

From: mmoc@everyactioncustom.com on behalf of [Mary OConnell](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 3:17:14 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Mary OConnell
Olympia, WA 98506-2932
Private Information

From: theoconnors@everyactioncustom.com on behalf of [Mike OConnor](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, July 1, 2026 3:57:23 AM

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Sincerely,
Mr Mike OConnor
Fairbanks, AK 99712-1636
Private Information

From: alaskaoconnor@everyactioncustom.com on behalf of Sandra OConnor
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, July 1, 2026 8:13:05 AM

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Sincerely,
Ms Sandra OConnor
Fairbanks, AK 99709-6160

Private Information

From: jadjoda@everyactioncustom.com on behalf of [John Oda](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 7:41:36 PM

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Sincerely,
Mr. John Oda
San Francisco, CA 94115-3500
Private Information

From: [Gillian O'Doherty](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Tucker, Jonathan R \(DNR\)](#)
Subject: Comment on proposed changes to 11 AAC 93 water reservations
Date: Tuesday, June 30, 2026 12:29:32 PM
Attachments: [ODOHERTY Comments on revisions to 11 AAC 93.docx](#)

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Please find my comments on the proposed changes to 11 AAC 93 attached as a Word document and copied into the body of this email below my signature.

I tried to submit my comments via the online portal but it freezes when the "submit" button is clicked. I have a screen recording showing the issue that I will send in a separate email.

Thank you for the opportunity to comment,

Gillian O'Doherty

I'm an ecologist and formerly ran the Fish Passage Improvement Program then supervised the Research and Restoration Group, Sport Fish Division at Alaska Department of Fish and Game (ADF&G). I am writing to express my concerns regarding the proposed 11 AAC 93 changes (<https://dnr.alaska.gov/mlw/water/regrevision/>) .

In addition to living and working in Alaska for 18 years I have worked as a fisheries habitat specialist in California, the UK and on the east coast where I dealt every day with antiquated water rights, over allocated systems and the lack of adequate instream flows and water levels on rivers, lakes, wetlands, the riparian ecosystem and the fish and wildlife who depend on them.

I have important concerns about the proposed revisions based on the existing information, timing of the notice and short review period. It is possible that DNR has plans to address some or all of these concerns but, as noted, the very short comment period and limited information provided by DNR limits my ability to review and comment on such a significant regulatory tool.

Based on the limitations listed above my present assessment is that the proposed changes impose an unrealistic and potentially unfair burden on applicants if they are adopted as written in terms of the mandatory information. It is also my opinion they do not provide substantial improvement over the current regulations and do not meet the stated goal of streamlining the process or improving long-term management. In particular, DNR has declined to provide adequate justification for or description of the mandatory data collection and analysis standards; and has failed to provide adequate information on their proposed ongoing management and, where needed, future defense of reservations.

Fish Population and Habitat Requirements.

The proposed changes to 11 AAC 93.142 would require a reservation of water applicant

to provide the estimated number and species of fish affected and the area and quality of habitat improved.

1. The requirement to provide “the estimated number and species of fish affected” is impractical.
 - a. The number of fish using an affected waterbody has substantial inter-annual and inter-decadal natural variation often due to conditions outside the area of study such as ocean conditions. Data collection is costly in Alaska and generating estimates requires considerable expertise and is subject to error over short time periods. In addition, many fisheries populations are highly managed specifically to maintain populations within a desired range. Practically this makes it extremely difficult for an applicant to supply information that meets this requirement in a cost-effective and defensible way.
 - b. In the Q&A DNR states that “Delays in appeals often stem from complex protests and legal processes”. The proposed information requirements regarding fish population will clearly increase the potential for and number of protests, not decrease them. It would be possible to challenge any population estimate.
 - c. This requirement implies that water reservations will only be granted on systems that are currently productive in terms of fisheries. Productivity can be highly variable over long time frames and non-fish bearing waters can still be important to fisheries production in downstream waterbodies or connected lakes, wetlands or estuaries. This implication does not appear to be supported in statute or scientifically.
 - d. 11 AAC 93.141(1) states that DNRs Water Reservation Program is responsible for the “protection of fish and wildlife habitat, migration, and propagation” but there is no similar requirement to provide data on wildlife populations. This suggests these changes are more targeted than statute allows. No reasoning has been provided demonstrating a need for these revisions or specific harm to fisheries over wildlife if they are not adopted.
2. The requirement to provide an estimate of “quality of fish habitat improved”
 - a. This wording makes no sense. It appears to require an application to improve fish habitat via instream flow reservation. In Alaska the purpose of an instream flow reservation has generally been to retain water and preserve some or all existing habitat, not to return water to the stream.
 - b. In the cases where a reservation would result in habitat improvement, as an ecologist with a Masters degree in ecological restoration and over 23 years of professional experience in the fields of fisheries and aquatic ecology, 18 years in Alaska, I am not aware of any scientifically defensible way to do flow-habitat analysis that does not require extensive mapping and modeling of the system and the use of commercial models. This is a very high-cost, high-expertise effort and DNR has not provided any justification for its need, in particular a cost-benefit analysis. Alaska’s river systems commonly include interconnected lake and wetland complexes, multiple channels, alluvial fans, extensive winter icing, beaver complexes and substantial off channel habitat: all of which the available models are not generally able to incorporate without additional customization. To fully carry out this requirement to a high standard would impose a substantial cost to the applicant and the information gained through this process will

be of limited use for decision making.

c. Again- in the Q&A DNR states that “Delays in appeals often stem from complex protests and legal processes”. The proposed data requirements regarding habitat related to flows and water levels will clearly increase the potential for and number of protests, not decrease them. The availability of expertise to evaluate the outcome of these models on Alaskan systems with a high level of expertise is very low.

d. This is only applied to applications for reservations of water and not out-of-stream uses such as water withdrawals, diversions etc. The impact on flows and habitat is the same, and no justification is provided for this decision.

3. Requiring this information to be collected in the 5 years immediately prior to application and disallowing the current system of data collection during the application period will create a race. It will favor applicants with more funding over all other applicants and does not treat all categories of appropriation of water under AS 46.15 equitably.

4. There is no flexibility based on individual site conditions.

Ongoing Management

The proposed regulations clearly create a new role for DNR in managing and defending successful in-stream reservations into the future indefinitely. Alaska is among the few locations in the country that still has the opportunity to manage water sustainably but it does require a thoughtful and forward-thinking program with substantial legal protections and public involvement.

No information on this system is given in the proposed revisions. Based on answers given to earlier questions it appears that DNR would establish an “administrative process” to focus on competing categories of appropriation: withdrawal, diversion and impoundment. This process is completely opaque at this time, and I suspect has not been developed. There is no information on how these revisions improve long-term management of this public resource over the existing system.

1. DNR has stated the increased cost associated with the revisions is \$0.

However we know that current staffing levels are already inadequate for evaluating new reservations, with a backlog of over 450 reservation of water applications including those subject to a 10 year review timeframe. Given that, how will DNR take on additional tasks of defending reservations, especially given the proposed high cost and high expertise data requirements and high potential for protests and conflicts?

2. The roles and rights of the original applicant regarding defending reservations is not defined in the proposed revisions and inadequately addressed in the Q&A.

3. DNR stated in the Q&A that the Commissioner will “equitably apportion costs” for ongoing data collection to former applicants. Will applications now require applicants enter into an open-ended fiscal obligation to supply fish population estimates and flow model results on demand?

a. This again favors well-funded applicants and potentially excludes those who cannot guarantee ongoing funding.

b. As written it seems possible that former-applicants may be required to provide data regarding the disposition of a property right they do not

hold in an administrative process that they cannot participate in.

c. How will DNR deal with data collection by former applicants that have re-organized, been renamed or been disbanded?

4. Who will host this collected application and maintenance or protest-related data and will it be made publicly available and searchable by DNR? As former supervisor of the group responsible for large public datasets at ADF&G, including the Anadromous Waters Catalog (AWC), Freshwater Fish Inventory and Fish Passage database, I am uniquely placed to understand the costs and staffing required to do so in the Alaska state system and it is not the proposed \$0.

5. Finally, I wonder if DNR has truly considered how these revisions and their role as rights-holder will play out over decades or centuries? While that may seem theoretical it is not, much of the country struggles to deal with water rights dating back to the 1800s when populations were in the dozens not millions, and there has been much study and legal analysis. DNR states that this revision is being made in the long term interest but has not released an analysis of the long term impacts incorporating those lessons learned and projected changes to Alaska climate, population and industry which seems the correct starting place for any revisions.

Thank you for the opportunity to comment and I urge DNR to pause this process until the public has had further opportunity to comment and their many major concerns have been addressed. It is in all Alaskan's best interest to have a robust and functional system for water reservations going forward and I do not believe these revisions get us there as proposed.

I'm an ecologist and formerly ran the Fish Passage Improvement Program then supervised the Research and Restoration Group, Sport Fish Division at Alaska Department of Fish and Game (ADF&G). I am writing to express my concerns regarding the proposed 11 AAC 93 changes (<https://dnr.alaska.gov/mlw/water/regrevision/>) .

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From: dorothy.odonnell.ak@everyactioncustom.com on behalf of [Dorothy ODonnell](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 12:48:57 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mrs. Dorothy ODonnell
Fairbanks, AK 99709

Private Information

From: momoneal77@everyactioncustom.com on behalf of [Maureen O'Neal](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 23, 2026 7:10:33 PM

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Sincerely,
Ms. Maureen O'Neal
Portland, OR 97223-8981

Private Information

From: eujaamo@everyactioncustom.com on behalf of [Andrea Orr](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:49:09 AM

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Sincerely,
Ms Andrea Orr
Ashburn, VA 20147-5525
Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 13, 2026 4:43:57 PM

Mary Ostermick submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/13/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. I have lived in Alaska over 40 years and have fished, kayaked, floated and used Alaskan waters. My husband and I have made a living selling photographic images of salmon and other wildlife. The most dramatic images include water settings, e.g. masses of red salmon on a creek, brown bear catching salmon and caribou swimming a river. These waters need to remain healthy! Specifically, I want to raise these points: - Alaska's water belongs to the public and should be managed for the maximum benefit of all Alaskans, including for fish and wildlife habitat, subsistence, recreation, navigation, and community use. - Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat, migration, and spawning. Salmon need water left in rivers, not only the water allocated after industrial and other consumptive uses are considered. - Any changes to 11 AAC 93 should strengthen Alaska's ability to protect instream flows for salmon, wildlife, recreation, and public use. The process should not become easier for industrial appropriation while becoming harder for public-interest reservations. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Mary Ostermick Talkeetna, AK

From: ostrowdj@everyactioncustom.com on behalf of [Dianne Ostrow](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 5:49:23 PM

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Sincerely,
Ms. Dianne Ostrow
Wrightwood, CA 92397
Private Information

From: owen@everyactioncustom.com on behalf of [Stephen Owen](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:37:30 AM

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Sincerely,
Mr. Stephen Owen
West Chester, OH 45241-1054
Private Information

From: [Nicole Kimball](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Julie Decker](#)
Subject: public comment on proposed changes to regulations in 11 AAC 93 relating to reservations of water
Date: Tuesday, June 30, 2026 3:30:47 PM
Attachments: [DNR comment letter 6-30-26 final.pdf](#)

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Per the [public notice](#), PSPA is submitting public comment to DNR prior to the 5 pm, June 30, 2026, deadline. Please see the attached. Thank you.

Nicole Kimball
VP, PSPA
907-223-1648

Julie Decker
President, PSPA
907-305-0586



June 30, 2026

Brandon McCutcheon
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501
Submitted via e-mail: dnr.water.regulation@alaska.gov

Dear Mr. McCutcheon:

Thank you for the opportunity to comment on proposed changes to DNR's water management regulations, 11 AAC 93. The Pacific Seafood Processors Association (PSPA) is a trade association representing 11 seafood companies who operate 47 facilities in 22 communities across Alaska. Collectively our members participate in all of Alaska's commercial fisheries and are therefore critically dependent on continued sustainable management of those fisheries and the habitat upon which they depend.

The abundance and quality of water is critical in all areas where we operate, both for use by fish in rivers, streams, and lakes, and for use by fishermen and Alaska's seafood processing plants. Control of that public resource properly resides within the public domain of the Commissioner and water reservation holding entities that are accountable to the public and who operate in an open, transparent, and public process. **PSPA supports the proposed changes to DNR's regulations on reservations of water**, to ensure that decisions about Alaska's water resources are made by the Departments of Environmental Conservation (DEC), Fish and Game (ADF&G), and Natural Resources (DNR), as well as federal agencies for federal land. These agencies have the scientific and management expertise required to administer public water resources.

In addition, requiring more robust information from applicants applying for water reservations is reasonable and judicious to protect the public interest. DNR's proposed changes bring better science and data analysis to Alaska's decisions on instream flow, and specifically, the requirement for site-specific information allows for improved decision-making in the protection and management of Alaska's fish, while balancing other uses.

Thank you for the opportunity to comment, and we support the changes proposed by DNR.

Sincerely,

Julie Decker
President, PSPA

www.pspafish.net

KETCHIKAN, AK (mailing)
Post Office Box 5086
Ketchikan, AK 99901
206-281-1667
admin@pspafish.net

ANCHORAGE, AK
nicolek@pspafish.net

JUNEAU & WRANGELL, AK
222 Seward Street, Ste. 200
Juneau, AK 99801
907-586-6366
julied@pspafish.net

SEATTLE, WA
4039 21st Ave W, Ste. 400
Seattle, WA 98199
206-281-1667

WASHINGTON, DC
1601 K Street NW
Washington, DC 20006
202-661-6220

From: pattiac@everyactioncustom.com on behalf of [Patti Packer](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 5:38:35 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Patti Packer
Scotia, NY 12302-3905
Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information [\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 13, 2026 9:14:24 AM

Stephen Parker submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/13/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. I have worked as a commercial salmon fisherman in Cook Inlet for over 30 years. This is a completely backwards way to approach maintaining healthy rivers and healthy salmon. Anyone taking water out of a system should be required to prove no harm. Not the other way around. Specifically, I want to raise these points: - Alaska's water belongs to the public and should be managed for the maximum benefit of all Alaskans, including for fish and wildlife habitat, subsistence, recreation, navigation, and community use. - Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat, migration, and spawning. Salmon need water left in rivers, not only the water allocated after industrial and other consumptive uses are considered. - DNR should engage in meaningful government-to-government consultation with Alaska Native Tribes before adopting changes that could affect salmon, traditional waters, and the protection of water. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Stephen Parker Eagle River

From: vjp1412@everyactioncustom.com on behalf of [Valerie Paterson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:47:22 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mrs. Valerie Paterson
Pocahontas, AR 72455-2019
Private Information

From: joanie.patterson@everyactioncustom.com on behalf of [Carol Joan Patterson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 25, 2026 2:40:08 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Dr. Carol Joan Patterson
Eureka Springs, AR 72632-9812

Private Information

From: [Nancy Pease](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Changes to Alaska regulations 11 AAC 93 for instream water reservation: attention Brandon McCutcheon
Date: Monday, June 29, 2026 11:12:17 PM

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Hello Brandon:

I request DNR to revise the proposed 11 AAC 93 reservations to enable applicants who are serving the public interest to receive support from the State in collecting data and ongoing monitoring.

DNR should recognize that there is inherent public value in natural hydrological systems.

Non-profits, concerned individuals, and tribal agencies often represent a broad public interest in maintaining instream flow or natural occurring water levels. However, they may lack the resources for five years' of monthly data collection, particularly in remote locations..

Therefore, the State should evaluate a proposal in view of existing and future public and private uses of instream flow, and where a water reservation serves a broad public interest, the State should share the data collection and other costs. I request the following edits to the proposed revisions of 11 AAC 93:

1. Where a water reservation will support a common good, such as an anadromous fishery or community transport or public recreation, the State should assist with data collection and future monitoring. When an application is for a public-managed water resource, the state or federal agency with jurisdiction for those waters should be responsible for preliminary review and for assisting in obtaining the required data.
2. State and federal agencies who manage surrounding uplands of a waterbody or the uses of the waterbody should be eligible to hold water reservations. They may have more resources for that obtaining data and monitoring a water reservation in a specific location than DNR. DNR should not be the only agency allowed to hold instream flow reservations or other water reservations. DNR has a substantial backlog of water reservation applications that it cannot handle.
3. When a plaintiff challenges a water reservation that serves a public interest (as opposed to a private, for-profit interest), the Commissioner should not claim the authority to apportion costs of that challenge (such as additional monitoring) to the public interest applicant or holder of water reservations. That offers an incentive for malign abuse by well-funded private interests who could drain the resources of non-profits and individuals who are serving a public interest.

Thank you for consideration of these comments. Water is first and foremost a public resource, and DNR should avoid monetary and logistic barriers to those who apply for water reservations that serve the public interest.

Nancy Pease

Alaska resident and one-time DNR Natural Resources Manager

Sent from my iPad
Nancy Pease

From: [Alan Peck](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comments regarding the Notice of Proposed Changes on Reservations of Water
Date: Tuesday, June 30, 2026 4:45:40 PM
Attachments: [DNR Proposed Water Regulations comments_20260630_Alan Peck.pdf](#)

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To Whom It Concerns:

Please accept my attached comments regarding the Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources.

Respectfully,
Alan Peck

Alan Peck
P.O. Box 770678
Eagle River, AK 99577

Private Information

June 30, 2026

Sent via Email: dnr.water.regulation@alaska.gov

Re: Comments regarding the Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources

To Whom It Concerns:

I am submitting these comments regarding the Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources. During the 30-day comment period, DNR has received numerous requests from the public for a time extension. DNR has denied that request. DNR is proposing major changes of regulations in 11 AAC 93 and is hindering those of the public interested in thoroughly considering the impacts of the proposed changes and submitting comments. The public's involvement is intended to assist DNR in considering and evaluating the proposed changes leading to improvement and identifying unintended consequences. I urge the DNR to provide the public an additional opportunity to fully participate in this process.

Below are my comments to specific proposed regulation changes. I have many concerns about the proposed regulation changes, but my comments are limited due to the short comment period during one of the busiest times of the year for Alaskans, including myself. Additionally, DNR has provided insufficient information and justification for making these regulatory changes.

1) 11 AAC 93.142 (Content of application)

Change requiring additional information be required to justify the need for a reservation of water

My Comment:

AS 46.15.145 specifically recognizes four purposes allowed for a reservation of water as a beneficial use. This statute is a stand-alone recognition of need for water to fulfill the purposes. The state, an agency or a political subdivision of the state, an agency of the United States, or a person may proceed with an application for a reservation of water for these purposes without requiring further justification of the need. There are no statutory language, regulations or other reference sources, and

rational that addresses a needs test. What a new applicant must provide to the DNR to obtain a reservation are data, methodology and analysis that supports a sufficient amount or volume of water to maintain a specific in-stream flow at a specified point of a stream or portion of a water body in support of a statutorily identified purpose.

In issuing a reservation of water, DNR must find the certificate will serve the “public interest” and that need is measured by criteria specified in AS 46.15.080. These decisions articulate how these needs have been satisfied by the applicants.

AS 46.15.145 clearly defines need and DNR should not make regulatory changes to AAC 93.142 requiring additional information to further justify the need for a reservation of water.

2) 11 AAC 93.142 (Content of application)

Change requiring specific types of data and methodology

My Comment:

Applicants have been encouraged by DNR to consult with them prior to submitting an application to discuss information and methodology requirements that will be adequate for DNR to accept the application as complete, pay an application fee, and receive a priority date. It is the responsibility of the applicant to ensure adequate information is initially provided with the application.

In recent decades, DNR has required applicants for reservations of water to provide significantly more information to demonstrate how much water should remain as compared to the information requirement to withdraw, impound, or divert water (11 AAC 93.040 and 11 AAC 93.220). DNR requires rigorous data collection, documentation, in-depth analysis, methodology description and citation. This process often requires 5 years or longer and multiple tens of thousands to many hundreds of thousands of dollars to submit a complete application. In contrast, requirements of other water rights and temporary use permits require minimal data, information and analysis. There is also no requirement for those water rights and temporary use permits to acquire data and demonstrate that there is no harm to reservations of water (178 existing) or for those reservations that have been accepted by DNR but not adjudicated (498 pending and many of these have been pending for decades).

Additionally, the proposed changes require a new burdensome requirement for every application, substantially increases the applicant labor time, specialized resources, and costs without significantly improving DNR’s decision making process. This regulation change allows for no flexibility in meeting data requirements that may be more appropriate for specific site conditions and improve DNR decision making. Rather than make regulation changes that are of questionable utility, what would be

substantially beneficial is for DNR to work on a create a detailed process for an application which it currently does not have in place for applicants.

I request that no additional data or methodology requirements be added or modified to 11 AAC 93.142 except to lessen the financial burden on applicants; require the same level of information for reservations of water, equivalent to other types of water rights and temporary use permits; and to establish a reasonable timeline to adjudicate reservations of water applications.

3) 11 AAC 93.146 (Issuance of a certificate of reservation of water)

Change requiring DNR to hold the certificate of a reservation of water for all applicants that are not a State of Alaska or federal resource management agencies.

My Comment:

Removing the right of citizens and Alaska Tribes to apply and hold reservations of water certificates would violate the public trust doctrine. DNR does not have the authority to change regulation that contradicts AS 46.145 by eliminating such a right. It is also outside DNR's authority to restrict who can hold a certificate of reservation through rulemaking.

Further, if only agencies were allowed to hold the certificates of reservation for citizens and Alaska Tribes, these non-government applicants would have a lesser role of participation in DNR proceedings, and the holding agency may have conflicting interests from the citizens or Alaska Tribes. Additionally, agencies may not have adequate funding to hold certificates for citizens and Alaska Tribes where continued monitoring could be required, responsibility falls to the agency for compliance with the conditions of the certificate, or enforcement of the right would be necessary. Excluding citizens and Alaska Tribes will create an inconsistency where they could not hold a reservation of water certificate, but these non-agencies could have a water right or water use permit.

The State of Alaska officially recognizes the sovereignty of Tribal governments. There is no legal basis for DNR to exclude Tribal governments from the list of eligible certificate holders.

DNR has stated that the regulation changes would have \$0 impact on the agency. DNR has not provided an analysis or justification of this and I find it unrealistic. DNR currently does not have a sufficient budget and staffing to address the current backlog of reservations of water applications and perform 10 year reviews. Holding, managing, and defending protests of applicant certificates plus needing very specific and highly technical expertise required to understand and review the new data that

will be required will cost additional funds. An increase in the budget will be necessary in the short term and for centuries to come.

Rather than limiting those that can hold a certificate, DNR should provide an automatic reservation of water for all rivers, streams and lakes in Alaska. A reasonable standard should be applied to the automatic reservation based on water quantity or water level (volume) to maintain suitable habitat conditions necessary for the purpose of preserving fish and wildlife.

Additionally, the criteria for issuance of a certificate to withdraw, divert or impound water (AS 46.15.080) and the criteria for issuance of a certificate of reservation (AS 45.16.146) contain identical language also used for determining and deciding whether all types of water uses be similar as part of the public interest criteria requirements and assessments. Criteria parity should be maintained.

The state, an agency or political subdivision of the state, an agency of the United States, or a person should continue to be allowed to apply for and hold a certificate of an instream flow reservation of water.

4) 11 AAC 93.147(c) (Review of a reservation of water)

Change stating the commissioner may apportion the costs equitably to the applicant, certificate holder or department.

My Comment:

The existing review requirements as written in 11 AAC 93.147 are adequate. This regulation change favors applicants and certificate holders that are well funded initially and well into the future. For applicants that do not hold the certificate due to the above proposed regulation change, they may be required to fund new data and information without being able to participate in an administrative process and without holding the certificate.

I request no changes be made to 11 AAC 93.147(c).

I support the existing regulations as written (11 AAC 93.141 to 11 AAC 93.147) implementing AS 46.15.145 Reservations of Water. I request that DNR avoid any changes to the regulations and to the reservation of water program which would diminish its current ability to manage and protect water quantity and water levels for the four purposes identified in 11 AAC 93.141. I request the DNR prioritize adjudicating the existing and extensive applications backlog, including other types of water rights, based on priority date rather than continuing a labor intensive and costly process to implement changes to the reservation of water regulations.

Respectfully,
Alan Peck

From: speirce@everyactioncustom.com on behalf of [Susan Peirce](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:52:46 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Dr Susan Peirce
Santa Fe, NM 87506-7955
Private Information

From: jazercise@everyactioncustom.com on behalf of [Tyra Pellerin](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:16:22 PM

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Sincerely,
Ms. Tyra Pellerin
New Orleans, LA 70122-6337
Private Information

From: lisa@everyactioncustom.com on behalf of [Lisa Peltola](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 5:24:42 PM

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Sincerely,
Ms. Lisa Peltola
Anchorage, AK 99502-1687

Private Information

From: marjor@everyactioncustom.com on behalf of [Margarita Perez](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:20:54 AM

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Sincerely,
Mrs. Margarita Perez
Sylmar, CA 91342-2623
Private Information

From: katepersons@everyactioncustom.com on behalf of [Kate Persons](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 8:49:45 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms Kate Persons
Nome, AK 99762

Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 4:45:44 PM

Brent Petrie submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

1) Title 46.15 already provides DNR and its Commissioner broad authority for requiring data and analyses in support of applications and certificates of appropriations and reservations. The proposed five year requirement before submitting an application for reservations seems to disadvantage such applications for a priority date against competitive consumptive uses with lesser requirements that might file while studies are being conducted. 2) The June comment period coincides with the field period and commercial work period for many parties that could be interested in this regulation change and who would have something to offer. I respectfully request that the comment period be extended 90 days to September 30, 2026 to minimize the conflict with summer field and work activities.

From: wwpsan@everyactioncustom.com on behalf of [Weslie Phillips](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:27:01 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

STAY OUT

Sincerely,
Mrs Weslie Phillips
Wickenburg, AZ 85390-1554
Private Information

From: merylpinque@everyactioncustom.com on behalf of [Meryl Pinque](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:36:45 AM

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Sincerely,
Ms. Meryl Pinque
Bangor, ME 04401-6732
Private Information

From: jaqalthehybrid@everyactioncustom.com on behalf of [janna piper](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:06:57 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
mistress janna piper
Portland, OR 97293-5072

Private Information

From: mpochardt@everyactioncustom.com on behalf of [Meredith Pochardt](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 6:07:35 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Meredith Pochardt
Haines, AK 99827
Private Information

From: catsdogsnroses@everyactioncustom.com on behalf of [Barbara Poland](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 12:07:07 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Barbara Poland
La Crescenta, CA 91214-2007

Private Information

From: ERICSKI75@everyactioncustom.com on behalf of [ERIC POLCZYNSKI](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, June 24, 2026 11:31:28 AM

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Sincerely,
Mr. ERIC POLCZYNSKI
Pagosa Springs, CO 81147-3483

Private Information

From: askalice@everyactioncustom.com on behalf of [Alice Polesky](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 12:05:49 AM

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Sincerely,
Ms. Alice Polesky
San Francisco, CA 94107-2664
Private Information

From: howsue@everyactioncustom.com on behalf of [Susan Porter](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:09:00 AM

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Sincerely,
Ms. Susan Porter
Hawley, PA 18428-9074
Private Information

From: claireprevo@everyactioncustom.com on behalf of [Claire Prevost](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:41:44 AM

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Sincerely,
Miss Claire Prevost
Granby, NY 00000

Private Information

From: cands78@everyactioncustom.com on behalf of [Steven Prince](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 2:58:15 PM

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Sincerely,
Dr. Steven Prince
Eugene, OR 97405
Private Information

From: Sashagrl30@everyactioncustom.com on behalf of [Brenda Psaras](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 3:44:19 PM

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Sincerely,
Mrs. Brenda Psaras
East Moriches, NY 11940-1413
Private Information

From: [Rabbit Creek Community Council](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Ann Rappoport](#); [Pease, Nancy](#); [Matthew Blakeslee](#)
Subject: Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources," 11 AAC 93
Date: Tuesday, June 30, 2026 4:33:18 PM
Attachments: [2026-29 RCCC comments on DRN proposed water reservation regs update.pdf](#)

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Greetings from Rabbit Creek,

Attached please find our comments regarding 11 AAC 93 "Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources". Thank you for the opportunity to comment on this issue.

Regards,

Tim Alderson, Chair

[Rabbit Creek Community Council](#)

1057 W. Fireweed Lane, Ste. 100
Anchorage, AK 99503

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Correspondence



RABBIT CREEK COMMUNITY COUNCIL (RCCC)

A Forum for Respectful Communication & Community Relations

1057 West Fireweed Lane, Suite 100 / Anchorage, AK 99503



To: Department of Natural Resources

From: Rabbit Creek Community Council

Date: June 30, 2026

Regarding: Proposed Changes to 11 AAC 93 Regarding Water Reservations

Thank you for the opportunity to comment on the Department of Natural Resources (DNR) "Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources," 11 AAC 93. The Rabbit Creek Community Council provided detailed comments on the scoping process that preceded these changes, as approved by our General Membership at a November 14, 2024, meeting (attached).

Our previously documented concerns around waterways in our area, e.g., Potter Marsh, Rabbit and Potter Creeks and their tributaries including Little Rabbit Creek, Little Survival Creek, and Potter Marsh, still apply. These waters are important anadromous fish habitats, support the Potter Marsh watershed – a State Critical Habitat and part of the Anchorage Coastal Wildlife Refuge, are a basis for recreation, including in the new Potter Marsh Watershed Park, and support water sources and water quality for our residents. Our previous recommendations, including the need for the Department of Natural Resources to provide pro-active management of these important waterways by obtaining baseline data and analyzing hydrologic systems, and for the Department of Fish and Game to extend water reservations on the waterways listed above, are not addressed by the current proposed changes, but should be addressed soon.

Before the state grants a water reservation, it needs to be shown that water is needed and that science supports the amount requested for fish, wildlife, or recreation. We can agree that information upon which a water reservation is determined should be robust, inclusive of several years, and quantitative. However, we are concerned that the proposed changes transfer too much responsibility and cost to applicants for water reservations, particularly where the waters may be public, and under the management jurisdiction of state or federal agencies.

Non-profits, tribes, and concerned individuals likely do not have the resources nor expertise to collect the data required to apply for water reservations, but they may have legitimate concerns for the public ownership of these waters, or their own downstream

legal uses of the waters. The State should evaluate a proposal in view of existing and potential public and private uses for the waters. If the use is for the common good, then the State should assist with data collection when applicants are individuals, non-profits, tribes or others who lack the needed expertise and/or funds.

When an application is for a public-managed water resource, the public agency with jurisdiction for those waters (federal or state) should be responsible for the preliminary review, assisting in providing or obtaining the required data. There should also be a process whereby water uses are not allowed to deplete waters where a water reservation application exists, until that application has been adjudicated.

We object to the proposal that DNR be the only entity allowed to hold future reservations of water. This will not incentivize others to spend the time and funds needed to gather the required data. For example, where fisheries habitats are involved, it would make more sense for the Department of Fish and Game to hold the reservation as they would have responsibility to monitor and ensure the reservation is maintained. In other cases, a federal agency or tribal entity may be more logical.

A specific wording change is needed as shown in bold below, to provide the flexibility for agencies other than an applicant and/or DNR to be involved in data collection:

11 AAC 93.146(d)(1) “. . . must be installed and maintained by the applicant **or responsible management agency** to monitor and report . . . “

It is disheartening to look at the public database of water reservations. Apparently only 149 certificates have been issued out of 433 entries, 275 applications await a decision, and nine are on appeal (Anchorage Daily News, June 26, 2026). Applications languish for years. We recommend that DNR be given more resources to this process and clear the backlog of applications, before they are given more control over future water reservations.

Thank you for your attention to these comments, and to those in our previous letter when further updates are considered for the State's water reservation program.

Sincerely,



Tim Alderson, Chair
Rabbit Creek Community Council

From: racecarol@everyactioncustom.com on behalf of [Carol Race](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 7:53:27 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms Carol Race
Juneau, AK 99801-1031
Private Information

From: martha-jr@everyactioncustom.com on behalf of [Dorene Randall](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 2:23:55 PM

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We must protect this planet and everything on it or we will fail to meet our moral obligations to the generations that follow.

Sincerely,
Miss Dorene Randall
Troy, MI 48085-3416
Private Information

From: [Denis Ransy](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Questions on changes in water reservation regulations
Date: Saturday, June 20, 2026 11:38:33 AM

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Please confirm receipt.

June 19, 2026

Questions to ADNR regarding proposed Water Reservation Regulatory Changes

- 1) Why is this public comment period only 30 days? It should be 90 days. And this comment period is coming during one of the busiest times of the year for the Alaskan public. This is what happened in 2024 during the scoping process. The comment period was during the busy summer. The instream flow reservation program is an important tool to protect our rivers and fisheries from habitat degradation. PLEASE EXTEND THE PUBLIC COMMENT PERIOD TO 3 MONTHS.
- 2) Why is there no public hearing, both in-person and virtual, as there was during the scoping period? That public hearing was dealing with vague concepts of changes to the water reservation regulations. Now in this phase of the public process there are specific changes that the public can respond to. PLEASE HOLD A PUBLIC HEARING.
- 3) Why is there no scoping report that summarizes and details the scoping comments from 2024? ADNR has done this for other regulatory processes such as the Susitna Basin Recreation River Management Plan update. There were hundreds of scoping comments in 2024 from all around Alaska and the United States. Granted many of these were form letters. But there were over a hundred of original comments that were substantial and well thought out. Many scoping comments requested such a document. It is an onerous burden to go through all the public scoping comments that you have on the website. PLEASE PRODUCE A SCOPING COMMENT ANALYSIS DOCUMENT.

These are significant regulatory changes in water reservation. I believe that these changes go against the original legislative intent of our water use laws.

Denis Ransy

Talkeetna, Alaska

From: [Denis Ransy](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comments on Water Reservation Changes
Date: Monday, June 29, 2026 2:36:43 PM
Attachments: [Public Comment Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources.docx](#)

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Request email confirmation.

Public Comment Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources

Via electronic mail: dnr.water.regulation@alaska.gov

6/28/26

I am opposed to these proposed changes. This has not been a rigorous public process. Yes, there was a scoping process with extended comment periods and a public hearing. But the scoping process was for the whole program with a vagueness as to what the changes would be. Now the agency has proposed specific changes that the public has to focus on in too short a period of time in the middle of the busiest time of the year for Alaskans. The actual hydrologists who could comment on the content of the hydrological and fishery data needed in the application are ACTUALLY OUT IN THE FIELD AND UNABLE TO COMMENT.

1. I am against the 11 AAC 93.146(b) and (d) changes. The certificate holder holds the protection of the reservation. The Alaska Department of Natural Resources/Division of Mining, Land and Water history for the last 20 to 30 years shows that they do NOT PRIORITIZE THE WATER RESERVATION PROGRAM.

The entity that holds the certificate has a vested interest and is motivated to see that the reservation in the future is actively implemented. ADNR/DMLW will not do this. The agency is not incentivized nor has it even the staffing to be the certificate holder.

The Instream Flow Amendment to the Alaska Water Use Act of 1966 was passed in 1980 by the Alaska Legislature in recognition of the economic and social benefits that would derive from another class of water rights. ADNR has not followed through on the implementation of the program. In 2022 or thereabouts, ADNR staff stopped processing reservation applications. There are 498 backlogs of applications.

The Alaska Journal of Commerce 1/27/21 article boldly stated that resource development advocates want to change the reservation certificate to be kept within a public agency to prevent opponents from impeding development. This is absolutely the reason for this proposed change. The agency proposal would erode the incentive for non-agency people to apply for a reservation.

2. I am opposed to the changes in 11 AAC 93.142(b) and 11 AAC 93.146(d). These changes in the application data to be collected are following what the Alaska Miners Association proposes in their many appeals of reservation certificates and ten-year review. It is to please resource extraction; to make it so hard and expensive that applicants will be discouraged.

These proposed changes do not take into account the remote nature of most of the streams in Alaska. The changes constitute an onerous burden.

Sincerely,

Denis Ransy, Talkeetna AK

Public Comment Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources

Via electronic mail: dnr.water.regulation@alaska.gov

6/28/26

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Sincerely,

Denis Ransy, Talkeetna AK

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 20, 2026 5:59:43 AM

Denis Ransy submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/20/2026. Thank you for your input!

Comment:

June 19, 2026 Questions to ADNR regarding proposed Water Reservation Regulatory Changes 1) Why is this public comment period only 30 days? It should be 90 days. And this comment period is coming during one of the busiest times of the year for the Alaskan public. This is what happened in 2024 during the scoping process. The comment period was during the busy summer. The instream flow reservation program is an important tool to protect our rivers and fisheries from habitat degradation. PLEASE EXTEND THE PUBLIC COMMENT PERIOD TO 3 MONTHS. 2) Why is there no public hearing, both in-person and virtual, as there was during the scoping period? That public hearing was dealing with vague concepts of changes to the water reservation regulations. Now in this phase of the public process there are specific changes that the public can respond to. PLEASE HOLD A PUBLIC HEARING. 3) Why is there no scoping report that summarizes and details the scoping comments from 2024? ADNR has done this for other regulatory processes such as the Susitna Basin Recreation River Management Plan update. There were hundreds of scoping comments in 2024 from all around Alaska and the United States. Granted many of these were form letters. But there were over a hundred of original comments that were substantial and well thought out. Many scoping comments requested such a document. It is an onerous burden to go through all the public scoping comments that you have on the website. PLEASE PRODUCE A SCOPING COMMENT ANALYSIS DOCUMENT. These are significant regulatory changes in water reservation. I believe that these changes go against the original legislative intent of our water use laws. Denis Ransy Talkeetna, Alaska

From: jimi1952@everyactioncustom.com on behalf of [James Rauch](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:34:54 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. James Rauch
Harrisburg, PA 17111-4688
Private Information

From: [Jack Reakoff](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#); [Robert Maurer](#); [Scott Schoppenhorst](#); [Heidi Schoppenhorst](#); [Berni and Uta Hicker](#); [Mollie Busby](#); [Steve Teshima](#); [Nikki McAnallen](#); [Christian Kirchner](#); [jay armstrong](#)
Subject: Re: DNR Notice of Proposed Regulations on Reservations of Water
Date: Saturday, May 30, 2026 8:06:46 AM

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Hello everyone,

I received these regulatory changes to water reservations on streams and rivers. Designed basically for across cross agencies. There would be significant expenses in the data collection for miners if stipulated.

