the Permit will revert to the State and will not have to be re-issued.
- b. The Department of Fish and Game may impose further reductions to the amount of gear the fisherman may fish and the length of the opening.

You will note we do not mention the sale of these Permits. It is our feeling this type of action will lead to speculative efforts, circumvention of concept etc. and is not necessary under this bill.

There are many miscellaneous items not listed here, such as fees, legal references etc. These are easily filled in once the basic concept is approved. This simple, easily administered Limited Entry Program could be placed into effect in 1974.

COMMITTEE NOTES ON SB 39

1. SB 39 is decidedly prejudiced in favor of the people it chooses to include in the commercial fishery. The Bill awards the favored fisherman with a greater potential share of the catch and a permit which in many cases will have a value far exceeding the fisherman's present investment in the fishery. For instance, under SB 39 any fisherman with a modestly equipped older vessel worth about \$5,000.00 who depends solely on the fishery for his \$6,000.00 of income would certainly receive a permit. Another fisherman with a newer and better equipped vessel worth about \$20,000.00 and catches \$12,000.00 worth of fish and also works at another job for six months a year may be refused a permit. This fisherman would certainly be willing to pay \$5,000.00 to \$10,000.00 for a permit to get back into a more promising fishery and probably would have to wait several years for the chance. Why should he be so rewarded for his hard work? Which man would contribute more toward an efficient, professional fishery?

2. By placing a high value on a permit SB 39 allows financially powerful special interest groups, such as fish processors, to greatly influence the price of fish and where they are sold by assisting the fisherman to pay the high cost of a permit as well as the high cost of a vessel and gear. This control by the processors has already occurred to a large degree in Canada for the same obvious reason. [?] By placing no resale value on the permit the fisherman would become more independent of the fish processor. *closed class*

3. SB 39 has no provision to reimburse the fisherman who will be denied a permit. The State would require the fisherman who is refused a permit to pay the entire price of the Limited Entry Program for the sole benefit of the other fisherman who remains in the fishery.

4. Many of the most knowledgeable, most industrious fishermen have another occupation and are not content to remain idle six to eight months a year. These men own expensive and efficient vessels and account for a large percentage of the catch. It would be an unjust bill which would deny these men their share of the fishery. The number one criteria of SB 39 is the degree of economic dependence on the fishery.

5. It is believed by many that it is unlawful to inflict economic hardship on one-third to one-half of the fishing fleet for the great benefit of the remainder.

6. The value of a fisherman's vessel will be greatly reduced if he is forced out of the fishery in addition to the loss of approximately half his income. These men will sue the State of Alaska for their losses and if successful the State will be required to pay several hundred million dollars including loss of several years income and vessel and gear resale value.

7. How can the State of Alaska force fishermen to experience great financial loss without offering to lessen their burden? Is it not the State which has allowed the fleet to increase to its present size?

8. Are people who live in a proposed Urban Renewal Area or on a proposed highway right of way required to leave their homes without compensation?

9. Farmers are paid not to grow crops. Are fishermen to be deprived of the right to fish, forfeit a lifetime of hard earned experience and expertise, and have their considerable investment diminished by a government regulation?

10. SB 39 has two other glaring defects:

- a. It greatly magnifies the problem of too much gear in the water by establishing difficult-to-define criteria for the elimination of the gear.
- b. It creates an expensive \$400,000.00 a year commission. Each commissioner is paid more than the average seine boat grossed in Southeast Alaska in 1971. (\$29,000.00 compared to \$23,564.00)

11. A limited entry program can be achieved without a lot of expense and hardship to the fishermen as outlined in the attached committee report.

12. Fishermen's money can be more profitably directed toward an effective salmon propagation program. Many breakthroughs have occurred recently in this field and only need monies and political pressure to become effective in increasing our salmon runs.

3/23/68

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 344

This bill simply establishes a penalty for persons selling intoxicating liquor in an area where a local option election has made this illegal.

Tom Pink, Chairman

3/19/12

JUDICIARY COMMITTEE REPORT

ON

CS For Senate Bill No.339 am

This bill as amended will allow municipalities to issue revenue bonds providing for the payment of principal and interest from any unpledged revenues of a combined system of public works.

The present law provides that revenue bonds may provide for the repayment only from unpledged revenues of a specific public works.

There is a current problem in the Noma area wherein revenue bonds can be issued if the municipality can pledge the revenues of an entire public works system.

Tom Pink, Chairman

3/26/68

JUDICIARY COMMITTEE REPORT

ON

SENATE BILL NO. 395

This bill amends the Administrative Procedure Act by providing that meetings of a hospital medical staff, or governing body or committee of a hospital, when acting upon matters of professional qualifications, privileges or discipline need not be open to the public. Juries, parole boards, etc., are similarly exempted from the open-meeting requirement.

Tom Fink
Chairman

A M E N D M E N T

Offered in the HOUSE

By the Judiciary Committee

TO: CS FOR HOUSE BILL NO. 92

Page 7, Between lines 3 and 4 insert:

" " Sec. 2. AS 39.25.120 is amended by adding a new paragraph to read:

(7) attorney members of the staff of the public defender agency."

Page 7, line 4: Change "2" to read "3"

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: House Bill No. 212

Page 1, line 15 after the period, add "However, this chapter does not apply to a labor-management contract unless it is incorporated into the contract by reference."

As a result of the amendments made in the House to CSHB 486, the following amendment to the rehabilitation section should be made:

AMENDMENT

IN THE SENATE

TO: CSHB 486 am

Page 8, Line 24:

Change the period to a comma and add: "if it is his first or second conviction. If it is his third or subsequent conviction he may be committed to the custody of the department for rehabilitative treatment for not more than five years."

Page 12, Line 6:

After "department" insert "of health and welfare". Change the period to a comma and add: "if it is his first or second conviction. If it is his third or subsequent conviction he may be committed to the custody of the department for rehabilitative treatment for not more than five years."

These changes were undoubtedly just overlooked when the other amendments were made.

AMENDMENT

IN THE HOUSE

BY THE JUDICIARY COM.

TO: SENATE BILL NO. 347 am

Page 1, Line 10:

After "person" insert "who". After "organization" insert "which".

Page 1, Line 11:

Change "operating" to "operates" and "furnishing" to "furnishes".

