

SCOMM

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Official Business

Alaska State Legislature

House of Representatives

Office of the Chief Clerk

State Capitol, Room 216
Juneau, AK 99801-1182
Phone: (907) 465-3725
Fax: (907) 465-5334

Committee Report

Date: 3/14/01

The Honorable Brian Porter
Speaker of the House
State Capitol
Juneau, AK 99801

Dear Speaker Porter:

The House Special Committee on Fisheries has reviewed the qualifications of the following individual and recommends that his name be forwarded to the House for consideration:

Alaska Commercial Fisheries Entry Commission

Mr. Bruce C. Twomley of Juneau

Appointed: 10/06/1982 Reappointed: 08/18/1988, 07/21/1992, 10/01/1996, and
08/28/2000 Term Expires: ~~07/01/2004~~ ^{03/01/2005 per}
39.05.053

Rep. Stevens, Co-chair

Rep. Scalzi

Rep. Dyson

Rep. Coghill

Rep. Wilson, Co-chair

Rep. Kapsner

Rep. Kerttula

Twomley, Bruce C.
Commercial Fisheries Entry
Commission, Alaska

RESUME

of

BRUCE TWOMLEY
P.O. Box 020972
Juneau, AK 99802-0972
Work Phone: 790-6944

- WORK EXPERIENCE:** Appointed by Governor Tony Knowles (previously by Governors Cowper, Sheffield, Hickel and Hammond) to the Alaska Commercial Fisheries Entry Commission (CFEC).
- Chairman, CFEC. 1983 to present.
Commissioner, CFEC. 1982 to present.
Member, Governor's Fisheries Cabinet. 1983 to 1990.
Attorney, Alaska Legal Services. 1973 - 1982.
VISTA Volunteer. 1972 - 1973.
Legal Research for San Francisco Neighborhood Legal Assistance Foundation (as a law student).
Indigent Adult Criminal Appeals (as a law student).
Legal research for Professor Roscoe T. Steffen and private attorneys (as a law student).
- LAW SCHOOL:** National Judicial College, University of Nevada, Administrative Law: Advanced Course (recruited to serve as a group discussion leader). 1988.
National Judicial College, University of Nevada, Administrative Law: Fair Hearing. 1983.
Hastings College of Law, San Francisco, California. 1967 - 1970. Graduated with J.D. in upper 15% of the class.
- EDUCATION:** Northwestern University, Evanston, Illinois. 1963 - 1967. Graduated with A.B. in upper quarter of the class.
Elgin High School, Elgin, Illinois. 1960 - 1963.
- BAR MEMBERSHIPS:** Alaska State Bar
California State Bar (inactive)
United States District Court for the District of Alaska
United States Court of Appeals for the Ninth Circuit

HONORS:

Alaska Legal Services Award. 1992.
Martindale-Hubbell highest (a v) lawyer rating. 1983
Alaska Legal Services Distinguished Service Award. 1983
Elected to Senior Men's Honorary, Northwestern (Deru).
Elected to Junior Men's Honorary, Northwestern (Norleggama).
Illinois State Scholarship Winner.
Elected Most Outstanding Male Graduate (Marie K. Ekvall Award),
Elgin High School (student body: 2,000).

SELECTED CASES:

Co-counsel for plaintiff class of 2,667 Alaska Native secondary school age children in Tobeluk v. Lind (known as the Molly Hootch case), 589 P.2d 873 (Ak. Sup. Ct. 1979), which by consent decree established the entitlement of Alaska Native children in 126 villages throughout the state to attend secondary school in their home villages and further required the state to expend more than \$158-million for the construction of local secondary facilities.

Wilson v. Watt, 703 F.2d 395 (9th Cir. 1983). Class action with co-counsel Kathleen Strasbaugh, sought preliminary injunction against Secretary of Interior James Watt to restore BIA general assistance payments to Alaska Natives.

Fairbanks Correctional Center Inmates v. Williamson,
600 P.2d 743 (Ak. Sup. Ct. 1979).

Ferdinand v. City of Fairbanks, 599 P.2d 122 (Ak. Sup. Ct. 1979).

Horton v. Horton, 519 P.2d 1131 (Ak. Sup. Ct. 1974).

Attorney for plaintiff class of Alaska Native women and minor children in Finnesand v. Kleppe, No. A75-42 Civ. (U.S. District Court Alaska), which by consent decree abolished a discriminatory eligibility standard for BIA General Assistance.

