

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2615 SCOMM 114: HOUSE SPEC.COMM ON FISHERIES, 1999-2000

SCOMM

114:10

Alaska State Legislature

HOUSE OF REPRESENTATIVES

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Special Committee on Fisheries

Joint Hearing of the Special Committee on Fisheries and Committee on Community and Regional Affairs

Agenda

Overview: Western Alaska Fisheries Disaster
March 22, 1999
5:00 PM - 7:00 PM

1. Call To Order
2. Roll Call
3. Presentation from Dept. of Community and Regional Affairs:

Pat Poland
Director, Division of Municipal and Regional Assistance

Available on-line:

Jim Sanders
Supervisor, Southcentral Regional Office, DMRA

Diana Alcantra
Recovery Manager, Division of Emergency Services
Department of Military and Veteran Affairs

4. Presentation from Alaska Department of Fish and Game:

Doug Eggers
Chief Fisheries Scientist, Division of Commercial Fisheries

Available on-line:
Tom Kron
A-Y-K Regional Supervisor, Division of Commercial Fisheries

Western Alaska Fish Disaster Programs

Summary

1998 Western Alaska Fish Disaster (WAFD) Programs

- The State Department of Military and Veterans Affairs, Division of Emergency Services administered the Essential Living Expenses (ELE) program. This program actually distributed almost \$8.1 million to 5,486 applicants for an average award of \$1,466/recipient . Contact: Dianna Alcantra (907) 428-7041. \$8.1m
- \$18 million went to the Department of Agriculture and is being administered through the State Department of Military and Veterans Affairs, Division of Emergency Services. They have initiated a program called Emergency Disaster Assistance (EDA). As of March 17, 1999 they have taken 3568 applications for this program. People can apply over the phone by calling 1-888-388-3473. The deadline for applying is April 20, 1999. Contact: Dianna Alcantra (907) 428-7041 \$18m
- \$15 million went to the Department of Commerce, Economic Development Administration. . Three million will be administered by the State Department of Commerce and Economic Development, Division of Investments as a revolving loan fund with another \$1 million provided as match by AIDEA. The EDA is currently holding regional meetings to solicit local ideas for the use of the remaining funds. The regional representative for the EDA is Bernhard Richert and he can be reached at (907) 271-2272. \$15m
- \$7 million will go to The State Department of Fish and Game for fisheries research. They are still drafting their proposal for the specific use of these funds. If you would like specifics on this program, Doug Eggers is spearheading the proposal for ADF&G. He can be reached at (907) 465-6117. \$7m
- \$5 million did go to the Small Business Administration. The SBA, as of March 17, 1999 has approved 553 loans for a total of \$23.2 million for their El Nino Disaster loan program. The SBA will continue to distribute these funds to eligible applicants. The deadline for applying under this program is June 17, 1999. The loan hotline number is 1-800-488-5323 or you can call their regional representative Ron Veltkamp at (907) 271-4838. \$5m
- \$5 million is available because of the Northwest Trade Adjustment Act and the Alaska Seafood Marketing Institute has submitted a proposal for the use of these funds. Contact: Barbera Belknap (907) 465-5560. \$5m ?

- \$10 million was provided to the State of Alaska for the Low Income Home Energy Assistance Program (LIHEAP). \$1.7 million was administered through DH&SS. As of March 3, 1999 DH&SS had distributed \$1.1 million to 575 households for an average distribution of \$2,175.00 per household. The remaining \$8.3 million was administered through Tribal LIHEAP providers. Contact: Mary Riggen-Ver, (907) 465-3066. *\$10M*
- The following Federal funds were not received specifically for the disaster, but they were administered through DCRA/DCRD to help augment disaster response efforts. Contact: Tara Jollie (907) 269-4660. *\$400,000*

JTPO Peer Outreach (Bristol Bay and YK Region)

\$400,000

\$68.5 million

1997 Western Alaska Fish Disaster (WAFD-97) Programs

- U.S. Department of Commerce/NOAA grant award number NA86FW0201 administered through DCRA/MRAD. Contact: Jim Sanders (907) 269-4591.

Grant Programs

Program Costs

	<u>State</u>	<u>Federal</u>
Community Grants	\$1,676,583*	\$5,029,752
Fisherman Revolving Loan Program	\$466,667	\$1,400,000
Research & Studies	\$143,416	\$430,248
DCRA Program Costs	\$46,667	\$140,000
Total	\$9,333,333	

* State portion currently not funded, seeking alternative sources.

*Resident
Non Resident
Loans/Grants*

- The following Federal funds were not received specifically for the disaster, but they were administered through DCRA/DCRD to help augment disaster response efforts. Contact: Tara Jollie (907) 269-4660.

JTPO Rapid Response Specialist

\$65,000

JTPO Peer Outreach (Bristol Bay)

\$220,000

Lake and Peninsula Borough Disaster Impact Study and Report

\$126,000

Western Alaska Fisheries Disaster Summary of Federal and State Assistance by Fiscal Year

Description	Agency/Program	Federal	State
FY98			
Magnusson-Stevens Fishery Conservation and Management Act			
State match from Commercial Fishing Revolving Loan Fund	DMVA/DCRA	7,000.0	125.0
FY98 Total		7,000.0	125.0

FY99 - FY2000			
State Match for Magnusson-Stevens Fishery Conservation and Management Act	DMVA/DCRA		1,500.0
Emergency Living Expense Program	DMVA	18,000.0	8,100.0
Subtotal		18,000.0	9,600.0
Research and Disaster Prevention			
FY2000 Budget Amendment Request	Fish & Game	7,000.0	
Trade adjustment assistance (marketing)	DCED-ASMI	5,000.0	
Economic Development	Federal Economic Development Administration	15,000.0	
Partial reimbursement for loans available to permit holders in the disaster area			
4% - 30 year loans for normal operating costs, fixed debts, payroll, etc.	Federal Small Business Administration	5,000.0	
Subtotal		32,000.0	0.0
FY99 - FY2000 Total		50,000.0	9,600.0

Other Federal Assistance			
Loans available to permit holders in the disaster area			
4% - 30 year loans for normal operating costs, fixed debts, payroll, etc.			
As of 2-10-99, 460 loans approved for a total of \$19M (Partial reimbursement of \$5M shown above)	Federal Small Business Administration	19,000.0	
Low Income Home Energy Assistance Program	DHSS distributed \$1.3M; remainder distributed from federal agency to tribal entities	10,000.0	
Department of Agriculture	Emergency Food Bank		
	Private non-profit food bank	200.0	

**Western Alaska Fisheries Disaster
as of 2/22/99**

State Funds Expended or Obligated as of 2/22/99	Budget	Expenditures	Obligated	Balance
Emergency Living Expense Assistance Grants for individuals up to \$1,500 (cap of \$5,000 per family) for food, electric, water, sewer, heating fuel and gasoline. Individuals must have com. fish salmon permit, be an employee of a salmon cannery or processor, member of a crew of a comm. salmon fishing vessel and employed by a holder of a permit, or was a subsistence user of Yukon River drainage. Paid directly to vendors.	8,166,569	8,051,717	114,852	0
Fish Purchase/Processing/Delivery Purchase of 87,000 pounds of fish and delivery to Unalakleet for processing (\$136,000), processing of fish (\$78,000), delivery to three villages (Hooper Bay, Scammon Bay and Chevak) \$73,860.	287,860	287,860		-
Delivery of Food from USDA Donated commodities from USDA and delivered to individuals by the Food Bank. State paid delivery costs.	35,000	35,000		-
Magnuson-Stevens Match Through DCRA to match \$7.0 million federal.	1,500,000	220,379	1,279,621	-
Social Services as needed Services provided above regularly budgeted services for mental health and foster care.	400,000	23,137	376,863	-
Operations/Recovery Center/Disaster Asst Centers Incident management team, Disaster Assistance Response teams, Disaster Asst. Centers, Recovery Center, State Emergency Coordination Center.	1,610,571	1,556,072	54,499	-
Total	12,000,000	10,174,165	1,825,834	0

Salmon Run Failures in 1997-1998: A Link to Anomalous Ocean Conditions?

Gordon H. Kruse

ABSTRACT: In July 1998 Alaska's Governor Tony Knowles submitted a request for federal disaster relief owing to severe economic and social hardships in some western Alaska communities affected by unusually poor salmon runs, especially Bristol Bay sockeye salmon *Oncorhynchus nerka* and Yukon River chinook *O. tshawytscha* and summer chum *O. keta* salmon. Other anomalies were also noted in these runs: late run timing, smaller-than-average fish, altered migration pathways, and anecdotal reports of higher occurrences of parasites and increased signs of predation. Were these poor returns attributable to unusual marine environmental conditions in 1997/98? Decadal changes in salmon productivity have been related to indices of the strength of the Aleutian Low in winter, which may affect feeding success during early marine life. Analysis of return-per-spawner data is needed to determine whether this climate-salmon relationship continues to hold. Additionally, significant changes in ocean conditions occurred in the North Pacific and Bering Sea in 1997/98 that may have had profound effects on the marine ecosystem. Not only was there a very strong equatorial El Niño, but light winds, low nutrients, and high solar radiation led to the first-recorded bloom of coccolithophores in the Bering Sea in summer 1997 and a bloom occurred again in spring 1998. At-sea research is urgently needed on the biotic implications of these conditions, from effects on primary and secondary producers to effects on invertebrates, fish, birds, and marine mammals through the pelagic and benthic food webs.

INTRODUCTION

On July 31, 1998, State of Alaska Governor Tony Knowles submitted, through the Federal Emergency Management Agency, a request to President Bill Clinton to declare a major disaster for Alaska as a result of very low salmon returns to some western Alaska river systems. Similar low returns occurred in western Alaska in 1997. Many residents of this region earn their living by commercial fishing, and in most communities there are few alternative employment opportunities. Moreover, subsistence fishing is an important cultural activity, and salmon compose a large portion of annual food consumption. Low salmon harvests coupled to depressed prices have created substantial economic and social hardships in the affected communities.

Were these low salmon returns in 1997 and 1998 due to anomalous ocean conditions? This paper examines that question, and more specifically (1) the status of salmon returns to western Alaskan river systems in 1997 and 1998, (2) contemporary thinking about the effects of climate on salmon productivity, (3) evidence that salmon were under stress in the marine en-

vironment in 1997 and 1998, (4) normal patterns of variability in the North Pacific and Bering Sea, and (5) anomalous conditions that existed in the marine ecosystem in 1997 and 1998 and possible consequences to growth and survival of salmon and other marine biota.

SALMON LIFE HISTORY

In his excellent review of sockeye salmon *Oncorhynchus nerka* life history, Burgner (1991) pointed out that, after 1-3 years residence in fresh water, smolts migrate through Bristol Bay and slowly travel southwestward along the north side of the Alaska Peninsula. As juveniles, some migrate to the western Bering Sea and others migrate south through the Aleutian passes into the North Pacific. At sea, young sockeye salmon feed on copepods, amphipods, barnacle larvae, ostracods, euphausiids, and larval and juvenile fishes. Older sockeye salmon primarily feed on euphausiids, amphipods, copepods, and juvenile fish and squid. Bristol Bay sockeye salmon mature in the second or third year at sea depending on their natal stream

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and interannual variation. Upon maturity, they migrate up to 2,200 km to return to their natal streams in Bristol Bay.

In contrast to sockeye salmon, most chum salmon *O. keta* begin their migration to the sea soon after their emergence (Salo 1991). Juveniles leaving the Yukon River are quickly dispersed at sea by the large river plume, but little is known of their early marine life history. During their first year at sea, the distribution of chum salmon is similar to juvenile sockeye salmon. There is a slow southwestward movement along the north side of the Alaska Peninsula. As juveniles, chum salmon are distributed throughout the Bering Sea and Gulf of Alaska, where they reside until maturity. Typically, Yukon River chum salmon mature after 3 or 4 years at sea, living to age 4 or 5. At sea, chum salmon often feed on euphausiids, copepods, pteropods, and fish and squid larvae. Maturing chum salmon from the Gulf of Alaska migrate through the Aleutian passes, northeast along the Alaska Peninsula, and then north to the Yukon River.

Upon emergence, chinook salmon *O. tshawytscha* fry take up residence in the stream for 1–2 years (Healey 1991). The distribution of Yukon River chinook salmon during early marine life is poorly known. Young chinook salmon tend to be found near the coast. Older, larger chinook salmon from western Alaska rivers are found throughout the Bering Sea and into the central and western Gulf of Alaska. At sea, young chinook salmon eat euphausiids, copepods, amphipods, crab larvae, cladocerans, barnacle larvae, and young fish. Fish make up the bulk of the diet of matur-

ing chinook salmon. Adults returning to the Yukon River are primarily 5 and 6 years old.

POOR SALMON RETURNS TO WESTERN ALASKA

Salmon runs to some western Alaska river systems were very poor in 1997 and 1998. A summer fishery on the Yukon River targets chinook and chum salmon. Preseason catch outlooks were for 88,000–108,000 chinook salmon and 500,000–800,000 chum salmon in 1998 (ADF&G 1998b). Actual chinook salmon catches were only 43,500, less than half the lower end of the preseason outlook (Figure 1). This harvest is the lowest on record since Alaska statehood (1959), was only 41% of the annual average catch of 105,000 chinook salmon since 1961. The chum salmon catch of 28,800 fish is similar to the disastrously low 1993 catch and was only 4% of the average catch since 1974 (Figure 2). Additionally, chum salmon runs to the Kuskokwim River were weak in 1997, and it is too early to fully assess the Yukon River fall-run chum and coho salmon returns for 1998. The Norton Sound coho salmon run was also weak in 1997, and the chum salmon run was below historical levels in both years.

The Bristol Bay fishery for sockeye salmon has been the largest sockeye salmon fishery in the world. However, very weak runs occurred in 1997 and 1998 compared to previous 10-year (30.0 million) and 20-year (25.1 million fish) average catches (Figure 3). In 1997, the Alaska Department of Fish and Game

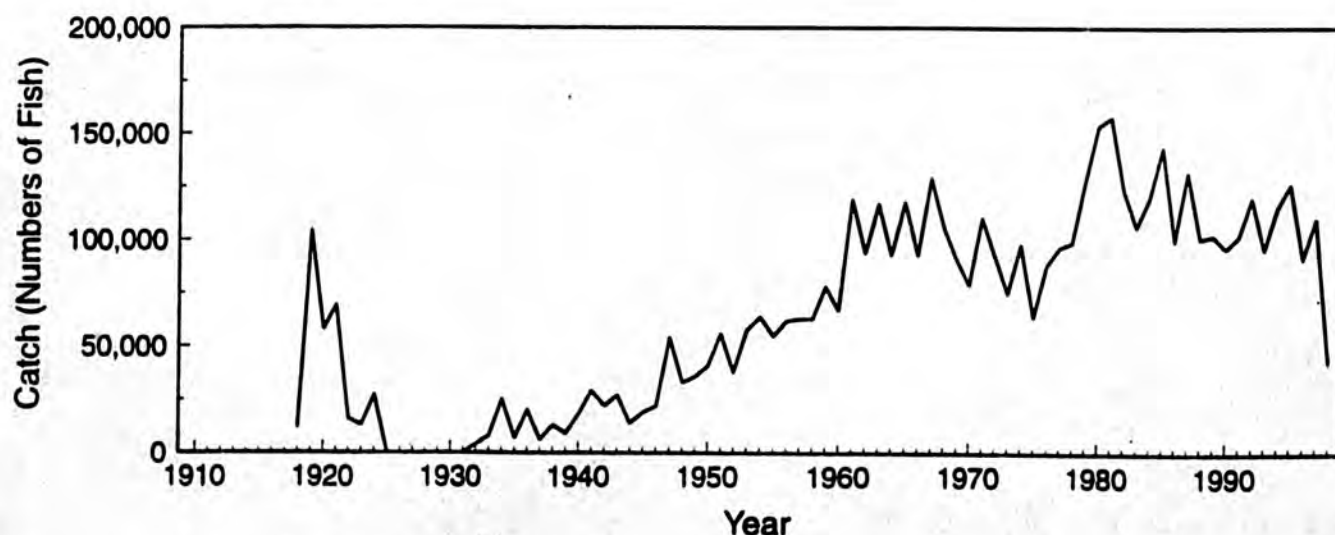


Figure 1. Commercial catches of chinook salmon on the Yukon River during 1918–1998 (Herman Savikko, ADF&G, Juneau). Data for 1998 are preliminary.