Page 1, Line 12:

After "contract" insert "and which does not have a chartered local in this state".

Page 1, Line 18:

Delete sec. 2.

Page 2, Line 1:

Delete the "(a)".

Page 2, Line 2:

Delete ", agent or employee". After "national" delete the comma and insert "or".

Page 2, Line 3:

Delete "or local".

Page 2, Lines 4 - 5:

Delete "to wilfully refuse to aid in, or".

Page 2, Line 6:

Delete "or other unlawful act".

Page 2, Line 9:

Delete subsection (b).

Page 2, Between lines 14 and 15:

Insert: ~~XXXXXX~~ "Sec. 23.40.055. CIVIL ENFORCEMENT. In addition to the criminal penalties provided in sec. 60 of this chapter, the attorney general may enforce the provisions of this chapter by appropriate civil proceedings, including ~~injunctions~~ injunctive relief, against threatened, repeated or continuous violations of this chapter or regulations promulgated under it. These proceedings may be brought against an officer, agent or employee of an international, national or local labor organization.

"Sec. 23.40.057. EXEMPTIONS. (a) The commissioner may grant an exemption from the provisions of this chapter to a labor organization which

who reside in Alaska
"(1) has so few ~~resident~~ members/that chartering and
operating a local would work a financial hardship on these members;
~~however, this exemption may not be granted to a labor organization~~
~~which has 500 or more Alaska residents as members;~~

"(2) maintains local-hire preference provisions in all of
its labor-management agreements in the state; and

"(3) maintains provisions in its constitution and bylaws
for the election, by and from among the members of the organization
who reside in Alaska, of a business agent or other person in charge
of hiring-hall, dispatch or grievance procedures.

"(b) Exemptions granted under this section shall be applied
for and granted on an annual basis in accordance with regulations
promulgated by the department. No exemption may be granted under
this section to a labor organization which has 500 or more Alaska
residents as members."

Page 2, Lines 16 - 17:

Delete "or local".

Page 2, Line 19:

Delete "for each offense".

Page 2, Line 20:

Delete "agent or employee".

Page 2, Line 21:

Delete "or local".

XXXXXXXXXXXXXXXX

XX

13. The following Permit Fee Schedule is proposed:

| | <u>RESIDENT</u> | <u>NON-RESIDENT</u> |
|------------------|-----------------|---------------------|
| SEINE | \$150.00 | \$300.00 |
| GILLNET | 75.00 | 150.00 |
| TROLL | 75.00 | 150.00 |
| SPORT-COMMERCIAL | 25.00 | 50.00 |

14. Advantages of a Gradual Attrition Program:

- a. The people who leave the fishery do so voluntarily without suing the State or having financial hardship forced upon them by the State.
- b. The fishermen have an opportunity to sell their investment in an active market which is not depressed by a large quantity of excess vessels and equipment.
- c. The support of more fishermen is available to increase the salmon runs through an aggressive salmon propagation program.

15. Reasons why Natural Attrition will occur up to (26% per year) (13% after 1/2 permits re-issued).

- a. Age. Most fishermen probably are within ages 30 to 60 years with an expectancy of a maximum of 30 years as a permit holder. Each year 3% of the fishermen will leave the fishery for reasons of age.
- b. Accidents and poor health.
- c. Fishing is a "way of life" as much as a lucrative profession. Some people will become disillusioned by the severity of the life.
- d. Some fishermen have short range goals in mind, such as a college education or a quick stake to invest in another livelihood.
- e. Many residents of Alaska are transients. Some of these will initially qualify for permits but will move away because they or their families would rather live elsewhere.
- f. Other part-timers will advance in their primary profession and will not be able to spare the time for fishing.
- g. Some will give up fishing because they will not improve fast enough to justify their continued efforts.
- h. Because the salmon fishery has poor years as well as banner years, some

fishermen will give up and sell out after a poor year.

- i. Some will meet hardship such as vessels being lost by storms, groundings or overloadings and will be unable to recover.
- j. Other reasons not listed.

16. Page 5 of the Governor's letter of January 10, 1973 shows a table of optimum units of gear or permit quotas and total of approximately 9000 (8917) gear units issued in 1971. A 12% per year gradual attrition rate could reduce the fishery to 66% of its present level in four years. It would reduce the critical areas by 50% in six years. By this time the runs should have recovered sufficiently by natural escapement and fishermen funded salmon propagation programs to support gear permits equal to at least 75% of the 1971 level.

17. Induced attrition may be accomplished as follows:

- a. The State may make some fishermen "an offer which they cannot refuse". \$\$\$ This buy back program will be financed with revenue from permit fees and the sale by sealed bid of entry permits. The permit fee shall be increased by 100% if necessary. It is estimated that \$2,400,000.00 would be generated annually for this program and would retire about 3% of the Net Gear @ \$10,000.00 each per year or 6% @ \$5,000.00 per year.
- b. The amount of gear which each permit holder is allowed to fish may be reduced in critical areas to maintain a sustained yield.
- c. The amount of time fishermen may fish a type of gear may be reduced in critical areas to maintain a sustained yield.

*place burden
on comm. fishermen*

18. An aggressive salmon propagation program financed by a bond issue and retired by

a raw fish tax shall be started simultaneously with the Limited Entry Program. An annual report shall be issued by the Department of Fish and Game including the amount of funds collected, funds expended the previous season, planned expenditures for the next year, results of the program to date and future objectives. The annual revenue for this program is estimated at approximately \$500,000.00. This salmon propagation program is considered to be essential to the legality and constitutionality of the Limited Entry Program because it proves good faith on the part of the State and the fishermen who are protected by the program to work toward improving the fishery. A larger catch would directly lead to an increase in the permit quota and thereby opening

the fishery by requiring the issuance of more permits. A larger catch and the issuance of more permits would also generate an increase in revenue to invest in salmon propagation to further develop the fishery.

19. A positive approach toward improving the fishery would be supported by both sport and commercial fishermen as well as the rest of the State because it would generate more tax revenue and business for fishery related industries such as suppliers, vessel repair facilities and tourism. A positive provision for salmon propagation would greatly improve the attractiveness of a Limited Entry Program to all concerned.

