

April 2, 2021

Brandon McCutcheon
Division of Mining, Land and Water
550 W 7th Ave., Suite 1070
Anchorage, Alaska 99501-3579
Delivered by email to dnr.water.regulation@alaska.gov

Re: Comments on proposed changes to 11 AAC 93: Water management regulations regarding the appropriation and use of water.

Dear Mr. McCutcheon,

Thank you for the opportunity to comment on the Department of Natural Resources' (DNR's) proposed changes to water management regulations regarding the appropriation and use of water.

The Alaska Chamber was founded in 1953, and our mission is to advocate for a healthy business environment in Alaska. The Chamber has more than 700 members and represent businesses of all sizes and industries from across the state. The Chamber has two long-standing policy positions that directly relate to the proposed changes:

- 1) *To support development of environmental policies and regulations based on sound scientific basis over the precautionary method.* The Alaska Chamber supports protecting public health and the environment through reasonable, carefully considered programs that are developed and implemented based on sound scientific arguments; credible, reproducible studies; and economic analyses. The Chamber opposes efforts to implement the "precautionary principle" in developing or implementing environmental programs and regulations. The precautionary principle presumes that many activities pose a risk to health and the environment, even without the presence of any scientific evidence that such risks are, in fact, present or related to a specific activity, and requires that precautionary measures be adopted or implemented to mitigate those assumed risks.
- 2) *Support increased natural resource development by improving efficiencies of the permitting process and gaining access to resources.* The Alaska Chamber supports a significant increase in responsible natural resource development and encourages the Alaska Legislature and the administration to uphold Alaska's strong regulatory and permitting laws and policies that will facilitate additional exploration, site development, employment, infrastructure, research and natural resource production in Alaska.

To that end, The Chamber believes that improvements to DNR's proposed water regulations in the following key areas will strengthen the ability to promote economic development while protecting the environment:



1. Private parties must not have control over public water.

The proposed change to 11 AAC 93.146(b) to ensure that DNR holds the reservation of water if the applicant is a private entity captures a critical priority. However, the regulation package also proposes in the new subsection §146(g) to give the applicant legal standing in managing the reservation, even if DNR holds the certificate. This takes control away from the state and legal standing potentially makes instream flow reservations an even more powerful tool for those who oppose resource development in Alaska. This provision should be removed from the regulations.

2. Instream Flow Reservations must be used only when needed.

DNR must follow the requirement that an IFR demonstrate an actual need. Regulations should specify and clarify that need should be determined by asking if another, more robust, permit process is or will be considering the issue; if there is no other permit process that could address the issue; and if the water is in an already protected area or one in which no development is being considered.

Thank you for this opportunity to provide comments.

Sincerely,

A handwritten signature in black ink that reads "Kati Capozzi". The signature is written in a cursive, flowing style.

Kati Capozzi, President & CEO
Alaska Chamber