(ADF&G) forecasted an inshore run of 33.6 million fish and a catch of 24.8 million (ADF&G 1998a), but the actual inshore run size was only 18.8 million fish and the catch was 12.1 million. Forecast error, measured as the percent deviation between actual and forecasted runs, was -74.6%, the second largest departure on record (since 1961). Actual catch in 1997 was 49% of forecasted catch. In 1998, sockeye salmon returns were even weaker. ADF&G forecasted an inshore run of 30.2 million with a catch of 20.6 million fish. Actual run size was 17.6 million fish (-71.6% forecast error) and catch was 9.7 million (47% of the forecasted catch). The harvest in 1998 was 27% below 1983–1997 average catch and was 66% of the average catch in this century (Figure 3).

Weak salmon runs to western Alaska could be due to a combination of anthropogenic and natural factors in freshwater and marine environments. Conventional wisdom leads us to believe that salmon returns are driven by a density-dependent stock-recruitment relationship (Ricker 1954). Where adequate data are available, escapement goals are set in an attempt to maximize the long-term average catch from the stock (Hilborn 1985). In cases where data are limiting, escapement goals are set at levels that maintain historical yield based on past performance (Bergstrom et al. 1997). For the Yukon River drainage, spawner counts of chinook and summer chum salmon generally met or exceeded escapement goals in parental years for most Alaskan spawning areas (see Appendix E.4 and E.6 in Bergstrom et al. 1997). However, lack of sonar, counting towers, and weir enumeration projects on some rivers prior to 1994 prevent a complete assessment of

summer-run chum escapement histories. Extant aerial surveys are often limited and only provide estimates of peak counts rather than total escapement. For Bristol Bay sockeye salmon, escapement goals were met in all major river systems in parental years corresponding to the 1997 and 1998 returns (see Appendix Table 1 in ADF&G 1998a). Given adequate parental escapement levels, it appears highly unlikely that fishery management is responsible for poor returns to these systems in 1997 and 1998.

Freshwater conditions have been implicated in salmon productivity through density-dependent predation mortality (Ricker 1954), changes in zooplankton biomass (Kyle 1994), stream temperature (Henderson et al. 1995), stream flow (Nickelson and Lichatowich 1984), and other factors. The lack of relationship between hatchery releases and adult returns stimulated early investigations into the role of the marine environment on salmon survival (McGie 1984). Potentially important marine factors affecting survival include coastal upwelling (Nickelson and Lichatowich 1984), ocean temperatures (Ishida et al. 1995), predation (Rogers 1984), density-dependent factors related to at-sea salmon abundance (Peterman 1978), and prey availability (Cooney 1984).

Freshwater and marine factors can affect returns differentially. For instance, poor returns of a single age group to a particular river system or to river systems within a geographic region may implicate factors operating in freshwater or early marine stages. Poor returns across multiple age groups and widely separated river systems may be more indicative of poor conditions affecting fish sharing a common marine en-

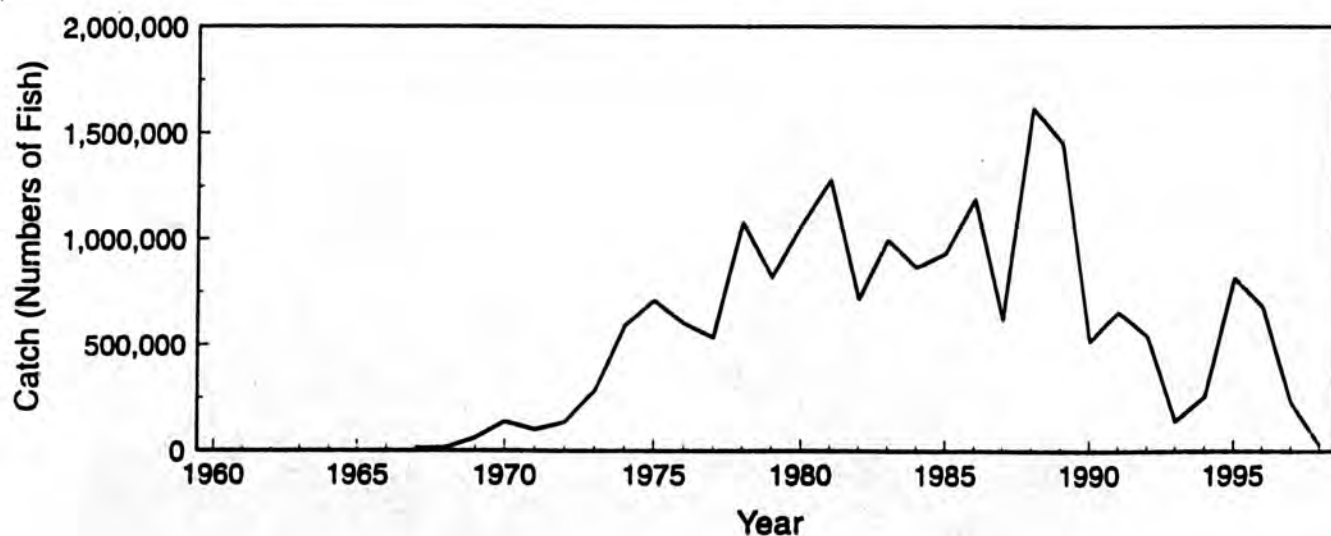


Figure 2. Commercial catches of summer chum salmon on the Yukon River during 1967–1998 (ADF&G 1998b). Catches include estimated number of fish harvested for sale of roe. Data for 1998 are preliminary.

vironment. In the case of chinook salmon to the Yukon River, there was a failure of all returning age groups. All Bristol Bay sockeye salmon age groups were 3–4 million below the 1997 forecast. In 1998 a striking failure also occurred in fish spending 2 winters at sea (age .2); data have not yet been completely analyzed regarding possible declines in other age groups. Although a complete analysis is needed, the present patterns suggest that marine environmental factors probably contributed to reduced salmon survival. If so, this would be consistent with Peterman et al. (1998) who concluded that survival rates of Bristol Bay sockeye salmon returns were affected by freshwater, but most importantly, marine processes.

TYPICAL VARIABILITY OF THE GULF OF ALASKA AND BERING SEA

The Gulf of Alaska and Bering Sea are continually changing. On seasonal time scales, the Aleutian Low Pressure System intensifies and moves east into the Gulf of Alaska in winter (Favorite et al. 1976). It serves as a magnet for storms that cause deep ocean mixing, thereby bringing up nutrients from depth into the upper layers. As spring approaches, storms become less frequent and increased solar radiation warms the upper layer. High nutrient concentrations, a stratified upper layer, and increased sunlight create ideal conditions for the spring phytoplankton bloom (Hobson 1980). In the Bering Sea, production is related to inner, middle, and shelf-break fronts separating 4 do-

main (McRoy et al. 1986). Also, melting of the sea ice edge in early spring causes a phytoplankton bloom that contributes substantially to total annual primary production (Niebauer et al. 1981).

Spring blooms typically consist of chlorophyll-rich diatoms. This burst of primary production leads to increased zooplankton populations and therefore favorable growth and survival conditions for animals at higher trophic levels. As nutrients become depleted later in summer, phytoplankton community succession commonly occurs. Dinoflagellates, relatively small phytoplankters with lower chlorophyll content than diatoms, tend to predominate under nutrient-limited conditions.

In addition to seasons, important ocean changes occur on shorter and longer time scales. Atmosphere-ocean variations are coupled (Horel and Wallace 1981; Trenberth and Hurrell 1994); climate has a profound effect on the ocean and, in turn, the ocean has a great influence on climate. Moreover, ocean conditions in one region of the world, such as the equator, can be "teleconnected" to another region, such as the North Pacific, by an alternating pattern of high and low atmospheric pressure systems. Mechanisms and ramifications of these interrelationships are topics of vigorous research.

One important phenomenon of climate-ocean variability is the El Niño/Southern Oscillation (ENSO) that occurs about every 2–7 years (Mysak 1986). At the equator, El Niños are typified by relaxed trade winds and the eastward progression of a deep pool of warm, nutrient-poor water across the Pacific. Off Peru, El

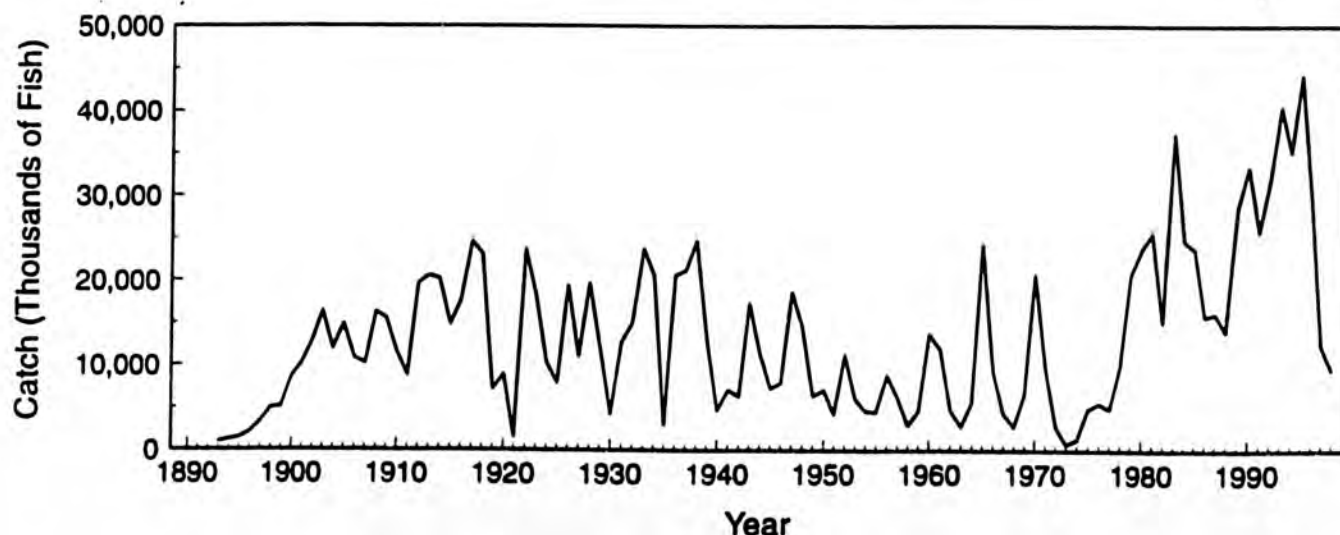


Figure 3. Commercial catches of Bristol Bay sockeye salmon during 1893–1998 (Herman Savikko, ADF&G, Juneau, unpublished data). Data for 1998 are preliminary.

Niños have profound effects on marine ecosystems (Cushing 1982). Warm ocean temperatures force many anchovetas *Engraulis ringens* to the south in search of cooler waters. Others that do not migrate die from lack of food and temperatures beyond their tolerance limits (Mann and Lauzier 1991). Recruitment declines, probably due to sharply reduced primary production associated with upwelling of warm, nutrient-poor water. Guano-producing sea bird populations collapse as adults abandon their chicks and fly to the coasts of Ecuador and Chile in search of prey.

ENSO events are not limited to the equatorial region. For example, at the equator shifts in climate and ocean due to El Niño are propagated by teleconnections that cause major shifts in climate in the North Pacific (Mysak 1986; Emery and Hamilton 1985). Often, but not always, stronger Aleutian Lows are associated with El Niños. Recent research suggests that shifts in the Aleutian Low are associated, not only with climate

variability in the central Pacific, but also in northeast Asia (J.E. Overland, Pacific Marine Environmental Laboratory, Seattle, Washington, personal communication). A North Pacific Index (NPI), calculated as the area-weighted sea level pressure over 30–65° N, 160° E–140° W (Trenberth and Hurrell 1994) indicates variability in the strength of the Aleutian Low (Figure 4). Deeper low pressures are revealed by lower values. Whereas the period 1947–1976 was typified by weak lows (mean NPI anomaly was 1.06), the period 1977–1988 was typified by strong Aleutian Lows (mean NPI anomaly was –1.87). After a brief reversal in 1989–1991 (mean NPI anomaly was 2.40), intermediate Aleutian Lows have generally occurred during 1992–1998 (mean NPI anomaly was –0.63). Mantua et al. (1997) termed these decadal climate shifts as the Pacific Decadal Oscillation (PDO), and they developed another index of the PDO as a function of North Pacific sea surface temperatures.

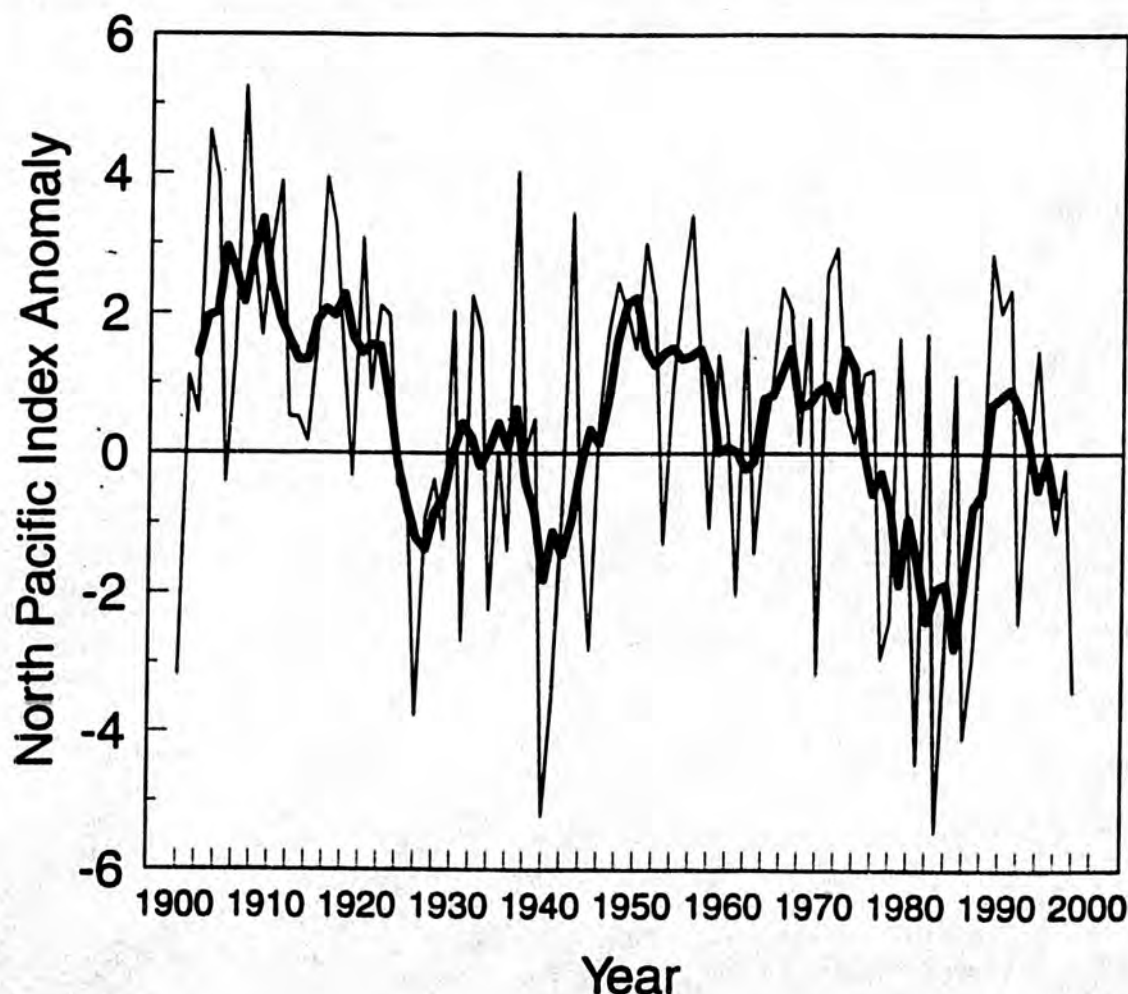


Figure 4. Annual anomalies (thin line) and 5-year running average (heavy line) of the North Pacific Index during winter (November–March average) from the long-term (1899–1998) average (Trenberth and Hurrell 1994).

