

HB77 BRIEFING POINTS REGARDING WATER

FOR THE HOUSE RESOURCES COMMITTEE • JANUARY 30, 2013

Hydrologic Units

Hydrologic Units are essentially large watershed boundaries. The USGS established and depicted the 6 Hydrologic Units of Alaska on the Hydrologic Unit Map created and published in 1987.

Significant Amount of Water

11 AAC 93.035. Requirement to apply for the use of a significant amount of water

(a) A significant amount of water is that amount of water for which an application for a water right or an application for a temporary water use authorization is required, as described in (b) of this section.

(b) A person shall file an application for a water right under 11 AAC [93.040](#) or for a temporary water use authorization under 11 AAC [93.220](#) before

(1) the consumptive use of more than 5,000 gallons of water from a single source in a single day;

(2) the regular daily or recurring consumptive use of more than 500 gpd from a single source for more than 10 days per calendar year;

(3) the non-consumptive use of more than 30,000 gpd (0.05 cubic feet per second) from a single source; or

(4) any water use that may adversely affect the water rights of other appropriators or the public interest.

(c) A person using less than the amount of water described in (b) of this section acquires no water right or priority unless an application is filed and a permit or certificate is issued under 11 AAC [93.035](#) - 11 AAC [93.140](#). The use of water without a permit or certificate is subject to appropriation by others, and the use of water without a water right is subject to curtailment in order to supply water to lawful appropriators of record or to protect the public interest.

Water Reservation

Water reservations spoken of AS 46.15.145(a) does not prevent individuals from obtaining water rights or temporary water use authorizations.

Water Reservations reserve a portion of water from a flowing water or a lake that is necessary for:

- the protection of fish and wildlife habitat, migration, and propagation;
- recreation and park purposes;
- navigation and transportation purposes; or
- sanitary and water quality purposes.

The division can still authorize water rights or temporary water use authorizations if there is a surplus quantity of water in addition to the reservation. No water rights or temporary water use authorizations can be issued for quantities greater than the cumulative use of the surplus above the water reservation. An issued water reservation would not have priority over an existing or later issued water right that has an earlier priority date than the priority date of the water reservation.

Water Right versus Temporary Water Use Authorizations

Water Rights are a right to the beneficial use of the state owned water determined by priority appropriation based on time of application. Requires site control or land ownership before issuing a water right. The right attaches to the land and transfers with the ownership of the land. In essence it is permanent except where the water right is issued for a large project that at some point in time ends and site control is no longer in place and thus does not require the water right. Water right requires the development and use of the water.

Temporary Water Use Authorization is an approval for use of water. It is not a permanent right and does not attach to the land. It is revocable or can be modified and gives no priority of appropriation. The authorization is not issued for longer than 5 years.

Have Instream Flow Reservations ever been issued to a “person”?

Of the (61) issued certificates for Instream Flow Reservations all (61) are issued to government entities (DNR, ADF&G, and BLM). No certificates for Instream Flow Reservations have ever been issued to “persons” in the state of Alaska.