

SCOMM

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MEMORANDUM

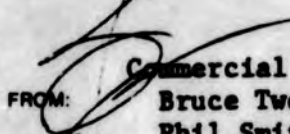
Sharon
State of Alaska

TO: The Honorable John Binkley
House of Representatives
M/S 3100

DATE: February 7, 1985

FILE NO:

TELEPHONE NO:

FROM:  Commercial Fisheries Entry Commission
Bruce Twomley, Chairman
Phil Smith, Commissioner
Rich Listowski, Commissioner
M/S 0302

House Bill 120

SUBJECT:

At the Commission we have had a brief opportunity to review and give some thought to your House Bill 120. You should be aware of Commission regulation 20 AAC 05.750(f) (effective 12/29/84) which may go toward the problem your proposed bill is intended to solve. A copy of the regulation is attached for your reference. The effect of the regulation is to authorize emergency transfers each season for the benefit of the minor until the child reaches 10 (in the case of a set net permit) or until the child reaches the age of 16 (in the case of a drift gill net or other entry permit).

Notice that our regulation accomplishes nearly the same purpose under the rubric "emergency transfer." The term "lease" is something of a dirty word in the limited entry lexicon by virtue of the Legislature's longstanding prohibition against the leasing of permits. A.S. 150(g). We have literally been called upon to revoke for all time permits leased in violation of the Act.

The other matter in your bill which, I think, requires some attention is the provision for minor heirs to jointly hold a permit until all of them have reached the age majority. From the inception of Limited Entry there has been a strong declaration in our legislation in favor of only a single individual owning a permit. I believe the notion is that only the fisher/owner/operator should have control of a given permit. My review of the legislative history suggests that the Legislature had in mind ensuring that no individual or entity could be placed in a position to exploit or control another's commercial fishing. The statutory terms designed to afford this protection are necessarily broad.

As you know, the holding of an entry permit by more than one individual is not authorized by our statutes. Generally, a "person" must have an entry permit to commercially operate fishing gear. AS 16.43.140. A holder of an entry permit is authorized to transfer to "another person." AS 16.43.170. Under the Limited Entry Act, a "'person' means a natural person and does not include a...partnership...." AS 16.43.380(5). Subject to some very limited exceptions, an entry permit may not be "encumbered in any way" nor may it be "transferred with any retained right of repossession." AS 16.43.150(g)(1) & (2).

The Honorable John Binkley

-2-

February 7, 1985

That is roughly the statutory setting in which your proposal is placed. Additionally, a private attorney from Dillingham pointed out to me that the process by which jointly held permits would be transferred could become cumbersome. Each minor child would need his or her own guardian. Those guardians would need to come together and agree upon how the permit would be conveyed and what the terms of the conveyance would be for each season. The attorney's suggestion, in which I think I concur, was that it might well be more convenient to allow the permit to remain within the control of a pending estate whereby the personal representative of the estate could convey the permit by emergency transfer for the benefit of the affected minors until they reach the age of majority. CFEC's practice has been to authorize such transfers, and, in balance, this may be the more convenient procedure.

I would like the opportunity to speak to you about your bill at your earliest convenience.

BT:dan

Attachment

cc: The Honorable Peter Goll

House

Special Committee on Fisheries

M/S 3100

Register

MISCELLANEOUS BOARDS,
COMMISSIONS20 AAC 05.740
20 AAC 05.750

20 AAC 05.740(b) is amended to read:

(b) The commission will grant an emergency transfer of an interim-use permit issued under AS 16.43.210(a) or an entry permit if the proposed transferee is not a permit holder in the fishery and is presently able to participate actively in the fishery, and if it is established that illness, disability, death, required military or government service, or other unavoidable hardship of a temporary, unexpected, and unforeseen nature prevents the transferor from participating in the fishery. If the entry permit is not transferable under AS 16.43.170(c) or (e), the emergency transfer will be granted only to allow the continued operation of the transferor's vessel or set net site and fishing gear. Temporary emergency transfer of interim-use permits issued under AS 16.43.210(b) and permits surviving the death of a permit holder will be granted by the commission to alleviate hardship. (Eff. 12/18/74, Reg. 52; am 12/27/79, Reg. 72; am 5/15/81, Reg. 77; am 1/29/82, Reg. 81; am 10/30/82, Reg. 84; am 6/5/83, Reg. 86; am 2/29/84, Reg. 89; am 12/29/84, Reg. 92) (Oct. Regs.)