DECADAL CLIMATE SHIFTS AND SALMON PRODUCTION

Periods of stronger Aleutian Lows are typified by increased winter storms, more nutrients mixed into the surface layers, higher coastal sea levels, faster ocean circulation around the Gulf of Alaska, and northward movement of warmer water into the region (Emery and Hamilton 1985; Mysak 1986). These conditions favor higher primary productivity in spring and increases in zooplankton biomass in summer (Venrick et al. 1987; Brodeur and Ware 1992; Sugimoto and Tadokoro 1997). Regime shifts between periods of weak and intense Aleutian lows have been linked to periods of low and high salmon catches, respectively (Beamish and Bouillon 1993; Hare and Francis 1995; Mantua et al. 1997). Density-dependent growth curves for Bristol Bay sockeye salmon also shifted synchronously from smaller to larger sizes at age (Rogers 1984). The recent period of high salmon productivity followed a regime shift in the late 1970s. The most common hypothesis is that increased salmon production is related to improved feeding conditions.

UNPRECEDENTED ECOSYSTEMS CHANGES IN 1997 AND 1998

The North Pacific and Bering Sea responded to the 1997/98 El Niño in some ways typical of other El Niño events but some aspects were unprecedented. A multivariate ENSO index shows that the 1997/98 El Niño developed more quickly than any other El Niño in history (Wolter and Timlin *in press*). Only the 1982/83 El Niño had a higher index of strength, but the 1997/98 El Niño was unique in that it featured 2 peaks: August–September 1997 and February–March 1998.

The National Climate Data Center reported that July 1998 continued this year's record-breaking trend for the highest global mean temperature anomalies since reliable records began in 1880. There appears to be a synergistic relationship between this global warming trend and El Niños (Livezey et al. 1997). Over recent years, El Niño events have become more frequent as global temperature continues to increase. As indexed by mean global surface temperatures, the 1997/98 El Niño was the strongest on record. Thus, extreme regional climate–ocean anomalies associated with El Niño are being exacerbated by global warming.

Regionally, sea surface temperatures from the coast of British Columbia to the eastern Bering Sea were up to 5–6°C higher than average during August

and September 1997, and surface temperatures continue to be about 2.0°C above average through summer 1998. Since January 1998, deep ocean temperatures off Seward, Alaska, have been 1.5–2.0°C higher than normal. So, temperatures have increased, both at depth and at the surface.

As with other El Niño events, there were unusual sighting of southern species of fish and mammals. Pacific white-sided dolphins *Lagenorhynchus obliquidens* were seen from Southeast Alaska to the northern Gulf of Alaska. An albacore *Thunnus alalunga* fishery developed off Kodiak Island. Anecdotal reports indicated the offshore walleye pollock *Theragra chalcogramma* fleet in fall 1997 shifted operations 1.5 times farther north in the Bering Sea than usual. Northern anchovies *Engraulis mordax* were reportedly found in the stomachs of salmon caught off Yakutat. A yellowfin tuna *Thunnus albacares* and several ocean sunfish *Mola mola* were seen in the northern Gulf of Alaska.

In addition, there were a number of first-time records: Sitka Sound Pacific herring *Clupea pallasii* spawned earlier than ever before, and the fishery, therefore, recorded its earliest opening in history. One of the most unprecedented observations included the apparent first-recorded occurrence of aquamarine waters in the eastern Bering Sea starting in July 1997 (Schumacher et al. 1998; Stabeno 1998; Vance et al. 1998). This color was due to a rare bloom of coccolithophores *Emiliania huxleyi*, a phytoplankton more typical of nutrient-limited subpolar waters (Raymont 1980). These phytoplankters secrete calcium carbonate platelets, which collectively turn the water into a milky turquoise color.

Coccolithophore blooms occur where the water is highly stratified (the mixed layer depth is very shallow, only 10–20 m thick) and where light intensity is high and nutrients are low (e.g., phosphate). These very conditions were favored by extremes in the atmosphere in 1997. Very weak winds coupled to unusually strong solar radiation created a very shallow mixed layer in the eastern Bering Sea in summer 1997 (Schumacher et al. 1998; Stabeno 1998). Associated with this was a lack of flow of nutrient-rich waters onto the continental shelf. Although sea ice was normal in southward extent in the 1997/98 winter, it melted and retreated northward very rapidly in spring, precluding a more stable ice edge that normally leads to plankton blooms. An inner ocean front near Nunivak Island, normally a site of strong production, was not well developed (Vance et al. 1998). These unusual combination of conditions, never before observed, are thought to be due to the unparalleled alignment of the strong 1997/98

equatorial El Niño, decadal variability, global warming, and other atypical regional conditions. These factors severely restricted nutrient supplies to the base of the food web in 1997. Even more remarkable, a second coccolithophore bloom, observed as early as February, continued into summer 1998 and was more extensive than 1997's. Turquoise water was observed from Bristol Bay north through the Bering Strait to the Chukchi Sea. As pointed out by Schumacher et al. (1998), many of these features were predicted by a team of U.S. ocean scientists who gathered in 1995 to consider the effects of global warming on the Bering Sea.

These remarkable 1997/98 conditions also led to significant mortalities of seabirds (Vance et al. 1998; NOAA 1998). Reports of massive seabird die-offs began in August 1997. Short-tailed shearwaters *Puffinus tenuirostris* died from the western Gulf of Alaska to the Chukchi Sea. A die-off of black-legged kittiwakes *Rissa tridactyla* was reported on the Alaska Peninsula, and common murre *Uria aalge* died in western Alaska. Corpses were conspicuous in areas of turquoise water. Shearwaters, at 20–30% underweight, were dying of starvation. Foraging birds appeared to avoid turquoise water where they probably had difficulty seeing prey under poor water visibility. The lack of nutrients that favored the coccolithophore bloom may also have adversely affected productivity of other species, such as euphausiids, that are common food of shearwaters.

ARE RECENT ECOSYSTEM CHANGES LINKED TO SALMON RUN FAILURES IN 1997–1998?

The conventional view, that most salmon mortality occurs in the early life, was originally based on corroborating research focused on freshwater factors, but 1980s research revealed similar importance for early marine life (Pearcy 1992). Now the roles of ocean factors on juvenile and adult growth and survival are active topics of current research. Density-dependent growth (Rogers 1980; Walker and Myers 1998) and environmentally induced changes in predation (Rogers 1984; Hare and Francis 1995) may occur in maturing salmon in their final year at sea.

Several indicators implicate marine stressors in reduced survival of some western Alaska salmon in 1997 and 1998. Returning Bristol Bay sockeye salmon were smaller than average for their age in both years, particularly in 1998. Whether these reduced sizes at age were associated with a decadal-scale shift in

salmon production (Rogers 1994) remains to be determined. Typically, smaller-than-average fish are associated with strong runs; density-dependent growth or changes in marine environmental conditions are commonly postulated as causes (Helle and Hoffman 1995). The combination of smaller-than-average sockeye salmon and weak runs in 1997 and 1998 implies that ocean conditions were unusually poor for growth and survival. Perhaps prey availability declined so sharply that some fish may have starved, and the survivors had limited food for growth. Conversely, perhaps prey availability was adequate but ocean temperatures accelerated salmon metabolic rate beyond the limits for growth and survival. Welch et al. (1998) proposed that thermal requirements limit the ocean distribution of sockeye salmon because metabolism exceeds energy intake at higher temperatures. Processors of the Yukon River salmon reported lower chinook salmon weights in 1997 and 1998. Yukon River chum salmon returned 1 week late, and chinook salmon returned 7–10 d late. The striking tardiness of these runs in 1998 was not due to the usual cause, a late ice breakup, but was more likely due to slower-than-average swimming speed of smaller-than-average salmon.

There was also evidence of altered migration pathways. Yukon chum and chinook salmon adults stayed offshore in 1998 rather than return, as typical, along the coast. The pattern of entry into the north, middle, and south mouths of the Yukon River was also abnormal. For sockeye salmon, catch rates in the Port Moller test fishery were much higher than expected in 1997 and 1998, given the weak runs; so, migration altered pathways may have led to higher gear vulnerability than experienced prior to 1997. Shifted migration pathways of several British Columbia sockeye salmon runs in response to ENSO events have been well documented (Mysak 1986). Finally, anecdotal evidence suggests higher parasitism and predation. Returning chinook salmon, for example, reportedly had higher occurrences of sea lamprey bites and a naturally occurring protozoan infection, *Ichthyophthirius multifiliis*. Although these anecdotal observations need to be substantiated, if true, they could indicate population stress; fish under stress are believed to be less vigorous and more vulnerable to predation. Taken together, these indicators suggest a major role of the marine environment on western Alaskan salmon runs in 1997 and 1998.

It is premature to draw conclusions about the full suite of potential factors that may have led to poor salmon returns in western Alaska in 1997 and 1998. Strong runs of salmon to other river systems do not support the notion of catastrophic, basin-wide ecosystem changes. Analysis of recent return-per-spawner

data for different river systems may provide considerable insights. If relationships between salmon production and indices of Aleutian Low or Pacific Decadal Oscillation continue to hold, then perhaps the dominant role of early marine factors may be upheld. On the other hand, deviations from those relationships may lend additional support that unusual marine environmental conditions of 1997 and 1998 played an important role in the reduced production of western Alaska salmon. Some researchers speculate that there was a shift in the late 1980s or early 1990s to a new regime unlike those previously observed (Noakes 1998).

Readily observed changes in seabird and salmon populations may provide hints about the magnitude of changes currently occurring in the marine ecosystem. The apparent shut down of nutrient pumps in the Bering Sea and the prevalence of coccolithophore blooms may have profound implications. Large phytoplankton cells,

such as diatoms, are associated with efficient energy transfer and shorter food chains typical of productive regions of the world's oceans (Ryther 1969). Not only do coccolithophores contain low chlorophyll content, they are small and covered with calcium platelets. Due to their small size, additional trophic links may be necessary to pass energy to higher-level consumers. Energy is lost at each trophic level due to energetic costs of digestion, assimilation, conversion, and storage. Thus, changes in the phytoplankton community in 1997/98 may have had important ramifications throughout the system. Process-oriented studies in the North Pacific and Bering Sea are urgently needed. Investigations on plankton dynamics and early life histories of fish and shellfish should be undertaken so that mechanisms for subsequently observed changes in fish, shellfish, bird, and marine mammal populations can be understood.

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CS FOR HOUSE BILL NO. 104(FSH)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HUDSON, Austerman

A BILL

FOR AN ACT ENTITLED

1 "An Act revising the procedures and authority of the Alaska Commercial Fisheries
2 Entry Commission, the Board of Fisheries, and the Department of Fish and Game
3 in regard to a moratorium on participants or vessels, or both, in certain fisheries;
4 and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 16.43.225(a) is repealed and reenacted to read:

7 (a) The commission may establish a moratorium on entry of new participants
8 or vessels, or both, into a fishery, if the commission finds that a moratorium is
9 necessary

10 (1) to promote the conservation and sustained yield management of the
11 state's fishery resource and the economic health and stability of commercial fishing in
12 the state; and

13 (2) for one or more of the following purposes:

14 (A) to allow time for the commission, in consultation with the

1 Department of Fish and Game and the Board of Fisheries, as appropriate, to
2 investigate and evaluate management alternatives, including establishment of
3 a maximum number of entry permits under AS 16.43.240;

4 (B) to allow the commission time to develop regulatory or
5 legislative proposals to address needs of the fishery that cannot be met under
6 existing statutes or regulations;

7 (C) to allow the Department of Fish and Game and the Board
8 of Fisheries to open a fishery or potential fishery that would otherwise remain
9 closed for protection against over harvest resulting from open access into the
10 fishery.

11 * Sec. 2. AS 16.43.225(c) is amended to read:

12 (c) The commission may establish a moratorium under this section for a
13 continuous period of up to four years. A moratorium established under this section
14 may be extended for no more than two additional years if necessary to serve a
15 purpose described under (a) of this section. After a moratorium on entry of new
16 participants or vessels into a fishery has expired, the fishery [THAT HAS BEEN
17 SUBJECT TO A MORATORIUM UNDER THIS SECTION] may not be subjected
18 to a subsequent moratorium on entry of either new participants or new vessels into
19 the fishery [UNDER THIS SECTION] unless five years have elapsed [SINCE THE
20 PREVIOUS MORATORIUM EXPIRED].

21 * Sec. 3. AS 16.43.225(d) is amended to read:

22 (d) While a moratorium is in effect, the commission shall investigate and
23 evaluate management alternatives, including establishment of [CONDUCT
24 INVESTIGATIONS TO DETERMINE WHETHER] a maximum number of entry
25 permits [SHOULD BE ESTABLISHED] under AS 16.43.240, by

26 (1) conducting research into conditions in the fishery;

27 (2) consulting with the Department of Fish and Game and the Board
28 of Fisheries; and

29 (3) consulting with participants in the fishery and other members of
30 the public.

31 * Sec. 4. AS 16.43.225(e) is repealed and reenacted to read:

(e) The commission shall establish, by regulation, the eligibility criteria for applicants for an interim-use permit, interim-use vessel permit, or both, for a fishery subject to a moratorium under this section. The eligibility criteria for an interim-use permit for a fishery that is subject to a moratorium for a purpose described under (a)(2)(A) or (B) of this section must address the minimum requirements for past or present participation and harvest in the fishery as of a qualification date described in AS 16.43.260(f)(1) or (2). When establishing the eligibility criteria for an interim-use permit for a fishery that is subject to a moratorium solely for the purpose described under (a)(2)(C) of this section, the commission may establish the criteria based upon

(1) the minimum requirements for past or present participation and harvest

(A) in the fishery as of the qualification date described in AS 16.43.260(f)(1) or (2); or

(B) in a similar or related fishery if the fishery for which the interim-use permit is being considered has either remained closed in years immediately before the qualification date or has never been open; or

(2) a combination of the minimum requirements for past or present participation in the fisheries described in (1)(A) and (B) of this subsection.

* Sec. 5. AS 16.43.225 is amended by adding new subsections to read:

(f) The commission may not issue an interim-use permit or an interim-use vessel permit for a fishery subject to a moratorium under this section unless the applicant satisfies the qualifications established under (e) of this section and establishes the present ability and intent to participate actively in the fishery.

(g) A permit issued under this section is a use privilege that may be modified or revoked by law without compensation.

