



UNITED FISHERMEN OF ALASKA

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March 17, 2016

David W. Schade
Alaska Department of Natural Resources
550 West 7th Ave. Suite 1020
Anchorage, Alaska, 99501-3577
Email: dnr.water.regulation@alaska.gov

RE: Comments on DNR Water Management Scoping

Dear Mr. Schade,

We appreciate the opportunity to comment about proposed regulatory changes to Alaska's Water Use Act regulations. United Fishermen of Alaska (UFA) is the largest statewide commercial fishing trade association, representing 34 commercial fishing organizations participating in fisheries throughout the state and its offshore federal waters. UFA's member groups rely on the quality and quantity of Alaska's waters to maintain fish habitat and sustainable fisheries throughout Alaska. We appreciate DNR's effort to seek public input related to the "effectiveness of the existing regulatory framework", and ways to improve water management in the state.

UFA recognizes and consistently comments on the importance of developing a water application (11AAC 93.040) permitting system that safeguards watersheds and is efficient and fairly administered.¹ That system should include a mandate to ensure the sustainability of Alaska's resources and include a strong public process.^{2,3,4} We recommend that DNR coordinate with the Department of Fish and Game (ADFG) on all water permitting decisions and provide public comment periods that allow ample opportunity for fishermen to participate in water use decisions, including those that are "temporary"⁵ in nature, but may have the potential to negatively impact fish habitat and the sustainability of our fisheries. We also recommend that DNR make regulatory changes to fairly and predictably administer the various Water Use Act permitting processes. DNR has the authority to approve water rights to remove water from Alaska's rivers, lakes and streams, in addition to water reservations to protect fish, wildlife and

¹ UFA to AK Senate Finance Committee re: HB 77 water use & permits; public process, March 11, 2013 (attached).

² [11 AAC 93.040. Application for a water right.](#)

³ 11 AAC 93.120. Issuance of a permit to appropriate water.

⁴ [11 AAC 93.145. Adjudication of applications.](#)

⁵ 11 AAC 93.220. Temporary water use.

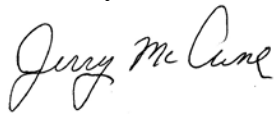
water quality. Current regulations set up a rigorous application process to reserve water, but a less exhaustive application process to appropriate water out⁶. As demonstrated by proposed water reservations on Middle Creek, Moose Creek and the Mulchatna River, the system is not predictably administered, nor is priority of right equally established. Fine tuning the water appropriation and reservation system to fairly establish priority dates and concrete timelines for adjudications is an area where regulations should be improved.^{3,7}

If the state is interested in alternatives to streamline the permitting process, a well-designed system providing for automatic instream flow reservations could be an efficient way to protect water quality and fish habitat.

As dictated by Article VIII of the Alaska Constitution, “[e]xcept for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses...and to the general reservation of fish and wildlife.” UFA is not suggesting that water should not be appropriated for other beneficial uses. Rather, that consumptive uses of significant amounts of water should only be considered after sufficient data lead both DNR and ADFG to determine that the requested appropriation can be granted while also securing healthy fish and wildlife populations and existing uses.

We recognize that this scoping is the first phase of a two-part process and look forward to working with you on solutions as you consider changes to the Alaska Water Use Act regulations. UFA is open to regulatory reform that encourages water use and responsible development, so long as adequate water flow is guaranteed, fish habitat and health are maintained, and the permit process is predictable, objective, and transparent.

Sincerely,



Jerry McCune
President



Mark Vinsel
Executive Administrator

⁶ Compare processes at 11 AAC 93.142 and 11 AAC 93.040.

⁷ [11 AAC 93.142-146](#). Applications.



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March 11, 2013

Senator Pete Kelly, Co-Chair
Senator Kevin Meyer, Co-Chair
Senate Finance Committee
State Capitol
Juneau, AK 99801-1182
Senator.Pete.Kelly@akleg.gov
Senator.Kevin.Meyer@akleg.gov

RE: SB 26/HB77, concerns relating changes to the Alaska Water Use Act.

Dear Senator Kelly, Senator Meyer, and members of the Senate Finance Committee;

United Fishermen of Alaska (UFA) is the largest statewide commercial fishing trade association, representing 36 commercial fishing organizations participating in fisheries throughout the state and its offshore federal waters. We appreciate the opportunity to address our concerns regarding SB 26 (HB 77) regarding the Alaska Water Use Act.

UFA had the opportunity to meet with DNR Deputy Commissioner Ed Fogels, Director of Division of Mining, Land and Water Brent Goodrum, and Deputy Director of DNR Wyn Menefee. While many of our questions were answered regarding the impacts of SB 26; the meeting raised additional questions. A follow-up with DNR was just recently answered and we are still working through the response. While UFA has a number of concerns regarding the impacts of SB 26/HB 77, our primary concern at this point is the speed in which the bill is moving through the Legislature. UFA would appreciate more time for thorough analysis of the impacts of this legislation which will allow the public to effectively weigh in before the full Senate takes a vote.

Although UFA recognizes the merits of streamlining Alaska's permitting processes, this bill has not been given an appropriate amount of time for affected Alaskans to understand and respond to the proposed changes. Alaska's reputation is built on sustainability of our resources and a strong belief in the public process. We appreciate the ability to discuss our concerns with DNR and legislators. However, we respectfully request that any bill that removes the ability of Alaskans to apply for a water right be fully noticed and that adequate opportunity for public participation is allowed.

UFA remains concerned with how some measures in the bill could affect the existing standards for protecting aquatic resources in Alaska. UFA is also concerned about how SB 26 changes the process for our members and member groups to engage in permitting decisions that impact fisheries. The proposed changes to the Water Use Act reduce the ability of Alaskan citizens to apply for water reservations to protect in-stream flow. Through

the changes in SB 26/HB 77, citizens would need to apply for water reservations through a public entity, borough, or municipality to submit an application to DNR therefore creating another layer to the permitting process as opposed to eliminating a layer. It is our understanding that under SB 26/HB 77, the statutes remain to require DNR to evaluate impacts to fish and their habitat in consultation with ADF&G when issuing any water authorizations. However, DNR continues to have the latitude to either accept or reject ADF&G comments. UFA respectfully requests that there be a stronger requirement for DNR to accept recommendations from ADF&G in protecting salmon streams.

Thank you for your time and attention to this important issue. We appreciate the Senate Finance committee's careful review and dedication to Alaska's resources.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julianne Curry', written in a cursive style.

Julianne Curry
Executive Director