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Alaska House of Representatives  
Resources Committee  
Representative Eric Feige, Co-Chair  
State Capitol Room 126  
Juneau, AK 99811

Re: HB 186, An Act relating to the authority of the commissioner of fish and game  
with regard to the importation or relocation of wood bison in the state.

Hon. Rep. Feige and Committee Members:

I submit this written testimony in opposition to HB 186 as an individual on my own behalf. I am an attorney with experience working to defend against environmental laws suits brought by groups seeking to stop development of public and private lands. I am a mining exploration geologist who, in years past, has worked in almost every part of Alaska. In addition to my knowledge and interest in the law and resource development, I have followed the wood bison issue for some years.

I am moved to submit this letter after reading a letter opposing wood bison reintroduction sent to the governor by the Alaska Miners Association. The AMA and other opponents of the reintroduction base their argument on an imagined worst-case scenario where the federal government and NGOs use Endangered Species Act status of the wood bison as a tool to block development. The Department of Fish and Game and the Department of Law have spent considerable time and effort attempting to rationally evaluate the application of the ESA and have conditioned the release on an ESA section 10(j) non-essential experimental population exemption. Despite this work, their analysis has been largely ignored or waived aside. In the case of some opponents, it has been wholly ignored to the point of making me wonder if they even know of it.

I submit that as a state we cannot base our decision on the sort of fear that is driving this issue. The ESA is a seriously flawed statute that contains countless avenues for third party litigation and bureaucratic interference. Its application by both the government and environmental groups has been opportunistic in the extreme. That is not going to go away. The ESA is a reality, and until we can change it, we just have to live with it. Because there are so many opportunities for ESA litigation, stopping wood bison introduction doesn't appreciably diminish the harmful effect of the ESA. Stopping the wood bison only hurts Alaska—and rural Alaska in particular.

Rural Alaska faces huge problems. It can't go without notice that people are leaving. Outside the cities, Alaska is being depopulated. People find it harder and harder to live in the bush. The state needs to help where it can. One of the ways to do this is to create resources that make it easier to live in the bush. Introduction of a Wood bison resource is something that can be done now.

So, do we give up this here and now resource development opportunity because we fear that there will be some unknown attack on some unknown project to develop some unknown other resource at some unknown time in the future? This is nonsense.

The section 10(j) exemption appears to be workable on its face. While there has been litigation of some aspects of it in Wyoming, the efficacy of the rule has not been challenged there by any party. There is simply no reason to believe that it will not work here. And there is not any basis to believe that there would even be any increased litigation risk on the straightforward case that the wood bison introduction presents.

At base, this matter is the sort of technical and legal issue that is best left to experts in agencies accountable to the executive branch. A legislative forum for expression of fears does nothing to help evaluate legal risk under the ESA. It only confuses the matter while preventing Alaska from moving ahead with a worthwhile project.

I urge you to reject this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Twelker", with a stylized, cursive script.

Eric Twelker