This would not affect the insignificant use of residential use of the river and creek.

Jack Reakoff
Wiseman, Alaska

On Fri, May 29, 2026 at 4:11 PM Regulation, DNR Water (DNR sponsored)
<dnr.water.regulation@alaska.gov> wrote:

From: [Dusty Reed](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Water reservations under 11 AAC 93 comment
Date: Saturday, June 27, 2026 5:40:57 AM

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Dear Department of Natural Resources,

Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93.

I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use.

Alaska is a state defined by its water. From glacier to wetlands, and especially rivers, almost every aspect of Alaskan life is tied to water, and this is something I love about living in this state. Healthy rivers are essential for the salmon runs that are such an important subsistence resource, and to supporting healthy populations of other wildlife as well. It is essential that we have strong tools to protect our rivers.

Specifically, I want to raise these points:

- DNR has confirmed that an application to reserve water for fish habitat faces more rigorous documentation requirements than an application to withdraw water for industrial or other consumptive use. That asymmetry is backwards. The burden should fall on the party seeking to remove water from a salmon stream, not on the Tribes, communities, and nonprofits working to keep it there. These proposed changes widen the gap by adding new data, monitoring, and cost requirements to the reservation process while leaving the consumptive side unchanged.

- DNR has filed a fiscal note of zero for these changes, yet it acknowledges a backlog of adjudicated reservation applications and describes a single position dedicated to adjudication. Making DNR the holder, monitor, defender, and ten-year reviewer of every non-agency reservation statewide cannot be done at no cost. The fiscal note should reflect the real cost of these new duties, or the public has no assurance they will actually be carried out.

- A public comment period is not the same as government-to-government consultation. Before adopting changes that affect salmon, traditional waters, and water protection, DNR should hold distinct, formal government-to-government consultation with Alaska Native Tribes, consistent with their recognized status as governments.

Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them.

Thank you for your consideration.

Sincerely,
Dusty Reed
Anchorage, AK

From: barbarareilly131@everyactioncustom.com on behalf of [Barbara Reilly](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 9:41:20 AM

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Sincerely,
Ms. Barbara Reilly
Anchorage, AK 99501-5750

Private Information

From: [Connor Hajdukovich](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: RDC Comment Letter RE: DNR IFR Regulations
Date: Tuesday, June 30, 2026 10:17:59 AM
Attachments: [image001.png](#)
[RDC Ltr re DNR IFR Regulations 6-30-26.pdf](#)

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Dear Mr. McCutcheon,

On behalf of the Resource Development Council for Alaska (RDC), please find attached comment letter regarding support for DNR regulatory changes to the governance of instream flow reservations under 11 AAC 93.

Sincerely,

Connor Hajdukovich

Executive Director

Resource Development Council for Alaska

[301 W. Northern Lights Blvd., Ste. 406](#)

[Anchorage, Alaska 99503](#)

(m) 907-978-4278 (o) 907-276-0700

www.akrdc.org





RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

June 30, 2026

Submitted via e-mail: dnr.water.regulation@alaska.gov

Brandon McCutcheon
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501

Dear Mr. McCutcheon:

The Resource Development Council for Alaska, Inc. (RDC) appreciates the opportunity to comment on the Department of Natural Resources' (DNR) proposed amendments to improve Alaska's water management regulations governing instream flow reservations under 11 AAC 93. RDC has long supported improvements that strengthen scientific decision-making, enhance regulatory certainty, and ensure Alaska's public waters are managed through a transparent, science-based process that serves the best interests of all Alaskans. For these reasons and the ones outlined below, RDC supports DNR's proposed regulation changes.

RDC is a statewide, non-profit trade association founded in 1975. Our membership is comprised of individuals and companies from Alaska's fishing, tourism, forestry, mining, and oil and gas industries and includes Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

Healthy fish populations and functioning aquatic ecosystems are essential to Alaska's economy and way of life. RDC supports responsible stewardship of Alaska's water resources and recognizes that healthy fisheries and responsible resource development are complementary objectives.

RDC has consistently supported a framework in which Alaska's public waters are managed by public resource agencies acting on behalf of all Alaskans. We believe instream flow reservation decisions should be made through a transparent public process that relies on the best available science and balances the broad public interest. The proposed regulations reinforce these



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FORESTRY



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

principles by strengthening the State's role in administering instream flow reservations while improving consistency and transparency.

We are also encouraged by the proposed requirement for more robust, site-specific information to support instream flow reservation applications. Strengthening the information required for an application will help ensure public interest determinations are based on complete and objective data while providing greater predictability and confidence for all stakeholders. A rigorous, science-based process benefits both responsible stewardship of Alaska's water resources and the state's long-term economic competitiveness.

While RDC supports the overall direction of the proposed regulations, we encourage DNR to continue refining the final language where appropriate to ensure clear implementation and avoid unintended ambiguity. Continued refinement will further strengthen Alaska's water management program while preserving the regulations' central objectives.

Thank you for the opportunity to comment. RDC appreciates DNR's efforts to modernize Alaska's water management regulations and supports adoption of the proposed rulemaking.

Sincerely,

Connor Hajdukovich
Executive Director
Resource Development Council for Alaska



TOURISM



FISHERIES



OIL & GAS



MINING



FORESTRY

From: debby.retherford@everyactioncustom.com on behalf of [Deborah Retherford](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:43:53 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I'm writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Deborah Retherford
Palmer, AK 99645-8580

Private Information

From: richeywa@everyactioncustom.com on behalf of [WILLIAM RICHEY](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:58:57 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Dr. WILLIAM RICHEY
Port Ludlow, WA 98365-9201
Private Information

From: lmr0107@everyactioncustom.com on behalf of [Lauren Richie](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 12:00:09 AM

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Sincerely,
Ms. Lauren Richie
Pleasant Grove, AL 35127-1538
Private Information

From: jroche597@everyactioncustom.com on behalf of [John Roche](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 23, 2026 7:18:25 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. John Roche
Front Royal, VA 22630-5907
Private Information

From: davidsohn@everyactioncustom.com on behalf of [David Rodriguez](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:47:27 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. David Rodriguez
Vega Baja, PR 00693-3615
Private Information

From: julieroedel@everyactioncustom.com on behalf of [Julie Roedel](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:26:10 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms Julie Roedel
Kirkwood, MO 63122-2615
Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Wednesday, June 10, 2026 10:56:24 PM

Rebecca Rohena submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/10/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations. I am concerned that the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, subsistence, navigation, and public use. Water reservations are one of the only legal tools available to keep water in rivers, streams, and lakes for fish habitat, migration, and propagation. Please ensure that any changes to 11 AAC 93 strengthen, rather than weaken, Alaska's ability to protect instream flows. Requirements such as five years of monthly data, monitoring devices, reporting obligations, and possible cost-shifting should not create barriers for Tribes, communities, nonprofits, or public-interest applicants working to protect water for fish and wildlife. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration.

From: odeesden@everyactioncustom.com on behalf of [janet romine](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 4:53:42 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Janet Romine
Des Moines, IA 50315-2121
Private Information

From: skye@everyactioncustom.com on behalf of [Barbara Rosenkotter](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 6:49:18 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms Barbara Rosenkotter
Deer Harbor, WA 98243-0149

Private Information

From: rossbrianc@everyactioncustom.com on behalf of [Brian Ross](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 3:00:57 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Brian Ross
Juneau, AK 99801-8504
Private Information

From: jsroth10@everyactioncustom.com on behalf of [Jessica Roth](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Friday, June 19, 2026 1:39:44 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. Water are for common use of Alaskans not privatization. This is stated in the constitution of Alaska. Waters are for fish, wildlife and hunting.
Thank you for your time.

Sincerely,
Ms. Jessica Roth
Sitka, AK 99835-7459
Private Information

From: richlroth@everyactioncustom.com on behalf of [Richard Rothstein](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 8:54:08 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.” Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Dr. Richard Rothstein
Anchorage, AK 99517-1343
Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Friday, June 12, 2026 4:09:35 PM

Tania Rowe submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/12/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. I have lived in Alaska most of my life. My father showed me how to fish in Alaskan waters. We need to keep control of our rivers and the salmon so they will still be there for future Alaskans. Specifically, I want to raise these points:

- Alaska's water belongs to the public and should be managed for the maximum benefit of all Alaskans, including for fish and wildlife habitat, subsistence, recreation, navigation, and community use.
- Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat, migration, and spawning. Salmon need water left in rivers, not only the water allocated after industrial and other consumptive uses are considered.
- Requiring at least five years of monthly data could make it harder for communities, Tribes, nonprofits, and other public-interest applicants to pursue reservations, especially in remote areas where data collection is expensive and difficult.

Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Tania Rowe Anchorage, Alaska

From: schugrule@everyactioncustom.com on behalf of [Juliann Rule](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:45:43 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Juliann Rule
Avon, MN 56310-9636
Private Information

From: kenssailtime@everyactioncustom.com on behalf of [Ken Sanford](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 10:32:48 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Protecting fish and other animal habitat must remain or become the driving force of all natural resource conservation. Left to the greed of man, Alaska's streams would become garbage dumps of polluted mining tailings and numerous chemicals that would destroy any hope of maintaining the remaining salmon spawning streams and would dome the future of all wildlife associated with Alaska's past.

Sincerely,
Mr. Ken Sanford
Escondido, CA 92029-4307
Private Information

From: bwsantana@everyactioncustom.com on behalf of [Barry Santana](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 3:18:36 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." We can already see the tea leaves for Data Center developers to tax our electrical grid. This will be followed by those developers taking water reservations from our lakes, rivers and streams for cooling water. These changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Dr. Barry Santana
Wasilla, AK 99623-9348
Private Information

From: bwsantana@everyactioncustom.com on behalf of [Barry Santana](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 1:17:45 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Dr. Barry Santana
Wasilla, AK 99623-9348
Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Thursday, June 18, 2026 12:54:45 PM

Barry Santana submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/18/2026. Thank you for your input!

Comment:

I strongly support the state's instream flow reservation regulations in 11 AAC 93. More obstacles are needed to ensure strong flow in our streams I oppose the changes: *Five-Year Data Set: Applicants should not be required to provide at least 5 years of monthly data, along with detailed information on fish, habitat, and land ownership. *Reservation Ownership: If a Tribe, nonprofit, community group, or individual is successful in their application, DNR, should not block the applicant from holding the certificate. *Monitoring: DNR should not require measuring devices, monitoring, and reporting. *Cost Burden: DNR should not assign the costs of extra research and data collection to the applicant or certificate holder. Please reconsider the changes. We need to do all we can to save our salmon runs. The climate is warming. These changes will worsen the situation.

From: [Barry Santana](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Re: DNR Notice of Proposed Regulations on Reservations of Water
Date: Saturday, May 30, 2026 1:37:13 PM

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Does this mean that I have to change my existing water reservation? Why are you sending these changes?

Barry Santana

On Fri, May 29, 2026 at 4:04 PM Regulation, DNR Water (DNR sponsored)
<dnr.water.regulation@alaska.gov> wrote:

|

From: coreyschade@everyactioncustom.com on behalf of [Corey Schade](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 4:39:43 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. Corey Schade
Loch Arbour, NJ 07711-1201

Private Information

From: lizardes@everyactioncustom.com on behalf of [Elizabeth Scherbak](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:37:52 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Elizabeth Scherbak
Venice, FL 34293-6457
Private Information

From: [Kelsey Schober](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Submission: Water Regulations - Questions and Comment Period Extension Request
Date: Thursday, June 18, 2026 2:28:15 PM
Attachments: [image001.png](#)
[TNC-AK - Questions and Extension Request to DNR.pdf](#)

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Hi,

I am emailing to request a comment period extension and to submit written questions to DNR's Division of Mining, Land, and Water regarding proposed revisions to water management regulations. Please see attached for this material; we look forward to a response.

Best,

Kelsey

Kelsey Schober
Director of Government Affairs - Alaska
kelsey.schober@tnc.org
(907) 707-8385 (phone)

The Nature Conservancy
715 L. Street
Suite 100
Anchorage, AK 99501



The Nature Conservancy - Alaska

517 L Street, Suite 100
Anchorage, AK 99501



June 18, 2026

Alaska Department of Natural Resources
Division of Mining, Land and Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501

Via: dnr.water.regulation@alaska.gov

Re: Submitted Questions and Request for Extension of the Public Comment Period for Proposed Changes on Reservations of Water (11 AAC 93), Noticed May 29, 2026

Dear Mr. McCutcheon,

The Nature Conservancy in Alaska (TNC-AK) thanks you for the opportunity to provide questions on the proposed regulations from Alaska Department of Natural Resources (the Department) pertaining to reservations of water (11 AAC 93).

The Nature Conservancy is a global organization working around the world to protect lands and water for people and nature. Our approach is unique in that we seek to ensure land, water, and resources are protected *for* people – not *from* them. Guided by science and partnerships, we have worked in Alaska for over two decades and employ staff with strong roots in the state. Throughout this time, our work in Alaska has always been committed to solutions that incorporate community needs and well-being. This commitment ensures Alaskans see their needs reflected in the solutions we work on – and that these solutions respect their livelihoods, ways of life, and the places that sustain them.

TNC-AK respectfully requests that the Department extend the comment deadline by an additional 90 days. As the Department's proposed regulations seek to limit water reservation holders to being exclusively public agencies, the ability for non-public entities and persons to submit comments on a change that could substantively impact them is crucial. The initial 30-day public comment period conflicts directly with commercial fishing, subsistence activities, sport fishing, and seasonal work more broadly. As these activities are cornerstones of Alaska's economy, we know that many Alaskans will be otherwise focused and may not have the opportunity to comment during the current comment period, which will directly impact the Department's ability to receive feedback from a broad range of Alaskans. Further, since the Department is seeking to make substantive changes to regulations, a longer comment period is merited. This will serve the Department in that it will allow for more substantial feedback, which will ultimately better inform the Department's final regulations. Lastly, additional time will allow for the opportunity to evaluate the Department's responses to any questions that were submitted by the June 20th deadline and incorporate feedback accordingly.

We also submit the following questions for response from the Department prior to the end of the comment period:

1. Given that AS 46.15.145 authorizes “a person” to apply to reserve water, what is the statutory and constitutional basis under which the Department is proposing to limit who may hold a certificate?
2. Under Alaska law, a reservation of water is a substantive property right. If finalized as proposed, will these new regulations impact existing instream flow rightsholders that are not a state or federal resource management agency? If so, in what ways? How will this impact be addressed?
3. If finalized as proposed, will these regulations impact applications for reservations of water from non-agency applicants that have already been submitted? If so, how and to what extent? How will this impact be addressed?
4. How does the Department intend to address the proposed changes to who can hold water reservations within the context of the State’s formal recognition of Federally recognized Tribes in 2021? (Note that precedent exists for the explicit inclusion of Tribes in regulation; see 11 AAC 78.020.)
5. What is the basis under which the Department is proposing add requirements for applicants, particularly regarding monitoring and measuring-device requirements?

We appreciate the Department’s attention to the extension request and response to the questions submitted herein. We look forward to a robust and responsive public engagement process.

Sincerely,



Caitlin Hedberg
Alaska State Director
The Nature Conservancy

From: jjscott9@everyactioncustom.com on behalf of [Jennifer Scott](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 12:33:06 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Jennifer Scott
Fort Myers, FL 33966-1530
Private Information

From: [Chandler Long](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Skye Gearhart](#); [Jason Gubatayao](#); [Malia Towne](#)
Subject: Sealaska Comment - Reservations of Water
Date: Tuesday, June 30, 2026 12:34:57 PM
Attachments: [Outlook-wxmurnp.png](#)
[2026.06 DNR Water Regulations Public Comment.pdf](#)

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Good afternoon,

Please find attached the comment from Sealaska Corporation on the Notice of Proposed Changes on Reservation of Water in the Regulations of the Department of Natural Resources.

We request an email with the link to the response to comments once publicly available.

Thank you,

Chandler



Chandler Long | (she/her/hers)
Lands Manager | Sealaska Corporation
1900 First Avenue, Suite 315
Ketchikan, AK 99901
chandler.long@sealaska.com | sealaska.com
o 907-228-7330

Gunalchéesh, Háw'aa, T'oyaxsut', Thank you

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SEALASKA

June 30, 2026

TRANSMITTED ELECTRONICALLY

Alaska Department of Natural Resources
550 West Seventh Avenue, Suite 1070
Anchorage, AK 99501
Dnr.water.regulation@alaska.gov

SUBJECT: SEALASKA CORPORATION COMMENT ON THE NOTICE OF PROPOSED CHANGES ON RESERVATION OF WATER IN THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES

Dear Mr. McCutcheon,

Sealaska Corporation provides the following comment on the Notice of Proposed Changes on Reservations of Water in the Regulations of the Department of Natural Resources.

11 AAC 93.146 must include the authority for Alaska Native Corporations to hold certificates of reservations of water.

The Department of Natural Resources (DNR) proposes to reduce the holders of certificates of reservations of water to the State of Alaska and federal resource management agencies. This proposed change fails to recognize that Alaska Native Corporations (ANCs), as the third largest collective landowner in the State of Alaska, are resource management agencies, owned by their shareholders and tribal citizens, holding inherent responsibilities to work on behalf of their best interest. DNR must recognize these members of the public in their resource management regulation changes by incorporating ANCs as resource managers with the ability to hold certificates of reservations of water.

The Alaska Native Claims Settlement Act of 1971 mandated the creation of ANCs and conveyed 44 million acres over to their management. Since that time, ANCSA revenue sharing provisions found in Sections 7(i) and 7(j) have resulted in a redistribution of natural resource wealth across the State and supported a leveling effect in economic activity. Over the last 50+ years, ANCs have contributed significantly to the direct and indirect economic development of Alaska through the management of natural resources.

ANCs operate in mines, oil and gas, timber, and power generation and distribution. ANCs run carbon sequestration programs, wetland banking, and multi-disciplinary restoration initiatives. ANCs manage tourism programs, big game guiding, and many other land use programs. ANCs collaborate with scientists and traditional knowledge bearers to restore upland, riparian and instream habitats and continue to hold indigenous values of balance, respect, and sustainability in their operations on their lands. ANCs work in partnership with state and federal resource management agencies, across many



SEALASKA

program types, on behalf of the best interests of the public. These are but a few examples of the institutional knowledge and capacity ANC's have developed in the last 50+ years as resource management agencies in Alaska.

ANCs are more than for-profit corporations. We hold people at the heart of all we do. ANC's invest in culture, language, education, and housing. ANC's fund social programs that guard the well-being of Alaskans and support healthy lives and access to traditional lifestyles.

Sealaska works to honor the history and legacy of our people — Tlingit, Haida and Tsimshian with Southeast Alaska roots — in everything we do.

Our people define how we operate as we strive to best serve our shareholders, communities and environment. Our shared heritage, collective future and a sense of responsibility for each other and our planet guide our way. We find strength in both tradition and adaptation, channeling our power to create change. At Sealaska, this is what makes us who we are.

For these reasons, we respectfully request that DNR recognize the expertise held in ANC's resource management departments as well as our responsibilities to our shareholders and tribal citizens by incorporating ANC's as holders of certificates of reservations of water.

Sincerely,

Jason Gubatayao
General Manager
Natural Resources Department
Sealaska Corporation

Ecc; Jason.gubatayao@sealaska.com, General Manager Natural Resources Department, chandler.long@sealaska.com, Lands Manager

From: mv9508@everyactioncustom.com on behalf of [Joshua Seff](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:46:26 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr Joshua Seff
Lexington, KY 40509-2054

Private Information

From: davelouiseandgalen@everyactioncustom.com on behalf of [louise seguela](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:59:55 AM

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Creating expensive legal barriers will unfairly burden average alaskans who want to protect our renewable resources, fish and wildlife, and wild lands for the long term future, contrary to the constitution. Short term corporate profit, which is what these changes will abet, is not what our constitution promotes, do not bend to the billionaire interests, protect alaskan waters for alaskan fish and wildlife!

Thank you,
Louise Seguela
Homer, Alaska

Sincerely,
Ms. louise seguela
Homer, AK 99603

Private Information

From: kimrandy2002@everyactioncustom.com on behalf of [James Self](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 6:20:32 PM

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Sincerely,
Mr James Self
Manley Hot Springs, AK 99756-0013

Private Information

From: gsells@everyactioncustom.com on behalf of [Greg Sells](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:15:39 PM

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Sincerely,
Mr. Greg Sells
Austin, TX 78741-6942
Private Information

From: masewald@everyactioncustom.com on behalf of [Michelle Sewald](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:40:04 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Michelle Sewald
Denver, CO 80202-1257
Private Information

From: shathorpe@everyactioncustom.com on behalf of [Kathleen Shabi](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, June 24, 2026 4:27:29 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Kathleen Shabi
Palm Coast, FL 32137-8496
Private Information

From: shaffer.kevin@everyactioncustom.com on behalf of [Kevin Shaffer](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:44:53 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Thank you for the opportunity to comment on these issues that affect our wild resources and their use by local populations of all peoples here. To protect sustain these in as created, with their habitat intact is always a forward facing means to prevent total loss of this resource.

Sincerely,
Mr. Kevin Shaffer
Moose Pass, AK 99631
Private Information

From: shaffer.kevin@everyactioncustom.com on behalf of [Kevin Shaffer](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 9:29:03 AM

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Sincerely,
Mr. Kevin Shaffer
Moose Pass, AK 99631-9709

Private Information

From: ianjs@everyactioncustom.com on behalf of [Ian Shelley](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 10:28:24 AM

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Sincerely,
Mr Ian Shelley
Portland, OR 97225-6902
Private Information

From: [Harold Shepherd](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: NOTICE OF PROPOSED AMENDMENTS ON RESERVATIONS OF WATER IN THE REGULATIONS OF THE
DEPARTMENT OF NATURAL RESOURCES
Date: Tuesday, June 30, 2026 4:38:02 PM
Attachments: [Cmmnt_DNR_ISFWR_Reg_Amndmnts_sign-on\(002\).pdf](#)

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Mr. McCutcheon:

Attached are the comments of the Norton and Kachemak Bay Watershed Councils, Bering Sea Fishermen's Association and the Yukon River Inter-Tribal Fish Commission on the Proposed Amendments to the Regulations on Reservaton of Water.

Please acknowledge receipt and contact me if you have any questions regarding these comments.

Thank you.

Hal Shepherd, Principal

Water Policy Consulting, LLC

P.O. Box 332

Homer, AK 99603

halshpherdwpc@gmail.com

www.waterpolicyconsulting.com

(907)491-1355

WPC is located in Homer, Alaska on the traditional lands of the Dena'ina, Alutiiq and Sugpiaq people of Alaska's southcentral region which have been in community here long before the occupations of settler culture, past and present.

June 30, 2026

Alaska Department of Natural Resources
Division of Mining, Land & Water

By online public comment portal:

https://dnr.alaska.gov/mlw/comment/submit/?topic=water_inflow

By email: dnr.water.regulation@alaska.gov

**RE: NOTICE OF PROPOSED AMENDMENTS ON RESERVATIONS OF WATER IN
THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES**

Dear DMLW:

The undersigned organizations, tribes, companies, consortiums, and organizations are writing on behalf of our members and supporters to express our strong opposition to the proposed amendments to the regulations implementing AS 46.15.145 Reservations of water: 11 AAC 93.142 (Content of application); 11 AAC 93.146 (Issuance of a certificate of reservation of water); and 11 AAC 93.147 (Proposed Amendments).

In relation to the Instream Flow Water Reservations (ISFWR), DMLW has Proposed Amendments to either the statute or regulations no less than 4 times in the last decade which have been overwhelmingly opposed by Alaska Native Tribes and the general public due to concerns that through the legislative and regulatory changes, DMLW was attempting to eliminate the rights of Alaska Tribal entities and citizens to protect water instream and fish and wildlife habitat. NBWC has been an active participant in such opposition, either through written or submitted comments, resolutions, or testimony regarding each of these proposals. This latest rendition of the Proposed Amendments would violate state laws guaranteeing the right of Tribes and citizens to apply for and hold Instream Flow Water Regulations by eliminating their right to hold water-right certificates and to enforce and otherwise sustain them.

I. Background

For decades, Alaska has been one of the few states in which citizens and Tribes have held the right along with federal and state agencies to apply for and hold instream flow reservations to protect fish and wildlife habitat. In general, the instream flow reservation process means that appropriating water in Alaska does not always require removing water from the system. Carrying the same legal weight as an out-of-stream diversion, instream flow reservations, therefore, allow citizens and Tribal entities to “reserve” water in streams and lakes to support salmon.[1] With some exceptions, under Alaska water law, a party who files a successful application for an instream flow reservation receives a water right superior to any proposed water uses that may come later.[2]

Because it can effectively limit the impacts of mining on sensitive fish and wildlife habitats in Alaska, the mining industry has long opposed the instream reservation law and has continually

lobbied state politicians to overturn it. An increasingly conservative political leadership heard corporate arguments, and in 2013-14, the Parnell administration sponsored HB-77.

The current Proposed Amendments are, therefore, part of the continuing efforts of Alaska politicians to revive the legislation introduced in 2013 & 14, which would have prohibited Tribal governments and private citizens from applying to the state to reserve water for instream uses, through the back door. This latest version of the Proposed Amendments continues to prohibit Alaskans who want to keep water in streams to protect vital fish habitat from holding, enforcing, and maintaining ISFWRs.

Our specific comments regarding the current Proposed Amendments are as follows:

II. 11 AAC 93.142 (Content of application)

Article VIII of Alaska's Constitution sets forth the State's constitutional framework for the development, conservation, and public use of its natural resources, including land, water, fish, wildlife, forests, and minerals. As it applies to the public right to protect instream flow reservations, Section 13 of Article VIII states that except "for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to *the general reservation of fish and wildlife*." [3] In other words, while the state is authorized to issue water right permits to private entities, this authority is limited by the public's rights to protect water and fishery resources when and where they choose.

In fact, Alaska Native Tribes and the general public, along with federal and state agencies, have the right to apply for and hold instream flow reservations to protect fish and wildlife habitat. This authority comes from Alaska Statute § 46.15.145, which expressly allows "private individuals, local governments, state agencies, and federal agencies" to apply for instream flow reservations.

The proposed amendments to 11 AAC 93.142, however, are the latest efforts by the Dunleavy Administration to quietly erode the rights of Alaska Native Tribes and the general public to protect instream habitat. According to DMLW, for example: "Information provided in applications will be required to be more robust in order to support the public interest determination and to make it clear what trade-off is being considered for each reservation of water." [4] This provision would require DMLW to consider factors beyond the protection of aquatic habitat when deciding whether to process ISFWRs. That property ownership and development interests would be elevated to a higher level in making this decision is illustrated by the fact that:

Specifically, the department will require the applicant to provide the reason the proposed reservation is needed; provide five years of data to quantify the reservation; information to support the specific improvement to fish habitat; the estimated number and species of fish affected; the area and quality of fish habitat improved; and information on property ownership upstream and downstream of the proposed reservation. [5]

One of the best examples of how requiring consideration of trade-offs and the interests of property ownership would help prevent the processing of ISFWRs is that the Dunleavy Administration already consistently refuses to act on any instream flow reservation applications that would conflict with the same water a mining company is interested in. As an example of this refusal, in the spring of 2019, Constantine Mining LLC which is based in Vancouver, Canada applied to the State of Alaska for a permit for development of a zinc-copper-gold-silver-barite mine located within Chilkat River Watershed of the Upper Glacier Creek Valley near Klukwan and Haines Specifically, the mine requested to construct a 1.25-mile-long access tunnel, a wastewater treatment facility and a waste rock dump site.

The proposed mine would threaten about 3,000 bald eagles that gather annually in the 48,000-acre Chilkat River Bald Eagle Preserve about 18 miles away from the project site to feed on spawned-out salmon carcasses in the Chilkat River. With assistance from the Klukwan and Chilkat Indian Villages, the Chilkoot Indian Association, and the Chilkat Indian Village in 2020, the Takshanuk Watershed Council, located in Haines, began the process of applying for instream flow water rights on Sarah Creek- a tributary to Glacier Creek within the Watershed in order to protect an anadromous run of coho salmon from the proposed mine within the creek.

It took them almost 10 years to collect the data at a cost of \$100,000. However, because the reservation would have competed with the water needed for the proposed mine, the DMLW, under the Dunleavy Administration, refused to process the application due to pressure from the American Mining Association. In fact, at the time, the Alaska Department of Fish and Game (ADF&G) told the Watershed Council that it is not currently considering flow reservations near mining projects and that the agency prefers to focus on streams in that area that are not in the vicinity of proposed development projects. This political approach to issuing instream flow reservations is contrary to the purpose of instream flow reservations and the Alaska Constitution, which is to protect flows needed for fish habitat when such flows are threatened by development.[6]

This proposed change, therefore, is designed to provide more legal justification for eliminating ISFWR applications that do not meet the “more robust” standard. So as not to leave room for political bias in processing applications, the Proposed Regulations, therefore, should provide that the State of Alaska does not have the authority to refuse to process scientifically and legally sufficient ISFWR applications under any circumstances.

DMLW’s response to this argument is to simply deny that it mentioned anything about trade-offs in relation to the proposed amendment to 11 AAC 93.142. “Proposed revisions to section 11 AAC 93.142 do not require the applicant to provide “what the trade-off is being considered.”[7] This however, is contrary to the agencies express statement that information “provided in applications will be required to be more robust in order to support the public interest determination and to make it clear *what trade-off is being considered* for each reservation of water.”[8]

III. 11 AAC 93.146 (Issuance of a certificate of reservation of water)

Under 11 AAC 93.146, the DMLW would substantially limit the rights provided by Alaska Statute §46.15.145 and Article VIII to Alaska Native Tribes and the public. According to DMLW, for example, the “Department of Natural Resources will hold certificates of reservations for all” applicants other than the State of Alaska and federal resource management agencies.[9]DMLW maintains that this change would not violate either the State Constitution or law based on the fact that under:

AS 46.15.145(a): “The state, an agency or a political subdivision of the state, an agency of the United States, or a person...” can apply for a water reservation. Proposed Amendments to section 11 AAC 93.146 do not change or limit who can apply for a reservation of water under this statute. While AS 46.15.145 identifies who can apply for a reservation, it does not identify who can hold a reservation when issued.

The problem with DMLW holding the instream flow reservations, however, is that this makes enforcement and management of the water right subject to the political agenda of the administration in power at the time. Under the Dunleavy administration’s extraction industry bias, therefore, the Proposed Amendments to 11 AAC 93.146 are contrary to the State Constitution’s Article VIII, which limits the state’s authority to issue water right permits to private entities by the public’s rights to protect water and fishery resources. In fact, the Proposed Amendments do not clarify whether the certificate holder or the applicant is responsible for compliance with the conditions of the certificate of reservation.

While DMLW maintains that “this change is proposed as it is the fundamental mission of state and federal resource management agencies to work in the best interests of the public,”[10] in reality the amendment illustrates the Dunleavy Administration’s continuing efforts to privatize water by eroding citizen and Alaska tribal rights to protect the State’s water and fish and wildlife resources thereby, allowing corporations and other private users to obtain a property right to the same water through a water right permit.

Finally, this proposed amendment “requires the applicant to install measuring devices and monitor and report information at intervals approved by the Commissioner of DMLW.”[11] However, due to the substantial expense of purchasing, installing, maintaining, and monitoring instream flow reservation equipment, this provision would exclude many Tribal organizations and the general public from supporting the continued existence of an instream flow reservation.

Many creeks and rivers in need of the protection of flows instream, for example, are located in remote areas and are difficult to access. Unlike state and federal agencies, Tribes and the general public lack the resources to cover the substantial costs of accessing these areas, purchasing equipment, and hiring staff or consultants to monitor the sites and collect data.

DMLW responds to these concerns by concluding that rather than being intended to exclude tribes and others from data collection and applying for water rights, the “monitoring and reporting requirement ensures reliable data for effective water resource management and public

interest determination. Approved measuring devices and periodic reporting provide essential information on actual flows and compliance.”[12]

It should be noted, however, that for a private interest to obtain a water right authorizing the removal of water from public use and to obtain a private property right over it, it requires completion of a mere half-page form that is processed within a few days. Similarly, rather than rigorous data and other updates to justify the continued existence of the water right, the private water user need only show that it is continuing to use the water. Instead, ISFWR applications require a minimum of five years of data collection, which can take years or even decades to process. As an example of the State’s inertia in processing flow reservations submitted by Tribal Government entities, consider the ISFWR applications submitted in 2024 by the Native Villages of Teller and Brevig Mission in order to protect flows from a proposed graphite mine in the Imuruk Basin. The Tribes have collected a decade's worth of data on these streams that was submitted to DMLW, but the agency has not responded to repeated requests to process the applications or to explain why such processing cannot take place.

This proposed amendment, therefore, further illustrates the Dunleavy administration’s efforts to privatize water resources by making it increasingly difficult to maintain ISFWR, while not requiring the same diligence or processing inertia for private water rights.

1. 11 AAC 93.147 (Review of reservation of water)

Under 11 AAC 93.147(c):

The applicant will now be required to bear the costs of conducting additional research, data collection, and analysis for their respective certificated water reservations. Many existing water reservation applications are outdated and rely on outdated data. The department would not be required to pay for additional data collection for outdated applications or in cases where significant changes to flow have occurred.[13]

As discussed above, due to the substantial expense of purchasing, installing, maintaining, and monitoring instream flow reservation equipment, this amendment would prevent many Tribal organizations and the general public from supporting the continued existence of an instream flow reservation.

DMLW responds to this argument by stating that:

the Proposed Amendments would not exclude tribal organizations or the public. These requirements would support resilient public-interest determinations under AS 46.15.145, ensuring that reservations are defensible and effective for fish habitat and other beneficial uses. Applicant's responsibility for the costs of data collection and analysis is reasonable to ensure that reservations remain based on current, reliable data.[14]

Again, this response illustrates that the sometimes-oppressive costs of additional research, data collection, and analysis are intended to keep Tribes and the public from maintaining ISFWRs, given that no such cost burdens for maintaining private water rights are imposed.

In addition, under this amendment, the “department would work with ADF&G to evaluate whether a review of a reservation should include the collection of new data.”^[15] This also shows the danger of authorizing the State’s Department of Natural Resources or Division of Fish and Wildlife to work together to revoke or amend original water reservations at any time at the agency’s sole discretion.

1. Request for Extension

We request that the time to submit comments in response to the above Proposed Amendments be extended to 90 days for the following reasons:

- The Notice of Proposed Amendments (Notice) was only posted online through the Alaska Online Public Notice (AOPN) e-mail system and not published in any newspaper, despite the newspaper being the primary local news source, especially for Alaska Native communities;
- The failure of DMLW to provide public notice beyond posting in the AOPN raises serious legal concerns about equitable access to information, especially for communities without reliable internet access or who rely on print media. Given the rural and remote nature of many communities that will be impacted by the Proposed Amendments and the limited internet access in many of them, reliance solely on online publication fails to satisfy the public engagement and transparency requirements of State law. This omission undermines requirements that public notices be distributed to the general public and all interested parties in a manner that ensures meaningful participation;
- The current comment period of a little over 30 days is insufficient to address the scope of the changes to the rights of Alaska Native tribes and the general public in attempting to exercise their Constitutional rights to preserve flows instream to protect aquatic habitat described in the Notice;
- The current comment period for the Proposed Amendments began during the busy Alaskan summer, when many of the Council, staff, and members of the undersigned and many other organizations and members of the public have been unavailable to discuss and draft meaningful comments. In addition, this is insufficient time to allow for a response from the numerous tribes and members of the public who will be impacted by these regulations.

CONCLUSION

The Proposed Amendments to 11 AAC 93 relating to the contents, issuance and review of instream flow reservation applications represent the Dunleavy Administration’s efforts to quietly implement a significant change in state law that would substantially limit the rights of Alaska Tribal organizations and the general public to protect salmon and other fishery habitat.

Essentially, taken as a whole, the Proposed Amendments will be a violation of Art VIII and Alaska Statute §46.15.145 by requiring non-State or Federal governmental agencies to do all the work and bear all the cost of collecting and submitting the data and to maintain and monitor the ISFWRs, while receiving none of the benefits. This is clearly inconsistent with all Alaskans' constitutional rights to reserve stream flows to protect aquatic habitat and subsistence resources.

Similarly, the Administration's current bias in support of the extraction industry illustrates the hazard of creating more hurdles before processing ISFWR applications, giving enforcement and management control of water right certificates to the state and federal agencies, and authorizing the Department of Natural Resources to revoke or amend the original water reservation at any time at its sole discretion.

DMLW should ensure that the Proposed Regulations do not prove disastrous for Alaska's salmon resources that are already unraveling due to the impacts of climate change. While we can't stop the impacts of climate change on Arctic freshwater ecosystems, we can stop the impacts of these disastrous assaults on the rights of every Alaskan to protect our water resources.

In fact, rather than gutting the current regulations, DMLW should request that the legislature clarify AS 46.15.145 (which supports the constitutional mandate that water belongs to the public trust) and the litany of state laws that give the public the right to protect instream flows and fish and wildlife resources.