Authority: AS 16.43.100
AS 16.43.110(a)
AS 16.43.170(a) and (b)
AS 16.43.180(a)

20 AAC 05.750(f) is amended to read:

(f) A temporary emergency transfer of an entry permit held by a person who received that permit by right of survivorship or inheritance as provided by AS 16.43.150(h) will be approved by the commission upon a showing of the permit holder's inability to participate in the fishery because of sickness, injury, death, required military or government service, youth, or other unavoidable hardship. An emergency transfer will be approved for a period of time not to exceed the completion of the second full calendar year after receipt of the permit from the estate of a deceased permit holder; except that, in the case of youth, an emergency transfer will, in the commission's discretion, be granted until the holder reaches the age of presumptive ability to participate as set out in 20 AAC 05.730(d). After the initial emergency transfer, an emergency transfer will only be approved for a new unavoidable hardship which is of an unexpected and unforeseen nature.

(Eff. 12/18/74, Reg. 52; am 12/27/79, Reg. 72; am 1/2/81, Reg. 77; am 10/30/82, Reg. 84; am 6/5/83, Reg. 86; am 7/20/83, Reg. 87; am 2/29/84, Reg. 89; am 12/29/84, Reg. 92) (Oct. Regs.)

Authority: AS 16.43.100
AS 16.43.110(a)
AS 16.43.150(h)
AS 16.43.170(b)

Introduced: 1/25/85
Referred: House Special Committee
on Fisheries and Resources

1 IN THE HOUSE

BY BINKLEY

2

HOUSE BILL NO. 120

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the leasing of limited entry
7 permits by minor heirs of a deceased permit holder."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16.43.150(g) is amended to read:

10 (g) Except as provided in AS 16.10.333 - 16.10.337, AS 16.43.-
11 175, and [IN] AS 44.81.230 - 44.81.250, an entry permit may not be:

12 (1) pledged, mortgaged, leased, or encumbered in any way;

13 (2) transferred with any retained right of repossession or
14 foreclosure; or

15 (3) attached, distrained, or sold on execution of judgment
16 or under any other process or order of any court.

17 * Sec. 2. AS 16.43 is amended by adding a new section to read:

18 Sec. 16.43.175. LEASE OF ENTRY PERMITS BY MINOR HEIRS OF DE-
19 CEASED PERMIT HOLDER. (a) An entry permit that has devolved to a
20 minor heir of a deceased entry permit holder may be leased by the
21 minor heir to another person during the period of the heir's minority
22 if the lease is executed by the personal representative of the de-
23 ceased or by the legal guardian of the minor heir.

24 (b) An entry permit that has devolved to more than one minor
25 heir of a deceased entry permit holder may, until the last of the
26 minor heirs has reached the age of majority,

27 (1) be held jointly by those heirs; and

28 (2) be leased by those heirs to another person if the lease
29 is executed by

- 1 (A) the personal representative of the deceased; or
- 2 (B) the legal guardian of each of those heirs and any
- 3 of those heirs who have attained the age of majority.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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FOUCHY - STATE COUNCIL
JANUARY, ALASKA 99511
907-465-2000

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Special Committee on Fisheries, 2/12/85, 8:30 am

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 120
Title: "Leasing of Limited Entry
Permits by Minor Heirs"
Sponsor: Binkley
Requestor: H. Spec. Comm. on Fish.
Date of Request: 2/5/85

FISCAL DETAIL

Agency Affected: Dept. of Fish & Game
Program Category Affected: Natural
Resource Management
BRU, Program or Subprogram(s) Affected:
Commercial Fisheries Entry Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

HB 120 has no fiscal impact; it is expected that any programmatic or administrative impacts can be absorbed.

Prepared By: Christine F. Kelly Phone: 465-4081
Division: Commercial Fisheries Entry Commission Date: 2/6/85
Approved by Commissioner: [Signature] Date: 2/6/85
Agency: Commercial Fisheries Entry Commission

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84



Official Business

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

February 11, 1985

SECTIONAL ANALYSIS OF HB 120

"An act relating to the leasing of limited entry permits
by minor heirs of a deceased permit holder."

Section One: Provides an exception to the statutory prohibitions against leasing of limited entry permits.

Section Two: Defines the exception; allowing a minor heir of a deceased permit holder to lease a limited entry permit until that minor reaches the age of majority [18]. The leasing arrangement must be approved by the minor's legal guardian or by the personal representative of the deceased permit holder.

This section also would allow the joint ownership of a limited entry permit when a deceased permit holder wills or passes on a permit to more than one minor heir. This joint ownership would be allowed to continue until all of the minor heirs reach the age of majority.

