

House Bill 138 Public Testimony
As of 2/17/2020

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Elle Ahkivgak

From: Dennis DeWitt <[REDACTED]>
Sent: Thursday, February 13, 2020 11:44 AM
To: House Resources
Cc: Rep. Chuck Kopp
Subject: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Members of the House Resources Committee,

I encourage you to support HB 138 relative to designation of Tier 3 water bodies under the Clean Water Act.

Tier 3 water designations replace existing water quality protections with a total prohibition of new or expanded discharges, severely limiting activities. Thus, only the Legislature should have the authority to apply tier 3 designation to water bodies, consistent with Alaska's Constitution. Also, waters should not be with Tier 3 protections until they are designated through legislation.

This designation must ultimately be the responsibility of our elected officials, not those who are appointed. While there should be a process drawing on the expertise of appointed individuals, it must be the responsibility of our elected officials to make the final decision.

Thank you for your consideration.

Denny DeWitt
Partner
DeWitt & DeWitt, LLC
[REDACTED]
Juneau, Alaska 99803-4761
[REDACTED]

Elle Ahkivgak

From: Doug Woodby <[REDACTED]>
Sent: Friday, February 14, 2020 10:55 AM
To: House Resources
Subject: HB 138: testimony in opposition

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Representatives Tarr, Lincoln and members of the House Resources Committee,
I oppose HB 138 and the associated committee substitute.

I oppose the bill because it is designed to make it almost impossible to protect our pristine waters with Tier 3 designations. The bill does this by taking what is currently a science-based process and turns it into a political process.

Clean, pristine waters are the lifeblood of Alaska. I say this from experience. I began working for the Alaska Department of Fish and Game in 1976, retiring in 2012 as Chief Fisheries Scientist for the Commercial Fisheries Division. During my career I worked in nearly all regions of the state, including the North Slope, the interior, Kotzebue and Norton Sounds, the Y-K Delta, the Aleutians, and Southeast.

As Alaskans, we often pride ourselves in the successful scientific management of our fish resources that benefit all users. That said, we should recognize that one of the primary reasons for our success is that we started with pristine conditions and, for the most part, have maintained those conditions. I will repeat: our pristine waters are the lifeblood of Alaska. Our pristine waters are the reason we have robust salmon stocks.

HB 138 is a scantly clad effort to disallow important protections of our pristine waters. This is so anti-Alaskan that it should make your stomach churn.

Thank you,
Doug Woodby, Ph.D.
Juneau, Alaska

Elle Ahkivgak

From: Gary Miller <[REDACTED]>
Sent: Friday, February 14, 2020 10:56 AM
To: House Resources
Subject: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

If I am reading HB 138, ““An Act requiring the designation of state water as outstanding national resource water 1 to occur in statute; relating to management of outstanding national resource water by 2 the Department of Environmental Conservation; and providing for an effective date.”, correctly, the state would not regulate state waters unless the water has been designated as “...outstanding national resource water...”.

The State of Alaska should be regulating all Alaskan waters to protect them from pollution, especially salmon streams, lakes where salmon spawn and fresh water lakes and ponds where we fish.

Thank you.

Gary Miller

[REDACTED]
Juneau, AK 99801-8211
[REDACTED]

Elle Ahkivgak

From: Thatcher Brouwer
Sent: Thursday, February 13, 2020 12:07 PM
To: House Resources
Subject: FW: HB 138 comments
Attachments: CSHB138 Comment.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Thatcher Brouwer
House Resources Committee Aide
Representative Geran Tarr
[REDACTED]

From: Rep. Sara Hannan <Rep.Sara.Hannan@akleg.gov>
Sent: Thursday, February 13, 2020 11:57 AM
To: Thatcher Brouwer <Thatcher.Brouwer@akleg.gov>
Subject: FW: HB 138 comments

Please put into the committee stuff.
Rep. Hannan

From: Gershon Cohen [REDACTED]
Sent: Thursday, February 13, 2020 10:33 AM
To: Rep. Sara Hannan <Rep.Sara.Hannan@akleg.gov>
Cc: Rep. Chris Tuck <Rep.Chris.Tuck@akleg.gov>
Subject: HB 138 comments

Hi Sara

I am attaching comments on 138. Please see that these are shared with the entire committee.

I'll try to testify on Friday, but at this moment I'm not sure what I should say since everything I would have said has been said numerous times, and these written comments are more extensive and based what I heard the other day while I was waiting to speak (they ran out of time.)

Please advise.

Gershon

Gershon Cohen PhD
Project Director
Alaska Clean Water Advocacy
[REDACTED]

www.acwa-alaska.org



2/12/2020

Re: CSHB 138

To: Alaska House Resource Committee Co-Chairs, Representatives Tarr and Lincoln,

I am writing today to urge you to not pass CSHB 138 out of the House Resources committee. I was on line to testify for over two hours last Monday but time ran out before I could speak. I hope to testify this Friday, but in case that is not possible, please consider the following written comments.

As nearly every commenter noted at your last hearing, this bill would effectively remove any possibility of a Tier 3 Outstanding National Resource Water (ONRW) from ever being designated in Alaska; a remarkable fact given the importance of Alaska waters and fisheries to the people of this State. If Tier 3 nominations are required to get Legislative approval, none will ever be approved. As you well know, a single committee Chair, the Rules Chairs, the Speaker of the House, the President of the Senate, or the Governor could table or veto every bill.

There were a number of statements/issues/questions made by the sponsor and his staff, or members of the public during last Monday's hearing that I would like to specifically address:

1. Does Alaska currently have a policy for designating Tier 3 waters?

Alaska adopted interim Antidegradation Policy (ADP) implementation guidance in 2010 in response to a court order by which it can evaluate and decide on Tier 3 nominations. ADEC has never acted through the policy with regards to a Tier 3 nomination to my knowledge. While I believe the policy should have more specificity with respect to process, and many of us have been trying to get ADEC to move this issue forward for literally a decade, to state that we have no mechanism in place for Tier 3 designation is inaccurate.

2. If we don't act soon, will EPA take over the process?

EPA has approved the State's interim ADP implementation policy, and given no indication of any intention to take over the Tier 3 designation process should Alaska not act further in the short term to adopt a more complete protocol.

3. Does ADEC have the authority to make Tier 3 designations?

Federal regulation at 40CFR 131.4 establishes Alaska's authority to review, establish, and revise its Water Quality Standards (WQS) under section 303(c) of the Clean Water Act (CWA.) The requirement



for every state to adopt an ADP, which is part of a state's WQS, is found at 40CFR 131.12, which requires not only the adoption of the policy itself, but of regulations necessary to implement the policy. Alaska Title 46.03.020 authorizes ADEC to adopt WQS, and ADEC has been administering Tier 1 and Tier 2 ADP designations for years. Regardless of the difference in terms of the level of protection for waters designated Tier 3 from other Tiers, there can be no question that ADEC has the authority to make such determinations.

Most states administer Tier 3 ADP and other WQS issues through their state environmental conservation agency. A few have established Water Quality Boards or Commissions for specific WQS-related actions such as Tier 3 designations. How it is done is up to each individual state; it is simply required that the policy exist, and be implementable. Again, we have had the capacity to make such decisions for a decade and there have been nominations before the department for eight years. The fact that no decisions have been made speaks to the unwillingness of the agency to do its job, not whether it has had the necessary authority. Finally, there is no need to clarify whether a state legislature has the power to designate a Tier 3 designation.

4. Can a Tier 3 designation be removed?

There is no law, regulation, or case law supporting the notion that once made, a Tier 3 designation remains in perpetuity. If the agency that made the designation wishes to remove it, it can do so, and certainly a state legislature would have the authority to remove a Tier 3 designation regardless of how it was adopted.