The Act should also be amended to be consistent with the state constitution and should mandate that DMLW preserve instream flows sufficient to sustain water and subsistence resources throughout the state by establishing an automatic water reservation that protects fish and wildlife habitat. This could be done by ensuring water in all rivers, streams, and lakes is protected from the effects of climate change and land uses; authorizing all surplus water to be made available for appropriation after the automatic reservation; designating instream flows as a beneficial use under the Alaska State Water Code; and identifying such flows as being in the best interest of the state and protecting its fisheries for future generations.

Please contact Hal Shepherd (907-491-1355; halshepherdwpc@gmail.com) if you have any questions regarding these comments.

Sincerely,

ss//: Emily Murray

Emily Murray, President
Norton Bay Watershed Council

ss//: Hal Shepherd

Hal Shepherd, President
Kachemak Bay Watershed Council

ss//: Karen Gillis

Karen Gillis, Executive Director
Bering Sea Fishermen's Association

ss//: *Charlie Wright, Chair*

Charlie Wright, Chair
Yukon River Inter-Tribal Fish Commission

From: [Hal Shepherd](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Fwd: Questions Re: proposes to change regulations in 11 AAC,93
Date: Tuesday, June 9, 2026 8:31:31 AM

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Hi Brandon:

I have the following questions for the proposal to change regulations in 11 AAC 93 of the Alaska Administrative Code relating to reservations of water to issue:

- 1) Please provide any rational and legal authority that applies to the proposed amendments to 11 AAC 93.142, for requiring the applicant to provide "what trade-off is being considered" and "information on property ownership upstream and downstream of the proposed reservation.";
- 2) Please describe how the Proposed changes to 11 AAC 93.146 which would limit the holders of certificates of reservation to state and federal resources agencies complies with Alaska Statute §46.15.145 which explicitly allows *private individuals, local governments*, state agencies, and federal agencies to apply for instream flow reservations;
- 3) Please describe whether the Proposed changes to 11 AAC 93.146 erode the Alaska State Constitution as it applies to the public right to protect instream flow reservations. Specifically, Section 13 of Article VIII states that *except* "for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to *the general reservation of fish and wildlife*.";
- 3) The Proposed changes to 11 AAC 93.146 "requires the applicant to install measuring devices and monitor and report information at intervals approved by the Commissioner of DNR." Please describe whether, due to the substantial expense of purchasing installing, maintaining and monitoring instream flow reservation equipment especially in remote and roadless areas, whether this provision would work to exclude many tribal organizations and the general public from supporting the continued existence of an instream flow reservation;
- 4) Under the Proposed changes to 11 AAC 93.147 "the applicant will now be required to bear the costs of conducting additional research, data collection, and analysis for their respective certificated reservations of water." Please describe whether, due to the substantial expense of purchasing installing, maintaining and monitoring instream flow reservation equipment especially in remote and roadless areas, whether this provision would work to exclude many tribal organizations and the general public from supporting the continued existence of an instream flow reservation.

Thank you for your response.

Hal Shepherd, Interim Executive Director
Norton Bay Watershed Council
P.O. Box 332

Homer, AK 99603

halshpherdwpc@gmail.com

www.nortonbaywatershed.org

From: jfillmore66@everyactioncustom.com on behalf of [Jamie Shields](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:43:03 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Jamie Shields
Rainier, OR 97048-2812
Private Information

From: huisbaas@everyactioncustom.com on behalf of [Philip Shook](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:46:45 AM

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Sincerely,
Mr Philip Shook
Tempe, AZ 85281-0033
Private Information

From: shulerh60@everyactioncustom.com on behalf of [heidi shuler](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 3:13:09 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. heidi shuler
Vancouver, WA 98682-9544
Private Information

From: omars1234@everyactioncustom.com on behalf of [Omar Siddique](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 12:53:34 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr Omar Siddique
Ellicott City, MD 21043-6010

Private Information

From: gloriasimeon26@everyactioncustom.com on behalf of [Gloria Simeon](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Friday, June 19, 2026 2:45:21 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Gloria Simeon
Bethel, AK 99559-4153

Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Thursday, June 18, 2026 9:11:07 AM

Cathryn Simon submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/18/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. I help to monitor the Cook Inlet belugas and they are important to me. Belugas need salmon and salmon need healthy rivers. Specifically, I want to raise these points: - Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat, migration, and spawning. Salmon need water left in rivers, not only the water allocated after industrial and other consumptive uses are considered. - Requiring at least five years of monthly data could make it harder for communities, Tribes, nonprofits, and other public-interest applicants to pursue reservations, especially in remote areas where data collection is expensive and difficult. - Any measuring, monitoring, and reporting requirements should be reasonable, affordable, and appropriate for remote watersheds, and should not make public-interest water protection impossible. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Cathryn Simon Anchorage

From: Michelle.d.sinnott@everyactioncustom.com on behalf of [MICHELLE SINNOTT](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Friday, June 19, 2026 6:55:08 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. MICHELLE SINNOTT
Anchorage, AK 99508-5106

Private Information

From: msivulic@everyactioncustom.com on behalf of [Lenore Siv](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:44:32 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mrs. Lenore Siv
New Gloucester, ME 04260-3854

Private Information

From: Dsmigas@everyactioncustom.com on behalf of [David Smigas](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 2:26:41 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. David Smigas
Munhall, PA 15120-2861
Private Information

From: bloomabilities2001@everyactioncustom.com on behalf of [Cynthia Smith](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 12:23:15 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Cynthia Smith
Mission Viejo, CA 92691-3250

Private Information

From: lwolf42gsd@everyactioncustom.com on behalf of [Donna Smith](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:26:54 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Donna Smith
Havertown, PA 19083-2028
Private Information

From: smithjj3@everyactioncustom.com on behalf of [Jennifer Smith](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 6:16:32 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Jennifer Smith
Chicago, IL 60660-4917
Private Information

From: 77ravens@everyactioncustom.com on behalf of [Oliver Smith](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:56:50 AM

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Sincerely,
Mr. Oliver Smith
Lyons, CO 80540-5065
Private Information

From: susansmith@everyactioncustom.com on behalf of [SUSAN SMITH](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 12:43:12 PM

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Sincerely,
Dr. SUSAN SMITH
Santa Rosa, CA 95409-6247
Private Information

From: Luvs2compost@everyactioncustom.com on behalf of [Carole Smudin](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:32:10 PM

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Sincerely,
Ms. Carole Smudin Ms.
Bridgewater, MA 02324-0123

Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Thursday, June 18, 2026 6:09:27 PM

Tom Snyder submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/18/2026. Thank you for your input!

Comment:

I am strongly against the Instream flow regulation changes. Wild salmon need sufficient water to spawn, rear, and migrate. Regulations should reduce barriers to protecting fish habitat, not create new ones & the current instream flow reservation process is already costly and time-consuming. Several proposed revisions would make it more difficult and expensive for Alaskans to secure and maintain instream flow reservations that protect salmon habitat. The burden of demonstrating that water withdrawals will not harm fish habitat should fall on those seeking to remove water from streams, not on members of the public trying to protect salmon. Rising air and stream temperatures will make healthy instream flows even more important in the future.

From: detroitartster@everyactioncustom.com on behalf of [Daniel Solano](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 12:11:03 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Daniel Solano
Detroit, MI 48202-1304

Private Information

From: devorah.zealot@everyactioncustom.com on behalf of [Devorah Soodak](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:45:53 AM

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Sincerely,
Mx. Devorah Soodak
Philadelphia, PA 19134-3502

Private Information

From: [Tyler Breen](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: SEACC Comments on Proposed Regulation Changes — Reservations of Water, 11 AAC 93.142, 11 AAC 93.146, 11 AAC 93.147
Date: Thursday, June 25, 2026 3:14:04 PM
Attachments: [Re Comments on Proposed Regulation Changes — Reservations of Water, 11 AAC 93.142, 11 AAC 93.146, 11 AAC 93.147.pdf](#)

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CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear DNR Water Regulations Team,

Please find attached SEACC's comments on the proposed regulation changes. We appreciate the opportunity to comment on this matter. Please acknowledge receipt of this email and feel free to reach out for any clarification in our comments and recommendations.

Thank you,
Tyler

--

Tyler Breen
Policy Analyst
phone: (907) 586-6942 ext 202
cell: (805) 208-6515
pronouns: he/him
Schedule a meeting with me [here](#).
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June 25, 2026

Brandon McCutcheon, Natural Resource Manager III
Division of Mining, Land and Water
Alaska Department of Natural Resources
550 West Seventh Avenue, Suite 1070
Anchorage, Alaska 99501

Submitted via email: dnr.water.regulation@alaska.gov

Re: Comments on Proposed Regulation Changes — Reservations of Water, 11 AAC 93.142, 11 AAC 93.146, 11 AAC 93.147

I. Introduction

The Southeast Alaska Conservation Council (SEACC) is a nonprofit organization founded in 1970 and headquartered in Juneau, Alaska. SEACC's mission is to protect and conserve the lands, waters, and wildlife of Southeast Alaska's coastal temperate rainforest – the traditional homelands of the Tlingit, Haida, and Tsimshian peoples – through advocacy, education, and collaboration. SEACC represents tens of thousands of supporters and works alongside Tribal governments, rural communities, commercial fishermen, and subsistence users throughout Southeast Alaska.

SEACC submits these comments in response to the Notice of Proposed Changes on Reservations of Water issued May 29, 2026, by Director Christy Colles, Division of Mining, Land and Water, Alaska Department of Natural Resources.

II. Background

Under AS 46.15.145, any person, Tribe, state agency, or federal agency may apply to reserve water for instream flow or lake level purposes, including protection of fish and wildlife habitat, recreation, navigation, and sanitary or water quality purposes. The implementing regulations at 11 AAC 93.142, 93.146, and 93.147 govern the content of applications, the issuance of reservation certificates, and the periodic review of those certificates.

Instream flow reservations are among the most consequential tools Alaska has to protect its waters from over-appropriation. In Southeast Alaska, where a significant number of



streams support Pacific salmon (the ecological and economic foundation of coastal communities) these protections are indispensable. Salmon-bearing streams in the region sustain commercial and sport fisheries, generating hundreds of millions of dollars annually, and serve as a cultural and rural community subsistence resource. The Alaska Department of Fish and Game documented the extensive complexity of instream flow needs for salmon throughout the state in its 2009 protection report, noting “[t]he paucity of hydrological data throughout most of Alaska limits ADF&G’s ability to acquire reservations of water.”¹

Despite the importance of these protections, the water reservation system has been underutilized. Applications from Tribes and conservation organizations have languished for years or decades without adjudication, while the state has been reluctant or otherwise underresourced to invest in the baseline hydrological data necessary to support well-substantiated applications. The proposed regulation changes, rather than addressing those structural deficiencies, risk compounding them.

III. Assessment

A. 11 AAC 93.142 — Content of Application: Increased Data Requirements

The proposed amendments to 11 AAC 93.142(b) substantially expand the evidentiary burden on applicants. The current regulation requires applicants to identify existing data, explain methodology, and estimate quantity of water, supported by physical, biological, and socio-economic data. The proposed rule replaces the applicant’s self-selected quantification period (previously up to three years) with a mandatory floor of five years of monthly data to quantify the reservation. It additionally requires:

- Identification of fish population and species using the reach;
- Estimates of fish populations supplying sport, commercial, and subsistence use;
- Analysis of how varying flow levels affect available habitat for rearing, spawning, or migration; and
- Downstream and upstream land use and property ownership data.

SEACC acknowledges the aspirational logic of this change. More robust data produces better public interest determinations, and requiring applicants to document fish habitat improvements, species use, and off-site land ownership is consistent with sound resource management. We do not oppose enhanced evidentiary standards in principle.

¹ Alaska Department of Fish and Game, Instream Flow Protection in Alaska, 1999–2009, Special Publication No. 11-01 (Anchorage: Alaska Department of Fish and Game, 2011), <https://www.adfg.alaska.gov/fedaids/SP11-01.pdf>.



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What SEACC opposes is the application of these requirements without any corresponding state investment in publicly available datasets to support them.

The practical effect of a five-year continuous gauging requirement is applicational asymmetry on different categories of applicants. Stream gauging stations are costly to install and maintain over a multi-year period, and the state currently lacks streamflow data for well over 99% of Alaska's rivers and streams. A major industrial water user, such as a mining company or large enterprise, can amortize those costs as a line item. A Tribe seeking to protect its subsistence salmon stream will face structural barriers to entry. A rural community protecting its drinking water source will likely encounter capacity issues in providing this information.

This is not a neutral technical standard. It is a structural barrier that advantages well-resourced extractive applicants over the very rights holders (Tribes, rural communities, subsistence users) whose relationship to the water being reserved is most direct, most sustained, and most legally grounded in Alaska's constitutional public interest mandate.

The state itself is the appropriate provider of the foundational hydrological dataset upon which an adequate application framework must rest. DNR and ADF&G are the agencies with statutory authority and public mission to develop and maintain those datasets. Requiring heightened data standards without providing public-sector data infrastructure is, in practical effect, an unfunded mandate: one that falls most heavily on those with the least capacity to absorb it.

Separately, the proposed amendments make no provision for requiring that data submitted by private applicants enter the public domain upon submission. Data generated about a waterbody (its flows, its fish populations, its habitat quality) has public value far beyond the individual application. Not only should DNR be the provisioner of such data, but should practice transparent data sharing practices. As a condition of filing for a reservation, flow data should be made publicly accessible and archived upon submission. Allowing private applicants to generate proprietary datasets about public waters is inconsistent with the constitutional reservation of those waters to the people of Alaska.

B. 11 AAC 93.146 — Issuance of Certificates: Certificate Holder Limited to State and Federal Agencies

Under the proposed amendment to 11 AAC 93.146(b), when a state or federal resource management agency applies for a reservation and it is granted, the certificate will be



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issued directly to that agency. When any other applicant (including a private party, nonprofit organization, or Tribal government) applies and is granted a reservation, the certificate will be issued to DNR rather than to the applicant.

The notice frames this change as assurance that certificates will be held by entities whose "fundamental mission" is to act "in the best interests of the public." SEACC finds this rationale facially inadequate and, on examination, troubling.

The proposed change treats fundamentally different relationships to water as legally equivalent by routing all non-agency applicants through the same institutional structure. A Tribal government filing to protect salmon habitat in a stream that has sustained its people for millennia occupies a categorically different position than a corporation filing to maintain instream flows favorable to its operations. Both would have their certificates held by DNR under the proposed rule. These relationships are not equivalent, and their legal needs are not equivalent.

Tribal governments and rural communities that file instream flow reservations do so because their subsistence harvests, drinking water, and cultural practices depend on the waterways they are seeking to protect. They are the rights holders most directly affected by changes to reservation status. The proposed rule deprives them of direct certificate control over the very protections they initiated and replaces it with institutional dependency on an agency with competing mandates. Alaska's Constitution is explicit: "the water of Alaska...is reserved to the people for common use," and the Legislature shall provide "for the utilization, development, and conservation of all natural resources...for the maximum benefit of its people."² Transferring certificate authority from the applicant communities most dependent on those waters to DNR does not self-evidently serve that mandate. DNR has not demonstrated that it does.

That concern is amplified by documented history. Tribal and nonprofit instream flow applications have sat unadjudicated for years without final action from the state.³ Certificate control by DNR adds an additional layer of institutional dependency for communities that have already endured prolonged delay. If DNR holds the certificate and its enforcement priorities shift, the protections the Tribe or community sought may be functionally nullified without formal adjudication.

² Alaska Constitution. Article VIII, Sections 2 and 3.

³ Alaska Department of Natural Resources, *DNR Decision in Response to Court Order: Regarding Chuitna Citizens Coalition IFR Application* (Anchorage: DNR, 2018), 2, <https://dnr.alaska.gov/mlw/water/rights/chuitna/8-28-18-DNR-Decision-Regarding-CCC-IFR-Application.pdf>.



SEACC further requests that DNR address whether the proposed change affects the sovereign immunity of Tribal applicants. DNR has in prior instances required Tribes to waive sovereign immunity as a condition of participating in water processes, even where no such requirement exists in statute or regulation⁴. Transferring certificate authority to DNR raises the question of whether Tribal applicants are being constructively required to accept state custody over a water right in exchange for access to a process to which they are legally entitled. DNR should publish a formal legal analysis of this question before finalizing the change.

The proposed amendment to 11 AAC 93.146(d), mandating installation and maintenance of measuring devices by the applicant at intervals approved by the Commissioner, is administratively reasonable in isolation. However, in the context of a certificate held by DNR rather than the applicant, the division of responsibility between the monitoring obligation and the certificate authority creates potential enforcement gaps. DNR should clarify in regulation whether certificate-holding creates any DNR liability or obligation to ensure compliance with monitoring requirements where the applicant has failed to install or maintain required devices.

C. 11 AAC 93.147 — Review of Reservations: Cost-Shifting to Applicants

The proposed amendment to 11 AAC 93.147(c) eliminates the current rule that review costs, in the absence of a protest, are borne by the state. Under the proposed language, the Commissioner may "apportion the costs among the department, the applicant, or the certificate holder, as the commissioner determines to be equitable." The notice is explicit about the intent: "The department would not be required to pay for additional data collection for outdated applications or in cases where significant changes to flow have occurred."

The existing rule reflects a deliberate policy choice: because reservations serve the public interest by protecting fish, wildlife, and drinking water in perpetuity, the state (not the individual applicant) should bear the cost of demonstrating continued justification. That policy was sound. The proposed inversion produces disproportionate and contradictory impacts across different categories of applicants. Where a reservation was initiated by an industrial user, DNR cost-bearing amounts to a public subsidy for a private commercial interest (an outcome that undermines the public utility of the resource and compounds that harm by doing so at public expense). Conversely, where the state seeks to shift review

⁴ Chickaloon Village Traditional Council, *Public Comment on Proposed Changes to Water Management Regulations (11 AAC 93)* (Palmer: CVTC, 2021), 1–2, https://www.akleg.gov/basis/get_documents.asp?session=32&docid=57254.



costs onto Tribes, rural communities, or nonprofit applicants, it abdicates the very management obligation the agency exists to fulfill: administering Alaska's water resources for the benefit of all Alaskans, not charging those Alaskans for the privilege of having their public interest protections reviewed.

Where a reservation was filed by a Tribe to protect subsistence salmon runs, or by a rural community to protect a municipal water source, the state is not doing that Tribe or community a favor by reviewing the reservation; it is discharging its constitutional obligation to manage public waters for the maximum benefit of the people. The financial burden of that obligation cannot equitably be externalized onto the very communities the reservation was designed to protect.

The proposed cost-apportionment mechanism also introduces unlimited and unpredictable financial exposure for applicants who have no commercial stake in the underlying reservation. Unlike a mining or development applicant, a Tribe or nonprofit cannot hedge review costs against projected revenues from the water use. This dynamic will structurally discourage Tribes and communities from pursuing reservations in the first instance. That directly contradicts the system's statutory purpose under AS 46.15.145.

SEACC acknowledges the positive element of the proposed change: the explicit involvement of ADF&G in evaluating whether a reservation review should include new data collection. ADF&G's expertise in fish habitat and its institutional knowledge of instream flow needs makes its participation in periodic review genuinely valuable. However, this collaborative function presupposes adequate staffing and appropriations at both DNR and ADF&G. Given sustained budget pressures on both agencies, DNR should not finalize a cost-apportionment rule that substitutes for, rather than supplements, the state's own institutional review capacity.

IV. Recommendations

1. Amend the proposed 11 AAC 93.142(b)(4) to retain applicant-selected quantification periods where an applicant demonstrates that five years of continuous gauging data do not exist and cannot be obtained without resources that exceed the applicant's documented capacity. DNR should establish a data-sufficiency waiver process with clear, objective criteria, as well as a provision for provision of monitoring tools and provided by DNR as a baseline support for applicants to meet data and monitoring needs.



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2. Commit DNR and ADF&G to publicly available baseline hydrological datasets for Alaska streams before the enhanced application data requirements take effect. A schedule for expanded stream gauging infrastructure (with resultant data made publicly accessible without restriction) should accompany any finalization of the proposed 11 AAC 93.142 amendments.
3. Add a provision to 11 AAC 93.142 requiring that all data submitted with or in support of a water reservation application enter the public domain upon filing, archived and accessible through a DNR-maintained database. Data generated about public waters should benefit all users of the water system.
4. Revise the proposed 11 AAC 93.146(b) to provide that Tribal governments and federally recognized Tribal organizations may hold certificates for reservations they initiate, consistent with their government-to-government status and the direct relationship of their communities to the reserved waterbodies. At minimum, DNR should publish a legal analysis, prior to finalizing the rule, addressing whether DNR certificate-holding for Tribal applicants implicates sovereign immunity or constitutes a de facto barrier to full Tribal participation in the reservation process.
5. Retain the existing 11 AAC 93.147(c) provision that review costs, absent a protestant, are borne by the state. If DNR seeks authority to apportion costs in truly extraordinary circumstances, it should articulate specific, limited criteria in regulation (not an open-ended equitable apportionment standard) and should exempt Tribal governments, municipal governments, and nonprofit conservation organizations from cost-bearing as a matter of rule, not discretion.
6. Condition the implementation of the proposed 11 AAC 93.147 amendments on demonstrable funding for ADF&G and DNR review functions. DNR should not adopt a cost-apportionment mechanism as a substitute for adequate agency appropriations.

V. Conclusion

SEACC submits these comments in good faith and with the expectation that DNR will give them substantive consideration before finalizing the proposed amendments. The regulation changes as proposed would, in aggregate, make the water reservation system less accessible to the Tribes, rural communities, and conservation organizations most dependent on its protections. While SEACC is concretely aware of the pressing budgetary issues facing Alaska, the answer to such constraints does not lie in reducing the state's

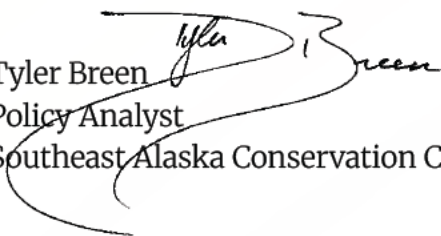


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financial accountability for administering a system grounded in constitutional public trust obligations.

Respectfully submitted,


Tyler Breen
Policy Analyst
Southeast Alaska Conservation Council



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June 25, 2026

Brandon McCutcheon, Natural Resource Manager III
Division of Mining, Land and Water
Alaska Department of Natural Resources
550 West Seventh Avenue, Suite 1070
Anchorage, Alaska 99501

Submitted via email: dnr.water.regulation@alaska.gov

Re: Comments on Proposed Regulation Changes — Reservations of Water, 11 AAC 93.142, 11 AAC 93.146, 11 AAC 93.147

I. Introduction

The Southeast Alaska Conservation Council (SEACC) is a nonprofit organization founded in 1970 and headquartered in Juneau, Alaska. SEACC's mission is to protect and conserve the lands, waters, and wildlife of Southeast Alaska's coastal temperate rainforest – the traditional homelands of the Tlingit, Haida, and Tsimshian peoples – through advocacy, education, and collaboration. SEACC represents tens of thousands of supporters and works alongside Tribal governments, rural communities, commercial fishermen, and subsistence users throughout Southeast Alaska.

SEACC submits these comments in response to the Notice of Proposed Changes on Reservations of Water issued May 29, 2026, by Director Christy Colles, Division of Mining, Land and Water, Alaska Department of Natural Resources.

II. Background

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SEACC further requests that DNR address whether the proposed change affects the sovereign immunity of Tribal applicants. DNR has in prior instances required Tribes to waive sovereign immunity as a condition of participating in water processes, even where no such requirement exists in statute or regulation⁴. Transferring certificate authority to DNR raises the question of whether Tribal applicants are being constructively required to accept state custody over a water right in exchange for access to a process to which they are legally entitled. DNR should publish a formal legal analysis of this question before finalizing the change.

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costs onto Tribes, rural communities, or nonprofit applicants, it abdicates the very management obligation the agency exists to fulfill: administering Alaska's water resources for the benefit of all Alaskans, not charging those Alaskans for the privilege of having their public interest protections reviewed.

Where a reservation was filed by a Tribe to protect subsistence salmon runs, or by a rural community to protect a municipal water source, the state is not doing that Tribe or community a favor by reviewing the reservation; it is discharging its constitutional obligation to manage public waters for the maximum benefit of the people. The financial burden of that obligation cannot equitably be externalized onto the very communities the reservation was designed to protect.

The proposed cost-apportionment mechanism also introduces unlimited and unpredictable financial exposure for applicants who have no commercial stake in the underlying reservation. Unlike a mining or development applicant, a Tribe or nonprofit cannot hedge review costs against projected revenues from the water use. This dynamic will structurally discourage Tribes and communities from pursuing reservations in the first instance. That directly contradicts the system's statutory purpose under AS 46.15.145.

SEACC acknowledges the positive element of the proposed change: the explicit involvement of ADF&G in evaluating whether a reservation review should include new data collection. ADF&G's expertise in fish habitat and its institutional knowledge of instream flow needs makes its participation in periodic review genuinely valuable. However, this collaborative function presupposes adequate staffing and appropriations at both DNR and ADF&G. Given sustained budget pressures on both agencies, DNR should not finalize a cost-apportionment rule that substitutes for, rather than supplements, the state's own institutional review capacity.

IV. Recommendations

1. Amend the proposed 11 AAC 93.142(b)(4) to retain applicant-selected quantification periods where an applicant demonstrates that five years of continuous gauging data do not exist and cannot be obtained without resources that exceed the applicant's documented capacity. DNR should establish a data-sufficiency waiver process with clear, objective criteria, as well as a provision for provision of monitoring tools and provided by DNR as a baseline support for applicants to meet data and monitoring needs.



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3. Add a provision to 11 AAC 93.142 requiring that all data submitted with or in support of a water reservation application enter the public domain upon filing, archived and accessible through a DNR-maintained database. Data generated about public waters should benefit all users of the water system.
4. Revise the proposed 11 AAC 93.146(b) to provide that Tribal governments and federally recognized Tribal organizations may hold certificates for reservations they initiate, consistent with their government-to-government status and the direct relationship of their communities to the reserved waterbodies. At minimum, DNR should publish a legal analysis, prior to finalizing the rule, addressing whether DNR certificate-holding for Tribal applicants implicates sovereign immunity or constitutes a de facto barrier to full Tribal participation in the reservation process.
5. Retain the existing 11 AAC 93.147(c) provision that review costs, absent a protestant, are borne by the state. If DNR seeks authority to apportion costs in truly extraordinary circumstances, it should articulate specific, limited criteria in regulation (not an open-ended equitable apportionment standard) and should exempt Tribal governments, municipal governments, and nonprofit conservation organizations from cost-bearing as a matter of rule, not discretion.
6. Condition the implementation of the proposed 11 AAC 93.147 amendments on demonstrable funding for ADF&G and DNR review functions. DNR should not adopt a cost-apportionment mechanism as a substitute for adequate agency appropriations.

V. Conclusion

SEACC submits these comments in good faith and with the expectation that DNR will give them substantive consideration before finalizing the proposed amendments. The regulation changes as proposed would, in aggregate, make the water reservation system less accessible to the Tribes, rural communities, and conservation organizations most dependent on its protections. While SEACC is concretely aware of the pressing budgetary issues facing Alaska, the answer to such constraints does not lie in reducing the state's

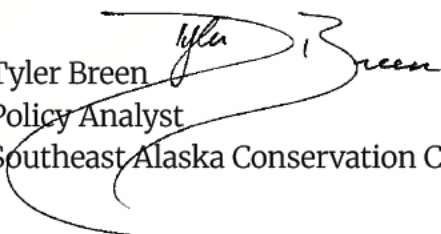


Southeast Alaska Conservation Council

2207 Jordan Ave
Juneau, AK 99801
(907) 586-6942
www.seacc.org

financial accountability for administering a system grounded in constitutional public trust obligations.

Respectfully submitted,


Tyler Breen
Policy Analyst
Southeast Alaska Conservation Council

From: pfsparrow@everyactioncustom.com on behalf of [Phillip Sparrow](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 25, 2026 2:23:36 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I want to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.” Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Phillip Sparrow
Wasilla, AK 99654-4702
Private Information

From: zoospevak@everyactioncustom.com on behalf of [Edward Spevak](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:05:53 AM

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Sincerely,
Dr. Edward Spevak
Saint Louis, MO 63139-2118

Private Information

From: wohlbold_2000@everyactioncustom.com on behalf of [Karen Spradlin](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:30:07 AM

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Sincerely,
Ms Karen Spradlin
Jacksonville, AL 36265-2751

Private Information

From: wystaplers@everyactioncustom.com on behalf of [Carl Stapler](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 5:41:55 PM

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Sincerely,
Mr. Carl Stapler
Evanston, WY 82930-4888

Private Information

From: steegede@everyactioncustom.com on behalf of [Wvelyn Steege](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:12:33 PM

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Sincerely,
Mrs Wvelyn Steege Mrs
Covington, VA 24426-1227
Private Information

From: 05.bossy-rivals@everyactioncustom.com on behalf of [Jim Steffen](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:54:08 AM

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Sincerely,
Mr Jim Steffen
Sitka, AK 99835-0936

Private Information

From: nrspacific@everyactioncustom.com on behalf of [Neal Steiner](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 10:02:01 AM

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Sincerely,
Mr. Neal Steiner
Los Angeles, CA 90034-1841
Private Information

From: cleanecaffeine@everyactioncustom.com on behalf of [Lori Stephenson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 7:15:21 AM

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Sincerely,
Ms. Lori Stephenson
Homer, AK 99603-7755

Private Information

From: cleanecaffeine@everyactioncustom.com on behalf of [Lori Stephenson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 9:39:24 AM

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Sincerely,
Ms. Lori Stephenson
Homer, AK 99603-7755

Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 20, 2026 7:41:01 AM

Lori Stephenson submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/20/2026. Thank you for your input!

Comment:

I am convinced that the current instream flow process is backwards. Regulations must REDUCE barriers to protecting fish habitat, not create new ones. If you think Alaska is so big that a "little" infraction here and there won't make a difference, think again. All you have to do is look at the widespread pollution in the vast oceans of the world to see nothing is too large to be impervious to destruction. Human arrogance and greed are powerful, but ignorant motivators in this fight to make wise choices about Alaska's considerable yet vulnerable resources. Further major points for you to consider: *Wild salmon need sufficient water to spawn, rear, and migrate. *Rising air and stream temperatures will make healthy instream flows even more important in the future. *The current instream flow reservation process is already costly and time-consuming. *The burden of demonstrating that water withdrawals will not harm fish habitat should fall on those seeking to REMOVE water from streams, not on members of the public trying to protect salmon. *ECONOMICALLY... Alaska's wild salmon are prized (as they should be) and bring in boatloads of money to the state. Thanks for your consideration regarding this vital issue.

From: ardster@everyactioncustom.com on behalf of [Ard Stetts](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Friday, June 19, 2026 6:39:17 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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I, Ard Stetts am totally opposed to the proposed changes to 11 AAC 93. Retired guide and remote property holder, lifelong outdoors man.

Ard Stetts

Sincerely,
Mr. Ard Stetts
Wasilla, AK 99623
Private Information

From: jacqueline4sight@everyactioncustom.com on behalf of [Jackie Stolfi](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 8:56:13 AM

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Sincerely,
Mrs. Jackie Stolfi
Massapequa Pk, NY 11762-4012

Private Information

From: [J Stras](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comment Proposed Water Regulation Changes
Date: Monday, June 29, 2026 3:03:24 PM

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June 29, 2026

Brandon McCutcheon
Alaska Department of Natural Resources
550 West Seventh Avenue, Suite 1070
Anchorage, Alaska 99501

Via email: dnr.water.regulation@alaska.gov

To Whom it May Concern:

These are my comments regarding proposed changes to Water Regulation.

11 AAC 93.146(b): I disagree with this amendment. The State of Alaska and federal resource management agencies should not be the only entities allowed to hold a certificate of reservation of water. The entities that may apply for and hold a reservation of water should remain as it is today, i.e., a state, agency or a political subdivision of the state, an agency of the United States, or a person (AS 46.15.145(a). "Person" is defined at AS 46.14.990 (21) and AS 01.10.060(8), and includes individuals (i.e., natural person), businesses, non-profit organizations, nongovernmental organizations (i.e., NGOs), municipalities, University of Alaska, Alaska Railroad Corporation, etc..

Sec. 46.15.145. Reservation of water of Alaska Statutes, at AS 46.15.145(b) is consistent with the existing, current 11 AAC 93.146(b). The proposed change is not consistent with statute and the way it has been interpreted for decades. The proposed change is a significant departure from Statute and established practices, accordingly, is not allowable unless statute is first changed.

All of these entities which seek water reservation have a legitimate and compelling interest in our public water and each should continue to hold a reservation of water. Continuing to allow the entities currently permitted to hold reservations of water would reduce the risk of politicization or abuse of the process.

And on top of that, under current regulation, the applicant must make a considerable effort and spend the money in order to obtain the data required by the application. The applicant has a lot invested and has strong incentive to protect the water quantity and quality. They, not DNR, should hold the certificate.

I question whether there is a legal basis for barring tribal governments and native organizations from holding a certificate of reservation of water.

11 AAC 93.142(b)(9) (i.e., the “new” (9) amendment): I generally support the new (9). Salmon are a critical, keystone species. It is very important to protect their habitat, not just for sport, commercial, and subsistence, but also for their contribution to maintaining well functioning ecosystems and healthy terrestrial habitat.

11 AAC 93.146(d)(1): This amendment should specify a required minimum interval to monitor and report on the reserved instream flow or level of water. And with the rapid changes resulting from climate change, the interval should be shorter rather than longer.

11 AAC 93.147(c): This amendment (second sentence) is vague and could lead to disagreements as to what is meant by “equitable”. It would be best to leave the existing language substantially in place, but include an additional caveat (in addition to expedited service) that the commissioner may require the certificate holder to bear the costs of any special service requested by the certificate holder.

DNR has an enormous backlog of unadjudicated water reservation applications, the root cause of which likely has to do with insufficient funding and staffing. The remedy for dealing with this backlog and better protect our water quality and quantity is not to change the process; it is to obtain adequate funding and staff.

Thank you for this opportunity to comment.

Sincerely,

John Strassenburgh
PO Box 766
Talkeetna, AK

From: codystrathe@everyactioncustom.com on behalf of [Cody Strathe](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, July 1, 2026 6:57:10 AM

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Sincerely,
Mr Cody Strathe
Cantwell, AK 99729-0256

Private Information

From: strats2@everyactioncustom.com on behalf of [Ann Stratten](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:34:34 PM

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Sincerely,
Mrs. Ann Stratten
La Mesa, CA 91941-7325
Private Information

From: sullyjksak49@everyactioncustom.com on behalf of [James Sullivan](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Friday, June 26, 2026 1:51:48 PM

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Sincerely,
Mr James Sullivan
Chugiak, AK 99567-6951
Private Information

From: sullyjksak49@everyactioncustom.com on behalf of [James Sullivan](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 5:31:36 PM

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Sincerely,
Mr James Sullivan
Chugiak, AK 99567-6951
Private Information

From: [Melis Coady](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#); [Tucker, Jonathan R \(DNR\)](#); [Stinson, Matthew P \(LAW\)](#)
Cc: [Goodrum, Brent W \(DNR\)](#); [Colles, Christianna D \(DNR\)](#)
Subject: SRC Comments Proposed 11 AAC 93 Changes
Date: Tuesday, June 30, 2026 1:40:46 PM
Attachments: [SRC Comments Proposed 11 AAC 93 Changes.docx.pdf](#)

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Dear Mr. McCutcheon,

Please find attached the Susitna River Coalition's comments on DNR's proposed changes to the water reservation regulations, noticed May 29, 2026. We are also submitting a substantive procedural concern regarding the comment process for this rulemaking.

The Susitna River Coalition is a watershed-health organization whose work focuses on protecting the ecological, cultural, recreational, and economic values of the Susitna River watershed.

As explained in Section 8 of our enclosed comments, we have a procedural concern regarding the Department's denial of multiple credible requests for additional time or a public hearing. Those requests came from a substantial and varied group of commenters, including the U.S. Fish and Wildlife Service and the Bureau of Land Management, two federal resource-management agencies whose programs, responsibilities, and participation in Alaska water-reservation matters may be directly affected by these regulations. Requests also came from Tribes, community councils, watershed and fisheries organizations from across Alaska, technical experts, and individual Alaskans.

The Department declined extension requests with the same single-sentence response: "At this time, DNR is not proposing an extension of time for this public notice period." The Department also declined a request for a public hearing by stating: "The scoping process is complete. DNR is not going to a hearing related to this regulation process." DNR's written Questions and Answers Regarding Proposed Water Reservation Regulations [were posted on June 26, 2026](#), just four days before the June 30, 2026 comment deadline.

SRC respectfully submits that this rulemaking warranted more than a pro forma denial. These are substantive changes to a statutory program established in 1980, following earlier agency proposals in 2016 and 2021 and a 2024 scoping process that generated more than 1,200 pages of comments that the Department has not summarized for the public. The Department's written responses to questions also appeared shortly before the deadline, during the summer field season, leaving commenters with little meaningful time to evaluate the Department's answers before submitting final comments.

We are copying DNR leadership and the State Department of Law so this procedural concern can be reviewed before the Department proceeds further. SRC requests that the Department extend the comment period and hold a recorded, hybrid informational meeting before finalizing any changes.

Thank you for ensuring these comments and this request are included in the rulemaking record.