In the case of multiple ownership, the minor heirs would be allowed to lease the permit, provided that the lease arrangement is approved by the personal representative of the deceased or the legal guardian of each of the minor heirs and the heirs who have reached the age of majority.



Official Business

Alaska State Legislature

House

January 25, 1985

Pouch V
State Capitol
Juneau, Alaska 99811

Memorandum To: Special Committee on Fisheries
Resources Committee

From: John Binkley, Representative

A handwritten signature in dark ink, appearing to read "John Binkley", with a stylized flourish at the end.

Re: HB 120 "An Act relating to the leasing of limited entry permits
by minor heirs of a deceased permit holder."

The intent of this bill is to allow some relief to the minor heirs of deceased permit holders. In cases where a permit has devolved to the minor heirs, an exception would be made to allow the permit to be leased during the period of the heirs minority. This would help to resolve problems with closing these probate cases held by the court system, and situations when the permit is the family's only source of income.

As it is now, the minor heirs cannot fish the permit because he or she may be too young. The Commercial Fisheries Entry Commission will allow the permit to be transferred to someone else on an emergency basis for only one year; this means that no one can use the permit until the minor heirs are grown up. In instances where there is no legal guardian, the court appoints a personal representative for the deceased permit holder, who is authorized to take care of the decedent's property; however, the court does not want to hold the probate case open while the minor heirs are growing up. If the permit is transferred for one year, there would be no guarantee that the permit would be returned at the end of the year. The family in this instance may have to resort to selling the permit.

The bill takes exception to these cases because of the problems and hardship created under current statutes and regulations. In the Bethel area there are about 8 such cases being processed. Passage of this legislation will go far in resolving problems created by the current system for minor heirs.

**Free Transferability of Limited Entry Permits:
Two Problems and a Solution**

CFEC Policy Discussion Paper 84-3

By

Ben Muse

**Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99801**

August, 1984

IMPORTANT NOTICE TO READERS

This paper presents only ideas for further discussion. The paper does not state the policy of the State of Alaska nor the Commercial Fisheries Entry Commission, nor does it reflect the current law. All readers should be aware that the leasing of a limited entry permit is a violation of a specific statutory prohibition found in A.S. 16.43.150(g), which constitutes a crime, A.S. 16.43.970, and which puts the permit itself at risk, A.S. 16.43.960. It is the policy of the Commercial Fisheries Entry Commission to enforce the prohibition against leasing by referring apparent violations to the office of the District Attorney for prosecution or by seeking revocation of the affected entry permits.

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NOTE: I would like to acknowledge the comments of Judy Brakel, Cleonne Compton, Elaine Dinneford, Frank Glass, Sharman Haley, Mark Prussing, Scott McAllister, Kurt Schelle, Bruce Wallace, and Craig Wiese. The purpose of this paper is to raise an issue for further discussion. Opinions expressed by the author in this paper do not necessarily reflect the views of the persons mentioned above or the views of any other persons associated with the Commercial Fisheries Entry Commission.

I. Two Problems and a Solution

A. Two Problems

The free transferability of Limited Entry permits has been controversial since the Limited Entry law was passed. Many deeply resent the high prices at which permits in a large number of fisheries are bought and sold. Those who share this concern are often particularly worried that young or poor people find it very hard to obtain the financing necessary to begin fishing in a limited fishery. Additionally, considerable attention has been drawn to the possibility that permits may tend to "leave" rural villages which depend on nearby fisheries. The fear has been expressed that permit movements of this sort could undercut the economic and cultural foundations of life in many of these communities.

Several public policy initiatives have been suggested as means to address these problems. Restrictions on free transferability have not been tried since alternative transfer techniques would pose a large administrative burden, are vulnerable to constitutional challenge, and would reduce the flexibility fishers have to respond efficiently to changing situations. State subsidies for loans to buy permits do exist. However, it has been suggested that the money is not effectively directed to rural residents¹ and there is evidence that it has led to an increase in permit prices.² Further, a program such as this is vulnerable to budget cuts as State oil revenues decline.

There have been proposals to either control the revenues from fishing by a tax or to tax the capital gains from permit sales.

Although the use of either could help reduce permit prices neither has yet been tried. Fixing the price of permits in a fishery by a tax on revenues may be impossible given the fluctuations in fishery conditions from year to year although it should be possible to reduce permit prices compared to what they would have been in the absence of the tax. A capital gains tax by itself would only affect one of the elements on which permit values are based, and that element, capital gains, may already be discounted heavily due to the uncertainty inherent in fishing conditions. In addition, the capital gains tax might reduce the volume of transfers for a long time since many permit holders might choose to hold onto their permits. Whether or not these taxes were used singly or in combination there would be administrative problems in estimating the appropriate permit price target.

