

HJR

23

SENATE COMMITTEE REPORT

DATE: 3/13/97

FURTHER:

DATE TURNED IN TO OFFICE: 4/23/97

Resources Committee considered HOUSE JOINT RESOLUTION NO. 23

Relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

and recommends:

be replaced with _____ CS _____ ()

adopt previous _____ CS _____ ()

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Karen A. Roman</i>	✓	<i>John Mee</i>	✓		
<i>Bob Mays</i>	✓	<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
CHAIR: <i>Rick Helgad</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>CFEC</i>	<i>2/24</i>	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

COMMITTEES



State Capitol
Juneau Alaska
99801 US2
907-465-3744
FAX 907-465-2273

CHAIR
MEMBER

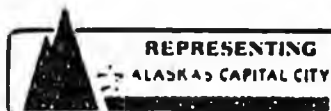
SPONSOR STATEMENT HJR 23

The IRS has been engaging in the outrageous seizure and sales of Alaska commercial fishing entry permits to collect past due taxes. I sincerely believe all taxpayers must act in good faith to meet their federal tax obligations, but it is not necessary or prudent to take away a fisher's basic right to work in order to collect federal taxes.

Recently, the IRS sold an entry permit with only two days notice to the State of Alaska. During this sale they sold the permit which was valued at \$30,000 for only \$5,005. The IRS has threatened to seize seven entry permits in the Dillingham area at this time, as well as threatening a widow in Anchorage with the sale of her deceased husband's fishing privileges for as little as \$3,000.

Commercial fishermen who lose their entry permits are deprived of their ability to make a living. Additionally, fishermen are deprived of their means to earn money to repay their debts to the IRS. It is certainly in the best interest of the federal government to recoup back taxes through the income earned by entry permit holders rather than to recover an insignificant amount through the sale of Alaska commercial fishing entry permits at 10 cents on the dollar. The actions of the IRS appear to be calculated to do harm to an Alaska citizen rather than to raise revenue. Alaskan limited entry permits are use privileges; only the state reserves the right to cancel or modify such privileges without compensation. AS 16.43.150 (e).

HJR 23. requests our Alaska congressional delegation to use any means available to them to assure that the IRS will collect past due taxes from income generated by the sale of fish and the voluntary sale of entry permits, to ensure that the IRS complies with federal law to avoid inflicting economic hardship on a taxpayer, and to protect fishing privileges and the right to work of Alaska fishermen.



FISCAL NOTE

No. 1
 III Version: HJR 23
 (H) Publish Date: 2/25/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: February 24, 1997 Dept. Affected: CFEC
 Title: Relating to the seizure and sale BRU: _____
of CFEC permits by the IRS Component: _____
 Sponsor: Representative Bill Hudson
 Requester: House Special Committee on Fisher. COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF: Program Receipts						
1037 GF: Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact foreseen by this Resolution

Prepared by: House Special Committee on Fisheries Phone: 465-2487
 Division: Chairman, Alan Austerman Date: 2-24-97
 Approved by Commissioner: Chairman, Alan Austerman Date: 2-24-97
 Agency: _____

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BOROUGH MANAGER

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(907) 246-6633

Bristol Bay Borough

NAKNEK, SOUTH NAKNEK, AND KING SALMON, ALASKA

Resolution 97-7

A resolution supporting HJR 23: Relating to seizure and sale of commercial fishing entry permits by the U.S. IRS

Whereas, Alaska fishermen possess limited entry permits to provide a living for themselves and their families and;

Whereas, the Alaska Commercial Fisheries Entry Commission, for the State of Alaska, has negotiated in good faith with the Internal Revenue Service to retain ownership of limited entry permits for Alaskan fishermen and;

Whereas, the Internal Revenue Service entered into a formal Memorandum of Understanding with the State of Alaska under which the Internal Revenue Service agreed to cooperate with the State in good faith before selling seized entry permits and;

Whereas, the Internal Revenue Service persists in seizing and selling entry permits even when the seizure results in significant economic hardship to the commercial fishermen in spite of federal law (26 U.S.C. 6343) which requires the IRS to release levy to avoid inflicting economic hardship on a taxpayer and;

Whereas, HJR 23 asks the Alaska Congressional Delegation to work with the IRS to help the State of Alaska and the fishermen by allowing back taxes to be taken out of income earned instead of by seizure and sale of limited entry permits;

Therefore Be It Resolved that the Bristol Bay Borough go on record as supporting HJR 23.

Passed and approved by the Assembly of the Bristol Bay Borough, Alaska this 17th day of March 1997.

Carol Zinn

Presiding Officer

ATTEST:

Betsy J. Bonin

Borough Clerk

SUPPORT

Cordova District Fishermen United

Celebrating 62 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

March 6, 1997

Oral testimony given re: HJR 23 (Relating to the seizure and sale of commercial fishing entry permits)

Sent via facsimile to House Resources (907) 465-2273 and 465-2197

Good afternoon. Mr. Chairman and committee members, my name is Cheri Shaw. I am Executive Director of Cordova District Fishermen United (CDFU) and will be speaking on behalf of CDFU and myself this afternoon.