Represented more than 100 Alaska Native Allotment applicants before the Department of Interior. 1972-1982.

Attorney for the Akiak Indian Reorganization Act Council and parents of grade school children in Akiak v. Lind, No. 4BR 8-39 Civ.

Amicus Curiae (in cooperation with the Office for Civil Rights) in The Matter of Alaska State Department of Education and Twenty-One Regional Educational Attendance Area School Districts S-134, a proceeding before the Department of Health, Education and Welfare, to enforce Title VI of the 1964 Civil Rights Act on behalf of Alaska Native school children.

SELECTED PRESENTATIONS
AND PUBLICATIONS:

Fleet Reduction in Alaskan Salmon Fisheries (panel presentation, Governor Tony Knowles' Alaska Salmon Forum '99, Anchorage).

Fleet Reduction in Bristol Bay Salmon Fisheries (panel presentation, Bristol Bay Native Association Forum, Anchorage, 1999)

Consolidating Salmon Fleets: Is Fewer Better than More? Different Alternatives to Managing Salmon (panel presentation, Fish Expo Seattle, 1999)

Coauthor, Outline of Options for Fleet Consolidation in Alaska's Salmon Fisheries (CFEC December 1998).

Contributor, Limiting Access to Marine Fisheries: Keeping the Focus on Conservation. Center for Marine Conservation and World Wildlife Fund U.S. 1994.

"License Limitation in Alaskan Salmon Fisheries." Paper and panel presentation to Conference on Managing Marine Fisheries by Limited Access sponsored by World Wildlife Fund and Center for Marine Conservation. Annapolis, MD. 1992.

"Getting and Keeping Alaska Limited Entry Permits in Local Rural Communities."

- Bristol Bay Native Association, Bristol Bay Fisheries Conference, Dillingham, 1992.
- Southeast Alaska ANCSA Economic Summit. Saxman, 1991.
- AFN Convention. Anchorage, 1991.

"The IRS and Alaska Limited Entry Permits," University of Alaska Commercial Fishing Business Seminar, Federal Tax Impact on Commercial Fishermen. Anchorage, 1987.

"Parental Involvement, Local Control, and Quality of Education," Alaska Native Education Association. Anchorage, 1981.

"Alaska Native Control of Local Village Secondary School Programs," Lawyers Clinic on Parental Liberty in Education. Washington, D.C. December 1978.

SUBJECT OF

BIOGRAPHICAL NOTICE: Who's Who in the World (17th Ed. 2000)
Who's Who in America (53rd Ed. 1999)
Who's Who in the West (28th Ed. 2000)
Who's Who in Society (1988)
Who's Who of Emerging Leaders in America (1st Ed. 1987)
The Dictionary of International Biography, Vol. XX. (Cambridge, England 1986)

ACTIVITIES:

Member, Bristol Bay Native Association Blue Ribbon Commission on Limited Entry, 1994--present.
Member, Alaska Child Support Enforcement Division Rural Task Force. 1995--.
Member, Alaska Federation of Natives Task Force on IRS and Alaska Native Fishermen. 1994--.
Reading, Skiing, Hiking, Kayaking
Juneau Racquet Club Advisory Board, 1989
Guest Chef, Summit Restaurant, 1987
International Law Club, Hastings
President, Interfraternity Council, Northwestern
Kappa Sigma Fraternity, Northwestern
President, Student Council, E.H.S.

REFERENCES:

Will be furnished upon request.

Alaska State Legislature

*Representative Peggy Wilson
Putting Alaska's Families First*

February 28, 2001

TO: Members of the Special Committee on Fisheries

FROM: Representative Peggy Wilson
Co-Chair Special Committee on Fisheries

SUBJECT: Confirmation Hearing *(PW)*

The confirmation of Bruce Twomley to another term on the Commercial Fisheries Entry Commission will be before the Special Committee on Fisheries on Monday, March 12th.

I believe many of you have received a call from Jim Colier of Wrangell. I am attaching information to give you some background on Mr. Colier's concerns, as he will be testifying via teleconference on Mr. Twomley's confirmation.

I have written to Mr. Colier letting him know that his comments need to be directly related to Mr. Twomley and his abilities to act impartially as a commissioner.

If you have any questions, feel free to contact our office.



