

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

584 SCOMM17: JOINT INTERIM COMM. ON LIMITED ENTRY 1979

1 that way, uh, at least not at this point. What we have done is taken
2 people's applications and started issuing down the point level, twenty
3 points and above automatically you've got a permit. If we still had some
4 left over up to that maximum number ...

5 Q. Okay, that's what we're asking.

6 A. ... we started going down the point scale and giving everybody with nineteen
7 points a permit, everybody with eighteen points a permit. With the Bay,
8 we hit seventeen in the drift fishery and we stopped. Uh, but there --
9 there were no drawings, uh, of any kind. Now, there -- there were two
10 application periods and a lot of people got confused about those application
11 periods. The first one, when we did it, we thought it was going to be the
12 one, but we got into a court suit and the result of the court suit was that
13 the court told us we had to have another application period. And the only
14 people who could apply this time were people who held a gear license and
15 fished, had gear license holders for the first time in either '73 or '74.
16 So we held that period which finished up this last September, and then we
17 had to take their applications and use the same point system on them and see
18 where they came out. So there were two application periods, but the same
19 rules of the game as far as how you got points - same years, everything else.
20 And we did issue a couple of permits. We've still got some of those applica-
21 tions we're looking at.

22 Q. (indisc - static in tape) I heard all kinds of rumors and I never did get
23 it straight. I was just -- something that you drew out of a hat and every-
24 thing else. I wanted to get it straight. If you were here, I was gonna
25 ask you in person and, uh, (indisc)

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1 A. Yeh, it's -- it's -- this business is far too serious for settling it by
2 drawing something out of the hat.

3 Q. Well ...

4 A. Uh ...

5 Q. The only reason why I, uh, I'm so -- I saw what it (indisc) -- I've been on
6 a cannery and I've seen people come in. That the foreign -- foreign person,
7 he doesn't even have a citizenship paper. He has to get one of them, uh,
8 sixty-day, uh, visa deals or something. I don't know what they call it -
9 I'm not that smart or nothing. But he had -- he had to have a piece of
10 paper, yet he holds a limited entry. I wonder how them guys get it and yet
11 these poor Alaskans that live here all their life - they don't get a damn
12 thing, and they fished all their lives.

13 A. My memory may be a little bit inaccurate on this, but I think that in terms
14 of guys who applied and got their permits by applying, not by buying, but
15 by applying, there was either one or two foreigners - I think one. He was
16 a Canadian, and he has since sold his permit to somebody who's an Alaskan.

17 Q. Yes, that's right. I'm talking about the same guy you're talking about.

18 A. Yeh, all right. So, there's -- there's either one or two - we happen to
19 know the same guy.

20 Q. Yeh.

21 A. Uh, but there -- there aren't a whole lot of them.

22 Q. Well, I just happen to see this guy come in. I -- I do watch pretty close
23 to some of that. I'm watching it ...

24 A. You must.

25 Q. Well, how -- how in the world did he do it? You know, how did he do it?

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1 MR. ANDERSON: Can I respond to this,
2 Allan? There -- the commission would not be
3 allowed to discriminate on the basis of
4 citizenship any more than ...

5 Q. Oh, no. I -- I was just asking ... I know he had a visa, whatever you call
6 them, for sixty days, and yet he held a limited entry. He couldn't even talk
7 English - well, he talked a few words. (indisc) limited entry.

8 A. But that individual, as I understand it, had been doing that for a number of
9 years.

10 Q. Yes, he -- he came back with -- with two different ones in two different
11 years, him and his brother both. Yeh, he had a brother, also.

12 A. Would you like a job with the commission?

13 Q. I get it from watching to see how close you guys are doing your job.

14 MR. ANDERSON: Are there any other super
15 snoops (indisc)?

16 UNIDENTIFIED MALE: That's all right. We
17 need somebody ...

18 A. That's fine. Yeh, you betcha.

19 UNIDENTIFIED MALE: We're all for it.

20 BY: UNIDENTIFIED MALE:

21 Q. One more -- one more thing. Uh, a person's been born and raised, and trapped
22 and fished, lived here for so long, and a person still living yet, does he
23 have chance to get fishing permit -- entry permit for his grandchild, 'cept
24 he's got to use them?
25

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1 BY: MR. ADASIAK:
2 Q. If you presently hold a permit ...
3 A. He (indisc) holding the permit -- the permit's the one I'm talking to. He's
4 been fishing for long before I did, and he (indisc) hasn't applied for one.
5 I thi thinks he was too -- too old or something. He's got lots of
6 grandchids coming up and his grandchids doesn't have any, you know, any
7 of those permits (indisc)
8 Q. Yen, unless he holds the permit, then the only way that he can give a permit
9 to his grandchildren is by having one himself.
10 A. But after, uh, I'm asking you this. Can he apply for one, even if, uh, he's
11 not -- not fishing anymore? While he's living. Because I saw him fishing
12 in 1907, from '70 when we were holding the permits, you know. I think he
13 loses his permit, I don't know. I never asked him. 'Cause he's gots lots
14 of grandchids coming up.
15 Q. The application ...
16 A. Are those grandchids of ours more important to us right now. We might be
17 living one day and what we do about permits for our grandchids.
18 Q. The application deadline for applying for a permit has, uh, passed. Uh, the
19 commission met -- nevertheless is involved in a lawsuit over whether that
20 application deadline should be extended for, uh, particularly people who live
21 in this region. And David Snyder who will be giving a little talk a little
22 bit later on, uh, this afternoon, will explain that lawsuit and what its
23 purposes is a little bit more fully. If -- if that lawsuit turns out favor-
24 able, uh, for the plaintiffs in the suit, then additional applications will
25 be accepted, and we'd probably wouldn't be able to accept an application from

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1 the individual you are talking about. Uh, but David will -- will tell you
2 a little bit more about that (indisc - very low volume, static on tape)
3 A. (Indisc) fish unless he's -- oh, five years now when I'm talking about. I
4 don't think he has.
5 Q. The fact that he's not fished in the last four or five years does not affect
6 his right to apply, if the lawsuit is resolved in -- in favor of the people
7 who are bringing the suit.
8 A. But he's been fishing long before I did, anyway. I've been fishing since
9 1946, and he was fishing long before I did (indisc) you know (indisc)
10 mentioned about permits (indisc) He's got his own skiff down there in the
11 water, you know. (indisc)
12 Q. I think David might want to know the name of that individual, too.
13 BY: MR. ANDERSON:
14 Q. He was right back there. But we'll -- we'll, uh, hear from Bobby McCart.
15 If there are no questions right now, uh, Bobby has, uh, a statement that
16 he'd -- he'd like to read that, uh, represents the Bristol Bay Native Associa-
17 tion's position on the limited entry program. Bobby, would you like to take
18 it, and then after he gets done, uh, maybe we could have, uh, David's
19 presentation. Then if there are more questions that develop as a result of
20 both, then we could -- we could go on. Go ahead, Bobby.
21 (Submitted written testimony, no need to transcribe)
22 BY: DAVID SNYDER:
23 Q. Okay, a lot -- a lot of the problems that, uh, the people here have identified,
24 the things that -- that we've been identifying and, uh, taking a look at for
25 the past year or, uh, even longer than that. Uh, and I'll try not to -- I'll

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1 try not to repeat some of the things that people here have said because, uh,
2 uh, I think you've identified a lot of the -- a lot of the major problems
3 with limited entry. Uh, I'll tell you a little bit about what my office is
4 doing and trying to do to, uh, to try to help make the system a little bit
5 fairer for people, and, uh, I think one of the reasons that this meeting is
6 here is that the system that we have right now, you know, may need some
7 changes and that's basically what we're talking about - is the changes that
8 might be necessary to make it a little bit -- a little bit fairer, a little
9 bit more, uh, a little bit better system to be -- to be working. Uh, the
10 first -- the first thing I'd like to talk to -- to you about is the problem
11 of people who didn't apply in 1975. And I've gone around in a couple of the
12 villages, Nondalton, Pedro Bay, and, uh, Newhalen, to try and talk to
13 people about that one problem. We're -- we're in court right now, uh, against
14 the people who are up here who are fishing for this year's, and we're -- we're
15 trying to get people who didn't apply in '75 the right to apply now. The
16 way the law reads, you can't -- you can't apply if you didn't apply before,
17 uh, May 18 of 1975. We're saying that that's not fair, and our lawsuit is
18 what's called a class action lawsuit, with one or two persons -- people's
19 names on the, uh, on the court papers and this protects everybody who has the
20 same problem. So everybody that didn't apply before May 18, 1975 in this
21 region, uh, as long as they're native and as long as they, uh, they meet
22 certain other factors - they didn't hear about it, uh, didn't understand it,
23 etc., don't speak English - they -- they're -- they're in our lawsuit, too.
24 And, uh, some people who have already, uh, appeared in court, some people in
25 Dillingham, some people in, uh, in Nondalton, Pedro Bay, (indisc), Mason Hob-

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1 son, George and Gillie Jack of, uh, Aggie Hobson, they've -- they've gone to
2 court. Uh, if we're successful that'll -- that'll -- that'll help people
3 who didn't apply originally to get in their application. And you've
4 identified a number of people and we're still -- we're still coming up with
5 some people who -- who, uh, still don't know about it, and they didn't know
6 that they -- they had a chance to apply and we haven't gotten in contact
7 with them, so this sort of points up, uh ... (end of tape) Our argument
8 there is that you've got a certain number of points for earning all your
9 money from fishing in 1971 and '72. Those points push you closer to the
10 points that you need to get a permit. Well, uh, right now the way the law
11 reads only people who fished as a -- as a captain could get those points.
12 And if we're successful in that lawsuit, that may give some -- some, uh,
13 people who fished as pullers some more points on their applications, and that
14 could change things around a little bit. Now, there's also a couple of
15 other, uh -- couple of other lawsuits. Uh, there's -- there's a lot -- a lot
16 of people who are still in the administrative hearing stage where they don't
17 have enough points yet - they have to prove a couple more points before they
18 get, uh -- before they can get a permit. That's a matter of trying to come
19 up with -- with evidence and -- and we talked a little bit before about the
20 problems of proving things. We don't have papers that say you fished in
21 1971 and can't find your gear license, can't find, uh, copies of your fish
22 tickets, you know. They -- they've been thrown out a long time ago, they
23 got burned in the case of, uh, some people that we know about. Uh, that's --
24 that's a real problem. But, uh, again, there's -- there's some -- there's
25 some problems that we can't address in the courts and that -- it's -- it's

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1 a matter for Nels and the people who are down in Juneau, uh, to take a look
2 to see whether they can -- they can -- they can change the -- change the
3 law. And as -- as we talked about here, there's real problems. One of the
4 biggest problems and I think everybody here has talked about it is the
5 problems of -- of young people who can't, uh, can't get a permit. They don't
6 have enough points, they fished as a puller for their father, and, uh, you
7 know, as the law is written now they're not -- they're not going to have a
8 chance to apply. One thing that was talked about in Dillingham and, uh, this
9 is just (indisc) is that a guy who works in my office and those people who
10 are being represented by Alaska Legal Services, the (indisc) we got in the
11 letter from him is probably (indisc) from him. Uh, one of his ideas is -- is
12 to maybe create a pool of younger people now who might, uh, might have the
13 option or the chance to apply for a permit that was going to be -- going to
14 be given back to the commission, retired back to the commission. And, uh,
15 this is one proposal that, you know, is probably just starting to be consider-
16 ed. There's -- there's a lot of problems with the proposal and I'll -- I'll
17 just try to outline briefly what they are. Uh, I guess the way it might
18 work is -- is we'll take a -- we'll take a look at the people who've been
19 fishing, say for the past ten years as a puller, and if somebody were to
20 retire a permit that didn't have anybody that they were going to give it to
21 like a son, and give it back to the commission or sell it back to the
22 commission, uh, they might -- they might give a younger person a chance.
23 And you start with the people who are most dependent upon fishing, uh,
24 say, if somebody who fished ten years would have -- would have a first
25 chance to get the permit rather than somebody who'd only fished the last

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1 three or four years. And there's a lot of things that have to be thought
2 about. That's, uh -- that's something that -- that might possibly be done,
3 uh, and you know ... I just -- I just don't know. There -- there's some
4 legal problems in -- in doing that. There's some problems in administering
5 that because it's very difficult to set up a whole system for -- for just
6 thousands of people who are fishing in the Bay in terms of -- of determining
7 who is most eligible to -- to get a permit that's no longer going to be
8 fished. Uh, but in any case, uh, right now the way -- the only way a young
9 person can get it or somebody who's, you know, who's four years old, uh,
10 they haven't started fishing yet, and they're going to be fishing as a
11 puller, say, in a couple of years. Their only way is to get a transfer from
12 their father or from an uncle or grandfather, or something like that. And
13 we've been talking today about the fact that the commission probably isn't
14 going to be issuing more permits because, uh, they think they've got the
15 number of permits that they need now, that any more might, uh -- might harm
16 the fishery. Uh, I have another -- I have another suggestion that wasn't
17 mentioned at an earlier meeting, uh, something I would want to talk to Nels
18 and the commissioners about, and that's a provision for a permit being held
19 in trust by a family. Now what that means, I ... One of the things that
20 I've been doing, and I'm sort of concerned about is -- is getting a will for
21 a person, ensuring that uh, if somebody were to die that their property is
22 going to be transferred the way they want it to be, rather -- rather than
23 divided up or whatnot. And, uh, if a father were to die, uh, the permit
24 will ordinarily go to the wife under existing laws -- go directly to the wife.
25 Now, one thing, if a person's wife can't fish it, say, she has, uh -- she