(h) The commission may charge a fee for the privileges conveyed by an interim-use vessel permit issued under this section. The fee must reasonably reflect the rate of economic return for the relevant fishery, except that, by regulation, the commission may provide for a reduced fee for an applicant who has a family income falling within the federal poverty guidelines as adjusted by the commission to reflect appropriate cost-of-living differentials.

1 (i) Unless provided otherwise by a state statute or regulation, neither an
2 interim-use permit or an interim-use vessel permit issued under this section nor the use
3 of the permit or a permitted vessel in a fishery subject to a moratorium under this
4 section may be used to establish eligibility for a permit in the fishery after the
5 expiration of the moratorium.

6 (j) The commission may adopt regulations providing for the transfer of an
7 interim-use vessel permit to another vessel if the original permitted vessel is sunk,
8 destroyed, or damaged to the extent that the vessel is inoperable for the fishery for
9 which the permit is issued.

10 (k) As permitted by federal law and consistent with this chapter, the
11 commission may establish a moratorium on entry of new participants or vessels, or
12 both, into offshore fisheries adjacent to territorial waters of the state.

13 (l) In addition to the penalties imposed under AS 16.43.960, the commission
14 may also revoke, suspend, or transfer all interim-use vessel permits for violations under
15 AS 16.43.960(a).

16 (m) In addition to the penalties imposed under AS 16.43.970(a), upon a first
17 or second conviction under AS 16.43.970, the court may in its discretion order a
18 forfeiture of interim-use vessel permits and a loss of eligibility for future issuance of
19 interim-use vessel permits, or order a suspension for a period of not more than three
20 years of fishing rights under interim-use vessel permits held or to be held. Upon a
21 third conviction under AS 16.43.970, all interim-use vessel permits held are forfeited,
22 and the vessel for which the permits are issued loses eligibility for future issuance of
23 interim-use vessel permits for a period of three years.

24 (n) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
25 release to the owner of a vessel information on the vessel's history of harvests in a
26 fishery that is necessary to apply for an interim-use vessel permit under this section.

27 (o) This section does not alter the requirement for an interim-use permit or
28 entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.530.

29 (p) Nothing in this section limits the powers of the Board of Fisheries or the
30 Department of Fish and Game.

31 (q) The commission shall annually inform the Board of Fisheries and the

1 Department of Fish and Game of

2 (1) petitions received by the commission that request the commission
3 to adopt regulations establishing a moratorium on entry of new participants or vessels
4 into a fishery and the action taken by the commission in response to each petition;

5 (2) the fisheries that are currently subject to a moratorium on entry of
6 new participants or vessels;

7 (3) the status of investigations to determine whether a maximum
8 number of entry permits should be established for a fishery that is currently subject to
9 a moratorium on new entrants; and

10 (4) the fisheries that are currently subject to a moratorium on new
11 entrants for which the commission has determined that the level of participation in the
12 fishery requires that entry into the fishery be limited in order to achieve the purposes
13 of this chapter.

14 * Sec. 6. AS 16.43.260(f) is amended to read:

15 (f) When the commission establishes the maximum number of entry permits
16 under AS 16.43.240 for a fishery that is subject to a moratorium on entry of new
17 participants under AS 16.43.225, the commission shall determine which one of the
18 following three dates listed in (1) - (3) of this subsection shall be used to
19 determine the priority classification among applicants. Each [AN] applicant for
20 an entry permit for the fishery shall be assigned to a priority classification based on
21 [SOLELY UPON] the applicant's qualifications as of

22 (1) January 1 of the year during which the commission established
23 the moratorium;

24 (2) the date of the commission's order providing for public notice
25 of the proposed regulatory action to establish the moratorium; or

26 (3) the date of the commission's order providing for public notice
27 of the proposed regulatory action to establish the maximum number [THE
28 EFFECTIVE DATE OF THE STATUTE OR REGULATION ESTABLISHING THE
29 MORATORIUM].

30 * Sec. 7. AS 16.43.911 is amended by adding a new subsection to read:

31 (f) A moratorium on the entry of new vessels into a fishery described under

1 AS 16.43.901 or 16.43.906 may be extended for not more than two additional years
2 if necessary to serve a purpose for which the respective moratorium under
3 AS 16.43.901 or 16.43.906 was established. The extension of a moratorium under this
4 subsection supersedes a contrary provision of AS 16.43.901 or 16.43.906.

5 * Sec. 8. REPEAL OF AS 16.43.901. (a) Section 5, ch. 126, SLA 1996, as amended by
6 sec. 5 ch. 97, SLA 1997, is repealed.

7 (b) If before July 1, 2000, the Alaska Commercial Fisheries Entry Commission

8 (1) exercises its authority under AS 16.43.911(f), added by sec. 7 of this Act,
9 to extend a moratorium on entry of new vessels into a fishery described under AS 16.43.901,
10 then AS 16.43.901 is repealed on the earlier of

11 (A) the termination of the extended moratorium established by the
12 commission under AS 16.43.911(f), added by sec. 7 of this Act; or

13 (B) July 1, 2002; or

14 (2) does not exercise its authority under AS 16.43.911(f), added by sec. 7 of
15 this Act, to extend a moratorium on entry of new vessels into a fishery described under
16 AS 16.43.901, then AS 16.43.901 is repealed July 1, 2000.

17 * Sec. 9. REPEAL OF AS 16.43.906. (a) Section 6, ch. 97, SLA 1997, is repealed.

18 (b) If before July 1, 2001, the Alaska Commercial Fisheries Entry Commission

19 (1) exercises its authority under AS 16.43.911(f), added by sec. 7 of this Act,
20 to extend a moratorium on entry of new vessels into a fishery described under AS 16.43.906,
21 then AS 16.43.906 is repealed on the earlier of

22 (A) the termination of the extended moratorium established by the
23 commission under AS 16.43.911(f), added by sec. 7 of this Act; or

24 (B) July 1, 2003; or

25 (2) does not exercise its authority under AS 16.43.911(f), added by sec. 7 of
26 this Act, to extend a moratorium on entry of new vessels into a fishery described under
27 AS 16.43.906, then AS 16.43.906 is repealed July 1, 2001.

28 * Sec. 10. REPEAL OF AS 16.43.911. AS 16.43.911 is repealed on the later of the date
29 of repeal of AS 16.43.901 or the date of repeal of AS 16.43.906.

30 * Sec. 11. AS 16.05.050(a)(19), 16.05.251(g); and AS 16.43.225(b) are repealed.

31 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

REPRESENTATIVE BILL HUDSON

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COMMITTEES

CHAIR
Fisheries Committee
Utility Restructuring Committee

MEMBER
State Affairs Committee
Transportation Committee

Sponsor Statement

HB 104, Entry Moratorium on Participants and Vessels

HB 104 amends the existing moratorium law to provide for a streamlined and effective process to better manage Alaska's fisheries resources. The current moratorium statute has proven cumbersome and unworkable.

The current process involves multiple steps whereby a fisherman seeking a moratorium must first go to the Commissioner of Fish and Game, who, in turn, must seek authorization from the Board of Fisheries. If the Fish Board authorizes the Commissioner to go forward, the Commissioner may then petition the Commercial Fisheries Entry Commission (CFEC) to provide a moratorium. The CFEC is then authorized to go forward if it can make findings as required by statute. Unfortunately, the standards set forth in statute are difficult to understand and mutually inconsistent.

This cumbersome and confusing process prevents quick response in fisheries that are growing too rapidly to ensure effective management. As a result, both the resource and the economic livelihood of the participants could be jeopardized. In some situations, ADF&G's only recourse is to close the fishery or refuse to open a new fishery if effort cannot be controlled.

HB 104 allows petitioners to request a moratorium directly from the CFEC. A moratorium would be established if the CFEC found that it was necessary "to promote the conservation and sustained yield management of the resource and the economic health and stability of commercial fishing in the state." The purpose of a moratorium is to quickly put a lid on participation levels in order to buy time to develop better management tools.

HB 104 authorizes the CFEC to implement a moratorium on entry of new vessels into a fishery as well as participants. This new authority provides an additional management tool for fisheries when a number of different skippers are used on one vessel.

Representing
Alaska's Capitol City

Under the current statute, eligibility to participate during a moratorium is based solely on past participation. This requirement precludes the use of a moratorium in new fisheries or closed fisheries. HB 104 allows the CFEC to implement a moratorium on a new or closed fishery if a fishery could not be opened because the participation levels may be sufficiently large to cause a conservation concern. Eligibility for the moratorium would be based on other reasonable standards such as participation in similar fisheries.

Additionally, HB 104 allows the state to extend its moratorium authority to offshore fisheries adjacent to state waters when consistent with federal law.

Improving the moratorium law is consistent with our concern for developing and protecting jobs as well as streamlining government and resource protection.

Changes to the Current Moratorium Statute under HB 104

Title 16 - Fish and Game

Sec. 16.43.225. Moratorium on new entrants into certain fisheries.

(a) repealed
& reenacted
by
Section 1
of
HB 104

(a) Subject to (b) of this section, the commission may establish a moratorium on new entrants into a fishery

(1) that has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

(b) repealed
by
Section 9
Of HB 104

(b) The commission may establish a moratorium on new entrants into a fishery described in (a) of this section if

(1) the commissioner of fish and game, subject to AS 16.05.251 (g), petitions the commission under AS 44.62.220 to establish a moratorium on new entrants into the fishery; and

(2) the commission finds that

(A) the fishery has reached a level of participation that may threaten the conservation and the sustained yield management of the fishery resource and the economic health and stability of commercial fishing; and

(B) the commission has insufficient information to conclude that the establishment of a maximum number of entry permits under AS 16.43.240 would further the purposes of this chapter

(c) amended
by **Section 2**
Of HB 104

(c) The commission may establish a moratorium under this section for a continuous period of up to four years. A fishery that has been subject to a moratorium under this section may not be subjected to a subsequent moratorium under this section unless five years have elapsed since the previous moratorium expired.

Sec. 16.43.225. Moratorium on new entrants into certain fisheries. Continued...

(d) amended
by
Section 3
Of HB 104

(d) While a moratorium is in effect, the commission shall conduct investigations to determine whether a maximum number of entry permits should be established under AS 16.43.240 by

- (1) conducting research into conditions in the fishery;
- (2) consulting with the Department of Fish and Game and the Board of Fisheries; and
- (3) consulting with participants in the fishery.

(e)
Repealed &
Reenacted
by
Section 4
of HB 104

(e) The commission shall establish by regulation the qualifications for applicants for an interim-use permit for a fishery subject to a moratorium under this section. The qualifications must include the minimum requirements for past or present participation and harvest in the fishery. The commission may not issue an interim-use permit for a fishery subject to a moratorium under this section unless the applicant can satisfy the qualifications established under this subsection and establish the present ability and intent to participate actively in the fishery.

Section 5 of HB 104 adds
new subsections here.

Sec. 16.43.260. Application for initial issue of entry permits.

(a) The commission shall accept applications for entry permits only from applicants who have harvested fishery resources commercially while participating in the fishery as holders of gear licenses issued under former AS 16.05.536 - 16.05.670 or interim-use permits under AS 16.43.210(a) or 16.43.225 before the qualification date established in (d), (e), or (f) of this section. The commission may specify by regulation the calendar years of participation that will be considered for eligibility purposes.

(b) The commission shall establish the opening and closing dates, places and form of application for entry permits for each fishery. The commission may require the submission of specific verified evidence establishing the applicant's qualifications under the regulations adopted under AS 16.43.250 .

(c) When an applicant is unable to establish qualifications for an entry permit by submitting the specific verified evidence required in the application by the commission, the applicant may request and obtain an administrative adjudication of the application according to the procedures established in AS 16.43.110 (b). At the hearing the applicant may present alternative evidence of qualifications for an entry permit.

(d) Except as provided in (e) or (f) of this section, an applicant shall be assigned to a priority classification based solely upon the applicant's qualifications as of January 1, 1973.

(e) Except as provided in (f) of this section, when the commission establishes the maximum number of entry permits for a particular fishery under AS 16.43.240 after January 1, 1975, an applicant shall be assigned to a priority classification based solely upon the applicant's qualifications as of January 1 of the year during which the commission establishes the maximum number of entry permits for the fishery for which application is made.

(f) amended
by Section 6
of HB 104 to
change the
qualification
dates

(f) When the commission establishes the maximum number of entry permits under AS 16.43.240 for a fishery that is subject to a moratorium under AS 16.43.225, an applicant for an entry permit for the fishery shall be assigned to a priority classification based solely upon the applicant's qualifications as of the effective date of the statute or regulation establishing the moratorium.

Sec. 16.43.911. Applicability of other statutes.

(a) In addition to the penalties imposed under AS 16.43.960, the commission may also revoke, suspend, or transfer all vessel permits for violations under AS 16.43.960 (a).

(b) In addition to the penalties imposed under AS 16.43.970 (a), upon a first or second conviction under AS 16.43.970, the court may in its discretion order a forfeiture of vessel permits, as well as a loss of eligibility for future issuance of vessel permits, or order a suspension of fishing rights under vessel permits held or to be held for a period of not more than three years. Upon a third conviction under AS 16.43.970, all vessel permits held are forfeited, and the vessels for which the permits are issued lose eligibility for future issuance of vessel permits for a period of three years.

(c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may release to the owner of a vessel information on the vessel's history of harvests in a fishery that is necessary to apply for a vessel permit under AS 16.43.901 - 16.43.906.

(d) AS 16.43.901 - 16.43.911 do not alter the requirement for an interim-use permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 - 16.05.530.

(e) Nothing in AS 16.43.901 - 16.43.911 limits the powers of the Board of Fisheries or the Alaska Department of Fish and Game.

Section 7 of HB 104 adds a section (f) defining "vessel permit"

TONY KNOWLEN
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

July 3, 1996

The Honorable Drue Pearce
President of the Senate
716 W. 4th Avenue, Suite 500
Anchorage, AK 99501-2133

The Honorable Gail Phillips
Speaker of the House
716 W. 4th Avenue, Suite 620
Anchorage, AK 99501-2133

RECEIVED

JUL - 5 1996

GOVERNOR'S OFFICE
JUNEAU, ALASKA

Dear President Pearce and Speaker Phillips:

Today I am signing House Bill 547, establishing a four-year moratorium on entry into the Southeast Alaska dive fisheries, and House Bill 538, establishing a four-year moratorium for the Bering Sea Korean hair crab fishery and providing for a vessel permit limited entry system. While there are important pragmatic reasons to implement provisions of these bills, I am concerned about the legislation from a public policy and resource management standpoint.

Addressing management of specific fisheries through legislation is not the ideal approach. Alaska's fisheries management system has proven highly effective in maintaining healthy and sustainable resources because it is run by scientists, professional fisheries administrators, and boards and commissions, rather than through the legislative process.

However, over the last few years, situations in several developing fisheries have pointed out that the provisions in existing law regarding the imposition of a moratorium are cumbersome and ineffective. The lack of sufficient funding for the Department of Fish and Game to conduct needed biological research on new or developing fisheries aggravates this situation. Thus, in fisheries such as those addressed in HB 547 and HB 538, we find ourselves having to quickly impose a moratorium through legislation to prevent damage to a fragile resource or the economic health and stability of a dynamic fishery.

