MEMORANDUM STATE OF ALASKA

92-722

DEPARTMENT OF NATURAL RESOURCES DIVISION OF FORESTRY

ALASKA DEPT. OF FISH & GAME
MAR 09 1992
REGION II HABITAT DIVISION

TO: Phil Mooney
Habitat Biologist
DF&G, Sitka

DATE: March 5, 1992

FILE NO.: SE 557

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FROM: Mike Peacock
Juneau Area Forester
DOF, Juneau

SUBJECT: Nominations to Anadromous Catalog for Icy Bay

Thank you for forwarding your nominations to An Atlas to the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fish.

I believe the majority of the streams on this list are incidental habitat especially those that are the ditch lines of the Yakataga Road. Section 16.05.870(a) Protection of Fish and Game states:

> "The commissioner shall, in accordance with the Administrative Procedure Act (AS 44.62), specify the various rivers, lakes, and streams or parts of them that are important for the spawning, rearing or migration of anadromous fish."

The nomination of ditch lines and other minor streams comprising incidental habitat exceed the intent of section .870(a). DF&G's interpretation of this section can be construed to be too broad exceeding agency discretion.

In the past DF&G has identified ditch lines for inclusion in the catalog such as those in Yakutat. These ditch lines are different from those nominated at Icy Bay. The Yakutat ditches are deep and broad containing numerous spawning fish. The ditch lines nominated at Icy Bay are shallow and narrow with few fry and no spawning fish.

It appears that the list is an effort to "black map" habitat along the Yakataga Road. The inclusion of these ditch lines in the catalog could be construed as agency harassment of the operations at Icy Bay. Their inclusion will adversely impact or prevent normal road maintenance such as grading and shaping of the Yakataga road along these areas.

In looking at other areas such as Yakutat, there appears to be inconsistencies in the level of mapping of fish habitat along the Yakataga Road. It appears that the level of mapping of fish habitat is more focused on the Yakataga Road than areas around

Yakutat. As mentioned previously, DF&G has discretion on the level of mapping of fish habit and defining "important" in the statute. It appears that the level of mapping and definition of "important" can also have regional meaning as well as to meet agency agendas. Please send your department's guidelines that define important and the criteria used for the nominations of fish streams to the catalog.

Another item to consider is that mapping accuracy cannot be assured with these ditch line streams. How can an operator plan to avoid possible Title 16 violations if streams are not accurately located or readily identifiable?

We request the following ditch drainage at Milepost 9.25, 9.6, 11.95, 15.18, and Felton Creek **not** be included in the catalog. We also request that cataloging ditch lines that flow into anadromous streams at Milepost 6.8, 10.55, 11.6 not be included in future nominations.

The following are specific comments on the proposed streams.

Milepost 1.1

There is a 60 inch cmp at this location. I have seen adults spawning above the road.

Milepost 3.75

This is Watson Creek, it is already in the current catalog. What is the change?

Milepost 4.81

This is Camp Creek. Adult coho are seen above the road every year. Can this stream be accurately mapped?

Milepost 6.05

There is a 48 inch cmp at this location. Accurate mapping would be my biggest concern followed by possible timing restrictions on maintenance requirements. This stream originates north of the road and may be a fork of Priest River.

Milepost 6.8

During August 13 and 14, 1988 Dave Hardy was only able to find fish <u>below</u> the road. There are two culverts at this location, a 22 inch cross drain (55 gallon barrels welded together) and a 24 inch cmp. Accurate mapping, impacts on road use, and extension of habitat above the road without field documentation are a concern.

Habitat should end north of the road. Replacement of these cross drains would most likely provide additional habitat above the road resulting in the road being surrounded by fish habitat.

Milepost 9.25

At the time of the 1988 survey, Dave Hardy was unable to document the presence of fish at this location. If he found fish last year, I would suspect the abnormally high water level in the Big River - Little River swamp due to record rainfall is the cause. I remember the culvert being somewhat perched which would prevent fry access during normal water levels. The important habitat starts ten feet below the road where the culvert drains into the swamp.

This is an example of incidental habitat since during a normal rain year fry would not be able to access the ditch.

Milepost 9.6

There is a 24 inch culvert at this location. Fry pass through the culvert and inhabit limited ditchline waters above the road.

Again, how accurately can DF&G map such occurrences? Is it incidental or important to anadromous fish?

Milepost 9.8

This is Little Sandy. There is a 48 inch cmp at this crossing.
Since I've never been above the road, nor has DF&G to my knowledge, how accurate can mapping be?

Milepost 10.55

There is a 30 inch cmp at this crossing. There is minor water flow from a swamp above the road into a swamp below the road. I am concerned about how accurate the system can be mapped given the short reach of ditchline use above the road. Again, this habitat in incidental.

Milepost 10.85

There is a 18 inch cmp here that passes fish. The creek originates just a short distance above the road when it leaves Lydick creek. The creek is more of a moving swamp above the road than a creek. Accuracy of mapping and relative habitat importance are a concern.

Milepost 11.4

There is a log culvert at this location. Adult fish do spawn above the road within sight distance.

Milepost 11.6

It will be very difficult to map this accurately. During the 1950's, the oil company doing exploration built this road. During construction they somehow created a pond

above the road which is currently full of dead snags. The problem with nomination is that the known habitat extends to approximately Milepost 12.1 in the ditch above the road. The pond is only 100 feet wide at its widest point which represents an array of mapping problems.

This system drains into the Little River swamp. I would be uncomfortable calling it a tributary of Lydick Creek.

Milepost 11.95

There is a 24 inch culvert at this location. There are springs draining off the hill above the road at this point. The water here is approximately one foot wide above the road. This is a ditch, not natural habitat and is incidental.

Milepost 14.05

This system supports coho salmon. How far up the habitat extends is a concern.

Milepost 15.18

This is another example of creating habitat through road maintenance. During 1986 or 1987, the operator dug out the end of the culvert to increase flow through the culvert. Fry evidently moved in soon after. Fry may use waters extending 20 feet on either side of the culvert.

This culvert drains the ditch into cataloged stream #191-20-13400 which is approximately 50 feet south of the road.

Lawrence Creek

DF&G has finally agreed to remove this stream from the catalog several years after our initial request. Rick Reed stated it was not anadromous after his pre-sale field work in 1983. Several years later it suddenly appeared in the catalog without anybody from DF&G establishing the presence of fish. Dave Hardy dip netted and trapped this creek in 1988 without documenting the presence of anadromous fish. It is obvious that once a stream is in the catalog, rightly or wrongly, it takes years to remove it.

Felton Creek

In 1988, Sullivan Inc. received three NOV's for operations in and around Felton Creek. Dave Hardy walked the creek out to the beach that season and found a barrier falls that prevent anadromous fish from accessing the creek for more than 200 feet in from the beach. This was after the third NOV.

That same year I trapped Felton Creek. All I was able to trap were stunted, resident Dolly Varden approximately two inches long. The same barrier falls that prevent salmon from spawning in the upper reaches also prevent the Dolly Varden from migrating out to sea or returning to spawn (definition of anadromous).

I would argue that this stream, except for that portion below the barrier falls, should be removed from the catalog as it is not anadromous.

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