Alaska State Legislature

Representative Peggy Wilson
Putting Alaska's Families First

February 23, 2001

Mr. James E. Colier
P.O. Box 966
Wrangell, AK 99929

Dear Jim:

As I mentioned to you on the phone, I called the Commissioner of Fish and Game, Frank Rue, to see if he could help you out by investigating the problems you have experienced with the Commercial Fisheries Entry Commission. I found out that Commissioner Rue has no authority over the Commission or Commissioners as the Governor appoints the Entry Commissioners and they are confirmed by the Legislature.

From my conversations with a variety of people here in Juneau and from the paperwork you provided me, it looks like the solutions that your lawyer Bruce Weyhrauch outlined were your only options. However, from my conversations with CFEC, I don't believe they will adopt new regulations to amend the point system that would possibly allow you to qualify. I also know there really is no hope of getting the legislature to change the laws related to the shrimp limited entry program. The report I am attaching from the Ombudsman would allow me to believe pursuing anything through them is not an option either.

The most logical one seems to be for you to purchase a transferable permit if that is what you truly want. While they may not come available very often, it appears the going rate is \$15,600. Putting your name on a list with a broker may speed up the process. The State does have a loan program through the Division of Investments that could help you finance a permit. I have attached permit pricing information for your review.

At this point, there isn't anything we can do to help you with your ultimate problem. We will let you know when Bruce Twomley's confirmation hearing is scheduled in the House Resources committee and I will ask Robin to let you know when it is scheduled in Senate Resources. You can testify against his appointment. None of the other commissioners are up for reappointment this year. Keep in mind the chair of the committee will cut off your testimony if it doesn't specifically relate to Mr. Twomley and his abilities to act impartially as a commissioner.

I'm sorry I don't have a better solution for you Jim. I know you have been pursuing this for a number of years. I think your only option now is to buy the permit you are interested in. Everyone I have talked to states your situation has been explored to the full extent possible. I don't know what else can be done.

A handwritten signature in cursive script that reads "Peggy".

Representative Peggy Wilson
District 2

Attachments

Juneau: State Capitol, Rm. 409 • Juneau, AK 99801-1121 • ph: (907) 465-3824 • fax: (907) 465-3175
Wrangell LIO: PO Box 109 • Wrangell, AK 99929 • ph: (907) 874-3088 • fax: (907) 874-3955
Petersburg LIO: ph: (907) 772-3829 • fax: (907) 772-3779
Sitka LIO: ph: (907) 747-4665 • fax: (907) 747-5807
Representative_Peggy_Wilson@Legis.state.ak.us • <http://www.akarepublicans.org> • 1-800-666-3824

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

INTERNET: www.cfec.state.ak.us

March 10, 2000

FEB 9 2001

Mr. Mark Kissel
Office of the Ombudsman
P.O. Box 113000
Juneau, AK 99811-3000
Mail Stop 3000

Re: Complaint by James Colier

Dear Mr. Kissel:

We understand that James Colier complained to the Ombudsman that the CFEC approved participation credit on some applications for Southeast Alaska shrimp pot entry permits by applicants who had been cited for using illegal shrimp pots in their fishing operations. As we understand Mr. Colier's complaint, he objected to the CFEC's award of entry permits to some applicants who were cited for employing shrimp pots that did not fully conform to state regulatory specifications during the 1995 fishing season.

Apparently for the 1995 season, a fisherman named Frank W. Warfel ordered several commercial shrimp pots from Dungeness Gear Works in Seattle for himself and about four others. The pots had a mesh configuration that did not meet regulatory requirements in Alaska. While the mesh itself was of legal size, apparently, the tunnel openings on the pots distorted the mesh shape so that the mesh openings were no longer of legal size. Fish and Wildlife Protection Officer Alan Jones cited those known to be using this type of pot. We don't believe any of them contested the citation, and all paid a nominal fine. We know the specific fine in one case: it was \$250. Apparently, Fish and Wildlife Protection did not consider any of these cases sufficiently serious to confiscate the catch.

As a general matter, CFEC staff initially review all applications for permanent limited entry permits by comparing the claims submitted by applicants to their state fish ticket records. If the data provide sufficient support for the claims submitted, permanent entry permits are awarded on this basis alone without further review.