Best regards,

Melis Coady
Executive Director
Susitna River Coalition





Supporting Salmon, Wildlife, and Community

June 30, 2026

Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land & Water, Program Support Section
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501-3579

Submitted via: dnr.water.regulation@alaska.gov and the online comment portal

Re: Comments of the Susitna River Coalition on Proposed Revisions to 11 AAC 93 Governing Reservations of Water (Project/Regulation No. 2025200515)

Dear Mr. McCutcheon,

The Susitna River Coalition (SRC) submits these comments on the Department of Natural Resources' (DNR or the Department) proposed revisions to 11 AAC 93 concerning reservations of water. SRC is a Talkeetna-based nonprofit dedicated to protecting the watershed health, water quality, and fish and wildlife habitat of the Susitna River basin. Reservations of water are among the few legal mechanisms available to keep water in the rivers, streams, and lakes of the basin for salmon and other public uses, and the proposed changes are therefore of direct and substantial concern to our members.

SRC supports efficient, consistent adjudication and a sound evidentiary basis for reservation decisions. We do not oppose a reasonable, well-calibrated baseline of data. We write because the proposal misdiagnoses the problem it sets out to solve. By the Department's own account, the reservation program's longstanding difficulty has been the timely adjudication of applications, not the quality of the data applicants provide. That is a problem of staffing, funding, and priority. The proposal does not add adjudication capacity. Instead it raises the burden on the public-interest applicants the program exists to serve, and it transfers ownership of their reservations to the Department. Neither change resolves the backlog, and the ownership change in particular rests on authority the Department has not identified. The sections below set out these concerns and offer specific, constructive recommendations.

1. Legislative intent and the program's actual history.

The Legislature added the reservation of water mechanism to the Alaska Water Use Act in 1980, recognizing that water left in a stream is itself a beneficial use that serves economic, social, and public values. That choice is consistent with Article VIII, Sections 3 and 13 of the Alaska Constitution, which reserve water to the people for common use and recognize the general reservation of fish and wildlife, and with AS 46.15.145, which authorizes the State, its agencies and subdivisions, federal agencies, and any person to apply to reserve water.

Reservations were created as an affirmative public good, not as a disfavored category to be narrowed by regulation.

The program's history shows where the difficulty has actually been. According to Alaska Department of Fish and Game program publications, the Department received roughly 468 reservation applications between 1980 and 2013, yet only about 80 river miles and one lake were certificated over that period. As one commenter noted in this proceeding, a 2000 memorandum of understanding under which Fish and Game helped fund a Department adjudication position, together with renewed agency priority, produced a measurable improvement in adjudication in the years that followed. The lesson of that record is straightforward. When the program was funded and prioritized, it moved. When it was not, applications accumulated. The constraint has been capacity, not the completeness of applications.

The current proposal also revisits ground the Department has covered before. As commenters have noted, the Department sought information on regulatory changes in 2016, revisited the subject in 2021, held a single public meeting in 2024, and received more than 1,200 pages of written comment, without publishing a response to that input or an explanation of why it has returned to substantially the same changes. On a prior occasion, legislation that would have curtailed the reservation program drew extensive public opposition and did not become law. SRC raises this history not to relitigate it, but because it bears directly on how the present proposal should be understood and weighed.

2. The program's problem is fiscal and administrative, not a deficiency in applicant data.

The Department has stated that the reservation program is currently staffed, that it does not anticipate additional staff needs, and that the fiscal note for these changes is zero. The Alaska Department of Fish and Game filed no fiscal note. At the same time, in written responses to the Bureau of Land Management and the U.S. Fish and Wildlife Service during this comment period, the Department confirmed that 498 reservation applications are pending and unadjudicated, including 202 attributed to the Service. The Department further acknowledged that it does not know whether the proposed regulations will reduce that backlog, and that it has not conducted a formal analysis of how the changes would affect Alaska's fisheries or the communities, businesses, and harvesters that depend on them.

These statements are difficult to reconcile. A single dedicated position cannot adjudicate 498 pending applications in a reasonable time, regardless of how complete each application is. Requiring more of applicants at the front end does not adjudicate a single pending application any faster, and the Department has produced no analysis showing that it would. If anything, two features of the proposal would increase the Department's own workload: treating an application without five years of monthly data as incomplete, which the Department says it would not accept, and making the Department the holder, monitor, and defender of every non-agency reservation statewide. The efficiency rationale is therefore unsupported by any analysis in the record and is in tension with the program's own history, which shows that adjudication improved when the program received funding and priority, not when applicants were asked for more.

SRC respectfully recommends that the Department address the backlog directly, through adequate staffing and funding and, where appropriate, a restored interagency funding

arrangement of the kind that demonstrably worked. We further recommend that the Department not adopt an efficiency or cost-effectiveness rationale that it has not substantiated with analysis, and that any fiscal note accompanying these changes reflect the real cost of the new holder, monitoring, and review responsibilities the proposal assigns to the State.

3. Limiting certificate holdership to the Department is an ownership reallocation that the statute does not authorize and that does not solve the backlog.

The proposed revision to 11 AAC 93.146 would issue a certificate of reservation to a state or federal resource management agency only when that agency is the applicant, and would have the Department hold the certificate for all other applicants, including Tribes, local governments, nonprofits, and individuals. This is the most substantial change in the proposal. It does not address the backlog described above, and it has drawn statutory and constitutional objections from multiple legal and conservation organizations during this comment period.

Statutory authority. AS 46.15.145 authorizes a person to apply to reserve water, and AS 46.15.260 defines a reservation of water as an appropriation, listing instream and out-of-stream uses among the beneficial uses without establishing a hierarchy. A person who appropriates water for an out-of-stream use holds the certificate for that use. In its responses, the Department acknowledges that the statute identifies who may apply but does not specify who may hold a certificate once issued, and it rests the proposed change on its general rulemaking authority under AS 46.15.020 and on what it describes as an administrative distinction. SRC respectfully requests that the Department identify the specific statutory authority that permits it to divest a qualified non-agency applicant of holdership of a certificate that applicant has applied for and earned, when holders of out-of-stream appropriations retain their own certificates. Reading statutory silence as affirmative authority to reassign a property-like interest is a significant interpretive step, and the basis for it should be stated on the record.

Institutional separation. The Department, through the Division of Mining, Land and Water, adjudicates and issues consumptive water rights and temporary water use authorizations. The proposal would place sole holdership of non-agency instream flow reservations in that same division. SRC recognizes that some states combine custody of instream flow rights with water-allocation authority, but those states pair the combination with a structural safeguard. In Oregon, instream water rights are applied for by resource agencies such as the Department of Fish and Wildlife, are held only in trust, and cannot be weakened without the requesting agency's recommendation. In Colorado, instream flow rights are held by a dedicated board separate from the officials who administer consumptive appropriations. The Department's proposal contains no comparable safeguard. It would consolidate holdership in the division that permits withdrawals, without a resource-agency veto, a dedicated instream flow trust, or enforceable applicant rights in the regulation. SRC recommends that any move to state holdership be accompanied by an equivalent structural separation.

Incentive to invest. Non-agency applicants typically fund years of hydrological data collection to support a reservation. As commenters have observed, requiring those applicants to bear that cost while the Department holds the resulting certificate could remove the incentive to undertake the work at all. In a state of remote watersheds and chronically constrained agency budgets, the public interest is served by adding incentives for this work, not removing them. The likely effect

of the change is fewer public-interest reservations, a result that would not serve the public interest the proposal invokes.

Accountability in text, not assurance. The Department offers assurances that the original applicant will remain involved, will receive the Review and Determination for Certification, and may participate in proceedings, though it states that the Department would be the primary party. SRC appreciates these commitments but notes that they appear in a question-and-answer document rather than in the regulation itself. We recommend that the Department codify enforceable applicant and community rights in 11 AAC 93.146 and 11 AAC 93.147, including notice, a defined role in the ten-year review, and a mechanism to participate in defending the reservation. Commitments stated only in a question-and-answer document are not enforceable and could change with shifting Departmental priorities.

The stewardship rationale is not borne out by the Department's record. The Department justifies self-holdership as the means to ensure consistent enforcement and defense of reservations. Yet the Department has left the routine ten-year review of an existing reservation on the Talkeetna River under appeal for more than three years without a decision, as described in the next section. An agency that has not resolved a single pending challenge to one reservation is not well positioned to argue that consolidating holdership of every non-agency reservation will improve stewardship. The proposal would add this duty without the capacity to perform it.

4. The Talkeetna River reservation illustrates these points.

The reservation of water on the lower Talkeetna River, in SRC's home watershed, is a useful and well-documented example. The Alaska Department of Fish and Game applied for the reservation in 1991 to protect fish habitat, migration, and propagation, and the certificate issued in 2003, roughly twelve years later, with no objections during adjudication. The reservation relied on a U.S. Geological Survey gage with a record extending to 1964, one of the longest streamflow records in Alaska. It is junior to senior water rights and, by the Department's 2003 findings, leaves significant Talkeetna River flow unappropriated. The existing process, in other words, already demanded substantial data and produced a measured result.

At the reservation's ten-year review in 2022, the Department received sixteen comments and, by its own count, fifteen supported continuing the reservation and one opposed it. The Department reviewed all eight statutory criteria and continued the reservation without change. The single opposing commenter, an industry trade association, appealed that decision in December 2022. More than three years later, the appeal remains pending and undecided.

Two features of this record bear on the present proposal. First, the additional application requirements the proposal would impose on every future applicant, including detailed methodology, multi-year data, and fish and habitat analysis, mirror the arguments the appealing party has advanced against this reservation. The proposal would, in effect, make one objector's preferred evidentiary demands the standard entry cost for all public-interest applicants. SRC notes this as an observable alignment between the proposed requirements and the arguments made in that appeal, and does not ask the Department to resolve the merits of the appeal here. Second, the unresolved appeal demonstrates that the program's real failure is timely decision

and resolution, which is a matter of capacity, and not a deficiency in the data the applicant supplied. The proposal would raise the bar on applicants while leaving that failure unaddressed.

5. The proposal widens an existing imbalance between protecting water and removing it.

In its written responses to public questions, the Department confirmed that an application to reserve water is held to more rigorous supporting-documentation requirements than an application to appropriate water for consumptive use, and that the proposed revisions do not impose comparable new requirements on consumptive water rights or temporary water use authorizations. The Department's stated reason for this difference is that a reservation typically involves a far larger quantity of water than a consumptive withdrawal, and that reservation amounts can affect fish and wildlife habitat, recreation, navigation, and public health.

SRC respectfully suggests that the size of the quantity requested is not a sound measure of a proposal's effect on the public interest or on other water users. A reservation removes no water from a stream. It leaves water in place, is junior to all senior rights, and can be granted only after the Department finds that unappropriated water is available and that prior appropriators will not be injured. The large figure associated with a reservation generally reflects the natural flow being protected, not a burden imposed on anyone else. The Talkeetna River reservation described above illustrates this. It reserves seasonal instream flows of up to roughly 4,045 cubic feet per second, yet the only senior water right on that reach is a household cabin use of about 75 gallons per day, which the reservation leaves untouched, and it leaves significant additional flow unappropriated. The large reserved figure measures the river, not a demand placed on any other user. A consumptive authorization, by contrast, physically removes water from the system, and it is removal that threatens the very values the Department lists, including habitat, recreation, navigation, and public health. If the potential to affect those values is the measure of how much documentation a proposal should carry, then the activity that depletes a water body warrants at least as much scrutiny as the activity that keeps water in it.

This concern is heightened because individually modest withdrawals can, in the aggregate and during low-flow periods, substantially reduce the water available for fish and other public uses, even though each is reviewed lightly. The Water Use Act treats instream and out-of-stream uses as co-equal beneficial uses, without a hierarchy, and requires both to satisfy the public interest. Calibrating the evidentiary burden to the nominal quantity requested, rather than to a proposal's actual effect on the water body and the public interest, does not track that equal treatment, and it is in tension with the public-trust character of water under Article VIII, Sections 3 and 13 of the Alaska Constitution, including the general reservation of fish and wildlife. To the extent the Department seeks greater data rigor, SRC recommends that it apply comparable rigor to consumptive applications that may affect the same water bodies, rather than to the reservation process alone.

6. If the Department proceeds, the data and cost provisions should be calibrated and affordable.

Data requirements under 11 AAC 93.142. SRC does not oppose a multi-year baseline. We do, however, want the record to be clear about the magnitude of the change. The current 11 AAC 93.142(b)(4) allows an applicant up to three years after an application is accepted for filing to fully quantify the proposed reservation, and it permits that data to be developed after the

application is filed. The proposal would remove that quantification period and instead require at least five years of monthly data before an application will be accepted as complete. This is not a modest adjustment. It converts a post-filing window of up to three years into a five-year data record that must be in hand before a person may even file. Our concern is feasibility in remote watersheds, where, as the American Fisheries Society noted in this proceeding, monthly data often cannot be collected on a fixed schedule because of ice, access, and weather, and where the State does not hold its own gaging program to the standard now proposed for applicants. Treating any application that lacks five years of monthly data as incomplete would foreclose otherwise sound applications that rely on the best available information. We recommend that 11 AAC 93.142 retain a reasonable post-filing quantification period and expressly allow flexible, scientifically accepted methods, including periodic gaging, continuous data loggers, and hydrologic estimation from correlated long-term records, permit the use of qualified data from agency, academic, and citizen-science sources, and scale requirements to watershed conditions. SRC maintains an EPA-supported water quality and fish biomonitoring program in the Susitna basin under an approved Quality Assurance Project Plan, and data of this kind can contribute to a credible evidentiary record at substantially lower cost than purpose-built collection alone. We also ask the Department to clarify the scope and statutory basis of the new application items, including the requirement to provide information on upstream and downstream property ownership and on trade-offs being considered.

7. Public comment is not a substitute for government-to-government consultation with Tribes, and Tribes should not be relegated to non-agency status.

The Department has stated that federally recognized Tribes are not state or federal resource management agencies for purposes of holdership, that their certificates would therefore be held by the Department, and that the State's formal recognition of Tribes in 2021 does not change this. Commenters have noted existing regulatory precedent for the explicit inclusion of Tribes elsewhere in Title 11. SRC respectfully observes that a public comment period is not equivalent to government-to-government consultation with federally recognized Tribes, which hold a distinct governmental status, and we urge the Department to conduct separate, formal consultation before adopting changes that bear on salmon, traditional waters, and subsistence. SRC defers to Tribes to speak for their own interests and priorities, including whether the proposal's treatment of Tribal holdership is appropriate.

8. Process and timing.

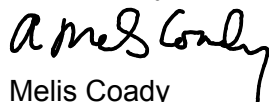
SRC joins the many commenters who have requested an extension of the comment period and a recorded, hybrid informational meeting. During this comment period, at least sixteen commenters, including the U.S. Fish and Wildlife Service and the Bureau of Land Management, formally requested an extension or a fall comment period, and requests for a public hearing or webinar were also made. The Department declined each one. The Department concluded scoping in 2024 but did not publish a summary of the more than 1,200 pages of comment it received, and its responses to questions in this round did not post until shortly before the comment deadline, during the peak field season. An extension and a recorded, hybrid informational session would materially improve the quality and completeness of the record without prejudicing the Department's objectives, and would better support the public-interest determination the Department is required to make.

Summary of recommendations.

- Treat the backlog as the fiscal and administrative problem it is. Address it through adequate staffing, funding, and priority, including a restored interagency funding arrangement, rather than through new requirements on applicants.
- Do not adopt an efficiency or cost-effectiveness rationale the Department has not substantiated, and revise any fiscal note to reflect the real cost of the new holder, monitoring, and review duties.
- State the specific statutory authority for limiting certificate holdership under 11 AAC 93.146, given that reservations are appropriations and out-of-stream appropriators hold their own certificates; if holdership moves to the State, pair it with a genuine structural separation from the Department's appropriation-permitting function.
- Codify enforceable applicant and community rights to notice, participation in the ten-year review, and defense of the reservation, rather than leaving them to informal assurance.
- Do not widen the imbalance between protecting and removing water; apply comparable data rigor to consumptive applications that may affect the same water bodies.
- Calibrate the data requirements under 11 AAC 93.142, retain a reasonable post-filing period to complete quantification as the current rule allows, permit flexible and scientifically accepted methods, credit qualified agency, academic, and citizen-science data, and do not treat the absence of five years of monthly data as automatically disqualifying.
- Add affordability safeguards to 11 AAC 93.147, including a cost cap or scaling, a state cost-share where appropriate, and protection against cost-based denial of feasible reservations.
- Conduct formal government-to-government consultation with affected Tribes, and reconsider the proposal's treatment of Tribal holdership.
- Extend the comment period and hold a recorded, hybrid informational meeting.

Thank you for considering these comments. SRC shares the Department's interest in a reservation program that is efficient, durable, and grounded in sound data. Precisely because water is a public resource held for the benefit of all Alaskans, the means of protecting instream flows must remain accessible to the public and must not be subordinated to the appropriation of water. The most effective step the Department can take toward efficiency is to fund and prioritize the adjudication of the applications already before it. We are glad to provide additional information or supporting data, and we appreciate the opportunity to comment.

Respectfully submitted,



Melis Coady
Executive Director
Susitna River Coalition

From: caswank1@everyactioncustom.com on behalf of [Carrie Swank](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:31:53 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Carrie Swank
Reading, PA 19608-1361
Private Information

From: [Jon Korta](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Talkeetna Community Council Board Members](#)
Subject: Request for an extension of public comments Re: Public Notice of State Instream Flow Reservation Regulation Changes
Date: Friday, June 26, 2026 2:04:29 PM

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Hello Brandon,

I am writing on behalf of the Talkeetna Community Council to respectfully request an extension of the public comment period regarding the proposed regulation changes to the instream flow reservations for the Talkeetna River. We received notice of this after we'd already posted the agenda for our June meeting so we were unable to take it up for discussion. The deadline for comment is before our July 6th meeting. Since this public comment period falls between our meeting cycles, and given that this is an important issue for residents in our community, we are hopeful that you would allow us an extension so that we may properly discuss this as a community. We intend to have this up for discussion at our July meeting and would be able to submit comments shortly thereafter.

In addition, might we be able to request a virtual public meeting such as was held in August of 2024 when the ADNR Water Resources Section held a scoping meeting for these regulation changes?

We appreciate your willingness to work with us on this important issue. Please reach out if you need any further information.

Respectfully,

Jon Korta

--

Jonathan Korta
Chair - Talkeetna Community Council
PO Box 608
Talkeetna, AK 99676
(907) 203-2532 cell

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Monday, June 22, 2026 12:49:35 PM

sammy taylor submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/22/2026. Thank you for your input!

Comment:

Please reconsider any changes to water regulations that would put the proof of need onto the Fish, Wildlife and people who use the water. Water levels are, of course important criteria for Salmon spawning and regeneration. Please put the concerns for future needs of those living before the needs of corporations looking for a profit. Alaska Natives and others living and/or using a water source should be the first considered before any other water use or extraction.

From: [Rebecca Logan](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Alliance Comments
Date: Tuesday, June 30, 2026 4:18:13 AM
Attachments: [DNR Water Management Comments 063026.docx](#)

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For your consideration

Rebecca Logan
CEO
The Alliance
rlogan@alaskaalliance.com
907-351-0970 cell
907-563-2226 work



THE ALLIANCE

Linking Alaska's Resources to Alaska's People

|

June 30, 2026

Brandon McCutcheon
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501
Submitted via e-mail: dnr.water.regulation@alaska.gov

Dear Mr. McCutcheon:

Thank you for the opportunity to comment on proposed changes to DNR's water management regulations, 11 AAC 93. Our association has consistently advocated for needed changes to DNR's water management program, specifically issues involving the reservation of water.

I am commenting on behalf of the Alaska Support Industry Alliance and its 560 member companies. The Alliance is a 47-year-old professional trade organization whose members support oil, gas, and mining operations in the state of Alaska.

Overall, healthy fish populations and habitat are vital to Alaska. Our association emphatically supports thriving water conditions for all users: commercial, sport, and subsistence, and we maintain that waters should be managed by an agency responsible for representing all Alaskans. The proposed changes to DNR's regulations on reservations of water will ensure that decisions about Alaska's water resources are made by the Departments of Environmental Conservation (DEC), Fish and Game (ADF&G), and Natural Resources (DNR), as well as federal agencies for federal land.

In addition, DNR's proposed changes bring better science and socioeconomic analysis to Alaska's decisions on instream flow. The requirement for site-specific information allows DNR to balance the protection of fish populations and habitat with the effects on upstream users, as the law actually requires. And the requirement for actual estimates of how different water levels affect the quality of fish habitat available allows for much better science in the protection and management of Alaska's fish. It is better science, more transparency for the public, and ultimately will result in better protection for fish.

Thank you for the opportunity to comment, and we applaud the changes proposed by DNR.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, reading "Rebecca Logan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rebecca Logan
CEO
The Alliance

From: [Claudi Thompson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comment regarding proposed changes to water reservation regulations
Date: Saturday, June 6, 2026 5:50:50 PM

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Dear Department of Natural Resources,

Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations.

I am concerned that the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, subsistence, navigation, and public use. Water reservations are one of the only legal tools available to keep water in rivers, streams, and lakes for fish habitat, migration, and propagation.

Please ensure that any changes to 11 AAC 93 strengthen, rather than weaken, Alaska's ability to protect instream flows. Requirements such as five years of monthly data, monitoring devices, reporting obligations, and possible cost-shifting should not create barriers for Tribes, communities, nonprofits, or public-interest applicants working to protect water for fish and wildlife.

Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them.

Thank you for your consideration.

Claudi Thompson
Fairbanks, AK

From: mtrotter@everyactioncustom.com on behalf of [michael trotter](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 9:26:56 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

Dear Mr Brandon McCutcheon,

Thank you for the opportunity to comment

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Our clean water and fisheries are the crown jewels of this wonderful state of Alaska and we need your stewardship of these waters to keep them as the highest priority and our constitutional obligation.

Thank you
Michael Trotter
P.O. Box 2187
Sitka, Alaska 99835

Sincerely,
Mr. michael trotter
Sitka, AK 99835-2187

Private Information

From: [Jen Leahy](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Questions - Proposed Changes to Water Reservation Regulations
Date: Friday, June 19, 2026 8:38:35 PM
Attachments: [TU_questions_proposed_changes_to_water_regs_June 2026_FINAL.pdf](#)

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Hi Brandon,

I hope you're well and enjoying summer. Thank you for your consideration of the attached questions and comment period extension request on behalf of Trout Unlimited regarding the [proposed changes](#) to Alaska's water reservation regulations.

Please don't hesitate to reach out with any questions.

Best,
Jen

--

Jen Leahy / Alaska policy director
Klawock, AK
[\(907\) 422-7635](tel:(907)422-7635)



June 19, 2026

Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land and Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501-3579

Via: dnr.water.regulation@alaska.gov

**Re: Request for Extension of the Public Comment Period and Written Questions
Regarding the Proposed Changes to 11 AAC 93 (Reservations of Water)**

Dear Mr. McCutcheon:

On behalf of Trout Unlimited, please accept the following request for an extension of the comment period and the following written questions concerning the proposed changes to 11 AAC 93 noticed on May 29, 2026.

Trout Unlimited is the nation's largest sporting organization dedicated to coldwater conservation and has a direct interest in this proceeding. Our 20,000 Alaskan supporters are avid anglers, lodge and outfitting business owners, fishing and hunting guides, subsistence harvesters, commercial fishermen, and other Alaskans from many walks of life. In addition to our 15 Alaska-based staff and our members in more remote parts of the state, TU has chapters in Anchorage and the Mat-Su Valley, in Fairbanks, on the Kenai Peninsula, and in Southeast Alaska.

Trout Unlimited has submitted numerous applications to the DNR for reservations of water, participated in various adjudications, engaged in numerous 10-year reviews of reservations of water, and has incurred significant costs associated with those activities and applications. The regulatory changes proposed by the Alaska Department of Natural Resources (DNR) would directly affect Trout Unlimited's interests and the interests of its members who use and rely on reservations of water to maintain adequate instream flows and water levels for their businesses, livelihood, and recreational use.

Request for Extension of the Comment Period

TU respectfully requests that DNR extend the written comment deadline by 90 days, to October 1, 2026, for the following reasons:

- 1. DNR is proposing substantive changes, not a routine update.** The changes to 11 AAC 93.146 would, for the first time, bar non-governmental applicants from holding certificates for reservations they apply for, vesting those certificates in the Department instead. The changes to 11 AAC 93.142 would impose significantly more demanding application requirements, and the changes to 11 AAC 93.147 would shift data collection costs onto

applicants. Evaluating these changes requires careful legal and technical analysis and coordination among affected parties. A 30-day window is inadequate for that task.

2. **The initial 30-day comment period conflicts with seasonal work and subsistence activities.** Summer is the busiest time of year for the Alaskans likely to be most affected by these proposed regulatory changes, including subsistence harvesters, fishing and hunting guides, lodge and outfitting operators, commercial fishers, and anglers. These Alaskans are currently focused on time-sensitive work and activities that cannot be deferred. This makes meaningful stakeholder coordination and engagement through September particularly difficult.
3. **An extension would serve the DNR's own interest in a complete record.** Thorough, well-supported comments will better inform the Department's final decision and its public-interest determination under AS 46.15.145 than comments compressed into an unworkable timeframe.
4. **DNR has stated it will aggregate and post responses to submitted questions, but the questions deadline (June 20) leaves little or no opportunity for the Department to respond before the comment deadline (June 30).** Commenters cannot meaningfully incorporate the Department's answers if they are made available only hours or days prior to the June 30 deadline. An extension is warranted for this reason alone.

To support meaningful public participation on this compressed timeline, we also request that DNR hold a recorded public Q&A session—such as an online webinar made available on the Department's website—so that all interested parties can better understand the proposed changes.

Questions for DNR Regarding the Notice of Proposed Changes

Pursuant to the [public notice](#) posted on May 29, 2026, TU submits the following questions and requests to be notified when the Department's responses are posted on the Alaska Online Public Notice System and [DNR's website](#).

Procedural and general questions:

1. What harm or deficiency in the administration of the existing 11 AAC 93 regulations are these proposed changes designed to address? Please identify the specific problem that each of the proposed changes to 11 AAC 93.142, .146, and .147 is intended to solve.
2. To inform public understanding of the need for and effect of the proposed changes, please provide the number of applications for reservations of water that have been fully adjudicated under the existing 11 AAC 93 regulations, and the timeframe over which those adjudications occurred. Have applications for reservations of water been included in any Department effort to address its backlog of pending water-appropriation applications?
3. The notice states the proposed changes will make the reservation process more efficient, consistent, and cost-effective. Several proposed changes—including the expanded application requirements in 11 AAC 93.142, the monitoring and measuring-device requirements in 11 AAC 93.146, and the applicant-borne review costs in 11 AAC

93.147(c)—appear to add requirements and costs for applicants. What analysis supports the conclusion that these changes, taken together, improve efficiency and reduce costs, and for whom?

4. The fiscal note lists state costs as \$0 and states no increased appropriation is expected. Please explain how that conclusion accounts for the new responsibilities the proposal assigns to the State, including DNR's holding and administration of all non-agency certificates, ADF&G concurrence reviews, and oversight of the new monitoring, reporting, and 10-year-review obligations. If the Department concludes these activities impose no additional cost, please explain the basis for that conclusion.
5. The additional information form accompanying the notice leaves the estimated cost to a private person blank. What is DNR's estimate of the annual cost to a private applicant of complying with the new data, property-ownership, and monitoring requirements?
6. In evaluating a reservation of water, DNR must consider the public interest under AS 46.15.145(b). Has the Department analyzed how the proposed changes would impact Alaska's fisheries and the businesses, communities, and subsistence harvesters who depend on those fisheries and the adequate instream flows and water levels that sustain them? If such an analysis exists, how will the Department make it available?
7. During the 2024 public scoping on possible changes to 11 AAC 93, the Department received substantial written input, including comments raising constitutional and statutory objections to restricting non-governmental entities from holding reservation certificates. How did the Department consider that scoping input in developing the current proposal, and where in the rulemaking record is the Department's consideration of that input documented?

Regarding proposed changes to 11 AAC 93.146 (issuance of certificates):

8. The proposal would allow only state and federal resource-management agencies to hold certificates for reservations they apply for, while the Department would hold certificates for all other applicants. AS 46.15.145 authorizes "any person" to apply to reserve water, and AS 46.15.260(7) defines "person" to include individuals, partnerships, associations, and public and private corporations, among others—not only governmental entities. AS 46.15.260 further defines "appropriation" to include a reservation of water, without distinguishing among appropriators. Given these definitions, what is the statutory and constitutional basis for permitting only state and federal agencies to hold certificates for the reservations they apply for, while denying that ability to every other "person" the statute authorizes to reserve water?
9. Under current law, a person who appropriates water for an out-of-stream beneficial use—such as a diversion, withdrawal, or impoundment—holds the certificate for that use. The proposed regulatory changes would treat instream beneficial uses differently: A non-governmental applicant that relies on water for an instream use could not hold the certificate for its reservation, which the Department would hold instead. What is the

statutory and constitutional basis for permitting users to hold certificates for out-of-stream beneficial uses while denying that ability to users of instream beneficial uses, given that AS 46.15.260 defines a reservation as an appropriation and lists instream and out-of-stream uses among beneficial uses without establishing a hierarchy?

10. How would the proposed changes apply to applications filed by non-governmental applicants before the effective date, such as applications already filed but not yet adjudicated, partially adjudicated, or awaiting a final decision? If such an application is granted, would the applicant hold the certificate, or would the Department? Would certificates of reservation already granted to and held by non-governmental entities be impacted, and if so, how?
11. For a reservation the Department holds on behalf of a non-governmental applicant, who is responsible for installing measuring devices and for the monitoring and reporting obligations in proposed 11 AAC 93.146—the applicant or the Department?
12. Under the proposal, the Department would hold the certificate for a reservation of water applied for by a non-governmental applicant. If a competing application or other challenge to that reservation later arises, what role, if any, would the original applicant have in defending the reservation, and would the applicant have standing to participate in those proceedings?
13. According to the notice, a reservation of water application for fish habitat from a private party or interest group would require concurrence from the Alaska Department of Fish and Game (ADF&G). What standard(s) would ADF&G apply in deciding whether to concur, and what happens to the application if ADF&G does not concur? Is ADF&G concurrence required for any category of out-of-stream water right? What is the statutory or regulatory basis for the concurrence requirement?
14. In 2021, DNR issued written responses (dated March 16, 2021 and April 1, 2021) to questions on previously proposed regulatory changes, including its rationale for not issuing reservation certificates to non-governmental entities. Do the proposed regulatory changes—in particular, the changes to 11 AAC 93.146—rest on the same rationale set out in those 2021 responses, or on a different basis? If different, please state the new rationale.
15. Does the State's formal recognition of federally recognized Tribes (HB 123, 2021) alter the Department's position on a Tribe holding a certificate of reservation? Will the Department continue to require a waiver of sovereign immunity as a condition of a Tribal reservation, and if so, under what statutory or regulatory authority?
16. Under the proposed 11 AAC 93.146—where DNR would hold a certificate of reservation on behalf of a non-governmental applicant—how would the Department ensure that the reservation, and the priority of a pending, unadjudicated application for a reservation of water, is not impaired by a temporary water use authorization on the same source?

Regarding proposed changes to 11 AAC 93.142 (content of application):

17. Under 11 AAC 93.040, an application for other water rights requires only a statement of beneficial use. By contrast, the proposed changes to 11 AAC 93.142 would require a reservation of water applicant to provide the reason the reservation is needed, five years of quantifying data, information supporting the specific habitat improvement, the estimated number and species of fish affected, the area and quality of habitat improved, and upstream and downstream property ownership. What is the statutory or constitutional basis for imposing a significantly heavier burden on reservation of water applicants than on applicants for other water rights?
18. How will the Department treat applications for reservations of water that rely on the best available information but do not include five years of quantifying data?

Regarding proposed changes to 11 AAC 93.147(c) (review of reservations):

19. Under the proposed changes, the Department would hold reservations on behalf of non-governmental applicants. Who bears the costs of additional research, data collection, and analysis required for review, including for the 10-year reviews under AS 46.15.145(f)? Could the reservation be reduced or revoked if the original applicant does not fund that cost?
20. The proposed changes to 11 AAC 93.147(c) would relieve the Department of responsibility for additional data collection where an application is "outdated" or where "significant changes to flow have occurred," but the notice does not define either term. What specific criteria will the Department use to define these terms? Could an application be deemed "outdated" based on the passage of time alone, including time attributable to the Department's own delay in adjudicating it? Will the Department apply this provision to applications that have been pending for many years awaiting adjudication?

Thank you for your consideration of this comment deadline extension request and these questions.

Respectfully,



Jen Leahy
Alaska Policy Director
Trout Unlimited
Klawock, AK
jen.leahy@tu.org

From: [Jen Leahy](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Nelli Williams](#)
Subject: Comments on proposed changes to 11 AAC 93
Date: Tuesday, June 30, 2026 4:58:55 PM
Attachments: [TU comments proposed changes to water regs June 2026.pdf](#)

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Hello,

Thanks for your consideration of the attached comments. Please don't hesitate to reach out with any questions.

Best,
Jen

Jen Leahy / Alaska policy director
[\(907\) 422-7635](#)



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June 30, 2026

Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land and Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501-3579

Via: dnr.water.regulation@alaska.gov

Re: **Proposed Changes to 11 AAC 93 (Reservations of Water)**

Dear Mr. McCutcheon:

On behalf of the undersigned entities, including Trout Unlimited (TU) and 13 additional Alaska businesses and organizations, please accept these comments on the proposed changes to 11 AAC 93 noticed on May 29, 2026.

Collectively, the undersigned entities represent dozens of Alaska-based businesses, including fishing and outfitting guides, lodges and air taxi services, and seafood businesses. Each of these businesses depends on water remaining in Alaska's rivers, streams, and lakes — the flows and water levels that reservations of water protect.

We strongly oppose the changes the Alaska Department of Natural Resources (DNR) is proposing to 11 AAC 93. As proposed, DNR would: (1) issue certificates of reservation only to state and federal resource management agencies, and hold the certificate itself for every other applicant; (2) require applicants for reservations of water to submit substantially more information than is required of applicants for out-of-stream water rights; and (3) shift the cost of additional research and data collection onto applicants.

These proposed changes would make it harder for communities, Alaska Native Tribes, businesses, organizations, and individuals to keep water in Alaska's rivers, streams, and lakes for fish and wildlife, subsistence, recreation, navigation, and water quality, while leaving water freely available for out-of-stream and industrial uses. The proposed changes—which are contrary to the Alaska Constitution and the Water Use Act—would not achieve the efficiency, consistency, and cost-effectiveness DNR says it is seeking, and they lack support in the record DNR itself developed.

We urge DNR not to adopt the proposed changes to 11 AAC 93, and instead to address the real problem—the agency’s longstanding failure to adjudicate the applications already before it. Before taking any further action, DNR should extend the public comment period, hold a public hearing or teleconference, and conduct meaningful consultation with stakeholders and Tribes.

I. Interest and Standing

Trout Unlimited is the nation’s largest sporting organization dedicated to coldwater conservation and has a direct interest in this proceeding. Our 20,000 Alaskan supporters are avid anglers, lodge and outfitting business owners, fishing and hunting guides, subsistence harvesters, commercial fishermen, and other Alaskans from many walks of life. In addition to our 15 Alaska-based staff and our members in more remote parts of the state, TU has chapters in Anchorage and the Mat-Su Valley, in Fairbanks, on the Kenai Peninsula, and in Southeast Alaska.

Trout Unlimited has submitted numerous applications to the DNR for reservations of water, participated in various adjudications, engaged in numerous 10-year reviews of reservations of water, and has incurred significant costs associated with those activities and applications. The regulatory changes proposed by the Alaska Department of Natural Resources (DNR) would directly affect the interests of Trout Unlimited and its members who use and rely on reservations of water to maintain adequate instream flows and water levels for their businesses, livelihood, and recreational use.

Of the many Alaska-based businesses represented by the undersigned groups, some of these businesses operate where reservations of water already exist, such as on the Kenai River. However, because the State of Alaska’s efforts to secure reservations have lagged behind demand, many others operate where no reservation exists. Because of the significant cost and time required to secure a reservation of water, many of these businesses look to organizations like Trout Unlimited to represent their interests and seek reservations on their behalf. Just as a person can appropriate water for their own diversionary or other out-of-stream beneficial use, these businesses need the ability to appropriate water through a reservation for their own instream use.

II. Background: Alaska’s waters and the public interest in reservations of water

Alaska’s waters, and the iconic fish and wildlife they support, are essential to the Alaskan way of life and to Alaskans’ economic well-being. TU’s members and the businesses and communities represented here live and work in Alaska because of the benefits that healthy fish and wildlife, abundant outdoor recreation, and clean water provide—all of which depend on keeping water in Alaska’s rivers, streams, lakes, and wetlands in adequate quantity, quality, and flow. Reservations of water hold water in place—whether as flow in a river or stream or as the water level of a lake or wetland—for fish and wildlife, subsistence, recreation, navigation, water quality, and other public uses.

Establishing and maintaining reservations of water serves the public interest by helping guarantee the health of the state’s fish, wildlife, and water resources, providing a foundation for fish- and water-based businesses, and helping ensure the Alaskan way of life remains available to future generations. As increased population and development has taken place over the past decades, maintaining natural stream flow and water quality in our public waters has become increasingly important, and will only become more important in the future. Alaska’s fisheries are sustainable only so long as adequate

water remains in the rivers, streams, and lakes that support them. The decline of salmon in the Pacific Northwest is a sobering reminder of the importance of maintaining high-quality fish habitat.

The economic stakes are significant. Commercial salmon fishing alone accounts for roughly 38,000 jobs and \$5 billion in annual economic contribution; with sport fishing included, total employment exceeds 43,000. In the Bristol Bay region, where most of TU's applications for reservations of water are located, more than 50 million sockeye salmon can return in a single year. From Bristol Bay to the Arctic to Southeast, Alaska's world-class fisheries are the foundation of its communities, cultures, and economy. Alaska Native peoples have relied on the bounty of these waters since time immemorial.

