



To: Department of Natural Resources and Environment, Director Rebecca Humphries

Re: Inland Trout Stream Regulations

Date: October 7, 2010

Director Humphries,

This letter is intended to officially give you our support for the package of changes to inland trout stream regulations, as provided to you by the Fisheries Division at the October 7, 2010 Natural Resources Commission Meeting (i.e., inland trout stream regulations for general and gear restricted stream segments; experimental regulations and lake trout regulations are separate and were formed outside of the process endorsed here). We have participated in the formation of these proposed changes, through several venues, including both the Fisheries Division's Coldwater Regulations Steering Committee, and in the general public comment opportunities provided by the Fisheries Division throughout this process. The proposed changes have arisen through thorough discussions of the biological, social and economic components of the trout fishery, including how best to handle the lack of existing information on these subjects. The current proposal was also formed with the assistance of extensive public involvement. In this letter we will attempt to provide you pertinent information and justification for all of the changes that are currently proposed, including biological, social, political or economic rationales. This package of proposed changes does not represent our organizations' preferences, but does represent the results of thorough discussions, public input, compromise, lack of data, and accommodation of diverse interests with the fishery. We strongly believe that the PROCESS was thorough and open this time, and the recommendations that have come from it are appropriate. We appreciate the extra time and effort that the Fisheries Division has committed to undertaking the right process, and hope you will support the recommendations that have arisen from it. Respectfully, no response to this letter is needed.

Thank you,

Jim Bos, Tom Buhr, Bryan Burroughs, John Karakashian, Erin McDonough, Bruce Pregler, Marvin Roberson, and Jim Schramm

CC: Mindy Koch – *Bureau Chief*, Kelley Smith – *Fisheries Division Chief*, Tim Nichols – *Chair of NRC*, John Madigan – *Commissioner*, J.R. Richardson – *Commissioner*, Hurley Coleman – *Commissioner*, Mary Brown – *Commissioner*, John Matonich – *Commissioner*, Frank Wheatlake - *Commissioner*

Rationale and Justifications behind proposed changes to Inland Trout Stream Regulations – as proposed by DNRE Fisheries Division October 7, 2010.

Background

The regulatory framework for inland trout stream fisheries was last overhauled over 10 years ago. During that time, extensive changes were made to the framework of “general restrictions” and “gear restrictions”. Legislation was passed in Michigan that increased the allowable number of miles of trout stream that could be managed using “gear-restrictions” (either a ban on the use of natural bait and/or artificial lures), to 212 miles (a total of 18,000 – 20,000 miles of trout stream exist in Michigan; 212 would equate to ~1% of trout stream mileage). Since that time, a total of 97 miles have been managed using these restrictions. A decade ago, 7 regulation categories were created, 3 of which were gear-restricted categories. Each of these had specific minimum size limits, creel limits and season lengths.

Approximately three years ago, scrutiny of the current regulatory framework began, triggered by issues with the management of the lower Au Sable River’s “Trophy Waters” near Mio, Michigan. An assessment of the fishery was completed by DNRE staff, and public meetings were held to solicit public comment on which of the 3 gear-restricted categories of regulations should now be applied to the stretch of river, given the recently collected data on the biology of the fishery (the stretch had formerly been listed under temporary experimental regulations). Conflict arose, because the biological aspects of the fishery indicated that none of the 3 possible regulations would appropriately nurture the fishery’s unique trophy potential without loss to a social component. An ideal, win-win, regulation was possible – but prevented by the confining regulatory framework. This issue was the point in which many fishery conservation or angling groups became actively engaged in trying to improve the decade-old framework. Unfortunately, at that point, our involvement with Fisheries Division on this subject was reactive instead of proactive. Ultimately however, a solution was identified and approved that allowed “gear-restricted waters” to have regulations unconfined by the previous three categories.