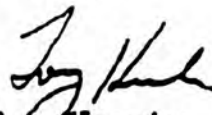
Given the current lack of workable alternative approaches, I recognize several compelling reasons for signing these bills. These include:

- Significant increases in numbers of participants, both recent and anticipated, and the lack of adequate information threaten the conservation of stocks and the stability of these fisheries.
- Severe budget constraints on the Department of Fish and Game prevent gathering of sufficient information and necessitate conservative management of these fisheries.
- A veto of these bills and return to open access could create a stampede into these fragile fisheries. A moratorium will allow a "time out" for proper evaluation to ensure a well managed fishery providing conservation of the resources and sustained economic opportunity for Alaskans in the future.
- The bills establish moratoriums of set duration, not permanent limitations. Nor do they require limited entry. The moratoriums will provide opportunity for public participation in the design of future management options for each of the fisheries, as well as cooperation between the Commercial Fisheries Entry Commission, the Department of Fish and Game, and the Board of Fisheries.

As these bills demonstrate, we need to develop new statutes that provide our professional fisheries managers with the means to easily establish a moratorium in a particular fishery when the need arises. Therefore, I am directing the Commercial Fisheries Entry Commission to work with the Department of Fish and Game to review existing statutes and to recommend changes to make the fishery moratorium provisions more workable and effective.

I will provide the legislature with the results of this review and look forward to working with its members on amending our statutes. The goal is to avoid the need for future emergency legislation for our developing fisheries as exhibited by these two bills.

Sincerely,



Tony Knowles
Governor

cc: Commissioner Frank Rue
Dept. of Fish and Game

Bruce Twomley, Chair,
Commercial Fisheries Entry Commission

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB104

Revision Date/Time (Note if correction)

Dept. Affected:

Fish and Game

Title

An Act revising the procedures and authority of the Alaska

BRU:

Commercial Fisheries (Limited) Entry Commission

Commercial Fisheries Entry Commission, the Board of Fisheries, and ...

Component:

Limited Entry Program Administration

Sponsor

Rep. Hudson

Requester

Rep. Hudson - House Fisheries Committee

COMPONENT SERIAL NO.

0471

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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 ()

0.0 0.0 0.0 0.0 0.0 0.0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: \$

0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by Roger Kolden

Agency Commercial Fisheries (Limited) Entry Commission

Phone

790-6950

Date/Time

02/19/99

Approved by Commissioner Bruce Twomley

Agency Commercial Fisheries (Limited) Entry Commission

Date:

2/22/99

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PUBLIC HEARING HOUSE SPECIAL COMMITTEE ON FISHERIES

LTN1150
BY:JNU
FOR:ALL

LOCATION: KENAI LIO
HB 104 MR.

DALE

BONDURANT (SCR 2) SELF

TESTIFY

LOCATION: KETCHIKAN
ALL ITEMS MR
HB 104 MR

DONALD
RAYMOND

WESTLUND ✓
CAMPBELL ✓

SELF

TESTIFY

LOCATION: PETERSBURG
HB 104 MR

GERRY

MERRIGAN ✓

TESTIFY

03/08/99
17:03:27

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)

LTN1150
BY:JNU
FOR:ALL

TCN:90283 SCHEDULED FOR:03/08/99 17:00 TO 19:00
PUBLIC HEARING HOUSE SPECIAL COMMITTEE ON FISHERIES

LOCATION:KENAI LIO
HB 104 MR.

DALE

BONDURANT (SCR 2)

SELF

TESTIFY

LOCATION:KETCHIKAN

LOCATION:PETERSBURG
HB 104 MR

GERRY

MERRIGAN

TESTIFY

SCOMM

114:12

Alaska State Legislature

Member:

House Finance

Subcommittee Chair:

Transportation

Environmental Conservation

Subcommittee Member:

Fish and Game



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-7157

SPONSOR STATEMENT

HB 160 an act relating to the length of salmon seine vessels

House Bill 160 was introduced at the urging of seine fishermen here in Southeast. Similar legislation passed the House and Senate in 1994, but was vetoed by Governor Hickel.

HB 160 would remove in statute the 58 foot limit on seiners, and give the Board of Fish the flexibility to modify the vessel length limit through the Board process. I stress that HB 160 alone would not change the current length limit on seine vessels, but would only give that discretion to the Board of Fish.

Further, HB 160 would give the Board the option to set the length limit on seiners on a fishery by fishery basis.

Mr. Chairman, I have introduced this legislation to bring the discussion of seine vessel length to the table. Some I have talked to believe longer vessels would provide more safety, allow for on-board value added processing, and encourage better quality fish entering the market.

Also, a few months ago at the salmon summit, ideas were discussed about possible permit buy-back scenarios. Allowing the Board of Fish to modify seine vessel length could be a tool used in a permit buy-back plan.

Thank you Mr. Chairman for scheduling HB 160 for a hearing today. I look forward to the testimony and will be available for questions.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 160

Revision Date/Time (Note if correction)

Title LENGTH OF SALMON SEINE VESSELS

Dept. Affected Fish and Game

BRU Commercial Fisheries

Component Headquarters Fisheries Management

Sponsor Rep. Williams

Requester House Fisheries

Component Serial No. 2171

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost:

0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Doug Mecum, Director

Division Commercial Fisheries

Approved by Commissioner Frank Rue

Agency Alaska Department of Fish and Game

Phone 465-8100

Date/Time 4/15/99 10:39 AM

Date 4/15/99

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Subject: [Fwd: 58' limit]
Date: Tue, 13 Apr 1999 10:30:50 -0800
From: Representative Bill Hudson <Representative_Bill_Hudson@legis.state.ak.us>
Organization: Alaska State Legislature
To: Liz_Cabrera@legis.state.ak.us

Subject: 58' limit
Date: Mon, 12 Apr 1999 17:00:36 -0700
From: Ray Wadsworth <ray@pinboneout.com>
Organization: TBRs Technology
To: Representative_Bill_Hudson@legis.state.ak.us

Bill, Rumor has it that there is a bill to do away with the 58' limit.
I hope so. I have a 56' seiner.

I have developed a machine(thanks to ASTF) which fillets salmon and also removes the pinbones. This summer we will be testing it in Southeast on a tender. The idea is to produce frozen at sea salmon fillets of consistent high quality. If this 'showcase' for our machine works, the next step is to build the machine into a seiner, but the boat has to be longer than 58'. Why 58', what a stupid law. The world is changing and if Alaska fisheries can't change too, we will continue to go broke.

Thanks for your time, good luck, Ray

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

April 20, 1999

APR 26 1999

Representative Bill Hudson, Chair
House Special Committee on Fisheries
State Capitol
MS 3100
Juneau, AK 99801-1182

SENT BY FACSIMILE TO (907) 465-2273

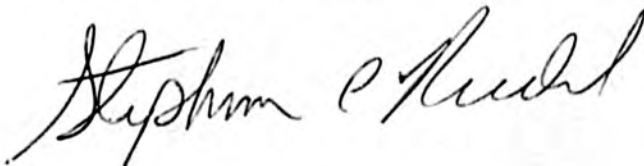
Dear Members,

Cordova District Fishermen United's Seine Division would like to register its opposition to HB 160, an Act relating to the maximum length of salmon seine vessels. Our organization's membership is comprised of commercial fishing families dependent upon the Prince William Sound and Copper River fisheries.

The majority of our seine division membership residing in the Prince William Sound region objects to lifting the ban on salmon seine vessel lengths over 58 feet.

We are also opposed to giving authority for such a critical issue to the current Alaska Board of Fisheries, especially in light of the biases against Prince William Sound that have been expressed by Board member Virgil Umphenour.

Respectfully submitted,



Steve Riedel
Seine Division Co-Chair

cc: Senator Georgiana Lincoln
Representative John Harris
Jerry McCune, UFA
USA - Prince William Sound
CRSPA



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

April 19, 1999

Representative Bill Hudson
Chairman
House Special Committee on Fisheries
Room 108
State Capitol
Juneau, Alaska

Representative Hudson,

I'm unable to attend the House Fisheries Committee meeting on Monday, April 19, 1999, and would appreciate it if you would have the following testimony read into the record.

I am opposed to HB 160. I feel that passage of this bill would open the door to other changes that might eventually destroy the limited entry system as it now stands.

It is my understanding that one of the reasons for lifting the size limits is so that a harvester could get a large enough boat to be a catcher and also have processing capabilities on the same vessel. This would weaken the shore base plants. It is also my understanding that some of the same harvesters have made the statement that this type of investment would lead to the need to do away with registration areas so that these harvesters could go from one opening to another to pay for their investment into processing.

Sorry that I'm unable to attend this meeting as it is a very important issue that could have far reaching impacts. Thank you for taking my testimony into considerations.

Alan Austerman
Representative for District 6

SCOMM

114:13

Special Committee on Fisheries

5PM

Monday, 2/7/00

Capitol 124

Representative Carl Morgan, Jr. and Representative John Harris, Co-Chairs

1. Call to Order

Today's date is February 7, 2000

The time is

2. Roll Call – (Quorum – need 4)

Representative Harris, Co-Chair

Representative Morgan, Co-Chair

Representative Dyson

Representative Whitaker

Representative Hudson

Representative Kapsner

Representative Smalley

3. Identify Teleconference Sites

Ask moderator to list sites that have persons who wish to testify.

Three minute testimony will be heard later in the meeting.

4. Purpose of the Meeting

Purpose of today's committee is to hear House Bill 238, "An Act establishing a federal tax obligation loan program under the commercial fishing loan program."

5. Presentation by Sponsor of the Bill

Invite Representative Kapsner to present bill (Invite her to the table)

6. Questions/Comments from Committee Members

7. Questions/Comments from Teleconference Sites. – Please limit comments to three minutes. *Can reverse order with No. 8*

8. Others wishing to testify. Please limit testimony to three minutes

9. Committee Action on HB 238

10. Other Business

11. Adjournment

Representative Mary Sattler Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us



House District 39

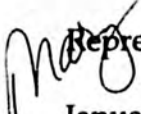
Lower Kuskowim and Upper Bristol Bay

Resources Committee
Fisheries Committee
Regulation Review Committee

Akiachak
Akiak
Aleknagik
Atmautluak
Bethel
Chefornak
Clarks Point
Dillingham
Eek
Ekuk
Ekwok
Goodnews Bay
Kasigluk
Kipnuk
Koliganek
Kongiganak
Kwethluk
Kwigillingok
Manokotak
Napakiak
Napaskiak
New Stuyahok
Nunapitchuk
Oscarville
Platinum
Portage Creek
Quinhagak
Togiak
Tuntutuliak
Twin Hills

MEMORANDUM

TO:  Representative John Harris, Co-Chair
Representative Carl Morgan, Co-Chair
House Special Committee on Fisheries

FROM:  Representative Mary Kapsner

DATE: January 13, 2000

RE: Scheduling Request – House Bill 238

I would appreciate your consideration of scheduling a hearing on HB 238, "An Act establishing a federal tax obligation loan program under the commercial fishing loan program." This bill would re-establish the loan program originally created in 1993 to assist fishermen in paying their IRS debt. I've attached my sponsor statement which provides additional background on the bill. I feel this is a valuable program that would ultimately help both individual Alaskans and the state's economy as we strive to keep our limited entry permits working in and for Alaskans. The bill will have a zero fiscal note.

Thank you.

LEGAL SERVICES

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MEMORANDUM

February 4, 2000

SUBJECT: Sectional Summary of HB 238; An Act establishing a federal tax obligation loan program under the commercial fishing loan program. (HB 238)

TO: Representative Mary Kapsner

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 238; An Act establishing a federal tax obligation loan program under the commercial fishing loan program.

A sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.10.310(a) to authorize the commercial fishing loan program to make loans to Alaska resident fishermen to satisfy past due federal tax obligations that may result in the involuntary transfer of their entry permits.

Section 2 of the bill adds a new subsection to AS 16.10.310 to provide that a loan may not be made to satisfy past due federal tax obligations unless the person has filed past and current federal tax returns and has executed an agreement with the federal government for the payment of past due federal tax obligations. A person may obtain only one loan from the commercial fishing loan program to pay past due federal tax obligations during the person's lifetime. The maximum amount of a loan that can be made by the commercial fishing loan program to pay past due federal tax obligations is \$30,000.

GU:jdr
00-059.jdr

Representative Mary Sattler Kapsner

State Capitol • Juneau, Alaska 99801-1182

Phone: (907) 465-4942 • Fax: (907) 465-4589

E-Mail: Representative_Mary_Kapsner@legis.state.ak.us

House District 39

Lower Kuskowim and Upper Bristol Bay



Resources Committee
Fisheries Committee
Regulation Review Committee

Sponsor Statement

House Bill 238

Fishermen's Tax Obligation Loan Program

This bill would re-institute a widely supported, previously existing program to assist fishermen in paying back taxes, thereby rescuing Alaska limited entry permits from the continued threat of seizure and resale by the Internal Revenue Service.

The Tax Obligation Loan Program was initially created in 1993, in the wake of threats by the IRS to seize the permits of fishermen who were found to owe back taxes. The program draws from the existing Fishermen's Loan Fund, providing loans of up to \$30,000, with a pay-back interest rate of 10.5 percent. The money paid back returns to the fund where it becomes available for further loans.

This bill is not simply aimed to assist delinquent taxpayers. Rather, it assists all fishermen and, in turn, the economy of Alaska. When the IRS seizes commercial fishing permits, they are under no obligation to re-sell the permit for its real value. In one case in 1996, the IRS seized the \$30,000 permit of a Kenai fisherman and sold it for only \$5,005. Such an action had the effect of devaluing all commercial fishing permits.

Moreover, the IRS is under no obligation to re-sell permits to Alaskans. Due to transferability, a great number of limited entry permits are gifted or inherited from one Alaskan to another, protecting a valuable state resource. When the IRS re-sells a permit, they cannot discriminate between Alaskans and outsiders. The IRS' actions threaten to speed the movement of permits into the hands of non-Alaskans.

Before it sunsetted in 1997, the Tax Obligation Loan Program provided 288 loans, at a value of \$6.06 million, to fisherman from every region of Alaska. That year, a bill to extend the program passed the House with near unanimous support, only to die in Senate Resources as one of numerous bills held hostage in the final days of session.

Though tax compliance has dramatically improved among Alaskan fishermen since the early part of this decade, there still exists a need for the Tax Obligation Loan Program. The IRS still staunchly opposes the state's view that fishing permits cannot be legally seized. Moreover, the number of fishermen with tax delinquencies has climbed since the sun-setting of the program in 1997.

Akiachak

Akiak

Aleknagik

Atmautluak

Bethel

Chefornak

Clarks Point

Dillingham

Eek

Ekuk

Ekwok

Goodnews Bay

Kasigluk

Kipnuk

Koliganek

Kongiganak

Kwethluk

Kwigillingok

Manokotak

Napakiak

Napaskiak

New Stuyahok

Nunapitchuk

Oscarville

Platinum

Portage Creek

Quinhagak

Togiak

Tuntutuliak

Twin Hills

HOUSE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KAPSNER

Introduced: 5/14/99

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a federal tax obligation loan program under the commercial
2 fishing loan program."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 16.10.310(a) is amended to read:

5 (a) The department may

6 (1) make loans

7 (A) to individual commercial fishermen who have been state
8 residents for a continuous period of two years immediately preceding the date
9 of application for a loan under AS 16.10.300 - 16.10.370, who [AND] have
10 had a crewmember or commercial fishing license under AS 16.05.480 or a
11 permit under AS 16.43 for the year immediately preceding the date of
12 application and any other two of the past five years, and who actively
13 participated in the fishery during those periods [.]