CDFU fully supports HJR 23. The Internal Revenue Service (IRS) has gone back on its agreement with the State regarding the seizure and sale of limited entry permits. Last summer, the IRS in conjunction with the Commercial Fisheries Entry Commission (CFEC), the Division of Investments, myself as the commercial fishing representative and other interested parties came together for the Alaska Symposium. The purpose of the symposium was to brainstorm ideas that would help fishing taxpayers in arrears satisfy their tax obligation to the IRS.

During the symposium, many intelligent solutions were discussed and the participants were given instructions to investigate the possibilities of implementing at least some of the ideas. Two examples of ideas discussed were, 1) coding a permit holders card to flag the tender or processor to hold out part of the fisherman's settlement and 2) starting a withholding program in the fishing industry as in other businesses.

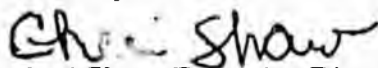
The IRS is losing money for the federal government by forced sales of limited entry permits. Some sales result in permits being given away for ten cents on the dollar, not even meeting the taxpayer's original obligation. The buyer of the permit is also a victim in this transaction by not being able to fish the permit until the transfer is finalized. This can result in litigation, causing more money and time to be spent. Working with the delinquent taxpayer from the beginning could have alleviated the dispute.

Patience, understanding and education of the delinquent taxpayer has reaped rewards far beyond the strong arm tactics used by the revenue officers. When given adequate notice of a proposed forced sale, CFEC has intervened and successfully counseled many fishermen on the programs available for their utilization. The tax obligation loan program which has already expended more than \$4.5 million dollars to the IRS has been an extremely successful program and will hopefully be reauthorized this legislative session.

It is high time for the State of Alaska to stand up to the self-proclaimed bounty hunters and let them know they've gone too far. Respect is given to those who keep their word.

Mr. Chairman and committee members, I will reiterate Cordova District Fishermen United's support for HJR 23 and answer any questions you may have. Thank you for the opportunity to testify before you today.

Sincerely,



Cheri Shaw, Executive Director
Cordova District Fishermen United



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

February 26, 1997

The Honorable Bill Hudson
Alaska State House of Representatives
State Capitol Building, Room 108
Juneau, Alaska 99801-1182

Dear Representative Hudson:

United Fishermen of Alaska supports HJR 23.

UFA believes that all tax payers should file and pay their federal tax obligation.

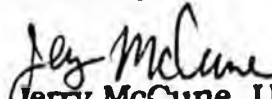
Currently, the IRS has the ability to collect back taxes during the fishing season, through the seizure of fishing vessels, and the voluntary sale of entry permits. When the IRS auctions off limited entry permits, it puts undo hardship on fishing families and the State of Alaska, as well as threatening communities.

Limited entry permits with a value of \$30,000 are being sold by the IRS for as little as \$3,000. Selling permits will not help pay future tax obligations or protect an individual's right to work. The Commercial Fisheries Entry Commission has taken every measure to help and cooperate with the IRS.

UFA does not believe the IRS should threaten to or take away the commercial fisherman's ability to make a living. UFA believes the IRS should work cooperatively with the Alaska Commercial Fisheries Entry Commission in its outreach program to assist the commercial fisherman whose taxes are in arrears.

UFA urges the passage of HJR 23 to protect state rights.

Sincerely,


Jerry McCune, UFA Lobbyist
and Immediate Past President

MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association
Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association
Northern Southeast Regional Aquaculture Association • Northwest Setnetters Association • Peninsula Marketing Association • Petersburg Vessel Owners Association
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Seiners Association
Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters

TONY KNOWLES
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



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Press Secretary
Claire Richardson
Deputy Press Secretary
907-465-3500
FAX: 907-465-3633

FOR IMMEDIATE RELEASE: March 4, 1996

96-049

ENTRY COMMISSION DENIES IRS SALMON PERMIT TRANSFER **Knowles Calls Federal Seizure of Permits Harsh, Unwarranted**

Saying it's wrong to take away a person's livelihood to settle a tax debt, Governor Tony Knowles today applauded the Commercial Fisheries Entry Commission's decision to deny a request by the Internal Revenue Service (IRS) to transfer a salmon fishing permit held by a Hydaburg man.

In a 60 page decision released today, the commission, a quasi-judicial body, ruled the IRS acted beyond its federal statutory authority in making the request to transfer the permit to the high bidder in a permit auction. Although the IRS has attempted to seize and force the sale of Alaska entry permits for more than a decade, this is the first time the commission has been called upon to issue a formal decision on the subject.

"Taking away an Alaska fisher's right to fish is harsh, unwarranted, and counter-productive," Knowles said. "It is just wrong for the IRS to take away an individual's entry permit - their right to work - when other means to collect taxes from Alaska fishers are readily available. Seizing a permit from an isolated fishing community may well push an entire family onto the welfare rolls at a time when the state and federal government are looking for ways to get people off welfare and back to work."