For all these reasons, allowing and encouraging reservations of water—and allowing non-governmental entities like TU and the undersigned organizations to apply for, obtain, and hold them—has overwhelmingly positive benefits for Alaskans. Maintaining the natural flow and water levels of Alaska's rivers, streams, and lakes is often their highest and most beneficial use.

III. The proposed changes are inconsistent with the Alaska Constitution and Water Use Act, which let any person reserve and hold water.

The Alaska Constitution (Article VIII, Section 3) reserves the state's fish, wildlife, and waters "to the people for common use." Those waters are subject to appropriation, with priority of appropriation giving the prior right, subject to preferences among beneficial uses as prescribed by law and to the general reservation of fish and wildlife.

Critically, reserving water is itself a form of appropriation. The Water Use Act defines "appropriate" and "appropriation" to include not only diverting, impounding, or withdrawing water, but also reserving it under AS 46.15.145. AS 46.15.260(1)-(2). And the Act allows any "person"—defined broadly to include individuals, partnerships, associations, and private and public corporations—to apply to reserve water. AS 46.15.145(a); AS 46.15.260(7). The statute draws no distinction among the types of appropriation: a reservation stands on the same footing as a diversion, an impoundment, or a withdrawal. It follows that a non-governmental person has the right not merely to apply for a reservation, but to hold the reserved right.

The Water Use Act also specifies who receives the certificate, and it does not give DNR authority to add a limitation. The commissioner "shall" issue the certificate to the applicant once the statutory requirements are met. AS 46.15.145(c). In its written responses to public questions in June 2026, DNR concedes that the statute "identifies who can apply for a reservation," but contends it "does not identify who can hold a reservation when issued." Nothing in the Act provides different treatment for different applicants or authorizes DNR to issue the certificate to anyone other than the qualifying applicant. Nor does withholding the certificate from that applicant "reinforce" public ownership of water, as DNR suggests.

The Water Use Act gives any person the right not merely to seek an appropriation but to make and hold one, including a reservation of water. DNR cannot, by regulation, withhold from non-governmental applicants the certificates the statute directs the commissioner to issue to them.

IV. Alaska law prioritizes water for fish and wildlife, yet the proposed changes would burden reservation applicants more heavily than applicants for out-of-stream rights

DNR describes the changes as intended to “encourage development of state water.” But nothing in Alaska law directs DNR to favor the development or out-of-stream use of water over keeping it in place; if anything, the constitutional reservation of fish and wildlife points the other way. A proposal premised on favoring out-of-stream development over reservations is inconsistent with the law.

Alaska law affords water for fish and wildlife special protection. The Alaska Constitution (Article VIII, Section 13) makes appropriation “subject to . . . the general reservation of fish and wildlife,” and the Alaska Supreme Court has recognized that the Constitution and the Water Use Act contemplate keeping water in place to protect fish and wildlife. See *Tulkisarmute Native Community Council v. Heinze*, 898 P.2d 935, 940-41 (Alaska 1995).

The proposed regulatory changes compound the problem by burdening reservation applicants far more heavily than applicants for out-of-stream rights. An applicant for an out-of-stream water right need only provide a statement of beneficial use (see 11 AAC 93.040), while an applicant for a reservation would face extensive new content and data requirements (discussed in Section VI).

That disparity is backwards—it places the heaviest burden on the use the Alaska Constitution specifically protects—and it conflicts with the requirement that laws and regulations governing natural resources “apply equally to all persons similarly situated.” Art. VIII § 17. DNR has suggested that reservations are “distinct in purpose and effect” from other appropriations, but its own responses confirm that a reservation is an appropriation and that the statute lists instream and out-of-stream uses as beneficial uses without ranking one above the other. There is no lawful basis to treat those who would keep water in place as a disfavored class.

V. DNR may not adopt by regulation what the Legislature declined to enact

A regulation is valid only if it is within the authority the Legislature delegated to the agency and is consistent with the governing statute. See AS 44.62.030. DNR may not use rulemaking to achieve a result the Legislature considered and rejected.

That is what the proposed change to 11 AAC 93.146 would do. In 2013, the Legislature considered House Bill 77, which would have removed the right of any “person” to hold a reservation of water and limited eligibility to governmental entities. That legislation failed. DNR cannot now adopt by regulation the very limitation the Legislature refused to enact.

VI. Comments on the specific proposed changes to 11 AAC 93

11 AAC 93.141. DNR should not change this regulation. If DNR proposes any change, it should expand and encourage—not restrict—the ability of the public to apply for, obtain, and hold a certificate for a reservation of water.

11 AAC 93.146. Vesting all non-agency certificates in DNR conflicts with the statutory and constitutional right of any “person” to hold a reservation of water, as discussed in Section III.

In support of similar past proposals, DNR has argued that withholding certificates from non-governmental entities is necessary to prevent a private party from gaining “private, exclusive management authority over public water,” and has suggested that only governmental agencies serve the public interest. Both premises are flawed. The State always retains management authority over water use, regardless of who holds the certificate; an applicant gains no exclusive authority by holding a reservation. And reservations serve public and private interests at once—an outfitter guiding clients, a commercial fisher harvesting salmon, and a barge operator moving goods all depend on water staying in place, alongside the broader public benefit. All appropriations, whether a reservation for fish and wildlife or a withdrawal for industrial use, must serve a beneficial use in the public interest.

If the proposed changes were adopted, DNR would hold reservations of water certificates, but applicants would be required to install measuring devices and to monitor and report at intervals the commissioner sets, and would bear the cost of later review. DNR’s responses indicate that if a reservation were challenged, DNR would be the primary party and the applicant could only “participate” if it chose to. The party that does the work and pays the costs would lose control of the result. DNR has not explained why the applicant should carry these burdens when DNR holds the certificate.

The proposed changes would also add an ADF&G concurrence requirement that DNR has not explained. The Notice states that a reservation application for fish habitat “from a private party or interest group would require concurrence from” ADF&G. Yet when asked about that requirement, DNR responded that the proposed revisions to 11 AAC 93.146 are “unrelated to ADF&G review.” DNR’s answer contradicts its own Notice. DNR should explain the standard ADF&G would apply, what would happen if it did not concur, and the basis for the requirement—or remove it.

The proposal would also categorically bar Alaska Native Tribes from holding certificates, grouping Tribal governments with all other non-governmental applicants. DNR has offered no reason that state and federal agencies may hold certificates but Tribal governments may not. We oppose that exclusion and urge DNR to engage in meaningful Tribal consultation before taking any action affecting Tribes’ ability to protect the waters on which their cultures and ways of life depend.

Finally, the proposal must not strip pending applications of their priority. Several of TU’s applications have been pending for more than a decade without adjudication. DNR’s responses indicate that the proposed changes “would not affect previously submitted applications.” DNR should put that commitment in the regulation, extend it to applications that have been submitted but not yet assigned a priority date, and give every applicant priority according to the date its application was received, whether or not DNR has yet issued a certificate.

11 AAC 93.142. The proposed new content requirements—a stated reason the reservation is needed, five years of data to quantify it, information on the specific improvement to fish habitat, the estimated number and species of fish affected, the area and quality of habitat improved, and

upstream and downstream property ownership—are far heavier than what DNR asks of applicants for out-of-stream water rights, who need only state a beneficial use. See 11 AAC 93.040. As explained in Section IV, that disparity has no basis in law and reintroduces a bias against the very uses the Alaska Constitution protects.

DNR's responses confirm that an application without five years of data "will not be accepted as complete." This categorical barrier, with no room for best-available information, is hard to square with DNR's statement elsewhere that the changes are "not intended to impose barriers." Under the proposed changes, applicants must supply years of data that DNR itself does not collect, even as their applications sit unadjudicated. DNR's regulations should allow applications based on best-available information, and should provide a streamlined path where there is no competing application for the same water.

11 AAC 93.147. The proposed change to subsection (c) would require applicants to bear the cost of additional research, data collection, and analysis. DNR's responses confirm that, for reservations DNR holds, "the original applicant would bear costs as the interested party." That cost-shifting discourages reservations and is incoherent alongside making DNR the certificate holder. DNR says the change is needed because many applications "are outdated and rely on old data," but the reason they rely on old data is that DNR has not processed them. The triggers DNR proposes—applications that are "outdated" or where "significant changes to flow" have occurred—are undefined and discretionary, and could turn DNR's own delay into grounds for new costs. While DNR's responses confirm a reservation "cannot be reduced or revoked solely for non-payment of review costs," the agency should make that explicitly clear in the regulatory proposal, and DNR should also address how this provision interacts with the 10-year reviews under AS 46.15.145(f).

VII. The proposed changes are unsupported and would not achieve their stated purpose

DNR states that its proposal is intended to make the reservation process more efficient, consistent, and cost-effective. The record does not support that purpose, and the proposed regulatory changes would not achieve it.

The real problem is DNR's failure to adjudicate. The inefficiency DNR identifies stems from its own administration of the existing law, not from any defect in the existing regulations. TU has complete applications that have been pending for well over a decade, yet DNR has not adjudicated a single one. DNR's responses to public questions describe the deficiencies as administrative—incomplete filings, repeated information requests, and adjudication delays—yet, when asked whether the changes would alleviate the backlog, the agency answered that it is "unknown" whether they will. When asked how many applications it has fully adjudicated and how long that has taken, DNR declined to answer, calling the question outside the scope of the rulemaking. DNR cannot justify these changes by pointing to delay while declining to disclose, or commit to fixing, the delay itself. And by discouraging non-governmental applications, the proposal would shift more of the cost of stream studies and analysis onto DNR and ADF&G, making the administrative problem worse. The remedy is to adjudicate the applications already on file, in the order received.

DNR conducted no public-interest analysis. The Water Use Act requires a public-interest determination. AS 46.15.080; AS 46.15.145. Yet when asked whether it had analyzed how the changes would affect fisheries, businesses, communities, or subsistence, DNR answered that it “has not conducted a formal analysis.” DNR cannot make the public-interest judgment the statute requires without having studied the proposal’s effects.

The proposal lacks support in the record DNR built. Of the approximately 580 individuals and organizations that commented in response to DNR’s scoping notice in 2024, the overwhelming majority of commenters—including Tribes, federal agencies, fishing and tourism businesses, and individual Alaskans—asked DNR to protect or strengthen the public’s ability to reserve water. Support for the changes DNR now proposes came from a single comment—a letter co-signed by eight resource-development and business associations—whose recommended regulatory text for 11 AAC 93.146 and 93.142 the current proposal closely tracks. DNR’s responses assert that scoping input “was considered,” but identify no analysis and no place in the record documenting it. The proposed changes clearly do not align with the public’s priorities.

The fiscal note is unsupported. DNR’s fiscal note shows no cost—\$0 across all categories—and leaves the line for the cost to private persons blank. But AS 44.62.190(d) requires the notice to include a good-faith estimate of the annual cost to private persons of complying, using the information available to the agency—and the proposal would make DNR the holder of every non-agency certificate and impose new data, measuring, monitoring, and reporting obligations on applicants. DNR’s responses acknowledge that applicants are “in the best position to estimate” the private cost, which is to say DNR did not make the estimate the statute calls for.

The process has been inadequate. The proposal originated with agency staff and identifies no deficiency in the existing regulations beyond a general goal of efficiency. DNR allowed a comment period of 30 days—the minimum the law permits, see AS 44.62.190(a)—over the summer, declined to extend it, and declined to hold a webinar or other public session, stating that “the scoping process is complete.” Under AS 44.62.213, DNR is required to make a good-faith effort to answer timely questions before the comment period closed, and it posted those answers only two business days before the deadline. Nothing prevents DNR from extending the public comment period, and these circumstances warrant it. A bare-minimum comment period over the summer, with answers arriving at the eleventh hour and no opportunity for a hearing, does not give the public a meaningful opportunity to participate.

VIII. Additional comments on related provisions and process

We reiterate two points from Trout Unlimited’s prior comments. First, applications for out-of-stream water rights under 11 AAC 93.040 should require ADF&G review to ensure that adequate water quantity and quality remain in place to support fish and wildlife spawning, rearing, and migration. Second, although we acknowledge that the temporary water use regulations (11 AAC 93.210 and .220) were not noticed, DNR should address their interaction with reservations of water. Because the Alaska Constitution gives priority to prior rights, DNR should not authorize a temporary water use that would affect a prior, unadjudicated application to reserve water. DNR’s responses

indicate that it protects the priority of applications “accepted and assigned a priority date”; that protection should reach applications still awaiting a priority date in DNR’s backlog. DNR should review applications in the order received, decide them within a defined period, and address this gap in a future rulemaking.

Trout Unlimited incorporates by reference its 2023 comments and the 2024 scoping comments submitted by TU, Katmai Service Providers, and 15 additional co-signers, and asks that those documents be made part of the record in this proceeding.

IX. Conclusion

Most challenges related to reservations of water in Alaska are the result of DNR’s administration of existing laws and regulations—not because the existing regulations or laws need to be changed. We strongly encourage the DNR to reject changing its regulations for reservations of water. We urge DNR to reconsider, to help preserve our Alaskan way of life, protect our economic interests in fish and wildlife, and help safeguard the irreplaceable cultural values of fish, wildlife and water resources by encouraging, rather than eroding, public participation in the pursuit of instream flow reservations. Fish and wildlife, and the habitat they rely on, are central to Alaskans’ way of life and our economic, cultural and spiritual wellbeing. Non-governmental organizations, Tribes, individuals, and businesses all play a key role in ensuring adequate water and instream flow to keep these important resources thriving. It is critical that the DNR manage public waters in a way that ensures the continued productivity of important fish and wildlife habitat.

On behalf of undersigned entities, thank you for your careful consideration of these issues. For questions regarding these comments, please contact Jen Leahy, Trout Unlimited’s Alaska policy director, at jen.leahy@tu.org.

Respectfully,

Trout Unlimited – Alaska program
Anchorage, AK

Alaska Fly Fishing Goods
Juneau, AK

Alaska Packraft School
Anchorage, AK

Alaska Sportsman’s Lodge
Kvichak River, AK

Alaska Wildland Adventures
Cooper Landing, AK

Bristol Bay Lodge
Wood Tickchik State Park

Chrystal Creek Lodge
King Salmon, AK

Coal Point Seafood Company
Homer, AK

Cook Inlet Regional Association
Homer, AK

Expedition Brokers
Haines, AK

Fishhound Expeditions
Willow, AK

Fly Guys
Haines, AK

Pioneer Alaskan Fisheries, Inc
Homer, AK

The Lodge at 58* North
King Salmon, AK

From: stephen.troyanovich@everyactioncustom.com on behalf of [Steve Troyanovich](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:36:10 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Steve Troyanovich
Florence, NJ 08518-1615

Private Information

From: ridgelyjohns@everyactioncustom.com on behalf of [Ridgely Trueblood](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 3:55:40 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs Ridgely Trueblood
Anchorage, AK 99505-1020

Private Information

From: [Paul E. Turner Ph.D.](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comment on Proposed Changes to Water Reservation Regulations
Date: Thursday, June 18, 2026 3:46:00 PM

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To Whom It May Concern -

I am writing to express my strong support for protecting Alaska's rivers and wild salmon through thoughtful and effective water management policies.

As an Alaska resident, I rely on healthy rivers not only for their ecological value but also for the role they play in sustaining wild salmon populations, an increasing problematic endeavor. Salmon are foundational to Alaska's ecosystems, supporting wildlife, local economies, and subsistence and recreational activities. Whether through fishing, observing wildlife, or simply spending time in natural areas, I see firsthand living on the Cook Inlet how essential thriving salmon runs are to the health and character of our state. Even today, I can see a run coming in as they jump out of the water this time in June.

Wild salmon require sufficient instream flows at every stage of their life cycle. Adequate water levels are critical for spawning, rearing, and migration. Without enough water in rivers and streams, salmon habitat degrades, migration pathways are disrupted, and long-term population stability is threatened.

Looking ahead, rising air and stream temperatures will only increase the importance of maintaining healthy instream flows. Warmer waters place additional stress on salmon, making it even more vital that rivers retain enough volume and connectivity to provide suitable habitat conditions. This science is well established and contrary to your proposed approach. Protecting water now is an investment in resilience for the future for our children.

The current instream flow reservation process is already costly and time-consuming, often placing a significant burden on individuals and organizations working to protect fish habitat. Additional regulatory hurdles would further discourage these efforts. Regulations should work to reduce barriers to conservation, not create new ones that make it harder to safeguard critical ecosystems.

Importantly, the burden of demonstrating that water withdrawals will not harm fish habitat should rest with those seeking to remove water from streams—not with members of the public who are trying to protect salmon. This shift would create a more balanced and responsible framework, ensuring that development does not come at the expense of irreplaceable natural resources.

Rather than increasing barriers to protecting Alaska resources which your proposed regulations do, I urge you to support policies that strengthen protections for instream flows, streamline conservation efforts, and prioritize the long-term health of Alaska's salmon and river systems. In the time of clear evidence of climate change and pressures on salmon, I

implore you to take a forward looking view.

Thank you for your consideration.

Sincerely,
Paul E. Turner, Ph.D.
Box 270
Kenai Ak 99611

Private Information

From: [Nicole Swenson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Laurie Stuart](#)
Subject: Tyonek Tribal Conservation District - Request for 90-Day Extension of Public Comment Period for Proposed Changes on Reservations of Water regulations
Date: Wednesday, June 24, 2026 10:36:31 PM
Attachments: [image.png](#)
[image.png](#)
[image.png](#)
[TTCD Comment Requesting-90-Day-Extension signed.pdf](#)

You don't often get email from nswenson@ttcd.org. [Learn why this is important](#)

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Good Afternoon DNR,

Please find attached the Tyonek Tribal Conservation District's formal request for an extension of the public comment period regarding the proposed changes to the water reservation regulations. We believe that extending the comment period would provide stakeholders with adequate time to thoroughly review, consider, and respond to this consequential proposal.

Sincerely,



Nicole Swenson | *Senior Habitat Programs Director*

TYONEK TRIBAL CONSERVATION DISTRICT

Dena'inaq etnen'aq ghestu ch'q'u yeshdu

[I live and work on Dena'ina lands]

907.278.1024

101 W. Benson Blvd. Suite 501, Anchorage, AK 99503

www.ttcd.org



June 19, 2026

Alaska Department of Natural Resources
Division of Mining, Land & Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501
submitted via email to dnr.water.regulation@alaska.gov

Subject: Request for 90-Day Extension of Public Comment Period for Proposed Changes on Reservations of Water in the regulations of the Department of Natural Resources

To Whom It May Concern:

Tyonek Tribal Conservation District respectfully requests a 90-day extension of the public comment period for the proposed changes to regulations governing Reservations of Water.

Reservations of Water are an important mechanism for protecting water resources that support fish and wildlife habitat, migration, and propagation, recreation, navigation and transportation, water quality, and other public interests. The proposed regulatory changes may have significant implications for communities, Tribal governments, resource managers, conservation organizations, and other stakeholders throughout Alaska.

Given the complexity and potential long-term consequences of these proposed amendments, additional time is needed for interested parties to review the proposed language, evaluate potential effects, consult with technical experts and community members, and prepare meaningful comments. This is particularly important for rural and Tribal communities that may face logistical challenges in reviewing and responding to regulatory proposals within the existing timeframe, especially considering its concurrence with Tyonek's subsistence salmon fishery.

A 90-day extension would promote informed public participation and ensure that the Department receives comprehensive feedback from a broad range of stakeholders. Such participation is essential for maintaining transparency and ensuring that any regulatory changes adequately consider the protection and management of Alaska's water resources for present and future generations.

Thank you for your consideration of this request. I respectfully ask that the Department of Natural Resources extend the public comment period by 90 days and provide notice of the extension to all interested parties.

Sincerely,



Laurie Stuart, EdD | *Executive Director*
phone 907.278.1021
lstuart@ttcd.org | www.ttcd.org

From: [Laurie Stuart](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Tyonek Tribal Conservation District comments on Proposed Changes on ROW regulations
Date: Tuesday, June 30, 2026 3:07:58 PM
Attachments: [TTCD-ROW-Comment Letter_062926.pdf](#)

You don't often get email from lstuart@ttcd.org. [Learn why this is important](#)

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Dear Alaska Department of Natural Resources,

Please find attached public comments in response to the **Notice of Proposed Changes on Reservations of Water in the regulations of the Department of Natural Resources**. Thank you for this opportunity to review the proposed changes and provide commentary. Our team would be happy to provide additional information on the impact of these proposed changes to the habitats and wildlife populations in our district upon request.

Sincerely,
Laurie

Laurie Stuart, EdD (She/Her) | *Executive Director*

TYONEK TRIBAL CONSERVATION DISTRICT

Dena'inaq etnen'aq ghestu ch'q'u yeshdu

[I live and work on Dena'ina lands]

Office: 907.278.1021

101 W. Benson Blvd. Suite 501, Anchorage, AK 99503

lstuart@ttcd.org | www.ttcd.org

June 30, 2026

Submitted via email to dnr.water.regulation@alaska.gov

Alaska Department of Natural Resources
Division of Mining, Land & Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501

Re: Notice of Proposed Changes on Reservations of Water in the regulations of the Department of Natural Resources; Comments of Tyonek Tribal Conservation District

To Alaska Department of Natural Resources:

Tyonek Tribal Conservation District (TTCD) appreciates the opportunity to comment on the Alaska Department of Natural Resources' (DNR) proposed regulatory revisions in 11 AAC 93 of the Alaska Administrative Code relating to Reservations of Water (ROW). We are writing to express TTCD's opposition to many of the proposed revisions and provide, when appropriate, suggested modifications and supporting information to accomplish the purpose of the proposed action.

TTCD was created by the Native Village of Tyonek, a Federally Recognized Tribe, the Tyonek Native Corporation, an Alaska Native Corporation formed under the Alaska Native Claims Settlement Act (ANCSA), and a mutual agreement signed by the Secretary of Agriculture in collaboration of the Natural Resources Conservation Service. TTCD serves to support and conserve the subsistence and agricultural needs of communities and landowners in our District by maintaining habitat for salmon, mitigating invasive fish and plants, monitoring the health of natural resources, operating local farm production, and providing technical assistance within a 6.6M-acre district defined by the Native Village of Tyonek's traditional hunting and fishing grounds (boundaries equivalent to the State of Alaska's Game Management Unit 16B). Within our district, there are thousands of lakes, thousands of miles of rivers, and countless tributaries that are essential to the health of some of the last remaining wild Pacific Salmon populations in the world, on which our communities' economies and cultural practices rely. We depend on the Alaska Water Use Act (AS 46.15, AS 46.15.030) and, particularly, the Reservation of Water Law (AS 46.15.145) to provide assurance that the fundamental need of water will always be available in our rivers and lakes to support critically important fish and wildlife populations.

Our comment letter will be addressing:

- Importance of the Alaska Water Use Act and Reservations of Water to TTCD
- The proposed regulatory revisions
- Recommendations to achieve the purpose of this proposed action, and

Background

The mission of the Tyonek Tribal Conservation District is to conserve, enhance, and encourage the wise use of natural resources. TTCD considers ROWs to be an important and effective mechanism for protecting Alaska's water resources and ensuring that fish have a sufficient amount of water for each of their life stages. We are grateful for the State's foresight in amending the Alaska Water Use Act (AS 46.15) in 1980 by implementing the instream flow law (AS 46.15.145) that this proposed action is attempting to change. In 1980, the Alaska Legislature recognized the myriad benefits of retaining a proportion of water to remain within rivers and lakes. Since its enactment, Alaska's instream flow law has become increasingly more important as climate and human development rapidly create change in local habitats. Lower 48 stream restoration involves the buying/selling of water rights, which is substantially more expensive than simply keeping an allocation of water within a river, and is a market that we hope not to see necessitated in Alaska.

There are three rivers within our District that currently hold certificates of reservation, including the Yentna River, Skwentna River, and Lake Creek. The Chuitna River has been filed but not adjudicated. There are also several rivers within the District that are currently being monitored with the intent of filing ROW applications. TTCD is additionally investing time and resources into updating streamflow records in the watershed and expects to submit ROW applications that will help to provide long-term habitat protections for fish and wildlife. The currently proposed action would directly and materially affect TTCD's ability to participate in the ROW process.

Proposed Regulatory Changes

Here we will be addressing each of the proposed regulatory amendments to 11 AAC 93. Where one of the amendments is not discussed, we did not have any comments.

11 AAC 93.142(b)(3)

This amendment revises the language stating a need for the proposed reservation. We agree that the language presented is an improvement over the previous language and clarifies the requirement. However, the explanation for a need remains redundant with 11 AAC 93.142(b)(1) where the applicant must state the purpose, particularly when the purpose is to "protect fish habitat, migration and propagation." Water is an inherent need for fish and wildlife, and identifying a proportion of water to remain in the river is both the purpose and need of applying for a ROW.

11 AAC 93.142(b)(4)

Providing five years of streamflow or water level data has long been an established standard when applying for a ROW, and TTCD supports this revision. Water levels and streamflows fluctuate from year to year due to annual variations in the amount, timing, and form of precipitation, so requiring five years of data helps to produce a robust and reliable record.

At this time, DNR accepts the initial filing of ROW applications once three years of data has been collected. This practice is beneficial to the applicant and DNR in multiple ways and should be

retained. It demonstrates the applicant's commitment, establishes a priority date to determine seniority in water rights, and allows DNR to evaluate the applicant's hydrological methods prior to the complete set of streamflow or water level data being collected.

11 AAC 93.142(b)(9)

This revision adds supplementary information required when applying for the purpose of protecting fish habitat, migration, and propagation. TTCD suggests removing 11 AAC 93.142(b)(9)(b), 11 AAC 93.142(b)(9)(c), 11 AAC 93.142(b)(9)(d), and amending 11 AAC 93.142(b)(9)(a) to read "identify the fish species using the proposed reservation of water reach and their periodicity by lifestage for spawning, rearing, and/or migration."

The proposed revisions request information that is outside of the authority of DNR. While DNR manages all state-owned land, water, and natural resources on behalf of the people of Alaska, the authority to manage the state's fish, game, and aquatic plant resources lies with ADF&G. 11 AAC 93.142(b)(9)(a) and 11 AAC 93.142(b)(9)(b) requires that the applicant supply fish population data both within the proposed reach and as an estimated proportion of sport, commercial, and subsistence uses. 11 AAC 93.142(b)(9)(c) requires the applicant to estimate how differing water levels would affect the amount of available fish habitat. DNR does not have the experience or expertise to advise on, review, or evaluate population estimates of fish or their habitat requirements. If the intent of this proposed regulation is for DNR to consult with ADF&G on fish populations and habitat requirements, then a "cost of implementation to the state agency and available funding" for ADF&G's involvement in the review of ROW applications would need to be provided in a new public notice. If an applicant does have access to fish population or habitat data, then providing this data in an application is already covered under 11 AAC 93.142(b)(8).

Regardless, the requirement to perform population estimates and proportionment of fish is excessively burdensome on the applicant, when even our ADFG partners have been unable to procure or provide this level of data for most of the waterways in our region. Streamgaging is a mostly passive data collection method, whereas fish population assessments require a substantial investment in fish sampling equipment (which varies based on the size of the river and the cost of transportation to the field location) and a significant amount of labor throughout the summer season to capture fish. The number of fish in a given reach of river is, furthermore, extraneous data to prove that a fish species at a given lifestage need a certain amount of water. What will DNR's threshold be for determining that a fish population is significant enough to warrant a sufficient amount of water? Even in reaches where a fish population may be small, the population could grow if this stream continues to have adequate water to support a fish's lifestage.

For a fish population to succeed in a particular environment, it requires a balanced ecosystem. Having a sufficient amount of water in a stream helps ensure there will be enough habitat for fish, and is also suitable water quality, food sources, and well-functioning ecological processes. The purpose provision in 11 AAC 93.141(1) directly applies to this concept of a balanced ecosystem and does not differentiate between fish habitat or wildlife habitat. In fact, if applying for the purpose of

"protection of fish and wildlife habitat, migration and propagation," the regulation additionally clarifies that this "means the quantity or level of water necessary to maintain suitable habitat conditions for the various life stages of fish, other aquatic organisms, and wildlife, including waterfowl and mammals, and their habitat, including water quality, depth, velocity and temperature, substrate, or streamside vegetation." Within this language alone, a ROW for this purpose sustains habitat conditions for not only fish, but **other aquatic organisms, wildlife, including waterfowl and mammals**, and even for **streamside vegetation**. Again, quantifying fish population is irrelevant to the purpose of a ROW application as a suitable amount of water supports the ecosystem as a whole.

11 AAC 93.146(b)

This proposed regulatory revision presents the largest change to the instream flow law intent by establishing that only a state or federal agency could hold a Certificate of Reservation. Water is arguably Alaska's most valuable resource. As such, the Water Use Act established that water is owned by the public (AS 46.15.030, "Wherever occurring in a natural state, the water is reserved to the people for common use and is subject to appropriation and beneficial use and to reservation of instream flows and levels of water.") Under AS 46.15.260, a reservation of water is defined as an appropriation. The general structure of the Water Use Act provides that appropriation rights, including the certificates that evidence them, belong to the appropriator. Revising the regulations as proposed in 11 AAC 93.146 establishes an unprecedented change to the Water Use Act that fundamentally reshapes the established right for Tribes, local governments, conservation organizations, and individuals in Alaska to hold water rights. If these entities can lawfully obtain water rights for out-of-stream uses, then the Water Use Act asserts their right to appropriate water to remain in the stream.

The practical consequence, if this proposed change is implemented, is that ROWs held by DNR can be enforced only if the current administration chooses to enforce them. Reservations held by Tribes, local governments, conservation organizations, and individuals can be enforced by those parties in court, independent of the political environment. Alaska's public trust doctrine does not mean that only the executive branch may take legal action to protect the public's resources. It means the opposite: that all Alaskans, including rural residents, Tribes, conservation organizations, and developers, have a stake in those resources and a right to participate in their protection. Concentrating enforcement in DNR does not democratize the process; it narrows it.

11 AAC 93.146(d)(1) and 11 AAC 93.147(c)

The existing regulatory framework reflects the principle that the State's review of an application for a water reservation, a determination that touches constitutional obligations regarding public resources, is a governmental function, funded by the State. These proposed revisions indicate an unpredictable future potential for the applicant to bear the cost of additional "terms or conditions the commissioner considers necessary" or the commissioner may "require that additional research, data collection, and analysis be conducted." If these proposed revisions become codified, then the

applicant (who may not be allowed to hold the certificate) will regardless be responsible for paying for additional research at the commission's discretion. This provision places undue burden on the applicant that extends into an unknown future and additionally shifts costs to the parties with the least ability to absorb open-ended research expenses: Tribes, rural watershed organizations, and individuals. The predictable effect is that these parties will be deterred from participating in the process at all.

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. §§ 3111-3126, establishes a priority for rural subsistence uses of fish and wildlife on federal public lands and waters in Alaska, requiring that rural residents engaged in subsistence uses have reasonable access to subsistence resources on those lands. Alaska's own subsistence statutes, AS 16.05.258, recognize subsistence fishing as a priority use of the state's fishery resources. While these frameworks do not directly regulate water rights, they provide the essential context that the communities most dependent on healthy instream flows, rural subsistence fishing villages and Tribes, are precisely the parties the proposed cost-shifting rules would price out of the ROW process. If rural communities cannot afford to participate as applicants or protestants in ROW proceedings, the flows sustaining the fish they depend on for subsistence are left without independent advocates in the process. DNR has not addressed in the notice of proposed rulemaking whether the proposed changes are consistent with the state's obligations to subsistence users.

The cost-shifting rule inverts the public interest premise of the ROW statute. It most heavily burdens the communities with the most direct, longstanding, and legally recognized stake in Alaska's instream resources.

Recommendations to improve the process

TTCD appreciates DNR's effort to improve upon the ROW application process and strongly supports a process that appropriates Alaska's natural resources through robust data collection, sound analytical methods, close examination by natural resource scientists and managers. There are many methodologies in which to perform hydrologic and flow duration analyses for the purpose of reserving adequate water for fish habitat, and additional clarity for both the applicant and DNR's ROW adjudicators will benefit from a clear process.

The Public Notice states that these regulatory "revisions will provide an efficient, consistent, and cost-effective water reservation process." In order to achieve these objectives, we recommend providing applicants with expected analytical standards and data requirements. The ability of current reservations to be reviewed and future reservations to be adjudicated will become more "efficient, consistent, and cost-effective" if DNR's ROW program can easily comprehend the methodologies being presented. With both DNR and the applicant having knowledge of the hydrologic analyses, flow duration analyses, and mean flow statistics necessary to determine sufficient instream flow appropriations, the ROW applications can proceed with greater clarity and time-effectiveness.

We recommend beginning the process of formalizing the acceptable analytical methods by endorsing the methodologies used by ADF&G's recent ROW applications. Since ADF&G currently holds the vast majority of ROW certificates (approximately 95% of certificates issued), it is evident that the methods used by ADF&G were robust and coherent to the ROW adjudicators. The State of Alaska has already invested substantial time and resources into defining effective methods for ROW applications, particularly those applications for the "protection of fish and wildlife habitat, migration and propagation." ADF&G has a publication titled "Surface-Water Data Manual for the Statewide Aquatic Resources Coordination Unit" which outlines methods used for collecting and analyzing streamflow data, specifically for the purpose of "providing scientifically sound and defensible instream flow recommendations" (Klein 2013). DNR also published the "State of Alaska instream flow handbook: a guide to reserving water for instream use" (DNR 1985). By providing these public resources, including examples of ADF&G's ROW applications, applicants will have a guide to follow that has already been approved by DNR.

Closing

Reservations of water are one of the most important tools available to ensure that Alaska's rivers and streams continue to sustain healthy fisheries and functioning ecosystems. The decisions made through this proposed action will influence the resilience of our watersheds far into the future, in the face of increasing development pressures and a changing climate. TTCD remains committed to supporting and conserving the subsistence and agricultural needs of our District and is concerned about the magnitude of impact these regulatory changes would have on protecting waterbodies that impact local economies, community health, and ways of life. We respectfully urge DNR to reject the adoption of the proposed regulations, to preserve the accessibility and effectiveness of the ROW program, and to uphold the sustained-yield and public trust principles embodied in the Alaska Constitution. Protecting instream flows is an investment in the long-term health of Alaska's fisheries as well as the Tribes and communities that depend upon them

Sincerely,



Laurie Stuart, EdD | *Executive Director*

phone 907.278.1021

lstuart@ttcd.org | www.ttcd.org

From: [Winfree, Michael M](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Mollnow, Ryan](#)
Subject: USFWS Questions RE: Proposed Changes to 11 AAC 93 (Reservations of Water)
Date: Saturday, June 20, 2026 11:48:12 AM
Attachments: [20260620 USFWS questions for DNR.pdf](#)

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. McCutcheon,

In accordance with the May 29, 2026 public notice, attached is a letter from the U.S. Fish and Wildlife Service submitting written questions relevant to the Alaska Department of Natural Resources' proposed changes to the regulations governing reservations of water (11 AAC 93). These questions are submitted in advance of the 5:00 PM, June 20, 2026 deadline for written questions identified in the notice.

The attached letter also includes a request for a 60-day extension of the public comment period, currently set to close June 30, 2026. The Service would appreciate a response to the extension request no later than June 23, 2026.

The Service appreciates DNR's consideration of these questions and of the extension request, and looks forward to DNR's responses. If you have any questions or need additional information, please feel free to contact me.

Best regards,

Michael Winfree
Regional Water Rights Coordinator
U.S. Fish and Wildlife Service, Alaska Region
907-209-2664 | michael_winfree@fws.gov



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199



IN REPLY REFER TO:

FWS/R7/NWRS/NR/WRB.MW

Alaska Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501

Dear Mr. McCutcheon:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to ask questions about the Alaska Department of Natural Resources' (DNR) proposed changes to the regulations implementing reservations of water (11 AAC 93) that were summarized in a public notice on May 29, 2026. In advance of the written comment deadline on June 30, 2026, the Service respectfully submits the following questions and a request for an extension of the comment period.

The Service requests a 60-day extension of the comment period currently set to close on June 30, 2026, which would move the deadline to August 29, 2026. The Service respectfully requests a response to this extension request no later than June 23, 2026 — one week prior to the close of the current comment period — so that the Service can plan its review accordingly. If DNR is unable to grant this extension, the Service would appreciate understanding the basis for that decision.

The Service has a substantial and longstanding interest in the administration of AS 46.15.145, Reservations of Water. Since 1994, the Service has filed 203 applications for reservations of water, of which 202 remain pending. To date, DNR has processed only one of these applications. Throughout this period, the Service has acted in good faith and has worked collaboratively with the State in pursuing water reservations under Alaska's Water Use Act (AS 46.15). That collaboration has included the Service's participation in the Federal Reserved Water Rights Work Group, a cooperative effort of state and federal agencies on water-rights administration in Alaska, including reservations of water under the Water Use Act. Relevant records are listed in the References at the end of this letter.

The Service's intent in seeking additional information from DNR is to better understand how DNR will apply the proposed amended regulations, so that the Service's subsequent comments are as constructive and well-informed as possible. A 30-day comment period is insufficient to complete the comprehensive analysis these proposed changes require. An extension would allow adequate time to evaluate how the proposed regulations would affect the Service's ability to fulfill its mission and the purposes of Alaska's National Wildlife Refuge System.

DNR provided information on the proposed regulations in two documents: (1) the Regs for Publication (proposed regulations), and (2) the Notice of Proposed Changes on the Reservations of Water in the Regulations of the Department of Natural Resources (public notice). The questions and requests for clarification below refer to both documents. The questions are listed in the order in which the relevant provisions appear in the proposed regulations and are not necessarily presented in order of importance to the Service.

Question 1: Proposed changes to 11 AAC 93.142 — Content of Applications.