14 (i) for the purchase of entry permits; [OR]

(ii) to upgrade existing vessels and gear for the purpose of improving the quality of Alaska seafood products; or

(iii) to satisfy past due federal tax obligations that may result in the execution on and involuntary transfer of the individual commercial fishermen's entry permits, to the extent allowed under (e) of this section;

(B) to an individual for the repair, restoration, or upgrading of existing vessels and gear, for the purchase of entry permits and gear, [AND] for the construction and purchase of vessels, or, to the extent allowed under (e) of this section, to satisfy past due federal tax obligations that may result in the execution on and involuntary transfer of the individual's entry permits, if the individual has been a state resident for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370, and either

(i) because of lack of training or lack of employment opportunities in the area of residence, does not have occupational opportunities available other than commercial fishing; or

(ii) is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska;

(C) for the purchase of quota shares for fisheries in or off the state by individual commercial fishermen who

(i) have been state residents for a continuous period of two years immediately preceding the date of application for a loan under AS 16.10.300 - 16.10.370;

(ii) for any two of the past five years, possessed a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 and actively participated in a fishery for which the license or permit was issued;

(iii) qualify as transferees [A TRANSFEREE] for quota shares under applicable law; and

- 1 (iv) are not eligible for financing from other recognized
2 commercial lending institutions to purchase quota shares;
3 (2) designate agents and delegate its powers to them as necessary;
4 (3) adopt regulations necessary to carry out the provisions of
5 AS 16.10.300 - 16.10.370, including regulations to establish reasonable fees for
6 services provided;
7 (4) establish amortization plans for repayment of loans, which may
8 include extensions for poor fishing seasons or for adverse market conditions for
9 Alaska [ALASKAN] products;
10 (5) enter into agreements with private lending institutions, other state
11 agencies, or agencies of the federal government [,] to carry out the purposes of
12 AS 16.10.300 - 16.10.370;
13 (6) enter into agreements with other agencies or organizations to create
14 an outreach program to make loans under AS 16.10.300 - 16.10.370 in rural areas of
15 the state;
16 (7) allow an assumption of a loan if
17 (A) the applicant has been a state resident for a continuous
18 period of two years immediately preceding the date of the request for an
19 assumption; and
20 (B) approval of the assumption would be consistent with the
21 purposes of AS 16.10.300; an applicant for a loan assumption may not be
22 disqualified because the applicant does not meet the loan eligibility
23 requirements of (1) of this subsection;
24 (8) prequalify loan applicants for a limited entry permit loan or a quota
25 shares loan and charge a fee not to exceed \$200 for prequalification;
26 (9) charge and collect the fees established under this subsection;
27 (10) refinance a debt obligation incurred by a borrower or borrowers
28 under this section if the borrower or borrowers otherwise qualify for a loan under
29 AS 16.10.300 - 16.10.370; the department shall collect a refinancing loan origination
30 charge of one-half percent of the amount of the debt obligation that has been
31 refinanced when the first refinancing payment is due;

1 (11) refinance debt obligations, not to exceed \$300,000, incurred by a
2 borrower or borrowers for the purchase of a commercial fishing vessel or gear if the
3 borrower or borrowers otherwise qualify for a loan under AS 16.10.300 - 16.10.370;
4 the department may collect a refinancing loan origination charge as provided by
5 regulation.

6 * Sec. 2. AS 16.10.310 is amended by adding a new subsection to read:

7 (e) The department may not make a loan to an individual under (a)(1) of this
8 section to satisfy past due federal tax obligations unless the individual has filed past
9 and current federal tax returns with the federal government and has executed an
10 agreement with the federal government for repayment of past due federal tax
11 obligations. An individual may receive only one loan to satisfy past due federal tax
12 obligations during the individual's lifetime under (a)(1) of this section, including
13 former versions of (a)(1) of this section. A loan made under (a)(1) of this section to
14 satisfy past due federal tax obligations may not exceed \$30,000.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 238

Revision Date/Time (Note if correction) February 4, 2000

Dept. Affected Community and Econ. Development

Title An act establishing a federal tax obligation loan

BRU Investments

program under the commercial fishing loan program

Component

Sponsor Representative Kapsner

Requester House Special Committee on Fisheries

Component No.

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost:

0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes a new program within the Commercial Fishing Revolving Loan Fund to allow Alaskan commercial fishing harvesters to borrow funds to satisfy past due federal tax obligations that could result in the loss of a limited entry permit through a foreclosure action.

Prepared by: Martin J. Richard

Division: Investments

Approved by Commissioner

Deborah E. Sedwick

Agency

Community and Economic Development

Phone 907) 465-2510

Date/Time 2/4/00 8:07 AM

Date 02/04/2000

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**Alaska State House of Representatives
House District 39**

**Session**

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Fax: (907) 465-4589
www.akrepublicans.org/Ivan.htm

Interim

P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

**Representative Ivan M. Ivan
MEMORANDUM**

TO: Senator Rick Halford, Chair
Senate Resources Committee

FROM: Representative Ivan M. Ivan 

DATE: March 23, 1998

RE: Extension of the Tax Loan Obligation Program (HB 123)

The limited entry permit holders who most need an extension of the Tax Loan Obligation Program are those in rural Alaska communities whose cash earnings are often limited to commercial fishing. If they lose their entry permits to the IRS, they, their families and others who depend upon them can be left destitute. Not to mention, the possibility exists that the permit could be sold to a fisher from the Lower 48 which means the state also loses.

Tax compliance was improving, but last summer's disasters in Bristol Bay and western Alaska aggravated problems for many permit holders. Run failures coupled with market failures undermined many permit holders' ability to meet their obligations.

In addition to the benefits to permit holders and those who depend upon them, if the Tax Loan Obligation Program is not extended, the state will lose its written contract with the IRS which is conditioned on the existence of the loan program. Without it, the state loses a means of restraint.

For your information, UFA does not feel strongly one way or the other about House Bill 123. The people who really care about this legislation are those in the rural communities and those trying to help them meet their IRS obligations like Bernice Heyano in Dillingham. The Tax Loan Obligation Program has proven to be one of the best tools to bring permit holders into compliance and save their entry permits.

Therefore, I am respectfully requesting a hearing for House Bill 123 before the Senate Resources Committee at your earliest possible convenience. Attached is a proposed blank committee substitute.

I appreciate your consideration. Please do not hesitate to contact me if you need further information or if I can answer any questions.

IMI:tw

Attachment

Internal Revenue Service

Department of the Treasury

District
Director

915 Second Avenue
Seattle, WA 98174

FEB 26 1999

Representative Mary Sattler Kapsner
Attn: Aaron Spitzer
State Capitol
Juneau, AK 99801-1182

Dear Mr. Spitzer:

Enclosed are three summary sheets of limited entry permit holders who have transferable permits with value. These sheets cover the two periods you requested plus the most current information we have for 1999. Unfortunately, we do not have non-filer information for 1999 at this time. Please let me know if you need this information and we will provide it as soon as it is available.

The summary sheets have the taxpayers separated into two categories:

1. **IRS NON FILERS** - Individuals who have not filed required tax returns and have no outstanding tax liabilities (balance due).

2. **IRS BALANCE DUE** - Individuals who have tax liabilities outstanding.

NOTE: Some of these individuals also may not have filed all required tax returns. To avoid duplication we have omitted them from the "non filer" column.

We also provided a breakout for Alaska residents and residents of Washington and Oregon. The balance due is broken down into various dollar amounts with the number of individuals falling into each category.

The bottom portion of the sheet contains a listing of geographic areas with the greatest tax compliance problem among Limited Entry Permit Holders.

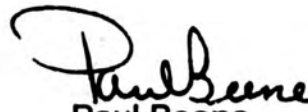
There is one flaw in the information we are providing. In 1992, we had a listing of all permit holders by name and Social Security Number. This enabled us to do a 100% match against our database of non-filers and balance due accounts. Subsequent to 1992, we have not been able to obtain a listing of permit holders with their Social Security Number. The information we recently obtained came off the public bulletin board and it does not contain the permit holders Social Security Numbers. As a result, we are not able to match the name to a Social Security Number on 1,600 of the estimated 11,000 permit holders. Therefore, we do not know if these 1,600 individuals are non-filers, have outstanding balance due, or are compliant.

Representative Mary Sattler Kapsner
State Capitol

In the event we get a listing of permit holders with Social Security Numbers from the State of Alaska, we will do a 100% match and provide you with a corrected summary sheet. I hope you find this information useful in your resurrection of the Tax Obligation Loan Program.

If you have any further questions on this subject, please contact Douglas Hartford, Collection Group Manager, at 949 E 36th Avenue, Anchorage, AK 99508, MS A201 or call him at (907) 271-6982.

Sincerely,


Paul Beene
District Director

Enclosures

cc: Bruce Twomley
Chairman, CFEC

October 1993 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	** IRS Balance Due	IRS Total	LEP Holders	* Amount Due
Alaska Residents	1173	1111	2284	8,802 (Estimate)	13.7 M
Lower 48 States and Hawaii Residents	333	315	648	2,000 (Estimate)	3.9 M
TOTAL	1506	1426	2,932	11,000	17.6 M

* In 1993, the amount due only reflected the assessed balance due. Accrued penalties and interest were not calculated. Based on historical knowledge, the total amount due with accruals as is reflected in the 1997 and 1999 data would be an additional fifty to 100 percent. Therefore in 1993, the total amount due would have been between 20.5 M and 27.4 M

**** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$0 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
827	130	101	32	21	1111	13.7 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region

Bethel
Bristol Bay and Dillingham
Haines Borough & Skagway-Yakutat-Angoon
Kenai Peninsula Borough
Kodiak Island Borough
Wade Hampton

Greatest Problem(s)

Non Filing/Non Payment
Non Filing/Non Payment
Non Filing/Non Payment
Non Payment
Non Payment
Non Filing/Non Payment

February 1997 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	271	643	914	8,802 (Estimate)	18.6 M
Washington and Oregon Residents	23	102	125	2,000 (Estimate)	1.5 M
TOTAL	294	745	1,039	11,000	20.1 M

*** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
311	103	120	63	46	643	18.6 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region

Greatest Problem(s)

Bethel

Non Filing/Non Payment

Bristol Bay and Dillingham

Non Filing/Non Payment

Haines Borough & Skagway-Yakutat-Angoon

Non Filing/Non Payment

Kenai Peninsula Borough

Non Payment

Kodiak Island Borough

Non Payment

Wade Hampton

Non Filing/Non Payment

February 1999 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	Unknown	838	Unknown	8,802 (Estimate)	24.5 M
Washington and Oregon Residents	Unknown	108	Unknown	2,000 (Estimate)	2.0 M
TOTAL	Unknown	946	Unknown	11,000	26.5 M

*** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
467	117	125	71	58	838	24.5 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region

Greatest Problem(s)

Bethel

Non Filing/Non Payment

Bristol Bay and Dillingham

Non Payment

Haines Borough & Skagway-Yakutat-Angoon

Non Filing/Non Payment

Kenai Peninsula Borough

Non Payment

Kodiak Island Borough

Non Payment

Wade Hampton

Non Filing/Non Payment

Internal Revenue Service

Department of the Treasury

District
Director

915 Second Ave., Seattle, Wash. 98174

FEB 12 1997

► Governor Tony Knowles
Office of the Governor
P.O. Box 110001
Juneau, AK 99811-001

Dear Governor Knowles:

The Internal Revenue Service (IRS) is pleased with the results of the State of Alaska's administered Tax Obligation Loan Program (SB251). During the 2-year period that we have worked with the Alaska Department of Commerce and Economic Development, and Division of Investments (DOI), many Alaska fishers have successfully resolved their tax problems. To date, the IRS has received more than four million dollars. However, it is our understanding that new loan applications must be received no later than February 28, 1997, to insure that the applications are processed and the funds disbursed prior to May 26, 1997, when the Bill's sunset provision takes effect.

The termination of this program could not have come at a worse time. Many fishers are in the process of completing their 1996 tax returns. Many rural Alaskans have been unable to obtain assistance to prepare their returns and loan packages. For example, IRS employees were accompanied by an employee from DOI during the week-long visit where we talked to fishers in Dillingham, Manokotak, Togiak, and New Stuyahok. However, we were unable to serve all residents wishing to resolve their problems. We have scheduled additional trips in March and April, but do not know whether these individuals will be able to avail themselves of the State's loan program in time. Tax Obligation Loan applications were received from 15 individuals. The total loan amount requested was approximately \$397,000.

The Tax Obligation Loan Program has been a positive step in minimizing the need for the IRS to take enforcement action. Over the past several years we have been working together with the State of Alaska to avoid the necessity of seizing and selling permits. In July of 1996, we met with various State agencies, members of the fishing community, Native organizations, and the Alaska congressional staff in a symposium format to look at alternatives to seizure action and various methods to improve compliance in the fishing industry. We believe progress is being made toward assisting fishers and minimizing the need for the IRS to administratively seize and sell permits. When we meet again on February 19, 1997, one of the proposals on the table for discussion is the extension of the Tax Obligation Loan Program. We believe this is critical to meeting our mutual goals and would like your support in extending the program. At this time, we have approximately 1200 delinquent permit holders of whom 900 could possibly qualify for the loan program. An extension would greatly assist these Alaskan fishers. While most of these individuals are not in jeopardy of losing their permits because of tax delinquencies, it would be an easy resolution of their tax problems and enable them to concentrate on what they do best, which is contributing to the commercial fishing industry in Alaska.

We firmly believe that our partnership efforts with key participants in this industry will resolve the issues that have divided us in the past. We look forward to working with the individuals representing the State of Alaska at the February meeting and to your support in extending the Tax Obligation Loan Program.

Sincerely,

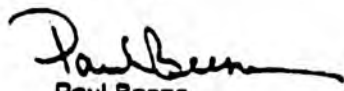

Paul Beene
District Director
Pacific-Northwest District

Exhibit C

MEMORANDUM

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

TO: The Honorable Ivan M. Ivan
DATE: February 17, 1997
FAX NO.: 789-6170
TELEPHONE NO.: 789-6160
FROM: COMMERCIAL FISHERIES
ENTRY COMMISSION
Dale Anderson, Commissioner
Marlene Johnson, Commissioner
Bruce Twomley, Chairman
Mail Stop: 0302
SUBJECT: Information Concerning
the Need for an Extension
of the Tax Obligation
Loan Program (HB 123)

You requested information from the Commission concerning Alaskans who may be in need of an extension of the Tax Obligation Loan Program as provided for in your HB 123.

The best current information we have comes from an IRS Summons served upon the Commission in 1996. The Summons targeted Alaskans who hold entry permits and asked the Commission to report their fishery earnings for the years 1993 and 1994. The IRS identified the vast majority of individuals subject to the Summons as having failed to file returns for 1993 and 1994. Attached as Exhibit A is the number of permit holders by community we derived from the Summons. There are 684 individuals in communities throughout Alaska who are listed on the Summons. They reside all over Alaska including the urban areas. The vast majority have relatively small incomes from commercial fishing. Exhibit A. Therefore, many of their tax debts are likely manageable with some help, and many are likely well within the \$30,000 limit of the Tax Obligation Loan Program. Exhibit A.

These numbers do not show the full extent of tax compliance problems, because they are derived from only two years, 1993 and 1994. There are likely additional individuals with tax obligations arising from different years. On the other hand, the figures suggest some improvement in tax compliance. The IRS previously served the Commission with a Summons directed toward non-filing permit holders for the year 1992, and the Summons named more than 2,000 Alaskans who held entry permits. Exhibit B.

IRS recognizes the importance of the Tax Obligation Loan Program and has urged Governor Knowles to support an extension of the program. Exhibit C.