During the process of fixing the framework of gear-restricted regulations, the Fisheries Division also released a proposal for several other changes to the trout regulation framework (via a report released in April 2009). Perhaps the most important change proposed in this report, was the elimination of “Type 2” general regulations. The biological justification for this proposal was highly questionable, and along with numerous other points of disagreement in the proposal led to several of our organizations writing you and the NRC a letter concerning the matter of trout regulation reform, and our discontent over the process it was taking (letter was written in June 2009). After this letter, Fisheries Division engaged in a more deliberate and thorough review process with coldwater fishery stakeholder groups. This process has been underway since the summer of 2009, and in-person progress reports were given to you the Director, Mindy Koch, Keith Charters, and John Madigan recently as we were approaching finalizing recommendations for changes for 2011. The rest of this letter will focus on explaining the process and discussions that were undertaken that have lead to the Fisheries Division’s recent proposal of trout regulation changes – and our support for them.

The Process

Since the summer of 2009, the Fisheries Division has been engaged in discussions of trout regulations with its Coldwater Regulations Steering Committee. This group consists of numerous organizations that represent stakeholders in either trout angling or trout conservation (Michigan United Conservation Clubs, Trout Unlimited, Federation of Fly Fishers, Anglers of the Au Sable, Michigan River Guides Association, Pere Marquette Watershed Council, Au Sable Big Water Preservation Association, Michigan Resource Stewards, Sierra Club, and the Steelheaders). This group is an ad hoc informal committee of the Fisheries Division, and participation in it has remained open to any group representing stakeholders to these issues. It has been meeting regularly, for approximately a half-day every 45 days or so.

The first several meetings were spent discussing numerous topics pertinent to trout management; including numerous specific issues, areas of disagreement, and identification of topics in which insufficient information exists. Minutes of each meeting were recorded by Fisheries Division staff and maintained by the Division. Next, several meetings were spent discussing possible improvements and simplification to the general restrictions categories (these changes will be discussed in detail in the following section of this letter). Upon reaching a consensus conclusion as to changes to general restrictions to be proposed for 2011, the committee began to address gear restrictions. Simultaneous to discussions of the committee, the Fisheries Division solicited nominations from the general public for either additional stream reaches to be added to the gear-restrictions, or stream reaches that citizens would like to see removed. A very large response was received from the public – 500 emails, a larger response than was received for either the issues of 5 salmon bag limits or the change from 2 to 3 lines per angler – from recent years. Eighty five percent of respondents were in favor of more gear restrictions and they nominated ~1300 miles of streams for new gear restrictions – clearly a high demand for this type of management.

The Fisheries Division then had staff review each one of the nominations and comment as to the appropriateness of the nomination for further consideration. Fisheries Order 213 sets the criteria to be followed in considering a stream reach for inclusion in gear- restrictions (this has been provided as part of this packet and a copy of the flow chart summarizing it is including in this letter). Numerous organizations that were part of the Coldwater Regulations Steering Committee thoroughly reviewed the report and provided extensive comments to help improve it. DNRE staff indicated their appreciation for the extra review and the improvements it helped make to the final version of the nominations review report that was released to the public in April 2010. The Coldwater Regulations Steering Committee also met formally with Fisheries Division to discuss the reviews of gear restriction nominated streams in detail. Thorough discussions were had concerning several key stream reaches. It became clear that following Fisheries Order 213 did not always prevent disagreements over candidate streams, because critical information (either biological or social) were commonly unavailable (this is explained in more detailed later in this letter). When some key biological data is missing, FO 213 dictates consideration of important social issues of equal importance.

So, at that point, the Fisheries Division held 16 public meetings around the state to solicit more public input on gear restrictions. This information would be used to help fill the void in missing social

information criteria. The results varied between regions of the state, but demonstrated majority support of the addition of gear restrictions (359 people attended the meetings; 234 commented, 149 were in support of new gear restrictions). These were reported on in detail, at the July 8, 2010 NRC meeting. Following the completion of these public meetings, the Coldwater Regulations Steering Committee met again to discuss how the public comment received at the meetings fit into the criteria for each stream's candidacy for gear restrictions. It also met to discuss the final details of what the regulations would be for streams which passed the criteria for listing as gear-restrictions. From this entire process, the Fisheries Division has crafted its set of recommended changes to inland trout stream regulations that have been proposed "for information" at the October 7, 2010 NRC meeting.