5. Will legislative Tier 3 determinations be less political?

It is hard to imagine a rule-making process that would be more political than bringing a Tier 3 bill before the State Legislature. Tier 3 decisions should be made on the merits of the situation in question, not the politics of one or more members of the Legislature. Note: Tier 3 ADP was never intended to be limited to waters of exceptional quality from a chemical or physical perspective. While pristine waters may be worth considering, Tier 3 protection could be assigned to a water that is legally "impaired". For example, Lake Tahoe in California is an impaired water body under section 303(d) of the CWA because it violates turbidity standards, yet it has been designated a Tier 3 water because of its overall importance to the local community.

6. What criteria should be applied when considering Tier 3 decisions?

You heard from many commenters that the decision should be based on "science." I would agree with that to a point: the evaluation needs to be objective. However, that shouldn't mean that the only consideration is water chemistry or some other physical parameter, as I mentioned above. A water that is of significant cultural importance should also be given serious Tier 3 consideration; there should be a subjective component to the decision that should lean heavily towards the wishes of the people in closest proximity or dependence on that water and therefore those most affected by the decision. Objective and subjective criteria should both apply to the decision. A designation shouldn't be denied for political or private financial reasons.

7. Should an applicant be required to submit a cost/benefit economic analysis?



As several commenters noted on Monday, a cost/benefit analysis is in fact a very complicated undertaking, and one that typically requires substantial funds. Even so, it is unlikely to be an accurate metric for a Tier 3 evaluation, since the benefits of a designation or its denial are often impossible to quantify. What monetary “benefit” could one assign to the Chilkat River, nominated for Tier 3 status five years ago by the Tlingit Village of Klukwan? How do you assign a numerical value to a river that has sustained a village for thousands of years?

8. Would this bill make the path to a Tier 3 decision more straightforward?

This bill would require a nominee to work through the Commission process, only to be followed by having to work the issue again through a full legislative process. ADEC or a Commission composed of qualified individuals should have the professional capacity and integrity to evaluate the importance or quality of a waterbody for such a discussion. I mean no disrespect, but the Legislature by comparison would have the least expertise in such matters, and only contribute to the politicization of the decision. Furthermore, the State Legislature has its hands full every session fulfilling the duties it has now, such as adopting a budget within a ninety-day term. Who would be undertaking this evaluation at the Legislative level? House and Senate offices would have to go out to the broader community for advice, people who would already be able to weigh in at the Commission or agency level. Nothing of value would be added to the process.

The current high quality of our waters and the health of our fisheries cannot be matched anywhere else in the country. I sincerely doubt the supporters of this bill are driven to see that Tier 3 nominations get a fair, comprehensive, apolitical evaluation. It would certainly be unfair for the State to facilitate the interests of would-be polluters, often international corporations, through an easier path via our state agencies towards an allowance to degrade a public water, while the road our own citizens must navigate to protect a water body critical to the needs and quality of life of our own communities becomes more and more difficult.

One final comment: missing from this discussion so far has been what a Tier 3 ONRW designation would or wouldn't do. The impact of designating a Tier 3 ONRW is often greatly exaggerated. A Tier 3 designation would not impact having a septic system near a waterbody, or the use of motorized boats on a river or lake, since in neither case is a point source discharge permit required. The fundamental change upon Tier 3 designation is that new or expanded discharge permits for point sources of pollution would not be allowed. The objective of a Tier 3 designation is to maintain the water at its present level of quality, whatever that may be.

This bill will not establish a procedure that matches the stated intent of the sponsor. Please do not pass this bill out of this committee.

Sincerely,

Gershon Cohen Ph.D.

Gershon Cohen PhD
Project Director



Elle Ahkivgak

From: Jenell Larsen [REDACTED]
Sent: Friday, February 14, 2020 9:50 AM
To: House Resources
Subject: opposition to HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear House Resources committee,

I am a resident of Southeast Alaska and I am writing you in opposition of House Bill 138 and the Committee Substitute for HB 138. I strongly feel that Tier 3 designation of waterways in our state should remain within the hands of the Department of Environmental Conservation. I am opposed to opening up Alaskan waters to long-term degradation and I feel that HB 138 would not protect our waters, but make it easier to pollute them and destroy important wildlife habitat.

This bill matters to me because I am an outdoorswoman that enjoys hunting, fishing, boating and recreating in our state's pristine rivers and streams. Tier 3 waterways allow for these types of recreational activities while protecting them from long-term damage. I have worked several summer jobs as a Fisheries Technician in Alaska which supported me when I was a student and fostered my love for protecting Alaska's water ways so that they can be further enjoyed by their residential users.

Below are the particular problems I have with regarding HB 138:

- It makes protecting our waters more difficult as nominating waterways to become Tier 3 would become a political process which could be overturned by whatever governor is in office or by whatever 7-person committee they elect.
- The 7-person committee should not be appointed by who holds office. Those deciding should be scientists and experts, separate from the current government in office.
- It forces the nominating individual or group to pay for the costs to protect the waterway. The waterway isn't privately owned, it shouldn't be payed for by one user or group. The state should pay for it.

Overall this bill will make our waterways harder to protect and takes the power to make the decision out of the hands of Alaskans. Let's make this a democratic process for Alaskans as was established by the federal Clean Water Act.

Sincerely,

Juneau resident, Jenell Larsen Tempel

Elle Ahkivgak

From: Jessica Kayser [REDACTED]
Sent: Friday, February 14, 2020 11:52 AM
To: House Resources
Subject: Testimony HB138
Attachments: CS_HB138_10Feb2020_Public Testimony.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

My name is Jessica Kayser Forster. I called in on Monday the 10th but was not allowed time to give my testimony on HB 138.

Please see my testimony attached.

Thank you,
Jess

--
Jessica Kayser Forster

Jessica Kayser Forster

Haines Alaska, 99827

Public Testimony

Sent Via Email: 2:00pm; February 10th, 2020

House Resource Committee

Rep.Geran.Tarr@akleg.gov

Representative.John.Lincoln@akleg.gov

TESTIMONY CS- HB 138

Honorable Members of this Committee: Jessica Kayser Forster from Haines Alaska. I am speaking in opposition to the Committee Substitute (CS) for HB 138.

As I understand HB 138 determines the legal process that Alaska Natives and Alaskans have to protect recreationally and ecologically significant waterways from industrial, commercial and municipal pollution and contamination. If this is true, I ask before moving inform yourself on the legal process that industrial, business and municipal development permittees have to follow to pollute critical waterways. Securing the legal right to contaminate Alaska's waters is NOT a political process it is a data driven process. I would ask that the ONRW designation is based off of a data driven process based in acquiring facts, science, and Traditional and local knowledge.

HB 138 is a special interest bill. I hope you are able to see past the influence of the resource extraction lobbyists. Please do not hamper our legal right under the Clean Water act to protect Alaska's waterbodies that demonstrate to be the cornerstone to this state's economies. HB 138 is strategically designed to ensure a Tier 3 designation is a drawn out process where a designation can be stalled by industry special interest dollars.

From my understanding the DEC Policy and Procedure document 05.03. 103 states that DEC does have the legal authority to determine nominations. Please consider building on and vetting this existing process proposed by the EPA before supporting a special interest bill.

Flawed aspects of Bill:

- Requiring the legislature and the governor to pass a bill that supports the committees determination is completely unjust and obviously comes from resource extraction lobbyist who have the most money and therefore the most influence over our legislature. It turns a data driven process into a political process. Why would you knowingly make it almost impossible to protect some of Alaska's most economically important natural resources?
- The make up of the committee is political. Again, why are you making this a political process? The legal right to pollute Alaska's waterbodies is not a political process, why

Jessica Kayser Forster

Haines Alaska, 99827

would you make the legal right to protect Alaska's waterbodies a political process.