Knowles noted that commercial fishers are an easy target for the IRS since the state maintains meticulous catch records. But he also noted that the state has taken extraordinary measures to cooperate with the IRS. For several years, the Entry Commission has urged Alaska fishers to meet their tax obligations. In addition, the state has committed \$3.6 million in secured loans through its tax obligation loan program.

"This issue is important to maintain jobs and protect families along Alaska's coast," Knowles said. "We must resist federal intervention that blocks access to traditional fisheries, destroys an individual's means of earning a living, threatens communities and directly interferes with Alaska's comprehensive fisheries management system."

(9)
Date Referred to Committee: February 25, 1997

FURTHER REFERRALS:

Rules

Date of Committee Action: 3/6/97

The RESOURCES Committee considered:

HJR 23

HOUSE JOINT RESOLUTION NO. 23

SALE OF LTD ENTRY PERMITS BY IRS

Relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[] fiscal note(s) _____

[] zero fiscal note(s) _____

[] zero fiscal note(s) _____

H. FISH. CMTE / F&G 2/25/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>W.K. Williams</i>	WILLIAMS	✓			
<i>Robert A. Green</i>	GREEN	✓			
<i>Robert M. Masarik</i>	MASARIK			✓	
<i>Scott Egan</i>	EGAN	✓			
<i>Victoria</i>	VICTORIA	✓			
<i>James</i>	JAMES	✓			
<i>Bill Hudson</i>	Hudson	✓			
		(6)		(1)	

CO-CHAIR'S SIGNATURE Bill Hudson Co-Ch Scott Egan Co-Ch

PAST ACTION

Date of Committee Action: 2/24/97

X

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HJR 23

HOUSE JOINT RESOLUTION NO. 23

SALE OF LTD ENTRY PERMITS BY IRS

relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[] fiscal note(s) _____

[X] zero fiscal note(s)

House Fisheries Committee

[] zero fiscal note(s)

<u>SIGNING WITH RECOMMENDATIONS</u>	DP	DNP	NR	AM
<u>[Signature]</u>	✓			
<u>[Signature]</u>	X			
<u>[Signature]</u>	X			
<u>[Signature]</u>	X			

CHAIR'S SIGNATURE [Signature]

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

TONY KNOWLES, GOVERNOR

8800 GLACIER HWY, #109
JUNEAU, AK 99801
(907) 789-6150 Licensing Calls
(907) 789-6160 Other Business
(907) 789-6170 FAX
(907) 789-6180 BBS

February 14, 1997

Mr. Paul Beene
District Director
Internal Revenue Service
915 Second Avenue
Seattle, WA 98174

FAX: (206) 220-6045

Dear Paul:

As I stated in our February 7th phone conversation, my Co-Commissioner Marlene Johnson and I will attend the February 19th meeting in Anchorage to continue our dialogue, conditioned by the substance of this letter. There are fundamental issues we must address.

Our Existing Agreement

First, your January 14 letter acknowledges the State of Alaska has paid the IRS more than \$4.5 million in consideration under its existing agreement with the IRS. In fact, actual expenditures in human resources and dollars have been far greater. In our most recent commemoration of our agreement, the IRS committed its "best efforts" to ensure the benefits of the Tax Obligation Loan Program are available to Alaskans through meaningful intervention by the State and third parties.

We believe the two days' notice you provided the State of your pre-Christmas sale of Alaska limited fishing privileges is an actionable breach of our existing contract. With respect to contracts of which the U.S. is a party, the Federal Government has been held liable under ordinary principles of contract law. United States v. Winstar Corp., 518 U.S. ___, 116 S.Ct. 2432, 135 L.Ed.2d 964 (1996).

Our primary concern is IRS performance of its express duty to cooperate with the State in good faith under our existing agreement. This promise is virtually the only consideration given by the Federal Government in contrast to the substantial commitment of resources and money provided by the State. Now that the Federal Government has reaped the substantial rewards of the contract,

BACKGROUND

including a shift of tax collection responsibilities from the Federal Government to the State, the IRS may not disregard its promises through a change of policy to obtain self relief from an agreement you may now view as improvident or to pressure the State into acting as you dictate.

Specifically, the IRS has the continuing duty to provide reasonable notice of IRS targets in order to allow for meaningful intervention and help well before an IRS seizure and attempted forced sale of a holder's interest in a permit. Under ordinary contract law, this duty precludes the IRS from taking opportunistic advantage of the State and, also, from acting in a manner which destroys or injures our right to receive the fruits of our agreement.

As your January 14 letter confirmed, the State has enjoyed notable success in assisting taxpayers to achieve IRS compliance with no loss of fishing privileges, a result which the IRS effort, alone, did not accomplish prior to our collaboration.

Your Recent Proposals

As a separate and secondary matter, your January 14 letter urges the State to respond to your recent proposals for a new, supplemental agreement.