B. A Solution

It is the contention of this paper that the problems associated with free transferability are aggravated by the prohibition of leasing of permits mandated by the Limited Entry law.

The Limited Entry law reads in part, "Except as provided in AS 16.10.333-AS 16.10.337, an entry permit may not be: (1) pledged, mortgaged, leased, or encumbered in any way; (2) transferred with any retained right of repossession or foreclosure;." ³ The exceptions mentioned are related to foreclosure under the loan programs. Provision does exist for the "temporary emergency transfer" of permits when "illness, disability, death, required military or government service, or other unavoidable hardship prevents the permit holder from participating

in the fishery."⁴ The State Attorney General has held that the word "emergency" restricts this sort of transfer to cases where there is a "sudden unexpected happening,"⁵ especially as requests for transfers in succeeding years are being sought. If an emergency transfer is approved by the CFEC and is coupled with a payment between the parties involved then a legal lease can occur. People wanting to fish have been known to advertise to lease permits on emergency transfers. Any other lease, however, is illegal.

The existence of the prohibition on leasing, except in cases of emergency transfers, may be making it harder for the young and the poor to participate in limited fisheries and may be contributing to the movement of permits from rural areas. Leasing is a common method for persons without large incomes or savings to finance their participation in desirable activities. People without the money to buy a home, people saving to buy a home, and people uninterested in buying homes, can all rent houses or apartments. Leasing is a common way for businesses to obtain necessary plant and equipment. With the high cost of permits, a prohibition on leasing may be blocking access to the fishery for many not yet in a position to afford to purchase one. Similarly, a person in a rural community who wishes to retire from fishing or who is faced with a temporary financial bind may have no economically sensible alternative but to sell his permit. If potential purchasers in his village lack financial resources it is possible that the permit will leave the village.

It seems likely that the owner of a permit being leased would be paid on the basis of a share of the proceeds from fishing. In Alaska as well as in the rest of the United States the principal labor and capital

inputs into fishing operations are paid by shares or percentages of the firm's gross or adjusted gross revenues rather than by wages, salaries, or other fixed fees. It has been argued that the use of share systems allows the persons involved in the fishing operation to share the risks of an uncertain business.⁶ Given the pervasiveness of the use of share systems in the fishing industry it seems probable that permits would also be leased for shares rather than for fixed fees.⁷ As a corollary to this, the payment for use of the permit is likely to occur at the end of season settlement.

The permit owner would be more interested in the amount of cash he would receive for the use of his permit than he would be in the percentage share. With the uncertainties associated with fishing the permit owner will only be able to make a rough estimate of what he should be able to make from his permit in any given year. This estimate will be based on the physical productivity of the fishery, the number of other entry permits, fish prices, the cost of fishing, and other factors.

To compete in the lease market young persons or persons from rural areas will have to offer permit owners a reasonable expectation of competitive aggregate lease payments. It may appear that these groups of persons would be at a disadvantage competing for permit leases with fishers who have greater access to capital. This need not be the case. To produce any given expectation of a share payment for a permit a skipper could balance several things: (1) the percentage share itself, (2) investment in the fishing vessel, electronics, or equipment, (3) days spent fishing, (4) skill as a fisher. Young persons or rural residents could compete with other, perhaps more highly capitalized

fishers, by increasing the share percentage, the days spent fishing, or fishing skill. Young persons or persons from rural areas are likely to have a comparative advantage over others in the last two areas since these depend, above all, on time and young persons and persons from rural areas are likely to have lower time opportunity costs.

It may also be possible to say something about who will own permits for the purposes of leasing them. As discussed on pages 7 to 14 it is not clear that entry permits will be an attractive investment for persons not fishing with them, however, they will probably present the greatest value to persons most familiar with the fishery. Returns from leasing a permit will depend a great deal on the ability to match the permit with a fisher likely to be very successful. This will require a good knowledge of the fishery and of persons involved in it. The persons with this knowledge are most likely to be those who have had some connection with the fishery either as a participant, as a person living in the area and privy to general local knowledge about the fishery and people in it, as an employee of a state agency involved in fisheries management,⁸ or as an employee of a processing firm or other fish buying business. Of these four groups persons living near fisheries in rural or remote areas are likely to find access to alternative investments most difficult due to high transactions costs. These persons may find permit ownership and leasing more attractive than members of the other groups. Another group of persons likely to be involved in permit leasing are those fishers with permits who for one reason or another are unable to or uninterested in fishing the permit themselves during a particular year.

