

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

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to you in October the rough specifics that we are using on the basis for this. If you want a chance to comment on those, we are now compiling them in a way that they will come up with measures which are generally recognized, not only by economists, but by other people too...as mechanisms of the things that we are concerned with here. One that we are setting up, a per capita, a personal income series for each of the census divisions in which fisheries are a predominate part _____, we are breaking this down, using _____ statistics on wage, selling, employment. Our estimates of fisheries employment, that is the CFEC's allocation of gross revenue received by permit holders, by place of residents, by transfer of payments, by place of residents, and a number of other things on this measure. So we get this measure of the amount of income received by the residents of each of these census divisions each year _____ not audible _____. On a per capita basis this given measure would compare the general economic well being of that area, with such measures as the national, state, poverty level standards or simply comparing these census divisions with the state averages, the national averages or some other measures, so you get the idea where each of these census divisions stands in terms of relative per capita income.

We also have done a second _____ of that which exclude defense and government workers because in rural areas like the Aleutians, _____ installation, the income received by that group of people can distort the figure that we are looking at. So we have those two series pretty well in hand.

The second set of series which is important in establishing the degree to which each of these areas is dependent upon fishing is primarily employment. We are using the industrial breakdown done by the Department of Labor plus our estimates of fisheries employment, and from this we get an idea of the economic structure of each of the census divisions. And by separating out what we call a primary and the support sectors of the economy, and then given the relative position of fisheries and fish related things such as fish processing, we can get a basis for comparing the census divisions as to the degree which fishing and fish processing and fishery related activities are important. So we got these two measures which I think are basic to this committee and any other committee that are looking at commercial entry activities... might be concerned about. From these we can get some idea, we can plot what _____ of the course the economic structure of these areas, we can predict with a reasonable degree of accuracy, what effects the shift of permits away from these areas might mean in terms of employment, structure, economy, in terms of income or shifts of any industrial category...for that matter. But what these two basic sets, or actually two of the sub-sets on personal income series...we will be in a position to answer a number of the questions that we will be concerned with. With the _____ that we are looking at data in most cases, will be out of date, but we can I think, make some estimates of what the current situation is from that base. But that will be the substance of our report to the committee...will be the not so much a report as data used, updated _____ in your deliberations and for considering further amendments.

Anderson: Dr., do you see any value in the committee for the resources committee or the commission continuing to accumulate this data as it...as we go down the line with limited entry program?

Rogers: Yes.

Anderson: As an ongoing process...so we're not back in the same situation. We were in May or June when we had absolutely...there were so many grey areas and we didn't know which way to go and we are still trying to get our feet on the ground as far as getting data and we finally get it and we are still 2 years behind time. And you can't really make any specific recommendation because of that lag in the information that we should be getting. It would help us make better policy.

Rogers: That was our intent. Jack and I looked upon this not as a one shot deal but something that once it is established can be updated, can be used as a means of monitoring what is going on. I'll say monitoring what's going on in the resource. We do need some statistical theory to monitor what is going on among the people who are active in the resource_____.

Anderson: What I would like you to think about is where would you recommend this responsibility should lie. Should it lie with the commission, or be elsewhere?

Rogers: I first dealt with the commission in the Department of Fish and Game. _____ I assume it is going to be with the Department of Fish and Game or with the commission...I'm not clear as to what that transfer really means.

Simons: It's taking over the administrative chores.

Rogers: Ok, I think it,,,that in this case it would lie with the commission then because the commission is primarily concerned with people and they are a resource too...They're getting those people and I think it also reflects the Department of Fish and Game, that is the _____ fishery counsel. Also you have to take into account these criteria and when they are making up a fisheries management act..the 76 legislation specifically requires that they consider the impacts upon fishing communities.

Anderson: Is there anything else?

Rogers: Well, I think that is the _____ not audible _____ but we will be making some effort based upon inadequate _____ but atleast we will have the system set up or concluding that in the future.

Anderson: Ok. One of the statements that you stated was that with the information available, despite the fact that you had a short period of years to examine, specifically 75 thru 77, you were able to detect some trends that were...that are occurring.

Rogers: Particularly, our data goes back...we have taken back to 73 and then I have _____ not audible _____ a bench mark to draw upon so I can see what the trends were before limited entry came up, what trends are probable due to economic and biological conditions.

Anderson: Yes, sir.

Kenneth Borum: My name is Kenneth Borum: I am a fisherman from Homer. This is the right time to interject this into..if it isn't tell me and

I'll sit down and I'm sure I'll have lots of opportunities later anyway. I just have one very basic disagreement, which responds there..is it Mr. Rogers. I've had something like 6 deckhands in the last 5 years, who were all young people who came to Alaska with nothing, and fished for me for quite a few years. Who did get into the fishing. All in the salmon and herring and other fisheries, which salmon and herring are both limited entry in the areas that they entered them in. And, where I certainly don't condone the high price of permits, I don't like it at all. But on the other hand I think one of the things that we are going thru right now, that we better not loose sight of,....is is easier right now, even with these high prices, to get started in fishing than it was when I did in 1966. Because you got a free license...we had no banks that would finance a boat, you had no economic base, to get started in fishing with. A young guy had almost no chance at all. I came here with nothing or close to it, and if I hadn't had a cousin who did have some capital to buy a boat, which he let me have half of, not interest free, but down payment free, I would have never gotten started in fishing. In the prior, I've been fishing for 14 years, prior to the last 5 years I had zero deckhands to get started in fishing because there just wasn't a way to do it, no economic base. Now I'm not saying that we should let permits exist at huge capital requirements, that they take, but I certainly don't think that we want to do anything to throw limited entry into such a turmoil by either taking the monetary value clear off or creating a situation where a person cannot acquire a permit by planning and by working. One of the things I am saying is just how easy should it be to get into the fishery? It was so easy years ago that you couldn't do it. It was almost impossible. Now it is hard, it is very hard. It is hard for a young man to get started, but it is still possible and if we take things and end up with some type of lottery system where a person can't plan their immediate future, as to what they are going to get into, and how they are going to do it, or a fisherman is starting in and he has got to start small because the money again. They are expensive, they were expensive when they were 14 thousand dollars to, back when I started in, if you didn't have any of the 14 thousand dollars. I guess what I am trying to say is, I lost my line of thought there...The whole basic thing is I think we can mess around with it and get it to where it was back to where it used to be again. If a guy starts in with a small boat and in a smaller type salmon fishery quite often he looks ahead and sees the Kodiak or someplace else possibly offers him very much...alot better life as you put it...as there are more fish to be harvested, but the requirement is for a larger boat also. But if he has no way to plan ahead and be able to buy a permit or someway to acquire a permit for that area, he is stuck right where he is. He is absolutely locked in. I guess that is all I have to say right now.

Rogers: I agree with you to that affect. There are alot of things that we have to weigh and we will be discussing this further when Ella starts to talk about alternatives to free transferability. At this point I was merely talking about the research we were doing which was on comparing the community economic hardship or well being, I think...

Borum: You just hit on that one thing after...

Rogers: Right, I mentioned that in the beginning, that the economic criteria in the written act was not addressed to people who are left out or feel they are left out.

Jack ____: I'm Jack ____ and I'm a commercial fisherman. Is alot of this responsibility, is it that these native corporations couldn't...I hear about this report here that only 10 votes or only 10% of the people...can't the native corporations help these people out?

Rogers: I suppose they could, but we are not addressing that in our work. That is a possibility.

Jack ____: They have got a pretty good chunk of money, the got, the corporations they could sell a hotel and buy a whole lot of permits.

Rogers: That is a corporate decision.

Dervan: One other thing that you hadn't addressed is the particular portion..however you get it worked out.. 15 years ago I seen a politician, a senator, walk into a cannery. Because he was a school teacher, turn around and get a ____ set net site, with nothing down. The same identical day I was there getting a ...paid off after the 64 season. He was the originator of limited entry. The same day, Kal ____, Kal Thermon, E ____ Blackburn, was in there looking for finance for 3,000 dollars on a ____ 12,000 boat, ____ walk out the door. He fished for them for 15 years. So you have to deal with who is going to end up with the system. Is the stock brokers, the school teachers, the beaucratic employees, or are you going to do something for youth? That you are gonna have to abolish and decide yourself. And the other particular portion will relate to the falacy of this mans statement over here, before the limited entry scare _____. There were many ____ not audible ____ and fished for one or two shackles. On the turn around I would basically say that there is twice as much gear in the water now as there was before this system started. Everything you find out where in that inlet, right now, you find 600 boats, each one with 3 shackles of gear each one every period. I would say around 20% fishing, double depth, Seattle gear, ____ efficiency. That's what you really drove in, you drove into the hands of the brokers the speculators, Taken it out of the people who had traditionally had a fisheries income. Such sources of employemnt around this area, but not in the bush unless you want your bush population. That is going to have to go into hock for this big amount of money to all move to Anchorage. That is a problem you will have to solve.

Anderson: Thank you. One more question. Have you in your looking at the ...trying to put a lid on the continuing increasing costs of permits. Do you anticipate or do you see as you predict your thoughts into the future that at some point in time the permit will level off and begin to decline, and if that is so, do you anticipate at any time what ____ of time that might occur?

Rogers: It is a reflection of what people expect ____ holding the permits. What it is tied to is what are the projections. Are of the fish runs, and fish prices...there are so many uncertainties there, ...The permit prices could take a tremendous drop without doing anything about it. If the price falls out of the market, or the fish dissappear. Both of these things might happen.

Anderson: One thing I see happening of course, and I'm sure everybody is aware of, is that the Japanese market has fallen flat on, and the problem next year is that there will be a tremendous problem marketing

any kind of salmon from Bristol Bay all the way up to...all the salmon fisheries, so that might have an effect...So I was just wondering if...are there other variables that are...

Rogers: Those are the principle variables, what we are getting with it is a permit that is a scarce thing. To fish something that is just _____ and the supply and demand is simple as that. If they nosedive, nobody will want the permit.

Gardiner: Will there, really _____ alot, because thought because when a person that assumes that the supply and demand situation, where the person holding onto the permit is suffering some, like the ...loss of opportunity. It is not like the...If I had a house and I am renting it out and all of a sudden I can't rent it anymore, then I am losing money because I got to make my bank payments...In most cases the permit, at this point in time are still held,...nobody...they don't necessarily have to make a bank payment. So they can just basically wait.

Langdon: About 40% of them _____ and have changed hands..we don't know. Those are the family transfers, we are talking about 35 to 45%.

Gardiner: My question is, ...is doesn't seem even if they were all transferred it still doesn't seem to be a straight supply and demand relationship.

Rogers: No, no, the type of permit..Is that what people are willing to pay for it. However, we get this, the loss is still,...it depends on who pays what for the permit. If you got the permit for a nominal fee you have lost very little, because in the mean _____ not audible _____. But if you just bought it last year for 50,000 dollars and the bottom goes out, then you are out. You really have taken a loss.

Gardiner: _____ not audible _____. If it doesn't cost you anything
....

Rogers: If you didn't have to finance purchasing that permit _____ you could do it, fine..but most people don't.

Langdon: Terry, I think one of the critical cases here is _____ the Cook Inlet fishery this next year. _____ not audible _____ a handout in October by the entry commission on the _____ of the permit said, the line said insufficient data. So we don't know what has happened in other words what I would predict is that if we _____ hear the cases which alot of people have mortgages their homes and bought a permit based on 76 or 77, in the Cook Inlet at inflated rates...now those are the people who are faced precisely with what you are talking about. When they are faced with a declined yield in the fisheries, 30,000 maximum gross,...is what's gonna happen to those permits. _____ not audible _____. Thus far there is no data that has come thru the voluntary survey at CFEC, _____ not audible _____ stable as _____ in terms of the permit value. Let me make a ...I want to make one other comment, on George's point about the importance of the price of fish here. Everyone is talking about fish here...I think we are getting to take all of the salmon that is available. It is a question of market integration there. Those fish are available. _____ was up here, he is research specialist, economic specialist for British Columbia. He was up here last year, and George and I were

talking about the impact of increasing fish over time. Well, British Columbia does econometric analysis, and they came out over the rest of the century, ... again I am fairly speculative ... the government went with the prognosis that the price of fish is not going to drop. So they will go whole hog into their aquaculture rehabilitation based on econometric model that says increasing demand of the resource, no matter how many fish you put on the market, the price will stand _____. George am I quoting him right?

Rogers: That is right. That was a couple of years ago and it is alot _____..I mean _____not audible_____. I am a bit skeptical about it continuing forever.

Senator Mulcahy: I think when we are discussing the issue of permits, the value of permits, we have got to and maybe we are, assume that it goes hand in hand with the cost of the boat. We might be looking at, let's say a Bristol Bay permit, that costs one hundred or a hundred and twenty thousand and maybe even a little bit more on the market today. But to utilize that permit somebody is going to have to go into hock for a boat, and it is going to be a like amount of dollars, so that that boat and permit costs go right along together. If you can look at a seining permit and a seiner, and I don't have to tell you gentlemen what a seiner costs. You are looking at two things people have to go into hock for, not just the permit

Anderson: Very good. Well, if there are no other questions I'm just going to go to...Thank you Dr. Rogers. We will go to a...Ella Anagick and Ken Vasser on their alternative options and...you have the floor.

Ella Anagick: I think the first option that I'll address is the economic hardship eligibility. Dr. Rogers just got thru _____. I would like to indicate to the committee members that all the options are going to be sent to Professor John Gunther, in the Stanford Law School. He is one of the top constitutional professors in the country. But because of the fact that he is currently revising the legal text that is used in the law school, he will not be able to spend the time throughly analyzing these options. He did state however, that if there is anything that is blatantly unconstitutional, that he would comment on this. I believe that the material will be _____Nels. _____not audible_____.

Anderson: Have you sent the material out to him already?

Anagick: No, but Donna will be sending it this coming monday.

Now with respect to the economic hardship eligibility, this piece of paper has been drafted to supplement the apprentice option. The apprenticeship alternatives was _____ at the last committee meeting and I think all the relative provisions, within the option were stated at that time. If you would like me to run through those I could very briefly run thru them again.

Now basically the purposes of the apprenticeship standards are to encourage entry and selection of younger persons into the Alaskan limited entry commercial fisheries with regard to their health, physical fitness, predisposition and other fishery related attitudes. The second major _____ it will purpose is to terminate the monetary value of the permit,

through adoption of one of the transferability alternatives, which would be implemented under this option. The third major purpose is to favor the supply of permits to people who are responsible for the support of their families not audible of a limited asset, the entry permits over as many families as possible. Now with respect to determining the of apprentices which will be related to the critical number of permits determining have made available to that particular administrative area not audible in that determination. Later during the course of the meeting, Jack Kreinheder will be addressing the pros and cons of each of these options and I think he will probably address this.

The last major purpose is to provide the public with the necessity to the entry into the commercial fisheries of young Alaskan residents in conformity with practices of safety and craftsmanship. And this is considering the hazardous waters in Alaska encountered in commercial fishing. The apprenticeship eligibility requirement is further expanded within the ...supplementing the apprenticeship option and the economic hardship eligibility requirement. On the second page, the eligibility requirement states that to supplement the apprenticeship option there is an either or approach which may be favorable, that is, that the current purposes...the eligibility requirements. That is a 3 to 5 year experience necessary for crewmembers and/or helpers to qualify, must have already have been accrued. For future purposes the eligibility requirements, for the issuance of permits, under the economic hardship option should be seriously considered. And as Dr. Rogers mentioned before, this entails 3 criteria to look at...that is the per capita personal income received by residents, from a subject community area or region. The second is the level of employment and regular participation of the total population in the work force. And 3, the industrial composition of the subject economy and the degree of its diversification of its basic or primary factor. In the supplement to the apprenticeship eligibility requirement, that is enunciated within the proposed apprenticeship option. That deals with experience, the gear license holders, or interim use permit holders, and possibly institutional training under this option.