To recount the background for your recent proposals, on May 16, 1996, during a phone conversation with former Commissioner Homan and me, you stated, in return for further commitments by the State, IRS would discuss not seizing entry permits. Subsequently, at our July 19, 1996 meeting, in the presence of more than 30 people, you offered to discuss eliminating forced sales of entry permits pursuant to an agreement under which the IRS would collect from the proceeds of fish sales instead of forcing the sale of Alaska limited fishing privileges. In consideration, I offered to discuss potential changes to state law that would support IRS' collections.

A group of participants (including at least one Representative of our Congressional Delegation) met immediately following our July meeting and

confirmed receiving your offer. Shortly thereafter, I sent you a letter asking you to confirm your own statement. Instead, you responded, "I appreciate your sharing your reflections" on the meeting. Despite the fact your answer failed to confirm or qualify your statement, we gave you the benefit of the doubt and pursued discussions with you.

In November, the IRS sent the State four proposals to permanently change Alaska law to require the State of Alaska to assume various new responsibilities to achieve federal tax enforcement. Clearly, the Federal government seeks to shift the costs of meeting its statutory responsibilities to the State through those IRS proposals. For the State to elect to do so, the IRS must promise something meaningful in return. The confusing discussion that followed your proposals prompted us to seek written clarification as to what you are offering the State. After more than six months, you provided the clarification we first sought in July, and it is disturbing.

Your January 14 letter refers to your November proposals for Alaska to permanently change state law and assume responsibilities for the IRS, and you assert:

[t]hese proposals are what the IRS is offering the State.

The Federal government is not the creator of State law. Therefore, nothing is conveyed in IRS' purported offer to the State.

Additionally, in support of one IRS proposal for a change in Alaska law to require the Entry Commission to withhold all seasonal fishing permits until the IRS certifies each yearly applicant for a permit is in full compliance with his federal tax obligations, you represent that Alaska law already makes the same requirement for child support obligations. This is not true. The Alaska Legislature rejected the idea: both the Legislature and our Child Support Enforcement Division recognize that in order to collect from fishermen, fishermen need to be in the water catching fish.

In any event, your January 14 clarification emphasizes no matter what the State may undertake to do for the IRS, you assert the unqualified right, without reasonable notice as our contract requires, to attempt to force the sale of any property interest a delinquent fisher may have in State fishing privileges, particularly in those cases IRS subjectively classifies as "egregious." On December 4, you represented to the Alaska Congressional Delegation that the targets of your pre-Christmas sales of entry permits were such "egregious" cases.

Under 26 USC §6343. Congress created an affirmative duty on the part of the IRS to release a levy when "such levy is creating an economic hardship due to the financial condition of the taxpayer" The clear requirement of §6343 mandates a levy release in all cases of economic hardship, regardless of whether or not the IRS has subjectively designated any such case as "egregious". Despite this mandate, you have insisted the State negotiate an agreement recognizing the purported right of the IRS to attempt the forced sale in cases the IRS determines are "egregious". From your pre-Christmas actions, this amounts to a demand on the State to accept a pledge to do less than Congress has already required.

In short, your January 14 letter clarifies the IRS is not offering the State of Alaska any consideration for the changes you would like to see in State law.

Recent Events

It is clear the IRS' recent actions are an improper attempt to pressure the State. In addition, those actions demonstrate a lack of best efforts with respect to our agreement and, also, a failure to act in good faith with respect to the current negotiations.

Consistent with Part 3 of IRS Form 4585, the IRS assured a taxpayer targeted for your pre-Christmas sale: "The minimum bid price is established to protect your interests in the property." This written representation was deceptive. The IRS set the minimum bid at \$3,375, which is a fraction of the average \$30,000 for an authorized State transfer. Affidavits provided to CFEC

state a Revenue Officer under your direction advised possible buyers as follows: in order to pursue the IRS' present dispute with the State, the IRS intended to sell the particular permits for "substantially below the permits' fair market value" and, once a permit was transferred, it would "open the floodgates" of State permit seizures by the IRS. The affiants stated the Revenue Officer volunteered "the Commissioner of the IRS is aware of the situation and the matter is receiving attention at the highest levels at the IRS Washington D.C., headquarters" and, also, the IRS intended to pursue its disagreement with the State of Alaska "to a conclusion that is satisfactory to the IRS." Based on these affidavits, it appears the IRS willfully breached its duties to the State in an attempt to improperly coerce the State into acting as the IRS dictated.

Moreover, your December 6, 1996 letter states, if we fail to meet your expectations for future negotiations, "fishing entry permits will continue to be seized and sold [and thereby] endanger[] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans)." Consistent with your letter, a Revenue Officer under your direction has announced he will resell an entry permit from the pre-Christmas sale on one day's notice. A Revenue Officer has threatened the seizure of seven limited entry permits in the Dillingham area at any moment. Additionally, we received a call from a widow in Anchorage who reported a Revenue Officer threatened to sell her fishing privileges and those of her deceased husband for as little as \$3,000.