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1 has younger children, uh ... I'd like to see some kind of provision for, uh,
2 the permit, rather than having to sell it, rather than having to give it
3 away to somebody, some kind of provision for it to be held in trust. Some-
4 body being able to fish it, but the wife still legally owning it, so that
5 she'd be able to get it back in, say, ten years when her kids are old
6 enough. And, this is something that -- that, uh, the legislature might
7 consider. And it's -- it's a minor problem but I think that if it, uh, if
8 it helps a few people it -- it might be, uh, it might be a good thing. Uh,
9 Bobby talked about the need for education. I think other people talked
10 about the need for education so that people know exactly what's going on.
11 Uh, there's -- I mean, there -- there is a need for that. There's a need
12 for people to know what their rights are, to know, you know, what it means
13 when they get a letter from the commission that says they don't have enough
14 points and they can't get a permit. Uh, I talked to a couple of people in,
15 uh, (indisc) yesterday that had gotten letters from the -- letters from the
16 commission and -- and they hadn't -- they hadn't really done anything since
17 then 'cause they didn't think there was anything that they could do. Well,
18 uh, I think that just sort of, uh -- sort of points up the fact that a little
19 bit more education, a little bit more knowledge has to be, uh -- has to be
20 given because there are -- there are ways to, uh -- there are ways to, uh,
21 possibly -- possibly fight these things. There are ways that people can be
22 made to know what a permit is, what, uh -- whether they have a chance of
23 getting a permit, uh, and that may be something the Bristol Bay Native
24 Association could -- could try to do. Uh, and I'm -- I'm happy to talk to
25 any person, you know, at any time who has questions and I just might say that

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1 I'll probably be going up to Nondalton and Kokinok. People think, uh, a --
2 a meeting up there for people who -- who didn't -- weren't able to attend
3 this meeting is a good idea, then I'll be happy to do that. Uh, so I think
4 that some kind of educational program will, you know, will help. Also, uh,
5 at the other meetings it was brought up that some -- some people had sold
6 their permits, uh, thinking that their sons would still be able to get a
7 permit by fishing a couple of more years and getting a couple of more points.
8 Uh, an educational program would maybe eliminate that kind of a problem, uh,
9 because the way the law reads, under the present law your fishing history
10 up to '72 was all that mattered in terms of how many points you could get to
11 earn a permit. And, uh, this one gentleman who -- who, uh, who had sold his
12 permit thinking his sons, as long as they kept fishing, say three more years,
13 they get three more crewmen points and then they'd have enough points for a
14 permit. Well, if somebody had told him that no, that wasn't true, then he
15 would have kept the permit and would have given it to his children. And, I've
16 talked to Macy Hobson a little bit earlier today about the problem of -- of
17 transferring a, uh, a permit out, and he wanted -- he wanted me to say that --
18 that a permit is -- is something that -- that shouldn't be transferred. It --
19 that people should keep it for -- keep it for their family and, uh, uh, that
20 it's... And as long as people know that it's -- it's something that can't
21 be, uh, brought back after it's sold, then, uh, hopefully they're not going
22 to be selling it and they'll hang on to it for their kids or -- or for their
23 grandchildren. So, uh, I guess where we're left is that for -- for some
24 changes that -- that can be made in the law. There's real problems in -- in
25 making major changes in the law because of what they've talked about, namely

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1 the fact that they're trying to limit the number of people who are fishing
2 there, and you know, to expect any kind of major change, I -- I don't think
3 you're going to get it. You're going to have, uh -- you may have some
4 people who -- who'll have a chance to apply if -- if, uh -- if there -- if
5 another application period is opened for those who didn't apply in 1975.
6 But in terms of -- of the young people, uh, the problems of, uh, limited
7 entry are probably going to remain and -- and people, you know, come to me
8 and they -- they -- everybody who's -- who's talked here today, I know ...
9 (indisc) mentioned the fact that her son George couldn't get her permit.
10 Well, uh, that's the way -- you know, that's the way the law is, and unless
11 there's a change, then, you know, I think the younger people are going to have
12 to continue to fish as pullers unless some kind of a system can be devised
13 for, uh, giving them the -- the first right to maybe buy a permit back from
14 the commission if somebody were to sell it back to the commission, or some-
15 thing like that. It's -- it's, uh ... Those are problems that, you know,
16 that for the legislature to wrestle with and, uh, you know, who knows what --
17 whether there are going to be any change -- changes in that -- uh, on that
18 standpoint. So, that's really all I have and we'll just open it back up for --
19 for any questions or -- or comments to Nels or me or -- or anybody else
20 that's here.

21 BY: MR. ANDERSON:

22 A. Does anyone have any questions for Dave on his presentation? Probably most
23 of you are aware of the work that he's doing and the -- the kind of lawsuits
24 that, uh, that are being, uh, brought to the courts, and uh, the Limited
25 Entry Commission here. Uh, is there anyone at this time, again, just ...

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1 My -- you know, if you have anything to say to -- any questions you have
2 (indisc - cough) the program that we've ... We'll try to answer it here.
3 If we don't have an answer now, of course, we'll try to find an answer at
4 some point in time. Yes? Go ahead.

5 BY: UNIDENTIFIED FEMALE:

6 Q. (indisc - very low volume) for like (indisc) setnet fishery. Like for
7 that year is fishing?

8 A. Yeh, that question was asked in Naknek and, uh, right now there is no answer.
9 Uh, I think it was, uh, Amos that, uh, wrote or let me know that there was
10 a problem like that because I think it was the south side of Naknek or the
11 Naknek River was closed and, uh, they -- the setnet fishermen didn't make
12 any money at all. However, the Department -- the Fish and Game Department
13 did allow those people to transfer if they had a place to transfer. The
14 problem was, again, though, that, uh, the people that were setnetting didn't
15 have skiffs or weren't able to get to another place. Therefore, they were
16 left out of the fishery. This also happened in the Quijak River for, I
17 think, four years in a row where the Quijak fish -- the setnet fishermen
18 were not able to fish because the Quijak River was closed. There was no
19 harvest at all allowed. Uh, going back to the question itself, on whether
20 or not, uh, a person could be given an opportunity to change the status of
21 that permit. There is no, uh, law or I don't think the commission has the
22 authority at this time to, uh, change the setnet status to a driftnet status.
23 I -- I don't believe they have it. If they do, then I'm unaware of it. But,
24 uh, it's something that we've been asked to look into, something that we
25 have to, you know, very definitely work on because there are people who are

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1 going to get hurt if we don't figure out some way of -- of getting these
2 people involved in the fishery. The reason why they're being left out, of
3 course, is simply to protect the fishery. And they're the ones having to
4 sacrifice and since they can't fish, what should we do to give them relief?
5 And there's got to be answer somewhere. I don't have it now but, believe
6 me, we the legislature will be working on that.

7 BY: UNIDENTIFIED MALE:

8 Q. That brings up another question, too, though. What, uh, can we do, for
9 instance if we are not allowed to fish because an area is closed. Are we
10 entitled then to a refund on -- on the forty or eighty dollars that we have
11 invested in that year?

12 BY: ALLAN ADASIAK:

13 A. As the legislation is presently drafted, we are not allowed to give refunds
14 under those circumstances. If an entry permit must be renewed annually, uh,
15 and uh, that's regardless of whether it's actually fished. It will require
16 legislative change.

17 Q. Mmm ...

18 BY: UNIDENTIFIED MALE:

19 Q. ... because of the ...

20 BY: MR. ANDERSON:

21 A. Yeh, go ahead.

22 BY: UNIDENTIFIED MALE:

23 Q. Uh, does the commission keep track of how many entry permits in the state?

24 BY: MR. GARNER:

25 A. Yes.

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1 Q. And how much somebody else in (indisc)
2 A. Yes. Total for drift and setnet together.
3 Q. Right. In the residents of Alaska.
4 A. Yeh. Bristol Bay area, uh, as of the end of 1977, 1,139 permits were held
5 by Bristol Bay watershed residents. That's about ...
6 Q. What about outsiders?
7 A. Nonresidents, 865. Uh, residents of -- of other areas of Alaska, not Bristol
8 Bay watershed residents, 482.
9 UNIDENTIFIED MALE: What were those figures
10 again, John?
11 A. Bristol Bay watershed residents as of 1977, 1,139; residents of Alaska from
12 other areas, 482; nonresidents, 865.
13 MR. ADASIAK: Now that's setnet and drift-
14 net combined. He added them both together.
15 BY: UNIDENTIFIED FEMALE:
16 Q. John, do you have a listing like of, uh, the pending permits for outsiders
17 and the pending permits for Bristol Bay residents?
18 A. No, we don't. I -- we -- by pending do you mean ones that are in ...
19 Q. In hearings and ...
20 A. ... adjudication, in hearings, in court, and at sixteen points in the
21 (indisc - cough) fishery where people still haven't received a final decision?
22 No, we don't have a list of those with us; we could certainly prepare one.
23 Q. I'd like to (indisc)
24 BY: MR. ANDERSON:
25 A. Are there any other questions? Myrtle, do you have any questions?

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1 BY: MRS. MYRTLE AVELON:
2 Q. I have none, but Wassie does.
3 BY: MR. ANDERSON:
4 A. Go ahead, Wassie.
5 BY: MR. WASSIE BALLUTA:
6 Q. The lawsuit that, uh, Dave Snyder talked about, I don't think it'll probably
7 come this year, probably drag out for years the way I understand it. Is
8 that true?
9 BY: MR. DAVE SNYDER:
10 A. I don't think so.
11 Q. 'Cause that -- either you win or they win. You'll have to go to the higher
12 court.
13 BY: MR. ADASIAK:
14 A. Wassie, you're talking about the application assistance lawsuit?
15 Q. Yeh, there was the one (indisc)
16 A. Yeh. The -- the decision will probably be reached by the Superior Court
17 before the end of this calendar year. If a decision is reached by that
18 court, there's authority to grant a kind of interim relief that will be used
19 until a final decision by the Supreme Court is made, assuming that a decision
20 is necessary from the Supreme Court. Uh, so while a final decision may be
21 a couple of years away, relief, uh, of whatever nature is necessary under the
22 terms of the decision would presumably be available in time for next season.
23 Is that -- does that back as you would understand it, Lee?
24 BY: UNIDENTIFIED MALE:
25 Q. It's -- it's possible now. I ...

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1 BY: MR. DAVE SNYDER:

2 A. But -- but I think -- I think unless there's -- there's also, uh, Wassie,
3 some talk about, uh, perhaps some legislative change, uh, can do the same
4 thing and -- and that's something that may be considered. Uh, and any people
5 who are, you know, who are interested in that, uh, can certainly contact, uh,
6 people in Juneau and I guess Nels Anderson is one of the persons you'd want
7 to contact along with Governor Hammond. And that's -- that's another way to
8 go as well. In terms of the court suit, court suits can drag on for a long
9 time, uh, but -- but there is a possibility that there would be, you know,
10 some kind of interim relief, some kind of provision for -- for taking care
11 of that problem until there was a -- until there was a final decision
12 (indisc)

13 UNIDENTIFIED MALE: (indisc) the problem
14 for not for people who'd know.

15 A. Yeh, uh-huh.

16 BY: MR. ANDERSON:

17 A. Uh, you've probably noticed that there's no one really who can give you an
18 exact answer either, because of the time it's going to take for the courts
19 to handle the case, result their information and (indisc - cough) to make
20 a decision. The timeframe is really not exact. I don't know what it's going
21 to be. I think there are going to be some delays, but, uh, if it -- if it
22 is delayed to the point where it's going to cause serious problems to the
23 people that live in this district, then the pressure is greater on me to
24 arrive at some kind of a solution on the short-term problems, to get some
25 legislative solution. Okay. If it looks like the -- the court case is

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1 dragging on to the point where, uh, it looks like it's going to just go on
2 past the fishing season and cause hardship, then the legislature's on the --
3 on the firing line, uh, at that time. And we -- we will have to then face
4 the problem and try to find out just exactly when there is going to be some
5 action from the courts. If that doesn't happen, then, of course, we get --
6 we -- the legislature then get into the picture a little bit more, uh, than
7 it would be otherwise. (indisc) go ahead.

8 BY: UNIDENTIFIED MALE:

9 Q. In the (indisc) case ... Still talking about this court case, if it were
10 won, say a person that had not applied could apply. Now in the past there
11 have been more outsiders fishing than residents, in some canneries. Okay,
12 this would open it up -- would this open it up to all new areas where a lot
13 of fish buyers could apply that didn't, uh ...

14 BY: MR. ADASIAK:

15 Q. No.

16 A. ... before?

17 Q. No, the -- the suit is being brought on behalf of a class of individuals
18 and the class of individuals is restricted to Alaska natives who by reason
19 of education, geographic location, uh, ability to speak or read or write
20 English, who were unable to submit an application by the May 18, 1975
21 deadline. Uh, so it's -- it's possible that you could have an Alaska native
22 who was a nonresident who would fit those -- those terms, but predominantly
23 it would be Alaska residents.

24 A. It wouldn't open it up, then, to a whole bunch of -- of, uh, out-of-state
25 (indisc)?

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1 A. Yeh. They would probably bring their separate lawsuit.

2 MR. ANDERSON: Yes, (indisc)

3 BY: UNIDENTIFIED FEMALE:

4 A. I have another -- I have one question, uh, say like if you had your son
5 fishing with you for so many years and then you apply for an application.
6 And at the time, we had the Legal Services for us, and uh, they sent the
7 application in, we sent fifty dollars. (indisc) we never got it -- we never
8 got our money back.

9 BY: MR. ADASIAK:

10 A. You mean ...

11 Q. We haven't heard anything from the Entry Commission.

12 A. Okay, give me your name, please.

13 UNIDENTIFIED MALE: (indisc)

14 Q. Something has gone wrong, uh, (indisc)

15 A. That's for Gerald and (indisc) They said that he might get his entry permit
16 and we haven't heard a thing from them.

17 UNIDENTIFIED MALE: Yeh, we can -- I can
18 talk to her (indisc)

19 Q. Uh, you know about it?

20 UNIDENTIFIED MALE: I think so, yes.

21 Q. Dave is -- Dave is our agent under these circumstances.

22 MR. ANDERSON: Okay, we'll try to find the
23 missing fifty bucks or get ...

24 UNIDENTIFIED MALE: Or get a trip to
25 Juneau.

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1 A. It's been two years ...