1a: To understand how the proposed content of application requirements in 11 AAC 93.142 — including the five-year monthly data requirement in (b)(4) and the additional requirements in (b)(9) — would apply, would the proposed requirements apply to each of the following categories of applications and reviews:

- applications that were submitted and accepted as complete and assigned a priority date before the effective date of the proposed revisions, but for which adjudication has not yet begun;
- applications for which adjudication has begun but is not yet complete;
- ten-year reviews of existing certificates of reservation that are currently in progress;
- future ten-year reviews of existing certificates of reservation; and
- reservation applications or ten-year review determinations that are currently under appeal?

The Service would appreciate a response for each category.

1b: The proposed amendment to 11 AAC 93.142(b)(4) removes the “time period required to fully quantify the proposed reservation.” Existing 11 AAC 93.142(d) allows an applicant to request an extension of “the time period specified under (b)(4) of this section.” If (b)(4) no longer establishes a time period, how does DNR intend to apply 11 AAC 93.142(d), and does DNR intend to repeal or revise subsection (d) as part of the proposed revisions to the regulations?

1c: Existing 11 AAC 93.142(e) provides that “when the applicant completes the quantification of the proposed reservation,” the applicant must notify the commissioner and submit any information that changes, adds, or deletes information presented in the original application. Because the proposed amendment to (b)(4) would require stream flow quantification data to be submitted with the application rather than after filing, how does DNR intend to apply 11 AAC 93.142(e), and will DNR repeal or revise subsection (e) as part of the proposed revisions?

1d: Proposed 11 AAC 93.142(b)(9)(B) and (C) would require a reservation applicant to estimate the fish population supplying sport, commercial, and subsistence use and to estimate the effect of differing flows on the amount and quality of habitat. Does DNR intend that an applicant conduct original research to generate this population and flow-habitat information,

and to what extent may an applicant instead use existing data maintained by the Alaska Department of Fish and Game, including the Alaska Freshwater Fish Inventory and the Anadromous Waters Catalog (5 AAC 95.011), to satisfy these requirements?

1e: With respect to the fish-population and flow-habitat information required under proposed 11 AAC 93.142(b)(9)(B) and (C), the Service requests clarification on the following:

- What is the specific purpose for which DNR would use this population and flow-habitat information in adjudicating a reservation application, and what level of analysis would DNR consider sufficient to satisfy these requirements?
- What metrics or process would DNR use so that an applicant can determine what is expected to satisfy these requirements?
- Would these requirements apply to every application, or would the required level of data depend on the specific conditions of the proposed reservation — such as whether there are competing or potential competing uses for the water source — consistent with the public-interest criteria in AS 46.15.080(b)? For example, where an application concerns a river reach or water body with no competing or potential competing uses, would the same fish-population and flow-habitat estimates be required?
- What additional information would the population data provide beyond the fish-periodicity data that applicants already submit?

Question 2: Proposed changes to 11 AAC 93.146(d).

The proposed regulation states that “the certificate of reservation will state any additional terms or conditions the commissioner considers necessary to protect the prior valid rights of other appropriators and the public interest, including ... (1) measuring devices of a type and at a location approved by the commissioner must be installed and maintained by the applicant to monitor and report on the reserved instream flow or level of water at intervals approved by the commissioner.”

Will DNR require water reservation certificate holders to monitor instream flows on rivers or water levels in lakes where there are no prior appropriators? In addition:

- Would such a monitoring condition have a defined duration?
- How would DNR determine whether this monitoring condition applies, and what role would the applicant have in that decision?

Question 3: Proposed changes to 11 AAC 93.147(c).

11 AAC 93.147 is titled “Review of reservation of water” in the current regulations, providing regulatory guidance for reviews of DNR-issued water reservation certificates.

3a: Existing 11 AAC 93.147(c) provides that the costs of additional research, data collection, and analysis are borne by the state. The proposed amendment provides that, where no protest

has been filed, the commissioner "may apportion the costs among the department, the applicant, or the certificate holder, as the commissioner determines to be equitable." Because 11 AAC 93.147 applies, by its terms, to the review of a reservation "after the date of issuance of the certificate of reservation," what does DNR intend "the applicant" to mean in this context, and how would that term differ from "the certificate holder" in the review of an issued certificate of reservation?

3b: The public notice states that under proposed 11 AAC 93.147(c) "the applicant will now be required to bear the costs of conducting additional research, data collection, and analysis for their respective certificated reservations of water," and refers to "existing applications," "outdated" applications, and "old data." Does DNR intend these cost provisions to apply only to holders of issued certificates of reservation at the time of a certificate review, or also to pending applications that have not yet been adjudicated or certificated? The Service would also appreciate DNR identifying the provision in proposed 11 AAC 93.147(c), or elsewhere in 11 AAC 93, that establishes that intended scope.

3c: The public notice's plain language description of proposed 11 AAC 93.147(c) appears broader than the text of the proposed regulation itself. Which document reflects DNR's intended application of the revised regulation: the public notice or the proposed regulatory text?

Question 4: Implementation of the proposed regulations with respect to the backlog of pending water reservation applications.

4a: Will DNR adjudicate the 498 applications for reservations of water currently pending, including the Service's 202 pending applications, each of which was accepted under the regulations in effect at the time it was submitted?

- If so, what is DNR's anticipated timeline and approach for adjudicating those pending applications, and would adoption of the proposed regulations affect the rate or timeframe for addressing this backlog?
- If not, please explain how the proposed changes would apply to pending applications already on file.

4b: Does DNR anticipate that the proposed regulations will increase or decrease the time required to adjudicate a reservation of water application, and what is the basis for that expectation?

4c: Would the proposed regulations increase the costs borne by an applicant to collect and analyze data beyond what was required when the application was filed and accepted?

The Service appreciates DNR's consideration of these questions and of the Service's request for an extension, and looks forward to DNR's responses. Those responses will help ensure that the

Service's official comments on the proposed changes to 11 AAC 93 are accurate, constructive, and grounded in a clear understanding of how the regulations are intended to operate.

If you need clarification on any of these questions, or would like further information, please contact the Service's Regional Water Rights Coordinator, Michael Winfree, by telephone at 907-209-2664 or by electronic mail at michael_winfree@fws.gov.

Sincerely,

Michael Winfree
Regional Water Rights Coordinator
U.S. Fish and Wildlife Service, Alaska Region

References

Federal Reserved Water Rights, State-Federal Agency Meeting, Anchorage, AK, August 29, 1985

Federal Reserved Water Rights Work Group, Anchorage, Alaska, November 7, 1985

Federal Reserved Water Rights Work Group, November 13, 1986

Alaska Resources Library and Information Services (ARLIS):

<https://www.arlis.org/docs/vol1/L/AlaskaWaterRights/>

cc: Ryan Mollnow, Division Lead, Natural Resources, U.S. Fish and Wildlife Service, Alaska Region

From: [Winfree, Michael M](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Mollnow, Ryan](#)
Subject: U.S. Fish and Wildlife Service Comments on Proposed Changes to 11 AAC 93 – Reservations of Water
Date: Tuesday, June 30, 2026 10:42:37 AM
Attachments: [20260630_USFWS_Comments_ADNR_WaterReservation_RegChanges.pdf](#)
[20210325_USFWS_Comments_ADNR_RegChanges_SL.pdf](#)
[20231129_USFWS_Comments_ADNR_RegChanges_RS.pdf](#)
[20241029_USFWS_Comments_ADNR_RegScoping_MW.pdf](#)
[20241129_USFWS_Comments_ADNR_RegScoping_MW.pdf](#)

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Mr. McCutcheon,

The U.S. Fish and Wildlife Service (Service) thanks the Alaska Department of Natural Resources (ADNR) for the opportunity to comment on the proposed regulation changes to 11 AAC 93 of Alaska Administrative Code relating to the reservations of water that were summarized in an online public notice posted by ADNR on May 29, 2026. The Service's comments on the proposed regulation changes are provided in the attached document titled

20260630_USFWS_Comments_ADNR_WaterReservation_RegChanges.pdf.

For ADNR's reference, the Service has also attached four previously submitted comment letters. Two letters address earlier ADNR proposed regulation changes: comments submitted in 2021 (20210325_USFWS_Comments_ADNR_RegChanges_SL.pdf) and comments submitted in 2023 (20231129_USFWS_Comments_ADNR_RegChanges_RS.pdf). Two additional letters address the 2024 scoping period that preceded the current proposed revisions (20241029_USFWS_Comments_ADNR_RegScoping_MW.pdf and 20241129_USFWS_Comments_ADNR_RegScoping_MW.pdf). These earlier comment letters are included as background context only.

The Service appreciates ADNR's consideration of these comments. If you have any questions or need more information, please contact me by telephone at (907) 209-2664 or by electronic mail at michael_winfree@fws.gov.

Sincerely,

Michael Winfree

Michael Winfree
Hydrologist / Water Rights Coordinator
Water Resources Branch - National Wildlife Refuge System
U.S. Fish and Wildlife Service
Juneau, AK 99801
phone: 907-209-2664



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199



IN REPLY REFER TO:

FWS/R7/NWRS/NR/WRB.MW

June 30, 2026

Mr. Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501

Dear Mr. McCutcheon:

This letter provides the comments of the U.S. Fish and Wildlife Service (Service) on the Alaska Department of Natural Resources' (ADNR) proposed changes to the regulations implementing reservations of water (11 AAC 93), as described in the Notice of Proposed Changes published on May 29, 2026. The Service appreciates the opportunity to comment, as several of the proposed changes have the potential to significantly affect its currently pending and all future water reservation applications, and prefers that no changes to the existing water reservation regulations are needed at this time.

The United States Congress reserved new or expanded existing National Wildlife Refuges (Refuges) when it passed the Alaska National Interest Lands Conservation Act (ANILCA) of 1980. Title III of ANILCA mandates that the Service ensure water of sufficient quality and quantity for fish and wildlife populations and habitats as a purpose of every Refuge in Alaska [P.L. 96-487, 94 Stat. 2371 (1980)]. All Refuges in Alaska maintain unquantified federal reserved water rights to meet these mandates. The Service's policy (403 FW1) regarding the protection of its water rights provides:

"It is the Service's policy to comply with State laws, regulations, and procedures in obtaining and protecting water rights, both for Service facilities and for trust fish and wildlife resources on lands not owned by the United States, except where application of State statutes and regulations does not permit Federal purposes to be achieved. Federal reserved water rights will be quantified and asserted when necessary to accomplish the primary purpose of the reservation."

Consistent with this policy, the Service has worked within the State's water regulations to apply for reservations of water for instream flow purposes. The water reservation applications the Service has submitted to ADNR, or may submit in the future, are not a waiver of the rights of the United States under the Supremacy Clause of the United States Constitution, or of any other rights under Federal law and in no way are intended to quantify, diminish, or otherwise affect any Federal reserved water right claim.

The Service and the State of Alaska share a common interest in conserving and protecting fish and wildlife and their habitats. The Service offers these comments recognizing that ADNR's water reservation regulations operate within the framework established by Article VIII of the Alaska Constitution and the Alaska Water Use Act (AS 46.15). The Constitution provides that the State's waters are reserved to the people for common use and managed for the maximum benefit of its people, with priority of appropriation giving prior right (Alaska Const. art. VIII, §§ 2, 3, 13). The Water Use Act carries these principles forward by providing for the reservation of water to maintain instream flows and water levels for the protection of fish and wildlife habitat, migration, and propagation (AS 46.15.030; AS 46.15.145).

The Service emphasizes its good-faith partnership with ADNR, built on working within Alaska's water reservation system for decades. Throughout this period, the Service has collaborated with the State in pursuing water reservations under the Water Use Act (AS 46.15), including through its participation in the Federal Reserved Water Rights Work Group, a cooperative effort of state and federal agencies on water rights administration in Alaska. Since 1994, the Service has filed 203 applications for reservations of water, with priority standing ranging back to that year. To date, only one of these applications has been granted a certificate of reservation through ADNR's adjudication process; the Service currently maintains 202 applications pending adjudication. The Service has invested significant resources in the collection, analysis, and maintenance of the data supporting these state-based reservations of water for instream flows, consistent with purposes set forth in ANILCA and the Service's policy (403 FW1).

The comments below are organized in the order in which the relevant provisions appear in the proposed regulations. The Service reviewed ADNR's June 26, 2026 public notice responding to questions regarding the proposed changes. The Service previously submitted comments to ADNR on proposed regulation changes in 2021 and 2023, and two submissions during the 2024 scoping period that preceded these proposed revisions (see four attached comment letters).

The Service is concerned that the proposed provisions would make a water reservation application significantly more complex and burdensome. The Service prefers that ADNR retain the existing regulations without change.

11 AAC 93.142: Content of Application

Proposed 11 AAC 93.142(b)(3) – Reason for the reservation need

Consistency between the public notice and the regulatory text. The plain language description of proposed 93.142(b)(3) in the public notice appears inconsistent with the text of the proposed regulation. The public notice states that applications will be required to be “more robust” to support the public interest determination, but the proposed regulatory text does not appear to reflect that heightened standard — functionally, it does not differ from the provision it would replace. The Service prefers retaining the existing 93.142(b)(3) regulations, because the current regulatory language already achieves stated goals.

Proposed 11 AAC 93.142(b)(4): Five-year monthly data requirement

The Service understands the proposed amendment to require a minimum of five years of monthly streamflow data at the time of filing, and to remove the defined post-filing period during which an applicant may complete quantification under current regulations. ADNR's June 26, 2026 responses to public questions confirm that applications lacking the required five years of monthly data at filing will not be accepted as complete.

The Service respectfully opposes these provisions and prefers that ADNR preserve the existing flexibility under which a water reservation applicant may file when a need is identified and complete quantification within the period the current regulations allow after filing. A reservation of water is an appropriation under the Water Use Act, which defines "appropriation" to include "the diversion, impounding, or withdrawal of a quantity of water from a source of water for a beneficial use or the reservation of water under AS 46.15.145." Because a reservation is an appropriation for a beneficial use in the statutory sense as a consumptive water right, requiring years of data as a condition of filing places reservations on unequal footing with consumptive water rights — whose applicants may file and receive a priority date upon submission of a complete application without years of advance data collection. The proposed regulations would apply an inconsistent standard to different classes of water appropriators, inconsistent with Article VIII, Section 17 of the Alaska Constitution, which provides that laws and regulations governing the use of natural resources “apply equally to persons similarly situated.”

The priority date is the most durable protection a water right applicant receives, and under AS 46.15.050(b) it dates from the filing of an application. A consumptive water right applicant facing the same emerging demand on a water body could file immediately and secure a priority date at that time; a reservation applicant would be required to wait five or more years before filing and would receive a correspondingly later priority date. No other class of water appropriator under the Water Use Act carries such a delay.

Proposed 11 AAC 93.142(b)(4): Removal of the post-filing quantification period and effect on subsections 11 AAC 93.142(d) and (e).

The proposed amendment to (b)(4) removes the time period during which an applicant may complete quantification of a proposed reservation after filing — the mechanism that currently allows an applicant to file when a need is identified and quantify afterward. Other provisions of the regulation depend on this period: subsection 11 AAC 93.142(d) allows an applicant to request an extension of "the time period specified under (b)(4)," and subsection 11 AAC 93.142(e) governs the applicant's obligations "when the applicant completes the quantification." Removing the (b)(4) period would leave (d) cross-referencing a provision that no longer exists and (e) describing a step the regulation no longer provides for.

ADNR's response to the Service's June 20, 2026 question on this inconsistency stated only that "we will review this further as we consider comments to make changes to final regulations." The

Service appreciates that acknowledgment. The Service respectfully requests that ADNR retain the post-filing quantification period in (b)(4), resolving the drafting issue at its source. If ADNR proceeds with the five-year data requirement, the Service prefers retaining subsection (d) to allow for a two-year extension on top of the existing post-filing quantification period in (b)(4) — providing applicants up to five years after filing to assemble the required data while preserving the priority date upon filing.

Proposed 11 AAC 93.142(b)(9)(B) and (C): New fish population and water levels or flow-habitat information requirements

Proposed 11 AAC 93.142(b)(9)(B) and (C) would require a reservation applicant to estimate the fish population supplying sport, commercial, and subsistence use, and to estimate the effect of differing flows on the amount and quality of habitat. As drafted, these provisions do not specify what type, quantity, or precision of data would be sufficient. Absent a defined standard, these requirements could be read to require intensive, site-specific original research — including population estimation and flow-habitat modeling — for each application. Studies of that kind can require multiple years of fishery data collection and complex analysis, and the associated time and cost could be substantial.

ADNR's response to the Service's June 20 question confirmed that applicants may use existing data sources, including the Alaska Freshwater Fish Inventory and the Anadromous Waters Catalog (5 AAC 95.011), where existing data is sufficient, and that supplemental collection would be required only where existing data is "limited or insufficient." ADNR also stated that it "evaluates the adequacy of analysis case-by-case." The Service appreciates the first clarification but is concerned that a case-by-case standard, without published criteria, does not allow applicants to anticipate what is required — particularly because the proposed regulations would require this information at the time of filing. An applicant reading the proposed regulation has no way to determine in advance whether existing ADF&G datasets will be considered adequate for a given application.

The Service also notes a relevant disparity: Under the Alaska Department of Fish and Game's (ADF&G) regulations (5 AAC 95) for the Anadromous Fish Act (AS 16.05.871- .901), a person or agency proposing to construct in, divert, or alter the natural flow or bed of a specified anadromous water is required only to notify the commissioner and, if the commissioner so determines, submit plans and specifications. ADF&G itself specifies and catalogs anadromous waters under the Anadromous Waters Catalog (5 AAC 95.011) — the regulatory foundation that should equally inform ADNR's instream flow reservation decisions. ADNR's proposed (b)(9) requirements are considerably more data intensive than what Alaska's primary fish habitat protection statute requires of those seeking to physically alter that same habitat. This disparity highlights three concerns: 1) burden disparity – it is inconsistent to require more rigorous fisheries data from a reservation applicant than from a party proposing instream construction; 2) duplication of a state function — the fish species and population information required in

(b)(9)(B) substantially overlaps with what ADF&G already determines and maintains under AS 16.05.871(a) and the Anadromous Waters Catalog (5 AAC 95.011) and the Alaska Freshwater Fisheries Inventory; and the flow-habitat modeling proposed by (b)(9)(C) is not required by the public interest criteria of AS 46.15.080(b), as that information is available through those same ADF&G datasets, with ADF&G providing input to ADNR on fish presence and habitat when necessary —making original research by the applicant duplicative rather than necessary.

The Service respectfully suggests retaining the current regulations, and that no changes to 11 AAC 93.142(b)(9) are necessary. Fish periodicity information, commonly provided by the Service and other applicants, is sufficient to substantiate the need for and the quantity of water requested for the proposed reservation, consistent with 11 AAC 93.142(b)(8). If ADNR proceeds with revising (b)(9), the Service prefers that ADNR incorporate into the regulatory text, or publish as binding guidance before adoption: 1) confirmation that existing ADF&G data may be used to satisfy these requirements where appropriate; and 2) the criteria ADNR will apply in determining when existing data is adequate and when supplemental collection is required, so that applicants can prepare compliant submissions at the time of filing.

Proposed 11 AAC 93.146(b): Issuance of a Certificate of Reservation of Water

The Water Use Act provides that "the state, an agency or a political subdivision of the state, an agency of the United States, or a person" may apply for a reservation of water, and that the commissioner shall issue a certificate reserving the water "applied for" upon making the required findings (AS 46.15.145(a), (c)). The proposed amendment to 11 AAC 93.146(b) would grant the certificate of reservation to the applicant only where the applicant is a state or federal resource management agency, and that ADNR would hold the certificate for all other applicants. This treatment is inconsistent with how other water appropriations are administered — consumptive water right certificates are issued to the applicant (AS 46.15.120; 11 AAC 93.130(a)) and the Water Use Act provides no basis for distinguishing between the two. The Service supports retaining the existing provisions under 11 AAC 93.146(b), under which the certificate is issued to the applicant, consistent with the treatment of other water appropriators under the Water Use Act.

Proposed 11 AAC 93.146(d): Monitoring conditions and measuring devices

Proposed 11 AAC 93.146(d) provides that a certificate of reservation may include additional terms or conditions the commissioner considers necessary, that could include a requirement that the applicant install and maintain measuring devices and report on the reserved instream flow or water level at intervals approved by the commissioner. The Service recognizes the existing 11 AAC 93.146(d)(1) already allows such conditions at the commissioner's discretion, and the proposed revision specifies the water reservation applicant will bear the cost of monitoring and reporting.

ADNR's response to the Service's June 20 question confirmed that monitoring may be required "even in the absence of prior appropriators." Given that this obligation would fall on the

applicant and could apply to reservations on remote Refuge lands where access and equipment maintenance is logistically and financially intensive, the Service respectfully requests that ADNR clarify: 1) how it would determine when a monitoring condition is warranted; 2) whether such a condition would have a defined duration; and 3) what role the applicant would have in establishing monitoring and reporting parameters, so that applicants can anticipate the long-term obligations associated with a reservation.

Proposed 11 AAC 93.147(c): Review of a Reservation of Water Apportionment of the costs of review.

Existing 11 AAC 93.147(c) provides that the costs of additional research, data collection, and analysis are borne by the State, except where a protestant has filed a protest. The proposed amendment would allow the commissioner, where no protest has been filed, to "apportion the costs among the department, the applicant, or the certificate holder, as the commissioner determines to be equitable."

Because 11 AAC 93.147 applies to the review of a reservation "after the date of issuance of the certificate of reservation," the Service asked ADNR to clarify what "the applicant" is intended to mean in this context, and how that term is intended to differ from "the certificate holder." ADNR's response to the Service's question confirmed that, in the context of a review of an issued certificate, "the applicant" refers to the original party who applied for the reservation, and "the certificate holder" refers to the entity that currently holds the certificate. ADNR further explained that this distinction "allows the commissioner to equitably apportion costs to the original interested party even when DNR holds the certificate." The Service understands this to mean that the original applicant could be required to bear review costs for a reservation they do not technically hold.

Scope of the cost provisions. The Service appreciates ADNR's confirmation, in response to the Service's June 20 question, that the cost apportionment provisions "apply to reviews of issued certificates of reservation" and "do not apply to pending applications awaiting initial adjudication." The Service appreciates this position and understands it to mean that the Service's 202 pending applications will not be subject to cost apportionment under 11 AAC 93.147(c). The Service notes that the public notice's references to 'existing applications,' 'outdated' applications, and 'old data' read more broadly than ADNR's June 26 clarification of the regulatory text, and suggests that ADNR confirm in the final rule that cost apportionment under 93.147(c) applies only at the post-issuance review stage and not to pending applications.

The Service also notes that, to the extent any data associated with the Service's pending applications may be characterized as dated, that aging has occurred during the period in which the applications have awaited adjudication. Apportioning the cost of updating that data to applicants of currently pending applications would effectively penalize applicants who have been waiting the longest for adjudication, at no fault of the applicant.

Application to Pending Applications and Existing Certificates

The Service's primary concerns with the proposed regulation changes are their potential effect on the Service's 202 pending applications, existing certificates, and all future reservations of water.

The Service appreciates ADNR's confirmation, in its June 26, 2026 questions and answers notice, that the proposed regulations would not affect existing certificates of reservation, approved applications under appeal, or applications currently awaiting adjudication. Specifically, ADNR confirmed that "all applications that have been received by DNR that have been assigned a priority date are subject to the statutes and regulations in place at the time the priority date was assigned," and that the new data requirements "would apply to new applications filed after the regulations take effect." The Service agrees with this position and understands that its 202 pending applications, with priority standing ranging back to 1994, will continue to be administered under the regulations in effect when each was filed. The Service prefers that ADNR state this commitment in the final regulatory text, so that the protection afforded to pending applications does not rest solely on responses provided during the public comment period.

The Service also reiterates its longstanding concern with the timely adjudication of pending applications. ADNR stated that the proposed regulations are expected to decrease adjudication time by reducing incomplete applications, but this rationale does not address how the new requirements would affect the pace of adjudicating the applications already on file. The Service respectfully encourages ADNR to prioritize adjudication of the existing backlog.

The Service appreciates ADNR's consideration of these comments. If you have any questions or desire further information, please contact the Service's Regional Water Rights Coordinator, Michael Winfree, by telephone at (907) 209-2664 or by electronic mail at michael_winfree@fws.gov.

Sincerely,

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

Division Lead, Natural Resources, USFWS

Encl.,

20210325_USFWS_Comments_ADNR_RegChanges_SL.pdf
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United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199



IN REPLY REFER TO:

NR/WRB____.CF

Brandon McCutcheon
Department of Natural Resources
Division of Mining, Land, & Water
Office of the Commissioner
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501

Dear Brandon McCutcheon:

This letter is in regard to the Alaska Department of Natural Resources (ADNR) proposal to revise regulations in Title 11 of the Alaska Administrative Code, relating to the closure of water right applications, the contents of instream flow reservation applications, the issuance of certificates for instream flow reservations, the review of instream flow reservations, the procedures for temporary water use, the public notices and hearings on critical water management areas, and definitions.

The U. S. Fish and Wildlife Service (Service) and the State of Alaska share a common interest in conserving and protecting fish and wildlife and their habitats. A reservation of water is one mechanism to achieve this shared interest. The Service further believes these common conservation and protection interests are enhanced by the unique characteristics of Instream Flow Reservations in Title 11 of the Alaska Administrative Code, including the ability of a non-governmental individuals and groups to hold a certificate for a reservation of water for instream flow.

Title III of the Alaska National Interest Lands Conservation Act mandates that the Service ensure water of sufficient quality and quantity for populations and habitats of fish and wildlife as a purpose of every National Wildlife Refuge in Alaska (P.L. 96-487, 94 Stat. 2371 (1980)). All National Wildlife Refuges (Refuges) in Alaska maintain unquantified Federal reserved water rights to meet these mandates.

It is the policy of the Service to work within a State's administrative system to obtain water rights for the protection of fish and wildlife and their habitats so long as the water rights provide adequate protection of water quality and water quantity (403 FW1). As such, the Service has worked within the State's water regulation to apply for reservations of water for instream flow purposes. The Service currently maintains 200 applications for the reservation of water pending adjudication with priority standing ranging back to 1994.

Of the 201 reservation applications filed by the Service since 1994, one application has been granted a "certificate of reservation" through the adjudication process. The Service has expended

significant resources on the collection, analysis, and maintenance of data that support State based reservations of water for instream flows. The Service's significant investment in the State's water rights systems warrants concern not resolved by [ANDR's response to questions](#) regarding changes to Title 11 submitted by the public on February 16, 2021. ADNR's response did not resolve questions regarding the "standing" and "priority" of the Service's 200 reservation of water [applications](#) pending adjudication and future applications

These concerns lead the Service to recommend that ADNR abandon the suggested changes to the definition of "appropriator of record" (in [11 AAC 93.970](#)) or issue a "certificate of reservation" at the time an application for a reservation of water is received. Redefining "appropriators of record" removes "applicants" from the definition and strips the priority standing of "applicants" as senior appropriators while adjudication is pending. The loss of the Service's priority date standing as the "applicant" for reservations of water is problematic to the Service's water right interests.

The Service's concern for the priority standing of our 200 applications for reservations of water also extends to changes in the authorization of temporary use of water permits under [11 AAC 93.210\(a\)](#). The Service recommends that the State maintains the original language of [11 AAC 93.210 \(a\)](#), include "applicant for reservation of water" in the list of entities that water applied for is "not otherwise appropriated under", or issue a "certificate of reservation" at the time an application for a reservation of water is received. Failure to correct the exclusion of "applicant for reservation of water" strips the Service of its priority standing in the temporary water use process and prohibits the protection of adequate water quantity and quality for each Refuge.

It is the Service's policy to comply with State laws, regulations, and procedures in obtaining and protecting water rights, except where application of State statutes and regulations does not permit Refuge purposes to be achieved. Federal reserved water rights will be quantified and asserted when necessary to accomplish the primary purpose of the reservation. (403 FW 1.3).

If you have any questions or desire further information, please contact the Service's Regional Water Rights Coordinator Cathleen Flanagan by phone at (907) 830-0980 or by electronic mail at cathleen_flanagan@fws.gov.

Sincerely,

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Socheata Lor
Acting Chief, National Wildlife Refuge System,
Alaska

cc: John Trawicki, Chief Water Resources Branch USFWS
Cathleen Flanagan, Water Right Coordinator, Water Resources Branch USFWS



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199



In Reply Refer To:
FWS/R7/NWRS/NR/WRB.MW

Ms. Molly Benson
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501-3579

Dear Ms. Benson:

This letter is in regard to the Alaska Department of Natural Resources (ADNR) October 6, 2023, supplemental notice of proposed changes to regulations in Title 11 of the Alaska Administrative Code, relating to the closure of water right applications, the procedures for temporary water use, the public notices and hearings on critical water management areas, and definitions.

Title III of the Alaska National Interest Lands Conservation Act mandates that the U.S. Fish and Wildlife Service (Service) ensures water of sufficient quality and quantity for populations and habitats of fish and wildlife as a purpose of every National Wildlife Refuge in Alaska (P.L. 96-487, 94 Stat. 2371 (1980)). The Service and the State of Alaska share a common interest in conserving and protecting fish and wildlife and their habitats. A reservation of water is one mechanism to achieve this shared interest.

It is the policy of the Service (403 FW1) to work within a State's administrative system to obtain water rights for the protection of fish and wildlife and their habitats so long as the water rights provide adequate protection of water quality and water quantity. As such, the Service has worked within the State of Alaska's water management regulations to apply for reservations of water for instream flow purposes. The Service currently maintains 202 applications for the reservation of water pending adjudication with priority standing ranging back to 1994.

Of the 203 reservation applications filed by the Service since 1994, one application has been granted a "certificate of reservation" through the adjudication process. The Service has expended significant resources on the collection, analysis, and maintenance of data that support State-based reservations of water for instream flows. The Service's significant investment in the State's water rights system warrants concern with ADNR's proposed regulation changes, specifically regarding the "standing" and "priority" of the Service's 202 reservation of water applications pending adjudication and future applications that may be submitted by the Service.

The Service notes that the October 6, 2023, supplemental notice of proposed regulation changes to Title 11 of Alaska Administrative Code are nearly identical to several regulation changes proposed by ADNR on January 15, 2021

(<https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=126212>). The Service expressed concerns with the proposed regulation changes through the 2021 public notice process. The Service's concerns were not resolved by ADNR's March 16, 2021, response to questions submitted by the public regarding the proposed changes to Title 11 (<http://dnr.alaska.gov/mlw/news/pdf/Questions-and-Answers-Regarding-Proposed-Water-Regulations.pdf>). The Service has also reviewed ADNR's November 21, 2023, response to questions submitted by the public regarding the proposed changes in the October 6, 2023, supplemental notice (<https://dnr.alaska.gov/mlw/news/pdf/2023-11-21-Questions-and-Answers-Water-Regulations.pdf>), and ADNR's answers have been considered in the Service's comments herein.

These concerns lead the Service to recommend that ADNR abandon the suggested changes to the definition of "appropriators of record" (in 11 AAC 93.970), add language such that the definition of "appropriators of record" includes complete applications for water reservations and water rights, or issue a "certificate of reservation" at the time an application for a reservation of water is received. Redefining "appropriators of record" removes "applicants" from the definition and strips the priority standing of "applicants" for water rights and water reservations as senior appropriators while adjudication is pending. The loss of the Service's priority date standing as the "applicant" for reservations of water is problematic to the Service's water right interests.

The Service's concern for the priority standing of our 202 pending applications for reservations of water also extends to changes in the authorization of temporary use of water permits under 11 AAC 93.210(a). The proposed change creates uncertainty about the priority of pending water reservation applications if junior temporary water uses are authorized prior to the adjudication of the water reservation. The Service recommends that the State maintain the original language of 11 AAC 93.210(a), and include "applicants for reservation of water" in the list of entities that water applied for is "not otherwise appropriated under," or issue a "certificate of reservation" at the time an application for a reservation of water is received. Failure to correct the exclusion of "applicant for reservation of water" strips the Service of its priority standing in the temporary water use process and inhibits the protection of adequate water quantity and quality for each Refuge.

The Service's concern for the priority standing of our 202 pending applications for reservations of water also extends to changes in the public notice and meeting for critical water management area regulations 11 AAC 93.510. In the proposed language in 11 AAC 93.510(b), the Service recommends ADNR add language to notify existing applicants for reservations of water on a water source affected by the proposed designation, revocation, or amendment of a critical water management area, or issue a "certificate of reservation" at the time an application for a reservation of water is received. The Service also recommends adding language to the proposed language in 11 AAC 93.510(b) that ADNR will notify Alaska Native Tribes if affected by the proposed designation, revocation, or amendment of a critical water management area.

It is the Service's policy (403 FW1.3) to comply with State laws, regulations, and procedures in obtaining and protecting water rights, except where application of State statutes and regulations does not permit Refuge purposes to be achieved.

The Service values the opportunity to provide comments on ADNR's proposed water regulation changes. If you have any questions or desire further information, please contact the Service's Regional Water Rights Coordinator Michael Winfree by phone at 907-209-2664 or by electronic mail at Michael_Winfree@fws.gov.

Sincerely,

**RONALD
SANCHEZ**

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RONALD SANCHEZ
Date: 2023.11.29
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Acting Assistant Regional Director
National Wildlife Refuge System
Alaska Region

cc: Michael Winfree, Water Rights Coordinator,
Water Resources Branch, USFWS
John Trawicki, Chief of Water Resources
Branch, USFWS



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

1011 East Tudor Road
Anchorage, Alaska 99503-6199



IN REPLY REFER TO:

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Alaska Department of Natural Resources
Division of Mining, Land, & Water
Program Support Section
550 W. 7th Avenue, Suite 1070
Anchorage, Alaska 99501-3579

This letter provides input requested in the [1 August 2024 Notice for Public Scoping](#) for possible regulation changes to Title 11 AAC 93 implementing Reservations of Water ([AS 46.15.145](#)). The U.S. Fish and Wildlife Service (Service) thanks the Alaska Department of Natural Resources (ADNR) for the opportunity to provide comments during this scoping process.

The United States Congress reserved new or expanded existing National Wildlife Refuges (Refuges) when it passed the Alaska National Interest Lands Conservation Act ([ANILCA](#)) of 1980. Title III of ANILCA mandates that the Service ensure water of sufficient quality and quantity for populations and habitats of fish and wildlife as a purpose of every Refuge in Alaska [P.L. 96-487, 94 Stat. 2371 (1980)]. All Refuges in Alaska maintain unquantified federal reserved water rights to meet these mandates. The Service's policy ([403 FW1](#)) regarding protection of its water rights is as follows:

"It is the Service's policy to comply with State laws, regulations, and procedures in obtaining and protecting water rights, both for Service facilities and for trust fish and wildlife resources on lands not owned by the United States, except where application of State statutes and regulations does not permit Federal purposes to be achieved. Federal reserved water rights will be quantified and asserted when necessary to accomplish the primary purpose of the reservation. Water rights shall be purchased if essential to Service activities and not otherwise available. . . . The Service shall cooperate with the States on all matters related to water use and water rights and will seek to resolve conflicts through negotiation, in coordination with the Solicitor's Office, as appropriate."

Consistent with this policy, the Service has worked within the State's water regulations to apply for reservations of water for instream flow purposes. The water reservation applications the Service has submitted to Alaska DNR are not a waiver of the rights of the United States under the Supremacy Clause of the United States Constitution, or of any other rights under Federal Law and in no way are intended to quantify, diminish, or otherwise affect any federal reserved water right claim.

The Service and the State of Alaska share a common interest in conserving and protecting fish and wildlife and their habitats. When properly administered, the unique characteristics of instream flow reservations in Title 11 of the Alaska Administrative Code enhances these common conservation and protection interests. The current regulations in Title 11 of the Alaska Administrative Code implementing AS 46.15.145 Reservations of Water are clear, comprehensive, and effective. Any revisions to Title 11 AAC 93 should support the continued protection of water for fish and wildlife habitats and populations.

The Service has invested significant resources on the collection, analysis, and maintenance of data that support State based reservations of water for instream flows. Changes to Title 11 AAC 93 implementing Reservations of Water ([AS 46.15.145](#)) are of interest and potentially concern to the Service. Collaboration with ADNR in the water reservation system is critical in fulfilling the purposes of Alaska's Refuges. The Service emphasizes our good-faith partnership with ADNR built on working within Alaska's water reservation system for decades. The Service has filed 203 applications for water reservations, with only one application being granted a "certificate of reservation" through ADNR's adjudication process. We currently maintain 202 unadjudicated applications with priority standing ranging back to 1994.

In the 1 August 2024 Notice of Public Scoping, ADNR specifically requested input for several sections of Title 11 AAC 93. The guiding questions ADNR asked in the public notice are listed below and followed by the Service's response.

"11 AAC 93.142 (Content of application)

- ***Should additional information be required to justify the need for a reservation of water?***
- ***What types of data and methodology?"***

Service response:

No changes are necessary to [11 AAC 93.142](#). The Alaska Water Use Act [[AS 46.15.145\(a\)](#)] clearly defines the purposes for a water reservation. Existing regulations require applicants to identify the purpose and *"explain what need exists for the proposed reservation, including reasons why the reservation is being requested"* [[11 AAC 93.142\(b\)\(3\)](#)]. The water reservation applications are highly rigorous, and requiring additional information is not necessary for applicants to justify the need for the purposes stated in a reservation of water application.

No changes are necessary to [11 AAC 93.142](#) regarding data and methodology. Existing regulations already require applicants to *"identify and explain the methodology to be used to quantify the proposed reservation"* [[11 AAC 93.142 \(6\)](#)]. The hydrological processes that drive surface water flow can be different across Alaska, and methods for data collection and analysis will vary to meet those conditions. Methodology may also vary based on the purpose of the reservation.