Again, the method of implementation would be to hold a lottery, based upon a list of fishermen, from that particular administrative area. From this lottery a fisherman's name will be drawn to take on an apprentice. Should reason be given that a fisherman is unable to take on an apprentice, then the name will be returned to the pool and another name drawn. The major incentive for the implementation for this option would be the positive incentive, that is to get a tax credit or deduction for the labor costs or salary apprenticeship to tax credit or deduction for the estimated monetary value of on the job training. And 3, a tax credit and/or deduction for use of the vessel and gear for on the job training purposes of such apprenticeship, during the term of apprenticeship. Now this new...has been indicated, shall include but not be limited to meet the and any other operating expenses in order to successfully commercially harvest salmon resources. These incentives were developed in order to, ...in order for the state not to delegate responsibility to select or to choose an apprentice, to the individual fisherman. Because of that Bosanavich decision, I think this which was decided in 1968. Again the selection of apprentices, under section 7, selection of apprentices, there is priority language given to those crewmembers and/or helpers who are heads of households or who are members of families, who presently

don't own permits, and who substantially depend on fishing as a source of livelihood. Under this option, should the number of qualified applicants exceed the number of slots available, then a lottery would be drawn up, based on the names of such crew members..and the number of names drawn from the lottery would correspond to the number of apprentices set for that particular administrative area. Under the economic hardship option, which I will go into in a little more detail after discussing the current apprenticeship option. Should the economic hardship option be combined with the provided more equitable issuance of permits, because it would make more definite issuance of permits _____ to particular communities. So actually the lottery method would not be used under the economic hardship option but the eligibility would determine both be aimed at the individual ...basis the criteria that would be used possible during the initial issuance of the permit in conjunction with those permits..or in conjunction with those standards used _____ for those communities that substantially depend on fishing as a source of livelihood.

Now stated under section 8, the effect of the apprenticeship program would be...the apprenticeship would not be the only route to obtain the status of a qualified transferee. That is one who has fished as a crewmember and/or helper for a permit holder or another formerly situated _____ not audible _____ or whatever term the legislature decides shall determine a qualified transferee for purposes of issuance of that permit, by the permit holder to such qualified transferee. The other ... the reasoning for this was to conserve the intra-family transfer of permits aside from permits going into the apprenticeship option. So there is restricted transferability in that sense.

I think there is a basic provision for the apprenticeship option. Now, going back to the economic hardship, I think under economic hardship eligibility there is a _____ for further users, for further economic studies to be done in order to implement this. The reason for looking at economic hardship is that because of prices of the permits, there appears to be a trend of permits leaving the rural areas, and this poses a danger flag, or warning in that it underlines the basic economic structure or wellbeing of those communities, which substantially depends upon fishing as a source of livelihood. And if this trend continued in the urban areas of Alaska, we will be subsidizing those areas either thru welfare or transfer payments unless the economic wellbeing of those communities is maintained. And it stated further..in order to maintain the economic wellbeing of these communities.. the _____ a certain number of permits remain in the _____ communities. _____ not audible _____ on outgrowth of permits because of the high prices. leaving the rural communities, this underlines the basic economic structure of those rural communities. Now, like I have indicated the more direct and beneficial approach may be to further develop and treat the economic hardship eligibility requirement as a separate and distinct option, and I think that Dr. Rogers would probably be able to assess what would be needed or the committee members may have to determine the sense of direction to go with respect with...to this option. Now I know that Doug Pope addressed this economic hardship option as having substantial hurdles, but I would like Ken Vasser to possible address the issue.

Anderson: Before you start Ken..Who...I have a document here that says current options available for getting permits. Is that part of the package here in supplementing the apprenticeship option and so forth..is that part of it?

Anagick: Yes, those options were drawn up and presented at the last committee meeting.

Anderson: Ok, are you in the process of having these examined by the constitutional lawyer as well? Is this going out too?

Anagick: Yes, we can have that sent out to Professor Gunther.

Anderson: Ok, one other question before we go...The apprenticeship option that you have given us to consider has been described by some as an administrative nightmare. Have you looked at the administrative end of it to see whether or not the administration of such a program could be streamlined a little bit so that the objection could be sidestepped?

Anagick: Yes, Jack Kreinheder will address the pros and cons.

Anderson: Ken...

Ken Vasser: Thank you. The use of community standards of hardship. Doug this morning kinda saw a constitutional problem. I have not considered the specific problems he raised this morning, which is the _____ the base of the hardship standard on fishing _____ as opposed to a more general type of economic hardship or economic _____ that that would have a heap of problems in another kind of economic _____. I have considered the use of community hardship standards in general and I agree with...to a certain extent that he said that he could use the community hardship standards, but would have to be used in the matters that any community in the United States... _____ and he judged that _____. And I think that Dr. Rogers mentioned the data _____ compiling now can be used in a _____. I don't know why we use the fisheries in particular would create the problem and the use of poverty guidelines for _____ standards. In fact, the privileged of the communities questioned, in the extent that that question arises, is very much like an equal protection question and it seems to me that if you use the fisheries intended, anything that is closely related to the purpose of it, you would have establishment standards, provided that the data you can get is fair and reliable and can be fair and reliable throughout the United States.

Like I said before I think Dr. Rogers has indicated that that can be done. So...I have only heard that objection this morning raised. I would certainly be willing to look into it in greater depth in my office. However, off the top of my head I can't see why the _____ it will provide any greater problem than any other general standards and I don't think it will _____.

Gardiner: I'm not clear on what you are saying. You are saying you think it is ok..I don't know if I can state this correctly. The idea I get from reading this is that what you do is..you are basically tuning in on fisheries as the predominate economic characteristic to gauge whether communities are dependent on the fisheries...and then if it is a suffering community economically, because of the people not being able to fish in that fishery or whatever, and that, and you are saying that you don't see any problem with just using fisheries as a definitional factor.

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Vasser: I think...that's right...I think that the fact that using the fishery dependence as a type of economic hardship standard is very closely related to what you are trying to do _____ trying to establish what communities are going to be hurt most if the permits are not allocated to _____.

Rogers: If I might add...What we are talking about here is the survival of a community and if, if I can give you a silly example, if Detroit _____ if you took all the fish out of Detroit, Detroit would not collapse. But if you took all the fish out of Bristol Bay there wouldn't be anything left. So exactly the thing we are looking at is the survival of a community...what happens to the fishery component of the economy. Is that important to that community, some cases yes, some cases no. _____ not audible _____.

Gardiner: _____ not audible _____ question about the difference in the impacts. What I am looking at is the in the transcript, sub-section C, here on the industrial composition of the subject _____ not audible _____ also in the limited entry and the qualifying..._____ not audible _____ you look at alternative sources of employment, when you look at a community so right there with our own definition of characteristics we are talking about other _____ groups just like fishing, so we ourselves are not limited ourselves to fishing,...so if you...I can see somebody going into court and saying well look alot of people who are now fishing in Alaska were in big cities, they did not grow up fishermen, they came from someplace else and they were farmers, factory workers, or carpenters and they became fishermen, but yet you tell me because I come from a ...,I don't know what ...from another community that is more credible than Detroit...Olympia, Washington, there is not fishing in that town, it is a government town just like Juneau. Because I come from a wrong kind of a _____ then this other guy gets _____ not audible _____ because there is a whole bunch of fishermen in _____ then lives in Olympia, even though neither one of them fishes in Anacordia or Olympia..they ought to have fished in Alaska. Within our own criteria we kind of...we are using other things just like the fisheries to qualify people already and this standard here would look at other economic sectors besides fisheries.

Rogers: Again, in the present _____ not audible _____, we are looking at the individual again if he is deprived the right to fish. He can become a factory worker or an oil worker or something else, but he is in an area were there is only fish. He has no alternative except to migrate. But in this case we are looking at the effect on a community reducing the number of fishermen in the community.

Gardiner: But to qualify community we are looking at the industrial composition of the _____.

Rogers: Right, that would include fisheries of course. The wording of this particular case is that...I might be changed a little bit.

Anderson: Ok, how much does Kodiak rely on their fishery? Roughly,

Mulcahy: I would say 80% and, if you moved the Coast Guard out I would say 100%

Anderson: So you are looking at it in both terms then, you are able to measure very quickly...It depends on which community relies on the specific industry and even if you weren't thinking or talking about fishing, in this case it happens to be that. But, you could make a real quick..like you just did right now...it doesn't take to much analysis to realize but if you didn't have the Bristol Bay fishing _____ have permits who are no longer fishing ...what would that do to Dillingham and other communities...that would be total welfare state system over there.

Anagick: I just want to make one quick comment with respect to looking at communities as a factor. These communities are...I think the _____ of the factor to consider is that they do derive primarily for their income from the fisheries and in order to maintain that economic structure that there would be a certain number of permits or a percentage of permits required. I think that the _____ of factors to consider as a form of eligibility, in conjunction with considering the eligibility requirement, on an individual basis, _____. Looking at those communities _____ on their source of income.

Gardiner: I have sort of a different question in terms of definition of community...I'm not sure I have thought of an example,...How does a community like _____, but a...What happens to a community that kinda in a way is a ...you have a community that is like a sub-community, within a community and the predominate economics of that community as a whole are not fishing but in reality they are a group that really _____ to fishing...say the Kenai Peninsula. If you examine the economics of Kenai, _____ area. Their economy is based on oil, they are not...just because they had a bad fishing season that doesn't really effect their economy...but there has always been a group of people who have been very dependent upon the fishing because that is what they did for a living and now maybe there happens to be at this point in history some other economy that _____ not audible_____, but you kinda got a community within a community.

Rogers: Now, on a military base you need a _____ not audible_____. What we consider a community by _____ what the court will accept. What you are talking about is an occupational community and of course you do have to study that... you do have sub-communities but we can't really measure those with specifics... you have to make surveys _____ not audible_____, but we do have data on the census division basis.....What I have been doing is that I have been limiting myself to things that are derived directly or indirectly by estimating from statistics that are regularly collected for general purposes. So like the community in this case would be _____ and the census can _____ in several places, but generally the census division probably is _____ every 10 years to reflect was it considers to be an economic and social unit., with certain geographic dimentions. But what you are talking about is something else...that is a social definition with regards _____ not audible_____. We could do it but it seems very difficult right now...to develop something that would stand up. That would not be challenged. But you right....there are communities in the sense of an ethnic community within a larger geographic or political community, or an occupational community _____.

Anderson: I note the time is 2:20 and the schedule says we are to get into discussions and questions at 3:00. Representative Gardiner has a meeting at 4:00 o'clock and I do want to get through these presentations and proceed with the options.

Anagick: The second option that I am considering is the Capital Gains Tax option. Basically this option is _____ with both the _____ and the low interest long term financing of the state loan program based on financial need. Basically, the capital gains tax approach places a statutory value on the permit...at the time it is sold. Now _____ to sell a permit so the statutory set value of the tax has a normal capital gains tax rate that the seller would be subject to. The penalty to the seller is that all gain is realized in the sale of the permit in excess of the statutorily set value would be subject to a 100% tax payable to the state. Substantial _____ with the statutory set value return to the buyer with _____ not audible _____ true value would be 10% of the penalty _____ not audible _____ that would be allowed the buyer for disclosure purposes. The method of implementation of this option would be, 1. A _____ with the intent to sell, with the respective parties involved, that is the buyer and the seller, 2. A declaration of the sale and purchase value of the permit is mandatory _____ not audible _____ that the monetary or inkind contribution. 3. The seller and buyer would meet to sign documents for the sale of the permit under oath and subject to perjury. If violation is found on the part of both parties, then revocation of the sale transaction of the permit is mandatory with the following consequences, 1. If the seller violates then the consideration furnished by the buyer is forfeited to the state or a certain percentage thereof, and 2. If the buyer violates, then revocation of the permit shall be _____ and subsequent reversion of the permit to the state. Now this is...the method of implementation is put harsh, but, in other words it should prevent under the table of a transaction...hard _____ measures will have to be taken. A grace period of 60 days would be allowed both the buyer and the seller to amend the documents. To conform to the actual value or the sale price of the permit. And the last method is that statutory consent for a full scale audit of all financial records of those parties and access to all tax records is necessary in order to verify the accuracy of the permit sales transaction.

The potential problem that is expected that is in conjunction with the loan program. The fact that more money is going to have to be available under the loan program may have an adverse impact on the developing fisheries, either herring or bottomfish.

Now with respect to the loan program. With this option what I basically did was to look thru the current commercial fisheries loan statutes and also the Alaskan student loan program and integrated the two to come up with relevant provisions that would deal with the long term loan. The purpose of Alaskan limited entry permits and with respect to eligibility the loans may be made to individual fishermen who have been state residents for a period of one continuous year immediately preceeding the date of application for a loan and had a crew member or a commercial fisheries fishing license for any one of the past 5 years, and who actively participated in the fishery, as such, during that period. 2. Priority that would be given to those applicants who can demonstrate substantial financial need and who substantially depend on fishing as a source of livelihood. 3. An individual fisherman, _____ a purchase of a limited entry permit would qualify... would have the same qualifications as is presently used by the commission...that is establish eligibility to participate actively in the fishery. The limitation on the loan may not exceed \$100,00, may

not exceed a term of _____, may not bear interest exceeding _____ secured by a first priorities _____ and an appropriate securities _____ and may not exceed 100% of the statutory set value of the permit. And not _____ 10%, that is 90% shall apply to the purchase of vessel and gear at a new or used...provided that there is an appraised value or cost _____ lower of the vessel and gear as collateral to secure the loan. There have been some separate provisions developed under repayment of loans _____ not audible _____. The last major portion of the loan program is that for Alaskan residents and this is something that Jack Kreinheder will be addressing... _____ is eligible to have a 40% of this total loan and accrued interest treated as a grant if he continues his Alaskan residency and 1. Continues to use the entry permit for atleast 3 years or will be eligible for a grant in the amount which will be 20% of the total loan plus interest. 2. Continues to use the entry permit for atleast 4 years then he will be eligible for a permit grant in an amount which will be 10% of the total loan plus interest and 3. And continue to use the permit for atleast 5 years, and he or she will be eligible for a grant in the amount of 10% of the total loan plus interest, which is on the condition that the residency be continuously maintained during this period. That basically deals with the capital gains tax option.

The 3rd option is the placing of a time limit on the permit or amortization of the permit itself. The first _____ treat the entry permit as a capital investment, tied in with the average of maximum amount a fisherman may invest for his vessel and gear in a particular fishery. Now this average or maximum amount would constitute the capital investment value of the permit which would be amortized at 10% over a period of years until the value reaches base zero. The permit would then revert to the state who would then re-issue the permit to another...who presumably would be a qualified transferee either the apprenticeship option or the economic hardship eligibility option. However, the original permittee would have the right of renewal of the permit when the capital investment value reaches base zero based upon the use it or lose requirement _____ in further depth.

The second alternative is to _____ and this is probably the more practical alternative, would be to treat the entry permit as a capital investment where by the capital investment figure could be amortized over a period of years determined by the following method: The capital investment figure is the price originally paid for the permit or, 3. A current market value is _____ amortized at 10% over a period of years until the value reaches base zero. Again, the permit would revert to the state and then release the permit to another who presumably would be a qualified transferee either under the apprenticeship option or the economic hardship eligibility option. However, the original permittee could have a right of renewal to the permit when his capital investment reaches base zero based upon the use it or lose it requirement. The other alternative is to treat the permit as having a fixed life of 10 years or possibly the average number of years a fisherman would commercially fish within a particular administrative area. However, the conditions of use it or lose it, non-transferability, and the right of renewal would still remain intact. I think under this option _____ on the permit is quite clear that non-transferability of the permit, meaning implicate _____ not audible _____. The second use it or lose it requirement

is based largely in part _____ the State of California _____ an limited entry system. Under the use it or lose it requirement the permit is non-transferable. It must be consistently used based on the maximum number of pounds landed and or the maximum number _____. 3. There permit must be annually renewed, and 4. Based on the use it requirement the permit owner has the right of renewal. If the permit holder loses the right of renewal or fails to exercise it then, the permit reverts to the state and _____ to a qualified transferee either under the apprenticeship option _____ not audible _____ eligibility option to a lottery basis or the state....may sell the permit. The _____ requirement will make allowances for hardship during the fishing season in those categories that satisfy the criteria necessary in the current definition of emergency transfers or possibly for economic hardship....that the current standards may be considered only on showing good cause _____ if the permit is not actually used during that particular fishing season. Basically, the options that have been devised...and I think in the final analysis, the economic hardship eligibility requirement will have to be further considered seriously by the committee and acted upon.