The fish ticket data transmitted to CFEC by the Alaska Department of Fish and Game does not report fishing violations, but does report confiscated catch resulting from the more serious fishing violations. Therefore, our 20 AAC 05.776 definition of what constitutes a "commercial harvest" of fishery resources, for purposes of awarding entry permits in the shrimp pot fishery, specifically excludes harvests that were confiscated upon conviction of a fishing violation. No credit would be given for such a harvest toward an entry permit.

At the same time, we rarely learn about minor violations which fall short of confiscating the catch. Consequently, permanent limited entry permits have undoubtedly been issued to individuals who were responsible for minor fishing violations. Thus, when minor violations are called to our attention, we have not singled out those applicants to deny their claims. We believe doing so would run afoul of the prohibition against "unjust discrimination" in AS 16.43.010.

Therefore, in the case brought to the CFEC's attention by Mr. Colier, after we inquired of Fish and Wildlife Protection, we concluded the infractions were not sufficiently serious to deny entry permits to applicants who would otherwise be entitled to them. In fact, one of the Fish and Wildlife Protection officers who provided us with information about this case expressed some astonishment at the notion that this type of violation might result in the denial of an entry permit to an otherwise qualified fisherman.

For your additional information, Mr. Colier's entitlement to an entry permit was not affected in any way by the issuance of permits to the others who were involved in the use of the non-compliant shrimp pots. James Colier qualified for eight points, so a permanent permit has already been issued to him. Applicants who qualify for 22 or fewer points receive non-transferable permits. Mr. Colier's permit is non-transferable.

By way of background, the CFEC will issue 332 permits in this fishery. 310 permits have been issued to date, all to applicants who qualified for five or more points in the system the CFEC uses for ranking applicants. Thirteen applicants are still appealing their CFEC determinations about their applications.

We hope this information will resolve the issues before you. Please do not hesitate to contact us if we can provide you with anything further.

Sincerely,



Marlene Johnson, Commissioner
Mary McDowell, Commissioner
Bruce Twomley, Chairman

Rep Stevens

Alaska State Legislature

Senator Rick Halford
President of the Senate



Representative Brian Porter
Speaker of the House

during interim:
P.O. Box 670190
Chugiak, AK 99567-0190
voice: (907) 694-4958
fax: (907) 694-0549

during session:
State Capitol
Juneau, AK 99801-1182
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fax: (907) 465-3834

during interim:
716 West 4th Avenue, Ste. 300
Anchorage, AK 99501-2133
voice: (907) 269-0155
fax: (907) 269-0154

February 12, 2001

The Honorable Tony Knowles
Governor, State of Alaska
PO Box 110001
Juneau, AK 99811-0001

Dear Governor Knowles:

It has come to our attention during the committee process that the expiration terms of the appointees to the various boards and commissions you submitted to the Legislature on January 29, 2001, do not conform to the expiration terms established under AS 39.05.053, AS 14.07.095 and other applicable statutes.

Therefore, we respectfully request that you resubmit names for legislative confirmation of appointments to the various boards and commissions with expiration terms that conform to applicable statutes.

Until a new list is submitted, we will request our committees not to schedule any confirmation hearings unless the appointee's expiration term conforms with our statutes.

Thank you for your consideration of this request. Do not hesitate to contact either of us if you have any questions or wish to discuss this issue further.

Sincerely,

Rick Halford
Senator Rick Halford
President, Alaska State Senate

Brian S. Porter
Representative Brian S. Porter
Speaker, Alaska State House

cc: Senate and House Committee Chairs

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

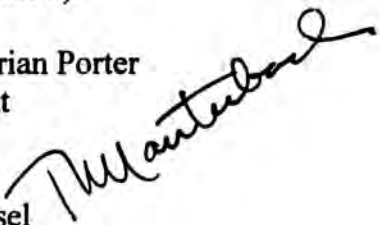
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 9, 2001

SUBJECT: Ending dates for terms on various boards and commissions (Work Order No. 22-LS0553)

TO: Representative Brian Porter
Attn: Tom Wright

FROM: Terri Lauterbach
Legislative Counsel 

You have submitted a January 29, 2001, list of the governor's appointees to various boards and commissions that are subject to legislative confirmation by this legislature. The list specifies expiration dates for the terms involved. You have asked, in light of the general March 1 expiration date set under AS 39.05.053, whether there is statutory authority for any of the expiration dates to be anything other than March 1.

You correctly point out that the general rule on expiration of the terms of confirmable members of boards and commissions is found in AS 39.05.053, which reads:

Sec. 39.05.053. Terms of office. The term of office of a position or membership ends on March 1 of the year when the position's or membership's term expires *except as otherwise provided in a law relating to positions or memberships on a specific board or commission.* (Emphasis added.)