In addition to disrupting orderly implementation of the Loan Program, IRS' pre-Christmas actions and threatened actions require the Entry Commission as Administrative Law Judges to rule on any claims that result. If we are in the midst of negotiating with you, and, on 2 days' notice, we are required to rule on a related claim, we face a conflict that creates at least an appearance of impropriety. We need sufficient warning from you to be able to withdraw from negotiations before such a conflict arises.

Apart from our requirements to function as Administrative Law Judges under State law, your pre-Christmas actions damaged the climate for cooperation between

the State and Federal Government. See the enclosed letter from our Governor to the Alaska Congressional Delegation.

Again, our agreement requires meaningful notice from you identifying your targets well in advance of an IRS forced sale.

Where Do We Go From Here

More than once in the past, we have discussed the possibility of extending the State's Tax Obligation Loan Program presently due to sunset this spring. We committed to explore that alternative. When we talked last Friday, you asked again about this possibility, and I told you the door was not closed to this option. Accordingly, you prepared a letter to Governor Knowles' advocating this alternative.

In contrast to the other IRS proposals, this option makes the most sense for several reasons.

First, the State-IRS "partnership" has proven effective to assist Alaskan fishers damaged by the post-1988 adverse market conditions not only in achieving federal tax compliance, but in ordering their other financial affairs.

Second, our joint cooperation has reaped rewards in cases in which the IRS, alone or through contractors, otherwise has been unsuccessful. In this regard, we are aware the IRS instituted a pilot program in 13 states, including Alaska, through which private collectors were to be hired by the IRS to collect delinquent taxes. According to a recent article, the IRS is disappointed in this program, because the five collection agencies hired by the IRS were able to contact only about 9% of the taxpayers and, according to the collection agencies involved, the poor results were "because the IRS was late in getting the files to them and the files were extremely old."

Third, our mutual cooperation has provided an opportunity to accomplish our respective goals, largely without counterproductive adversarial conflict. We

believe this effect has and continues to raise our citizens' confidence in our respective governments. Specifically, the process has become less threatening and less fearsome to the lone fisher with tax problems, because we are working together.

Fourth, our cooperation has identified many Federal and State tools available to assist fishers. As a result, these tools have been more fully utilized than has been the case in the past.

Fifth, our respective efforts have put a human face on what otherwise could be characterized as mechanical processing by the IRS in relative isolation from the community. In this time of shrinking federal budgets and operations, we believe our cooperative undertakings should serve as a model for the future. In short, we continue to achieve good results and, thus, should persist on the path we know to be productive.

This week, after conferring with the Commission and the Division of Investments, State Representative Ivan introduced HB 123 to extend the Tax Obligation Loan Program. While this is a positive first step, persuading the Legislature and the Administration of the merits of this legislation will be an extremely difficult task. As you well know, there are very many worthy and competing alternative uses for the same funds. We need meaningful numbers from the IRS to show (1) the extent of the current problem; (2) the extent to which Alaskans have been helped; and (3) the extent of improvement in tax compliance since the original information presented by the former IRS Chief of Collections in 1993. This is the same information we requested more than a year ago consistent with our agreement. The numbers you employed in your January 14 letter suggest a substantial improvement of at least 58%. However, the figures you employed in your more recent letter to the Governor appear inflated. We need some real information from the IRS to present to the Legislature and the Governor.

Mr. Paul Beene

-8-

February 14, 1997

In the interim, we have to operate with the sunset of the Loan Program in mind. We must evaluate and coordinate our outreach efforts to ensure maximizing service to Alaskans and revenue to the federal government. To further this goal, I reported to your Chief of Examination, Mel Joseph, that, on the recommendation of the IRS, the State has already modified its regulations governing permanent fund dividend recipients. Mr. Joseph and I are discussing practical ways to make use of the information that will be generated. This is an experimental work in progress, and we do not yet know whether it will prove to be a practical tool. Nonetheless, we remain committed to working through the process as we promised IRS.

Finally, as we have stressed in this letter, we must have meaningful notice of IRS' targets for seizure and sale well in advance of any action by the IRS so as (1) not to disrupt our planned cooperative efforts, and (2) to allow sufficient time for intervention and help well before an IRS seizure and forced sale.

The Legislature is in session for only 120 days. We hope you will address these points at our meeting on Wednesday, February 19.

Yours truly,

COMMERCIAL FISHERIES ENTRY COMMISSION

Dale Anderson, Commissioner
Marlene Johnson, Commissioner
Bruce Twomley, Chairman

by: 

Enclosure

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

JAN 14 1997

9870 GLACIER HWY #111
JUNEAU AK 99801
907 789-6150 Licensing Office
907 789-6160 Other Business
907 789-6170 FAX
907 789-6180 BB

January 10, 1997

The Honorable Bill Hudson
Alaska State Representative
Room 108, State Capitol
Juneau, AK 99801-1182

Dear Representative Hudson:

The enclosed correspondence will bring you up to date on IRS' efforts to force sales of Alaska's limited fishing privileges. For more information about the individual Alaskans who are the targets of IRS' forced sales, we encourage you to contact the Alaska Business Development Center at (907) 562-0335.