That is all I have to say.

Anderson: I have a question for the commission. Do you people still issue interim use permits?

Williams: Yes.

Anderson: Under what conditions?

Williams: In unlimited fisheries...king crab...to persons who are above the denial level from the old issuing _____ in the fishery to those people who are in an administrative hearing or judicial appeals group, have claims which they can verify, would allow the commission to issue them a permit.

Anderson: How many...approximately?

Commission: I don't have any idea. We had it at one time, but I have given it away.

Anderson: The reason why I bring this up is that for some of you to consider, is the possibility of issuing a interim use permit under the hardship conditions...where _____ to consider now the....You don't consider hardship. Ok, that is something we have got to look at...Let's say that this person has exhausted every other means by which to be considered as a potential person who is going to have a permit but he has no other alternative, he cannot do anything else, but he is not eligible for a permit, but for some reason he missed the boat, he was in the service or she was in the service, or out of state, at school or whatever other conditions... The person is a resident of the area the person is living in the area, doesn't have any other occupation but under these conditions he could consider the issuance of a interim permit under a hardship case. I haven't even thought about that until you brought that up.

Commission: In all the limited fisheries, salmon fisheries, throughout the state you have got a total of 470 interim use permits. I can give

43.
you a copy of that. 7511 resident permits plus 428 _____ interim use permits in the salmon fisheries, 2123 non-residents plus 42 who had interim use permits.

Gardiner: we have...what 96000...

Commission: 10 30 total, including interim use. I can give you...for example...let's see drift gill net fishing, there are 72 people who..residents and non-residents, who currently who have interim use permits during 1978 season _____ not audible _____.

Anagick: There are just a couple of other things that I would like to bring up and that is for Ken Vasser to address the legality of the _____ options that were presented to the committee members, plus the memorandum drafted to Mr. Bill Berrier with respect to the requirement of a closed _____ of a permit holder _____ the permit and to _____. There are any violations of state laws or regulations by a fish buyer or a fish processor _____ the permit _____ not audible _____ and 2. A permit holders permit will be revoked with _____ compensation for any violation or condition...this is what Ken Vasser _____ addresses.

Gardiner: Is that what we talked about...some of those constitutional issues...I don't know ..one of them...if you have any answer to this one that I brought up last _____ the question I asked about the ...the restriction we are putting on people, the qualification restriction we are putting on.

Vasser: _____ not audible _____. The only think I can tell you is that I've been pretty _____ about the research as to apprenticeship type programs, including apprenticeship programs in resource related areas in other states and on the federal level...and the apprenticeship context has had a checkered history in the courts. In some cases the courts uphold it..in other cases the courts struck it down. Sometimes on almost trivial differences. And it is really hard to say what will cause the courts to uphold _____ not audible _____. I would also note that there are _____ assets. There are a number of apprenticeship programs that are _____ in other areas, that have been around for sometime and to the best of my knowledge they haven't been challenged so there are some _____ not audible _____ that have been to court, but they are not very good challenges, _____ not audible _____ lawyers _____ not audible _____ funeral directors, embalmers, _____ not audible _____.

Gardiner: My specific question went to the fact that..to qualify to be an apprentice you have to have this experience. Ok, Now that is different than whether we allow an apprenticeship program to exist. While I might sense that there might not be a problem with, per say, with an apprentice where anybody could apply to be an apprentice and then you let them in, but if you throw down the qualifying...you say you got to be x, y, z, to be an apprentice and one of those is that you have had to gone fishing in a boat, you get into the problem of _____ skippers determining who will be the apprentices and eventually...you have just removed it one layer. That was my original question right there.

Anagick: Terry, under the supplement for the apprenticeship option with the _____ hardship eligibility requirement, _____ under the eligibility, under 1. Current purposes of the eligibility requirement, that is the

44.

not audible necessary for crewmembers under qualify must have already been crew and for future purposes the eligibility requirement for issuance of the permit under the economic hardship option should be considered with the criteria that announiated not audible based on looking at communities inconjunction with individual eligibility requirements.

Gardiner: Ok. You are saying that those would be...those would replace those?

Anagick: Right. No, for future purposes those would supplement the apprenticeship option with the economic hardship eligibility requirements. I think as Jack Kreinheder will be giving the pros and cons of each of these options, it may be more beneficial to treat the economic hardship eligibility requirement as a separate and distinct option with the act further developed by the committee members based on what would be necessary in terms of the economic research.

Langdon: Terry, are you away from that apprenticeship thing now...I just want to make that...do you still have some questions about that?

Gardiner: No.

Langdon: I just want to say that there is a fishery apprenticeship program in the State of Wisconsin. But it doesn't have the . I mean as soon as you have set foot on boat you have began to accumulate credits in the apprentice program. are some eligible for a certain degree in terms of the lottery. So they don't have the first things to get into apprentice you have to not audible have a job on the boat, you immediately begin obtaining points in the apprenticeship program.

Gardiner: And then you enter your name in the lottery when you get enough points.

Anderson: Yes, mame.

Roselyn Moore: not audible . My folks fished in Alaska as far back as and I have got some problems that I don't think . My children fish with me and have since they were tykes. My daughter fished. What is gonna happen to her in the future? What I think what you are getting at is going to every permit in the state of Alaska out of the State and into somebody elses hands instead of holding them in the residents hands. The natives have moved away and of the New York somebody or the California somebody, and my kids aren't going to have a chance for a license and I don't know...and I am really concerned. Everyone of my kids fish only two of them have a license and I think they are doomed. They are going to be out of the fishery the way you are gonna set it up on an apprenticeship lottery program and they are very concerned. Now the best thing is they're women. Most they won't have other jobs so they go marry somebody and make them become economic dependents resource, not that that happened to me . I had another income and I got a license, but I fished for 7 years too. I got economic dependence on the thing because I get half of my husbands income, but I did have 7 years of my own . The that

they're gonna come down, if somebody had gone to tim-buck-two or some women with no other income is gonna end up with a license and your gonna end up with more of them out of the state than you ever are going to...and my kids ar gonna hurt. They are not going to get the licenses.

Anderson: Doug.....

Pope: Mr. Chariman, I have researched this issue and I don't believe you can give a preference to..first of all, regardless how it sounded in an apprenticeship program _____ eligibility requirements would violate the federal and constitution in number. I don't know whether you could even give preference to people who have fished 5 years of experience in any fishery, but it is pretty clear in my mind that you are not going to be able to give preference to people who have fished 5 years of experience in Alaska. I also... there's a certain preference for gear license holders, I think Apokadat will expect to take care of that. I don't know what I think the problem with the apprenticeship program is the setting up a specific apprenticeship program, who can be a qualified applicant and soon as you start giving preference to anybody in Alaska and you are in fact giving....I read the _____ the Supreme Court held _____ contrary to the way the federal court ruled. There is no doubt in my mind that it is coming back up to the federal supreme court and _____ not audible _____. I hate to say that...and I'm just as chauvinistic about Alaska as anybody else... _____ not audible _____.

Langdon: I would like to make a comment. I don't know if you ever wrote to this Wisconsin program and they, and I've looked at their requirements and they say with _____ to residents, they say you have to be an apprenticeship in that specific fishery and you have to accrue experience in that specific fishery _____ not audible _____.

Pope: There is no doubt in my mind that...

Langdon: And it has been in existence for over 15 years.

Pope: Well, I don't know what the answer is, it hasn't been challenged yet, _____ not audible _____. The few cases that the U.S. Supreme Court _____ not audible _____, and it is very clear resident preferences, it is very clear to me.

Anagick: Well, I would like to make another comment before Ken gives his presentation and as I have stated under the option to place a time limit on the permit, the use it or lose it requirement withing their limited entry system. However, their system has not been challenged in court, and California requires 10 years of half participation in the fisheries and also 10 years of having held a California commercial fishing license. With all these _____ criteria annouciated under the use it or lose it requirement.

Anderson: How do you respond to this ladies concern.

Anagick: Ah...

Anderson: She said that her kid is not gonna get a permit under the systems that you advocate for this committees consideration.

Anagick: I believe that she is... towards the apprenticeship option.

Anderson: Right

Anagick: I think that will have to be up to the committee to decide which options presented...

Anderson: Yes, I understand this...but does she have a legitimate complaint? Will it turn out..in your opinion turn out that way that outsiders will have a better chance to really get the majority of the permits?

Anagick: No, I don't think so because under the apprenticeship scheme we have tried to make firm the intra-family transfers of permits. As I have stated, the affect of the apprenticeship program would not interfere with that intra-family exception although it is stated differently. However, the _____ would have to have atleast 4 to 7 years of fishing experience with the permit holder in order to qualify for that permit.

Anderson: This gentleman over here.

Bill Kreger: My name is Bill Kreger and I've fished for 20 years and as far as the apprenticeship program is concerned, as far as I know we have always had a self administered apprenticeship program. I know myself in the last...our family in the last 7 years, we have had 9 different people working for us. They ranged in age anywhere from a family group of 7 years to 62 years and everything inbetween. Some of those people that worked for us have gone on an acquired permits and got into the fisheries. But fishing is not for everyone, and some people discovered that it is not for them and they get out. Ok, that is fine. But why do we want to go into some form of system that is gonna be an administrative nightmare. We already have a system that works fine. here are 10,000 entry permits in the state right now. I believe, and of those permit holders how many of those permits represent an apprentice. Whether you call them an apprentice, a deck hand, a helper or whatever, they are gaining the knowledge of the fishery. It is working right now, and the people who get a taste of the fishery are so inspired to continue they will. They will find the means. They will continue in the fishery or whatever. But the structuring of this apprenticeship program and a lottery system, I don't want any part of. I don't want someone telling me who I'm going to hire next year to earn my livelihood for me. They may be good fishermen, they may be poor workers. I want to be able to choose. But it's up to the system now, and I don't hear the fishermen complaining, I don't know who is complaining, but I think....Leave it alone.

Moore: In the last few months this has come up quite a bit, so I personally have tried to talk to every fisherman that I know. Not only permit holders but many of the young men that do not have _____ not audible _____. And I _____ not audible _____ or not to purchase which I would have to say several of them were previous deckhands of ours. They did not want a lottery, they said that they had got experience working for good fishermen, and that was _____ not audible _____. They were state residents, the loan program _____ not audible _____, and they could participate by _____. They were quite concerned by having a hat thrown in after putting 7 to 9 years on a boat, in a lottery of a 1,000 people and having to maybe, someday, get

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their name pulled out. This way they should go to the state program, which I do believe is good. Maybe it does need more of an improvement, _____ not audible _____ why _____ should go up to the cannery who sometimes who would even help put up the down money for the licenses for the boat and they have a chance. I agree with you, I think we have an apprenticeship. We hire many men off the docks, many a young man, and every year _____, there are alot _____ and they get jobs, if they are not, no. But they come to the state _____ not audible _____, and most of the time in Homer we try to hire the local people, they try to hire their residents of the area. They try to hire the guy who grew up in the area and I think that happens throughout the state. I don't think the fishermen in Alaska _____ not audible _____. I think they are hiring residents, I would prefer that much more.

Anderson: Ok, I tell you what. Terry is not going to kick this around anymore. I planned tight for opening this whole thing and we'll have you attack him after the..and leave him fend for himself. But, I think we do have to continue here. I would like to hear your presentation. I want you to rap this up Ken, and then get into Jack Kreinheders. Then we will go into discussion and questions. Ok, we'll just open up the ballgame, if it get's to rough I'll duck out and just leave staff here. Ok, go ahead and finish up the staff reports.

Vasser: Basically, there are only 3 more things that I need to discuss. One of them is withing the _____ capital gains tax option, which provides for 100% tax on the balance of the sale in excess of the statutorily set value, plus the 10% _____ bonus to the buyer. I can _____ bonus to the buyer constitutes and unconstitutional criminal penalty in the guides of tax in that it a..if you were going to..if you wanted to establish that kind of penalty you will have to put into _____, so that the person would have the opportunity to extent _____ not audible _____ at a hearing, and simply defend himself.

Gardiner: To what extent...what is the limits on making some sort of civil penalties?

Vasser: Pardon me.

Gardiner: What is the limits on the civil penalty?

Vasser: Well, I think that on thing we should _____ of a given amount is as probable as far as we could go. I think that I could see 100% but that is still a civil penalty. When you start exceeding that then you start _____ not audible _____.

The other two things are these bills that are in the package, one of them _____ the taking and sales of fish without an entry permit or an interim use permit. Officially what that, what this bill tries to do is to make sure that people who fish initially, do so with interim use permits or entry permits. Have appropriate..and _____ from two directions. On the first page, the direction the bill takes is by attempting to force processors to enforce the law by penalizing them if they should purchase fish from the fishermen that they know do not have an entry permit or interim use permit. And on the next page the second, that this bill sets a _____ to of course is that requiring is by establishing a series of penalties for fishermen who are caught fishing without the

permits. Those are included in section 5 of the bill, on top of page 2..on top of page 3. The most extreme penalty which could be imposed is after the 3rd violation, would be forfeiture of the vessel and gear and imprisonment of not less than 3 months or more than 1 year.

The other bill requires, is an act requiring identification on entry permits and that is also an attempt to enforce this requirement on people. That fishermen fish only if they have permits. It will assist the processors to enforce that law by requiring the photographs of the permit holders to be on the permit, so that if the processor has any questions _____ to see if that is the actual holder or not. That is the extent of what I've got.

Anderson: Are there any constitutional problems with these?

Vasser: None that I know of.

Mulcahy: Mr. Chairman, I wonder if we could ask Bob if there would be any ...I like the tone of, administrative problems with the pictures on the permits and stuff. I know I.D., credit cards have some real problems with getting a picture on a Sears credit card or something and keep them up...

Williams: We've looked into this and we've talked to Vern Roberts with the _____ who is in charge with the type of _____ photography and also _____ not audible _____ and the reason that we introduces a trial in the last legislature for supplemental identification other than the plastic card that we issued instead of that was that we had _____. Was that we felt that there are people who are buying the 15 dollar poverty level, renewing it at 15 dollar poverty, were probably the people who would have to spend the most money to charter a plane ticket someplace to _____ ticket. Off the trap line or fish camp or something like this. And _____ need an addition to the expense of administration _____ would be a tremendously expensive program for fishermen themselves to take part in. Trying to get a fisherman on an _____ of course you run into...a card gets pretty thick after a while trying to run it through one of these machines that prints the picture _____ not audible _____.

Mulcahy: I can see alot of administrative problems in particular the village areas and going out westward...just brought the question to mind.

Williams: In leiu of the photographic requirement the commission will have requirements. The commission will have regulations in affect throughout the year requiring all fishermen to carry I.D., that must be presented to an enforcement officer to identify himself as the actual holder of that permit _____ not audible _____. We are hoping the big problem _____ not audible _____. We are hoping that that requirement will alleviate necessity of the photographic requirement. Our position is, we will try that and see if it works, and if it doesn't work then we have to talk about getting a photo requirement. But we see alot of financial costs for those people who cannot afford it.

Anderson: How big of a problem,...how many people do you think are out there selling fish that are not the real owners of the permit?

Williams: We have heard stories, like you guys have. I'm sure. About buyers who buy fish and don't issue tickets. We hear stories about situations where there are set nets..set net fishermen go up to a barge and deal fish illegally and deliver under somebody's else's permit. But we have no way of documenting anything. We did go thru a ticket by ticket edit of all _____ tickets in Cook Inlet _____ not audible _____ trying to trap violations that might appear on paper and there were possibly 4 situations where there were sufficiently questionable activities _____ not audible _____.

Unknown: I believe they made several cases last year where a permit holder just gave his card to another person who offered a chance a share or something like this, and a ...and upon looking at the card he noted his birthdate and asked for identification _____ not audible _____ and the person operates without having an appropriate permit.

