

HB

141

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
P. O. BOX 181
DILLINGHAM, ALASKA 99576
TELEPHONE 842-5653

*Copies in
HB 290
HB 141*

March 5, 1979

Representative Alvin Osterback
Co-Chairman, House Resources Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

I would like to comment on two bills before the House Resources Committee dealing with the Limited Entry legislation and problems relating thereto, namely: HB 290 and HB 141, and urge passage of these bills.

First, HB 141 is perhaps the most important of the Limited Entry bills before the legislature in view of problems I see developing with the system, the major problem being the high price of permits which eventually will lead, in my opinion, to a system where permits are controlled by speculators and those people with money, while those people traditionally reliant on fishing for their livelihoods will be disenfranchised from the only occupation they know. In one village in Bristol Bay alone, for example, four permits have already been sold to people residing outside of the Bay area.

While the state continually proposes more liberal loan programs to purchase permits, even to the extent of using the permit itself as collateral, I don't believe that this is the answer. Alternative systems ought to be investigated in depth before so much money has been invested in permits that it is too late, even for the legislature, to change the system. When the state sold the limited entry program to the people in 1975 the problem of the young fisherman getting into the fishery was repeatedly raised. The State's answer to the people was to get the program implemented and change it at a later time. That time has come. I urge passage of HB 141.

With respect to HB 290, I recognize the inequities of the system to those fishermen who have fished various administrative areas yet do not have sufficient pointage in any one area to qualify for a permit. HB 290 appears to be the equitable solution to that problem. While I don't believe HB 290 will benefit clients served by this office, as most fishermen we serve fish only in Bristol Bay, I realize that other areas of the state differ. I would therefore, support such legislation.

Representative Alvin Osterback

March 5, 1979

Page Two

Reviewing HB 290, however, seems to pose a possible problem which calls for another legislative solution, that being the problem with late applications. Would a fisherman have had to apply for permits in all administrative areas in order to cumulate points from that area under the proposed HB 290? If so, some fishermen who did not apply in certain administrative areas would not be allowed to cumulate those points. How about other fishermen who may not have applied in any administrative area due to insufficiency of points, yet under HB 290 could perhaps have cumulated enough points to get a permit in one area? Would they be allowed to benefit from HB 290 because they did not apply in the first place?

It would appear that HB 290 should be coupled with a legislative solution to the late application problem, which is particularly acute in the villages of the Bristol Bay and AYK areas. This office has failed in our attempt to achieve a judicial solution to this problem favorable to our clients and we ask for a legislative solution. While the Entry Commission may not necessarily agree, the major reason the problem is so acute in Bristol Bay and the AYK areas is because of the language and cultural differences of the people, and their lack of understanding of the system when it was first implemented.

Other than administrative problems attendant with a new application period, I can foresee two possible objections raised by the Commission for accepting late applications. First, the Commission may argue that they will have to issue more permits and thereby further exceed the maximum numbers initially established, and perhaps even threaten the fishery resource as a result. While it is true that maximum numbers would be further exceeded, these numbers are not etched in concrete and will eventually be revised either up or down when optimum numbers are established. I cannot see any threat to the fishery resource as Limited Entry, in my opinion, is only tangentially related to conservation purposes, that being with regard to easing the effect of errors in management of the resource by the Department of Fish and Game. Limited Entry is primarily an economic regulatory program which insures sufficient incomes for those people in the fishery to upgrade their vessels.

A late application bill would subject the applicants thereunder to the same point system as everyone else was subjected to. If the late applicant could not prove sufficient pointage then the applicant would simply not receive a permit.

Secondly, the Commission may further oppose a legislative solution to the late application problem particularly with respect to the set net fishery in Bristol Bay because permits are awarded at the zero (0) point level and because set net fishermen in Bristol Bay have begun what is called "leap frogging." There are two possible solutions to these problems. First, the Fish and Game Board could regulate against "leap frogging" so no matter how many set net permits were issued by the Commission there would be a natural limitation of fishermen by the numbers of sites available. Secondly, since the Commission lowered the point level at which permits would issue based upon the number of applications received, issuance of permits to late applicants could be restricted to those fisherpeople who achieve point levels on their applications within the top 813 applicants--the maximum number established by the Commission for the Bristol Bay set net fishery. For example, if the point level at which permits were issued to the highest-pointed 813 set net permit holders was 6 points, the denial level at which permits would initially be established would be 5 points, and the point level at which permits would issue would increase depending on the number of applications received during the application period. Only those late applicants, therefore, within the top 813 on the point scale would be issued permits.

Even though the Entry Commission has established interpretive regulations whereby some applicants who failed to file their applications timely can still get their applications accepted by the Commission and adjudicated under the point system, the restrictive interpretation of the regulations benefit only those people who can establish that they mailed their applications timely which was lost in the mail, or that they were ill-advised about the program by the Commission or its agents which directly caused that person not to submit an application. These regulations do not benefit Roy White of Egegik who returned in 1977 from four years of service in the Navy to find out that he could not fish anymore as a gear license holder; or William Wilson of Naknek who was released from jail in the fall of 1975 to learn the same; or those people who were away at school during the application period; or even those who simply did not plan to fish in 1975 in Bristol Bay because of poor predictions and did not understand nor had explained to them the difference between a permit and a gear license, the latter which was traditionally purchased on a year to year basis if that person planned to fish that year.

In summary, I strongly support HB 141 as the most important Limited Entry bill thus far proposed. In addition, recognizing the inequities of the system to fishermen who have

Alvin Osterback
March 5, 1979
Page Four

fished more than one administrative area yet cannot qualify for permits in any area, I support HB 290. I would, however, strongly urge a legislative resolution to the late application problem here in Bristol Bay.

I am available to more fully explain my views at your request.

Sincerely,

ALASKA LEGAL SERVICES CORP.


Geoff Comfort
Legal Assistant

GC:ilk

cc: Representative Terry Gardiner
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Representative Nels Anderson, Jr.
House Majority Leader
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Representative Bill Miles
Co-Chairman, House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

House Resource Committee Members
Fred Zharoff
Samuel Cotten
Chat Chatterton
Richard Eliason