February 21 1973
Statement by J. S. Gaud

POSITION OF THE ASSOCIATION OF PACIFIC FISHERIES ON S.B. NO. 39

The Association of Pacific Fisheries membership consists of salmon processors who purchase and process some 90% of the salmon harvested in Alaskan waters. These companies have a tremendous investment in processing plants, repair facilities, tenders, vessels, supplies, and accounts receivable which are vital to the catching and processing of salmon in Alaska. To our knowledge no authoritative estimate of the investment of Association members in Alaska has been compiled but it is safe to say it runs to hundred of millions of dollars. We are currently in the process of compiling authoritative data on this matter.

Therefore, the Association is vitally concerned with any legislation which would substantially affect the basic, established economics of the salmon fishing and processing industries in Alaska and the investments of our members.

We will not argue the point that in certain fishing areas with some types of gear there are at times more units of gear registered and fishing than are necessary to harvest the run with optimum economic or managerial efficiency. This situation, however, varies markedly from year to year and area to area, and to merely define the extent of the problem becomes tremendously complex as evidenced by the magnitude of the report of the Governor's Study Group on Limited Entry, which we have not had the opportunity to analyze in detail (since it has not been made available to us), but which describes itself as "just a beginning of the analysis that will be required to put a limited entry program to work".

As evidenced by past attempts at legislation and regulation to deal with the problem of limiting entry and reducing the number of participants

in the salmon fisheries, any single piece of legislation raises a large number of questions and problems which are very complex and which are not clearly dealt with in the legislation. Senate Bill No. 39 is no exception in this regard. While the bill raises many complex issues which we have been unable at this point to fully evaluate, we would like to comment on some of the general areas of the bill which appear to be problem areas:

1. The bill makes no provision for compensation of fishermen, vessels and gear which are initially eliminated from the fisheries by the Commission's action and makes no provision for compensation for vessels and other investments which may be eliminated by later actions of the Commission. To put the matter into perspective the following purely hypothetical example might be used:

a. If the level of gear in Alaska were reduced from the 1971 levels registered, to the optimum units required, as set forth in Governor Egan's letter of transmittal for S.B. No. 39, there would be 519 purse seine, 2327 drift gillnets and 1306 set gillnet units eliminated from the fisheries.

b. If the average value of these vessels and gear were: \$40,000 for purse seines; \$15,000 for drift nets; and \$3,000 for set nets, the value eliminated would be \$20,460,000 of purse seine vessels and gear; \$34,905,000 of drift net gear and vessels; and \$3,918,000 of set net gear, for a total elimination of \$59,583,000 from the salmon fisheries of Alaska and rendered virtually worthless by the initial action of the Commission.

c. The above example does not include the value of troll, beach seine, etc., gear which could be eliminated. We do not pretend

to say that this would be the result of enactment of S.B. No. 39 or that the values assigned are accurate, but we do say that it presents a multi-million dollar problem which is not given consideration for reasonable compensation for the investments of those eliminated from the fisheries by the actions of the Commission

2. Salmon processors own a significant number of fishing vessels, but more importantly because of the nature of the industry they provide financing to independent fishermen for boats, gear, operating capital, supplies, etc., to enable fishermen to participate in the fisheries when they cannot find other means of financing. Such financial arrangements to fishermen are not limited to processors but involve banks, suppliers of all types from marine supply houses to the local grocery store, insurance brokers, repair yards and the whole range of commercial activity.

The point is that regardless of who has a financial stake in an Alaskan commercial fisherman, his investment is placed in jeopardy by the passage of S.B. No. 39 in its present form unless the person in whom he has an investment is the recipient of an entry permit by action of the Commission. It makes little difference if the investment is secured by a mortgage on a vessel and/or gear, the collateral would be rendered worthless unless the fisherman were given an entry permit. S.B. No. 39 fails to take into account the protection of the interests of legitimate and necessary investors in fishermen and their operations, and we advise that this is another multi-million dollar problem.

3. The fisheries industries of Alaska cannot exist and generate substantial revenues for Alaskans and the State of Alaska without the principal processing facilities being located in Alaska, employing Alaskans and making a basic contribution to the economy of Alaska. The members of the Association of Pacific Fisheries and other processors fill this function by maintaining processing capacity in Alaska sufficient, and often in excess, of that required to process the salmon harvest. As mentioned earlier, these processors have tremendous investments in Alaskan facilities. These investments are difficult to justify except on the basis of maintaining them to be able to process on a profitable basis what can be reasonably expected to be harvested from the fisheries over the time periods of cyclic abundance and shortage from the resources.

The risk involved in maintaining these facilities is seldom appreciated or understood by non-processors. Nor are the economic and political facts of life necessary to maintain this investment often popular in Alaska. However, we submit that few can argue that Alaska is not better off in having a strong processing capacity located in Alaska than to be without this resident processing capacity. Yet the interests of the processing industry are not represented at all in S.B. No. 39. There follow a few of the facts which need be considered in any program to limit entry into Alaska's salmon fisheries:

- a. There exists in Alaska a surplus of processing capacity to handle the "average" salmon run of recent years but capable of handling a maximum reasonable expectation of catch.
- b. This capacity is maintained at a very high risk and cost to the processors but we submit it is in the best interests of Alaska that it be maintained.

c. Each processing operation is based on an availability of fish which will on the average provide it with supplies of raw fish which will allow it to process a level of production which will realize a profit to its owners.

In order to maintain a processing facility each processor must be able to convince himself that he has sufficient supplies of raw fish to justify his operation and which will allow him to recover the costs which he has invested in pre-season commitments which are not recoverable unless he obtains a supply of raw fish which is in proportion to his capacity and in relation to the similar circumstances of his competition.

d. Such a "relative position" between processors has evolved through competition among these processors which is constantly changing. The processor who loses production to his competitor must recover it, reduce his investment, or not survive in the business.

The point of all this is that in order to retain needed processing facilities in Alaska, processors must have some assurance that their operations will not be arbitrarily stripped of raw fish supplies due to the inability of one company's fishermen to obtain entry permits while his competitor maintains or increases his availability of fish supplies.

The factor of "relative position" is not considered in S.B. No. 39 and we contend it is of vital importance to maintaining adequate processing capacity in Alaska's salmon industries and that the economic facts of life of the processing industry must be recognized in any piece of legislation being considered by the Legislature in order for a workable program to be developed.