Mulcahy: I do think Mr. Chairman that these violations are growing and I think they are becoming more and more problems.

Rogers: It would help if more people could have access to fishing _____ not audible _____.

Anderson: For the public's information, Representative Eliason is sitting over there. I haven't seen him in a long time..since May. Good to see you again Dick.

Ok, are we done?

Moore: Mr. Chairman, he wasn't saying they were requiring ID's on anyone. What do you do about the child younger than 16 holding a license. Usually they don't have any other ID..Now, I'm not saying that I don't like the idea, I like the picture idea.

Williams: One of the options that is available, especially in the urban areas is, that if you go down to the public safety office and get a personal ID card from it. If you are worried about that. I think the cost is \$5.00.

Anderson: Ok, let's go to.. Are you done? Ok, thank you very much Ken... Mr. Kreinheder.

Jack Kreinheder: Ok, you have a paper in your packet that is entitled Analysis of the Legislative Options and Considerations. And what I have in here are summaries of the four major options, the capital gains tax option, the _____, the loan program, the apprenticeship option, and amortization option. And I have placed a brief summary of each of those at the beginning to get the main point and in the following pages it is in more detail discussion and explains some of the reasoning.

I should also say that they have been fairly general because most of the options are fairly general, and some of the impacts would depend on how they would be specifically implemented.

Studying the Capital Gains Tax. The main advantages of it are that the system would still have the right to do what they wished with the permits.

The permits would still be freely transferable, inter-family transfers aren't interfered with and another advantage is fishermen aren't restricted. They aren't locked into one fishery. They can still change from fishery to fishery. And.. compared to some other alternatives, that would have the permits revert to the state, with the capital gains tax option the fishermen could still recoup part of their investment and the possibility _____ state compensations would provide for a more complete recovery of the purchase price. From an administrative point of view..I don't have any experience myself, in price control..George here came up in the 40's trying to control the price of canned salmon..I guess it was. He might be able to give a better impression of that. I did run across a transcript of a conversation between a former commissioner and Jim Crutchfield, who has been mentioned earlier, and who was a former price control economist and he said that he could think of a dozen ways to get around and not even try, and he didn't elaborate..and to me what his _____ not audible _____. Like I say I am not an expert so _____ it seems reasonable that the committee would want to hire someone who was very familiar with this. Price controls are common in other industries. So if any of you want to look into it in more detail....

As far as the disadvantages...The major one is that there would be an uncertain effect on the unexplained when you reduce the permit prices and depending on how much you reduce them by, fewer people are going to transfer their permits..so that _____ make your permits more affordable you may just not be able to purchase one because something..when you place a price limit on something and they get..sell for less than they are worth..there just aren't gonna be many permits around, they will be snatched up as soon as they are for sale. So, it is hard to qualify that because there are so many variables involved, a quater of the permits are transferred for free and some of the other ones are transferred and transferred for market value...so it is hard to say just how much of an effect that would be, but the committee should consider that reducing permit prices by half won't be any easy solution because alot fewer permits are going to be sold when the permit holders get less of a profit.

I already mentioned the black market problem that a strict system with alot of enforcement would be necessary which would have some costs and if you go thru the transfer documents and audit peoples taxes if necessary. Another problem is that...is just in the determination of what the statutory price would be. You are going to have a whole lot of view points, people who got there permits for free and who are trying to get into the fishery, would favor lower prices, while people who just bought there permits would obviously have an inclination to favor higher prices, and..you could work out..try to work out some sort of scheme where the price of the permit would be based on _____ economic return and tht would be desirable, but it would be complicated in _____ estimates. So there is a problem there as well.

Are there any question on the Capital Gains Tax?

With regard to the loan program..and I'm not sure if it was clear, just when Ella did her presentation, just what the modifications were, because some of the provisions which she described are part of the current law. The major changes in the proposed option were that preference towards such loans would be given to such applicants with substantial financial need

and dependence on fishing and a provision was also made for hardship and loan repayments...repayment schedule would be more flexible. And one of the major ones would be to place a greater emphasis on the purchase of permits with the loan program rather than vessel upgrading. Steve initial looking into the loan program revealed that while a fair number of loans were issued to low income people, most of those loans were for vessel upgrading. That is not permit purchases..so that option for providing grants based on the length of use of the permit would provide a greater incentive to use that program for permit purchase. The major advantages are that the loan program would almost certainly be the most acceptable because the permit holders...the one way it wouldn't is that it would place a greater emphasis on acquisition of permits you are necessarily gonna have less funds available, so there is some trade off, but by and large it does the least monkeying with the current system by that it would be accessible and it does offer ..apparently with a few constitutional means of opening of favoring Alaska residents over non-residents because it is not to be completely excluded from the program without being taken to court. And if you want to read..I won't go into much detail.as far as time is concerned..I did suggest, in the more detailed analysis a possible means of further increasing by providing preferential terms of the purchase of non-resident permits to resident permits not audible purchase to the state is much greater because the not audible and his crew is more likely to be Alaskan residents. Among the disadvantages are the facts that....I'm not sure how easily how to accomplish these objectives you want with the loan program by legislation since the loans are administered by a case by case basis and they have to have quite systematic guidelines if you want the loan program to have a certain emphasis. For instance, purchase of permits..so that is one thing to consider. The problem has already been mentioned that the loan program may have an inflationary impact on the permit prices and with..somewhere in the 90's of loans being issued for permits out of the thousands of transfers so far..that shouldn't have been to much of an influence but if you do loan money and you get hundreds of these permit loans out than it could bid up permit prices substantially and it is just a consideration to take into account whether that cost is worth the increased resident participation in the fisheries. It will also partly negate the value of the loan program if theres substantial inflation, even though the loan receipts can afford to pay more. The permit prices are substantially higher than to get a permit.

And then the last problem is that by placing emphasis on the acquisition of entry permits you might stir diversification into bottom fish and the unlimited herring fishery or any of the other developing fisheries around the state. Since by and large the limited fisheries are fully exploited and you have to consider the chaos between encouraging more people. You are not getting more people into these fisheries, you are encouraging more resident participation rather than those same people going out and developing a new fishery that might have greater economic benefits to the state.

Any questions on that?

Gardiner: There are two problems, inflating price permits. I know this is one that has been brought up every time. We just got this in order to.. I mean it is obvious that what the state loan program has had

nothing to do with it _____ to this point, up until a year ago only _____ three thousand..whatever. So we probably still don't know. On the second count of preventing people _____ it is in a sense the people who go into other fisheries...I wonder if...are loan program now is not harder. It is just whoever meets these qualifications which are very simple, you have to have been a resident of the state of Alaska for five years and fished for one year _____ part of 20,000 people have done that. So the real fault relates to if you can pay the money back or something like that.

Because if we are mythical the fisheries then..won't that _____ would lessen what had been placed _____ and lessen whatever _____ effects there are because the people diversified to. Generally, the people diversifying are existing fishermen. It's not somebody new who just owned a boat. They are not going to go out and look for a new fishery because they have so many other things to learn about.

Kreinheder: They still tell _____ us that..now take yourself for instance. You might have a choice for getting a loan for a Bristol Bay drift gill net permit or getting a combination for..alot different...So given a choice like that, if you had preferential terms for entry permits.

Gardiner: That is what I'm saying. Because of that though..so for instance I can't get existent fishermen that have the drift net permit in Bristol Bay. I don't see any big reason why the state is worried about him and giving him a seine permit in Kodiak, where he might not even have a very high priority where somebody who is twenty years old, living in Bristol Bay, who wants to go fishing. Maybe he is somebody to be concerned about. The state ought to give that person a priority. Like now, we are just saying whoever and we are not giving any priorities but we are talking about reducing the requests like we did in 75 to 79% and we are talking proposals here for some type of forgiveness like you have on student loans. Well any of these _____ economic advantages that we are going to try to give people to get into the fisheries. Maybe we should only target those to new people..residents to the State of Alaska rather than existing fishermen. If you did it for everybody you probably will drive that... if you do it for those persons who really need it, you wouldn't have as much inflationary effect and you certainly wouldn't effect their diversification factor.

Because I don't think new people who never fished..aren't the guys who are gonna go out and buy a 2 million dollar trawler and a trailer to haul it. That is gonna be practically _____ experience and they want to convert their crabber or combination.

Kreinheder: Ya, that would get them out if they did have some type _____ not audible _____, people who had fished but don't personally hold entry permits.

Langdon: Jack, I would like to concur with that and that was certainly with professor Bishop for the University of Wisconsin who felt one of the major changes we should look at was _____ not audible _____ that we just discussed.

Kreinheder: Any other comments?

Moore: I think that it is not the loans that is the loan program that has raised the price of the permit, but market. I think if you look at

the Cook Inlet permit which sold at ____ not audible _____. I heard the other day it is up to ____ not audible ____ that I know of and they are not selling. So, I think it is the market and the resource. If you have got a good market and you got a good resource the price will be up and if that goes down..I think ____ not audible _____.

Kreinherder: Yes, what I was just saying is that ____ caused small.. ____ not audible ____ small number of loans, but if you did get to the point where a substantial number of permits we ____ of the loan program, then you can ____ not audible _____.

Moore: No, you can borrow ____ not audible ____ loan department and they are not even selling for ____, so I don't think it has kept the price up.

Kreinherder: As far as the apprenticeship option, Ella made the impression that I had some solutions to the administrative nightmare...my thoughts generally are..Yes, there are alot of administrative problems. Our contract was to mainly look at the problems and ____ come up with solutions. That is no the easy way out ____ not audible ____, but as far as the apprenticeship program I haven't, so, I just let you know what I have seen as the major problem. First, the advantages, on the surfact it is a good idea because fishermen who don't have substantial financial resources can have an opportunity to get a permit at little or no cost and ____ of permits would be based on peoples fishing experiences or dependent criteria or hardship criteria rather than on just the whims of the market and who has the money to buy one. People would have some assurances. People would be trained and qualified when entering the fisheries rather than accountants or school teachers going out there for the first time. And, hopefully it would allow for the continuous of the natural progression of ____ that we had before. This gentlemen said that this is still happening which would negate some of the desirabilities ____ as it really is happening now that people can make that direct ____ with the skipper with the current system.

The legal problems still don't seem to be resolved. Terry brought up the same point that you still have to gear license are ____ as controlling entry just one step removed, that they are controlling entry into the apprenticeship program and it appears that you can get around this requirement by just eliminating that fishing experience. But there is a ____ to eliminating that because the people you do want to give active permits to are the fishermen. So, that is not ____ just develop other eligibility requirements that don't consider fishing experience because that does seem to be an important criteria. So, that is one area that doesn't seem to be ____ in. The apprenticeship would have the problem that permit holders wouldn't be able to switch to one fishery to another as the ____ as the ____ is currently drafted without completing a whole other period of apprenticeship. Even if you did have some provisions for permit trade, those trades would never happen unless you could use the latter for monetary compensations because permits would naturally be of more value in one fishery than in another. And with that monetary compensation you would get this oneway flow of permits and the only permits ____ would be in those fisheries where nobody is making any money. So that is another unanswered problem

And with the permits reverting to the state under this program, you

would either have current permit holders losing the purchase investment for those people who did buy permits, or they would have to compensate people which could run into millions of dollars. I will get more specific than that, and... Finally, this gentleman, I forget your name, mentioned before a lot of the fishermen are going to object strongly to the requirement of taking on a complete stranger. The courts didn't seem to indicate that the fishermen can't choose the apprentices and yet there is a big problem when fishermen are going to have to take on who they don't know when it is not only their business but their personal safety depends on it.

Gardiner: Are you going to go on to the next?

Kreinherder: Yes, do you have a question?

Gardiner: No, I just wanted to point out, or bring up... I think since the last meeting... I thought about another big problem with the apprenticeship program. I think one of the problems that we all see in the and did _____ point out in the statistics today, is lots of permits in rural areas and in lots of the villages. I think for instance... is what happened in Southeast Alaska in the same fishery where you saw the permits... what happened... well at the cannery they saw a bunch of big years coming on and they said... we are gonna go get those permits and we are gonna put our guys on them. So they went and bought those permits up out of the villages and stuck some guy from Puget Sound on one of their boats that the cannery owned and sent him out there and hence that is what has happened to a lot of those permits in the Southeast seine fishery. But the point was somebody came and bought these permits up....

NOTE: comments that follow are not audible from staff, public, and committee..

Gardiner: They're still a lot of seine permits locked up _____ and _____ and anyway I don't think anybody thinks that is a good idea that I know of for those permits to be lost at _____ not audible _____. So I think one of the ideas behind the apprenticeship program is to try to help the people who want to come up who would normally go into the fisheries, so they are not like far out... like other people who have more money from outside of the State or professional people... you know. But we create... that isn't only gonna be complicated for the Limited Entry Commission. It's gonna be complicated, I think for somebody out there who is a young kid who wants to go fishing and doesn't really know what this is all about. He just knows he wants to go fishing, and he doesn't know about... he goes to do this thing and he has got to fish that many years and whatever, and especially for those younger people out in the villages who are sitting in on all those meetings and don't have lawyers and accountants and other advising services on telling them how to play the game and how to get into the system. We saw the same thing happen when permits were issued. Sophisticated people had the best chance of getting in because there were complicated rules. And I worry that we are setting up another system that has the same basic faults. What the legislature had to do with limited entry, we had to especially hire people to go out to villages to explain the program and to work with the people to make sure that they weren't overwhelmed by the complications of the system and we are assuming that more or less that everybody is gonna know how the game is played. And I think what is gonna happen is

55.
that the more sophisticated people and the people who have access to services and money. They are gonna have the best chance of playing the game. So, I think that is a different problem that I had thought of before...that. I now see, as one where we maybe kinda putting somekind of hurdle in front of the very people we think we are trying to help.

Kreinherder: Yes, and I wish there was an easier way to try to streamline it but I can't think of any at this point and it is possible that further work could streamline itself, but the reason that limited entry is just as complicated as it is is because you are trying to help a certain group of people and the only way to do it seems as a rather false criteria ___ not audible ___ a catch 22 situation.

Pope: I would like to say that I don't know if the solution will work, anywhere else. But if you go on the Yukon that's where ___ not audible ___ hardship class in this bill. Especially if the requirement made to administer the program, ___ not audible ___ either trying one year interim use permits or ___ of the fisheries. That also ___ not audible ___. Then the permits come up. If you are fishing in the fishery or the commission sets new maximum numbers in ___ available to that second hardship class. I don't see any other reason ___ not audible ___.

Kreinherder: Ok, as far as the amortization option and the compensation in general here. I don't understand the basic purpose behind this option. And for amortization which would allow people to recover their investment in vessel and gear. What you are dealing with and what you are devising..evaluating, is a permit value. Not the vessel and gear value. I don't think any of the options, both in consideration and in the realm of possibility with ___ vessel and others, vessel, gear and truly would no longer be able to sell the vessel with the permit. But combinations have been in the minority. Also, the purpose behind the ___ is unclear since a permit holder would be able to renew his permit indefinitely, which would be desirable for people who would be able to plan but ___ not audible ___ seems unnecessary in a simple use or participation plan which will be the same thing. I think as far as giving permits back to the state. I also questioned persons who were initially issued permits by the state...should be allowed to have compensation for the fair market value of the permit since they were given to them for just...I think a 20 dollar administrative fee. And, also, the amortization proposal for entry permits, which is option B, doesn't seem to be equitable in the ___ not audible ___. And I proposed that an alternative be for amortization that would tie in an amount of compensation to the income which a person has derived from the permit. I'll leave that...it is rather involved. I'll just go through it briefly in a minute. As far as compensation goes. The consensus and ___ statement tends to be that there is no legal requirements. Compensation for entry permits and that the only needs of compensation would be from equity and political feasibility kind of a stand point. And as far as the possible cost of compensation...I just worked up some tentative estimates and ___ average market value of all the permits...entry permits including herring as of June 79 was estimated to be about 360 million dollars and it seems that it is pretty clear that ___ question to compensate people for the fair market value.