As the correspondence provides in more detail, the IRS drew the State into discussions last summer with an offer that now appears to have been an exercise in bait and switch. IRS' new, substitute offer appears to be a sham. (Enclosure A)

Additionally, as the talks were going forward, IRS--contrary to its existing written Memorandum of Understanding with Alaska--gave the State two days' notice and scheduled pre-Christmas sales of two limited entry permits. IRS announced these sales were directed from its highest levels in Seattle and Washington, D.C.

For its pre-Christmas sales, IRS targeted two fishers with dependents who already live on the edge of poverty. IRS offered to sell their \$30,000 entry permits for as little as \$3,375.00.

On very short notice, the Alaska Business Development Center intervened on behalf of the permit holders. The Alaska Business Development Center timely applied to the IRS Director to release the levies and cancel the sales, because the forced sales would cause economic hardship to the permit holders and those dependent upon them. The IRS Director has a duty under existing Federal Statute 26 USC §6343 to release a levy to avoid inflicting economic hardship on a citizen. The IRS Director failed to respond to the Alaska Business Development Center's request.

As the result of further efforts by the Alaska Business Development Center, IRS' Problem Resolution Officer intervened and temporarily postponed one of the sales. IRS sold the other permit held by an older Alaska Native for \$5,005.

As Administrative Law Judges, we at the Entry Commission are required by law to rule on a request to transfer arising from the forced sale. To preserve our ability to perform this function, we can not carry on further negotiations with the IRS while this matter is pending.

January 10, 1997

In the meantime, however, the enclosed letter from IRS' Director threatens to take more hostages and to endanger[] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans) . . . (Enclosure B) A permit holder has already called the Commission to report IRS has threatened to sell her and her deceased husband's permits for as little as \$3,000. Additionally, IRS has announced it will go to the Dillingham area early in the New Year to seize seven additional entry permits.

The primary current issues appear to be:

- (1) during the last months of Alaska's Secured Tax Obligation Loan Program, will the IRS comply with its existing Memorandum of Understanding (Enclosure C); and
- (2) will the IRS Director comply with his duty to avoid inflicting economic hardship on a citizen under 26 USC §6343?

To put this matter in a historic context, we enclose some IRS correspondence from one year ago. Please contrast the enclosed December 6, 1995 letter from the former, Alaska-based District Director as well as the enclosed November 29, 1995 letter from the former IRS Chief of Special Procedures, who was also based in Alaska. (Enclosure D)

IRS' intervening reorganization has removed management from Alaska and placed it in Seattle. IRS' reorganization has transferred or eliminated many of the individual IRS employees who worked constructively with the State.

More than a year ago, we warned that IRS' reorganization created the risk of less understanding and sensitivity to the needs of Alaskans--particularly Rural Alaskan fishers.

We would be happy to provide further information. We welcome any assistance you can provide.

Yours truly,

COMMERCIAL FISHERIES ENTRY COMMISSION
 Dale Anderson, Commissioner
 Marlene Johnson, Commissioner
 Bruce Twomley, Chairman

by: _____



Enclosures

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

8800 GLACIER HWY. #109
JUNEAU, AK 99801
(907) 789-6150 Licensing Calls
(907) 789-6160 Other Business
(907) 789-6170 FAX
(907) 789-6180 BBS

JAN 14 1997

December 31, 1996

Mr. Paul Beene
District Director
Internal Revenue Service
915 Second Avenue
Seattle, WA 98174

Dear Paul:

We received your December 6th letter (copy enclosed) on December 13 and are sharing it with our Alaska Congressional delegation.

Your letter highlighted the phone conversation former Commissioner Frank Homan and I had with Patricia Miller on November 13, 1996, and accused us of an "unwillingness to move forward."

That phone conversation was prompted by our November 6th receipt of your request to change Alaska law in a variety of ways to disadvantage Alaskans in order to help the IRS. There were two items of substance in that conversation. (1) We told Patricia Miller it was entirely unclear what IRS was offering the state in return, and we needed written clarification from you to share with our Governor and Attorney General in order to develop a thoughtful response. Beginning last July, we have consistently requested such a confirming statement from you. (2) We then discussed a mutually agreeable schedule for going forward. Patricia Miller asked, "realistically, can you expect to have anything back to us before the end of January?" I said, depending on when we received your response, we hoped to have preliminary written comments back to the IRS by the end of the year.

Paul, no one could rationally interpret our actions to date as "an unwillingness to move forward."

Please recall, last July, in the presence of more than 30 people, you made an offer that led the state into these discussions. You offered to discuss eliminating forced sales of entry permits through an agreement under which the IRS would collect from the proceeds of fish sales (that is, the money generated) instead of forcing the sale of Alaska limited entry permits. Now, for the first time, your letter makes clear you have (without explanation) withdrawn your July offer and switched to a promise to force the sales of Alaska fishing privileges "in the most egregious cases."

