



April 10, 2017

Representative Stutes
State Capital Room 102
Juneau AK, 99801
representative.louise.stutes@akleg.gov

Representative Josephson
State Capital Room 102
Juneau AK, 99801
representative.andy.josephson@akleg.gov

RE: Committee Meeting on H.B. 199, Fish/Wildlife Habitat Protection Permits

Dear Representative Stutes, Representative Josephson, and Committee Members,

Please accept this letter on behalf of Trout Unlimited (TU) in support of strengthening protections for our fish and game and important water resources. TU is grateful for the Committee's attention to these important issues and for its work to strengthen our anadromous fish habitat permit system.

TU is the nation's largest sportsman's organization dedicated to coldwater conservation with more than 1,000 members in Alaska. TU members own and operate businesses—including sport-fishing lodges, air taxi services and commercial fishing operations—that depend on clean water, natural flows and healthy wild salmon and resident fish populations. In addition to our members in more remote parts of the state, TU has active chapters in Fairbanks, Anchorage and the Mat-Su, on the Kenai Peninsula, and in Southeast Alaska.

Alaskans from all walks of life overwhelmingly recognize the great importance of our wild salmon fisheries, the habitat that supports these fisheries, and the unique opportunities these fish, wildlife and water resources afford us. Whether referring to sockeye salmon in Bristol Bay, rainbow trout in the Kenai, Southeast Alaska's numerous and varied runs, or any of the many other important salmon, steelhead or trout populations throughout the state, our fisheries are central to Alaska's identity and to the well-being of its residents. Our fisheries provide a robust economic foundation for many Alaska communities, provide once-in-a-lifetime recreational opportunities for residents and visitors, are an important food source for many, and have been an irreplaceable part of Alaska Native culture for millennia.

Existing statutory and regulatory protections for fish, wildlife and habitat resources are inadequate. AS 16.05.871, which forms the basis for our anadromous fish habitat permit scheme, is overly vague and fails to provide meaningful direction to ensure protection of our valuable fish and game resources. In particular, our existing fish habitat scheme falls short in four main ways: (1) it establishes an anadromous waters catalog that cannot keep up with newly available information and has been interpreted so narrowly as to exclude many important waters, such as headwaters, wetlands and even some waters actually inhabited by salmon or resident fish; (2) it lacks meaningful and

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predictable standards for determining whether a project properly protects important fish and game resources and habitat; (3) it lacks the opportunity for public notice or participation; and (4) it fails to provide adequate guidance for how and when appropriate mitigation measures can be employed.

We know from observing how fisheries and fish and wildlife habitat was managed in the Pacific Northwest that it is essential to care for our habitat if we want to ensure robust populations of wild salmon for future generations. It is much easier and less expensive to avoid deleterious impacts to our salmon habitat than to allow destructive activities that rely on expensive, long-term measures to make up for habitat loss or degradation. TU is excited that this committee is taking on these complex issues and recognizes the irreplaceable value of our fisheries and fish and wildlife habitat.

TU enthusiastically supports the Committee's efforts to achieve more robust protections for important fish, wildlife and water resources through H.B. 199. As is the case with any complex piece of legislation, we also have two specific suggestions that we hope can help strengthen H.B. 199 and help it better work for the many Alaskans that rely on our fisheries and fish habitat:

First, TU encourages the Committee to strengthen the protections by clarifying what waters are, and by implication are not, important anadromous fish habitat. Under § 2, H.B. 199 creates a presumption that any naturally occurring permanent or seasonal surface water body is important anadromous fish habitat and, therefore, subject to the requirements to obtain a permit. While creating this presumption goes a long ways toward fixing one of the main inadequacies with the current anadromous waters catalog, H.B. 199 then leaves it up to the discretion of the Commissioner to exempt waters it determines are not important without meaningful direction. Additionally, H.B. 199 doesn't require public notice or the opportunity for review of site-specific determinations. Together, this means there is little to no meaningful oversight to ensure critical water bodies, or portions of them, are not improperly excluded from the protections afforded by this legislation.

Second, TU encourages the Committee to consider ways to reduce the burden of permitting on individuals undertaking activities with negligible or no impact on anadromous fish habitat. While we appreciate and support the inclusion of separate requirements for minor activities and for the inclusion of provisions allowing general permits, we encourage the Committee to include an additional provision to exclude activities with negligible or no impact. As currently written, § 3 (16.05.875(a)) requires a permit for any "activity that may use . . . important anadromous fish habitat." This requirement could be interpreted to be incredibly broad and encompass all manner of relatively benign uses that have little to no effect on important anadromous fish habitat, including sport fishing, launching a boat, etc. To alleviate this potential result, TU suggests including a short provision narrowly exempting activities that have no or negligible adverse effect on important anadromous fish habitat. The specific activities exempted could be identified within the legislation or delegated to the Commissioner to identify through regulation.

Alaska is one of the last places on the earth, and the last place in the United States, where widespread untamed rivers still support wild salmon runs at or near historic population levels. These salmon runs exist because our rivers, streams, wetlands, lakes and ponds remain largely in-tact. If we care for these areas and protect them from the impacts of short-sighted projects that benefit the few at the expense of many, our fisheries will continue to support Alaska's economy, communities and cultures indefinitely into the future.

TU commends Representatives Stutes and Josephson for their leadership in fisheries conservation, and for taking on the weighty task of revamping our fish habitat permit scheme to safeguard our important natural resources against the risk of degradation and adverse impacts. We would welcome the opportunity to assist in this process and please do not hesitate to contact us if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin Williams".

Austin Williams
Alaska Director of Law and Policy
awilliams@tu.org

A handwritten signature in blue ink, appearing to read "Kevin Maier".

Kevin Maier, President
Southeast Alaska Chapter of Trout Unlimited

A handwritten signature in black ink, appearing to read "Karl Schultz".

Karl Schultz, President
Southcentral Alaska Chapter of Trout Unlimited