"11 AAC 93.146 (Issuance of a certificate of reservation of water)

- ***Should only State resource agencies, such as DNR or Alaska Department of Fish and Game, hold the certificate of a reservation of water?***
- ***Who should hold a certificate of a reservation of water?"***

Service response:

No changes are necessary to [11 AAC 93.146](#). The Water Use Act [[AS 46.15.145 \(a\)](#)] clearly defines *"the state, an agency or a political subdivision of the state, an agency of the United States or a person may apply..."* for an instream flow reservation. Current regulations state *"The certificate of reservation will be issued to the applicant"* [[11 AAC 93.146 \(b\)](#)], and honor the legislative intent of the Water Use Act. Certificate of reservations should continue to be granted to the applicant, similarly to consumptive water right certificates.

“11 AAC 93.147 (Review of a reservation of water)

• Are the review requirements clear and adequate?”

Service response:

The review requirements are clear and adequate; no changes are necessary to [11 AAC 93.147](#). Existing regulations clearly describe the criteria that must be met when reviewing existing reservations and are consistent with the Water Use Act [[AS 46.15.145 \(f\)](#)].

Additional Scoping Comments and Questions:

- The Service has one overriding concern that ADNR should address during this scoping process: ADNR should ensure that if regulations implementing the water reservation program are changed, that ADNR will administer existing water reservations and unadjudicated applications by applying the regulations at the time the applications was filed.
- The Service’s primary concern with the water reservation program is ADNR’s failure to adjudicate water reservation applications in a timely manner. To date, ADNR has processed [178 out of 498 applications](#) for reservations of water. One challenge in providing comments during this scoping process is that ADNR has not clearly conveyed how current water management regulations have resulted in the backlog of pending applications and other inefficiencies in administering Alaska’s water reservation system.
- ADNR has not communicated a clear purpose or need for revisions to water reservation regulations.
- ADNR should first prioritize its limited resources to improving its capacity to properly apply the current regulations and adjudicate all pending water reservation applications before expending any more resources on possible regulatory changes.
- ADNR should hold the water reservation system on equal footing with consumptive water rights. The Water Use Act defines appropriation ([AS 46.15.260](#)) as “*the diversion, impounding, or withdrawal of a quantity of water from a source of water for a beneficial use or the reservation of water under AS 46.15.145.*” Treating all water appropriations similarly will bring consistency and efficiency to ADNR’s administration of water rights and benefit all stakeholders.
- ADNR should advocate for the re-establishment of the Alaska Water Resources Board. The Alaska Water Use Act created the [Water Resources Board](#) consisting of seven appointed members having “*knowledge of the use and requirements for use of the water of the state and the conservation and protection of it.*” The responsibility of the Water Resources Board is to “*advise the Governor on all matters relating to the use and appropriation of water in the state, including, but not limited to; (1) the effect and adequacy of state laws and regulations governing the establishment of water rights; (2) the multi-purpose uses of water; (3) the prevention of pollution and the protection of fish and game...*”. A Water Resource Board consisting of diverse stakeholders will inform ADNR of the adequacy of current water management regulations, and identify opportunities for *efficient, consistent, and cost-effective*” approaches in ADNR’s water management administration.

If you have any questions or desire further information, please contact the Service's Regional Water Rights Coordinator Michael Winfree by phone at (907) 209-2664 or by electronic mail at Michael_Winfree@fws.gov.

Sincerely,

**MICHAEL
WINFREE**

Digitally signed by
MICHAEL WINFREE
Date: 2024.10.29
15:09:29 -08'00'

Michael Winfree
Water Rights Coordinator, Water Resources Branch, USFWS

cc: John Trawicki, Chief Water Resources Branch, USFWS
Ryan Mollnow, Division Lead, Natural Resources, USFWS
Karlin Itchoak, Assistant Regional Director, NWRS, USFWS



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199



IN REPLY REFER TO:
FWS/R7/NWRS/NR/WRB.MW

Alaska Department of Natural Resources
Division of Mining, Land and Water
Program Support Section
550 West 7th Avenue, Suite 1070
Anchorage, Alaska 99501-3579

This letter provides input requested in the [1 August 2024 Notice for Public Scoping](#) for possible regulation changes to Title 11 AAC 93 implementing Reservations of Water ([AS 46.15.145](#)). The U.S. Fish and Wildlife Service (Service) thanks the Alaska Department of Natural Resources (ADNR) for the opportunity to provide comments during this scoping process.

The Service previously submitted comments to ADNR during the public scoping process on 29 October 2024. However, with ADNR extending the comment period to 29 November 2024, the Service is submitting additional comments detailed below.

Additional Scoping Comments:

The Service requests that ADNR provide full transparency during the scoping process, including but not limited to:

- that ADNR publicly post all the comments submitted during the public scoping period.
- ADNR publicly post a written report of its analysis and conclusions of the submitted comments prior to initiating possible regulation changes.
- ADNR publicly post what it proposes to do next related to changes to Title 11 AAC 93, and the associated timeframe for the next steps.

If you have any questions or desire further information, please contact the Service's Regional Water Rights Coordinator Michael Winfree by phone at 907-209-2664 or by electronic mail at Michael_Winfree@fws.gov.

Sincerely,

**MICHAEL
WINFREE**

Digitally signed by
MICHAEL WINFREE
Date: 2024.11.29
06:19:15 -09'00'

Water Rights Coordinator
Water Resources Branch, USFWS

cc: John Trawicki, Chief Water Resources Branch, USFWS
Ryan Mollnow, Division Lead, Natural Resources, USFWS
Karlin Itchoak, Assistant Regional Director, NWRS, USFWS

From: [Britton, Ronald - FS, AK](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Cooper, Laurie - FS, AK](#); [Scaife, Daniel - FS, WA](#); [Prussian, Katherine - FS, AK](#)
Subject: FW: Review of the proposed changes to the regulations in 11 AAC 93 of the Alaska Administrative Code
Date: Tuesday, June 30, 2026 4:26:26 PM
Attachments: [image001.png](#)
Importance: High

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear ADNR,

Thank you for the opportunity to review and respond to the Department of Natural Resources' (DNR) proposed changes to the regulations in 11 AAC 93 of the Alaska Administrative Code dealing with reservations of water to issue certificates of reservation to state and federal resources agencies.

Following review of the proposed changes to the regulation, the U.S. Forest Service is unable to provide our comments prior to the deadline of 1700h today, June 30th. Our official response will be delayed and we will post our comments to this email address as soon as they have been signed by the Regional Forester.

Respectfully, Ron Britton



Ron Britton
Resources Aquatic Program
Manager
Forest Service
Chugach National Forest
p: 907-743-9513
ronald.l.britton@usda.gov
161 E. 1st Ave Door 8
Anchorage, AK 99501

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From: [Britton, Ronald - FS, AK](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Cc: [Spisak, Michael - FS, OR](#); [Scaife, Daniel - FS, WA](#); [Youngblood, Jennifer - FS, AK](#); [Crocker, Janelle - FS, WI](#); [Prussian, Katherine - FS, AK](#); [Britton, Ronald -FS](#); [Coleman, Angela - FS, AK](#); [Cooper, Laurie - FS, AK](#); [Carroll, Samantha - FS, AK](#); [Lockyear, Randall - OGC, AK](#)
Subject: USFS Review of the proposed changes to the regulations in 11 AAC 93 of the Alaska Administrative Code
Date: Wednesday, July 1, 2026 10:18:28 AM
Attachments: [image001.png](#)
[20260630181302_794_AlaskaDepartmentofNaturalResources signed.pdf](#)
Importance: High

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Dear Alaska Department of Natural Resources,

Thank you for the opportunity to review and respond to the Department of Natural Resources' proposed changes to the regulations in 11 AAC 93 of the Alaska Administrative Code dealing with reservations of water to issue certificates of reservation to state and federal resources agencies.

Following review of the proposed changes to the regulation, the U.S. Forest Service provides the attached comments for your consideration.

Respectfully, Ron Britton



Ron Britton
Resources Aquatic Program Manager
Chugach National Forest
Forest Service

p: 907-743-9513
ronald.l.britton@usda.gov

161 E. 1st Ave Door 8
Anchorage, AK 99501

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File Code: 2530

Date: June 30, 2026

Alaska Department of Natural Resources
Division of Mining, Land and Water Program Support Section
550 West 7th Avenue, Suite 1070
Anchorage, AK 99501-3579

To Whom It May Concern:

The Forest Service Alaska Region is pleased to respond to Alaska Department of Natural Resources' "Notice Of Proposed Changes On Reservations Of Water In The Regulations Of The Department Of Natural Resources" for on potential regulatory revisions to 11 AAC 93.142, .146, and .147.

Regulatory changes to the reservation of water program were first proposed in 2021 and again as recent as 2024, at which times many stakeholders—including the Forest Service—made clear our concerns about limiting the purpose and scope, or changing the structure, of the instream flow program. Alaska has a nationally enviable program whereby federal, state, non-governmental, and even private entities can hold reservations of water to satisfy what are inherently local needs. There are also many social, environmental, and economic benefits which accrue from adequate instream flows and the state should be an enthusiastic supporter of this program to achieve the "triple bottom line."

When the United States reserved National Forest lands, it also implicitly reserved sufficient water to satisfy the purposes for which those reservations were created (*Winters v. United States*, 207 U.S. 564). Reservations made by presidential executive order and those made by an act of Congress have implied federally reserved water rights. Adequate water quantity is critical to ensuring that the purpose of the forest reservation can be achieved and sustained in the future. Notwithstanding these implied rights, the Forest Service has engaged in good faith with the state-based water rights system since the mid-1980s. Under this system, the Forest Service in the Alaska Region has acquired consumptive water rights and has approximately 51 pending applications for reservations of water across the Chugach and Tongass National Forests. Many of these have been prepared in collaboration with the Alaska Department of Fish and Game (ADFG) to meet mutual aims and at considerable shared financial expense. It is important for us to continue this positive working relationship with the State of Alaska as this process is well understood and affords adequate resource protection when properly administered.

The Forest Service is concerned that the bulk of the changes are meant to separate the statutorily defined types of "applicants" (AS § 46.15.145) from the purpose of the application itself—receiving the reservation certificate. Moving away from the text of the statute creates unnecessary problems such as requiring applicants to abide by the terms of reservation certificates that are not granted to them. One guiding principle should be to continue treating reservations of water similarly to consumptive water rights. The legislative intent of the Alaska Water Use Act was made straightforward whereby any entity could apply and put the water to beneficial use. Instream flow reservations are simply a different type of water right whereby the benefits are still demonstrated by the landowner (or their designee who shares mutual interest) and put to the highest and best use, consistent with the public interest, using local knowledge and data. Just as an irrigator may consume a quantity of water from a stream crossing their property to grow crops, the Forest Service holds instream water rights to protect fish for later harvest by sport and commercial fisherman, to support public recreation and subsistence, and to support the continued natural ecological processes for healthy forests.

Overall, we believe that the current regulations governing instream flow reservations are comprehensive



and effective at serving the legislative intent for the multiple benefits this program provides the current regulations also more accurately capture the legislative intent as shown through the statutory text of Alaska Statute § 46.15.145 et seq.

The Forest Service provides the following specific comments:

11 AAC 93.142(b)(4): This proposed change moves what was previously a ceiling (3 years) and lifts it up to become a higher floor (5 years) concerning duration for data needed in an application. It is unclear what happens to previously completed applications that have yet to be adjudicated. The Forest Service has worked with numerous partners, including the Alaska Department of Fish & Game over the years to complete numerous applications for in-stream flow reservations. This work and the partnerships that made them possible should be respected. Additionally, collecting continuous or even monthly flow data in remote parts of the state can be time consuming and expensive. A standard should be representative of the key period of the hydrograph which is closely tied to the beneficial use purpose. For example, only low flows are needed to inform adequate spawning depths for fish whereas high flows are of greatest interest to whitewater recreationalists. By contrast, a full hydrograph is needed to quantify total water yield if the beneficial use is for municipal supply or hydropower generation. Tying the timing and intensity of data collection could be streamlined to target the stated purpose of the reservation and minimize unnecessary expenses for applicants.

11 AAC 93.146(b): “The certificate of reservation will be issued to the applicant” (the language proposed to be deleted) makes sense, flows directly from the provisions of the statute (AS § 46.15.145) and therefore should be retained. Not retaining this language creates numerous avoidable issues such as requiring applicants who have not been granted a certificate of reservation to abide by the terms of the certificate or even be allocated portions of costs. While the Forest Service acknowledges that as a “Federal resource management agency” it will still be entitled to hold certificates it would like to make two points in favor of non-governmental partner applicants and non-resource management federal agencies.

First, there are other federal agencies that have reserved water rights through the Winters doctrine that are not “Federal resource management agencies” (e.g., the military) and therefore the state rule should not differentiate between federal agencies. Since agencies of the United States already hold reserved water rights, there is no practical or legal reason to preclude such agencies from doing so pursuant to the AS § 46.15.145 process. Second, a plain language reading of AS § 46.15.145 makes it clear that the state, a state agency, a federal agency (unqualified), or a person may apply for reservations of water. The language used throughout that section is that of an “applicant” submitting an “application.” The application is for a “certificate” reserving water. The proposed approach would sever the connection between the applicant and the certificate applied for. Such an approach seems unjustified by the statutory language and contrary to legislative intent.

11 AAC 93.146(b): The proposed changes to this section do not make sense if some applicants (like a “person”) are no longer the holders of the certificates. After all, it is the “certificate of reservation” that “will state ... additional terms.” It is unclear why the applicant (rather than the certificate holder) should be “responsible for compliance with the conditions of the certificate of reservation” if the certificate is not issued to them. This seems to turn an “applicant” into a permanent status, rather than the temporary status of having applied for something (in this case, a certificate).

11 AAC 93.146(d): The proposed changes to this section would similarly introduce legal problems by making (certain types of) applicants responsible for abiding by the terms of certificates not issued to them. It is the issuance of the certificate to the applicant, and the terms included in that certificate, that creates a relationship between the applicant and the state.

11 AAC 93.147(c): It is unclear how the department can require additional costs of the “applicant” in contexts in which the applicant is not the certificate holder. There would be no privity.

Additionally, AS § 46.15.145 states that “[a]t least once each 10 years the commissioner shall review each reservation under this section to determine whether the purpose described in (a) of this section for which the certificate reserving water was issued and the findings described in (c) of this section still apply to the reservation. If the commissioner determines that the purpose, or part or all of the findings, no longer apply to the reservation, the commissioner may revoke or modify the certificate reserving water after notice, hearing when appropriate, and a written determination that the revocation or modification is in the best interests of the state.” The proposed regulation would inappropriately put the costs of the commissioner’s review on “applicants” and “certificate holders.” The current regulatory language should be preserved since it accords with the text of the Alaska statute, doesn’t require costs from applicants who (depending on their type) may not even have been issued the certificate decade(s) after the original application, and doesn’t set up potential conflicts with Federal appropriations law limitations.

Thank you for the opportunity to provide comments to address potential proposed changes in regulations. We value our relationship with Alaska Department of Natural Resources and engagement in reservation of water process with the State of Alaska. If you have any further questions or wish to engage in further discussion, please contact the Forest Service’s Aquatic Program Managers, Katherine Prussian katherine.prussian@usda.gov and Ronald Britton ronald.l.britton@usda.gov.

Thank you for your consideration.

Sincerely,

**JACQUELINE
BUCHANAN**

Digitally signed by
JACQUELINE
BUCHANAN
Date: 2026.06.30
21:57:16 -08'00'

JACQUELINE A. BUCHANAN
Acting Regional Forester

cc: Michael Spisak, Daniel Scaife, Jennifer Youngblood, Janelle Crocker, Katherine Prussian, Ronald Britton, Angela Coleman

From: gas1521@everyactioncustom.com on behalf of [Gloria Uribe](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 6:24:15 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Gloria Uribe
Glassboro, NJ 08028-3224
Private Information

From: Morgan.urquia@everyactioncustom.com on behalf of [Morgan Urquia](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 5:05:56 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms Morgan Urquia
Palmer, AK 99645-9423

Private Information

From: [Lorali Simon](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: UCM Comments on IFR June 2026
Date: Tuesday, June 30, 2026 9:52:21 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[UCM Comments on IFR June 2026.pdf](#)

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Good morning, Mr. McCutcheon. Attached are Usibelli Coal Mine's comments on the proposed changes to IFR regulations.

Sincerely,
Lorali Simon



Lorali Simon | VP External Affairs

Usibelli Coal Mine
☎ Cell: (907) 982-6744
☎ Office: (907) 745-6028
✉ lorali@usibelli.com

Everyday Safety - At Work. At Home. At Play.

June 30, 2026

Brandeon McCutcheon
Department of Natural Resources Division of Mining, Land and Water
550 West 7th Avenue #1070
Anchorage, Alaska 99501

Submitted via e-mail: dnr.water.regulation@alaska.gov

Dear Mr. McCutcheon:

Thank you for the opportunity to comment on proposed changes to DNR's water management regulations, 11 AAC 93. Usibelli Coal Mine has closely followed DNR's water management program, particularly the reservation of water under 11 AAC 93.141-147. With one minor exception, UCM enthusiastically supports the proposed changes.

UCM has been responsibly mining coal in Alaska since 1943. Environmental stewardship has been a value of the Usibelli family and company for four generations. UCM began reclaiming previously mined lands even before it was required by the federal government. UCM operates in Healy, Alaska, just 11 miles north of Denali National Park's entrance, near one of the world's most highly sought-after destinations. The Denali Borough, and the town of Healy, grew up around the coal mine because of the positive economic foundation it provided. Today, UCM remains the largest private sector, year-round employer in the Denali Borough. UCM provides a stable tax base to the borough and State of Alaska and supplies 100 percent of the instate need for coal. There are six coal-fired power plants in Interior Alaska that help provide stable, reliable, affordable power to ratepayers. UCM is committed to continuing to safely and responsibly mine coal, but the IFR process threatens that ability.

The IFR process has been used as a weapon by environmental non-governmental organizations to stop resource development projects. IFR applications are being used by development opponents to end-run Alaska's permitting system for mining, oil and gas, hydropower, and other resource projects. A one-size-fits-all methodology for granting an IFR is inappropriate. Furthermore, it is wrong for a private party to be granted control over public resources such as fish and water.

UCM's comments are guided by three principles: healthy fish populations and the habitat and water flows that support them are vital to Alaska's culture, diet, and economy; their management should rest with an agency representing all users—commercial, sport, and subsistence—rather than being delegated to single-interest or out-of-state organizations; and, as Alaska's record shows, fish protection and resource development can and do coexist when managed correctly.

§146(b): UCM supports this change, which keeps decisions about Alaska's water resources with agencies that represent all Alaskans—DNR, ADF&G, and federal agencies for federal land—rather than single-interest organizations. This is a long-sought and important improvement.

§142(b): UCM supports this change, which improves the data and analysis behind instream flow decisions by requiring site-specific information for the stream reach in question, rather than relying solely on statewide data, and by requiring estimates of how different water levels affect fish habitat quality. This brings Alaska's practice in line with other states, improves transparency, and will lead to better protection for fish.

§146(d)(1) and §147(c): UCM has one concern. Adding "by the applicant" in §146(d)(1) could be read to require an applicant to pay for maintaining a certificate of water it does not own. Once a certificate is issued to a state agency (and any appeal period passes), the applicant retains no rights beyond those of any other Alaskan. Having the applicant fund maintenance of the Instream Flow Reservation risks creating ambiguity—a court could mistakenly infer the applicant retains some procedural or other right based on those payments. For the same reason, UCM opposes adding the applicant to the list of parties who may fund new data during the 10-year review under §147(c).

Thank you for the opportunity to comment and for these long-awaited improvements.

Sincerely,

A handwritten signature in black ink, reading "Lorali M Simon". The signature is written in a cursive, flowing style.

Lorali Simon
VP External Affairs

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 10:20:48 PM

Kirsten Valentine submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

The proposed regulation changes seems to require applicants for in-stream flow reservation to do fish population studies, subsistence surveys, economic analyses, and property surveys in order to support the idea of flow remaining in the stream for those existing public benefit uses to continue. This level of study and analysis seems an excessively high bar to reach in order to support the premise that some water remaining in the stream for general public & fish/wildlife benefit is a good idea. This level of analysis and study seems more appropriate to require of consumptive use applicants who propose to CHANGE how much water will remain in the stream available for fish, wildlife, recreation, and the enjoyment of downstream properties.

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 10:08:43 PM

Kirsten Valentine submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

The Alaska Constitution states under Article VIII: § 8.2 - General Authority The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people. § 8.3 - Common Use Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use. The phrasing of VIII § 8.2 indicates that conservation of natural resources is of similar value as development and use, and resource management decisions must be based on maximum benefit to the people. The proposed regulation changes place conservation (in stream flow reservation for general public benefit and fish and wildlife use) at a significant disadvantage compared to utilization and development (consumptive use). While there are many public benefits to utilization and development, the standard of evaluation of impacts and benefits consumptive vs. in-stream reservations should be on equal footing with each other. VIII § 8.3 seems to indicate that reservation for common use in their natural state is the default use and assumed maximum public benefit unless otherwise determined. By creating a significant disadvantage for applicants seeking to reserve waters in their natural state for general public benefit compared to applicants seeking consumptive use rights, the proposed regulations seem to fail to uphold the principles of VIII § 8.3.

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 9:39:07 PM

Kirsten Valentine submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

The proposed regulation changes would treat in-stream flow reservation applicants very differently than consumptive use applicants, by requiring 5 years of monthly data collection in advance of submitting an application for in-stream flow reservation, versus not requiring advance data collection prior to submitting a consumptive use application. Article 1, Section of 1 the Alaska constitution states "that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State." By creating a 5-year barrier and burden to application for applicants wishing to reserve in-stream flow protections and not establishing the same barrier and burden to prospective consumptive use applicants, it appears that the proposed regulation change is out of alignment with the very first provision of the Alaska constitution. Under existing law, either type of applicant can submit an application when the potential need is first identified, and based on the scale of proposed water right, work with DNR to identify the data collection needed in order to adjudicate the application.

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 10:54:39 PM

Kirsten Valentine submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

The notice states that the proposed regulation changes would apportion the costs of conducting additional research data collection, and analysis for certificated reservations of water to the applicant. The notice also cites "old data" and "outdated" applications as a reason for the proposed regulation change. However the proposed regulation change would also cause DNR to be the holder of any in-stream flow reservation applied for by individuals, tribes, public interest groups, etc. It seems that the proposed regulation change: -blames the outdated data supporting longstanding applications as the fault of the applicant rather than the result of DNR's failure to process applications in a timely manner -shifts an unknown and potential perpetual cost of evaluating the public benefit of conservation (in stream flow) as a potential beneficial use of water from the state to applicants for in-stream reservations, without similarly shifting the cost of evaluation to consumptive use applicants. -abdicates the state's responsibility to collect the necessary data and complete appropriate analyses to consider the beneficial uses of water by the general public and fish and wildlife. -deprives non-state and non-Federal applicants of a right currently afforded under existing law -causes applicants of in-stream flow reservations to bear the costs of evaluation of an in-stream appropriation against other proposed potential beneficial uses, rather than be justly compensated if a superior beneficial use is identified and the in-stream appropriation is reduced or eliminated. This seems contrary to Article VIII § 8.16 - Protection of Rights: "No person shall be involuntarily divested of his right to the use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law."

From: evvisse@everyactioncustom.com on behalf of [Ellen Vandevisse](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 29, 2026 6:14:57 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

As a long time Alaskan, I am very concerned about proposed changes to water reservation regulations.

We live under a Constitution which reflects our need for clean water and healthy habitat for salmon. For all fish, For wildlife. For high standards for our common use.

the Constitution reads: "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

Water is life. These changes proposed do NOT have common good in mind, nor common welfare of all of us. The changes are for greed, privatization, and selfish profit interest.

We do not want favoritism to private owners.

Kill this very greedy idea and greedy proposals.

Sincerely,
Ms. Ellen Vandevisse
Palmer, AK 99645-2905
Private Information

From: rbnvantassell@everyactioncustom.com on behalf of [Robin VanTassell](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:33:12 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms Robin VanTassell
Summerland, CA 93067-0641

Private Information

From: vicaryalaska@everyactioncustom.com on behalf of [Clyde Vicary](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 10:05:24 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. Clyde Vicary
Anchorage, AK 99508-3256

Private Information

From: [Gale K. Vick](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: G.K.VICK OPPOSITION LETTER TO PROPOSED DNR WATER REGULATIONS CHANGE JUNE 2026
Date: Tuesday, June 30, 2026 9:10:28 AM
Attachments: [G.K.VICK OPPOSITION LETTER TO PROPOSED DNR WATER REGULATIONS CHANGE JUNE 2026.msg](#)

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From: [Gale K. Vick](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: G.K.VICK OPPOSITION LETTER TO PROPOSED DNR WATER REGULATIONS CHANGE JUNE 2026
Date: Tuesday, June 30, 2026 9:10:22 AM
Attachments: [VICK - DNR LETTER TO WATER REGULATIONS JUNE 2026.pdf](#)

DATE: June 29, 2026

TO Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land & Water

FROM Gale K. Vick, Fairbanks, Alaska

RE: Re: Notice Of Proposed Changes On Reservations Of Water In The Regulations Of The
Department Of Natural Resources (11 AAC 93)
https://dnr.alaska.gov/mlw/comment/submit/?topic=water_inflow
By email: dnr.water.regulation@alaska.gov

Dear Mr. McCutcheon:

I am writing in **opposition** to the proposed regulatory changes on reservations of water. While the burden of compliance to onerous regulations will be placed on tribes, NGO's , watershed councils and the public, the *real damage will be to Alaska fisheries and watersheds themselves.*

These are my personal comments about the proposed changes on Reservations of Water in the Regulations of the Department of Natural Resources. However, these comments are informed by decades in research on fisheries management, policy and regulatory issues around the State of Alaska. At age 79, and a 57 year resident of Alaska, I am a veteran of commercial fishing, subsistence, sports and personal use fishing, and a long time fisheries policy consultant, working with many of the top fisheries scientists in Alaska, western Canada and the Pacific Northwest. I also routinely work with the Alaska Board of Fisheries, the North Pacific Fisheries Management Council, the North Pacific Research Board, and many fisheries organizations. I have participated on peer-reviewed papers that illustrate the decline of salmon size and I have written extensively on salmon and other fisheries issues.

I am currently the Fisheries Chair of the Fairbanks Fish and Game Advisory Committee and I facilitate a weekly invitational conference call of representatives from the Arctic, Central and Western Alaska, specifically the Yukon and Kuskokwim River watersheds, as well as Bristol Bay and Chignik, and Yukon Territory, Canada. This covers an area of over two-thirds the State of Alaska including corporate and NGO organizations, tribes, fishermen, scientists, attorneys and other stakeholders. Our entire focus is on the situation facing the severe decline of Chinook, summer chum, fall chum, and coho salmon, and the average size decline of sockeye salmon all over Alaska.

This is a particularly wrong time to be making the proposed changes, although there really is no good time or justification. Alaska is in a salmon crisis unlike anything we have seen before and we need all the NGOs, tribes and general public to work together in figuring out solutions and rebuilding options. Neither the State of Alaska nor the federal agencies can do this on their own. The proposed DNR water regulation changes would make that coordinated effort so incredibly more difficult.

Salmon and other fish species that spawn within many parts of the Interior and Western Alaska are in an historical downward spiral, for both abundance and average size. This problem is rapidly expanding all over the entire state. This is having a domino effect on entire ecosystems, a situation we are just beginning to actualize. The people and wildlife that have depended on salmon runs for millennia are now seeing the real potential of extirpation of some discrete stocks, which, in turn, is also affecting bears, wolves, birds and other species. People of many regions are unable to meet subsistence, nutritional and cultural needs. The loss of salmon, a keystone species for most Alaskan watersheds, cannot be understated; there is a growing renewed and critical focus on regulations, management and policies.

An instream flow water reservation is one of the few legal tools available to protect enough water in a river, stream, or lake for fish, wildlife, recreation, navigation, and other public uses. It helps ensure that water is not only allocated for out-of-stream uses, but also remains where fish and wildlife need it most: in the stream.ⁱ

A water reservation serves as a critical legal mechanism for maintaining in-stream flows so vital to anadromous species. At a time when Alaska is in an unprecedented crisis of decline in salmon abundance and average size and year class, and only 50% of our anadromous fish streams are adequately enumerated with only a tiny portion actually monitored, the ability of members of the public to assist in identifying and protecting salmon streams and habitat could mean the difference in sustaining our wild fish resources or losing discrete stocks altogether.

The barriers that would be created by the proposed regulations would make it more difficult, more expensive, and far less secure for Tribes, watershed councils, conservation organizations, NGOs and members of the public to protect water for fish and wildlife habitat.

"Our constitution states that uses of water are all subject to the general reservation of fisheries and wildlife," he said. "This requires that resources be managed for the maximum benefit of the people. Healthy salmon runs provide enormous economic, cultural, and nutritional benefits to Alaska. We should be making it easier to keep water in streams for fish, not creating new obstacles. There is nothing broken about the water appropriation and reservation system currently in our constitution, laws, and regulations except this administration's neglect and refusal to balance interests fairly." ⁱⁱ

"In January 2021, the Department (of Natural Resources) publicly noticed proposed changes to a variety of water management regulations in 11 AAC 93. The Department received numerous comments on regulations concerning reservation of water and decided to advance only the administrative changes (adopted in June 2024). The public can view these newly adopted regulations [on the Alaska Online Public Notice system](#). The 2024 scoping notice picked up where we left off and looks specifically at reservations of water. The current reservation of water regulations are available [on the Alaska Legislature's BASIS](#)." ⁱⁱⁱ

Because of the heavy public backlash and extensive public comments received in early 2021, the DNR split the proposed rule package. The department chose to advance only non-controversial administrative changes. Ultimately, the more contentious issues regarding

instream flow applications and data requirements were held back and only officially adopted years later in revised formats

Back in 2021, there were over **818 pages** of public comments on these same proposed changes.^{iv} A May 12, 2021 *Anchorage Daily News* opinion piece “ Why Pull the Plug on Alaska Water Law” by Steve Cohn, Alaska State Director for the Nature Conservancy, noted: “..many are alarmed by a pending proposal from the Alaska Department of Natural Resources to quietly change important state water rules governing lakes and rivers across Alaska, including a push to weaken instream flow protection. Whether it be habitat for fish, drinking water, or a river transportation route, Alaska’s flowing waters sustain life in more ways than one. The Alaska Legislature knew this when, more than 40 years ago, it wisely updated state water law to include protection for instream flows. Alaska’s leaders had the benefit of being able to look back at the history of Lower 48 water policy, particularly in the American West, and see that in too many cases, too many people had too many claims on too many rivers. More claims than there was water. The Alaska Legislature had a different idea: measure first, then allocate water — not the other way around. The Legislature also allowed entities such as tribes, nonprofits, businesses and individuals, in public-private partnership, to act in the public interest and reserve what are called “instream flow rights.” That is, reserve a portion of a river’s flow — not all of it — to ensure towns have healthy drinking water, boats have a reliable water route, and fish have enough water during the sensitive early freshwater stages of their wondrous life journey.”^v

Exactly who do the proposed changes benefit? We know the answer: industrial and corporate developers. The proposed changes would tip the balance Alaska needs in protecting the interests of anadromous fish species and entire watersheds against the economic interests of private developments.

The Kachemak Bay Watershed Council “While DNR maintains that “this change is proposed as it is the fundamental mission of state and federal resource management agencies to work in the best interests of the public,”¹ in reality the amendment illustrates the Dunleavy Administration’s continuing efforts to privatize water by eroding citizen and Alaska tribal rights to protect the State’s water and fish and wildlife resources thereby, allowing corporations and other private users to obtain a property right to the same water through a water right permit.”

Please do not enact any regulatory changes. The best option is to make NO changes to current regulations and then engage in a *sustained* dialogue with the public over a period of at least 3 months. Or simply to make no changes period.

Thank you.

¹ *Id.*

ⁱ *DNR's Latest Instream Flow Proposal Could Make It Harder For Alaskans To Protect Fish Habitat* by Northern Alaska Environmental Center | Jun 1, 2026

ⁱⁱ Former Alaska Senate President Rick Halford, "Salmon industry groups, former Alaskan officials denounce water reservation proposals", SeafoodSource, June 26, 2026, Haley Jones
https://www.seafoodsource.com/news/supply-trade/salmonstate-former-senate-president-and-former-adf-g-commissioner-call-out-alaska-water-reservation-regulation-amendment-proposal?utm_source=marketo&utm_medium=email&utm_campaign=newsletter&utm_content=newsletter

ⁱⁱⁱ <https://dnr.alaska.gov/mlw/water/regrevision/>

^{iv} <https://dnr.alaska.gov/mlw/water/regrevision/pdf/2021/2021-Public-Comments-and-Questions.pdf>

^v <https://www.adn.com/opinions/2021/05/12/why-pull-the-plug-on-alaska-water-law/>

From: vineskipatricia@everyactioncustom.com on behalf of [Patricia Vineski](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 9:24:52 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms Patricia Vineski
South Colton, NY 13687-3408

Private Information

From: bias@everyactioncustom.com on behalf of [Susan Vogt](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 10:30:04 AM

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Sincerely,
Mrs. Susan Vogt
Fairbanks, AK 99712-2530
Private Information

From: [Nancy S. Wainwright](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Questions on Proposed 11 AAC 93 changes
Date: Saturday, June 20, 2026 3:43:04 PM
Attachments: [2026 06 20 Questions to DNR re Proposed Water Reg Changes.pdf](#)

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Good afternoon Mr. McCutcheon:

Please find attached my questions and comments and a request for an additional public comment period and public hearing.

Thank you

Nancy Wainwright

--

Wainwright Legal Services, LLC
2459 Sprucewood Street
Anchorage, Alaska 99508
907-205-1975
nswalaska@gmail.com

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Wainwright Legal Services
2459 Sprucewood Street
Anchorage, Alaska 99508
Phone: 907-205-1975
Fax: 907-345-7666
nswalaska@gmail.com
Alaska Bar No. 8711071

Attn: Brandon McCutcheon
Division of Mining, Land and Water
Alaska Department of Natural Resources
550 W 7th Ave., Suite 1070
Anchorage, Alaska 99501-3579

June 20, 2026

Re: Department of Natural Resources proposed changes regulations in 11 AAC 93 of the Alaska Administrative Code relating to reservations of water, public notice May 29, 2026.

- Request for Extension of Public Comment Period
- Request for Public Hearing
- Questions
- Initial Comments

Dear Mr. McCutcheon:

There is significant public interest in these proposed regulation changes. DNR has been considering these changes since 2016 when it issued a public notice seeking information on regulatory changes. During the intervening decade, DNR revisited the changes in 2021, held a single public meeting in 2024, and received more than 1200 pages of written comments from the public. DNR has not responded to those comments or explained why it has decided to propose virtually the same changes it initially proposed in 2016.

DNR tackled these same types of issues since passage of AS 46.15.145 in 1980 and promulgation of the associated 11 AAC 93 regulations. There are extensive records of this evolution of the application of this law including during the period when the Alaska Water Resources Board¹ was functioning to ensure a transparent process representative of all water stakeholder interests would participate in a more inclusive and balanced public process (prior to defunding this important board.) Meanwhile, despite significant funding provided by the ADF&G pursuant to a DNR Memorandum of Understanding developed in 2000, and numerous application fee assessments, DNR has failed to adjudicate hundreds of pending instream flow reservations (IFRs).

¹ <https://www.arlis.org/docs/vol1/F/WaterResourcesBoard/FactSheet-Jan2000.pdf>

Please extend the comment period on these regulations and hold a public hearing. The extension is critical to serve the best public interest.

I. Why are there no Stakeholder Meetings, no Report to Legislature and Insufficient Time to Comment?

DNR has imposed an insufficient time to respond to the previously submitted, and more recent questions and to allow sufficient time for public comment after receipt of DNR's responses to questions in the ten-day window between June 20 and June 30, 2026, particularly during the busiest subsistence time of the year. This is inconsistent with DNR's constitutional and statutory responsibilities and under the Alaska Constitution, Article VIII, §1, §2, §3, §10, §13, §14, §16, §17 and §AS 38.05.285.

DNR has offered vague and inconsistent reasons for selecting the proposed language and has not sought to collaboratively resolve issues and has failed to inform the Legislature of these changes. This is particularly troubling given the extensive legislative review of similar issues raised in 1989 associated with HB 210 that failed to pass the legislature and identical issues in 1998 under HB 567, a bill that failed to pass the Legislature. After extensive hearings and opposition, the Legislature ultimately upheld the reservation of water law and regulations program to reserve water in rivers and lakes as it exists today and enhanced overall appropriations of water in 2000 by ensuring more certainty relevant to temporary water uses. DNR appears to be attempting an end-run around the Legislature with a confusing and inadequate public process in these proposed regulations. Alaska Statutes require annual reporting to the Alaska Legislature on specific areas of the Division's mission, and these collected statutory reports are compiled in annual reports. Yet, DNR has not mentioned this significant proposed change in its 2025-2026 Legislative reporting. At a minimum, DNR should have reported to the legislature that this proposed regulatory change was being proposed so the Legislature would be appraised of DNR's continuing efforts to undo laws the Legislature enacted.

The collaborative resolution of Alaska's water issues was previously undertaken by the Alaska Water Resources Board comprised of members "having general knowledge of the use and requirements for the use of the water of the state and the conservation and protection of it." AS 46.15.190. The Board was authorized to hold public meetings "at any time or any place in the state in order to obtain public opinion on a water use problem or proposal." AS 46.15.230. DNR, in assuming Water Resources Board functions, must conduct its review of proposed regulatory revisions in accordance with those same collaborative principles. It has failed to do so with these regulations.