4. No consideration has yet been given to the effect that the passage of S.B. No. 39 will have on the investment of the processing industry in plants, tenders and a complex of other facilities. We urge that these matters be given consideration before legislation is enacted. We are compiling the basic information necessary to the evaluation of processors' investments and will be pleased to work with the State in analysis of this additional multi-million dollar program.

5. There are a large number of other factors left unanswered by S.B. No. 39 which are beyond the possibility of detailed discussion here but are worthy of mention as problem areas:

a. The economic and social impact of creating an exclusive group of entry permittees with a free market to charge "what the traffic will bear" for permits is not well understood but deserves greater consideration. Numerous examples of problems arising from such systems can be cited and should be examined before such a course of action is adopted by Alaska.

b. The Commission proposed by S.B. No. 39 has such broad discretionary powers that no fisherman, processor, investor, etc., can determine how his fortunes might be affected by the passage of the bill or the actions of the Commission.

c. Creation of a three-man Commission at this point in time, even with a large staff provision, to cope with the tremendous complexities of limited entry and expect them to produce equitable solutions could produce more problems than it will solve.

d. There are other detailed questions raised by S.B. No. 39 which need clarification but which are too numerous to mention here but which will undoubtedly be part of public discussion of the measure.

6. The Association of Pacific Fisheries summarizes its position as follows:

a. We do not believe S.B. No. 39 provides reasonable solutions to many of the problems associated with the formulation of a limited entry program in Alaska's salmon fisheries which will achieve optimum levels of fishing and processing capacity in the best interests of Alaska.

b. The general approach suggested in S.B. No. 39 probably advances toward a system of limiting entry on a more objective basis than has been proposed before in Alaska. Yet we believe that this problem is so complex that it requires additional concerted efforts by all parties concerned in order for a viable, reasonable and equitable program to be developed before legislation is enacted.

c. The Association recognizes that the problem exists and that it needs greater effort to bring to resolution. We have active plans to analyze and document the facts associated with limitation of entry in our segment of the industry in the context of the general framework and concept of S.B. No. 39. We will welcome the opportunity to work with the Legislature, the State Administration, fishermen's groups and any other interested parties in order to gather the basic facts and form the framework for a workable system.

In other words, we recommend that the work of the Governor's Study Group be carried further toward completion before legislation is enacted. We note that the work of this group to date presents a good starting point prepared from State government statistics by State government people. However, we believe that fishermen, processors and other interested parties should have an opportunity to develop and present essential information for incorporation into a framework of law which will provide the greatest opportunity for Alaska's fisheries to provide the greatest benefits to all of the necessary factors which are involved.

A COMPARATIVE EXAMINATION OF LIMITED
ENTRY REGULATIONS IN THE FISHERIES
OF SOUTH AFRICA, JAPAN AND CANADA

Walter B. Parker
3724 Campbell Airstrip Road
Anchorage, Alaska 99504

As Alaska approaches implementation of some form of limited entry program to its fisheries, a brief survey of how limited entry has worked in other fisheries may prove instructive. Unfortunately, the literature on the subject is brief with only the Japanese system receiving any extensive documentation as yet. The South African limited entry system has operated long enough so that definite trends have been established but little has been written about it. The Canadian efforts to regulate salmon on their West Coast and lobster in the east are still too new to define definite trends, but some rudimentary observations have been made.

The net effect of all limited entry programs has been to reduce the number of boats in a fleet while increasing their size and fishing capability. This has made it necessary to regulate hold capacity and equipment efficiency in some cases in order to maintain a previously established level of employment in the fishery.

There has been a drastic increase in the ownership of boats by factories in the South African situation, with factory ownership increasing from 33 percent of the fleet in 1955 to 70 percent in 1960. This trend has been accompanied by a reduction in employment in the limited entry fisheries. (Jertenbach, 1973)

As Japanese fisheries in this century have evolved from coastal to off-shore to deep-sea, the regulatory process and limited entry program have evolved with them. Tonnage supplements have been regarded as insuring competition among entrepreneurs and encouraging technological advancement. This has also led to larger and more expensive vessels and thus made it increasingly more difficult to gain the financial backing to enter a fishery. This does not apply to those coastal fisheries where fishing rights exist and where harvest can be undertaken with inexpensive boats and equipment.

The fishing rights are the prime means of protecting local fishermen from the incursions of outside capital. The system of fishermen's associations and cooperatives has been a vital element in the successful implementation of limited entry programs in the coastal fisheries. (Herrington, 1972)

Where the control of pressure on the fishery is tied to the number of boats, it has been necessary to set regulations on gear and size to prevent over-fishing and to maintain equity among the participants in the fishery. Setting vessel size limits inevitably restricts efficiency or causes dangerous situations as owners enlarge fish holds beyond the boat capacity or overload it with equipment. Tonnage supplement systems which control the size of the fleet tonnage but allows individual boats to adjust sizes to take advantage of advances in fishing technology have proven effective in both Japanese and South African systems. (Asada, 1973; Gertenbach, 1973)

In all limited entry fisheries, the effect of the limits has been to increase profits to license holders either in the form of catch increase or an increase in value of the boat. In the Japanese fisheries experience, consideration of license fees as a means of controlling excessive profits has received some scrutiny. An equitable levying of fees can insure equity among different fisheries and help insure that the limited entry system itself does not unduly restrict one segment of the fishing industry while enabling another segment to garner profits in excess of those inherent in the fishery.

Suggestions have been made for both the Japanese system (Asada, 1973) and the Canadian (Sinclair, 1960): that a bid system should be implemented as the most rational means of setting the fee permit price. Once issued under the bid system, the licenses would be transferable among fishermen. Though this system would permit new entrants at every bid period, it was felt that those in the fishery usually would be in a favorable financial position.

In South Africa, where fees are fixed at a fairly high level, the first recession in the pilchard fishery caused a massive revision of licenses from the hands of individual owners to the processing plants. It is likely that under any bid system processors could control the process to a large degree unless bidders were limited to certain groups and individuals.

Of the three nations compared, the Japanese system with its complex system of regulations at every level and its large numbers of cooperatives is probably too different

from Alaskan fisheries to make any particular comparisons. At least, none were apparent in the literature that was reviewed during this study.