I already addressed the question whether it is desirable to compensate people who received their permits for free. But if you only compensated those persons who paid for their permits. I should add a footnote that

all this information is based on the CFEC's permit transfer survey which is a 50% response rate, which is good for a survey. But these are only estimates. But as far as the amount that people have paid for permits in 75, I came up with and not including multiple purchases of the same permit where someone bought it and then sold it. That figure came out to be about 38 million dollars, so you are still looking at big sums of money if you decide to pay people back for their purchase price of their permits.

As far as the alternative compensation plan I developed. The proposed would allow a 10% amortization each year and it doesn't seem that this takes a very good account of the different economic situations that people have whether they bought the permit just last year or they bought it back in 75 when they were a lot cheaper and had a lot of time to make substantial earnings off of it. So, if the committee does decide to pursue this compensation question, and I did mention the whole compensation is _____ unless some scheme some plan is adopted that would _____ not auditable _____ apprenticeship or re-issue it under some other alternative or criteria. But if the _____ is pursued it would seem more desirable to tie in the _____ people received to the amount they had earned from their permit and this gets complicated. I'll run thru it if people are interested in the details. I suggest they read it, it is a lot more understandable that way. But the way it was worded was is that permit holders whose net fishing earnings after they have paid for their fuel and food and all the other expenses, if those net earnings _____ of the permit equal _____ of the purchase price of the permit plus a determined reasonable return on the investment...that is one _____ in their permit vessel, and gear. These people will be considered to have received their money's worth out of the permit. They have made their reasonable return and they wouldn't have anything coming from the state of their permit _____ is when the people no longer want to fish. On the other hand permit holders who have not recovered their permit investment, most reasonable return, would be allowed to amortize the difference between the value and the purchase price of the permit. So what in effect you are doing is just concentrating on people who haven't had a chance to make a reasonable living and earn back the price they paid for the permit. Which seems like a more equitable way to do it rather than to hand everybody the same fixed amount regardless on how much they made.

That's about all for now, unless there are more other questions.

Anderson: Yes, sir.

Unknown: I have a question. My name is _____. It sounds to me that limited entry has definitely some problems and has some vague inequities. And I think what is being attempted is covering one inequity with another and you came up with the apprenticeship program. Has any studies been done on totally eliminating limited entry all together? And what impact it would have on the State of Alaska, and its citizens?

Anderson: I don't believe so.

Same individual: If not, I appeal a study should be done on it and should be an alternative. Thank you.

57.
Anderson: I tell you the issue of limited entry has come up several times in the past with recommended by representative Naughton and I don't know if you were involved in that or not. Richard, were you with limited entry back in the old days? Anyway _____ one of the guys back there, when I was resources committee chairman, I _____ passion and kept that issue coming to the floor. I think there was several times...brought us as an alternative to the existing system even before it did. This _____ not audible _____ but you might know _____ limited entry has not been examined as an alternative in other words the _____ you have issued...no.

Same individual: I think everyone here is in agreement that limited entry is _____ and has serious defects and I think also _____ that are being discussed every day are ways of trying to _____ these inhibitions. These _____ the defects with limited entry. But, I think all this here should be addressed to the possibility of researching what effect it would have if limited entry was totally eliminated.

Anderson: We will definitely put that in front of the committee and see what they will decide...nobody knows the outcome.

Moore: Mr. Chairman, I would like to thank the committee for being so thorough in their investigation. I have heard about your committee and definitely have to say I had some bad feelings. It seems like everybody has done a very thorough job and every subject has come up and I would personally would like to _____.

Anderson: Well, thank you. I was going to say the same thing about staff but you've saved me the trouble. I don't like to say anything good about them because they ask for more.

Yes, sir.

Dervan: I would like to..not to drag it out but just to cover ground..there was so much different variations in testimony, so many different things. I just made notations. So you don't fall into the track of the legislature...Senator _____ made the statement that we are gonna have, that _____ not audible _____. I would assume there is gonna be some change, not exactly the way he _____. I believe that is what industry _____. You _____ not audible _____ to answer Representative Gardiner question. There is no doubt in your mind W.C. Arnold _____ statehood and almost threatened..._____ not audible _____ your answer particularly in the Bristol Bay...you wanted to turn around and start out of Fairbanks, go down to _____ not audible _____ Ruby _____ not audible _____. All those villages in the Central River had so many people each year _____ turn around and go down to Bristol Bay, but half of _____ would _____ W.C. Arnold and the processors turn around and you would say what happened to that segment. You know that they are there but there is no _____. That was a good central part of the river...going to Bristol Bay each year to fish. I would say that some of the villagers had as many as 6 or 7 boats. That took 14 people roughly. That was money coming back into the villages when it was all over. When the Half Moon Bay and Seattle _____ got finished with them the village people were reduced to cannery help and thru the progression of the years and still to this day, all of those ones who worked that _____ backup into the Central River to go thru the winter. What happened to them? They became cannery help. They might have got home. The last year I seen it... you were lucky to get home with 600 dollars if you could get past _____.

The other question. In those years the young...the only legitimate fisherman on the Central River was Jimmy Huntington. He used to freeze fish and ship it out PNA. The last time I talked to him he had 94 fisherman fishing in this area and he got one king salmon.

The California case on Abalone is mentioned by the constitutional, The Sencere women and the research staff which I assume is the California school of thought, paid _____ that Alaska has a constitutional limited entry program. I would assume that any system that they had devised might ...might have worked out with the unconstitutionality of Alaska's limited entry program..since theirs came years after ours.

Basically the _____ paid _____ license, like it is in Southeastern. We don't have traditional fishermen. We have business investors.

1972. If you were on welfare and caught 1 fish in Cook Inlet, it was strictly a fisheries income, you had 21 points and a license. Hereditary participation was overlooked.

The question on the Bering Sea. There is alot of Bering Sea herring money going back into Homer. Well, the question is I don't think the whole rest of the state should pay these 100 thousand licenses as the _____ of that Bering Sea herring money.

The particular portion that guides the aims of the commission, basically is on the back of the presentation where two things happen. #1. A fund to raise 100 thousand dollars to _____ the effort of the legislature to straighten out the limited entry program is being raised by the United Fishermen. That is on the back page of that brochure that I gave you. That was on page 3. Now undoubtly you have the Daniels and Co., and Roger Painter embarked with 100 thousand dollars to turn around and _____ the gains of the legislature. However, on the 1st page of the newspaper is a piece by Mr. Simons...that limited entry doesn't work.

Back to the question of the finger print business. The finger print business.. people say that licenses, you have to remember that the processor that is looking for fish, particularly the independent. He is gonna look the other way...he needs fish. _____ not audible_____. You have to remember you are talking about a fishermen or a tender operator that gets 600 dollars a day and you are talking to another. One who needs to get fish because he only gets 6 cents a pound. And so consequently he has the tendency of overlooking the required...of which you think might iron out that problem.

You have one affair that we see here in Cook Inlet, and undoubtly it goes on in different places. You are _____ and investor, a real estate speculator, insurance man...sits in the _____ background, sits on the sidelines as he plays one boat against another. It's like fishing Russian boats for 50% of it's catch and this Russian boat is for 60% of it's catch. Those are fishermen who are experienced in Cook Inlet _____ cut off by limited entry. So what you are really talking about. The same thing goes on in Bristol Bay. You have to realize that there is many a 10 thousand dollars _____ that can turn around and catch just as much as the latest Marco 120 thousand slab. It's the fishermen in that boat. You are not gonna change...80% of the fish that some of you caught pay about

25 to 30% of the fishermen...No matter what you do. It didn't work any different in Canada. By your own limited entry statistics...it's not gonna work here. The one part that is real blood thirsty is this idea of competing. I have got a license. I'm gonna fit the _____ and run down and find the _____. Now you give 50% another guy without a license. You're over there bidding him for 60% because there are profiteers in this room..gentlemen, look around.

Now to deal with another one. The _____ problem. The 100 thousand dollar a year beaucrocat muscling in the fisheries at Nelson Lagoon. They need the money. Gentlemen, you know yourself, 2 salaries and 1 family, 100 thousand dollars. That is 100 dollars a day for wondering the state....that's about a 120, 140, 150 thousand dollar income. But you have to go out there and displace the youth of Nelson Lagoon with the hot Thompson licenses and they are hot...they have always been hot.

A question you asked...Crutchfield. Mr. Crutchfield had been a real backer of limited entry. He was appointed North Pacific Council and _____. I was at the boat meeting when he came up here and he wanted public participation. He had 2 many meetings up here and in a nut shell for all he wanted, all the _____ not audible _____ was shut right out the window. He turned around and resigned, because his idea of limited entry was a management tool, and when he got up here it wasn't.

In Washington D.C., I met with Jim Kristi, Resources for the Future, the old Ford Foundation, and they pushed this since 54. It's answer to me was that they told me they invisioned it as a true management tool, but what happened to it, it was the worst from of management that could be evolved.

The question you asked. How do you inflate _____. If you look at todays paper you turn around and see Alaska's Fishermen Journal, you'll see Cook Inlet license for 78 thousand dollras yet the state bases them at 94 and they _____. Now the same day, October 22 the State _____ the limited entry licenses, at 94 thousand, there was one for sale in the Anchorage paper for 65 thousand. So you ask yourself, how does the inflation really happen. One I offer _____ not audible _____ Cook Inlet and go to the Aleutians and muscle in, _____ not audible _____ jack up. You question one other thing, you talking to a group of _____ you talk about the level of wealth _____ not audible _____. A dollar for a pound of fish against 600 lb. fish. The same thing with crab. When you talk about people moving from fishery to fishery the limitation is there, and if you remember Sid Jader made the statement, that a million and a half dollar boat will command a 4 and a half million license.

If you really want...we talk about the licenses graduating outside. Alright last week Fred _____ turned over a license he made the statement and this is _____ meeting the other day, he turned over a license at 84 for 145 thousand, Bristol Bay drift net, however, the state loan values the total value of the license at 68 thousand. I was in Seattle at the fisheries meeting, we found out down there that the vice president of _____ paid of 125 thousand a week before. Laying it on the line, if you have a reputation, for particularly in the halibut salmon fisheries, and you are known around _____ you can go in the back door of the _____ and drag licenses out of Alaska and get the finance. It's there. It may eventually turn around and end up in the Title Bank or the Bank of

Tokyo, Seattle Branch, but it is there.

The question on the licensing. You will have to remember next year the licenses in Cook Inlet are advertised at 100 thousand dollars. With 500 thousand reds, 70 thousand dogs, and 1.3 million pink and 70% of those pinks will be on the beach anyway. They command a 100 thousand dollars for a license, which you would like to see...you would like to see the investors steamed up. I've seen an investor with a 115 thousand dollars _____ boat this year, and another investor with a 85 thousand dollar _____. They made a total of 1200 dollars, 500 in their fish. Now you see that is gonna drag the licenses down. That's in a highly regulated...What you want to do is you want to go around to the outside, to the seine fisheries, and you want to watch them drag the fish out of the stream, to make up the crudy _____. You want to watch them come in and _____ down, stern down on monday morning, when the fisheries open at 6 o'clock and they are looking for _____. This drive to recoup the money. You deal with one other one, the people who _____ lost their lives. That you cannot repay. When the dollar sign overrules the common judgement of when to fish and when not to fish. It is like fishing out of _____ in the old days. The guy comes in packed heavy _____ on his boat, came back to fish again. The ones that turn around and have _____ mortgage payments they are still sitting on the bottom on the other side.

Two other questions...Mr. _____ made the statement in Boston that the state intention of selling additional licenses at the fair market value. Is there any of you in Bristol Bay that can come up with 150 grand against the business investors or somebody with a tax _____. I don't think so. The other gentlemen's question here. Someone at the Boston seminar...this went on in Boston at fisheries Expo in 78..at the Boston seminar. Most of the legal minds of the country were there, and the general consensus...and I do have the records that were actually recorded of that meeting...is that the state will pay for the unconstitutional licenses when they come out and some of the foremost brain oriented lawyers were sitting on that panel.

I disagree with the 360 million value, since legislative budget and audit already turns around and says the license value is 840 million. I went to Washington D.C. a couple years ago, and when I went there the license value was 213 million. In my own book it was over 500 million. The legislature turns around and says 840 million. Now a solution has to be arrived at. That is one reason that I keep insisting that before you proceed any further. That somewhere some legal mechanism, be used is _____ legal limited entry as you envision it constitutional in this country. Then we can all go back and start from scratch and go where you want to go, and not burden because these windfall profiteers and in that letter I state one other..a _____ straight fact right down the line..everyone talks transferable...transferability to the son, to the kid, it is an old squeel that UFA has used, they have worn it out. But laying it on the line, what happened to the rural areas, does the wife have a 100 thousand dollar license, those that bet you to love them.. go to the kids, if the _____ not audible _____. You are talking transferability, you're talking to an old argument that they wore out years ago.

The other question, when the father, the mother doesn't want to quit you can go down there and talk to George Brown in Hoonah, _____ not audible _____, what does he have 6 boys. The boys _____ playing up there ..native

beaucratics, or they are down in Seattle knucklebusting because when they get to a certain age there is no place for them in the fisheries, and he don't have 50 grand to turn around and give them a license. So where do they go, they branch off into other areas and they are hereditary fishing families. The main mistake of limited entry, hereditary participation was not the criteria it was filled on the day that Palmer Daniels fish Cook Inlet. And mind you, if you think the legislature who owns permits that have a value of 180 thousand, now I'm talking of Willy's 8 thousand dollar seine permit and I'm talking 100 thousand dollar drift gill net permit. And if you notice amongst the other, Palmer has sold 6 of the 9 licenses, and I believe that there is 2 of the licenses hidden in the computer or withdrawn from the computer. So when these people originated limited entry, they originated not hereditary participation, but on the magic gear concept. And these are prevalent...I didn't stick to...I would like to go to one other fast one, and I'll get out...if you would like to Yukon turn around and help with a little marketing help...

Anderson: How much more are you gonna be going

Dervan: That's it..

Anderson: I wanted to react to one thing you said..though, and I would like to discuss it. You brought up about 37 different points here and I can't react to all of them right now and I think you have done a very good job. But regarding the prices and the amount that is being honored as far as the loan is concerned...can you address that John because you do have a point there with the million drive up the cost and...

Williams: not audible a situation up to this year a situation where permits increased in value, the purposes of the state loan program the commission supplies average price values from our voluntary price to the commission business office. As of Jan. 1, that voluntary price survey goes out the window because of mandatory price of not audible. We have also, so that when prices are rising the state loan program will always be behind a bit, it will never be pushing the market, and also when prices are down, rather than going on quarterly surveys. The commission of business and loans have the power to request and more current price by the commission so that we can rapidly the loan program value down, quicker than not audible prices are up we not audible prices are coming down we will do it as often as business loans will do. Stay with the market or stay ahead of the market.

Anderson: Could you repeat that testimony that you made.

Dervan: The basic think I gave was the states on October 22 put out a limited price survey, which turned around and said that the price of a Cook Inlet, excuse me, a Prince Williams, A Bristol Bay drift permit was 68 thousand dollars, however, they are selling between 100, 125... has about 5 of them in ther for 140. not audible asking price is 150, but limited entry says it is down to 68 thousand. However, on the same day that the limited license was given out, and you can go check the Anchorage Tiems, October 22, you'll find out that there was a Cook Inlet drift permit in there for 65 thousand and at the same time

the limited entry commission said the licenses were at 94 thousand that they were only 86 thousand so there is probably some type of a relationship. Normally the way it has been done in defense of limited entry, is UFA brokers turn around and start out with a license, with never the intention of selling.. that is particularly the way it went in Prince William Sound. You advertise it for 12 and 12 is met, you advertise it for 16, 16 is met, you advertise for 20 and 20 is met, and you keep that period up for as long as 6 or 7 months and your _____ turn around and drive those...never with the intention of sale, only to drive the licenses up where it would be to hard for the legislature to turn around and revoke them. It was a very good, excellent plan, but we have known about it, infact we were told about it prior to the 1976 election, of how the license raise would be accomplished.

Anderson: Thank you sir. Thank you John. Yes, mame.

