

CHUITNA CITIZENS COALITION

VIA US MAIL AND EMAIL
(Senator.Kevin.Meyer@akleg.gov)

April 4, 2013

Senator Kevin Meyer
Co-Chair Senate Finance Committee
State Capitol Room 518
Juneau AK, 99801

RE: HB 77

Dear Senator Meyer:

It is with great interest that we follow the discussion of HB 77 in the Senate Finance Committee. We are concerned with how passage of this bill as written would deny the public's right to secure in-stream flow (ISF) reservations which ensure salmon have enough water in their streams to survive. The bill also would strip away the ISF reservation applications we filed years ago.

Our members are residents, landowners, sport and commercial fishermen, who live, work and recreate in the Chuitna Watershed on the west side of Northern Cook Inlet. I've owned property in Beluga for nearly 20 years, that's where my wife and I plan to retire. When I first moved to Alaska I commercial fished off K Beach Road in Cook Inlet where my family has fished for decades.

Because the Chuitna and the salmon it supports are so important to local residents, the Chuitna Citizens filed for an in-stream flow reservation for Middle Creek in 2009. This common sense public water right is designed to assure sufficient water would always be maintained in a stream for the protection of wild salmon stocks. Middle Creek is one of the primary tributaries of the Chuitna and is important king and coho spawning and rearing habitat.

The Alaska Department of Natural Resources (DNR) has thus far failed to adjudicate our ISF

reservation application and now points the finger at us saying we are the problem. That we are somehow hurting Alaska, because we care enough about our local salmon stream to have gone to great personal expense to assure sufficient water for salmon migration, spawning and rearing. DNR is putting the rights of those who want to take water out of salmon streams, including outside interests, ahead of local Alaskans who are attempting to keep enough water in streams for the health of current and future salmon runs.

Commissioner Sullivan was not accurate when he said our lawsuit will force full adjudication of ISF applications before any TWUP can be issued. The Alaska Superior Court decision referenced by Senator Hoffman only requires that DNR consider pending water rights applicants when issuing Temporary Water Use Permits (TWUPS). Until the Court's ruling DNR's legal position was that it could ignore pending applicants completely when it awarded any amount of water out of a waterbody under a TWUP. Even if it took water that somebody else has applied for a decade before. The Court said DNR's regulations require that it consider all appropriators of record, including applicants, when it issues TWUPs.

DNR has not answered any questions about why it doesn't work on eliminating the backlog of in-stream flow requests. The 3-5 years of data isn't the problem, DNR hasn't devoted sufficient resources to the program to process the pending applications. Now that CCC is asking the Court to require DNR do its job, DNR is saying CCC is the problem. This morning the Commissioner basically said that people seeking to protect fish habitat are the ones blocking Alaskan's access to water. DNR made it clear, if you want to take water out of the stream, this bill doesn't impact you. If you want to keep water in the stream for fish, you are an obstructionist who should not have the right to directly petition the agency.

If HB 77 is passed in its current form citizens will have no avenue to require DNR to adjudicate or even process an ISF, it becomes unenforceable. Should DNR refuse to act, as they have since August of 2009 with the Chuitna Citizens Coalition ISF application, individuals and citizens groups will have no recourse, the citizens' rights will have been taken away.

Responding to Senator Hoffman, Wyn Menefee, DNR Chief of Field Operations, Division Mine, Land, and Water said "There are protections for salmon habitat." The most basic protection for salmon is assuring they have enough water to migrate, spawn and rear. If they don't have enough water nothing else matters, this is the essence of the ISF reservation.

With my long history in the Chuitna watershed I understand and appreciate the value the Chuitna holds for residents and visitors alike. The Chuitna is the lifeblood of the local residents. Salmon is a valued resource in both Beluga and the neighboring Village of Tyonek. The highest subsistence resource harvested in the area for both communities is wild salmon. In Tyonek, salmon is 70% of their average annual subsistence harvest.

It should also be noted that in 1996, Alaska Department of Fish & Game biologists applied for an in-stream flow reservation for the main stem of the Chuitna to protect the wild salmon run, but DNR has yet to process the ADF&G application.

In-stream flow reservations are about protecting future salmon runs. Our in-stream flow reservation application is to assure there is water left in the stream for wild Alaska salmon runs; we're not taking water out of the stream.

It's a reservation for our kids and grandkids. It's a reservation for sport fishermen. It's a reservation for the commercial fishing industry, the State's largest private employer. It's a reservation for every parent who wants to teach their child how to catch a salmon. It's a reservation for every Alaskan who wants to put a salmon on the dinner table and a few more in the freezer.

It's a reservation to protect the Wild Alaska Salmon brand as one of the best managed fisheries in the world.

The Alaska Seafood Marketing Institute proudly proclaims: "Alaska sets the standard for precautionary resource management." Nothing could be a better resource management target then assuring our streams have enough water for wild salmon spawning, rearing and migration.

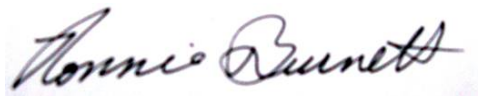
In-stream flow reservations are about the legacy we leave behind.

As you deliberate on the in-stream flow component (Section 40) of House HB 77, please note that a 2011 Alaska Department of Fish and Game report on the importance of in-stream flows, recommends, among other things: "Legislation should be enacted or regulations established that will guarantee a base level of in-stream flow protection for all fish bearing waters."

Requiring citizens to convince ADF&G or DNR to take on their petition, when the agencies already can't adjudicate the existing applications is not a solution. And people seeking to protect fish habitat is not the problem.

I encourage you to protect the rights of Alaska citizens to secure in-stream flow reservations to guarantee salmon have enough water in streams to survive, or assure a base level of in-stream flow protection for all fish bearing waters for future generations.

Sincerely,

A handwritten signature in cursive script, reading "Ronnie Burnett". The signature is written in dark ink on a light-colored background.

Ron Burnett, Board Member
Chuitna Citizen Coalition

cc: (VIA EMAIL ONLY)

Senator Pete Kelly, Senator.Pete.Kelly@akleg.gov

Senator Anna Fairclough, Senator.Anna.Fairclough@akleg.gov

Senator Click Bishop, Senator.Click.Bishop@akleg.gov

Senator Mike Dunleavy, Senator.Mike.Dunleavy@akleg.gov

Senator Lyman Hoffman, Senator.Lyman.Hoffman@akleg.gov

Senator Donald Olson, Senator.Donny.Olson@akleg.gov