These considerations provide grounds for hoping that leasing may reduce the movement of permits out of rural areas. If permits are attractive investments to persons who do not fish they are very likely to be particularly attractive to rural residents. A special and important instance of this would be the rural resident who is retiring from active fishing. Thus, whereas before a person living in a rural or remote area may have had no economically sensible option but to sell his entry permit now he could earn an income by leasing it out.

Summarizing these arguments, if leasing were legal it might slow the movement of permits from rural areas. Even if it did not it would mitigate the consequences of rural permit drain on rural economies and cultures by reducing the costs of access to permits for the purposes of fishing. By reducing the dollar costs of access to permits for fishing it would also make access to permit markets easier for young persons with limited financial resources but low time costs.

II. Other Impacts of Leasing

A change in the Limited Entry program as major as the elimination of the leasing prohibition will have impacts besides those just discussed.

II.1. Increase in fishing effort

It is likely that unrestricted leasing would lead to an increase in fishing effort in limited fisheries. There would be two reasons for this; first, fishers who might otherwise not have fished and would

therefore have had no fishing income will be able to lease the permit to someone who will fish, second, some fishers who would have fished may lease their permits to someone who will fish harder.

There are strong reasons for a person who owns a permit to use it to fish. He has to pay a fee to renew it each year, but more importantly the simple ownership of the permit means that he has what economists call an opportunity cost. By owning the permit he foregoes the opportunity of selling it and spending or earning interest on the proceeds. If he is not going to fish with it there is a strong incentive to sell it to someone who will and to earn that income. Despite this in each year a number of permits in most fisheries are not used to fish. Table 1 shows the numbers of permits fished in selected salmon seine and drift gill net fisheries in 1981.

A second source of increased effort may be more intensive use of permits already being fished. It is possible that fishers with lesser skill or poorer equipment whose income from fishing would be relatively small but who are still unwilling to part with their permit may be induced to rent it to a more professional fisher.

II.2. A "landlord" class

An historically important argument against leasing of permits has been a desire to avoid the emergence of a "landlord" class of permit holders who never actually fish. The emergence of such a group of permit holders is possible if leasing is allowed. However, if leasing is to alleviate the problems mentioned the emergence of this group of

Table 1

Numbers of Permits and Numbers of Permits
Fished in Selected Salmon Seine and
Drift Gill Net Fisheries, 1981

FISHERY	TOTAL PERMITS*	TOTAL FISHED	PERCENT FISHED
Drift Gill Net			
Southeast	487	448	92
Prince William Sound	546	479	88
Cook Inlet	598	584	98
Alaska Peninsula	164	152	93
Bristol Bay	1,827	1,784	98
Seine			
Southeast	418	366	88
Prince William Sound	270	269	100
Cook Inlet	85	82	96
Kodiak	387	325	84
Chignik	102	102	100
Alaska Peninsula	127	122	96

* Permanent and Interim-Use Permits

Sources: CFEC computer printouts "Permit File Statistics by Fishery by Residency, 1981" and "Participating Permits Count by Fishery by Year."

permit holders would be helpful. These persons would serve a very useful function by bearing the costs of permit ownership for those leasing permits.⁹

Part of the concern over the emergence of a "landlord" class may be based on the view that an entry permit would be a very attractive investment. It is not clear, however, that permits would be more attractive than other investments.

First, consider a permit from a taxation perspective: from this point of view an investment in a permit may be less attractive than investments in many tangible assets since permits cannot be depreciated. Consider a person with a diversified fishing operation faced with a choice between spending \$40,000 to purchase a permit for the sake of leasing it or of spending \$40,000 for a new top of the line seine skiff. In either case this person plans to put up \$5,000 in cash and borrow \$35,000. In each case he could deduct the interest on his loan as a business expense for tax purposes. In addition, if he purchased the seine skiff he could deduct depreciation on the skiff as a business expense. Using the Federal "Accelerated Cost Recovery System"¹⁰ he could deduct, as a Federal business expense, depreciation equal to:

\$6,000 in year 1

\$8,800 in year 2

\$8,400 in years 3, 4, and 5

In each year the figures shown represent a deduction in taxable profits. If the fisher is in a 20% tax bracket, this could represent \$8,000 in income to him over the five year period. This is income lost if he invests the \$40,000 in a permit.