The Loan Program is part of a written agreement we have with the IRS under which IRS has promised its best efforts to ensure the benefits of the program reach those Alaskans in need. Pursuant to our agreement, we have urged the IRS to provide current data in a form that would be meaningful to the Legislature and the Governor in evaluating the Loan Program. Exhibit D.

cc: Tom Wright

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

16:48 Sunday, February 16, 199

PROJECT NUMBER : 96159

PROJECT NAME : IRS Selective Permit Information

Report #4 - Alaska Resident Permit Holders Subject To IRS Summons For 1993-94
By Alaska Census Area And City
(The Vast Majority Are Identified By The IRS As Non-Fileers)

Census Area	City	# Pmt Holders
ALEUTIAN ISLANDS	KING COVE	2
	NELSON LAGOON	2
	SAND POINT	4
-----		-----
ALEUTIAN ISLANDS		8
ANCHORAGE BOROUGH	ANCHORAGE	40
BETHEL	AKIACHAK	5
	AKIAK	5
	ATMAUTLUAK	2
	BETHEL	26
	CHEFORNAK	2
	EEK	3
	GOODNEWS BAY	13
	KALSKAG	1
	KASIGLUK	2
	KIPNUK	1
	KONGIGANAK	2
	KWETHLUK	5
	KWIGILLINGOK	3
	MEKORYUK	2
	NAPAKIAK	10
	NAPASKIAK	3
	NEWTOK	1
	NIGHTMUTE	3
	NUNAPITCHUK	3
	OSCARVILLE	1
	QUINHAGAK	11
	TOKSOOK BAY	3
	TULUKSAK	9
	TUNTUTULIAK	8
	TUNUNAK	3
-----		-----
BETHEL		127
BRISTOL BAY	KING SALMON	2
	NAKNEK	12
	SOUTH NAKNEK	6
-----		-----
BRISTOL BAY		20
DILLINGHAM	ALEKNAGIK	3
	CHIGNIK	1
	CHIGNIK LAGOON	1
	CLARKS POINT	2
	DILLINGHAM	24
	EGEGIK	5
	ILIAMNA	2
	LEVELOCK	1
	MANOKOTAK	8
	NEW STUYAHOK	2
	NONDALTON	3
	PEDRO BAY	1
	PILOT POINT	2
	TOGIAK	30
	TWIN HILLS	3
-----		-----
DILLINGHAM		88
FAIRBANKS NORTH STAR	FAIRBANKS	9

Exhibit A
(1 of 4)

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

16:48 Sunday, February 16, 1997 2

PROJECT NUMBER : 96159
PROJECT NAME : IRS Selective Permit Information

Report #4 - Alaska Resident Permit Holders Subject To IRS Summons For 1993-94
By Alaska Census Area And City
(The Vast Majority Are Identified By The IRS As Non-Filers)

Census Area	City	# Pmt Holders
HAINES	HAINES	1
JUNEAU	AUKE BAY	3
	JUNEAU	14
-----		-----
JUNEAU		17
KENAI PENINSULA	ANCHOR POINT	2
	HOMER	8
	KASILOF	8
	KENAI	9
	NIKISHKA	2
	NIKISKI	3
	NINILCHIK	3
	PORT GRAHAM	1
	SELDOVIA	1
	SEWARD	1
	SOLDOTNA	5
	TYONEK	1
-----		-----
KENAI PENINSULA		44
KETCHIKAN GATEWAY	KETCHIKAN	11
KOBUK	KOTZEBUE	19
	NOATAK	2
	NOORVIK	1
	SELAWIK	2
-----		-----
KOBUK		24
KODIAK	KODIAK	8
	LARSEN BAY	2
	OLD HARBOR	5
	OUZINKIE	3
-----		-----
KODIAK		18
MATANUSKA-SUSITNA	PALMER	5
	TALKEETNA	2
	WASILLA	6
-----		-----
MATANUSKA-SUSITNA		13
NOME	ELIM	12
	GOLOVIN	2
	KOYUK	1
	NOME	6
	SHAKTOOLIK	3
	STEBBINS	5
	UNALAKLEET	11
	WHITE MOUNTAIN	1
-----		-----
NOME		41
NORTH SLOPE	POINT HOPE	1
PR OF WALES-OUTER KTKN	CRAIG	6
	HYDABURG	2
	KLAWOCK	2
	METLAKATLA	3

Exhibit A
(2 of 4)

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

16:48 Sunday, February 16, 1997 3

PROJECT NUMBER : 96159
PROJECT NAME : IRS Selective Permit Information

Report #4 - Alaska Resident Permit Holders Subject To IRS Summons For 1993-94
By Alaska Census Area And City
(The Vast Majority Are Identified By The IRS As Non-Filers)

Census Area	City	# Pmt Holders
PR OF WALES-OUTER KTKN	POINT BAKER	10
	PORT PROTECTION	1
-----		-----
PR OF WALES-OUTER KTKN		24
SITKA	SITKA	17
SKAGWAY-YAKUTAT-ANGOON	ANGOON	5
	ELFIN COVE	2
	GUSTAVUS	1
	HOONAH	7
	PELICAN	6
	TENAKEE	1
	YAKUTAT	16
-----		-----
SKAGWAY-YAKUTAT-ANGOON		38
SOUTHEAST FAIRBANKS	TANACROSS	1
VALDEZ-CORDOVA	CORDOVA	6
	WHITTIER	1
-----		-----
VALDEZ-CORDOVA		7
WADE HAMPTON	ALAKANUK	17
	CHEVAK	1
	EMMONAK	14
	HOOPER BAY	10
	KOTLIK	10
	MARSHALL	1
	MOUNTAIN VILLAGE	20
	PILOT STATION	2
	RUSSIAN MISSION	1
	SAINT MARYS	7
	SCAMMON BAY	11
	SHELDON POINT	11
-----		-----
WADE HAMPTON		105
WRANGELL-PETERSBURG	KAKE	3
	PETERSBURG	6
	PORT ALEXANDER	2
	WRANGELL	5
-----		-----
WRANGELL-PETERSBURG		16
YUKON-KOYUKUK	FORT YUKON	1
	GALENA	1
	GRAYLING	1
	KALTAG	3
	MANLEY HOT SPRINGS	1
	NENANA	1
	NULATO	5
	TANANA	1
-----		-----
YUKON-KOYUKUK		14

		684

Exhibit A
(3 of 4)

2/18/97

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

PROJECT NUMBER: 96159
1993-94 IRS SELECTIVE PERMIT INFORMATION

1993 COUNTS OF INCOME LEVELS FOR ALASKA RESIDENT PERMIT HOLDERS NAMED IN IRS SUMMONS

EARN	Frequency	Cumulative Frequency
> 30	82	82
00-05	181	263
05-10	108	371
10-15	53	424
15-20	29	453
20-25	13	466
25-30	13	479
UNKNOWN	164	643

479
- 82
397

397 = 8320
(4479)

1994 COUNTS OF INCOME LEVELS FOR ALASKA RESIDENT PERMIT HOLDERS NAMED IN IRS SUMMONS

EARN	Frequency	Cumulative Frequency
> 30	99	99
00-05	165	264
05-10	114	378
10-15	46	424
15-20	20	444
20-25	19	463
25-30	9	472
UNKNOWN	194	666

472
- 99
373

373 / 472 = 7920

* Note: The number of unique permit holders represented in this report is 684.

Exhibit A
(4 of 4)

289 / 479 = 60.70

279 / 472 = 59.70

60.70
Fish Income
10.00

80.20
Fish Income
30.00

TONY KNOWLES
GOVERNOR

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 485-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 1997

The Honorable Ted Stevens
United States Senate
522 Hart Senate Office Building
Washington, DC 20510-2354

Dear Senator Stevens:

I am writing to request your administrative or legislative assistance in stopping the Internal Revenue Service (IRS) from forcing the sale of Alaska limited fishing privileges.

As you know, the IRS has persistently attempted to force the sale of Alaska limited fishing privileges for some time. Last March, the Alaska Commercial Fisheries Entry Commission (CFEC), in its *Carle* decision, denied a demand by IRS to force transfer of privileges held by an elderly Alaska Native fisherman.

Notwithstanding the *Carle* decision, on December 11, 1996, the IRS shocked the State of Alaska by conducting a pre-Christmas sale of an Alaska limited entry permit. The Cook Inlet set net permit was held by a 54-year-old Alaska Native fisherman from a small coastal community and valued at \$30,000. The IRS sold the permit for only \$5,005.

The IRS is well aware the State of Alaska stands ready to cooperate and intervene to help such individual fishermen through Alaska's secured loan program. With the help of the Alaska Business Development Center and others, the state has so far aided numerous individual fishermen in meeting their tax obligations and generated more than \$4 million in revenue to the IRS. Yet the IRS gave the state only two days' notice of its sale.

The pre-Christmas timing of this sale is deplorable. People are especially vulnerable at Christmas, both financially and emotionally. Adverse actions taken at this time can cause tragic consequences. Additionally, two days' notice effectively precludes the state from meaningful intervention and counsel to the individual fisherman.

Despite congressional direction to the IRS to avoid hardship in its collection practices, this sale appears calculated to inflict maximum harm on the taxpayer.

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Senator Ted Stevens

January 21, 1997

Page 2

As you know, in Alaska's small coastal communities, fishing privileges represent a right to work and a way of life for thousands of Alaskans. You are also aware the IRS led the state into talks about this issue promising a "fresh start." This pre-Christmas sale represents a giant step backward.

As the IRS knows, Alaska is in the last months of our successful tax loan program. The state and the Alaska Business Development Center are systematically traveling throughout the state to help Alaska's fishermen secure the benefits of this program. IRS' precipitous action drops a grenade into these planned efforts and causes extreme hardship to the individual fisherman. Such action can destroy a small business and force a fishing family onto public assistance.

We would welcome your help in avoiding such hardship. I invite you to work with John Katz of my Washington office, and Bruce Twomley, Chairman of the CFEC, toward this end.

Sincerely,



Tony Knowles
Governor

Exhibit D
(10 of 10)

Internal Revenue Service

Department of the Treasury

District
Director

915 Second Avenue
Seattle, WA 98174

FEB 26 1999

Representative Mary Sattler Kapsner
Attn: Aaron Spitzer
State Capitol
Juneau, AK 99801-1182

Dear Mr. Spitzer:

Enclosed are three summary sheets of limited entry permit holders who have transferable permits with value. These sheets cover the two periods you requested plus the most current information we have for 1999. Unfortunately, we do not have non-filer information for 1999 at this time. Please let me know if you need this information and we will provide it as soon as it is available.

The summary sheets have the taxpayers separated into two categories:

1. **IRS NON FILERS** - Individuals who have not filed required tax returns and have no outstanding tax liabilities (balance due).
2. **IRS BALANCE DUE** - Individuals who have tax liabilities outstanding.
NOTE: Some of these individuals also may not have filed all required tax returns. To avoid duplication we have omitted them from the "non filer" column.

We also provided a breakout for Alaska residents and residents of Washington and Oregon. The balance due is broken down into various dollar amounts with the number of individuals falling into each category.

The bottom portion of the sheet contains a listing of geographic areas with the greatest tax compliance problem among Limited Entry Permit Holders.

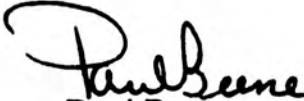
There is one flaw in the information we are providing. In 1992, we had a listing of all permit holders by name and Social Security Number. This enabled us to do a 100% match against our database of non-filers and balance due accounts. Subsequent to 1992, we have not been able to obtain a listing of permit holders with their Social Security Number. The information we recently obtained came off the public bulletin board and it does not contain the permit holders Social Security Numbers. As a result, we are not able to match the name to a Social Security Number on 1,600 of the estimated 11,000 permit holders. Therefore, we do not know if these 1,600 individuals are non-filers, have outstanding balance due, or are compliant.

Representative Mary Sattler Kapsner
State Capitol

In the event we get a listing of permit holders with Social Security Numbers from the State of Alaska, we will do a 100% match and provide you with a corrected summary sheet. I hope you find this information useful in your resurrection of the Tax Obligation Loan Program.

If you have any further questions on this subject, please contact Douglas Hartford, Collection Group Manger, at 949 E 36th Avenue, Anchorage, AK 99508, MS A201 or call him at (907) 271-6982.

Sincerely,


Paul Beene
District Director

Enclosures

cc: Bruce Twomley
Chairman, CFEC

October 1993 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* * IRS Balance Due	IRS Total	LEP Holders	* Amount Due
Alaska Residents	1173	1111	2284	8,802 (Estimate)	13.7 M
Lower 48 States and Hawaii Residents	333	315	648	2,000 (Estimate)	3.9 M
TOTAL	1506	1426	2,932	11,000	17.6 M

* In 1993, the amount due only reflected the assessed balance due. Accrued penalties and interest were not calculated. Based on historical knowledge, the total amount due with accruals as is reflected in the 1997 and 1999 data would be an additional fifty to 100 percent. Therefore, in 1993, the total amount due would have been between 20.5 M and 27.4 M

**** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$0 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
827	130	101	32	21	1111	13.7 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region

Greatest Problem(s)

Bethel

Non Filing/Non Payment

Bristol Bay and Dillingham

Non Filing/Non Payment

Haines Borough & Skagway-Yakutat-Angoon

Non Filing/Non Payment

Kenai Peninsula Borough

Non Payment

Kodiak Island Borough

Non Payment

Wade Hampton

Non Filing/Non Payment

February 1997 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	271	643	914	8,802 (Estimate)	18.6 M
Washington and Oregon Residents	23	102	125	2,000 (Estimate)	1.5 M
TOTAL	294	745	1,039	11,000	20.1 M

*** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
311	103	120	63	46	643	18.6 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region

Bethel
Bristol Bay and Dillingham
Haines Borough & Skagway-Yakutat-Angoon
Kenai Peninsula Borough
Kodiak Island Borough
Wade Hampton

Greatest Problem(s)

Non Filing/Non Payment
Non Filing/Non Payment
Non Filing/Non Payment
Non Payment
Non Payment
Non Filing/Non Payment

February 1999 Summary of Tax Delinquencies Among LEP Holders					
	IRS Non Filers	* IRS Balance Due	IRS Total	LEP Holders	Amount Due
Alaska Residents	Unknown	838	Unknown	8,802 (Estimate)	24.5 M
Washington and Oregon Residents	Unknown	108	Unknown	2,000 (Estimate)	2.0 M
TOTAL	Unknown	946	Unknown	11,000	26.5 M

*** Breakdown of Alaska Resident Balance Due Taxpayers by Amount Owed**

\$1,000 - 10,000	\$10,001 - 20,000	\$20,001 - 50,000	\$50,001 - 100,000	\$100,000 +	TOTAL	BALANCE DUE
467	117	125	71	58	838	24.5 M

Regions with the Greatest Incidence of Tax Delinquencies Among LEP Holders

Region	Greatest Problem(s)
Bethel	Non Filing/Non Payment
Bristol Bay and Dillingham	Non Payment
Haines Borough & Skagway-Yakutat-Angoon	Non Filing/Non Payment
Kenai Peninsula Borough	Non Payment
Kodiak Island Borough	Non Payment
Wade Hampton	Non Filing/Non Payment

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,

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Mr. Paul Beene

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February 14, 1997

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

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Mr. Paul Beene

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February 14, 1997

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.

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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

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February 14, 1997

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

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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

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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

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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

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ALASKA

No relief for fishermen struggling to pay IRS

■ *A bill to continue state loan program didn't make it out of Senate committee*

By LORI THOMSON

THE JUNEAU EMPIRE

When legislators called it quits for the year, they also shut down one avenue for fishermen struggling to pay their taxes.

A bill that would have continued a state loan program for fishermen never made it out of the Senate Resources Committee, although the House passed the bill 34-4 on April 8. The fishermen's tax obligation loan program will expire May 25, said Greg Winegar, lending branch manager for the state Division of Investments.