The South African fishery, on the other hand, follows the same general economic pattern as Alaskan fisheries and the effect of limited entry in that area might well follow on in Alaska unless steps were taken to inhibit any of the South African results that were considered undesirable for Alaska.

The British Columbian salmon fishery certainly offers many parallels to the Alaskan fishery, but as stated before, limited entry has not been in effect long enough to discern major long range trends. There is a fear that the license limitations on vessels is working to increasing company domination of the fishing fleets, however.

In summary, there is little doubt that limited entry programs make entry into a fishery more difficult financially. Thus, those controlling large aggregates of capital can soon own the greater part of the fishing fleet if no institutional barriers are erected to such development.

It is also apparent that restriction of licenses increases the economic rent of those participants remaining in the fishery. Since the state, by its action, is the creator of this windfall, the question must be answered as to the degree that the state should participate in these increased profits and the method of that participation - whether it should be through bids or increased fees or an additional tax.

There seems to be little doubt that unless institutional

barriers are erected that limited entry programs make entry to a fishery more difficult financially, but that rewards to those individuals who do secure entry increase appreciably over those in the open system.

A COMPARISON OF SEVERAL FACTORS OF THE LIMITED
ENTRY PROGRAMS OF SOUTH AFRICA, JAPAN, AND CANADA

| <u>Factor</u> | <u>South Africa</u> | <u>Japan</u> | <u>Canada</u> |
|---|------------------------------------|----------------------|-------------------|
| Limits no. boats | Yes | Yes ⁺ | Yes |
| Limits size of boats | Yes | Yes | Indirectly |
| Limits no. processing plants | Yes | No | No |
| Buy back provision | No | No | Yes |
| License property of holder | No | Yes | No |
| Limits no. fishermen/owners | No | Yes | No |
| Species regulated | Pilchard Maasbanker Mackerel | 45% all fisheries | Salmon Lobster |
| In effect since | 1953* | 1901** | 1968 |
| Free transferability | Yes | No | No |
| <hr/> <u>Results</u> <hr/> | | | |
| Reduced no. of boats | Yes | Yes | Yes |
| Increased size of boats | Yes | Yes ⁺ | Yes |
| Increase equipment quality | Yes | Yes | Yes |
| Increased factory ownership of vessels | Yes | No | No trend; yet |
| Increase value processing licenses | Yes | N.A. | N.A. |

*Limits were set on processors in 1950

** Old Fisheries Law was replaced by present law in 1949 but
there was a great deal of carryover between the two laws.

+ Size is now regulated

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January 30, 1973

Box 217
Kenai, Alaska 99611

Sen. C. R. Lewis
Sen. Terry Miller
Sen. Keith Miller
Sen. Ron Rettig
Sen. Lowell Thomas, Jr.
Sen. Don Young
State Capitol
Juneau, Alaska 99801

Gentlemen:

Enclosed is a possible plan that I would like to humbly offer which would, I believe, alleviate the overcrowding in the salmon fisheries without causing injury or financial loss to anyone. This would be in place of Governor Egan's bill and would be far less restrictive and political. (I have been intimately associated with fishing for 20 years; have fished boats and sites; have been U. S. Commissioner and am now Borough Mayor of a fishing area.)

Thank you for your indulgence and hope you will consider this plan.

Sincerely,

Stan Thompson

Stan Thompson

ST/tb
Enc.

STAN'S PLAN.

To help solve the "limited fisheries" problem, to alleviate the extreme hardships designed into the Governor's bill, to keep the state from stealing from some fishermen to give to others (as is in the present proposed bill) I would like to present the following plan - please note - no one gets hurt nor is "forced" to do anything.

- I. STATE OFFERS TO BUY FISH BOATS AND SITES:
 - (a) At 2 or 3 times appraised value
 - (1) to cover loss of income, plus value;
 - (2) fishermen agree not to fish for 5 + years;
 - (b) Willing sales only
 - (1) no one must sell.
- II. STATE ISSUE LIMITED NUMBER OF NEW LICENSES:
 - (a) 2 + years experience or apprentice;
 - (b) Resident and veterans preference;
 - (c) Children of fishermen preference.
- III. STATE INCREASE LICENSE COSTS:
 - (a) Difference in costs to go to special fund to pay for gear, sites, purchases;
 - (b) Fishermen remaining should gain and benefit and thus be willing to pay higher licenses;
 - (c) In long run should not cost state anything.
- IV. EVERYONE GAINS

- (a) Fishermen remaining get more fish and less competition;
- (b) Fishermen who sell gain as get cash to use elsewhere;
- (c) State gains - no long run costs - better fish returns and less problems.

Addendum:

As canneries would be less likely to enter into above program and as some of them have huge fleets of fishing boats they will be required to reduce their fleets by 20% and be reimbursed for this loss.

John Wiese

2140 SUNRISE DRIVE
ANCHORAGE, ALASKA
99504

January 31 1973

The Committee on Resources
Alaska State Senate
Juneau, Alaska 99801

Gentlemen:

This is sent to your committee because you are, presumably, considering SB 39. If it is another committee, please convey it there.

The next issue of ALASKA INDUSTRY includes the article attached. It is in "proof" form. The subject matter bears directly but not exclusively on SB 39 and the matter of limiting entry into the Alaska fisheries.

I am sending you this advance copy for the dual purpose of informing you of the views expressed in it and also to invite your comments for future publication.

There are several points directly concerned with "limited entry" that I did not press in the attached article because of current space requirements but I intend to treat on them in future writings. Like:

* More consideration should be given to simultaneously arranging entry limitation in other (than salmon) species harvestings. Has consideration been directed toward the possible encouragement of utilizing potentially valuable stocks through conditions that might be imposed with entry limitation? An incentive, for example, such as "Get into a new pollock fishing deal and you'll get extra consideration in permission for salmon fishing."

* As long as fish are "common property" and there is a need to restrict their being harvested (for social and/or biological reasons) can a "right" (as different from "privilege") to harvest be handed out, especially if it resembles a "property right" of enduring characteristics? Isn't a ban against this still in the Constitution? Also, how consistent is it to regard commercial fishing as a "right" whereas using the public roads for vehicular traffic is a "privilege" as distinct from a right in Alaska law?

