

## Lieutenant Governor Sean Parnell

9/28/2007

Arthur J. Hackney  
1503 West 31<sup>st</sup> Avenue  
Anchorage, AK 99503

Re: 07WTR2, Water & Mining

Dear Mr. Hackney:

On July 30, 2007, I received your application for an initiative that you entitled "*An Act to protect Alaska's clean water.*" I forwarded the application to the Division of Elections for verification of signatures and to the Department of Law for legal review.

The Division of Elections determined that 168 of the 204 signatures submitted were those of qualified voters. Therefore, the application has sufficient number of sponsors to qualify for circulation of a petition under AS 15.45.030. The petition statistics report prepared by the Division of Elections is enclosed.

The Department of Law reviewed the application for compliance with AS 15.45.040, and a copy of the opinion issued is enclosed. The department concluded that the application does not comply with the constitutional and statutory provisions governing the use of the initiative because an impermissible appropriation persists in this recent bill. Significant changes have been made to the bill in 07WATR, and those changes amend certain provisions from impermissible appropriations to permissible regulation. However, the provision that prohibits all discharges of certain pollutants remains unchanged in 07WTR2. To summarize, provisions that prohibit discharges that cause adverse effects are permissible regulation, but the complete prohibition of discharges effectively prohibits use of land and water, and thus is a prohibited allocation of land and water.

Based on this recommendation, and in accordance with AS 15.45.080, I am denying certification of your initiative petition. Please be advised that under AS 15.45.240, "any person aggrieved by a determination made by the lieutenant governor under AS 15.45.010 – AS 15.45.220 may bring an action in the superior court to have the determination reviewed within 30 days of the date on which notice of the determination was given." If you have further questions, please contact my special assistant, Jason Hooley, at (907) 465-4082.

Sincerely,



Sean Parnell  
Lieutenant Governor

Enclosures

cc: Talis Colberg, Attorney General  
Whitney Brewster, Director, Division of Elections