

## Opposition to HB 138

### TALKING POINTS

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**PUBLIC MEETING: FRIDAY, FEBRUARY 14TH. 1:00PM. BARNES 124, CAPITOL BUILDING TO CALL IN, USE 844-586-9085 (TOLL-FREE), OR 907-586-9085 IF IN JUNEAU. ALSO GO TO YOUR LOCAL LEGISLATIVE INFORMATION OFFICE TO TESTIFY: <http://akleg.gov/lios.php>**

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**HB 138 takes away the rights of Alaskans to protect our water. It's critical that the authority for designating Tier 3 Waters remain with DEC.**

#### CONTEXT

##### Tier 3 Designation:

- Tier 3 or Outstanding National Resource Waters (ONRW) are provided the highest level of protection under the Federal Clean Water Act and the State of Alaska.
- The Department of Environmental Conservation (DEC), implements the protection of Tier 3 Waters by simply not approving permits to dump waste in the waterbody.
- Tier 3 is the only way for the residents of Alaska to protect exceptional waters, critically important to their communities and can be nominated by any resident or group in Alaska.
- A Tier 3 designation protects all current uses of the waterbody and allows short-term degradation (motor boats, cleaning fish, culture camps, private septic systems, temporary construction, etc.). The designation only denies new permits for long-term degradation.
- So far, 5 waterbodies have been nominated (the Chandalar River, the Yakutat Forelands, the Chilkat River, the Kaktuli River, and the Draanjik River), the oldest of the which was nominated 10 year ago (the Kaktuli River).
- Currently both DEC and the legislature have authority to designate a Tier 3 as the statutes are written. These bills seek to remove DEC's authority and put a legislative process only in statute (law).
- Currently foreign corporations can pollute our waters by merely submitting an application to DEC.

##### House Bill 138 and CS:

The Committee Substitute (CS) for HB 138 was posted on Thursday, February 6<sup>th</sup>. It will have its first hearing on Monday, February 10<sup>th</sup> at 1pm, which will include public testimony.

- The bill is not about creating a nomination and designation process - both already exist and will remain in place if the bill is defeated.
- It is intended to remove DEC's authority to protect our shared waterways (via a Tier 3 designation) through a science-based, administrative process – the process in place for polluting our waterways. It is designed to create an impossible process to protect our waters.

- It would require that a Tier 3 nomination first get reviewed by a 7-person committee appointed by the governor. This committee would be responsible for establishing a process for designation and reviewing all Tier 3 nominations received. The committee would then make recommendations to the governor on whether or not a nominated waterway should be designated. The governor would then have to send a bill to the state legislature to designate a waterway. Finally, the legislature would have to pass a designation as a law to exercise this right. The decision would be entirely political at every point, rather than science-based and would make the approval process nearly impossible. The applicant would have to burden all costs.
- Making Tier 3 designation a legislative, statutory process would:
  - Make this about politics, not science or community/cultural/economic importance, ultimately undermining the purpose of Tier 3 designations
  - Allow the Governor to veto a designation
  - Remove the option for a public ballot initiative to designate a Tier 3 Water
  - Make it even more difficult to protect water in the state of Alaska than pollute it
- This bill threatens the rights of Alaskan residents to protect our shared waterways. Currently, an outside corporation can fill out a 6-page online form to dump waste into our shared waterways. Alaskans should have the right to protect our waterways just as easily. **A Tier 3 designation process to protect waters should be no more onerous than the process to degrade our waters.**

#### TALKING POINTS FOR ORAL AND WRITTEN TESTIMONY

- ⇒ **Address your position on the bill.** Clearly state your opposition to the bill and mention any changes you'd like to see.
  - ⇒ **State why this is important to you.** Make sure to include your personal perspective on why this matters and how you or your community would be impacted if the bill were to pass.
1. **A Tier 3 designation is the only way for the residents of Alaska to protect exceptional waters,** critically important to our communities, fish, and economies.
  2. **HB 138 removes access to this democratic process** established by the federal Clean Water Act, by setting up a multi-step political process, rather than a science-based process, designed to prevent a designation.
  3. HB 138 forces the nominating individual or group to pay for associated costs. This means that **those facing the most difficult economic hardships will have the least access to protect their waterways.**
  4. **The composition of the commission,** all appointed by the governor, **is heavily weighted toward denying a nomination.**
  5. **HB 138 makes a Tier 3 designation nearly impossible,** taking away our right to protect clean water.
  6. **HB 138 is anti-democracy and anti-Alaskan.**
  7. **If corporations have a right to dump waste in our waters, surely Alaskans have a right to protect our waters.** The process for protecting waterways should be no more onerous than the process to degrade them.