* Is it entirely reasonable to be concerned exclusively with the harvesting sector of fisheries enterprises without, as a minimum, taking cognizance of effects it is certain to exert in the processor-marketer sector which will require at least regulatory attention?

* As a totally practical political consideration ("political" in this sense not intended to reflect "party" partisanship exclusively) will it be wise to restrict membership on the Entry Commission as narrowly as proposed? It's my conviction that this will be really asking for future troubles, considering, especially that radical changes are in process in all fisheries affairs as well as in all natural resource (publicly owned) utilizations.

Sincerely,



By JOHN WIESE

It is fundamental that competent state authority enunciate this over-all policy which means either a legislative enactment or a statement from the administration with legislative acquiescence.

One feature in Governor William Egan's entry limiting proposal presently before the state Legislature (Senate Bill 39) adds a special urgency for a policy declaration. That feature concerns the proposed functions of a projected Alaska Commercial Fisheries Entry Commission.

It would be endowed with powers of exceptional magnitude. Their exercise would effect the economic well-being of literally thousands and the flow of literally tens of millions of dollars annually.

The guidelines for the commission's operations are so broad and, in some places, subject to differing interpretations that they imply a practical delegation of policy-making powers. The proposed legislation describes its intended function as "regulatory and quasi-judicial," but there would also have to be substantial "quasi-legislating" or policy-making by the commission as an initial step to "regulating" or to "quasi-adjudicating" in order to obtain an effective limitation of entry into fisheries.

Even if this is a politically acceptable situation it still leaves opportunity for a challenge of its legal validity. An adequate policy statement could remedy this.

An instance of the vagueness of SB 39's policy intentions concerns its prescribed "standard" (as set forth in Section 16.43.160) "to sustain a professional fishery."

Definition of this term, which is not contained in SB 39, will require a hefty measure of policy-making, especially considering that variants will obviously be needed in order to fit the vastly differing fishing regions of Alaska and the several "species" fisheries of the state.

Consider this:

SB 39 is to apply exclusively in salmon fishing. Problems in other harvesting enterprises - king crab, herring, etc. and maybe halibut if international controls do not intervene - could receive only limiting attention in subsequent legislation but this isn't man-

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THE STATE of Alaska's objectives relating to its fisheries management are obscure.

Or, if they are clear to any governing element, they have not been adequately communicated so that they are intelligible beyond the restricted circle gifted with an appreciation of their intent.

Something that is urgently needed - and needed at this time especially - is an over-all fisheries policy declaration that will effectively clear the air.

Actually, this has been needed for a long time. But, with state lawmakers currently processing a proposal to limit entry into the utilization of Alaska fish and related marine stocks, it has become imperative that some forthright answers be provided as a preliminary to legislative action.

Answers to questions like these are needed in a policy declaration:

- Precisely what goal or goals are intended from utilization of marine fish stocks in the state?

- From the state standpoint, what is meant by or implied in the term "common property" that is associated with fish stocks? (or, in similar words of the state Constitution, "...Fish...reserved to the people for common use?")

- What are the priorities (or, as the Constitution says, "preferential uses") that govern state management of marine stocks; and by what processes can priorities be changed?

- Are there, or should there be, policy differences between management purposes in different regions of the state? Between the various marine species? Between marine stocks and upland wildlife management?

The policy statement should also deal with programs inherent with policy implementation.

Recently Elmer Rasmuson, sole member of the International North Pacific Fisheries Commission from Alaska, urged that a specific policy position be formulated by the state as it would concern foreign fishing and boundaries off the state's coasts.

Other marine stock utilization issues are also in need of solutions that a policy-declaration could serve. For example, recreationalists' campaigns for "fairer shares" of salmon fishing; conflicts provoked by non-marine resource utilization or by pollution threats, etc.

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Of course, an alternative might be for the "professional" salmon fisherman to take his boat and his status to salmon harvesting on Puget Sound, or on the Columbia River, or on the coasts of Oregon or California when Alaska fishing isn't available. In that case he'd be better off making his headquarters in the more southerly extremity of his annual migration because there'd be improved creature comforts there for himself and his family.

This recital about moving Alaska fishermen Outside isn't an Alaskan goal, obviously. And it isn't very likely to be promoted wittingly by any state agency. Nevertheless the recital serves to demonstrate that the subject of limiting entry into Alaskan fisheries is very much concerned with precise identities of items of state policies. And, if a commission to limit entry is going to function like SB 39 projects, it will either need an intelligible set of guidelines defining state fisheries policy - that is, a fisheries policy declaration in principle as a minimum - or the commission will have to devise law as it proceeds and as its convenience dictates.

Such a procedure will necessitate the commission's assumption of "quasi-legislative" powers as well as the "regulatory and quasi-judicial" authorities assigned to it in SB 39.

The problems that impelled a movement toward limiting entry in Alaska's fisheries come in two categories.

The first group arises from strictly economic situations. They relate to the widespread human urge to "get a piece of the action" and to profit from seemingly abundant but often diminishing stocks of high-valued species like salmon, crabs, scallops, halibut, shrimp.

This attraction is complicated with secondary factors that fringe on the economic but which are actually spin-offs with a cultural coloration. Occurring mostly with salmon harvesting in Alaska, a major instance (but not the only one) are the large numbers of individuals fishing to enjoy a diversion or escape from the confining humdrum of an "eight-to-five" routine of another occupation or sometimes seeking contentment in a living standard that is nowadays regarded as sub-standard.

The second category of problems

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datory, according to Governor Egan's dissertation that accompanied the bill when it was dropped in the legislative hopper.

"Other important fisheries," the message said, "... may require their own limited entry programs."

This and other language in the governor's message and in the text of SB 39 speaks to the concept that the harvesting of each Alaskan fish species constitutes "a fishery." Does this mean that, as a matter of policy, the state regards it as a valid goal that each such activity shall be an independent "fishery" to be treated without co-ordination with other marine harvests? Has the idea of working to attain diversified industry in fisheries as a means of securing broader employment with a wider spread of operating costs for improved stability been abandoned by the state? If so, how does this shift fit with the pattern of many of the state's best fishing communities and with the trend in the processor-marketer segments of fisheries?