The depreciation considerations only represent a part of the tax story. The investment in the skiff is also eligible for a 10% investment tax credit on the full value of the skiff in the year in which it is placed in service. Since the skiff was assumed to have a value of \$40,000 this means that if the fisher purchased it he could deduct \$4,000 from his income tax liabilities in that year.¹¹ Since the permit is not depreciable or tangible property it is not eligible for the credit.¹²

Tax considerations aside, a person considering investment in an entry permit would want to compare the income he could earn from leasing it plus possible capital gains from its increase in value with the income and capital gains he could obtain from some other investment such as stock or real estate. In making this comparison he will consider the uncertainty associated with the yearly income from a permit. There is also a great deal of risk associated with potential capital gains. Certainly there have been tremendous rises in permit prices: a Bristol Bay salmon drift gill net permit cost about \$1,200 in 1975 and about \$95,900 in 1982. But the truth is that in most fisheries the great surge in permit prices came prior to 1979 and as Tables 2, 3, and 4 show, since 1979, when measured in real, inflation adjusted terms permit prices in many fisheries have either been stagnant or have dropped.

There are public policy steps that could be taken to reduce the attractiveness of permits to persons who simply want to lease them. For example, a provision could be written into the law to allow leasing only two out of three or three out of five years. This would force the permit to lie "fallow" in certain years and reduce the time stream of income from it. It may also be possible to put a "sunset" provision in

Table 2

Real Entry Permit Prices in Alaskan Salmon Seine Fisheries^{*}

Year	Southeast	Prince William	Cook	Kodiak
		Sound	Inlet	
75	\$ 19,000	\$ 14,000	\$ 0	\$ 8,000
76	16,000	18,000	**	16,000
77	27,000	47,000	17,000	28,000
78	46,000	36,000	59,000	70,000
79	53,000	45,000	**	88,000
80	46,000	45,000	97,000	83,000
81	43,000	79,000	89,000	74,000
82	41,000	98,000	84,000	76,000

* in 1982 dollars; adjustments made with CPI for Urban Wage Earners and Clerical Workers (all items); Nominal Prices from CFEC 1982 Annual Report

** not enough transactions to calculate a price

Table 3

Real Entry Permit Prices in Alaska Salmon Drift Gill Net Fisheries*

Year	Prince William		Cook		Bristol
	Southeast	Sound	Inlet	Peninsula	Bay
75	\$ 16,000	\$ 6,000	\$ 7,000	\$ 0	\$ 2,000
76	17,000	8,000	9,000	11,000	4,000
77	26,000	22,000	15,000	16,000	10,000
78	51,000	41,000	54,000	22,000	32,000
79	55,000	47,000	110,000	80,000	86,000
80	48,000	32,000	79,000	108,000	107,000
81	47,000	35,000	72,000	131,000	89,000
82	39,000	46,000	58,000	129,000	96,000

* in 1982 dollars; adjustments made with CPI for Urban Wage Earners and Clerical Workers (all items); Nominal Prices from CFEC 1982 Annual Report

** not enough transactions to calculate a price

Table 4

Real Entry Permit Prices in Alaska Salmon Set Gill Net Fisheries^{*}

Year	Yakutat	Cook			Bristol	
		Inlet	Kodiak	Peninsula	Bay	
75	\$ **	\$ 4,000	\$10,000	\$ 0	\$ 0	
76	10,000	3,000	7,000	**	5,000	
77	11,000	8,000	10,000	8,000	4,000	
78	15,000	15,000	29,000	**	13,000	
79	**	31,000	45,000	0	24,000	
80	38,000	21,000	45,000	18,000	37,000	
81	28,000	16,000	44,000	58,000	28,000	
82	33,000	17,000	40,000	55,000	37,000	

* in 1982 dollars; adjustments made with CPI for Urban Wage Earners and Clerical Workers (all items); Nominal Prices from CFEC 1982 Annual Report

** not enough transactions to calculate a price

the leasing regulations forcing a reevaluation after, say, five years. This would increase the risk associated with leasing income for the permit holder. Steps such as these would reduce the usefulness of legalized leasing in easing access to the fishery.

II.3. End an illegal activity

A good deal of leasing is already said to be going on in many fisheries despite the legal prohibition. In December 1982 the State was investigating 32 cases of suspected illegal leasing. The illegal acts involved fishers making false statements on transfer forms and fishers simply turning over permit cards to other individuals for their use without going through normal transfer procedures.¹³ It is very expensive to investigate and prosecute those cases of illegal leasing which come to the State's attention.

Since leasing is illegal there is no way to accurately judge the extent to which it occurs. If it is sufficiently extensive it may be performing many of the functions that legalized leasing would perform. To that extent the benefits that would flow from legalizing leasing would be less.