2 UNIDENTIFIED MALE: You'd better have the
3 entry permit (indisc)

4 DAVE SNYDER: There's a lot of people
5 who -- who still haven't had final decisions
6 and I think that's one of them.

7 Q. One thing in relation to that that we haven't yet discussed. Uh, there
8 (indisc - cough) many of you who have written letters to the commission, uh,
9 in the last four or five months that you haven't received answers to. And,
10 uh, we apologize for the delay that -- that you've been experiencing in
11 getting answers from us. That's not normal but because of the time that
12 we've spent in some of the litigation and because of the -- the really large
13 amount of correspondence that's been received in the last four or five months,
14 we have not been able to get to our, uh, letter writing as fast as we would
15 normally like. And we hope to be getting answers out on, uh, that correspond-
16 ence that has built up in the next several months, uh, at least. As you may
17 recall, one of the reasons for a lot of the correspondence that has gone on
18 is because the commission did advise all of -- all of you who had applied
19 for permits and not received them, that there was a deadline for submitting
20 evidence on your applications. Uh, and many of you wrote back in response
21 to that notice asking for an analysis of your status, uh, asking what
22 evidence might be necessary to get you additional points, uh, before you
23 actually submitted additional evidence. Because of our delay in responding
24 to those letters, we -- we do want you to know that you will be receiving
25 extensions of that evidence deadline as necessary because of our delay in

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1 answering those letters.

2 BY: MR. ANDERSON:

3 Q. Are there any other questions or comments. Yes?

4 BY: UNIDENTIFIED MALE:

5 A. Could I ask Dave to simply restate, uh, the issue involved in this lawsuit
6 that we're anticipating a decision on?

7 BY: MR. SNYDER:

8 Q. Well, there's a lot of issues. I -- I guess it's -- it's basically comes
9 down to the question of -- of what is fair to the people who were in the
10 area in 1975, whether they had a chance, whether they -- they were notified,
11 and whether under the Constitution - the Constitution requires, uh, everyb --
12 every person receive due process of law - and that means a fair -- fair
13 chance to be able to, uh, to do something about a law that affects their
14 rights. And, uh, that's -- that's the basic -- that's the basic issue. And
15 we're saying that people didn't have a fair chance to get a -- get in applica-
16 tions because of -- because of a number of different factors; people who --
17 who, uh, you know, weren't in the area, who, uh, didn't understand what was
18 going on, uh, and ...

19 A. Or even were they aware that they were eligible or not.

20 Q. ... who may not have been aware that they were eligible.

21 BY: UNIDENTIFIED FEMALE:

22 A. I think that a lot of the people, like some of the people that w. : fishing
23 and they had kids fishing with them and everything. And they didn't know
24 that their kids could get entry permits.

25 Q. Uh-huh.

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1 A. See a lot of them fishing (indisc) Their father would get an entry permit
2 but the kids wouldn't get any. And they weren't aware that the kids could
3 get it. I think there's -- there's (indisc)

4 BY: UNIDENTIFIED MALE:

5 A. Some families fished, in family like, you know. You do like oldtimers where
6 we used to fish in, you know, canneries, and split their gear, you know,
7 and be paid for it each, groceries, and after they get paid, then give the
8 kids so much, you know. Then he saved enough money for oil and so forth like
9 that. That's how some families would. I wonder if that (indisc - end of
10 tape signal) so many points on that ... (end of tape)

11 BY: MR. SNYDER:

12 Q. ... crewmen should be able to receive, both pullers, they should be able to
13 receive points for the amount of money they make from fishing. And, of
14 course, if that lawsuit was resolved so that crewmen could receive points
15 for their income from fishing, then the partners would be able to receive it
16 as well.

17 MR. ADASIAK: Nels, could I ...

18 MR. ANDERSON: Go ahead, Allan.

19 BY: MR. ADASIAK:

20 Q. I'd -- I'd like to make one general sort of comment about some of these
21 lawsuits and it's a personal view, not as an official commission view. Uh,
22 when you get engaged in a lawsuit, it's in a way like a fight. And you end
23 up, I think, wrong if you start thinking of good guys and bad guys, you know.
24 Maybe Legal Services is the good guys and we're the bad guys, 'cause we won't
25 take any more applications. And, uh, neither John or I or a lot of other

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1 people on the commission are so dense, so dumb, so insensitive, that we don't
2 realize that there are problems out here. Uh, you know, we do understand,
3 we do understand that there are some people who didn't apply for various
4 reasons, didn't understand what was going on. And all I want to say is that
5 really, things aren't that simple in terms of one guy being right and the
6 other guy being wrong in the lawsuit. The -- these things are very complicat-
7 ed and even within the framework of the law -- lawsuit in the way, we are
8 trying to work out some kind of a solution to a problem. It's not -- it's
9 not nice and clean with, uh, the winners and the losers, and the good guys
10 and bad guys. We -- you know, we do understand that you people have
11 difficulties like this and going through the courts is another way of trying
12 to resolve some of these problems that we do know exist.

13 BY: UNIDENTIFIED MALE:

14 A. I have another question on limited entry. Uh, why couldn't they get the
15 right the first time when they first established this limited entry in 1975
16 to residents before outsiders? Why couldn't they get the residents first
17 then the outsiders last? See it gives -- it gives, uh, more reasonable
18 understanding between the people in the state than out-of-state because we
19 live here, we work here, we watch the land, uh, how it grows, or everything
20 else? Then, uh ... That's the question, now what's the answer?

21 BY: MR. ADASIAK:

22 Q. The -- I think that all of us agree that -- that residents and particularly
23 residents in -- in this watershed area ought to be the ones who are permit
24 holders for Bristol Bay. Uh, I don't think anybody in the room disagrees
25 with that.

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1 A. Why couldn't ...

2 Q. But the legislature was faced with the problem, because they could not enact
3 a law which would explicitly favor residents that would be constitutional,
4 that would be upheld in the court. So if they really wanted a limited entry
5 law, they had to enact one that treated all people who fished regardless of
6 where they lived a life. Uh, they could do a few things trying to favor
7 residents and -- and they did that. They gave points for, uh, the place
8 that you lived and that favored people who lived in the Bay. But as a gener-
9 al matter they just -- they simply could not enact a law which would
10 explicitly favor residents over nonresidents because it would not be upheld
11 in the courts.

12 UNIDENTIFIED MALE: Ray, I -- I think ...

13 BY: MR. ANDERSON:

14 Q. Well, okay, I think you understand that I'm with you on this. Okay? I
15 believe the same way you do. I think that -- I don't think there should be
16 any outside fishermen, period. However, the legislature as -- as John
17 indicated -- the state had a problem with a large amount of gear and a --
18 and a diminishing fishery. There were fewer and fewer fish, more and more
19 boats. There were two choices; one was to adopt the limited entry program
20 that could reduce the amount of gear, or do nothing at all. And if we did
21 nothing, we would have had all that gear out there and, uh, you'd have had
22 these, uh, the sliding years scale and really -- come into really in effect
23 at that point to reduce the gear and the amount of time that you'd have been
24 able to fish would have been maybe six hours a year, or maybe even an hour
25 a year because of -- the fishermen are and the -- the kind of gear that we

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1 have now is really efficient stuff. You know, it's really efficient. They
2 can go out there -- the fishermen we have right now can go out there and
3 wipe out the -- the -- wipe out that fishery. They could really do it. So
4 that was the situation; it was either adopt the limited entry program and --
5 and I know the legislature knew that people were going to get hurt. They
6 knew going in that some people were going to get hurt really badly, but what
7 were we to do? You know, what was the state going to do? Let the fishery
8 go or develop some kind of a program where the fishery could be protected,
9 and then once it was adopted, like we're doing now, try to figure out a way
10 where we can turn this thing around and get those permits in the Bristol Bay
11 fishery -- fishermen's hands. It's going to take time to do it. And I think
12 we might go into some of the things that, uh, I asked Terry Gardiner to do,
13 is to look at the legislative problems and kind of wind things up here now.
14 Uh, I don't think that you're going to find the legislature that's going to
15 want to dump the limited entry program. Okay. Despite the problems that
16 we know we have that are really severe, there is a sense of feeling that the
17 limited entry program to a certain extent is proving to be successful. So
18 I don't think that you're going to find the legislature that's going to be
19 willing to dump it. However, since the program has been effect, since we've
20 had these three meetings, since we do know the scope and the magnitude of the
21 problems, there are going to be certain things that are going to have to be
22 changed in order to turn the thing around to bring those permits back home
23 where they belong. Okay? I think there's going to be a lot of sympathy
24 for that. Uh, a lot of these things, I think, will be changed in the courts.
25 A lot of these things will be changed by the legislature themselves. It's

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1 going to be a time-consuming process. We're going to have to evaluate very
2 carefully all the suggestions that have been made to us, and there have been
3 several that -- that weren't mentioned or brought up here and I'd like to
4 talk a little bit about them and also review some of the problems that, uh --
5 that everybody has expressed, not only here but in Dillingham and Naknek as
6 well. We have a great concern for the young people. We want to make sure that
7 somehow they get in. An appren -- an apprenticeship program was mentioned by
8 Jack Vantrease that was also suggested in Dillingham and in Naknek, that
9 some kind of an apprenticeship program be created so that young people who
10 go out as, uh, crew -- crew members are given consideration in a point system
11 so that when they become eligible, they are building up their points every
12 year they have experience, so that the watershed resident is given considera-
13 tion. Okay? We also are very much concerned about the people who have been
14 left out for reasons beyond their control, such as being discouraged by the
15 Department of Fish and Game not to go fishing, and in your hearts and mind
16 you felt you were doing the fishery a favor, you sacrificed, and the reverse
17 is pulled on you. You're penalized for doing the right thing. We've got to
18 deal with that. The price of the permits has gone out of sight. Uh, those
19 of you that weren't hear earlier, at a public meeting in Dillingham, uh, day
20 before yesterday, a young fellow told me that he had a permit and he was going
21 to sell it, the permit and his boat for \$100,000. Now where are you going to
22 get \$100,000 that leads into the next problem, that is again very simply, the
23 price of a permit. But the permits are going for a high price. How do we
24 get the money to you people that need it? We obviously have to rework some of
25 the loan programs we have, reduce the downpayment, spread out the payments,

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1 so that the ability to pay for these permits is more reasonable for the
2 Bristol Bay watershed residents. We already have loan programs that
3 discriminate in favor of Alaska residents. I think that's a tool that we can
4 continue to use more effectively by being more lenient in -- in, uh, giving
5 more consideration to reducing the requirements for getting a loan. We
6 have to take care of those people that were considered or are considered
7 late filers. That has to be dealt with somehow or other. If it's not taken
8 care of in the courts, I think Legal Services and the people from this area
9 are going to come to the legislature with both feet and say, hey fellows,
10 you know, you guys really put the screws to us. We live here and we want
11 something done. The legislature is going to have to deal with it. To what
12 extent and how much they are going to be able to do to satisfy you is an
13 open question at this point in time. I can't predict what will be done but
14 we will have to face the issue at some point in time. Uh, the problems of
15 partners came up, the partner (indisc) the partnership. Can we issue a permit
16 to people who share the expenses, who bought a boat, and paid for the
17 expenses of fishing, uh, during the years -- can we -- can we get a permit to
18 these people? Right now the question is -- or the answer to the question is
19 I don't know, but we have to look at it because it is a consideration that
20 has to be dealt with. The idea of pooling points offered by the young lady
21 in the back - pooling points within the family. That was brought up also
22 in -- at an earlier meeting. The idea has possibilities and we want to look
23 at that and quite possibly, that kind of an idea could be worked out and
24 could be proved to be very effective. And there again you'd have an outlet
25 to get the permits into Bristol Bay hands. Another idea that was expressed

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1 and I think has some possibilities is the tax -- tax incentive. In other
2 words, you create a tax incentive. If you want to sell your permit, if you
3 sell to an Alaskan resident, you get a capital gain type of, uh, a considera-
4 tion. In other words, you get a tax break for selling it to a resident. If
5 you sell to an outsider, you really get the -- the works -- the shaft, or
6 whatever you call it. All right. That's -- that's an idea we want to look
7 at. Anyway, it has some possibilities. In other words, if you sell to your
8 friend in Kokonak, you get a tax break for selling it to him. You don't --
9 you don't get penalized. However, if you sell to someone outside, you're
10 faced with a large capital gain shot, uh, when it comes time to pay your tax.
11 Uh, the idea of using and losing your -- your permit has been given some
12 consideration. I think I went into the answer at some depth, but, uh, the
13 use and lose concept begins to take on more and more of a desirable aspect
14 because there are so many people wanting to get in, that should have gotten in
15 that are not in. So how do we retire those unused permits? That's something
16 we have to look at. Now, the other thing that we've learned -- that I've
17 learned, of course, is that a lot of people are thinking about the problem
18 and have come up with some really good ideas, and I don't think we've heard
19 all of them yet. And I really wish we could have more meetings like this so
20 that we could work together and try to -- to come to some solutions. These
21 meetings that I've be -- I've become aware of the fact that people are really
22 concerned about the lack or the failure on the part of the state to fund
23 sufficiently the education programs so that we can learn more about the limited
24 entry program. We already admit, and I admit very freely that not enough has
25 been done, although I have tried my very best to make sure that these people

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1 got the money to contract with BBNA so that there was some effort as limited
2 as it may have been at least there was an attempt to get out to explain, uh,
3 what the problem was. There was no understanding or appreciation of how
4 great the problem was, though. The failure to educate is really greater than
5 even I understood it to be. I know that, uh, from the meetings at Dillingham,
6 at Naknek, and here, that the state really did fail. And there's really an
7 awful lot of work that we have to do and I have to really work hard to get
8 money to fund these people to get out here more often so that they can meet
9 directly with you, so that you don't have to go to -- through the paper
10 route which is a cold, impersonal route, and a lot of times a lot of mis-
11 understandings are created by that paper simply because people who get this
12 paper, first of all, have a very difficult time understanding what's being
13 written. So that creates problems and we'll try to eliminate that problem
14 as much as we possibly can. But I think -- I think that more or less, uh,
15 summarizes the things that we're going to have to look at. Uh, somebody
16 asked me in Naknek, well, what are we going to do after the, uh, after these
17 meetings. Are we simply going to forget? Well, uh, you've already heard
18 the commitment that I've made, that things that I feel have to be done, and
19 I know we have a similar commitment from these people in the commission,
20 and I know Alaska Legal Services will continue to work to try to make some,
21 uh, improvements to the program. Uh, I intend to get together with the
22 commission, uh, with Alaska Legal Services, Adelaide Herman, Terry Gardiner,
23 and, uh, John (indisc) who works in Alaska Legislative Affairs Agency as a
24 research assistant, uh, either the twenty-first or twenty-third of October,
25 that's if these people are available, to go over all of -- all of the

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1 suggestions that were made at these meetings and summarize them, evaluate
2 them, and separate the ones that are -- that could be taken care of on the
3 short-term, separate those ones that are of the long-term that will require
4 a lot of work in the long-term. And then also try to develop some programs,
5 uh, funding programs that we could place before the legislature to get more
6 money into an educational program first of all, and then work on some of the
7 other ideas that, uh, that have been presented by you people here. I don't --
8 Allan, I don't know if you have any summary statements to make at this time,
9 but, uh, that's the extent of what, uh, I want to say and if Allan, if you
10 like to make some statements ...