Moore: Yes, I would like to ask something about the license. The _____ said that the belong either 90% of the sale value _____ not audible _____ and maximum being 6 thousand, so the permit sells at 55, they are not gonna loan you 65 like that. They will make you put a 10% down. I could have sold one the other day for 55 but I bought a _____ for 60 last year....so you know I think that they are _____ not audible _____.

Dervan: Then what basic fund did you utilize...the state system of advertising licenses for sale.

Moore: _____ liar.

Dervan: Did you tell them to go ahead and publicize it.

Moore: Oh....ya.

Dervan: What did you get the insurance man, banker, broker or somebody on...

Moore: I had _____ not audible _____, even if you say so, I've been quite involved, the _____ permits that you were talking about going into Nelson Lagoon. I got these Nelson Lagoon _____ because they don't like me and plus I don't think I'll find a place for my net because it is full and so...

Dervan: Wait a minute...the Johnson license went to Macotney.

Moore: I bought Clinton Johnson....

Dervan: Set or drift?

Moore: Drift.

Dervan: If you bought drift net you turned around and bought the _____.

Moore: No, _____ not audible _____ I think I made a fare trade by _____ my Cook Inlet for one price and buying _____ and I don't plan on _____ fish of Nelson Lagoon because I don't think I have to and you were saying something about driving up the prices...now some of the prices have gone

high, but like I said _____ not audible _____ going to the bottom _____ not audible _____ give them away next year and I think you better reseach....

Dervan: Well, I have researched it and my source of records is the records put out by limited entry commission which is in this gentlemans possession, now.

Moore: Well, I think both of you better go _____.

Dervan: I was there.

Anderson: Let's drop this off before we get into a fist fight..now.

Simons: I just had a few things to say when we have no new data from one quater to another we carry the average from the previous quarter forward and note that there is no new data and that is where this 92.5 comes from on Cook Inlet. The second statement that I would like to make...as long as _____ record is that as far as they went. I was quoted relatively accurately in that _____ article but they didn't quote all the things and I never....The headlines that were attached to it were rather a whimsical interpretation of what I had said, by the newspaper _____ apparently the _____ of that.

Anderson: Ok, are there any other burning questions before we..before I make my final statement, before we adjourn? Go ahead sir.

Mitchell: I would make the suggestion as far as the Upper Yukon and you investigate ...having the state loan program take a look at that area because in the last 2 years there have been numerous permits sold basically in crisis situations by village people and they have gone to outside people.

Anderson: Where are you talking about?

Mitchell: 4,5, and 6 of the Yukon River, basically from _____ River up and including the Tananaw River area and I can't give you all the details on it, but there are individuals in Ruby, Galena, _____ and all _____ sold to Fairbanks people...an it is a situation where you have individuals where husbands run off and they are trying to support the kids. Soembody comes to town, real quick, and says I'll give you 7 thousand dollars for it. You know it is to good to be true because you need the cash, your son is in jail and that is what is happening up there and I don't think you statistics pointed ou....

Pope: _____ not audible _____ and I'll to that in the final report. I think one of the problems is that it is pretty hard to _____ fish wheel _____. I know the gear up there is alot different.

Anderson: Ok, maybe you should get together with Mr. Pope and go into this a little deeper and get a report later on. Ok, Thank you. Are there any other comments from the public...questions.

Dervan: I would like to make the note that as a father of four daughters, I have finally figured out how to get them married off.

Anderson: Ella, did you have a final comment before we close it up? I

have a couple of announcements to make before...

Anagick: I guess Donna will be transcribing the tape.

Anderson: Ok, very good, we will have somebody do that...that is for sure.

The three things I wanted to say is #1, for the record we had Doug Pope do some statewide reserach on a various questions regarding limited entry that did run up to some costs and we have some unobligated funds in our budget and I've authorized the transfer of funds of the Limited Entry Study Group to the freshwater fisheries contract, in the sum of 76 hundred and 62 dollars. I would like to mention he has developed for us...has supplemented the work we are doing and I felt it is pretty important that we have access to it and I just want to state for the records that I have approved it and authorized that transfer.

The other thing is that the Limited Entry Study Group will be meeting in Juneau on January 21st, 1980. We will be meeting at 12 noon, either in the Butrovich Room or the House Resources committee room. The purpose of the meeting will be to finalize and consider the options made by staff, look at the final reports that have been developed and make our final recommendations to the legislature. By law the Limited Entry Study Group deactivates on January 24th, 1980 and before we go I would like to thank Ella Anagick for the work she has put into this. This has been extremely a complex issue to get into, with...we had some very good people working with us, we've had the cooperation of the Limited Entry Commission, the UFA have been working with us, we've had George Rogers, Mr. Kreinheder, and if I've left anybody out please forgive me, but I've got _____ and other people that have been very helpful in gathering information. It's been a difficult job because there has been so many grey areas. Like Ken Vasser has been complicating things with his interpretations of the law and constitutionality of questions and mucking the waters, but we appreciate it, and that of course is necessary too. But, anyway, we do appreciate the work staff has done and I do want to give special recognition to Ella who has done a tremendous job under some very difficult circumstances...where she has been kicked out of her office about 3 times and I don't know if she is finally situated, but she is going to be leaving our employ on December 15th, and is going to be studying for taking the bar...of course we wish her luck and hope she passes her ...and starts practicing law in the State of Alaska.

So until January 21st, 1980, we will adjourn.

SCOMM

#17:4

MEMORANDUM

State of Alaska

TO: The Honorable Nels Anderson
Majority Leader
House of Representatives

DATE: February 25, 1980

FILE NO:

TELEPHONE NO:

FROM: The Commercial Fisheries Entry
Commission

SUBJECT: HB 665: Additional Appli-
cation Period for Limited
Entry Permits

SUMMARY

Based upon data reflecting participation of gear licensees during the years 1969 to 1974, the Commission staff has determined that there are approximately 4,144 known eligible individuals who failed to file a timely application during the application periods for the 19 fisheries originally placed under limitation. An unknown number of fishermen who operated gear from 1960-68 were also eligible to apply.

There were 602 individuals known to be eligible to apply in the Arctic-Yukon-Kuskokwim (AYK) fisheries who did not file timely applications. Those 6 fisheries were limited in 1976 based upon fishing histories in the years 1970 through 1975.

Of the number who failed to file timely applications during the various application periods, 393 submitted late applications for the original 19 fisheries, and 69 submitted late applications for the AYK fisheries. These applications were not accepted by the Commission.

Of the non-filers described above for the original 19 fisheries, 44¹ had pre-printed point totals at or above the current issuance levels for entry permits. In the AYK fisheries, 28 non-filers had pre-printed points at or above the issuance level.

The possible impacts of a new application period on selected fisheries is reflected by an analysis of the known non-filers in the Bristol Bay drift gill net and Kuskokwim gill net fisheries. We have estimated the probability of successfully verifying sufficient points to award a permit for all known non-filers with pre-printed histories. That analysis indicated a probability of 55¹ new permits being issued in the Bristol Bay drift fishery and 50² in the Kuskokwim fishery.

¹ 4 additional permits would be issued to non-filers with pre-printed points at or above the issuance level.

² 12 additional permits would be issued to non-filers with pre-printed points at or above the issuance level.

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In determining the feasibility of providing a new application period we believe it is not possible or advisable to limit the affected class to less than all eligible applicants as defined in present law.

A large number of additional permits would likely have adverse effects on the economic health and stability of the fisheries, increase management burdens, be expensive for the State, and would cause considerable administrative burden. The precedential effect on future fisheries placed under limitation is of concern to us and the question of whether or not the new application period would affect limited herring fisheries should be considered. Also, it was impossible to determine the number of additional individuals who may be eligible to apply based upon participation from 1960 to 1968. Every eligible applicant would have an excellent chance of being awarded a permit in many of the set gill net fisheries.

Should the Legislature decide to provide a new application period, the Commission offers the following suggestions for consideration as possible statutory provisions:

- ①. permits be issued only to those who can demonstrate they would suffer significant economic hardship by exclusion from the fishery;
- ✓2. the new class of permits would be non-transferable;
3. evaluation of the new applications be stayed until *\$200,000 by FY1* the original application process has been completed;
- No4. the new permits would be usable only in years when the predicted returns are higher than the average for the particular fisheries;
- at 5. *Togian* prohibit the award of multiple permits to the same applicant;
- ⑥. provide for permits awarded via point-pooling be non-transferable;
- ⑦. applicants under the new application period would not be eligible for interim-use permits pending the outcome of point verification;
8. provide that estates not be eligible to apply; and
9. provide that each provision of the new legislation be non-severable from the rest.

HISTORY

Nineteen (19) salmon fisheries were the first fisheries subject to entry limitation. They included all net fisheries (except those in the AYK region) and the statewide power troll fishery. After establishing a maximum number for each fishery, an application period began in November 1974 and ended in April 1975. Persons with known participation as gear licensees from 1969 to 1972 were sent "yellow cards" indicating that they were eligible to apply for permits and could use a detachable portion of the yellow card to request a pre-printed application from the Commission. Yellow cards were also made generally available throughout the State. Upon receipt of a yellow card, the Commission would print information about the applicant and as many points as could be determined from state records on an application form. (Points were pre-printed in the categories of past participation and consistent participation in 1969 through 1972, residency, and vessel ownership. No income dependence points were pre-printed.) These pre-printed applications were sent to the requestors at the addresses provided on the returned portions of the yellow cards. Any interested person could also obtain a blank application in any of the numerous locations around the state.

In 1976, the Commission brought under limitation the six salmon fisheries of the AYK region. All known eligible applicants, based upon participation data from 1970 through 1975, were mailed pre-printed applications at their last known address. The application period for these fisheries ran from March 10 to June 10, 1976.

Isakson

A Supreme Court ruling allowed those persons who were licensed gear operators for the first time in 1973 and 1974 to apply for entry permits in the original 19 fisheries. This so-called Isakson application period ran from January through September of 1977. People who had recorded landings as gear licensees during this period and who did not have recorded participation in the period 1969 to 1972 were sent application packets.

Non-Filers

Utilizing the computerized records of fishing histories from 1969-74 for the original 19 limited salmon fisheries and 1970-75 records for the AYK salmon fisheries, and the various application files of the Commission, we have estimated that at least 4,785 additional eligible applications could have been timely submitted in all salmon fisheries limited through 1976. A more detailed analysis follows:

Original 19

Commission records indicate that 4,142 applications could have been submitted by fishermen with fishing histories in the years 1969-74. Of that total, 442 have pre-printed point totals at or above the issuance levels for the various fisheries. The Commission also received requests for pre-printed applications from 1,817 people

without a history of participation during that time period. A more detailed breakdown of the status of various non-applicants follows:

1. 511 pre-printed applications were mailed to eligible applicants at their request, but were not returned to the Commission;
2. 2,306 known eligible applicants with fishing history during the period 1969-72 did not contact the Commission;
3. 934 persons who may have been eligible to apply during the Isakson application period did not return applications that were mailed to their last known addresses;
4. 181 applications with pre-printed points were returned late and were not accepted;
5. 279 applications were received late and not accepted from individuals for which the Commission had no computerized history of participation;
6. 1,817 individuals without computerized histories requested applications but did not return them;
7. 574 AYK applications were mailed with pre-printed history but were not returned to the Commission.

Bristol Bay Drift Gill Net

We have completed a probability analysis for the Bristol Bay drift gill net fishery to estimate how many eligible applicants that have pre-printed point totals below the issuance level for that fishery (17 points) might eventually verify sufficient points to receive a permit if a new application period was established. This was accomplished by determining the success rate of all applicants who

submitted applications with from 0 to 16 pre-printed points. Based upon that analysis, we estimate that 551 applicants would receive permits for this fishery. This total, plus four applications with more than 16 pre-printed points, could result in an additional 555 drift permits in the Bristol Bay fishery if another application period were opened utilizing the same standards of issuance as utilized in the original application period.

AYK

In the 6 AYK fisheries, 574 pre-printed applications were not returned to the Commission. As of January 21, 1980, an additional 28 applications with pre-printed points were returned late and were not accepted. Also, 41 applications with no pre-printed history were received late.

Of the 602 unaccepted and known eligible applications, 24 have sufficient pre-printed points to automatically receive a permit at present issuance levels. An additional 11 have point totals at a level insufficient to receive a permit at present but may eventually qualify for one depending upon the outcome of adjudications and appeals.

Kuskokwim Gill Net

We have completed a probability analysis for the Kuskokwim gill net fishery in the same manner as was explained for the Bristol Bay drift gill net fishery. Besides the 12 applications which currently have pre-printed points totals above the issuance level,

The Honorable
Nels Anderson

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we have estimated that an additional 50 applications would eventually be awarded sufficient points to receive a permit. This makes a possible total of 62 additional permits in this fishery.

SUMMARY OF LATE APPLICATION DATA BY FISHERY

(Original Nineteen Fisheries)

<u>Fishery</u>	<u>Eligible¹</u>	<u>Eligible²</u>	<u>Received Late³</u>		<u>Total⁴</u>	<u>Automatic Issue⁵</u>		<u>Total⁶</u>
	<u>Requested</u>	<u>No Request</u>	<u>Elig.</u>	<u>Inelig.</u>		<u>Resident</u>	<u>Nonresident</u>	
Southeast Purse Seine	11	45	1	4	61			0
Southeast Drift Net	29	92	6	7	134			0
Statewide Power Troll	61	308	8	11	388	2	0	2
Yakutat Set Net	14	33	3	6	56	2	0	2
Prince William Sound Purse Seine	13	38	2	8	62			0
Prince William Sound Drift Net	41	177	7	6	231	1	0	1
Prince William Sound Set Net	6	5	0	1	12	7	2	9
Cook Inlet Purse Seine	3	18	0	0	21	1	0	1
Cook Inlet Drift Net	46	228	22	29	324	2	1	3
Cook Inlet Set Net	32	139	4	5	180	34	2	36
Kodiak Purse Seine	16	130	7	7	161	1	0	1
Kodiak Beach Seine	1	13	0	1	15	11	0	11
Kodiak Set Net	12	71	4	4	91			0

<u>Fishery</u>	<u>Eligible¹ Requested</u>	<u>Eligible² No Request</u>	<u>Received Late³ Elig.</u>	<u>Inelig.</u>	<u>Total⁴</u>	<u>Automatic Issue⁵</u>		<u>Total⁶</u>
						<u>Resident</u>	<u>Nonresident</u>	
Chignik Purse Seine	1	5	1	8	15			0
Peninsula-Aleutian Purse Seine	7	27	0	8	42			0
Peninsula-Aleutian Drift Net	5	41	1	6	53			0
Peninsula-Aleutian Set Net	6	17	0	7	30			0
Bristol Bay Drift Net	151	602	60	65	878	9	0	9
Bristol Bay Set Net	56	317	27	55	454	263	106	369
TOTAL:								444

- ¹ Applications with pre-printed points for the years 1969 through 1972 which were requested on yellow cards and mailed to the applicants, but which were not returned to the Commission.
- ² Applications with pre-printed points for the years 1969 through 1972 which were not requested by the applicants, not mailed, and for which no "blank" applications were submitted.
- ³ Applications received late and not accepted by the Commission. Eligible applications are those with pre-printed history for 1969 through 1972. Ineligible applications are those with no pre-printed history. Figures through January 21, 1980.
- ⁴ Total applications in preceding four columns.
- ⁵ Number of permits that would be automatically issued (at current point levels) to the preceding non-filers and late applicants if they were allowed to apply in a new application period. Residency was determined by the most current address on file with the Commission, 1969-1980.
- ⁶ Total number of permits with pre-printed points above the current issuance levels.