Also, might it not be actual retrogression to "promote" a "professional" fishery in salmon because this tends toward fishermen's personal earnings as well as costs recovery for equipment deriving independently and exclusively from short-termed annual salmon availability?

If it is to be a "professional fishery" it must certainly then be one that yields ample returns from these short-lived salmon seasons to meet operating costs on a stabilized basis plus personal earnings sufficient for a year's living expenses, presumably at a "professional" level.

(An annual "professional" income is usually regarded as \$14,000-\$15,000 a year and up; a recent study of Alaskan fishing returns showed individual returns - not net incomes but gross returns from fish - to have averaged only about \$3,300 a year!)

The typical Alaska region's salmon harvesting time lasts for only about six weeks a year. In some localities it exists for as long as four months with marginal-volumed fishing preceeding and following peak intensities in July and early August; but for practical purposes only a very few "professionals" would find periods for profitable fishing for seasons longer than six or eight weeks.

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What is needed is a statement that makes it clear what it is the state intends to derive from its fish resources and from the regulation of the harvests of its resources. It is no longer sufficient for popular or political purposes to take refuge in the broad and lofty terms of the state Constitution; their specifically applied intents and purposes are needed.

brood

The message that accompanied SB 39 to the Legislature attributed the major menace of the excess of salmon harvesters to the fishery being "taken over increasingly by moonlighters, sports-commercial, and part-time hobby fishermen." In this recitation is a direct implication of an onus contained in such less-than-"professional" motivations for fishing, as though the individuals involved are guilty of actions that are immoral or at least socially unsavory.

But, without a specific policy commitment in law against "moonlighting" - and especially considering that state actions constantly invite or induce use of wildlife resources for diversions from other occupations - the tone of this presentation is contradictory.

There should be no question that moonlighting and hobby-fishing have added serious complexities to the economics as well as the biological management of salmon fisheries. Nor should there be serious doubt about needs for limiting entry.

However, the appropriateness of delegating the making or altering the state policy that frequently is synonymous with law to a three-man commission without ample guidelines is something else. It wants careful examination before it is accepted as fully proper.

Senate Bill 39's purposes are recited as "to promote the economic health...of commercial fishing" and "the conservation and sustained yield management of Alaska's fishery resources," as well as "to prevent economic distress among fishermen." The terms are from portions of the state Constitution.

Other parts of that document dictate that "it is the policy of the state to encourage...the development...of its resources by making them available for maximum use consistent with the public interest..."

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bolstering a drive for limited entry is really political in the sense that economic and related complexities of fishing have generated excessive difficulties for a bureaucracy charged with regulating the harvests of publicly-owned resources, or, "common property." It does not simplify this obligation that the dominating principle for this assignment has been accepted, as a matter of priority, as having been "sustained yield" in a rigid formula that disregarded human foibles.

The efforts of government conservationists to regulate the harvesting activities of constantly increasing fishermen types and also trying to maintain their equilibrium in spite of parochial pressures that are often vicious and erupt with accelerating frequency is now regarded as no longer feasible. The traditional "management tools" like restricting harvesting to smaller boats, shorter nets, catch quotas and other efficiency-curtailling devices have not been enough to get the job done.

Remedial alternatives in the Alaska salmon scene concentrate on either the view that "there are too many fishermen for the salmon" or the view that "there are not enough salmon for all would-be fishermen," depending on what partisan element is doing the analyzing.

The "not-enough salmon" enthusiasts urge remedy by embarking on programs they hope will make more salmon. The others call for limited entry which means activating one scheme or another for discriminating between actual or potential fishermen. And some elements advocate a mixture of the two.

However, there is an almost total lack of co-ordination between various proposals which is the obvious product of the absence of an over-all fisheries policy in the state.

It is really not quite true that Alaska has no fisheries policy. There has been a "de facto" policy that is based on tradition, on fragmented legal pronouncements, and too often on partisan political convenience. Even this "de facto" policy has never been intelligently set forth in necessary definitive terms and, besides being obscure, it is constantly being "interpreted" in conflicting and contradictory ways.

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FISHERIES 8-8-8-8

This entry-limiting will be the function of its proposed Entry Commission. The bill described the mechanics for commission workings and how the agency will be established in rather elaborate details, including the requirement that the three commissioners shall have qualifications like, one a commercial fisherman (or ex-fisherman) from Alaska, one a "fisheries management specialist" (presumably a Fish & Game staffer), and one an "attorney licensed to practice in Alaska." More legal expertise is assured with provision that the Alaska attorney general shall be legal counsel for the tribunal.

Powers of the Entry Commission would be the establishment of maximum fishing gear volumes for the various regions of Alaska, the establishment of fishing gear permit qualifications for individuals, permit issuance including collection of annual fees of \$50 for each permit, arrangements for interim permits and for transfers as well as prescribing regulations and procedures for administration of commission functions.

One section of SB 39 prescribes that the commission shall set fishing gear volumes of effort so that 1) the "income to fishermen . . . is adequate . . . to sustain a professional fishery;" 2) the volume of gear in use does not pose "a substantial risk of impairing sustained yield;" 3) there is enough gear in operation "to fully harvest . . . the fishery resources;" and, 4) so that the volume of fishing gear "is reasonable and consistent with purposes" of SB 39.

Provision is also included in the bill for commission to cut or to raise fishing efforts in case of changes in fish stocks, or if market conditions warrant, or if Fish and Game Board regulations induce altered over-all volumes of effort. The bill expresses the idea that if permit holders are required to surrender their fishing "rights" they should be compensated for the losses.

742
 Holders of permanent permits are recognized as having "a personal right" in their status as exclusive fishermen - or, as one of the cadre of fishermen with exclusive status within prescribed areas - and also "a permanent right of renewal."

Employe fishermen would be a different status because they are not required to hold permits.

FUNCTION F

AGENCY

REQUIREMEN

COMMERCIAL FROM MANAGEMENTEN

MAXIMUM NUMERIOUS ESTABLISHMENT QUALIFICATION

PROCEDURES COMMISSION

"INCOME "INADEQUATE " FISHERY:" I

COMPENSATE

DIFFERENT REQUIRED F

FISHERIES 7-7-77-7-

"The Legislature shall provide for the utilization, development and conservation . . . for the maximum benefit of its people. . .

"...fish...are reserved to the people for common use.

