



Delivered by email to Sen.Cathy.Giessel@akleg.gov and
Representative.Louise.Stutes@akleg.gov

March 16, 2016

Senator Cathy Giessel
Chair, Senate Resources Committee
Room 427, Alaska State Capitol
Juneau, Alaska 99801

And

Rep. Louise Stutes
Chair, House Fisheries Committee
Room 416, Alaska State Capitol
Juneau, Alaska 99801

Re: Sealaska Corporation Comments on Proposed CSSB 163 and HB 283

Dear Chairpersons Giessel and Stutes:

Sealaska Corporation is the Alaska Native Regional Corporation for Southeast Alaska formed pursuant to the Alaska Native Claims Settlement Act. Sealaska has always been actively involved in Alaska water quality issues, both from the perspective of an active resource developer and as a strong supporter of the subsistence, commercial and recreational uses that our shareholders make of our region's waters.

Sealaska supports the proposed committee substitute for SB 163, and we recommend the substitute to the House Fisheries Committee in its consideration of HB 283. Our corporation was an active participant in the Alaska Department of Environmental Conservation's Antidegradation Workgroup. The Workgroup labored hard to achieve a consensus approach to Alaska's antidegradation program, and we support its recommendations. One of those recommendations was to involve the legislature, either directly or through delegation, in the process of designating Tier III waters. Because Tier III designation may significantly restrict development of large swaths of adjacent land, including private land, designation raises serious public policy issues of statewide significance that warrant legislative involvement.

Proposed CSSB 163 provide precisely that kind of needed oversight, and it provides needed legal certainty with respect to the authority to make Tier III designations.

We do urge one amendment to the proposed substitute: The Workgroup recommended that "antidegradation requirements and reviews should be restricted to Waters of the U.S. in Alaska, as defined under the [Clean Water Act]." *Final Workgroup Report* at 7.

The bill, on the other hand, envisions Tier III designations of any “[w]ater of the state.” P. 1, ls. 5-6. As defined by ADEC’s statutes, “waters” of the state covers more waters (including groundwater) than does the federal term “waters of the U.S.”

AS 46.03.900(37). The antidegradation requirement is a federal requirement, and there seems no justification, in law or policy, for voluntarily expanding that requirement to waters not covered by the federal program.

Sealaska is pleased that the proposed substitute attempts to address several of the concerns raised by the Alaska Miners’ Association in its March 4, 2016 comments on the original bill. Specifically, the substitute would:

- provide that waters of state may not be managed as Tier III waters until they have designated as such by the legislature;
- require nominations to identify the affected waters specifically; and
- outline both a process and criteria for ADEC’s designation, aimed at building sideboards to what was, in the original bill, an open-ended delegation.

Thank you for the consideration that we know you will give to our comments.

Sincerely,

SEALASKA CORPORATION



Anthony Mallott
President and Chief Executive Officer

cc: Mr. Larry Hartig, Commissioner, Alaska Department of Environmental Conservation