11 BY: MR. ADASIAK:

12 Q. Just a couple -- just a couple of brief remarks. Uh, I guess to some extent
13 uh, I want to be if not the bad news man at least the grey weather man, uh,
14 so that people don't get to hoping for too much. Uh, we want to keep some
15 kind of a lid on the fish. We could solve everybody's problems if we just
16 started giving out permits to everybody, but as long as you try to keep that
17 lid on, it starts to become very difficult, and solutions for a lot of these
18 problems that have been identified are not going to be easy to come by.
19 And the kinds of solutions that we have in many cases will not be perfect
20 solutions. They're going to get at part of the problem, but not all of it,
21 whether it's something the commission can do and we try to do or whether it's
22 something Nels and others try to do in the legislature. And when you come
23 up with some of these answers, uh, everyone should realize that there's
24 going to be in some areas some improvements, some good that comes with it,
25 but there's going to be something that's still not going to seem right, still

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1 might not work well. It's, you know, we can -- what we're going to all try
2 to do is come out with as many things that are better as possible. But I
3 don't want anybody to get too carried away and think that we can just make
4 everything well. There's still going to be some things that leave people
5 unhappy. We're just going to try our best to make as many improvements as --
6 as we can. Uh, I want to thank everybody for coming, for letting us know
7 what you thought. Uh, we learned a lot, we learned about things that con-
8 cerned you, some things that were more specific here to this area than other
9 areas such as the problems in '71 and 2 - so the predictions were bad and
10 you chose to stay off the fish and go fire fighting instead. Uh, it's -- it's
11 very helpful to us, it's important to know that. Uh, we appreciate your
12 time and your suggestions, the ideas that have come up. Uh, on behalf of
13 the commission, I also want to thank Nels and Adelaide for taking the
14 initiative to set up these meetings. I think they've done a large service
15 for the people in the Bay by arranging this so that we can come to a better
16 understanding of what's involved and try to solve these problems as best we
17 can. Thank you.

18 BY: MR. ANDERSON:

19 Q. Thank you, Allan. Well, I want to just thank Adelaide. She's the one that
20 got me on the stick on this and, uh, set everything up. Wassie, uh, wanted
21 a meeting here and he got it and arranged for the meeting place and, uh,
22 again, thank you all for showing up. We really appreciate it, and we hope
23 we can do some good (indisc). Thank you very much. (end of tape)
24
25

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#17:25



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LIMITED ENTRY SYMPOSIUMS

FINAL REPORT

On October 11, 12 and 13 symposiums were held in Dillingham, Naknek and Illiamna respectively. During all of these meetings problems regarding the limited entry system in Bristol Bay were discussed and possible solutions to these problems were proposed. Representatives Nels Anderson and Terry Gardiner, as well as John Williams of the Legislative Affairs Agency and Commissioners Al Adasisk and John Garner presided at the symposiums. This was the first time that this sort of educational effort was ever conducted on limited entry in Bristol Bay. In addition to educating the people in Bristol Bay, it also provided valuable education to the Limited Entry Commissioners regarding the problems with the system in this area. Commissioner Adasiak said in Dillingham that he had never realized how many valid questions the people in Bristol Bay had.

The major issues of the symposiums are as follows:

Late Applications

People at the symposiums stated that these were often the result of a lack of knowledge or understanding by Bristol Bay residents. Two solutions to this problem which were discussed were the legislative creation of

a new application period or an out of court settlement or court settlement by which the Commission would agree to accept new applications.

Limitation of Applicants to Gear Holders

People felt that extended involvement in the fishery as a non gear holder should provide eligibility points. This issue was the basis of a Legal Services law suit against the Entry Commission in which a judgement was recently made against the Commission. This suit has been appealed to the Supreme Court.

Movement of Permits into non-resident Possession

This appears to be an increasingly significant trend which caused some concern among symposium participants. Potential solutions discussed were: 1) removal of free transferability of permits and development of a system where unused permits revert to the state for reissuance on the basis of an apprenticeship training system; 2) establishment of a regional non-profit permit brokerage in Bristol Bay; 3) providing capital gains tax credit for permits sold to Alaskan residents; 4) creation of a restricted class of permit buyers who qualify through previous participation in the fishery; 5) have a buy-back program which applies only to permits held by non-residents.

High Permit Prices Which Exclude Young People

Potential solutions to this problem included the restriction of free-transfer and development of a more liberal state loan program for use in the purchase of permits.

Some specific proposals coming out of the symposiums were as follows:

- Establishment of a regional office of the Entry Commission in Bristol Bay
- Establishment of a limited entry education program
- Improvement of airport facilities in the Bay to alleviate marketing problems

- Issuance of more permits in the drift net fishery
- Creation of a study group to review all legal and policy aspects of revising the limited entry program
- Creation of regional advisory groups
- Creation of a permanent legislative committee on limited entry
- Establishment of a requirement that permits be fished or else forfeited to the state.
- Passage of legislation to close brokerage activities
- Exemption of autumn humpy fishery in Bristol Bay from limited entry

Enclosed are several documents relating to the limited entry symposiums.

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
P. O. BOX 181
DILLINGHAM, ALASKA 99576
TELEPHONE 842-5653

October 27, 1978

Kenneth E. Vassar
Legislative Counsel
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

RE: late applications for Limited Entry Permits.

Dear Mr. Vassar:

Thank you for your letter of October 24 regarding legal services' position on late applications in Bristol Bay. Although our position could be stated in one sentence--we believe no-one should be denied a permit to which he or she is otherwise entitled because of the failure to timely file an application--I think it appropriate to discuss some of the points which have become apparent regarding the late application situation and our view of the Commission's obligations in light of these points.

First of all it should be noted that legislation is not necessary at all if the Commission agrees to accept late applications; this can be accomplished simply by enacting a new regulation amending 20 AAC 05.510. Legislation would thus be necessary only if the Commission is unwilling to accept late applications or imposes restrictions unacceptable to our clients.

There are many reasons why people did not timely file applications, as demonstrated vividly in the first few days of trial last month in Wassillie v. Adasiak. The number of such persons can be best stated by the Commission itself, but a few observations are necessary on this point.

The number of persons technically eligible to apply for entry permits who did not do so is, I suspect, substantial--several thousand statewide for those fisheries coming under Limited Entry in 1975. The Commission understandably does not wish to engage in a repeat performance of the Isakson situation: large expenditures of time and money for very few permits actually issued. For example, there are approximately 700 persons whose name appears on the

Commission's Fisherman's History File as potentially eligible to apply for an S03T (Bristol Bay drift gillnet) permit who did not do so. I would doubt that more than 50 of these persons could amass enough "points" to actually obtain such a permit.

Our response to the Commission's administrative-burden argument is two-fold. First, of course, we fully support their being granted a substantial amount of money to hire whatever personnel are necessary to deal with this situation. We would request any appropriation directed towards this effort to be a top priority of our lobbyist in Juneau during the 1979 session.

We have also offered to accept an application period with significantly less Commission obligations than has previously been the case. For example, if amicable settlement were reached in our lawsuit, we are prepared to agree that the Commission has no outreach obligations beyond publicizing the new period. Although local Native groups may wish to seek grants to assist in the effort, the Commission would not have responsibility for the job.

It is undoubtedly true that any new application period would create some confusion, leading some people to believe they could now qualify for permits, etc.. There is no answer for this (although BBNA request for an education project goes towards solving it) except to adequately fund the Commission to respond. There would be no point in soliciting applications from people with less than the number of points at which permits are being granted at, except in those cases where an applicant is unsure of his or her fishing history, and we are certainly not interested in raising expectations for those with no chance of obtaining a permit.

It is understandable that the Commission would like to finalize things in those fisheries which came under Limited Entry in 1975 and move on to other programs. Our response to this is simply that the expense and administrative burden is minimal compared to the benefits such an effort would yield. Witnesses testified in the Wassillie trial who were on welfare who are eligible for permits but for their failure to timely file an application. Bristol Bay drift gillnet permits are now selling for amount in excess of \$50,000---it is not realistic to expect village Alaskans to be able to afford to purchase a permit.

A problem noted by the Commission is that granting permits now would cause them to exceed the "maximum numbers" set

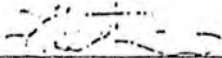
for each fishery. In some cases that number has already been exceeded. But, as pointed out earlier, the number of new permits will not be (to our knowledge) excessive. The past season was a record year and next year is predicted to be another excellent year. Certainly, the fact that the 200 mile limit was enacted after the "maximum numbers" were established is a relevant factor, as is the potential buy-back program. In short, we do not believe the impact upon the fisheries to be significant.

To summarize, it is our position that a new application period should be established for those persons eligible in 1975 to apply for entry permits but who did not do so. If the period is long enough--say, one year--we would agree that no outreach need be done by the Commission..

Because of the Wassillie case, we have many pages of briefs and material on this subject which we would be happy to supply to you if you felt it would be helpful--please feel free to contact us on this subject at any time.

Sincerely,

David B. Snyder
Frederick Torrissi
ALASKA LEGAL SERVICES CORPORATION

BY: 
FREDERICK TORRISI

cc: John Garner
Terry Gardiner
Nels Anderson, Jr.
John Williams
Kay Larson

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
P. O. BOX 141
DILLINGHAM, ALASKA 99571
TELEPHONE 842-8653

October 31, 1978

Rep. Terry Gardiner
P.O. Box 6062
Ketchikan, Alaska 99901

re: late applications for limited entry

Dear Representative Gardiner:

You have asked us for a legislative remedy for those persons who failed to obtain entry permits to which they were otherwise entitled solely because of their failure to timely file applications with the Commercial Fisheries Entry Commission. Towards that end we offer the following; please feel free to contact us at any time regarding this:

Be it enacted:

Section 1. Findings of Fact.

The legislature finds that

(1) Many persons otherwise entitled to entry permits by virtue of A.S. 16.43 and the regulations promulgated thereunder have not received permits solely because of their failure to submit an application to the Commission prior to the closing date for applications set by the Commission pursuant to A.S. 16.43.260(b).

(2) In order to prevent economic distress among fishermen and those dependent upon them for a livelihood, to regulate entry into the commercial fisheries without unjust discrimination, and to ensure that permits are awarded on the basis of hardship, as defined in A.S. 16.43.250 and the regulations promulgated thereunder, it is necessary to ensure that those persons eligible for permits are not denied them solely because of a failure to timely apply.

Section 2. Application period.

A.S. 16.43.260 is amended to add the following:

(f) The Commission shall accept applications for entry permits from all persons previously eligible to apply for them for one year from the effective date of this act.
All applications so accepted shall be

processed as if they had been submitted during the application period set by the Commission, except that a reasonable time must be afforded for the submission of supporting evidence.

Section 313 - Maximum numbers.

Applications accepted under §260(f) shall be processed according to the regulations applicable to the fishery into which entry is sought. Permits shall be granted to all persons who demonstrate hardship equal to that shown by persons previously granted permits, even if this results in a greater number of permits being issued than is otherwise authorized by this chapter. This section does not authorize the Commission to revoke any permit previously granted.

Thanks for your co-operation on this.

Cordially,

DAVID B. SNYDER
GEOFFREY T. COMFORT
FREDERICK TORRISI
ALASKA LEGAL SERVICES CORPORATION

BY: _____
FREDERICK TORRISI

FT:ilk

cc: Richard Burnham, Assistant Attorney General
John Garner, Commercial Fisheries Entry Commission
Nels Anderson, Jr., Dillingham, Alaska
Kenneth E. Vassar, Legislative Affairs Agency
John Williams, Legislative Affairs Agency
Kay Larson, Bristol Bay Native Association

October 16, 1978

M E M O R A N D U M

SUBJECT: Limited Entry Symposiums in Bristol Bay

TO: The Honorable Neil Anderson
The Honorable Terry Gardiner

FROM: John Williams
Research Analyst

During the two limited entry symposiums in Dillingham and Naknek (October 11 and 12) several problems and possible solutions regarding the application of a limited entry system in Bristol Bay were discussed. It is my intent to outline the problem areas and to present the various options that were discussed as possible remedies. If you are aware of omissions in the following list, please let me know so that I may accomplish whatever research is necessary prior to the follow-up session tentatively scheduled for October 23.

1. Late Applications. Several witnesses talked of the problem of Bristol Bay residents not meeting application deadlines, generally for reasons of lack of knowledge or understanding. This problem is central to the suits against the Entry Commission brought by Alaska Legal Services. Two possible remedies were discussed: (1) legislatively create a new application period and (2) either an out of court settlement in which the Commission will agree to accept applications from persons who were not informed or for various reasons including geographical remoteness did not meet the filing deadline, or a judgment which directs to the Commission to accomplish some remedy of a broader spectrum.
2. Limitation of Eligible Applicants to Gear License Holders. Legal Services suits also address the issue of extended involvement in the Bristol Bay fishery by commercial fishermen who have never had a gear license, thus making such persons ineligible to apply for a limited entry permit. It was felt that perhaps extended involvement may show as much dependence on the fishery as one year of involvement as a gear license holder. One suggestion was to amend the law to allow sustained activity in a fishery as a crewman to count as the equivalent of one year as a gear license holder.