Enclosure A
(1 of 3)

Additionally, please remember, following your July offer, we again told you (for at least the third time) the state could not participate in discussions if the IRS pursued forced sales of entry permits during the negotiation process.

Now, having given the state two days' notice, you scheduled forced sales of two entry permits on December 11.

In its current Memorandum of Understanding (copy enclosed) with the State of Alaska, IRS promised "joint efforts to provide tax assistance to Alaska Commercial Fishers . . ." in order

to give the [Alaska tax obligation] loan program and our outreach efforts the best opportunity to succeed

* * *

The parties agree to jointly use their best efforts to develop a meaningful outreach program to encourage individuals needing assistance to participate in the new loan program and to satisfy their past due tax obligations.

* * *

Joint efforts will include communicating with the Alaska Federation of Natives (AFN) and its member organizations, the University of Alaska, fish processors, as well as other groups and individuals who may be able to contribute.

* * *

[J]oint outreach efforts will be coordinated so employees from the IRS and [the State] can jointly meet with the taxpayers to apply for the loan and resolve tax problems.

Contrary to IRS' written promises, your actions toward the targets of your December 11 forced sales systematically deny potential benefits of the loan program to individual Alaskans and destroy an opportunity for the IRS to collect substantial revenue through the loan program. As IRS publications celebrate, Alaska's secured tax obligation loan program has so far raised more than \$4 million in revenue for the IRS. In short, your actions beg the question, of what value is a promise from the IRS?

Moreover, you represented to our Congressional delegation that your targets for your December 11 sales were "the most egregious cases." You have thus provided all observers with your definition of "most egregious" and made clear your new, substitute offer to Alaska amounts to substantially less than is already required of you to avoid inflicting economic hardship on a citizen under existing federal statute 26 USC §6343.

Enclosure A
(2 of 3)

Now, you declare "fishing entry permits will continue to be seized and sold" by the IRS so as to "endanger[] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans) . . ." unless your expectations are met.

Consistent with your declaration, a woman recently reported to the Commission that IRS threatened to sell her and her deceased husband's entry permits for as little as \$3,000. Additionally, IRS has announced it will go to the Dillingham area after the first of the year to seize 7 more entry permits.

Your actions have created a conflict for the Alaska Commercial Fisheries Entry Commission. You have asked the Commission to negotiate a matter. Now you have taken actions that will require the Commissioners, as administrative law judges, to rule on the matter. As long as this conflict persists, the Commission is precluded from further participation in the discussions you request.

Yours truly,



Dale Anderson, Commissioner
Marlene Johnson, Commissioner
Bruce Twomley, Chairman

Enclosures

cc: The Honorable Tony Knowles, Governor of Alaska
The Honorable Bruce M. Botelho, Attorney General
The Honorable Ted Stevens, U.S. Senator
The Honorable Frank H. Murkowski, U.S. Senator
The Honorable Donald E. Young, U.S. Congressman
The Honorable Members of the Alaska State Legislature
Participants in IRS' July 1996 Symposium
The Honorable Margaret Milner Richardson, Commissioner of the IRS

Enclosure A
(3 of 3)

DEC 13 1996

GFEC

> DEC 05 1996

Bruce Twomley
Commercial Fisheries Entry Commission
88CO Glacier Highway #109
Juneau, AK 99801

Dear Bruce:

I received your letter dated November 22, 1996, and am somewhat disappointed in what appears to be your unwillingness to move forward with the opportunities presented.

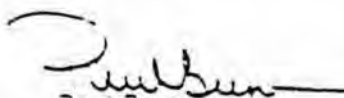
As Pat Miller made clear in her telephone conversation with you on November 13, 1996, the IRS is ready and willing to implement procedures which will minimize the possibility of a fishing entry permit being seized and sold. In an attachment to the minutes of our October 10, 1996, meeting, we presented proposals for five possible procedures which would have this effect. However, as Pat stated, the IRS is unwilling to forego the right to seize and sell a fishing entry permit in the most egregious cases, where all other efforts to work with the taxpayer have failed.

Your re-statement of your points from your October 21, 1996, letter in your November 22, 1996, letter and your unwillingness to accept Pat's definitive answers to your questions during the November 13, 1996, telephone call cause me concern. The delay in moving forward to resolve the issues at hand ultimately endangers the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans). Opportunities for cooperation and relief have been offered, yet your office has not addressed any of the proposals advanced, nor have you originated other ideas or proposals that would serve our mutual interests.

I need your assurance that you are prepared to negotiate in good faith. Understand that fishing entry permits will continue to be seized and sold in appropriate circumstances under current operating procedures. With your cooperation, revised procedures could be implemented which would increase voluntary compliance and minimize the burden and impact on Alaska taxpayers.