This process has not resolved all points of disagreement, it has not given clarity to every issue of importance to trout management in Michigan, and it did not result in recommendations for all topics of interest to stakeholder groups. However, far more importantly, it did result in thorough and careful consideration of all aspects involved in making the most productive and robust improvements to the current regulation framework; it did identify numerous subjects that need more discussion in the future; it did result in repeated and extensive opportunities for public input into the decision-making process; and it did help to set a course where conservation and angling organizations are working proactively with the Fisheries Division again to help ensure the best trout fisheries possible. We are appreciative of the effort that went into the process and the opportunity to participate in it. We hope you agree that the process was correct and the recommendations coming from it are too.

General Restrictions Changes

Several important issues were discussed in regards to general restrictions (Types 1-4). For example, appropriate minimum lengths for key species such as brown and brook trout depend both on the biology of the species and on the intensity in which they are fished. A minimum length of 7" for brook trout allows most individual fish to reproduce once before being prone to harvest. A similar benchmark for brown trout is 13". This in theory would provide for some basic protection of a minimum amount of reproduction, ensuring the self-sustainability of our wild trout populations. When populations are rarely fished – a lower size limit might not degrade a population, but where fishing is moderate – heavy, greater size limits and other types of restrictions are needed to help ensure the population self-sustains, or flourishes.

General regulations apply to approximately 99.5% of the trout stream mileage in Michigan. In order to help assist in making the regulations as easy to understand as possible, several recommendations are being made. First, all trout and salmon species found in inland streams, other than brown and brook trout, will have a minimum length of 10" – in all general restrictions categories. This simplification results in nearly half of the previous regulations table being eliminated – with no significant or extensive change to the biology of our fisheries expected. This was a "no-brainer" change that was uncovered through the process of the Coldwater Regulations Steering Committee meetings.

Second, we spent a great amount of time discussing options to consolidate the 4 existing types into only 2 or 3 types. While we thought at one point that this might be possible, we came to the conclusion that it is not possible at this time, not without significant impact to some type of existing fishery. We will continue to explore options for modifying these 4 types in the future, to help provide the greatest contrast and utility to the categories, to provide diverse fisheries without having to use gear-restrictions, and to continually strive to eliminate any unneeded complexity.

The manner in which the general regulations are depicted is incredibly important. We came to understand that “simple regulations” and “regulations simple to understand” are not the same thing. The later is something to strive for, while the former is of secondary importance to managing our fisheries as well as possible. It’s possible to depict our regulations differently and have them much easier to understand than they were currently depicted. So, among the most important changes you will notice being proposed by Fisheries Division, is an overall improvement in the “understandability” of the general regulations for inland trout streams. This is remarkable and to be applauded, in that it comes at no cost to the fisheries management, only at the cost of considerable time spent discussing options for doing so.

Gear Restrictions

Gear restrictions accomplish two main things. First, they are intended to reduce the amount of mortality that occurs to fish that are caught using natural bait. Natural bait is ingested deeply by trout, and its not uncommon for 40% to die after being released. In places that receive significant angling, this mortality can accrue and prevent fish from surviving to older ages and sizes – thus affecting the fish size structure and also the reproductive success of the population (eventually resulting in lower average size of fish and lower abundance of them). Secondly, due to the evolution of our regulatory framework – gear restrictions have become our only means to manage a trout fishery for “quality” objectives (e.g., trophy size trout, higher abundances of trout, etc.). They now offer us the ability to alter bag limits, size restrictions, and season durations, where general restrictions don’t. So, if a fishery is heavily fished, if anglers desire high catch rates (high density or trout), trophy size trout, or extended seasons to fish – the gear restricted category is the flexible tool to accomplish creating those diverse fishing opportunities. In the future, we will work to ensure a greater utility of the general restrictions to accomplish these ends. But for now, this is the predominate means to those ends.

