



Senator Chris Birch
Chair, Senate Natural Resources Committee
Room 125, State Capitol
Juneau Alaska, 99801-11822

March 13, 2019

Re SB 51

Dear Senator Birch,

This is to advise you the Alaska Municipal League (AML) supports SB 51 which would require that the Legislature designate a waterbody as Tier 3 under federal Clean Water Act (CWA) antidegradation rules. As AML understands it, such designation by the Legislature is the current policy of the Department of Environmental Conservation (DEC) and the State. SB 51 would simply make such designation by the Legislature a matter of law.

The Tier 3 designation arises out of federal antidegradation rules, promulgated by the U.S. Environmental Protection Agency (EPA) under the CWA. The most stringent of these rules is called “Tier 3” – which is reserved for Outstanding Natural Resource Waters (ONRW). Any waterbody that is designated an ONRW cannot, under the Tier 3 rules, be degraded beyond its baseline condition. The Tier 3 rules thus prohibit any new activities, or expansion of existing activities, that impact water quality in any way- even if the discharge meets Alaska’s water quality standards. This could adversely impact municipal wastewater treatment plants and stormwater permits sought by municipalities

By prohibiting any discharge into adjacent water, a Tier 3 designation would effectively amend federal and state land-use plans on lands adjacent to a Tier 3 designated water body without any role in this regulation process for federal land management agencies, the Alaska Department of Natural Resources, the Alaska Department of Fish & Game or affected communities. Because there are over three million waterbodies in Alaska, almost all of which are pristine, Tier 3 designation could result in massive land set asides throughout the State,

AML believes that decisions having such significant social and economic impacts upon resource development and municipalities in Alaska should not be made by agency staff (no matter how fair and well-intentioned), but should, instead, be made by the Legislature as the elected representatives of the people of the State.

Thank you for your hard work on this important issue.

Respectfully,

Nils Andreassen
Executive Director