These regulations warrant a collaborative meeting format to have a give-and-take among those who are affected by, and have specialized knowledge about, these important state water issues. In addition, they warrant an honest report to the Legislature about the significant changes that DNR is proposing to adopt.

Please explain why there have been no stakeholder meetings, no report to the legislature and insufficient time to comment between June 20 and June 30, 2026.

II. Under the proposed regulations, will DNR recognize federally recognized Alaska Native Tribes as eligible governmental applicants for reservations of water, where the Tribe possesses demonstrated resource-management expertise and has adopted resource-management ordinances, regulations, or programs applicable to the affected waters?

Tribes possess many of the same characteristics that justify eligibility for other governmental applicants that DNR is proposing to include as potential applicants. Many Tribes employ natural-resource professionals, environmental scientists, fisheries biologists, and land-management specialists. Tribes routinely administer federal environmental and natural-resource programs, including programs addressing water quality, fisheries, habitat protection, climate adaptation, and subsistence resource management. In many rural regions of Alaska, Tribes possess unique knowledge of local watersheds, fish populations, and ecological conditions that is unavailable from any other governmental entity.

Please indicate whether DNR will interpret its regulations to allow Tribes to submit applications for IFRs and provide a rationale for your response.

Thank you for your consideration of these questions, and I look forward to your response

Very truly yours,



Nancy S. Wainwright
Attorney at Law

From: jerewaiteak@everyactioncustom.com on behalf of [Jeremy Waite](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:05:16 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Dr. Jeremy Waite
Fairbanks, AK 99712-2680

Private Information

From: jerewaiteak@everyactioncustom.com on behalf of [Jeremy Waite](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:03:38 AM

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Sincerely,
Dr. Jeremy Waite
Fairbanks, AK 99712-2680

Private Information

From: wakefieldm_2000@everyactioncustom.com on behalf of [Marie Wakefield](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:23:06 PM

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Sincerely,
Ms Marie Wakefield
Newport, OR 97365-9519

Private Information

From: xuehuasnowflower@everyactioncustom.com on behalf of [Katharine Walker](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:36:47 AM

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Sincerely,
Mrs. Katharine Walker
Lincolnvile, ME 04849-0030

Private Information

From: xuehuasnowflower@everyactioncustom.com on behalf of [Katharine Walker](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:34:47 AM

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Sincerely,
Mrs. Katharine Walker
Lincolnvile, ME 04849-0030

Private Information

From: q2qq@everyactioncustom.com on behalf of [Kevin Walker](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 1:09:53 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mx. Kevin Walker
Kill Devil Hills, NC 27948-8545
Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Sunday, June 14, 2026 12:56:54 PM

Patrick Solana Walkinshaw submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/14/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I have lived in the Susitna River watershed for almost 20 years and am concerned that development pressures are threatening the health of the entire ecosystem. Specifically, I want to raise these points: - Alaska's water belongs to the public and should be managed for the maximum benefit of all Alaskans, including for fish and wildlife habitat, subsistence, recreation, navigation, and community use. - Any measuring, monitoring, and reporting requirements should be reasonable, affordable, and appropriate for remote watersheds, and should not make public-interest water protection impossible. - DNR should engage in meaningful government-to-government consultation with Alaska Native Tribes before adopting changes that could affect salmon, traditional waters, and the protection of water. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Patrick Solana Walkinshaw Anchorage, AK

From: eric.wallis@everyactioncustom.com on behalf of [Eric Wallis](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 9:14:31 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Eric Wallis
Eagle River, AK 99577-9617
Private Information

From: wasgatta@everyactioncustom.com on behalf of [Ann Wasgatt](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 1:38:28 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mrs. Ann Wasgatt
Roseville, CA 95678-1702
Private Information

From: wleighty@everyactioncustom.com on behalf of [Nancy Waterman](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 9:33:29 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Nancy Waterman
Juneau, AK 99801-1312
Private Information

From: snip-first@everyactioncustom.com on behalf of [Laura Waterworth](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 10:18:22 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Laura Waterworth
Aurora, CO 80013-7503

Private Information

From: watsonh1956@everyactioncustom.com on behalf of [Harold Watson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 5:30:48 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr Harold Watson
Springfield, MO 65803-7229

Private Information

From: mareiweis@everyactioncustom.com on behalf of [Marie Weis](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 12:32:42 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.” Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs Marie Weis
Fox Island, WA 98333-9725
Private Information

From: weis@everyactioncustom.com on behalf of [Carolyn Weishahn](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 4:04:21 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Authorized water reservations should remain with the entity that submitted the application, not DNR. DNR does not hold the water use allocations for foreign corporations, and it makes no sense for DNR to hold all water reservations.

Sincerely,
Mrs. Carolyn Weishahn
Haines, AK 99827-9504
Private Information

From: russweisz1@everyactioncustom.com on behalf of [Russell WEISZ](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:57:29 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Russell WEISZ
Santa Cruz, CA 95060-6109

Private Information

From: osufan_59@everyactioncustom.com on behalf of [Vicki Wheeler](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 7:36:20 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mrs. Vicki Wheeler
Deshler, OH 43516-9798
Private Information

From: bawgofish@everyactioncustom.com on behalf of [Bruce White](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:41:02 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. Bruce White
Sitka, AK 99835-9552
Private Information

From: bawgofish@everyactioncustom.com on behalf of [Bruce White](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 8:51:11 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Bruce White
Sitka, AK 99835-9552
Private Information

From: gwhynott@everyactioncustom.com on behalf of [gregory whynott](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:06:50 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. gregory whynott
Rochester, NH 03867-5270

Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 13, 2026 5:55:39 PM

Kenneth WIDMER submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/13/2026. Thank you for your input!

Comment:

I live near the Little Susitna river, I have fished it as well as other rivers in the Matsu. These rivers need to be protected, removing water from any salmon stream should be by a permit that limits the amount and needs to be denied if it has any negative effect on the salmon/ fish in the river.

From: [Emily Anderson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Comments on DNR's Water Reservation Amendments
Date: Tuesday, June 30, 2026 2:05:08 PM
Attachments: [WSC and SS Comments on DNR's Water Reservation Amendments \(2026\).pdf](#)

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Dear Mr. McCutcheon,

On behalf of Wild Salmon Center and SalmonState, please accept the attached comments on DNR's proposed changes to Alaska's water reservation regulations. Thank you for the opportunity to participate.

Please acknowledge receipt.

Sincerely,

Emily Anderson

--

*Emily Anderson
Alaska Program Director
Wild Salmon Center
P.O. Box 110636
Anchorage, AK 99511
Direct: (907) 830-8473*

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VIA EMAIL

Brandon McCutcheon
Alaska Department of Natural Resources
Division of Mining, Land and Water
550 W. 7th Avenue, Suite 1070
Anchorage, AK 99501-3579
dnr.water.regulation@alaska.gov

RE: Comments on DNR's proposed amendments to Alaska's water reservation regulations

Dear Mr. McCutcheon,

On behalf of Wild Salmon Center and SalmonState, please accept the following comments on the Department of Natural Resources' ("DNR") proposed changes to Alaska's water reservation regulations. Water is one of our most precious resources and supports the overall productivity and health of Alaska's fisheries. We support the beneficial use of water across the state and recognize the need to appropriate surplus water for a variety of uses. However, to keep our fisheries strong and to protect vital fish habitat, appropriations must be balanced with the "general reservation of water for fish and wildlife" as required by the Alaska Constitution.¹ Yet, over the years, DNR has established a water management system that is far from equitable. We submit the following comments and recommend that DNR modify the instream flow water reservation system to fix the fundamental problems with the implementation of the law to make it consistent with the Alaska Constitution.

I. DNR's proposed regulations fail to establish a balanced water management system and a fair water reservation application process.

Under the current regulatory scheme, an applicant for a water reservation must provide much more information to demonstrate that water should be left in a waterbody to protect fish and wildlife habitat than is required for an application to take water out.² DNR already requires rigorous data and informational requirements to support a reservation application which may take three or more years to collect.³ In contrast, applications for both a water right and temporary water use permit need only provide

¹ Alaska Constitution, Article VIII, Section 13.

² Contrast 11 AAC 93.142 (water reservation), 11 AAC 93.040 (water right), 11 AAC 93.220 (temporary water use permit)

³ 11 AAC 93.142.

minimal information and descriptions about the water use and neither process requires data to demonstrate that the water withdrawal requested will not harm fish and wildlife habitat.⁴ DNR's proposed regulations add even more data requirements including 5 years of monthly hydrological data, fish surveys to estimate populations and hydrological modeling to estimate changes in seasonal and yearly flows.⁵ In addition, DNR is also proposing to add a long term commitment from the applicant to continue collecting data if a reservation of water is perfected even if the applicant is not allowed to hold the water reservation certificate.⁶

This adds unnecessary barriers to Alaskans who rightfully seek to protect fish habitat and Alaska's fishery resources. Not only is the water reservation application process unnecessarily tedious, it is also very costly. To gather the required information, applicants will need to spend hundreds of thousands of dollars. And, once submitted, the applications may still languish in the system.⁷ DNR already has a backlog of hundreds of applications for instream flow reservations from the Alaska Department of Fish and Game, federal natural resource agencies, Alaska Native Tribes, and other non-governmental organizations.⁸ To create a fair system, DNR should propose regulations that alleviate the financial burden on applicants, create fair informational requirements for instream flow reservations and establish a timeframe to adjudicate perfected applications.

II. DNR should not restrict applicants from holding water reservation certificates.

DNR's proposed amendments to 11 AAC 94.146 would prevent Alaska Native Tribes, businesses, and nongovernmental organizations that depend on fisheries and healthy fish habitat to hold a certificate of water reservation.⁹ Consistent with the Alaska Constitution, the legislature determined that "[w]herever occurring in a natural state, the water is reserved to the people for common use and is subject to appropriation and beneficial use and to the reservation of instream flows...".¹⁰ Nothing in this policy directive indicates that water reservations can only be held by a government entity.

DNR should properly allow any applicant of a perfected water reservation to hold the water reservation certificate. If the legislature intended to restrict the entities that could hold a certificate, then it would have indicated that in statute. The relevant provision allows "[t]he state, an agency or a political subdivision of the state, and agency of the United States, or a person" to apply for a reservation of water.¹¹ There is no ambiguity in the statutory language and DNR should not propose regulations that create unnecessary restrictions on which applicants can apply for or hold certificates.

In addition, the water reservation certificate only ensures that a necessary baseline amount of water will be kept in a waterway to protect fish habitat. It does not confer the right on the certificate holder to

⁴ 11 AAC 93.040, 11 AAC 93.220.

⁵ DNR Proposed Amendment 11 AAC 93.142(b)(4),(9) (2026).

⁶ DNR Proposed Amendment 11 AAC 93.146(d)(1) (2026).

⁷ DNR, Instream Flow Status Report (February 17, 2021); [Revisions to Water Management Regulations – Division of Mining, Land, and Water \(alaska.gov\)](#)

⁸ *Id.*

⁹ DNR Proposed Amendment 11 AAC 93.146(b) (2026).

¹⁰ AS 46.15.030.

¹¹ AS 46.15.145(a).

prevent the appropriation of any surplus water. Rather than restrict applicants from holding certificates, DNR can instead specify the terms, conditions and responsibilities of the certificate holder when it issues a water reservation similar to what DNR does with the issuance of a water right.

III. DNR should consider the economic benefits of creating an automatic instream flow reservation.

We encourage DNR to consider the economic benefits of a water management system that automatically reserves a baseline allocation of water in all of Alaska's rivers, lakes and streams. An automatic reservation of water would create a fair and equitable system to protect our water resources and fisheries for the benefit of all Alaskans. Existing science-based hydrological metrics can be utilized to identify how much water should be reserved based on the stream-type and geographic location of the water body. This system would establish a fair and balanced system and alleviate the administrative burden on DNR to adjudicate the backlog of instream flow applications.

Thank you for the opportunity to comment.

Sincerely,



Emily Anderson
Alaska Director
Wild Salmon Center



Tim Bristol
Executive Director
SalmonState

From: jwilfing12@everyactioncustom.com on behalf of [Janice Wilfing](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 12:30:44 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my absolute opposition regarding the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Janice Wilfing
Port Angeles, WA 98363-1815

Private Information

From: bailey@everyactioncustom.com on behalf of [Bailey Williams](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 10:04:40 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

While I'm borrowing a form response you've likely seen in your email before, I nevertheless stand by the sentiment expressed here. I want to see an Alaska where I can draw wild salmon from waterways with my children and grandchildren -- not one where've eased the way for industrialization to rip that last good place apart. Please never forget the Central Coast of California once had king salmon runs similar to Alaska.... now you're lucky to catch and release a few remnant endangered steelhead. The water of this state should be kept flowing literally and legally toward the benefit of people and wildlife, not billionaire's vanity mines and industries.

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Ms. Bailey Williams
Juneau, AK 99801-7737
Private Information

From: mewilliams1974@everyactioncustom.com on behalf of [Melissa Williams](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 2:13:01 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms. Melissa Williams
La Quinta, CA 92253-7206

Private Information

From: p0williams@everyactioncustom.com on behalf of [Paula Williams](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 28, 2026 9:42:53 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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In my opinion, the proposed changes violate the Alaska State Constitution and I would bet that a suit will be filed challenging the new regulations - the State will have to pay for that and probably the attorneys fees of the challenger.

Sincerely,
Dr. Paula Williams
Anchorage, AK 99502-4687

Private Information

From: dnr.dmlweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Friday, June 12, 2026 5:07:59 PM

BAILEY WILLIAMS submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/12/2026. Thank you for your input!

Comment:

Hi Brandon, Here to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. - Alaska's salmon are already getting hard hit. We need to be strengthening protection, not making it easier to ignore their deaths by a thousand cuts. - Alaska's water belongs to the public and should be managed for the maximum benefit of all Alaskans, including our fish and wildlife relations - Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat, migration, and spawning. Salmon need water left in rivers, not only the water allocated after industrial and other consumptive uses are considered. I did my graduate work in fisheries in California and I promise you we do not want to see the decline in fish when water left in the breathing world becomes the "only after we've diverted every last drop we've got". I held one steelhead in my hands. One. And it was like, a really exciting day. - Any changes to 11 AAC 93 should strengthen Alaska's ability to protect instream flows for salmon, wildlife, recreation, and public use. The process should not become easier for industrial appropriation while becoming harder for public-interest reservations. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of salmon, healthy watersheds, and the people who depend on them. Thank you for your consideration. Sincerely, Bailey Williams Juneau, AK

From: normw25@everyactioncustom.com on behalf of [Norm Wilmes](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 6:02:59 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Norm Wilmes
Yuba City, CA 95991-6582

Private Information

From: wilsonterry523@everyactioncustom.com on behalf of [Terry Wilson](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Thursday, June 18, 2026 11:08:20 AM

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Sincerely,
Ms. Terry Wilson
Fairbanks, AK 99709-3485

Private Information

From: jessdryden@everyactioncustom.com on behalf of [Jessica Winnestaffer](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 4:43:44 PM

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Alaska's waters, fish and other aquatic life deserve to have all groups, people and entities working toward environmental stewardship and conservation!

Also, please extend this comment deadline so that there can be more meaningful comment opportunities.

Sincerely,
Ms. Jessica Winnestaffer
Palmer, AK 99645-8123
Private Information

From: kristinwomack@everyactioncustom.com on behalf of [Kristin Womack](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:32:39 AM

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Sincerely,
Ms. Kristin Womack
San Anselmo, CA 94960-1639

Private Information

From: j_wonz@everyactioncustom.com on behalf of [John Wondzell](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Monday, June 22, 2026 2:12:09 PM

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Sincerely,
Mr. John Wondzell
Laramie, WY 82070-8145
Private Information

From: aprilmwoolery@everyactioncustom.com on behalf of [April Woolery](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Tuesday, June 30, 2026 7:57:43 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Ms April Woolery
Fairbanks, AK 99709-2847

Private Information

From: daveworl@everyactioncustom.com on behalf of [David Worley](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 2:16:57 PM

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Sincerely,
Mr. David Worley
Reno, NV 89512-4527
Private Information

From: golf-nut24@everyactioncustom.com on behalf of [Trigg Wright](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Sunday, June 21, 2026 4:13:56 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr. Trigg Wright
Spring, TX 77379-8027
Private Information

From: fast.jacob.w@everyactioncustom.com on behalf of [Jake Yako](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 3:57:19 PM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

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Sincerely,
Mr Jake Yako
Anchorage, AK 99507-1353
Private Information

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Tuesday, June 30, 2026 11:13:52 AM

Jeff/Beth Yarman/Cender submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/30/2026. Thank you for your input!

Comment:

Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. We are concerned that some of the proposed changes could make it harder for Alaskans to protect water for salmon, wildlife, recreation, and public use. We spend our summers in the Copper River Basin and take advantage of the salmon dip net fishery and occasionally fish in some of the surrounding lakes. DNR has stated that an application to reserve water for fish habitat faces more rigorous documentation requirements than an application to withdraw water for industrial or other consumptive use. This concerns us and we feel that it should be the other way around. The burden should fall on the party seeking to remove water from a salmon stream, not on those entities that depend on clean water for clean food and others that work to keep water clean and running. New requirements for measuring devices, monitoring, reporting, research, or analysis should be borne by applicants that want to withdraw water. Alaska's water is a public resource. The reservation process should remain accessible, transparent, and protective of all fish, healthy watersheds, and the people who depend on them. Thank you, Sincerely, Jeff Yarman and Beth Cender Fairbanks/Copper River

From: johnyearwood@everyactioncustom.com on behalf of [Charles Yearwood](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Wednesday, July 1, 2026 12:00:09 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Charles Yearwood
Sitka, AK 99835-9636

Private Information

From: ashleyyonker21@everyactioncustom.com on behalf of [Ashley Yonker](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:56:53 AM

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Sincerely,
Ms. Ashley Yonker
Kalamazoo, MI 49006-2141

Private Information

From: [Theresa Clark](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public comments letter due by 6.30.26
Date: Tuesday, June 30, 2026 2:57:25 PM
Attachments: [DNR Water regs amendments comment letter.pdf](#)

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Please see attached.

Theresa Clark



June 30, 2026

Alaska Department of Natural Resources

Division of Mining, Land & Water

By online public comment portal:

https://dnr.alaska.gov/mlw/comment/submit/?topic=water_inflow

By email: dnr.water.regulation@alaska.gov

**RE: NOTICE OF PROPOSED AMENDMENTS ON RESERVATIONS OF WATER IN
THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES**

Dear DMLW:

The undersigned organizations, tribes, companies, consortiums, and organizations are writing on behalf of our members and supporters to express our strong opposition to the proposed amendments to the regulations implementing AS 46.15.145 Reservations of water: 11 AAC 93.142 (Content of application); 11 AAC 93.146 (Issuance of a certificate of reservation of water); and 11 AAC 93.147 (Proposed Amendments).

In relation to the Instream Flow Water Reservations (ISFWR), DMLW has Proposed Amendments to either the statute or regulations no less than 4 times in the last decade which have been overwhelmingly opposed by Alaska Native Tribes and the general public due to concerns that through the legislative and regulatory changes, DMLW was attempting to eliminate the rights of Alaska Tribal entities and citizens to protect water instream and fish and wildlife habitat. NBWC has been an active participant in such opposition, either through written or submitted comments, resolutions, or testimony regarding each of these proposals. This latest rendition of the Proposed Amendments would violate state laws guaranteeing the right of Tribes and citizens to apply for and hold Instream Flow Water Regulations by eliminating their right to hold water-right certificates and to enforce and otherwise sustain them.

I. Background

For decades, Alaska has been one of the few states in which citizens and Tribes have held the right along with federal and state agencies to apply for and hold instream flow reservations to

protect fish and wildlife habitat. In general, the instream flow reservation process means that appropriating water in Alaska does not always require removing water from the system. Carrying the same legal weight as an out-of-stream diversion, instream flow reservations, therefore, allow citizens and Tribal entities to “reserve” water in streams and lakes to support salmon.[1] With some exceptions, under Alaska water law, a party who files a successful application for an instream flow reservation receives a water right superior to any proposed water uses that may come later.[2]

Because it can effectively limit the impacts of mining on sensitive fish and wildlife habitats in Alaska, the mining industry has long opposed the instream reservation law and has continually lobbied state politicians to overturn it. An increasingly conservative political leadership heard corporate arguments, and in 2013-14, the Parnell administration sponsored HB-77.

The current Proposed Amendments are, therefore, part of the continuing efforts of Alaska politicians to revive the legislation introduced in 2013 & 14, which would have prohibited Tribal governments and private citizens from applying to the state to reserve water for instream uses, through the back door. This latest version of the Proposed Amendments continues to prohibit Alaskans who want to keep water in streams to protect vital fish habitat from holding, enforcing, and maintaining ISFWRs.

Our specific comments regarding the current Proposed Amendments are as follows:

II. 11 AAC 93.142 (Content of application)

Article VIII of Alaska’s Constitution sets forth the State’s constitutional framework for the development, conservation, and public use of its natural resources, including land, water, fish, wildlife, forests, and minerals. As it applies to the public right to protect instream flow reservations, Section 13 of Article VIII states that except “for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.”[3] In other words, while the state is authorized to issue water right permits to private entities, this authority is limited by the public’s rights to protect water and fishery resources when and where they choose.

In fact, Alaska Native Tribes and the general public, along with federal and state agencies, have the right to apply for and hold instream flow reservations to protect fish and wildlife habitat. This authority comes from Alaska Statute § 46.15.145, which expressly allows “private individuals, local governments, state agencies, and federal agencies” to apply for instream flow reservations.

The proposed amendments to A11 AAC 93.142, however, are the latest efforts by the Dunleavy Administration to quietly erode the rights of Alaska Native Tribes and the general public to protect instream habitat. According to DMLW, for example: “Information provided in

applications will be required to be more robust in order to support the public interest determination and to make it clear what trade-off is being considered for each reservation of water.”[4] This provision would require DMLW to consider factors beyond the protection of aquatic habitat when deciding whether to process ISFWRs. That property ownership and development interests would be elevated to a higher level in making this decision is illustrated by the fact that:

Specifically, the department will require the applicant to provide the reason the proposed reservation is needed; provide five years of data to quantify the reservation; information to support the specific improvement to fish habitat; the estimated number and species of fish affected; the area and quality of fish habitat improved; and information on property ownership upstream and downstream of the proposed reservation.[5]

One of the best examples of how requiring consideration of trade-offs and the interests of property ownership would help prevent the processing of ISFWRs is that the Dunleavy Administration already consistently refuses to act on any instream flow reservation applications that would conflict with the same water a mining company is interested in. As an example of this refusal, in the spring of 2019, Constantine Mining LLC which is based in Vancouver, Canada applied to the State of Alaska for a permit for development of a zinc-copper-gold-silver-barite mine located within Chilkat River Watershed of the Upper Glacier Creek Valley near Klukwan and Haines. Specifically, the mine requested to construct a 1.25-mile-long access tunnel, a wastewater treatment facility and a waste rock dump site.

The proposed mine would threaten about 3,000 bald eagles that gather annually in the 48,000-acre Chilkat River Bald Eagle Preserve about 18 miles away from the project site to feed on spawned-out salmon carcasses in the Chilkat River. With assistance from the Klukwan and Chilkat Indian Villages, the Chilkoot Indian Association, and the Chilkat Indian Village in 2020, the Takshanuk Watershed Council, located in Haines, began the process of applying for instream flow water rights on Sarah Creek- a tributary to Glacier Creek within the Watershed in order to protect an anadromous run of coho salmon from the proposed mine within the creek.

It took them almost 10 years to collect the data at a cost of \$100,000. However, because the reservation would have competed with the water needed for the proposed mine, the DMLW, under the Dunleavy Administration, refused to process the application due to pressure from the American Mining Association. In fact, at the time, the Alaska Department of Fish and Game (ADF&G) told the Watershed Council that it is not currently considering flow reservations near mining projects and that the agency prefers to focus on streams in that area that are not in the vicinity of proposed development projects. This political approach to issuing instream flow reservations is contrary to the purpose of instream flow reservations and the Alaska Constitution, which is to protect flows needed for fish habitat when such flows are threatened by

Development.[6]

This proposed change, therefore, is designed to provide more legal justification for eliminating ISFWR applications that do not meet the “more robust” standard. So as not to leave room for political bias in processing applications, the Proposed Regulations, therefore, should provide that the State of Alaska does not have the authority to refuse to process scientifically and legally sufficient ISFWR applications under any circumstances.

DMLW’s response to this argument is to simply deny that it mentioned anything about trade-offs in relation to the proposed amendment to 11 AAC 93.142. “Proposed revisions to section 11 AAC 93.142 do not require the applicant to provide “what the trade-off is being considered.”[7] This however, is contrary to the agencies express statement that information “provided in applications will be required to be more robust in order to support the public interest determination and to make it clear what trade-off is being considered for each reservation of water.”[8]

III. 11 AAC 93.146 (Issuance of a certificate of reservation of water)

Under 11 AAC 93.146, the DMLW would substantially limit the rights provided by Alaska Statute §46.15.145 and Article VIII to Alaska Native Tribes and the public. According to DMLW, for example, the “Department of Natural Resources will hold certificates of reservations for all” applicants other than the State of Alaska and federal resource management agencies.[9] DMLW maintains that this change would not violate either the State Constitution or law based on the fact that under:

AS 46.15.145(a): “The state, an agency or a political subdivision of the state, an agency of the United States, or a person...” can apply for a water reservation. Proposed Amendments to section 11 AAC 93.146 do not change or limit who can apply for a reservation of water under this statute. While AS 46.15.145 identifies who can apply for a reservation, it does not identify who can hold a reservation when issued.

The problem with DMLW holding the instream flow reservations, however, is that this makes enforcement and management of the water right subject to the political agenda of the administration in power at the time. Under the Dunleavy administration’s extraction industry bias, therefore, the Proposed Amendments to 11 AAC 93.146 are contrary to the State Constitution’s Article VIII, which limits the state’s authority to issue water right permits to private entities by the public’s rights to protect water and fishery resources. In fact, the Proposed Amendments do not clarify whether the certificate holder or the applicant is responsible for compliance with the conditions of the certificate of reservation.

While DMLW maintains that “this change is proposed as it is the fundamental mission of state and federal resource management agencies to work in the best interests of the public,”[10] in reality the amendment illustrates the Dunleavy Administration’s continuing efforts to privatize water by eroding citizen and Alaska tribal rights to protect the State’s water and fish and wildlife

resources thereby, allowing corporations and other private users to obtain a property right to the same water through a water right permit.

Finally, this proposed amendment “requires the applicant to install measuring devices and monitor and report information at intervals approved by the Commissioner of DMLW.”[11] However, due to the substantial expense of purchasing, installing, maintaining, and monitoring instream flow reservation equipment, this provision would exclude many Tribal organizations and the general public from supporting the continued existence of an instream flow reservation.

Many creeks and rivers in need of the protection of flows instream, for example, are located in remote areas and are difficult to access. Unlike state and federal agencies, Tribes and the general public lack the resources to cover the substantial costs of accessing these areas, purchasing equipment, and hiring staff or consultants to monitor the sites and collect data.

DMLW responds to these concerns by concluding that rather than being intended to exclude tribes and others from data collection and applying for water rights, the “monitoring and reporting requirement ensures reliable data for effective water resource management and public interest determination. Approved measuring devices and periodic reporting provide essential information on actual flows and compliance.”[12]

It should be noted, however, that for a private interest to obtain a water right authorizing the removal of water from public use and to obtain a private property right over it, it requires completion of a mere half-page form that is processed within a few days. Similarly, rather than rigorous data and other updates to justify the continued existence of the water right, the private water user need only show that it is continuing to use the water. Instead, ISFWR applications require a minimum of five years of data collection, which can take years or even decades to process. As an example of the State’s inertia in processing flow reservations submitted by Tribal Government entities, consider the ISFWR applications submitted in 2024 by the Native Villages of Teller and Brevig Mission in order to protect flows from a proposed graphite mine in the Imuruk Basin. The Tribes have collected a decade's worth of data on these streams that was submitted to DMLW, but the agency has not responded to repeated requests to process the applications or to explain why such processing cannot take place.

\

This proposed amendment, therefore, further illustrates the Dunleavy administration’s efforts to privatize water resources by making it increasingly difficult to maintain ISFWR, while not requiring the same diligence or processing inertia for private water rights.

1. 11 AAC 93.147 (Review of reservation of water)

Under 11 AAC 93.147(c):

The applicant will now be required to bear the costs of conducting additional research, data collection, and analysis for their respective certificated water reservations. Many existing water reservation applications are outdated and rely on outdated data. The department would not be

required to pay for additional data collection for outdated applications or in cases where significant changes to flow have occurred.[13]

As discussed above, due to the substantial expense of purchasing, installing, maintaining, and monitoring instream flow reservation equipment, this amendment would prevent many Tribal organizations and the general public from supporting the continued existence of an instream flow reservation.

DMLW responds to this argument by stating that:

the Proposed Amendments would not exclude tribal organizations or the public. These requirements would support resilient public-interest determinations under AS 46.15.145, ensuring that reservations are defensible and effective for fish habitat and other beneficial uses. Applicant's responsibility for the costs of data collection and analysis is reasonable to ensure that reservations remain based on current, reliable data.[14]

Again, this response illustrates that the sometimes-oppressive costs of additional research, data collection, and analysis are intended to keep Tribes and the public from maintaining ISFWRs, given that no such cost burdens for maintaining private water rights are imposed.

In addition, under this amendment, the "department would work with ADF&G to evaluate whether a review of a reservation should include the collection of new data." [15] This also shows the danger of authorizing the State's Department of Natural Resources or Division of Fish and Wildlife to work together to revoke or amend original water reservations at any time at the agency's sole discretion.

1. Request for Extension

We request that the time to submit comments in response to the above Proposed Amendments be extended to 90 days for the following reasons:

- The Notice of Proposed Amendments (Notice) was only posted online through the Alaska

Online Public Notice (AOPN) e-mail system and not published in any newspaper, despite the newspaper being the primary local news source, especially for Alaska Native Communities;

- The failure of DMLW to provide public notice beyond posting in the AOPN raises serious legal concerns about equitable access to information, especially for communities without reliable internet access or who rely on print media. Given the rural and remote nature of many communities that will be impacted by the Proposed Amendments and the limited internet access in many of them, reliance solely on online publication fails to satisfy the public engagement and transparency requirements of State law. This omission undermines requirements that public notices be distributed to the general public and all

interested parties in a manner that ensures meaningful participation;

- The current comment period of a little over 30 days is insufficient to address the scope of the changes to the rights of Alaska Native tribes and the general public in attempting to exercise their Constitutional rights to preserve flows instream to protect aquatic habitat described in the Notice;

- The current comment period for the Proposed Amendments began during the busy Alaskan summer, when many of the Council, staff, and members of the undersigned and many other organizations and members of the public have been unavailable to discuss and draft meaningful comments. In addition, this is insufficient time to allow for a response from the numerous tribes and members of the public who will be impacted by these regulations.

CONCLUSION

The Proposed Amendments to 11 AAC 93 relating to the contents, issuance and review of instream flow reservation applications represent the Dunleavy Administration's efforts to quietly implement a significant change in state law that would substantially limit the rights of Alaska Tribal organizations and the general public to protect salmon and other fishery habitat.

Essentially, taken as a whole, the Proposed Amendments will be a violation of Art VIII and Alaska Statute §46.15.145 by requiring non-State or Federal governmental agencies to do all the work and bear all the cost of collecting and submitting the data and to maintain and monitor the ISFWRs, while receiving none of the benefits. This is clearly inconsistent with all Alaskans' constitutional rights to reserve stream flows to protect aquatic habitat and subsistence resources.

Similarly, the Administration's current bias in support of the extraction industry illustrates the hazard of creating more hurdles before processing ISFWR applications, giving enforcement and management control of water right certificates to the state and federal agencies, and authorizing the Department of Natural Resources to revoke or amend the original water reservation at any time at its sole discretion.

DMLW should ensure that the Proposed Regulations do not prove disastrous for Alaska's salmon resources that are already unraveling due to the impacts of climate change. While we can't stop the impacts of climate change on Arctic freshwater ecosystems, we can stop the impacts of these disastrous assaults on the rights of every Alaskan to protect our water resources.

In fact, rather than gutting the current regulations, DMLW should request that the legislature clarify AS 46.15.145 (which supports the constitutional mandate that water belongs to the public trust) and the litany of state laws that give the public the right to protect instream flows and fish and wildlife resources.

The Act should also be amended to be consistent with the state constitution and should mandate that DMLW preserve instream flows sufficient to sustain water and subsistence resources throughout the state by establishing an automatic water reservation that protects fish and wildlife habitat. This could be done by ensuring water in all rivers, streams, and lakes is protected from the effects of climate change and land uses; authorizing all surplus water to be made available for appropriation after the automatic reservation; designating instream flows as a beneficial use under the Alaska State Water Code; and identifying such flows as being in the best interest of the state and protecting its fisheries for future generations.

Please contact Hal Shepherd (907-491-1355; halshepherdwpc@gmail.com) if you have any questions regarding these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Theresa Clark", with a stylized flourish at the end.

Theresa Clark, Executive Director
Yukon River Inter-Tribal Watershed Council

From: dnr.dmlwweb@alaska.gov
To: Private Information
Cc: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Public Comment Receipt
Date: Saturday, June 13, 2026 12:56:06 PM

Kendra Zamzow submitted a public comment online to the Alaska Division of Mining, Land, and Water on 6/13/2026. Thank you for your input!

Comment:

Dear Department of Natural Resources, Thank you for the opportunity to comment on the proposed changes to Alaska's water reservation regulations under 11 AAC 93. I am concerned that some of the proposed changes could make it harder for Alaskans to protect water they prioritize for fish, wildlife, and recreation. I agree that five years of data should be collected prior to issuing a reservation of water (in-stream flow, ISF) certificate. This should include not only flow data but also temperature data. Temperature can easily be monitored for years on a frequency of every minute, every hour, or every day with a simple data logger that costs under \$100. Both flow and temperature information are becoming more important as we see more extreme fluxes in temperature, snow load, and rain and as our fish populations shift and decline. However, I strongly disagree with DNR holding the certificate. This disincentivizes organizations and federal agencies from investing tens of thousands of dollars and years of effort into collecting the required data. And yet, in a state with remote populations and chronically underfunded state agencies, we should be adding incentives for data collection, not removing them. This legislation appears to want others to come up with the money and do the work while DNR holds the certificate. I did a quick survey of records available on the state of Alaska site <https://gis.data.alaska.gov/datasets/SOA-DNR::reservation-of-water-1/explore?layer=2&location=60.993609%2C-149.186264%2C4&showTable=true>. Of 433 records, there are a total of 149 certificates issued, 275 have been applied for but no decision has been rendered, and 9 are on appeal. DNR - 1 certificate held ADFG - 143 certificates held, 40 more applied for, 1 on appeal BLM - 1 certificate held, 16 more applied for USFWS - 2 certificates held, 213 more applied for Tribes - 0 held, 6 applied for Non-profit organizations - 2 held, 8 on appeal For those on appeal, it appears that the problem was not lack of data. They were actually approved for a certificate, but industry organizations objected. They have been on appeal for 10 years. Call me cynical but this suggests to me that people prioritized a water body for fish and wildlife that wouldn't have been studied if they had not paid for the work themselves. There is an obvious problem that the office in DNR that processes ISF applications is understaffed and underfunded. Applications languish for years. There is also the problem that organizations, including ADFG, can perform due diligence and be approved to hold a certificate, and be held up for years if industry objects. If industry objects. To reserving water in a stream for use by fish and wildlife. The ISF certificate is not meant to balance the benefits of industry versus wildlife. It is there to ensure fish and wildlife can complete their life cycles. Yet DNR has left those certificates on appeal for 10 years. That is the heart of the problem. Agencies, and even non-profit organizations, are attempting to do what the state should already prioritize -- keeping water in streams for fish and wildlife and recreation. For healthy ecosystems that then generate untold benefits to all of us. Alaska's water belongs to the public and should be managed to benefit all Alaskans, including for habitat, subsistence, and community use. Water reservations are one of the only legal mechanisms that keep water in a stream for fish habitat and other non-industrial uses. Any changes to 11 AAC 93 should strengthen Alaska's ability to protect in-stream flows. The

proposal to have only DNR hold certificates of water was proposed in 2024 and perhaps earlier. Until DNR gets its own house in order and is able to process the applications already on file, they should not be given the additional work of holding the certificates and ensuring that monitoring is conducted. Until we as citizens can trust the state to prioritize our streams and lakes for non-industrial uses, we should not have the agency that issues water withdrawal permits (DNR) to industry be the same one that holds certificates to ensure there is enough water for fish and wildlife. Thank you. Sincerely, Kendra Zamzow Chickaloon, AK 99674

From: beamoc@everyactioncustom.com on behalf of [Manfred Zanger](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 11:47:08 AM

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Dear Division of Mining, Land & Water, Program Support Section Brandon McCutcheon,

I am writing to express my deep concern about the proposed changes to water reservations in the State of Alaska. The changes proposed do not live up to our constitutional obligation, which states "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Instead, these changes favor water appropriation to private users over reservations for the common use of Alaskans. Instead of making it harder for Alaskans to protect our waters, I request that the department strengthen protections for instream flows by making them automatic for all anadromous streams rather than creating additional barriers for those seeking to protect fish habitat.

Sincerely,
Mr. Manfred Zanger
Roscoe, NY 12776-3001
Private Information

From: arlenenyc@everyactioncustom.com on behalf of [Arlene Zuckerman](#)
To: [Regulation, DNR Water \(DNR sponsored\)](#)
Subject: Proposed changes to Alaska's water reservation regulations under 11 AAC 93
Date: Saturday, June 20, 2026 8:36:04 AM

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Sincerely,
Ms. Arlene Zuckerman
Forest Hills, NY 11375-5471

Private Information