- A person can nominate a Tier 3. A person being a wide range of western constructs including corporations but excluding Tribal Governments. I am not indigenous but from a westerners perspective this seems racist.
- The nominator has to carryout a cost benefit analysis that shows how protection designation will be economically beneficial and provide more economic output then a mine or some other commercial or industrial polluter. Do developers polluting a waterbody do not have to do this. No, In fact if this type of analysis was carried out for the long term by developers- very few would be permitted to pollute Alaska's waterbodies. The state's constitution says for the benefit of all people- this should be a red flag.
- A Tribal Government or Tribal Corporation will be on the committee. This bill must be sent to Tribal Affairs and to hear their opinion on this matter. If not this is continued colonization of the Alaska Native Peoples. Is this what you want to be a part of as a law maker in Alaska?

Making our legal right to protect the quality of water in the waterbodies that demonstrate through a data driven process to provide significant ecological and recreational attributes to Alaska's economy and communities a political process is unethical and strategically short sighted.

I hope you either stop wasting our time on this unjust bill or you make the suite of amendments necessary to ensure our legal right to protect outstanding waterbodies in Alaska does not become an elephant and donkey game of tug a war. Let us work together to create a determination process grounded in data, science, local and traditional knowledge and justice.

Thank you for your service and acting fairly and justly.

Sincerely,
Jessica Kayser Forster

Elle Ahkivgak

From: john sonin [REDACTED]
Sent: Friday, February 14, 2020 9:03 AM
To: House Resources
Subject: Water is Justice

Follow Up Flag: Follow up
Flag Status: Flagged

Access to fresh water is the truest common denominator, the epitome of human/organic equality! It should NEVER be privatized...nor "valued" by a political agenda!

H.B. 138, the Bill sponsored Rep. Kopp in Alaska's House Resources Committee, is another attempt to "whittle-down" the human will by the smaller, lackluster, minds in our State (and nationally with the Koch Bros, Mercers, [et.al.](#)) desiring to rape & pillage OUR Mother for their private gain! From birth to death, life means (and needs!) effort-work; it takes energy to find satisfaction any- and every-where in life. All life, always, must be emerging! It must always be building-pushing-creating for a more effortless, more efficient, and more productive, tomorrow. That goes for every living thing, every human being, and every coordinated-coalition, institution, human-beings create.

Yes... we forever seek relief from the stresses of that effort, which living organisms find daily with rejuvenating periods of inaction/rest/sleep. Sometimes this may be hard to achieve if sufficient effort has not been expended throughout the day. But when lazy-thought (achieving maximum affect with the least physical exertion) becomes the trend of OUR electoral majority, the promotion of personalities keenest to this cheap, apathetic, 'gaming'-of-our-social-and-cultural constructions, lifestyle, becomes the norm, OUR social fabric, our way-of-life, begins "shredding" to a dismembered, fascist, fear-based style of interpersonal relationships! Once started along this path by promotion of this personality, society and the culture engage a feedback process that "spirals in decline" to an extreme, far-right cultural destruction. The misgivings of "lazy" (selfish) thought can seem successful, but only inter-personally, when the "gamer" is seeking social mobility and rank. It is only effective, however, as long as the 'majority' of the culture are still actually creating/producing synergistic-energy — in our capitalist society, that's "commercial value." That "value," along with all productive value, is the value intrinsic, of atomic-bonding — from manufactured material to the effort needed for imagination (imagining ideas new or re-imaging ideas old) — only to be created by work/labor.

The Libertarian mindset ignores any value added to organized-atoms by others. Life becomes the 'gaming' of everything else to win that "value" for themselves! This seems the only concern — not creating new value, just re-configuring "value" that has already been created — of far-right, libertarian, thinkers. This mindset only diminishes and demeans what a culture has already created/imagined. Such a dissolution of society is achieved incrementally at first, but when a nation promotes a leader of this 'gamer' ilk, human/cultural evolution ceases its emergence and begins a disintegration/decline. This rise and decline of civilization is the repeat of history. Sadly the Koch Bros., with all their money, fail to grasp the verity and are suicidal in destroying, decimating, the foundation of their ascendance — a snake trying to eat its tail!

This inclination is the downside of being human (with all OUR other foibles), and since every one of us have this propensity for lazy-selfish thought (in public and the political sector, in our private realms we always know better), rectifying that inclination, and to stay on an emerging track requires an effort of private WILL! This is the 'historical repeat' and can only be halted or remedied through a Golden Rule education: *Do unto others...!*

A proper, unbiased, education helps us to recognize (self-discover!) the synergistic benefits of producing, and using our energy more efficiently, with 'Golden Rule' living. This is morality... yes, but it's also 'profane' element of physics, in its necessity/requirement, nay demand, for social-cultural success. One that Dunleavy, Trump & the Kochs deny!

In the here-and-now of America's tribalism-breakdown however, we must first interrupt that "feedback" cycle by REMOVAL of these linchpins! Which in this cycle of OUR Nation's effort to be organized is not only at the national level, with Donald Trump and the Kochtupus confederates, but statewide with Dunleavy and his unconscious cronies! We will remember those Senate, statewide & national, legislators who live denying this Truth and condemning OUR State & Nation to further harmful decline!

John S. Sonin

[REDACTED]
Douglas, AK 99824
[REDACTED]

Elle Ahkivgak

From: Kim Rice [REDACTED]
Sent: Friday, February 14, 2020 8:18 AM
To: Resources
Subject: HB-138

Follow Up Flag: Follow up
Flag Status: Flagged

My name is kim rice, I'm a commercial fisherman from Bristol bay. Our family does not support HB-138. We need clean water in all our streams. NO ON HB-138. THANKS KIM RICE

Elle Ahkivgak

From: Luann McVey [REDACTED]
Sent: Friday, February 14, 2020 9:55 AM
To: House Resources
Subject: Re: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Representative Tarr, Representative Lincoln, and members of the House Resources Committee,

I sent the testimony below, on HB 138 to the House Resources committee, on Monday of this week. That afternoon, I sat in the House Resources Committee room to hear the description of the bill by its sponsor, Representative Kopp, and his aide and gained a better understanding of the process they were creating. **I am still opposed to this bill,** and this is why:

I appreciate the idea of a **committee** to review an application to designate exceptional waters as worthy of protection. However, most of the members of the proposed committee described in HB 138 are to be appointees of the governor, and that makes this a **political process**, not a scientific one, as the sponsor claims. The Environmental Protection Agency approves of state environmental agencies, such as the Department of Environmental Conservation approving the designation of such exceptional waterways through an internal process.

I would like for a scientific process of designating Tier 3 waters to be established in statute, so that professional scientists within the DEC are assigned the task of reviewing applications and designating the Tier 3 status to exceptional waterways. This process should be separate from the executive branch of state government. If this is not established, it will be virtually impossible for an individual or a community to apply for protection of exceptional Alaskan waterways. In contrast, industries have only to present a 6-page application, to allow significant environmental degradation in pristine waters. HB 138 tips the scale in favor of permitting potential industrial damage to our waters, versus protection of those waters by the Tier 3 designation. That is not what was intended by the Clean Water Act and should not be enabled by legislation such as this bill.

Please **do not allow the passage of HB 138** - instead, establish a scientific process, within the Department of Environmental Conservation, that encourages appropriate designation

and protection of Tier 3 waters, of which Alaska has many. Our people and our fish and wildlife resources depend on you.

Thank you for this opportunity to testify.

Sincerely,
Luann McVey, Retired Alaskan Teacher

On February 10, 2020 at 11:34 AM, Luann McVey [REDACTED] wrote:

Dear Representative Tarr, Representative Lincoln, and members of the House Resources Committee,

Thank you for considering public testimony about HB 138. **I am opposed to this bill.** I understand that, under the federal Clean Water Act, Alaskans can currently request the Department of Environmental Conservation to use a scientific process to assign Tier 3 status to exceptional waters, critical to our communities' economies and fisheries.