"Fish . . . belonging to the state shall be utilized, developed and maintained on the sustained yield principle subject to preferences among beneficial uses. . .

"No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the state. This section does not restrict the power of the state to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the state of Alaska."

Also applicable to resource management is, "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." And there are other "equal rights" and "due process" parts that also bear on doctrines the effect fisheries policy.

When statehood was accorded to Alaska by Congress there was a proviso that forbade the transfer of management controls from federal to state authorities until assurances were obtained that legislation "has made adequate provision for the administration, management, and conservation of resources in the broad national interest." This might be construed to be a virtual amendment to the state Constitution, especially since it was accepted as a condition of statehood by a referendum of Alaska voters.

What all of these things, plus an added body of national and international law, obviously do is provide constraints on actions by Alaska in its fisheries policy notions, including on notions advanced as proposals by individuals. But they do not provide an answer to state or individual goals as such. Generally they spell out what must not be permitted but they do not help much with determining what will be done.

SB 39 sets forth that it will be "stabilizing the levels of participation" of fishermen. In other words it will limit entry into fisheries, starting with salmon harvesting.

CONSERVATION " " FOR CO

PEOPLE

PRIVILEGE PRIVI-

DISTRESS DIS-DEPENDENT DE-

MANAGEMENT MANAGE- GOVERNING GOVERN- RESOURCES

DOCTRINES DOC-

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RESOURCES INTEREST)" IN-

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Arrangements for transferring permits through the commission are also included in the proposal. There is, however, a requirement that permit holders must be working fishermen who are active in operating the gear they have been permitted. This should provide a ban against accumulation of permits that might perpetuate fishing rights into property rights or their equivalent in massive amounts.

SB 39's Section 16.43.200 sets up what guidelines there are for the Entry Commission's discriminating between permit applicants responsibilities. The commission is to frame its own regulations for this function "for each administrative area and for each type of gear."

Such regulations are to define "reasonable priority classifications . . . based on a reasonable balance of . . . 1) degree of economic dependence upon the fishery, 2) extent of past participation in the fishery, and 3) present ability and intent to participate actively in the fishery."

"Priority classification . . . means the allocation of potential or actual permit applicants into reasonable groupings of similarly situated applicants and the priority ranking of those groupings according to the extent to which they satisfy the statutory standards of preference."

More questions are raised by provisions like this (and others in SB 39) than are answered. They emphasize the need for a realistic declaration of Alaska fisheries policy from the state's position. It is needed as a minimal prelude for enacting the substance of SB 39 into statutory law, and it is needed just about everywhere else in the Alaska fisheries resource management scene.

PERMITS PER-
HOW)EVER' HOW-

REGULATIONS REGULA-
ADMINISTRATIVE AD-

"REASONABLE "REA-

FISHERY' FISH-

ACCORDING AC-

PREFERENCE" PREF-

PROVISIONS PRO-

POSITION' POSI-

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Qualifications of limited gear entry into Alaska commercial fisheries.

1. Person who held a gear license and fished that gear license in a designated area once in past 3 years in Alaska.
- (Or)-2. Person who ever owned a gear license and fished that gear license in past 4 years and has a ten thousand dollar investment (mortgaged or not) in commercial fishery of license or licenses owned and fished in designated areas.

Reasoning: Any person whom does not meet above criteria could reasonably be determined already out of the fishery. Such criteria as having fished 3 out of past 10 years and absent past 7 years would be considered less dependent and less intent than a person having fished commercially during past 1, 2, or 3 yrs.

3. A fisherman's outside interest should not concern above criteria. Whether he is a trapper that fished or a fisherman that trapped.

4. Any new entry not qualified on above criteria must purchase from a license holder his license and pay to State tax office the appraised value of the license less 10 percent. Assuming the seller gains 10 percent of the license value. This 10 percent encourages the seller to sell out when he has a boat to sell as he can let the permit go to get the boat sold. Or the seller can sell to the tax office for 90 percent the assessed license. He can keep his equipment or sell privately.

5. The seller is taxed when he sells a license even when selling to tax office in graduations of degree of years he fished the license. The graduation in degrees spread over 20 years fishing. For each year fished $1/20$ th deducted off sellers tax.

Reasoning: The heaviest burden of tax upon new entry. Those that fish longest have lesser taxes. Impossible for a ghost license to make any money. Present holder can't make a fast buck on a license. Gives a short timer invested the opportunity to prove his full intent to be a fisherman. Gives the old timer the incentive to sell out and give the new blood opportunity to fish. Gives the opportunity for a new investor to sell his equipment to a new buyer as this may include his license if he chooses. Encourages people in the industry long time with old slab of a boat to sell out to tax office and this in turn is financed by the change over in the industry mostly by new entries. The seller does not pay tax unless selling to tax office in the graduation scale of $1/20$ th stated above.

6. Fisherman are taxed according to assessed value of gear license in designated areas annually. This fund is also used for buy back in this designated area. When optimum level reached this tax can be used to further enhancement of the fishery in designated area.

7. After 3 yrs fishing the sellers tax automatically is reduced to $3/5$ th of assessed value of gear license. (Gains $2/5$ th assessed value as incentive to sell out.

Reasoning: Allows man in now with investments and recent participation to prove his intent & retrieve his investment. This method prevents short timer gaining return on license value if intent and participation inactive.

8. Sport fishing gear as rod & reel holding a commercial license is based only on attrition rate decrease. Not included on buy-back program. License not transferable. Person must have held commercial license once in past 3 yrs.

reasoning: Allows small income fisherman presently in small resident villages to retain his interest during lifetime. Short time residents leaving state will have higher attrition rate. Allows qualified holders to retrieve their investment without taking away their rights accepted in past. License has no monetary value.

9. Apprenticeship program to add incentive for some:
Person holding apprentice permit has buy in tax reduction of 1/10 gear license assessed value per 5 yrs apprentice. Based proportion per annum for participation weekly for weeks of season open. (example: 16 weeks of season and fishes 12 weeks would get credit for 3/4 participation that particular season). This is based on particular gear in particular areas as designated. (Areas to be set forth by law). Apprentice ship is based upon participation within past 4 years. (Eliminates credit for participation beyond 4 years for ones who did not actually enter fishery with full gear license participation).

Ray Mathews
Fisherman