



February 16, 2021

Attn: Brandon McCutcheon  
Division of Mining, Land and Water  
550 W. 7th Ave., Suite 1070  
Anchorage, Alaska 99501-3579

Via: [dnr.water.regulation@alaska.gov](mailto:dnr.water.regulation@alaska.gov)

**Re: Questions on the Proposed Changes to the Regulations on Water**

Dear Mr. McCutcheon,

Thank you for the opportunity to ask the below questions regarding the Alaska Department of Natural Resources' (DNR) proposed revisions to its water management regulations, 11 AAC 93, submitted on behalf of Trout Unlimited (TU). In the interest of ensuring TU's comments on the proposed regulations are constructive and informing to the DNR, I respectfully request at least 30 days after receiving your response to these questions to submit additional comment on the proposed regulations.

Trout Unlimited is the nation's largest sporting organization dedicated to coldwater conservation, with more than 20,000 supporters in Alaska that are passionate anglers, lodge owners, fishing and hunting guides, and commercial fishermen, among various other occupations. In addition to our members in more remote parts of the state, TU has active chapters in Fairbanks, Anchorage and the Mat-Su, on the Kenai Peninsula, and in Southeast Alaska. Our members regularly fish and hunt throughout Alaska, and often rely on Alaska's water resources for their business and personal wellbeing.

Trout Unlimited appreciates the opportunity to provide input on the DNR's proposed changes to its water management regulations. To inform its comments on the proposed regulatory changes, TU requests responses to the following specific questions:

1. What is the significance of the proposed changes to 11 AAC 93.142(b)(8)? How will the DNR determine if physical, biological, water chemistry, and socio-economic data is "applicable," and what will be the consequence of such a determination? What is the definition for "applicable physical, biological, water chemistry, and socio-economic data"?
2. If adopted, how would the proposed changes to 11 AAC 93.146(b) affect an existing certificate for a reservation that the DNR already issued to an entity that is not a state or federal agency or political subdivision of the state?
3. How would the proposed changes to 11 AAC 93.146(b) affect an existing application for a reservation that is complete but for which the DNR has not yet issued a certificate, if the

---

*Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization*

Alaska Office: 3105 Lake Shore Dr. Suite 102B, Anchorage, AK 99517

(907) 227-1590 • [www.tu.org](http://www.tu.org)

application was submitted by an entity that is not a state or federal agency or political subdivision of the state?

4. Trout Unlimited has submitted multiple applications for reservations to the DNR, and has waited many years for the DNR to issue certificates for those outstanding applications. Trout Unlimited submitted several of its applications more than a decade ago. When does the DNR intend to determine whether TU's applications meet the requirements of AS 46.15.145 and, if the requirements are met, issue a certificate for reservation for TU's applications? If the DNR adopts the proposed changes to 11 AAC 93.146(b) and finds TU's applications meet the requirements of AS 46.15.145, would the DNR issue a certificate of reservation to TU?
5. If the DNR adopts the proposed changes to 11 AAC 93.146(b), would a recognized Alaska Tribe be able to hold a certificate of reservation?
6. If the DNR adopts the proposed changes to 11 AAC 93.146(b), would a regional, village or urban Alaska Native Corporation be able to hold a certificate of reservation?
7. If the DNR adopts the proposed changes to 11 AAC 93.146(b), would a power producer, such as Chugach Electric Association, be able to hold a certificate of reservation?
8. If the DNR adopts the proposed changes to 11 AAC 93.146(b) and issues the certificate of reservation to itself instead of the applicant, will the DNR reimburse the applicant for its application fee(s)?
9. If the DNR adopts the proposed changes to 11 AAC 93.146(e), how will the DNR determine the priority of an application for a reservation for which it has not yet issued a certificate? Will the priority of an uncertified application be the date the application was accepted by the DNR for filing, or will an uncertified application not receive priority until such a time as when the DNR might issue a certificate?
10. How will an applicant's rights and responsibilities differ under the proposed regulations if the certificate of reservation is issued to the DNR compared to their rights and responsibilities under the current regulations? Will the applicant have the same rights to enforce the reservation, receive notice of and to participate in administrative actions affecting the reservation, and appeal or seek judicial review?
11. If the DNR's response to question 10, above, is that there is no change, why is the DNR proposing the changes to 11 AAC 93.115-147?
12. If the DNR adopts the proposed change to 11 AAC 93.210(c), what is the maximum duration of a temporary water use authorization, inclusive of the maximum allowable initial time period and the maximum allowable extension?
13. What other questions have been asked of you regarding these proposed regulations? What are the DNR's responses to those questions?

Your response to these questions is essential to TU and its supporters providing informed and constructive comment on the proposed regulations. Please allow comment for at least 30 days after responding to these questions. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin Williams". The signature is fluid and cursive, with a prominent loop at the end.

Austin Williams  
Alaska Director of Law and Policy