HB 138 transfers the classification of Alaskan waters from the DEC to a committee appointed by the governor, making this process subject to the influences of politics, rather than science. Under this bill, a person nominating a waterway for Tier 3 designation to pay for associated costs, requiring those who would be economically harmed by the degradation of the waterway to have to pay for its nomination. When considered by this political committee, if approved for protected status, the waterway would be referred to the governor, who introduce a bill to the legislature protecting that body of water. This makes it nearly impossible for any body of water to receive protected status.

The process outlined in this bill is ludicrous. It is standard practice for industry, in planning development, to study how a project affects other resources, including fish and wildlife habitat. In considering such a project the developer is rightfully required to specify how it will provide protection of other resources

I worked for the Department of Fish and Game as a biologist in the 1970s, inventorying fish habitat in areas slated for logging and mining. Pristine

salmon spawning and rearing habitat, found in our old-growth Alaskan forests, are essential for salmon survival, and **it is the responsibility of our state agencies to exercise proper stewardship of salmon habitat.**

Alaskans assume our water resources are protected. HB 138, by allowing a governor's committee to have its way with our waters, assigns greater power to industries than to citizens in the protection of our clean water. This is anti-democratic and it is wrong.

A committee appointed by the governor has no business determining the level of environmental protection afforded to any body of water in Alaska. Our state must protect our indigenous cultures, our fish and wildlife, and our communities from potential industrial damage. The federal Clean Water Act reinforces protection of our exceptional waters. I am strongly opposed to this bill and I urge you to show your commitment to Alaskans by sending HB 138 on to the Tribal Affairs Committee and to the Fisheries Committee, whose stakeholders have rightful interest in the travesty of this preposterous bill.

Thank you for your consideration.

Sincerely,

Luann McVey, Retired Alaskan teacher
[REDACTED], Douglas, Alaska 99824

Elle Ahkivgak

From: lynnette dihle [REDACTED]
Sent: Friday, February 14, 2020 10:46 AM
To: House Resources
Subject: Fwd: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Begin forwarded message:

From: lynnette dihle [REDACTED]
Subject: HB 138
Date: February 13, 2020 at 11:17:13 AM AKST
To: Representative.John.Lincoln@akleg.gov, Representative.Geran.Tarr@akleg.gov,
Representative.Bryce.Edgmon@akleg.gov

Representatives Lincoln, Tarr and Edgmon:

Please be advised I am against HB 138. This appears to curtail the ability of Alaskan citizens and groups to nominate exceptional waters to be protected from possible exploitation and pollution. Allowing a committee appointed by the governor to screen nominations and then, if lucky, being sent to the legislature in bill form to perhaps be passed as a law exposes it to a political process at every turn. This is not science based decision making. At least keeping the nomination process exposed to the DEC allows for science based decision making to be involved.

Our clean waters should be protected not based on politics. It should be based on science and what is best for all Alaskans, both now and in the future.

Nils Dihle

Juneau, Alaska

Elle Ahkivgak

From: Margaret Allen [REDACTED]
Sent: Friday, February 14, 2020 11:54 AM
To: Resources
Subject: Against HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear House Resources Committee Members,

We're Seattle voters who strongly oppose HB138 which would allow mining near Bristol Bay. Bristol Bay is the most valuable wild salmon fishery in the world--it supplies the country with sockeye salmon. Many fishermen, their crews, and fish processors actually live in Seattle, so Washington has a lot of workers, not to mention sport fisherman, who are dependent on maintaining the clean waters of Bristol Bay. A lesser known fact is that the waters around Bristol Bay are also the site of a large walrus colony--with the Pacific Walrus currently under consideration as an Endangered Species. The mining interests involved do not have a scientifically solid plan to prevent the downstream effects of mining toxins from entering this fragile ecosystem. We don't need another Exxon Valdez-like catastrophe. Let the mines with their big money and lobbyists go elsewhere. Stand up for preserving a pristine Bristol Bay--it's a treasure that, once damaged, we can't re-create.

Sincerely,

Margaret Allen and Rick Weller

Seattle voters, WA Congressional District 7

Email: [REDACTED]

Elle Ahkivgak

From: Mark Skrade [REDACTED]
Sent: Thursday, February 13, 2020 6:12 PM
To: House Resources
Cc: Resources
Subject: HB 138 Public Testimony

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

I am writing to comment on HB 138.

> HB 138 jeopardizes the right of the Alaskan people to protect the clean waters and fisheries that sustain our communities.

> Regarding Outstanding National Resource Waters, the EPA states in the Water Quality Standards Handbook, "Outstanding National Resource Waters (ONRWs) are provided the highest level of protection under the antidegradation policy. The policy provides for protection of water quality in high-quality waters that constitute an ONRW by prohibiting the lowering of water quality. ONRWs are often regarded as highest quality waters of the United States: That is clearly the thrust of 131.12(a)(3). However, ONRW designation also offers special protection for waters of "exceptional ecological significance." These are water bodies that are important, unique, or sensitive ecologically, but whose water quality, as measured by the traditional parameters such as dissolved oxygen or pH, may not be particularly high or whose characteristics cannot be adequately described by these parameters (such as wetlands)."

>

> In my life, I have seen wild Alaska salmon for sale in several US states and in London, England. The waters that the salmon spawn and grow in are not just outstanding National resources, but outstanding international resources.

>

> If HB 138 were to pass, a resident of the State of Alaska would be required to prove using data and analysis that a certain body of water qualifies as an Outstanding National Resource Water, and then nominate it to the Alaska Outstanding Resource Water Advisory Commission. The person nominating the water system would not be eligible for reimbursement of expenses by the state, so he or she must provide all data and analysis at personal expense.

>

> Why should the protection of an international resource depend on the time, effort, and expense of a private citizen? We should not make it more difficult to protect our clean waters and wild salmon habitat by passing the buck to a private citizen who must then try to convince a commission entirely appointed by the Governor.

>

> I oppose HB 138.

>

> Sincerely,

>

> Mark Skrade

> Anchorage, AK

Elle Ahkivgak

From: [REDACTED]
Sent: Friday, February 14, 2020 1:17 PM
To: House Resources
Subject: Opposition of HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

I live in Juneau and I am concerned with the implications of HB 138. It is a top priority to protect our pristine water ways from misuse and abuse. I am opposed to HB 138 and decisions about what we can and can not do to our water ways should be based on scientific evidence. I ask that we let this go to the Fisheries Committee and Tribal Affairs Committee. We must keep Alaska beautiful.

Thank you,
Matthew Sirkis

Elle Ahkivgak

From: Rebecca Knight [REDACTED]
Sent: Friday, February 14, 2020 3:18 AM
To: House Resources
Subject: HB 138-National Resource Water Designation

Follow Up Flag: Follow up
Flag Status: Flagged

Dear House Resources Committee Co-Chairs Rep. Josephson and Rep. Tarr, Vice-Chair Rep. Lincoln and Committee Members,

Please oppose HB 138, the “National Resource Water Designation” bill currently under consideration by your body.

My extended family of eight, including my husband, my sons, their wives and my grandchildren rely nearly 100 percent on commercial fishing in Alaska waters. Consequently, the health of Alaska waters is of one of our primary concerns when it comes to keeping our collective livelihoods intact. HB 138 threatens Alaska waters protections and thus our livelihoods. We have a direct interest in ensuring that HB 138 dies in committee.

While I have used a template provided from elsewhere for my comments below, I fully endorse its message and ask that you do the same. Please do not dismiss my concerns—as well as others—based on the use of that template. Alaskans are busy, hard-working people and find such methods to provide meaningful input quite helpful while we work to keep our families and Alaska as a whole, afloat.

HB 138 should not proceed one step further through the committee process.