That's bad news for fishermen who fear the Internal Revenue Service could take their fishing permits to pay off back taxes. About 640 Alaska fishermen are behind on federal tax payments, according to the IRS.

State officials and others were surprised in December when the IRS seized a Kenai fisherman's permit worth \$30,000 and sold it for \$5,005, said Bruce Twomley, chairman of the Commercial Fisheries Entry Commission.

"This individual just in the last year paid \$10,000 toward his tax obligation," Twomley said. "Here you have someone who may not be good dealing with paperwork, but made a good faith effort."

State representatives met with the IRS in February to request advance notice about the most critical tax cases the federal agency planned to target, Twomley said. The state also asked to be given the chance to continue the loan program to help fishermen pay back those taxes.

House Bill 123, extending the loan program, could be approved when the legislative session resumes next year. That would resurrect the loan program. But in the meantime, Winegar said the state is hurrying to process the applications that are already in-house before the program sunsets this month.

"I think with one less option available, it's going to affect some of those folks. How many I don't know," he said.

About 220 fishermen have taken out loans from \$2,500 to \$30,000 in the three years of the program, Winegar said. Fishermen must pay back the loans at 10½ percent interest, usually within five to 15 years.

Twomley said fishermen's rate of tax noncompliance is no worse than that of other small businessmen or lawyers. But the fishing industry is a tempting target for the IRS because of permits that can be seized.

Fishermen often plan to pay their taxes out of bonuses that come after the first of the year or pay the previous year's taxes out of the current year's earnings.

"When the bottom fell out of salmon prices in 1988, a lot of people fell into a trap that made them vulnerable," Twomley said.

Tax compliance among fishermen has improved in recent years. He said more than 2,000 fishermen didn't pay their taxes in 1992. That number dropped to a total of 684 fishermen who did not file for 1993 and 1994.

Fishermen who have not paid their taxes often come from rural areas and may have no other means of supporting themselves without a fishing permit, Twomley said. Language and cultural barriers have also posed problems for some in dealing with IRS paperwork.

The bill to extend the loan program was sponsored by Democratic Rep. Ivan Ivan of Akiak and Republican Rep. Bill Hudson of Juneau.

Laws for the SEA

A WEEKLY REPORT ON FISH LEGISLATION

VOLUME 3*NUMBER 13

MAY 5, 1997

8 DAYS TO ADJOURNMENT

HALFORD HOLDS 10 FISH BILLS HOSTAGE FOR HIS DISCREET STOCK PLAN

Ten fisheries-related bills, including five House majority proposals, are being held hostage in the Senate Resources Committee by chairman Rick Halford in an effort to advance his so-called discreet stock assessment bill.

If Halford's chokehold on fisheries bills isn't broken the harvester's federal income tax loan program will expire at the end of this month, and Southcentral scallop fisheries will be remain open to new participants and raids by large East Coast vessels that would reduce the catch of Alaskan coastal harvesters, but few observers suggest the impasse will be settled in the remaining eight days of the session.

Sen. John Torgerson, a Resources Committee from Kaslof, said last Friday that he doesn't expect to see any more fisheries bills move out of that committee before the legislative session ends on May 13.

Halford hasn't been inclined to discuss his immediate plans. His bottleneck bill, SB 40, sets up a process under which the Board of Fisheries annually selects research projects to determine the streams of origin of salmon stocks that are the subject of allocation battles between commercial and sport harvesters.

Most commercial fleets fiercely oppose SB 40 for fear that it is the precursor to a policy that would eventually eliminate intercept fisheries where most of the commercial harvest of the state's wild salmon stocks take place. Last year's version of the bill directed the Fish Board to adopt a discreet stock management policy, but that wording was not included in this year's draft.

SB 40 was introduced on the first day of the session, but Halford has been unable to move it from the seven-person Resources Committee on its merits. Three Republicans panel members from coastal districts, including Torgerson, Robin Taylor, of Wrangell, and Loren Leman, who fishes a Kenai Peninsula setnet site, oppose the bill. Sen. Georgianna Lincoln, a Democrat from the Yukon River village of Rampart, is concerned with its funding provisions and doesn't support it.

All but two of the bills Halford is sitting on are Republican proposals.

Of the six house bills now in Halford's clutches, HB 123 has been there the longest. It extends the harvester income tax loan program for three more years from its current expiration date of May 28.

Beside the scallop moratorium bill, HB 144, the so-called generic moratorium bill, HB 204, is also among the hostages.

Both of the Knowles administration proposals for new salmon product tax credits have been in Halford's committee since they were introduced, which is no surprise in the highly partisan legislature. But SB 52, Sen. Jerry Mackie's bill to reinstitute the capital investment tax credit program for shoreside processing plants, has been stuck in Senate Resources since January 30.

Mackie is the only Democrat in the Senate Republican majority. With the absence of ailing Sen. Tim Kelly, the Republicans, at best, have exactly enough votes to override the governor's veto of any of their bills. That may give Mackie enough leverage to force SB 52, or some of the other bills, out of Senate Resources, but so far no signs of serious hostage negotiations have been found.

Only last week, HB 19 and HB 198 passed out of the House and into Halford's black hole. The former requires sport fishing guides to be licensed by the state and the latter establishes regional dive fishery associations which would tax themselves to pay the management costs of their fisheries.

Halford, a practiced deadline deal-maker, says SB 40 is in good shape and expressed no concern for its passage this year. The bill carries a \$1.5 million annual fiscal note, but two-thirds of that amount would come from new commercial fishing fees and the rest from a \$1 surcharge on sport fish licensing, or from other sport fishing funds.

News Release

FOR IMMEDIATE RELEASE May 17, 1999
CONTACT: Aaron Spitzer, 465-4942

Legislator proposes bill to protect fish permits

Juneau—A bill that was filed last week in the state House of Representatives would re-institute a program to help fishermen pay their back taxes, thus rescuing Limited Entry Fishing Permits from the threat of seizure and resale by the Internal Revenue Service.

Rep. Mary Sattler Kapsner, D-Bethel, filed House Bill 238 on May 13. The bill received references to the House Fisheries, Resources and Finance committees.

"We in the legislature need to do all that we can to help our fishermen in times of economic adversity," Kapsner said.

HB 238 proposes to reinstate the Fishermen's Tax Obligation Loan Program, which was created in 1993 and sunsetted in 1997. During the program's lifespan it awarded 288 loans, at a value of \$6.06 million, to fishermen from every region of Alaska.

The loans helped fishermen with delinquent taxes pay off their tax debts, thus dissuading the IRS from taking away and re-selling their Limited Entry Permits. The IRS has long maintained the right to seize fishing permits, sometimes re-selling them for a fraction of their real worth, and potentially re-selling them to non-Alaskans.

The Tax Obligation Loan Program thus not only assists tax-delinquent fishermen but all Alaskans, by helping to maintain the value of Limited Entry Permits and by keeping the permits in the hands of Alaskans.

I. INTRODUCTION.

The Internal Revenue Service (IRS) administratively seized property possessed with respect to an Alaskan salmon limited entry permit held by Francis S. Carle, a 61-year-old Alaska Native fisherman from Hydaburg, Alaska. The IRS attempted to sell the right, title and interest of Mr. Carle in and to his fishing privileges at its Anchorage public auction in December of 1995.

Subsequent to this administrative seizure and sale, the IRS applied to the Commission for a voluntary transfer of the privileges completing the application forms as if it were Mr. Carle.

An Alaska limited entry permit is a use privilege that may be transferred only by the Alaska Commercial Fisheries Entry Commission (CFEC), and CFEC is required to review every request for transfer to ensure compliance with the law. AS 16.43.170.

This application for transfer is the first time CFEC has been called upon to review an IRS request for transfer arising from an IRS administrative levy and sale. We agreed to review this request as expeditiously as possible, and, toward that end, we Commissioners are taking up the request directly (without the normal, intermediate procedural levels of review).

Although we provide background and discuss additional issues raised by IRS, this request for transfer presents a simple question of IRS' statutory authority.

We have reviewed (1) IRS' application and conclude federal governing statutes do not authorize the administrative levy and sale of Alaska limited fishing privileges. Therefore, we deny IRS' request.

II. FACTS OF IRS' REQUEST FOR TRANSFER OF MR. CARLE'S FISHING PRIVILEGE.

A. Mr. Carle.

Francis S. Carle is a 61-year-old fisherman from the Alaska Native fishing community of Hydaburg on Prince of Wales Island in Southeast Alaska. As an Alaska Native elder, Mr. Carle has maintained for his lifetime a traditional dependence upon commercial fishing as his only means of earning a living to support himself and his extended family (including his wife, two sons, and daughter).

In 1975, pursuant to AS 16.43 et. seq., the State of Alaska Commercial Fisheries Entry Commission (CFEC) originally issued Mr. Carle his Southeast Alaska purse seine entry permit (2). The permit is a revocable use privilege. As 16.43.150(e) The state found Mr. Carle would have suffered "significant economic hardship" without the permit, because he was so heavily dependent upon the fishery. In fact, Mr. Carle's dependence on his salmon fishing was so substantial, the state could not have denied him the privilege even if it meant issuing more than the maximum number of entry permits (3).

Mr. Carle's Southeast salmon seine permit is one of three such permits in Hydaburg today. Mr. Carle has owned his own seine vessel since 1963. In his seine operation, Mr. Carle employs six crewmembers from Hydaburg.

B. IRS Action.

On November 13, 1995, pursuant to 26 USC 6331(a), the IRS levied upon property possessed by Mr. Carle with respect to his permit by personally serving him with a Notice of Seizure (4).

IRS published a notice (5) for its public auction of property of Mr. Carle and others in the Juneau Empire on November 29, 1995, that stated in part as follows:

Sales are subject to any and all qualifications and/or restrictions established by the Alaska Limited Entry Fishing Commission Successful bidders must meet all qualifications prior to transfer.

Mr. Carle turned to his local tax preparer and Alaska Legal Services Corporation for help. When Mr. Carle's tax preparer was out of town and unable to complete the required work in time, Mr. Carle's attorney sought help from the IRS Problem

The economy is dependent to the extent of more than two-thirds (2/3) of its income upon Federal Expenditures.

However, the prevailing view was Alaska could survive as a state, but only if Alaska controlled its own natural resources including fisheries(15)

H.R. 7999 will enable Alaska to achieve full equality with existing States, not only in a technical juridical sense, but in practical economic terms as well. It does this by making the new State master in fact of most of the natural resources within its boundaries

In order to understand clearly the necessity for certain different provisions in the Alaska statehood bill, it is advisable to have in mind some of the basic facts about Alaska's peculiar situation.

Over 99 percent of the land area of Alaska is owned by the Federal Government. [S]uch a condition is unprecedented

Much of the remaining area of Alaska is covered by glacier, mountains, and worthless tundra. Thus it appeared to the committee that this tremendous acreage of [federal] withdrawals might well embrace a preponderance of the more valuable resources needed by the new State to develop flourishing industries with which to support itself and its people.

If Alaska is to become a State, it must be a full and equal State, and not a puppet of the Federal Government.

With respect to demands on the Federal Treasury, proponents of statehood also noted(16):

Concretely, the grant of statehood will mean some saving to the Federal Government as the people of Alaska take over part of the burden of supporting certain governmental functions now borne by the United States Treasury.

The "extreme degree of Federal domination of Alaskan affairs"(17) and its deleterious effect was very evident in Alaska's salmon fisheries. As long as Alaska remained a Territory, the Federal Government managed Alaska's fisheries. Under federal management, canneries were allowed a monopoly over the Alaska salmon harvest through the use of fish traps. This federal management practice undermined sustained yield management and, over time, resulted in severe harm to the resource. Additionally, federal management of Alaska's fisheries through fish traps denied individuals, who traditionally relied on commercial fishing for their livelihood, the opportunity to fully participate in the commercial harvest. As the result of this exclusion, these individuals and those dependent upon them suffered severe economic distress. This placed a heavy burden on the Territory and the Federal Government to provide basic support to those individuals, their families and their communities.

Senator Ernest Gruening summarized the fishery situation before statehood:

The Salmon Conservation Fiasco.--Another long-standing Alaskan grievance relates to the depletion of what was once Alaska's greatest natural resource, the salmon fishery. It was also the nation's greatest fishery resource.

The Pacific salmon originate in the rivers and lakes of North America's northwest coast; they migrate to sea and return to the waters that gave them birth to spawn and then to die. The salmon industry consists of catching them as they return at the end of their life cycle and processing them, chiefly by canning. Such was the abundance of this resource that Alaska's coastal streams were once solidly red with the mass of anadromous salmon. The first cannery was established in Klawock in 1878 and others followed, financed chiefly by San Francisco capital. Conservation was undreamed of in those days. Not until 1889 did the federal government, alerted by warnings of

Alaska's limited entry system is the product of years of effort by the State beginning in 1961. Two previous attempts by the legislature to establish the means to limit entry into Alaska's fisheries failed as the result of legal challenges.

The Alaska legislature persisted, however, because Alaska's salmon fisheries were experiencing a long and threatening decline, while the number of participants continued to increase substantially, which resulted in more and more fishing pressure on a diminishing resource. A limited entry system was the only means by which the State could control a critical variable in the management of its fishery resources: the number of fishermen participating in a given fishery.

Following action by the legislature, in 1972, Alaska voters approved an amendment to Article VIII, Section 15 of the Alaska Constitution, which authorized:

the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

Building upon this constitutional foundation, in 1973, the Alaska legislature adopted the Limited Entry Act, which has resulted in the largest limited entry program of its kind in the United States. Limitation of entry into all twenty-six of Alaska's salmon fisheries followed shortly. During 1976, by referendum, the voters of Alaska again supported limited entry by a margin of almost two-to-one. Today, some forty-six of Alaska's fisheries are under limitation.

As a food source important to Alaskans and the world, Alaska's fisheries are without question one of its most important renewable resources. Alaska's fisheries employ a substantial segment of the State's population, and many remote communities rely upon commercial fishing as their primary economic base. Therefore, sound management of its fisheries is crucial to the State of Alaska, and limited entry is an important part of the State's management system.

Extensive biological, economic, historic, and cultural data and analyses have been generated to aid the development, enactment, and review of entry limitation in Alaska. (A partial bibliography is set forth in Appendix A.) Thousands of hours of hearings throughout the State and before the legislature have informed the choices made in shaping Alaska's limited entry system. Alaska's courts have carefully scrutinized the program and developed a body of law governing limited entry in Alaska that is both extensive and unique. (A partial list of cases decided by the Alaska Supreme Court is set forth in Appendix B.)

In addition to direction and support from the legislature and the courts, Alaska's limited entry program has functioned only through the continuing cooperation and support of the Governor of Alaska, the Alaska Departments of Fish and Game, Law, Revenue, Administration, Commerce, and Public Safety, together with that of private citizens, economists, lawyers, scientists, processors, and, particularly, fishermen.

Under AS 16.43.140, no commercial fisherman may operate fishing gear in a limited fishery without an entry permit. The Alaska Commercial Fisheries Entry Commission (CFEC) issues entry permits and administers the program. The entry permit is the critical element of the system and, to an Alaskan fisherman, an entry permit is a legally required tool of his trade. In establishing limited entry and considering the needs of the State and its citizens, the Alaska legislature gave careful consideration to the nature of an entry permit and the privileges that a permit would extend to its holder.

In enacting a limited entry system, if the legislature had been committed only to simplicity and economy, it could have authorized auctioning of a limited number of property rights to its fisheries. The legislature rejected this approach, because it would not have been consistent with the State's most important objectives in establishing a limited entry system.

The legislature recognized that, for the purpose of conservation, the State needed to retain control of its fishery resources. Looking ahead, the legislature wished to ensure that privileges extended through an entry permit could