In addition, the transitional provisions of sec. 21, ch. 80, SLA 1996, provided that all terms of office existing at that time would be re-set to have March 1 expiration dates.

Therefore, unless a law relating to a specific board or commission provides a different result, the statutes provide that all terms of confirmable members of boards and commissions expire on March 1 of the year in which the term of office ends.

I have reviewed the Alaska Statutes and have found only the following statutory exceptions to the March 1 rule:

Board of Regents

Non-student members: first Monday in February. See AS 14.40.140.
Student member: June 1. See AS 14.40.150(b).

Representative Brian Porter
February 9, 2001
Page 2

Alaska Commission on Postsecondary Education

Student member: June 1. See AS 14.42.015(3).

Board of Fisheries

All members: July 1. See AS 16.05.221(d).

As you can see, there are very few statutory exceptions to the March 1 rule. At this point in time, I see no statutory basis for terms expiring at any time other than March 1 unless the position is described in the above list.

Furthermore, I would note for your attention that the terms of office for the members of the Board of Education and Early Development are set as March 1 not only under the general rule in AS 39.05.053, but are set as March 1 under the board's own statute. See AS 14.07.095.

The statutes cited in this memorandum, other than AS 39.05.053 (which is on page 1 of this memo), are attached on the following pages. If I may be of further assistance, please advise.

TML:glc
01-120.glc

Enclosure

Sec. 14.07.095. Term of office. The members of the board shall be appointed for overlapping five-year terms commencing on the March 1 following the date of the member's appointment. Except as provided in AS 39.05.080(4), a member appointed to fill a vacancy serves for the unexpired term of the member whose vacancy is filled. A vacancy occurring during a term of office is filled in the same manner as the original appointment.

Sec. 14.40.140. Term of office. Except for a student regent as specified in AS 14.40.150(b), the term of office of a regent is eight years. The term of office begins on the first Monday in February of the year in which the appointment is made. Each regent serves until a successor is appointed and qualifies.

AS 14.40.150(b). At least one member of the Board of Regents must be a student. The student shall be appointed from a list of nominees submitted to the governor. The governor shall make the appointment from the list within 60 days after it is submitted. The list shall consist of the names of two students from each campus of the University of Alaska after an election is held at each campus. Elections shall be conducted under rules established by the Office of the Governor. The term of office of the regent appointed from the general student body, University of Alaska, is for two years. The term of office begins June 1 of the year in which the appointment is made. An appointment made under AS 14.40.130(d) shall be for the unexpired term of the original appointee. The term "campus" used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents.

AS 14.42.015(e). A full-time postsecondary student shall be appointed to the Alaska Commission on Postsecondary Education from a list of nominees submitted to the governor. The governor shall make the appointment from the list within 60 days after it is submitted. The list must consist of the names of two nominees from Alaska Pacific University, two nominees from Sheldon Jackson College, and two nominees from each campus of the University of Alaska. The nominees shall be selected by the students at Alaska Pacific University, Sheldon Jackson College, and each campus of the University of Alaska by an election held on each campus. Elections under this subsection shall be held concurrently with student regent elections required under AS 14.40.150(b) and conducted under rules established by the Office of the Governor. The term of office of the student member of the commission is two years and begins June 1 of the year in which the appointment is made. Membership on the commission is immediately forfeited by a student member who ceases to be a full-time student. Within 60 days after a vacancy occurs, the governor shall appoint a successor from those students appearing on the list of nominees to serve for the unexpired term of the original appointee. The term "campus" used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents.

AS 16.05.221(d). Members of the Board of Fisheries serve staggered terms of three years. The terms of members of the board begin on July 1. Notwithstanding AS 39.05.080(1), by April 1 of the calendar year in which the term expires, the governor shall appoint a person to fill the vacancy that will arise on the board due to expiration of the term of a member of the board and submit the name of the person to the legislature

for confirmation. If a vacancy arises on the board, the governor shall, within 30 days after the vacancy arises, appoint a person to serve the balance of the unexpired term and submit the name of the person to the legislature for confirmation. A person appointed to fill the balance of an unexpired term shall serve on the board from the date of appointment until the earlier of the expiration of the term or the failure of the legislature to confirm the person under AS 39.05.080.