II.4. Fishers flexibility

Allowing leasing would increase fishers' operational flexibility. If there are conditions in which a fisher does not want to fish in a fishery for a season but wants to retain his permit, if these are not covered by the emergency transfer provisions, and if he is law-abiding,

then he is prevented from obtaining any income from his investment in the permit. For example, a person who would like to go to trade school for a year is precluded from leasing his permit during that time.

Emergency transfers, even when granted, impose a burden on the individual applying. Applications and supporting documents must be submitted and the applicant must use it on the Commission's approval.

II.5. Administrative burden

It is not clear whether allowing leasing would increase or decrease the administrative burden on the Entry Commission. On one hand less staff time would be needed to scrutinize requests for permanent or emergency transfers or to investigate cases of suspected fraud. No more of the Commissioners' time would be taken up making decisions about doubtful emergency transfers. On the other hand the Commission would have to regulate the leasing process and would want to keep track of events in the lease market. A leasing program would require effort by the Commission to ensure that only fishers with valid permits were making landings. To do this lease transactions will have to be made through the Commission and would involve retrieval of the existing plastic permit card and issuance of a new specially marked card. The Commission would probably also seek to gather information on lease markets in much the same way it now gathers information on transfer markets.

II.6. Permit transfer markets

Two concerns have been raised about the impact of leasing on the permit transfer market. Some have suggested that it will lead to upward movement in permit prices. The right to lease a permit as well as to sell it or fish with it would work to enhance its value but the possibility that more people will be active in the fishery, mentioned earlier, should work to depress its value. It is difficult to determine what the net effect would be.

Table 2 shows the number of transfers per outstanding permit in selected seine and gill net fisheries for the 1975-1982 period. The second of the two concerns is that permanent permit transfers might decline to very low rates. It is not clear that this would happen since the same forces that would make the permit more attractive to someone who already owns one will also make it more attractive to someone who doesn't yet own one. Even if the rate of transfers dropped somewhat, the lease market for permits would keep access to the fishery available to all.

II.7. Processors

It has been argued that legal permit leasing would allow processors to gain more control over ex-vessel markets. Although corporations, and thus processing companies, can not own permits themselves, employees of the companies could purchase permits in their own names for the purpose of leasing them. In fact, as mentioned on page 7, employees of

Table 5

Transfers per Outstanding Permit in Selected Salmon Seine
and Drift Gill Net Fisheries, 1975-1982

Fishery	Transfers per Transferable	
	Permanent Permit	*
Gill Net		
Southeast	0.16	
Prince William Sound	0.13	
Cook Inlet	0.14	
Alaska Peninsula	0.15	
Bristol Bay	0.11	
Seine		
Southeast	0.10	
Prince William Sound	0.13	
Cook Inlet	0.13	
Kodiak	0.13	
Chignik	0.04	
Alaska Peninsula	0.09	

* The ratio of total transfers during the period to the sum of the number of transferable permanent permits at the end of each year.

Source: Dinneford and Kamali, Table 2.

processing companies may have a comparative advantage in permit lease markets given their knowledge of the fishery. If these employees were to coordinate their actions it is argued that they could coerce fishers into doing things they might not otherwise have done such as selling at lower prices and breaking strikes. The returns to these permit owners would have three parts: in addition to income from the permit and to capital gains from the permit, the owner might hope to obtain a higher income if his company benefits from its enhanced market power.

Four points may be made with regard to this argument. First it should be noted that income received in the permit owner's capacity as an employee of the processor would come at the expense of his role as a permit "landlord" since market power brought to bear on fishing operations would reduce the value of the right to fish and thus permit lease payments (as well as permit value and capital gains).

Second, it is by no means clear that processor employees would find permits attractive investments. True, with their fishery knowledge they might have a comparative advantage over others who might invest in permits. On the other hand compared to rural residents who live near the fisheries processor employees, many of whom live in Seattle, have far more alternative investments available at lower transactions costs. Given the nature of permit investment it is by no means clear that these employees would choose permits.

Third, it is possible that legal leasing may actually reduce processor influence in the fisheries. Much of this influence is said to follow from the great expense of buying the boats, gear, and permits needed to fish and the comparative advantage processors have over fishers in capital markets due to their larger size. The argument goes

that the processors put their superior access to capital at the service of the fisher in exchange for concessions on fish prices or other matters. If permit leasing lowers the costs of fishing the importance to the fishers of processors as a source of capital may decline.

Fourth, it would be possible to guard against this behavior by processors and their employees by including a sunset provision of perhaps five years in the regulations governing leasing. Thus legal leasing would automatically end after five years and a decision would have to be made whether or not to renew it. Should leasing lead to processor control this would put an end to it.