SUMMARY OF LATE APPLICATION DATA BY FISHERY

(Arctic-Yukon-Kuskokwim Fisheries)

<u>Fishery</u>	<u>Eligible¹ Applications Not Submitted</u>	<u>Eligible² Applications Submitted Late</u>	<u>Ineligible³ Applications Submitted Late</u>	<u>Total⁴</u>	<u>Automatic⁵ Issue</u>
Upper Yukon Gill Net	18	1	6	25	0
Upper Yukon Fishwheel	20	5	14	39	0
Kuskokwim Gill Net	178	8	8	194	12
Kotzebue Gill Net	83	3	1	87	8
Lower Yukon Gill Net	191	9	7	207	6
Norton Sound Gill Net	84	2	5	91	2

¹ Mailed applications with pre-printed points for the years 1970 through 1975 which were not returned to the Commission.

² Applications with pre-printed points for the years 1970 through 1975 which were submitted late and not accepted.

³ Applications with no pre-printed history which were submitted late and not accepted.

⁴ Total of the preceding three columns.

⁵ Total number of permits that would be automatically issued at current point levels if the applications were submitted in a new application period. Does not include the eleven applications which, if submitted, would be still pending a final decision in certain fisheries.

PROBABILITY OF PERMIT ISSUANCE TO ELIGIBLE LATE APPLICANTS
BY PRE-PRINTED POINT LEVEL FOR THE
BRISTOL BAY DRIFT GILL NET FISHERY

Pre-Printed ¹ Point Level	Number ² Awarded	Number ³ Denied	Total Number ⁴ Received	Percent ⁵ Awarded	Late and ⁶ Non-Applicants	Projected Awards
16	165	1	166	99.40%	9	8.95
15	89	0	89	100.00	3	3.
14	79	2	81	97.53	12	11.7
13	51	0	51	100.00	8	8.
12	46	2	48	95.84	5	4.8
11	105	11	116	90.52	30	27.2
10	75	6	81	92.60	10	9.3
9	60	5	65	92.31	31	28.6
8	58	9	67	86.57	25	21.65
7	34	10	44	77.28	18	13.9
6	53	20	73	72.61	61	44.3
5	75	42	117	64.11	112	71.8
4	25	7	32	78.13	26	20.3
3	58	42	100	58.00	205	118.9
2	19	22	41	46.35	80	37.1
0*	38	28	66	57.58	211	121.5
	1,030	207	1,237		846**	551

Pre-printed above issuance level: 9

TOTAL: ~~555~~
560

- 1 Points were pre-printed based upon fishing data from 1969 through 1972 in the areas of past participation, consistent participation, residence, and vessel ownership. No points were pre-printed for the years 1960 through 1968 or income dependence and crewman participation in any year. In this fishery a very high percentage of fishermen were awarded income dependence points. (This factor, together with the 1960-1968 history, accounts for the high probability of permit issuance.)
- 2 Actual number of applications awarded permanent entry permits.
- 3 Actual number of applications denied permanent entry permits. This figure includes those applications still in the hearing and adjudication processes and those that were denied due to late submittal.
- 4 Total number of applications received by the Commission for each point category below the present issuance level.
- 5 Percent of the total applications received that were awarded permanent entry permits. This percent is the estimate of the probability of issuance of an entry permit at each point level.
- 6 Number of eligible applications (with pre-printed history for the years 1969-1972) which were either not submitted or submitted late.
- 7 Number of permits that would be awarded if the eligible non-applicants and late applicants submitted applications in a new application period, as projected by the probability of issuance of a permit at each point level below automatic issuance.

* Multiple Operators - more than one fisherman using the same ADF&G number. Individuals with no history other than as multiple operators were printed out at zero points.

**We believe there is a possibility of at least a 5% error in this estimate, due to an inability to verify the number of eligible non-filers using the application control log books.

PROBABILITY OF PERMIT ISSUANCE TO ELIGIBLE LATE APPLICANTS
BY PRE-PRINTED POINT LEVEL FOR THE
KUSKOKWIM GILL NET FISHERY

Point ¹ Level	Number ² Awarded	Number ³ Denied	Number ⁴ Pending	Total ⁵ Received	Percent ⁶ Awarded	Late and ⁷ Non-Applications	Projected ⁸ Awards
7 ⁴	6	0	1	7	86	2	1.7
6	31	6	4	41	76	21	16.0
5	86	27	10	123	70	24	16.8
4	5	5	0	10	50	7	3.5
3	15	73	30	118	13	69	9.0
2	2	21	0	23	9	26	2.3
1	1	38	0	39	3	25	.8
							<u>50.1</u>

Pre-printed above issuance level: 12

TOTAL: 62

¹ Points were pre-printed based upon fishing data from 1970 through 1975. Unlike the original nineteen fisheries, AYK fisheries points were pre-printed for all of the qualifying years.

² Actual number of applications awarded entry permits.

³ Actual number of applications denied entry permits. This figure includes those applications still in the hearing and adjudication processes and those applications that were denied due to late submittal.

⁴ Number of applications pending a final determination of the issuance point level in this fishery. At present, all applications with 6 or fewer points are denied, all applications with 8 or more points are awarded, and applications with 7 points are issued interim-use permits pending final determination of their eligibility for an entry permit.

⁵ Total number of applications received by the Commission in each point category below the present issuance level.

- 6 Percent of the total applications received that were awarded permanent entry permits. This percent is the estimate of the probability of issuance of an entry permit at each point level below automatic issuance.
- 7 Number of eligible (with pre-printed history for the years 1970-1975) applications which were either not submitted or submitted late.
- 8 Number of permits that would be awarded if the eligible non-applicants and late applicants submitted applications in a new application period, as projected by the probability of issuance of a permit at each point level.

EQUITY

This section will discuss several issues which bear heavily on the question of whether another application period is necessary or desirable. The Commission realizes the likely possibility that a class of fishermen may exist who, through no fault of their own, did not take full advantage of the application process because they did not comprehend the importance of the one-time-only application process, did not know that they could submit multiple applications, or were geographically located in such a place as to not hear of the implementation of limited entry. However, there is an even larger class of eligible fishermen who did not submit applications because of a conscious decision not to apply for as many reasons as there are members of this class. After several attempts to distinguish the first group from the second, the Commission is convinced that no fair and equitable way can be devised to allow a specific class of persons to apply while excluding others who are similarly situated. Additionally, we believe that use of the application process as a means of screening out otherwise eligible applicants is a misuse of the methodology utilized to limit entry into commercial fisheries. The major criteria should be the relative hardship realized by exclusion rather than who will and will not be allowed to apply.¹ Following is a discussion of several factors that will be affected by the passage of HB 665.

¹ The Commission obviously believes that the class of eligible applicants should be limited to gear operators, since they are the only class specifically addressed by the limited entry law.

Biological Impact

One of two prime considerations of entry limitation is to ease or arrest the growth of pressure of exploitation on a biological resource. At present, the salmon fisheries are subjected to greater fishing pressure than any time in recent history. This is due to the establishment of high maximum numbers, an overage of permit issuances due to court rulings, and increased individual fishing pressure through greater capital investment (resulting in higher efficiency) and increased average individual fishing time. Further issuance will increase management costs and uncertainty.

Economic Impact

The other primary consideration of entry limitation is to create an environment of economic stability which will not exist in an open entry fishery. Additional permits will increase the cost of harvesting the same number of fish (thus diminishing the value of a public resource) and could affect the value of existing permits which have been freely transferred. It should be noted that Bristol Bay has been declared a disaster area several times with the present level or fewer units of gear participating in the fishery.

Availability of Evidence

The establishment of relative hardship is accomplished by measuring several indicators in the two general areas of past participation and economic dependence, and ranking individuals by use of

a point system. Specific evidence is required to verify point claims. Valuable evidence is embodied in tax records, records of expenses, and records of gear and vessel ownership as of certain dates. Much documentary evidence that was available in 1975 at the close of the original application period will now no longer be available. Federal and State tax records for the crucial years of 1971 and 1972 have been destroyed or are in the process of being destroyed by the responsible government agencies.

Consequently, the Commission would have to accept less conclusive evidence to treat new applicants in a manner similar to the original applicants, which would have the concomitant disadvantage of subjecting the system to more frequent occurrences of fraudulent claims. Should this indeed prove necessary, we believe that the estimate of an additional 555 permits in the Bristol Bay drift gill net fishery is realistically possible.

Low Issuance Levels

A number of set gill net fisheries had original permits issued at either very low point levels, or zero points in the cases of the Bristol Bay and Prince William Sound set net fisheries and the Kodiak beach seine fishery. If a new application period is established, these fisheries could realize phenomenal increases in effort now that there is general knowledge of the value of entry permits. The situation is exacerbated by the large, unknown number of fishermen who participated prior to 1969 and who did not submit original applications

because they had departed from the fisheries. It is safe to assume that a great number of those individuals would take advantage of a new application period.

Legal Issues

The Commission has defended in court both the notice provided of the application periods and the efficacy of the application assistance programs. In all three Superior Court rulings, the Commission efforts have been upheld. If the Legislature suggests that the necessity of the new application period is due to the failure of the Commission to fulfill its responsibility to supply adequate notice or assistance, it would destroy a precedent that we believe the Commission needs to preserve.

As presently drawn, the bill would allow the estates of all eligible applicants who have died since January 1, 1973 to apply during the new application process. Additionally, the passage of HB 290 provided for point pooling and would allow additional permits to be issued as a result of combining points from new and timely applications.

Expense

Another application process would cost a substantial amount for the Commission to administer, especially considering the great interest in the program at this time, and because of the high hearing rate that can be expected in response to the loss of otherwise verifying evidence.

600 Applications Still Pending

Another application period at this time could cause additional expense and uncertainty for those applicants from the original application period who are still awaiting a final decision from the Commission. At the least, we would hope that their interests would be provided for before giving special consideration to a new class of applicants who had the same application opportunities as the original applicants.

Late Application Handling

We have reviewed Commission records of late application handling at the close of the original application periods. After the regulatorily established deadlines, the Commission provided for a period when applications could be accepted for good cause. The Commission was very lenient in accepting applications during this period. There was a changing policy, however, if applications were received after the good cause period. After the original good cause period which ended in 1975, the Commission first responded to late applicants by saying that they had "no discretion" to accept late applications. Later, some applications were accepted through special showings. Most recently, we have utilized a two-part test to determine whether or not late applications should be accepted. Hence, all late applicants were not treated equally. This will be true of any quasi-judicial agency, however, just as a court of law develops new precedents in time.

Unequal Opportunity

Even though it would seem that late applicants might generally have the same opportunity as the original applicants, they would generally have an advantage over many of the original applicants. As the Commission has progressed through several hundred adjudications, and the courts have overturned some Commission regulations and interpretations, new rules have developed. Points that would not have been awarded under the original application program would now be available to new applicants. So long as the benefits of the new rules only accrued to a few, it did not dramatically affect the equities of the situation. However, a whole new class of applicants would all benefit from the new rules, to the comparative disadvantage of those who submitted timely applications and were denied permits.

One-Time-Only

While we may all wish to believe that giving everyone one more chance would provide for the ultimate fairness, it most probably would not be a one-time-only demand for such a second chance. Already, roe herring fisheries have been limited and some eligible fishermen missed the application deadline. Would this new application period apply to those individuals as well?

We also worry about the precedential considerations for all fisheries limited in the future. Will, or should, the fishing public expect the Legislature to provide one more opportunity to apply after each fishery is limited? It is clear that the greatest number of late and

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non-applicants will be associated with the original salmon fisheries that were limited. As long as the present system is utilized, there will be some fishermen who do not file timely applications in the future when additional fisheries are limited. You may wish to reevaluate the use and necessity of the present application process to ameliorate future application deadline problems.

FURTHER CONSIDERATION

Should the Legislature decide that the equities lie with establishing a new application period, then we offer the following suggestions for your consideration to mitigate the possible negative impacts of such a decision.

Non-Transferrable Permits

Many fishermen advise the Commission that if they could get a permit they would not sell it, but only want to fish until retirement. If this attitude is embodied in the minds of those who would be served by the new application period, then non-transferrable permits would not be seen as detrimental. Additionally, non-transferrable permits would not interfere with the present system of free transfer of permits.

Should you wish to pursue this point in more detail, you might also consider providing a mechanism for the Commission to reissue these non-transferrable permits based upon some hardship ranking system, or simply to have them retire with the holder.

Should the Legislature decide that these permits are to be freely transferable, then you may wish to consider some way to recover for the State some portion of the windfall benefit which is being given to the late applicants.

Different Issuance Standards

The Commission believes that many fisheries would be drastically harmed if a new application period were established utilizing the same

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standards of issuance as used in the original application periods. We feel it is imperative to raise the standards of issuance for this class of applicants.

AS 16.43.250(b) provides for the establishment of a class of persons who would suffer significant economic hardship if excluded from the fishery, and AS 16.43.270(a) directs the Commission to issue permits to every applicant in this class regardless of whether that would require issuing more than the maximum number established for a fishery. You may wish to consider requiring that a new applicant, in order to qualify for a permit, must meet the standards established by the Commission in implementing AS 16.43.250(b).

New Applications Considered After Final Classification of
Original Applications

To ensure fair treatment for those applicants still awaiting final agency action on their applications, we request that you provide for evaluation of the new applications only after final evaluation of the timely submitted applications.

Special Use Standards

In addition to providing for non-transferable permits as suggested above, you may wish to consider limiting the use of permits issued under the new application period. One example would be to provide for the Commission, in conjunction with the Department of Fish and Game, to allow these permits to be fished in years when conditions are better than average for a particular fishery.

Prohibition of Awards of Multiple Permits

If it is the Legislature's intent to alleviate hardship with the passage of this legislation, you may wish to consider prohibiting the award of a permit to an applicant who has previously received a permit by application. To receive one permit by application indicates that the applicant was at least aware of the necessity to submit a timely application. Those applicants who for some reason were constrained from applying in all fisheries for which they were eligible most likely applied in the fishery that they were most interested in.

Point Pooling

The provisions of an amendment enacted last year would allow points from these new applications to be pooled with points on any other application submitted by that fisherman so long as the same gear type was involved. If it is the Legislature's intent to allow point pooling to be applicable to applications submitted under HB 665, we suggest that you consider providing for such permits to be non-transferable.

Ineligible for Interim-Use permits Pending Final Evaluation

Present legislation provides for the Commission to allow those applicants who still have a mathematical possibility of receiving an entry permit to fish in the pendency with an interim-use permit. We have found that the durational use of these interim permits is often a primary motive for pursuing an application which will more than

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likely be denied. We strongly urge that the Legislature preclude the issuance of interim permits to new applicants who are awaiting final agency action.

Estates

We suggest that you consider changing the qualification characteristics from those presently provided for in AS 16.43.260. That language would allow the estates of all eligible fishermen who have died since January 1, 1973 (for the original 19 fisheries) or January 1, 1976 (for the AYK fisheries) to apply for entry permits. This change is especially valid if you wish to implement the suggestion of providing for non-transferable permits.

Non-Severability

Should you decide that some conditions be placed on any permits issued as a result of a late application period, and that those conditions are tantamount to achieving something resembling equity, then you may wish to add a non-severability clause to the conditions.

Buy-Back

It would seem quite evident that the 1973 Legislature believed that the Commission would initiate a buy-back program shortly after the salmon fisheries were limited. Now, seven years later, buy-back is still some time in the future. Should you decide to allow for additional permit issuance through a supplementary application period, we

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would suggest that the Legislature consider the question of buy-back and when it might be appropriate to begin the process.

We hope that our comments are of some use. Please do not hesitate to ask if we may be of further assistance.

SCOMM

#17:5

BEFORE A LEGISLATIVE
COMMITTEE OF THE ALASKA
STATE LEGISLATURE

TESTIMONY OF FREDERICK PAUL
APRIL 16, 1979

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260 GRAND CENTRAL on the PARK, 216 FIRST AVENUE SOUTH, SEATTLE, WASHINGTON 98104

March 12, 1979

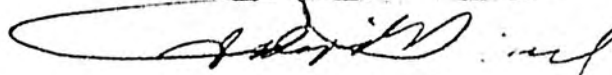
Harold C. Ostrosky
423 East 12th
Anchorage, AK 99501

Dear Hank:

The attached opinion indicates I believe that
Alaska's Limited Entry Law is unconstitutional.

Very truly yours,

PAUL, JOHNSON, PAUL & RILEY



Frederick Paul

FP:pjp
Enclosure

Since I will be very critical of the Limited Entry System, I want first to identify my right to express an opinion.

