



TESTIMONY PRESENTED TO HOUSE COMMITTEE
ON NATURAL RESOURCES, FISH AND WILDLIFE
REGARDING H. 108

February 23, 2012

Native Fish Coalition supports H. 108. The bill will clarify in statute and regulation the protection of Vermont's wetlands, assuring wetlands are treated on par with rivers and streams, lakes and ponds. H. 108 improves clarity in the arcane 401 permit process. It will help project proponents, permit administrators and those who participate in the review process by making rules more clear.

By way of background, Native Fish Coalition is a non-profit organization that originated in Maine in 2017. Its mission is to protect, preserve and restore native fish populations. The native fish mission has proven popular in a short time. The coalition now has six chapters in the Northeast plus one in Alabama.

The coalition's focal species in Vermont is the state's official cold-water fish, the iconic brook trout. The "brookie" is a sentinel species; it has survived in cold, clean water since the last Ice Age. Sadly, there is less cold, clean water nowadays. Degraded waterways and warming waters have driven the brook trout mostly to upland streams and ponds in Vermont. Our coalition is working to draw attention to the critical habitat conditions that support brook trout. As with most matters, it's easier and cheaper to preserve than restore. H. 108 provides a measure of preservation.

H. 108 emphasizes wetlands. Protection of wetlands is vital to brook trout and innumerable other species. Wetlands, along with flood plains, also work as a shock absorber in our watersheds. A wetland captures water in storm events and slowly releases it into the watershed's rivers and streams. Flood plains work much the same way.

Compromised wetlands and floodplains contribute to the damage Vermont has witnessed with increasing frequency. So-called hundred year storm events are washing away our roads and bridges at great expense to state and municipal government. Protecting wetlands and other watershed features helps build storm resiliency and protects infrastructure.

Regarding H. 108: A key element of the bill is the "practicable alternatives" analysis which requires a proposed project to explore options when it may otherwise disturb a wetland. Other states have adopted this regulatory tool, which allows wetlands to be protected and allows projects to proceed using a viable, alternative route.

Native Fish Coalition raises two concerns regarding the language of H. 108 as drafted.

The first grants authority to the Agency of Natural Resources Secretary to allow exemptions to 10 VSA Sec. 1253 (h)(2). In the right hands, exemptions are granted judiciously and for good reason. At other times, exemptions may be exploited to the detriment of the environment. The committee is encouraged to carefully draw conditions for when exemptions, if any, may be invoked.

The second concerns broadly exempting roads and highways from Section 401 permit requirements. This broad-brush exemption makes no distinction between public and private roads.

Vermont has 16,000 miles of federal, state and local roads. Half of those miles are local Class 3 roads, many which border rivers and streams. Whatever materials are applied to roads end up in our rivers and streams. State scientists are currently perplexed by rising phosphorus levels in our coldest, cleanest lakes. Sedimentation from roads, though not proven conclusively, may be a contributor. Roads designed and maintained to water quality standards can be built smarter and minimize what pours into our water and streams. Let's not backpedal on roads and water quality standards.

A greater concern is exempting private road projects from water quality standards, particularly future roads that would service higher elevation activity at resorts and energy projects. Higher elevation streams provide critical habitat for wild native brook trout.

In sum, Native Fish Coalition supports H. 108 but encourages the committee to scrutinize any authority for exemptions and to tighten or eliminate any waiver of requirements for roads, especially private roads.

Thank You for the opportunity to comment.

Testimony by Chris Owen, Chair,
Native Fish Coalition - Vermont Chapter