III. Leasing Options

There are many variations that could be incorporated into any system of permit leases. Some have already been mentioned. These are summarized here and others are suggested.

- It may be possible to allow leasing in some fisheries but not in others. If this flexibility could be written into the statute then leasing could continue to be prohibited in fisheries where it might pose special problems. For example, there may be a fishery in which leasing could lead to very large increases in effort and is thus undesirable.
- Allow fishers in each fishery to vote during the permit renewal process on whether or not they want leasing in their fishery. This would provide a mechanism for the expression of fishers' preferences.

- Allow the permit to be leased only two out of three or three out of five years. This would reduce the attractiveness of the permit as an investment for "landlords" and may hold down effort somewhat. However, it would also reduce the effectiveness of leasing as a solution to the problems discussed earlier.
- Put a "sunset" provision in leasing regulations. This would enforce a reevaluation after, say, five years.
- Postpone the introduction of leasing until a buyback program has reduced gear in a fishery down to optimal levels. After a buy-back program effort increases associated with leasing would be of less concern.
- It may be possible to achieve some of the benefits that would flow from leasing by relaxing the emergency transfer conditions.

Finally, leasing is a step from which it should be fairly easy to return. If, under leasing, negative impacts are found to out weigh positive, it would be fairly easy to rewrite the statute to eliminate it once more.

IV. Footnotes

1. Langdon. Pg. 49.
2. Karpoff. Pg. 3.
3. AS 16.43.150(g)
4. AS 16.43.180(a)
5. Attorney General's Opinion J-66-162-80 summarized in Haley. Pg. 1.
6. Sutinen. Pg. 4.
7. Kurt Schelle reports that informal discussions with fishers about the black market for leased permits indicate that share systems are common.
8. This suggests the desirability, in order to avoid conflicts of interest, of coupling leasing legalization with a prohibition on permit ownership by state employees involved in fisheries management.
9. In connection with this note that no person may own more than one permit in any fishery. [AS 16.43.140(g)].
10. U. S., "Tax Guide." Pg. 18-19.
11. If he did take this credit he would have to reduce the value of the skiff for depreciation purposes by 50% of the value of the credit. In this example this would be \$2,000. The value of the depreciation over the five years to him, still assuming a 20% tax bracket, would now be \$7,600. U. S., "Tax Guide." Pg. 26, and personal communication from Mark Prussing.
12. U. S., "Tax Guide." Pg. 26-27.
13. CFEC. Pg. 16.

V. References

- Alaska, State of. Alaska Statutes Chapter 43, "Regulation of Entry into Alaska Commercial Fisheries."
- Commercial Fisheries Entry Commission, State of Alaska. "1982 Annual Report" Juneau; June, 1983
- Dinneford, Elaine and Nasser Kamali "Changes in the Distribution of Permit Ownership in Alaska's Limited Fisheries, 1975-1982." CFEC Report Number 84-1. Alaska Commercial Fisheries Entry Commission. Juneau. January, 1984.
- Haley, Sharman. "Summary of emergency transfer standards and precedents." An internal Commercial Fisheries Entry Commission memorandum dated October 1, 1982.
- Karpoff, Dr. Jonathan M. "Limited Entry Permit Prices." CFEC Report Number 83-6. Alaska Commercial Fisheries Entry Commission. Juneau, 1983.
- Langdon, Dr. Steve. "Transfer Patterns in Alaskan Limited Entry Permits." Final Report for the Limited Entry Study Group of the Alaska State Legislature." January, 1980.
- Prussing, Mark. Personal communication. April, 1984.
- Schelle, Kurt. (Director of Research and Planning of the Commercial Fisheries Entry Commission). Personal communication, Fall, 1983.
- Sutinen, J. "A Simple Economic Model of the Crew Share System." NORFISH Technical Report 31. March, 1972.
- U. S. Department of the Treasury. Internal Revenue Service. "Tax Guide for Commercial Fishermen." Publication 595. (Revised October, 1983.)

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TO BILL CARROLL

FROM DOROTHY IN DILLINGHAM

FINAL STATS

HOUSE SPECIAL COMMITTEE ON FISHERIES HB120 ON LEASING OF PERMITS

TESTIFIED: DAVID B. SNYDER, ATTORNEY, BOX 210, DILLINGHAM,
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ONE OTHER OBSERVER WHO DID NOT SIGN IN.

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FINAL STATS

T/C: H. SPECIAL COMMITTEE ON FISHERIES
 DATE: 02-12-85
 SITE: BETHEL
 MODERATOR: GRACE

PARTICIPANTS:

TESTIFIED:

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