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# MEMORANDUM

# State of Alaska

TO: The Honorable Nels Anderson  
Majority Leader  
House of Representatives

DATE: February 25, 1980

FILE NO:

TELEPHONE NO:

FROM: The Commercial Fisheries Entry  
Commission

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

## SUMMARY

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

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

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

Of the non-filers described above for the original 19 fisheries, 44<sup>1</sup> had pre-printed point totals at or above the current issuance levels for entry permits. In the AYK fisheries, 28 non-filers had pre-printed points at or above the issuance level.

The possible impacts of a new application period on selected fisheries is reflected by an analysis of the known non-filers in the Bristol Bay drift gill net and Kuskokwim gill net fisheries. We have estimated the probability of successfully verifying sufficient points to award a permit for all known non-filers with pre-printed histories. That analysis indicated a probability of 55<sup>1</sup> new permits being issued in the Bristol Bay drift fishery and 50<sup>2</sup> in the Kuskokwim fishery.

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

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

February 25, 1980

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

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

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

1. permits be issued only to those who can demonstrate they would suffer significant economic hardship by exclusion from the fishery;
- ✓ 2. the new class of permits would be non-transferable;
3. evaluation of the new applications be stayed until <sup>the 200,000 MY</sup> the original application process has been completed; F&I
- No 4. the new permits would be usable only in years when the predicted returns are higher than the average for the particular fisheries;
- ✓ 5. <sup>prohibit</sup> prohibit the award of multiple permits to the same applicant;
6. provide for permits awarded via point-pooling be non-transferable;
7. applicants under the new application period would not be eligible for interim-use permits pending the outcome of point verification;
8. provide that estates not be eligible to apply; and
9. provide that each provision of the new legislation be non-severable from the rest.

HISTORY

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

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

Isakson

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

Non-Filers

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

Original 19

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

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

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

Bristol Bay Drift Gill Net

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

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

AYK

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

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

Kuskokwim Gill Net

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

The Honorable  
Nels Anderson

(7)

February 25, 1980

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

## SUMMARY OF LATE APPLICATION DATA BY FISHERY

(Original Nineteen Fisheries)

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

Fishery	Eligible <sup>1</sup>	Eligible <sup>2</sup>	Received Late <sup>3</sup>		Total <sup>4</sup>	Automatic Issue <sup>5</sup>		Total <sup>6</sup>
	Requested	No Request	Elig.	Inelig.		Resident	Nonresident	
Chignik Purse Seine	1	5	1	8	15			0
Peninsula-Aleutian Purse Seine	7	27	0	8	42			0
Peninsula-Aleutian Drift Net	5	41	1	6	53			0
Peninsula-Aleutian Set Net	6	17	0	7	30			0
Bristol Bay Drift Net	151	602	60	65	878	9	0	9
Bristol Bay Set Net	56	317	27	55	454	263	105	369
								TOTAL: 444

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

SUMMARY OF LATE APPLICATION DATA BY FISHERY

(Arctic-Yukon-Kuskokwim Fisheries)

<u>Fishery</u>	<u>Eligible<sup>1</sup> Applications Not Submitted</u>	<u>Eligible<sup>2</sup> Applications Submitted Late</u>	<u>Ineligible<sup>3</sup> Applications Submitted Late</u>	<u>Total<sup>4</sup></u>	<u>Automatic<sup>5</sup> Issue</u>
Upper Yukon Gill Net	18	1	6	25	0
Upper Yukon Fishwheel	20	5	14	39	0
Kuskokwim Gill Net	178	8	8	194	12
Kotzebue Gill Net	83	3	1	87	8
Lower Yukon Gill Net	191	9	7	207	6
Norton Sound Gill Net	84	2	5	91	2

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

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

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

<sup>4</sup> Total of the preceding three columns.

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

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

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

Pre-printed above issuance level: 9

TOTAL: ~~555~~  
560

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

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

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

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

<u>Point<sup>1</sup> Level</u>	<u>Number<sup>2</sup> Awarded</u>	<u>Number<sup>3</sup> Denied</u>	<u>Number<sup>4</sup> Pending</u>	<u>Total<sup>5</sup> Received</u>	<u>Percent<sup>6</sup> Awarded</u>	<u>Late and<sup>7</sup> Non-Applications</u>	<u>Projected<sup>8</sup> Awards</u>
7 <sup>4</sup>	6	0	1	7	86	2	1.7
6	31	6	4	41	76	21	16.0
5	86	27	10	123	70	24	16.8
4	5	5	0	10	50	7	3.5
3	15	73	30	118	13	69	9.0
2	2	21	0	23	9	26	2.3
1	1	38	0	39	3	25	.8
							<u>50.1</u>
						Pre-printed above issuance level:	<u>12</u>
						TOTAL:	62

- <sup>1</sup> Points were pre-printed based upon fishing data from 1970 through 1975. Unlike the original nineteen fisheries, AYK fisheries points were pre-printed for all of the qualifying years.
- <sup>2</sup> Actual number of applications awarded entry permits.
- <sup>3</sup> Actual number of applications denied entry permits. This figure includes those applications still in the hearing and adjudication processes and those applications that were denied due to late submittal.
- <sup>4</sup> Number of applications pending a final determination of the issuance point level in this fishery. At present, all applications with 6 or fewer points are denied, all applications with 8 or more points are awarded, and applications with 7 points are issued interim-use permits pending final determination of their eligibility for an entry permit.
- <sup>5</sup> Total number of applications received by the Commission in each point category below the present issuance level.

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

EQUITY

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

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

Biological Impact

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

Economic Impact

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

Availability of Evidence

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

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

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

#### Low Issuance Levels

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

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

#### Legal Issues

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

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

#### Expense

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

### 600 Applications Still Pending

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

### Late Application Handling

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

Unequal Opportunity

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

One-Time-Only

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

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

The Honorable  
Nels Anderson

(21)

February 25, 1980

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

FURTHER CONSIDERATION

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

Non-Transferrable Permits

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

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

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

Different Issuance Standards

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

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

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

New Applications Considered After Final Classification of  
Original Applications

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

Special Use Standards

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

Prohibition of Awards of Multiple Permits

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

Point Pooling

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

Ineligible for Interim-Use permits Pending Final Evaluation

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

February 25, 1980

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

#### Estates

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

#### Non-Severability

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

#### Buy-Back

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

The Honorable  
Nels Anderson

(26)

February 25, 1980

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

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