3. Permits Moving into Non-Resident Possession. Although the numbers are not overwhelming, there is a trend developing which shows an increased number of non-residents owning Bristol Bay permits. Several ideas for curbing this trend were discussed, the most radical being the removal of the free transferrability of the permits and having the state reissue all unfished permits based on an apprenticeship ranking scheme. Other items discussed included: (1) setting up a regional non-profit brokerage in the Bristol Bay region to help insure that when permits do transfer, Bay residents have an opportunity to buy the permits; (2) giving capital gains tax credit for permits sold to resident Alaskans; (3) creating a class of qualified buyers who are the only eligible buyers of permits, based on participation in the fishery; and (4) to have the buy-back program apply only to permits held by non-residents.
4. Permit Prices are too High/Young People Excluded. The limitation on the number of permits issued for fisheries covered by the limited entry program makes it difficult for a fisherman/father to assist more than one son or daughter into the fishery. This problem has been exacerbated by the free market value of Bristol Bay permits. Several Bay area residents feel that it is nearly impossible to get young people into the fishery in the future. The possible removal of the free transferrability aspect was discussed in relation to this problem. We also discussed leaving the free transferrability provision only for intra-family transfers but having the state reissue all other permits on an apprenticeship ranking scheme. We also discussed various ways and means of liberalizing the state loan program to make it more beneficial for residents, and a combination of loan program revamping and the creation of a pool of qualified buyers.
5. Other Suggestions. Several other recommendations were made at the symposiums, including: (1) a regional office of the Entry Commission in Bristol Bay; (2) a limited entry education program, (3) allowing the pooling of points earned by family members so that at least one permit could be made available to a resident fishing family which received no permit; (4) in the case of partners who shared in ownership of vessel and gear but fished with only one gear license, to allow points earned as a gear license holder to be divided between partners; (5) more adequate airport facilities in the Bay to alleviate the marketing problems realized this year; (6) issue more permits in the drift net fishery; (7) change the provision of present law which requires the Commission to receive fair market value for all new permit issuances; (8) create a study group to look at all legal and policy aspects of revising the limited entry program; (9) create regional advisory groups with which the Commission could consult; (10) create a permanent legislative committee on limited entry; (11) require that a permit be

October 16, 1978

fished or forfeited to the state for reissuance; (12) pass new legislation to require disclosure of brokerage activities; and (13) to exempt the fall Bristol Bay humpy fishery from the limited entry program to allow young people and non-permit holders to fish.

We will be investigating several of the suggestions that were made at the meetings. As you are aware, some of the proposals hinge on critical constitutional aspects of limitation of entry into common property fisheries. Legislative Affairs Legal Division could address the legal issues, but you will probably want a more wide-spread inspection.

Please let us know of additions or corrections you may desire. We will try to address a number of these issues prior to the follow-up session.

JW:dh

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED

SEP 24 1978

OT/mg

COMMERCIAL FISHERIES
ENTRY COMMISSION

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3200

MEMORANDUM

October 24, 1978

SUBJECT: Late applications for Limited Entry Permits
TO: Alaska Commercial Fisheries Entry Commission
FROM: Kenneth E. Vassar
Legislative Counsel 

As noted in the attached memorandum from John Williams, we have been requested to prepare a summary of your position, as well as that of Alaska Legal Services, relating to late applications for limited entry permits in the Bristol Bay region toward the end of determining potential legislative solutions to this problem.

To enable us to accomplish this endeavor, please submit written statements of your position to me at your earliest convenience. As soon as all statements have been received, a summary of your statement will be prepared and presented to Alaska Legal Services; and you will be provided with a summary of the statement of Alaska Legal Services. You will then each have an opportunity to prepare rebuttals and submit them to me. I will then prepare a neutral summary presenting the arguments and rebuttals of both parties.

Please keep in mind that we are exploring only potential legislative remedies for the late application situation.

KEV:jdn

Attachment

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

FOUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

October 23, 1978

MEMORANDUM

SUBJECT: Limited Entry

TO: The Honorable John Sackett

FROM: John Williams
Research Analyst

Representative Nels Anderson asked that I send you the enclosed material plus a brief description of the informal meeting held on Saturday, October 21. The Saturday meeting was attended by Messrs. Adasiak and Garner from the Entry Commission, Kay Larson from the Bristol Bay Native Association (BSNA), Representatives Anderson and Gardiner, and Mr. David Snyder of Alaska Legal Services (Dillingham). We discussed the various issues outlined in the October 17 memo to Messrs. Anderson and Gardiner (enclosed). The items were classified as either (1) lending themselves to immediate investigation or (2) requiring a more thorough investigation by a legislative study group.

Items which were considered in the first category included:

- (1) Late applications. It was agreed that Legislative Affairs would prepare a summary of the positions of both the Entry Commission and Alaska Legal Services on this matter. Given this background information, Representative Anderson will then give further direction for the preparation of legislative language to be introduced in the next session.
- (2) Eligible applicants: It was agreed that Legislative Affairs with the cooperation of the Entry Commission would look at the preparation of an extensive questionnaire mailing to commercial fishing license holders based on computerized data, retrospective to 1969. The questionnaire would attempt to provide better information on determining the scope of problems related to individuals harmed by the initial permit issuance regulations, and to assist in understanding the nature of the various grievances.
- (3) Amending the provisions of the state loan program: It was agreed that one means of alleviating the problem of permits moving to non-resident possession was to further the intent of the state loan

program provisions for loans for permit purchase by liberalizing the requirements for receiving a loan. Legislative Affairs will be addressing this matter.

- (4) Further assistance to rural Alaskans: It was agreed that a mechanism was needed to provide further educational and advisory assistance to rural Alaskans regarding limited entry. After much discussion, it was agreed that the Entry Commission would work with BSA to develop a means whereby this could be accomplished. The likely outcome will be legislative language requesting funding for whatever structure is decided upon.
- (5) In addition to the above, the commissioners agreed to look further into the matter of ADF&G personnel discouraging residents of the Bristol Bay region from fishing during particular years in the early 70's. Residents of the region expressed concern over an apparent contradiction in state policy of on the one hand discouraging fishing during poor run years and on the other giving much weight to commercial fishing during what may be the same years for purposes of qualifying for an entry permit.

Most of the remainder of the issues mentioned in the October 17 memo were felt to be of such magnitude as to require a thorough investigation into the legal, economic, and social aspects of the problems and recommended remedies. It was generally agreed that the working group would encourage the creation of a limited entry study group, sufficiently funded to perform professional evaluations of the issues and provide for extensive public input. It was felt that such an effort would require in excess of \$100,000 to accomplish the mission, and that the effort would be most effective if handled by a special legislative committee (perhaps an interim committee).

JW:dh

Enclosures

cc: The Honorable Mels Anderson
The Honorable Terry Gardiner
Allan Adasiak, Commercial Fisheries Entry Commission
+ John Garner, Commercial Fisheries Entry Commission
David Snyder, Alaska Legal Services
Ken Vassar, Legislative Affairs Agency

TO: [Kenneth E. Vassar
Legislative Counsel
Legislative Affairs Agency

DATE: November 14, 1978

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: CFEC Position on
Late Applications

By: 
Richard M. Burnham
Assistant Attorney General

This memorandum is being provided in response to your October 24, 1978, memorandum to the Alaska Commercial Fisheries Entry Commission wherein you requested that the Commission prepare a summary of its position concerning the acceptance of late applications. As we understand it, the purpose of this summary is to assist the legislature in exploring potential legislation addressing late applicants. We submit this memorandum with the understanding that it may not be used in the Wassillie et al. v. Adasiak et al. litigation for any purpose. Furthermore, our submission of this memorandum is not to be interpreted as agreement by the Commission that any legislative remedy of the late application situation is either appropriate or necessary.

As we understand it, the legislature's exploration of the possibility of legislation addressing late applicants is a result of concerns raised by various constituents. Most of the concerns are issues in the Wassillie litigation. In that case, plaintiffs have alleged that (1) the Commission failed to provide the entry permit application completion assistance set forth in the Consent Agreement, dated March 10, 1975, signed by the parties shortly after the litigation began, and (2) that even if the Commission did comply with the Consent Agreement, principles of constitutional law require the Commission to do more than was originally agreed to by the parties to the Consent Agreement. In plaintiffs' view, constitutional principles require the Commission to contact each and every person potentially eligible to apply for an entry permit and to offer application completion assistance in person.

With respect to late applications in general, the Commission has always appreciated the situation of people denied entry permits solely because they failed to submit a timely application. It was for that reason the Commission engaged in a massive effort during the 1975 application period to inform Alaskans of the deadline for applying for entry permits and of the availability of assistance in completing entry permit applications. Undoubtedly, however, irrespective of how long an application period is provided

or the amount of publicity concerning a deadline, there will always be people who miss the deadline, just as there are always people who miss the April 15 deadline for filing tax returns.

The reasons people failed to timely apply for entry permits vary greatly. Some people declined to apply because they did not like the limited entry law. Now that limited entry is an established fact and permits have risen in value, these people now wish to have a "free" permit. Some people quit fishing prior to the 1975 application period but again, because of the present value of permits, they now would like a "free" entry permit.

The Commission believes that it made every reasonable effort to notify individuals of their right to apply for an entry permit, and has fully complied with the relevant law and with all requirements of the Consent Agreement entered into in the Wassillie case.

The Commission also believes, however, that in certain isolated villages some native Alaskans may not have received sufficient assistance to complete an application, and that acceptance of late applications from this group may be warranted, though not legally required.

The Commission does not believe this group is statewide, nor does it believe it is existent even throughout the Bristol Bay region. The difficulty is defining the exact nature of the class and specifying who is included. The Commission would agree to the acceptance of late applications from this small group so long as the following is ensured:

- (1) that the group to be allowed to apply is defined with reasonable specificity, or better, if the aggrieved parties are named;
- (2) that the required publicity about the new application right and type of assistance required is agreed to by Alaska Legal Services; (Legal Services has indicated that radio announcements over the Dillingham radio stations would suffice for the Bristol Bay region.)
- (3) that the time within which an application must be submitted is specified in the legislation;
- (4) that the acceptance of late applications and evidence will in no way affect the rights or obligations of any other applicant;

- (5) that the Commission will not be subjected to litigation on behalf of those not receiving the benefits of any legislation regarding late applicants;
- (6) that the number of new permits to be issued will not be of sufficient quantity to require revoking outstanding permits;

As to how many late applicants are in a position reasonably to claim they should now be allowed to apply, we do not know. Depending on how the class of eligible applicants is defined, the number could range from less than 100 people to several thousand. As to how many of these people could obtain enough points for a permit were they allowed to apply, that too varies with the nature of the group.

There are at least four major problems which would be raised by legislative efforts to accommodate any group of late applicants.

1. Who Will Be Allowed to Apply?

Possibly the most difficult problem for the legislature in addressing the late application situation would be describing which group of persons would be eligible to submit late applications. Efforts by the legislature to define the group of eligible persons would certainly engender substantial amounts of litigation over the question of whether the limitation to a particular group is lawful and whether certain individuals fall within the legislative description of the eligible group. Were the legislature merely to establish another application period for everyone, serious problems would result, as more fully discussed below.

2. Another Application Period For Any Group
Would Cause Substantial Confusion
Concerning the Limited Entry Program

The limited entry program is necessarily a complex program to begin with. The initial 1975 application period was followed by a second application period in 1977 as a result of the Isakson v. Rickey decision. The Commission's experience with that application period was that few people understood the reason for the second application period and most believed that anyone could apply. When the applications of persons ineligible to apply under the Isakson decision were rejected, a tremendous number of administrative hearing requests and actual hearings resulted. The result was great

confusion among the applicants and a burden on the Commission. If a third application period is now to be allowed, the Commission will again be swamped with applications, especially given present permit values, from all persons statewide who either do not understand the purpose of the new application period or who merely wish to take a shot at getting a permit. The Commission, of course, will have to sift through all applications in order to find those few submitted by persons actually eligible to apply under a third application period. The result again will be a burden on the Commission and a substantial increase in confusion concerning the limited entry program. At some point in time, if there is to be a limited entry program, there must be an end to the period for submitting applications.

3. The Acceptance of Late Applications May Necessitate Revoking Permits Already Issued

The limited entry law requires that, except in one unrelated circumstance, only a set number of permits may be issued for each fishery. This set number is called the "maximum number", and is equal to the highest number of units of gear operated in the fishery during any one calendar year from 1969 to 1972.

Since it was expected that there would generally be more applicants than permits to issue, it was necessary to develop a system of ranking the relative qualifications of each applicant for a permit. Permits were then to be issued in the order of rank. A point system was used to accomplish this; an application deadline date ensured that all applicants were before the Commission at the time the ranking began. Permits were then issued beginning with those with the most points, and going down until the maximum number of permits had been issued. This maximum number was to be exceeded only if the number of applicants who would suffer "significant economic hardship" if not issued a permit exceeded the maximum number.

Following the establishment of maximum numbers, and the issuance of permits, the Isakson decision mandated a new application period for a new group of applicants. The Commission decided, given the anticipated small number of permits that would be issued as a result of the Isakson application period, to issue additional permits even in excess of the maximum number, rather than revoke permits already issued, in order to stay within the maximum number. If under a new application period the Commission must issue additional permits, then the excess over the maximum numbers may be such that the Commission will have no choice but to revoke permits in the fishery in order to protect both the resource and the livelihood of the fishermen already participating.

4. A New Application Period Will Not
Necessarily Take Care of the Problem

During the initial application period in 1975, the Commission spent over \$50,000 on application assistance contracts with native organizations and other organizations and individuals to pay for travel to villages and for media efforts to inform people of the deadline for applying and of the availability of assistance in completing applications. Despite this effort, it is claimed by some that there are substantial numbers of people who never received word of the deadline or who for some other reason did not apply prior to the deadline. If a new application period is established, there of course can be no guarantee that every single eligible person who did not apply the last time will apply this time. The question this poses is, if a person does not apply during another new application period, will the result be a fourth application period somewhere further down the road? At some point it must be said that everyone has had a reasonable opportunity to apply and that there is no further obligation on the part of the state. No matter when this point is reached, there will always be people who were eligible to apply but who did not do so.