I have attached copies of the five proposals and ask for your creative input and commitment toward making these, or alternative proposals, work to our mutual benefit. Unless I feel that progress is being made by mid-January 1997, I will have no alternative but to pursue this matter with Governor Knowles. I have had high hopes that we could resolve this critical issue; I regret that our progress has not been more substantive to date.

Sincerely,


Paul Beene
District Director

Attachments

Enclosure B

MEMORANDUM OF UNDERSTANDING

INTERNAL REVENUE SERVICE

AND

STATE OF ALASKA DIVISION OF INVESTMENTS
AND COMMERCIAL FISHERIES ENTRY COMMISSION

The purpose of this memorandum is to outline the scope and responsibilities of employees working for the Internal Revenue Service (IRS) and the Division of Investments (DOI) and Commercial Fisheries Entry Commission (CFEC), in their joint efforts to provide tax assistance to Alaska Commercial Fishers.

The Alaska legislature has passed and the Governor has signed SB 251 which will provide loans to certain commercial fishers to satisfy their federal tax obligations and protect their limited entry permits. The parties understand and agree that, in order to give the loan program and our outreach efforts the best opportunity to succeed, we will take the following steps:

1. IRS will participate with DOI in joint outreach activities including the appointment of an IRS representative to facilitate SB 251 loan applications;
2. IRS will appoint a representative to coordinate IRS assistance for SB 251 implementation;
3. IRS will affix mailing labels to, and mail, postage-paid envelopes provided by DOI which will contain a flyer explaining the loan program, and which will bear a return address which makes reference to the Special Fishing Loan Program; IRS will provide a new post office box (different from its current post office box) which will be included in the return address for returned undeliverable mail;
4. IRS will provide returns filing information and confirmation of payment agreements on remaining balances after receipt of the signed taxpayers' authorization for release of tax information;
5. IRS will provide balance due information and basic lien subordination information to DOI via two-way fax inquiry;
6. In cases where DOI is able to loan an amount which will partially satisfy a borrower's tax liability, and where IRS is able to work out satisfactory payment arrangements for the balance, IRS will subordinate its lien to DOI in the amount of the loan, exclusive of any fees that DOI may charge the borrower;

Enclosure C
(1 of 3)

7. Until September 30, 1994, IRS will not employ its electronic fish processor levy to those taxpayers who owe \$30,000 or less, except in those cases where the government's interest is threatened by statute expirations before December 31, 1995; other levies may take place at IRS' discretion;

8. DOI agrees to appoint a loan officer as liaison to IRS to coordinate the implementation of SB 251;

9. DOI will include a waiver of rights to privacy of tax return-related information in its loan application package;

10. DOI agrees to aggressively publicize the existence of the loan program created by SB 251.

The parties agree to jointly use their best efforts to develop a meaningful outreach program to encourage individuals needing assistance to participate in the new loan program and to satisfy their past due tax obligations. As resources permit, the IRS and DOI are committed to travel to selected areas of the state.

The parties understand that meaningful outreach can best occur with the help of trained local individuals who are trusted in the community selected for outreach, and the parties agree to use their best efforts to develop this human resource. Joint efforts will include communicating with the Alaska Federation of Natives (AFN) and its member organizations, the University of Alaska, fish processors, as well as other groups and individuals who may be able to contribute.

Where an individual has been designated and trained to be a local contact and helper in the outreach process, IRS will employ its best efforts to provide names of individuals whom the IRS would like to contact.

When time and funding permit, joint outreach efforts will be coordinated so employees from the IRS and DOI can jointly meet with the taxpayers to apply for the loan and resolve tax problems.

State employees will be provided with disclosure authorization forms so loan applicants can authorize village administrators, council members or other representatives to assist them in resolving outstanding tax problems.

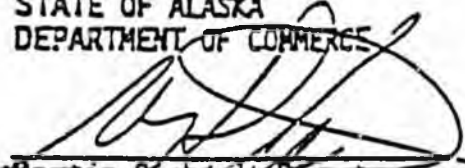
IRS employees assigned to the project will focus on Federal tax compliance issues. To the extent that information they identify relates to or impacts on state tax issues, such information will be shared with the State of Alaska, Department of Revenue.

Enclosure C
(2 of 3)

The loan provisions of SB 251 are in effect for three years after the effective date of the act. The IRS and DOI representatives will meet yearly to exchange general information and develop new objectives. Any changes to the memorandum must be agreed to in writing by the signers.

APPROVED:

STATE OF ALASKA
DEPARTMENT OF COMMERCE


Martin Richard, Director
Division of Investments


INTERNAL REVENUE SERVICE
ANCHORAGE DISTRICT


Michael R. Allen
District Director

Signed at Tuross, Alaska, this
20th day of July, 1994

Signed at Anchorage, AK, this
22nd day of July, 1994

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION


Dale G. Anderson, Commissioner
Commercial Fisheries Entry Commission

Signed at JUNEAU - AK, this
25th day of JULY, 1994

Enclosure C
(3 of 3)