It would remove Alaskan’s right to have a voice in protecting water in Alaska by putting the power in the hands of politicians instead of the experts with indigenous, local and scientific knowledge. It would allow committee chairs in the House and Senate to prevent Tier III nominations from moving through the legislature, creating a defacto ban on water protections. HB 138 takes power away from Alaskans and gives an upper hand to outside mining companies and big businesses with no interest in protecting our fisheries and the clean water they depend on. This type of bill has been tried and failed in other states and only results in additional bureaucracy, expense and political paralysis that leaves our most important and vulnerable waterways unprotected.

The Department of Environmental Conservation currently has the ability and authority to designate Tier III waters that meet the requirements of the Clean Water Act. While improvements to the status quo could be made, further politicizing the process is not the answer.

Salmon are the lifeblood of Alaska. The salmon fishing industry is critical to our Alaska’s economy and way of life. Salmon fishing provides jobs for over 32,000 Alaskans and generates \$2 billion in economic activity each year. This bill is putting this vital economic resource is now at risk. This bill would be stripping the public’s voice and, instead of fixing a process that can work, it would remove any sense of a functioning process all together.

HB 138 is bad for Alaskans and the fisheries we depend on. This bill is turning a scientific process into a dead-end maze of red tape for Tier III waters in the legislature. Instead of taking power away from DEC, we need to be reinforcing this process and allow citizens to be able to nominate waters for increased protection.

Help Alaskans have a voice in protecting our waters, please don’t remove that effective capability.

Sincerely,

Rebecca Knight
FV Starship
[REDACTED]
Petersburg, AK 99833

Elle Ahkivgak

From: Richard Stokes [REDACTED]
Sent: Friday, February 14, 2020 12:45 PM
To: House Resources
Subject: HB138, testimony against

Follow Up Flag: Follow up
Flag Status: Flagged

The concept of Tier 3 waters makes sense. Some waters are more ecologically fragile than others. Such waters should not be degraded, i.e., changed, even if the degradation would not cause violations of the WQ Standards. A decision to designate such waters as Tier 3 and give them added protection should be based on science as much as possible and HB 138 gives too much weight to the political process. It requires more information to protect waters than to degrade them. This is out of balance. Only a compelling argument (using as yet unidentified criteria) is needed and Alaska's resource agencies, DEC, F&G and Natural Resources are the logical choices to decide whether such an argument has been made. The fact that all three commissioners are political appointments should provide checks and balances.

For these reasons I oppose HB 138 and would like to see this bill referred to the Fisheries and Tribal Affairs committees for further consideration.

I am a 49 year resident of Juneau. I worked with DEC from its inception in 1971 until my retirement in 1994. I understand both sides of this argument, the desire to protect water quality and the fear of unnecessary protections.

Richard Stokes, [REDACTED]

Elle Ahkivgak

From: Roger Rogotzke [REDACTED]
Sent: Friday, February 14, 2020 4:17 AM
To: Resources
Subject: Protect Bristol Bay!

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom it may Concern,

I have been a Bristol Bay Fisherman for the last 38 seasons. Bristol Bay has the largest Sockeye Salmon run in the WORLD, not just Alaska. The Alaska Department of Fish & Game has fought hard to protect and manage the sockeye run each year. They have done a great job as we have had multiple 40-60 million fish runs in recent years.

We now have investors from another country coming in and planning to put in the Pebble Mine. They have no concerns for protecting the Bristol Bay salmon. They are not even from the United States of America. They do not care about keeping our water clean so it keeps our salmon alive, healthy, and unpolluted. They can only see to the next 20 years where they will take minerals out of the land and then leave their pollution in Bristol Bay forever.

The salmon run is forever if we don't jeopardize it by polluting our water.

HB 138 does jeopardize our right to protect clean water and our fisheries.

Please vote against this bill.

Roger Rogotzke
Bristol Bay Fisherman

Elle Ahkivgak

From: Shannon Donahue [REDACTED]
Sent: Friday, February 14, 2020 2:06 PM
To: House Resources; Rep. Bryce Edgmon
Subject: Testimony opposing HB 138
Attachments: HB 138 testimony 2.14.20.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Speaker Edgmon and House Resources Committee members,

Thank you for the opportunity to testify to the House Resources Committee in opposition to HB 138 today. Please find the testimony I delivered this afternoon attached, for the record.

Thank you,

Shannon

Shannon Donahue
Arcturus Conservation Consulting

[REDACTED]
Haines, AK 99827
[REDACTED]

Shannon Donahue



Haines, AK 99827

Testimony in opposition to HB 138

My name is Shannon Donahue, and I live in Haines, at the mouth of the Chilkat River, a water body that has been nominated for Tier 3 status. I am representing only myself, but in full disclosure I work for Southeast Alaska Conservation Council and the Great Bear Foundation. I am testifying in opposition to HB 138 on the grounds that it implements an onerous, political process for the evaluation and designation of Tier 3 water nominations, and it strips Alaskans like me of the right to protect our most important waters under this provision of the Clean Water Act. Meanwhile, the Juneau Empire reported this week that Alaska led the nation in toxic releases tracked by the EPA in 2018. It should not be easier to pollute our waters than to protect them.

Contrary to what Representative Kopp described in his introduction, HB 138 creates a political process to designate Tier 3 water nominations through the legislature, replacing the existing DEC process that stands under Interim Guidance from the EPA. There is significant opposition to this new process, both from people supporting and opposing specific water body nominations, because Tier 3 nominations should be evaluated in a fair, transparent process, not politically through the legislature. Tier 3 designation is the only process Alaskans have to protect our most valued waters. The designation protects all existing uses and short-term degradation like outboard motors, private septic systems, and fish cleaning, and it only denies permits for long-term, permanent degradation, so it does not prohibit normal uses of the water body by everyday Alaskans. The bill proposes establishment of a committee to evaluate nominations, which adds another arbitrary layer of politics to the evaluation process, because the committee consists of agency commissioners who are appointed politically by the governor, and representatives of stakeholder groups, also appointed by the governor, without the check and balance of legislative approval.

Here in Haines, I know people with varying positions on the nomination of the Chilkat River for Tier 3 status, but overwhelming, people both in favor and against that nomination favor an apolitical administrative process rather than a legislative process, because this should not be a political decision. It should be a decision that thoroughly evaluates the ecological, cultural, and recreational value of a water body, through a transparent, non-political process. This process should remain with DEC through the triennial review. Please add additional hearings with opportunity for public testimony, so Alaskans can engage in this important issue, and please do not support HB 138.

Elle Ahkivgak

From: timothy gervais [REDACTED]
Sent: Friday, February 14, 2020 12:59 PM
To: Resources
Subject: comment on HB138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear House Resources Committee:

I do not support HB 138. Clean water and a clean environment are important to our State, our fish, and my fishing business. Please vote down or take no action on HB 138.

HB 138 appears to lessen protections for our watersheds and fish, that is not appropriate.

Sincerely,

Tim Gervais
[REDACTED]
Ruby, AK 99768

Elle Ahkivgak

From: Tommi Morgan [REDACTED]
Sent: Thursday, February 13, 2020 7:55 PM
To: Resources
Subject: HB 138

Follow Up Flag: Follow up
Flag Status: Completed

To whom it may concern,

The rollback proposed in HB 138 is not in the best interest of anyone but foreign mining companies. It gives mining companies the upper hand over the citizens who are invested in maintaining the health of their communities and are working to apply scientifically based practices to maintain the health of the watershed and the fisheries. Please reject the rollback, don't jeopardize our right to protect clean water, fisheries and the communities that depend upon them.

Thank you for standing up for our rights!
Sincerely,
Tommi S Morgan

Elle Ahkivgak

From: travisrector . [REDACTED]
Sent: Friday, February 14, 2020 10:18 AM
To: House Resources; Senate Resources
Subject: Please say NO to HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Hello-

I am writing to express my opposition to HB 138. This bill is intended to make it harder for Alaska's waters and fisheries to be protected from mining discharge. Our fisheries are the number one employer in the state, not to mention the food it provides to Alaskans. Please help to protect our fisheries.