Conclusion:

The purpose of the limited entry program was to stabilize levels of participation to protect the resource and to make sure people who relied on fishing were able to make a decent livelihood from fishing. With the increase in salmon runs in the last couple of years, and the increase in the price paid for salmon, fishing is suddenly more attractive to more people. In other words, the limited entry program has worked. Now, because it has worked, everyone wants to participate. This is precisely the situation which led to the decline of the fisheries in the 60's and the early 70's, which necessitated passage of the Limited Entry Act. If every time the health of the fisheries increases, more people are allowed to fish, there will essentially be no limited entry. Furthermore, while permits are issued during good years, one or two bad years in a row will find the fisheries tremendously overcrowded compared to the number of fish and the result will be the very threat to the resource which limited entry was passed to eliminate.

Entry permits may be obtained not only from the Commission, but also by devise, purchase, or other transfer from the present holder of a permit to someone who doesn't have a permit. To assist persons wishing to obtain entry permits, the legislature last session amended A.S. 16.10.310 to make it easier for fishermen wishing to purchase an entry permit to obtain funding for the purchase. We suggest that should the legislature conclude that some people who should

Kenneth Vassar
Legislative Affairs
November 14, 1978
Page 6

have permits do not, consideration be given to making it easier for them to obtain the funds necessary to purchase a permit rather than altering the Limited Entry Act in order to get more free permits to such people. By this means, the number of permits outstanding would be unaffected.

While this memorandum has been reviewed by the Commercial Fisheries Entry Commission, the commissioners have asked me to relay their willingness (which is mine as well) to continue discussions on this matter in the hope of clearly identifying any problems and if they are identified, defining their nature and magnitude and developing appropriate solutions for them.

RMB:sd:cb

MEMORANDUM

State of Alaska

TO: John Williams
Legislative Affairs

DATE: December 18, 1978

FILE NO:

TELEPHONE NO:

FROM: Derrill L. Johnson 
Executive Director

SUBJECT: A Preliminary Estimate on the
Number of Questionnaires Needed
and the Cost of Production of
those Questionnaires

As per our discussion on 12/15/78, Roger Kolden researched the Commercial License file which lists crew members, vessel license holders and gear license holders for each year as follows: 1969 - 19,514; 1970 - 22,504; 1971 - 21,250; 1972 - 21,516; 1973 - 24,042; 1974 - 21,764; 1975 - 22,051; 1976 - 24,984; 1977 - 26,235; giving a total population of 203,860. Using an average number per year of 22,651 license holders and figuring approximately 7,550 turnover each year over an eight-year span, you will end up with 83,053 as a total population of people in the commercial license file for the years 1969 through 1977. This was calculated as follows:

22,651 is the average per year for 1969 through 1977
7,550 an average turnover per year

$22,651 + (8 \text{ years} \times 7,550) = 83,053$ as the total population.

It is estimated that a four-page questionnaire will be used on which it will be printed both front and back of each page. This equals 16 keypunched cards per questionnaire at an average cost of 15-20¢ per card. Using 15¢ per card for 83,053 questionnaires at a total key-punch cost of \$2.40 per questionnaire it will cost \$199,327.20 minimum. Using 20¢ per card for the 83,053 questionnaires at a cost of \$3.20 per questionnaire for keypunching, equals \$265,769.60 maximum. The reason I used these two different figures is that we have had approximately a 25 percent increase in our keypunch charges each year. These figures show only the estimated population and the estimated keypunching costs.

Additional costs will be incurred for the mailout of the questionnaire and the cost of return envelopes for each of these questionnaires. Figuring the weight of each questionnaire to be mailed out and to be returned and the total postage would be 56¢ per questionnaire. This will include both the initial mailout and the return postage X the 83,053 questionnaires = \$46,509.68 for postage.

It will take approximately 450,000 sheets of paper to print the four-page questionnaire front and back and a one-page cover letter at a cost in approximately \$6,000. This figure will include collation, stapeling, but not the cost of actually staffing and mailing out the questionnaires.

John Williams

(2)

December 18, 1978

You have a total breakdown for the portion that I have discussed in this memo of printing, which includes paper, collation and stapeling of approximately \$6.0, keypunch costs of approximately \$200.0, postage of approximately \$46.5 for a total estimated cost of \$252.5.

There may be ways to reduce the population from 83,053 to a more manageable group by doing a preliminary mailout of 3 x 5 postage cards to further update the addresses and also determine some preliminary data as to whether these individuals would be the proper ones to sample. A similar type survey was done at the very beginning of the limited entry program and proved quite effective.

Attached is a copy of the names of the native corporations who have provided some type of assistance for the Commission over the past years. If you have any further questions regarding the figures I have generated here, please do not hesitate to give me a call. Remember that these figures are preliminary estimates and a certain amount of refinement should be done in the final proposal.

Attachment

Lawyer G.
Upper Center, AK 99573

~~John Gunderson, Exec. Adm.
Aleut League Corp.
33 Gambell
Anchorage, AK 99501~~

Joe Upicksoun, President
Arctic Slope Regional Corp.
P. O. Box 566
Barrow, AK 99723

Mary Longley, Exec. Dir.
Cooking Straits Native Corp.
Box 1008
Nome, AK 99762

Wells Anderson, Exec. Dir.
Pristine Bay Native Corp.
P. O. Box 237
Sillingham, AK 99576

Upper River Native Assoc.
Lawyer H.
Upper Center, AK 99573

Kawerak, Inc.
P.O. Box 505
Nome, AK 99762

Kauneluk Association
P.O. Box 256
Kotzebue, AK 99752

ELACAP
P.O. Box 449
Juneau, AK 99802

Anchorage, AK 99501

Chugach Natives, Inc.
912 East 15th Avenue
Anchorage, AK 99501

Larry Oskolkoff, Exec. Dir.
Cook Inlet Region, Inc.
1211 West 27th Street
Anchorage, AK 99503

Doyon, Limited
First & Hall Streets
Fairbanks, AK 99701

Kake Tribal Corp.
P. O. Box 263
Kake, AK 99830

Gwitcha-Gwitch'In-Ginkhye
P.O. Box 134
Fort Yukon, AK 99740

Kodiak Area Community
Development Corp.
P.O. Box 571
Kodiak, AK 99615

North Pacific Rim Native
Association
433 W. 9th, Suite 200
Anchorage, AK 99501

Upper Tanana Development
Corporation
Box 377
Tok, AK 99780

Kodiak Regional Native Corp.
P. O. Box 746
Kodiak, AK 99615

John Schaeffer, Exec. Dir.
Nana Regional Corp.
P. O. Box 49
Kotzebue, AK 99752

~~John Borbridge, President
Sealaska Corporation
811 West 12th Street
Juneau, AK 99801~~

Sealaska Corporation
Suite 400
1 Sealaska Plaza
Juneau, AK 99801

Aleutian/Pribilof Islands
Assoc., Inc.
430 C Street, Suite 303
Anchorage, AK 99501

Aleutian/Pribilof Island
Assoc. Fish Co-op
430 C Street, Suite 303
Anchorage, AK 99501

Koyukon Development Corp.
P.O. Box 29
Galena, AK 99741

Совместная Ассоциация
Кочевников/Рыболовов

Yupiktak Bista, Inc.
Box 219
Bethel, AK 99559

Munam Kitlutsisti
Box 267
Bethel, AK 99559

SCOMM

#17:26

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 29, 1979

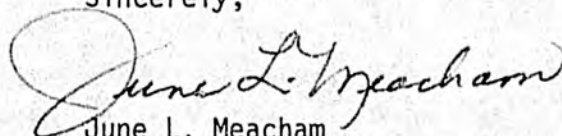
Ms. Ella Anagick
813 West 75th Street, #2
Anchorage, Alaska 99502

Dear Ms. Anagick:

Gregg Erickson asked me to send you copies of some work done by Legislative Research staff on the subject of limited entry.

I am enclosing (1) a copy of John Williams' October 16, 1978 memo to Reps. Anderson and Gardiner on the subject of limited entry symposiums in Bristol Bay and (2) a copy of John Williams' March 7 and March 15, 1979 memos to Rep. Joe Hayes regarding Cook Inlet limited entry permits.

Sincerely,

A handwritten signature in cursive script, reading "June L. Meacham". The signature is written in dark ink and is positioned above the typed name and title.

June L. Meacham
Administrative Assistant

Encls (2)

October 16, 1978

M E M O R A N D U M

SUBJECT: Limited Entry Symposiums in Bristol Bay

TO: The Honorable Nels Anderson
The Honorable Terry Gardiner

FROM: John Williams
Research Analyst

During the two limited entry symposiums in Dillingham and Naknek (October 11 and 12) several problems and possible solutions regarding the application of a limited entry system in Bristol Bay were discussed. It is my intent to outline the problem areas and to present the various options that were discussed as possible remedies. If you are aware of omissions in the following list, please let me know so that I may accomplish whatever research is necessary prior to the follow-up session tentatively scheduled for October 23.

1. Late Applications. Several witnesses talked of the problem of Bristol Bay residents not meeting application deadlines, generally for reasons of lack of knowledge or understanding. This problem is central to the suits against the Entry Commission brought by Alaska Legal Services. Two possible remedies were discussed: (1) legislatively create a new application period and (2) either an out of court settlement in which the Commission will agree to accept applications from persons who were not informed or for various reasons including geographical remoteness did not meet the filing deadline, or a judgment which directs to the Commission to accomplish some remedy of a broader spectrum.
2. Limitation of Eligible Applicants to Gear License Holders. Legal Services suits also address the issue of extended involvement in the Bristol Bay fishery by commercial fishermen who have never had a gear license, thus making such persons ineligible to apply for a limited entry permit. It was felt that perhaps extended involvement may show as much dependence on the fishery as one year of involvement as a gear license holder. One suggestion was to amend the law to allow sustained activity in a fishery as a crewman to count as the equivalent of one year as a gear license holder. }

3. Permits Moving into Non-Resident Possession. Although the numbers are not overwhelming, there is a trend developing which shows an increased number of non-residents owning Bristol Bay permits. Several ideas for curbing this trend were discussed, the most radical being the removal of the free transferrability of the permits and having the state reissue all unfished permits based on an apprenticeship ranking scheme. Other items discussed included: (1) setting up a regional non-profit brokerage in the Bristol Bay region to help insure that when permits do transfer, Bay residents have an opportunity to buy the permits; (2) giving capital gains tax credit for permits sold to resident Alaskans; (3) creating a class of qualified buyers who are the only eligible buyers of permits, based on participation in the fishery; and (4) to have the buy-back program apply only to permits held by non-residents.
4. Permit Prices are too High/Young People Excluded. The limitation on the number of permits issued for fisheries covered by the limited entry program makes it difficult for a fisherman/father to assist more than one son or daughter into the fishery. This problem has been exacerbated by the free market value of Bristol Bay permits. Several Bay area residents feel that it is nearly impossible to get young people into the fishery in the future. The possible removal of the free transferrability aspect was discussed in relation to this problem. We also discussed leaving the free transferrability provision only for intra-family transfers but having the state reissue all other permits on an apprenticeship ranking scheme. We also discussed various ways and means of liberalizing the state loan program to make it more beneficial for residents, and a combination of loan program revamping and the creation of a pool of qualified buyers.
5. Other Suggestions. Several other recommendations were made at the symposiums, including: (1) a regional office of the Entry Commission in Bristol Bay; (2) a limited entry education program, (3) allowing the pooling of points earned by family members so that at least one permit could be made available to a resident fishing family which received no permit; (4) in the case of partners who shared in ownership of vessel and gear but fished with only one gear license, to allow points earned as a gear license holder to be divided between partners; (5) more adequate airport facilities in the Bay to alleviate the marketing problems realized this year; (6) issue more permits in the drift net fishery; (7) change the provision of present law which requires the Commission to receive fair market value for all new permit issuances; (8) create a study group to look at all legal and policy aspects of revising the limited entry program; (9) create regional advisory groups with which the Commission could consult; (10) create a permanent legislative committee on limited entry; (11) require that a permit be

fished or forfeited to the state for reissuance; (12) pass new legislation to require disclosure of brokerage activities; and (13) to exempt the fall Bristol Bay humpy fishery from the limited entry program to allow young people and non-permit holders to fish.

We will be investigating several of the suggestions that were made at the meetings. As you are aware, some of the proposals hinge on critical constitutional aspects of limitation of entry into common property fisheries. Legislative Affairs Legal Division could address the legal issues, but you will probably want a more wide-spread inspection.

Please let us know of additions or corrections you may desire. We will try to address a number of these issues prior to the follow-up session.

JW:dh

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 15, 1979

SUBJECT: Cook Inlet Limited Entry Permits (Supplement to W.O. #6387)

TO: The Honorable Joe Hayes

FROM: John Williams
Policy Analyst

As per our conversation with Steve Pennoyer and Don Wanie of the Department of Fish and Game, the following plan of work is to be implemented both by them and the Commercial Fisheries Entry Commission.

- (1) Completion of data file: ADF&G will expedite the completion of a data file for the Cook Inlet gill net fish tickets. The file will contain the following information:
 - (a) statistical area;
 - (b) gear type;
 - (c) entry permit number;
 - (d) fish ticket number;
 - (e) date of landing;
 - (f) "flags" for gear type, entry permit number, statistical area, and date.
- (2) Items that generate a "flag" will be rechecked and the data either verified or listed as suspect.
- (3) The clean file will then be run against an Entry Commission computer program to verify the validity of permits.
- (4) The Entry Commission will inspect the actual fish tickets to determine if any counterfeited permits were used in the fishery. The font used by the Entry Commission for the preparation of the plastic permit cards is relatively unique. Chances of a counterfeiter having access to the identical font are small.

JW:jm



STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1979

SUBJECT: Supplement to W.O. #6387
(Cook Inlet Limited Entry Permits)

TO: The Honorable Joe L. Hayes

FROM: John Williams, Policy Analyst

These figures are taken from year-end file records, and will be slightly larger than the figures shown on the November 15, 1978 Fishery List which you have a copy of. We are attaching a copy of the last pages of the year-end printout.

