



April 11, 2018

Representative Louise Stutes  
Alaska State Capitol, #406  
Juneau, Alaska 99801

Dear Chair Stutes and members of the House Fisheries Committee,

HB 199 version I and the Explanation of Changes Version N to I still fail to provide any rational reason for the State to adopt costly changes to Alaska's fish habitat permitting regulations. In Southeast Alaska for instance, the salmon populations have more than doubled since Statehood despite decades of timber, mining and other development. The State Department of Fish and Game records indicate that even salmon escapements in the Staney Creek and Harris River watersheds on Prince of Wales Island are much higher now than before Statehood, and these are two of the most heavily logged watershed in Alaska. Further, most of the harvesting in these two watersheds was done prior to 1990, at a time when the stream protection measures were less stringent than today.

Granted, the latest version of HB 199 has eliminated the anadromous waters presumption and the site-specific analysis requirement to determine anadromy. However, the cost of implementing the proposed new regulations are not justified nor are the negative impacts on other industries and development projects in the State. Is this legislation intended to elevate all fish resources above any other resources in the State? Is any thought given to a cost-benefit analysis or an analysis of the opportunity cost of not preventing or limiting future development projects?

Here are some more specific concerns:

1. Sec 16.05.871. The addition of wetlands to the list of waters that "contribute directly to spawning, rearing, migration, or overwintering of anadromous fish" makes this version of HB

199 more expansive than the original version, which was already unnecessarily burdensome.

The issue of permitting activities in wetlands generally falls to the US Army Corps of Engineers. The State already has opportunity to participate in the Corps permit process and there is no need for a costly, redundant State process.

2. Sec 16.05.877 (a). The requirement to consider whether a development project might impact not only anadromous fish habitat, but also individual “anadromous fish” is an example of regulating minutia rather than addressing costs and benefits of a proposed activity. How is any regulator capable of making this kind of finding, particularly given that anadromous fish populations in every stream vary widely from year to year?
3. Sec 16.05.877 (a) (7). The requirement to consider the potential impacts to “the stability of a river, lake, stream, or wetland bank or bed” is an overly broad expansion of the concern for stream habitat protection. Stream banks, gravel bars, etc. are dynamic in nature and changes in these features are common, ongoing and often beneficial. Development projects that cause minor or short-term impacts to these features do not necessarily threaten stream productivity. For instance, modifying a streambank in order to install a bridge might result in impacts to an existing gravel bed, but these gravel beds are impacted constantly through natural processes; they are ephemeral features of the streams. These impacts can be addressed by the “Commissioner” without elevating the importance of the features by noting them individually in regulation.
4. Sec 16.05.887 and 16.05.889. These sections require mitigation and bonding, but there is no way to analyze the economic impact of the mitigation or bonding on future projects. Further, these sections enable antidevelopment individuals and groups to add costs and delay to projects through a reconsideration process.
5. Section Sec 16.05.894-901. These new provisions creating department enforcement authority and enabling the department employees to issue criminal citations for subjective decisions about perceived violations is unnecessary, costly to implement and will likely lead to abuse by zealous individuals within the department.

In summary, HB 199 will increase the cost of Alaska's government without any demonstrated need and at the same time, will almost certainly lead to delaying or preventing responsible resource development. Increasing the cost of government while decreasing potential revenue sources is a very bad idea and we recommend that you drop this legislative proposal and instead rely on the existing regulations which have worked successfully for many years.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, reading "Owen Graham", written in dark ink on a light-colored background.

Owen Graham  
Executive Director  
Alaska Forest Association  
111 Stedman Suite 200  
Ketchikan, AK 99901

Phone 907-225-6114  
Email [oigraham@aol.com](mailto:oigraham@aol.com)