Thank you for your attention.

Regards,

Travis Rector
Anchorage, AK

Elle Ahkivgak

From: KodiakCopier <postmaster@akleg.gov>
Sent: Friday, February 14, 2020 2:21 PM
To: House Resources; LIO Kodiak
Subject: HB 138 Written testimony
Attachments: img-214142108-0001.pdf

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

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To: Member of House Resources

Re: HB 138

HB 138 concerns me. It is a wolf in sheep's clothing.

We just had a divisive Board of Fish meeting here in Kodiak. Everybody wants salmon to return to their favorite waters. Many of our state's economies depend on healthy salmon runs.

Yet, HB 138, with all its benign language, over politicizes clean water. The composition of the suggested panel of experts is a not so subtle politization of the process.

I am against HB 138. Thank you for your attention.

Claudia Anderson

[REDACTED]
Kodiak, AK 99615
[REDACTED]

Elle Ahkivgak

From: Karen Wilson [REDACTED]
Sent: Friday, February 14, 2020 2:45 PM
To: House Resources; Rep. Bryce Edgmon
Cc: Jeff Wilson
Subject: HB 138

To the House Resources Committee and House Speaker Bryce Edgmon:

We are writing in opposition to HB 138, which would remove our rights as Alaskans to protect our waters. This bill would replace a democratic, science-based process with a political one, defying the federal Clean Water Act. It is unbelievable that we should lose our right to protect our waters while corporations can dump their waste into our waters at will.

The authority to designate Tier 3 waters MUST remain with DEC.

Sincerely,

Karen & Jeff Wilson
Juneau and Tenakee Springs

Elle Ahkivgak

From: Stacie Evans [REDACTED]
Sent: Friday, February 14, 2020 2:58 PM
To: House Resources; Rep. Bryce Edgmon
Subject: Comment Re HB 138

Re: House Bill 138

Dear House Resource Committee and House Speaker Bryce Edgmon, HB 138 would make it virtually impossible for Alaskans to protect our clean waters. It would require a Tier 3 nomination to be reviewed and approved by a 7-person committee appointed by the governor. The committee's recommendation would go to the governor, who would then send it to the legislature, which would then have to pass a designation in the form of a law. Finally, the governor would have an opportunity to veto the decision. This process would be overly political and would make the approval of a Tier 3 nomination nearly impossible. In addition, the bill would force nominating individuals (usually those who would suffer the most economically from contamination) to pay for associated costs.

This bill is entirely unacceptable. A Tier 3 designation is the only way to protect Alaska's pristine waters that are so important to our state, our communities, our natural resources, and to me personally. Alaskans have the same right as other residents of the United State of America to protect our clean water. It is not ok to functionally deny us that right with HB 138. We need a science-based process through the authority of the DEC to protect our waterways. Anything else would be anti-democratic and anti-Alaskan.

Thank you for your time and your consideration of this comment.

Sincerely,

Stacie Evans
[REDACTED]
[REDACTED]

Haines, AK 99827
[REDACTED]

Elle Ahkivgak

From: Catherine Cassidy [REDACTED]
Sent: Friday, February 14, 2020 3:12 PM
To: House Resources
Subject: HB 138 Opposition

Follow Up Flag: Follow up
Flag Status: Flagged

I would like to record my strong opposition to HB 138.

I am a commercial salmon fisher and I don't think it is right to make it easier for the Miner's Association or anyone to get away with harming our water and fishery resources. Article VIII of the Alaska Constitution makes us all owners of the state's fish and water resources, and while we have a right to use them responsibly, we have a corresponding obligation to protect them for our kids.

Thank you,
Catherine Cassidy
Kasilof, AK

Elle Ahkivgak

From: Elizabeth Van Burgh <[REDACTED]>
Sent: Saturday, February 15, 2020 9:09 AM
To: House Resources
Subject: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

House Resources Committee members,

> I am completely opposed to the Bill 138 for many reasons but the big one is that Alaskans should have a voice in our clean water..not the selected few in our government We ALL drink our water, fish from our waters and enjoy many activities on our waters. Don't make the mistake of letting those only interested in money to ruin our clean waters.

>

> Let this bill go to the Fisheries Committee and the Tribal Affairs Committee as it will greatly affected these stakeholders.

>

> I hope you make a decision that stands up to greed and let us all keep our waters clean forever.

>

> Thank you

>

> Elizabeth Van Burgh

> Haines AK

> 99827

Elle Ahkivgak

From: Laura Stats [REDACTED]
Sent: Saturday, February 15, 2020 8:37 PM
To: Rep. Sara Hannan; Rep. Geran Tarr; Rep. George Rauscher; Rep. Bryce Edgmon; Representative.Dave.Telarico@akleg.gov; Rep. Ivy Spohnholz; Rep. John Lincoln; Rep. Sara Rasmussen; Rep. Grier Hopkins; Rep. Chris Tuck
Cc: Sen. Jesse Kiehl
Subject: Oppose HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Co-Chairs and members of the House Resource Committee,

I urge you to oppose HB 138. A successful process for Tier 3 designation should be more direct than that described in HB 138. Give DEC the authority to carry out managing Tier 3 designation. They are the scientific experts on water quality, standards and testing. They were tasked with creating a process in late 2017. There are DEC documents available, one of them is called the Tier 3 Status Outreach Report (T3SOR) that lays out work already done. Previous work could be of some value as a reference to move forward from. My reasons tasking DEC with the process is two part.

One: Referencing the T3SOR noted two camps of great interest in the Tier 3 process, resource developers v fisheries, environmentalists and subsistence users (tier-3-outreach-report-9-01-17.pdf). The fisheries and subsistence sector prioritize salmon as a natural self sustaining resource with great economic value and distinct cultural value. Salmon have inhabited the earth for millions of years. This resource is becoming uniquely rare and deserves protection. Salmon and the waters they inhabit are at the epicenter of the Alaskan culture for all Alaskans, because we all benefit from the salmon experience in some form. The anadromous streams feed humans and all other animals at some point in the food chain as well as spreading the wealth of their decomposed salmon bodies enhancing the bounty of the northern pacific ocean.

Two: We need to act "like our house is on fire," as Greta Thunburg has aptly put it. Individuals, local, state and federal governments should be shifting into action with innovation to curb the climate crisis. We must refocus our attention and look through a different lens to cut back our carbon use and abide by the Paris Accord to keep our global temperature from rising 2 degrees celcius. Our forests and waters are of great value; our forests are natural carbone sinks, our waters are like none other on the planet. Saving ecosystems is of the utmost importance.

In closing think about this, "We don't inherit the earth from our ancestors, we borrow it from our children." (anonymous)

Thank you for your work, the work of your staff and attention to this important matter.

Kindest regards,
Laura Stats
[REDACTED]
Juneau, AK 99801

From: Laura Stats [REDACTED]
Sent: Sunday, February 16, 2020 5:21 AM
To: House Resources
Subject: Oppose HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Co-Chairs and members of the House Resource Committee,

Thank you for the opportunity to share my thoughts with you. I don't take democracy for granted.

I urge you to oppose HB 138. A successful process for Tier 3 designation should be more direct than that described in HB 138. Give DEC the authority to carry out managing Tier 3 designation. They are the scientific experts on water quality, standards and testing. They were tasked with creating a process in late 2017. There are DEC documents available, the Tier 3 Status Outreach Report (T3SOR) lays out work already done. This body of work previously done is of great value to expedite Tier 3 designation process.