S03H -- Salmon Drift Gill Net

Temporary Transfers.....	30	
Permanent Transfers.....	54	
Duplicates.....	10	
Returns Before 12-31-78.....	2	
Permanent Permits.....	548	1/
Interim Permits.....	42	

Total..... 686

S04H -- Salmon Set Gill Net

Temporary Transfers.....	16	
Permanent Transfers.....	88	
Duplicates.....	15	
Returns Before 12-31-78.....	4	
Interim Permits.....	5	
Permanent Permits.....	728	2/

Total..... 856

1/ Contained in this count are 30 permits which were sold by the holder during the year and first renewed for use in 1978 by the transferee

2/ Contained in this count are 38 permits which were sold by the holder during the year and first renewed for use in 1978 by the transferee.

JW:lmk
Attachment

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1979

SUBJECT: Cook Inlet Limited Entry Permits
(Work Order #6387)

TO: The Honorable Joe L. Hayes

FROM: John Williams, Policy Analyst
Ken Vassar, Legislative Counsel

You have asked us to investigate the reported excesses of limited entry permits in Cook Inlet (Anchorage Times, February 1, 1979). At this time it is clear that the source of information utilized in the Anchorage Times' story and in the letter you received from the Alaska Fisheries Resources Committee (Sam McDowell) is in the large part misinformed.

We have not answered your specific request to find out how many permits were actually fished in 1978. We hope that the presentation below and the attached documentation justify our not forcing a hand tally of fish tickets. We have been told that the information is presently being programmed and will be available in late summer. A computer inspection of the fish ticket records will verify the number of permits used, as well as disclose false or counterfeit permits that some have claimed exist. (see memo attached).

The following information describes the source of the misinformation of the Anchorage Times story, the issue paper of February 5, 1979, and then deals with another portion of the matter which is more difficult (at this time) to judge.

REPORTED 1,517 COOK INLET PERMITS

Gary Sanders, a biologist for the Department of Fish and Game in Soldotna received from Hazel Vanderbrink (Department of Fish and Game, Homer) via telephone, a summary of the information contained in the November 15, 1978, computer "fishery list" which is a bi-weekly publication of the Commercial Fisheries Entry Commission (copy attached). The summary that appears on that printout at the end of the Cook Inlet set gill net listings states "fishermen = 812" and "permits = 839." At the end of the Cook Inlet drift gill net listings, the summary states "fishermen = 660" and "permits = 678". Sanders interpreted those numbers ("permits") to mean the number of permits fished, when in fact those numbers indicate

March 5, 1979

the total number of permits issued in 1978 in those fisheries, including renewals, temporary and permanent transfers, duplicates, and interim use permits. In the case of transfers or duplications, the permit being transferred or replaced is invalidated. The number of valid permits present in the fishery at any time is equal to the number of fishermen listed.

Sanders first reported the misinformation to the Board of Fisheries on December 10, 1978. A subsequent presentation by the Entry Commission to the Board of Fisheries clarified the misunderstanding. Sanders was apparently not informed that his presentation was inaccurate because he repeated the story for the Times in late January, 1979, which resulted in the headline article on February 1, 1979.

An interview was conducted with Don Collinsworth, Deputy Commissioner of Fish and Game, and Steve Pennoyer, Acting Director of Commercial Fisheries regarding the issue paper released February 5, 1979 and related matters. They expressed concern that the issue paper was not more carefully reviewed before release, and indicated they "would have chosen words more carefully."1/

With regard to any knowledge possessed by personnel of the department regarding illegal or counterfeit permits in the Cook Inlet gill net fisheries, they stated "(w)e don't have any doubts; in fact we have no opinion" (on permits in excess of the maximum).

Aerial reconnaissance by the department during drift net openings indicated that the maximum number of boats fished in the drift net fishery at any one time was 539.

We have reviewed the year-end microfiche records of all permit holders and transactions in the two Cook Inlet gill net fisheries. We found one instance of apparent irregularity regarding the records of Larry Walker in the set net fishery. The record indicates that he held two permits in that fishery. Staff of the Entry Commission checked his paper file and reported that he had purchased a permit in that fishery and subsequent to the Isakson v. Rickey ruling (discussed later) became eligible to apply for a permit in 1976. He was successful in his application and was issued a permit. A subsequent inspection of the records disclosed the fact that the commission had issued a permit to a person already in possession of a permit. Walker was directed to transfer (sell) one of the permits, which he did. Walker had held the two permits together for a period of approximately two weeks.

1/ Issue papers are prepared by the staff of the Department of Fish and Game to inform the commissioner and the Governor's office of matters that will likely generate a considerable amount of public inquiry. The department had no reason to believe the issue paper in question would be circulated beyond those two offices. The Entry Commission did not review the document prior to its completion.

MAXIMUM NUMBER EXCEEDEDBackground

AS 16.43, Alaska's limited entry law, directed the Commercial Fisheries Entry Commission (CFEC) to designate as distressed fisheries those that were determined to have more units of gear than would be the optimum number (AS 16.43.230). The legislation then directs the commission to issue permits in each of those fisheries until the number issued is equal to the largest number of gear units fished in the years 1969-72, (AS 16.43.240). Thus, the initial issuance number is equal to the maximum, which in a distressed fishery (included Cook Inlet drift and gill net) is greater than the optimum number. The law further describes ways and means of approaching the maximum number without going beyond, including reserving a number of permits equal to the number of potential permit recipients; and lotteries to select a subset of equally ranked fishermen in cases where there are not enough permits for all fishermen with the same hardship ranking (AS 16.43.270).

By regulation, CFEC has set maximums for the two Cook Inlet fisheries affected at 545 (drift net) and 686 (set net)(20 AAC 05.320). In turn, they have issued 548 permanent drift net permits and 728 permanent set net permits. Additionally, there are 42 unresolved claims in the drift net fishery and five in the set net fishery. Those claimants fished with interim use permits in 1978. A more relevant issue than the misinformed claims of Gary Sanders is the overage of issuances. 2/

Maximum Number

We have explained that CFEC was directed to establish maximum numbers and issue permits to that limit. The particular reference to units fished required CFEC to determine a number between the total number of gear licenses issued for each of the distressed fisheries, and the total number of gear licenses recorded on fish tickets. What would appear to be a quite specific number on the surface is in fact a relatively inexact number, the accuracy of which is directly dependent upon the effort made to contact each gear license holder during the specified period to determine whether they fished their gear unit.

Administrative Error

CFEC stated the overages were due to one of two reasons: (1) findings of administrative error, or (2) court rulings. (See memo attached).

2/ AS 16.43.270 states that permits are to be issued until the maximum is reached, except in circumstances where exclusion of a person in a priority classification would occur. CFEC has implemented that language by setting 20 or more hardship points as the indicator of priority ranking. The commission has issued permits in the Cook Inlet drift net fishery at the 16 point level and at the 6 point level in the set net fishery.

March 5, 1979

An interview with two CFEC commissioners was held. It was stated that during the initial issuance of permanent permits the commission did in fact establish reserves equal in size to the number of claims that procedurally could yet qualify for a permit. The commissioners stated, however, that claims of administrative error were honored at any time, regardless of time lapse between the event and the claim. In cases where administrative error was shown, the claimant was allowed to apply and could receive a permit.

Court Rulings

On May 21, 1976, the Alaska Supreme Court delivered its opinion in Isakson, et al v. Rickey, 550 P.2d 359(1976). The effect of the ruling was to allow people who had held gear licenses for the first time in 1973 and 1974 to apply for entry permits. Many of these people eventually qualified to receive an entry permit.

Gear licenses are used by the commission to determine eligibility to apply for an entry permit(AS 16.43.260). To be eligible to even apply for a permit, a fisherman had to have held a gear license during any of the years 1960 through 1972. Isakson v. Rickey extended that period through 1974.

The court ruling did not result in the commission changing the hardship point scheme used to rank all eligible applicants. However, the particular structure of the point system did allow persons who had been gear license holders for the first time after 1972 to in some cases qualify for permits.

At the time the commission was to accomplish the remedies directed by the court in Isakson, they realized that overages were going to occur. After consultation with the Attorney General's office, the commission decided not to revoke existing permits so as to avoid exceeding the maximums.

Proof

In order to verify the validity of permits issued by the commission and to prove that overages in these two fisheries were due entirely to either administrative error or court rulings would require an inspection of each permit recipient's file. We did not do that, nor did we ask the commission to accomplish that task. We have secured a statement from the commission stating the reasons for the overages (copy attached). You may wish to consider the benefits of a complete audit of the commission's records. If so, you may wish to consult with the staff of the Budget and Audit Committee.

Please let us know if we may be of further assistance.

JW:KV:lmk
Attachments

MEMORANDUM

TO: [

John Williams
Legislative Affairs Agency

DATE:

February 15, 1979

FILE NO:

TELEPHONE NO:

FROM:

J.P.
Steve Pennoyer, Acting Director
Division of Commercial Fisheries

SUBJECT:

1978 Fishing Activity of
Cook Inlet Limited Entry
Permit Holders

It is currently estimated that the Division's Anchorage fish ticket data entry operator will complete the entry and preliminary edit of Cook Inlet fish tickets by April 1, 1979. Software to accomplish a final edit and the required corrections will probably not be finished until late summer, 1979. At that time, 1978 Cook Inlet fish ticket records will be transferred to the State computer system in Juneau. The Commercial Fisheries Entry Commission programming staff can then match these ticket records with their files to determine how many permit holders fished in Cook Inlet in 1978.

While progress on the new fish ticket data entry and editing system, utilizing Department minicomputers in Anchorage, Kodiak, and Juneau, has been slower than we had hoped, the estimated August completion date is much earlier than in previous years. In addition, fish ticket data will be more accurate because it is now subjected to many additional edit criteria.

MEMORANDUM

State of Alaska

TO: John Williams
Legislative Affairs Agency

DATE: March 2, 1979

FILE NO:

TELEPHONE NO:

FROM: John N Garner, Chairman
Robert J. Simon, Commissioner
Commercial Fisheries Entry Commission

SUBJECT:

You have asked that we provide you with a memo explaining why the Commission exceeded the maximum number of entry permits in certain salmon fisheries put under entry limitation in 1975. This memo will address only those fisheries which came under entry limitation for the first time in 1975, but will exclude those fisheries where an excess occurred solely because of the statutory requirement that a permit be issued to any individual who can demonstrate that "significant economic hardship" would be suffered if excluded from the fishery by reason of denial of an entry permit (established by Commission regulation to include individuals who qualified for 20 or more points).

In determining whether an issuance level of less than 20 points was warranted, the Commission took into consideration the total number of applications received, the current point level of each applicant, and the current status of each. Reservations were made for those applicants who were appealing the Commission's decision to the Superior Court, for those who were in administrative hearings, or for those who had a possibility of yet requesting an administrative hearing or seeking judicial review. By subtracting the total number of reservations from the number of available permits to issue, a determination of the point level for issuance and denial could be made. Prior to issuance at a level of less than 20 points, a review of the applications still pending was conducted to ensure that no errors had been made in classifying the individuals, to ensure that all points were credited for which evidence existed in the application files or in state records available to the Commission, and to ensure that all hearing requests had been properly handled. This substantive review was in each case conducted by an individual other than that person who had handled the file originally.

Permits were not reserved for the following types of individuals, who in fact later could have qualified for a permit, because the Commission could not be aware of that possibility at the time the point level was established:

March 2, 1979

- Cases where a new class of individuals were made eligible to apply for a permit by reason of judicial action (e.g., Isakson, extending the right to apply to those who fished for the first time as gear license holders in 1973 or 1974);
- Cases where existing applicants become eligible for points as a result of adjudicatory or judicial decisions on another application (e.g., Hakala, granting crewman participation points to unlicensed minors in certain circumstances);
- Cases where the right to a hearing or judicial review would be revived because of some administrative error in handling the application (e.g., cases where the Notice of Point Classification was inadvertently sent to the wrong address or not sent to an authorized representative);
- Cases where new and substantial evidence was submitted after the right to request a hearing had expired that raised the individual's point classification;
- Cases where the Superior Court waived the Rule 45 appeal period (the most recent of which is Apokedak v. CFEC), thus allowing appeal to the Superior Court after that right appeared to have been exhausted.
- Cases where a late application is accepted to replace a timely application lost in the mails or where the individual failed to apply because of misadvice of the Commission or its agent.

Because each of these types of situations could result in a permit being issued after the point level was lowered and after a determination that no reservation was necessary for the individual, the maximum number of entry permits has been exceeded in certain fisheries even though the point issuance level is less than 20.

It should also be pointed out that in certain instances, the published maximum numbers are not correct. The published maximum numbers represent the Commission's determination of the highest number of units of gear that engaged

in each fishery during any one calendar year from 1969 through 1972. Each determination was based upon the Commission's information at hand when the regulations were adopted in November 1974. Information submitted along with entry permit applications will correct the information that was available to the Commission in late 1974, if individuals establish that they participated as gear license holders contrary to evidence in existing state records. This in turn may affect the maximum number. The following published maximum numbers are known to be in error, and will be corrected once all entry permit applications are finally processed:

Alaska Peninsula-Aleutians Purse Seine
Statewide Power Troll
Prince William Sound Purse Seine
Kodiak Purse Seine
Kodiak Beach Seine

The following fisheries are cases where the Commission believes a review of the published maximum number is necessary in light of the applications received, but where no review has yet been completed:

Bristol Bay drift gill net
Cook Inlet set gill net
Bristol Bay set gill net
Kodiak set gill net
Yakutat set gill net

The set net fisheries in general are cases where the maximum numbers are likely to be adjusted because of the common practice of gear license holders pooling their fish and selling under the name of one gear license holder.

The Commission has not maintained running counts of the basis upon which permits have been issued when the maximum number has been exceeded. Consequently, we cannot at this time indicate the exact number which arose from each possible source that was previously identified.

A hand examination of the approximately 7,500 applications that have resulted in permit issuance should result in a determination of the exact source of the overages that occurred, but that would in turn require a substantial commitment of time and money by the Commission.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

February 23, 1979

OFFICE OF THE COMMISSIONER

SUPPORT BUILDING
JUNEAU, ALASKA 99801

John Williams
Legislative Affairs Agency Pouch V
Juneau, Alaska 99811
Mail Stop 3101

Dear Mr. Williams:

In response to your recent request the attached testimony by Fishery Biologist Gary Sanders is provided for your review and use. The testimony was typed from a tape recording of the December Board of Fisheries meeting proceedings. Regrettably, some portions of the Board members' comments are unintelligible on the recording, although I don't believe they are critical to the discussion.

