

STATE OF ALASKA

Commercial Fisheries Entry Commission

SEAN PARNELL, GOVERNOR

8800 Glacier Hwy., #109
P.O. Box 110302
Juneau, AK 99811-0302

(907) 789-6150 Licensing Calls
(907) 789-6160 Other Business
(907) 789-6170 Fax


INTERNET: www.cfec.state.ak.us

MEMORANDUM

To: Cleo Brylinsky
Fishery Biologist III
Alaska Department of Fish and Game
The Public

Date: January 28, 2010

Phone: (907) 790-6944 Voice
(907) 790-7044 Fax

From:  Bruce Twomley, Commissioner
Frank Homan, Chairman
Commercial Fisheries Entry
Commission

Subject: Status of the Northern Southeast
Inside Sablefish Longline Fishery

I. Summary status of the fishery.

The current status of issued permits, pending applications (subject to final Commission decisions at point levels not yet issued or denied), and applications on appeal before Commission or the courts, is as follows:

Northern Southeast Inside Sablefish Longline Fishery		
	As of This Report	As of Our Last Report ¹
Permanent Permits Issued	71	52
Applications		
Pending (Classified at 63-64 points)	3	20
Before the Commission	5	19
In Court (Active)	5	11 ²
Settled Cases Dismissed	3	
Possible IUPs	16	45
Authorized Participants	87	103 (2007)

¹ We issued our last report on January 28, 2008.

² This number reflects cases filed as of and after our last report.

The 16 possible interim-use permits include 3 court appellants who have settled their cases with our Attorney General by agreeing to accept final denials and to dismiss their court appeals in return for issuance of interim-use permits for a limited time that approximates the time their appeals would have taken to litigate. One has his last interim-use permit in 2010, and two have their last in 2011. These settlements allow the State to immediately achieve the certainty of a final denial and to apply our limited resources to the remaining applications.

One of the court appellants has fully presented his case to the Alaska Supreme Court, where an opinion is circulating, and we expect a decision very soon.

We have included in the five cases before the Commission an applicant denied by a recent Commission decision. This decision will become a final determination unless the applicant requests reconsideration or appeals to court by Friday, January 29, 2010.

II. Discussion

Recently, the Commission lowered the issuance level to 65 points and issued permits to the 12 applicants at that point level. Our Chief Hearing Officer Frank Glass by analysis demonstrated that, given the reduced number of applications under consideration, the Commission would issue permits at 65 points in any event, and, therefore, we were enabled to issue these permits.³

Our statutes direct the Commission to exceed the maximum number (73 in this fishery) by up to 10 permits, whenever doing so would avoid a lottery at the lowest qualifying point level. Although extremely unlikely under Mr. Glass' analysis, if all five applicants before the Commission and all five appellants in court were to succeed in reversing their denials, the maximum number would be exceeded by only eight permits.

³ Mr. Glass' January 27, 2010 memorandum explains why the permit issuance level was necessarily lowered from 66 to 65 points and is available upon request. Mr. Glass issues a similar memorandum explaining each adjustment to the issuance or denial point level in every limited fishery.

III. Conclusion

Barring interruptions,⁴ the commissioners expect to issue final decisions on our five remaining cases before the end of this calendar year.

⁴ This qualification must accompany every work commitment we make, and interruptions often come from the legislature and the courts. One of the primary incentives for the settlements we have entered is that they immediately achieve the certainty of a final denial, and they free resources of the Attorney General and the Commission to apply to the remaining cases. In any event, since our last report, we suffered a major interruption in the form of the *Carlson* case, which is approaching a final judgment that could well cost the state in excess of \$70 million.