It is currently unknown, as qualified by actual data, how many trout anglers there are using Michigan’s streams, what they do, what type of experiences they prefer, what gear they use, their preferences for species, size, and harvest of trout, and their economic expenditures while pursuing their sport. DNRE is engaged, along with MSU, in the 2009 Michigan Angler Survey, which has collected a lot of data about current angler behavior in Michigan. This data has not been analyzed in detail for inland trout anglers yet (although we are currently raising funds to ensure it will be as soon as possible). However, it did uncover that for all MI “River” anglers, roughly a third identified themselves as “primarily catch and release”, a third as “primarily catch and keep” and a third as “primarily release some keep some”. This

includes river anglers for all species, including bass, walleye, pike, catfish, and salmon as well as trout. This information appears to indicate that far more anglers than we might think, fish for reasons other than simply the ability to keep fish they harvest. These gear restrictions are the means to create diverse fisheries to fulfill the diverse objectives of the suite of anglers fishing Michigan's trout streams today.

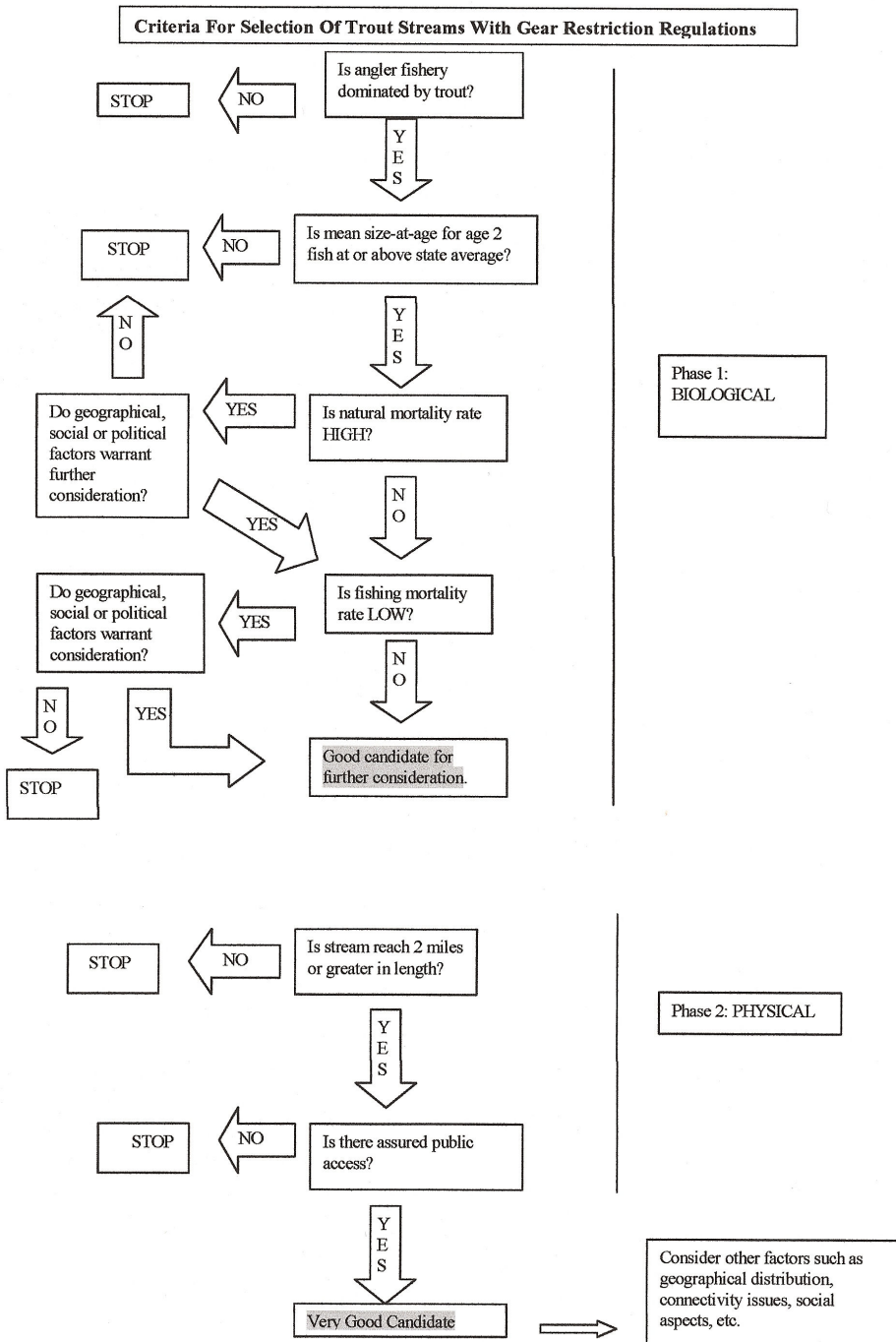
More information on the demographics, behaviors, preferences and economic impacts of Michigan's trout anglers is needed to inform policy such as this, to promote the economic potential from the related tourism generated by trout angling, and to justify the protection of the habitat that provides for the trout populations. We believe these current recommendations were made as well as could be in the absence of better socio-economic data on trout angling (using the extensive public comment efforts mentioned). However, we are currently in the process of funding and planning research to gather trout angler demographic information as well as economic impact assessments. The DNRE Fisheries Division is being kept apprised of this effort, and will be invited reviewers of the research design.