Also provided is a copy of the 1978 Upper Cook Inlet Salmon Report to the Board of Fisheries referred to in the testimony.

I think Mr. Sanders' statements confirm his confusion on the source of information from which he developed the permit numbers. Mr. Sanders stated that the numbers were taken from fish tickets as they were compiled in the Homer ADF&G office several days before his testimony on December 10, 1978. Computer summaries of fish tickets were not available at that time.

I have contacted the Homer office and they will be forwarding the correct Commercial Fisheries Entry Commission summary printout immediately. I will transmit it to you when it arrives.

Sincerely,


Steven Pennoyer, Acting Director
Division of Commercial Fisheries

Enclosures

Testimony of Gary Sanders, Cook Inlet Area Biologist, before the Board
of Fisheries, Sunday afternoon, December 10, 1978

Sanders: Mr. Chairman, before I start I'd like to point out a couple errors in numbers in my Board Report there. The first one is on page four--the short paragraph just above the heading for king salmon. That paragraph should read "The number of units of gear this year (cross the words 'was close to', cross those three words out, and write 'passed')." "

Szabo: Read the sentence as it should be.

Sanders: The number of units of gear this year was close to the maximum established by the Commercial Fisheries Entry Commission. The three words "was close to" should be crossed out and the word "passed" written above that, the reason being that the next sentence reads "As the season approached the peak fishing time in July the number of units of gear increased to approximately (cross out '545' and write '678') units of drift gill net (and then cross out '670' and write '839') units of set gill net." We just found out that these were the actual figures a couple days ago, so I wanted to point that out. The only other change is on page 5, the next page, under "Sockeye" in the second sentence where I have "This was 231%" that is in error; it should be "248%". With that I'll continue.

Szabo: Okay. I have a question for you. On the number of units of gear, what was the maximum that was established by the Entry Commission.

Sanders: Well, this was confusing me. The maximum established by the Limited Entry was the number that I initially had there, and the number of fish tickets as they have been compiled in our Homer office shows a significant difference, there's an increase in both numbers, and I just wanted the Board Report to reflect the more accurate figures to correct the amount of gear used in Cook Inlet.

Szabo: So there were approximately 130 more units of drift gear and close to 200 more units of set gear.

Sanders: The total difference was 303 units of gear.

Szabo: Yeah. Well, where did all these permits come out of the woodwork? I don't understand.

Sanders: I don't know. This was a real surprise to me.

Szabo: I think everybody realizes there were some interim permits that were kind of held in abeyance. This seems to be kind of an excess over what was anticipated.

Beaton: Well in a lot of areas where they had good runs they did come out with a lot of these interim permits that they hadn't been used because it was a procedural deal—legally they could demand an interim permit until they had hearings. With the Rickey vs. Isakson decision why they just couldn't adjudicate the hearings so obviously the guys had an opening there and I imagine they took advantage of it as they do, but probably—

Szabo: But it seems like Limited Entry Commission isn't doing very well in coming out with the number that they project is going to come out, you know, and I don't know how—you seem to have a high regard for the efficiency of their data system out there, but they always seem to slop over about 25 or 30%.

Beaton: Yes, I have a high regard for their efficiency over there, but I have a low regard for the courts..... (unintelligible)..... I think we're going to have to live with it.....

Szabo: Well, no, I don't mean that there's anything to do about it, but I mean on future fisheries that they anticipate putting a limited entry on, if there's a maximum number of permits, maybe based on their past record, maybe they ought to shoot for about 75% of what they think should be the maximum amount, and they'll probably end up with what they really want after it's all over.

Beaton: Mr. Chairman, I was explaining an illustration of the legislative intent. They've got to do exactly what the legislature tells them to do and they did and then that's what they ended up with and it's possible with each claim or whatever you're going to call it, then the courts corrected what they had to do..... so these are things that you've got to live with.

Szabo: Maybe, Don (Collinsworth), we could have John Garner or somebody drop by tomorrow and we can ask him how precise they think their future results are going to be on other fisheries. Okay, Gary,

Sanders: Mr. Chairman, I didn't mean to psych out the meeting...with these changes right off. On the coho salmon, in 1978 our catch was 221,000. This is just slightly above the average. The average figure is 216,000. The catch breakdown here, again, is similar to the (Testimony continues on other matters.)

FISHERY S03H - SALMON, DRIFT GILL NET, COOK INLET
CPEC ENTRY PERMIT DATA.....

..CPEC VESSEL LICENSE DAT

NAME	SOC	SEC	NO	BIRTH	RES	PERMIT NO	START	STOP	*CXE	ADF&G	ADF&G VESSEL NAME	
WOOD FRANK BOX 4-1156	W	539	28	2925	06	10 24	R S03H62329I		P072478	08907	08907. CRAIG W	A
WOOD KENNETH BOX 614	C	539	30	9393	05	09 36	N S03H60422W	P051878		10196	10196 PORPOISE	2
WOOD NORMAN BOX 169	E	539	32	3022	09	27 37	N S03H61741A			20471	20471 SEA PACER	
WOOD SCOTT 133 CRAPEMYRTLE RD		535	68	0541	02	09 63	R S03H57117X	T071478		14326	14326 BARRACUDA	A
WOODHEAD WAYNE 1541 GARDEN ST	J	469	24	6608	06	21 28	R S03H61793Z			04111	04111 MORNING MIST	A
WOODMAN SONJA BOX 1320	M	530	38	7957	11	18 51	R S03H59237A			10006	10006 SNUG THREE	2
WRIGHT SETH BOX 64	D	538	36	7437	11	08 39	R S03H61272R			05910	05910 MUSTANG	5
YAKUNIN NIKOLAI BOX 8	P	574	28	8319	08	08 55	R S03H62819E			25669	25669 KAVKAZ	5
YAKUNIN VICTOR PC BOX 8		544	56	2503	11	11 44	R S03H57656P	050278	*	32666	32666 MOROZ	
YOUNG THOMAS PORT GRAHAM	T	543	01	7152	11	12 14	R S03H61740I		P061978	05706	05706 LITTLE DIPPER	A
YOUNG WILLIAM 5939 E 30TH AVE	C	561	26	6316	05	16 22	R S03H56457Q			12051	12051 SHALIMAR	A
ZAWISTOWSKI STEVE BOX 114		574	07	8858	08	20 07	R S03H55797K			05712	05712 NORMANDIE	A

FISHERMEN = 0660
PERMITS = 0678

SCOMM

#17:27

A PERFORMANCE REVIEW
OF THE
OFFICE OF THE GOVERNOR
COMMERCIAL FISHERIES ENTRY COMMISSION
(and related aspects of)
THE DEPARTMENT OF FISH AND GAME
AND
THE DEPARTMENT OF PUBLIC SAFETY

May 15, 1979

Governor, State of Alaska

Jay S. Hammond

Commercial Fisheries Entry Commission

Commissioner
Commissioner
Commissioner

Robert J. Simon
John Williams
(Vacant)

Commissioner, Department of
Fish and Game

Ronald O. Skoog

Commissioner, Department of
Public Safety

William R. Nix

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

May 15, 1979

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of title 24 of the
Alaska Statutes, the attached report is submitted for
your review.

A PERFORMANCE REVIEW
OF THE
OFFICE OF THE GOVERNOR
COMMERCIAL FISHERIES ENTRY COMMISSION
(and related aspects of)
THE DEPARTMENT OF FISH AND GAME
AND
THE DEPARTMENT OF PUBLIC SAFETY
May 15, 1979



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Review.	4
Organization and Function.	6
Report Conclusion.	7
Unresolved Questions on Policy and Compliance Issues.	9
Findings and Recommendations	13
Auditor's Comments	28
Supplemental Information:	
Commercial Fisheries Entry Commission Table of Entry Permits, Table A.	31
Composite Average Permit Price for Salmon Fisheries by Year, Table B.	34
Commercial Fisheries Entry Commission Revenues Compared with Expenditures, Table C.	35
Responses:	
Commercial Fisheries Entry Commission	36(a)
Department of Fish and Game.	37(a)
Department of Public Safety.	38(a)
Office of the Governor	39(a)
Legislative Audit's Additional Comments.	40(a)

PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with Title 24 of the Alaska Statutes a performance review of the Commercial Fisheries Entry Commission (CFEC) was requested by the Legislative Budget and Audit Committee. This review was conducted to determine if the Commission has: 1) complied with the Alaska Statutes and legislative intent; 2) accomplished program objectives; and 3) achieved its accomplishments by using the least-cost combination of resources with a minimum of waste.

Scope

Our review consisted of analyzing and evaluating CFEC's operations in the following manner:

1. We reviewed applicable statutes and regulations promulgated by the CFEC;
2. through interviews with the Commissioners and their staff;
3. we made an examination of the original issuance of limited entry permits on a sample basis, and an examination of subsequent permit transfers;
4. we examined other such documents and records of CFEC we considered necessary in the circumstances;
5. through interviews with fishermen and other interested persons;
6. we examined fish tickets and data gathering procedures of the Department of Fish and Game, Division of Commercial Fisheries used by CFEC;
7. we interviewed employees of the Department of Public Safety, Division of Fish and Wildlife Protection, and reviewed pertinent cases; and
8. we interviewed employees of the Department of Law and reviewed pertinent court cases.

Scope Limitations

The scope of this review was limited by the following:

1. We did not examine or evaluate the economic impact of limited entry on the regulated fisheries. First, there has not been sufficient time to

determine the long range effects of limited entry. Second, the fisheries have been affected by many other factors such as: the 200 mile fishing limit, economic allocation regulations through the Board of Fisheries, and mild winters. Therefore, CFEC's effect on the enhancement of the commercial fisheries can only be supported on the supposition as to what might have occurred if limited entry had not been implemented.

2. We did not examine or evaluate the social impact of CFEC programs on rural or native Alaskans who have historically fished. A joint resolution, H C SSCR 22, requests CFEC and the Alaska Legislative Entry Study Committee to review entry into the commercial fisheries in the Upper Yukon, and report their conclusions within the first 10 days of the second session of the Eleventh Legislature.
3. In addition, the Commission has not adequately collected, recorded, and maintained pertinent statistical and economic data on the fisheries. We were therefore hampered in our evaluation of the performance of the Commission.

ORGANIZATION AND FUNCTION

The Alaska Commercial Fisheries Entry Commission was established in 1973 under Alaska Statute 16.43. The Commission consists of three members appointed by the Governor and confirmed by the Legislature. However, there are presently only two members as the third member recently resigned.

The purpose of the Commission is to promote the conservation of Alaska's fishery resource and the economical health of commercial fishing in Alaska.

The function of the Commission is primarily regulatory. It has the authority to:

1. Regulate entry into the commercial fisheries;
2. establish or amend regulations necessary and desirable to carry out the provisions of AS 16.43;
3. issue permits to qualified applicants in accordance with applicable statutes and regulations;
4. revoke permits in accordance with applicable laws; and
5. establish the optimum number of permits for a fishery to assure the economic health of that commercial fishery.

The Commission has also been assigned the responsibility for commercial fishing vessel licensing (ADFG number).

REPORT CONCLUSIONS

Policy Issues

This report contains policy issues raised as a result of our evaluation of the Commercial Fisheries Entry Commission's (CFEC) performance. The final policy decisions affecting these issues are not within the scope of this review but require executive, legislative, or judicial consideration.

Report Conclusions

The stated purpose of CFEC is "to promote the conservation and sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination".

We found that CFEC has placed its major emphasis on the licensing function rather than on the management of the economic health and stability of commercial fishing in Alaska. This is illustrated by the CFEC's endorsement of economic policies established by the Board of Fisheries (see Recommendation No. 11). We believe CFEC should become more involved with the economic management of the commercial fisheries and accordingly have made the following recommendations:

CFEC should coordinate its duties with those of the Department of Fish and Game. This would provide a reduction in the duplication of efforts between the two agencies, and would increase cooperation between conservation management and economic management of the resource (see Recommendation No. 1).

The CFEC should consider organizational and procedural changes which would improve service to the public. We found that CFEC needs to be more accessible to the public. This could be accomplished by staggering staff working hours and operating field offices in cooperation with F&G: we have recommended that an information officer position be added to provide coordination of information needs and to provide increased contact with the public. We have also recommended that the position of the executive director be eliminated (see Recommendation No. 2).

CFEC needs to develop economic data on the fisheries to allow it to effectively manage the commercial fisheries. We recommend economic studies of the fisheries be made by CFEC (see Recommendation No. 3).

The CFEC, Department of Fish and Game (F&G), and Public Safety, Fish and Wildlife Protection (F&WP) need to increase the coordination and cooperation between their agencies to provide increased control over access to the commercial fisheries. We found a number of significant enforcement problems. We do not, however, believe increased enforcement is the only answer. By working together many of the problems discussed could be corrected without a significant increase in operating costs (see Recommendation No. 4).

The CFEC should establish adequate internal controls to ensure proper segregation of duties and physical control over the blank permit stock and permits waiting to be mailed (see Recommendation No. 5).

The CFEC should establish regulations which require a person to show ability to participate in the fishery prior to purchasing a permit. Leasing and loaning of permits is a relatively common practice. CFEC has not taken action to prevent this practice (see Recommendation No. 6).

The CFEC should establish a standard reporting format in its annual reports for statistical data which allows historical comparison of the economic health of the commercial fisheries (see Recommendation No. 7).

The Board of Fisheries should refrain from establishing economic policy, and from allocating resources between commercial fishing gear type or administrative areas for economic purposes. The Board of Fisheries is responsible for regulating the resource for conservation purposes, and the CFEC is responsible for ensuring the economic health of the commercial fishery (see Recommendation No. 10 and 11).

We have recommended legislative consideration of a statute, change requiring the mandatory revocation of an individuals permit if that individual is convicted of three violations of F&G laws. Presently, there is an economic incentive to violate the law because of the leniency of fines and judgments (see Recommendation No. 4).