One: Referencing the T3SOR noted two camps of great interest, resource developers v fisheries, environmentalists and subsistence users (tier-3-outreach-report-9-01-17.pdf). The fisheries and subsistence sector prioritize salmon as a natural self sustaining resource with great economic and distinct cultural value. Salmon have inhabited the earth for millions of years. This resource is becoming uniquely rare and deserves protection. Salmon and the waters they inhabit are at the epicenter of the Alaskan culture for all Alaskans, because we all benefit from the salmon experience in some form. The anadromous streams feed humans and most Alaskan animals at some point in the food chain. The spawning of

the enormous numbers of salmon and the following decomposition enhances the composition of the northern pacific ocean.

Two: We need to act like "our house is on fire," as Greta Thunberg has aptly put it. The lagging response to the climate crisis is grossly irresponsible. Individuals, local, state and federal governments must transform our behaviors with a strategic response to the curb climate change. The paradigm has shifted, responsible actions look different than they used to. The Clean Water Act is foundational, responsible legislation, Tier 3 designation is part of that. Alaska holds the largest amount of uninterrupted wilderness on the planet. Our forests are natural carbon sinks our waters are like none other. Saving ecosystems is of the utmost importance. Scientists understand this.

In closing, I urge you to delegate DEC to provide a methodical process for Tier 3 designation with climate change as a central feature. If you have any qualms with doing so, take time to ponder, "We don't inherit the earth from our ancestors, we borrow it from our children." (anonymous)

Thank you for your work, the work of your staff and attention to this important matter.

Kindest regards,
Laura Stats


Juneau, AK 99801

Elle Ahkivgak

From: sharon whytal [REDACTED]
Sent: Saturday, February 15, 2020 8:27 PM
To: House Resources
Subject: Reject HB 138 and SB 51

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Reps. Lincoln, Tarr, Hannan, Hopkins, Tuck, Spohnholz, Talerico, Rauscher and Rasmussen, and Senators Micchiche, Coghil, Bishop, Giessel, Revak, Kawasaki and Kiel

I have been out of town so it may be too late to ask you to reject HB 138 & SB 51. As a Public Health Nurse for 26 years and now a tribal advocate working more locally, I have experienced the impact of communities not being able to protect our local waters that provide subsistence, revenue from fisheries and tourism and eco-visits, and also represent that landscape that we as humans are an integral part of. But either way, Article VIII of the Alaska Constitution makes us all owners of the state's fish and water resources, and while we have a right to use them responsibly, we have a corresponding obligation to protect them for our kids. I hope you chose to vote responsibly and reject corporate interests that threaten our clean water!

Alaska Miners Association should not be able to buy Alaska's most spectacular water resources.

I urge you to protect and to clearly define "Tier 3 waters" like these in Alaska going forward; they deserve our protection! Our children and future people deserve the protection of our precious waters into eternity!

Sincerely,
Sharon Whytal, RN
[REDACTED]
Homer, AK 99603

Elle Ahkivgak

From: Frank Bergstrom [REDACTED]
Sent: Friday, February 14, 2020 4:34 PM
To: House Resources
Subject: HB 138
Attachments: HB 138 comments FWB 14Feb20.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Representatives:

Please accept my attached comments for the record regarding HB 138 and speed its passage.

Best regards,

Frank Bergstrom
[REDACTED]
Juneau, AK 99802
[REDACTED]

Frank Bergstrom

Juneau, AK 99802

February 14, 2020

► **Alaska Legislature**

The Great State of Alaska

RE: HB 138, Tier 3 waters

Dear Sir/Madam:

The Clean Water Act and HB 138 include provisions for the designation of Tier 3 waters, which is a withdrawal of waters of the United States from any and all sanctioned discharges. HB 138 is a responsible and logical measure to implement Tier 3 in Alaska.

Tier 3 designation is a political decision best taken by the Alaska Legislature – if at all. Some have suggested to you that the designation of Tier 3 waters is best taken on scientific (aka technical) grounds by state agency bureaucrats. If so, no scientific or technical test has been proposed by which the agencies might definitively determine the necessity for a Tier 3 designation.

In accordance with the Clean Water Act, ADEC currently makes decisions on proposed discharges to our state's waters via the point source and non-point source APDES program. During review of any application for discharge, should the projected impacts of a proposal be unacceptable, the application can be denied. The Tier 3 provision assumes such technical decisions by ADEC – including permit denial – are inadequate to protect a water body or watershed.

Presumably, a deterministic test might involve water quality parameters, solute loading, hydrology, topology, wildlife, meteorology, or perhaps development status. Yet no such test has been proposed. The Clean Water Act only provides a nebulous definition of Tier 3 waters that incorporates aspirational words such as *outstanding* and *national resource*, but no technical criteria.

Since no technical test of the Tier 3 definition is forthcoming, we can rightly conclude that designation of Tier 3 waters is a political decision. The question then becomes who is best placed to make that political decision? Agency bureaucrats would logically be tasked with analyzing technical questions regarding such factors as listed above, but is it reasonable for them to then also make the decision on withdrawing Alaska's land, water, and wildlife resources based on their own analysis? The lack of checks and balances in that case is readily apparent. Instead, it is the place of the Alaska Legislature to decide on the perpetual disposition of such important resources. Please pass HB 138.

Sincerely, Frank Bergstrom

Elle Ahkivgak

From: Laura Fleming [REDACTED]
Sent: Saturday, February 15, 2020 12:17 AM
To: House Resources
Subject: HB 138 public testimony offered Feb. 14, 2020
Attachments: HB138Fleming.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Attached is public testimony offered by Laura Fleming on HB 138 and proposed draft CS Feb. 14, 2020, provided at request of Rep. Tarr. Please advise that you have received it. If you want it pasted into the body of an email instead of as an attachment, I am happy to do that. Thank you.

Testimony of Laura Fleming, [REDACTED], Juneau, Alaska, before House Resources Committee, Alaska State Legislature, February 14, 2020, on HB 138, "An Act requiring the designation of state water as outstanding national resource water to occur in statute; relating to management of outstanding national resource water by the Dept. of Environmental Conservation; and providing for an effective date." And on proposed CS (31-LS0811/K, 2/4/20), "An Act relating to outstanding national resource water; establishing the Outstanding Resource Water Advisory Commission; and providing for an effective date."

Thank you for the opportunity to testify. This legislation was no doubt well intentioned, an effort to solve a problem. This proposed legislation seems to be offering a solution for a problem that doesn't exist. According to the sponsor statement offered for this bill, The EPA mandates the state designate Outstanding Natural Resource Waters, ONRWs. I do not believe that is the case. Even forty years ago EPA offered formal guidance on ONRW designations in Water Quality Standards guidelines, and there is a federal regulation that provides for them. The guidelines recommended that each state include a listing of ONRWs in its water quality standards. They said that "certain types of waters" should be "considered" as ONRWs and that states should provide adequate notice on the "possible" designation of ONRWs in its water quality standards. I do not think ONRWs are even mentioned in the Clean Water Act. 1979 memos from EPA's general counsel advise that EPA can't demand state ONRWs or create them through a purely Federal process. As of 1983 neither revised water quality standards rulemaking nor preamble clearly stated that states have a mandatory duty to designate eligible waters as ONRWs, or that EPA will do so if the states fail to do it. It would be legally risky to try.

When Alaska gained primacy in its water quality regulatory regime, in 1997, we assumed some responsibilities that we have not yet fulfilled. These are alluded to in a memo the DEC Commissioner sent to Rep. Kopp in April of 2018. He clearly states that there is no process for designating Tier 3 waters and that EPA has asked the state to develop implementation procedures for Tier 3 designations. EPA's expectation is, "Alaska needs to identify implementation procedures for its antidegradation and mixing zone policies. This is particularly important for state issued permits and NPDES permits issued by EPA." In that memo it further states that EPA is not anticipating identifying Tier 3 waters in lieu of the state.