Without this formal socio-economic data in hand, you will no doubt hear a variety of non-substantiated comments. Many people opposed to gear-restrictions for personal interests, claim that they will hurt angler recruitment, that they will hurt economic expenditures in an area, or will hamper the use of certain state campgrounds. These arguments are not substantiated by any real supporting data. In fact, it is widely acknowledged that the busiest, most fished stream reaches in Michigan are either where salmon occur downstream of dams, or where "flies-only" regulations have been placed on trout fisheries (e.g., Au Sable River Holy Waters, upper Manistee River, Pere Marquette River). Many new trout anglers have come into the sport directly into flyfishing, thanks to films like *A River Runs Through It*. These anglers seek out "flies-only" reaches, and contribute to them becoming some of the busiest streams in Michigan. With these types of quality trout fishing experiences, fostered by gear restrictions being so popular among the public, they have become destinations for resident and non-resident anglers and contribute strongly to the local economies where they occur. We are excited about the coming socio-economic research which will quantify this important impact. A similar analysis for the trout fisheries of southern MN, WI, IL (a fishery smaller in scope than MI's) recently yielded an economic impact of 1 billion dollars annually.

Until formal research can quantify more aspects of the trout angling public, we are currently stuck relying on anecdotal information and public comment to help inform the decision-making process. We believe that there are large sets of the trout angling public that fish trout to keep some to eat, some that just want to successfully catch some fish and thus want lots of fish around (i.e., new anglers and kids), and some that want the ability to catch large trout. Gear-restrictions are currently our only mechanism to deliberately manage for the latter two objectives. We currently have 97 miles managed under this category, and the legislative process has established that it is suitable to the people of Michigan that the DNRE list a total of 212 miles. The current proposal would increase the total to around 170 miles – still less than 1% of the trout streams miles in Michigan. We support far more than this amount being managed for quality trout fisheries. However, we find it acceptable to approve the additional stream reaches the Fisheries Division is currently proposing.

Fisheries Order 213

Fisheries Order 213 covers the background behind gear restrictions, and governs the criteria for selecting them. This order came about following the legislation that approved the expansion of mileage managed under gear restrictions from 100 to 212 miles. The following flow chart helps summarize the criteria involved with using gear restrictions.