First I am Hank Ostrosky's lawyer.

Second, I am an Alaskan.

I want to start first with an analysis of the 1972 constitutional amendment, because I want to be basic. What is this system's foundation?

ANALYSIS OF THE 1972 AMENDMENT

Prior to the 1972 Amendment relating to limited entry to fisheries, Article VIII, §15 read in full as follows:

"No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the state."

When Governor Egan first proposed the Limited Entry Amendment, he sent down to the Rules Committee of the Senate what became Senate Joint Resolution No. 10 in the 1971 Legislature. Notice that the Governor wanted a positive grant of authority to the State in his proposal, which was to amend Article VIII, §15, by adding the following:

"The state may restrict entry to any fishery for purposes of conservation of the resource, to relieve economic distress among fishermen and those dependent upon them for a livelihood and to insure fair competition among those engaged in commercial fisheries."

Had the Legislature adopted this positive and affirmative enlargement of authority in the amendatory process, our attack would have had much tougher sledding. But the House did not like that language. Instead it struck the granting of authority and substituted a negative. When reading the House Amendment, notice that the grant is now simply an exception to §15, thus:

"This section does not restrict the power of 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 aqua culture in the State of Alaska."

That language was adopted by the Legislature and submitted to the people for a plebiscite.

WHAT THE LEGISLATURE AND PEOPLE AMENDED

The second point in analyzing the 1972 Amendment is that it was positively, deliberately and exclusively¹ an amendment to Article VIII, §15. No effort was made to amend any other section of the Constitution. Thus, when first introduced in the Senate, the language was:

"BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

1. The limitation by direct words simply to Article VIII, §15, rules out any implied amendment or implied repeal of other sections of the Constitution under authority of the principles defined by Judge Hodge in Purdy v. United States, 146 F. Supp. 762 (1956, D.C. Ak.) and Sutherland, (4th Ed.), Statutory Construction, §22.12 et seq.

Section 1. Sec. 15, Art. VIII
of the Constitution of the
State of Alaska is amended to
read: * * *

The same language was used in the House version
which was the one finally adopted by the Legislature.

When the people were called upon to accept or
reject the proposed amendment on August 22, 1972, the
ballott proposition was Constitutional Amendment Ballott No.
5 and reads in full as follows:

"BALLOT 5

As Proposed By

Senate Joint Resolution No. 10

Title: LIMITED ENTRY FISHERIES

Proposition: Shall section 15,
article VIII of the Alaska Con-
stitution be amended by adding a
sentence to the present section
(underlined sentence to be added)
which would read as follows: NO
EXCLUSIVE RIGHT OF FISHERY. No
exclusive right or special privi-
lege of fishery shall be created
or authorized in the natural
waters of the State. This section
does not restrict the power of the
State to limit entry into any fish-
ery for purposes of resource con-
servation to prevent economic dis-
tress among fishermen and those
dependent upon them for a liveli-
hood and to promote the efficient
development of aquaculture in the
State.

☐ FOR ☐ AGAINST"

The importance of limiting the Amendment simply
and only to Article VIII, §15 is highlighted by Article II,
§13 which in part provides:

"The subject of each bill shall
be expressed in the title."

So, the 1972 amendment touched only Article VIII, §15 and cannot be deemed to have amended any other provision of the Constitution.

WHAT THE 1972 AMENDMENT DID NOT AMEND

Thus, the 1972 Amendment did not amend the following pertinent sections:

"ARTICLE I
DECLARATION OF RIGHTS

SECTION 1. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

SECTION 15. No bill of attainder or ex post facto law shall be passed. No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. No conviction shall work corruption of blood or forfeiture of estate." (Emphasis supplied)

"ARTICLE VIII
NATURAL RESOURCES

* * *

Section 3. Wherever occurring in the natural state, fish, wildlife, and waters are reserved to the people for common use."

It is a puzzle to me that the sponsors of the 1972 Amendment chose to limit the impact of the amendment simply

to Article VIII, §15, because an earlier effort by the State Legislature to limit entry into fisheries had been declared violative of Article VIII, §3 as well as §15 in the Bozanich line of cases. It stretches my credulity that §3 was not amended as well.

THE BOZANICH LINE OF CASES

Bozanich first attacked the 1968 legislative effort to limit fisheries by bringing an action in the United States District Court at Anchorage. He sued the then-Commissioner of Fish and Game, Angie Reetz, seeking to have this earlier statute declared unconstitutional on both Federal and State grounds. A three-judge court was convened consisting of Circuit Judge Ely from San Francisco and Judges Plummer and von der Heydt from our own Federal Courts here. In an unanimous opinion the three judges held that among other things the legislative effort violated both §§ 3 and 15 of Article VIII,² in these words:

"[5] Although we would have preferred that the Alaska courts should have had the first opportunity to so hold, we must also now declare that the licensing scheme violates the Alaska Constitution, which, in its Article VIII, provides:

'Section 3. Common Use. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use. * * *

'Section 15. No Exclusive Right

2. 297 F. Supp. 300.

of Fishery. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State.'"

The case was appealed directly to the United States Supreme Court which vacated that opinion,³ because the Supreme Court wanted the Alaska State Courts to pass on the state issues first.

Accordingly, Bozanich began a second case entitled Bozanich v. Norenberg, who had replaced Reetz as Commissioner of Fish and Game.⁴ Judge Carlson likewise relied on §3 of Article VIII as well as §15 and he threw in the Equal Protection Clause of Article I, §1, in these words:

"The history of the United States and the growth of commerce included within its boundaries exemplifies the wisdom the founding fathers of our country had in making the republic a free trade area. Those Alaskans privileged to draft the constitution for the inchoate state understood the wisdom of insuring equal protection of the laws to each person and preventing limitations on the free exercise of an individual's legitimate initiative. Sec. 1, Art. I, Constitution of Alaska.

Sec. 3, Art. VIII, Constitution of Alaska provides:

'COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved

3. 397 U.S. 82 (1970).

4. In Civil Action No. 70-389 in the Superior Court at Juneau, the Honorable Victor D. Carlson presiding.

to the people for common use.'

Sec. 15, Art. VIII, Constitution of Alaska provides:

'NO EXCLUSIVE RIGHT OF FISHERY.
No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State.'

It is conceded that the above-quoted constitutional provision was an embodiment of the effect of Section 1 of the White Act of June 6, 1924, 43 Stat. 464 and carried with it the meaning given by the courts. The right to fish commercially is sought to be restricted by the Act and this would in effect grant an exclusive right of fishery which is prohibited. Hynes v. Grimes Packing Co., 377 U.S. 86, 93 L.Ed. 1231, 63 S.Ct. 968 (1948).

The general meaning of the words of the constitutional provision require that no distinction between persons equally situated is to be made with regard to fish in their natural state."

One can lampoon the Reetz case all he wants to, saying that it was vacated by the United States Supreme Court. Nevertheless, the local judges of Plummer, von der Heytd and Carlson have each relied upon Article VIII, §3 in throwing out the earlier Limited Entry effort. Since the 1972 amendment by design affected only §15, it follows that the current limited entry effort must be declared unconstitutional as well.

IN THE TRANSFER PROCESS MILLIONS OF DOLLARS ARE
CHANGING HANDS ON THE ASSUMPTION THAT THE PERMIT
IS A PROPERTY RIGHT

Assuredly, the Limited Entry Law has labelled a permit as a "use privilege which may be modified or revoked by the Legislature without compensation."⁵

Nevertheless, I want to turn our attention now to the quality of the property right that a permit holder has by virtue of the Limited Entry law, AS 16.43. My inquiry here is prompted by the fact that people do not read statutes. Yes, the people should know that paying \$200,000 for a Chignik permit can be nullified at will by the Legislature. But no one can convince me that thousands of people are being misled by the attributes of total ownership publicly espoused by the Commission and Legislature.

I suggest that the statutory scheme seems to amount to a constitutionally protected property right in the permit. One, on the death of a permit holder, the rights to the permit are inheritable. Two, a permit holder can transfer his permit for consideration, the amount being determined by the marketplace. Three, for the voluntary buy-back provisions, the State must pay fair market value therefor. Four, the State has created a loan fund to assist potential buyers of permits in the purchase of a permit and the amount of a loan authorized by the State depends upon

5. AS 16.43.150(e).

the fair market value of a permit.

The introduction to the report by the Governor's Study Group, entitled "A Limited Entry Program for Alaska's Fisheries" the authors flatly stated that it is "like property," as follows:

"Once received, an entry permit is like property. A person may keep it for life, or he may sell or transfer it. A person may also hold more than one entry permit so that he may fish more than one type of gear or in more than one area. If a situation ever occurred where the Commission had to take back some entry permits in order to further reduce gear levels, holders of those entry permits would be fully compensated."

And again at page 9, the Study Group says:

"Entry Permits as Property
Once a person receives an entry permit, it becomes like property. It belongs to the person who holds it for his lifetime, and the Commission has the authority to allow the person to pass the permit on to his heirs when he dies. If the permit is taken away due to any subsequent reduction in the amount of gear, he must be fully compensated.

The Commission does not have the authority year after year to take permits away from some fishermen and award them to others. This would be unfair and unacceptable, both in terms of the individuals involved and in terms of the goal of creating a stable fishery. * * *

Finally, the Attorney General has issued an opinion that if a person had died after January 1, 1973, but before making his applicaton, his personal representative could do so.

We suggest that the totality of the property rights in a permit seems to amount to a constitutionally protected property right. Of course, the statute says that the Legislature conferred only a "use-privilege", but I can foresee a lot of yelling if the Legislature tries to meddle very much and I would not blame them.

THE SYSTEM IS A HANDOUT OF HUNDREDS OF MILLIONS
OF DOLLARS TO 10,000 PEOPLE

Our next curiosity relates to the aggregate value of these transferable permits.

It is amazing to us that the Commission has not required a disclosure of the sale price of a permit.⁶ Thus

6. AS 16.43.110 authorizes the Commission

"may adopt regulations * * *
necessary or proper in the
exercise of the powers or for
the performance of its duties
under this chapter."

And AS 16.43.100(11) the Commission shall

"provide for the transfer and
reissuance of entry permits to
qualified transferees."

(footnote continued)

there is no hard information.

Since the transfer of permits may be in part financed by the State's loan program, the small business division has requested the Commission to give it an appraised value of the respective permits and fishery. The Commission has in its transfer application forms a series of questions about what the sale price may have been. This section is on a voluntary basis, there being no requirement to answer such questions. The acting Commissioner of the Limited Entry program has advised counsel that sixty percent (60%) of the transfer applications do make such a disclosure; however he candidly admitted that even as to the sixty percent the facts are suspect because of intra-family transfers, e.g., from father to son.

Nevertheless, the Commission's figures have some value. The attached "Quarterly Permit Price Information - 1978 Only," issued by the Commission lists its appraisal for the Salmon Fisheries. Then the attached copy of 20 AAC.05.320 lists the maximum number of permits for each fishery. Using the fourth quarter of 1978 figures for the fisheries about

(footnote continued)

And finally, AS 16.43.360:

"Penalties. (a) * * * .
(b) A person who makes a false statement * * * in the application for a transfer * * * is guilty of a misdemeanor * * *."

which the Commission has in fact found an appraisal for the State's loan program, there are 6,982 salmon permits having an aggregate value of \$239,033,000.

To this, there must be added some sort of an appraisal for the 2,526 salmon permits for which the Commission expresses no opinion. Our rough and ready system was to determine the average value of one permit for which the Commission did express an opinion and then to multiply that figure by the 2,526 previously described. That amount was \$86,490,000. There is thus an aggregate value for the salmon fisheries' permits of \$325,523,000.

Also attached are some late advertisements for the sale of permits showing much higher appraisals. Some observers express an opinion that the aggregate value of all permits is \$600 million.

Aside from this hand-out to 10,000 people, I am curious if the taxpayers of Alaska are not in for a more severe jolt. The initiation of the Limited Entry system has not made the taxpayers pay out money from their own pocketbooks; it was simply a gift from the natural resources of the State rather than from the pocketbooks of the taxpayers. I want to pursue that thought.

In my travels throughout the state and my talking to hundreds of people about the system, I rather believe that a majority of the people are becoming sick and tired of

limiting entry. I suppose that the movement to limit entry into the hand trolling gear will be the final straw. That is what the Commission now wants to do and, indeed, must do if the system is to work at all. People of Alaska therefore will find themselves unable to participate in the State's largest and most basic industry. They can no longer go out and catch a few fish to peddle and during the commercial season to eat.⁷ In my opinion this is a denial of the pioneer spirit and it injures Natives and non-Natives alike. I predict, therefore, that the people will rebel and order the system abolished. What then?

THE SYSTEM HAS CEMENTED IN AN ADMITTEDLY HIGHER
NUMBER OF PERMITS THAN CONSERVATION CAN STAND

I want to turn now to examining the internal mechanism of the Limited Entry system as implemented by the Legislature and the Commission. The people of the State have justified limiting the number of fishermen in order to promote conservation and relieve economic distress.⁸ Has the system, as administered, done so?

I want to use Bristol Bay as the example to show that conservation is not subserved by the Limited Entry system. First, the system commands that the highest number

7. Administrative Regulation 20 AAC 05.120(b) provides:

"No person may take salmon
without a valid entry permit
or interim-use permit author-
izing the taking of salmon."

8. The words of the 1972 Amendment.

of units fished must be the maximum. The statute states in part as follows:

"* * * the maximum number of entry permits for a distressed fishery * * * shall be the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973."⁹

Indeed, in comparing the number of gear licenses issued and utilized in 1971 (1,710) and the maximum number of permits issued (1,669)¹⁰ for the drift gillnet fishery, the Commission has pretty much followed the statutory command.

The part that bothers me with authorizing the same old number of gear operators is that the Commission by regulation has found that Bristol Bay is a "distressed fishery" in its regulations¹¹ as follows:

"The Commission designates the following as distressed fisheries based upon its estimate that the optimum number of entry permits for these fisheries will be less than the highest number of units of gear fished in these fisheries during any one of the four years immediately preceding January 1, 1973.

Salmon Fisheries

* * *

(6) Bristol Bay (T) drift gillnet fishery

* * *"

9. AS 16.43.240(a).

10. Governor's Study Group, pg. 71 and 20 AAC 05.320.

11. 20 AAC 05.300.

The statute further requires the Commission to determine "the optimum" number of permits for each respective area.¹² As to all areas in the salmon fisheries in Alaska, the Commission has failed to determine what the optimum number is. In Bristol Bay it is less than the maximum. The optimum number is supposed to be the answer to cure conservation and economic problems.¹³

12. AS 16.43.100(a)(9) provides that the Commission shall

"establish, for all types of gear, the optimum number of entry permits for each administrative area."

13. AS 16.43.290 describes the optimum number in these words:

"Optimum number of entry permits.
Following the issuance of entry permits under §270 of this chapter, the Commission shall establish the optimum number of entry permits for each fishery based upon a reasonable balance of the following general standards:

(1) the number of entry permits sufficient to maintain an economically healthy fishery that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear;

(2) the number of entry permits necessary to harvest the allowable commercial take of the

(footnote continued)

Now my question is: How can conservation be promoted in a distressed area by the issuance of permits equalling the highest number of gear licenses issued and utilized during the highest of the past four years? In practical effect the Commission and statute have cemented in a system of overfishing.

But the failure to promote conservation is worse. In Bristol Bay there are four runs of salmon: Pink, King, Chum and Red. All but the Red are relatively minor. The Commission has failed and refused to consider the impact of 1,669 permits on the minor runs. Instead what the Commission has done is to aggregate the four runs and to determine the "maximum" number of permits to be issued as if there were but one run of salmon. Since the runs are distinct and occur at other times the relationship between permits issued for the aggregate will have a devastating impact on each of the runs individually, assuming that the other tools of conservation are static.

fishery resource during all years in an orderly, efficient manner, and consistent with sound fishery management techniques;

(3) the number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them. (§1 ch 79 SLA 1973)"