Nowhere does it say that EPA has said the state needs to designate ONRWs. EPA **has** said that Alaska needs to identify implementation procedures for its antidegradation and mixing zone policies. We have never finished the job. We have responsibilities as well as rights when it comes to Alaska waters, now more than ever. DEC, DNR, and ADF&G need the resources to engage in this process, and complete a publicly supported, transparent effort establishing criteria, procedures, and a process for implementing Alaska's own antidegradation policy as required by the Clean Water Act. This effort may have the unlikely effect of uniting the mining and seafood processing industries in a process that provides for public input not only from industries, but from citizens, tribal entities, NGOs and others. No new law is needed.

Elle Ahkivgak

From: Jones Hotch Jr [REDACTED]
Sent: Monday, February 17, 2020 10:06 AM
To: Resources
Cc: Kimberley Strong (External Contact); Brian Willard
Subject: FW:

Follow Up Flag: Follow up
Flag Status: Flagged

Jones Hotch Jr
CIV Vice President
[REDACTED]

From: Jones Hotch Jr
Sent: Monday, February 17, 2020 9:49 AM
To: Jones Hotch Jr
Subject:
February 14th, 2020

TESTIMONY CS- HB 138

Legislative Members of the House Resource Committee: My name is Jones P Hotch Jr. I am the Vice President of the Chilkat Indian Village of Klukwan (CIV). CIV is a Federally Recognized Tribal Government. On behalf of our Tribal Members I testified in Juneau against HB138 on Monday February 10th, 2020. This written testimony supports my in-person testimony.

- An ORNW bill is NOT necessary when the State of Alaska already has a process in place. From our understanding the DEC Policy and Procedure document 05.03. 103 states that DEC has the legal authority to determine nominations. Please consider building on and vetting this existing process before supporting a special interest bill.
- The Tier 3 process is a federal law that provides Alaska Natives and Alaskan's a legal mechanism to protect the water quality of waterbodies that are found to be most important to sustaining our most productive ecosystems and highly valued cultural and recreational way of life. The process to designate a Tier 3 waterbody should be a data driven process similar to the process to pollute a waterbody.
- The bill outlines a process that is inherently flawed and has been developed to ensure a Tier 3 designation is the most unlikely of outcomes. A process that - requires a committee appointed by the governor to come to a determination, then the governor has to agree with the committee and prioritize the bill and then the legislature has to pass the bill through various committees that all have to come to agreement and then both the House and Senate have to pass the bill.
 - o Don't create a process where you make it almost impossible for Alaskans to protect the state's most valuable resources. Alaska's waterbodies are the backbone of this state- culturally, ecologically and economically.
- This Bill should go to Tribal Affairs committee since there are specific points in this bill that impact Tribal Governments and Tribal Members. In addition, nominating entities for all five rivers at this time include and or are from Tribal Nations.
- Klukwan has been a Traditional Subsistence lifestyle village since Time immemorial. We have a proverb "our life is close to our food". This is why ANILCA Title 8 and Tier 3/ONRW are so important to us. These federal laws allow us to protect who we are and our way of life. The Chilkat River is a natural spawning ground for all 5 species of Pacific Salmon. The Chilkat River is #2 Coho produce, # 1 sockeye produces, #1 chum producer in Southeast- brining in millions of dollars into the economy. The Chilkat River is

legislatively protected as the Chilkat Bald Eagle Preserve (AS § 41.21.610 – 630). It draws thousands of visitors each year to recreate along its banks.

- I say these things to demonstrate to you that this determination process does not need political oversight and interference. Key data points regarding ecology and culture/recreation can be collected by DEC and a decision can be made.
- This idea of Tier 3 nominators having to calculate an economic number- dollar amount- that demonstrates the value of clean uncontaminated water is unfathomable to us. There is no dollar amount that demonstrates the value of healthy water, Elders, Tribal Members, salmon, berries, moose and so much more. This bill is the continued colonization of our people and we stand against the complete commodification of our cultural and spiritual way of life.

Thank you for you time.

Gunalchéesh,

Jones Hotch Jr.

Chilkat Indian Village Tribal Council Vice President

[REDACTED]

Jones Hotch Jr

CIV Vice President

[REDACTED]

[REDACTED]

Elle Ahkivgak

From: Richard Gustafson [REDACTED]
Sent: Monday, February 17, 2020 9:56 AM
To: House Resources
Subject: HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Dear House Resources Committee,

I am writing because I was unable to attend the Public Hearing on HB 138. As an Alaskan since 1971 and a Retired Biologist for the Alaska Department of Fish and Game, I am opposed to this bill. This Bill is unnecessary it takes an Science Base system and replaces it with a political based system that will ultimately reduce the Water Quality of Alaskan rivers, lakes, and streams necessary for our world class salmon fisheries.

Please stop this Bill.

Sincerely,

Richard L. Gustafson
[REDACTED]

Homer, Alaska 99603
[REDACTED]

Elle Ahkivgak

From: River Bean [REDACTED]
Sent: Monday, February 17, 2020 9:52 AM
To: House Resources
Subject: HB138

Follow Up Flag: Follow up
Flag Status: Flagged

River,

Thank you for reaching out to my office to share your thoughts. If you would like your comments included in the public record for HB 138, please send them to House.Resources@akleg.gov

Thank you,

John Lincoln

-----Original Message-----

From: [REDACTED]
Sent: Sunday, February 16, 2020 5:24 PM
To: Rep. John Lincoln <Rep.John.Lincoln@akleg.gov>
Subject: I am writing to you today to urge you to oppose HB 138

Dear Representative John Lincoln,

Alaskans are more interested in our future and sustainable practices that include salmon and the fishing industry that is recognized worldwide, and appreciated. We are not interested in a quick money making scheme that profits corporations that make promises and more promises and then (until) an inevitable accident occurs. Then the corporation claims 'we did all we could'. And that has happened time and again. History proves it over and over. The same happens. Are you going to fall for the easy to make promises as well? We do not want to be subjected to ANOTHER fake 'promise'.

Please oppose HB 138 and listen to Alaskans, not money and false promises.

Sincerely,
River bean

[REDACTED] Palmer, AK 99645-8604
[REDACTED]

Elle Ahkivgak

From: robert vernon [REDACTED]
Sent: Monday, February 17, 2020 8:32 AM
To: House Resources
Subject: no on HB 138

Follow Up Flag: Follow up
Flag Status: Flagged

Subject: HB 138

Sirs:

I was reading the Anchorage Daily News Friday and there was a letter there written by an 80 year-old. He said:

...The economy - though emblematic of our accomplishments as a nation - is not how the present administration has, in reality, impoverished our nation and our culture. Our real loss is our sense of honor, our trust in our fellow citizens and our legislators. We no longer value the air we breathe, the oceans that so bountifully feed us, or the world we live in. We have lost our confidence in who we are, and who we used to be - the model of decency and an example to the rest of the world. We have lost all that and more. We are witnessing the destruction of all the United States once stood for. We sit gobsmacked on the sidelines ...

He captures what the public feels - that legislators no longer listen to them; they are mere puppets of corporate interest. Till I go down with the flood of humanity, I refuse to sit by and let industries claim which creeks and rivers to pollute. The proposed system of HB 138 is rigged for corporate governors and their appointed cronies (Jason Brune, Donna Arduin, Jeremy Price, Doug Bincent-Lang ...)

I have worked gold mines in what is now Denali national park. The reason there are no historic buildings and bridges on the west fork of Chulitna is we sawed them up for timbers in the Golden Zone. And that boss was more conscientious than most mining outfits. Still there was no regard for what flowed out of the mine. We did no tests, followed no regulators, treated no water.

So I would ask you to vote no on HB 138, and empower the great people of this state to choose what waters are a significant national resource, not lobbyists and department heads. The citizens of this state will do a better job of keeping the water quality. If you are to instill hope and not incubate despondent generations, you must first put your trust in them, not money.

truly,

Gordy Vernon
[REDACTED]
Homer AK 99603

Sent from my iPhone