In each of the cases where new sections of streams are recommended for addition to gear restrictions, this flow chart was followed. Most streams originally nominated by the public did not progress through candidacy because basic biological data on the fisheries did not exist. This was hard for many people in the public to accept, but our organizations are committed to helping ensure that our members can help fill the gaps in data collection in the future.

All streams now being recommended for new listing under gear restrictions made it through the first two screening questions in Phase 1: Biological, of FO 213. These include “Is the fishery dominated by trout?” and “Is the mean size-at-age for age 2 fish at or above the state average?”. The latter question is meant to eliminate streams with below average growth rates from further consideration.

The next two questions in Phase 1: Biological of FO 213 became more difficult to consistently answer. For all streams being recommended for gear restrictions, the answer to both was either “Yes”, or one or both of the questions was unknown – “Is natural mortality rate HIGH?” and “Is fishing mortality LOW?”. In order to confidently answer both of these questions, both biological population surveys and angler creel surveys need to have been conducted on the stream reach in question. Due to limitations in the number of DNRE field staff, biological surveys have not been done in recent times on many trout streams. Where they have, an estimate of “total mortality” is possible. But total mortality cannot be separated into natural and fishing mortalities unless an angler creel survey has also been done for that stream reach. Currently, angler creel surveys on inland trout streams are exceedingly rare. So, in many cases, it became difficult to confidently answer questions 3 and 4. FO 213 provides an alternate route of considerations around these questions if they had been answered in a way as to have disqualified them from consideration. When these mortality estimates were unknown, this alternate path of considerations was followed – and it was formed through responses received at the 16 public meetings held around the state. All streams being recommended for gear restrictions received a majority of public comments in support of the new restrictions, completing FO 213 Phase 1 and resulting in a decision that the stream reach was a “Good candidate for further consideration”.

Phase 2: Physical, of FO 213 was then employed. In all cases of streams being recommended for gear restrictions currently, the stream reaches being proposed are at least 2 miles or greater, and there is assured public access. In fact, consistent with the complete FO 213, it’s preferred that all gear restriction stream reaches should ideally be at least 5 miles in length, so as to have a greater likelihood of biological significance. All sections being recommended are nearly 5 miles or greater for this reason.

The last phase of the flow chart of considerations is “Consider other factors such as geographic distribution, connectivity issues, social aspects, etc.”. These have been discussed at length within the Fisheries Division and the Coldwater Regulations Steering Committee, and informed and reformed according to the public comments received during this process. The recommendations in front of you now, represent an extensive and thorough process to consider all the necessary aspects required, and to balance diverse and sometimes opposing opinions or preferences. You will no doubt continue to receive contradictory opinions about these recommendations right up until you make a decision regarding them. However, because public input was requested and received so many times throughout the formation of these recommendations, and that input was used to form and reform them, we do not

think that you will find any compelling reason to deviate from the recommendations proposed to you by the Fisheries Division. Again, while these recommendations do not yield what our groups ideally preferred and originally requested; **we do strongly support them as the appropriate recommendations for today.**

We sincerely appreciate the open, inclusive and thorough process in which the Fisheries Division has undertaken. We believe it's the right process, the right recommendations have resulted from it, and we are committed to continuing the process with the Fisheries Division as soon as this package is approved. Thank you for your time in reading this letter and understanding our perspectives in regards to this issue.

Sincerely,

Jim Bos, Representative – Pere Marquette River Watershed Council
Tom Buhr, President – Au Sable Big Water Preservation Association
Bryan Burroughs, Executive Director – Michigan Trout Unlimited
John Karakashian, President – Michigan River Guides Association
Erin McDonough, Executive Director – Michigan United Conservation Clubs
Bruce Pregler, President – Anglers of the Au Sable
Marvin Roberson, Representative – Sierra Club
Jim Schramm, President – Great Lakes Council of Federation of Fly Fishers